	STANDARD OPERATING PROCEDURE	DOCUMENT NO. BJMP-LSO-MC-121
	TOPIC PDL DISCIPLINARY BOARD AND PROCEEDINGS	ISSUE NO. 2
	SUB-TOPIC PRESCRIBES THE PROCEDURES IN THE CONDUCT OF PDL DISCIPLINARY PROCEEDINGS	REVISION NO. 1 EFFECTIVE DATE PAGE 1 of 13

1.0 REFERENCES

- A. Republic Act No. 6975, "DILG Act of 1990";
- B. BJMP Manual (Revised 2007);
- C. BJMP Manual of Operations (2015);
- D. Memorandum Circular No. 2010, Policy on Pregnant Inmates and Their Infants (2010); and
- E. The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules).




2.0 BACKGROUND/RATIONALE

This is an amendment of the existing rules on PDL disciplinary mechanism to address the problems and concerns experienced by the PDL Disciplinary Board in hearing cases involving any PDL who violates jail rules and regulations consistent with the requirements of due process and sound jail management.

3.0 OBJECTIVE


This Memorandum Circular (MC) aims to:

- 1. Establish a process of hearing disciplinary cases involving any PDL who violates jail rules and regulations;
- 2. Maintain order in jails;
- 3. Promote general welfare of PDL;

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4. Obtain just resolution of PDL's case through a fair and expeditious proceeding; and
5. Ensure utmost discipline among PDL.

4.0 SCOPE

All the provisions in this MC shall be applicable to all jails under the Jail Bureau.

5.0 DEFINITION OF TERMS

For purposes of this MC:

- A. PDL Disciplinary Board – board in jail units which is organized and maintained for the purpose of hearing disciplinary cases involving any PDL who violates jail rules and regulations.
- B. Good Conduct Time Allowance (GCTA) – a grant accorded to a PDL on Good Conduct entitling him to deduction from the possible maximum imprisonment or period of sentence.
- C. Restitution - refers both to return of something that has been taken, and to compensate for loss or injury done. In civil cases, a remedy associated with unjust enrichment in which the amount of recovery is typically based on the defendant's gain rather than the plaintiff's loss.

6.0 PROCEDURE/GUIDELINES


A. General Procedure

1. COMPOSITION OF PDL DISCIPLINARY BOARD – the Board shall be composed of the following:

Chairperson	-	Assistant Warden
Assistant Chairperson	-	Chief, Security and Control Section
Member	-	Chief, Welfare and Development Section
Member	-	Chief, Health Service Unit
Member	-	Chief, Paralegal Unit


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- Observers (without voting rights) - 2 PDL Representatives (Chosen by the PDL and the Counselor under the Therapeutic Community Modality Program)
- Secretariat - Records Officer JNOR

2. QUORUM – presence of majority shall constitute as quorum. If the above composition is not feasible because of personnel limitation, force majeure cases or emergency situations, the Warden shall perform the Board’s functions and he/she shall act as the summary disciplinary officer.
3. DUTIES AND FUNCTIONS OF THE DISCIPLINARY BOARD – The Board is tasked to hear the facts of an alleged misconduct referred to it. It shall hold sessions as often as necessary in a room which may be provided for the purpose. All cases referred to it shall be heard and decided within seventy-two (72) hours from the date of receipt of the referral for disciplinary action. Proceedings before the Board shall be confidential in character, inquisitorial and summary in nature.
4. AUTHORIZED DISCIPLINARY ACTIONS FOR PDL – The Board is authorized to recommend the imposition of any of the following disciplinary actions:
 - a. Admonition or verbal reprimand;
 - b. Restitution;
 - c. Temporary or permanent cancelation of all or some recreational privileges;
 - d. Reduction of visiting time for immediate family members;
 - e. Cancelation of jail activities that may entitle him/her to the GCTA provided under R.A. No. 10592 and its Implementing Rules and Regulations (IRR);
 - f. Suspension of visitation privileges for a period not exceeding thirty (30) days, provided that this sanction shall not apply to the legal counsel of the PDL, including immediate family members, physician and religious minister serving his needs except when the misconduct committed by the PDL is attempted escape, in which case, said persons may be permitted to visit the PDL for a limited period and only for the purpose of serving his needs;
 - g. Transfer to another BJMP facility, in coordination with the court;

