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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA
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11 EDDIE WILLIE TAYLOR, et al.,)
12 Plaintiffs,)
13 -vs-)
14 STATE OF ARIZONA, et al.,)
15 Defendants.)

NO. CIV. 72-21 PHX. (WPC)

16
17 GEORGE YANICH, JR., et al.,)
18 Plaintiffs,)
19 -vs-)
20 STATE OF ARIZONA, et al.,)
21 Defendants.)

NO. CIV. 72-58 PHX. (WPC)

J U D G M E N T

22
23 This matter having duly come on for consideration,
24 and the Court having heard arguments, considered pleadings and
25 stipulations, does now order and adjudge as follows:

- 26 1. That judgment herein is entered in favor of the
27 plaintiffs.
28 2. That the class herein includes all inmates
29 who were and are serving sentences at the Arizona State Prison
30 during the pendency of this action, as heretofore ordered by
31 the Court and through the date of this judgment, and who have
32 not previously requested exclusion from the class herein pre-
scribed.

3. That the Prisoner Rules, Regulations and Discipline Program of the Arizona State Prison attached to this Judgment as Exhibit No. I and incorporated by reference are approved, the procedural rules and requirements to be effective immediately, the substantive rules to be effective within a reasonable time to allow for printing in booklet form, presentation to the inmate population and sufficient opportunity for inmates to become acquainted with the violations set out.

4. That the Arizona State Prison shall immediately adjust the respective inmate release dates in accordance with the settlement of two-for-one (A.R.S. § 31-252) time restoration stipulated by all parties and attached to this Judgment as Exhibit No. II and incorporated by reference.

5. That the judgment herein shall apply to all inmates of the Arizona State Prison who are subject to the Disciplinary Program at Arizona State Prison and who have not previously requested exclusion from the class herein prescribed. Further, that the Judgment is a final adjudication of all complaints concerning lost two-for-one (A.R.S. § 31-252) time credits as a result of disciplinary action between June 22, 1970 and December 22, 1972 with regard to inmate members of the class serving sentences at Arizona State Prison during said time period and who have not previously requested exclusion from the class herein prescribed.

6. That all relief sought by plaintiff members of the class heretofore designated to which they are entitled is granted by this Judgment and that the class, collectively and individually, is entitled to no other relief under this action.

DATED this 19 day of October, 1973.

/s/ William P. Copple
UNITED STATES DISTRICT JUDGE

PRISONER RULES, REGULATIONS AND
DISCIPLINE PROGRAM OF THE
ARIZONA STATE PRISON

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I. POLICY STATEMENT

One of the two basic purposes of the Arizona State Prison is the protection of the community through the secure confinement of persons who, by committing illegal, anti-social and destructive acts, pose a threat to themselves, to others and to property. The other basic function is to attempt to bring about a change in the behavior of the offender to the degree that he will no longer constitute this sort of threat to the community.

In an effort to promote an orderly day to day operation of this Prison and to maintain the health, safety, security and general welfare of the prisoners, the staff and others while carrying out these functions, a system of rules and regulations to reasonably control the behavior, conduct and activities of the prisoners has been developed and implemented. In addition, a disciplinary program to handle violations and to impose penalties has also been instituted. Both the rules and regulations with which all prisoners are expected to comply and the disciplinary program are herein described for the information and guidance of all prisoners and staff members.

It is the policy of the State Department of Corrections and the Prison that the rules and regulations for prisoners shall be only those which are necessary and reasonable; that any sanctions or penalties imposed on violators of those rules shall be fair, reasonable and consistent with the degree of severity of the violation; and that throughout the disciplinary process the individual prisoner's basic constitutional and legal rights will be observed.

It is also the policy of the Department of Corrections and of the Arizona State Prison that it is the basic duty, responsibility, and obligation of all employees of the institution to fairly, consistently and firmly carry out and enforce

these rules and to actively participate in the prisoner discipline program by appropriately reporting violations.

It is hoped and expected that all prisoners will follow and comply with both the letter and the spirit of the rules listed in this document. All violations should, and generally will, be recognized by the appropriate and required action of the employee or staff member observing a violation or who becomes aware a violation has occurred.

Violations of some rules and regulations will be considered as major disciplinary offenses or infractions, and violations of other rules will be considered as minor ones. A violation of a rule may, because of the nature of the violation itself, be considered as serious and thus be a major violation, while another violation of the same rule may be considered as less serious in terms of degree and, therefore, be considered as a minor violation. Consequently, the action taken or the penalty imposed may vary from one violation to another of the same rule.

