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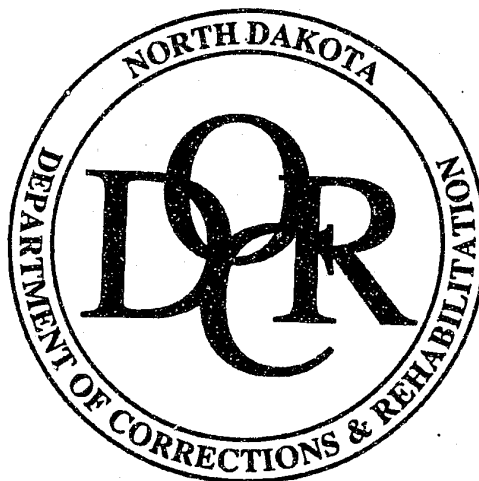
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ACQUISITIONS

**NORTH DAKOTA DEPARTMENT OF CORRECTIONS
AND REHABILITATION**

COMMUNITY CONFINEMENT PROGRAM

MANUAL



Revised January 15, 1994

155239

U.S. Department of Justice
National Institute of Justice

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Parole and Probation Division
P.O. Box 5521
Bismarck, North Dakota 58502

DIRECTOR
Warren R. Emmer
701-221-6144

RECEIVED

JUN 1 1994

STATE PAROLE OFFICE
BISMARCK, ND

MEMORANDUM

MAY 31, 1994

TO: Parole & Probation Officers and NDSP/MRCC Managers
FROM: Rick Hoekstra, Intensive Programs Coordinator
RE: Community Confinement Program

On May 26, 1994 a change to policy and procedures was established effective immediately. The change includes that I will sign all future interventions (Waiver of Hearing & Plea of Guilty) for CCP cases short of their return to the institution.

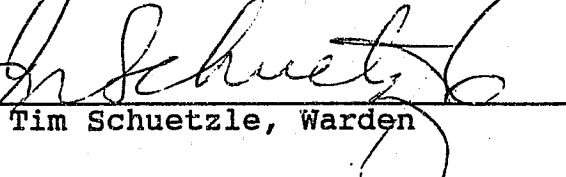
When possible, officers may staff the intended intervention and action with their Regional Supervisor and/or myself for approval prior to meeting the offender. After the intermediate intervention is signed by all parties to the agreement it is directed to me for signature and filing with NDSP records.

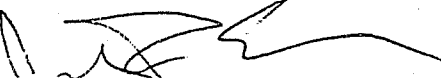
Also, to clarify your interpretation of current policy, appeals by offenders (inmates) in the community on CCP will be heard by "the next higher ranking staff member." The sanction and actions of the supervising officer may be appealed to the Regional Supervisor or their designee; the actions of the Hearing Officer requires the approval of the Director of P & P or his designee who may also review any appeal.

NOTE: Policy states "only the loss of good time may be appealed to the DOC&R Director." Rarely if ever should an appeal require review by the DOC&R central office.

Any required changes to the policy and CCP Manual supporting this change will be forthcoming. If you have any questions please contact me.


Elaine Little, Director of DOC&R


Tim Schuetzle, Warden


Warren Emmer, Director of Parole
& Probation

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Parole and Probation Division
P.O. Box 5521
Bismarck, North Dakota 58502

TO: ALL DISTRICT OFFICES OF PAROLE/PROBATION
ALL NDSP UNIT MANAGERS/CASE MANAGERS/TREATMENT STAFF

FROM: OFFICER RICK HOEKSTRA, INTENSIVE PROGRAMS
BISMARCK PAROLE/PROBATION CENTRAL OFFICE *Rick*

DATE: JANUARY, 1994

RE: COMMUNITY CONFINEMENT PROGRAM

Effective immediately, the revisions to the text of our Community Confinement Manual (Chapter III) are in effect. I will comment briefly on these changes and conclude with comments concerning our future and the program.

Please replace your Community Confinement Program Manual cover page with the enclosed, noting revision date; the authorization/signature page, and Chapter 3 noting in bold print the revisions:

● Chapter III. Page 4, Section A, Paragraph 1:

This noted change was simply to clarify the run on a sentence to better communicate the programs purpose;

● Chapter III. Page 4, Section A, Paragraph 2:

In addition to providing clarity, the primary change in the last statement emphasizes the discretionary authority to deviate from the programs level of supervision based on risk score, (to date through administrative authority we have placed offenders at various levels of supervision, not withstanding risk, targeting home placements whenever appropriate. By the insertion of the word "may" we emphasis the levels identified within the text as a guide and not a strict policy);

- Chapter III. Page 6, Section A, Paragraph 1, Line 7:

The word "transfer" was removed from this sentence to avoid confusion, inserting "Community Confinement placement" to provide clarity;

- Chapter III. Page 6, Section B, Paragraph 1:

In the text of the criteria, changes include the following:

- (1)(a) Eligibility for Community Confinement Program (CCP) "generally" requires six months of residence at NDSP/MRCC. Previously, the criteria stated, 45 days. This change will reduce the number of lower risk offenders eligible and increase the number of higher risk offenders to be placed in the program. However, note the language does provide the discretionary authority of unit management to deviate from the six months.
- (2) The required time period to be disciplinary report free in the Institution is six months prior to consideration for Community Confinement Program (CCP) placement. This is changed from 60 days.
- (8) "Have no parole or probation revocations on current offense" is added as criteria. This will eliminate all offenders serving their sentence following parole/probation supervision that has been revoked on their current offense.

- Chapter III. Page 7, Section C, Paragraph 1:

The correction simply identifies the increased number of criteria;

- Chapter III. Page 8, Section E, Paragraph 1:

This initial paragraph under Section E has been added, emphasizing the responsibility of the Department of Corrections and Rehabilitation employees and contract facilities under this program regarding

intervention of alleged violations of the inmate. Please take this opportunity to simply review the Appendix to your Community Confinement Manual referencing policy and procedure concerning pre-hearing actions, disciplinary hearings, hearing decisions, record review, and appeals;


© Chapter III. Page 9, Section E, Paragraph 2:

This paragraph adds four requirements of disciplinary procedures to concisely communicate the responsibilities concerning intervention of inmates with alleged violations;

This manual originated from efforts of the Department of Corrections and Rehabilitation staff from June of 1991. Our agencies should be proud of the product and realize that we will continue to grow and change. Most recently, there has been concern relating to the availability of funds whether the Community Confinement Program (CCP) should continue as it exists. Notwithstanding the fiscal note, the Community Confinement Program is an excellent resource and community alternative. We will need to continue looking towards appropriate home confinement placements whenever possible until increased funding for contract services can be identified.

Always, feel free to contact me at 221-6144 or Bob Coad, Deputy Warden at the NDSP at 221-6122 concerning any questions. We do need to be reminded that all Community Confinement Program (CCP) placements remain inmates until their expiration. Appropriate documentation of their supervision level and placement needs to be provided whenever change in an offender status occurs. Thank you for your continued work and efforts with the Community Confinement Program (CCP).

Sincerely,



Rick Hoekstra
Intensive Programs Coordinator
Bismarck Central Office

seb

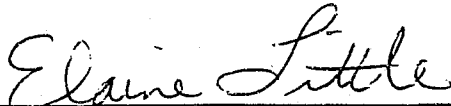
AUTHORIZATION FOR PUBLICATION AND DISTRIBUTION


The following material has been reviewed and found compatible with the policies and procedures of the Department of Corrections and Rehabilitation. The said material is, therefore, hereby authorized for publication and distribution. Any changes made to said material shall require a new authorization and the approval of the undersigned officials.

Title: NORTH DAKOTA DEPARTMENT OF CORRECTIONS & REHABILITATION
COMMUNITY CONFINEMENT PROGRAM MANUAL
(REVISED JANUARY 15, 1994)

Date Authorized: January 13, 1994

Signatures:


Elaine Little, Director
Department of Corrections
and Rehabilitation


Warren Emmer, Director
Division of Parole and Probation



Tim Schuetzle, Warden
ND State Penitentiary

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I.

INTRODUCTION

The North Dakota Department of Corrections and Rehabilitation is committed to placing offenders in the most appropriate, least restrictive environment based upon their risk to society and program needs. Traditionally, adult offenders have been sentenced either to the North Dakota State Penitentiary or placed on probation. Those sentenced to the Penitentiary could be released to the community only at the expiration of their sentence or on parole. With the development of a Community Confinement Program, the Department of Corrections is introducing intermediate sanctions for selected offenders sentenced to the Penitentiary.

The Community Confinement Program will target: (1) low and medium risk offenders who can appropriately and economically make retribution and receive services in the community; and (2) higher risk offenders who are close to release and can benefit from a structured program of integration or reintegration into the community before actual release.

Examples of Community Confinement Programs are: county correctional facilities, halfway houses, or home confinement. The utilization of electronic monitoring, community services, treatment programs, and intensive staff supervision will be integral components of the Community Confinement Program. The Community Confinement Program has been jointly developed and is managed by Penitentiary and Division of Parole and Probation personnel.

Risk to society will determine the level of placement in the Community Confinement Program. The maximum length of stay in the program will be 120 days. During this time, offenders can earn privileges and their programs may become less structured. The expectation is that most offenders will complete the program on home confinement, readying them for their ultimate release from Penitentiary jurisdiction.

It is our belief that the Community Confinement Program will be a benefit to the state of North Dakota as well as the offenders participating in the program. By holding offenders accountable in the community, the cost of incarceration is reduced and offenders are better reintegrated into society.

II.

COMMUNITY CONFINEMENT PROGRAM DEFINITIONS

1. **ADJUSTMENT COMMITTEE:** Due process resolution of alleged violation of North Dakota State Penitentiary or Community Confinement Program rules and/or regulations. The committee may be composed of from one to three employees of DOC&R or their contract facilities.
2. **COMMUNITY CONFINEMENT:** An extension of the place of confinement from North Dakota Penitentiary/Missouri River Correctional Center to a county jail, half-way house, treatment facility, or personal residence.
3. **COMMUNITY CORRECTIONS CENTER (CCC):** A North Dakota county jail or law enforcement center used for community confinement to reintegrate offenders into their home communities prior to release.
4. **COMMUNITY SERVICES:** A sanction and condition of supervision specifying a certain number of uncompensated hours to be worked within the community. Community Service will not displace paid workers and will consist of duties and functions that would not otherwise have been performed.
5. **DAY REPORTING:** Offenders are required to physically report on a daily basis to a specific location (county jail, halfway house, etc.), provide a written schedule of proposed activities for the upcoming day, and account for their daily activities of the preceding day.
6. **EDUCATIONAL RELEASE:** An opportunity for the offender to leave his/her place of confinement to engage in approved academic/vocational classes during specific hours.
7. **ELECTRONIC MONITORING:** Provides the supervising officer with the capability of monitoring an offender's compliance with curfew, house arrest, or home detention conditions of supervision.
8. **HALFWAY HOUSE:** A facility that provides the necessary structure, control, and programs to facilitate the integration or reintegration of offenders into the community.
9. **HOME CONFINEMENT:** A modified form of home detention which authorizes an offender movement beyond the set boundaries for specific purposes and/or specific periods of time.
10. **HOME DETENTION:** A program which restricts an offender to his/her residence for a specific period of time. Movement

beyond the parameters set is not allowed, unless previously approved or for a medical emergency.

