



State of Montana Department of Corrections

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MSP Administration Office

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SUBJECT: Annual Inmate Grievance Statistical Report: September 2005 to August 2006

DATE: December 2006

General Comments/Overview:

Introduction

This is the first annual assessment report on the inmate grievance system under the current policy revision. This annual report is based on the information summarized in each monthly Inmate Grievance Statistical Report submitted by the Grievance Coordinator from each Adult Care Facility. This report includes the grievance statistics from 9/2005 – 8/2006. This is the first full year that monthly reports were submitted using the new/revised grievance policy. Future annual reports will run from July – June (fiscal year). The next annual report will be for the 2007 FY (July 2006 – June 2007).

Background

The MSP "old" grievance policy was implemented February 1, 1993 and certified by the U.S. Department of Justice June 8, 1994. This policy was used until the May 2005 revision which was instituted due to certain concerns reflected in the "Revision to Grievance Procedure/Summary" attached to this report. In April 2004, Ms. White from the Legal Department presented some suggested changes to the grievance policy/procedure. A policy work group, comprised of the grievance coordinators from each of the adult care facilities (MSP, MWP, CCC, DCCF, MCRP & GFDC), took the next year meeting several times to work on the policy and procedure that is used today. The new grievance process went into effect in May 2005. To date, the USDOJ has not responded to our request to review the revised policy for certification.

There were several changes from the prior policy and practice (e.g., eliminating the Grievance Advisory Board that was only used at MSP), but the most noteworthy change was requiring a written informal resolution coordinated by the unit management teams (UMT). Under the old policy, an inmate was required to attempt to resolve his/her issue before grieving and was required to describe the attempt to resolve informally in the grievance. Informal resolution could be accomplished either verbally or in writing (using the "kite" system) by talking to the staff member involved or that staff member's direct supervisor. If the inmate did not receive a response or did not feel the issue was resolved, he/she could move forward with a formal grievance. The current procedure provides a more formal, written informal resolution attempt. Under the old procedure, it was fairly common for staff to tell an inmate to "file a grievance" if they had an issue with someone or something. It was easier to pass-the-buck to a GC instead of dealing with the aggrieved inmate.

The new procedure appears to be a significant improvement in that the UMT's are required to work with inmates on their problems and thereby improved inmate case management is engendered. The informal resolution process has had a considerable impact on the UMT caseloads and initially it was nearly overwhelming for some and very time consuming for most, but with a full year under the new policy, I think they would now say that the new process is working and is a better way of dealing with inmate complaints.

Please contact me if you would like further information about the other changes to the current grievance policy and I will be more than happy to go over the changes with you in detail.

I did ask Ken Cozby, the MSP Grievance Coordinator, to provide his assessment/analysis of the monthly grievances reports as he has worked with the grievance program for the past seven years and was very instrumental in getting the new policy revised. His highlights, inferences and conclusions are outlined below.

Highlights, Inferences & Conclusions

In reviewing grievance numbers, certain broad generalizations can be properly observed. However, a few caveats are also appropriate. A statistician would correctly point out that the numbers lack verification in terms of size of database for numerical significance and valid sampling. The data lacks a baseline for comparisons so it is difficult to assess what is normal. There are some problems with precise separation of individual grievances into categories/classes. There are far too many variables involved to reliably determine precise cause and effect for many apparent trends. [E.g.: unknown and unquantifiable variables include emotional stressors unrelated directly to prison such as world events or family troubles, skill level of individual staff (especially new staff), individual inmate characteristics, unusual weather, etc.]

When reviewing the numbers, it is well to remember that grievances submitted do not necessarily reflect actual staff or institutional problems; sometimes the class of inmate is a major factor. For example, MSP tends to be the repository of the most troublesome and needy inmates. Consequently, the "normal" number of grievances will probably be higher at MSP than at other facilities. Also, although the grievance process is intended to "resolve inmate complaints, reduce the need for litigation, and afford staff the opportunity to improve facility operations" and the grievance process teaches inmates appropriate conflict resolution skills, it is important to remember that sometimes staff have not done anything wrong, there is not anything wrong with the policies or procedures and/or the inmate's proposed solution is not appropriate.

