
JAIL BULLETIN

NUMBER 27

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The Jail Bulletin is a monthly feature of the Crime Commission Update. The Bulletin may be used as a supplement to your jail in-service training program if officers study the material and complete the attached "open book" quiz. The Bulletin and quiz may be reproduced for use by your staff. We welcome any jail training materials you would like to contribute to the Bulletin.

CONDUCTING INMATE GRIEVANCE HEARINGS

The American correctional system is currently experiencing extensive judicial intervention on matters concerning the care, custody, and treatment of inmates. In order to respond to this intervention, sheriffs and administrators of county and short-term detention facilities have directed a considerable amount of their resources toward the development of a viable inmate dispute resolution mechanism or grievance procedure. Formal or informal methods of resolving inmate complaints are regarded as more desirable than prolonged litigation, which often results in unwanted judicial intervention or an increase in tension and violence within the jail.

The implementation of a formal grievance procedure of jails results from a sincere desire to provide the inmate population with an "administration-sanctioned" mechanism to voice complaints, seek improvements, or air frustrations. Such grievance mechanisms provide inmates with a means of addressing any aspects of their confinement.

The grievance procedure also serves as a useful tool for corrections administrators, since it helps to eliminate the historical and non-desirable methods by which inmates have made known their complaints, i.e., riots, work stoppages, assaults, escapes, and other illegal acts. As David Fogel wrote in We Are the Living Proof . . . The Justice Model For Corrections, "Conflict neglected may explode into violence. Conflict, to be resolved, must be transformed into negotiation, a form of diplomacy."

Types of Complaint/Grievance Mechanisms

Corrections systems in the United States have always relied on **informal** methods of information sharing and complaint processing in order to resolve problems of inmate unrest and dissatisfaction. While these methods were useful in providing some relief, they lacked such crucial features as: the ability to protect complainants from reprisals, and the ability to confront controversial issues, particularly those dealing with official policy or misconduct by correctional officers.

But procedures for dealing with inmate grievances began to change in 1971 when the State of Minnesota implemented the Ombudsman Program for its prison system, using the Swedish system as a model. The ombudsman has been an accepted institution in Sweden's civil administration since 1809. Initially funded by the U. S. Justice Department's Law Enforcement Assistance Administration (LEAA), the Minnesota project received statutory authority in 1973. The basic purpose of the Minnesota project was to permit ". . .the release of inmate frustration by opening communication. . .and to insure procedural safeguards which are so fundamental to our system of justice, that is . . . due process." Subsequent to the Minnesota project, many other states and correctional jurisdictions have implemented ombudsmen programs.

Traditionally, attempts to develop mechanisms for dealing with inmate complaints have fallen into six broad categories: multi-level grievance procedures, ombudsmen, grievance boards, inmate councils, inmate unions, and legal service programs.

Multi-Level Grievance Procedures

In general, formal grievance procedures involve the submission of complaints to a designated individual within an institution. An unsatisfactory response at the first level enables the complainant to appeal to higher levels within the organization and, in some instances, to an individual or body outside the correctional agency. Where outside review exists, it is in all cases advisory.

Significant variations exist among different mechanisms, all of which call themselves grievance procedures. In the first, the more traditional type, appeals follow the standard chain-of-command and administration. In the second type, inmates, line staff, and frequently outsiders are involved in making or reviewing decisions. The rationale for inmate and staff participation is to give the greatest amount of decision-making authority to the people who must live with the results of the decisions and to furnish a forum for accommodating opposing points of view; the rationale for outside participation is to provide a fresh, unbiased look at contested actions or policies and to increase the credibility of the entire system.

Ombudsman

Based upon a model of complaint resolution developed in Scandinavia, this system gives a public official the full authority to investigate citizens' complaints against governmental agencies and to pass judgment upon their merit. The official has no power to enforce his recommendations, however. He must rely upon his persuasiveness, reputation, and public support to produce compliance. Traditionally, the legislative branch of government appoints to the office a well-known, respected individual with experience and integrity. In conducting his investigations, the ombudsman has access to records and information and complete independence from the agencies he is monitoring.