The action taken in regard to any violation of any rule will be influenced by the number, frequency and type of rule violations the prisoner in question has previously committed. The action taken or the penalty imposed may include, but is not limited to, simply calling the prisoner's attention to the violation; personal counseling of the prisoner; verbal reprimand, admonishment or warning; short term of temporary restriction of movement within a local area, such as a place of work, cell block or dormitory; loss of any one of several privileges; assignment to disciplinary isolation status with placement in a closed isolation cell for a specific number of days, not to exceed 30 days; the loss of so called "good time" or "copper time" credits, when they are due to be credited upon completion of each year served.

It should be noted by all prisoners that a minor violation can be expanded or compounded into a major violation, or result in additional violations by the personal action and behavior of the prisoner in question.

II. DEFINITIONS

It is most important to every prisoner that the following definitions, interpretations and explanations be noted:

A. "Institution" means any real property, building or facility assigned to, used by or under the control of the Arizona State Prison, and the meaning of the word is not limited to the area inside the walls, fences or security perimeter surrounding the main buildings.

B. "Staff member" and "employee" means all employees of the Arizona Department of Corrections, including all employees of the Arizona State Prison and independent contractors working under the specific supervision of the Superintendent, such as consulting physicians and others.

C. "Prisoner" means any person, male or female, committed to the Arizona State Prison by any court of record, or who is confined therein under the provisions of any agreement or compact between Arizona and any other state.

D. "Immediate sleeping area" refers to the area of close proximity to the bed in which the prisoner is assigned to sleep or in which he ordinarily sleeps. In a dormitory this is generally considered to mean an area surrounding the prisoner's bed equal to one-half of the distance between his bed and that of another inmate.

E. "Locker" means any box, container, cabinet, shelf, drawers or similar place assigned to or regularly used by a prisoner for the placement and retention of his clothes and personal belongings.

F. "Working days" means Monday through and including Friday, and excludes Saturday, Sunday and any state or national holiday.

G. "Lockup status" means and includes confinement in the Adjustment Center, administrative segregation, administrative confinement, isolation and deadlocked in one's own cell.

III. PROCEDURES FOR ADMINISTRATION OF THE DISCIPLINE PROGRAM

A. Informal Disposition of Violations. Violations of the rules which are minor in nature may, at the discretion of the staff member observing it, be resolved and disposed of in an informal manner by counseling, warning or admonishment of the prisoner in question. If such is the case, an informational notation, not an official entry of disciplinary action taken, may be entered in the prisoner's file as part of a chronological record of the prisoner's overall adjustment and progress.

B. Formal Disposition of Violations. If the violation is of a serious nature or, in the judgment of the staff member observing it, the violation should be handled in a formal manner, the procedures listed below shall be followed:

1. The staff member shall write, sign and submit to the Associate Warden in charge of custody or his assistant a Preliminary Report of a Rule Violation giving the time, place and nature of the violation, and will verbally inform the prisoner that he has done so.

2. At the time of the violation, the staff member may restrict a prisoner to his cell or dormitory or release him from his work or training assignment to be placed in his cell or dormitory. If the violation or prisoner involved in the violation constitutes a threat or danger to any person, or to the orderly operation of the prison, the prisoner may be confined in an appropriate location by the Associate Warden in charge of custody or his assistant pending further disposition of the matter.

3. Upon receiving the Preliminary Report of a Rule Violation, the Associate Warden in charge of custody or his assistant will, if necessary, conduct or initiate a preliminary

investigation and make one of the following determinations:

a. The violation need not be referred to the Discipline Committee but instead can be handled and disposed of with no loss of time credits, loss of major privilege or confinement imposed on the prisoner. He will indicate this disposition of the matter on the Preliminary Report of a Rule Violation and cause it to be placed in the prisoner's file.

b. The violation should be referred to the Discipline Committee for a hearing and disposition, but the prisoner need not be confined pending the hearing.

c. The violation should be referred to the Discipline Committee for hearing and disposition, and the prisoner is confined pending the hearing.

d. The violation should be dismissed, and no record made of the incident.

4. If the Associate Warden in charge of custody or his assistant refers the violation to the Discipline Committee, he shall conduct or initiate an investigation and determine the facts and circumstances of the incident and prepare and forward Formal Disciplinary Charges (Form # 1) to the Chairman of the Discipline Committee.

5. If the accused prisoner is not confined in lockup status pending the hearing before the Discipline Committee, he shall be provided a copy of the Formal Disciplinary Charges within 5 working days after the date the alleged offender is discovered, and he shall be provided a hearing

before the Discipline Committee within a reasonable time after receiving the charges (see Form # 1).

6. If the accused prisoner is confined in lockup status as a result of his alleged violation of a rule, he shall be provided a copy of the Formal Disciplinary Charges within 5 working days after the alleged offender is discovered, and he shall be granted a hearing before the Discipline Committee within 5 working days after receiving the charges. However, in serious cases where the nature or scope of the offense is complex and complicated, a prisoner may be held in lockup status pending an investigation for longer than 10 days provided that the Director of the Department of Corrections specifically authorizes such detention.

