

A STUDY OF THE DEPARTMENT OF CORRECTION INMATE GRIEVANCE AND REQUEST PROGRAM

OCTOBER 2016

The New York City Board of Correction (BOC) is a nine-person, non-judicial oversight board that regulates, monitors, and inspects the correctional facilities of the City. The Board of Correction establishes and ensures compliance with Minimum Standards regulating conditions of confinement and correctional health and mental health care in all City correctional facilities.

The Board of Correction carries out independent oversight and enacts regulations to support safer, fairer, smaller, and more humane NYC jails.

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In 1976, the NYC Charter Commission charged the NYC Board of Correction (BOC or the Board) with establishing procedures for responding to inmate grievances. In response BOC created a pilot program which DOC began to operate in 1981. BOC continues to respond to and resolve complaints when those involve its Minimum Standards. The Board is an independent city entity that regulates, monitors, and inspects the conditions in NYC jails. BOC also is charged with establishing minimum standards for the care, custody, correction, treatment, supervision, and discipline of all persons held or confined under the jurisdiction of the Department of Correction (Department or DOC) and evaluating DOC's performance. To further these objectives and as part of its responsibility to monitor jail conditions, the Board undertook an assessment of the inmate grievance program operated by the Department. The Board sought to understand the current patterns and trends in filing and responding to grievances and the effectiveness, consistency and timeliness of the current system.

The Department operates one of the largest jail systems in the United States with 12 facilities currently housing approximately 8,596 pre-trial detainees and 1,245 individuals who are serving sentences of less than one year. Incarcerated individuals who face issues or concerns that directly affect them during their confinement can file a complaint or request for service through DOC's Inmate Grievance and Request Program (IGRP). Since the late 1970's, jail and prison grievance systems have helped to promote justice and fairness in jails and to identify institutional problems. This, in turn, has led to a reduction in facility tension, inmate frustration and violence.¹²

In 2015, about 9,300 complaints were filed with DOC's grievance program, while 2,605 complaints regarding health and mental health care services were filed with the City's correctional health authority, Health+Hospitals (H+H).³ 10,571 complaints were filed with DOC via 311. During fiscal years (FY) 2013 through 2015⁴, the IGRP received a total of 22,562 complaints.⁵

The Board's findings resulting from its review include:

- The number of grievances filed grew by 34% and the rate at which they were filed doubled over the past three years.
- Non-grievable complaints, such as allegations of assault, sexual assault and complaints about staff, more than doubled during this three-year period.
- Almost all grievances are resolved at the first stage of response or "informally"
- The most common grievances remained the same during the three years and concerned incarcerated individuals' employment, accounts, and property.
- IGRP is understaffed at the supervisor, officer and inmate clerk levels.
- Based on a case file audit of 65 grievances filed in June 2015, it appears that the majority of complaints were resolved within five business days as required, but there are other implementation challenges, including close to 40% of cases cited as resolved despite no required response from the grievant.
- BOC received 65 complaints during the study period (FY2013-2015), which cited concerns about a lack of responsiveness to complaints. Fifty five percent of the complaints received were from three facilities: OBCC, NIC Infirmary and GRVC.

¹U.S. General Account Office, *Grievance Mechanism in State Correctional Institutions and Large-City Jails*, Report of the Comptroller General of the United States, app.1 (1977).

²Calavita, Kitty, and Valerie Jenness. *Appealing to Justice: Prisoner Grievances, Rights and Carceral Logic*. U, 2014. Print.

³H+H as the correctional health authority has its own Patient Relations Unit which responds to complaints relating to health care in the jails.

⁴The City fiscal year begins on July 1 of each year and ends on June 30 of the following year.

⁵This total number includes grievable and non-grievable complaints and service requests

HISTORY

Beginning in 1971, the Board informally addressed complaints from inmates, their families, friends and lawyers, correctional personnel, and the interested public.⁶ In this role, BOC focused on a number of systemic problems, such as jail overcrowding, visit limitations, inadequate medical and mental health care and poor living conditions.

In 1977, as a result of a revised Charter mandate, the Board embarked upon development of a formal grievance system designed to overcome the ad hoc manner in which grievances had been handled: "The Commission proposes that the Board be authorized to establish procedures for the effective investigation of grievances, complaints, or requests for assistance by inmates of institutions under the Department's jurisdiction."⁷ That same year, the Board created the Institutional Compliance and Development Unit (ICDU).⁸ In partnership with DOC, a model was developed that included five critical elements:

- Grievances must be resolved in a timely manner.
- Inmates must be guaranteed a written response.
- Inmates must have equal unrestricted access to the grievance process.
- Both inmates and officers must be afforded the ability to file grievances.
- There must be outside impartial review of all grievances.⁹

In 1981, the ICDU model was piloted by DOC at the House of Detention for Men (on Rikers Island) and the Queens House of Detention for Men. After an evaluation by the Center for Community Justice, the program was expanded system wide.

The next critical event in the history of the City's inmate grievance system was passage, in 1996, of the Prison Litigation Reform Act (PLRA) which was designed to reduce the number of prisoner lawsuits. The PLRA requires prisoners to exhaust administrative remedies through the institutional grievance system before filing suit in federal court. As a result, internal grievance systems have taken on added importance in ensuring individuals' access to judicial redress of complaints arising out of their confinement.

⁶In January 1971, the Board of Correction was established for the first time as an independent office with a small staff and an official budget.

