

Jail Administration for Correction Section 3

Missouri Core Jail Standards Section 3; and,
Jail Detainee Discipline

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Missouri Core Jail Standards

Highlight MCJS Section 3: Detainee Discipline

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|-------------------------------------------------------------------------|----------------------------------------------------------------------|
| 3.1 Written Policy/Guidelines | 3.16 Conduct of the Disciplinary Hearing |
| 3.2 Promoting Positive Detainee Behavior | 3.17 Postponement or Temporary Adjournment of a Disciplinary Hearing |
| 3.3 Justification of Jail Rules | 3.18 Detainee Advocate Appointment |
| 3.4 Detainee Education and Orientation | 3.19 Disciplinary Hearing Committee Decisions |
| 3.5 Staff Education | 3.20 Documentation of Disciplinary Hearings |
| 3.6 Classification of Jail Rules | 3.21 Detainee Appeals |
| 3.7 Designated and Approved Disciplinary Action | 3.22 Review of Disciplinary Procedures and Actions |
| 3.8 Suspension of Jail Disciplinary Guidelines in Exigent Circumstances | |
| 3.9 Violations of Criminal Laws | |
| 3.10 Use of Force in Detainee Discipline | |
| 3.11 Waiver of Due Process | |
| 3.12 Timely Investigation of Jail Rule Violations | |
| 3.13 Pre-Hearing Detention | |
| 3.14 Disciplinary Reports | |
| 3.15 Notice of Violation to Detainees | |

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Detainee Discipline

- ☐ Eighth Amendment
 - Freedom from Cruel and Unusual Punishment
- ☐ Fourteenth Amendment
 - Provides Due Process of Law
 - Provides Equal Protection under the Law

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Exception to the Due Process Requirement with Discipline

- ▣ In an emergency situation where the inmate is a danger to himself or others, the jail administrator may take whatever action is reasonable under the circumstances to quell the emergency. The “After the Fact” due process hearing then becomes a “justification hearing” on the reasonableness of the action taken.

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Collazo-Leon v. U.S. Bureau of Prisons (1995)

- ▣ “Recognizing the need to accord prison officials considerable latitude in matters of internal discipline, we will not interfere with the execution of reasonable means, such as the internal discipline effort involved here...to achieve a legitimate governmental objective...”

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Key Issues Related to Inmate Discipline

- ▣ Case Law clearly identifies due process and equal protection requirements of inmates, especially pre-trial detainees.

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Landman v. Royster (1973)

- ▣ The court made the following remarks regarding rules being vague and penalties inconsistent:
- ▣ "...the purposes of the constitutional requirement of reasonable specificity-fair warning so that one may conform to the rules, and the exactness so that arbitrary penalties or penalties for protected conduct will not be imposed..."

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Wolff v. McDonnell (1974)

- ▣ All cases of major infractions by inmates require a due process hearing before jail officials can administer discipline.
- ▣ The determining factor is the severity of the potential punishment. For example, the possibility that a report of the related incident could be forwarded to the court which could be used at a sentencing hearing or could negatively affect "good-time credit".

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Wolff v. McDonnell (cont.)

1. Written notice of the violation/charge so the inmate can review and prepare a defense.
2. At least 24-hours following the notice to prepare for the hearing.
3. Limited right to call witnesses and present evidence so long as doing so will not be unduly hazardous to institutional safety or correctional goals.
4. Written statement from the board explaining the basis of its decision.

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Sandin v. Conner (1995)

- ▣ The issue of violations of Pretrial and Post Conviction inmates.
- ▣ The requirements of **Wolff** are not required for a post conviction inmate unless the punishment imposed create an “atypical and significant hardship on the inmate”. For example, the loss of “good-time credits”.
- ▣ *...although it is permissible to punish a pretrial detainee while in pretrial custody, that punishment can be imposed only after affording the detainee some sort of procedural protection*

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Diamond v. Thompson (1973)

- ▣ Institutions are forbidden from the infliction of summary punishment without *any* semblance of due process.

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Hanks v. Prachar (2006)

- ▣ While the record shows that Hanks either waived a hearing or pleaded guilty when charged with disciplinary offenses, it does not reveal what process was provided when the decisions were made to otherwise keep him in restraints.

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Ward v. Johnson (1982)

- ▣ "...a prisoner only suffered loss of recreational privileges, but was exposed to a loss of good time, therefore he was entitled to due process safeguards."

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Rapier v. Harris (1999)

- ▣ "Therefore, as the cases we already have discussed indicate, the *Sandin* analysis will not support punishing a pretrial detainee.
- ▣ "...although it is permissible to punish a pretrial detainee for misconduct while in pretrial custody, that punishment can be imposed only after affording the detainee some sort of procedural protection."

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Mitchell v. Dupnik (1996)

- ▣ "Pretrial detainees may be subjected to disciplinary segregation only with a due process hearing to determine whether they have in fact violated any rule."

