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# BULLETIN

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## INMATE GRIEVANCE ACQUISITIONS PROCEDURES

1. Jail Operations Bulletin #11, *Inmate Grievance Procedures*, is a programmed learning experience designed to teach officers why a formal grievance procedure for prisoners is necessary in today's jails, the requirements of the grievance process, and the role and duties of line officers in implementing an effective grievance process.

2. **PERFORMANCE OBJECTIVES:** After completing the study of this Bulletin, jail officers will be able to:
- A. Explain what a prisoner grievance procedure is.
  - B. Briefly explain why a formal grievance procedure for inmates is not a threat to the authority of line officers in maintaining institutional discipline and security.
  - C. Briefly explain why line officers must make an effort to informally resolve prisoner grievances.
  - D. List four areas which are appropriate for the submission of formal grievances.
  - E. List five areas which are not to be the subject of the prisoner grievance procedure.
  - F. Briefly explain why a separate grievance process is necessary for emergency issues of health and safety.

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# INMATE GRIEVANCE PROCEDURES

The field of corrections at the local level has changed dramatically in the past two decades. The jail administration and the officers who supervise prisoners are no longer immune from public and judicial scrutiny. Legal barriers to a prisoner's right to seek redress of grievances across the wide spectrum of correctional operations have been demolished. Corrections professionals now recognize that basic procedures, the nature of specific institutional operations, staff performance and conduct, and virtually every other aspect of jail administration and management are now appropriate subjects for review by groups external to the correctional environment.

Since prisoners can easily obtain access to the media, elected officials, citizen advocacy groups, parents and friends, local and federal judges, and numerous other prisoner assistance organizations, **every jail must develop and put into operation a clearly defined and responsive prisoner grievance procedure.** In this era of significant civil rights litigation, there is no longer any area of institutional operations that cannot be challenged by prisoners.

## Rule No. 1

**The existence of prisoner grievance procedures within quality correctional institutions is as routine a part of corrections as due process disciplinary hearings, the right to effective medical and psychiatric treatment, and access to legal material and legal services.**

Providing prisoners with an opportunity to submit grievances regarding the conditions of confinement and other matters that impact upon them while they are in custody is more important than the goal of simply avoiding litigation. Prisoners are subject to the authority of correctional staff. In our society, the right to seek redress of grievances is an intrinsic part of the democratic process. It is not a right that ceases to exist when incarceration occurs. While individual liberties are significantly diminished in many ways when a person is jailed, the inmate still has a right to ask jail officials to remedy problems arising from his conditions of confinement. **Listening to the concern of an individual who is incarcerated and responding to those concerns is a basic duty of all employees in a correctional institution.**

A prisoner grievance procedure simply codifies that which generally exists in most institutions—namely, a formal means of delivering complaints and concerns from a prisoner to the administration with an equally well-defined procedure for a prisoner to receive a written response. Such a policy not only serves the purpose of helping the jail and its employees avoid litigation, but also demonstrates as a matter of official recognition that the institution or agency which incarcerates is willing to review its own policies and procedures, as well as the performance of its staff members.

## Rule No. 2

**Jails which do not provide a clear and reasonable prisoner grievance procedure are more likely to be the subject of civil rights litigation.**

A grievance procedure also reinforces the jail's rules and regulations for inmate conduct; **prisoners will learn that the grievance procedure cannot be used to avoid institutional rules and regulations.**

## UPHOLDING OFFICERS' AUTHORITY

Some jail administrators are afraid to initiate a prisoner grievance procedure out of a mistaken belief that line officers will lose their authority as prisoners file written grievances concerning any policy, procedure, or act by a staff member that they do not agree with or that they find troublesome. This might have been true in the past when the absence of opportunities for training and the lack of appropriate training materials left jail officers virtually on their own from the day that they first began working in a jail. But current jail operations have been professionalized dramatically and resources now exist for the proper training of line officers. This training generally includes interpersonal communications skills and a host of other support mechanisms that build staff confidence. **With good training, jail officers can learn how to maintain control of inmates in humane and effective ways.** In institutions where officers have no control of residential housing units, prisoner grievance procedures cannot diminish authority for authority may not exist. However, in institutions where staff members maintain professional, firm, and humane control, the existence of a prisoner grievance procedure challenges neither their authority nor the safety and security of the institution. In these jails, control exists as a matter of policy and procedure, not of force and duress.