⁷State Charter Revision Commission for New York City. A More Efficient and Responsive Municipal Government: Final Report to the Legislature of the State Charter Revision Commission for New York City. New York : The Commission, [1977]

⁸The ICDU was funded by the City's Criminal Justice Coordinating Council and the State Division of Criminal Justice Services.

⁹These five components are from a Board of Correction internal document on the development of the grievance process.

INMATE GRIEVANCE AND REQUEST PROGRAM TODAY

DOC's current inmate grievance policy, the "Inmate Grievance and Request Program," is governed by a policy that became effective March 19, 2014 (Directive #3376 or "IGRP Directive"). The IGRP Directive establishes 29 categories of grievances that inmates may file, allows inmates to make a "request for information," and specifies non-grievable categories of complaints which grievance staff are not authorized to resolve. (See "What is a Grievance? What Is Not?" below).

Steps in the Process

The following outlines the required steps in the IGRP (as reflected in the flow chart annexed as Appendix A):

Step 1: Incarcerated individuals file grievances by (1) filling out a "Request for Grievance Slip;" (2) completing a grievance statement (which should be available in their housing areas) or writing a grievance on any available piece of paper; or (3) by filing a complaint through a third party request or departmental unit (Constituent Services, ID, Legal etc.) All jails are required to make available the grievance Statement Forms. Inmates can also drop off a form directly at the IGRP office or in locked grievance boxes located in facility housing and common areas. Depending on the facility or housing area, grievance officers and grievance supervisors pick up these forms three to five times per week.¹⁰ A grievant must file a grievance within 10 days after the precipitating event or service request.

Step 2: Each facility should have a grievance supervisor who reviews the grievance statement forms or Request for Grievance Slips, or third party grievances sent through any departmental unit. The supervisor interviews the grievant and investigates the complaint. A response is to be completed within five business days and returned to the grievant on the IGRP Disposition form, also known as the "Resolution Form." A response to the grievance shall also be provided to the forwarding unit within seven calendar days.

Step 3: If the grievant is satisfied with the resolution of the grievance, the inmate checks off "accept," and signs the Disposition Form. Thereafter, DOC records the grievance as "informally resolved."¹¹

Step 4: (Initial appeal). If the grievant disputes the resolution, he must indicate his disapproval on the Disposition Form within five business days of receiving the response. Thereafter, the grievance supervisor fills out an IGRP Hearing notice, schedules the hearing, and gives the inmate the Hearing notice. A three-member Inmate Grievance Resolution Committee (IGRC), consisting of an inmate grievance representative, a uniformed staff representative and the grievance supervisor reviews the grievance and the grievant's appeal. The IGRP Directive eliminated the two non-voting inmate positions (Housing Aide and Grievance Clerk) on the Committee.

Step 5: Once the hearing is held and the inmate and relevant witnesses are heard, the IGRC meets in private to discuss a disposition. The grievant is once again provided with a Disposition Form on which he can record his acceptance of the disposition. In that event, DOC records the grievance as "resolved at [the] formal level."

¹⁰This information was obtained from a survey of grievance supervisors.

¹¹Even if an inmate does not check off "accept" and even if he does not sign a form, it is still counted as informally resolved.

Step 6: (Second appeal) If the grievant is not satisfied with the disposition, he indicates his disapproval on the Disposition Form in order to move to the next level of appeal. IGRP staff forwards the grievance Statement Form, Disposition Form, and any supporting documentation to the Commanding Officer or Warden (collectively, “Commanding Officer”) within one day of the inmate’s request to appeal.

Step 7: Within five days of receiving the appeal, the Commanding Officer or Warden must inform the grievant of a decision in writing on the Commanding Officer’s Disposition Form. The form must be time stamped and handed to the inmate for signature. If the grievant accepts the disposition, he checks off “accept” and signs the form.

Step 8: If the grievant is not satisfied with Commanding Officer’s decision, he checks off “no” on the Disposition Form, signs the form, and may request an appeal to the highest level of review, the Central Office Review Committee (CORC).

Step 9: (Third and final appeal) IGRP staff forwards copies of all documents — including the Statement Form, Disposition Form, Commanding Officer’s Disposition Form, and any other related documentation — along with the Central Office Review Committee Form to the CORC. At the same time, IGRP staff forwards copies of these documents to the Board.¹² BOC has five days within which to render an opinion on the appeal. The CORC’s determination represents DOC’s final decision on any grievance or request.

In a large number of instances, inmates and their families or friends report the same complaint by calling 311, Legal Aid, BOC, H+H, DOC’s Constituent Services and/or IGRP. In 2015, 10,571 complaints were filed via 311 alone. H+H received 2,605 complaints and IGRP received 9,362 complaints. This patchwork pattern suggests that people are filing complaints via multiple routes. The various agencies receiving complaints record, investigate, or refer complaints often without knowing how other entities have responded. In the face of this complex maze, IGRP remains the central institutional mechanism that resolves the largest number of inmate grievances.

What Is a Grievance? What Is Not?

The IGRP Directive¹³ defines a grievance as “a written complaint submitted by an inmate in the Department’s custody about an issue, condition, practice or action relating to the inmate’s confinement. This complaint can be related to the impact of a department policy or protocol or a facility policy or protocol or to a particular action affecting an inmate.”

The Directive defines a request as “a written, individually expressed need or desire for a service, assistance, or an accommodation relating to the inmate’s confinement. Depending on the type of the request, the request may be subject to the IGRP process.”¹⁴

The 29 categories of inmate grievances and the seven categories of requests are shown below in Tables 1 and 2, respectively.