7. Upon a showing of good cause and in order to provide and facilitate a fair hearing, the Committee may, upon request of either the accused inmate or the complaining witness, grant a continuance; however, each side is limited to one continuance. In no event will a continuance be for longer than 2 calendar weeks.

8. In no event will placing the alleged offender in lockup status pending a hearing or during a continuance affect his earning of two for one time (A.R.S. § 31-252), provided he is in a two for one position at the time of the lock. Two for one time is only lost for disciplinary reasons pursuant to an action of the Disciplinary Committee.

C. The Discipline Committee. The Superintendent shall designate or appoint any staff member to set as a member of the Discipline Committee to hear and make dispositions in all matters of discipline or violation of rules referred to it.

1. Membership. The individual members may vary from meeting to meeting, but in formal meetings there shall

be 3 members. One shall be from the Custody Staff, one from the Care and Treatment Staff and, whenever possible, one from other than the Custody Staff. No staff member shall serve on the Committee who has been involved in the making or investigation of the charges.

2. Jurisdiction. The Committee shall hear and dispose of violations or other matters where a prisoner faces the following sanctions or penalties:

a. Denial of good time credits ("copper time") under the provisions of A.R.S. § 31-251.

b. Denial of two for one time credits under the provisions of A.R.S. § 31-252.

c. Confinement in disciplinary isolation.

D. The Conduct of Disciplinary Hearings.

1. The Committee hearing shall begin with a reading and a clear explanation of the charges to the prisoner, and the prisoner shall plead guilty or not guilty to the charges.

2. The prisoner, if he desires, is entitled to be represented by private counsel supplied and arranged for at his own expense, or he may designate another prisoner or a staff member willing to serve in the capacity of counsel or representative. The prisoner shall be given reasonable opportunity to consult with his counsel for the purpose of preparing his defense.

3. The prisoner is entitled to hear all witnesses against him, and his counsel or representative is entitled to examine such witnesses. If the prisoner is either representing himself or is represented by another prisoner, he shall

present his questions through a staff member designated by the Discipline Committee, who is willing to serve in that capacity and who can be relieved of his duties at the time of the hearing.

4. The prisoner is entitled to call other prisoners or staff members as witnesses, but in such a case the prisoner must provide the Chairman of the Discipline Committee a list of the names of such witnesses no later than 2 working days prior to the hearing, on a form provided by the institution, so that adequate arrangements can be made for the witnesses to be present. Inmates must be willing to serve as witnesses. (See Form # 2.)

5. All witnesses may be questioned by the members of the Committee.

6. The number of witnesses to be called and heard shall be at the discretion of the Committee in order to prevent cumulative or irrelevant testimony.

7. All hearings shall be recorded by a mechanical transcription device, and a written list, summary or minutes of the cases heard and disposed of shall be prepared.

E. Decisions and Actions of the Committee.

1. After hearing testimony, examining evidence and considering facts and circumstances, the Committee, by majority vote, may:

a. Find the prisoner not guilty of the charges, dismiss them, and order that no record of them be placed in the prisoner's file.

b. Find the prisoner guilty of the charges, and impose appropriate sanctions or penalties to be executed either immediately or stayed pending appeal.

c. Find the prisoner guilty of the charges and impose appropriate sanctions or penalties, but suspend execution of the sanctions or penalties for any period of time, not exceeding 90 calendar days, contingent on the prisoner's meeting such terms and conditions as are established and determined by the Committee.

d. Refer the prisoner, whether guilty or not guilty, to the Reclassification Committee for a review and evaluation and, if necessary, a change in his custody status, work or training assignment or housing location.

e. Refer the prisoner, whether guilty or not guilty, to the appropriate staff member, office or department for treatment services.

2. Upon conclusion of the hearing, the Committee will inform the prisoner in writing of its findings or decision (see Form # 3). If he is found guilty, he will be informed and provided with written notice of the sanctions and penalties to be imposed and of his right to appeal the Committee's actions.

F. Sanctions and Penalties. Upon finding that the prisoner is guilty of the charges, the Committee is authorized to impose, or to impose but suspend execution for no longer than 90 days, any or all of the following sanctions or penalties which shall be made a matter of record in the prisoner's file. Where more than one charge is filed against the prisoner and he is found guilty on any two or more charges,

the sanction or penalty imposed shall be served concurrently unless otherwise specifically provided by the Committee, but in no event to exceed 30 calendar days. The sanctions and penalties are:

1. Verbal or written reprimand, admonishment, censure or warning.
2. Confinement of the prisoner in lockup status for a period not to exceed 30 calendar days.
3. Confinement of the prisoner in a cell or other place designated as disciplinary isolation for a period not to exceed 30 calendar days.
4. Order and direct that any application of good time credits which had accrued or would otherwise accrue and be applied at the next anniversary date of the prisoner's sentence under the provisions of A.R.S. § 31-251 be denied.
5. Recommend to the Reclassification Committee that the prisoner be removed from any assignment for which he has been receiving two for one time credits under the provisions of A.R.S. § 31-252.
6. Make a recommendation to the Board of Pardons and Paroles that good time credits already earned and applied to the prisoner's sentence be forfeited.
7. Order and direct that the prisoner be denied any or all privileges, including recreational and entertainment activities, but excluding food and exercise.
8. Order and direct the return of property of another prisoner, staff member or the State of Arizona which is in his possession without proper authorization.
9. Order and direct that the prisoner make monetary restitution for the damage to or destruction of the property of another prisoner, a staff member or the State of

an

Arizona caused by the deliberate, intentional, careless or negligent acts of the prisoner.

G. Disciplinary Isolation. Prisoners can be confined in cells or other appropriate facilities designated as disciplinary isolation as a result of being found guilty of proffered charges by the Discipline Committee, but only under the procedures and conditions listed below.

1. No prisoner shall be confined in disciplinary isolation for more than 15 calendar days on a single charge; however, separate sanctions and penalties may be imposed for separate violations which are handled and disposed of at a single meeting of the Committee.

2. Violations by a prisoner confined in disciplinary isolation status can result in the filing of new and additional charges which will be disposed of in a new hearing in the manner already described above. If a prisoner is found guilty of a violation while serving a disciplinary penalty, the sanction or penalty imposed on the new violation shall be served concurrently with the prior penalty unless otherwise specifically provided by the Committee.

3. Prisoners confined in disciplinary isolation status will be provided the following:

a. Three regular meals per day consisting of the same food and drink in the same proportions as provided other inmates not so confined, but not to include desserts.

b. Medical care as needed and authorized by medical technicians and physicians.

Showers on three occasions per week, on different days of the week, when such facilities are available in the immediate area and when the number of officers necessary to maintain appropriate security and control are available. The use of showers may be denied to any individual prisoner or group of prisoners by the Shift Commander, Area Captain or Senior Captain if he determines such use would constitute a threat or danger to any person or to the security and orderly operation of the Prison. In such an instance, the staff member denying the scheduled use of showers shall file a brief written report to that effect with the Assistant Superintendent for Custody by no later than the next business day (excluding weekends and holidays).

d. Exercise outside the isolation cell, but not necessarily outside the immediate area within the building, on three scheduled occasions per week, of no less than one hour on each occasion on three different days of the week. Scheduled exercise may be denied to any individual prisoner or group of prisoners by the Shift Commander, Area Captain or Senior Captain if he determines such exercise would constitute a threat or danger to any person or to

the security and orderly operation of the Prison. In such an instance, the staff member denying the exercise shall file a brief written report to that effect with the Assistant Superintendent for Custody by no later than the next business day (excluding weekends and holidays).

e. Change of clothing as needed, but no less than one per week.

4. No activities or items generally considered as privileges enjoyed by prisoners in the general population will be afforded prisoners in disciplinary isolation, except visitation by persons on the prisoner's approved visiting list, as described below:

a. Permitted when the visitor has traveled 50 miles or more and was not informed or otherwise aware that the prisoner is in disciplinary isolation.

b. Visiting will be limited to no more than two adults (18 years of age or older) during each visit.

c. Visitation periods will not exceed 30 minutes unless specifically extended by the Superintendent or the Assistant Superintendents for Custody or Care and Treatment, respectively, for reasons of personal hardship to the visitor.

C. The visiting period will be held at a time specified within the normal visiting hours.

e. Visiting may be denied any prisoner or group of prisoners by the Superintendent or either Assistant Superintendent if he determines the visit would constitute a threat or danger to any person or to the security and orderly operation of the Prison.

5. Prisoners may be assigned to live in cells or other facilities designated for use as disciplinary isolation upon their own request after signing a dated statement that he freely and voluntarily desires and agrees to such an assignment.

6. Prisoners assigned to live in cells or other facilities designated for use as disciplinary isolation upon their own request will be considered as being in maximum custody status and not in disciplinary isolation status, and will be afforded the privileges and activities ordinarily afforded prisoners classified for maximum custody.

IV. APPEAL OF ACTION BY THE DISCIPLINE COMMITTEE

Any prisoner found to be guilty of a rule violation by the Discipline Committee may appeal such a finding or any sanctions or penalties imposed as a result of the finding to a person designated as an Appeals Officer appointed by the Arizona Department of Corrections according to the following procedures:

A. A prisoner must submit an appeal to the Chairman of the Discipline Committee, the Assistant Superintendent for custody or other appropriate person designated by the Superintendent within 48 hours after receiving his written notice of the decision or finding and of the penalty or sanction imposed by the Committee.