Comparing numbers of "Informals" submitted to numbers of grievances filed, it appears that overall, 62.6% of inmate issues are resolved in the "Informal" stage. This indicates a positive aspect and indicates that staff are successfully addressing many inmate issues at the lowest level. Since informal resolutions were not tracked previously, there is no way to compare current figures with historical values. Also, the numbers of "Informals" submitted does not necessarily quantify the numbers of inmate problems addressed by staff without any documentation.

One factor not reflected in this statistical report is the ratio of grievances submitted to average daily population (ADP). Current ADP figures are as follows: MSP – 1470, MWP – 255, CCC – 507, DCCF – 142, GFRP – 147. Average grievances submitted per month divided by ADP indicates that a fairly small percentage of inmates is aggrieved at any one time. However, a fact not revealed in the numbers is that a few inmates are chronically aggrieved; they submit many grievances almost every month, which skews the statistics in terms of analysis based on the foregoing assumption.

For instance, a review of MSP's grievance records shows approximately 2% of the inmate population grieves in any one month, and by adding the numbers of inmates who grieved each month, it appears that approximately 26% of the inmate population is aggrieved over the course of a year. However, research into the grievance logs reveals that "repeat grievors" inflates the numbers and the actual total of aggrieved inmates is actually 16.5% rather than 26.1% annually.

Numbers of Inmates Submitting Grievances as a Factor of ADP

Year	Month	# inmates	#grievances]	ADP	% Grieving
2005	September	29	[35]	1467	1.98
	October	25	[41]	"	1.70
	November	30	[43]	"	2.04
	December	31	[45]	"	2.11
2006	January	32	[44]	"	2.18
	February	37	[62]	"	2.52
	March	28	[35]	"	1.91
	April	33	[57]	"	2.25
	May	37	[55]	"	2.52
	June	32	[38]	"	2.18
	July	33	[47]	"	2.25
	August	37	[42]	"	2.52
Total		384	[544]	1467	26.176
09/05 – 08/06		243*	[544]	1467	16.564

*(adjusted to remove redundancy)

In the "Informal Grievances Submitted by Inmate Location" and "Grievances Submitted by Inmate Location" sections, the numbers included with each location are the sum of the monthly columns to the right.

The section on "Grievances Submitted By Department/Unit Grieved" does not precisely fit every unit of adult correctional facilities, so the numbers do not exactly compare. The categories are sufficient, however, to pretty clearly provide pertinent information to the administrators, especially on the monthly reports from which this report is drawn. These numbers should be viewed in comparison to ADP for each facility in order to achieve a valid comparison of facilities.

The descriptors used in the "Grievances Submitted By Type Of Complaint" section are generic and are intended to only indicate a general class of inmate issue. Some grievances are difficult to describe according to only one or any one of these categories, but again, these are deemed sufficient to provide realistic information to administrators in the relevant monthly report and can be correlated to ADP for comparison of facilities.

It is important to know why a grievance is not addressed, so the section "Grievances Not Processed Due To:" provides a summary of that information. It is equally important to know why grievances were granted or denied, so the next two sections show that breakdown of information.

The final two sections showing the numbers of appeals granted and denied at the Warden/Administrator and Director levels are not broken down to detail reasons for granting or denying.

During the policy revision work, it was projected that the revised policy would see many more grievance appeals as compared to the old policy, at least at MSP. A review of the grievance records at MSP revealed that based on grievances submitted in January in the years 2002 - 2006, under the former policy approximately 11-17% of grievances submitted were appealed and approximately 31-33% of grievances submitted under the revised policy were appealed.

As noted above, since there are 2.67 times as many "Informals" submitted as grievances, approximately 63% of "Informals" are presumed resolved ("granted"). Approximately 20% of grievances are granted. Approximately 6% of Warden/Administrator appeals are granted. Approximately 3% of Director appeals are granted. This decreasing percentage suggests that the grievance process is working correctly. The grievance records at MSP suggest that the revised grievance policy has been successful overall in reducing numbers of inmate grievances submitted. However, grievance records do not reveal whether the numbers of inmate lawsuits has been positively, negatively or not affected.

