



**WASHINGTON LAWYERS' COMMITTEE
FOR CIVIL RIGHTS & URBAN AFFAIRS**

**Testimony in Support of
H.R. 4109 – Prison Abuses Remedy Act of 2007**

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The D.C. Prisoners' Project is a section of the Washington Lawyers' Committee for Civil Rights & Urban Affairs. Our Project represents District of Columbia prisoners held both locally in D.C. jail facilities and those held in the Federal Bureau of Prisons ("BOP"). All people convicted of felonies in D.C. are sent to the BOP. D.C. prisoners comprise approximately three percent of the BOP population and are housed in almost every BOP facility nationwide.

We advocate for appropriate medical care, protection from violence, and access to basic constitutional rights through litigation and non-litigation means. The Prisoners' Project was an independent organization formed over twenty years ago. In 2006, the Project merged with the Washington Lawyers' Committee, which has been representing both individuals and groups seeking to vindicate their civil rights for forty years. We have extensive experience advocating and litigating on behalf of D.C. prisoners, who are housed locally and in the BOP.

While testimony by other organizations and individuals will provide complete analysis of the Prison Litigation Reform Act ("PLRA") and the Prison Abuse Remedy Act of 2007, our testimony is based on our experiences in litigation and advocacy proceedings. We will focus on the effectors of the PLRA on our clients and in cases with which we are familiar. Specifically, we address the enormous barriers to fulfilling "proper exhaustion," and why it is not reasonable to expect the majority of inmates, including those most vulnerable to mistreatment, to accomplish this; the non-uniform, complex nature of most grievance processes; the judicial waste created by litigating issues that do not address the merits of prisoners' civil rights cases; and finally, the impact the PLRA's fee limitations has on the broader civil rights legal field.

One common misperception is that prisoners purposely avoid or ignore easily followed grievance regulations. This is simply not true. Our organization spends significant amounts of time and money (in printing, mailing, and telephone costs) explaining to people how the process works. We send guides for no less than five different grievance processes to our clients, depending upon which facility the client is in.

Prisoners Generally and Low Literacy Levels

Before even beginning to look at a facility's grievance policy, it is important to note that most prisoners are poorly educated, without legal sophistication, and often of limited literacy.¹ In

¹ The National Center for Education Statistics reported in 1994 that seven out of ten prisoners perform at the

D.C., the average reading level of prisoners is seventh grade.² As of January, 2008, 58.3% of male prisoners and 43.3% of female prisoners in DC had not completed high school. Another 28.4% of men and 28.0% of women had just completed high school, with no additional education.³ Sadly, in D.C. as in many parts of the country, even having completed high school is no guarantee of reading ability. In the 2005-06 school year, two thirds of tenth graders in DC only were able to read at a below basic or basic level.⁴

Many of the D.C. prisoners also have serious mental health disabilities. In June 2000, the D.C. Department of Corrections provided mental health therapy or counseling to twenty-one percent of its population. Nationally, thirteen percent of state prisoners received therapy or counseling.⁵ Officials knowledgeable about the jail population have conservatively estimated that twenty percent of people housed in the jail have significant mental illnesses. Such disabilities further complicate the ability of prisoners to access the grievance procedure and follow its byzantine requirements.

Finally, given the changing characteristics of our country, many prisoners do not speak English as a first language, if at all. Nine percent of the D.C. metro population of our region is of limited English proficiency.⁶ Twenty-percent of our region's population speaks one of over 100 languages other than English in the home.⁷ Others are deaf and may not be able to communicate by written means.⁸ For all these prisoners, following a complex grievance process in a manner that is technically perfect is a virtual impossibility.

The D.C. Grievance Policies Do Not Make Sense

Given these characteristics of the people who are incarcerated in Washington, DC, most prisoners cannot understand the grievance policies as written. Frankly, taken as a whole, the policies do not make sense. I have attached the relevant policies to this testimony.

lowest literacy levels. Karl O. Haigler et al., U.S. Dept. of Educ., *Literacy Behind Prison Walls: Profiles of the Prison Population from the National Adult Literacy Survey* xviii, 17- 19 (1994) (<http://nces.ed.gov/pubsearch/pubsinfo.asp?pubid=94102>).

2 *Comprehensive Reentry Strategy for Adults in the District of Columbia*, 5 (2003) (http://www.csosa.gov/reentry/Comp_Reentry_Action_Plan.pdf).

3 *DC Department of Corrections Facts and Figures* (January 2008) (<http://doc.dc.gov/doc/frames.asp?doc=/doc/lib/doc/populationstats/dcdepartmentofcorrectionsfactsnfiguresjan08v2.pdf>). Statistics kept by the Department of Corrections on its website measure self-reported grade completed, not reading or writing proficiency level.

4 *A Five-Year Statistical Glance at D.C. Public Schools: School Years 2001-02 Through 2005-06* (2006), 36.

5 *Comprehensive Reentry Strategy for Adults in the District of Columbia*, 5 (2003).

6 Audrey Singer & Jill H. Wilson, Brookings Inst., *Polyglot Washington: Language Needs and Abilities in the Nation's Capital*, 10 (2004). (www.brookings.edu/reports/2004/06washington_singer.aspx)

7 *Id.* at 3.

8 For example, see the case of *Heard v. District of Columbia*, 2006 U.S. Dist LEXIS 62912 (D.D.C. 2006). Joseph Heard is a deaf man who was held illegally in the D.C. Jail for 669 days and was unable to communicate with anyone the entire time, as he is deaf with no ability to communicate through reading, writing, or lip-reading. *Id.*

Locally, there are two jails that serve the jailed population of Washington, DC. One is run by the D.C. Department of Corrections (“DCDC”) and one is run by the private corporation, Corrections Corporation of America, Inc. (“CCA”), under contract with DCDC. Local prisoners may be housed in either facility, and are often transferred back and forth.

Not only does each facility have a separate grievance policy, the policies contradict each other. The CCA facility policy states the following appeal process:

If the inmate is not satisfied with the warden’s response, the inmate may appeal to the contract monitor within five (5) days of receipt of the warden’s decision. If the inmate is not satisfied with the contract monitor’s response [sic], the inmate may appeal to the director of the DC Department of Corrections within five (5) days of receipt of the contract monitor’s decision.

However, the DCDC grievance policy, contains the following statement, “If the inmate is not satisfied with his or her response from the [CCA facility] Warden he or she may file an appeal to the Deputy Director with in five (5) calendar days.” Thus, there is no possible way that any person housed here in Washington, D.C. at the CCA facility could possibly exhaust his or her grievance appeals according to *all* applicable policies. The matter becomes even more complex if the inmate’s issue happened at the D.C. Jail, and the person was transferred to the CCA facility while a grievance was pending or before he had an opportunity to submit the grievance. Although this is a common occurrence, there is no policy directing either inmates or corrections officials on how to handle that situation.

Secondly, neither policy provides for a confidential means of filing grievances outside the facility in cases of sexual abuse. In fact, neither policy mentions sexual abuse at all. There is a separate DCDC policy on sexual abuse, but it is cataloged in the section of the policy manual dealing with Human Resource Management. In that policy, there is a statement that “The inmate may file the complaint [of sexual abuse, harassment, or misconduct] directly with the Director as an ‘Emergency Grievance’ in accordance with the emergency provisions outlined in [the DCDC grievance policy.]” However, nowhere does this policy make clear whether or not this alternative reporting procedure would satisfy the applicable grievance procedures. In the absence of any affirmative statement that it does, it is reasonable to assume that a court later could determine that it does not. Therefore, a prisoner would be well advised in both facilities to also follow the grievance procedure. At both facilities, that would mean beginning the grievance process with a complaint to the in-facility grievance coordinator, a person who works daily with the correctional officers.

Problems With the Grievance Process Exists Even in the BOP

Certainly, not every prison or jail grievance policy is as confusing as the system in D.C. Comparatively, the BOP’s system is well written and understandable. However, it still poses serious obstacles for the DC Prison population for having very serious problems considered by a court.

Take the recent decision in one of our organization’s ongoing cases, *Womack v. Smith, et al*, Civil Action No. 1:06-CV-2348 in the Middle District of Pennsylvania. It is undisputed that Federal Bureau of Prisons officials held Mr. Womack held in restraints for twenty-six days straight, with out interruption. These restraints consisted of steel wrist and ankle cuffs, which were joined together and to another chain around his waist. To be clear, although the BOP

defendants refuse to concede this point, Mr. Womack was completely unable to wipe himself after defecating. Without a shower, without being released from chains, Mr. Womack sat like that, in feces, for twenty-six full days.

Once he was released from restraints, he was kept alone in a cell, guarded by the very officer who originally ordered him restrained. Mr. Womack is also completely illiterate. He can write his name, but nothing else. He cannot read a single word, including his own name. After he was placed in a cell with a cellmate, BOP officials waited fifteen days to give him the forms or paper, he needed to begin the grievance process. With his cellmate's assistance, he submitted the first step of the grievance process twelve days later. His grievance was denied, stating that his restraints were proper. He appealed with the help of his cellmate, through each step of the BOP's four-part process.

He then filed a lawsuit. On Defendants' Motion for Summary Judgment, the judge found that Mr. Womack had not met the PLRA's exhaustion requirement, since the twenty day time limit to file his initial two grievances began to run the day he was released from restraints. Because of the PLRA it did not matter to the court that during these twenty days, Mr. Womack – who is illiterate – was completely unable to file a grievance. Because of the PLRA, it did not matter to the court that when Mr. Womack was finally placed in a cell with a literate cellmate, and was finally provided access to grievance paperwork, he promptly filed a grievance with the facility and timely appealed every single denial of that grievance.

Mr. Womack will be appealing this ruling, but it is one example of a very serious situation that was not fully examined by the court because it was blocked by the exhaustion requirement. It is also an example of “the tail wagging the dog,” where the rule becomes more valued than the substantive right at issue.

The PLRA Wastes Judicial and Legal Resources


Contrary to the “intent” of the PLRA, we have found that the hyper-technical PLRA exhaustion provision has proven to create a blockade for courts to deal with the merits of cases, and wastes judicial resources by creating its own sub-litigation. For instance, in the twin cases of *Jackson v. District of Columbia*, 254 F.3d 262 (D.C. Cir. 2001) and *Gartrell v. Ashcroft*, 191 F. Supp. 2d 23, 40 (D.D.C., 2002), the exhaustion issue went through a round of appellate litigation related solely to PLRA issues in *Jackson*. Once the case was dismissed for lack of exhaustion, the plaintiffs exhausted and the case was re-filed. The plaintiffs then prevailed on the merits.

Finally, from an organizational perspective, the attorneys' fees provision of the PLRA does nothing but siphon resources from our other projects⁹ to uphold our commitment to prisoners' rights. The WLC is fortunate as an organization to have highly successful projects not affected by the PLRA provisions and to have a local private bar that is overwhelmingly committed to pro bono work. Not all civil rights attorneys are so fortunate. By definition, to even be eligible to collect attorney fees, any attorney must have proven in a court of law that his or her client's case was meritorious. When the fees are as limited as they are under the PLRA, the only way we can support our Prisoners' Project, is to redirect fees received in other successful civil rights litigation. This does not alleviate the burden of the federal courts, but it limits our overall ability to serve all of our civil rights clients.

⁹ The Washington Lawyers' Committee is comprised of the Equal Employment Opportunity Project, the Immigrant and Refugee Rights Project, the Public Education Project, the Disability Rights Projects, and the Fair Housing Project, in addition to the D.C. Prisoners Project.

The PLRA Must Be Amended

We acknowledge that fixing the above problems must be balanced with the concern for the core purpose of the PLRA, namely preventing a flood of frivolous inmate litigation to clog the federal courts. The Prison Abuses Remedy Act of 2007 strikes the right balance by incorporating lessons of the last decade into the core provisions of the PLRA.