11. **INDIVIDUAL PERFORMANCE PLAN (IPP):** An agreement between the security staff, case manager and/or unit management team member and the offender, to establish a performance plan for that individual offender. This document will be signed by the appropriate staff member and the offender. This plan is only part of the program for the offender and does not limit or bind the actions of the Penitentiary.
12. **RELEASE DATE:** The date the offender completes the confinement portion of his/her sentence. (See Community Confinement)
13. **RESTITUTION PROGRAM:** While on community confinement an offender may be required to make payment or provide other compensation to the victim or community as required by judicial authority.
14. **SUPERVISED CONFINEMENT:** 24 hours per day supervision in a residential setting.
15. **TEMPORARY MERITORIOUS LEAVE:** Temporary meritorious leave is an authorized absence from the institution/community confinement program by an offender who is not under escort of a staff member.
16. **TREATMENT:** Individual and/or group programming to resolve problems and/or areas of need identified by qualified addiction, social work, or mental health staff.
17. **UNIT MANAGEMENT TEAM:** A multi-disciplinary committee which meets for the purpose of evaluating, developing, and initiating plans which will most effectively meet the rehabilitative and rehabilitative needs of offenders.
18. **WORK RELEASE:** An opportunity for the offender to leave his/her place of confinement to engage in approved employment during specific hours.

III.

COMMUNITY CONFINEMENT PROGRAM

A. OVERVIEW

NDCC 54-23.3-04 grants the Director of the Department of Corrections and Rehabilitation the authority "To promote the development of alternatives to conventional incarceration for those offenders who can be dealt with more effectively in less restrictive, community based facilities and programs." The Community Confinement Program provides alternatives to Penitentiary confinement that were not previously available. This is done by placing offenders in a rehabilitative atmosphere, thereby improving their chance to successfully reintegrate into society.

It is the mission of the DOC&R to protect the public while providing a safe and humane environment for offenders placed in its care and custody. The Community Confinement Program, will allow the Department to provide the confinement ordered by North Dakota courts in the least restrictive environment consistent with public safety and the offender's needs. Community Confinement provides an intermediate level of custody and supervision to accomplish these goals. Offenders chosen to participate in this program may be placed in one of three levels based upon their risk to society.

Forms utilized in the program are included in the Appendix along with North Dakota State Penitentiary policies and procedures that relate to the Community Confinement Program.

Level I : High Risk
25 points or higher on risk scale

Phase I: (30 to 120 days) Program Components

- a. Work release from supervised confinement
- b. Compliance with treatment recommendations
- c. Two contacts monthly between Parole/Probation Officer and the service provider and/or offender

Phase II: (30 to 90 days) Program Components

- a. Halfway House (Less restrictive environment)

- b. Compliance with treatment recommendations
- c. Temporary Meritorious Leave available
- d. Four contacts monthly between Parole/Probation Officer and the service provider and/or offender

Phase III: (30 to 60 days) Program Components

- a. Home confinement
- b. Electronic monitoring if indicated
- c. Weekly face-to-face contacts between Parole/Probation Officer and the offender

Level II : Medium Risk
16 to 24 points on the risk scale

Phase I: (30 to 120 days) Program Components

- a. Halfway house (Less restrictive environment)
- b. Compliance with treatment recommendations
- c. Temporary Meritorious Leave available
- d. Four contacts monthly between Parole/Probation Officer and the service provider and/or offender

Phase II: (30 to 90 days) Program Components

- a. Home Confinement
- b. Electronic monitoring if indicated
- c. Weekly face-to-face contacts between Parole/Probation Officer and offender

Level III : Low Risk
0 to 15 points on the risk scale

Phase I: (0 to 120 days) Program Components

- a. Home confinement
- b. Electronic monitoring if indicated

c. Weekly face-to-face contacts between Parole/
Probation Officer and offender

The number of days the offender spends in each phase will depend on the offenders risk to society and his/her progress in the program. While at a community correctional center, the offender remains under the authority of the North Dakota State Penitentiary Warden or his designee. Major decisions such as level, phase, or classification, etc. must be staffed with the Warden or his designee. After the Community Confinement Placement is made, the offender will be contacted by a Parole/Probation Officer to establish a supervision plan. The offender's program in the community will depend on his/her initial Community Confinement Program classification status and his/her previous progress while in confinement. In most cases as the offender nears his/her release date, their status will be "home confinement". This will assist in the reintegration process and will be very cost effective to the Department. Residents accepting placement in the Community Confinement Program waive their rights to Parole Board consideration while in the program.

B. COMMUNITY CONFINEMENT PROGRAM ELIGIBILITY CRITERIA

An offender must meet certain criteria before being considered for the Community Confinement Program. Meeting this criteria does not automatically assure acceptance in the Community Confinement Program. The Warden retains final approval for participation. Participation in this program is a privilege, not a right. The Warden's decision is, therefore, not appealable or grievable. The criteria considered follows:

1. Offenders must be within 120 days of a projected release to probation, parole, or expiration of sentence.
 - a. Offenders will generally be housed in the Penitentiary or MRCC for 6 months before being eligible for review by the Unit Management Team for community confinement consideration.
2. Be disciplinary report free for 6 months.
3. Medical Department clearance.
4. Have an acceptable work record.
5. Be in compliance with educational and treatment staff recommendations.
6. Be in compliance with all Individual Performance Plan (IPP) requirements.

7. Cannot have absconded from correctional supervision within the past two years.
8. Have no parole or probation revocations on current offense.
9. Have no unresolved detainers.
10. Be approved by the Unit Management Team.
11. Placement plan approved by the Parole/Probation Officer.
12. Be accepted by the contract facility.

C. COMMUNITY CONFINEMENT PROGRAM SELECTION PROCEDURES

Applications for the Community Confinement Program should be submitted to the appropriate Unit Manager approximately five months prior to a projected/scheduled release date. This application must detail why the offender wishes to participate in the program and what benefits they expect to derive. If the applicant meets standards one through twelve in "B" above, the Unit Manager will staff the application with the Unit Management Team. A risk assessment instrument will be completed to determine the appropriate level of community confinement for the applicant as outlined in "A" above. Additional controls and services that may be needed to enhance supervision should be identified at this time. These include, but are not limited to: treatment, testing, electronic monitoring, interaction with Parole/Probation Officer, and day reporting.

A complete referral packet will be sent to the Parole/Probation Officer in the area of proposed placement. His investigation and subsequent recommendation to the Warden of the North Dakota State Penitentiary are critical in the selection process. The Warden retains final authority to authorize transfer. The records supervisor shall also notify the prosecuting State's Attorney and the sentencing judge of the offenders proposed transfer. Prior to transfer, the Deputy Warden or his designee will discuss the community confinement agreement with the offender, and the offender's signature agreeing to the stipulated conditions will be required.

D. COMMUNITY CONFINEMENT PROGRAM GOALS & OBJECTIVES

The Department has identified two major goals for the Community Confinement Program. These goals and the objectives of each goal are as follows:

- **TO INTEGRATE OFFENDERS INTO THE COMMUNITY THROUGH THE UTILIZATION OF APPROPRIATE COMMUNITY PROGRAMS AND SUPERVISION PRIOR TO THEIR RELEASE FROM CONFINEMENT:**

Offenders that are within 120 days of their projected release date, who meet the criteria in "B" above, and who score appropriately on the risk management scale may be selected for the Community Confinement Program. They may be either low risk, short term offenders or higher risk offenders nearing the end of a longer sentence. While confined in the community, these offenders will have the opportunity to develop positive family ties, establish community relationships, deal with treatment issues, be employed, and seek educational involvement.

- **TO REMOVE OFFENDERS FROM THE NORTH DAKOTA STATE PENITENTIARY THAT WOULD BE BETTER SERVED IN COMMUNITY PROGRAMMING:**

Through the utilization of an objective risk assessment instrument, the recommendations of the Penitentiary unit management team, and Parole/ Probation personnel, a group of low risk offenders with four months or less to serve on their sentences will be identified. These offenders may be returned to the community on home confinement to complete service of sentence. While on home confinement, the opportunity to maintain positive community ties, work on treatment issues, and maintain employment and/or educational programming will be available.

E. FACTORS FOR DISCIPLINARY HEARINGS CONSIDERATION

Employees of the Department of Corrections and Rehabilitation and their contract facilities are encouraged to review the attached policy and procedure regarding pre-hearing actions, disciplinary hearings, hearing decisions, record review, and appeals immediately upon becoming aware that a possible rule violation has occurred.

Standards for admission to the Community Confinement Program are high. Once assigned to this program, offenders will be expected to demonstrate their intent to succeed by behavior that is above reproach. It is the intent of community confinement that offenders assigned to this program succeed. If, however, the offender is involved in behavior that is prohibited by North Dakota State Penitentiary or community confinement policy, the full range of sanctions available in the institution are available in the community. These sanctions include, but are not limited to: loss of privileges, move to a more restrictive environment, community service, day reporting, return to the Penitentiary, loss of

good time, disciplinary segregation, and referral for prosecution. The supervising team will, however, make every effort to assist community confinement offenders in maintaining their position by considering the following factors in the processing of misconduct reports:

1. Level of community confinement
2. Nature of violation(s)
3. Mitigating/aggravating circumstances
4. Parole/Probation Officer recommendation
5. Case supervision plan

Disciplinary procedures must meet requirements set forth by the Wolff v. McDonnell decision which are basically:

1. Offenders must be given 24 hours advance notice of the Adjustment Committee hearing and of the charges that will be considered.
2. Offenders have the right to call witnesses represent documentary evidence at the hearing.
3. Staff representation will be available for the offender if they are illiterate or if the complexity of issues makes understanding the proceedings questionable.
4. The offender is given a written copy of the Adjustment Committee decision. This includes a statement regarding the evidence on which the decision is based.

If the community confinement offender is being housed in a contract facility, that facility's internal disciplinary policy and procedures will be in effect. When an offender is "detained" (assigned more secure housing) pending investigation or disposition of a disciplinary report, the contract facility must notify the offender in writing within 24 hours of the reasons for his/her detention. Misconduct reports may be written and adjustment committee actions processed internally by the contract facility as needed. Penitentiary personnel, policy, and sanctions will be utilized only in the event that good time is forfeited or if the offender must be returned to the Penitentiary. In that event, the contract facility should contact the local North Dakota Parole/Probation Officer who will, in turn, advise the Deputy Warden of the North Dakota State Penitentiary.

