

Massachusetts Department of Correction

2012 Annual Grievance Report

Summary

The 2012 Annual Grievance Report provides detailed statistics and specific departmental and institution trends and issues. The following briefly highlights some of the more notable issues that occurred for the year.

Performance Measure: Increase approval/partial approval of legitimate grievances

The goals for the grievance process was to continue to implement and maintain the systemic changes that began with the implementation of reform measures in 2004 to ensure the integrity and fairness of the grievance process. The success of the system is determined, in part, by specific outcomes relative to the performance measure of increasing the approval/partial approval rate from 2003 baseline of 9%. This performance measure has consistently been met since that time as the rate has remained in the 20% - 32% range. The intended results were again achieved in 2012 with an approval/partial approval rate of 32%. Much credit is to be given to Superintendents and Institution Grievance Coordinators for continuing their efforts in achieving these results and proving that objective investigations can be done with accurate and fair outcomes.

Institution Operations

Another goal for the year was to continue to expand use of the grievance statistics to assess trends and problem areas and take action to improve policies, procedures, and practices. This year was successful in this regard as institutions report a number of operational changes that were made as a result of continuous review of grievances and statistics. This is a positive indicator that the data is not just being collected, but rather being utilized proactively to assess trends and improve facility operations and procedures. The informal complaint resolution process has also contributed to the positive change throughout the agency. Property data has been utilized to improve the future property policy and newly developed standard operating procedures.

Additional Grievance Statistics

Total Grievances Filed:

In terms of the overall number of grievances filed, there was a 10% increase in grievances departmentally from 5707 in 2011 to 6274 in 2012. This year there was a notable increase even with the Informal Complaint Resolution Process in operation. However, the informal process is not yet mandated for inmates as a first step prior to filing a grievance. Additionally, this year there was an overall notable increase in the total number of informal complaints filed. In 2011, 1551

* All non-grievable issues were removed from the 2011 data indicated in this report.

informal complaints were filed and in 2012 there were 1823 informal complaints filed.

There were reductions in the overall number of grievances filed at 4 institutions to include Souza Baranowski Correctional Center, Old Colony Correctional Center, Northeastern Correctional Center and Boston Pre-Release. The remaining 14 institutions recognized increases. The most significant increase was noted at MCI-Concord who recognized a 120% increase. In 2011, MCI-Concord had 279 grievances filed however this number jumped to 615 in 2012. The Massachusetts Treatment Center also recognized a 112% increase in grievance numbers climbing from 221 in 2011 to 469 in 2012. Additionally, the Massachusetts Alcohol and Substance Abuse Center had a 160% increase with the number of grievances filed. In 2011 there were 10 grievances filed however this number increased to 26 in 2012.

Additionally, it is noted that the female institutions recognized an overall 86% increase in the number of grievances filed in 2012 (360) compared to 2011 (194). Individually, MCI-Framingham had a 49% increase in the number of grievances filed in 2012 (219) compared to 2011 (147). South Middlesex Correctional Center had a 57% increase in grievances filed in 2012 (74) compared to 2011 (47).

Very notable is that the agency recognized a 23% increase in staff misconduct grievances requiring formal intakes via the Internal Affairs Unit. The total filed increased reflect 119 grievances filed in 2011 to 146 grievances filed in 2012. The increase was most notable in medium and minimum security with medium security numbers increasing from 31 in 2011 to 85 in 2012 for a 174% increase overall. Minimum security numbers increased from 2 in 2011 to 10 in 2012. Maximum security realized a 41% decrease when their numbers dropped from 86 in 2011 to 51 in 2012. Overall this increase indicated that more staff allegations were formally investigated when compared to the previous year.

Emergency Grievances:

The number of emergency grievances has increased by 93% with 30 emergency grievances filed in 2011 to 58 being filed in 2012. In the previous three years the numbers were steadily declining.

Informal Resolution

In 2012 the agency continued to see the benefits associated with the informal complaint resolution process. If the informal process did not exist the agency potentially may have recognized a more significant increase in the total number of grievances filed in 2012. The Office of Administrative Resolution will continue to focus on this in the year ahead and will work with facilities to improve effectiveness of the informal complaint resolution process. Once mandated by policy there should be a notable change.

