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Executive Orders

EXECUTIVE ORDER EWE-79-1

WHEREAS, the Wildlife and Fisheries Building at 400 Royal Street in the City of New Orleans is owned by the State of Louisiana; and

WHEREAS, there is additional space in this building which is not being used by the Department of Wildlife and Fisheries; and

WHEREAS, a study commission to advise the Governor and Mayor Ernest Morial of New Orleans regarding the future use of the Wildlife and Fisheries Building will insure proper utilization and allocation of this available space.

NOW, THEREFORE, I, EDWIN EDWARDS, Governor of the State of Louisiana, do hereby issue this executive order and create the Commission to Study the Use of the Wildlife and Fisheries Building in New Orleans.

The Commission shall serve at the pleasure of the Governor and shall be composed of the following members: Camille Gravel, Executive Counsel to the Governor; Michael O'Keefe, Senator and President of the Senate; Samuel B. Nunez, Senator; F. E. Lauricella, Senator; Louis Charbonnet, III, Representative; Ralph Miller, Representative; J. Burton Angelle, Secretary, Department of Wildlife and Fisheries; Judge Sanford Levy; Phillip C. Ciaccio, New Orleans City Councilman; and Joseph Casey.

The Commission may use whatever resources of the state it shall deem necessary to complete its study and shall report its findings to the Governor and to Mayor Ernest Morial.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 9th day of February, A.D. 1979.

Edwin Edwards
Governor of Louisiana

Rules

RULES

Department of Agriculture Office of Agricultural and Environmental Sciences

Section VI. Requirements for sweet potato dealer's certificate permit.

1. All persons commercially engaged in the handling, sale, offering for sale and/or movement of sweet potatoes shall not store, clean, grade, pack for sale, process in any manner, or move sweet potatoes unless they have a valid sweet potato dealer's certificate permit except: this shall not apply to the movement of sweet potatoes by farmers directly from their farms to storage houses, processing plants, or cleaning, grading, and packing sheds.

2. A sweet potato dealer's certificate permit shall be issued provided:

A. A properly executed affidavit on a form furnished by the Department, setting forth the stipulations to which the applicant must agree, has been filed with the Department.

B. A bond acceptable to the Department in the amount of one thousand dollars for a sweet potato dealer's certificate permit in favor of the Commissioner of Agriculture has been filed with the Department as a guarantee to:

(1) Reimburse any purchase price of sweet potatoes that have been confiscated because of sweet-potato weevil infestation or illegal movement.

(2) Agree to the destruction of any load or lot of sweet potatoes moving illegally or infested with the sweet-potato weevil by an inspector of the Department or law enforcement officer, or return same to point of origin.

Richard Carlton, State Entomologist
Office of Agricultural and
Environmental Sciences

RULES

Department of Corrections Office of the Secretary

Preface

This booklet of disciplinary rules and procedures constitutes clear and proper notice for each adult prisoner within the Department of Corrections.

This booklet is effective May 1, 1979.

This booklet supercedes any and all conflicting disciplinary rules, procedures, posted policies, and appeal decisions affecting adult prisoners.

Foreward

Discipline (internal and external) and work are necessary for an individual to function in society and for society to function. In order for our corrections society to function, the following disciplinary rules and regulations have been adopted. They must be followed at all adult facilities.

These rules, regulations, and procedures may only be changed by the Secretary of the Department of Corrections.

In the event of a genuine emergency, such as a serious disturbance disrupting normal operations or a natural disaster, the Secretary or his designee may suspend any and all disciplinary rules and procedures for the duration of the emergency. Full hearings must be held within a reasonable time after the end of the emergency for those prisoners who suffered grievous losses (transfer to Louisiana State Police (LSP), custody change, isolation, or loss of good time).

Good time not earned during a given month (up to twenty-five days) cannot be restored. There is no provision in law for anyone, including the Secretary and the Governor, to restore good time.

The pronouns "he" and "his," as they appear herein, are used for convenience only and are not intended to discriminate against female employees or prisoners.

Disciplinary Definitions

Administrative Lockdown (Adm. Ld.): A holding area, preferably a cell, where prisoners who present an immediate threat to the security of the facility through a specific act of planned or committed misbehavior are confined pending their appearance before the disciplinary board.

Appeals: An appeal to the disciplinary board may be made by a prisoner who is dissatisfied with the handling of his case by the disciplinary officer. An appeal to the Secretary may be made by or on behalf of a prisoner who is dissatisfied with the handling of his case by the disciplinary board.

