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COMPLAINT PROCEDURES IN PRISONS

AND JAILS:

AN EXAMINATION OF RECENT EXPERIENCE

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Complaint Procedures in Prisons and Jails:

An Examination of Recent Experience

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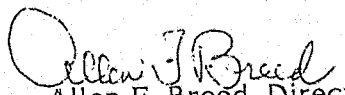
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FOREWORD

Grievance procedures have become an essential element in the operation of correctional institutions. Administrative support and encouragement of formal processes for handling inmate complaints are relatively recent developments.

This document examines the different types of grievance-handling mechanisms in use in U.S. prisons and jails--multilevel procedures, commissions, and ombudsmen--and evaluates their effectiveness. It also provides statistical results from a survey of administrators and inmates on the use of and attitudes toward grievance-handling practices in their institutions.

Although every institution must adjust its operations according to its circumstances, this report suggests elements of grievance handling that are common to all successful programs. It is our hope that the report will assist administrators in implementing or improving their grievance procedures.


Allen F. Breed, Director
National Institute of Corrections

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We wish to express particular thanks to the administrators, staff, and inmates who opened their institutions and their records to us, and freely shared their experiences and their opinions. We hope that they all will understand that our criticisms, as well as our praise, stem from the same source: a desire to improve the quality of life for those who must live or work in correctional institutions.

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ABSTRACT

Correctional administrators currently are investing considerable time, effort and money in creating or improving inmate complaint procedures. Formal methods of handling inmates' complaints have now become commonplace, as administrators seek to identify and respond to legitimate complaints before they result in litigation, increased tensions, or violence.

For this activity and interest to be of lasting benefit, corrections professionals must know what steps in the design and operation of a complaint procedure are likely to be effective and why. In order to meet this need for information, the National Institute of Corrections decided to sponsor a survey and analysis of inmate complaint procedures throughout the United States. The resulting study was intended to answer several questions of crucial importance:

- What are various departments doing to resolve inmates' complaints?
- What types of procedures are in operation? How do they differ from one another?
- Are there different results depending on the design of different methods?
- What are common problems with complaint procedures, and how are they being solved?

The study was conducted by the Center for Community Justice in Washington, D.C. It provides the first overview in five years of functioning inmate complaint mechanisms. Furthermore, it is the first study of complaint procedures to benefit from records that trace the experience of the federal and several statewide correctional systems with different models over a period of several years.

Through responses to questionnaires from the correctional agencies of 50 states and 60 local jails, the Center determined that the overwhelming majority of correctional agencies now have some sort of formal complaint mechanism: most have multi-level grievance procedures or grievance commissions; some have ombudsmen; a few have both. In contrast, the use of inmate councils is declining. And legal services programs, although widespread, only rarely deal with complaints related to the day-to-day functioning of correctional institutions.

Most administrators state that they are satisfied with their programs, terming them generally effective in responding to inmates' problems. The majority of inmates, unfortunately, do not share the administrators' optimistic assessment. Inmates' low level of satisfaction is not surprising; indeed, the nature of involuntary confinement may make it inevitable. What is revealing is that inmates' assessments vary significantly with the design of the procedure being used.

In visits to 14 prisons and jails, chosen to provide a cross-section of complaint procedures generally considered innovative or successful, Center staff discovered that both inmates' perceptions and other, more objective indications of effectiveness frequently are connected with the way procedures are designed. The two design features most closely related to success are participation by inmates and line staff in the resolution of complaints, and the availability of an appeal to outsiders viewed as impartial.

and independent of the correctional agency. Inmates generally show greater readiness to use procedures that contain both inmate participation and outside review; and, in fact, they use them more than procedures that lack one or both of these elements. Furthermore, they consider participatory procedures fairer and more effective than traditional, chain-of-command procedures or programs that rely solely on outsiders. And, perhaps most significantly, participatory procedures actually produce the most change.

In addition to the importance of design, the site visits revealed the critical role of implementation. Without administrative support and careful attention to training, orientation, and monitoring, no program that begins with as much opposition and distrust as a complaint mechanism is likely to succeed. Equally important is an adherence to the requirements of written procedures, whatever they may be. Too many correctional programs and policies fail because little attempt is made to see that all levels of command adhere to them.

Other issues, although difficult to measure, also emerged as significant:

- Informal, face-to-face hearings have great potential for collaborative problem-solving and for reaching acceptable compromises.
- In some places, ombudsmen or other outside agencies responding to complaints are not perceived as independent if they have financial or other ties to the corrections department.
- It is extremely difficult to define "frivolous" complaints and to attempt to screen them.
- There is a widespread belief among correctional staff that effective complaint procedures have reduced both litigation and violence.

As a result of this study, the Center for Community Justice recommends that the National Institute of Corrections and other funding agencies support the development of systems that involve inmates, staff, and outsiders in resolving complaints. Short of a full-scale evaluation involving a rigid experimental design and strict controls, the case for the elements of inmate participation and outside review has been as clearly demonstrated as possible. In addition, it is clear that correctional administrators need to pay greater attention to maintaining procedures by exercising forceful leadership, keeping adequate records, monitoring performance, and conducting periodic orientation and refresher training.

1 Introduction

You burn, you intimidate, you injure; it's the only way anyone will listen to you.

-- Attica inmate, 1971

Violence is caused by the absent or restricted communication patterns which seriously impair the airing of legitimate inmate grievances and the detection of impending unrest.

-- Edith E. Flynn, Ph. D.

PURPOSE OF THE STUDY

Over the past few years, the development of formal methods of responding to inmates' complaints has emerged as a major issue facing the administrators of prisons and jails. The number of such mechanisms has grown dramatically since 1970, when formal procedures were virtually non-existent.

Although courts have supported the general idea of administrative complaint procedures, the shape of their design and details of operation have been determined by individual administrators or, occasionally, state legislatures. Approaches have differed considerably; as a result, a variety of models exists. Recently, professional organizations have moved from a general endorsement of formal complaint mechanisms to a consensus regarding more specific standards of design.*

In response to the widespread interest in inmate complaint mechanisms, federal agencies have supported considerable experimentation and research. The Law Enforcement Assistance Administration (LEAA) conducted a series of executive training programs for correctional administrators in 1976 and supported the introduction and evaluation of participatory procedures in four states and ombudsmen in several others. Following the naming of the California Youth Authority's grievance procedure as an exemplary project in 1976, LEAA issued a widely used manual recounting the experience of one department in implementing a complaint mechanism.² The National Institute of Corrections, having provided assistance to a number of individual states and local jails, recently established a broad program of technical assistance through the Center for Community Justice (the Center).

Despite this activity, the only attempt to examine types of complaint mechanisms in order to correlate specific elements of design with measures of credibility and effectiveness was conducted by the Center (then known as the Center for Correctional Justice) in 1974 and published by LEAA in 1975 as a "prescriptive package." Using the results of its earlier survey, conducted in 1973, of more than 200 correction facilities,³ Center staff visited 17 institutions with complaint programs that were especially well known or used as models in other jurisdictions. Researchers collected information about the design and operation of each program

*Standards recently published by the American Correctional Association provide for written responses with reasons for decisions; time limits including provisions for responding to emergencies; advisory review of all grievances; participation by staff and inmates in the design and operation of the grievance procedure; access without reprisal; applicability over a broad range of issues; and a means of resolving questions of jurisdiction. See American Correctional Association Commission on Accreditation for Corrections, Manual of Standards for Adult Correctional Institutions (1977).

and administered questionnaires to randomly selected inmates concerning their knowledge of and willingness to use the procedures in effect in their institutions. Responses to the questionnaires indicated that inmates were most willing to use procedures that contained three elements: inmates themselves were involved in the resolution of complaints; complaints were handled within established, relatively short, time limits; and review of complaints by outsiders independent of the correctional agency was available.⁴

The correlation between all three elements and inmate credibility, as expressed in responses to the questionnaires, was strong; however, because of the recent origin of most of the programs studied and their lack of records showing the actual use and results of the various mechanisms, there was no attempt to correlate these perceptions with actual rates of use or changes in policies or practices.

Limited research has been done in this area since 1975. The General Accounting Office published two brief reports on the subject in 1977, one providing a survey of grievance mechanisms in correctional facilities and the other examining the need for management information systems as part of formal grievance procedures.⁵ Other research has involved the evaluation of specific programs (for example, the ombudsman program in the San Francisco Jail and the grievance procedure of the California Youth Authority)⁶ or of programs in a small number of jurisdictions (most notably the study by the Center for Metropolitan Studies of the University of Missouri of inmate grievance procedures in state correctional facilities in New York, California,⁷ Colorado, South Carolina, and Kentucky).

In an effort to provide more complete and up-to-date information, the National

Institute of Corrections made a grant to the Center in October 1978 to support additional research. The resulting study had two purposes: (1) to determine the status of inmate complaint mechanisms in federal, state, and local institutions throughout the United States; and (2) to examine selected programs in order to assess their effectiveness and discover any promising innovations or recurring problems.

The limited scope and specific methodology of the study were shaped by the experience of the Center and other researchers since the publication of the Center's previous research. The circumscribed nature of the inquiry enables its conclusions to be stated with reasonable certainty. Furthermore, the opportunity to examine mature systems made it possible for conclusions to be based on newly available information from the accumulated records of older programs, together with the experience of practitioners who have been grappling for a number of years with the practical problems of making programs operate effectively.

The remainder of the report provides general background on the history and types of formal complaint procedures for inmates in the United States, then presents the findings of the study. Section 2 contains descriptive information based on self-reporting by the administrators of all federal and state correctional agencies and 60 local jails. Section 3 presents the results of on-site visits to 14 selected programs, with specific attention to program elements that contribute to effectiveness and credibility and a discussion of significant, recurring issues. Finally, Section 4 contains recommendations concerning the design, implementation, and maintenance of effective grievance mechanisms in correctional settings.

The results of the study should prove useful to correctional administrators, legislatures, and community groups, as well as to others interested in dispute resolution in institutions. In addition, with the burgeoning interest in non-judicial forms of conflict resolution in all areas of our society, the findings may provide guidance to practitioners far removed from the correctional setting.

THE GROWTH OF FORMAL COMPLAINT MECHANISMS

Inmates have no important problems. We feed them, clothe them, shelter them, and provide them with medical treatment. That's enough.