If the offender is in home confinement or on electronic monitoring status, he/she will be under the supervision of a

Division of Parole/Probation Officer. If the offender is found to be involved in prohibited behavior, the Parole/Probation Officer will determine if a disciplinary report is required. Any action taken, and rationale for same, will be documented in the file.

F. EMERGENCY NOTIFICATION PROCEDURES

An offender who absconds from community confinement is deemed to be an escapee under North Dakota Century Code 12.1-08-06.

Should an offender abscond from community confinement or fail to be at his/her assigned station, the contract facility and Parole/Probation Officer shall be notified within one (1) hour. Those two individuals will make a thorough investigation and determine what additional steps to take. If it is determined that the inmate has escaped, the Warden of the North Dakota State Penitentiary and local law enforcement officials will be advised.

If an escape is ascertained, an incident report will be prepared charging ESCAPE, Code 1-5. Standard disciplinary procedure will be followed in absentia. When the escapee is returned to custody he/she will be provided an in person disciplinary hearing to provide due process.

In the event of a medical emergency in which the offender does not have health care resources, the facility director in concert with the Parole/Probation Officer may authorize temporary emergency care.

G. MEASURING PERFORMANCE

The "Acceptance to Caseload" (ATC) and "Termination from Sentence" (TFS) are used to gather the offender's social and demographic information. Salient factors relating to risks and needs are also identified by the ATC. Information not captured by the ATC and TFS forms will be provided by completing the Alternative Sanctions Data Collection Report. The Alternative Sanctions Data Collection Report is completed by the supervising officer when the offender is terminated from CCP supervision (TFS). The information provided by the ATC, TFS, and Alternative Sanctions Data Collection Report will be retained by a computer program database designed to collect this information, track offenders, and evaluating the CCP.

APPENDIX A

FORMS

FACILITY CONTRACTS

A FACILITY CONTRACTED WITH THE DEPARTMENT OF CORRECTIONS AND REHABILITATION (DOCR) AGREES TO PROVIDE HOUSING, PROGRAMS, AND/OR SERVICES TO OFFENDERS UNDER THE AUTHORITY OF THE DOCR. CONTRACTS SHOULD BE RETAINED BY THE FACILITY AND WILL BE RENEWED ANNUALLY.

FACILITIES WISHING TO CONTRACT WITH THE DOCR TO PROVIDE HOUSING, PROGRAMS, AND SERVICES NOT OTHERWISE AVAILABLE TO OFFENDERS MAY CONTACT THE DOCR BY WRITING TO:

**RICK HOEKSTRA
INTENSIVE PROGRAMS COORDINATOR
P.O. BOX 5521
BISMARCK, ND 58502**

**COMMUNITY CONFINEMENT PROGRAM APPLICATION**DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18911 (07/92)

| | |
|--|--------------|
| NAME OF APPLICANT | NUMBER |
| SENTENCE | RELEASE DATE |
| HAVE YOU COMPLETED YOUR RECOMMENDED TREATMENT PLAN? YES <input type="checkbox"/> NO <input type="checkbox"/> | |
| WHAT IS YOUR PRESCRIBED TREATMENT PLAN? | |
| WHO IS YOUR CASE MANAGER? | |
| HAVE YOU RECEIVED ANY CLASS I OR II INCIDENT REPORTS WITHIN THE LAST 60 DAYS? YES <input type="checkbox"/> NO <input type="checkbox"/> IF YES, FOR WHAT? | |
| DO YOU HAVE ANY OUTSTANDING WARRANTS OR DETAINERS? YES <input type="checkbox"/> NO <input type="checkbox"/> | |
| DO YOU OWE ANY RESTITUTION TO THE COURTS OR VICTIMS? YES <input type="checkbox"/> NO <input type="checkbox"/> | |
| WHAT FACILITY ARE YOU SEEKING PLACEMENT TO AND WHAT BENEFITS DO YOU HOPE TO GAIN THROUGH THIS PLACEMENT? | |
| I AGREE TO HAVE ANY OF MY RECORDS RELEASED TO THE COMMUNITY CONFINEMENT FACILITY IN ORDER TO FACILITATE THIS PLACEMENT? YES <input type="checkbox"/> NO <input type="checkbox"/> INITIALS _____ | |

NOTE: ANY APPLICATION INFORMATION WHICH IS NOT FACTUAL WILL BE CONSIDERED A VIOLATION OF INFRACTION CODE 2-15 (FALSE TESTIMONY PRESENTED TO STAFF) AND MAY CARRY DISCIPLINARY SANCTIONS.

| | |
|--|------|
| I FULLY UNDERSTAND ALL INFORMATION REQUESTED ON THIS APPLICATION, AND TO THE BEST OF MY KNOWLEDGE EVERYTHING I HAVE PROVIDED IS FACTUAL. | |
| SIGNATURE OF APPLICANT | DATE |
| UNIT MANAGER | DATE |

DISTRIBUTION: Original - Field Supervisor
Canary - Unit Management Team



COMMUNITY CONFINEMENT REFERRAL
DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18912 (07/92)

| | | |
|--------------|------------------|------|
| Inmate Name | Number | Date |
| Crime | Sentence | |
| Release Date | County Requested | |

CRITERIA

| | | | |
|---|-------------|--|----------------|
| Disciplinary Reports in the last 6 months? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Staff Initials |
| Code | Disposition | | |
| Code | Disposition | | |
| Disciplinary Reports within 120 days of release date? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Staff Initials |
| Treatment completed? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Staff Initials |
| Comments | | | |
| Education completed? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Staff Initials |
| Comments | | | |
| Performance Contract Compliance? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Staff Initials |
| Comments | | | |
| Detainer? | | <input type="checkbox"/> Yes <input type="checkbox"/> No | Staff Initials |
| Comments | | | |
| Work Release? | | <input type="checkbox"/> Approved <input type="checkbox"/> Need to Apply <input type="checkbox"/> Denied | |
| Unit Management Recommendation | | | |
| Date | Chairman | | |
| Warden's Comments | | | |
| Date | Signature | | |



UNIT MANAGEMENT REVIEW
DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18913 (07/92)

| NAME | NUMBER | DATE |
|---|--------|------|
| <p>The Unit Management Committee has reviewed your application for Community Confinement placement and have recommended the following:</p> | | |
| <p><input type="checkbox"/> Your application has been approved, contingent upon the below listed terms:</p> <ol style="list-style-type: none">1.2.3.4.5. | | |
| <p><input type="checkbox"/> Your application has been denied, due to one (1) or more of the following reasons:</p> <ul style="list-style-type: none"><input type="checkbox"/> You do not met established program criteria.<input type="checkbox"/> You will not be relocating to the area requested.<input type="checkbox"/> Your risk assessment is too high for placement at this time.<input type="checkbox"/> You have demonstrated unsatisfactory behavior or work performance.<input type="checkbox"/> Your treatment plan has not been satisfied.<input type="checkbox"/> The area requested does not provide necessary contract services.<input type="checkbox"/> Noncompliance with Individual Performance Plan Agreement.<input type="checkbox"/> Unsatisfactory pre-release plan.<input type="checkbox"/> The committee feels that you would be better suited to an alternative pre-release plan.<input type="checkbox"/> Other | | |
| <p>Committee Comments:</p> | | |
| <p>NOTE--Community Confinement Placement is a privilege. The decision of the Unit Management Committee is non-appealable. If, however, the conditions which lead to our decision have been met, you may reapply, in writing, to this committee at that time.</p> | | |
| Signature of Chairman | | Date |

DISTRIBUTION: Warden
Deputy Warden
Unit Manager
Resident
Personal File

45



RISK ASSESSMENT

DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18914 (07/92)

| | | | |
|---------------------------------|------------------|--------------|-----------------------|
| Client's Name (Last, First, MI) | Client's SID No. | Client's SSN | Agent's No./Radio No. |
|---------------------------------|------------------|--------------|-----------------------|

RA - Number of Address Changes in Last 12 Months
(Prior to incarceration for parolees)

| | | |
|---|-------------|----|
| 0 | None | |
| 2 | One | |
| 3 | Two or More | RA |

RB - Percentage of Time Employed in Last 12 Months
(Prior to incarceration for parolees)

| | | |
|---|----------------|----|
| 0 | 60% or more | |
| 1 | 40% - 59% | |
| 2 | Under 40% | |
| 0 | Not Applicable | RB |

RC - Alcohol Usage Problems
(Prior to incarceration for parolees)

| | | |
|---|---|----|
| 0 | No interference with functioning | |
| 2 | Occasional abuse, some disruption of functioning | |
| 4 | Frequent abuse, serious disruption, needs treatment | RC |

RD - Other Drug Problems
(Prior to incarceration for parolees)

| | | |
|---|---|----|
| 0 | No interference with functioning | |
| 1 | Occasional abuse, some disruption of functioning | |
| 2 | Frequent abuse, serious disruption, needs treatment | RD |

RE - Attitude

| | | |
|---|--|----|
| 0 | Motivated to change, receptive to assistance | |
| 3 | Dependent or unwilling to accept responsibility | |
| 5 | Rationalizes behavior, negative, not motivated to change | RE |

RF - Age at First Conviction

| | | |
|---|---------------|----|
| 0 | 24 or older | |
| 2 | 20-23 | |
| 4 | 19 or younger | RF |

RG - Number of Prior Periods of Probation/Parole
Supervision (Adult or Juvenile)

| | | |
|---|-------------|----|
| 0 | None | |
| 4 | One or More | RG |

RH - Number of Prior Probation/Parole Revocations

| | | |
|---|-------------|----|
| 0 | None | |
| 4 | One or More | RH |

RI - Number of Prior Felony Convictions

| | | |
|---|-------------|----|
| 0 | None | |
| 2 | One | |
| 4 | Two or More | RI |

RJ - Convictions or Juvenile Adjudications for:
(Select applicable and add for score. Do not exceed total of 5. Include current offense.)

| | | |
|---|---|----|
| 2 | Burglary, theft, auto theft, or robbery | |
| 3 | Worthless checks or forgery | RJ |

RK - Conviction or Juvenile Adjudication for
Assaultive Offense within Last Five Years: (An
offense which involves the use of a weapon,
physical force, or threat of force.)

| | | |
|----|-----|----|
| 15 | Yes | |
| 0 | No | RK |

RL - TOTAL

| |
|----|
| RL |
|----|

**INVESTIGATION**

DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18915 (07/92)

NOTE: To be used by Parole and Probation field personnel only.