Grievance Type Trends

In order to identify a wide range of institution and agency operational and climate issues, the Department tracks approximately 62 categories of grievances. The following reflects the trends relative to the ten most grieved issues in 2012.

1. Property (1657)

As is the case each year, property was the most grieved issue and comprised 26% of the total grievances filed. More than half of those complaints came from SBCC (536), MCI-Norfolk (237), MCI-Cedar Junction (217), OCCC (165), and MCI-Shirley (157). It is notable that overall property increased 5% departmentally from 2011 to 2012.

Monetary settlements related to property grievances amounted to approximately \$4,288. This represents an increase from the 2011 monetary settlements of \$3,894. A substantial portion of the total settlement costs in 2012 were from OCCC (\$754), MCI-Shirley (\$734) and NCCI (\$530).

Overall, the high number of property grievances are attributed to operational and policy inefficiencies and/or poor adherence to Inmate Management System (IMS) and policy requirements. This is an area that clearly needs departmental and systemic improvements. A new Property Policy and Standard Operating Procedures has been developed to help improve this area of operation however it must go through the public hearing process. It is noted that 40% of the property grievances filed relate to the internal transfer/handling of inmate property.

2. Other-Staff (555)

The majority of Other-Staff grievances (359) were filed in medium security. However, a review of individual institutions showed that MCI-Cedar Junction had the highest number of Other-Staff grievances (93) followed by SBCC with (82). It should be noted that due to changes in reviewing staff misconduct allegations some matters viewed as supervisory issues were added to this category but not all were being handled as inquiries as required by policy. Other-Staff grievances should continue to be monitored to ensure all "staff - other" grievances are being reviewed and referred appropriately for an institution inquiry in accordance with the 522 policy.

3. Food (436)

Food grievances increased 43% from 305 in 2011 to 436 in 2012. This year, the majority of food grievances were filed at MCI-Norfolk (128), SBCC (81), and MCI-CJ (78). The majority of food grievances pertained to alternative meals, substitutions, quality of food served, menu compliance and religious menu compliance. In March, MCI-Norfolk had a water emergency that contributed to their increased number of food grievances.

4. Mail/General (257)

Mail grievances increased 17% from 2011. In 2011 there were 219 grievances filed as mail/general compared to 2012 which accounted for 257 grievances filed. MCI-CJ accounted for 65 of the mail/general grievances followed by SBCC with 46, MCI-Norfolk with 35, and OCCC with 28. Of those grievances filed there was a repetitive theme relative to inmates grieving lost/stolen mail and delays in delivery and delays when sending mail out of the facility. These issues remain the same as 2011.

5. Other-General (257)

This miscellaneous category is utilized for issues that cannot be defined by a specific grievance type. In 2011 there were 375 grievances identified in this category however in 2012 this number decreased to 257 resulting in an overall decrease of 31%.

6. Physical Plant (233)

There was a 36% increase in the total number of physical plant grievances filed in 2011 (171) compared to 2012 (233). The majority of physical plant grievances were filed at MCI-Concord (91), MCI-Norfolk (34) and MTC (23).

The main physical plant issues filed at MCI-Concord pertained to the lack of television reception in West Down. This was noted by the facility as a capital project beyond the scope of the facility's budget. Additionally, in May of 2012 there were 69 physical plant grievances filed with the majority pertaining to requests for shower partitions and trash receptacles/bags. The facility noted it was not feasible to hang shower curtains or build partitions but they would explore other options. Additionally, the facility noted they consider trash bags for inmates' contraband however every cell is provided with a wastebasket. At MCI-Norfolk there were 13 grievances filed in May about poor drainage from the second floor showers of 6-1 and 7-3. All grievances were partially approved and requests were forwarded to the maintenance department for repairs. In addition there were several grievances filed in regard to the water emergency at Norfolk.