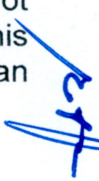
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- h. Permanent cancelation of visitation privileges for persons not belonging to the immediate family of the PDL, provided that this sanction shall not apply to the lawyer of the PDL, including physician and religious minister serving his needs; and
- i. Community Service within the confines of the jail.

5. RECOMMENDATION IN LINE WITH RA 10592 - In addition to the abovementioned disciplinary actions, the Board may recommend to the Warden for the disqualification of the PDL who violated jail rules and regulations to earn GCTA in accordance with the RA 10592.
6. SUBMISSION OF RECOMMENDATION TO MSEC. The recommendation of the Board must be submitted to the Monitoring and Screening Evaluation Committee (MSEC).
7. LIMITATIONS ON DISCIPLINARY ACTION FOR PDL – The Board shall consider the following limitations when imposing disciplinary action:
 - a. No female PDL shall be subjected to any disciplinary sanction which might affect her unborn or nursing child. Provided that if the penalty to be imposed would occur during her pregnancy, such penalty shall be suspended;
 - b. No infirm or handicapped PDL shall be meted out sanction which might affect his/her health or physical well-being;
 - c. Corporal punishment, confinement in dark or inadequately ventilated cells and any form of cruel, unusual, inhumane or degrading punishment are absolutely prohibited;
 - d. When necessary, the jail physician may visit the PDL serving the penalty and advise the Warden of the need to terminate the same on the ground of his/her physical or mental condition;
 - e. Instruments of restraint such as handcuff, leg iron and straitjacket are prohibited as a form of punishment. They shall only be used to prevent the PDL from escaping or harming himself or another;
 - f. PDL misconduct shall be handled without anger or emotion, and decisions shall be executed firmly and justly; and


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- g. Any misconduct committed by the PDL shall be dealt with according to its gravity. In extreme cases and where the situation requires immediate action, the officer of the day may administer the necessary restraints and report the action taken to the Warden.


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B. Specific Procedures in the Conduct of Disciplinary Proceedings

The following procedures shall be followed in the conduct of disciplinary proceedings:

1. A proceeding for disciplinary action against PDL may be instituted through any of the following:
 - a. A complaint filed by a private complainant against a PDL; or
 - b. Upon instruction of the Jail Warden in relation to:
 - (1) an incident involving the PDL, such as but not limited to jail disturbance; or
 - (2) apprehension of the PDL for violation of law, rules, and regulations, such as but not limited to possession of contraband.
2. Complaint by any party aggrieved by the act or omission of the PDL shall preferably be in writing. Oral complaint may be reduced into writing by the complainant with the assistance of the jail investigator.
3. The complaint shall state clearly and concisely the ultimate and evidentiary facts which show the act/omission allegedly committed by the PDL, and may be supported by statements of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.
4. Upon receipt of the complaint, the Desk Officer shall immediately refer the same to the Jail Investigation Unit for investigation and proper disposition through summary fact-finding investigation and a minute resolution shall be written at the dorsal portion of Annex "A" containing his findings on the complaint.
5. In an investigation directed by the Jail Warden on incidents and violation of law, rules, and policies committed by the PDL to determine possible disciplinary proceedings, the Jail Unit Investigator shall immediately conduct impartial summary fact-finding investigation. Witnesses, if any, shall be