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Cobbs v. Superintendent (2011)

- ▣ Failure to review a potentially exculpatory segment of videotape evidence....warranted the grant of petition for federal habeas relief

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Goff v. Burton (1996)

- ▣ A retaliatory discipline claim contains three elements:
 1. The prisoner exercised a constitutionally protected right.
 2. Prison officials disciplined the prisoner.
 3. Exercising the right was the motivation for the discipline.

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Goff v. Burton (cont.)

- ▣ Prison officials cannot lawfully transfer a prisoner for retaliatory reasons alone, they cannot impose disciplinary sanction against a prisoner in retaliation for the prisoner's exercise of his constitutional right.

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One Approach

- ▣ The Platte County Detention Center developed a single approach to Detainee Discipline regardless of the detainee's "conviction" status.
- ▣ Variations and adaptations based on the facility organizational structure may be appropriate.

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Rule Violation Notification Form

- ▣ Based on the rules outlined in the inmate handbook, create a Rule Violation Notification Form.
 - Easy for staff and inmates to understand
 - Back side of the form can be used as a waiver of the Disciplinary Officer/Panel Review

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Example: Step 1

- ▣ An officer witnesses a rule violation.
 - The officer completes the Rule Violation Notification Form and makes a copy.
 - The original is delivered to the inmate with the service date and time recorded on the form. The same date and time is recorded on the Jail's copy.
 - The copy is forwarded the on-duty supervisor, or if there is not a supervisor on-duty, the next on-duty supervisor.

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Example: Step 2

- ▣ The officer completes a narrative report.
 - The officer details the violation(s) including date and time of occurrence in a narrative report.
 - The officer notes the rule violation number in the report.
 - The officer submits the narrative to the on-duty supervisor, or if there is no supervisor on-duty, the next on-duty supervisor for approval.

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Example: Step 3

- ▣ The supervisor reviews the narrative for accuracy and completeness.
 - The supervisor reviews any potential video captured. (Both facility video and body camera video must be reviewed.)
 - The supervisor completes a supplemental narrative and notes:
 - The report approval
 - If the incident was captured on video and what, if anything, was observed.
 - If the incident relates to a safety or security concern which results in cell restriction until the Disciplinary Officer/Panel Review.

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Example: Step 4

- ▣ The supervisor logs the incident indicating:
 - The inmate is awaiting the Disciplinary Officer/Panel Review.
 - Whether the inmate is on cell restriction or not prior to the Disciplinary Officer/Panel Review .

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Example: Step 5

- ▣ The Disciplinary Officer/Panel Review
 - Should be regularly scheduled, to ensure that the inmate is called at the next regularly scheduled panel following the minimum 24-hour preparation period.
 - Should be conducted by personnel not involved in the rule violation incident or approval process.

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Example: Step 5 (cont.)

- ▣ The Disciplinary Officer/Panel Review
 - Lower level violations may be heard by the Disciplinary Hearing Officer.
 - If a Panel is required, is made up of the Hearing Officer and two line staff assigned to the Detention Division.
 - Panel reviews the officer's written report and the approving supervisor's supplemental report.

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Example: Step 5 (cont.)

- ▣ The Disciplinary Officer/Panel Review
 - The inmate is called before the Disciplinary Officer/ Panel for the hearing.
 - Common cursory questions:
 - Do you have a copy of the Inmate Handbook?
 - Did you receive notice of the rule violation?
 - We have reviewed all associated reports; what do you have for the panel to consider?

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Example: Step 5 (cont.)

- ☐ The Disciplinary Officer/Panel Review
 - The inmate has a limited ability to call witnesses. These should be permitted if the witness was present for the incident, able to see or hear what happened, and the witness's participation does not unnecessarily disrupt the process or other operations.

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Example: Step 6

- ☐ The Disciplinary Officer/Panel Review
 - After the violating inmate is dismissed, the panel discusses the reports and statements of the inmate and witnesses.
 - The panel determines, based on the facts:
 - if the inmate committed the rule violation.
 - the penalty (loss of privileges and cell restriction) and the length of discipline.

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Example: Step 7

- ☐ The Disciplinary Officer/Panel Review
 - The Hearing Officer is responsible for the completing a supplemental narrative report, detailing the review and determination.
 - The inmate is provided a copy of the written reports.
 - The log is updated to show the discipline for appropriate restrictions to be applied by staff.

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Example: Step 8

▣ Disciplinary Appeal

- As outlined in the Inmate Handbook, an inmate may appeal the determination of the Hearing Officer/Panel.
- This must be submitted in writing within 48-hours of the panel's determination and must explain the error (establish grounds) made by the agency in the disciplinary process.

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Example: Step 8 (cont.)

- Upon receipt of the Appeal, the appellate officer must determine if the inmate has a justified error presented in writing. NOTE: Disagreement with the Hearing Officer/Panel does not warrant administrative action.
- Did the inmate present evidence that warrants an Administrative Review?
- If yes, did the review reveal some procedural error that should modify or vacate the Hearing Officer's/Panel's determination.

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Full Administration for Correction Section 8

QUESTIONS?

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