



**PROBATION AND PAROLE BUREAU  
STANDARD OPERATING PROCEDURES**

Procedure No.: P&P 140-1	Subject: <b>ADULT OFFENDER DISCIPLINE AND DISCIPLINARY HEARINGS</b>
Chapter 140: STATE (ADMINISTRATIVE) HEARINGS AND SANCTIONS	Page 1 of 17
Signature: /s/ Ron Alsbury	Revision Date: 12/10/01; 06/17/02; 03/14/03; 03/06/04; 03/01/05; 8/01/05; 02/15/06; 06/12/06; 02/02/07; 08/20/07
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**I. BUREAU DIRECTIVE:** Probation & Parole Bureau employees will follow established discipline and hearing procedures when enforcing Intensive Supervision Program (ISP), Pre-Release Center (PRC), Conditional Release or other Community Corrections Program rules. Officers will utilize discipline and disciplinary hearings to modify offender behavior and improve community safety. Hearings Officers will utilize disciplinary hearings for ISP, PRC, Conditional Release or other Community Corrections Programs offenders in a manner that protects the public, staff and offenders.

**II. AUTHORITY:**

- 53-1-203, M.C.A. Powers & Duties of the Department of Corrections*
- 53-30-105 (3), M.C.A. Good Time Allowance (1995)*
- DOC 3.4.1 Adult Institutional Discipline*
- Wolff v. McDonnell, 418 U. S. 539 (1974) Due Process Rights*
- Sandin v. Conner, 513 U.S. 805 (1994)*

**III. DEFINITIONS:**

As used in this procedure, the following definitions shall apply:

**Community Corrections Programs** for the purposes of this policy includes the following:

- Prerelease Centers (PRC)
- Intensive Supervision Program (ISP)
- Treasure State Correctional Training Center (TSCTC)
- WATCH West – Warm Springs (Warm Springs Addictive Treatment & Change Program)
- WATCH East – Glendive (Warm Springs Addictive Treatment & Change Program)
- Connections Corrections Program (CCP)
- Passages Alcohol & Drug Treatment (Passages ADT)
- Conditional Release
- Enhanced Supervision Program (ESP)
- Sanction Treatment Assessment Revocation and Transition (START)
- Nexus Treatment Center
- Elkhorn Treatment Center

**Conditional Release** means Department of Corrections offenders who are committed to the Department of Corrections and are supervised by the Probation and Parole Bureau prior to the expiration of their sentence.

**Day Reporting** means service that is provided by the Department or a contractor to provide enhanced supervision that may include day reporting, BA/UA testing, and/or employment and counseling services.

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**Dead Time** means the period of time from when a warrant is issued and the whereabouts of an offender is unknown to the time that the offender is apprehended. Dead time will start from the date that the warrant is issued by the Interstate Office to the date that the offender is detained on the Department's warrant. Dead time only applies to conditional release offenders. The CCD Administrator will be the final authority relative to issuance of dead time.

**Enhanced Supervision Program** (ESP) is defined as a program that is developed by the Department and provided by private contractors to provide enhanced supervision and services for offenders within the P&P Bureau.

**Evidence** means any item, law enforcement report or information, which is utilized in resolving an alleged violation.

**Hearings Officer** means a Regional Administrator or PO II designated by the Department to conduct disciplinary hearings.

**Lay Advisor/Interpreter** means staff member or other responsible adult who can assist the offender with the hearing process. A lay advisor may be appointed if the hearing examiner determines, in the hearing examiner's sole discretion, that the offender is not able to understand the proceedings or is not able to act in his/her own defense. An interpreter should be appointed if the offender is not able to speak or understand English.

**Misconduct Infractions** are separated into three categories with separate sanctions for each category:

- 1. Minor Infraction** means misconduct or rule violations, which by themselves, are determined not to jeopardize the offenders status or seriously violate Community Corrections Program or conditional release rules and conditions. These violations are considered less serious but have the potential to pose a risk to the community or the offender (previously named Class III offense).
- 2. Major Infraction** means a serious misconduct violation that poses a threat to the community and/or violates a major Community Corrections Program or Conditional Release rule (previously named Class II offense).
- 3. Severe Infraction** means a very serious misconduct or rule violation that has or could jeopardize the safety and security of the community or Community Corrections Program and/or violates a severe Community Corrections Program or Conditional Release rule. These violations may be a felony and may be prosecuted in a district court or any court of greater authority (previously named Class I offense).

**Pre-Hearing Detention** means the placement of an offender in a jail or home confinement/restriction prior to any formal disciplinary proceeding.

**Sanction** means any consequence or combination of consequences listed for the respective violation category.

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#### IV. PROCEDURES:

This procedure is designed to assist Community Corrections Programs, by modifying offender behavior through the application of rules, regulations and hearings procedures. The hearing will incorporate applicable due process requirements. Disciplinary policies and procedures will ensure that offenders are provided fair, timely and impartial disposition of charges of alleged violations of rules and establish the sanctions for misconduct. This procedure covers both Severe and Major violation hearings. Offender discipline and disciplinary hearing procedures shall ensure fair and consistent disciplinary practices and proper documentation of all rule violations.

