

## **Prohibited Acts**

By Michael G. Santos  
August 11, 2008

*Activities that lead to disciplinary actions in federal prison along with their severity scale and possible sanctions.*

Federal prisons are like mini communities. Hundreds or thousands of men live together inside prison boundaries. Just as legislators enact laws to keep citizens in the broader society in order, prison administrators use a disciplinary code that identifies prohibited acts. That code identifies four categories of prohibited acts in prison. Prisoners are well advised to understand the disciplinary code and the sanctions that may be placed upon them if they stand convicted of violating any of those disciplinary infractions.

The highest category of prohibited acts is known as the Greatest Severity category. It includes disciplinary violations that administrators rank as being of the highest severity. Each infraction is associated with a number, and Greatest Severity category violations begin with number 100; all greatest category offenses are in the 100-series. Category 100, for example is killing. Other 100-series violations include the following:

- 101—Assaulting any person or an armed assault on the institution’s secure perimeter.
- 102—Escape from escort; escape from a secure institution; or escape from a minimum institution with violence.
- 103—Setting a fire that is found to pose a threat to life or serious bodily harm.
- 104—Possession, manufacture, or introduction of a gun, firearm, weapon, or sharpened instrument, knife, etc.
- 105—Rioting
- 106—Encouraging others to riot
- 107—Taking hostages

- 108—Possession, manufacture, or introduction of a hazardous tool.
- 110—Refusing to provide a urine sample or to take part in other drug abuse testing.
- 111—Introduction of any narcotics, marijuana, drugs, or related paraphernalia not prescribed for the individual by medical staff.
- 112—Use of any narcotics, marijuana, drugs, or related paraphernalia.
- 113—Possession of any narcotics, marijuana, drugs, etc.
- 198—Interfering with a staff member in the performance of duties; conduct must be of the greatest severity in nature.
- 199—Conduct which disrupts or interferes with the security or orderly running of the institution or the Bureau of Prisons. Conduct must be of the greatest severity nature.

Below the Greatest category of offenses would be the 200-series violations of the disciplinary code. Those prohibited acts are deemed to be of the High category. Some of those

High category offenses include the following:

- 200—Escape from unescorted community programs and activities and open institutions like camps and from outside secure institutions without violence.
- 201—Fighting with another person
- 203—Threatening another with bodily harm or any other offense.
- 204—Extortion, blackmail, protection; Demanding or receiving money or anything of value in return for protection against others, to avoid bodily harm, or under threat of informing.
- 205—Engaging in sexual acts.
- 206—Making sexual proposals or threats to another.
- 207—Wearing a disguise or a mask.
- 208—Possession of any unauthorized locking device, or lock pick, or tampering with any lock device.

- 209—Adulteration of any food or drink.
- 211—Possessing any officer’s or staff clothing.
- 212—Engaging in or encouraging a group demonstration.
- 213—Encouraging others to refuse to work, or to participate in a work stoppage.
- 215—Introduction of alcohol into BOP facility.
- 216—Giving or offering an official or staff member a bribe or anything of value.
- 217—Giving money to, or receiving money from, any person for purposes of introducing contraband or for any illegal purposes.
- 218—Destroying, altering, or damaging government property, or the property of another person, having a value in excess of \$100.
- 219—Stealing
- 221—Being in an unauthorized area with a person of the opposite sex without staff permission.
- 220—Demonstrating, practicing, or using martial arts, boxing, wrestling, or other forms of physical encounter.
- 222—Making, possessing, or using intoxicants.
- 223—Refusing to breathe into a breathalyzer or take part in other testing for use of alcohol.
- 224—Assaulting any person.
- 298—Interfering with a staff member in the performance of duties, of high severity nature.
- 299—Conduct which disrupts or interferes with the security or orderly running of the institution or BOP, of high severity nature.

Below the High category offenses would be the 300-series violations of the disciplinary code.

Those prohibited acts are deemed to be of the Moderate category. Some of those Moderate category offenses include the following:

- 300—Indecent exposure.
- 302—Misuse of authorized medication.
- 303—Possession of money or currency.
- 304—Possession of anything not authorized.
- 305—Loaning of property or anything of value for profit.
- 306—Refusing to work, or to accept a program assignment.
- 307—Refusing to obey an order of any staff member.
- 308—Violating a condition of a furlough.
- 312—Insolence towards a staff member.
- 313—Lying to a staff member.
- 315—Participating in an unauthorized meeting or gathering.
- 316—Being in an unauthorized area.
- 317—Failure to follow safety or sanitation regulations.
- 318—Using any equipment or machinery that is not specifically authorized.
- 319—Using any equipment or machinery contrary to instructions.
- 320—Failing to stand count.
- 321—Interfering with the taking of count.
- 324—Gambling
- 325—Preparing or conducting a gambling pool.
- 327—Unauthorized contact with the public.
- 328—Giving money or anything of value to, or accepting money or anything of value from another inmate without staff authorization.