| | |
|---|---------------------|
| INMATE NAME | NUMBER |
| RELEASE DATE | RELEASE DESTINATION |
| 1. RESIDENCE: (Include remarks concerning other person(s) in residence) | |
| 2. TREATMENT: (Is required treatment available within 50 miles of residence) | |
| 3. EMPLOYMENT: (Nature and length of employment, income, creditability of employer) | |
| 4. EDUCATION/VOCATIONAL: (Funding, length of class, feasibility of completion, prospects for employment in the field) | |
| 5. VICTIM/COMMUNITY CONCERNS: (Victim compact statement, community resentment, etc.) | |
| 6. FINANCIAL: (Savings account? Does offender have court imposed obligations?) | |
| SIGNATURE | DATE |



COMMUNITY CONFINEMENT PARTICIPANT AGREEMENT

DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18916 (07/92)

| | | | |
|--|--|----------------|--|
| NAME | | NDSP/MRCC/SID# | |
| <p>In consideration of the being granted community confinement status, I agree to abide by the following conditions:</p> <ol style="list-style-type: none">1. I will not violate any law of any city, county, state, or of the U.S. government.2. I will seek out and accept gainful employment or participation in an educational or vocational training program approved by the Department of Corrections & Rehabilitation.3. I will not travel beyond a _____ mile radius of _____.4. I will not change employment or educational/vocational training programming without approval from the Department of Corrections & Rehabilitation.5. I will not use or possess alcoholic beverages.6. I will not use or possess controlled substances.7. I will not possess knives, firearms, or other weapons.8. I will not enter any liquor, beer, or wine establishment.9. I will allow the Department of Corrections & Rehabilitation to conduct warrantless searches of my person, place of residence, or vehicle at any time of the day or night. Any contraband or evidence found therein may be seized at any time of the day or night by the Department of Corrections & Rehabilitation representative to obtain or present a search warrant.10. I will submit to a medical examination, or other testing procedure, for the purpose of determining whether I have used or consumed any alcoholic beverage, narcotic drug, marijuana, or any other controlled substance whenever requested to do so by the Department of Corrections & Rehabilitation. I also understand that failure to provide a urine sample within two hours of the initial request will constitute a refusal and be construed an admission of use.11. I agree to comply with treatment recommendations made by representatives of the Department of Corrections & Rehabilitation.12. I will not have contact with the victim(s) of my crime or their family(ies).13. I will comply with all other agreements, contracts, or stipulations that I have entered into while in the custody of the Department of Corrections & Rehabilitation. Copies of the said agreements, contracts, or stipulations are attached hereto.14. I waive Parole Board appearance for six (6) months from the date of transfer in order to participate in the Community Confinement Program.15. Unless otherwise authorized, I will have no more than 30 minutes travel time to and from my place of employment, education, or other approved activity.16. I will not leave the state of North Dakota without the approval of the DOC&R and will waive extradition to the state of North Dakota from any jurisdiction in or outside the United States of America, should I abscond from supervision.17. I will apply _____% of gross earned income towards restitution, court costs, fees, and fines, or expenses incurred by the DOC&R on my behalf. I understand I may be required to pay a portion of the cost to house me in a community corrections facility, jail, or half-way house. I will also be required to save a portion of my earnings to be used for release money.18. Medical and dental expenditures incurred by inmates on Community Confinement that are necessary to safe guard health will continue to be the responsibility of North Dakota State Penitentiary. Elective treatment of any nature will generally not be approved. All medical or dental expenses, other than emergency treatment must first be approved by the Director of Programs at the North Dakota State Penitentiary through the DOC&R field representative.19. I will report to a representative of the DOC&R as required.20. I will not commit any act listed on the North Dakota State Penitentiary Prohibited Acts list while a participant in the Community Confinement Program.21. I understand that while on Community Confinement, I remain in the legal custody of the Warden of the North Dakota State Penitentiary and supervision of the Department of Corrections and Rehabilitation until the _____ day of _____, 19____. | | | |
| SIGNATURE | | DATE | |
| WITNESS | | DATE | |



MEDICATION REFILL REQUEST

DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18917 (07/92)

| | |
|---------------|-----|
| INMATE'S NAME | |
| FACILITY | |
| ADDRESS | ZIP |

[illegible]

Please attach any new medication orders for chronic medication that is to be filled by the Penitentiary Pharmacy.



APPLICATION FOR TEMPORARY MERITORIOUS LEAVE

DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18918 (07/92)

Date of Application

INSTRUCTIONS AND REGULATIONS

1. All applications for this leave must be made using this form. A completed letter of responsibility must be submitted prior to the approval of this application. All applications must be submitted on the first Tuesday of each month for leaves requested for the following month.
2. This application is to be submitted to your Unit Manager/Parole and Probation Officer for evaluation and goal setting. It will then be forwarded to the Warden, or designee, for approval.
3. No inmate has a right under the law to be granted a Temporary Meritorious Leave (TML). A TML is a privilege, is not grievable, and is available only to MSU, MRCC Residents, or Community Confinement participants.
4. The TML program will consist of three (3) components: an eight (8) hour leave, twenty-four (24) hour leave, and a forty-eight (48) hour leave, or one (1) leave per month within the 120 remaining days to be served.
5. Inmates, upon staff approval, may apply and be granted any, all, or none of the options listed in item number 4.

Leave Requested (Check One)

☐ Eight (8) hour

☐ Twenty-four (24) hour

☐ Forty-eight (48) hour

PLEASE ANSWER THE FOLLOWING QUESTIONS:

What is the reason for the leave?

Where do you plan to go and how do you plan to travel?

Who do you plan to visit and why do you want to visit them?

LEAVE CONDITIONS (initial)

_____ I will agree to search upon leaving and returning to the institution.

_____ I will not have weapons or firearms in my possession or under my control.

_____ I will not smuggle anything out of the Penitentiary, nor will I bring any contraband into the institution. (Contraband is defined as anything not authorized.)

_____ I will refrain from the use of all alcoholic beverages and any other controlled substances and/or drugs.

_____ I will submit to a urine analysis test after each leave.

_____ While on leave you will not be allowed to operate a motor vehicle.

_____ I will not leave the state of North Dakota, nor make contact with officials, witnesses, or victims of my case.

I hereby certify that I fully understand and unconditionally agree to each of the above conditions under which I am to be released and agree to faithfully observe each of the same.

I fully understand that a violation of or refusal to comply with any of the conditions will be sufficient cause for revocation of this leave and possibly shall prevent any future leaves being granted. I understand this and agree that while on leave, I am in the legal custody of the Warden of the North Dakota State Penitentiary.

Signature of Person Requesting Leave

Date

Name of Sponsor

Sponsor's Phone Number

| | | |
|------------------------|------|------|
| LEAVE BEGINNING | Date | Time |
| LEAVE ENDING | Date | Time |

CRITERIA NEEDED TO QUALIFY FOR TML OR SHORT LEAVE

1. Have substantially completed all treatment or education programs recommended by NDSP staff. Must also maintain a good work record.
2. Must not have received a Class I or II disciplinary report within the past sixty (60) days.
3. Must develop/document at least three goals, to be approved and monitored by a preferred housing area correctional staff member.
4. Must provide a signed letter of responsibility from an acceptable sponsor, and guarantee appropriate transportation.
5. Cannot leave the state of North Dakota, nor make contact with officials, witnesses, or victims of his/her case.
6. Must not have more than 120 days left to serve, nor any outstanding detainers or warrants.
7. Anyone who displays undue tension, apprehension, or emotional upset will be required to resolve these issues prior to receiving leave approval.

COSTS

The following dollar amounts will be permitted while on TML not to exceed \$50.00:

1. Eight (8) hours - \$15.00
2. Twenty-four (24) hours - \$30.00
3. Forty-eight (48) hours - \$50.00

PENALTIES--Violations or attempts to violate leave program will result in appropriate penitentiary disciplinary action and/or legal action, up to and including escape charges.

| | |
|-------------|--------|
| Inmate Name | Number |
|-------------|--------|

Temporary Meritorious Leave Evaluation

Temporary Meritorious Leave is: ☐ Approved ☐ Denied

| | |
|--|------|
| Jail Administrator | Date |
| Deputy Warden (for Community Confinement Inmates only) | Date |
| Warden (or his designee) | Date |



SPONSOR RESPONSIBILITY/TEMPORARY MERITORIOUS LEAVE
DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18919 (07/92)

Temporary Meritorious Leave (TML) MSU/MRCC Inmates Only.

The following information is required from the sponsor(s) before a resident will be granted Temporary Meritorious Leave:

| | | |
|---------------------|------------------------|---------------------------|
| Sponsor Name | | Telephone Number |
| Address | | City, State, Zip |
| Place of Employment | | Employer Telephone Number |
| Date of Birth | Social Security Number | Relationship to Inmate |

Prior Criminal Record

I/We _____ hereby accept the responsibility of sponsoring
(Sponsor Name)

_____ from _____ on
(Resident Name) (Time)

_____ to _____ on _____
(Date) (Time) (Date)

I/We will not allow _____ to use alcoholic beverages or any
(Resident Name)

controlled substance (drugs) while he/she is on leave. I/We will ensure that he/she is returned to the institution at the time designed by the appropriate Leave Committee, Warden, and/or Parole Board.

This form must be returned appropriately signed to the Leave Committee, P.O. Box 5521, Bismarck, ND 58502-5521, ATTN: Minimum Security Unit Manager or ATTN: MRCC Director prior to the granting of any leave from this institution.

1. I will not allow him/her to have in their possession or control any weapon or firearms.
2. I will not allow him/her to bring any contraband into the institution.
3. I will not allow him/her to use any alcoholic beverages or any other controlled substances and/or drugs.
4. I will not take him/her to any facility that sells alcoholic beverages.
5. I will not allow him/her to operate a motor vehicle.
6. I will not allow him/her to leave the approved leave area listed on this travel permit.
7. I will not allow him/her to leave the state of North Dakota.
8. I will not allow him/her to make contact with officials, witnesses, or victims of their case.
9. I fully understand the time and dates specified for this Temporary Meritorious Leave.
10. As a sponsor, I will accompany the resident at all times during this leave.

| | |
|------|-------------------------------|
| Date | Signature of Sponsoring Party |
|------|-------------------------------|



TEMPORARY MERITORIOUS LEAVE INFORMATION
DEPARTMENT OF CORRECTIONS & REHABILITATION
SFH 18921 (07/92)

| INMATE NAME | NUMBER | RELEASE DATE WITH GOOD TIME | DATE |
|---------------------------------|--------|-----------------------------|--------------------|
| TREATMENT PERFORMANCE | | | |
| | | | COUNSELOR |
| EDUCATION PERFORMANCE | | | |
| | | | INSTRUCTOR |
| JOB PERFORMANCE | | | |
| | | | SUPERVISOR |
| DISCIPLINE RECORD | | | |
| HOUSING UNIT PERFORMANCE | | | |
| | | | UNIT SUPERVISOR(S) |
| STATES ATTORNEY NOTIFIED (NAME) | | VICTIM(S) NOTIFIED (NAME) | |
| INVESTIGATING OFFICER | | 1. 2. 3. 4. | |