-- Correctional Officer

Our grievance procedure is an extremely valuable management tool. It tells me lots about what's going on in an institution -- inmate groups, staff problems -- much more than whether someone got his purchases from the commissary or whether the staff is writing reports correctly.

-- Administrator

Historically, inmates have relied on a number of informal methods of making known their complaints. Riots, work stoppages, and other illegal acts have received the greatest publicity; other methods of seeking accommodation with correctional staff and resolving specific complaints have included inmate councils, "open door" policies, and informal requests or arrangements with sympathetic officers.

Despite their usefulness in providing some relief, these informal methods often lacked crucial features: the ability to provide consistent, timely responses, to protect complainants from reprisals, or to confront serious or controversial issues,

particularly those dealing with official policy. Inherent in informality was a responsibility for answering that was often vague, shifting, and, above all else, dependent on the personalities of those involved. Often no response was forthcoming, because the recipient of the complaint lacked either the authority to make the needed change or the access to those who did. Even if directed to a person who could act, the request still had to achieve sufficient urgency to compete with other demands. "I'll look into it" all too frequently was the only response. Even when there was a response, it was not subject to review. The absence of review mitigated against the fullest consideration of alternatives and the strongest possible effort at resolution of each complaint.

These limitations became more obvious in the 1970s, as both courts and then correctional administrators themselves became increasingly willing to recognize as legitimate the right of prisoners to complain. Ten years ago, the opinion of the correctional officer quoted at the beginning of this chapter would have been so common as to be unworthy of note; it is rarely expressed today. The reasons for the change are complex: they include not only the actuality and the continuing threat of judicial intervention but also changes in the inmates themselves, made politically active by both the civil rights and the prisoners' rights movements.

Correctional managers also have become more sophisticated. Growing numbers of administrators now perceive the validity of inmates' complaints about such conditions as overcrowding, outmoded facilities, and inadequate programs -- conditions against which they too are struggling -- as well as complaints about the day-to-day indignities of institutional life. Even more significant, they recognize the legitimacy of the process of complaining, apart from the validity of particular complaints. Furthermore, perceptive managers are learning to use formal procedures to provide them with reli-

able information about the implementation of their policies, to permit ongoing review and modification of outmoded policies, and to enlist the cooperation of inmates and staff in implementing change.

The formal methods of dealing with complaints that have proliferated over the past decade are formal in the sense that they establish explicit channels to be followed in attempting to resolve problems. The pressures for such formal mechanisms have been both internal and external to the correctional system. Among these pressures are the following:

- The need to reduce tensions and physical violence that can result from untended grievances;
- The desire to reduce judicial intervention in the management of correctional institutions;
- The recognition of the usefulness of complaint procedures to managers in providing information about institutional problems and channels for the ongoing review of policies;
- A growing belief among correctional experts that rehabilitation is extremely difficult unless inmates believe that they are being treated fairly;
- An interest on the part of some correctional administrators in teaching inmates to resolve their complaints through established channels so that they will be more likely to do so after their release;
- The desire to increase public knowledge, involvement, and support for the correctional system through the involvement of outsiders in some forms of complaint mechanisms.

Policy statements under which formal grievance procedures currently operate illustrate these multiple motivations:

The Inmate Grievance Procedure is designed to provide efficient administrative procedures for the resolution of complaints. The Division of Prisons seeks to reduce tension and provide a stable rehabilitative atmosphere by providing formal channels for communication of complaints. Also, it is attempting to avoid costly and lengthy litigation by solving its own problems of prison administration. This procedure represents an attempt to formulate a more effective means.

-- North Carolina

Such a procedure assists the administration by providing an additional vehicle for internal solution of problems at the level having most direct contact with the inmate. It also provides a means for continuous review of administrative decisions and policies. Further, it provides a written record in the event of subsequent judicial or administrative review.

-- Federal Bureau of Prisons

The purpose of the formal grievance procedure is to ensure that (inmate) grievances or complaints are given opportunity for full and fair hearings, consideration, and resolution. The formal grievance procedure is intended to supplement, not replace, existing informal channels of resolving grievances.

-- California Youth Authority

TYPES OF ADMINISTRATIVE GRIEVANCE MECHANISMS

Historically, attempts to develop mechanisms for dealing with inmates' complaints have fallen into six broad categories: multi-level grievance procedures, ombudsmen, grievance commissions, inmate councils, inmate unions, and legal services programs.

Multi-Level Grievance Procedures

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

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

Ombudsmen

Based on a model of complaint resolution developed in Scandinavia, this system creates a public official with full authority to investigate citizens' complaints

against governmental agencies and to pass judgment on their merit. The official has no power to enforce his recommendations, however; he must rely on his persuasiveness, reputation and public support to produce compliance. Traditionally, the legislative branch of government appoints to the office a well-known, respected individual of wide experience and integrity. The ombudsman has access to records and information in conducting his investigations and complete independence from the agencies being monitored.

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

Grievance Commissions

With features of both the ombudsmen and the multi-level appeal procedures, inmate grievance commissions exist in a few states, including Maryland, North Carolina, and New York. In these systems a commission of outsiders, generally with an investigative staff, is empowered to

receive and investigate complaints. The commission's staff reports its findings to the commission which, in turn, makes recommendations to correctional administrators.

Although grievance commissions have some operational resemblance to ombudsmen, this study grouped them with grievance mechanisms in order to retain consistency with earlier research.

In some systems, an ombudsman or grievance commission is combined with multi-level appeal procedures in piggy-back fashion; that is, the ombudsman or commission constitutes the level of appeal from the internal departmental grievance procedure. This is the case in North Carolina and New York (grievance commissions) and in Michigan (ombudsman).

Inmate Councils

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

The best known inmate council was the Resident Government Council at the Washington State Penitentiary in Walla Walla, Washington. The council was disbanded in April 1975, because of "general dissatisfaction." A new Resident Council took its place to act as a means for

dealing with all grievances at the institution. However, the attempt to convert the council into a grievance mechanism generally was regarded as ineffective. According to a recent report:

The recent history of complaint procedures at the Washington State Penitentiary shows a striking parallel between the increase in handling of personal grievances and the decrease in the Resident Council's negotiating effectiveness.

Inmate Unions

Attempts to organize prisoners to negotiate with administrators concerning their complaints thus far have been unsuccessful; most have been abandoned. The obvious reasons for this failure are the strong opposition of correctional administrators to recognizing inmate unions and the unions' failure to win in the courts. In addition, studies in California indicated that such unions often have limited support among prisoners, tending to attract only the more militant.⁹ Due to the extremely limited influence of inmate unions at present, they were excluded from the study.

Legal Services

Programs to provide legal services to inmates have become common. The energies of these programs generally are devoted to litigation and legal advice concerning problems outside the institution. Even in the rare instances where programs provide representation in internal administrative proceedings, they are not really mechanisms for resolving complaints, but simply methods of providing representation for the individual who complains. Thus, legal service programs were not examined extensively by this study.

FOOTNOTES

¹Edith E. Flynn, Ph.D., "Sources of Collective Violence in Correctional Institutions," National Institute of Law Enforcement and Criminal Justice, Criminal Justice Monograph: Prevention of Violence in Correctional Institutions, 1973, p. 28.

²Daniel McGillis, Joan Mullin and Laura Studden, Controlled Confrontation--The Ward Grievance Procedure of the California Youth Authority, Washington, D.C.: U.S. Department of Justice, 1976.

³Virginia McArthur, "Inmate Grievance Mechanisms: A survey of 209 American Prisons," Federal Probation, December 1974, pp. 40-44.

⁴J. Michael Keating, Jr., Virginia A. McArthur, Michael Lewis, Kathleen Sebelius and Linda R. Singer, Grievance Mechanisms in Correctional Institutions, Washington, D.C.: U.S. Department of Justice, 1975.

⁵Report of the Comptroller General of the United States, Grievance Mechanisms in State Correctional Institutions and Large-City Jails, Washington, D.C.: U.S. General Accounting Office, 1977; Report of the Comptroller General of the United States, Managers Need Comprehensive Systems for Assessing Effectiveness and Operation of Inmate Grievance Mechanisms, Washington, D.C.: U.S. General Accounting Office, 1977.

⁶Felix G. Rivera, An Evaluation of the San Francisco County Jail Inmate Grievance System. Washington, D.C.: BASICS, 1977; David Dillingham, Right to be Heard: Evaluation of the Ward Grievance Procedure in the California Youth Authority, Sacramento, CA: California Youth Authority, 1978.

⁷John R. Hepburn, James H. Laue, and Martha L. Becker, To Do Justice: An Analysis of the Development of Inmate Grievance Resolution Procedures and a Final Report to the Center for Community Justice, St. Louis, MO: University of Missouri at St. Louis, 1978.

⁸"Draft Discussion Paper on the Problems at Walla Walla": Division of Criminal Justice, Office of Financial Management, State of Washington (unpublished report), July 1979, p. 10.

⁹Stephen Woolpert, "Prisoners' Unions, Inmate Militancy and Correctional Policy Making," Federal Probation, June 1978, pp. 40-45.

2 An Overview of Inmate Complaint Procedures

THE SURVEY

In order to determine the nature and range of inmate complaint procedures throughout the United States, the Center designed a questionnaire to collect basic information about formal systems in major institutions for adults. The questionnaire asked administrators about the types of procedures in effect in their institutions, their use of specific elements of design, the types of complaints handled, the extent of use by inmates, and the administrators' own perceptions concerning the effectiveness of the programs.

The Center mailed the questionnaire to the following jurisdictions: all 50 state-wide adult correctional systems, the Federal Bureau of Prisons, the District of Columbia, the Canal Zone, the Virgin Islands, Puerto Rico, American Samoa, and 70 jails that either are located in major metropolitan centers or were identified by NIC's Jail Center as having a tradition of innovative programming. One hundred and fifteen jurisdictions, including every state-wide system, the Federal Bureau of Prisons, and 60 of the 70 jails, responded to the questionnaire. These returns were sufficiently complete to support relatively firm conclusions about the current status of inmate complaint systems in the United States.

THE GROWTH OF FORMAL COMPLAINT PROCEDURES

Nearly every correctional system currently has some formal means of responding to inmates' complaints. Of the states, only Rhode Island reported no formalized method, written or unwritten, for handling complaints. A state-by-state

and county-by-county report of programs is presented in Appendix A. Only 11 of the 60 jails reported no such procedures. Findings concerning the prevalence of formal procedures are summarized in Table 1.