 CORRECTIONS CORPORATION OF AMERICA	Inmate/Resident Grievance Procedures		
	14	14-5	Page 1 of 12
<i>SIGNATURE ON FILE AT FACILITY SUPPORT CENTER</i> Richard P. Selter Executive Vice President/Chief Corrections Officer <i>SIGNATURE ON FILE AT FACILITY SUPPORT CENTER</i> G.A. Puryear, IV Executive Vice President/General Counsel	MARCH 14, 2007		DECEMBER 1, 2002
	CORRECTIONAL TREATMENT FACILITY		
	TBA (FSC Approved on 4/12/07)		APRIL 26, 2005

14-5.1 POLICY:

CCA will provide a means for all Inmates/residents to address complaints regarding facility conditions, treatment, and policies and procedures. Many matters can and should be resolved directly and promptly between the inmate/resident and institutional staff.

All inmates/residents will have access to an informal resolution process to resolve their complaints. At any time the informal resolution process has not provided successful resolution of the complaint or in the event of an emergency grievance, inmates/residents may use the formal grievance process. All complaints should be assessed in a fair and impartial manner. Resolution in the best interest of the Inmate/resident and the facility should be the primary goal.

14-5.2 AUTHORITY:

CCA Company Policy

14-5.3 DEFINITION:

Emergency Grievance – A grievance in which the potential for personal injury or irreparable harm exists.

Grievance Officer – Facility staff member responsible for tracking and management of the grievance process. This includes coordination of investigations and ensuring that resolution is reached.

Grievance – A written complaint concerning the facility conditions, treatment, policies, and/or procedures which is believed to personally affect the inmate/resident in a negative manner.

Inmate/Resident – Any adult or juvenile, male or female, housed in a CCA facility. Inmates/residents may also be referred to as detainees, prisoners, or offenders depending on classification and in accordance with facility management contracts.

Reasonable Suspicion – A suspicion which is based upon documentable, articulable facts which, together with the employee's knowledge and experience, lead him/her to believe that an unauthorized situation or violation of rules exists.

Reprisal – Any action or threat of action against any Inmate/resident for the good faith use of or good faith participation in the informal resolution process or grievance procedure.

14-5.4 PROCEDURES:

PROCEDURES INDEX

SECTION	SUBJECT
A	Availability of Information
B	Training
C	Grievance Availability
D	Confidentiality

E	Protection from Reprisal
F	Grievable Matters
G	Non-Grievable Matters
H	Excessive Filing of Grievances
I	Grievance Extensions
J	Grievance Officer
K	Informal Resolutions
L	Emergency Grievances
M	Formal Grievances
N	Grievances Against Contracting Agency
O	Remedies
P	Appeal Process
Q	Transfers/Releases
R	Records
S	Reporting
T	ATF Section

A. AVAILABILITY OF INFORMATION

1. Employees

A copy of this policy will be available to all employees.

2. Inmates/Residents

- a. New Inmates/residents will be informed of the informal resolution process and grievance procedures upon arrival.
- b. A summary of procedures outlined in this policy will be included in the Inmate/Resident Handbook.
- c. A copy of this policy will be available in the inmate/resident library. A copy will also be available for inmates/residents that do not have the opportunity to visit the library (i.e. segregated inmates/residents).

NOTE: In the event an inmate/resident has difficulty in understanding the procedures outlined in this policy, employees must ensure that the information is effectively communicated on an individual basis. Auxiliary aids which are reasonable, effective, and appropriate to the needs of the inmate/resident shall be provided when simple written or oral communication is not effective.

B. TRAINING

All employees will receive training on this policy in pre-service and in-service training. Training will be documented in accordance with CCA Policy 4-2, Maintenance of Training Records.

C. GRIEVANCE AVAILABILITY

1. Inmates/residents can invoke the grievance procedure regardless of disciplinary, classification, or other administrative decisions to which the inmate/resident may be subject.
2. An inmate/resident may not submit a grievance on behalf of another inmate/resident; however, assistance from a staff member or inmate/resident may be provided when necessary to communicate the problem on the grievance form.

D. CONFIDENTIALITY

Grievances are considered special correspondence. If a sealed envelope is labeled "Grievance" and addressed to the Grievance Officer, it will not be opened for inspection unless there is reasonable suspicion that the sealed envelope contains contraband. If reasonable suspicion exists and the Warden/Administrator or designee's approval has been obtained, the envelope may be opened and inspected for contraband only.

E. PROTECTION FROM REPRISAL

Inmates/residents shall not be subject to retaliation, reprisal, harassment, or discipline for use or participation in the informal resolution process or grievance process. Any allegations of this nature will be thoroughly investigated by the Warden/Administrator and reviewed by the appropriate Divisional Managing Director, Facility Operations. The Divisional Managing Director, Facility Operations will notify the appropriate Vice President, Facility Operations of any allegations that are found to be credible.

F. GRIEVABLE MATTERS

Inmates/residents may grieve the following matters through the grievance process:

1. Violation of state and federal laws, regulations, or court decisions, to include but not limited to violations of the Americans with Disabilities Act, constitutional rights, etc.
2. Application of rules, policies, and/or procedures towards inmates/residents over which CCA has control;
3. Individual staff and inmate/resident actions, including any denial of access to the informal resolution or grievance processes;
4. Reprisals against inmates/residents for utilizing the informal resolution or grievance processes; and
5. Any other matter relating to the conditions of care and supervision within the authority of CCA.

AT THIS FACILITY, ADDITIONAL CONTRACTUAL INFORMATION REGARDING GRIEVABLE MATTERS IS:

NONE

G. NON-GRIEVABLE MATTERS

The following matters are not grievable by inmates/residents through these grievance procedures:

1. State and Federal court decisions;
2. State and Federal laws and regulations;
3. Final decisions on grievances;
4. Contracting agency (BOP, ICE, state department of corrections, etc.) policies, procedures, decisions, or matters (i.e., institutional transfers, parole and probation decisions, etc.);

NOTE: Contracting agency policies, procedures, decisions, or matters shall be grieved in accordance with the regulations of the applicable contracting agency.

5. Disciplinary actions (all disciplinary action must be addressed in accordance with disciplinary procedures in place at the facility);

6. Property Issues (all property Issues must be addressed in accordance with property procedures in place at the facility); and
7. Classification status (all classification status must be addressed in accordance with classification procedures in place at the facility).

AT THIS FACILITY, ADDITIONAL CONTRACTUAL INFORMATION REGARDING NON-GRIEVABLE MATTERS IS:

NONE

H. EXCESSIVE FILING OF GRIEVANCES

If it is determined by the Warden/Administrator that an Inmate/resident is deliberately abusing the grievance system through excessive filing of grievances and/or repeated refusal to follow procedures, the Warden/Administrator may suspend the filing of additional grievances until all pending grievances have been resolved. The Warden/Administrator will provide the inmate/resident with written documentation of the suspension.

AT THIS FACILITY, ADDITIONAL CONTRACTUAL PROCEDURES REGARDING EXCESSIVE FILING OF GRIEVANCES ARE:

NONE

I. GRIEVANCE EXTENSIONS

In certain instances it may be necessary to extend response deadlines to allow for a more complete investigation of the claim(s). Justification for the extension must be provided to the Inmate/resident on the 14-5C Grievance Extension Notice. The time extension will be determined by the Warden/Administrator and will not exceed fifteen (15) calendar days.

J. GRIEVANCE OFFICER

The Warden/Administrator will designate an individual(s) as Grievance Officer(s) who will coordinate the grievance process to include:

1. Reviewing all formal grievances received to ensure all necessary information is included;
NOTE: Grievances that are prematurely appealed to the Warden/Administrator or designee will be returned without review.
2. Ensuring informal resolution has been attempted (excluding emergency grievances);
3. Assigning a number to all formal grievances;
4. Logging all grievances received;
5. Forwarding formal grievances to the appropriate department head for response;
6. Coordinating the timely investigation and response of formal grievances;
7. Ensuring that, when a grievance decision specifies that an action is to be taken, a date is included for completing the action;
8. Ensuring the Inmate/resident receives a copy of the completed grievance and ensuring that the Inmate/resident's signature is acquired at the time a response is provided;
9. Ensuring all remedies/required actions are fulfilled by the imposed deadline; and

10. Maintaining all grievance records and documents as outlined in 14-5.4.R.

AT THIS FACILITY, THE POSITION DESIGNATED AS THE GRIEVANCE OFFICER IS:

GRIEVANCE COORDINATOR

K. INFORMAL RESOLUTIONS

With the exception of emergency grievances, inmates/residents are required to utilize the informal resolution process concerning questions, disputes, or complaints prior to the submission of a formal grievance. If an inmate/resident is not satisfied with the results of the informal resolution process, the inmate/resident may file a formal grievance.

1. Filing

- a. The 14-5A Informal Resolution form must be utilized to initiate the informal resolution process.
- b. All 14-5A's related to medical care and treatment must be submitted to qualified health services staff through facility mail.
- c. With the exception of grievances related to medical care and treatment, inmates/residents are required to submit 14-5A's through facility mail, or in person, to the appropriate unit staff. In the absence of unit management, the Warden/Administrator will designate a staff member to receive informal resolution forms.

AT THIS FACILITY INFORMAL RESOLUTION FORMS WILL BE SUBMITTED TO:

THE GRIEVANCE COORDINATOR

NOTE: Only qualified health services staff are authorized to provide responses to any questions, disputes, or complaints regarding medical care and treatment.

2. Resolution

The staff member assigned to complete the informal resolution process will be responsible for:

- a. Conducting an initial meeting with the inmate/resident to discuss the issue;
- b. Meeting with all staff members involved with the issue;
- c. Researching necessary information to determine if a remedy is possible;
- d. Developing a response to present to the inmate/resident in an attempt to resolve the issue informally;
- e. Ensuring the inmate/resident receives a copy of the completed 14-5A at the time the response is provided; and
- f. Ensuring any remedies agreed upon are completed.

3. Time Guidelines

The total time for the informal resolution process will be no more than fifteen (15) calendar days from the date the 14-5A was submitted through the date the response was presented to the inmate/resident, unless unusual circumstances are present. In

the event unusual circumstances (e.g. inability to contact a critical staff member for the investigation process, facility on lock down status, etc.) prohibit the ability to meet time guidelines, the assigned staff member will provide the inmate/resident with written documentation extending the response deadline.

- a. The inmate/resident must submit the 14-5A within seven (7) calendar days of the alleged incident.
 - b. The time for filing begins from the date the problem or incident became known to the inmate/resident.
 - c. In the event the inmate/resident is not satisfied with the response, the inmate/resident will have five (5) calendar days to submit a formal grievance to the Grievance Officer. In the event the inmate/resident pursues a formal grievance, the inmate/resident will be required to attach a copy of the 14-5A to the formal grievance form.
4. Documentation

The original 14-5A will be maintained by the facility with a copy presented to the inmate/resident at the time the response was presented.

AT THIS FACILITY, ORIGINAL 14-5A FORMS WILL BE MAINTAINED IN THE FOLLOWING LOCATION(S):

GRIEVANCE OFFICE

L. EMERGENCY GRIEVANCES

If the subject matter of the grievance is such that compliance with the regular time guidelines would subject the inmate/resident to risk of personal injury, the inmate/resident may request that the grievance be considered an emergency grievance. The emergency grievance must detail the basis for requiring an immediate response. When the grievance is of an emergency nature, utilization of the informal resolution process is not required.

1. Filing
 - a. The 14-5B Inmate/Resident Grievance form must be utilized to file an emergency grievance. The inmate/resident will complete Page 1 of the 14-5B and place it in a sealed envelope marked "Emergency Grievance". Sealed envelopes may be placed in the grievance mail box. If a grievance mail box is not used, the emergency grievance will be forwarded to the Grievance Officer.