This procedure provides staff with direction, such as sanctions available and consistent disciplinary actions. A Hearings Officer will hear the facts of the alleged Major or Severe violation(s), weigh the evidence and make a ruling as to the disposition of the case. Adult Disciplinary Hearings will be performed on offenders on inmate or conditional release status in Community Corrections Programs.

##### A. Discipline/Rules Procedures

1. **Offender Orientation:** Upon admission to a Community Corrections Program, offenders will be provided an orientation to the rules, discipline, hearings and sanctions. ISP offenders will be provided a handbook that contains information relative to this procedure.
2. **Rule Violation Codes:** Offender's in Community Corrections Programs who are found guilty of Severe and Major Violations will have those violations entered into PROFILES/ACIS by Community Corrections Staff. The Community Corrections Program rules are co-numbered using the codes that can be entered on the PROFILES/ACIS system. ISP/Conditional Release Officers will enter the ISP/Conditional Release Condition number and description and the P&P code on the *P&P 140-1 (C), Statement of Charges-Notice of Disciplinary Hearing* so the computer entry can be made. PRC staff will use the appropriate codes listed in PRC manuals and policies. ISP/P&P Officers will refer to *P&P 140-1 (F) ISP DOC Inmate Rule Violation Codes* for the appropriate P&P code number.

##### Example of how to write the violation on the Statement of charges:

**P&P #207, ISP Condition #3. Employment Violations** – On January 15, 2003, Officer John Doe checked with employer Fred Smith and was advised that the offender was not at work as scheduled. Mr. Smith reported that the offender had not called in to let him know that he would not be at work.

3. **Prerelease Centers/Treasure State Correctional Training Center (TSCTC)/Warm Springs Addictive Treatment & Change (WATCH), Passages Alcohol & Drug Treatment (Passages ADT), Connections Corrections Program (CCP), Elkhorn and Nexus Treatment Programs:** These facilities have internal discipline policies and procedures that comply with Department of Corrections and/or P&P policies and procedures. P&P Hearings Officers are responsible for conducting hearings for PRC offenders who violate Severe or Major offenses and may assist staff at TSCTC, CCP, Passages ADT, Nexus, Elkhorn and WATCH with disciplinary committee hearings or conduct the hearings as needed. Sanctions for offenses in those programs are listed in the policies and procedures of those facilities.

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Prerelease will use *P&P 140-1 (C), Statement of Charges-Notice of Disciplinary Hearing* when PRC Staff take disciplinary action with residents on Severe or Major violations that will result in a hearing. Hearings Officers will use *P&P 140-1 (A) Summary of Disciplinary Hearing* and *P&P 140-1 (D), Disciplinary Hearing Appeal* after conducting a disciplinary hearing on a resident. For offenders in Community Corrections Programs, the Hearings Officer may consider a waiver or partial waiver of the 60 days of clear conduct needed before an offender may be considered for release.

- 4. Minor Infractions:** Minor Infractions are typically written up and/or processed by the Community Corrections Program Staff. If through the course of normal supervision minor violations occur, Community Corrections Program staff may use sanctions appropriate to the offense. PRC sanctions for minor violations vary depending upon the offender and PRC program but usually include privilege restrictions, additional work assignments, reprimands, counseling, etc. Minor Infractions and the sanctions imposed by ISP Officers will be documented using *P&P 150-1,2&3, ISP Chronological History*.

ISP DOC Inmate sanctions include, but are not limited to, the following:

- reprimand/counseling
- reporting/schedule change (one week)
- pass restriction (one week)
- travel restrictions (one week)
- additional community service hours-up to 8 hours
- restitution
- electronic monitoring

These sanctions can be used individually or in combination.

Conditional Release Offender sanctions include, but are not limited to, the following:

- reprimand/counseling
- restitution

- 5. Major Violations:** Community Corrections Program sanctions are defined in discipline policies and procedures at the programs and can range from a verbal warning/reprimand to removal from a Community Corrections Program. A removal from a Community Corrections Program may result in placement at MSP/MWP. See P&P 140-1 (J) Hearing Sanction Options for a quick reference of what options exist for sanctions through a disciplinary hearing.