By far the most common type of complaint systems are grievance procedures, which exist in 95 of the 101 jurisdictions with formal mechanisms. By contrast, ombudsman programs exist in only 30 state or county correctional departments. Twenty-six respondents reported having both types of mechanisms. As can be seen in Table 2, there is no apparent difference between jails and prisons in terms of the prevalence of either type of program.

While obviously widespread, complaint mechanisms nevertheless are a relatively recent innovation. Although one jail (Milwaukee) reported a grievance mechanism going back to 1936, fully 94 percent of the grievance procedures had been implemented since 1970. Ombudsman programs are even newer: none dates before 1968, and nearly three-fourths started within the last five years.

These findings are consistent with those of the Center's earlier survey of state-run, adult correctional institutions. Of the institutions responding, 160 (77 percent) reported having a grievance procedure, while 64 (31 percent) reported an ombudsman. At that time, over half of the programs were less than a year and a half old.

These data clearly reflect an interest within the field of corrections in finding effective methods for dealing with inmates' complaints. Detailed findings concerning the most prevalent systems, grievance procedures and ombudsmen, are discussed separately below;* other programs are described more generally.

*Only one respondent reported having trouble with the dichotomy--describing his system as grievance commission, which fit neither category. For the purpose of this study, commissions are discussed with grievance mechanisms although they lack some of the characteristics of multi-level procedures.

Table 1
FORMAL COMPLAINT PROCEDURES - PRISONS AND JAILS

	TOTAL n=115		PRISONS n=55		JAILS n=60	
	No.	%	No.	%	No.	%
Formal System:						
With written procedures	91	79.1	49	89.1	42	70.0
Without written procedures	10	8.7	3	5.5	7	11.7
No formal system	14	12.2	3	5.5	11	18.3

Table 2
TYPE OF COMPLAINT PROCEDURE - PRISONS AND JAILS

	TOTAL* n=101		PRISONS n=52		JAILS n=49	
	No.	%	No.	%	No.	%
Type of System:						
Grievance Mechanism	95	94.1	49	94.2	46	93.9
Ombudsman	30	29.7	17	32.7	13	26.5
Both	26	25.7	16	30.8	10	20.4

*Percentages do not add to 100 because more than one response possible.

GRIEVANCE PROCEDURES

Formal grievance procedures exist in 49 of the 52 prison systems and in 46 of the 49 jails. In most cases, these systems were established administratively and continue to operate under departmental authority. Two jails and six prison systems, on the other hand, reported statutory authority for their procedures. An additional five jails established their procedures in response to court orders.

When respondents were asked about the rationale behind their introduction of grievance procedures, by far the most common reason was to allow inmates to voice complaints and receive an official reply. Other prevalent reasons were to reduce inmates' frustration and to assist in identifying institutional problems. (See Table 3 for reasons given for initiating grievance procedures.) Based on these responses, administrators appear concerned primarily with the most immediate, direct results of their procedures.

For whatever reasons mechanisms were first established, respondents reported that their expectations have been met either to a significant degree (40 of 95, or 42 percent) or to some degree (38 of 95, or 40 percent). Only nine of the 95 respondents indicated disappointment. This satisfaction was reported by both jails and prisons and may explain why only 11 respondents (7 prisons and 4 jails) reported having abandoned a formal complaint procedure within the last five years.

The questionnaire asked about specific provisions of grievance procedures, including inmates' access, operational components, the types of problems handled, and the extent of the procedures' use. An analysis of the responses follows.

• Access

Table 4 illustrates the way in which inmates may file complaints. Almost all

formal procedures are open to every inmate; seven jurisdictions reported excluding inmates in administrative or punitive segregation. In most systems, grievances are submitted in writing to a staff member; in one-fifth of the programs, inmates are responsible for accepting incoming grievances. Slightly more than half the programs "screen" grievances for some threshold indication of acceptability; this step is considerably more common in jails than in prisons. In more than 37 percent of the systems with screening procedures, inmates participate in the screening.

• Operational Components

Table 5 summarizes findings concerning the operation of grievance procedures.

• Time Limits

Provisions for time limits governing the receipt of written responses to complaints are common, although more so in prisons than in jails. Mandatory time limits at all levels of review are now considerably more frequent than they were in the Center's 1973 study, when just over one-third of the programs surveyed had such limits.

• Appeals

With few exceptions, inmates are permitted to appeal the disposition of a grievance further up the administrative ladder; only two prisons and nine jails preclude such appeals. Although subsequent reviews generally are kept within the confines of the correctional department, nine prisons and five jails provide for appeals to outsiders.

• Hearings

Informal hearings on grievances are available in over half the programs surveyed. Most of these hearings permit complainants to be accompanied by a representative and to call witnesses. Nearly a third of the procedures with hearings give inmates, together with staff, a

Table 3

REPORTED REASONS FOR INITIATING GRIEVANCE PROCEDURE

REASON	TOTAL n=95		PRISONS n=49		JAILS n=46	
	No.	%	No.	%	No.	%
To reduce violence	46	48.4	22	44.9	24	52.1
To reduce frustration	80	84.2	38	77.6	42	91.3
To reduce litigation	69	72.6	37	75.5	32	69.6
To aid in rehabilitation	44	46.3	22	44.9	22	47.8
To aid in identifying problems	76	80.0	35	71.4	41	89.1
To allow inmates to voice complaints	87	91.6	44	89.8	43	93.5
Other	12	12.6	4	3.2	8	17.4

Table 4
ACCESS - GRIEVANCE PROCEDURES

	TOTAL n=95		PRISONS n=49		JAILS n=46	
	No.	%	No.	%	No.	%
Method of submitting grievance:						
In writing	59	62.1	37	75.5	22	47.8
Orally	2	2.1	1	2.0	1	2.2
Either in writing or orally	34	35.8	11	22.4	23	50.0
To whom is grievance submitted:*						
Staff	71	74.7	33	67.3	38	32.6
Inmate	19	20.0	6	12.2	13	28.3
Committee	21	22.1	8	16.3	13	28.3
Other	25	26.3	13	26.5	12	26.1
Is there screening:						
Yes	56	58.9	23	46.9	33	71.7
No	36	37.9	25	31.0	11	23.9
Other	3	3.2	1	2.0	2	4.3

*more than one response possible

Table 5
OPERATIONAL COMPONENTS - GRIEVANCE PROCEDURES

	TOTAL n=95		PRISONS n=49		JAILS n=46	
	No.	%	No.	%	No.	%
Time limits provided:						
At initial review	64	67.4	42	85.7	22	47.8
At all levels	54	56.8	33	67.3	21	45.7
Written responses given	72	75.8	43	87.8	29	63.0
Appeals permitted:	84	88.4	47	95.9	37	80.4
Superintendent/warden	(19)	(22.6)	(5)	(10.6)	(14)	(37.8)
Director/sheriff	(39)	(46.4)	(24)	(51.1)	(15)	(40.5)
Outside department	(14)	(16.7)	(9)	(19.1)	(5)	(13.5)
Other	(11)	(13.1)	(8)	(17.0)	(3)	(3.1)
No response	(1)	(1.2)	(1)	(2.1)	(0)	(0)
Hearings permitted:	56	58.9	25	51.0	31	67.4
May have representation	(40)	(71.4)	(18)	(72.0)	(22)	(70.9)
Call witnesses	(43)	(76.8)	(17)	(68.0)	(26)	(83.9)
Inmates participate	(18)	(32.1)	(8)	(32.0)	(10)	(32.3)

decision-making role. The benefits of hearings and of active participation by inmates and staff are discussed in Section 3.

◦ Types of Problems Handled

Respondents were asked to indicate the relative frequency with which their procedures handle different types of problems and to note the exclusion of any categories. As shown in Table 6, complaints about discipline, medical care, staff behavior, physical conditions of confinement and policy changes are the most frequently handled. With few exceptions, there is little difference between prisons and jails. Curiously, prison inmates appear more likely to complain about staff than about fellow inmates; the opposite is true of those confined in jails.

Looking at exclusions, grievance procedures appear to be open to a wide variety of complaints. Only in the areas of releases (parole or furloughs) and complaints about other inmates are substantial numbers of systems closed.

◦ Extent of Use

Respondents were asked to indicate both the total number of complaints handled by their complaint procedure and the number handled in the last reporting year. Unfortunately, only half the prison systems and one-fourth of the jails keep these kinds of records.

Even from the limited data, it is clear that the number of complaints filed through different systems varies widely. A range of less than 100 complaints in many jails to over 25,000 complaints in one year in a state system was reported. Even when controlled for the size of the population available to file complaints, the variation remained significant. The reasons for the differential rates of use were explored in the course of the site visits.

◦ Administrators' Satisfaction With Their Programs

Most administrators evaluate their programs positively. Two-thirds of all respondents considered their grievance procedures "very" or "generally" effective in dealing with inmates' complaints. Nearly one-half (48 percent) are satisfied "to a considerable degree" with their current programs; another one-third (32 percent) were satisfied to "some" degree.

OMBUDSMEN

Ombudsmen, operating in 17 prison systems and 13 jails, are the second most common form of complaint mechanism. The vast majority (26) operate in conjunction with some form of formal grievance procedure. In some cases, South Carolina, Kentucky, and Michigan, for example, ombudsmen operate on a state-wide basis; in some, such as Hawaii, they monitor governmental programs in addition to correctional facilities.

A number of questions dealt with the issue of the ombudsmen's independence from the organizations they monitor. The answers are reported in Table 7.

Most of the programs appear to be integral parts of the systems they serve. The majority of ombudsmen operate under departmental authority and are appointed by the director of the department. The balance generally are appointed by state governors or legislators. In Connecticut, the ombudsman is an employee of a private organization under contract to the department. Seven of the 17 prison ombudsman programs have been established by statute and thus have some assurance of permanence; only one of the 13 jail programs is statutory.

When administrators were asked why the ombudsman programs had been established, their reasons, given in Table 8, generally were similar to those for grievance procedures.