¹²Prior directives (Directive # 3375, 3375R, 3375R-A) included the Board as a part of the appeal process. If inmates were dissatisfied with the CORC’s decision, they could appeal to the Board. The length of time within which BOC must respond to an appeal has been shortened as the program and directives have changed. BOC used to have 20 days to respond to an appeal under Directive #3375R.

¹³NYC Department of Correction Directive #3376 Inmate Grievance and Request Program http://www1.nyc.gov/assets/doc/downloads/directives/Directive_3376_Inmate_Grievance_Request_Program.pdf

¹⁴An example of a “request” is an inmate’s request to a grievance officer that property he cannot keep while incarcerated is released to his family.

Table 1. Grievance Categories	
Classification*	Medical* (complaints involving Department personnel)**
Clothing*	Noise
Commissary	Personal Hygiene*
Correspondence / Mail*	Phone*
Employment	Programs
Environmental	Property
Food	Recreation*
Housing*	Religion*
Inmate Grievance and Request Program	Rules and Regulations
Inmate Account	School
Jail Time	Search
Laundry*	Security Risk Group / Watch group
Visit*	Social Services
Law Library*	Transportation
Mental Health* (complaints involving Department personnel)**	
<p>SOURCE: NYC Department of Correction Directive #3376, March 19, 2014.</p> <p>NOTE: * means that grievance category overlaps with Board of Correction Minimum Standards. "Security Risk Group" denotes prisoners suspected of being, or found to be, gang affiliated. ** Complaints about Mental Health and Medical pertain to DOC staff's role in production of inmates to receive medical and mental health services.</p>	

Table 2. Non Grievable Categories	
Category	Definition
Assault allegation	Staff on inmate non sexual assault (use of force) allegation
Sexual assault/abuse allegation	Staff on inmate sexual assault / abuse allegation (including repeated verbal statements or comments of a sexual nature, including demeaning references / derogatory comments about gender, body and clothing)
Staff complaint	Allegation of unprofessional conduct or behavior by any DOC staff
Harassment allegation	Staff on inmate non sexual harassment (verbal)
Inmate altercation	Inmate on inmate non sexual assault allegation
Inmate on inmate sexual assault/abuse allegation	Inmate on inmate sexual assault / abuse allegation
Inmate on inmate verbal harassment allegation	Inmate on inmate non sexual harassment allegation (verbal harassment, intimidation, hoarding/confiscation of personal items)
Status as an intended contraband recipient (or ER, Red ID, or CMC)	Status as an intended contraband recipient, enhanced restraint, Red ID or centrally monitored case inmate*
Disciplinary process	Inmate disciplinary process and disposition
Medical staff	Medical staff (complaints regarding quality of care, request for second medical opinion)
Mental health staff	Mental health staff (complaints regarding quality of care, request for second medical opinion)
Request for protective custody	Request for protective custody
Request for accommodation due to disability	Request for accommodation due to disability or claims of discrimination based on disability or perceived disability
Freedom of Information Law request	Freedom of Information Law Requests
Contraband	Regarding information of an inmate having / receiving impermissible items while incarcerated.
OTHER (timeliness or personal jurisdiction)	
<p>SOURCE: NYC Department of Correction Directive #3376, March 19, 2014. NOTE: *Red ID status refers to a status the Department gives an inmate who has been found in possession of, or has used, a weapon. When a Red ID inmate is moved to and from a facility, the inmate is restrained with handcuffs, security mitts, and waist chains. Enhanced Restraint refers to a status the Department gives an inmate who exhibits violent behavior or is found in possession of a scalpel, hobby knife, razor blade, or other dangerous instrument. When an Enhanced Restraint inmate is moved to and from a facility, the inmate is restrained with handcuffs, security mitts, leg irons, and waist chains. Centrally Monitored Cases refer to inmates that require an officer to escort them at all times. ICR is a designation given to inmates when the inmate is discovered to be an intended or actual recipient of contraband during a visit or through the mail. SRG- Security Risk Group- Inmates that are suspected or found to be gang affiliated.</p>	

Table 3. Request Categories
Change of Religion Card
Religious Accommodations
Request for Information
Request for Social Services
Request for Release of Property
Request for Transfer of Funds Form
Other Request
SOURCE: NYC Department of Correction Directive #3376, March 19, 2014.

As reflected in Table 2, 13 categories of complaints are considered non-grievable. These include staff on inmate and inmate on inmate use of force and sexual abuse allegations, inmate status, and inmate discipline. When IGRP staff receives a complaint that falls within one of these categories, staff is required to forward the complaint to the appropriate entity, such as the Commanding Officer, the Deputy Warden of Security, NYC Department of Investigation (DOI), the correctional health authority (H+H), DOC's Disability Rights Coordinator, or DOC's General Counsel.

DATA SOURCES

This study is based on a review of the Department’s IGRP aggregate reports for fiscal years 2013, 2014, and 2015, prepared pursuant to the IGRP Directive. These reports contain the number of grievances, requests, and non-grievable complaints submitted each fiscal year disaggregated by month, category and facility. The reports also provide a break out of the grievants’ age (adult, young adult (ages 18-21) or adolescent (ages 16-17)). The reported data does not include the ability to track complaints by housing area type or submission format (e.g., whether the grievant filed directly with IGRP staff or via grievance boxes). IGRP recently began tracking this data as required by Local Law 87, which the City Council enacted in October 2015, but this data was not available for the period that BOC reviewed.¹⁵

The Board also conducted a case file audit of 65 grievances filed in FY 2015 to evaluate whether practice is consistent with policy. Each case file includes an IGRP Statement Form, Investigation Form, and Disposition Form, along with any backup documentation. BOC also surveyed IGRP supervisors, who are civilian staff with offices in each facility, to hear their concerns and perspectives (n=12). There are 16 grievance supervisor positions throughout all facilities and housing areas, four of which were vacant when the survey was completed.