ISP DOC Inmate Sanctions include, but are not limited to, the following:

- reduction to a Minor Infraction with Minor Infraction sanctions
- jail up to thirty days at offender's expense (See Jail Sanctioning outlined in P&P 140-5 Intervention Hearings)
- reprimand
- reporting schedule change up to two weeks
- pass restriction up to two weeks

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- travel restriction up to two weeks
- community service hours up to 16 hours
- inpatient CD treatment at Connections Corrections/Passages ADT
- outpatient CD or other appropriate treatment
- return to a lower phase
- electronic monitoring and electronic monitoring-self pay
- restitution
- placement at TSCTC/ICP
- placement at MSP/MWP
- waiver or partial waiver of the 60 days of clear conduct needed before the offender may be considered for release.
- referral to day reporting in available areas (See P&P 140-3)
- referral to ESP in available areas (See P&P 140-3); *P&P 140-3 (C) ESP Referral Form* will need to be completed to identify the services to be provided by the prerelease.
- referral to CCP(*males*)/Passages ADT (*females*) for placement in a sanction bed (See P&P 140-3)
- referral to a prerelease center sanction bed in available areas (See P&P 140-3)
- referral to START Program (*males*) –jail sanctioning component (See P&P 140-3)
- referral to Passages ASC (*females*)– jail sanctioning component (See P&P 140-3)
- placement at the START Program (*males*)– revocation component (See P&P 140-3)
- placement at Passages ASC (*females*) – revocation component (See P&P 140-3)
- referral to Elkhorn/Nexus Treatment Program (See P&P 150-1)
- referral to the TSCTC Sanction Program (See P&P 140-3)

These sanctions can be used individually or in combination.

Conditional Release Offender sanctions include, but are not limited to, the following:

- reduction to a Minor Infraction with Minor Infraction sanctions
- jail up to thirty days at offender's expense (See Jail Sanctioning outlined in P&P 140-5 Intervention Hearings)
- reprimand
- reporting schedule change up to two weeks
- inpatient CD treatment at Connections Corrections/Passages ADT
- outpatient CD or other appropriate treatment
- electronic monitoring-self pay
- restitution
- placement at TSCTC/ICP
- placement at MSP/MWP
- placement in ISP Sanction Program (See P&P 140-3); *P&P 140-3 (A) ISP Sanction Program Contract* will need to be completed.
- referral to day reporting in available areas (See P&P 140-3)

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- referral to ESP in available areas (See P&P 140-3); *P&P 140-3 (C) ESP Referral Form* will need to be completed to identify the services to be provided by the prerelease.
- referral to CCP(*males*)/Passages ADT (*females*) for placement in a sanction bed (See P&P 140-3)
- referral to a prerelease center sanction bed in available areas (See P&P 140-3)
- referral to the Sanction Program (ISP) (See P&P 140-3)
- referral to START Program (*males*)–jail sanctioning component (See P&P 140-3)
- referral to Passages ASC – jail sanctioning component (See P&P 140-3)
- placement at the START Program (*males*)– revocation component (See P&P 140-3)
- placement at Passages ASC (*females*) – revocation component (See P&P 140-3)
- referral to Elkhorn/Nexus Treatment Program (See P&P 150-1)
- referral to the TSCTC Sanction Program (See P&P 140-3)

These sanctions can be used individually or in combination.

- 6. Severe Violations:** Community Corrections Program sanctions are defined in discipline policies and procedures at the programs and can range from a verbal warning/reprimand to removal from Community Corrections Program. A removal from a Community Corrections Program may result in placement at MSP/MWP. See *P&P 140-1 (J) Hearing Sanction Options* for a quick reference of what options exist for sanctions through a disciplinary hearing.

ISP DOC Inmate Sanctions include, but are not limited to, the following:

- referral to state or federal authorities for prosecution if not already charged
- jail up to thirty days at offender's expense (See *P&P 140-5 Intervention Hearings* for Jail Sanctioning Guidelines)
- reprimand
- reporting schedule change up to four weeks
- pass restriction up to four weeks
- travel restriction up to four weeks
- community service hours up to 40 hours
- inpatient CD treatment at Connections Corrections/Passages ADT
- outpatient CD or other appropriate treatment
- return to a lower phase
- electronic monitoring and electronic monitoring-self pay
- restitution
- recommend loss of good time credits
- placement at TSCTC/ICP
- placement at MSP/MWP
- waiver or partial waiver of the 60 days of clear conduct needed before the offender may be considered for release
- referral to day reporting in available areas (See P&P 140-3)
- referral to ESP in available areas (See P&P 140-3); *P&P 140-3 (C) ESP Referral Form* will need to be completed to identify the services to be provided by the prerelease.

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- referral to CCP (*males*)/Passages ADT (*females*) for placement in a sanction bed (See P&P 140-3)
- referral to a prerelease center sanction bed in available areas (See P&P 140-3)
- referral to START Program (*males*) –jail sanctioning component (See P&P 140-3)
- referral to Passages ASC (*females*) –jail sanctioning component (See P&P 140-3)
- placement at the START Program (*males*)– revocation component (See P&P 140-3)
- placement at the Passages ASC (*females*) – revocation component (See P&P 140-3)
- referral to the Elkhorn/Nexus Treatment Program (See P&P 150-1)
- referral to the TSCTC Sanction Program (See P&P 140-3)

These sanctions can be used individually or in combination.