Again, such pragmatic concerns as allowing inmates to voice complaints, identifying problems and reducing frustration were commonly mentioned. In prisons, however, the second most common rationale was to aid in rehabilitation; this is a deviation from response patterns reported for grievance procedures. Interestingly, ombudsmen are much less likely than grievance procedures to be viewed as a means of reducing litigation (33 percent as opposed to 72 percent). As with grievance procedures, administrators report satisfaction with the ombudsmen's performance. Only two of the 30 administrators reported that their programs were meeting their initial expectations only to a limited extent.

◦ Access

Ombudsmen receive complaints in three ways. Most common is by U.S. mail, which is used by all of the state-run programs and over half of the jails. Nearly as common, particularly in jails, is direct contact with prisoners; someone with a problem simply approaches the ombudsman and transmits his complaint verbally or in writing. Less frequent are internal mail systems, including complaint boxes. Inmates in segregation retain the right to complain to the ombudsman in all jurisdictions but one.

◦ Procedural Steps

Ombudsman programs are characterized by less structure and less involvement of departmental staff than grievance procedures. The burden of investigation and recommendation falls on the ombudsman, who operates with considerable latitude. For example, in only 9 of the 30 programs are there specific time limits for giving a response. Similarly,

requirements for written responses to all complaints are more the exception than the rule. This is particularly true in jails, where only 2 of the 13 programs assure the complainant a written answer.

◦ Types of Problems Handled

Categories of problems typically dealt with by ombudsmen, together with those issues specifically excluded from consideration are summarized in Table 9. Ombudsmen clearly handle a wide range of problems, with only a few areas relatively untouched (for example, complaints about other inmates). There are few restrictions on the types of problems that can be raised; the one exception is parole decisions, which generally are made by autonomous boards and thus are outside the jurisdiction of any internal ombudsman.

When the types of complaints handled or excluded by ombudsmen are compared with those dealt with by grievance procedures (see Table 6), the greater latitude given many ombudsmen to deal with a diversity of issues is striking. The reason for this difference appears to be that independent ombudsmen, unlike internal ombudsmen and departmental grievance procedures, are not confined to problems within the jurisdiction of the correctional agency.

◦ Extent of use

As with grievance procedures, efforts to determine the frequency with which inmates complain to ombudsmen are hampered by a lack of record-keeping. Of the 30 programs surveyed, only 16 kept statistics on the number of complaints to which responses have been made.* Not surprisingly, records are more likely to be

*While adequate records are the exception, some programs report notable efforts. For example, questionnaire responses indicate that Connecticut, Kansas, Michigan, and Minnesota have or are developing relatively sophisticated record-keeping and reporting systems, that go beyond simply noting the number of complaints received.

Table 6. FREQUENTLY HANDLED COMPLAINTS AND EXCLUSIONS:
GRIEVANCE PROCEDURES

	COMPLAINTS HANDLED FREQUENTLY						COMPLAINTS EXCLUDED					
	TOTAL n=95		PRISONS n=49		JAILS n=46		TOTAL n=95		PRISONS n=49		JAILS n=96	
ISSUE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Policy	17	17.9	12	24.5	5	10.9	5	5.3	4	8.2	1	2.2
Staff behavior	21	22.1	15	30.6	6	13.0	1	1.1	1	2.0	0	0.0
Disciplinary incidents	28	29.5	14	28.6	14	30.4	15	15.2	12	24.5	3	6.5
Other inmates	12	12.6	2	4.1	10	21.7	40	42.1	25	51.0	15	32.6
Physical conditions	19	20.0	7	14.3	12	26.1	0	0.0	0	0.0	0	0.0
Medical care	24	25.3	15	30.6	9	19.6	2	2.1	1	2.0	1	2.2
Classification decisions	11	11.6	9	18.4	2	4.3	10	10.5	5	10.2	5	10.9
Furloughs	5	5.3	4	8.2	1	2.1	34	35.8	10	20.4	24	52.2
Parole decisions	4	4.2	3	6.1	1	2.1	54	56.8	27	55.1	27	58.7
Other	7	7.4	5	10.2	2	4.3	-	-	-	-	-	-

Table 7

OPERATIONAL AUTHORITY - OMBUDSMAN PROGRAMS

	TOTAL n=30		PRISONS n=17		JAILS n=13	
	No.	%	No.	%	No.	%
Operating authority:						
Statute	8	26.7	7	41.2	1	7.7
Departmental or institu- tional requirement, etc.	22	73.3	10	58.8	12	92.3
Appointed by:						
Internal authority	20	66.7	9	52.9	11	84.6
External authority	10	33.3	8	47.1	2	15.4
Source of funding:						
Internal	15	50.0	8	47.1	7	53.8
External	15	50.0	9	52.9	6	46.2

Table 8

REASONS FOR INITIATING OMBUDSMAN PROGRAMS

REASON	TOTAL n=30		PRISONS n=17		JAILS n=13	
	No.	%	No.	%	No.	%
To reduce violence	17	56.7	8	47.1	9	69.2
To reduce frustration	23	76.7	11	64.7	12	92.3
To reduce litigation	10	33.3	8	47.1	2	15.4
Assist in rehabilitation	16	15.3	13	76.5	3	23.1
Aid in identifying problems	23	76.7	12	70.6	11	84.6
Allow inmates to voice complaints	27	90.0	15	88.2	12	92.3
Other	7	23.3	4	23.5	3	23.1

Table 9. FREQUENTLY HANDLED COMPLAINTS AND EXCLUSIONS:
OMBUDSMAN PROGRAMS

	COMPLAINTS HANDLED FREQUENTLY						COMPLAINTS EXCLUDED					
	TOTAL n=30		PRISONS n=17		JAILS n=13		TOTAL n=30		PRISONS n=17		JAILS n=13	
ISSUE	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Policy	6	20.0	3	17.6	3	23.1	0	0.0	0	0.0	0	0.0
Staff behavior	8	26.7	6	35.3	2	15.4	0	0.0	0	0.0	0	0.0
Disciplinary incidents	12	40.0	10	58.8	2	15.4	1	3.3	1	5.9	0	0.0
Other inmates	3	10.0	0	0.0	3	23.1	0	0.0	0	0.0	0	0.0
Physical conditions	9	30.0	5	29.4	4	30.2	1	3.3	1	5.9	0	0.0
Medical care	12	40.0	7	41.2	5	38.5	0	0.0	0	0.0	0	0.0
Classification decisions	7	23.3	7	41.2	0	0.0	0	0.0	0	0.0	0	0.0
Furloughs	5	16.7	4	23.5	1	7.7	3	10.0	0	0.0	3	23.0
Parole decisions	2	6.7	2	11.8	0	0.0	10	33.3	5	29.4	5	38.0
Other	4	13.3	2	11.8	2	15.4	-	-	-	-	-	-

maintained by the larger programs; only 5 of the 13 jail ombudsmen keep records.

Where records are maintained, reports show extensive use by the inmate population in some systems. For example, the Michigan ombudsman's office reported 3,400 "contacts" in its last reporting year; Minnesota reported 1,400; Iowa, 300.

Overall, the number of complaints handled by ombudsmen is lower than that handled by grievance procedures. Most likely, this disparity reflects a workload problem that makes it impossible for an ombudsman, even with staff assistance, to deal with the very large flow of complaints noted by some states with more decentralized grievance procedures.

o Administrators' Satisfaction With Their Programs

Nearly three-fourths of the administrators with ombudsmen believed that their programs dealt effectively with inmate complaints; only 4 of 30 respondents described programs as less than "generally" effective in handling inmates' complaints. Five out of six respondents were satisfied either to a "considerable" degree or to "some" degree with the results of their programs.

ALTERNATE COMPLAINT CHANNELS

Although, as indicated in the Introduction, other formal methods of dealing with prisoners' problems were not expected to be as significant as grievance procedures or ombudsmen, the questionnaire sought information on the role of inmate councils and legal services programs.

o Inmate Councils

In 1973, inmate councils existed in more than half of the adult prisons responding to the Center's survey.³ The present survey showed that the use of councils had declined to less than one jurisdiction in three (35 of 114). This decline may be related to the tendency of admin-

istrators to view the councils operating in their jurisdictions as less effective than either grievance procedures or ombudsmen. Nearly half described the inmate councils in their departments as less than "generally effective" in dealing with inmates' problems. Administrators' comments also confirmed that councils have distinct limitations in dealing with individual complaints; councils deal primarily with broad policy issues and much less frequently with issues of a more individual nature.

o Legal Services

Judicial insistence that inmates be given methods of gaining access to the courts has been responsible for the growth of legal assistance programs. Three of every four respondents, both prisons and jails, reported some method of providing "legal services" to inmates, although the extent and type of such services were not always clear. As might be expected, these programs tend to deal more frequently with inmates' legal status and much less frequently with complaints about internal administration. Forty-five percent of the respondents stated that problems involving the administration of the institution or department are handled infrequently or totally excluded from consideration. Only one in five reported dealing with administrative issues with any frequency. Thus, legal services programs, while active and widespread, do not appear to involve themselves regularly with the types of problems addressed by the administrative complaint procedures.

FOOTNOTES

¹Virginia McArthur, "Inmate Grievance Mechanisms: A Survey of 209 American Prisons," Federal Probation, December 1974, p. 143.

²Ibid

³Ibid

3 A Look at Selected Programs

In addition to knowing what exists, it is important to know how to set up a mechanism that works. What design elements and operational strategies will result in a grievance procedure that is used, is effective in resolving complaints, and has credibility both for inmates and staff? To answer this question, the Center visited a variety of programs, observed them in operation, reviewed their records, and talked with inmates, line staff, and administrators about their experiences and suggestions.

SELECTION OF SITES AND CONDUCT OF VISITS

Since it was not possible to visit all facilities with complaint procedures, the Center made a preliminary selection of institutions for site visits by reviewing responses to the mail survey. Selection criteria included the type of procedure in effect, the apparent frequency of its use, and the availability of adequate records to enable evaluation. Care was taken to include a cross-section of procedures operating in both jails and prisons. Center staff made final selections after having telephone conversations with people from each site to verify the information from the questionnaire responses and to determine the willingness of the department to participate in the study.

In order to ensure comparability, the Center asked administrators from each jurisdiction with more than one institution to select for the visit the institution where they believed their procedure was operating most effectively. Such a choice

was made by the Federal Bureau of Prisons and by every state except Kentucky and South Carolina, where complaint procedures had not yet been implemented statewide.