Confidential Informants: Persons who secretly provide employees with information concerning misbehavior or planned misbehavior by prisoners or employees.

Counsel and Counsel Substitutes: Counsel is an attorney at law of the prisoner's choice who must be paid by the prisoner. Counsel substitutes are paralegals, usually prisoners, who aid and assist without cost an accused prisoner in the preparation and presentation of his defense and/or appeal. The aid of counsel or counsel substitute can only be had for cases which appear before the disciplinary board or are appealed to the Secretary.

Disciplinary Board: A committee composed of three ranking employees whose duty is to provide fair and impartial hearings for prisoners accused of serious misbehavior.

Disciplinary Officer: A ranking employee whose duty is to provide fair and impartial hearings for prisoners accused of minor misbehavior, and to transfer prisoners requesting protection to suitable quarters.

Disciplinary Report: A report on the approved form filed by an employee who has reason to believe of his own knowledge that a prisoner(s) has violated one or more disciplinary rules. Disciplinary reports may be heard by the disciplinary officer or the disciplinary board.

Extended Lockdown: Maximum security area for confining prisoners who have been found guilty of serious misbehavior or who require protective custody.

Hearings: Prisoners accused of misbehavior are heard by the disciplinary officer or the disciplinary board.

Incident Report: A report on the approved form filed by an employee describing a specific instance of planned or committed misbehavior. This report is usually filed when the information is obtained through sources other than the reporting employee's first hand knowledge—sources such as confidential informants, other prisoners, nonemployees. Incident reports are heard by the disciplinary board.

Investigation Report: A report submitted for appropriate disposition to the disciplinary board by an investigative officer detailing the facts uncovered in an investigation.

Investigative Officer: An experienced (preferably senior) employee assigned by the disciplinary board or by a ranking employee to investigate a disciplinary report, incident report, or any matter felt to be worthy of investigation.

Isolation: A punitive holding area, preferably a cell, where prisoners are temporarily confined in a totally restricted situation after being so sentenced by the disciplinary board.

Posted Policy: As used herein, applies to policy memorandums detailing what behavior is required or forbidden regarding the individual needs of the facility—such as, but not limited to, count procedure, off-limits areas, ID card policy, cash money policy, and so forth.

Rehearings: A case heard by the disciplinary board may be reheard by the disciplinary board at their discretion, or when so ordered by an appropriate official. A rehearing is a full hearing and does not differ from a hearing except when it is ordered for the purpose of resentencing only.

Disciplinary Procedures

Administrative Lockdown Guidelines: Prisoners accused of serious misbehavior present a clear, immediate threat to the security of the facility and, with the approval of the shift major or senior security officer on duty, may be placed in Adm. Ld. until their disciplinary board hearings. The shift major or senior security officer on duty is responsible for reviewing the report to be sure that it describes an Adm. Ld. offense. The disciplinary board must dismiss the charges against prisoners who were improperly placed in Adm. Ld.

Except as stipulated below, no prisoner may be placed in Adm. Ld.

Disciplinary report for:

Rule 1 Contraband—only for a weapon, narcotics (including marijuana), store-bought alcohol, or manufacture of alcohol.

Rule 3 Defiance.

Rule 5 Disobedience, aggravated.

Rule 8 Escape.

Rule 9 Favoritism—only involving force or threats.

Rule 10 Fighting.

Rule 11 Fighting, aggravated.

Rule 14 Intoxication—only until he sobers up.

Rule 15 Malingering.

Rule 16 Property destruction—only willful destruction.

Rule 18 Self-mutilation.

Rule 20 Sex offenses, aggravated.

Rule 21 Theft—only serious incidents.

Rule 22 Theft, attempted—only serious incidents.

Rule 27 Work offenses, aggravated.

Incident or investigation report for:

Attempted escape, violence, threats of violence, strongarming, theft, dealing or smuggling of contraband, or any other clear, immediate threat to security.

On written request of a prisoner, he may be placed in Adm. Ld. for his protection and/or the protection of others until the disciplinary officer can transfer him to suitable quarters.

Pending possible transfer to another facility, prisoners may be held in Adm. Ld.

Procedures

Appeals to the disciplinary board: A prisoner who wants to appeal a case heard by the disciplinary officer ("low court") must appeal to the disciplinary board ("high court"). As soon as the sentence is passed, the prisoner who wants to appeal must clearly say so to the disciplinary officer who will then automatically suspend the sentence and schedule the case for the next meeting of the disciplinary board. The appeal hearing before the disciplinary board is a full hearing the same as any other hearing conducted by the board.