Conditional Release Inmate Sanctions include, but are not limited to, the following:

- referral to state or federal authorities for prosecution if not already charged
- jail up to thirty days at offender's expense (See *P&P 140-5 Intervention Hearings for Jail Sanctioning Guidelines*)
- reporting schedule change up to four weeks
- inpatient CD treatment at Connections Corrections/Passages ADT
- outpatient CD or other appropriate treatment
- electronic monitoring-self pay
- restitution
- recommend loss of good time credits
- placement at TSCTC/ICP
- placement at MSP/MWP
- placement in ISP Sanction Program (See P&P 140-3). *P&P 140-3 (A) ISP Sanction Program Contract* will need to be completed.
- referral to day reporting in available areas (See P&P 140-3)
- referral to ESP in available areas (See P&P 140-3); *P&P 140-3 (C) ESP Referral Form* will need to be completed to identify the services to be provided by the prerelease.
- referral to CCP (*males*)/Passages ADT (*females*) for placement in a sanction bed (See P&P 140-3)
- referral to a prerelease center sanction bed in available areas (See P&P 140-3)
- referral to the Sanction Program in available areas (See P&P 140-3)
- referral to START Program (*males*) –jail sanctioning component (See P&P 140-3)
- referral to Passages ASC (*females*) – jail sanctioning component (See P&P 140-3)
- placement at the START Program (*males*) – revocation component (See P&P 140-3)
- placement at the Passages ASC Program (*females*) – revocation component (See P&P 140-3)
- referral to the Elkhorn/Nexus Treatment Program (See P&P 150-1)
- referral to the TSCTC Sanction Program (See P&P 140-3)

These sanctions can be used individually or in combination.

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Any time a jail sanction is imposed; the hearings officer will identify start and end dates of the hearing in the *Summary of Disciplinary Hearing*. Additionally, the hearings officer will forward copies of the hearings forms to the program/facility monitoring the jail sanction.

7. **Intervention Hearings:** Intervention Hearings may be used when the Regional Administrator or PO II feels an Intervention Hearing is appropriate. Repeated Minor violations within a short period of time may be an appropriate use. (*See P&P 140-5 Intervention Hearings.*)
8. **Dead Time:** If an offender absconds supervision and is apprehended and a hearing is conducted, the Hearings Officer shall make a finding relative to dead time. The recommendation shall be contained in the hearings summary. Dead time will start from the date that the warrant is issued by the Interstate Office to the date that the offender is detained on the Department's warrant. The CCD Administrator will be the final authority relative to the issuance of dead time. The Hearings Officer will make a recommendation relative to dead time in the *Summary of Disciplinary Hearing* and will complete *140-1 Request to Impose Dead Time*. The summary and request will be sent to the CCD Administrator for final determination relative to dead time. The CCD Administrator will make a finding relative to dead time and forward the paperwork to the appropriate parties.
9. **Statement of Charges/Incident Report:** Upon reasonable belief that an Community Corrections Program offender has violated a Severe or Major rule, the ISP/P&P Officer or Community Corrections Program Staff complete *P&P 140-1 (C) Statement of Charges-Notice of Disciplinary Hearing* and serves the offender no less than 48 hours before the disciplinary hearing. The DOC offender may waive the 48 hours time line if they wish to do so. **P&P 100-1 (A) Report of Violation is not used for Adult Disciplinary Hearings.** The offender will also be provided *P&P 140-1 (H) Request For Or Waiver of Witnesses* to complete prior to the hearing. If the offender is a drug offender and is receiving public assistance or food stamps, the officer will secure a copy of the *Request and Verification to Remove Disqualification for Benefits* form from the file and fill out the relevant part, notifying DPHHS of the person's non-compliance with the conditions of supervision (i.e. completion of the Statement of Charges), and mail the form to: DPHHS, c/o TANF Participation Specialist, HCSD-PAB, PO Box 202952, Helena, MT 59620-2952.

The offender will be informed both orally and in writing of their right to:

- a) have a written copy of the charges placed against them at least 48 hours prior to appearing before a disciplinary Hearing Officer (*P&P 140-1 (C) Statement of Charges-Notice of Disciplinary Hearing*);
- b) waive the 48 hour notice (*P&P 140-1 (C) Statement of Charges-Notice of Disciplinary Hearing*);
- c) speak on his/her own behalf or remain silent (*P&P 140-1 (C) Statement of Charges-Notice of Disciplinary Hearing*);
- d) call witnesses and question witnesses (if witness can provide information relative to the facts of violation and to do so would not endanger the witness) (*P&P 140-1 (C)*

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*Statement of Charges-Notice of Disciplinary Hearing & P&P 140-1 (H) Request for of Waiver of Witnesses);*

- e) present evidence pertinent to the allegation (*P&P 140-1 (C) Statement of Charges-Notice of Disciplinary Hearing*);
- f) appeal the Hearing Officer's decision if he/she was not afforded all the rights granted in accordance with the this policy, or a Community Corrections Program Policy on discipline per Department of Corrections policy (See *P&P 140-1 (D) Disciplinary Hearing Appeal*).