## Rule No. 3

**Prisoner grievance procedures do not diminish the authority of jail staff members. They help ensure that authority is properly used while serving as a check against potential abuses. The grievance process also helps jail officials determine which policies may need to be reviewed, revised, or abolished.**

## THE GRIEVANCE PROCESS

**Prisoner Grievance Policy:** Adhering closely to the Commission on Accreditation for Correction (CAC) Standard No. 2-5303 for Adult Local Detention Facilities, a jail should have a policy noting the existence of a prisoner grievance procedure. The policy should document that the facility supports the existence of a method by which prisoners may seek a review and potential resolution of problems or complaints that rise to the level of a formal grievance. This policy statement notes the commitment of the jail to offer a procedure that is used in quality institutions throughout the United States.

**Use of Informal Resolution:** The procedure should note that grievances should not be filed until the prisoner has attempted to resolve the concern in an informal manner,

preferably with the staff member who is immediately involved with the particular issue. Direct and tangible support should be given by jail administrators to the role of the line officer in any procedure so that prisoners understand that—except in emergency situations—they are required to work through line staff to attempt to resolve their concerns and that their grievance must document efforts on their part to resolve a situation at the line officer level prior to receiving a review through the formal grievance process.

The grievance procedure must highlight the primary role of line staff in the day-to-day operations of the jail. If this informal resolution requirement is made an imperative part of the grievance procedure, then the number of formal grievances will be diminished and prisoners will understand that the process is not a way to work around a line officer, line work supervisor, or administrative/clerical employee the prisoner simply does not want to confront.

#### **Rule No. 4**

**The informal resolution of prisoner grievances should be promoted as the key aspect of the process. The role of the line officer or deputy should be noted as the key ingredient of informal resolution and, except in extreme emergencies, redress through line staff should be required prior to accepting a grievance from a prisoner for formal review.**

**It Must Be In Writing:** Any prisoner grievance procedure must be clearly documented in writing so that any prisoner in the facility can read it, ask intelligent questions, and follow the procedure from its inception through its conclusion. The procedure should be written in non legal terminology and each step required of the prisoner should be spelled out in language that can be understood easily by typical jail population groups. The policy should be translated into languages that represent the communication tools of significant prisoner groups, such as Hispanics or, in some areas of the United States, French. A prisoner grievance procedure that cannot be understood by those who only speak a language other than English does not exist in the minds of those prisoners.

#### **Rule No. 5**

**Prisoner grievance procedures should be clearly written in the inmate handbook and should be given to every new inmate during the booking process or at the initial classification interview.**

**The policy should be translated into every major language utilized by significant numbers of prisoners.**

**Provide the Policy to Every Prisoner:** The prisoner grievance procedure should be printed in total in the Inmate Handbook and should be distributed upon admission during the booking/intake interview process to every prisoner, no matter what the inmate's expected length of stay in the jail will be. With this process, it is a simple matter to document that every prisoner entering the facility received a copy of the

grievance procedure through the vehicle of the Inmate Handbook. It is also useful to post this particular procedure in two other key locations: in the library or law library and in inmate housing units. This ensures that no prisoner can claim that he was denied access to the procedure.

**Scope of Grievance Issues:** The following are appropriate areas for the submission of grievances:

1. The substance, interpretation, and application of policies, rules, and procedures of the institution that affect a prisoner personally.
2. Individual employee and prisoner actions that affect the prisoner personally, including denial of access to the grievance procedure.
3. Any reprisals against prisoners or staff for filing a grievance or utilizing the grievance procedure.
4. Any other matter relating to the conditions of care or confinement within the correctional facility or department.

The following areas are generally not to be the subject of the prisoner grievance procedure:

1. Federal and state court decisions;
2. County, state and federal laws and regulations;
3. All matters regarding parole;
4. Adjustment or behavior committee decisions, since this issue generally is handled through a separate procedure; and
5. Other matters beyond the control of the facility or department.

(This list is derived from the prisoner grievance procedure of the Montgomery County, Maryland, Department of Corrections.)

