

State of Utah - Department of Corrections



Department Manual

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| <i>FD01 - Inmate Discipline</i> | <i>PROCEDURE</i> |
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01.00 LEVELS OF DISCIPLINARY VIOLATIONS

01.01 Screening of Charges

- A. Report screening supervisors shall review disciplinary documents to ensure they contain the explanations of the disciplinary charge(s) and determine whether a disciplinary has been classified correctly or shall be referred to OMR. "A" charge violations shall be processed as disciplinaries. "B" charge violations shall be processed as disciplinaries but may be referred to OMR if the screening supervisor determines there are reasonable grounds for doing so.
- B. In order to preserve a continuous record, when referring a disciplinary charge to OMR, the charge shall be "Dismissed with Prejudice" in O-track with notes stating the reason for the dismissal.

01.02 A/B Code Charges

- A. "A" code violations
 - 1. "A" code violations require the strongest sanctions.
 - 2. "A" code violations shall be handled through the disciplinary process.
 - 3. Any attempt to commit an "A" code infraction shall be charged and treated the same as an actual infraction.
- B. "B" code Violations
 - 1. "B" code violations have lesser sanctions than "A" code violations.
 - 2. "B" code violations should be handled through the disciplinary process.
 - 3. Any attempt to commit a "B" code infraction shall be charged and treated the same as an actual infraction.

02.00 DISCIPLINARY DUE PROCESS

02.01 Written Notice to Inmate

- A. The MD-1 form shall be served to the inmate to provide the required notice of disciplinary violation charges.
- B. When restitution is being requested at the original hearing date, a damage report shall be served to the inmate. This does not preclude any future appropriate restitution judgments based on the incident represented on the MD-1.
- C. The inmate shall receive a copy of the MD-1 24 hours before the hearing. This serves as notification of the disciplinary action.
- D. To ensure adequate notice is given, the MD-1 information must minimally include:
 - 1. the correct date and the incident location of the violation;
 - 2. the appropriate disciplinary code and title; and
 - 3. a brief description of the behavior the inmate engaged in that resulted in the disciplinary charge. It is not necessary to include the explanations of the charge(s) on the MD-1.

02.02 Disciplinary Hearing

- A. Disciplinary hearings shall not be recorded electronically.
- B. The inmate shall have an opportunity to present a defense to the charges or present mitigating factors affecting the severity of the offense. The disciplinary hearing shall be conducted within a reasonable time frame.
- C. There are various reasons a hearing may be conducted without the inmate present, including:
 - 1. if an inmate refuses to attend the disciplinary hearing;
 - 2. if an inmate's behavior is such that their attendance would constitute a threat to the safety, security, management, or control of any part of any facility; or

3. when the case is to be dismissed for procedural reasons, and there is no need for an inmate to prepare or present a defense.
- D. If the inmate refuses to attend a hearing, the refusal shall be documented in the findings, and a negative inference may be made by the DHO.
- E. If the DHO opts to preclude the inmate from attending a hearing, the DHO shall document their reasoning in the hearing notes.
- F. When the inmate is presented with the charges, they may make a plea of:
 1. guilty;
 2. not guilty;
 3. no contest; or
 4. if the inmate refuses to make a plea or is not present, the DHO shall enter "plea not entered" on the appropriate O-Track screen, and the DHO may make a negative inference.
- G. When an inmate pleads guilty, 'no contest,' refuses to make a plea, or refuses to attend the hearing, the right to file an appeal is forfeited.
- H. At the DHO's discretion, charges may be amended to another charge within the same infraction code or to a lower infraction if they:
 1. believe that the wrong charge has been used, and the infraction meets the explanations of another charge; or
 2. believe that the original charge is overly harsh when compared to the severity of the infraction; and
 3. Note: The DHO shall not amend the charge to a higher infraction code.
- I. Accused inmates shall be permitted to present evidence to defend against allegations. The presentation of evidence shall be subject to the DHO's discretionary authority.
 1. Only evidence allowed by this policy shall be accepted; rules of civil and criminal evidence do not apply.
 2. Restrictions may be imposed, as necessary, to further the legitimate interest of the Department.
- J. Only Discipline Hearing Officers, as assigned by the Department, shall conduct hearings for disciplinary actions, determine culpability, and impose disciplinary sanctions.
 1. The DHO shall be fair and impartial and decide each case upon the evidence presented.
- K. Inmates shall not be permitted representation by an attorney at disciplinary hearings.
 1. Assistance may be provided if determined necessary by the DHO, based on issues of literacy and complexity.
 2. Approved ADA accommodations shall be granted as necessary for the hearing.
- L. Inmates may request witnesses to be called; however, the calling of witnesses shall be at the discretion of the DHO.
 1. The DHO may independently contact witnesses who may have relevant information - if the decision to do so is a reasonable effort to confirm or refute the evidence presented at the hearing.
 2. Witness testimony may be verbal or written.
 3. Providing false testimony/statements may be punishable administratively and/or criminally.
- M. Inmates are not entitled to a Miranda warning before being questioned or examined in connection with disciplinary action.
 1. An inmate may make a plea of "no contest" to avoid self-incrimination.