**10. Hearing Time Frames:** The hearing will be held as soon as is reasonably possible. Priority will be placed on offenders that are incarcerated.

**GENERAL INFORMATION RELATIVE TO HEARINGS AND APPEALS.**

During a disciplinary hearing the Hearings Officer may hear testimony from witnesses, the reporting staff and the charged offender, provided the offender's appearance will not be disruptive. A lay advisor may be appointed if the hearing examiner determines, in the hearing examiner's sole discretion, that the offender is not able to understand the proceedings or is not able to act in his/her own defense. The Hearings Officer may appoint an interpreter to assist the offender if the Hearing Officer determines that the offender is not able to speak or understand English sufficient to understand the proceedings and act in his/her own defense.

An offender charged with a Severe or Major rule(s) violation will be present and have the opportunity to make statements and present documentary evidence.

The offender may also call witnesses on his behalf when such witnesses are reasonably available, have relevant information and their presence is not deemed to be unduly hazardous to the safety of those present at the hearing. The offender may be removed from the hearing or not attend the hearing if the Hearings Officer determines the offender's presence will present a clear and convincing danger to those in attendance. The Hearings Officer may continue a hearing if there is a need to gather further documentation, witnesses are unavailable, or other good cause.

If an offender requests a large number of witnesses who will present substantially the same testimony, the Hearings Officer may exclude some of the witnesses. If a witness who refuses to appear, the Hearings Officer may exclude the appearance. The accused offender will be removed from the hearing during the testimony of others when statements must be given in confidence. The reason for any exclusion will be documented during the hearing.

Generally, the persons present at the hearing should be limited to the offender's counselor, one representative from the PRC, the offender and the Hearing Officer. All witnesses called by the PRC and the offender should be brought in to provide their testimony and then excused from the hearing. The PRC should have one spokesperson to make a recommendation to the Hearing Officer and the offender or his/her lay advisor, if appointed by the hearings officer, should have one opportunity to make a recommendation. If the Hearing Officer needs more time to make a decision, the Hearing Officer can stop the hearing for a few minutes, excuse the persons in the hearing, and stop the tape. The Hearing Officer should not confer with the PRC staff outside of the purview of the offender. The Hearing Officer can then restart the tape and hearing to make his/her final decision.

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Before making any decision, the Hearing Officer should be informed of the offender's

- criminal history background,
- treatment history,
- whether the offender is a DOC or MSP commitment,
- conditions of sentence
- Previous behavior in the PRC,
- Previous programming such as TSCTC; Connections Corrections; PRC; ISP etc.
- Length of time the offender has been in the program,
- Time until discharge or parole.

**If an offender refuses to attend the hearing, the offender will be advised the hearing will be held on the scheduled date and time. If the offender refuses to initial the section indicating his/her refusal to attend the hearing, write, "offender refused to sign form" across the form and sign the form and have another staff witness. If a hearing is not held, the hearings officer must articulate in writing the reason for such, i.e. safety and or security risk posed by offender.**

The Hearings Officer will impose sanctions in proportion to the seriousness of the infractions and for the purpose of controlling/modifying behavior and punishing the offender.

Unless there are unusual circumstances, or the hearing continued, the offender will be orally informed by the Hearings Officer of the following:

- a. whether offender is found guilty or not guilty
- b. sanction(s)

Upon the outcome of the hearing, the offender may appeal the determination of the Hearings Officer. The offender must request an appeal in writing at the time of the hearing using *P&P 140-1 (D) Disciplinary Hearing Appeal*. The offender will sign the form indicating whether they wish to appeal or not.

The offender may appeal if:

- a) the offender can provide documentation that there is not evidence to support the charges;
- b) there was not substantial compliance with applicable discipline and hearing procedures;
- c) the sanction imposed was not proportionate to the rule violation.
- d) the Hearings Officer recommended loss of good time

The offender must submit written documentation using *P&P 140-1 (D) Disciplinary Hearing Appeal*, which supports their argument to the Community Corrections Division (CCD) Administrator or designee within seven (7) days of the hearing.

The CCD Administrator or designee reserves the right not to consider the appeal if the written documentation is not within the seven (7) days or there is not adequate documentation.

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The CCD Administrator or designee may:

- a) Affirm: Agree with the actions of the Hearings Officer and affirm the recommendation.
- b) Dismiss: Disagree with the actions of the Hearings Officer and dismiss the sanction.
- c) Modify: Reduce or suspend the sanction.
- d) Return the case to the Hearings Officer for rehearing based on new evidence or procedural errors.

The CCD Administrator or designee will consider the merits of the appeal based upon the following factors:

- a) Whether there is evidence to support the charges.
- b) Whether there was substantial compliance with procedures.
- c) Whether the sanctions imposed were proportionate to the rule violation.