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- summoned to the investigation office for the collection or confirmation of their statement.
6. The PDL concerned shall also be summoned to the investigation office and be given the opportunity to explain his/her side and submit controverting evidence, if any. The PDL shall be required to reduce his statement in writing or the same be taken by the investigator and subscribed before the officer of the day or any jail officer rank. If deemed necessary, the investigator may also conduct ocular inspection of the place where the alleged violation was committed to gather evidence and validate the complaint.
 7. The Jail Investigation Unit shall submit to the Warden a minute resolution of its findings together with its recommendations and appurtenant documents. The Warden shall evaluate the report and if he believes that there is no sufficient evidence to support the alleged complaint or violation, he shall dismiss the case. If he believes that sufficient evidence exists, he shall endorse it to the Board for a summary hearing or decide it by himself in his capacity as summary disciplinary officer in the absence of a disciplinary board.
 8. The withdrawal of the complaint by the complainant shall not cause the termination of the investigation or disciplinary proceeding, especially when there is an evidence to support the complaint, more so, in cases where the investigation was initiated following an incident involving the PDL or apprehension of the latter for violation of law, rules and regulations.
 9. Upon receipt of the endorsement from the Warden, the Board, within forty-eight (48) hours, shall convene and evaluate the report and evidence presented. If deemed necessary, it may direct the Jail Investigation Unit to gather more pieces of evidence to substantiate the alleged violations of the PDL. If the Board believes that there is no sufficient evidence to support the alleged violation, it shall dismiss the case subject to the approval of the Jail Warden.
 10. When there are two or more cases referred to the Board involving the same PDL, the same *motu proprio* shall be consolidated with the first case filed to avoid unnecessary delay. The Board may compel attendance of a witness and production of pertinent documents or papers from any office within the jail, if any.
 11. The proceedings may be suspended in the event that the witness is a visitor who already left the jail. The Board shall continue hearing the case once the visitor has returned to the jail.

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12. If the Board finds the evidence sufficient to warrant further action, it shall summon the PDL to apprise him of the nature of the charge against him. If the PDL pleads guilty to the violation without presenting any controverting or mitigating evidence, the Board, after ensuring the voluntariness and explaining the consequences of his plea, shall impose the corresponding disciplinary action.
13. If the PDL denies the charge, a clarificatory questioning shall be conducted wherein the Board may propound clarificatory questions to the parties and examine material and relevant matters necessary in the determination of facts. At this stage, the PDL may still be given an opportunity to submit additional evidence to further disprove the allegation against him or present any mitigating circumstance that would lower the imposable disciplinary action.
14. During clarificatory form questioning, the PDL may be allowed to seek legal assistance from his/her legal counsel but for advisory purposes only and the latter (legal counsel) cannot directly propound clarificatory questions. The entire proceedings shall be under the full control of the Board. Within forty-eight (48) hours or after the clarificatory questioning, the Board should come up with its decision through majority vote.
15. In all cases, the PDL must be advised to strictly abide by the rules and regulations and reminded that good behavior is indispensable for his/her early release through GCTA and/or granting of privileges.
16. The Board shall submit its report and decision to the jail warden without undue delay for his/her review and approval. The PDL shall be given a copy of the decision and another copy shall be included in his carpeta for future reference. The decision of the warden shall be final and executory.
17. The proceedings before the disciplinary board shall be recorded and maintained by the Records JNOR in its capacity as Secretariat.

C. Grounds for Disciplinary Action

PDL misconducts warranting disciplinary action by the Board are classified into grave, less grave, or light, depending on their gravity, effects on jail security, and threats to public safety. In accordance with the law and existing jail rules and regulations, the following acts and omissions, once committed, shall constitute as grounds for disciplinary action against a PDL:

1. Grave Offenses:

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- a. Making untruthful statements or lies in any official communication, transaction, or investigation;
- b. Keeping or concealing keys or locks of areas in the jail which are restricted to PDL;
- c. Giving gifts, selling, or bartering items with jail personnel;
- d. Selling of any BJMP or other government property, such as but not limited to accommodation or "kubol" to fellow PDL;
- e. Keeping in possession money, jewelry, cellular phones, or other communication devices, and other items classified as contrabands under the rules;
- f. Tattooing others or allowing himself to be tattooed on any part of the body, or keeping any paraphernalia to be used in tattooing;
- g. Stealing of personal property of another person;
- h. Forcibly taking or extorting money from fellow PDL and visitors;
- i. Collecting unauthorized fees from PDL and/or visitors as a form of raising fund or in exchange for exemption of a PDL from authorized labor, such as but not limited to "calling", "VIP" and "bosyo" fees;
- j. Punishing or inflicting injury or any harm upon himself or other PDL;
- k. Receiving, keeping, taking, or drinking liquor and dangerous drugs;
- l. Making, improvising, or keeping any kind of deadly weapon;
- m. Concealing or withholding information on plans of escape;
- n. Unruly conduct and flagrant disregard of discipline and instructions;
- o. Escaping, attempting, or planning to escape from the jail or from any guard;
- p. Helping, aiding, or abetting other PDL to escape;
- q. Fighting, causing any disturbance, or participating therein and/or agitating to cause such disturbances or riot;

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- r. Willful disobedience to a lawful order issued by BJMP personnel;
- s. Assaulting any BJMP personnel;
- t. Damaging any government property or equipment;
- u. Participating in kangaroo court - an unauthorized or irregular court conducted with disregard for or perversion of legal procedures as a mock court by the PDL in a jail;
- v. Affiliating with any gang or faction whose main purpose is to foment regionalism or segregate themselves from others;
- w. Failure to inform the authorities concerned when afflicted with any communicable disease such as but not limited to tuberculosis, sexually-transmitted diseases, viral infections, and the like;
- x. Engaging into gambling or any game of chance;
- y. Committing any act that violates any law or ordinance, in which case, he/she shall be prosecuted criminally in accordance with the law;
- z. Performing any act that is inimical to public safety and national security such as but not limited to radicalization to violent extremism and insurgency, or orchestrating any criminal act performed by other persons within or outside the jail; and
- aa. Committing any act prejudicial to good order and discipline.

2. Less Grave Offenses:

- a. Failure to report for work detail without sufficient justification;
- b. Failure to render assistance to an injured BJMP personnel or PDL;
- c. Failure to assist in putting out fires inside the jail;
- d. Behaving improperly or acting boisterously during religious, social, and other group functions;
- e. Swearing, cursing or using profane or defamatory language directed at other person;

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- f. Malingering or pretending to be sick to skip work assignment;
- g. Spreading rumors or malicious intrigues to besmirch the honor of any person, especially BJMP personnel;
- h. Failure to stand at attention and give due respect when confronted by or reporting to any BJMP personnel;
- i. Forcing fellow PDL to render personal service to him/her and/or to others;
- j. Exchanging uniforms or wearing clothes other than those issued to him/her for the purpose of circumventing jail rules;
- k. Loitering or being in an unauthorized area;
- l. Using the telephone without authority from the Warden or Desk Officer;
- m. Writing, defacing, or drawing on walls, floors or any furniture or equipment;
- n. Withholding information which may be inimical or prejudicial to the jail administration;
- o. Possession of lewd or pornographic literature and/or photograph;
- p. Absence from accommodation, place of work during headcount, or at any time without justifiable reason; and
- q. Failure to turn over any implement or article issued after work detail.


3. Light Offenses:

- a. Selling or bartering with fellow PDL those items not classified as contrabands;
- b. Rendering personal service to fellow PDL;
- c. Untidy personal appearance;
- d. Littering or failing to maintain cleanliness and orderliness in his/her accommodation and/or surroundings;
- e. Making frivolous or groundless complaints;

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- f. Taking cudgels for or reporting complaints on behalf of other PDL;
 - g. Reporting late in formation and PDL headcount without justifiable reason; and
 - h. Willful waste of food.
4. Any personnel, especially Warden, found for allowing and tolerating any violation mentioned above will be immediately relieved from his/her designation without prejudice to his or her being administratively charged.