B. The appeal shall be legible and understandable on an appropriate form provided by the Committee (see Form # 4).

C. The prisoner's completed appeal, together with a copy of the Formal Disciplinary Charges, the minutes or summary of the hearing, any vital documents or evidence pertaining to the case and the record of the hearing will be forwarded to the designated Appeals Officer without undue delay.

D. The Appeals Officer will review the documents, recordings and any other evidence forwarded to him and make one of the following findings or decisions:

1. The prisoner's appeal is upheld and the matter is dismissed with no record placed in the prisoner's file.

2. The prisoner's appeal is denied and the finding or decision of the Committee and the sanctions or penalties imposed are confirmed and made a matter of record in the prisoner's file.

3. The prisoner's appeal from a finding of guilty by the Committee is denied; however, the prisoner's appeal in

regard to the severity of the sanctions or penalties imposed is upheld and lesser sanctions or penalties are ordered and made a matter of record in the prisoner's file.

4. Errors or omissions of procedures or of due process in the handling or the hearing of the case are found, and the matter is returned to the institution for re-filing of the Formal Disciplinary Charges and re-hearing by the Discipline Committee according to the procedures in this document.

E. The Appeals Officer will maintain a log indicating the date a prisoner's appeal is received by him, the name and institution identification number of the prisoner, his finding or decision and the date the finding or decision was returned to the institution.

F. The Appeals Officer will report his findings or decision in writing and forward it to the institution with a copy to the prisoner within 10 working days (excluding weekends and holidays) after receiving it (see Form # 5).

G. When a prisoner does not appeal the findings or penalties imposed by the Committee in the proper manner within the prescribed period of time, the decisions of the Committee are final, unless vetoed or reduced by the Superintendent.

H. Unless the Committee suspends execution of the sanctions or penalties imposed pending the processing and disposition of an appeal, the imposed penalty, including confinement of the prisoner in lockup status will be effective immediately. However, confinement in disciplinary isolation shall be for no longer than the period imposed by the Committee for the violation.

I. When a prisoner appeals the decisions or actions of the Committee, the decision of the Appeals Officer will be

final and, if the execution of the sanctions or penalties imposed has been suspended by the Committee pending the processing and disposition of the appeal, the imposed sanctions and penalties will be placed in effect as soon as the institution is notified in writing that the appeal has been denied.

J. The prisoner will be notified in writing by the Appeals Officer as to his decision regarding the prisoner's appeal (see Form # 5).

V. REVOCATION (SUSPENDED SENTENCE)

A. If a prisoner has been given a suspended sentence pursuant to the authority of the Discipline Committee and is thereafter suspected of violating any of the terms imposed by the Committee, he shall:

1. Be immediately notified in writing of the term or condition imposed by the Committee that he is accused of violating (see Form #6).

2. Be brought before the Discipline Committee at its earliest convenience and advised of the charge.

- a. In the event that the charged violation or violations should result in a separate disciplinary charge, in all cases the disciplinary proceedings and determination as heretofore described would occur before the hearing to determine whether or not the prisoner's suspended sentence should be revoked.

- b. If revocation of probation alone will result in cancellation or loss of time credits (A.R.S.#31-251 or -252), or subjects the inmate to disciplinary segregation for more than 10 days, revocation of probation and execution of the suspended sentence will be preceded by a hearing as provided in the Rules for the original infraction.

3. Be provided an opportunity to make a statement and/or explanation as to why his original sentence should not be imposed.

B. The Committee may, by formal majority vote, either:

1. Find that the prisoner has not violated the terms previously imposed; or

2. Find that he has violated said terms, and order that the original sentence be imposed as expediently as possible.

VI. RULES AND REGULATIONS

A. Violations of Statutes. Prisoners of the Arizona State Prison are subject to all laws of the United States and of the State of Arizona. Any prisoner violating these laws may be charged and tried for that violation in the same manner as any other citizen in the appropriate state or federal court. The filing of charges in a judicial court of record for a violation of state or federal laws does not in any way prevent or preclude the administrative handling of that same act as a prison disciplinary matter or of the taking of disciplinary action against the prisoner in question. These violations are:

1. Violation of any law or statute of the State of Arizona.
2. Violation of any law or statute of the United States.

B. Violations Against Persons.

1. Intentionally causing the death or bodily injury of any person.
2. Striking any person with hands, fists, feet or with any weapon or object.
3. Shooting or shooting at any person with any type of firearm.
4. Intentionally projecting any item at another person by the use of the hands or by any mechanical device.
5. Verbally threatening any person with death, violence or injury.
6. Threatening or menacing any person with a weapon or any other item.
7. Fighting, boxing, wrestling and any other form of physical encounter which causes or could cause injury to

another person, except as part of an approved recreational or athletic activity.

8. Participating in homosexual or any sexual behavior or activity with any person, male or female.

9. Requesting, demanding, threatening or in any other way inducing any other person to participate in homosexual or any other sexual behavior or activity.