The final list of sites included 10 prison systems* and 4 jails, which use a variety of formal mechanisms for responding to inmates' complaints. Brief descriptions of each program visited appear in Appendix B. At each site, a team of two Center staff members spent two days administering written questionnaires, interviewing administrative staff and inmates and observing operation of the mechanism. The team devoted additional time to reviewing written records in those jurisdictions where they were available.

The questionnaires elicited perceptions and attitudes of inmates and staff towards the complaint mechanisms operating in their institutions. While the original design called for questionnaires to be completed by staff as well as inmates, in most cases this proved impractical. At many locations it was not possible to have the forms filled out while officers were on duty because of conflicts with their other duties and a lack of privacy. Since staff naturally were reluctant to come in early or stay late to complete the forms, attempts were made to distribute questionnaires and have them returned later. This expedient so reduced the return rate that it seriously compromised any conclusions that could be drawn from the responses. In addition, questions of confidentiality raised by staff union officers made questionnaires impossible at some sites.

*This number included the Kirkland Correctional Institution in Columbia, South Carolina. This facility was initially visited only to pre-test data collection instruments and procedures. However, since relatively few modifications were made following the visit, the findings are included in the analysis.

Problems in the administration of the questionnaires to inmates, on the other hand, were minimal. The forms were completed by a random sample of prisoners comprised of 10 percent of the population or 100 inmates, whichever was smaller.*

At each site, the research team supplemented the data obtained from questionnaires by conducting interviews, both structured and open-ended, with individuals who presently or formerly played an active role in designing, maintaining, or using the grievance mechanism. These included administrators, line staff, grievance specialists, and inmates. Center staff also observed the actual functioning of each system through attending hearings and meetings wherever possible.

In addition, the team examined all available written records of the grievance procedure in each institution and any records kept at the central administrative office of multi-institutional systems. Compared with the interviews and questionnaire responses, the records yielded a broader, perhaps more objective, perspective, going beyond any single respondent's knowledge or experience. Recorded data answered such quantitative questions as the number of complaints actually filed by inmates, the types of issues raised, the outcome of complaints, the levels of review employed, and the degree of compliance with established

time limits and other procedural guidelines. In addition, a review of actual responses to complaints answered qualitative questions such as the extent to which answers addressed the original problem, gave reasons for the action taken, and provided specific means of implementation.

CRITERIA OF EFFECTIVENESS

To assist in the analysis of responses and permit comparisons between programs, findings from each site were measured against a standard of effectiveness comprised of the following criteria:

- The complaint system is used by inmates to solve problems.
- The system is perceived as fair by those involved with it, both inmates and staff.
- The system is responsive in dealing with complaints and results in the clarification or change of policies.

The first and third criteria are the same as those used in the Center's previous examination of grievance mechanisms; however, the greater availability of recorded data for the present study permitted the application of both criteria to actual occurrences as well as to participants' perceptions. The second, frankly subjective criterion was added because it seemed essential to any complete definition of effectiveness.

*It should be noted that while potential respondents were randomly selected, they were given the option of not participating in the study. In all cases, only a very small number chose to withdraw or failed to respond to the questionnaire. While this self-selection introduces some measure of bias into the findings, it does not appear sufficient to affect the results. Only at the San Francisco Jail were questionnaires not administered. Because of the difficulty in bringing prisoners together in the pre-conviction unit and the dormancy of the ombudsman program in the convicted prisoner unit, the team did not distribute questionnaires at that site.

The scope of the study was deliberately limited to direct measures of effectiveness. No attempt was made to collect quantitative evidence that might demonstrate a causal connection between complaint mechanisms and such variables as institutional climate, inmate violence, or rate of litigation. Impressions of an impact of some complaint procedures on these variables frequently were expressed in interviews and were duly recorded; however, there was no attempt to establish a definite causal relationship, due to the inability to control for other factors.

This decision to limit the scope of the study was based on the experience of other researchers, who conducted an exhaustive evaluation of four grievance mechanisms in 1978. After several attempts to measure the relationship between grievance procedures and other factors within an institution, they concluded:

... it is impossible to impute causation in the relationships observed. . . . For example, should the amount of violence (or litigation, or inmate distrust) increase during the year, the argument can be made that an increase is still a measure of support for the procedure since the increase might have been greater had not the procedure been introduced into the facility. Similarly, a decrease does not necessarily imply that the change is due to the Inmate Grievance Procedure, for similar decreases may be occurring in facilities without such a procedure.

Even if study techniques could be refined further, the responses to the mail survey showed little consensus among correctional administrators about what a complaint mechanism can and should be expected to do beyond the immediate objectives of allowing inmates to voice concerns, identifying problems, and reducing frustrations. Given this diversity of views, the same questions often produced varying reactions, depending on the respondent's point of view. In discus-

sing the efficacy of complaint procedures in reducing inmate-initiated litigation, for example, one administrator criticized grievance procedures partly on the ground that the number of suits against the department had risen despite frequent use of its grievance mechanism; another administrator, from a different state, expressed cautious optimism that litigation was dropping because of the new administrative review system; a third, while praising the performance of the department's complaint system, considered the rate of litigation irrelevant as a measure of success since, in his mind, there was no reason to connect the two.

Even within the same system participants may have divergent expectations. An inmate from a state where administrators were attempting to reduce litigation through use of the grievance procedures was happy with the grievance system, because he was convinced that by using it potential litigants could feel out the strength of the state's position and go to court with better cases. Consequently, he expected successful litigation to rise and only frivolous suits to drop. (Implicit in this view, unfortunately, was a negative judgment of the responsiveness of the procedure itself.)

As in the fable about the elephant and the three blind men who, when feeling a different part of its body, concluded that the animal most closely resembled a tree, a snake, or a wall, complaint procedures are expected to accomplish different objectives for different administrators, line staff, and inmates. It is small wonder that current study results too may be open to different interpretations.

Even in the circumscribed attempt to associate the design of procedures with perceptions of their effectiveness, the study necessarily took place in uncontrolled settings. Thus, a variety of considerations inevitably influenced the results. In the San Francisco Jail, for example, a once viable procedure had moved close to dormancy in a very short

time because of budget cuts and personnel losses. This left little to study except what once had been. In a Kentucky prison, population pressures had caused a transfer of inmates to a different institution. Although officials viewed the transfer as unrelated to the grievance procedure, it had been interpreted differently by many inmates. They were convinced it was used as a direct reprisal for participating in the newly established complaint system. As a result, interview and questionnaire responses reflected fear and pessimism.

THE RELATIONSHIP BETWEEN DESIGN AND EFFECTIVENESS

Despite these limitations, most of which inhere in any social science research conducted without the benefit of rigid controls, conclusions about the correlation between the design of complaint procedures and their success can be drawn with reasonable certainty.* Procedures clearly have a greater chance of success if they include inmates and line staff in resolving complaints, permit appeal to outsiders seen as impartial, and adhere to established time limits and other procedural requirements. The criteria of use, perceived fairness, and the actual and perceived responsiveness of different mechanisms will be discussed in turn.

*These conclusions can be stated with greater confidence for prisons than for jails; none of the jails kept detailed records of complaints and responses, thus only perceptions could be recorded.

+In fact, there is some evidence that an open and responsive grievance procedure that is used regularly by inmates is indicative of and contributes to an institution with a minimum of problems. In a 1976 study of program effectiveness at the O.H. Close School of California Youth Authority, the living unit that received the highest ratings in a comprehensive evaluation also made the most frequent use of the inmate grievance procedure. See Assessment of Participatory Management System of O. H. Close School, California Youth Authority, Division of Research, May 1976, p. 24.

• Use

Why should I use the grievance procedure? Once staff make up their minds, they just scratch each other's backs.

-- Inmate

It seems obvious that the credibility of a complaint mechanism is a primary determinant of its rate of use. Although it could be argued theoretically that an institution without problems will not produce grievances despite an excellent grievance procedure, the study teams encountered no such problem-free facilities.+ Less theoretical is the possible effect of a judicial requirement of exhaustion of administrative remedies on inflating a system's rate of use. If this inflation is operating, it probably has a significant effect only on the data from the Federal Bureau of Prisons, whose inmates, because of a quirk in the law, are subject to an exhaustion requirement far more often than their state counterparts.

Chart 1 presents the number of complaints filed per inmate per year in every jurisdiction visited where a procedure had been implemented throughout the system and where records of usage were available.

Chart 1
INMATE USE OF SELECTED COMPLAINT PROCEDURES

<u>Department</u>	<u>Type Of Program</u>	<u>Rate</u>
Connecticut	Independent ombudsman (No participation or formal time limits for responding.)	.35 grievances/inmate (1978)
Bureau of Prisons	Administrative grievance procedure (No participation or independent review. Formal time limits.)	.56 grievances/inmate (1978)
Minnesota	Independent ombudsman (No participation or formal time limits.)	.57 grievances/inmate (1978)
New York	Administrative grievance procedure (Participation by inmates, outside review and time limits.)	1.0 grievances/inmate (1977)
North Carolina	Administrative grievance procedure with appeal to independent grievance commission (No participation; formal time limits at all levels but grievance commission.)	1.3 grievances/inmate (1978)
California Youth Authority	Administrative grievance procedure (Participation by inmates, outside review, and time limits.)	2.1 grievances/inmate (1978)

Of these jurisdictions, two out of the three in which one or more grievances is filed per inmate per year include inmate participation, outside review, and time limits. North Carolina lacks participation by inmates, but includes outside review. The program has received considerable publicity, consistently provides responses to complaints, and permits access to an independent grievance commission, with investigators who are active and visible in the different facilities. In contrast, New York's rate, although high, may be depressed because of serious problems in meeting time limits and other problems of implementation and maintenance, which are discussed more fully below.*

The ombudsman programs (Connecticut and Minnesota) attracted fewer users than any of the grievance procedures except for the internal, chain-of-command procedure of the Bureau of Prisons. It is not clear whether the relatively low use of the ombudsman programs is caused primarily by low credibility or by the almost universal shortage of staff in such programs, which by necessity limits the number of complaints that can be handled. As a result of the limited resources, one ombudsman confided, "We have to be careful about assuming too high a profile in the prison. Too much publicity could quickly overwhelm us with work and make it impossible to respond to critical complaints."