7. Searches/Institution (213)

Departmentally, the number of Searches/Institution grievances increased by 35% in 2012 when compared to data collected in 2011. MCI-Concord reported 50 grievances filed which is the highest number of grievances filed in this category. The remaining facilities ranged from 0 – 38 grievances filed. Not unlike the findings in 2011, the majority of the grievances pertained to claims that property was damaged, confiscated without reason, thrown away or became missing during a search. Facilities should continue to monitor this process to ensure property is being handled appropriately during searches and ensure searches are being documented appropriately into IMS.

8. Canteen (205)

There was a 6% increase in the total number of canteen grievances filed in 2012 (205) compared to 2011 (194). SBCC had 58 canteen grievances followed by MCI-Norfolk (38), OCCC (29) and MCI-CJ (24). The majority of grievances filed were in relation to missing orders or missing items from canteen orders. Additionally, it was notable that approximately 51% (117) of the canteen grievances filed were either approved or partially approved. Of the 117 approved, 53% (62) of these grievances resulted in a refund or credit to inmates in relation to canteen orders.

9. Inmate Accounts (193)

This year there were 193 grievances filed in regard to inmate accounts compared to 195 in 2011. The majority were filed at MCI-Shirley (35), SBCC (34), OCCC (28) and MCI-Norfolk (24). There were various grievances filed in relation to this topic which included account freezes, missing funds, savings to personal requests, etc. In addition, there were some noted miscategorized grievances that contributed to the total indicated to include inmate pay and canteen disputes. This concern has been addressed with Institution Grievance Coordinators.

10. Housing Assignment/Status (176)

In 2012 there was a 5% increase in the total number of housing assignment grievances filed (176) compared to the 168 grievances filed in 2011. In addition, the majority were filed at SBCC (73) and pertained to concerns over being housed excessively past appropriate time limits in segregation/restrictive housing. Inmates alleged that their rights were violated as they were denied privileges they should have been afforded if in general population to include out of cell time, televisions and access to the gym/yard and in some cases programs and work in order to earn good time credits. MCI-Norfolk had 39 grievances filed in regard to housing assignments/status followed by MCI-CJ with 33.

Miscellaneous Grievance Type Trends:

Staff (Intake Initiated) (146)

There were 146 staff grievances received which represents 2% of the total number of grievances filed in 2012. This total reflects a 23% increase from the 119 staff grievances filed in 2011. It should be noted that this category represents those grievances that received an intake into a staff related issue. These numbers do not include those grievances reported as "staff-other" which should have received institutional inquiries.

The breakdown of staff related grievance types were reported as staff misconduct (81), harassment (25), assault (17), verbal abuse (9), use of force (5), staff sexual misconduct with inmates (4), reprisal for grievance/complaint (3), and retaliation (2). The majority of the grievances

were received at SBCC (29), MCI-Cedar Junction (22), MCI-Framingham (21), and MCI-Concord (19). The remaining staff grievances received at other institutions ranged from 0–16.

It is noted that SBCC recognized a 71% increase in the total number of staff grievances received in 2012 (29) compared to the 17 received in 2011. Additionally, MCI-CJ recognized a 57% increase in the total number of staff grievances received in 2012 (22) compared to the 14 received in 2011. At MCI-Concord staff grievances increased by 171%. There were 7 staff grievances received in 2011 compared to 19 received in 2012. Lastly, MCI-Framingham data indicates that 36 grievances received an intake compared to 21 in 2012 for an overall decrease of 42%.

Mail/Legal (136)

In 2012 there was a noted 28% increase in the total number of mail/legal grievances received compared to 106 in 2011. SBCC accounted for 41 or 30% of the grievances filed in 2012 with 17 being filed by one inmate. MCI-Norfolk accounted for 33 or 24% of the mail/legal grievances filed. The reoccurring themes pertained to the opening of privileged mail (outside of the inmate's presence), untimely delivery/sending of privileged mail and postage for indigent inmate legal mail. The processing of legal mail (incoming and outgoing) should continue to be monitored at each institution to ensure legal mail is being processed in accordance with 103 CMR 481, Inmate Mail regulations.

Law Library (128)

Of the 128 law library grievances received in 2012 there were 36 or 28% received from MCI-Concord inmates. Of the 36 received there were 26 filed in regard to the law library computer system being inoperable at different times throughout the year. The facility took appropriate steps to rectify the issue however this issue should be monitored to ensure inmates are being provided adequate access for legal purposes.