AT THIS FACILITY, THE PROCEDURE FOR FORWARDING THE GRIEVANCE TO THE GRIEVANCE OFFICER IS:

GRIEVANCES WILL BE PLACED IN THE GRIEVANCE BOX LOCATED ON EACH HOUSING UNIT

- b. The Grievance Officer will check the grievance mail boxes daily, excluding weekends and holidays. If a grievance mailbox is not used, grievances are to be forwarded daily, excluding weekends and holidays, to the Grievance Officer in accordance with the procedures listed above.
- c. In the event it is necessary to file the emergency grievance on weekends or holidays, the sealed envelope will be given to the Shift Supervisor. The Shift

Supervisor will ensure the Administrative Duty Officer is notified upon receipt of the emergency grievance.

2. Resolution

- a. Emergency grievances received through the grievance mail box or alternative means, as identified above, will be reviewed by the Grievance Officer to determine if the grievance is of an emergency nature. If the grievance is determined to be of an emergency nature, the Grievance Officer will assign a number to the emergency grievance, document the grievance on the 14-5D Facility Grievance Log or via the current approved FSC/CCA electronic database, and immediately forward to an individual authorized to serve as Administrative Duty Officer below the rank of Warden/Administrator for a response.
- b. Emergency grievances received on weekends and holidays will be reviewed by an individual authorized to serve as Administrative Duty Officer below the rank of Warden/Administrator to determine if the grievance is of an emergency nature and will respond accordingly.
- c. The response must be documented on Page 2 of the 14-5B and submitted to the inmate/resident for signature at the time of presenting the response in person. The inmate/resident will receive a complete copy of the emergency grievance and any corresponding attachments at the time of presenting the response.

3. Time Guidelines

An individual authorized to serve as Administrative Duty Officer (below the rank of Warden/Administrator) shall take action to resolve the grievance within one (1) calendar day of receipt of the grievance and provide a written response to the inmate/resident.

4. Documentation

The individual authorized to respond to the emergency grievance will ensure that the Grievance Officer receives a copy of the emergency grievance and corresponding attachments to ensure that the emergency grievance is appropriately logged and filed.

M. FORMAL GRIEVANCES

1. Filing

- a. The inmate/resident must file the grievance within five (5) calendar days of the response date listed on the 14-5A Informal Resolution form.
- b. The 14-5B Inmate/Resident Grievance form must be utilized to file a formal grievance. The inmate/resident will complete Page 1 of the 14-5B and place it in a sealed envelope marked "Grievance". Sealed envelopes may be placed in the grievance mail box. If a grievance mail box is not used, the formal grievance will be forwarded to the Grievance Officer.

AT THIS FACILITY, THE PROCEDURE FOR FORWARDING THE GRIEVANCE TO THE GRIEVANCE OFFICER IS:

GRIEVANCES WILL BE PLACED IN THE GRIEVANCE BOX LOCATED ON EACH HOUSING UNIT

- c. The Grievance Officer will check the grievance mail boxes daily, excluding weekends and holidays. If a grievance mailbox is not used, grievances are to be forwarded daily, excluding weekends and holidays, to the Grievance Officer in accordance with the procedures listed above.
2. Resolution
- a. Formal grievances received through the grievance mail box or alternative means as identified above will be reviewed by the Grievance Officer to ensure the formal grievance is correctly submitted and required documentation attached.
- b. The Grievance Officer will assign a number to the formal grievance, document the grievance on the 14-5D Facility Grievance Log or via the current approved FSC/CCA electronic database and forward the formal grievance to the appropriate staff member for a response.
- c. Formal grievance resolution should be determined by the appropriate department head in relation to the formal grievance unless the grievance pertains to the department head, in which case a different department head will be designated. For example, grievances related to medical care and treatment would be forwarded to the Health Services Administrator, grievances related to education would be forwarded to the principal, grievances related to classification would be forwarded to unit staff, etc.
- d. Each formal grievance will be responded to by including a written explanation for approval/disapproval. The response must be documented on Page 2 of the 14-5B and given to the inmate/resident, in person, for signature. Responses may be given to the inmate/resident, in person, by the responder or the Grievance Officer. The Inmate/resident will receive a complete copy of the formal grievance and any corresponding attachments at the time of presenting the response.
3. Time Guidelines
- a. Unless a time extension has been granted, the inmate/resident will receive a response to the formal grievance within fifteen (15) calendar days of submission.
- b. The total time for the formal grievance process will be no more than fifty (50) days from filing to a final appeal decision, unless unusual circumstances are present.
4. Documentation
- The designated department head responding to the formal grievance will ensure that the Grievance Officer receives a copy of the formal grievance response and corresponding attachments to ensure that the formal grievance is appropriately logged and filed.
5. **AT THIS FACILITY, ADDITIONAL CONTRACTUAL PROCEDURES ARE:**

NONE

N. GRIEVANCES AGAINST CONTRACTING AGENCY

AT THIS FACILITY, PROCEDURES FOR FILING A GRIEVANCE AGAINST THE CONTRACTING AGENCY ARE AS FOLLOWS:

ALL GRIEVANCES AGAINST THE CONTRACTING AGENCY WILL BE FORWARDED TO THE CONTRACT MONITOR OR THE CONTRACTING AGENCY.

O. REMEDIES

The informal resolution process and formal grievance process shall afford the Inmate/resident the opportunity for meaningful remedy. Remedies shall cover a broad range of reasonable and effective resolutions. Remedies may include the following:

1. Change of procedures or practices appropriately related to the complaint or conditions;
2. Correction of records; or
3. Other remedies, as appropriate.

P. APPEAL PROCESS

1. Filing

If an inmate/resident is not satisfied with the decision of a formal or emergency grievance, the Inmate/resident may complete the appeal section of the 14-5B and resubmit the grievance. Inmates/residents are entitled to appeal all adverse decisions, even those made on a purely procedural basis including but not limited to the expiration of a time limit. The Inmate/resident must file the appeal within five (5) calendar days of the response date listed on the 14-5B Inmate/Resident Grievance form.

2. Resolution

- a. The Grievance Officer will forward all grievance appeals to the Warden/Administrator for review and a final response.
- b. Each appeal will be responded to by including a written explanation for approval/disapproval. The response must be documented on Page 2 of the 14-5B and given to the Inmate/resident, in person, for signature. Responses may be given to the Inmate/resident, in person, by the Warden/Administrator or the Grievance Officer. The inmate/resident will receive a complete copy of the appeal response and any corresponding attachments at the time of presenting the response.
- c. The Warden/Administrator's decision is final unless otherwise specified in the facility management contract.

3. Time Guidelines

Barring extraordinary circumstances, a grievance will be considered settled if the decision at any step is not appealed by the Inmate/resident within the given time limit.

a. Emergency Grievances

The inmate/resident will receive a response to the appeal within seven (7) calendar days of submission.

b. Formal Grievances

The inmate/resident will receive a response to the appeal within fifteen (15) calendar days of submission.

4. Documentation

If the response is presented to the Inmate/resident by the Warden/Administrator, the Warden/Administrator will ensure that the Grievance Officer receives a copy of the appeal response and corresponding attachments to ensure the appeal is appropriately logged and maintained on file.

5. AT THIS FACILITY, ADDITIONAL CONTRACTUAL APPEAL PROCEDURES ARE AS FOLLOWS:

IF THE INMATE IS NOT SATISFIED WITH THE WARDEN'S RESPONSE, THE INMATE MAY APPEAL TO THE CONTRACT MONITOR WITHIN FIVE (5) DAYS OF RECEIPT OF THE WARDEN'S DECISION.

IF THE INMATE IS NOT SATISFIED WITH THE CONTRACT MONITOR'S RESPONSE, THE INMATE MAY APPEAL TO THE DIRECTOR OF THE DC DEPARTMENT OF CORRECTIONS WITHIN FIVE (5) DAYS OF RECEIPT OF THE CONTRACT MONITOR'S DECISION.

ALL APPEALS MUST HAVE THE ORIGINAL GRIEVANCE AND RESPONSE ATTACHED WHEN FILED.

Q. TRANSFERS/RELEASES

If a grievance is submitted for review and the inmate/resident is transferred or released from custody, efforts to resolve the grievance will normally continue. It is the inmate/resident's responsibility to notify the Grievance Officer of the pending transfer or release and to provide a forwarding address and any other pertinent information.

R. RECORDS

1. All grievances will be systematically maintained by the Grievance Officer. All grievances (formal and emergency) and corresponding attachments will indicate the assigned grievance number and be date stamped upon receipt.
2. The Grievance Officer will maintain a log of all grievances received utilizing the 14-5D Facility Grievance Log or via the current approved FSC/CCA electronic database. The log shall include the following information:
 - a. Grievance number;
 - b. Date received;
 - c. Inmate/resident name;
 - d. Inmate/resident number;
 - e. Informal attempt;
 - f. Grievance category;
 - g. Disposition date;
 - h. Disposition code;
 - i. Date appeal received, if applicable;
 - j. Appeal disposition date, if applicable; and
 - k. Appeal disposition code, if applicable.

3. All grievance documentation will be maintained in accordance with CCA Policy 1-15, Retention of Records.
4. Copies of grievances shall not be placed in an Inmate/resident's file, unless it is a contractual requirement to do so.

AT THIS FACILITY, CONTRACTUAL REQUIREMENTS REGARDING LOCATION OF GRIEVANCE COPIES ARE:

A COPY OF THE GRIEVANCE LOG WILL BE FORWARDED TO THE CONTRACT MONITOR BY THE 5TH OF EACH MONTH.

5. Records regarding the participation of an Individual in the informal resolution process or grievance procedure will not be available to other Inmates/residents.
6. With the exception of employees involved in the grievance process or clerical processing, records regarding the participation of an Individual in the Informal resolution process or grievance procedures will not be available for review.
7. Employees participating in the disposition of an informal resolution process or grievance procedure shall have access to the essential records necessary to respond appropriately.

S. REPORTING

The 14-5E Grievance Report will be completed by the fifteenth day of each month and forwarded to the FSC Quality Assurance Department, unless a current approved FSC/CCA electronic database has been established.

T. AT THIS FACILITY, ADDITIONAL CONTRACTUAL PROCEDURES ARE:

NONE

14-5.5 REVIEW:

This policy will be reviewed by the Chief Corrections Officer or designee on an annual basis.

14-5.6 APPLICABILITY:

All CCA Facilities (Provided contractual requirements do not mandate otherwise)

14-5.7 APPENDICES:

None

14-5.8 ATTACHMENTS:

- 14-5A Informal Resolution
- 14-5B Inmate/Resident Grievance
- 14-5C Grievance Extension Notice
- 14-5D Facility Grievance Log
- 14-5E Quarterly Grievance Report

AT THIS FACILITY, ADDITIONAL FORM REQUIREMENTS ARE:

NONE

14-5.9 REFERENCES:

CCA Policy 1-15

CCA Policy 4-2

CCA Policy 15-1

CCA Policy 15-2

CCA Policy 14-6

CCA Policy 18-1

ACA Standards:

4-4284/4-ALDF-3E-11/3-JTS-3D-09

4-4394

4-4446/4-ALDF-5B-18

4-4492/4-ALDF-5B-09/3-JTS-5H-04

INFORMAL RESOLUTION

To be completed by Inmate/Resident

Date: _____

Name (Print): _____
Last Name
First Name
Middle Initial

Number: _____ HOUSING ASSIGNMENT: _____

Description of issue, problem, and solution you suggest:

Attach additional pages, if necessary.