Number of Informal Resolutions Filed:

MSP 1244 MWP 185 CCC 777 DCCF 526 GFRP 172

Number of Grievances Filed:

MSP 544 MWP 124 CCC 220 DCCF 148 GFRP 61

Number of Grievances Filed in each Category:

MSP:	Standard	<u>438</u>	Emergency	<u>4</u>	Medical	<u>88</u>	Policy	<u>6</u>	Staff Conduct	<u>10</u>
MWP:	Standard	<u>54</u>	Emergency	<u>7</u>	Medical	<u>38</u>	Policy	<u>8</u>	Staff Conduct	<u>17</u>
CCC:	Standard	<u>179</u>	Emergency	<u>0</u>	Medical	<u>28</u>	Policy	<u>3</u>	Staff Conduct	<u>10</u>
DCCF:	Standard	<u>87</u>	Emergency	<u>1</u>	Medical	<u>19</u>	Policy	<u>19</u>	Staff Conduct	<u>22</u>
GFRP:	Standard	<u>40</u>	Emergency	<u>0</u>	Medical	<u>5</u>	Policy	<u>6</u>	Staff Conduct	<u>10</u>

Informal Grievances Submitted by Inmate Location:

LOCATION:	Sept 2005	Oct 2005	Nov 2005	DEC 2005	Jan 2006	Feb 2006	Mar 2006	APRIL 2006	May 2006	June 2006	July 2006	August 2006
MSP - 1244	69	87	82	97	116	88	106	121	134	99	137	108
MWP - 185	5	11	12	8	9	7	23	15	20	25	31	19
CCC - 777	54	51	47	33	82	72	87	48	92	65	73	73
DCCF - 526	22	18	23	25	70	46	41	56	58	46	64	46
GFRP - 172	6	6	8	4	23	27	26	12	15	12	10	23

Grievances Submitted By Inmate Location:

LOCATION:	Sept 2005	Oct 2005	Nov 2005	DEC 2005	Jan 2006	Feb 2006	Mar 2006	APRIL 2006	May 2006	June 2006	July 2006	August 2006
MSP - 544	35	41	43	45	44	62	35	57	55	38	47	42
MWP - 124	11	15	4	13	3	4	5	4	3	11	11	16
CCC - 220	10	6	15	11	33	15	18	14	24	29	25	23
DCCF - 148	8	1	9	10	12	12	9	12	17	11	21	27
GFRP - 61	5	1	4	4	14	2	11	4	2	0	4	10

Grievances Submitted By Department/Unit Grieved:

DEPARTMENT	MSP	MWP	CCC	DCCF	GFRP	DEPARTMENT	MSP	MWP	CCC	DCCF	GFRP
Accounting	10	2	5		2	Job Assignment / Removal	#	5	12		
Administration	32		5		2	Law Library	(X)	1	1		
Case Management	#	2	2		1	Library	(X)		1		
Classification	10		9			Mailroom	64		8		8
Commissary	27	2	2	4		Maintenance	1		4		
Contract placement	3					MCE	10				
Dental	*		*			Medical	*	38	*	20	5
Disciplinary	15	6	5	15	1	Mental Health	3	3			
DOC				2		Policy/Procedure	8	4	5	39	11
Food Service	12		16	6	2	Property	49	4	33	11	4
Grievances	14		2	7	2	MDIU	6				
Habilitative Services /Programs	15	4		1	1	Records	3				
Hobby	(X)	5	6	5	1	Security	30	15	55	2	
Infirmary	96		32			Units/Housing	128				
Inmates						Visiting		4	4	1	7
Investigations	1					Warehouse					
IPPO	2					Unknown	3		9	8	4

* Medical/Dental is not separated from other Infirmary in MSP & CCC stats. MSP: (X) Not separated from Hab Services. # Included in Unit grievances.