TEMPORARY MERITORIOUS LEAVE TRAVEL PERMIT
DEPARTMENT OF CORRECTIONS & REHABILITATION
SFN 18922 (07/92)

_____ has been approved for this Temporary Meritorious Leave within the following area: _____

LEAVE BEGINNING

Date

Time

LEAVE ENDING

Date

Time

COLOR OF HAIR

COLOR OF EYES

HEIGHT

WEIGHT

UNIT MANAGER

SHIFT CAPTAIN

INMATE SIGNATURE



ALTERNATIVE SANCTIONS DATA COLLECTION REPORT
DEPARTMENT OF CORRECTIONS & REHABILITATION
PAROLE AND PROBATION DIVISION
SFN 18861 (6-92)

| | | | |
|---------------------------------|---------------------|----------------|--------------|
| Offender Name (Last, First, MI) | Offender SID Number | Officer Number | Radio Number |
|---------------------------------|---------------------|----------------|--------------|

- Complete if CCP, ISP and/or EMS is imposed and when the offender is terminated from the program.
- Submit to clerical staff for data entry, retain a copy in the offender's file.

| | | | | |
|---|-------------------------------------|--|---|---------------------------|
| Status <input type="checkbox"/> Inmate <input type="checkbox"/> Parole <input type="checkbox"/> Probation | | | | |
| Community Confinement Program <input type="checkbox"/> Yes <input type="checkbox"/> No | | Began (Date) | End (Date) | Status Code (see reverse) |
| Intensive Supervision Program <input type="checkbox"/> Yes <input type="checkbox"/> No | | Began (Date) | End (Date) | Status Code (see reverse) |
| Electronic Monitoring/Home Confinement <input type="checkbox"/> Yes <input type="checkbox"/> No | | Began (Date) | End (Date) | Status Code (see reverse) |
| Number of contacts while in the program | Face to Face | Telephone | | Collateral |
| Number of Community Service Hours Performed During Program | | Weeks in treatment (in-out patient, aftercare, counseling) | | |
| Weeks in training/education | | | | |
| Number of UA's collected | Number of Positive UA's (confirmed) | Number of Alcohol Breath Tests Performed | Number of Positive Alcohol Breath Tests | |
| New Criminal Charges During the Program <input type="checkbox"/> Yes <input type="checkbox"/> No | | New Offense NCIC Code | New Offense NCIC Code | |
| Technical Violations <input type="checkbox"/> Yes <input type="checkbox"/> No | | Total Number | | |

| Type of Violation | Violation Code (see reverse) | Action Taken | Action Code (see reverse) |
|-------------------|------------------------------|--------------|---------------------------|
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

| | | | | | | | | | |
|---|---|--------------|---|----|--|-------------------|---|------------|--|
| Offender's Gross Earnings during Program (does not include public assistance) | | | | | Number of weeks employed during program (25 hours or more) | | | | |
| Number of days in jail/halfway house | X | Cost per day | = | \$ | - | Offender payments | = | DOCR costs | |
| Number of days on Electronic Monitoring | X | Cost per day | = | \$ | - | Offender payments | = | DOCR costs | |

* Prior criminal record should consider information retrieved through local, state, and federal resources, (i.e. NCIC/CWIS, Motor Vehicle Dept./Driving Abstract, Presentence Reports, etc.). Juvenile records are dependent primarily on self report, institutional reports, or treatment and social history when available.

Offender Prior Record (Adult Felony Convictions Only. Begin with current offense.)

| Offense | Date | NCIC Code | Number of Counts |
|---------|------|-----------|------------------|
| | | | |
| | | | |
| | | | |
| | | | |

Prior DUI Convictions (NCIC Codes: 5404/alcohol; 5403/drugs)

| NCIC Code | Date |
|-----------|------|
| | |
| | |
| | |
| | |

Juvenile Record (includes status offense)

Is there a juvenile record? ☐ Yes ☐ No ☐ Could Not Be Determined

| Offense | NCIC Code (Use 8100 for status offense) |
|---------|--|
| | |
| | |
| | |

| | | |
|--|--|---------------------------|
| Age of first juvenile Court appearance | Juvenile probation? <input type="checkbox"/> Yes <input type="checkbox"/> No | If "Yes", number of times |
| State or Private Placement (i.e., SIS, Boys Ranch, Group Home) <input type="checkbox"/> Yes <input type="checkbox"/> No | If "Yes", number of times | |
| | | |

DATA REPORT CODES

Status Codes

- 01 Successful/Complete/Stable - discharged from program to regular supervision
- 02 Revoked, technical violations only
- 03 Revoked, new misdemeanor charge/arrest
- 04 Revoked, new felony charge/arrest
- 05 Absconded
- 06 Other

Type of Violation Codes

- 11 Curfew violation
- 12 Failure to report
- 13 Positive drug test(s)
- 14 Positive alcohol test(s)
- 15 Other drug/alcohol violation
- 16 Fines/Restitution/Fees violation
- 17 Community Service violation
- 18 Employment/School violation
- 19 Treatment violation
- 20 Electronic Monitoring violations

- 21 Unauthorized contact with victim
- 22 New crime, misdemeanor
- 23 New crime, felony
- 24 Other violations of supervision

Action Taken Codes

- 30 No action
- 31 Verbal or written warning, continued on current program
- 32 Verbal or written warning, returned to more intensive phase of ISP supervision
- 33 Referred to treatment
- 34 Referred to more restrictive community confinement (includes home detention/house arrest, electronic monitoring, residential placement, or jail with work release
- 35 Warrant/Arrest - Parole/Probation Revocation - Termination
- 36 Other action taken (specify)

APPENDIX B

POLICIES

| | | | |
|--|-----------------------------|-----------------------|--------|
| POLICIES AND PROCEDURES MANUAL NORTH DAKOTA STATE PENITENTIARY Department of Corrections and Rehabilitation State of North Dakota | | Reference No. | Pages |
| | | ACA Related Standards | 1 of 5 |
| | | 3-4392 | |
| Chapter Title | Subject | | |
| RELEASE | TEMPORARY MERITORIOUS LEAVE | | |
| Date Issued | Date Revised | | |
| December 18, 1990 | June 15, 1992 | | |

- I. **AUTHORITY:** North Dakota Century Code 12-47-12, with further authority granted by the Parole Board.
- II. **PURPOSE:** The Temporary Meritorious Leave Program is intended to help the inmate attain correctional goals. A Temporary Meritorious Leave is not a right but a privilege granted an inmate under prescribed conditions.
- III. **APPLICABILITY:** To all male/female state-sentenced inmates who are classified as minimum security, low-risk, and housed at the Missouri River Correctional Center, men's/women's Minimum Security Units, or Community Correction Center.
- IV. **DEFINITIONS:** As used in this document, the following definition will apply:

Temporary Meritorious Leave (TML): A Temporary Meritorious Leave is an authorized absence from the Institution/Community Confinement Program by an inmate who is not under escort of a staff member. The TML Program has three time components: an eight hour (8) leave, a twenty-four (24) hour leave, and a forty-eight (48) hour leave. Inmates, upon staff approval, may apply and be granted any, all, or none of these options.

Community Correction Center (CCC): A North Dakota county jail, law enforcement center or halfway house utilized in order to reintegrate inmates back into their home community prior to release.

Home Detention: A program which restricts an offender to his/her residence for a specific period of time. Movement beyond the parameters set is not allowed, unless previously approved or for a medical emergency.

Home Confinement: A modified form of home detention which authorizes an offender movement beyond the set boundaries for specific purposes and/or specific periods of time.

Electronic Monitoring: Provides the supervising officer with the capability of monitoring an offender's compliance with curfew, house arrest or home detention conditions of supervision.

| | | | |
|--|-----------------------------|-----------------------|--------|
| POLICIES AND PROCEDURES MANUAL NORTH DAKOTA STATE PENITENTIARY Department of Corrections and Rehabilitation State of North Dakota | | Reference No. | Pages |
| | | ACA Related Standards | 2 of 5 |
| | | 3-4392 | |
| Chapter Title | Subject | | |
| RELEASE | TEMPORARY MERITORIOUS LEAVE | | |
| Date Issued | Date Revised | | |
| December 18, 1990 | June 15, 1992 | | |

V. POLICY: Carefully selected state-sentenced inmates are allowed to participate in TML's which will facilitate transition from prison to the community. Such participation is limited to state-sentenced inmates who are classified minimum low security and are not deemed to be security risks. The following guidelines are applicable:

A. The authority to approve a TML for state-sentenced inmates at the NDSP and Missouri River Correctional Center is delegated to the Warden. An inmate may be granted a TML to further correctional/rehabilitative goals such as:

1. Participate in the development of release plans
2. Re-establish family and community ties
3. Participate in selected educational, social, civic, work, religious and recreational activities which will facilitate release transition.

VI. PROCEDURES:

A. The following are the eligibility guidelines for Temporary Meritorious Leaves:

1. The Warden may grant a TML only to an inmate with minimum-low custody who is housed at the Missouri River Correctional Center, the men's/women's minimum security unit or Community Confinement Program.
2. The Warden may grant a TML only to an inmate who is determined to be mentally and physically capable of completing the leave.
3. The Warden may only grant a TML to an inmate who has demonstrated sufficient responsibility to provide reasonable assurance that the leave requirements will be met.
4. The Unit Manager/Parole and Probation Officer of the inmate's housing unit shall determine the eligibility of an inmate for a TML leave in accordance with the inmate's anticipated release date and the basis for the leave request.

| | | | |
|--|-----------------------------|-----------------------|--------|
| POLICIES AND PROCEDURES MANUAL NORTH DAKOTA STATE PENITENTIARY Department of Corrections and Rehabilitation State of North Dakota | | Reference No. | Pages |
| | | ACA Related Standards | 3 of 5 |
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| RELEASE | TEMPORARY MERITORIOUS LEAVE | | |
| Date Issued | Date Revised | | |
| December 18, 1990 | June 15, 1992 | | |

The Unit Manager or Parole and Probation Officer shall determine that the following conditions have been met before approving a TML application:

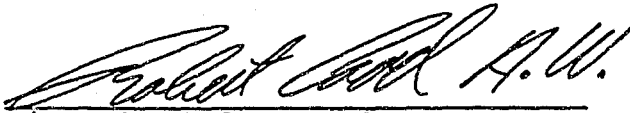
- a. There are 120 days or less remaining to be served on the inmate's sentence.
 - b. The inmate has a good employment history.
 - c. The inmate is in compliance and has substantially completed all treatment and educational programs recommended by NDSP staff.
 - d. The inmate has not received a Class 1 or 2 incident report within the past sixty days.
 - e. The inmate has developed and documented three goals for the leave.
 - f. The inmate has provided a signed letter of responsibility from an acceptable sponsor.
 - g. The inmate does not have any outstanding felony detainers or warrants.
5. An inmate who meets the eligibility requirements as stated above may submit his/her application for a TML leave. A completed letter of responsibility is to accompany the application. The responsibility form and the application are to be submitted to the Unit Manager/Parole and Probation Officer by the first Tuesday of the month for leaves requested for the following month. The inmate is to develop and document three goals for the leave. These goals shall be discussed with an approved by the Unit Manager/Parole and Probation Officer.
 6. The Unit Manager/Parole and Probation Officer shall complete the TML Information Form and ensure that the appropriate staff have been contacted and their requirements of the inmate have been met.
 7. The Unit Manager/Parole and Probation Officer or designee, shall contact the sponsor listed on the Sponsor Responsibility Form and determine if a TML is indicated. The Unit Manager/Parole and Probation Officer shall review the inmate's goals for the leave with the sponsor.