FINDINGS

The number of grievances filed grew by 34% and the rate at which they were filed doubled over the past three years.¹⁶ The rate of complaints doubled (4.39 to 8.15), while the average daily population decreased by 17%. Thus, despite the decreasing jail population, the number of grievances filed with the IGRP continued to increase. In the three years covered by this study, the Department received a total of 22,562 complaints (6,046 in FY 2013, 7,154 in FY 2014, and 9,362 in FY 2015). This total includes 15,544 grievances, 2,550 requests for services, and 4,468 non-grievable complaints. Nearly 70% of these complaints (15,544) were grievable, while 30%, or (7,018), were not. As reflected in Table 4, since 2012, when DOC began separately categorizing requests for services, the number of such requests has increased by 48%.

Table 4. Complaints by Type for 2013-2015

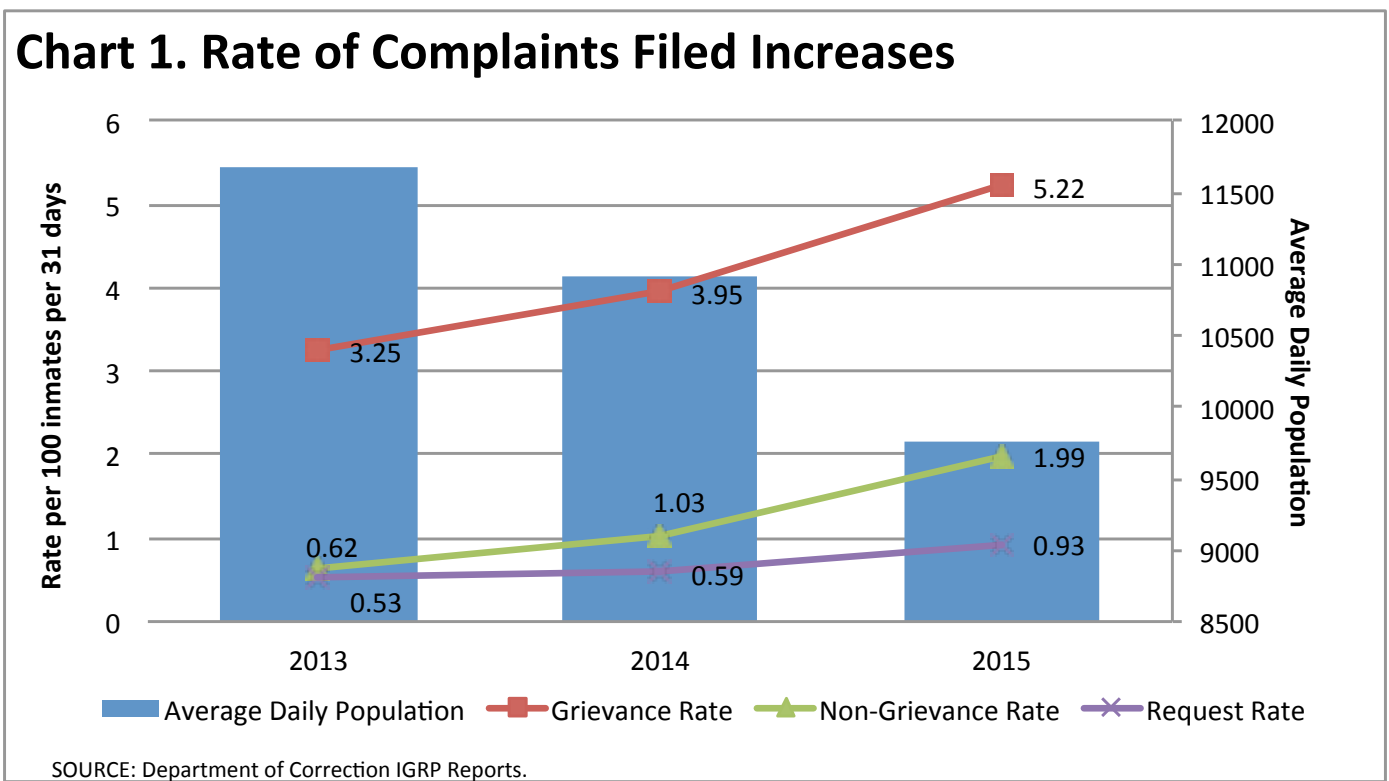
Years	Grievance	Non			Average Daily	
		Grievance	Request	Total	Population	Rate
2013	4,468	853	725	6,046	11,687	4.39
2014	5,077	1,325	752	7,154	10,909	5.57
2015	5,999	2,290	1,073	9,362	9,752	8.15
Total	15,544	4,468	2,550	22,562		

SOURCE: NYC Department of Correction Inmate Grievance and Request Monthly Reports.

