

How to Address 115s



Objective: To inform families how to best support their incarcerated loved one when they have 115s and going before the BPH, commutation or resentencing

- What is a 115 Rules Violation Report (RVR)?
 - A 115 is a disciplinary write-up that people receive in CDCR
 - There are 2 types of rules violations in the CDCR:
 1. **administrative violations**, which use Form 115, and
 2. **serious violations**, which use Form 115A.
 - 115s are divided up into the following seven divisions/categories: A-1, A-2, B, C, D, E, F; based on the type of disciplinary infraction the incarcerated person is charged with. A-1 is the most serious category and F is the least serious

- What is the 115-hearing process?
 - A 115 hearing will be scheduled to determine whether a violation actually occurred. This generally has to occur within 30 days of the incarcerated person receiving the 115. People accused of serious violations have the right to a pre-hearing investigation conducted by an Investigative Employee (Correctional Officer) who acts as a fact finder for the hearing officer (Correctional Lieutenant).
 - The hearing officer uses a “preponderance of evidence” standard to find a person guilty of a 115, which means all they need to prove is that something is more likely to be true than not. This is a very low bar and really easy to find a person guilty when there is little evidence.
 - People can file a 602 appeal to challenge the guilty finding, but this process also goes through the CDCR chain of command, and CDCR rarely overturns their own decisions

- What are potential penalties of being found guilty of a 115?
 - Loss of good time credits (up to 360 days)
 - Placement in ad-seg or the SHU
 - Mandatory and random drug testing
 - C-Status
 - Confinement to quarters (CTQ) for up to 10 days
 - Loss of visits, canteen, appliances, telephone, or personal property
 - Required participation in programming that addresses the issue for which a person was found guilty for

- How does the Board of Parole Hearings (BPH) view 115s?
 - The BPH views violent 115s (fight, possession of a weapon, etc.) and drug-related 115s as more serious than other 115s
 - Although there is no official policy on amount of “clean” time required by the Board, generally they want five (5 years) of disciplinary-free behavior

- What is a 115 accountability statement?
 - The Board almost always believes the 115 to be true and accurate, although sometimes they are not. It is a good strategy to take the wind out of their sails by frontloading, maximizing the

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115, and taking full responsibility, especially when the 115 is several years old.

- Participate in a self-help program that directly addresses the 115. For example, if the 115 was for a fight, take an anger management course or Alternatives to Violence course. They also have courses for drugs and cell phones. If you cannot find a course that directly relates to the 115, get a book on the issue and write a book report. These book reports are not like school reports. The book report should state what you learned, insight into the behavior, and coping strategies that will help prevent such behavior in the future.
- Own it and take responsibility! The Board will not attempt to retry the disciplinary hearing. If you were found guilty, the Board will take that as fact. Minimizing and rationalizing will lead the Board to think you are not taking accountability. On the other hand, maximizing often takes the wind out of their sails. Certain 115s have more of a detrimental impact than others, and “clean time” works in your favor. The Board often considers violent 115s (fighting, assaults, riots, weapon possession, etc.) as the most serious, especially if you have multiple ones and they are recent. Here are some suggestions when writing your 115 accountability statement:
 - List your 115s in chronological order starting with the most recent
 - Do not go into details of what happened
 - Briefly explain what the 115 was for and make sure it matches the report
 - Explain why it happened. What were you going through at the time (personal relationship issues, breakup, death of a loved one, loss of hope, etc.)
 - Identify causative factors/character defects that were in play (unresolved resentment, lack of coping & communication skills, irrational beliefs “can’t back down from a fight,” getting high to cope with incarceration and other trauma, unhealthy desire for acceptance, low self-esteem, criminal thinking)
 - Explain what you did to address the causative factors/character defects that were in play (anger mgt courses, conflict resolution courses, book reports, AA, NA, CGA, etc.)
 - Explain what you learned from the experience
 - Provide an example of how you dealt with a similar situation since then and how it didn’t lead to a write-up
 - *Example:* I was doing good with my programming when a guy asked me to pass something for him. Not thinking, I did it. As I was doing this favor, a C/O pulled me over, searched me, and found drugs in what I was passing. Even though I didn’t know that drugs were in there, I take full responsibility because I should have asked what it was that the guy wanted me to pass.
 - *Take Responsibility:* I am guilty because regardless of me not knowing there was drugs in there I shouldn’t be passing things for people without knowing what I am passing. I am responsible for my own actions.
 - Explain why it happened & identify causative factors/character defects that were in play: This happened because even though I was addressing my addictions to drugs and alcohol at the time, I was neglecting my addiction to criminal thinking and my need for peer acceptance that I sought for most of my life. I was seeking a need for acceptance and acting impulsively.
 - Explain what you learned from the experience: Through taking NA, I learned that I need to always pay attention to my criminal thinking and continue to work on myself for the rest of my life. I was addicted to the whole criminal lifestyle, not just drugs and alcohol. I learned to always think things through and not make impulsive decisions. This is why today I make it a priority to