**Frivolous grievances** or matters that should be the subject of normal request procedures shall be denied and shall not be accepted as part of a grievance procedure. The grievance procedure is not a substitute for normal institutional inquiries and normal routes of making requests. Those involved in the grievance process should ensure that submissions of this nature are returned to a prisoner and that the prisoner is told politely to use appropriate channels.

**Selection of a Grievance Officer or Committee:** Creativity may be utilized in appointing a person or persons to handle inmate grievances. The institutional administrator may designate a single employee, generally of middle to senior supervisory rank, as the institutional grievance officer. This individual will be solely responsible for the review of all grievances, the administration of the grievance procedure, the preparation of all grievance documents, and their distribution. The institutional administrator must clearly state that the grievance officer has discretionary authority and that he operated in the name of the facility or agency so that staff members will understand the role of the individual and his responsibility to appropriately and conscientiously receive, review, and decide upon all grievances that are submitted.

Some facilities utilize a grievance committee, which may be more appropriate in a very large institution where the number of grievances may require several simultaneous reviews or investigations of the information presented by prisoners. Each facility should select a grievance officer or committee based upon individual needs, time allocation, and other institutional priorities.

**Grievance Officers Must Be Impartial:** Impartiality is the hallmark of a respected prisoner grievance procedure.

This does not mean that those hearing a case must have no knowledge of corrections, the prisoner, or local institutional dynamics. It simply means that the person or persons hearing a particular grievance should not be involved in that grievance, nor should they have personal direct knowledge of the situation that brought about the grievance. In situations of conflict of interest, a particular grievance can be assigned to another individual or another group of staff members.

#### **Rule No. 6**

**The grievance review process must be conducted by a person or persons who have no personal involvement in the particular grievance. Lack of impartiality destroys the grievance process and will generate contempt and distrust on the part of the prisoner population.**

**Use of a Prison Grievance Form:** The administration of the grievance process is most easily served through the use of a formal grievance form. Forms should be designed to meet general institutional needs and should contain appropriate space to include the following information:

1. Name of the grievant
2. Date and time grievance submitted
3. Grievant's housing location
4. Description of the problem (provide several lines)
5. Grievant's request to remedy grievance (provide several lines)
6. Grievant's signature line
7. Response (provide several lines for a reasonable response)
8. Signature line for the hearing officer or committee
9. Date response issued
10. Date response delivered to the grievant
11. Signature of appellate authority, if applicable.

**Grievance forms should be easily available,** either within the residential housing unit or through a supervisor's office. Access to the forms should not be interrupted by considerable periods of time or by undue bureaucracy. If a prisoner must exert a major effort to secure the forms, then the credibility of the grievance process is diminished.

**Confidentiality of Prisoner Grievances:** When a prisoner completes a grievance form, the document should be deposited in a location that is checked on a regular basis. In a large facility where prisoner movement to a dining area is part of normal operations, a grievance box may be located near the entrance or exit. In institutions where prisoners are generally confined to their housing units, envelopes should be provided. There should be either a locked box within the housing unit for the envelopes or a procedure that provides for housing unit staff to collect and pass on grievance envelopes to the hearing officer or to supervisors in a prompt manner. Reasonable confidentiality requires that no staff member or other prisoners should have access to completed grievance forms as they move from the grievant to the institutional grievance officer or committee.

**A Prompt Hearing Expands Credibility:** Grievances should be filed no more than 30 days from the alleged incident or date of the alleged grievable matter. Some facilities require a maximum of no more than five days. The amount of time

allowed is subject to the discretion of each jail.

A prisoner filing a grievance should be personally interviewed either by a hearing officer or committee within a reasonable period of time, generally not to exceed one week from the date that the grievance was filed. Prisoners who submit frivolous grievances or who fail to use normal channels for requests should not be provided with access to the grievance process; their grievance form should be returned without a hearing.

**Investigation of Grievances:** A credible prisoner grievance procedure must guarantee that an appropriately submitted grievance will be investigated. The investigation need not rise to a full due process deliberation and intensive factual survey, but must at a minimum go beyond a paper review and ensure that the basic allegations made by a prisoner have been checked and either sustained or rejected. Grievance officers or committees must, therefore, move to different parts of the institution, interview staff members when relevant, and examine documents that are pertinent to a particular grievance. Nothing diminishes a grievance procedure more quickly than office-bound paper reviews without human contact.