Grievance Submitted By Type of Complaint:

TYPE	MSP	MWP	CCC	DCCF	GFRP	TYPE	MSP	MWP	CCC	DCCF	GFRP
Canteen	14	2	2	4		Money	12		8		2
Classification	20		11		1	Non-staff actions		3			5
Education	1					Non-receipt		1			
Policy Violation	3	1	2		3	Personal Injury	4		1		
Grievance Ruling	8		4	7		Policy/Procedure	15	3	3	39	3
Groups	10		1		1	Privileges	3				1
Hearing Decision	16	5	4	15	9	Property	109	4	30	11	5
OSR's	6					Records	7		1		
Laundry	1	1	1			Recreation/Hobby	1	1	3	3	2
Legal	13		2			Religious	4		2		
Library	2	1				Staff Action	66	23	35	17	10
Living Conditions	14		6		2	Threats	3				
Mail	58		11	7	5	Unethical Conduct	14		1		
Meals	16	1	15	6		Visits	4	4	4	1	7
Medical	88	38	29	20	5	Work Programs	12	4	10		
Miscellaneous	8		17			Other	1	5	13		

Grievances Not Processed Due To:

REASON:	MSP	MWP	CCC	DCCF	GFRP
Abuse of process	9				
Abusive language	2		1		
Duplicate/Multiple	4			2	
Exceeds limit	3				
Improper/no informal resolution	30	14	22	5	1
Incomplete/Unclear	4				8
Inmate request				1	
Non-grievable (classification)	7		3		
Non-grievable (discipline)	7	3	4	8	
Non-grievable (no jurisdiction)	4	1	2		
Not timely	10				
Resolved	8		9	2	
Technical (i.e., wrote in response section, etc.)	2	2			

Grievances Granted Due To:

REASON:	MSP	MWP	CCC	DCCF	GFRP
Staff error	6	3	5	2	
Evidence/staff supports claim	32	5	1	19	5
Request action is reasonable/proper	24	17	14	39	47

Grievances Denied Due To:

REASON:	MSP	MWP	CCC	DCCF	GFRP
Current policy/practice/procedure is appropriate.	15	23	11	11	15
Evidence does not support claim.	88	2		26	
Inmate was at fault	19	5	3	6	
No abuse of authority	5	2		3	
No indifference		1			
No merit to claims	8				1
No staff error	35		11	9	
Not medically indicated/necessary	30	11	10	11	
Policy/procedure was followed	43	12	55	14	1
Staff response is appropriate.	25	12	63	13	

Appealed to Warden/Administrator/Designee

DISPOSITION OF APPEAL:	MSP	MWP	CCC	DCCF	GFRP
Appeal Granted	7		6	5	
Appeal Denied	176	7	55	50	9
Appeal Response Pending	3			1	

Appealed to Department of Corrections

DISPOSITION OF APPEAL:	MSP	MWP	CCC	DCCF	GFRP
Appeal Granted	4		2	3	
Appeal Denied	208		28	18	2
Appeal Response Pending	5	3	2	5	5

Revisions to Grievance Procedure – Summary
(Colleen A. White – April, 2004)

- Broadens category of grievable issues to include any issue affecting an inmate's incarceration.
 - clarifies any ambiguity of what is or is not grievable
 - imposes duty on inmate to first exhaust administrative remedies before filing in federal court
- Requires written informal resolution coordinated by unit manager or case manager.
 - assists GC in documenting informal resolution attempts
 - assists inmate who may not know who to contact regarding the grievance
 - assists unit manager in knowing what is going on with inmates in his/her unit
- Specifically limits grievance to one issue, signed by one inmate.
 - Companion policy is the correspondence policy requiring use of Inmate Staff Request form (kit) and specifying that all grievable issues contained in correspondence will be returned to sender.
- Eliminates GAB
 - streamlines procedures, reliance on board was occasional
 - federal law does not require a board, but if you have one, inmates would have right to have inmates abstain from hearing their case.
- GC tracks and forwards for investigation and response certain categories of grievances, rather than investigating himself:
 - medical
 - sentence calculation
- Informal resolution does not preclude an inmate from filing a formal grievance.
 - Purpose of policy (to provide high level review of complaints and avoid litigation) is at odds with strict requirement in complying with informal resolution.
 - Some federal courts have not supported the strict
- External appeal to Director's office.
 - meets federal regulation that final decision must be made by person not under control or supervision of facility, which is especially no longer the case since the 2001 reorganization.
- Includes sensitive grievance category (defined as issue that inmate reasonably believes is sensitive and safety or well-being place in danger if request became known at the institution – goes directly to director.). The rationale on this is the inevitability of inmate corresponding to the director on such issues. The policy will put the inmate on notice that if the director does not agree that the issue is sensitive, that the issue will not be accepted and the inmate allowed to pursue a standard grievance.