- 329—Destroying government property.
- 330—Being unsanitary or untidy.
- 331—Possession, manufacture, or introduction of a non-hazardous tool.
- 398—Interfering with a staff member in the performance of duties.
- 399—Conduct which disrupts or interferes with the security of the institution.

Below the Moderate category offenses would be the 400-series violations of the disciplinary code. Those prohibited acts are deemed to be of the Low-Moderate Category. Some of those Low-Moderate category offenses include the following:

- 400—Possession of property belonging to another person.
- 401—Possessing unauthorized amount of clothing.
- 402—Malingering, feigning illness.
- 403—Smoking where prohibited.
- 404—Use of abusive or obscene language.
- 405—Tattooing or self-mutilation.
- 406—Unauthorized use of mail or telephone.
- 407—Conduct with a visitor in violation of BOP regulations.
- 408—Conducting a business.
- 409—Unauthorized physical contact.
- 498—Interfering with a staff member in the performance of duties.
- 499—Conduct which disrupts or interferes with the security of the institution.

Each of the four categories of prohibited acts has its own set of disciplinary sanctions that may be imposed upon inmates found to have violated the code. If administrators believe the inmate violated federal law in addition to prison rules, they may recommend the case to the FBI and the U.S. Attorney's Office for possible criminal prosecution. Some of the prison sanctions that

may be authorized include any combination of the following, depending on which series of the code was violated:

1. Parole rescission for old-law inmates with parole eligibility
2. Forfeiture of good time
3. Disciplinary transfer to another prison
4. Disciplinary segregation
5. Monetary restitution
6. Loss of additional privileges
7. Extra duty

### **Disciplinary Infraction Proceedings**

One of the most important strategies for thriving through prison without additional problems is to abide by the disciplinary code. That said, prisons are abnormal environments. Rather than actively encouraging those in prison with the possibility to earn incentives, administrators manage these institutions with the threat of punishment. Some institutions encourage officers to cite inmates with disciplinary infractions. The prison jargon for those disciplinary reports is given the name "shots." When a correctional officer wants to cite an inmate with violating the disciplinary code, the officer writes a shot.

Shots can complicate an inmate's stay in prison. They can lead to reduced amounts of good time, loss of privileges, more restrictive conditions of confinement, and limitations on an individual's contact with family or community. Because they are a part of prison life, however, those coming in should develop a basic understanding of the accepted procedures officers must follow when citing an inmate with violations of the disciplinary code.

1. Once the staff member becomes aware of an inmate's involvement in an incident that violated the disciplinary code, the staff member ordinarily has a time limit of 24 hours to write the shot. If more than 24 hours has passed since the officer became aware of the incident, then

the rules indicate that the officer would become time-barred from citing the inmate with misconduct. When officers cite inmates for wrongdoing after the 24-hour time limit has elapsed, the inmates have excellent grounds for expungement of the record.

I am personally familiar with the case of Mark, who beat a shot that could have exposed him to severe sanctions. Mark had been taken to SHU for an investigation. At the time that he was taken to SHU, officers gathered all of his personal property. While they gathered Mark's personal property, the officers recorded a detailed inventory report. That report showed every item the officers collected from Mark's personal belongings.

Mark remained in segregation for 31 days while he was under investigation. On the 31<sup>st</sup> day, a lieutenant delivered an incident report to Mark while he was being held in SHU. The shot indicated that Mark was in possession of a sharpened instrument, in violation of code 104. That was a greatest category offense, exposing Mark to severe sanctions. The shot indicated that guards had found the sharpened instrument in Mark's personal property.

Yet the guards had collected Mark's personal property 31 days before. At that time, the guards presumably knew everything that was inside Mark's personal property. They completed an inventory report and signed the report. If there was a sharpened instrument in his property, the guards should have charged Mark with the 104 disciplinary violation at that time. Instead, they waited 31 days to serve Mark with the incident report. That was a violation of the 24-hour time limit. Because of that procedural violation, Mark was successful in having the disciplinary infraction dismissed, and his clean record was restored. Had Mark not known about the 24-hour rule, however, he would have been convicted and sanctioned for a serious violation of the disciplinary code. That conviction could have resulted in his receiving a transfer to a higher-security institution, and the loss of 60 days good time.