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practice Step 10 every day by taking a personal inventory of my thoughts, feelings, and motivations. Through Step 4 I also learned that I was seeking a need for acceptance because I never received the love and acceptance.

- How can families support their incarcerated loved one through the process
 - Encourage your loved one that you understand just how biased the 115 process is ○ Do not judge your loved one (oftentimes people already feel bad for catching more time or having a negative impact in front of the Board
 - Encourage your loved one to take full responsibility (find a group that will address the issue. PREP has a correspondence course on criminal thinking to address cell phones)
 - Maximize responsibility by talking about the 115 as the way the Board perceives it (i.e., they understand why it is a rule infraction)

- **Below are the different divisions/categories of 115s**

- Division "A-1" offenses; credit forfeiture of 181-360 days.

(1) Murder, attempted murder, and solicitation of murder. Solicitation of murder shall be proven by the testimony of two witnesses, or of one witness and corroborating circumstances.

(2) Manslaughter.

(3) Battery causing serious injury.

(4) Assault or battery with a deadly weapon or caustic substance.

(5) Rape, attempted rape, sodomy, attempted sodomy, oral copulation, and attempted oral copulation against the victim's will.

(6) Taking a hostage.

(7) Escape with force or violence.

(8) Possession, manufacture, or attempted manufacture of a deadly weapon or explosive device.

(9) Solicitation to commit an offense listed in this section.

- Division "A-2" offenses; credit forfeiture of 151-180 days.

(1) Arson involving damage to a structure or causing serious bodily injury.

(2) Possession of flammable, explosive, or combustible material with intent to burn any structure or property. (3) Destruction of state property valued in excess of \$400 during a riot or disturbance.

(4) Any other felony involving violence or injury to a victim not specifically listed in this schedule. (5) Attempted escape with force or violence.

(6) Introduction or distribution of any controlled substance, as defined in section 3000, in an institution/facility or contract health facility.

(7) Extortion by means of force or threat.

(8) Conspiracy to commit any Division "A-1" or "A-2" offense.

(9) Solicitation to commit an offense listed in this section.

- Division "B" Offenses; credit forfeiture of 121-150 days.

(1) Battery on a peace officer not involving the use of a weapon.

(2) Assault on a peace officer by any means likely to cause great bodily injury.

(3) Battery on a non-prisoner.

(4) Threatening to kill or cause serious bodily injury to a public official, their immediate family, their staff, or their staff's immediate family.

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(5) Escape from any institution or community correctional facility other than a camp or community-access facility. (6) Theft, embezzlement, destruction, or damage to another's personal property, state funds, or state property valued in excess of \$400.

(7) Unauthorized possession of any controlled substance as defined in section 3000, including marijuana, in an institution/facility or contract health facility. (A) Progressive disciplinary credit forfeiture for violations described in (7) above are as follows: 1. Credit forfeiture of 121-130 days for the first offense. 2. Credit forfeiture of 131-140 days for the second offense. 3. Credit forfeiture of 141-150 days for the third offense.

(8) Sexual Activity in a visiting room involving physical contact with a minor.

(9) Indecent Exposure with prior court conviction under PC 314 or PC 288.

(10) Any felony not involving violence or the use of a weapon not listed in this schedule.

(11) Conspiracy to commit any Division "B" offense.

(12) Solicitation to commit an offense listed in this section.

- Division "C" offenses; credit forfeiture of 91-120 days.