¹⁵Local Law 87 amended the NYC Administrative Code by adding a new section 9-136: <http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO>: Section 9-136 requires DOC to report quarterly on (1) the number of grievances submitted in all Department facilities in total, and disaggregated by the facility and housing area type in which such grievance was submitted, (2) the number of grievances submitted in all such facilities, disaggregated by grievance category, by the facility and housing area type in which such grievance was submitted, and by the method by which such grievance was submitted; (3) the number of grievances, the stages of the grievance process, the stage in the grievance process at which they were resolved, and the categories for which any grievances were dismissed; and (4) the number of inmates that submitted grievances.

¹⁶The rate is calculated according to this formula: (#complaints/#population)*100 inmates*(31 days/365). The population number used in the formula was the annual average census for each year. The population for 2013 was 11,687 and for 2015 it was 9,752.

Chart 1. Rate of Complaints Filed Increases



Some facilities have seen greater increases in number of grievances filed than others.¹⁷ While the number of complaints filed has increased by 34% system-wide, five facilities have experienced recent and notable increases:

- Five of 16 facilities/housing areas experienced recent increases of more than 80%: NIC, OBCC, OBCC/CPSU, RNDC, and West.
- NIC experienced an 82% increase in complaints filed from 2013 to 2015. NIC currently does not have a permanent grievance supervisor or grievance officer.
- RNDC experienced a 198% increase in complaints filed from 2013 to 2015.
- Three facilities experienced significant decreases in the number of grievances filed from FY 2013 to FY 2015: GRVC, GRVC special housing unit (this included the now-closed MHAUII in 2013) and BKDC.

Non-grievable complaints more than doubled in the past three years. Non-grievable complaints more than doubled during this period. The “Staff Complaint” category more than tripled between FY 2013 and FY 2015 — from 280 to 936 complaints — which is a higher rate of increase than for non-grievable categories as a whole. As shown on Table 2, IGRP does not directly handle non-grievable complaints but instead forwards these complaints to the appropriate entity.

¹⁷ The rate is calculated according to this formula: (#complaints/#population)*100 inmates*(31 days/365). The population number used in the formula was the annual average census for each year. The population for 2013 was 11,687 and for 2015 it was 9,752.

Table 5. Most Common Complaint Categories			
Grievance Categories	2013	2014	2015
Employment	883	1,018	1,151
Inmate Account	755	801	901
Property	705	741	810
Jail Time	474	489	419
Environmental	237	272	441
Non-Grievable Categories			
Staff Complaint	280	505	936
Harassment Allegation	124	98	86
Assault Allegation	93	126	189
Medical Staff	88	130	201
Status as an Intended Contraband Recipient (or ER, Red ID, or CMC)	74	44	75
Disciplinary Process	64	123	101
Freedom of Information Law Request	6	14	190
Other (timeliness or personal jurisdiction)	73	208	353
Requests			
Request for Information	392	441	525
Other Request	213	185	439
SOURCE: DOC Inmate Grievance and Request Monthly Reports (FY2013-2015.)			

Almost all grievances are resolved “informally.” An informal resolution, according to DOC, is when the grievant is satisfied with the Step 1 resolution and does not request a hearing. However, informal resolutions also include cases where the grievant does not sign the paperwork and/or does not indicate acceptance of the resolution.

If the grievant appeals to the next level, a hearing is required. The Department considers a hearing disposition a “formal resolution.” During FY 2013-2015, IGRP resolved over 15,500 grievances: 97.5% (15,413) were resolved informally; .3 % (45) of complaints were resolved with a formal hearing; and .2 % (30) were resolved at the Warden’s level (Step 6 described above). Only seven complaints — or .04 % — were appealed to the CORC, the final step in the process. According to the resolution data, 94 cases were withdrawn, which is when an inmate decides they no longer want to move forward with the grievance. One hundred and thirty cases were transferred, which means the inmate was transferred to another place (e.g. an upstate prison) prior to receiving their resolution. Lastly, 82 cases were “transferred with signature,” which means inmate is transferred to another jail and the grievance supervisor is waiting on a signature from an inmate. Five of the seven cases that reached the CORC pertained to an inmate’s Security Risk Group (SRG) status as designated by DOC. In these cases, inmates disputed their SRG designation. Ultimately, the Department did not remove any of these grievants from the SRG list.¹⁸

¹⁸Under SRG policy (Operations Order #03/12) once an inmate is labeled an SRG member or Watch Group Member this classification stays with the inmate for the remainder of their incarceration and will also be there if they are re-incarcerated. Inmates classified as SRG are not allowed to work in the pantry in their housing area or to work detail outside their housing area.

The most commonly filed grievances types remained the same during this three-year period. The grievance categories with the highest incidence were: Employment; Inmate Account; and Property. Grievance staff fielded more than 2,200 complaints within these categories while the frequency of complaints within each category increased (see Table 5). Between FY 2013 and FY 2015, there were:

- 3,052 complaints about employment. These complaints concerned payroll, workload, job tasks, scheduling and/or lack of employment. For example, a 26-year old woman in custody at RMSC filed a grievance in June 2015 stating that she did not get paid for the work she did in the mess hall.
- 2,457 complaints about inmate accounts (the proper crediting of money to inmate accounts from any source except DOC employment), such as account transfers between NYS prison and NYC jail deposits and PIN numbers. For instance, a 61-year old man detained at AMKC filed a grievance in July 2015 contending that \$9.50 he had at intake was not transferred to his account.
- 2,256 complaints about inmate property or the disappearance or changed condition of any item belonging to an inmate. For example, a 29-year old man detained at AMKC filed a grievance in August 2015 stating that upon his return from the hospital, he found his property (clothing, pictures and legal papers) missing.

