

Institution:	USP Victorville	Incident Report Number:	2748458		
NAME OF INMATE:	SULLIVAN, Cyrus	REG NO.:	74918-065	UNIT:	4A
Date of Incident Report:	07-29-2015@2:50PM	Offense Code:	224		
Date of Incident:	07-29-2015@12:40PM				
Summary of Charges:	Assaulting Any Person				

I. NOTICE OF CHARGE(S)

- A. Advanced written notice of charge (copy of Incident Report) was given to inmate on (date) 08-11-2015 at (time) 6:32PM (by staff member) K. Bowles, Act. Lieutenant
- B. The DHO Hearing was held on (date) 09-09-2015 at (time) 5:28PM
- C. The inmate was advised of the rights before the DHO by (staff member):
V. Torres, Unit Team on (date) 08-13-2015@2:00PM and a copy of the advisement of rights form is attached.

II. STAFF REPRESENTATIVE

- A. Inmate waived right to staff representative. Yes: No: X
- B. Inmate requested staff representative and Lieutenant J. Gabby appeared.
Lt. Gabby stated, "He complained the hand cuffs were too tight and hurting his wrists. He did not say anything about the officer twisting his wrist. I would have put that down. There was no injury found that would indicate his wrist was twisted. His injuries were consistent with the use of force. I reviewed the video. I could not see that anything out of the ordinary was going on. It looked like a standard escort. I couldn't see any twisting."
- C. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that: N/A
- D. Staff Representative N/A was appointed

III. PRESENTATION OF EVIDENCE

- A. Inmate admits Denies the charge(s).
- B. Summary of Inmate Statement:
Inmate Cyrus SULLIVAN, Register Number 74918-065, stated, "I don't believe I hit him in the face. I may have moved my elbow when he twisted my wrist. He didn't warn me he would use force if I kept talking. I believe I struck him in the chest." Inmate SULLIVAN also submitted a written statement.
- C. Witnesses:
1. The inmate requested witness(es). Yes: No: X
2. The following persons were called as witnesses at this hearing and appeared.
N/A
3. A summary of the testimony of each witness is attached.
N/A

INMATE COPY

Name of Inmate:	SULLIVAN, Cyrus	Reg. No.:	74918-065	Hearing Date:	09-09-2015
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4. The following persons requested were not called for the reason(s) given:
N/A

5. Unavailable witnesses were requested to submit written statements and those statements received were considered.	Yes		No		N/A	X
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D. Documentary Evidence: In addition to the Incident Report and Investigation, the DHO considered the following documents:
Supporting Memorandum
Evidence Photographs
Clinical Encounters
Written Statement provided by inmate SULLIVAN

E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because: N/A

IV. FINDINGS OF THE DHO

- A. The act was committed as charged.
- B. The following act was committed:
- C. No prohibited act was committed: Expunge according to Inmate Discipline PS.

V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations, written documents, etc.)

The inmate's due process rights were read and reviewed by the DHO to the inmate. The DHO confirmed the inmate received a copy of his incident report. The inmate submitted a written statement for consideration. The inmate was afforded an opportunity to meet with his staff representative. The DHO advised the inmate that the staff witness requested would not be called to testify regarding the loosening of his hand restraints. The DHO confirmed the medical assessment confirmed the hand restraints were loosened. The inmate indicated this information was adequate and he did not request the appearance of medical staff to testify. The DHO advised the inmate a delay occurred in the processing of the incident report, and further advised the inmate this incident report was referred to an outside agency for possible criminal prosecution. The inmate could not offer any justification how this delay negatively affected his ability to defend himself at the hearing. The inmate understood his due process rights, and was ready to proceed with the DHO Hearing.

The DHO found inmate Cyrus SULLIVAN, Register Number 74918-065, committed the prohibited act of Assaulting Any Person, in violation of Code 224. The DHO relied upon the reporting officer's statement which indicated on July 29, 2015, at approximately 12:40 p.m., the reporting officer was escorting inmate SULLIVAN, Cyrus, Register Number 74918-065, back to cell 260 on F-Range (of the Special Housing Unit) when he became aggressive and was able to hit the reporting officer in the face with his right elbow. The reporting officer then placed inmate SULLIVAN on the floor to prevent further assault to himself or other staff.