FOR STAFF USE ONLY

Date received from inmate/resident: _____

Name of staff member completing informal resolution process: _____

Date response due to inmate/resident: _____

Date and time initial meeting held with the Inmate/resident: _____

Additional information received from initial meeting:

Names of staff members involved with the inmate/resident's issue:

Distribution:
Original: Facility
Copy: Inmate/Resident

Dates and times of contact with staff members concerning the Inmate/resident's issue:

Additional Information received from meetings with staff members:

STAFF RESPONSE:

Tentative completion date if remedy suggested: _____

Completion of Informal Resolution Process:

By signing below, the inmate/resident verifies agreement with the remedy suggested above. If the inmate/resident is not satisfied with the remedy suggested above, the inmate/resident is not required to sign below and may choose to file a formal grievance with the Facility Grievance Officer. In either case, the inmate/resident will receive a copy of this form on the day the final resolution process is completed.

Inmate Signature: _____

Date: _____

Designated Staff Signature: _____

Date: _____

*Witness Signature: _____

Date: _____

*In the event the Inmate/resident refuses to sign this form, a witness signature must be obtained to verify that the Inmate/resident was offered the opportunity for informal resolution.

Informal Resolution Outcome: **RESOLVED** **UNRESOLVED**

Distribution:
Original: Facility
Copy: Inmate/Resident

INMATE/RESIDENT GRIEVANCE

FULL NAME:

NUMBER:

HOUSING ASSIGNMENT:

INFORMAL RESOLUTION ATTACHED (Not required for an emergency grievance)? YES NO

GRIEVANCE CATEGORY (CIRCLE ONE):

1. Facility Staff	8. Dental Services	15. Housing
2. Access to Legal Materials	9. Mental Health Services	16. Laundry
3. Denied Access to Informal Resolution/Grievance	10. Trust Account	17. Recreation
4. Reprisal for Using Informal Resolution/Grievance	11. Commissary	18. Visitation
5. Safety/Security	12. Food Service	19. Programs-education, work, religious, etc.
6. Sanitation	13. Mail	20. Violations of federal or state regulations, laws, court decisions (i.e. ADA or Constitutional rights)
7. Medical Services	14. Intake	21. Other

STATE GRIEVANCE: (Include documentation, witnesses, date of incident, any other information pertaining to the grievance subject. Attach additional pages if necessary).

Requested Action: (Attach additional pages if necessary)

Inmate/Resident's Signature: _____

Date Submitted: _____

RESPONDING STAFF MEMBER'S REPORT: (Attach additional pages if necessary. All pages must include the grievance number.)

RESPONDING STAFF MEMBER'S DECISION: (Attach additional pages if necessary. All pages must include the grievance number.)

Responding Staff Member's Printed Name: _____ Title: _____

Responding Staff Member's Signature: _____ Date: _____

Inmate/Resident's Signature (upon receipt): _____ Date: _____

INMATE/RESIDENT APPEAL (Attach additional pages if necessary. All pages must include the grievance number.)

WARDEN/ADMINISTRATOR'S DECISION: (Attach additional pages if necessary. All pages must include the grievance number.)

Warden/Administrator's Signature: _____ Date: _____

Inmate/Resident's Signature (upon receipt) _____ Date: _____



DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

Program Statement

OPI: DIR
Number: 4030.1F
Date: January 21, 2008
Supersedes: 4030.1E (7/1/04)
Subject: Inmate Grievance
Procedures (IGP)

1. **PURPOSE AND SCOPE.** To update administrative procedures through which inmates of the District of Columbia Department of Corrections (DOC) may seek resolution of complaints.

2. **POLICY**
 - a. It is DOC policy to provide an administrative means for expression and resolution of inmate issues and complaints through informal resolution. Many matters can and should be resolved directly and promptly between the inmate and authorized institutional staff and resolution shall be the primary goal.
 - b. If informal resolution does not provide a successful solution for the complaint or in the event of an emergency grievance, inmates may use the formal grievance process.
 - c. The grievance process has at least one level for appeal.
 - d. All complaints and grievances shall be considered and resolved in a fair and impartial manner.
 - e. Grievances are considered legal correspondence. Staff shall not open or inspect a sealed envelope that is labeled "Grievance" and addressed to the Grievance Coordinator or the Director.
 - f. DOC employees, contractors, interns and volunteers shall not retaliate or allow another inmate to retaliate against an inmate for the good faith use of, or participation in, the inmate grievance process.

3. **APPLICABILITY**
 - a. This Program Statement (PS) applies to any DOC facility and contractors who house or provide services to inmates under the care and custody of the DOC.

- b. Inmates housed in contract prison facilities shall use the contractor's grievance process, noting the contractor to be responsible for day-to-day operations within the affected facility. Upon exhaustion of the contractor's grievance process, the inmate may send a written appeal to DOC officials as outlined in Section 20 of this directive.
- c. *Grievance Issues.* Inmates may request informal resolution and/or grieve the following matters through the grievance process.
 - 1) Matters relating to the conditions of safety, care and supervision;
 - 2) Matters relating to inmate programs, activities and services;
 - 3) Matters relating to inmate property;
 - 4) Matters relating to individual staff treatment and inmate actions;
 - 5) Matters relating to sentence computations, good time and jail credits, detainers, and late release;
 - 6) Denial of access to the informal resolution or IGP processes;
 - 7) Reprisals against inmates for utilizing the IGP process;
 - 8) Matters pertaining to inmate treatment and legal rights established by federal and local law and regulations; and
 - 9) The application of DOC rules, policies and/or procedures except those listed in §d ¶1 below (those matters have established appeal procedures).
- d. *Non-Grievance Issues.* In accordance with this directive the following issues cannot be grieved under this process.
 - 1) Institutional or Court Ordered Work Release decisions, decisions of the Adjustment or Housing Boards, Classification Committee decisions and requests under the Freedom of Information Act and HIPAA *can not be grieved under this procedures but can be appealed through the Warden in accordance with related policy;*
 - 2) Inmate class action grievances or petitions;
 - 3) Final decisions on grievances;
 - 4) Inmate Accident Claims, Tort Claims;
 - 5) Complaints filed on behalf of other inmates;

- 6) Federal and local court decisions, laws and regulations; and
- 7) Policies, procedures, decisions or matters to include but not be limited to transfers, sentence computations, parole/ probation/release/ treatment decisions issued by the Bureau of Prison, Immigration and Customs Enforcement (ICE) or other states and jurisdictions;

4. NOTICE OF NON-DISCRIMINATION

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
- b. DOC prohibits discrimination against inmates based on race, religion, national origin, gender, sexual orientation or disability when making administrative decisions in providing access to programs. When both males and females are housed in the same facility available services and programs are comparable.
- c. Inmates with disabilities, including temporary disabilities, are housed in a manner that provides for their safety and security. Housing used by inmates with disabilities, including temporary disabilities, is designed for their use and provides for integration with other inmates. Programs and service areas are accessible to inmates with disabilities who reside in the facility. Discrimination on the basis of disability is prohibited in the provision of services, programs and activities.

5. PROGRAM OBJECTIVES. The expected results of this program are:

- a. Open lines of communication will identify, prevent or resolve matters and reduce the need for complaints and grievances.
- b. Inmate grievances will be resolved through formal procedures when informal means have failed.
- c. Written responses based upon full investigation and resolution when appropriate including the reasons for the decision shall be given to all inmate complaints and grievances within the prescribed time limits.

- d. Inmates will use this procedure and pursue claims in court only if dissatisfied with resolutions obtained from the IGP.

6. DIRECTIVES AFFECTED

a. Directive Rescinded

D.O. 4030.1E Inmate Grievance Procedure (IGP) (7/1/04)

b. Directives Referenced

a. PS 4020.1 Inmate Orientation Program (Inmate Handbook)

7. AUTHORITY

- a. DC Code §24-211.02 (b) (2) Jail Improvement Act of 2003
- b. Prison Litigation Reform Act (PLRA), 42 USC § 1997e(a.)

8. STANDARDS REFERENCED. American Correctional Association (ACA) 4th Edition Standards for Adult Local Detention Facilities 4-ALDF-2A-05, 4-ALDF-2A-06, 4-ALDF-2A-27, 4-ALDF-6B-01 and 4-ALDF-6B-02.

9. RESPONSIBILITIES

- a. Wardens shall ensure that an appropriate investigation is conducted and an adequate response is prepared for each grievance in accordance with the procedures set forth in this directive.
- b. The Deputy Director shall ensure that an appropriate investigation is conducted and an adequate response is prepared for each appeal to a grievance in accordance with the procedures set forth in this directive.
- c. Each facility shall maintain a sufficient supply of Inmate Request Slips and Inmate Complaint – Informal Resolution forms.
- d. Each facility shall maintain a sufficient supply of IGP forms for formal resolution and submission of appeals.
- e. Each Housing Unit and Community Correctional Center (CCC) supervisor shall ensure that sufficient forms are available and accessible on the unit during his or her tour of duty.
- f. The IGP shall be available to inmates regardless of any disciplinary, classification, or other administrative or legal conditions affecting them.

10. INMATE NOTIFICATION

- a. The Warden or the Office of Community Corrections (OCC) Administrator shall ensure that this PS and any other written directives pertaining to the Inmate Grievance Procedure (IGP) are readily available to all inmates/offenders.
- b. The inmate grievance procedure is outlined in the Inmate Handbook and further notification shall also be given to each inmate during intake orientation.
- c. This PS shall be readily available in the law library and case manager offices, posted on inmate bulletin boards and, as appropriate, shall be described in inmate handbooks.
- d. The Warden shall ensure that non-English speaking inmates, inmates who cannot read or are otherwise impaired (physically or mentally), receive assistance in order to understand and access the IGP.

11. STAFF NOTIFICATION/TRAINING

- a. The Deputy Director shall ensure that this PS and any other written directives pertaining to the IGP shall be made available to all staff assigned to DOC and DOC contract facilities.
- b. The Department's Training Academy shall include a discussion of the IGP PS as part of its Pre-service, Basic Correctional Training (BCT) and In-service training curriculum for employees.
- c. Staff members shall have an opportunity to ask questions regarding the IGP and will be given an opportunity to have these questions answered orally.
- d. The Training Administrator shall maintain the signed acknowledgements on file.

12. SUPERVISION AND MANAGEMENT

- a. The Warden, Deputy Wardens and designated program managers shall visit housing units and inmate activity areas at least weekly to encourage informal contact with staff and inmates and to informally observe living and working conditions.
- b. Chief Case Managers, Case Managers, Correctional Supervisors and Housing Unit Officers shall make every attempt to keep the channels of

communication open between staff and inmates and shall informally resolve issues expeditiously whenever possible.

- c. When managers determine that the results of an inmate grievance point to systemic deficiencies, appropriate improvements shall be taken. Improvements may include recommendations for procedural changes to correct systemic problems, refresher training, counseling or discipline when the investigation findings clearly point to this as the appropriate action.
13. **INVESTIGATING GRIEVANCES.** Managers shall investigate and respond to grievances. Persons implicated or involved in a grievance are prohibited from investigating that grievance.
 14. **CONFIDENTIALITY.** Records concerning an individual's participation in the IGP are considered confidential. These records shall be made available in accordance with the established procedures for confidential records and information, as contained in the D. C. Freedom of Information Act.
 15. **INMATE GRIEVANCE ADVISORY COMMITTEE (IGAC).** The CDF shall establish and maintain an IGAC, composed of five (5) inmates, the IGP Coordinator, one program manager and one uniform supervisor. The IGAC shall meet monthly and has the following responsibilities:
 - a. Discussing general inmate concerns and grievance matters as defined in this directive;
 - b. Providing recommendations and comments to the Warden/Office of Community Corrections (OCC) Administrator regarding the operation, effectiveness, and credibility of the IGP process;
 - c. Providing recommendations to the Deputy Director and the OCC Administrator for improved activities and conditions;
 - d. Reviewing the IGP Program Statement during annual reviews; and
 - e. Preparing and forwarding minutes of IGAC meetings to the Warden for review and any appropriate action.
 16. **INMATE GRIEVANCE PROCEDURE (IGP) COORDINATOR**
 - a. The Warden shall appoint an IGP Coordinator who shall:
 - 1) Coordinate activities and operations associated with informal complaint resolution and IGP retrieval, distribution, tracking,

database entry, monitoring and establishment of resolution suspense dates.