10. Indecent or unnecessary exposure or exhibition of the genital organs.

11. Use of written or verbal profane, obscene (as prescribed by applicable constitutional standards) or abusive words, language or gestures to another person.

12. Insubordination to a staff member.

13. Offering or giving of any gift, personal service, favor, money or anything else of value to any person as a bribe, or in any other way attempting to influence that person to do anything prohibited by these rules or the laws of the United States or the State of Arizona.

14. Requesting, demanding, inducing and/or receiving any goods, property, personal service, favor, gift or any item of value in return for protection or other services or considerations.

15. Individually, or in participation with others, taking and holding of a staff member or of any other person as a hostage or in any way restraining, holding or confining any person against his will.

16. Obstructing, interfering with or preventing any staff member from carrying out his orders, duties or assignments.

C. Violations Pertaining to the Security and the Orderly Operation of the Prison.

1. Participation in any meeting or gathering which has not been specifically authorized by the Prison staff or an individual staff member.

2. Participation in any group demonstration, disturbance, riot, strike, refusal to work, work stoppage or work slow down.

3. Escaping, walking away or otherwise absenting oneself from the institution without prior specific authorization and permission from a staff member.

4. Escaping, walking away or otherwise absenting oneself from the immediate jurisdiction, control or supervision of a staff member or other legally constituted authority.

5. Participating in the planning of, or otherwise conspiring with another person to aid, abet or prevent discovery of the escape or walk-away of another prisoner from the institution, or from the immediate jurisdiction, control or supervision of a staff member or other legally constituted authority.

6. Unauthorized possession on one's person, in one's cell, immediate sleeping area, locker or immediate place of work assignment; unauthorized receiving from or giving to another person; unauthorized fashioning or manufacturing; unauthorized introduction or arrangement for the introduction into the institution of:

a. Any key, lock, locking device, chain, rope, ladder, tool or other item which could be used to effect an escape.

b. Any mannequin, dummy, replica of a human body, or any item or device which would cause any prisoner to be

coun~~l~~ as being present at the desig-
nated time and place when, in fact, he
would be absent; or in any way would
aid or abet the escape or walk-away of
a prisoner.

c. Any mask, wig or disguise,
or any other means of altering normal
physical appearance which would make
ready identification of a prisoner
difficult.

7. Tampering with, removal of, damage to, destruc-
tion of, blocking of or in any way making inoperable any lock,
door, blocking device or allied equipment, or any fire or
safety equipment.

8. Knowingly not being physically present at the
designated time and place of a count of all of the prisoner
population or that part of the population of which the pris-
oner is a member without the prior knowledge and permission
of a staff member.

9. Causing or participating in any interference,
delay, disruption or deception with regard to the process of
counting part or all of the prisoner population.

10. Wearing of any mask, wig, or disguise, or any
other alteration of the normal physical appearance which
would make ready identification of the prisoner difficult.

11. Causing, through carelessness or neglect, a
fire or the setting of any fire without the prior permission
of a staff member.

12. Absence from one's cell or immediate housing
area, place of work, training assignment, or other area
designated by a staff member, without the specific prior
knowledge and permission of a staff member.

13. Unauthorized presence or being out of place in any building, facility, area, location, vehicle or restricted place.

14. Failure to follow, or to carry out, any lawful and reasonable direction, instruction or order of a staff member or other legally constituted authority.

15. Failure to perform or complete any work, training or other assignment, as ordered, directed or instructed, either verbally or in writing by a staff member.

16. Being under the influence of alcohol, drugs, narcotics, or any intoxicant, depressant or stimulant not specifically authorized, prescribed or issued by a staff member of the institution.

17. Refusal to allow, hindering of, or obstruction of the search of a prisoner, his cell or his property by a staff member.

18. Hanging, fastening or attaching of any sheet, blanket, curtain, drapery or other materials, whether transparent or not, on any part or all of the front, or door, of a cell or around a dormitory bed or other immediate sleeping area without the prior permission of a staff member.

D. Violations Pertaining to Possession, Manufacture and Introduction of Contraband.

1. Unauthorized possession on his person, in his cell, immediate sleeping area, locker or immediate place of work or assignment; unauthorized receiving from, or giving to another person; unauthorized fashioning or manufacturing; unauthorized introduction, or in any way arranging for the introduction on state property of any item; unauthorized mailing, shipping, dispatching or smuggling, or in any way arranging to mail, ship, dispatch or smuggle away from state property of any item considered contraband by the institution, not sold in the institution's Canteen, not permitted by the established policy of the institution, or

by these rules () which is otherwise not () expressly authorized and approved for receipt and retention by the individual prisoner.