The DHO relied upon the Supporting Memorandum provided by Senior Officer Specialist N. Pedraza who indicated on July 29, 2015 at approximately 12:40 p.m. he was involved in an immediate use of force on inmate SULLIVAN. He observed SULLIVAN being aggressive toward staff. SULLIVAN was refusing to go back into his cell. Staff attempted to put inmate SULLIVAN back into his cell and he became combative. Inmate SULLIVAN turned his left shoulder and used his elbow to strike Officer Luna in the face. Inmate SULLIVAN was placed on the ground to gain control of his aggressive behavior. Officer Pedraza assisted staff in controlling inmate SULLIVAN's legs. Inmate SULLIVAN was then escorted to an observation cell to be medically assessed.

*↳ then how do you expunge
head injuries?*

The DHO relied upon the Supporting Memorandum provided by Senior Officer T. Oeltjenbruns who indicated on July 29, 2015 while conducting a cell search of cell 260 on F Range in the Special Housing Unit, inmate SULLIVAN was being placed back into his cell. He was given a direct order to go back into his cell. That is when he turned in an aggressive manner and struck the escorting officer's facial region with his elbow. He assisted in placing the inmate onto the ground with the proper force necessary and gave him multiple orders to give up his other hand because he had slipped his cuffs. He was finally able to apply the hand restraints. He then escorted the inmate with another officer to Observation Cell #1, where he helped apply progressive restraints. He received injuries to his right knee and right elbow during the incident.

no

look toward

The DHO relied upon the Supporting Memorandum provided by Senior Officer A. Olmos who indicated on July 29, 2015 at approximately 12:40 p.m. he witnessed inmate SULLIVAN being aggressive toward staff. After a cell search was conducted on inmate SULLIVAN's cell, staff attempted to put inmate SULLIVAN back into his cell; he then became combative. Inmate SULLIVAN struck Officer Luna in the face. He assisted in placing inmate SULLIVAN on the ground to gain control of his aggressive behavior. Inmate SULLIVAN was then escorted to an observation cell to be medically assessed.

The DHO relied upon the Supporting Memorandum provided by Senior Officer Specialist S. Luna who indicated on July 29, 2015 at approximately 12:40 p.m. as he was escorting inmate SULLIVAN back to cell 260 on F Range of the Special Housing Unit, SULLIVAN became aggressive and hit him in the face with his right elbow. He then placed inmate SULLIVAN on the floor to prevent further assault to himself or other people. He experienced right shoulder pain, pain in both of his knees and both hands and a small cut on his right and left thumbs as a result of the immediate use of force.

from punching me

The DHO relied upon the Clinical Encounter performed on Officer S. Luna. Officer Luna stated to the clinician he had been elbowed in the face by an inmate and was experiencing pain. Officer Luna also indicated he had pain in the shoulder, hands and knees as a result of an immediate use of force due to the assault by the inmate. The clinician noted erythema and tenderness to the left side of Officer Luna's facial area and advised him to apply ice and follow up with his primary physician for further treatment.

The DHO considered the written statement provided by inmate SULLIVAN in which he indicated he was inaccurately charged with Assault on Staff and claimed he was Assaulted by Staff. He claimed it was not physically possible for him to elbow the reporting officer in the face while handcuffed due to limited vertical mobility. SULLIVAN indicated the reporting officer did not report twisting his wrist in a painful fashion immediately beforehand, and he claimed he suffered a beating and torture from the reporting officer, other officers, and Lieutenant Williams while in the observation room. SULLIVAN requested the video surveillance footage be reviewed for F-Range, Observation Room 1, and the Main Floor in SHU to see what really took place, and indicated he had already endured cruel and unusual punishment far in excess of any punishment permitted by the program statement. He requested the incident report be expunged on the basis that he was already punished and the reporting officer unnecessarily assaulted him by twisting his wrist suddenly. He requested copies of the video footage be provided to him or his appointed lawyer. He also claimed he did not get a copy of the incident report until almost 2 weeks after the incident and indicated he thought it might be retaliation for a motion he filed in court. The DHO considered inmate SULLIVAN's allegations the officer twisted his wrist and that he was beaten and tortured by staff. The Clinical Encounter completed by medical staff references a minor laceration to SULLIVAN's scalp, superficial abrasion to his back, neck, face, and swelling and abrasion behind both ears. When asked if he wanted to make a statement as to how his injury occurred, the only remark recorded is "Use of force." Inmate SULLIVAN's injuries were cleaned with hydrogen peroxide, and he required no further treatment. Based upon correctional experience, the DHO was convinced the minor injuries sustained by inmate SULLIVAN were consistent with staff using force to place the inmate on the floor and regain control. Coupled with the Staff Representative's review of the video footage indicating he didn't observe staff twisting SULLIVAN's wrist, and the staff representative's testimony that SULLIVAN never reported the officer twisted his wrist, the DHO found no evidence to support inmate SULLIVAN's claims that he was assaulted by, beaten, or tortured by staff. The DHO confirmed inmate SULLIVAN did receive a copy of the incident report several days after the incident and once the FBI declined prosecution. The DHO determined inmate SULLIVAN was provided the copy a minimum of 24 hours prior to the final hearing and that the delivery delay did not hinder his due