The grievance categories with the next highest frequency of complaints were jail time (1,404 grievances) and environmental conditions (928 grievances). The former generally arise when an individual questions the accuracy of his recorded sentence time or challenges his date of release or transfer to a state facility. Environmental grievances concern general sanitary conditions of the jail, heat issues or equipment such as shower curtains, light bulbs or telephones.

IGRP is understaffed at the supervisor, officer and inmate clerk levels. IGRP staff is comprised of 16 grievance supervisor positions, one unit investigator, one administrative assistant and one program administrator. However, there are six staff vacancies: the executive director and five supervisor positions.¹⁹ There are currently 16 "areas," which include each facility and two special secure housing areas (Enhanced Supervision Housing and Central Punitive Segregation Unit). Four facilities with special populations such as adolescents or those in punitive segregation each require two grievance supervisors: OBCC, GRVC, AMKC, and RNDC. Currently, however, there are only 11 supervisors to cover these 16 areas.

Steady officers assigned to IGRP offices are essential in providing grievants with access and timely responses to their grievances. Yet, there are 12 facilities or areas without a dedicated grievance escort officer.²⁰ These officers supervise and escort all individuals involved in inmate grievance resolution committee activities, conduct grievance investigations, and inspect grievance boxes on a regular basis. In the 12 facilities or areas lacking a dedicated grievance escort officer, staff and inmates must rely on the availability of other escort officers in their facility to provide access to grievance.

According to the IGRP Directive, all facilities are required to employ both an inmate grievance representative and an inmate clerk. Inmate representatives serve on the Inmate Grievance Resolution Committees and assist in processing and investigating complaints. Currently, only four facilities have inmate representatives. Inmate clerks can serve as alternates to the inmate grievance representatives if the representative is unavailable. An inmate clerk's responsibilities are determined by the grievance supervisor. Currently, only five facilities have inmate clerks.

¹⁹Grievance Supervisor vacancies are in the following facilities: AMKC, RNDC, MDC, NIC and OBCC.

²⁰Grievance Officer vacancies are in the following facilities: VCBC, MDC, NIC, OBCC (and OBCC/ESHU), West Facility, GRVC and RNDC.

A case file audit of 65 grievances filed in June 2015 suggests that the majority of grievances are resolved within five business days as required, but there are other implementation challenges.²¹ All 65 grievances were resolved “informally” at the first step of the grievance process. Only 13 of them, or 20%, were not resolved within five business days. The average response time was 3.3 business days. However, two facilities did not use the time stamp machine as required by the IGRP Directive, thus rendering the recorded resolution date unreliable. Of the 65 case files, 71% of them were time stamped. On the remainder of the forms grievance supervisors signed and dated the form manually. Four grievances, or 6%, were missing a Disposition form and one facility was still using an outdated version of the Grievance Statement form.

Among the cases that did have Disposition forms, 82% had grievant signatures on them while 18% did not include a signature accepting the resolution. Grievants also need to check whether or not they accept the informal resolution; 38% had no response. Grievance staff were not able to find a resolution for 14 cases and therefore referred these (22% of audited cases) elsewhere. Of these, eight cases were referred to the NYC Comptroller’s Office for a claim regarding missing property.

BOC received 65 complaints during the study period (FY2013-2015), which raise concerns about a lack of responsiveness to and/or communication about complaints. Most of the complaints that the Board received were from individuals who had claimed that they had filed a grievance at their facility but had not received any response. Some grievants reported filing the same grievance more than once. One grievant stated that he only hears back on his grievances when he complains to BOC. Fifty five percent of the complaints came from three facilities: OBCC, GRVC, and NIC Infirmary.

²¹44% the cases audited involved complaints in two categories: Employment (24%) and Property (20%).

RECOMMENDATIONS AND NEXT STEPS

It is critical that DOC's grievance system be procedurally just and perceived as legitimate and effective. Research has shown that when jail and prison grievance systems come to be viewed as indifferent, illegitimate and neglectful, these factors may drive discontent, disobedience and violence.²² IGRP is a fundamental management tool that if used correctly and consistently promotes safety, fairness, and excellence in operations.²³ Moreover, a grievance system that incarcerated individuals view as credible is an effective way for administrators to ascertain and respond to concerns on a timely basis.²⁴ The following recommendations will assist in making the IGRP stronger and more effective and thus improve conditions in the City's jails.

DOC should review the adequacy of resources devoted to its grievance program. IGRP is understaffed at the supervisor, officer, and inmate clerk and representative levels. Lack of adequate staffing can contribute to delays in responding to grievants' complaints and to inconsistent policy implementation. Understaffing can also signal a lack of concern about inmate complaints and the grievance process as a whole. The Department has other resources, such as constituent services which triages external complaints and social services which is tasked with resolving some of the same issues, which should be streamlined so that resources devoted to complaints are complimentary and coordinated.

DOC should increase the legitimacy and efficiency of the system through education, communication, and participation. As required by state and city laws, the Department should revive the meaningful role incarcerated individuals play in the grievance process. Currently, 11 of the 16 facilities lack inmate clerks; while 12 of the 16 facilities lack an inmate grievance representative. A grievance system that gives inmates a stake in the process is critical to its effectiveness.²⁵ Better education and communication about the process will promote transparency and trust in the program's effectiveness. In all housing areas, there should be comprehensive communication materials (flyers, posters) about the program, the types of complaints that are grievable, and how to file a grievance. Better communication efforts might also make the system more efficient if grievants know what to expect and how to direct their concerns.