Appeals to the secretary: A prisoner who wants to appeal a case heard by the disciplinary board must appeal to the Secretary. The board may suspend the sentence pending appeal if they so desire. The prisoner may appeal himself or through his counsel or counsel substitute. The Secretary bases his decision on the record (tapes of the hearing, written documents for and against the prisoner, and any physical evidence—no new oral testimony is considered, either for or against the prisoner). Appeals must be clearly written, preferably typed, on regular sized paper (8½ inches by 11 inches), not legal sized, and contain the following:

1. Simple heading—"Appeal from the Disciplinary Board."
2. Full name, number, and location of appealing prisoner(s).
3. Date report was filed and original charge if it was reduced.
4. Rule number and/or charge found guilty of.
5. Date(s) case was heard by the board (this is most important).
6. Chairman and members of the board, if known.
7. Sentence imposed, and whether it was suspended.
8. Whether plea was guilty or not guilty.
9. State in clear, simple language grounds for reversal.
10. State in clear, simple language arguments for reversal.
11. State in clear, simple language what relief is desired.
12. Full name, number, and location of counsel substitute filing the appeal.
13. Date appeal is filed.
14. Copy of report should be attached, if possible, together with any other evidence considered favorable to the appealing prisoner.

Appeals must be filed within seven days of the disciplinary board decision (hearing). Appeals not in proper form may be returned to be redone. Statements of fact should be double checked as false statements damage credibility.

Counsel substitutes: Behavior of counsel substitutes and Legal Aid Office workers must be above reproach; a job change is

mandatory following conviction of a serious offense. Counsel substitutes are not required to file appeals; but, when they do not wish to, they must so inform the prisoner who wants to appeal telling him why not and explain to him, if necessary, the proper way to file an appeal.

Disciplinary Board: A committee composed of three supervisory level employees, one each from Security, Administration, and Treatment. The chairman must be a warden, associate or deputy warden, division head, LSP lieutenant colonel, LSP major, or be employed in a job category specifically approved in writing by the Secretary. The members must be supervisory level employees such as, but not limited to, security captains and lieutenants, classification officer II's and III's, records custodian, or be employed in a job category specifically approved in writing by the Secretary. A properly composed board may consist of two people: a duly authorized chairman and a duly authorized member, each representing a different element (Security, Treatment, or Administration). On two-member boards, decisions must be unanimous. On three-member Boards, decisions must be by majority vote. Any chairman/member directly or indirectly involved in the incident or who is biased for or against the accused cannot hear the case unless the accused waives recusal. Performance of a routine administrative duty does not involve the employee in the case.

Disciplinary officer: A ranking security officer—an LSP captain or above; at other facilities, a security lieutenant or above—who conducts hearings of minor violations and who may impose only minor penalties. At these hearings, the accused prisoner represents himself and is given full opportunity to speak in his behalf. The presence of counsel substitutes, witnesses, or the accusing employee is not permitted. These hearings are not taped. The disciplinary officer also hears prisoners who have signed written requests for protection, determines appropriate quarters to which they can be transferred, and transfers them (includes transfers to maximum security, if that is appropriate).

Extended lockdown: No prisoner can be placed in extended lockdown for any reason unless he had been afforded a full hearing before the disciplinary board and was found guilty of violating one or more serious rules, or of being dangerous to himself or others, or of being a serious escape risk, or of being in need of protection, or of posing a clear threat to the security of the facility, or of being the subject of an investigation conducted by noninstitutional authorities into a serious felony. The exception is when a prisoner who has signed a written request for protection is transferred there by the disciplinary officer. Prisoners in extended lockdown will be reviewed by an appropriate review board for possible release to a lesser custody status at least every ninety days.

Hearings—disciplinary board: The accused prisoner must be given a written copy of the disciplinary report or incident report describing the charges against him at least twenty-four hours before the hearing begins.

Before the hearing can begin, an accused prisoner must have his rights read to him. These rights are:

1. The right to present evidence and witnesses in his behalf provided it is relevant and not repetitious. (The board has the option of stipulating expected testimony from witnesses.)
2. The right to counsel or counsel substitute.
3. The right to remain silent, and that anything he does say may be used against him then or at later proceedings.
4. The right to cross-examine his accuser provided it is relevant and not repetitious. (Incident report cases—the accusing employee and accusing prisoner victim must be summoned on request; confidential informants will never be summoned. Disciplinary report cases—good reason must be given to summon the employee accuser.)
5. The right to an oral summary of the evidence and reasons for the judgment; this includes the reasons for the sentence imposed.