2. Proper procedure requires the officer to write the shot in the appropriate manner. The shot details the time the officer became aware of the incident, the time the shot was written, the

disciplinary code that was allegedly violated, and a description of the infraction. The officer who wrote the report passes it to another staff member; normally a lieutenant presents the shot to the inmate.

When the lieutenant delivers the shot to the inmate, the lieutenant reads the inmate his Miranda rights, informing the inmate that he may remain silent and all that nonsense. If the inmate wants to make a statement that he believes could exonerate him, he should make the statement at the time the lieutenant requests whether he has anything to say with regard to the incident. If the inmate chooses to remain silent, he may not be given another opportunity to explain.

I am personally familiar with the case of Chris, who beat the complications that came with a shot at this second stage. An officer had been reviewing staff telephone logs. By cross-referencing calls made on the staff telephone line with phone numbers assigned to inmate calling lists, the officer noticed that a staff phone was used to call Chris's wife. Although the actual call had been made three months previously, the staff member did not become aware of what he presumed to be an incident until he reviewed the staff phone records. Believing that Chris had broken into a staff member's office and inappropriately used the staff member's phone to call his wife, the officer cited Chris with a serious violation of the disciplinary code. The incident report was written within the 24-hour time limit that the staff member became aware of the incident.

When the lieutenant delivered the shot to Chris, read him his rights, and asked whether Chris wanted to make a statement, Chris was dumbfounded. He could not believe that he was being charged with breaking into a staff member's office three months previously. He asked the lieutenant to postpone his hearing so that he could consult his daily journal. When Chris checked his journal, he noticed that on the date of the incident, one of the Unit Manager's had had a telephone conversation with Chris's wife regarding issues pertaining to a request for a special

visit. Chris was able to show the lieutenant the journal. From that journal, the staff member who had called Chris's wife was identified. Yet the staff member had since transferred to another BOP facility. The lieutenant contacted the staff member who had made the call to Chris's wife. Upon receiving confirmation from the staff member regarding the appropriateness of the telephone call, the lieutenant expunged the disciplinary infraction.

Had Chris not kept a journal of his daily activities, he would not have recalled that a staff member had called his wife. The lieutenant then would have allowed the charges against Chris to stand, and Chris likely would have been convicted. Instead, through his statement, Chris was able to assist the lieutenant with an investigation that would exonerate him. Had Chris been quiet at that stage of the process, he would not have been allowed to introduce the evidence that cleared him of misconduct.

3. Assuming the lieutenant allows the charges against the inmate to stand, the next step of the incident-report process is for the lieutenant to pass along his decision to a Unit Disciplinary Committee (UDC). The UDC refers to the staff members who have authority to hold an initial hearing for inmate disciplinary proceedings. They are like the judge and jury at the first stage of the proceedings. They read the charges against the inmate. Then they read any investigative reports the lieutenant may have completed. Then they inquire whether the inmate has any response. At that point, the UDC may either find the inmate guilty and impose sanctions, dismiss the charges, or refer the matter to the Disciplinary Hearing Officer (DHO).

The DHO is an officer who reviews and presides over the hearings of all greatest category offenses, most high category offenses, and some moderate category offenses. He repeats the process of the UDC, then makes a final decision on whether the inmate is guilty of the infraction, or whether the charges should be dismissed. Many inmates refer to the entire disciplinary process as kangaroo court proceedings, as both the UDC and DHO generally go

along with the officer who wrote the infraction. Officers are inclined to give greater weight to an officer's word than an inmate's denial of culpability.

The more inmates know and understand the disciplinary code and rules of proceedings the better prepared they are to avoid disciplinary infractions. In the 21 years that I have served, I have been successful in keeping my disciplinary record clean. It is not because I have not been charged with misconduct. I have been charged with violating code 408, Conducting a Business, on several occasions. Yet each time that I have been charged, I have prevailed and succeeded in having those charges against me dismissed. That is despite bookstores from across the nation selling books I have written, and thousands of people using information I publish on the Internet. I keep a high profile with frequent interactions with the national media and do not hide my activities from staff members. Yet because I keep myself fully apprised of all BOP rules, I am able to follow the rules to the letter. That knowledge allows me to prepare for a contributory, law-abiding life upon release while simultaneously serving a lengthy prison term.

I urge readers to read more of the articles I publish at MichaelSantos.net before they begin serving a prison term. That information will explain the importance of behavior that complies with BOP rules. Further, I suggest that all inmates fully familiarize themselves with the disciplinary code. For detailed information, they may read the *Code of Federal Regulations, Title 28, Section 500*. That book is available in all prison libraries and the section on prison policies will help individuals navigate their way through confinement with fewer complications.