Interestingly, during the site visits to the three programs with the lowest rate of use (Connecticut, the Bureau of

Prisons, and Minnesota), Center teams found all of them to be unusually well implemented and maintained. Thus it is difficult to escape the conclusion that their lower rate of usage may be related to their design.

The effect of different designs on usage gains some support from inmates' responses to two questions asked in the written questionnaires in an effort to determine inmates' willingness to use their procedures to resolve serious problems: "What would you do if you had a serious complaint about one of the policies around here?" and, "What would you do if you were treated very unfairly by a staff member?" The answers are reported in Table 10.

Consistent with their actual behavior as the most active users of a procedure, respondents from the California Youth Authority proved the most likely to express a readiness to use their formal complaint procedure. Fifty-seven percent reported that they would file a grievance on a policy issue, although the proportion dropped to 35 percent for a complaint against staff. Connecticut, which had the lowest actual usage, also had the lowest rate of positive responses to these questions (14 percent and 7 percent respectively). On the other hand, although the Bureau of Prisons has a relatively low rate of actual use, respondents from the institution surveyed (Danbury) indicated a relatively high willingness to file complaints concerning both policies (37 percent) and staff (34 percent).

*The study of the New York program from 1975 to 1977 by the Center for Metropolitan Studies noted a number of problems, including hasty implementation, lack of adequate preparation of line staff, inmate distrust, and insufficient communication. See John R. Hepburn, James H. Laue, and Martha L. Becker, To Do Justice: An Analysis of the Development of Inmate Grievance Resolution Procedures, pp. 145-174. Since that time, the levels of appeal outside the institutions have failed consistently to respond within prescribed time limits. Furthermore, the independent Commission of Correction appears to have vitiated its appearance of neutrality by ceasing to use ad hoc arbitrators and reviewing all complaints itself.

Table 10. REPORTED METHODS OF DEALING WITH COMPLAINTS

Question	Total* n=782 No. %	California (Y.A.) n=37 No. %	Kentucky n=56 No. %	Nevada n=40 No. %	New York n=46 No. %	South Carolina n=77 No. %	Baltimore Jail n=37 No. %	Louisville Jail n=94 No. %	Bureau Of Prisons n=79 No. %	Connecticut n=44 No. %	Michigan n=55 No. %	Minnesota n=10 No. %	North Carolina n=174 No. %	Newark Jail n=33 No. %
What would you do to change policy?														
Use formal complaint procedure	205 26.2	21 56.6	6 10.7	6 15.0	8 17.4	22 28.6	6 16.2	33 35.1	29 36.7	6 13.6	23 41.8	4 40.0	41 23.6	0 0
Use inmate organization	20 2.6	0 0	1 1.8	4 10.0	0 0	0 0	2 5.4	0 0	0 0	0 0	1 1.8	0 0	2 1.1	10 30.3
Go to staff	159 20.3	7 18.9	5 8.9	10 25.0	8 17.4	17 22.1	11 29.7	22 23.4	11 13.9	14 31.8	3 5.5	0 0	42 24.1	9 27.3
Contact lawyer, family, others on outside	82 10.5	1 2.7	4 7.1	0 0	11 23.9	3 3.9	5 13.5	6 6.4	8 10.1	7 15.9	16 29.1	0 0	17 9.8	4 12.1
Do nothing	159 20.3	6 16.2	34 60.7	6 15.0	13 28.3	16 20.8	7 18.9	7 7.4	9 11.4	14 31.8	9 16.4	4 40.0	32 18.4	2 6.1
Other ⁺	157 20.1	2 5.4	6 10.7	14 35.0	6 13.0	19 24.7	6 16.2	26 27.7	22 27.8	3 6.8	3 5.5	2 20.0	40 23.0	8 24.2
What would you do if treated unfairly by staff?														
Use formal complaint procedure	181 23.1	13 35.1	2 3.6	11 27.5	5 10.9	20 26.0	4 10.8	26 27.7	27 34.2	3 6.8	19 34.5	6 60.0	45 25.9	0 0
Use inmate organization	12 1.5	0 0	0 0	2 5.0	0 0	0 0	0 0	0 0	0 0	0 0	0 0	0 0	1 .6	9 27.3
Go to staff	155 19.8	12 32.4	7 12.5	11 27.5	14 30.4	15 19.5	14 37.8	13 13.8	13 16.5	11 25.0	8 14.5	0 0	31 17.8	6 18.2
Contact lawyer, family, others on outside	84 10.7	1 2.7	10 17.9	1 2.5	7 15.2	6 7.8	6 16.2	9 9.6	5 6.3	8 18.2	12 21.8	0 0	15 8.6	4 12.1
Do nothing	179 22.9	10 27.0	34 60.7	7 17.5	13 28.3	24 31.2	7 18.9	9 9.6	11 13.9	18 40.9	9 16.4	3 30.0	33 19.0	1 3.0
Other ⁺	171 21.9	1 2.7	3 5.4	8 20.0	7 15.2	12 15.6	6 16.2	37 39.4	23 29.1	4 9.1	7 12.7	1 10.0	49 28.2	13 39.4

*Includes non-respondents

⁺In some cases, the percentage of responses categorized as "other" is appreciable. This category includes many non-specific replies, such as "I'd deal with it." One suspects that this type of response was used by inmates who lacked a clear idea of the channels open to them for handling problems within the Institutions.

• Fairness

They never even asked me what I thought . . . just sent my complaint up the line, where everyone said "decision affirmed."

-- Inmate

Definitive conclusions regarding the relationship between perceptions of fairness and the design of various procedures are hampered by the small number of respondents at some locations. Only inmates who themselves had used the complaint system in trying to resolve a problem or knew someone else who had done so were asked to answer questions about the fairness of responses. Locations with fewer than 20 respondents to these questions were excluded from the analysis, since a shift of two or three inmates in such a small group could substantially change the findings.*

In facilities with at least 20 inmates responding, there is evidence that systems that include inmate participation and outside review are considered fairer than those that do not. Of the seven programs with inmate and outside participation (listed on left side of Table 11), a third or more inmates in six considered past results fair ("yes" or "sort of"). In three of the seven, over half of the respondents said complaints had been handled fairly.

Negative responses were much more prevalent in systems without inmate and outside participation. Of the three programs with sufficient respondents, only one (North Carolina) had more than one inmate in four reporting past efforts as generally fair. In two of these programs

(the Bureau of Prisons and Michigan) better than three in four inmates described complaints they knew of as being handled unfairly. See Table 11.

Inmates' perceptions of the general credibility of their complaint system followed the same pattern.⁺ Inmates who reported that most of their peers considered their complaint system a "waste of time" were more numerous in jurisdictions whose procedures lack inmate participation or outside review (listed on the right side of Table 12). The credibility of participatory procedures was considerably greater, with responses of a "good system" or "good system but some changes needed" being made by at least one inmate in four in all facilities but Kentucky. California had a remarkable 52 percent. Of the five non-participatory systems, only one (Newark with 30 percent) had even one inmate in five giving such positive assessments. Responses are summarized in Table 12.

While design does appear to influence perceptions of fairness and credibility, it is obvious that even the most favorably rated program (California) is seen in a positive light by only slightly more than half of the inmates surveyed. At least three factors, none of which is related directly to the complaint procedure itself, seem to have operated to depress inmate perceptions in all jurisdictions. First, the involuntary nature of confinement makes positive evaluations of any system installed by the keepers unlikely. Second, with the maturation of programs in many of the jurisdictions, many inmates are no longer able to compare life in an institution with a complaint procedure to life in an institution without one. Finally, although a given system may be

*Locations excluded were Connecticut, Minnesota, and the Newark Jail.

⁺Minnesota was excluded from analysis because of the small number (10) of respondents.

Table 11. INMATE PERCEPTIONS OF FAIRNESS

		Systems with inmate participation and outside review									Systems without			
Question	Total* n=449	California (Y.A.) n=38	Kentucky n=28	Nevada n=33	New York n=28	South Carolina n=46	Baltimore Jail n=26	Louisville Jail n=66	North Carolina n=91	Bureau of Prisons n=45	Michigan n=48			
	No. %	No. %	No. %	No. %	No. %	No. %	No. %	No. %	No. %	No. %	No. %			
Was the complaint handled fairly?														
Yes	67 14.9	10 26.3	1 3.6	10 30.3	6 21.4	8 17.4	6 23.1	15 22.7	4 4.4	4 8.9	3 6.2			
Sort of	87 19.4	12 31.6	6 21.4	7 21.2	4 14.3	12 26.1	8 30.8	10 15.2	20 22.0	4 8.9	4 8.3			
No	231 51.4	9 23.7	14 50.0	12 36.4	14 50.0	21 45.7	9 34.6	28 42.4	52 57.1	35 77.8	37 77.1			
Don't know	64 14.3	7 18.4	7 25.0	4 12.1	4 14.3	5 10.9	3 11.5	13 19.7	15 16.5	2 4.4	4 8.3			

*Excludes inmates not familiar with complaint system

Table 12. INMATE PERCEPTIONS OF EFFICACY

			Systems with inmate participation and outside review										Systems without													
Question	Total n=807		California (Y.A.) n=46		Kentucky n=56		Nevada n=43		New York n=46		South Carolina n=78		Baltimore Jail n=41		Louisville Jail n=100		Connecticut n=46		North Carolina n=177		Newark Jail n=33		Bureau of Prisons n=84		Michigan n=57	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
How do you think most inmates feel about the formal complaint system?																										
Good system	31	3.8	7	15.2	0	0	4	9.3	2	4.3	1	1.3	2	4.9	10	10.0	3	6.5	1	.6	0	0	1	1.2	0	0
Good system-needs change	178	22.1	17	37.0	9	16.1	7	16.3	11	23.9	29	37.2	9	22.0	32	32.0	6	13.0	30	16.9	10	30.3	13	15.5	5	8.8
Poor system	251	30.1	15	32.6	10	17.9	18	41.9	14	30.4	17	21.8	14	34.1	28	28.0	13	28.3	56	31.6	12	36.4	29	34.5	25	43.9
Waste of time	247	30.6	7	15.2	30	53.6	11	25.6	13	28.3	15	19.2	6	14.6	20	20.0	17	37.0	62	35.0	9	27.3	32	38.1	25	43.9
Don't know	100	12.4	0	0	7	12.5	3	7.0	6	13.0	16	20.5	10	24.4	10	10.0	7	15.2	28	15.8	2	6.1	9	10.7	2	3.5

extremely effective when compared to most others, an inmate using it compares it only with the idealized "best of all possible worlds" which he carries in his head. Unfortunately, the best is seldom realized.

o Responsiveness

Request denied -- contrary to policy.