Increasingly popular in the United States, the ombudsman concept has been applied in a variety of settings, including, since 1972, both prisons and jails. Although a few of the new correctional ombudsmen have retained the essential features of the Scandinavian model, most have lost the traditional independence associated with the office, since they are hired by an responsible to the directors of the agencies they monitor. Furthermore, budgetary limitations often preclude the hiring of individuals who are widely known prior to their tenure. Finally, although Scandinavian ombudsmen do not function in place of administrative grievance procedures but as supplements to them, some correctional systems have attempted to use ombudsmen as their sole means of responding to complaints. In these systems, the ombudsmen, even when aided by several assistants, have had difficulty keeping up with the workload. As a result, many of them have become effective advocates for the establishment of grievance mechanisms in order to handle complaints at the local level.

Grievance Board

Combining aspects of both the ombudsmen and the multi-level appeal procedures, inmate grievance boards can be particularly appealing to jails and short-term detention facilities with significant inmate populations. The grievance board is empowered by the sheriff or the corrections administrator to review complaints filed by inmates and to make appropriate recommendations for their resolution. The credibility of the grievance board is enhanced by removing the final decision-making process from one person to three or more individuals. The grievance board is particularly beneficial to the administration on matters governing programs or policies, since the board can provide the administration with a broader viewpoint in the final decision-making process.

Inmate Councils

Once the primary channel for communicating inmates' points of view to administrators, inmate councils have lost support as other grievance mechanism models have been adopted. Councils which are successful have tended to concentrate on issues of institutional and departmental policy rather than upon individual grievances. Deviance from this limitation often has resulted in councils becoming a personal interest forum for their members, with a subsequent loss of effectiveness as a voice for all inmates. Where councils deal with personal complaints, they rarely are subject to time limits for written responses; nor are they expected to take staff as well as inmate views into account in their recommended solutions.

The best known inmate council was the Resident Government Council at the Washington State Penitentiary in Walla Walla. The council was disbanded in April 1975 because of "general dissatisfaction." A new Resident Council took its place to act as a means for dealing with all grievances at the institution. However, the attempt to convert the council into a grievance mechanism generally was regarded as ineffective.

Inmate Unions

Attempts to organize prisoners to negotiate with administrators concerning their complaints thus far have been unsuccessful; most of these attempts have been abandoned. These attempts have failed because of the strong opposition of correctional administrators to recognizing inmate unions. In addition, studies in California indicated that such unions often have limited support among prisoners, since they tend to attract only the more militant.

Legal Services

Programs to provide legal services to inmates have become common. These programs generally are devoted to litigation and legal advice concerning problems outside the institution, however. Even in the rare instances where legal services programs provide representation in internal administrative proceedings, they are not really mechanisms for resolving complaints; rather they are a way to provide representation for the individual who complains.

Authors: Charles Felton and
Mark Fitzgibbons, Pinellas County
Florida Sheriff's Department,
Corrections Division, Pinellas County
Florida.

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QUIZ

Nebraska Jail Standards require that jail staff receive eighteen (18) hours of in-service training each year. The Jail Bulletin may be used to supplement in-service training if an officer studies the Bulletin, completes the quiz, and this process is documented by the jail administrator for review during annual jail inspection.

SUBJECT: CONDUCTING INMATE GRIEVANCE
HEARINGS (PART I)

NAME _____

DATE _____

1. The Swedish system that uses an appointed public official to resolve grievances is known as the _____ system.

2. What is the rationale for using inmates and line staff to review and make recommendations for grievances?

3. What problem can develop with inmate councils? _____

4. Studies indicate inmate unions attract only _____ inmates.

5. Generally, legal services provide assistance for problems _____ the institution.

CREDIT: 1/2 HOUR CREDIT FOR JAIL IN-SERVICE TRAINING REQUIREMENT.

ANSWER SHEET SHOULD BE RETAINED BY JAIL ADMINISTRATOR

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WITH THE DECISIONS AND TO FURNISH A FORUM FOR ACCOMMODATING

OPPOSING POINTS OF VIEW

3. What problem can develop with inmate councils? _____

COUNCILS BECOMING A PERSONAL INTEREST FORUM FOR THEIR MEMBERS WITH

A SUBSEQUENT LOSS OF EFFECTIVENESS AS A VOICE FOR ALL INMATES

4. Studies indicate inmate unions attract only MILITANT inmates.

5. Generally, legal services provide assistance for problems OUTSIDE the institution.

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