

Exhibit 6437.4, MUTUAL COMBAT (6400)

(June 2000)

The CCR, Section 3323(f)(9) identifies “Mutual Combat with no serious injury where the aggressor cannot be determined” as a Division D disciplinary offense.

In applying this charge, however, the circumstances surrounding the incident must be carefully considered. A review of conditions which would preclude assessing a charge of Mutual Combat are described in the following.

(A) If an aggressor or aggressors and a victim or victims are clearly identifiable either through staff’s observation or other viable substantiation, a charge of Mutual Combat may not be appropriate. Examples would include the attack on one inmate by multiple aggressors. In this case, the aggressors would be charged with “Battery on an Inmate” and the victim would not be charged. An evaluation of the evidence derived from the medical examination of the participants may also provide a reasonable conclusion as to the identity of the victim versus the aggressor(s).

(B) The use of a weapon by one or more participants would automatically preclude a charge of Mutual Combat being brought against the inmate(s) in possession of the weapon. Although the charge of “Battery with a Weapon” would be appropriate for the armed inmate(s), the unarmed participant(s) may be charged with Mutual Combat if it can be established that they entered into the fight voluntarily.

(C) If, during the course of a fight meeting the elements of Mutual Combat, one of the participants becomes incapacitated or otherwise withdraws from the fight, and the second participant continues, he/she assumes the position of aggressor, and should be charged with the appropriate level of “Battery”. The inmate withdrawing from the fight may still be charged with Mutual Combat as a result of his/her initial participation.

The extent of injury to any participant in a fight which has been deemed Mutual Combat will have no bearing on the assessment of the charge. Injury becomes a factor only in the case of a charge of Battery.

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