### **CONFIDENTIAL INFORMATION**

An offender may be found guilty of a Severe or Major infraction(s) on the basis of information from a source whose identity is not disclosed to the offender at the hearing. Such information may be presented to the Hearings Officer in writing, subject to the following conditions:

1. The details of any information from a confidential source will be disclosed to the offender at the hearing, as long as this does not create a substantial risk to the safety of the confidential source.
2. When information is considered from an anonymous source, the name of the source and all details of such information will be given to the Hearings Officer out of the presence of the offender.

In all cases in which the Hearings Officer considers information from an anonymous source, a confidential record will be maintained containing the details of such information and, if possible, the identity of the informant and the degree of Officer familiarity with the informant's reliability. Such records will be available only to the Hearings Officer and Regional Administrator.

### **EXPUNGEMENT**

If an offender is found "not guilty" of a Severe or Major infraction(s) all references to that offense(s) will be removed from his file if reasonably possible. Otherwise, the file will clearly indicate the offender was "not guilty" of the alleged infraction.

### **LOSS OF GOOD TIME**

If the Hearing's Officer determines it is appropriate to recommend a "loss of good time", the offender will be informed at the time of the hearing. *P&P 140-1 (G) Request to Forfeit Offender Good Time* will be submitted to the Community Corrections Division Administrator or designee for concurrence. The Community Corrections Division Administrator or designee will forward the "loss of good time" form to the Department of Corrections Director for final approval.

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**START (Sanction Treatment Assessment Revocation and Transition) PROGRAM PLACEMENTS**

The START Program is only for **male** offenders. The START Program has two components, a jail sanctioning component for up to 30 days, or longer if approved by the CCD Administrator, and a placement component from 10-120 days for offenders that are determined at the hearing to be inappropriate for continuing community placement. If it is determined during the disciplinary hearing that the offender needs to be returned to a secure setting and that they are not appropriate for community corrections placement, the offender will be placed at the START program for evaluation. If the offender is facing new felony charges or if BOPP indicates that the parole offender needs to be returned to MSP in the staffing with the P&P Officer and/or Hearings officer, no over-ride from the CCD Administrator is required. In cases where special circumstances may warrant direct placement at MSP (behavior, medical, etc.) the Hearings Officer will request an override via an email to the CCD Administrator.

**PASSAGES ASC (Passages Assessment & Sanction Program) PROGRAM PLACEMENTS**

The Passages ASC Program is only for **female** offenders. The Passages ASC Program has three components, a jail sanctioning component for up to 30 days or longer if approved by the CCD Administrator, a placement component from 10-120 days for offenders that are determined at the hearing to be inappropriate for continuing community placement, and an assessment component for offenders that have received a DOC Commitment and are to be screened for appropriate placement or are awaiting screening results or a bed date at a community corrections programs.

If the hearings officer orders a jail sanction during an intervention, on-site, or disciplinary hearing, female offenders may be placed at the Passages ASC Program to serve this sanction pending space availability. The Hearings Officer needs to make sure that the hearings paperwork reflects start and end dates for the sanction. The Hearings Officer will need to forward a copy of the hearings paperwork to the Passages ASC IPPO. Refer to *P&P 140-1 Adult Offender Discipline and Disciplinary Hearing*, *P&P 140-2 Preliminary (On-Site) Hearing*, and *P&P 140-5 Intervention Hearing*. The officer will retain the field file on all jail sanction offenders. However, if the offender will be placed at CCP or Prerelease from the sanction bed, the field file will be forwarded to the Passages ASC IPPO for Connections Correction placed offenders and the respective Prerelease Liaison for the offenders that will be placed at Prerelease.

If it is determined during an on-site or disciplinary hearing that the female offender needs to be returned to a secure setting and that they are not appropriate for community corrections placement, female offenders will be placed at the Passages ASC program for evaluation. If the offender is facing new felony charges or if BOPP indicates that the parole offender needs to be returned to MWP in the staffing with the P&P Officer and/or Hearings officer, no over-ride from the CCD Administrator is required. In cases where special circumstances may warrant direct placement at MWP (behavior, medical, etc.) the Hearings Officer will request an override via an email to the CCD Administrator. Refer to *P&P 140-1 Adult Offender Discipline and Disciplinary Hearing* and *P&P 140-2 Preliminary (On-Site) Hearing*. For parole offenders that are placed at Passages ASC, the field file will be forwarded to the Board of Pardons and Parole. For conditional release offenders that are placed at Passages ASC, the field file will be forwarded to the Passages IPPO

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**TSCTC SANCTION PROGRAM**

All male TSCTC graduates are eligible for the TSCTC Sanction Program. This sanction can be for 30-60 days and depends on bed availability. P&P Officers must consider the offender’s ability to return to his community, residence, and employment prior to a referral and determine whether or not the offender has the appropriate means to return to supervision after a TSCTC Sanction. Offenders may be continued on supervision or placed in jail on a sanction pending TSCTC Sanction bed availability. See P&P 140-3.