02.03 Double Jeopardy

- A. It is not double jeopardy to impose both administrative sanctions and criminally charge an inmate based on the same incident.

- B. Inmates shall not be "heard" twice for the same disciplinary infraction(s) arising from a specific incident, except:
 - 1. when the case is remanded to the DHO for rehearing following an appeal by either party; or
 - 2. when the case is dismissed without prejudice.
- C. Action taken by OMR shall not be considered punitive or disciplinary action.

02.04 Standard of Proof

- A. The DHO shall rely on the evidence and testimony presented to determine whether there is some evidence to support the allegations against the inmate.
- B. The DHO shall rely on the "some evidence" test in determining guilt.
- C. Under no circumstances shall a guilty finding be made without documented evidence on the record to support such findings.
- D. An Inmate cannot be convicted of disciplinary charges based upon the word of another inmate alone.
 - 1. There must be some other corroborating evidence.
 - 2. The corroborating evidence does not necessarily need to stand on its own but may be considered along with inmate testimony to attain the level of "some evidence."

02.05 Dismissed Without Prejudice

- A. A DHO may dismiss a case without prejudice for procedural reasons or incomplete/inaccurate documentation.
- B. Cases dismissed without prejudice may be corrected, refiled, and served at the discretion of housing management by having the following items completed:
 - 1. a new incident report will need to be generated. The original incident number shall be documented within the new narrative; and
 - 2. with the new case number and updated information, a new MD-1 is created and served to the inmate.
- C. Facility management shall be notified when a case has been dismissed without prejudice, and the reason for it shall be documented in the hearing notes. DHOs shall make detailed notes outlining their decisions and the justification and supporting facts for the decision made.

02.06 Reporting the Decision

After the DHO renders a decision, a copy of the Disciplinary Findings (MD-2 form) shall be distributed to the inmate and housing unit management.

02.07 Disciplinary Appeals

- A. An inmate found guilty of disciplinary action may appeal the decision of the DHO to the Disciplinary Appeal Office. Appeals shall be submitted within 20 working days following receipt of the DHO's decision.
- B. DHO decisions may only be appealed on the following grounds:
 - 1. disciplinary procedures were not correctly followed;
 - 2. the evidence does not support the DHO's findings; and
 - 3. disciplinary sanctions were arbitrary, capricious, unreasonably harsh, or unreasonably lenient.

- C. The Appeals Hearing Office may return any appeal that is incomplete or does not clearly articulate:
 - 1. the specific policy violations alleged;
 - 2. the reasons why the evidence did not support the findings; and
 - 3. to what extent the disciplinary sanctions were excessive or insufficient.
- D. The Appeals Hearing Office shall not hear new testimony nor accept evidence not already on the record. Still, it shall review the incident report to determine whether there was an error in the hearing proceedings or inappropriate application of sanctions.
 - 1. The Appeals Hearing Office may remand appeals for further proceedings, stating the reasons for the remand.
 - 2. Following dispositions on remand, the parties shall again have the right to appeal to the Appeals Hearing Office.
 - 3. The Appeal hearing office shall not conduct a new hearing but may only review the facts to determine if there are sufficient grounds to uphold or reverse the decisions of the DHO based on the three grounds for appeal.
 - 4. If circumstances of a particular case warrant a rehearing, the Appeal hearing office may remand the matter back to the DHO.
 - 5. The Appeal hearing office shall notify the inmate of the appeal decision.
 - 6. The Appeal hearing office shall be the last appellate level for the Department's hearing process. Inmates who wish to challenge the decision of the Appeal Hearing Office must seek a judicial remedy.
 - 7. If an inmate files three or more frivolous, malicious, or burdensome disciplinary appeals, the Appeal hearing office may refuse to accept future discipline appeals from that inmate for a period not to exceed one year.
- E. The staff member who originated the MD-1, or any higher-ranking member in the originating staff member's chain of command, may appeal the decisions of the DHO.
- F. Staff shall explain the rationale behind their appeal in memo form.
- G. All staff appeals shall be sent to the appropriate Warden, Jail Commander, or their designee.
- H. The warden, jail commander, or their designee shall review the staff appeal for merit and take one of the following actions:
 - 1. send it to the appeal hearing office;
 - 2. return it to the sending unit for more information or better articulation; or
 - 3. deny the request for a staff appeal due to lack of merit.