DOC should strengthen its use of grievance data to improve IGRP and other policies. Categories with the highest incidence of complaints have remained the same for the past three years (employment, accounts, and property). This suggests the need for policy and operations review in these areas. Why are employment, inmate accounts, and property constant issues in the City jails? Why is the grievance rate increasing? Why do certain facilities experience increase in grievance rates while others do not? The answers to these questions may lie, in part, with IGRP staff, whose knowledge and experience should be considered in improving operations. Their daily experience in the jails and their review of complaints and service requests give them insight into policies that are, or are not, working, those that need improvement, and new policies that might be needed. Their knowledge can be harnessed to develop reasoned and consistent practice system wide.

²²Bierie, David M. "Procedural Justice and Prison Violence: Examining Complaints among Federal Inmates (2000–2007)." *Psychology, Public Policy, and Law* 19.1 (2013): 15-29. Web.

²³United States, Dept. of Justice, U.S. Attorney S.D.N.Y. *CRIPA Investigation of the New York City Department of Correction Jails on Rikers Island*, p. 39, <https://www.justice.gov/sites/default/files/usao-sdny/legacy/2015/03/25/SDNY%20Rikers%20Report.pdf>

²⁴LaGratta, Emily G. and Jensen, Elise. "Measuring Perception of Fairness: An Evaluation Toolkit." Center for Court Innovation, 2015, http://www.courtinnovation.org/sites/default/files/documents/P_J_Evaluation.pdf. Research on court settings has shown that when defendants and other litigants perceive the court process as fair and respectful, they are more likely to comply with the court's orders and to follow the law in the future. See also Tyler, Tom. *Why People Obey the Law*, Princeton University Press, 2006. http://www.courtinnovation.org/sites/default/files/documents/P_J_Evaluation.pdf

²⁵Brakel, Samuel Jan. "Administrative Justice in the Penitentiary: A Report on Inmate Grievance Procedures" *Law & Social Inquiry* 7.1, 1982, pp. 111-40.

Improved data collection and more accurate resolution categories can also help the Department improve the IGRP process. For instance, grievances that are “informally resolved” currently can be misleading since it includes grievances where inmates have not signed nor accepted the resolution as well as those cases when someone has accepted the resolution. Grievance data should be reviewed at the facility and system-wide level to inform management, identify common challenges and develop best practices. As one example, such data can inform early warning systems regarding issues or locations that need to be more closely monitored. Local Law 87, which the City Council enacted in October 2015, and requires improved data collection on grievances, will also allow for better study of patterns and management of systemic issues.

DOC should evaluate, track, and better communicate its process for handling non-grievable complaints and review all of its grievance categories to ensure that grievance can effectively triage those complaints that it cannot resolve alone. The number of non-grievable complaints increased by 168% between FY 2013 and FY 2015. 43% of complaints that DOC receives via 311 and from external parties are “non-grievable.” Nine percent of recent complaints in this category were staff-on-inmate assault allegations; 1% were allegations of staff-on-inmate sexual assault; 39% were staff complaints other than allegations of force or sexual abuse. IGRP continues to spend considerable time and resources triaging these complaints and referring them to other entities to resolve. Staff, inmates, and inmates’ family and friends need more information about how to properly file and obtain resolution of “non-grievable” complaints so that they do not clog the grievance process and result in untimely or ineffective resolution of complaints that are, in fact, grievable.