**NEXUS (males)/ELKHORN (females) METH TREATMENT PROGRAM PLACEMENTS**

Conditional release offender will be considered for placement at a Meth treatment facility if the offender is in violation based on actions that fits into one or more of the Meth treatment center referral criteria categories as follows:

1. **Chronic Methamphetamine Abuse** - Abuse is defined as a maladaptive pattern of substance use leading to clinically significant impairment or distress, as manifested by one (or more) of the following, occurring within a 12-month period:
  - A. Recurrent substance use resulting in a failure to fulfill major role obligations at work, school, or home (e.g., repeated absences or poor work performance related to substance use, substance-related absences, suspensions, or expulsions from school; neglect of children or household).
  - B. Recurrent substance use in situations in which it is physically hazardous (e.g., driving an automobile or operating a machine when impaired by substance use).
  - C. Recurrent substance-related legal problems (e.g., arrests for substance related disorderly conduct).
  - D. Continued substance use despite having persistent or recurrent social or interpersonal problems caused or exacerbated by the effects of the substance (e.g., arguments with spouse about the consequences of intoxication, physical fights).
    1. The symptoms have never met the criteria for Substance Dependence for this class of substance.

**Referral Criteria:** Offenders sentenced to DOC for any offense, but have continued to use methamphetamine while on supervision and have had one or more failed opportunities for treatment in the community. Recommendations from LAC, LCPC or other community based addiction specialists, based on a CD evaluation completed in the previous 6 months may be used for referral to treatment programs.

2. **Stimulant Use Disorder – abuse of other amphetamines or cocaine. Dependence** defined as a maladaptive pattern of substance use, leading to clinically significant impairment or distress, as manifested by three or more of the following, occurring at any time in the same 12-month period:
  - A. Tolerance, as defined by either of the following:
    1. A need for markedly increased amounts of the substance to achieve intoxication or the desired effect.
    2. Markedly diminished effect with continued use of the same amount of the substance.
  - B. Withdrawal, as manifested by either of the following:

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1. The characteristic withdrawal syndrome for the substance.
2. The same (or closely related substance) is taken to relieve or avoid withdrawal symptoms.
- C. The substance is often taken in larger amounts or over a longer period than was intended.
- D. There is a persistent desire or unsuccessful efforts to cut down or control substance use
- E. A great deal of time is spent in activities necessary to obtain the substance (e.g. visiting multiple doctors or driving long distances), use the substance (e.g.. chain-smoking), or recover from its effects.
- F. Important social, occupational, or recreational activities are given up or reduced because of substance use.
- G. The substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance (e.g. current cocaine use despite recognition of cocaine-induced depression, or continued drinking despite recognition that an ulcer was made worse by alcohol consumption).

**Referral criteria:** Offenders sentenced to DOC who continue to abuse prescription amphetamines and/or purchase prescription amphetamines from others, use cocaine or excessive use of non-prescription stimulants. Offenders with a prior diagnosis of methamphetamine dependence or abuse who continue to use other stimulants. Offenders, who have had one or more interventions on supervision, continue to use and have not/will not participate in treatment in the community. Recommendations from LAC, LCPC or other community based addiction specialists, based on a CD evaluation completed in the previous 6 months may be used for referral to treatment programs.

**3. Co-occurring Disorders**

**Referral Criteria:** Offenders sentenced to DOC who have a history of Polysubstance Dependence or Abuse and a co-occurring mental health diagnosis. Offenders who violate conditions of supervision by using any substance to self-medicate symptoms of mental illness or those who discontinue prescribed medications for symptoms of mental illness and then continually relapse on alcohol, illegal drugs, or other prescription drugs obtained illegally. Offenders, who have had failed opportunities to complete treatment in the community. Recommendations from LAC, LCPC or other community based addiction specialists, based on a CD evaluation completed in the previous 6 months may be used for referral to treatment programs.

The offender will need to go through the referral process at the Nexus/Elkhorn Program for acceptance. (See P&P 150-1)

**PROCEDURE:**

1. The alleged violation is noted and investigated.
2. Hearings Officer is informed of alleged violation.

**RESPONSIBILITY:**

ISP/P&P Officer/  
Community Corrections  
Program Staff  
  
ISP/P&P Officer/

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Decision to arrest is made jointly.

3. A *P&P 140-1 (C), Statement of Charges/Notice of Disciplinary Hearing* is written in the appropriate format as indicated above and is served on offender at least 48 hours prior to a scheduled hearing. *P&P 140-1 (H) Request For Or Waiver of Witnesses* is provided to offender to request or waive witness participation in the hearing.

If the offender is a drug offender and is receiving public assistance or food stamps, the officer will secure a copy of the *Request and Verification to Remove Disqualification for Benefits* form from the file and fill out the relevant part, notifying DPHHS of the person's non-compliance with the conditions of supervision, and mail the form to: DPHHS, c/o TANF Participation Specialist, HCSD-PAB, PO Box 202952, Helena, MT 59620-2952.