| | | | |
|--|-----------------------------|-----------------------|--------|
| POLICIES AND PROCEDURES MANUAL NORTH DAKOTA STATE PENITENTIARY Department of Corrections and Rehabilitation State of North Dakota | | Reference No. | Pages |
| | | ACA Related Standards | 4 of 5 |
| | | 3-4392 | |
| Chapter Title | Subject | | |
| RELEASE | TEMPORARY MERITORIOUS LEAVE | | |
| Date Issued | Date Revised | | |
| December 18, 1990 | June 15, 1992 | | |


8. In accordance with N.D.C.C. 12.1-34-03, #16, prior to approving any TML leave request, the Unit Manager/Parole and Probation Officer with assistance from the Inmate Records Supervisor, shall do a "file review" concentrating on the victim statement and/or pre-sentence report. If a crime against a person has been committed, the Unit Manager/Parole and Probation Officer will notify the Assistant States Attorney to notify the victim. If the victim expresses objection to the TML, the TML will not ordinarily be granted.
9. Staff shall notify an inmate of the decision on the inmate's application for a TML. When an application is denied, staff shall notify the inmate of the reasons for denial.
10. If the TML is approved, the Unit Manager/Parole and Probation Officer shall complete a TML Travel Permit and obtain the required signatures on the TML Approval form and make a photocopy of the travel permit. One copy is to be given to the inmate prior to the leave and one copy will remain with the application form at the institution.
11. The approved application form, Sponsor Responsibility Form, TML Information Form, and the TML Travel Permits are to be taken to the Captain's Office/Parole and Probation Office, where they will be held until the leave has been completed.
12. Each inmate who is approved for a TML must agree to abide by and sign the specified conditions of the leave.
13. Upon completion of an inmate's TML, a staff member shall interview the inmate to determine if the conditions of the leave were met. If staff believes that anything unusual occurred during the leave, they are to report any such occurrences to their housing Unit Managers/Parole and Probation Officer.

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| RELEASE | TEMPORARY MERITORIOUS LEAVE | | |
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14. An inmate who absconds from a Temporary Meritorious Leave is deemed to be an escapee under N.D.C.C. 12.1-08-06, and after one (1) hour of unaccountability, staff shall process an inmate as such. Staff may also take disciplinary action against an inmate who fails to comply with any of the conditions of the TML.


 Tim Schuetzle, Warden

6-15-92
 Date


 Elaine Little, Director of Corrections

6/15/92
 Date

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| INMATE RULES AND DISCIPLINE | | ACTS PROHIBITED FOR INMATES AND PENALTIES FOR SUCH ACTIONS - PENITENTIARY | |
| Date Issued | | Date Revised | |
| November 16, 1990 | | June 15, 1992 | |

- I. AUTHORITY: North Dakota Century Code 12-47-12, 12-47-23 and 12-47-24
- II. PURPOSE: To set forth acts of inmate conduct which are prohibited, to inform all inmates and staff of institutional rules to govern inmate conduct and set forth penalties which may be imposed for violations.
- III. APPLICABILITY: To all employees and inmates of the institution. This policy relates to the duties of all full-time employees, part-time employees, volunteers, consultants and contract persons.
- IV. DEFINITIONS: As used in this document, the following definitions shall apply:
 - A. Pre-hearing detention: The placement of an inmate in detention pending a hearing for a serious rule violation, when, in the opinion of the Warden or his designee, the continued presence of the inmate in general population would pose a serious threat to the security or orderly operation of the institution.
 - B. Sexual Assault: The act of sexual intercourse (any penetration, however slight, by the penis into the mouth, vagina or anus of another person, or any penetration by any part of the body or an object into the anus or vagina of another person), or sexual contact (as defined below) with another person without that persons' consent and knowing that it is without that persons' consent.
 - C. Sexual Contact: The act of kissing, hand holding, touching by the intimate parts of one person to any part of another person, or touching by any part of one person or with any object or device of the intimate parts of another person. Sexual intercourse as defined above.
 - D. Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature.

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- E. Informal Resolution: The solution of a minor rule infraction, between an inmate and a supervisor of the employee who reports the infraction. Informal resolution is a process which enables appropriate sanctions for minor rule violations. The process is designed to reduce paperwork, enable prompt and fair disposition of minor offense and enable the inmate to avoid the record entry of any disciplinary action.
- F. Investigations: When an alleged Class 1 or 2 rule violation is reported, an appropriate investigation is begun within 24 hours of the time the violation is reported and is completed without unreasonable delay, unless there are exceptional circumstances for delaying the investigation. (3-4222)
- G. Progressive Discipline: May be used within the disciplinary system. Starting with a warning (verbal or written). If unruly action persists, more drastic measures may be taken. The progressive disciplinary procedure may start with a Class 3 infraction and advance through to a Class 2 or 1 infraction.

V. POLICY:

- A. An inmate rule book, including copies of all disciplinary policies and procedures, shall be distributed to each inmate and each employee. Copies of the rule book shall be posted in each living area. (3-4217)
- B. Due to the importance of this area, the staff training officer shall provide training sessions on the inmate rule book. (3-4217)
- C. Listed below are serious rule infractions (Class 1 and 2 Infractions) and the penalties which may be imposed.

Sanctions - The Adjustment Committee may impose any combination of the following sanctions for Class 1 and Class 2 infractions:

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1. Warning
2. Disciplinary Segregation up to 15 days for each infraction
3. Transfer to a greater security level
4. Restitution
5. Forfeiture of wages/job
6. Loss of one or more months good time
7. Loss of one or more privileges for not more than 30 days
8. Restriction to quarters for not more than 30 days. While on restriction to quarters you are permitted to leave your quarters for 3 meals per day, 1 shower per day, 1 religious service of your choice per week and visiting privileges after ten continuous restricted to quarters days.
9. Extra duty for not more than 40 hours.

In addition, if the infraction committed violates State law, the committee may refer the report to the Burleigh County States Attorney for prosecution.

CLASS 1 INFRACTIONS

Offenses Against Bodily Security

- 1-1 Murder
- 1-2 Assault
- 1-3 Sexual Assault

Offenses Against Institutional Security

- 1-4 Extortion, blackmail for protection
- 1-5 Escape
- 1-6 Taking hostages
- 1-7 Inciting to riot
- 1-8 Participation in riots, work strikes or mutinous disturbances

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- 1-9 Traffic in intoxicants
- 1-10 Manufacture and/or wearing of a disguise or mask
- 1-11 Locking device tampering

Offenses Against Order

- 1-12 Bribery of an official
- 1-13 False testimony presented to Adjustment Committee
- 1-14 Refusing to submit to testing for alcohol, drugs or other intoxicants

Offenses Against Property

- 1-15 Theft of property with value over \$100.00
- 1-16 Arson
- 1-17 Counterfeit of any government document, money or official paper

Contraband Offenses

- 1-18 Manufacture and/or possession of explosives, ammunition, gun, firearm, knife, unauthorized sharpened instrument, and/or weapon
- 1-19 Manufacture and/or possession of intoxicants or drug paraphernalia
- 1-20 Manufacture and/or possession of escape paraphernalia
- 1-21 Manufacture and/or possession of unauthorized negotiables, such as cash, commissary tickets, tokens, checks or credit cards.
- 1-22 Negligent failure to follow safety or sanitation regulations
- 1-23 Self-mutilation, self-destruction or tattooing

Miscellaneous Offenses

- 1-24 Use of intoxicants
- 1-25 Violation of condition of release programs involving the community
- 1-26 Gambling
- 1-27 Tampering with urine sample

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CLASS 2 INFRACTIONS

Offenses Against Bodily Security

- 2-1 Fighting
- 2-2 Threat to another person
- 2-3 Sexual contact
- 2-4 Indecent exposure

Offenses Against Institutional Security

- 2-5 Count absence
- 2-6 Interfering with the taking of count
- 2-7 Encouraging others to refuse to work or participate in a work stoppage
- 2-8 Participation in an unauthorized meeting or gathering
- 2-9 Failure to wear or display properly the inmate identification card
- 2-10 Concealing or attempting to conceal any item from a staff member

Offenses Against Order

- 2-11 Failure to comply with disciplinary procedures
- 2-12 Disobeying a written or verbal order from staff
- 2-13 Insolence to a staff member
- 2-14 Disorderly conduct
- 2-15 False testimony presented to staff
- 2-16 Violations of mail regulations
- 2-17 Violations of telephone policy
- 2-18 Violations of visiting regulations
- 2-19 Unauthorized contact with public
- 2-20 Use of obscene or profane language

Offenses Against Property

- 2-21 Unauthorized transfer of property
- 2-22 Theft of property or services with a value below \$100.00
- 2-23 Destruction and/or alteration of State or personal property
- 2-24 Setting a fire
- 2-25 Tampering with fire alarm
- 2-26 Misuse of equipment or machinery

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Offenses Against Safety and Health

- 2-27 Misuse of authorized medication
- 2-28 Adulteration of any food or drink
- 2-29 Failure to comply with safety or sanitation regulations

Contraband Offenses

- 2-30 Possession of contraband (miscellaneous)
- 2-31 Possession of stolen property

Movement Offenses

- 2-32 Unauthorized absence from assignment not related to attempted escape
- 2-33 Attendance in an unauthorized area
- 2-34 Breaking and entering another inmate's cell, locker or storage bin

Miscellaneous Offenses

- 2-35 Refusal to work or comply with court ordered programs
- 2-36 Failure to perform assigned duties
- 2-37 Possession and/or manufacture of gambling paraphernalia
- 2-38 Misuse or theft of cable TV or any other broadcast services
- 2-39 Misuse of furlough, work or education release funds
- 2-40 Writing money transfers with non-sufficient funds
- 2-41 Conduct which disrupts or interferes with the security or orderly running of the institution
- 2-42 Sexual Harassment
- 2-43 Failure to comply with rehabilitative programs
- 2-44 Engaging in an activity for profit or financial gain without Administrative authority.

Inmates may also be written up for attempting or conspiring to commit any of the above Class 1 or 2 codes with an addition of a letter "A" or "C" behind the code you are charged with. For example: Attempted escape, the code would be a 1-5 A; Conspiring to commit arson, code 1-16 C.