03.00 DISCIPLINARY SANCTIONS

03.01 General

- A. Disciplinary sanctions shall be imposed only after an administrative hearing has been completed.
- B. The severity of disciplinary sanctions shall be related to the offense.
- C. Inmates shall not be subjected to cruel and unusual punishment.

03.02 Imposing Sanctions

- A. The degree of punitive actions taken by the DHO shall be reasonably related to the severity of the rule infraction and the inmate's disciplinary record.

- B. Inmates shall not be sanctioned for more than thirty consecutive days of disciplinary restriction.
- C. Separate disciplinary infractions that are committed during the same incident, and are closely related in time to each other, shall be written as one disciplinary case with multiple violations.
- D. A disciplinary violation may have a consequence of a single penalty or a combination of penalties.
- E. In no case shall any penalty identified as prohibited or "cruel and unusual" be invoked.

03.03 Discipline in Classification Decisions

- A. Discipline and classification processes are separate and distinct. Disciplinary convictions may, however, be included among the criteria used in the classification and reclassification of inmates.
- B. Disciplinary action is punitive in nature. Classification and reclassification are non-punitive management tools.
- C. Sanctions may entail or include a verbal warning, extra duty, community service, therapeutic intervention, a written report, no sanctions, and/or privilege restrictions.

03.04 Minimum and Maximum Disciplinary Sanctions

The maximum allowable sanction by UDC is a \$600 fine and 30 consecutive days' disciplinary restriction for any one case.

A. "A" Code Sanctions

For a conviction in any case where the most serious guilty finding is on an "A" Code:

- 1. the suggested minimum sanction range may begin at a \$150 fine and/or 20 days disciplinary restriction - in addition to any other incident-specific sanctions and restitution; and
- 2. the maximum sanction range that may be imposed is a \$600 fine and 30 days' disciplinary restriction - in addition to any other incident-specific sanctions and restitution.

B. "B" Code Sanctions

For a conviction in any case where the most serious guilty finding is on a "B" code:

- 1. the suggested minimum sanction range may begin at a \$20 fine and/or seven days' disciplinary restriction - in addition to any other incident-specific sanctions and restitution; and
- 2. the maximum sanction range that may be imposed is a \$300 fine and 20 days' disciplinary restriction - in addition to any other incident-specific sanctions and restitution.

- C. If a damage report is completed when the incident is written, restitution may be considered at the hearing.
- D. The DHO may independently impose restitution by conducting a restitution hearing and, identifying the cost of damages/expenses caused by the inmate's actions and documenting the information on the disciplinary record.
 - 1. When entering the findings of the restitution hearing, the following must be entered as a minimum on the MD-2 form, "This was a restitution hearing only, and the above plea(s) and finding(s) are from the original hearing."
 - 2. If the restitution is medically related, only the date of service and the cost of the service may be provided to the inmate.

- E. Sanctions may entail or include a verbal warning, extra duty, community service, therapeutic intervention, a written report, no sanctions, and/or privilege restrictions.