4. If the offender indicates he/she is refusing to attend the hearing, have the offender initial that section on the form. If the offender refuses to initial and/or sign the form, write "offender refuses to attend hearing and refused to sign form" across the form, sign it, and have another person witness. Any witness to the refusal(s) will sign the form also.
5. Disciplinary hearing notice time frame is waived or not waived on *P&P 140-1 (C) Statement of Charges/Notice of Disciplinary Hearing*.
6. Lay advisor or interpreter is appointed if offender is not competent or is unable to prepare and present a defense or if the offender requires an interpreter.
7. Evidence is presented and weighed by Hearings Officer per *P&P 140-1 (E) Adult Disciplinary Hearing Guidelines*. All steps of hearing process and due process rights are given orally to offender.
8. Determination of guilty/not guilty. Hearings Officer must find the charges are "**reasonably true**".

Community Corrections  
Program Staff /PO II

ISP/P&P Officer/  
Community Corrections  
Program Staff

ISP/P&P Officer/  
Community Corrections  
Program Staff

Offender

Hearings Officer

ISP/P&P Officer/  
Community Corrections  
Program Staff\Hearings  
Officer

Hearings Officer

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9. If guilty, there is a determination and imposition of sanctions. Offender is orally advised of decision. Hearings Officer
- If loss of good time is recommended, complete *P&P 140-1 (G) Request to Forfeit Offender Good Time*. The Hearings Officer must consult with Prison Records or other resource to ascertain the amount of Good Time the offender has available to forfeit. The Hearings Officer must recommend a specific number of days to be forfeited. The *Request to Forfeit Offender Good Time* is forwarded to the Community Corrections Division Administrator for review. Hearings Officer
- Reviews the *Request to Forfeit Offender Good Time* and forwards to the Department Director. CCD Administrator/ Designee
- Reviews the *Request to Forfeit Offender Good Time* and renders a decision. If applicable, forwards paperwork to necessary parties to have good time rescinded and the offender's discharge date recalculated. Department Director
- If the offender is a conditional release offender and has absconded supervision the Hearings Officer shall make a finding relative to dead time in the hearing and document such in the *Summary of Disciplinary Hearing*. The Hearings Officer will complete *140-1 (I) Request to Impose Dead Time*. Hearings Officer
10. Offender is advised of appeal issues and asked to sign form *P&P 140-1 (G), Disciplinary Hearings Appeal*. Hearings Officer
11. *P&P 140-1 (A), Summary of Disciplinary Hearing* is completed and, if necessary, *P&P 140-1 (B) Warrant*, is written and signed. *(If substance use or possession is indicated as one of the violations, the Hearings Officer needs to make sure to identify the specific substance in the Summary of Disciplinary Hearing)*. When an offender appeals the Hearing, include a brief summary narrative regarding the offender's sentence and supervision history in the report for the CCD Division Administrator or Designee. When the Hearings Officer recommends dead time, a copy of the Hearings Officer

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*Summary of Disciplinary Hearing and (140-1 (I) Request to Impose Dead Time* is forwarded to the CCD Administrator for final determination. The CCD Administrator will render a decision and forward the paperwork to the appropriate parties.

- |   |                                |
|---|--------------------------------|
| 12. Forms are forwarded per the distribution list on the forms. Other reports are sent upon request.  | Hearings Officer               |
| 13. <i>P&amp;P 150-1 (Q) Notification of Offenders Sentenced to DOC or MSP/MWP</i> is completed and distributed for offenders that are placed into any Community Corrections programs or sanctions. | P&P Officer/Hearings Officer   |
| 14. Reviews appeal by the offender, if applicable, and determines outcome and responds to offender.   | CCD Administrator/<br>Designee |

**V. CLOSING:** Questions concerning this procedure shall be directed to the Regional Administrator or designee.

**Forms**

- |               |  |
|---------------|--|
| P&P 140-1 (A) | Summary of Disciplinary Hearing  |
| P&P 140-1 (B) | Warrant  |
| P&P 140-1 (C) | Statement of Charges-Notice of Disciplinary Hearing  |
| P&P 140-1 (D) | Disciplinary Hearing Appeal  |
| P&P 140-1 (E) | Adult Hearing Guidelines   |
| P&P 140-1 (F) | ISP/P&P DOC Inmate Rule Violation Codes  |
| P&P 140-1 (G) | Request to Forfeit Offender Good Time  |
| P&P 140-1 (H) | Request for or Waiver of Witnesses   |
| P&P 140-1 (I) | Request to Impose Dead Time  |
| P&P 140-1 (J) | Hearing Sanction Options   |
| P&P 140-3 (A) | ISP Sanction Program Contract  |
| P&P 140-3 (C) | ESP Referral Form  |
| P&P 150-1 (Q) | Notification of Offenders Sentenced to DOC or MSP/MWP  |
| DPHHS         | Request and Verification to Remove Disqualification for Benefits <i>(this form is to be pulled from the field file and completed.)</i> |