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D. CLASS 3 INFRACTIONS

Class 3 infractions occur when a minor rule of the institution has been violated. A Minor Rule Infraction Report will be written by the reporting officer and turned into the appropriate hearing officer. Once reviewed, the hearing officer will meet with the inmate in question and an informal hearing will take place. If the hearing officer finds that the inmate has committed the infraction, a sanction will be imposed on the inmate.

1. Hearing Officers

The following employees are authorized to hear and impose sanctions on Class 3 reports.

- a. Housing unit supervisors or their designees
- b. Shift Supervisor
- c. RRI Assistant Director (if the offense relates to employment at RRI)
- d. Regional Supervisor or designee

2. Appeals

If the inmate does not accept the imposed sanction given by the hearing officer, he may appeal that decision to the next higher ranking staff member on duty. At no time will the hearing officer also rule on the appeal.

3. Class 3 Sanctions - The Sanctions for Class 3 reports are limited to one or more of the following (3-4218)

- a. Voluntary restitution
- b. Forfeiture of wages
- c. Written reprimand
- d. Loss of privileges for not more than 7 days
- e. Restriction to quarters for not more than 10 days.
While on restriction to quarters, you are permitted to leave your quarters for 3 meals a day, 1 shower a day, 1 religious service of your choice per week.
- f. Extra duty for not more than 40 hours.

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CLASS 3 INFRACTIONS

- 3-1 Loaning, borrowing or being in possession of another inmate's property
- 3-2 Altering of State or personal property
- 3-3 Misuse of State property
- 3-4 Food waste
- 3-5 Failure to maintain personal hygiene
- 3-6 Failure to maintain sanitary and orderly housing conditions
- 3-7 Use of profane language
- 3-8 Disobeying a verbal or written order from staff
- 3-9 Destruction of State or personal property
- 3-10 Barter
- 3-11 Malingering
- 3-12 Failure to perform assigned tasks
- 3-13 Disorderly conduct
- 3-14 Conduct which disrupts or interferes with the security or orderly running of the institution
- 3-15 Being in an unauthorized area
- 3-16 Smoking where prohibited
- 3-17 Misuse of medication (non-prescription)
- 3-18 Improper clothing for an assigned area
- 3-19 Littering
- 3-20 Running and/or horseplay
- 3-21 Unauthorized transfer of property
- 3-22 Writing money transfers with non-sufficient funds
- 3-23 Violation of visiting regulations

VI. PROCEDURES:

A. Rule book distribution, interpretation and translation

1. The Orientation Supervisor shall issue all incoming inmates with copies of the rules and require a receipt from each prisoner, which will be forwarded to the Inmate Records Supervisor for filing. Inmates should sign and date the receipt. (3-4216)
2. Copies of the document are available in the language understood of all prisoner groups which represent a significant number of the population.

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3. All inmates unable to comprehend the inmate rules will be referred to the Orientation Supervisor who will make arrangements for someone to interpret the rules.
4. Each inmate shall, at the time of discharge from the institution, turn in the handbook or be charged a \$2.00 fee.

B. Annual Evaluation and Review


1. The Deputy Warden shall conduct a review of the policies relating to inmate rules and discipline. This review will examine the existing practices and consider suggestions for revisions and/or improvement. (3-4215)
2. A written evaluation and series of recommendations shall be completed annually on or about February 1, by the Deputy Warden and forwarded to the Warden for his consideration.

C. Pre-hearing Detention or Investigative Holding

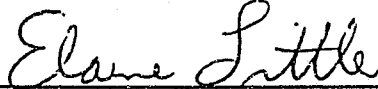
1. This placement should be made only when one or more of the following conditions exist. (3-4223)
 - a. The inmate's continued presence in the population/community will pose a serious threat to himself or to others.
 - b. There is substantial reason to believe the inmate poses an imminent threat to the security of the facility (riot-escape-safety hazard).
 - c. Inmates suspected of committing a rule infraction may be placed in a more secure area under the category of investigative holding.
 - d. Inmates placed in either of these categories may be housed in Detention, Administrative Segregation or Disciplinary Segregation on detention status dependent upon the availability of bed space. No inmate will be placed on Disciplinary Segregation status until he/she has been seen by the Adjustment Committee. (3-4240)

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2. When an inmate is placed in pre-hearing detention or investigative holding, formal reporting proceeds as authorized in this policy. Additionally, the Supervisor will forward a written explanation to the inmate of the reasons for the placement within 24 hours of being moved to the more secure housing area.
3. The Warden, Deputy Warden or designee shall review placement of the inmate within 72 hours of the inmates' detention, including weekends and holidays.


 Tim Schuetzle, Warden

6-15-92
 Date


 Elaine Little, Director of
 Corrections

6/15/92
 Date

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| | | 3-4220, 3-4221 | |
| Chapter Title | Subject | | |
| INMATE RULES AND DISCIPLINE | DISCIPLINARY REPORTS | | |
| Date Issued | Date Revised | | |
| November 16, 1990 | June 15, 1992 | | |

- I. AUTHORITY: North Dakota Century Code 12-47-12.
- II. PURPOSE: To describe a standardized system of reporting alleged inmate rule violations. Individuals whose behavior is in noncompliance with institution rules must be brought to the attention of the appropriate authorities.
- III. APPLICABILITY: To all Department of Corrections personnel and inmates of the facility, especially employees who are required to initiate or process institutional disciplinary reports.
- IV. DEFINITIONS: None
- V. POLICY:
 - A. When an employee witnesses or has reasonable belief that a violation of the institution rules or regulations has been committed by an inmate, and when employee deems informal resolution of the incident is unwarranted, employee shall prepare a disciplinary report (See Attachment 1). Employee will forward the report to the appropriate correctional supervisor. (3-4220)
 - B. The employee shall complete the disciplinary report immediately upon knowledge of the violation.
- VI. PROCEDURES:
 - A. Type of Incident

The incident must be listed as a prohibited act in the inmate handbook. In reporting of the prohibited act(s), only the relevant portion need be used. For example, "possessing intoxicants, Code No. 1-19" is an acceptable listing for appropriate charges.
 - B. Description of the Incident
 1. The report should contain the details of the activity being reported. All known facts about the incident should be recorded. (3-4221)

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2. Any unusual behavior by the inmate should be noted.
3. The reporting employee should also list any witnesses (staff or inmate) to the incident, and the disposition of any physical evidence (weapons, property, etc.) which the employee may have personally handled.
4. The reporting employee will sign the report indicating his title in the appropriate blocks.
5. The incident report should then be forwarded to the appropriate correctional supervisor for disposition.
6. Each incident report written will be reviewed by a supervisor. On Class 3 reports, this review will be made by a Correctional Supervisor. This Supervisor has the option of having the report rewritten as a Class 1 or 2 report, keeping the report at a Class 3 level (and follow through with the Class 3 disposition procedures outlined in this section), or invalidate the report and have the reporting officer handle the situation informally with the inmate.

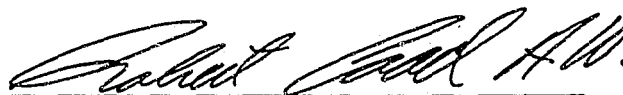
On Class 1 or 2 reports, the Shift Supervisor, usually a Lieutenant is the reviewer. He can recommend that report remain at a Class 1 or 2 and be forwarded to the Adjustment Committee chairman for formal disciplinary disposition; he may have the report rewritten and handled at the Class 3 level, or he may invalidate the report and have the reporting officer handle the situation informally with the inmate.


7. If force was used on an inmate, a Use of Force report must be submitted to the Warden for review. (See Attachment A)

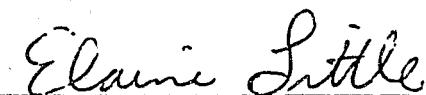
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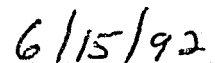
C. Disposition of disciplinary reports

The appropriate correctional supervisor may informally dispose of a Class 3 disciplinary report as described in ACA Standard 3-4218 and forward the report for further disposition if a Class 1 or 2 report.


 Tim Schuetzle, Warden


 Date


 Elaine Little, Director of Corrections


 Date

[illegible]

Explanation (continued):

Results of Investigation:

Reporting Officer

Administrative Authority

Date

| | | | |
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| Date Issued November 16, 1990 | Date Revised June 15, 1992 | | |

- I. AUTHORITY: North Dakota Century Code 12-47-12.
- II. PURPOSE: To establish the committee membership, authority, parameters and time schedules for institutional disciplinary procedures. To provide fair and impartial hearings and corrective dispositions within predetermined limitations to those persons found guilty of not conforming to the laws and regulations.
- III. APPLICABILITY: To all employees and inmates of the facility, and especially to those employees who are required to serve as a regular or occasional member of the Adjustment Committee.
- IV. DEFINITIONS: As used in this document, the following definitions shall apply:
 - A. Good time: Earned sentence reduction as prescribed by statute, executive order or other legal authority which modifies the expiration date of a sentence.
 - B. Withheld Good Time: Earned good time days withheld for a rule infraction.
 - C. Adjustment Committee: Person(s) empowered to conduct hearings and impose disciplinary actions in compliance with the policies and procedures set forth in this series of documents.
- V. POLICY
 - A. The inmate shall be given a copy of the disciplinary report after review by the Shift Supervisor. This serves as notice of rule infraction he/she is charged with.
 - B. Within 48 hours after a Class I or II disciplinary report is delivered to the inmate, the chairman of the Adjustment Committee will appoint an impartial investigator, if the chairman feels additional facts are required.
 - C. An inmate shall not be penalized following Category I or II offenses unless there has been a fact-finding hearing before the institution Adjustment Committee. The hearing shall be held as soon as practicable, but no later than 7 days following the incident.

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- D. Should he/she so desire an inmate shall be provided the service of a full-time staff member to represent them before the institution Adjustment Committee hearing. (3-4231)
- E. An inmate shall be permitted to be present throughout the institution Adjustment Committee hearing except during deliberations of the committee or where institutional security would be jeopardized. If the inmate is absent: (3-4229)
 - 1. The reasons for excluding an inmate from the hearing must be well documented in the record.
 - 2. A hearing may be conducted in the absence of an inmate should the inmate refuse to appear without the use of force.
 - 3. When an inmate escapes from custody, the institution Adjustment Committee may conduct a hearing in the inmates' absence at the institution from which the escape occurred.
- F. An inmate shall be permitted to have witnesses called and to present documents in his/her behalf if the calling of witnesses and/or disclosure of documentary evidence does not jeopardize or threaten institutional security. Reasons for refusal of witnesses and/or documents by the Adjustment Committee must be documented.
- G. The Disciplinary Committee decision will be based solely upon information obtained in the hearing process, including staff reports, the statement of the inmate charged and evidence derived from witnesses and documents. (3-4232)
- H. Where the authorized person or persons determines that the inmate is innocent of committing any prohibited act, the inmate's file shall be expunged of the incident report lodged against him/her. (3-4234)
- I. The Warden shall review the disciplinary process and sanctions imposed to ensure the committee procedures adhere to the intent of this policy and the philosophy of the Department of Corrections & Rehabilitation. All disciplinary

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sanctions, with the exception of loss of good time, shall begin immediately upon the Warden's approval. (3-4235)

- J. An appeal of the decision of the Adjustment Committee, may be submitted by the inmate to the Warden within 15 days from receipt of notice of the hearing. An appeal involving only the loss of good time may be appealed to the Director of Corrections within 48 hours of receipt of the Warden's decision.