2. Possession on one's person, in one's cell, immediate sleeping area, locker or immediate place of work or assignment; receiving from or giving to another person; fashioning or manufacturing; introduction or arranging for the introduction into the institution without the prior knowledge and permission of a staff member of:

a. Any gun, knife, pointed or sharpened instrument, club or weapon capable of causing or inflicting bodily injury to another person.

b. Any flammable, poisonous or explosive material or device, or any type of ammunition.

c. Any drug, narcotic, intoxicant, depressant or stimulant, including alcohol and alcoholic beverages.

d. Any device, equipment, paraphernalia or any other item which can be used for the injection, inhalation or absorption of drugs, narcotics, intoxicants or medicines, not specifically prescribed, authorized or issued to the individual prisoner by a staff member.

e. Any form of securities, bonds, coins, currency, legal tender, official papers or documents or articles of identification.

f. Any item of an officer's uniform, civilian clothing, or staff

clothing, including badges, buttons,
name tags or items or personal identification.

g. Any permitted or issued clothing, tools, equipment, goods, property, materials or items in excess of the number and amount authorized or issued to the individual prisoner.

h. Any obscene material, as defined by A.R.S. § 13-531.01.2:

"Obscene" means that which considered as a whole has as its dominant theme or purpose an appeal to prurient interest or a shameful or morbid interest in nudity, sex or lewdness going substantially beyond customary limits of candor in description or representation of such matters and is utterly without redeeming social importance.

i. Any contraband, illegally manufactured, or altered food or drink.

3. Selling, giving, bartering, disposing of or administering any medicine, drug, narcotic, intoxicant, stimulant, depressant or medical supply other than as expressly instructed by a staff member.

4. Possession in his cell, immediate sleeping area or locker of an excessive amount of personal goods, property, materials or items to the degree that his sleeping or living area or locker presents unkept, untidy, excessively cluttered or offensive appearance, or to the degree that it restricts or interferes with the free movement of another prisoner, with officers' visual observation of the cell or sleeping area or creates a fire or safety hazard.

5. Possession on one's person, in one's cell or immediate sleeping area, immediate place of work or assignment

or a locker of more than 3 cartons of tailor-made cigarettes, 30 cigars or other smoking materials in excess of the amount allotted under these rules, without the prior knowledge and permission of a staff member.

E. Violations Pertaining to Property and Involving Fraud.

1. Receiving from or giving to another person; possession on one's person, in one's cell, immediate sleeping area, locker or immediate place of work or assignment of any goods, property or item of value of another prisoner without the prior knowledge and approval of a staff member.
2. Theft or otherwise taking possession of any goods, property or item of value of another prisoner, staff member or the State of Arizona without the prior authorization of a staff member or by the use of threats, duress, deception or force.
3. Altering, damaging or destroying goods, property or item of value of another person or the State of Arizona.
4. Giving, loaning or otherwise providing money, goods, property or any item of value to another person for profit or increased return.
5. Providing false reports, giving false statements, lying, misrepresenting or distorting the truth, or otherwise communicating inaccurate, untrue or misleading information to a staff member.
6. Counterfeiting, manufacture or reproduction, forgery or possession of any official paper or document, money, currency, coins or articles of identification without the prior knowledge and permission of a staff member.

7. Transfer or attempt to transfer funds from the trust account of one prisoner to that of another without the prior knowledge and permission of a staff member.

8. Exchanging, trading, bartering, giving, receiving or other participation in the transfer of money, personal property or any other item of value from one prisoner to another without the prior knowledge and permission of a staff member.

9. Contracting or arranging to fashion, design, construct or manufacture any hobby item, art work, craft item or any other item for another prisoner without the prior knowledge and permission of a staff member.

F. Violations Pertaining to Policy and Procedures.

1. Participation in any betting, gambling or games of chance, or preparing or conducting games of chance or a gambling pool.

2. Possession on one's person, in one's cell, locker, sleeping area, immediate place of work or assignment; fashioning, designing or manufacturing, introducing or attempting to introduce into the Prison any betting or gambling items without the prior knowledge and permission of a staff member.

3. Transmitting or attempting to transmit through the mail threats, demands or obscene materials (as defined by A.R.S. § 13-531.01.2 [infra at p. 27]).

4. Violation of any United States postal laws or regulations.

5. Violating or attempting to violate any Prison mailing regulation.

6. Violating or attempting to violate any Prison visiting regulation.

7. Use of any telephone without the prior specific knowledge and permission of a staff member.

8. Contacting or attempting to contact any person or persons outside the Prison, except as specifically authorized by the mail or visiting regulations or with the prior knowledge and permission of a staff member.

9. Feigning or misrepresenting illness, injury or physical condition.

G. Violations Pertaining to Personal Appearance and Sanitation.

1. Willful failure of a prisoner to keep his body, hair and clothes in as clean, sanitary, neat and odor-free condition as is possible under the circumstances of his particular custody.