-- Response to innumerable grievances reviewed during study.

Any truly effective complaint system must produce change when change is needed. Obviously, if all or even a high percentage of requests are routinely denied, inmates may lose confidence in the procedure and cease to use it.

In an attempt to compare the responsiveness of different systems, the research team examined records of each system visited to determine the extent to which inmates' requests were granted. In many jurisdictions, this proved impossible because of the absence of adequate or comparable records. The findings from those jurisdictions that do keep complete records are summarized in Chart 2.

Although one must be cautious about drawing sweeping conclusions from the records of only five systems, it seems apparent that there is a direct correlation between the type of mechanism and the likelihood of a complainant's request being granted.

California and New York, the two programs listed that include both inmate participation and independent review, report the highest rates of positive response to grievances; the Bureau of Prisons and Michigan, with wholly internal, staff-run procedures, the lowest. These findings, which were unavailable in previous studies, provide the clearest evidence to date of the difference in results between participatory and chain-of-command procedures.

A recent study by the Canadian Corrections Service further supports the relationship between the design of a complaint mechanism and its responsiveness. The Service conducted an evaluation of a newly introduced grievance procedure at a maximum security prison. The new procedure added to the Service's "standard system" both inmate participation and outside review. In comparing the results of complaints filed before and after the addition of inmate and outside participation, the researcher was

... struck by the contrast: 70 percent of grievances rejected through the standard system, as opposed to 78 percent upheld or informally resolved through the pilot procedure. The pilot procedure is almost undeniably more powerful in resolving disputes.

In view of this increased responsiveness, it is not surprising that inmates showed more positive reactions toward the resolution of complaints by participatory systems than by others. Thus, in four of the seven programs with participation and outside review (California, New York, Nevada, Baltimore), at least a third of the respondents considered the dispositions of which they were aware more or less satisfactory. This was true of only one of the five remaining programs (Connecticut) and of none of the strictly chain-of-command procedures. See Table 13.

o Inmates' View of Design of Procedures

Finally, inmates were asked directly their opinions of the advisability of including inmates and outsiders in the resolution of complaints. They were overwhelmingly in favor of such innovations, as can be seen in Table 14.

There is near total agreement among inmates of both prisons and jails that inmates should be involved in resolving complaints. Likewise, they view access to outsiders as extremely important. Somewhat less important to inmates, although still favored by close to two-

Chart 2
DISPOSITION OF INMATE COMPLAINTS
(SELECTED PROGRAMS)

<u>Department</u>	<u>Percent (%) Granting Inmates' Requests In Whole Or Part*</u>	<u>Percent (%) Denying Inmates' Requests</u>
Bureau of Prisons	Ranges from 16.6% of those resolved at local level to 5.9% at Center Office level	Ranges from 74.0% of those resolved at local level to 66.9% at Central Office level
Michigan	20.1%	31.2%
Connecticut	24 %	76 %
North Carolina (Grievance Commission)	40.2%	59.8%
New York	71%	29 %
California	Ranges from 73% of those resolved at first level of review to 41% of those at independent review level (average for all levels = 59%)	Ranges from 25% of those resolved at first level of review to 59% of those resolved at independent review level (average for all levels = 49%)

*Percentages of upheld and denied grievances do not always equal 100%. In some systems, grievances withdrawn by inmates prior to resolution, referred to other systems, etc., are placed in third category.

Table 13. INMATE PERCEPTIONS OF SATISFACTION

		Systems with inmate participation and outside review								Systems without					
Question	Total* n=494	California (Y.A.) n=38	Kentucky n=28	Nevada n=33	New York n=28	South Carolina n=46	Baltimore Jail n=26	Louisville Jail n=66		Connecticut n=19	Minnesota n=7	North Carolina n=91	Newark Jail n=19	Bureau Prisons n=45	Michigan n=48
	No. %	No. %	No. %	No. %	No. %	No. %	No. %	No. %		No. %	No. %	No. %	No. %	No. %	No. %
Was the complaint settled satisfactorily?															
Yes	70 14.2	12 31.6	2 7.1	7 21.2	4 14.3	6 13.0	5 19.2	9 13.6		5 26.3	1 14.3	10 11.0	2 10.5	4 8.9	3 6.2
Sort of	75 15.2	8 21.1	3 10.7	5 15.6	5 17.9	12 26.1	7 26.9	8 12.1		3 15.8	1 14.3	9 9.9	5 26.3	2 4.4	7 14.6
No	284 57.5	9 23.7	16 57.1	18 54.5	14 50.0	24 52.2	13 50.0	37 56.1		8 42.1	4 57.1	59 64.8	11 57.9	36 80.0	35 72.9
Don't know	65 13.2	9 23.7	7 25.0	3 9.1	5 17.9	4 8.7	1 3.8	12 18.2		3 15.8	1 14.3	13 14.3	1 5.3	3 6.7	3 6.2

*Excludes inmates not familiar with complaint system.

Table 14

INMATE VIEWS OF DESIGN OF PROCEDURES

QUESTION	TOTAL n=514		PRISONS n=342		JAILS n=172	
	No.	%	No.	%	No.	%
How important is it for inmates to have a say?						
Very important	459	89.3	305	89.2	154	89.5
Not too important	23	4.5	20	5.3	3	1.7
Better left to staff	32	6.2	17	5.0	15	8.7
What is the best way for inmates to file their complaints?						
Give it to any staff	24	4.7	16	4.7	8	4.7
Give it to staff selected by warden	147	28.6	96	28.1	51	27.1
Give it to inmate selected by inmates	315	61.3	213	62.3	102	59.3
No response/other	28	5.4	17	5.0	11	6.4
How important is it to have someone from the outside to hear complaints?						
Very important	453	88.1	301	88.0	152	88.4
Not too important	36	7.0	27	7.9	9	5.2
Best left to staff	22	4.3	12	3.5	10	5.8
No response	3	.6	2	.6	1	.6

thirds, is having their peers involved in the process of filing complaints.

OTHER DETERMINANTS OF EFFECTIVENESS

The information presented thus far indicates an apparent relationship between the design of a procedure and its effectiveness. However, there are significant inconsistencies. These inconsistencies taken in connection with the other data from the site visits demonstrate that it is not sufficient to install even the best designed procedure and then expect all to be well. Other elements also seem critical to success: the implementation of a new procedure, adherence to the requirements of written procedures, and adequate maintenance of procedures over time.

• Implementation

They just tacked a notice on the staff bulletin board that said inmates could file grievances. I didn't really understand it, and I don't mind telling you -- I didn't like it!

-- Correctional Officer

You have to have an honest man in charge with all the support he needs to do the job. Only then will the thing get off the ground.

-- Administrator

Many administrators, staff, and inmates continue to view the introduction of formal complaint procedures as a sharp departure from tradition. As innovations, new procedures must prove themselves to critics from all three constituencies. Neither the acknowledgment of inmates' rights to complain about policies and conditions nor the sharing of various roles and responsibilities in resolving these complaints is taken for granted or fully accepted in the correctional world. Given this reality, any new procedure will be

subject to constant scrutiny and criticism as the status quo is upset and eventually altered.

Some administrators still see no need for a complaint system, since their "door is always open." Others fear that allowing complaints to surface will only result in more discontent by raising expectations that cannot be met.

Line officers often distrust a new form of administrative surveillance of their activities. "What will happen if an inmate files a grievance against me?" is the most pervasive (although infrequently expressed) question. Officers also fear erosion of their authority: Will security be jeopardized if inmates are allowed to question actions taken against them by staff?

Inmates, who might be expected to benefit the most from the introduction of a complaint procedure, often are skeptical: it is difficult for them to believe that the keepers in fact will listen to and act upon grievances raised by the kept. In addition, the establishment of an effective procedure may upset the existing social order by displacing jailhouse lawyers or inmate bosses as the only people with access to means of solving problems.

Compounding the formidable obstacles to success presented by such ingrained attitudes are the often weak and disjointed strategies for overcoming them. Frequently, initial concerns were exacerbated by a top-down start-up approach, which left both inmates and staff, the people who actually must make a procedure work, with no say in the process they had to follow. This was particularly true in large departments where a standard procedure for all facilities was mandated by administrative fiat or legislative decree. Under such conditions, the underlying motives of those insisting upon the new procedure quickly become suspect.

Unfortunately, the "orientation" to the new program may do little or nothing to

change the situation. Survey results indicate that orientation still is most commonly restricted to some form of written notice and/or reliance on word-of-mouth. The end result often appeared to be an almost total lack of "buy-in" by many of the critical participants; reactions ranged from a "wait and see" attitude to outright attempts to undermine the program.

The implications of these findings are clear. Any complaint procedure requires careful and thorough implementation if it is to achieve its potential as a viable avenue for dealing with problems. The following steps are essential parts of introducing a formal complaint mechanism:

-- Administrative Leadership and Planning

Visible support of the new procedure from top management and allocation of sufficient resources for its operation are crucial to winning the cooperation of subordinate staff and the trust of inmates.

-- Participation in Design

The details of the procedure should be designed locally, by credible representatives of the inmates and staff who will use it. Only in this way will local participants feel an investment in the program.

-- Training of Participants

Inmates and staff who will operate the procedure need practice in working together, as well as exposure to new skills involved in conflict resolution. Sources of assistance are now available, sometimes without cost to the jurisdiction involved, to train key participants in the complaint system in necessary skills, such as investigation, mediation and record-keeping.

-- Orientation of All Staff and Inmates

Introduction of the procedure to all who will be affected by it should be conducted face-to-face, in a manner that

encourages people to raise questions and express their concerns. In particular, the nature and extent of freedom from reprisal should be explained.

-- Installation of Management Information Systems

The necessity of ongoing attention to a procedure's operation already has been discussed. Assistance in setting up systems to facilitate regular monitoring and evaluation is readily available.

-- Adherence to Written Procedure

It is ironic that I should be locked up by individuals who consistently break their own rules.

-- Inmate

Regardless of a procedure's design, it must actually do what it promises if it is to enjoy credibility. When the gap between what the written procedure states will happen to a complaint and what inmates and staff actually see happening is too great, even a positive response to a complaint will not be sufficient to support credibility.