K. Waiver of Hearing and Plea of Guilty

An inmate, after receiving written notification of a violation may waive a hearing before the adjustment committee by pleading guilty to the violation via use of a "Waiver of Hearing" document. The inmate must complete the entire form listing the sanctions they are willing to accept.

The Waiver must be completed, signed and dated by the Inmate. A Witness and Unit Manager/Parole and Probation Officer must also sign the waiver prior to being forwarded to the Director of Training or Deputy Warden.

Inmates who are incompetent or otherwise unable to understand the Waiver of Hearing process will have a staff member assist them with the process. Unfair or undue influence by staff is not permitted.

The plea must be reviewed and approved by the Deputy Warden or Director of Training who may accept or deny the plea or request a change to the sanctions. A SIGNED WAIVER ALSO WAIVES THE RIGHT TO APPEAL. (See Attachment #1)

VI. PROCEDURES:

A. Investigation of a disciplinary report.

- Investigation is to begin within 24 hours from the time the Investigator received his/her assignment, unless exceptional circumstances prevent it. The Investigator will read the charges to the inmate and obtain the inmate's statement. The Investigator may also comment here about the inmate's attitude. (3-4222)

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2. Investigate the incident. The Investigator should talk to witnesses and summarize their statements, recording the disposition of evidence. Often, he/she will want to talk to the reporting employee to obtain his/her report first hand and to clarify any questions. All steps and actions taken should be recorded on the incident report.
3. Under comments and conclusions, the Investigator may include his comments on the inmate's prior record and behavior, analysis of any conflicts between witnesses and conclusions of what, in fact, happened.
4. Advise the inmate of the rights afforded them at a hearing before the institution Adjustment Committee. The inmate shall be asked to indicate their choice of staff representative and the names of witnesses they wish called to testify on their behalf at the hearing.
5. The Investigating Officer may have the incident postponed for a reasonable amount of time for an investigation if additional facts are required. The Investigator will investigate the incident and submit a summary report to the Administration or Chairman. The inmate does not receive a copy of the investigation whenever the security or orderly running of the institution is in jeopardy. (3-4227)
6. When an inmate allegedly commits an act covered by criminal law, the case may be referred to the appropriate prosecuting agency or law enforcement officials for consideration for prosecution. An investigation will be conducted prior to any disciplinary proceedings. The Chairman will be responsible for having the investigation conducted. (3-4219)

B. Adjustment Committee

The Adjustment Committee may be held according to housing assignment. For example:

- 1) Penitentiary
- 2) Missouri River Correctional Center
- 3) Community Confinement.

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1. The Adjustment Committee membership shall be: (3-4228)
 - a. Deputy Warden or designee - Chairman
 - b. Administrative Officer or designee
 - c. Hearings shall be scheduled regularly; generally each Tuesday and Thursday in the adjustment hearing room by Traffic Control. The hearing room shall be arranged and furnished to establish an atmosphere conducive to dignified, fair and impartial hearings as appropriate to the importance of the deliberations. In instances where institutional security may be violated, the hearing can be held in special management living areas. The hearing may be postponed or continued for a reasonable time for good cause such as illness or further investigations. (3-4227)
2. The Adjustment Committee membership for Community Confinement may be any one of:
 - a. The Regional Parole and Probation Supervisor or designee.
 - b. Appropriate employer of a contract facility.
 - c. The Penitentiary Committee, if the offender is returned to that facility before the hearing.
3. Duties of the members:
 - a. Chairman
 - i. Presides over meetings
 - ii. Ensures compliance with all procedural requirements listed in that section of this policy
 - iii. Records the statement of all parties. Summarizations of the general comments and discussion may be recorded as opposed to a verbatim report
 - iv. Records decisions of the committee

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b. Administrative Officer or other designated staff

- i. Provides information regarding the inmate's institutional adjustment and attitude.
- ii. Participates fully as a discussant and committee member

c. Disciplinary Hearing

1. The inmate shall receive a copy of the incident report at least 24 hours prior to the hearing by the adjustment committee. The hearing may be held within 24 hours with the inmates' written consent. (3-4224)
2. Inmates are notified of the time and place of the hearing at least 24 hours in advance of the hearing. (3-4226)
3. The inmate may waive the right to a hearing, but it must be documented by the Committee Chairman. (3-4225)
4. Should the inmate desire, a full-time staff member shall be provided to represent him before the Adjustment Committee. This person may assist the inmate in clarifying issues considered by the committee.
5. It is the inmate's responsibility to contact the representative of his choice prior to the hearing and to be sure that the person is available at the date and time of the hearing. In the event the staff member which the inmate requests is not available, the Chairman may postpone the hearing until the next hearing date or have the inmate select another staff member.
6. The Chairman may call those witnesses he deems necessary to address the charge. The inmate may be allowed to call material witnesses and present documentary evidence in the inmate's defense if permitting the inmate to do so will not jeopardize security, order, rehabilitation or other institutional objectives. Witnesses with repetitive

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information need not be called. Written statements may be requested of unavailable witnesses. The committee report must document reasons for refusing to call requested witnesses. Witnesses required by the inmate should be questioned by members of the committee. Inmates who have waived the services of a staff representative may submit questions for requested witnesses in writing to the committee. (3-4230)

7. The Adjustment Committee shall prepare a summary record of proceedings. This record must document the advisement of inmate rights, the committee findings, the committee decision, the determining evidence and a brief statement explaining the sanctions imposed. The determining evidence and explanation for actions taken should be specifically designated unless doing so would jeopardize institutional security. This information would be kept in the inmate's social file for a period of 7 years after his discharge. (3-4228)
8. When appearing before the Adjustment Committee, inmates have the responsibility to behave in a mature manner. Use of foul language, verbal, and/or physical threats and actions may be grounds for additional disciplinary actions taken against the inmate. Inmates must also be factual and truthful when testifying before the Adjustment Committee. False testimony will be grounds for disciplinary action.

D. Disposition Available to the Institution Adjustment Committee

The institution Adjustment Committee may:

1. Dismiss any charge(s) and order the record of charges expunged if the inmate has been determined innocent of the charge(s).
2. May reduce, suspend and/or delineate charge and delineate sanctions and dispositions available.

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3. Direct that an inmate's good time be withheld in accordance with the North Dakota Century Code. Withholding of an inmate's good time shall be limited only to his/her misconduct or offenses; it shall not be applied as a universal punishment to all persons. This withholding shall be limited to the accumulated good time.
4. Direct imposition of any penalties listed in the Prohibited Acts policy.
5. Direct that an inmate be transferred to another housing area for disciplinary reasons. Should an emergency be present or impending requiring immediate action, an inmate may be transferred prior to an Adjustment Committee hearing. Transfers prior to a hearing are to be used only in emergency situations and only with the approval of the Warden or designee. (See Inmate Rules and Discipline #3-4223)
6. Suspend the execution of any sanction it imposes.

E. Written Notification

Written notification of the committee's decision will be provided to the inmate within 72 hours of the hearing - unless extenuating circumstances dictate otherwise. The written notice will provide the inmate with a decision, the reason for that decision and the penalty or penalties imposed. (3-4233)

F. Record Filing

All reports, documents and notifications of the disciplinary process shall be filed in the inmate's social file.

G. Right of Appeal (3-4236)


1. All sanctions imposed by the Adjustment Committee will be effective immediately upon the approval from the Warden's office. Only loss of good time may be appealed to the Director of Corrections.

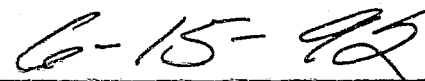
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2. The chairman will advise the inmate of his right to appeal and time limits imposed as listed below.
3. The Warden and Director of Correction's office shall consider the appeals merits based upon the following three factors:
 - a. Was there substantial evidence to support the charges?
 - b. Was there substantial compliance with these policies and procedures?
 - c. Was the sanction imposed proportionate to the rule violation?
4. An appeal of good time loss must be submitted to the Director of Corrections on the proper form through inside mail within 48 hours, including weekends and holidays, from receipt of the Warden's decision. All appeals must be turned in, in person, to the housing unit supervisor in order that the supervisor again can give the inmate a copy of the completed receipt.
5. An appeal of the decision of the adjustment committee must be submitted to the Warden within 15 days from receipt of the adjustment committee's decision, including weekends or holidays.
6. An appeal form and receipt can be obtained from the housing unit supervisor. Both forms must be filled out completely and turned back into the housing unit supervisor. The supervisor will sign the completed receipt and will give the inmate a copy. The inmate should keep the receipt until all actions or charges have been completed. The receipt is the inmates written verification that an appeal was submitted within the designated time.

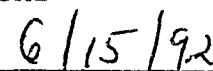
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7. The Warden or Director of Corrections may render a decision on an appeal and make written response within 30 days of receipt of the appeal.


 Tim Schuetzle, Warden


 Date


 Elaine Little, Director of
 Corrections


 Date



WAIVER OF HEARING AND PLEA OF GUILTY
NORTH DAKOTA STATE PENITENTIARY
SFN 17864 (6-91)

Attach 1

| | | | |
|---------------------------|------------------|------|-------------|
| Inmate Name (Last, First) | | ID # | Living Unit |
| Violation Date / / | Reporting Person | | |

I have received a "Notice of Violation" citing the following offense and hereby freely acknowledge that I am guilty of the offense reported. I am willing to waive a hearing before the Hearing Officer and accept the following penalty as specified for said offense in the Inmate Discipline Regulations. A SIGNED WAIVER WAIVES THE RIGHT TO APPEAL.

| Infraction Code | Findings/Disposition/Sanctions I am willing to accept: |
|-----------------|--|
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Failure to comply with the above listed sanctions WILL result in disciplinary charges for Failure to Comply with Disciplinary Procedures.

| | |
|------------------|-------------|
| Inmate Signature | Date / / |
| Witness | Date / / |
| Unit Manager | Date / / |

| | |
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| Reviewed and Approved by Deputy Warden/Director of Training | Date / / |
|---|-------------|

Distribution:
Social File - Original
Lientenant - 1st copy
D.S. Officer - 2nd copy
Inmate - 3rd copy
Captain - 4th copy