- 2) The CDF IGP Coordinator or designee shall collect informal complaints and grievances from each housing unit 'IGP' mailbox on a daily basis (excluding Saturdays, Sundays and legal holidays).
 - 3) Ensure informal resolution has been attempted (excluding emergency grievances).
 - 4) Assign and forward informal and formal grievances to the appropriate program manager for response/resolution.
 - 5) Maintain the JACCS electronic data input and tracking.
 - 6) Apprise the affected Warden on the next business day when suspense dates are not met.
 - 7) Ensure the inmate receives a copy of the completed informal response or grievance.
 - 8) If the inmate is transferred to another facility under the jurisdiction of or contract with DOC, the IGP Coordinator shall forward the *CDF response* to the IGP Coordinator at the affected facility.
 - 9) The IGP Coordinator where the inmate is located shall ensure that the response is forwarded to the inmate and a copy placed in the inmate's official institutional record.
 - 10) Not less than quarterly, conduct a random sample of grievance decisions and document if the assigned manager took actions specified by the imposed deadline.
 - 11) Bring matters of concern or potential problems to the Warden's and/or other appropriate manager's attention.
- b. The Director and Deputy Director shall assign staff to perform the above stated duties at the respective appeal levels.

17. INMATE REQUEST SYSTEM

- a. *Request Slip*. Inmates shall continue to use the DOC Inmate Request Slip system when seeking routine assistance.

- b. *Sick Call.* Inmates shall request medical treatment by signing up for sick call. Inmates shall request urgent medical assistance via the housing unit staff.
- c. *Environmental Safety and Sanitation Inspections.* During cell inspections on the #2 Shift and #3 Shift inmates shall demonstrate that cell plumbing works and shall report broken fixtures and repair. Inmates shall inform correctional staff at any time when more urgent breakdowns such as clogged plumbing occur.

18. **INFORMAL COMPLAINT PROCESS**

- a. With the exception of emergency grievances, inmates/residents are required to utilize the informal resolution process concerning disputes, or complaints that were not reasonably addressed after submission of a request slip.
- b. Informal Complaint Submission
 - 1) Inmates shall, within seven (7) calendar days of the incident/reason for complaint or within seven (7) days of knowledge of the incident/reason for complaint became known to the inmate, file the informal resolution request (Attachment A).
 - 2) Inmates may request the Inmate Complaint – Informal Resolution forms from any staff member who is assigned to his or her housing unit and the affected staff member shall give the inmate the form during his or her shift or tour of duty.
 - 3) The inmate shall place the complaint in the grievance box that is located in the housing unit.
 - 4) The IGP Coordinator or designee shall collect inmate complaints from each CDF housing unit locked grievance box daily, Monday through Friday.
 - 5) The IGP Coordinator shall generate the inmate receipt using the Crystal Reports *Informal Resolution Request Receipt*.
 - 6) The IGP Coordinator shall forward the inmate receipt via the institutional mail.
 - 7) The IGP Coordinator shall assign the complaint to the appropriate program manager and establish a response date.
 - 8) The IGP Coordinator shall log the complaint and make appropriate entries into an informal complaint tracking system.

- 9) Informal resolution should be achieved within ten (10) calendar days of the inmate's submission to the IGP Coordinator.
- c. Informal Resolution Meeting. The staff member assigned to complete the informal resolution process shall:
- 1) Conduct an initial meeting with the inmate to discuss the issue;
 - 2) Meet with all staff members involved with the issue when needed;
 - 3) Research necessary information to determine if a remedy is possible;
 - 4) Develop a response to present to the inmate in an attempt to resolve the issue informally;
 - 5) Ensure the inmate and the IGP Coordinator receive a copy of the completed informal grievance form at the time the response is provided;
 - 6) Obtain the inmate's signature upon resolution of the complaint; and
 - 7) Ensure any remedies agreed upon are completed.

19. **INMATE GRIEVANCE PROCESS**

- a. An inmate may file a formal grievance when:
- 1) The inmate is not satisfied with the results of the informal resolution process. The inmate shall file the IGP within five (5) calendar days of receipt of the informal resolution response, or
 - 2) The inmate has not received a response within ten (10) calendar days of filing the complaint.
- b. Each grievance must pertain to one specific incident, charge or complaint.
- c. Inmates/offenders shall not submit duplicate copies of the same grievance.
- d. Inmates may request IGP Form 1 *Grievance* (Attachment B) from any staff member who is assigned to his or her housing unit and the affected staff member shall ensure that inmates who request an IGP Form are provided a form during his or her shift or tour of duty.
- e. Inmates may also obtain grievance and appeal forms during visits to the law library.

- f. If an IGP Form 1 *Grievance* cannot be obtained, an inmate may submit his or her grievance on standard, letter-sized paper. This grievance should contain the following information:
- 1) The name and DOC number of inmate filing the grievance;
 - 2) The name of the institution or community correctional center where the inmate is housed;
 - 3) The nature of the complaint or grievance, date of occurrence, and the remedy sought;
 - 4) The inmate's signature; and
 - 5) Date.

20. PROCEDURES FOR FILING AN INMATE GRIEVANCE - CDF

- a. The inmate shall place the IGP Form 1 *Grievance* in the locked box marked "GRIEVANCES." IGP collection boxes are located in each housing unit.
- b. Inmates housed in segregation units shall deposit the IGP form in the locked box marked "GRIEVANCES" during their individual recreation time or may also submit the IGP to their assigned case manager or a supervisor, having first placed the IGP form in a sealed envelope. The case manager or supervisor shall then place the IGP form in the locked box marked "GRIEVANCES".

21. PROCEDURES FOR FILING AN EMERGENCY GRIEVANCE

- a. Emergency grievances shall be defined as matters in which an inmate would be subjected to substantial risk of personal injury, or serious and irreparable harm, if the inmate filed the grievance in the routine manner with the normally allowed response time.
- b. The inmate must prominently label and identify the grievance as an "Emergency Grievance" at the top of the IGP Form 1 *Grievance* and state the nature of the emergency.
- c. The inmate shall file the emergency grievance in a sealed envelope; also marking it as an emergency grievance. The inmate shall address his or her Emergency Grievance to the lowest administrative level at which an appropriate remedy can be achieved (i.e., OCC Administrator, Warden, or Director).

- d. If an inmate's/offender's grievance is of a sensitive nature and he/she has reason to believe that he/she would be adversely affected if it was to become known at the institutional level, he/she may file the grievance directly with the Director. All such Emergency Grievances may be placed in the IGP box or forwarded via the regular institutional mail.
- e. The IGP Coordinator shall immediately review and consult with the Warden, or Administration/OCC Administrator to determine if the complaint is of an emergency nature as defined in this directive.
- f. The inmate shall be informed if the grievance is not accepted as an emergency grievance and that the grievance shall be treated as a regular grievance.
- g. The following special provisions shall apply to Emergency Grievances:
 - 1) An emergency grievance shall be responded to within 72 hours of its receipt.
 - 2) Within 48 hours of receiving a response to the emergency grievance, an inmate may appeal to the next level of the IGP appeal process.

22. **EXCESSIVE FILING OF GRIEVANCES.** If it is documented by the Warden/Administrator that an inmate is deliberately abusing the grievance system through excessive filing of grievances and/or repeated refusal to follow procedures, the Warden/Administrator may suspend the filing of additional grievances until all pending grievances have been resolved. The Warden or Administrator will provide the inmate with written documentation of the suspension.

23. **FILING AN APPEAL**

- a. Central Detention Facility
 - 1) If an inmate housed at the CDF is not satisfied with the Warden's response to a grievance, he or she may file an appeal to the Deputy Director.
 - 2) This appeal shall be filed within five (5) calendar days of receipt of the grievance response from the Warden, using IGP Form 2 Appeal – Deputy Director (Attachment C). The appeal shall be accompanied by a copy of the original grievance and the Warden's response and supporting documentation. If an IGP Form 2 *Appeal – Deputy Director* cannot be obtained, an inmate may submit the grievance on standard letter-size paper.

- 3) The Deputy Director shall respond to an appeal within twenty-one (21) calendar days following its receipt.
- b. Corrections Corporation of America Correctional Treatment Facility
- 1) Inmates housed in the CTF shall exhaust all provided remedies in the affected facility to include formal and informal resolution efforts.
 - 2) The CCA Warden shall ensure that sufficient grievance and appeal forms are available on the housing units at the CTF.
 - 3) If the inmate is not satisfied with his or her response from the CTF Warden he or she may file an appeal to the Deputy Director within five (5) calendar days, using IGP Form 2 *Appeal – Deputy Director* (Attachment C) or plain letter-size paper. The inmate must attach copies of the informal complaint/resolution and IGP and response, and any supportive documentation, from the CCA/CTF Warden.
 - 4) The Deputy Director or designee shall investigate and respond to the appeal within twenty-one (21) calendar days following its receipt.
 - 5) The Deputy Director or designee shall input required data into JACCS *Appeal Log*.
- c. Contract Community Correctional Center
- 1) If an inmate/offender housed in a contract community correctional center is not satisfied with his or her response from the contract CCC Administrator he or she may file an appeal to the Deputy Director within five (5) calendar days, using IGP Form 2 *Appeal – Deputy Director* (Attachment C). If an IGP Form 2 *Appeal – Deputy Director* cannot be obtained, an inmate may submit the grievance on standard letter-size paper. This appeal must be accompanied by copies of the original grievance and responses, and appropriate support documentation, from the OCC Administrator.
 - 2) The Deputy Director or designee shall respond to the appeal within twenty-one (21) calendar days of receipt.
 - 3) The Deputy Director or designee shall input required data into JACCS *Appeal Log*.
- d. Final Appeal to the DOC Director
- 1) As a final appeal an inmate/offender housed in a correctional facility or CCC under jurisdiction of or contract with DOC who is dissatisfied with

an appeal decision rendered by the Deputy Director may submit his or her grievance to the Director within five (5) calendar days following the receipt of a grievance appeal response.

- 2) The IGP Form 3 (Attachment D) *Appeal – Director* shall be used for filing an appeal to the Director.
- 3) Appeals to the Director must be accompanied by the original grievance along with the corresponding responses. If an IGP Form 3 *Appeal – Director* cannot be obtained, an inmate may submit the grievance on standard letter-size paper.
- 4) The Director shall respond to an inmate's/offender's appeal within twenty-one (21) calendar days of receipt of the appeal.
- 5) The Director shall be the final level of appeal for each inmate/offender who files a Grievance within the DOC Inmate Grievance Procedure.
- 6) The Director's designee shall input required data into JACCS Appeal Log.