03.05 Disciplinary Restriction

- A. Disciplinary restrictions may occur in any of the housing units, although a cell-type setting is more manageable. It shall start on the date designated by the DHO at 0100 and shall end at the same time on the last day ordered.
- B. Inmates placed on disciplinary restriction shall be subject to the following limitations:
 - 1. no phone calls (except legal);
 - 2. no visiting (except legal);
 - 3. no recreation. (Exercise shall be accomplished in the cell);
 - 4. inmates on disciplinary restriction shall remain in their cells, with shower access three times per week, for 15 minutes;
 - 5. inmates on disciplinary restriction shall be permitted to attend scheduled court, medical, and mental health appointments;
 - 6. mail, meals, medications, and laundry shall be delivered to the inmate in the cell. Commissary shall be available for personal hygiene items, writing material, and envelopes only. (If another commissary is delivered to the unit while the inmate is still on disciplinary restriction, the order shall be returned to the commissary and the inmate's account credited.); and
 - 7. school, programming, and work attendance shall be suspended or terminated while the inmate is on disciplinary restriction unless modified by the DHO or OMR team.

03.06 Long-Term Disciplinary Restriction Review

An inmate shall have at least a 48-hour break between each case of Disciplinary Restriction and not serve more than 30 consecutive days consecutively.

04.00 DISCIPLINARY INFRACTION CODES

04.01 "A" Codes

- A. A01 ARSON
 - 1. Explanation: An inmate may be charged with this offense if the inmate knowingly, intentionally, or recklessly destroyed/damaged a structure or any property by fire, explosive, or incendiary device.
- B. A02 AGGRAVATED ASSAULT
 - 1. Explanation: An inmate may be charged with this offense if they:
 - a. participated in the assault of any person by any means intentionally causing serious bodily injury;
 - b. assaulted any person with a weapon; or
 - c. intentionally or recklessly expose any person to a bodily fluid.
 - 2. Elements:

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| aggravated assault | an attempt at, or act of, using unlawful force or violence to cause serious bodily injury to another, or a threat accompanied by a show of immediate force or violence to do serious bodily injury to another. |
| serious bodily injury | any injury requiring medical treatment other than minor |
| weapon | Any item intended or used for inflicting bodily injury or death. Any item commonly recognized to be a weapon. Any item used as a component in the manufacture of homemade weapons within corrections facilities, such as a piece of metal, plastic, or other similar materials, even if construction or shaping of the item into a weapon has not begun. |

C. A03 ENGAGING IN OR INCITING A RIOT

1. Explanations: An inmate may be charged with this offense if the inmate engages in a riot or participates in inciting a riot.
2. Elements:

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| incite | provoke or stir up, urge on or cause to act |
| riot | along with one or more persons having the same purpose, assembles, plans, threatens, or engages in disruptive, tumultuous, or violent conduct and thereby knowingly or recklessly causes or creates a risk of causing an institutional disturbance. |

D. A04 ESCAPE, ATTEMPTED ESCAPE, ABSCONDING, OR POSSESSION OF ESCAPE PARAPHERNALIA

1. Explanations: An inmate may be charged with this offense if they:
 - a. leave official custody without lawful authorization while incarcerated under inmate status; or
 - b. have in their possession, cell, or property any escape paraphernalia.
2. Elements:

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| official custody | custody includes work release, home visits, community projects, transportation, treatment program, or any other activity supervised or regulated by the Department of Corrections, contract facility, or other secure institution or jail |
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| escape paraphernalia | any unauthorized item intended for or capable of assisting an inmate to escape |
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E. A05 POSSESSION OR USE OF ANY WEAPON, EXPLOSIVE, INFERNAL/INCENDIARY DEVICE, OR REPLICA OF THE SAME

1. Explanations: An inmate may be charged with this offense if the inmate used or had in his possession, cell, or property any weapon, explosive, infernal/incendiary device, or replica of the same.
2. Elements:

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| Infernal/incendiary/explosive | Any box, package, bomb, or device manufactured or arranged so as to explode, ignite, burn, or throw forth its contents or packaging. |
| weapon | Any item intended or used for inflicting bodily injury or death. Any item commonly recognized to be a weapon. Any item used as a component in the manufacture of homemade weapons within corrections facilities, such as a piece of metal, plastic, or other similar materials, even if construction or shaping of the item into a weapon has not begun. |

F. A06 ROBBERY OR EXTORTION

1. Explanations: An inmate may be charged with this offense if the inmate engaged in extortion or robbery, as defined below.
2. Elements:

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| extortion | to obtain or attempt to obtain anything from a person by force, intimidation, threat, or coercion directed against that person or another person |
| robbery | the unlawful and intentional taking of property in possession of another directly from their person or immediate presence, against their will, accomplished through force or fear |