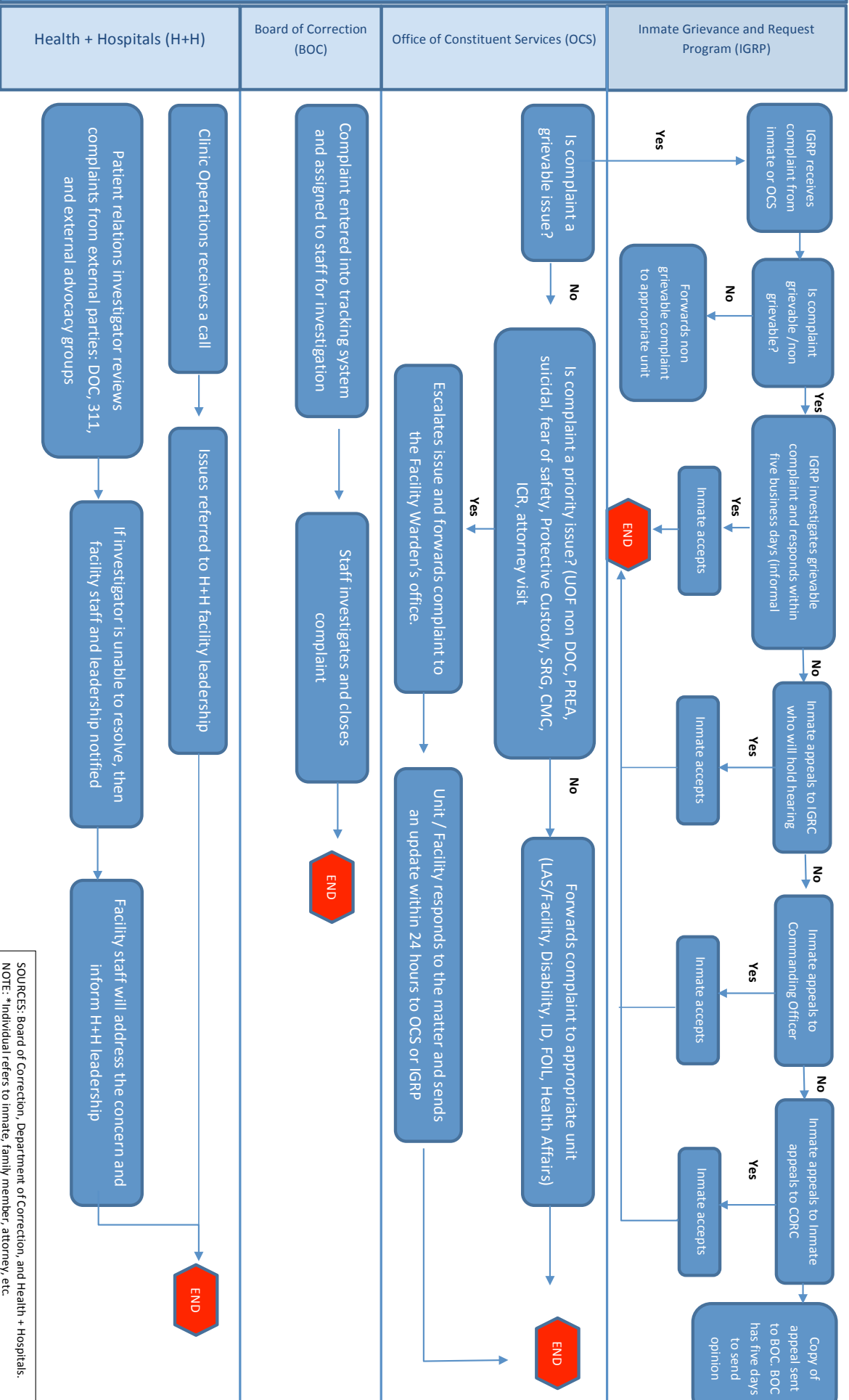
DOC should pursue an electronic kiosk system for the filing of grievances. Electronic kiosks would help DOC run the grievance system more efficiently. Some of the benefits of a kiosk system, for example as used in Florida and Tennessee, are easier filing, tracking and data monitoring of grievances. Kiosks can also be used to increase the confidentiality of complaints and increase trust and transparency. Grievants could print out a receipt documenting their filing of a grievance and the date of filing. This may go a long way toward addressing a major concern that inmates have expressed to the Board; namely, that the IGRP is not responsive. It is also important that staffing levels at IGRP are appropriate to handle questions or concerns with the kiosk or to assist inmates who wish to file grievances in person. Kiosks can also help staff by cutting down on the amount of time that is spent manually entering the grievances into the data system. Instead grievance supervisors can spend more time on finding resolutions and following up on those resolutions.

BOC should strengthen its monitoring to help improve the grievance system. Thirteen of the 29 grievance categories, or 45%, overlap with the Board’s Minimum Standards. As a result, the Department’s operation of the grievance program intersects with the Board’s obligation to monitor it. BOC will take the following steps to ensure adequate oversight of the grievance system and help support a process that is coordinated, responsive, and used to improve correctional policy:

- BOC will convene an inter-agency team of DOC and H+H staff on a biannual basis to review grievance data and systemic trends to identify issues and determine areas for policy improvement. The team will consider supporting an independent study of the grievance process to assess grievants’ perceptions as to whether the system is unbiased, responsive and respectful – in other words whether DOC has a procedurally fair system.
- BOC will conduct and publish an annual audit of a random sampling of grievance case files with a focus on understanding informal resolutions. Since the number of non-grievable complaints has more than tripled between FY 2013 and FY 2015, the Board’s next audit will check for patterns, timeliness of resolution, and proper referrals of non-grievable complaints.

- BOC will develop and conduct a new annual survey of the City's jail population to further inform grievance policy and the grievance system, and will more closely monitor the operation of, and concerns expressed at, inmate council meetings. The new annual survey will illuminate critical qualitative information to better understand perceptions of the grievance program and focus on dimensions of procedural fairness.

Individual files a complaint *



SOURCES: Board of Correction, Department of Correction, and Health + Hospitals.
 NOTE: *Individual refers to inmate, family member, attorney, etc.

Appendix B. Number of Grievance Complaints by Facility 2013-2015

	AMKC	BDC	EMTC	GMDC	GRVC	MDC	MHAUII / RHU	GRVC	NIC	OBCC	OBCC/C PSU	ESH	RMSC	RNDC	VCBC	WEST	Total
2015	1,248	141	573	357	148	459	105	351	728	283	56	509	693	270	78	5,999	
2014	796	138	616	392	170	580	134	190	576	310	0	532	195	319	129	5,077	
2013	835	196	598	371	242	324	192	192	400	114	0	504	232	230	38	4,468	
Total	2,879	475	1,787	1,120	560	1,363	431	733	1,704	707	56	1,545	1,120	819	245	15,544	
Percent																	
Change 2013																	
to 2015	49.5%	-28.1%	-4.2%	-3.8%	-38.8%	41.7%	-45.3%	82.8%	82.0%	148.2%	0.0%	1.0%	198.7%	17.4%	105.3%		
<small>SOURCES: Department of Correction Inmate Grievance and Request Program Reports FY 2013-2015. NOTES: Mental Health Assessment Unit for Infracted Inmates (MHAUII) was closed and replaced with Restricted Housing Units (RHU).</small>																	



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