I want to make a statement

She is now a doctor

INMATE COPY
Crabby said video showed chest

process. Although SULLIVAN claimed it was not physically possible for him to strike the reporting officer in the face with his elbow while handcuffed, the DHO determined it was possible based upon the height of both individuals, the position they were both in, and the flexibility exhibited by inmate SULLIVAN. Whether the strike landed on the officer's face as reported by the victim and the multiple staff who witnessed the incident, or in the chest as suggested by inmate SULLIVAN, the DHO was convinced inmate SULLIVAN did assault the reporting officer with his elbow. *height taller*

The DHO relied upon the Staff Injury Assessment completed for the reporting officer which indicated both knees sustained contusion, swelling and tenderness. He also received minor abrasion to both thumbs, tenderness to his right hand at the 2nd joint, right shoulder tenderness, and swelling and tenderness to the left side of his face.

The DHO considered the repetitive nature of the prohibited act. Within the past eighteen (18) months, inmate SULLIVAN has committed multiple offenses of assaulting correctional personnel. Based upon this information, the DHO determined inmate SULLIVAN demonstrated a propensity to engage in prohibited assaultive behavior toward staff.

The DHO relied upon inmate SULLIVAN's statement at the DHO hearing in which he admitted to the charge.

Based upon the greater weight of the evidence, the DHO found inmate Cyrus SULLIVAN, Register Number 74918-065, committed the prohibited act of Assaulting Any Person, in violation of Code 224.

VI. SANCTION OR ACTION TAKEN

Offense Severity:	High	SGT Available:	Not eligible – PLRA
20 days, Disallowed Good Conduct Time			
4 months, Immediate Family Only Visiting privilege [Only: Mother, Father, Sister, Brother, Spouse, Children – to commence when any/all LP VISIT sanction(s) end]			
4 months, MP3 Player restriction			

VII. REASON FOR SANCTION OR ACTION TAKEN

Any action on the part of any inmate to assault staff threatens the security of the institution and the safety of others. Staff responding to this incident also received injuries. The disallowance of good conduct time was imposed based on the severity of the offense, and the inmate's sentence commitment. Sanctions were imposed in an attempt to correct the inmate's future behavior.

VIII. APPEAL RIGHTS: The inmate has been advised of the findings, specific evidence relied on, action and reasons for the action. The inmate has been advised of his right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

	Yes	X	No		
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IX. DISCIPLINE HEARING OFFICER

Printed Name	Signature	Date
D. Elliott, Discipline Hearing Officer	<i>[Signature]</i>	10-05-2015
Scanned and Emailed:	<i>[Signature]</i>	10/05/2015
Delivered to Inmate: (via institutional mail)	DATE: 10/05/2015	TIME: 3:16 p.m.

INMATE COPY

*Note: Delivery of this incident report was delayed due to the increased volume of hearings conducted during this period. As a result, the final report was not completed within 15 working days. This delay will not hinder the inmate's due process or right to appeal the DHO's decision. At the final hearing, the inmate was advised of his right to appeal by submitting a BP-10.

Prescribed by P5270

Replaces BP-S304 (52) JAN 88