G. A07 SEXUAL MISCONDUCT

1. Explanations: An inmate may be charged with this offense if they:
 - a. engaged in or participated in a sexual assault;
 - b. threatened any person, verbally, physically, or in writing, with sexual assault;
 - c. while targeting a staff member or civilian exposes genitals, buttocks, female breasts, or simulates a sexual act; or

- d. solicits sex from any staff member or civilian.
- 2. Elements:

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| sexual misconduct | when an inmate, against another person's will, has sexual contact or intercourse or engages in any unwanted sexual behavior as determined by a reasonable person. |
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H. A08 HOSTAGE-TAKING OR UNLAWFUL DETENTION

- 1. Explanations: An inmate may be charged with this offense if they detained, restrained, planned, or attempted to detain or restrain any person and/or committed unlawful detention.
- 2. Elements:

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| hostage | For the purpose of this disciplinary code, hostage means holding any person against their will. |
| unlawful detention | For the purpose of this disciplinary code, unlawful detention means stopping or preventing a person's freedom of movement for any length of time. |

I. A09 CAUSING OR ATTEMPTING TO CAUSE THE DEATH OF ANOTHER

- 1. Explanations: An inmate may be charged with this offense if they:
 - a. knowingly, intentionally, recklessly, or negligently caused or attempted to cause the death of another;
 - b. entered into a contract with another with the intent to cause the death of another; or
 - c. created conditions likely to cause the death of another by any means.

J. A10 ANY ACT CHARGEABLE AS A CRIME

- 1. NOTE: This charge shall be used only if the behavior violates a local, state, or federal law, which is not covered by another disciplinary charge. When using this charge, you must cite the code number of the local, state, or federal statute.
- 2. Explanations: An inmate may be charged with this offense if the reporting officer believes that the inmate violated any local, state, or federal law, statute, or rule that is chargeable as a crime.

K. A11 REFUSING A DIRECT ORDER, RESISTING ARREST, OR REQUIRED MOVEMENT – UNDER AGGRAVATED CIRCUMSTANCES

- 1. Explanations: An inmate may be charged with this offense if, under aggravated circumstances, they:
 - a. fail to follow, or refuse to fully and immediately comply with or obey, any direct order given by any member or agent of the Department of Corrections or any correctional or law enforcement officer; or
 - b. resists arrest or required movement by use of threat, force, or passive resistance.
- 2. Elements:

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| aggravated circumstances (direct order) | failure or refusal to comply with a direct order during any direct transport, while in any public place, while working anywhere outside a secure facility when failing to comply with a direct order reasonably results in IMS activation, refusing a direct order during an institutional disturbance, when ordered to provide a DNA sample as required by law, or during an administrative or official hearing, including OMR, grievance, disciplinary and BOPP hearings |
| aggravated circumstances (resisting arrest or required movement) | when the inmate knows, or should have known, that any officer is seeking to effect an arrest or detention or is seeking to move the inmate or another and interferes or resists such arrest, detention, or movement by use or threats of force |
| direct order | any lawful command or instruction that is given verbally or in writing by any person assigned to work with inmates in any capacity. The command or instruction need not be preceded by a statement such as, "This is an order." |
| institutional disturbance | any incident that requires IMS activation or threatens any person with serious bodily injury. |
| transportation | when transported by correctional staff in any vehicle to any location from the moment, the inmate is informed of the transport until they are returned to their housing unit or released to another authority |

L. A12 TAMPERING WITH ANY LOCKING OR SECURITY DEVICE

1. Explanations: An inmate may be charged with this offense if the inmate altered, jammed, damaged, destroyed, defeated, or otherwise interfered with the normal or designed operation of any locking or security device or object.
2. Elements:

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| Security device/object | any device/object whose purpose includes keeping or monitoring security |
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M. A13 SUBSTANCE ABUSE