24. **DOC PROCEDURES FOR PROCESSING A GRIEVANCE**

a. IGP Coordinator

- 1) The IGP Coordinator or designee shall collect inmate grievances from each CDF housing unit grievance box daily, Monday through Friday.
- 2) The IGP Coordinator shall inform the inmate in writing:
 - a) When a non-emergency grievance will receive informal resolution because the inmate failed to follow this step of the process;
 - b) When the matter can not be grieved under the IGP and/or should be otherwise appropriately addressed.
- 3) The IGP Coordinator shall generate the inmate receipt using the Crystal Reports Informal Resolution Request Receipt or *GP Grievance Receipt*.
- 4) The IGP Coordinator shall forward the inmate receipt via the institutional mail.
- 5) The IGP Coordinator shall input required complaint data into the respective JACCS *Informal Resolution Request* or *Grievance Data Entry Screen* to include:

- a) Grievance Entry Information - The IGP Coordinator shall enter the *JACCS Grievance Type Code* to indicate the subject of the complaint in order to permit efficient reporting, tracking and monitoring informal resolution and grievances, in all logs and reports.
 - b) Submitted for Review Information
 - c) Referred to Investigation
 - d) Extension of Time requested and new date for response if the inmate consents
 - e) Finding Response
 - f) Final Appeal Ruling (when applicable)
- 6) The IGP Coordinator shall scan the original complaint/grievance into PaperClip.
 - 7) The IGP Coordinator shall then forward the complaint/grievance to the appropriate manager for investigation and resolution.
 - 8) The IGP Coordinator will monitor response due dates using the Crystal Reports *IGP Grievances Due Next 7 Days* and *IGP Overdue Grievances in CDF*.
 - 9) The IGP Coordinator will make notification to the appropriate managers identified in step 9.
- b. Investigation. The manager shall impartially investigate the complaint and make every effort for reasonable resolution
- c. Response to IGP
- 1) The manager shall provide a written memorandum of response to the IGP Coordinator within ten (10) calendar days following receipt of the grievance.
 - 2) The affected Warden shall review and approve/disapprove or otherwise revise the response.
 - 3) The IGP Coordinator shall forward written notice of findings and the decision to the inmate.
 - 4) In any instance when the IGP Coordinator, in consultation with the affected Warden and the investigating manager, determines that a

sufficient response to a grievance cannot be rendered within the prescribed time limitation, the following conditions apply:

- a) The affected inmate must be notified in writing of the need for the extension and of the specific length of the extension.
- b) The inmate must agree in writing to the extension.
- c) Otherwise, when a grievance does not receive a response within the prescribed response time, as established in this PS, the inmate may proceed to the next step in the grievance procedure.

25. REPORTING

- a. The IGP Coordinator shall print the *Crystal Report IGP Complaint Log* that records all formal grievances entered in JACCS under the IGP. Not later than the 10th day of each month, a copy of this log, reflecting grievances filed during the previous month, shall be forwarded through the Deputy Director to the Director.
- b. Each DOC official who renders a decision on an Inmate Grievance Appeal shall enter required data in JACCS IGP screen.
- c. The IGP Coordinator shall print the *Crystal Report Unresolved Grievance Log* that tracks and monitors the progress of grievances remaining unresolved more than 22 days after receipt. Not later than the tenth 10th day of each month, the Warden shall forward a copy of this log along with a Plan of Action for completion through the Deputy Director to the Director.
- d. All records, logs, and reports that pertain to inmate informal resolution and grievance shall be maintained in accordance with the DOC Records Retention and Disposal Schedule.
- e. The Director shall provide to the Council on a quarterly basis internal reports relating to living conditions in the Central Detention Facility, including inmate grievances and a report *Unresolved Grievance Log*.

26. IGP EVALUATION

- a. The IGP Coordinator shall submit monthly reports to the Warden that shall include but not be limited to IGP processing or procedural issues, emergent and systemic deficiencies and general complaints and concerns that warrant attention.

- b. The Risk Manager shall review IGP reports and conduct quarterly audits and in conjunction with the Warden determine plans of action where warranted to improve safety and program performance.
- c. At a minimum, the reviews described above, shall include assessments of the following operational factors:
 - 1) Compliance with Response Time – An assessment to determine if inmate grievances are responded to within the prescribed time periods.
 - 2) Availability of Forms – A determination of the accessibility and availability of the forms used to submit grievances.
 - 3) Response to Grievances – An analysis to determine if appropriate responses and remedies are being provided in response to grievances.
 - 4) Credibility of the System – An assessment of inmate knowledge of, satisfaction with and confidence in the IGP.
 - 5) Conclusions and Recommendations – An evaluation of the data generated through the IGP process (i.e., number of grievances, types of grievances filed, number and types of grievances by institutions). This data shall be used to develop specific conclusions and recommendations regarding Department operations and the DOC IGP.
- d. Annual Statistical Summary Report. The Office of Management Information and Technology Services shall maintain the database and provide an annual statistical summary of the DOC IGP and submit it to the Director and the Office of Internal Controls, Compliance and Accreditation. This summary shall be provided by the 21st day of October for the preceding fiscal year.


Devon Brown
Director

ATTACHMENTS

- A. Informal Complaint – Informal Resolution
- B. IGP Form 1 *Grievance* (Administrative Remedy to Warden/OCC Administrator)
- C. IGP Form 2 (Appeal to Deputy Director)
- D. IGP Form 3 (Appeal to Director)



DISTRICT OF COLUMBIA DEPARTMENT OF CORRECTIONS

Program Statement

OPI: DIRECTOR
Number: 3350.2E
Date: February 21, 2007
Supersedes: 3350.2D (7/10/02)
Subject: Elimination of Sexual
Abuse, Assault and
Misconduct

1. **PURPOSE AND SCOPE.** This directive establishes uniform procedures for recognizing, preventing, reporting, investigating and adjudicating incidents of sexual abuse, sexual assault and sexual misconduct against inmates who are confined in DC Department of Corrections (DOC) owned, operated and contract facilities. This directive complies with District of Columbia "Title 22. Criminal Offenses and Penalties Chapter 30. Sexual Abuse" and incorporates guidelines from the Rape Elimination Act (PREA) of 2003, American Correctional Association (ACA) Standards and current DOC zero tolerance policy against sexual abuse of in-mates.
2. **POLICY**
 - a. DOC strictly prohibits the sexual assault of any persons who work, visit or who are confined in any of its facilities.
 - b. DOC strictly prohibits sexual abuse of persons in the official custody of DOC and contract facilities. DC Code §22-3001 defines sexual abuse to include the commission of sexual acts and sexual contact.
 - c. For the purposes of this directive, acts of sexual misconduct against inmates shall be included.
 - d. DC law and DOC do not recognize a defense of consensual sexual contact between staff and inmates (i.e., persons who are in "official custody"). DOC shall continue to pursue strict administrative discipline and vigorous referral for criminal prosecution when staff engages in sexual assault/acts and sexual contact with inmates. Staff includes DOC employees, volunteers, contract personnel and any other persons who provide services in DOC facilities.
 - e. DOC maintains policy of zero tolerance and prohibits retaliation against any individual because of his/her involvement in the reporting or investigation of a complaint. It is DOC policy to treat retaliation as a separate actionable offense that is subject to separate administrative sanctions and possible referral for criminal prosecution.

- f. DOC strictly prohibits inmate-upon-inmate sexual assault, sexual abuse and inmate-to-inmate sexual acts and sexual contact to include that of a consensual nature. Inmate initiated sexual assault, sexual abuse shall be referred for criminal prosecution and DOC shall impose disciplinary sanctions when inmates engage in consensual sexual acts and/or sexual contact.
 - g. It is DOC policy to require that, all activities encompassed in reporting and investigating complaints are held in confidence and on an official need to know basis. Likewise, case records are confidential and may include but not be limited to verbal reports; written incident, investigation, disposition, medical, counseling and evaluation findings and recommendations for post-release treatment and/or counseling and witness statements. It is DOC policy to treat a breach(s) of confidentiality as a separately actionable offense that is subject to administrative sanctions.
3. **APPLICABILITY.** This policy applies to all DOC employees, contract employees, volunteers, as well as other individuals who provide services at a DOC facility and applies to inmates committed to DOC and its contract facilities.
4. **PROGRAM OBJECTIVES.** The expected results of this program are:
- a. Upon arrival at each facility, inmates shall receive information about sexual assault, sexual abuse and sexual misconduct. Information shall address the prevention, intervention, self-protection, reporting, adjudication procedures and the accessibility of medical and mental health counseling for victims.
 - b. Staff will have a clear understanding that a sexual act or sexual contact between an inmate and an employee is sexual abuse even if the inmate consents and that sexual abuse is a felony offense pursuant to DC Code §22-3002 through §22-3006.
 - c. The occurrence of inmate-upon-inmate sexual assault, sexual abuse and sexual contact may be reduced by identifying and providing separate housing for predators and vulnerable inmates who may be potential victims.
 - d. Prompt investigation and appropriate discipline shall be taken against employees and inmates who sexually abuse/assault inmates or otherwise violate mandates set forth in this directive.
5. **DIRECTIVES AFFECTED**
- a. **Directives Rescinded**
 - 1) PS 3350.2D Sexual Misconduct Against Inmates (7/10/02)
 - 2) CN-1 3350.2D Sexual Misconduct Against Inmates (10/18/02)

b. **Directives Referenced**

- 1) PS 4030.1E Inmate Grievance Procedure (IGP)
- 2) PS 4020.1C Inmate Orientation Program
- 3) PM 5300.1C Inmate Disciplinary and Administrative Housing Procedures
- 4) PS 6000.1C Medical Management

6. **AUTHORITY**

- a. 42 USCS § 15609 Title 42. The Public Health and Welfare Chapter 147. Rape Elimination
- b. D.C. Code Title 22. Criminal Offenses and Penalties, Chapter 30 Sexual Abuse §22-3001, §22-3013, §22-3014, §22-3017 and §22-3018.
- c. DC Code 24-442, Promulgation of Rules

7. **STANDARDS REFERENCED**

- a. American Correctional Association (ACA), 2nd Edition, Standards for Administration of Correctional Agencies: 2-CO-3C-01.
- b. American Correctional Association (ACA), 4th Edition, Performance-Based Standards for Adult Local Detention Facilities: 4-ALDF-2A-29, 4-ALDF-2A-30, 4-ALDF-2A-32, 4-ALDF-2A-34, 4-ALDF-4D-22, 4-ALDF-4D-22-1, 4-ALDF-4D-22-2, 4-ALDF-4D-22-3, 4-ALDF-4D-22-4, 4-ALDF-4D-22-5, 4-ALDF-4D-22-6, 4-ALDF-4D-22-7, 4-ALDF-4D-22-8, 4-ALDF-7B-8 and 4-ALDF-7B-10.
- c. American Correctional Association (ACA), 4th Edition, Performance-Based Standards for Adult Community Residential Services: 4-ACRS-6A-05.

8. **NOTICE OF NON-DISCRIMINATION**

- a. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code §2.1401.01 et seq., (Act) the District of Columbia does not discriminate on the basis of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, matriculation, political affiliation, genetic information, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination that is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.
- b. DOC prohibits discrimination against inmates based on an inmate's race, religion, national origin, gender, sexual orientation, disability or any other

type of prohibited discrimination when making administrative decisions and in providing access to programs.

9. **SEXUAL ABUSE - GENERAL PROVISIONS.** For the purposes of this directive, the following provisions shall apply.
- a. Official Custody – Pursuant to DC Code §22-3001, detention following arrest for an offense; following surrender in lieu of arrest for an offense; following a charge or conviction of an offense, or an allegation or finding of juvenile delinquency; following commitment as a material witness; following or pending civil commitment proceedings, or pending extradition, deportation, or exclusion and during transport, medical diagnosis or treatment, court appearance, work and recreation, probation or parole.
 - b. Sexual Assault – a forcible sexual act, a sexual act against the inmate's will, or a sexual act that is achieved through the exploitation of fear or the threat of physical violence or bodily injury; or
 - c. Sexual Abuse – a sexual act that is not forced or against the person's will but where the inmate is incapable of giving consent because of his/her young age, temporary or permanent mental or physical incapacity or by reason of being in the official custody of DOC.
 - d. Sexual Acts
 - 1) The penetration, however slight, of the anus or vulva or another by a penis;
 - 2) Contact between the mouth and penis, the mouth and the vulva or the mouth and the anus; or
 - 3) The penetration, however slight, of the anus or vulva by a hand or finger or by any object or instrument, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person. This does not include situations when:
 - a) Health care personnel are gathering physical evidence, or engaged in other legitimate medical treatment, in the course of investigating sexual assault, sexual abuse;
 - b) The use of a health care provider's hands or fingers or the use of medical devices in the course of appropriate medical treatment unrelated to sexual assault, sexual abuse; or
 - c) The use of a health care provider's hands or fingers or the use of instruments to perform body cavity searches in order to maintain security and safety within the facility provided that the search is conducted in a manner consistent with constitutional requirements.