The grievance investigation is not a court proceeding, nor does it replicate the due process requirements of disciplinary hearings which the U. S. Supreme Court defined in *Wolff vs. McDonnell*. However, the response of the hearing officer or committee must demonstrate that an effort was made to review facts and interview pertinent witnesses.

#### **Rule No. 7**

**Prisoner grievances and staff responses must be in written form and should contain sufficient information to demonstrate both the reason for the submission and the reasons for every disposition. Prisoners are entitled to know the reasoning behind a final grievance decision.**

**Emergency Issues of Health and Safety:** Prisoners should have access to an unrestricted channel to the senior facility administrator or his designee in cases where health and safety are of imminent concern. This can be implemented through a facility administrator's mailbox located in high movement areas or through an in-house process using envelopes that would direct an emergency grievance to the senior official. **Such emergency grievances will be reviewed at the earliest possible moment.** If they are not emergencies, then the grievance will go unanswered and will be returned to the prisoner. If the issue is of substance, then appropriate action will be taken and documented.

#### **Rule No. 8**

**An emergency procedure must exist to ensure that if issues of immediate personal safety or health arise, a prisoner may communicate directly with the agency administrator, the most senior institutional administrator, or their designee.**

**No Reprisals for Submitting Grievances:** A key element of any grievance procedure is the prohibition of reprisals against prisoners who utilize the grievance procedure.

Corrections professionals understand that prisoners will challenge various conditions of confinement and various issues of staff conduct. It is a fact of life in corrections and those staff who cannot accept such an aspect of their profession may not be suited for this type of work. Any suggestion that a reprisal was taken against a prisoner for the submission of a grievance must be investigated immediately by the hearing officer, a hearing committee, or a designated representative of the facility administrator.

#### **Rule No. 9**

**Prisoner grievance forms must be readily available and written policy must clearly state that no reprisals will be taken against any prisoner who submits a grievance regarding institutional policies or staff conduct/performance.**

**Appeal Procedure:** While not mandated by courts or accreditation standards, an appeal process should be considered. When the grievance officer or committee has denied a grievance, the prisoner may submit the matter to the facility director or his designee. This review need not require an investigation, but may be limited to facts that have already been presented, concerns already raised, and the disposition as noted on the grievance form. The staff member conducting the appeal will be able to make a reasonable decision based upon a paper review, which does not include additional interviews or independent investigation. A disposition of the appeal should be noted on the grievance form for purposes of documentation.

**Prisoner Representation:** Prisoner representation (i.e., "jailhouse lawyers") is not recommended. The great majority of prisoners who file grievances are able to present their own cases and are more than capable of understanding the issues involved. Prisoner advocacy on behalf of other prisoners may encourage confrontations, which might harm staff morale and jeopardize the security of the institution. If a prisoner wishes to file a grievance and does not possess good reading or writing skills, then a staff member or a fellow prisoner may be assigned to assist in the preparation of the grievance. This ensures that all prisoners—no matter what their intellectual capabilities or physical/emotional conditions may be—have full access to the jail's grievance process.

National standards suggest that prisoners should be involved in the development of a grievance procedure. This might take the form of selecting individual prisoners within the jail to meet with administrative staff to elicit their views on the development of a grievance procedure. This is not an aspect of prisoner self-government, nor does it diminish the authority of the institution. It merely suggests, as noted in accreditation standards, that members of the prisoner population are more likely to accept a policy which they helped develop.

Some institutions have included a prisoner on a grievance panel. This practice has not been followed nationally and courts certainly have never mandated prisoner participation in the review of staff performance.

To make certain that the jail's grievance procedure serves the needs of the inmate population, prisoners should be asked periodically for their views about the policy's effectiveness

and responsiveness.

**Grievance Procedures Help Monitor Institutional Operations:** The grievance officer or committee should maintain functional category listings of all grievances submitted and their dispositions. This goes beyond a mere grievance log to document that grievances have been heard. A functional review process provides senior management with a regular survey of those aspects of institutional operations which have generated significant grievance activity.