Hygiene/DOC Issued (120)

There were 120 hygiene/DOC issued grievances filed in 2012. Of those filed, 79 or 66% were from MCI-Concord inmates. Additionally, 76 of the 79 grievances filed were received during the month of May. It is also noted that 75 of the 79 grievances filed were in regard to the inadequate supply of toilet paper for inmates at the facility when an inmate runs out of their allotted 1 roll per week. The institution noted that additional rolls of toilet paper are available upon request and inmates may also purchase their own toilet paper through canteen. There were multiple claims noting that when toilet paper was needed and requested the unit did not have any available. All institutions should monitor this issue to ensure inmates are provided toilet paper upon request should they run out in order to comply with DPH regulations. DPH has written to the DOC with regard to this matter in past years.

Procedure (120)

There were 50 procedure grievances filed at MTC which was the highest of any other facility in 2012. The majority of these grievances were filed in regard to institution procedural changes with regard to chow hall seating, restricted telephone access during group sessions and lock in procedures during chow hall. Over time inmates seem to have adjusted to the procedures implemented by MTC without any significant incidents.

Religion (120)

Approximately 20 or 17% percent of the religion grievances filed pertained to the process by which inmates are removed from their religious meals. The majority filed pertained to removals from Halal meals. It should be noted that there is a department procedure in place to adequately address the removal process for religious meals. Caution should be applied when reviewing these matters to ensure the procedure for removal is being adhered to.

Substance Abuse Testing (114)

There were 114 substance abuse grievances filed in 2012. The majority were filed in regard to inmates being sanctioned and charged for substance abuse tests that were either not taken or partially taken during the sanction period. Upon review it was determined that 71 or 63% of the grievances resulted in either a full/partial refund to the inmate's account or a lift on a freeze to an inmate's account due to the institution's failure to test sanctioned inmates. In some cases inmates were charged for hair tests but urine tests were taken. In these cases inmates were reimbursed the difference in test costs. It is noted that there are an additional 21 or 18% of the 114 grievances filed that will more than likely result in a reimbursement or freeze lift once the sanction period expires. This is a continuing trend from 2011 which requires closer review/monitoring to ensure substance abuse tests are charged and taken in accordance with policy requirements otherwise the substance abuse testing and disciplinary processes becomes ineffective to those inmate abusing illicit drugs while incarcerated.

Sentence Computation (105)

In 2012 there were 105 sentence computation grievances received compared to 56 grievances received in 2011. This represents an 88% increase to the overall number of grievances received. Of the 105 grievances, 29 or 28% were filed by inmates requesting an increase to their earned good time (EGT) in relation to the Crime Bill. The Commissioner authorized an increase to EGT for designated programs as well as a 10 day boost for eligible inmates however, the increases were not retroactive.

Searches/TAC Team (46)

There were 46 TAC team search related grievances filed this year. All grievances came from SBCC during the months of July and August in regard to searches that were conducted on July 3, 9, 10, 11, 12 and 15. All grievances were made in regard to damaged, confiscated property, contraband property and missing property. Only 3 of the 46 grievances filed resulted in an approved/partially approved decision.

Approval Rate

In 2012 the DOC continues to meet or exceed the threshold of a 20% approval rate that the agency strives to achieve to ensure impartial grievance decisions are made. There were three (3) institutions that did not meet this threshold individually to include BSCC (16%), BSH (13%) and MASAC (19%). It is noted that these numbers do not necessarily suggest the institutions indicated are not making appropriate grievance decisions however the approval rates should be monitored to ensure fairness and credibility continues within the inmate grievance process at these sites.

Pending Grievances

In 2012 there were a considerable number of pending grievances as a result of Grievance Coordinators being pulled as a result of overtime/operational needs within the institutions. It is important to continue to monitor the impact the pull plans have on the inmate grievance process and address any potential climate concerns as they arise. Additionally, it is important to monitor the impact the pull plan presents with regard to our ability to investigate and respond to inmate grievances in accordance with the timeframes established within 103 CMR 491, Inmate Grievance regulations.