- e. Sexual Contact. The touching (or fondling), using any clothed or unclothed body part or object either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttock of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person.
- f. Sexual Misconduct
 - 1) Sexual Harassment
 - a) Verbal or physical sexual conduct that creates a hostile, offensive or intimidating environment, including, but not limited to, obscene or sexually offensive advances, gestures, and comments; or influencing or making promises involving an inmate's safety, custody, privacy, housing, privileges, work detail or program status in exchange for sexual favors.
 - b) Influencing or offering to favorably influence an inmate's safety, custody, privacy, housing, privileges, work detail, or program status if the inmate submits to sexual advances or sexual contact.
 - c) Influencing or threatening an inmate's safety, custody, privacy, housing, privileges, work detail, or program status because the inmate has refused to submit to a sexual advance.
 - 2) Invasion of Privacy
 - a) Observing, attempting to observe, or interfering in an inmate's activities, which are of a personal nature, without a sound penological reason.
 - b) Failure of an employee of the opposite sex to announce his/her presence, without a sound penological reason, when entering an inmate's housing unit.
- g. Retaliation - Restraint, interference, coercion, acts of covert or overt vengeance or threats of action to discourage, prevent or punish an inmate for refusal to submit to sexual advances. An adverse action taken against any individual because of his/her involvement in the reporting or investigation of a sexual abuse/sexual assault or sexual misconduct complaint.

10. GENERAL REQUIREMENTS

a. Staff Notification and Training

- 1) The Human Resources Management Division (HRMD) shall issue a copy of this directive to all new employees, volunteers and contract employees when they receive their photo identification card. HRMD shall require each individual to sign acknowledgement of receipt of this directive. HRMD shall retain the signed receipt.

- 2) The DOC Training Academy and contractor trainers shall update trainer lesson plans and review requirements of this directive with new employees, volunteers and contract employees during orientation training.
- 3) Mandatory Pre-Service and annual In-Service Training on the Rape Elimination Act, DC Code Title 22 Chapter 30 and this directive shall be conducted for all DOC employees, volunteers, interns, and contract employees.
- 4) This directive shall be made readily available to each DOC employee thereafter.
- 5) Certified trainers for prevention of sexual assault, sexual abuse and sexual misconduct shall conduct training.
- 6) Contractors shall ensure that their employees are similarly trained.
- 7) DOC or contract facility shall notify other individuals such as occasional service providers who have direct contact with inmates or provide services of the prohibitions and requirements of this directive.

b. Inmate Notification and Training

- 1) The CDF Warden and contractors shall ensure that within one (1) day of arrival at the respective facility each inmate receives a copy of the Inmate Handbook. The Inmate Handbook shall contain written notice of the prohibition of sexual assault, sexual abuse and sexual misconduct.
- 2) Within five (5) days of arrival, the CDF Warden and contract facility Administrators shall ensure that each inmate receives facility orientation and training in accordance with PS 4020.1C Inmate Orientation Program.
 - a) Orientation and training shall address prevention, intervention, self-protection, reporting sexual assault, sexual abuse, adjudication procedures and accessibility of medical and mental health counseling for victims.
 - b) Each inmate shall by signature, acknowledge training in accordance with this directive and PS 4020.1C.
- 3) The Hotline Number Poster (Attachment A) shall be posted in areas accessible to inmates and employees.
- 4) This directive shall be posted on staff and inmate bulletin boards, in each housing unit, the law library, the medical unit and other areas where inmates often frequent.

11. IDENTIFICATION OF VULNERABLE INMATES AND PREDATORS

a. Medical and Mental Health

- 1) Upon admission to the Central Detention Facility, medical and mental health staff shall, during medical and mental health screening ask the inmate questions that may determine whether the individual has been a victim of or has committed sexual violence in the past.
- 2) Medical and mental health staff shall be observant for other possible indications or any other information that is contained in the medical record or that is obtained from the inmate that might identify potential sexual vulnerabilities or aggressions.
- 3) Medical staff shall document these concerns in the electronic medical chart and promptly notify security and classification staff for appropriate inmate housing and other security safeguards.

b. Classification

- 1) DOC case managers shall during the intake classification process review the inmate's institutional file and all available electronic records to identify past history as well as any currently observed behavior that may indicate potential sexual vulnerabilities or aggressions.
- 2) Case managers shall document the information and observation and make appropriate classification and housing recommendations.
- 3) Prior to housing an inmate identified either as a vulnerable inmate or a predator with another inmate, the proposed housing assignment shall be reviewed and approved by the Warden, CCC Director or designee.

- c. Other. All staff shall confidentially report information about an inmate's past victimization or information that an inmate might potentially be victim to recent sexual aggression to the Warden or a Deputy Warden.

12. HOUSING INMATES IDENTIFIED AS VULNERABLE INMATES OR PREDATORS. An inmate identified as a vulnerable inmate shall not be housed with an inmate identified as a predator. For the purposes of this directive predators are defined as inmates who have a history of sexually assaultive behavior and who are assessed as presenting a reasonable risk to vulnerable inmates.

13. REPORTING PROCEDURES FOR INMATES

- a. **Confidential Hot Line.** Any inmate may make a confidential report of sexual assault, sexual abuse or sexual misconduct through the twenty-four (24) hour telephone Hotline at (202) 671-2851.

- b. **Verbal Complaint.** An inmate may verbally inform any employee when the inmate has been subject to acts or attempted acts of sexual assault, sexual abuse or sexual misconduct. The verbal report is formal notification and the employee shall proceed as directed in Sections 14 and 15 of this directive and shall not require the inmate to submit a written report.
 - c. **Written Complaint**
 - 1) An inmate may file a written complaint of sexual assault, sexual abuse or sexual misconduct directly to the Warden, CCC Director or Office Chief.
 - 2) An inmate may file a written complaint of sexual misconduct (usually about sexual harassment or invasion of privacy) through the inmate grievance system, as described in PS 4030.1E, Inmate Grievance Procedure (IGP).
 - d. **Emergency Grievance.** The inmate may file the complaint directly with the Director as an "Emergency Grievance" in accordance with the emergency provisions outlined in PS 4030.1E "Inmate Grievance Program".
14. **REPORTING PROCEDURES FOR STAFF.** Any employee who receives any information, from any source, concerning sexual assault, sexual abuse or sexual misconduct or who observes an incident of sexual assault, sexual abuse or sexual misconduct shall adhere to the following:
- a. **Verbal Notification.** Immediately report the information or incident directly to the Warden, CCC Director, Office Chief or the highest ranking official on duty at the time of the incident. Any allegation of sexual activity as defined in this directive shall be reported as a possible sexual assault, sexual abuse or sexual misconduct. The employee shall not conduct any inquiry or investigation into the circumstances related to the allegation.
 - b. **Written Notification.** Submit a written report providing any information received or observed that concerns sexual assault, sexual abuse or sexual misconduct to the Warden, CCC Director, Office Chief or the highest ranking official on duty before the end of his/her workday.
 - c. **Confidentiality.** Employees shall not discuss any aspect of the complaint with other employees or inmates except in accordance with this directive. Strict confidentiality shall be maintained to the extent possible at all times.
15. **MANAGERS AND SUPERVISORS.** Upon receipt of a sexual assault, sexual abuse or sexual misconduct complaint or observing an incident of sexual assault, sexual abuse or sexual misconduct, the Warden, CCC Director, Office Chief or the highest ranking official on duty shall:
- a. **Verbal Notification.** Make immediate verbal notification to the Office of Internal Affairs (OIA). Any allegation of sexual activity as defined in this

directive shall be reported as a possible sexual assault, sexual abuse or sexual misconduct. The manager/supervisor shall not conduct any inquiry or investigation into the circumstances related to the allegation, except for the OIA staff.

The OIA shall immediately notify the Director when deemed appropriate.

- b. **Written Notification.** Forward the original written sexual assault, sexual abuse or sexual misconduct report to OIA by the end of his/her workday.
- c. **Cease and Desist Orders.** Immediately issue cease and desist orders that prohibits contact between the alleged victim and the respondent (if the respondent is an employee) while the matter is being investigated.
- d. If the respondent is not on duty at the time of the allegation, the manager/supervisor shall ensure the order is issued to the respondent immediately upon return to duty.
- e. **Separation Orders.** Immediately issue separation orders between the alleged victim and alleged assailant in inmate-on-inmate sexual assault, sexual abuse complaints.
- f. **Housing**
 - 1) Effort shall be made to minimize any disturbance to the alleged victim's housing location or program activities during the investigation of the complaint.
 - 2) The alleged victim shall only be placed in protective custody or administrative segregation in accordance with PM 5300.1C, "Inmate Disciplinary and Administrative Housing Procedures".
 - 3) The alleged assailant shall be placed in administrative segregation status, unless to do so may jeopardize the investigation. A housing hearing shall be conducted in accordance with PM 5300.1C.
- g. **Sexual assault, sexual abuse.** In addition to the aforementioned responsibilities, the Warden, CCC Director, Office Chief or the highest ranking staff member on duty at the time of a reported or observed incident of sexual abuse/ assault shall:
 - 1) Immediately notify the appropriate law enforcement authority and OIA.
 - 2) The on-scene supervisor shall immediately secure the crime scene and ensure it is protected.
 - 3) Ensure the alleged victim is afforded emergency medical treatment.

16. **MEDICAL TREATMENT.** Medical staff shall ensure the alleged victim is immediately given the necessary emergency medical treatment, without compromising the integrity of available physical evidence.

a. Medical staff shall:

- 1) Obtain and record a description of the sexual assault, sexual abuse in the alleged victim's own words. The victim will not receive a physical examination.
- 2) Instruct the alleged victim not to bathe, shower or have a bowel movement until seen at the referring hospital.
- 3) Notify the highest ranking staff immediately if the correctional staff is not aware of the incident.
- 4) Record the general appearance (presence or absence of cuts, scratches, bruises, etc.), demeanor of the victim and the condition of clothes, i.e., torn or stained.
- 5) Refer the victim to an outside emergency room (ER) certified to treat sexual assault, sexual abuse victims for evaluation and immediate treatment.
- 6) Notify the ER physician that a sexual assault, sexual abuse victim is on his/her way to the ER.

b. Upon return from the ER or hospital discharge, the medical staff shall:

- 1) Thoroughly review the discharge instructions and carry out orders as appropriate;
- 2) Validate if measures have been taken to prevent sexually transmitted diseases, HIV and Hepatitis. If preventive measures have not been taken, preventive measures shall be offered; and
- 3) Refer the inmate to the mental health staff for rape counseling immediately.

17. **MENTAL HEALTH REFERRAL.** Upon return from the ER or hospital discharge, the medical staff shall ensure the alleged victim and alleged assailant are referred to the mental health staff to assess the need for counseling and supportive services.

18. **OFFICE OF INTERNAL AFFAIRS (OIA)**

a. **Screening Complaints**

- 1) OIA shall monitor the confidential Hotline for complaints of sexual assault, sexual abuse and sexual misconduct.