1. Explanations: An inmate may be charged with this offense for any of the following reasons:
 - a. if the inmate had in their possession, cell, or property any drug paraphernalia, any intoxicants, controlled substance, a prescription drug not prescribed to the inmate, or drug not authorized for their retention;
 - b. if the inmate used, consumed, drank, smoked, injected, or sniffed any intoxicants or unauthorized controlled substances;
 - c. if the inmate tampered with any intoxicant or controlled substance test or body fluid specimen produced for drug testing;
 - d. if the inmate fails or refuses to submit to any intoxicant or controlled substance test when instructed, refuses or fails to provide any body fluid sample when instructed to do so within prescribed time limits;
 - e. if an inmate provides any intoxicant, controlled substance, or prescription drug to another person; or
 - f. creation of an Intoxicant: If an inmate alters or attempts to alter any food or drink. The food or drink can be at any stage of the fermentation or alteration process.
2. Elements:

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| alteration | knowingly or intentionally changing, modifying, or enhancing any item of food or drink to render it for a purpose other than what it was originally intended |
| creation/fermentation | the process of converting fruit or food into alcohol |

3. Note:
 - a. does not have to be a controlled substance; or
 - b. not to be used for misuse of the inmate's own prescribed medication. See B12.
- N. A14 INTRODUCTION OF ILLICIT CONTRABAND INTO A FACILITY
1. NOTE: This charge does not include simple possession of contraband. There must be some evidence that the inmate actively participated in or caused the introduction of illicit contraband.
 2. Explanations: An inmate may be charged with this offense if they, by any means, introduced or attempted to introduce any illicit contraband into any facility, workplace, school, or vehicle from outside the secure facility, which cannot be obtained through approved sources.
 3. Example: this includes contraband from work, education, appointments, and in the housing unit. It does not include section-to-section or cell-to-cell. Must be brought into the unit from somewhere else.
 4. Example: cellular or wireless devices are not available through approved sources and have had to be brought in from outside sources.
 5. Elements:

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| illicit contraband | any item never authorized for inmate retention at any time |
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O. A15 EVIDENCE TAMPERING

1. Explanations: An inmate may be charged with this offense if they attempted to hinder, delay, or prevent the investigation, apprehension, prosecution, conviction, or punishment of any person regarding conduct that constitutes an administrative or criminal offense by altering, destroying, concealing, or removing any item or thing.

P. A16 PARTICIPATING IN ANY SECURITY THREAT GROUP ACTIVITY

1. Explanations: An inmate may be charged with this offense if the inmate participated or conspired to participate in any gang-related activity involving two or more people in unlawful or unapproved activity.
2. An inmate may be charged with this offense if the offender participated or conspired to participate in any gang-related activity.
3. NOTE: There must be some evidence that the activity is actually gang-related – Security Threat Group affiliation alone is not sufficient. Explain how the incident is gang-related or is a conspiracy.
4. Elements:

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| conspiracy | An agreement between two or more persons to commit an unlawful act or to accomplish a lawful end by unlawful means |
| Security Threat Group/Gang | consists of individuals (two or more) who may socialize regularly and have a common goal, ideal, and purpose, who have banded together for mutual protection, profit, criminal conduct, or to violate policy. |

Q. A17 INAPPROPRIATE OR UNAUTHORIZED STAFF/INMATE RELATIONS OR BRIBERY

1. Explanations: An inmate may be charged with this offense if they
 - a. participate in, attempt to create, or encourage any type of conduct or relationship outside the scope of employment or assignment between the inmate or the inmate's family and/or friends with any staff member or civilian. This includes inappropriate inmate relationships with staff/civilians or their family members; or
 - b. are trying to influence the conduct or judgment of a person through money or favor.

R. A18 UNWANTED/UNSOLICITED TOUCHING OF A STAFF MEMBER OR CIVILIAN

1. Explanations: An inmate may be charged with this offense if they (under the circumstances not amounting to sexual misconduct or physical assault) intentionally use any body part, device, or instrument to touch inappropriately, stroke, grab, or rub any part of the staff members' or civilian's body.

2. Note: This charge is not to be used for accidental contact or incidental contact occurring by chance, without intent, or calculation.
- S. A19 CONSPIRACY
 1. Explanation: An inmate may be charged with this offense if the inmate participated or attempted to participate in any conspiracy.
- T. A20 INTERFERING WITH OR FAILING TO ATTEND COUNT OR UNACCOUNTABLE ABSENCE
 1. Explanations: An inmate may be charged with this offense if the inmate intentionally interfered with the counting process.
 2. Note: An officer's decision to stop, delay, or suspend the count must be a reasonable reaction to the offender's attempt to defeat the count and clearly articulated in the report. Not to be used if an inmate fails or refuses to stand for the count. (see B07)
- U. A21 ASSAULT AGAINST CORRECTIONAL OFFICER
 1. Explanation: An inmate commits an assault with the knowledge that the correctional officer is a correctional officer, and at the time of the assault, the correctional officer was acting within the scope of authority as a correctional officer.