2. Failure of a prisoner to keep his cell or immediate sleeping area clean, odor-free, sanitary, free of trash and debris and available to the visual observation of a staff member.

3. The growing or wearing of a beard, mustache, goatee or otherwise not being clean shaven.

4. The growing or wearing of thick or untrimmed sideburns or sideburns extending below the bottom lobe of the ear.

5. The growing or wearing of the hair on the head long enough to extend onto the collar of an ordinary shirt, cover any part of the ears or eyebrows, or to be longer than 3 inches on top, except as otherwise prescribed by A.R.S. § 31-228.C, as follows: "One month prior to date of discharge, the prisoner shall be permitted to allow his hair to grow." Prisoners allowed to permit their hair to grow beyond the limits established in these rules, under the provisions

of the statute, are those whose maximum sentence will expire within 30 days or those who have already had a hearing before the Arizona Board of Pardons and Paroles and have a definite minimum release date scheduled. Prisoners waiting for a hearing before the Board of Pardons and Paroles are not authorized to permit their hair to grow beyond the limits established in these rules.

6. Wearing on the person, body or clothing of earrings, beads, pendants, medallions or other items of decoration or jewelry. Watches, finger rings, religious medals or crosses are excepted.

H. Violations Pertaining to Safety.

1. Failure to observe, follow and comply with any Prison safety policies or rules and regulations.

2. Operation or use of any tool, equipment, machinery or vehicle without the permission of a staff member.

3. Careless, reckless or negligent operation or use of any Prison tool, equipment, machinery or vehicle.

4. Use, handling of, tampering with, or carelessly, negligently, recklessly or willfully causing damage or destruction to any piece of safety equipment or safety device, except in the case of an emergency or with the prior knowledge and permission of a staff member.

5. Repair, alteration, modification, tampering with or carelessly, negligently, recklessly or willfully causing damage to or destruction of any part of the electrical, plumbing, water, sewerage, communications and other utilities without the prior knowledge and permission of a staff member.

6. Any careless, reckless, negligent or willful act or behavior which causes or could cause death or injury to another person.

7. Smoking in any area or building when or where smoking is restricted or prohibited.

I. Disposition of Violations of Rules Which Are Also Violations of State or Federal Statutes.

When a prisoner is alleged to have committed a violation of rules which is also a violation of the laws or statutes of the State of Arizona or of the United States, the processing and disposition of that violation will be handled in the same manner as described above in regard to acts which are not necessarily violations of statutes or laws.

In the case of such concurrent violations, the Superintendent, at his discretion, may order an investigation into the matter and that it be referred to the appropriate state or federal authorities.

The Superintendent may cause the appropriate staff members or appropriate law enforcement officers to investigate the matter in question and submit the findings and evidence to the appropriate authorities within 60 days.

During the total investigating and charging period (i.e., 60 days investigation and 30 days in which formal charges may be filed) the prisoner may be assigned to maximum custody status and housed in cells or other facilities designated as housing for other prisoners classified for maximum custody, at the discretion of the Superintendent, and afforded the same privileges and activities as other maximum security prisoners (see Form # 7).

If no referral to appropriate authorities is made within 60 calendar days of when the prisoner received his copy of the Formal Disciplinary Charges in regard to the institutional rule violation, the assignment to maximum custody must be terminated.

After referral of the case by the Superintendent, if local authorities have not filed formal criminal or civil charges in the appropriate court of record in 30 calendar days, the assignment to maximum custody must be terminated.

Upon the proper filing of charges in the appropriate court of record by the local authorities within the prescribed 30 calendar days, the prisoner may, at the discretion of the Superintendent, be assigned to maximum custody status and housed in cells or other facilities designated as housing for other prisoners classified for maximum custody until the case is finally decided and disposed of by the courts.

However, should the matter not be referred to the local authorities within the prescribed 60 calendar days; should the local authorities not file criminal or civil charges within the prescribed 30 calendar days; should those charges be dropped or dismissed; or should the prisoner be found not guilty of the charges, the prisoner in question shall be promptly referred to the Reclassification Committee for a review, evaluation and, if necessary, a change in his status, custody classification, work or training assignment or housing location. The Reclassification Committee shall consider this matter within 7 work days (excluding weekends and holidays) from the time it is referred to it, and at that time the prisoner will be clearly informed verbally by the Committee, and within 3 additional working days will be provided with a clearly worded written statement that prosecution is no longer pending under state or federal statutes, that consequently he is being considered for reclassification of his status, custody classification, assignment and housing and as to when his status as a "prisoner awaiting court action" terminates and when his care and treatment begins (see Form # 8).

These rules constitute a new and comprehensive policy and procedure for the handling of violations of prison disciplinary rules. The provisions herein are to take effect immediately upon final approval of the United States District Court for the District of Arizona. Interpretations of or amendments to the rules or procedures for the prisoner discipline program will be issued as experience indicates a need.