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D. Range of Penalties

Classification of Offenses According to Gravity	Corresponding Sanctions
Light Offense	1. Admonition 2. Restitution 3. Temporary cancelation of all or some recreational privileges for a period of 1 to 5 days. 4. Cancelation of GCTA points for a period to be deliberated by MSEC. 5. Reduction of visiting time to one (1) hour for immediate family members or other visitors of the PDL covering five (5) visitations, <i>except to the lawyer of the PDL, including physician and religious minister serving his needs.</i> 6. Community Service within the confines of the jail.
Less Grave Offense	1. Temporary cancelation of all or some recreational privileges for a period of 6 to 10 days. 2. Cancelation of GCTA points for a period to be deliberated by MSEC.



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	3. Reduction of visiting time to thirty (30) minutes for immediate family members or other visitors of the PDL covering ten (10) visitations, <i>except to the lawyer of the PDL, including physician and religious minister serving his needs.</i>
Grave Offense	<ol style="list-style-type: none"> 1. Temporary cancelation of all or some recreational privileges for a period of 11 days or more but not exceeding 30 days. 2. Cancelation of GCTA points for a period to be deliberated by MSEC. 3. Cancelation of jail activities that may entitle him/her to GCTA. 4. Transfer to another BJMP facility, in coordination with the court.

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Hereunder are the ranges of penalties that can be imposed by the Board for a second time offender PDL:

Repetition/Frequency	Disciplinary Sanctions Imposable
Guilty of Light Offense for the second (2 nd) time	Impose sanctions for Less Grave Offenses
Guilty of Light Offense for the third (3 rd) time or oftener	Impose sanctions for Grave Offenses
Guilty of Less Grave Offense for the second (2 nd) time	Impose sanctions for Grave Offenses in its medium period (<i>30 days is the maximum, median is 15 days</i>) Or transfer to another BJMP Jail
Guilty of Less Grave Offense for the third (3 rd) time or oftener	Impose sanctions for Grave Offense in its maximum period. E.g. Impose 30 days
Guilty of Grave Offense for the second (2 nd) time	Impose sanctions for Grave Offenses in its maximum period
Guilty of Grave Offense for the third (3 rd) time	Impose sanctions for Grave Offenses in its maximum period
Other Combinations	
1 Light Offense and 1 Less Grave Offense	Impose sanctions for Less Grave Offenses in its medium period

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1 Light Offense and 1 Grave Offense	Impose sanctions for Grave Offenses in its maximum period.
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The commission of two (2) or more Less Grave or Grave Offenses shall require the imposition sanction corresponding to the most severe one in its maximum period.

7.0 MONITORING CLAUSE

The Directorate for Operations shall conduct program monitoring and evaluation based on reports submitted and actual observation of this MC.

8.0 FINANCIAL CLAUSE

There will be no financial requirement needed in this policy.

9.0 SEPARABILITY CLAUSE




In the event that any provision or part of this MC be declared unauthorized or rendered invalid by a competent authority, those provisions not affected by such declaration shall remain valid and effective.

10.0 REPEALING CLAUSE

All other existing issuances which are inconsistent with this policy are hereby rescinded or modified accordingly.

11.0 EFFECTIVITY

This MC shall take effect after the filing of the MC with the U.P. Law Center – Office of the National Administrative Register in accordance with Sections 3 and 4, Chapter II, Book VII of Executive Order No. 292 otherwise known as the “Administrative Code of 1987.”

Prepared By:  ATTY. MICHAEL ANGELO M CACERES Jail Superintendent Chief, Legal Service Office	Reviewed By:  DENNIS U ROCAMORA, CESE Jail Chief Superintendent Deputy Chief for Operations of the Jail Bureau/ QMR	Approved By:  ALLAN S IRAL, CESE Jail Director Chief, BJMP
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