6. The right to a written summary of the evidence and reasons for the judgment, including reasons for the sentence imposed, when the accused pled not guilty; this will usually appear on the finalized report.

7. On written request, the right to a finalized copy of all reports introduced at the hearing, except confidential information.

8. The right to ask for a rehearing.

9. The right to appeal to the Secretary within seven days of the board decision (hearing).

Conduct of the hearing: All rights and procedural requirements must be followed unless waived by the accused. Disciplinary board hearings must be tape recorded in their entirety, and the tapes preserved for thirty days. When the prisoner intends to appeal to the courts, he should write to the Secretary asking that the tapes be preserved for possible court review within thirty days of the hearing. Hearings must be conducted as follows:

1. The accused enters his name and number into the record (the tape) as does his counsel or counsel substitute (if any) and confirms that he has been read his rights and understands them.

2. The chairman reads the disciplinary and/or incident report to the accused and asks for a plea. Available pleas are not guilty or guilty, and the accused will have full opportunity to present his entire defense. Should the accused enter no plea or attempt to enter an unavailable plea, the chairman will enter a not guilty plea for him and proceed with the case.

3. Motions, if any, by the defense should now be made. Such motions may be:

- a. To dismiss or amend the charge(s).

- b. For a continuance (must be granted on a showing of good cause; when accused did not receive adequate written notice at least twenty-four hours before the hearing, to contact an attorney, and so forth).

- c. To conduct an investigation (must be granted on a showing of a need for an investigation; for clarification, and so forth).

- d. Any other appropriate motions.

4. The board will rule on motions at the appropriate time; all motions must be ruled on before the hearing ends and reasons given for the ruling.

5. After entering his plea, the accused may then present his defense limited solely by the tests of relevancy and nonrepetition. The board may ask relevant questions of the accused, his witnesses, and/or his accuser. The accused may remain silent if he so desires; in any event, no prisoner can be compelled to incriminate himself.

6. During deliberations, everyone except the board, the bailiff, and any official observers must leave the room and the board will decide the case on the basis of the evidence presented at the hearing. Official observers must not take part in the hearing or the deliberations. The bailiff cannot participate in deciding the case or the sentence, and must not participate in the hearing at all when he is the accusing employee, unless he is summoned to testify under cross-examination. The accused's record cannot be examined to determine guilt or innocence. The accused's record may be examined following a finding or a plea of guilty in order to discover a pattern of similar misbehavior or a pending suspended sentence. The accused may want to enter his record into evidence; in this event, it may be examined at any time following the request. As a rule, the record is examined in order to determine an appropriate sentence.

7. Following the deliberations, the chairman will announce the verdict, giving an oral summary of the evidence presented and reasons for the verdict. If the verdict is guilty, the chairman will then announce the sentence, giving an oral summary of the reasons for imposing the sentence selected. The board has full authority to suspend any sentence they impose, including sus-

pending the sentence pending appeal. In conclusion, the chairman will restate to accused that he has the right to appeal to the Secretary within seven days.

Either at or following the hearing, a written summary of the evidence presented and reasons for the judgment (includes reasons for the sentence imposed) will be prepared in all cases that the accused pled not guilty and was found guilty. The convicted prisoner will automatically be given or sent a written summary. Written summaries must accurately reflect the oral summaries.

The hearing must begin within seventy-two hours of placement in Adm. Ld. Official holidays, genuine emergencies, or good faith efforts by the administration to provide a timely hearing are the only exceptions. Otherwise valid reports must be dismissed by the board on this basis alone. Except in the case of holidays or genuine emergencies, when it is not possible to provide a full hearing within seventy-two hours of placement in Adm. Ld., the accused must be brought before the board, informed of the reasons for the delay, and be remanded back to Adm. Ld. or released to his quarters after a date for a full hearing has been set.

Hearings of disciplinary reports: Before the hearing begins, the board should change the rule number to match the description of alleged misbehavior, if necessary, but may change the rule number at any point prior to the deliberations and offer the accused a continuance to prepare the defense; the continuance may be waived. (This does not apply to finding an accused guilty of a lesser, included offense.) A reviewing employee may change the rule number to fit the description prior to the hearing and ensure that the accused gets a corrected copy of the report at least twenty-four hours before the hearing begins. Rule number(s) may be added if the offense is clearly described on the report, but a prisoner cannot be charged with violating two rules for the same event. An incident may consist of several related events, each a separate, distinct rule violation.