- 2) If OIA receives an allegation of sexual assault, sexual abuse or sexual misconduct via the telephone Hotline or via direct correspondence, the complaint shall be verbally reported immediately to the Warden, CCC Director or Office Chief. OIA shall provide follow-up written notification to the Warden, CCC Director or Office Chief by the close of the business day.
- 3) OIA shall notify local law enforcement in case of sexual assault, sexual abuse if the complaint is received directly by OIA.
- 4) OIA shall communicate with the appropriate law enforcement agency concerning the status of any investigation. OIA must document the status of the police investigation every thirty (30) days.
- 5) The occurrence of a police investigation does not relieve DOC of the duty to investigate complaints of sexual assault, sexual abuse.
- 6) OIA shall review each report of sexual assault, sexual abuse and sexual misconduct to determine whether the alleged conduct constitutes sexual assault, sexual abuse or sexual misconduct. OIA may interview the complainant and/or alleged victim to clarify facts concerning the complaint.
- 7) OIA shall notify the Warden, CCC Director or Office Chief, verbally and in writing, of each complaint regarding sexual assault, sexual abuse and sexual misconduct and whether the complaint is referred for investigation.
- 8) If the complaint is referred for investigation, OIA shall provide written notification to the respondent or the alleged assailant advising of the complaint, investigation procedures, confidentiality requirements and the prohibition of communication, intimidation or retaliation against the inmate.
- 9) The OIA Supervisor shall then forward the complaint to an Investigator. In cases where an interview was conducted with the complaint and/or alleged victim to clarify facts, intake information shall also be forwarded to the Investigator.
- 10) If OIA determines that the complaint does not involve sexual assault, sexual abuse or sexual misconduct, OIA shall deny the claim and shall send a notice of the rejection of the complaint to the complainant, the Warden, CCC Director or Office Chief.
- 11) However, if the complaint does state a violation of another departmental policy, OIA may conduct an investigation or refer the complaint to the appropriate Warden, Administrator or Office for disposition.

- 12) If the complaint is a third party informant, the notice will be sent to the victim.

b. Interim Procedures During Investigation

- 1) Under appropriate circumstances and with the Director's or his/her designee's approval, the respondent may be placed on administrative leave pending the outcome of an investigation.
- 2) To the extent possible, the respondent shall not be assigned to work in any area where he/she is likely to come into contact with the alleged complainant pending the outcome of the investigation.
- 3) During the investigation, the respondent shall be prohibited from making contact with the alleged complainant other than as allowable in the performance of official duties and assignment.
- 4) The Warden, CCC Director or designee shall decide if it is appropriate to return an employee to his/her original workplace after the investigation is completed.
- 5) When appropriate and necessary, the Warden may transfer the complainant or alleged victim to a comparable housing unit, to another facility or make other appropriate housing accommodations.

c. Investigations

- 1) The Corrections Corporation of America shall ensure that investigators conduct a thorough and objective investigations for incidents that are alleged at the Correctional Treatment Facility.
- 2) DOC investigators shall conduct a thorough and objective investigation of a complaint.
- 3) The investigation shall include interviewing the complainant, informant, alleged victim (if the information is received from another source), the respondent or alleged assailant and witnesses and review all documents and physical evidence.
- 4) The Investigator shall contact the CDF Major, CCC Director or Office Chief directly for interview scheduling and coordination. All inmates shall receive advance notice of scheduled interview and be advised of the right to legal representation. The Warden or CCC Director shall ensure that the inmate is allowed a legal call upon request to secure presence of counsel.
- 5) Employees have the right to legal or union representation at the time of interview.
- 6) If the inmate or employee being interviewed has legal or union representation, the Investigator shall explain that only the person being

interviewed shall answer the questions but he/she may consult with the representative prior to answering the question.

- 7) The Investigator shall advise each individual interviewed in the course of investigation that any intimidation or retaliation towards the complainant or alleged victim or disclosure of the incident that breaches confidentiality as defined in this directive, is a separate offense that is subject to disciplinary action.
- 8) The Investigator shall draft a statement detailing the testimony of the complainant, respondent or alleged assailant and witness(es).
- 9) The Investigator shall permit the employee or inmate to read and make necessary corrections/changes to the statement prior to signing it. The name of the confidential informant shall be deleted from the copies of the report distributed by the OIA.
- 10) The Investigator shall submit the final written report to the OIA Supervisor within ninety (90) business days (i.e., excluding Saturdays, Sundays, and legal holidays) of knowledge of the incident. The report shall include the Investigator's factual findings and a conclusion as to whether there is evidence to support a finding that sexual assault, sexual abuse or sexual misconduct has occurred.

d. Post-Investigation Procedures

- 1) OIA shall notify the Warden, CCC Director or Office Chief of the finding and forward all documentation for appropriate action. If the findings conclude that sexual assault, sexual abuse or sexual misconduct has occurred, OIA shall forward a copy of the report to the Director for action.
- 2) In cases involving an employee respondent, the Director shall ensure that appropriate action consistent with the District Personnel Manual or the D.C. Code.
- 3) In cases involving an inmate assailant, the Director shall ensure that appropriate disciplinary or criminal action is initiated.
- 4) OIA shall provide a written notice to the victim and respondent or alleged assailant as to whether there was evidence that supported a conclusion that sexual assault, sexual abuse or sexual misconduct occurred. The notice shall also inform the inmate of appeal procedures. The inmate shall sign acknowledgement of receipt of this notice. The original signed receipt shall be returned to the OIA.
- 5) In cases where the complaint was made by an individual other than the alleged victim, the third party informant/witness shall not be notified of the findings. The alleged victim shall, however, receive notification of the findings.

19. INMATE APPEALS

- a. An inmate at the CDF, CCA/CTF or a CCC who is dissatisfied with the investigation or resolution of a complaint of sexual assault, sexual abuse or sexual misconduct, or his/her attorney may file an appeal to the Director within fifteen (15) calendar days of receiving written notice of the outcome of the investigation.
- b. An inmate or his/her attorney may submit a FOIA request to the DOC FOIA Officer to review the investigation report.
- c. The FOIA Officer shall review and redact the report to remove confidential information, including, but not limited to, the identity of confidential informants, medical information, personnel record information or information which will compromise security issues. A redacted and non-redacted version of the report shall be maintained in the OIA's files.
- d. The Director shall notify the inmate and the Warden, CCC Director or Office Chief in writing of the results of the appeal with ten (10) calendar days.
- e. The Director's Office shall forward a copy of all documents relevant to the appeal to the OIA.
- f. If new evidence is received in the appeal or the Director presents other compelling evidence that supports disciplinary action against the employee, the Director's appeal decision shall be immediately forwarded to the Warden, Administrator or Office Chief for appropriate action.
- g. The Warden, Administrator or Office Chief shall ensure that the inmate victim and the respondent or alleged assailant receives the Director's findings on the appeal.
- h. An appeal shall not delay the implementation of any determined disciplinary action against an employee.
- i. The Warden, CCC Director or Office Chief shall ensure that the Proposing Official receives a copy of the Director's findings of the appeal if disciplinary action is proposed.

20. CONFIDENTIALITY

- a. Sexual assault, sexual abuse and sexual misconduct complaints, including the identity of the informant, the respondent or alleged assailant, the alleged victim all information and documents pertinent to the complaint, shall be handled in a confidential manner and shall only be released consistent with the provisions of the Freedom of Information Act (FOIA).

- b. Any inmate who observes and reports an act of sexual assault, sexual abuse or sexual misconduct may request and be treated as a confidential informant.
- c. To further maintain confidentiality, written notification of the investigation shall be prepared by OIA and issued to employees by the appropriate manager or supervisor. Inmate notification shall be handled as legal mail.
- d. Each individual interviewed shall be advised that he/she is required to maintain confidentiality and not disclose to anyone information regarding the complaint, the investigation and the outcome. Staff shall also be advised that the failure to maintain confidentiality shall constitute as a separate offense subject to disciplinary action.

21. **EMPLOYEE DISCIPLINE**

- a. In cases where there is a finding of probable cause for sexual assault, sexual abuse, sexual misconduct, breach of confidentiality or retaliation against staff and/or an inmate, the appropriate manager or supervisor shall ensure that disciplinary action is proposed in accordance with the regulations outlined in Chapter 16 of the District Personnel Manual. Guidelines for imposition of penalties based upon violation of this directive and DPM Chapter 16 are outlined in Attachment B.
- b. The manager or supervisor shall inform OIA in writing of disciplinary action taken against the employee. He/she shall also advise the OIA in writing of actions taken pursuant to other recommendations resulting from the investigation.
- c. The Hearing Officer shall notify the OIA Supervisor of any disciplinary action taken resulting from a finding of probable cause for sexual assault, sexual abuse, sexual misconduct and/or other violations of this policy or other departmental policies.
- d. Managers and supervisors who fail to report or take appropriate action when sexual assault, sexual abuse or sexual misconduct against inmates are alleged or have been brought to their attention, or who fail to allow a direct order to initiate disciplinary action, shall also be subject to disciplinary action.
- e. Refusal by any employee to answer questions during an official investigation may also be grounds to charge the employee for cause under Chapter 16 of the DPM.
- f. DOC shall impose discipline based on a determination of probable cause that sexual assault, sexual abuse and sexual misconduct has occurred. However, this does not preclude the DOC from taking separate and distinct disciplinary measures against an employee who has later, under separate proceedings, been found in violation of Chapter 16 of the DPM as a result of

a finding by the Office of Employee of Appeals, the Office of Human Rights, the Commission of Human Rights, or a court of competent jurisdiction in the District of Columbia that the employee has violated the guaranties in DC Code Title I, Chapter 6, Subchapters I, Chapter 6, Subchapters I and VII, in the performance of that employee's official duties.

- g. DOC shall notify the agency of any employee not assigned to DOC of a probable cause finding so that appropriate disciplinary action may be initiated.

22. INMATE DISCIPLINE

- a. Inmates who engage in the sexual assault, sexual abuse of another individual shall be referred for criminal prosecution. In addition, DOC shall take appropriate interim administrative actions to ensure that the predator is segregated housing for the safety of others.
- b. Inmates who engage in sexual contact with another inmate shall be disciplined in accordance with PM 5300.1C.
- c. An inmate reporting a complaint of sexual assault, sexual abuse or sexual misconduct may be referred for disciplinary action in accordance with PM 5300.1C if the investigation concludes that the inmate knowingly and deliberately made a false report.

23. MONTHLY REPORTS

- a. The OIA Supervisor shall maintain statistics and prepare a monthly report that shall include the following basic information regarding sexual assault, sexual abuse and sexual misconduct complaints:
 - 1) The number of alleged sexual assault, sexual abuse complaints filed against staff;
 - 2) The number of alleged sexual assault, sexual abuse complaints filed against inmates;
 - 3) The number of confirmed sexual assault, sexual abuses committed by staff;
 - 4) The number of confirmed sexual assault, sexual abuses committed by an inmate;
 - 5) The number of alleged incidents of sexual misconduct;
 - 6) The number of confirmed incidents of sexual misconduct;
 - 7) Discipline and/or other administrative actions taken against employees;

- 8) Discipline and/or other administrative actions taken against inmates;
and
- 9) Referrals for criminal indictments for sexual assault, sexual abuse and sexual misconduct.
- 10) The number of Indictments for sexual assault, sexual abuse.

24. **RECORDKEEPING**

- b. The OIA Supervisor shall maintain a central filing and reporting system for incidents of sexual assault, sexual abuse and sexual misconduct.
- c. A copy of all complaints and related documentation including, but not limited to, investigative reports, correspondence, appeals and appeal findings, correspondence from attorneys and inmate or employee disciplinary action that were sent to or received from either the Director, Deputy Director, CCC Director or Office Chiefs shall be forwarded to the OIA.
- d. The OIA Supervisor shall log pertinent data from these documents for tracking and management purposes.


Devon Brown
Director

Attachments:

Attachment A Inmate Hotline Notice re: Sexual Assault and Sexual abuse
Attachment B Employee Discipline – Guidelines for a Table of Penalties