(1) Escape without force from a camp, community-access facility, or any Alternative Custody Program placement, as provided in Chapter 1, Article 6.8.

(2) Attempted escape without force from an institution or community correctional facility other than a camp or community-access facility.

(3) Furnishing equipment for or aiding and abetting an escape or escape attempt.

(4) Attempted extortion by means of threat.

(5) Bribery.

(6) Arson.

(7) Forgery, falsification, or alteration of any official record or document prepared or maintained by the department which could affect a term of imprisonment.

(8) Possession of any narcotic, drug, or controlled substance in a community-access facility or any Alternative Custody Program placement.

(9) Unauthorized possession of drug paraphernalia as defined in Section 3000.

(10) The physical possession of alcohol in an institution/facility or contract health facility.

(11) Accessory to any felony offense.

(12) Conspiracy to commit any Division "C" offense.

(13) Solicitation to commit an offense listed in this section.

- Division "D" offenses; credit forfeiture of 61-90 days.

(1) Use of a controlled substance (except marijuana or Barbiturates), as identified in H&SC 11007, based solely on a positive test result from an approved departmental testing method.

(2) Being under the influence of alcohol, any drug, controlled substance, or other intoxicant, as defined in section 3000 and unable to exercise care for personal safety or the safety of others.

(3) Participating in a riot, rout, or unlawful assembly.

(4) Inciting a riot.

(5) Indecent Exposure without a prior court conviction under PC 314 or PC 288.

(6) Sexual Activity in a visiting room with an adult.

(7) Willfully resisting, delaying, or obstructing any peace officer in the performance of duty.

(8) Late return from a temporary community leave.

(9) Assault or battery on a prisoner with no serious injury.

(10) Fighting.

(11) Assault of a peace officer by any means not likely to cause great bodily injury.

(12) Assault on a non-prisoner.

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(13) Conspiracy to commit any Division “D” offense.

(14) Solicitation to possess, distribute or introduce a controlled substance into an institution, contract health facility, or any Alternative Custody Program placement.

(15) Possession and/or constructive possession of a cellular telephone or wireless communication device or any component thereof including, but not limited to, a subscriber identity module (SIM card), memory storage devices or cellular telephone chargers.

- Division “E” offenses; credit forfeiture of 31-60 days.

(1) Theft, embezzlement, destruction, or damage to another’s personal property, state funds or state property valued at less than \$400.

(2) Possession of alcoholic beverages or intoxicating substances in a community-access facility under the jurisdiction of CDCR.

(3) Consensual participation in sodomy or oral copulation.

(4) Forgery or falsification or alteration of any government document or record not affecting an inmate’s term of imprisonment.

(5) Gambling in an institution, community correctional facility, or camp other than a community-access facility. (6) Refusal to provide blood specimens, a saliva sample, or palm and thumb print impressions pursuant to Penal Code sections 295 through 300.3, after receiving written notification in accordance with PC section 298.1 that they must be provided. (7) Sexual Disorderly Conduct.

(8) Commission of any misdemeanor offense not listed in this schedule.

(9) Conspiracy to commit any Division “E” offense.

(10) Solicitation to commit an offense listed in this section.

- Division “F” offenses; credit forfeiture of 0-30 days.

(1) Gambling in a community-access facility.

(2) Late return to a community-access facility or any Alternative Custody Program placement.

(3) Use of marijuana, barbiturates or alcohol based solely on a positive test result from an approved departmental testing method.

(4) Misuse, alteration, unauthorized acquisition, or exchange of personal property, state funds, or state property. (5) Refusing to provide a urine specimen for the purpose of testing for the presence of controlled substance(s) or alcohol. (6) The fermentation or distillation of materials in a manner consistent with the production of alcohol. (7) Possession of dangerous contraband as identified in section 3000 excluding cell phones or wireless communication devices or any component or accessory thereof.

(8) Unauthorized possession or distribution of medication (not identified as a controlled substance in section 3000). (9)

Work related offenses: (A) Refusal to work or perform assigned duties; (B) Continued failure to perform assigned work or participate in a work/training program.

(10) Any other serious rule violation meeting the criteria listed in section 3315, not a crime, and not identified as administrative in section 3314 of the Title 15.



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