04.02 "B" Codes

- A. B01 MISUSE OF ADMINISTRATIVE REVIEW
 1. Explanations: An inmate may be charged with this offense if the inmate frivolously, maliciously, or burdensomely used or misused any administrative review process.
 2. Elements:

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| administrative review | any administrative process or review, whether by committee or individual, used to review any right, privilege, program, condition of confinement, process, condition of work, education, therapy, or application to any of the above |
| burdensome | instigating or participating in an administrative review of an issue with the intent to annoy, irritate, provoke, upset, or inconvenience any person or disrupt any administrative processes |
| frivolous | instigating or participating in an administrative review of an issue with no basis in fact or law when the inmate knows, or should have known, this was the case. |
| malicious | instigating or participating in an administrative review of an issue with the intention or desire to harass, inflict intentional insult, cause pain, injury, or distress, or by using language that is attacking obscene, vulgar, or personally insulting |

- B. B02 FIGHTING/ASSAULT/THREATS/HORSEPLAY

1. Explanations: An inmate may be charged with this offense if they are involved in any assault, fight, or mutual combat or if they participate in any form of horseplay. An inmate may be charged with this offense if they engage in threatening conduct by making threats verbally, physically, or in writing.

2. Elements:

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| battery | involves the unauthorized application of force against another person's body, which results in offensive contact or actual physical injury |
| fight | Take part in a physical altercation. |
| horseplay | Rough and boisterous play, sparring, play fighting, or any type of play that causes any person to become alarmed, or the practicing of offensive/defensive tactics by any inmate. |
| mutual combat | A fight into which both parties enter willingly, or in which two persons, upon a sudden quarrel, mutually fight, could include horseplay threats or any conduct which causes or is likely to cause any person to be in fear of their safety or to become alarmed. |

3. Note: If staff or the DHO determines the inmate acted only in self-defense, then this charge does not apply.

C. B03 UNAUTHORIZED POSSESSION, USE OF AN ELECTRONIC DEVICE, OR MISUSE OF INMATE PHONES

1. Explanations: An inmate may be charged with this offense if they:
 - a. are found to be in possession of or to have used any computer equipment (hardware or software), phone, scanner, communication, or device without authorization;
 - b. if authorized, use the device/equipment for any unauthorized purpose; or
 - c. use of another inmate's phone PIN or three-way phone calls.

D. B04 UNAUTHORIZED POSSESSION OR USE OF PROPERTY

1. Explanations: An inmate may be charged with this offense if they:
 - a. damaged, destroyed, lost, or caused to be damaged, destroyed, or lost any government property or the property of another;
 - b. is in possession of another inmate's property; or
 - c. makes use of, transfers ownership of personal property, or has possession of any government property without authorization or in an unauthorized manner.

E. B05 FORGERY, FRAUD, POSSESSION OF STOLEN PROPERTY, OR INSUFFICIENT FUNDS

1. Explanations: An inmate may be charged with this offense if they:
 - a. engaged in or participated in forgery, fraud, counterfeiting, or theft;
 - b. was in possession of the stolen property;
 - c. issued an insufficient funds money transfer;
 - d. caused or enticed any individual to engage in or participate in these activities; or
 - e. distributed, caused to be distributed, traded, used, or issued a forged document.

2. Elements:

| | |
|---------|---|
| forgery | creating a false document, altering a document, or writing a false signature. |
| fraud | an inmate is guilty of fraud if they practice deception to secure unfair or unlawful gain |
| theft | obtaining or exercising unauthorized control over the property of another |

F. B06 GAMBLING, LOAN-SHARKING

1. Explanations: An inmate may be charged with this offense if the inmate in any manner organizes, participates in, promotes, or encourages gambling, loan sharking, or exploitation as defined below.
2. Elements:

| | |
|---------------|---|
| gambling | an activity with a risk of loss or chance of profit |
| loan sharking | engaging in the business of making loans for profit |