Modern corrections demands the existence of more and more accountability mechanisms to monitor basic services, the implementation of policies and procedures, and models to assist in the review of staff performance. While a grievance procedure is only one mechanism to highlight various aspects of institutional operations, it is one that should be utilized in conducting quarterly or yearly evaluations of institutional operations. Senior administrators recognize the value of such data. If grievance records are maintained accurately, then a positive impact will accrue as senior managers and supervisors take steps to improve the quality of facility operations. This is one statistical measure that does have credibility within the jail environment and it offers managers and supervisors a performance-based tool of staff and policy evaluations.

#### **Rule No. 10**

**Senior staff should review the subject matter of prisoner grievances on a regular and periodic basis to help evaluate the need to revise policies, to isolate problem areas, or to stimulate thoughtful review of how institutional operations can be improved. This review benefits all jail employees.**

**Grievance Procedures Should Not Replace Normal Requests:** The prisoner grievance procedure must be carefully and firmly administered. Prisoners must recognize that the existence of a grievance process does not signify the end of normal request procedures. Grievances that are of a routine and day-to-day nature or which concern requests that should move through other channels such as case work, counseling, or housing units should be denied without a hearing.

#### **Rule No. 11**

**Prisoners must be informed in a direct and clear manner that the grievance procedure will not be used to bypass normal institutional channels.**

As the prisoner population learns that grievances are matters of significance—not matters of convenience—they will structure their use of the procedure in appropriate ways. This firm policy of implementation further supports the role of line staff who work in direct day-to-day contact with prisoners by ensuring that their lines of communication with those they supervise will not be diminished or diverted.

## REVIEW QUESTIONS

1. A line officer in a housing unit who receives a verbal grievance from a prisoner should:
  - A. Direct the prisoner to see the sergeant
  - B. Tell the prisoner to avoid jail and grievances won't exist
  - C. Insist that the grievance be placed in writing
  - D. Listen to the prisoner's concerns and attempt to solve the problem informally.
2. Prisoners who file frivolous grievances on a regular basis are best handled in the following manner:
  - A. Placement in disciplinary segregation
  - B. Destruction of their grievance petitions without response
  - C. Firm written denials of frivolous grievances
  - D. Transfer to another correctional facility.
3. Impartiality in hearing grievances requires the following:
  - A. Mandatory involvement of a Community Hearing Office
  - B. Involvement of a jailhouse lawyer in all grievance hearings
  - C. Personal involvement of the agency director in grievance investigations
  - D. Involvement of a hearing officer who has no personal involvement in the matter presented.
4. Prisoners' concern for their personal safety require the following:
  - A. A clear confidential line of communication to senior facility staff
  - B. The right of immediate transfer to another facility
  - C. Bail reduction or early parole to effect their release
  - D. Use of normal grievance procedure to express their concerns.
5. A prisoner grievance procedure is:
  - A. Unnecessary in small jails where everything is handled informally
  - B. A formal means of delivering complaints and concerns from a prisoner to the jail administration, and which includes a reply to the inmate in writing
  - C. A formal means to ensure that prisoners have access to their constitutional rights as established in *Wolff vs. McDonnell*
  - D. A mandatory procedure established by the U.S. Supreme Court in *Wolff vs. McDonnell* and which all jails are required by law to implement.
6. Jails which do not provide a clear and reasonable prisoner grievance procedure are:
  - A. In violation of *Wolff vs. McDonnell*
  - B. Not likely to be targeted for civil rights litigation
  - C. Protecting officers from harassment by jailhouse lawyers
  - D. More likely to be the subject of civil rights litigation.
7. A prisoner grievance procedure:
  - A. Diminishes the authority of jail officers
  - B. Helps assure that authority is properly used while serving as a check against potential abuses
  - C. Is a method which enables a prisoner to work around a line officer to get what he wants from a supervisor
  - D. Is an effective way of establishing self-government for the prisoner population.
8. Reprisals against prisoners who utilize the grievance procedure:
  - A. Should be prohibited by the jail administration
  - B. Are allowed only when the grievance complaint is frivolous
  - C. Are allowed only when the prisoner has bypassed normal channels
  - D. Are necessary to keep order in the institution and to frighten inmates who complain about officers.

ANSWERS TO REVIEW QUESTIONS

4. A	1. D
3. D	2. C
2. B	3. D
1. A	4. B

### Acknowledgments

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