Hearings of incident reports: When the report is based solely on information from a confidential informant, it must be corroborated by witnesses (who may be other confidential informants), the record, or other evidence. On request, the accusing employee must be summoned to testify under cross-examination about the substance of the information received and the reasons he believes it to be true, including whether he considers the informant(s) to be reliable. In order for him to attest to the reliability of the information received from a confidential informant, the informant must have been reliable in the past and must have first-hand knowledge of the present incident(s).

When the report is based solely on information from a prisoner who does not want to remain anonymous, it must be corroborated by witnesses (who may be confidential informants), the record, or other evidence. On request, the accusing prisoner must also be summoned to testify under cross-examination.

The Board must exercise caution in cases based solely on a prisoner(s) accusing another prisoner(s) as information thus obtained is a poor substitute for first-hand knowledge by an employee of prisoner misbehavior.

When a prisoner is found guilty on the basis of an incident report, he has been found guilty of being "physically dangerous to himself or others" and/or of being a clear "threat to the security of the facility," through the specific incident described. Rule numbers, definitions, or penalties for violating rules have nothing to do with incident report cases.

Isolation/Adm. Ld.: No prisoner may be confined in isolation except by action of the disciplinary board on the basis of a disciplinary report. No prisoner may be confined in isolation for more than ten consecutive days or for more than twenty days in one calendar month. Time spent in Adm. Ld. must be credited against the isolation sentence, even when the sentence is suspended. After ten consecutive days in isolation, the prisoner must be released for a period of not less than twenty-four hours.

Prisoners in Adm. Ld. must be allowed to receive all correspondence and to originate correspondence. Prisoners in isolation must be allowed to receive all letters and to originate correspondence only to communicate with the courts, legal counsel, and/or the Secretary. Prisoners in Adm. Ld. and isolation will be allowed visits, issued clean clothing daily, to have toothbrush and toothpaste, sufficient heat, light, ventilation, and toilet facilities, and to have the same meals as other prisoners. Desserts may be excluded from meals served to isolation prisoners.

Penalties: Sentences must fit the offense and the offender. A prisoner with a poor conduct record may receive a more severe sentence than a prisoner with a good conduct record for the same offense. Even so, minor offenses call for relatively minor penalties. Maximum double penalties or losses of good time should only be imposed for the most serious violations. A prisoner who violates more than one rule or the same rule more than once during an incident may receive a permissible penalty for each violation. After a finding of guilt of a new violation, a previously suspended sentence may be imposed as well as a new sentence. State and federal laws apply to prisoners. In addition to being punished by facility authorities, therefore, prisoners may also be prosecuted in District Court for criminal conduct. No prisoner may be punished except after a finding of guilt of a specific violation by the disciplinary officer or disciplinary board, and then only according to the penalty schedule for that violation.

Penalty schedule—disciplinary report (heard by disciplinary officer): After a finding of guilt, the disciplinary officer may impose one or two of the below penalties:

1. Reprimand.
2. Extra duty—up to four days for each violation.
3. Loss of minor privilege for up to two weeks.

Extra duty is defined as work to be performed in addition to the regular job assignment as specified by the proper authority. One day of extra duty is eight hours of work.

Minor privileges are:

1. Radio and/or TV.
2. Recreation and/or yard activities.
3. Telephone (except for emergencies).
4. Movies.
5. Up to twelve hours reduction of weekend pass or Christmas or Easter furlough.
6. Loss of canteen privileges.
7. Any other similar privilege.

Penalty schedule—disciplinary report (heard by disciplinary board): After a finding of guilt, the disciplinary board may impose one or two of the below penalties:

Schedule A

1. Reprimand.
2. Loss of minor privilege for up to two weeks.
3. Extra duty—up to four days for each violation.
4. Isolation—up to five days for each violation.
5. Loss of good time—up to ten days for each violation.
6. Quarters change.
7. Job change, if the violation involves the job.

Schedule B

1. Reprimand.
2. Loss of minor privilege for up to four weeks.
3. Loss of major privilege as designated below.
4. Extra duty—up to eight days for each violation.
5. Isolation—up to ten days for each violation or custody change to medium or maximum security status.
6. Recommendation of transfer to another facility (another institution).
7. Loss of good time—up to twenty-five days per calendar month.
8. Quarters change.
9. Job change.