G. B07 RESISTING ARREST, REQUIRED MOVEMENT, REFUSING A DIRECT ORDER, OR COMMAND

1. Explanations: An inmate may be charged with this offense if the inmate refuses any direct order or resists required movement (without force) in any manner.
2. NOTE: This shall be used only when "aggravated circumstances (A11)" do not apply.
3. Elements:

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|-------------------------|--|
| command/direct order | any lawful or reasonable command or instruction is given verbally or in writing by any officer, or any person assigned to work with inmates in any capacity. Note: The command or instruction does not need to be preceded by a statement such as, "This is a direct order." |
| refusing a direct order | failing or refusing to fully and immediately comply with an order, or if the inmate stops complying with an order at any time while it is reasonably expected to be obeyed |

| | |
|---|--|
| resisting detention or required movement | When an inmate knows or should have known that any officer is seeking to affect an arrest, detention, or movement of themselves or another and interferes or resists such arrest, detention, or movement in any manner |
|---|--|

H. B08 INTERFERING WITH AN INVESTIGATION, MAKING FALSE STATEMENTS, OR PROVIDING FALSE IDENTIFICATION

1. Explanations: Inmates may be charged with this offense if the inmate provides any officer, employee, or agent of a corrections entity with false identification or false information or if they hinder, prevent, or delay any investigation by an officer or employee of corrections or law enforcement entity. An attempt to cause any change in housing assignment and/or conditions of confinement outside of established procedures

I. B09 VIOLATING ANY CONTRACT

1. Explanations: Inmates may be charged with this offense if they knowingly or intentionally fail to abide by all aspects, expectations, or conditions of any contract or agreement of any kind between the inmate and the UDC, or any affiliated entity or agency.

J. B10 THE UNAUTHORIZED USE OF ANY VEHICLE, TOOL, DEVICE, OR OBJECT

1. Explanations: An inmate may be charged with this offense if they knowingly or intentionally use any vehicle, tool, device, or object without authorization; or use any authorized or issued vehicle, tool, device, or object for any purpose other than what it was authorized to be used for

K. B11 POSSESSION OF TOBACCO OR BEING IN AN AREA WHERE DRUGS, INTOXICANTS, ALCOHOL, OR TOBACCO ARE PRESENT

1. Explanations: An inmate may be charged with this offense if the inmate was in possession of tobacco or in any area where drugs, intoxicants, or alcohol were present or used.

L. B12 ABUSE OR MISUSE OF MEDICATIONS

1. Explanations: An inmate may be charged with this offense if the inmate had in their possession, cell, or property any prescribed medication in unauthorized amounts, removed any prescribed medication from the package for reasons other than prescribed use, failed to turn in unused prescribed medications when required, attempted to conceal medication during medication hand-out, or if the inmate altered or removed a label from a medication.
2. NOTE: This charge is for prescribed medications only. Also, it shall not be used for someone who possesses or uses someone else's prescribed medications, see A13.

M. B13 DISORDERLY CONDUCT, RECKLESS ENDANGERMENT

1. Explanations: An inmate may be charged with this offense if the inmate:
 - a. creates a hazardous or physically offensive condition by any act that serves no legitimate purpose;
 - b. engages in tumultuous or threatening behavior by making unreasonably loud noises; or
 - c. recklessly or negligently engages in conduct that creates a risk of property damage or bodily injury to themselves or another person.

N. B14 PROHIBITED SEXUAL ACTS OR INDECENT EXPOSURE

1. Explanations: An inmate may be charged with this offense if they engage in, encourage others to engage in, or simulate prohibited sexual acts not covered in A07, Sexual Misconduct, or engages in indecent exposure that is not targeted toward a staff member, or the public.
2. Elements:

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|------------------------|---|
| Prohibited sexual acts | any act that is likely to be considered a sexual act by a reasonable person |
|------------------------|---|

O. B15 STG Activity or Paraphernalia

1. Explanations: An inmate may be charged with this offense if the inmate participated in any gang-related activity or is found in possession of STG paraphernalia.
2. NOTE: There must be some evidence the activity is actually gang-related. Security Threat Group affiliation alone is not sufficient.

P. B16 TATTOOING, BRANDING, OR BODY PIERCING

1. Explanations: An inmate may be charged with this offense if the inmate participated in the giving or receiving of any tattoo, the production of scars, or had any tattoo paraphernalia; participated in piercing any body part; or wore any unauthorized object in a pierced body part.