During this study, the failure to adhere to the requirements of written procedures was found pervasive in two critical respects: 1) responding to complaints on time; and 2) providing adequate responses. In general, neither of these elements is overlooked in designing procedures. The vast majority of the systems reviewed guarantee a response with reasons, and within a specified period of time. In practice, however, requirements often are not met and the cynicism of both inmates and staff is fueled.

-- Time Limits

I'd file a grievance and then die of old age waiting for the results. It's a joke.

-- Inmate

The benefits accruing from meeting time limits are not limited to getting the response back quickly. Although some programs act with admirable dispatch,* most critical is obeying one's own rules. If time limits are exceeded, even where a favorable answer eventually is forthcoming, the complainant often emerges as cynical about the process and doubtful about the trustworthiness of those in control. As one inmate concluded: "It seems the procedure is designed to exhaust the inmate, not to exhaust the remedies."

In addition to eroding the credibility of a procedure, lengthy delays may result in responses that have become moot with the passage of time. When a loss has become irretrievable, a reply that grants the original request or promises "it won't happen again" is small consolation.

-- Reasoned Responses

Request denied -- contrary to policy.

The failure to comply with written guidelines also is prevalent in the nature of responses themselves. At one extreme, inmates may receive no response to their complaints. Often heard was the remark, "I filed my grievance (or talked to the ombudsman) and then never heard any more." This practice obviously creates problems not only of credibility, but also of wasted time as staff tries to discover what, if anything, has been done with the initial request. The ombudsman in Michigan revealed that he and his staff are forced to spend appreciable amounts of time tracking down missing grievances that have received no response from the department's internal grievance procedure.

*As examples, the Minnesota ombudsman estimates that 72 percent of the cases dealt with by his office are resolved within 30 days. California Youth Authority figures show that half the system's grievances are resolved within two days and the average for all complaints is less than five days.

Even when received, a response is inadequate unless it spells out the reasons for the action taken. All too often, the review of complaint records by Center teams revealed such responses as "Request denied -- contrary to policy", or "This request is without merit and denied." As grievances moved up the appeal ladder, such phrases as "The warden's decision is affirmed" began to appear. Such responses give no indication of the rationale for the stance taken; nor are they likely to be persuasive in convincing inmates to accept the position of the administration as legitimate.

Communication of the reasons for policies and their application is basic to the concept of a formal complaint mechanism. As Gresham Sykes pointed out perceptively 20 years ago:

Providing explanations carries an implication that those who are ruled have a right to know -- and this in turn suggests that if the explanations are not satisfactory, the rule or order will be changed.

There are notable exceptions to the general reluctance to explain. By statute, reasons must accompany answers given to complaints in the California Youth Authority. A review of records in that state showed remarkably complete answers. The same generally was true of responses in Connecticut and in the regional and central offices of the Bureau of Prisons.

Consistent adherence to operational guidelines can be assured only if a complaint system is subject to continued monitoring and evaluation. As already noted, adequate record-keeping systems are more the exception than the rule; yet

reliable records form the backbone of any monitoring system. Without them, no one can be sure if a complaint really was filed, when it was filed, if it was answered, or what the answer was. Inmates' claims of grievances lost or forgotten cannot be verified or rebutted; nor can administrators discover who among their staff are doing their jobs.

- Maintenance Over Time

More than most programs, [the complaint procedure] needs constant attention if it is to function properly.

-- Administrator

Since administrative complaint procedures are a relatively new phenomenon in corrections, earlier studies could examine most programs only in their infancy. Unanswered were questions about what needs to be done to enable these programs to continue to be effective over time. Fortunately, many of the programs visited in the course of this study are now well established and presented the opportunity to consider questions of maintenance.

Some major components of ongoing success emerged. Probably the most important, continued adherence to operational guidelines, already has been discussed. In addition, it appears that complaint procedures need an extraordinary amount of "care and feeding." This necessity results from the departure of formal complaint procedures, particularly those that share some degree of power with line staff and inmates, from traditional prison philosophy. Even among the oldest programs, none appeared so ingrained in the institutional routine that it could be taken for granted. As a knowledgeable California official pointed out, sustaining a grievance procedure in any prison "is tough . . . The procedure doesn't get to be an ingrained part of prison culture so it doesn't maintain itself without attention through time."

In general, "care and feeding" simply requires the continuation of those activities that should already have taken place in the course of implementation. Programs that have maintained their vitality and credibility over time show evidence of adhering to the following practices:

- Ongoing Administrative Support

Through dealing responsively with complaints and insisting on adherence to all procedural requirements, top administrators can communicate to all involved that the complaint procedure is not a fad, gimmick, or window dressing but an important and integral component of correctional activities. Inmates and staff share the need for assurance that participation in the procedure is acceptable, indeed encouraged. They also need a clear, consistent statement of the department's policy against reprisals for filing or supporting complaints; they must know precisely what behavior is protected (whether, for example, the lodging of insufficiently proved or allegedly "slandereous" allegations is punishable) and what consequences may ensue.

- Orientation of New Staff and Inmates

In view of the relatively rapid turnover of inmates and staff, someone must be responsible for discussing the program with newcomers. This can be done easily by peers who already are involved in the program. Without such personal orientation, the complaint system gets lost in the myriad of rules, procedures, and programs that face newcomers. At a minimum, all must know that a mechanism exists, how a complaint is initiated, and something about how appeals are handled.

- Refresher Training

Some systems have found that periodic observation, consultation and retraining by specialists from the department's central office or outside consultants is helpful in retaining skills and solving operational problems.

- Continuous Monitoring and Evaluation

Regular monitoring at a central administrative level, supplemented by periodic outside evaluation, ensures adherence to performance standards and provides management with the information needed to enforce compliance. Monitoring and evaluation can be greatly simplified in institutions and departments that have established management information systems.

- Communication of Changes in Policy

By letting people know the results of challenges to policies or procedure, the system can enhance its credibility and lay to rest challenges that cannot or should not result in departures from current practice.

OTHER SIGNIFICANT ISSUES

During the course of the study, several issues emerged that did not fit neatly into the established criteria of effectiveness but that were sufficiently important to warrant discussion. These issues include the following: the perceived impartiality of outside participants; the benefits of collaborative problem-solving; the issue of frivolous complaints; and participants' impressions about the effect of formal complaint procedures on rates of litigation and violence.

- Outsiders and Their Independence

I think the Ombudsman is in cahoots with all of them.

-- Inmate

Increasingly common as a level of review in a grievance procedure or as an ombudsman or grievance commission, the idea of bringing in outsiders has particular appeal to inmates. During the course of this study, one inmate suggested:

It would be to the advantage of the inmates to have an outside body of people to form an independent group just for inmate grievances. They would have to deal with both the administration and inmates but on a fair and unbiased basis.

Increasing numbers of administrators have come to agree. Enthusiastically endorsing the use of outside review, a top administrator in Minnesota explained his support:

I like the idea -- it's always good to have a third party who can get involved in looking at a problem. We can't always do it. If a warden says this is the way it is, who am I to second-guess him and disagree? You need someone who can look at the problem with a fresh perspective.

The number of cases reviewed by outsiders does not appear to be particularly significant; the potential for outside involvement is the key. In none of the grievance procedures studied do outsiders review more than five percent of all complaints; indeed, in the California Youth Authority, only 0.8 percent of all grievances actually are appealed to outside review. Yet the possibility of impartial review strengthens the entire procedure. As one California inmate explained:

I'm more likely to believe what they tell me because we both know that if I think they're running a game I can appeal and they'll have to prove what they say.

In order to produce the desired effect on credibility and effectiveness, however, two conditions must be met. First, not only must the outsiders actually be independent; they must be perceived as independent. For this reason it is likely that the findings from the ombudsman/grievance commission programs studied do not consistently reflect the enhanced effectiveness that was found in grievance programs that use ad hoc outsiders.

Again and again in the interview process, inmates expressed their belief that the ombudsman (even where in fact independent of the department) was really on the side of staff and could not be expected to act impartially.

This reaction was common wherever there is a permanent individual or group who repeatedly reviews complaints. Under these circumstances, it is easy for an ombudsman or even an inmate grievance commission to be perceived as just another part of the "them" in the "us" versus "them" dichotomy.

Those serving as ombudsmen or grievance commissioners are well aware of this problem; several of them spoke perceptively with the Center team of the need to walk the narrow path of objectivity and thus avoid being categorized as partial to one side or the other. Unfortunately, this is easier said than done.

An investigator for the Minnesota ombudsman speculated that "at best, 50 percent of the inmates I talk to see me as being independent of the department." Ironically, the department considers the independence and credibility of the ombudsman essential.

A second condition that increases credibility is publicity. Inmates, particularly, must know of the outsiders' involvement and their recommendations in specific cases if the potential for enhanced effectiveness is to be realized. The best illustration of this necessity lies in the contrast between California and Kentucky. Both states use *ad hoc* outsiders as a final step in their grievance procedure; yet only in California was there any widespread awareness of what had resulted from this involvement. This awareness was reflected in a much more positive assessment of the system by participants in California than in Kentucky.

• Collaboration

The best way to solve a problem is to bring together the people involved. That way they can clear the air and find ways of getting along. Where the problem is with a policy, it's particularly important to get all points of view before making a recommendation. Sometimes the grievance committee comes up with ideas none of us could have thought up alone.

-- Grievance Committee Chairman

They never let you meet the guy you've got the problem with. They just go meet with the staff or administration and then come back and tell you.

-- Inmate

In the systems where inmate-staff committees conduct informal hearings on complaints, the study teams generally found a greater tendency to compromise than in systems where the people involved in a problem never meet face-to-face to resolve it. Complainants benefit from presenting their stories in a non-threatening atmosphere and knowing that their arguments are being heard. In turn, staff has the opportunity to understand what the problem is, and to respond, rebut, and explain why things are the way they are. This tendency to collaborate on solving problems, rather than to adjudicate a win-lose decision, has been strengthened in the programs where participants have been trained in techniques of resolving conflict through mediation.

Without the opportunity for face-to-face contact, the real positions of either side may never surface and the potential for a mutually satisfying compromise may

be lost. This view is supported by what appear to be greater numbers of compromise solutions in programs where hearings are held routinely, as compared with those without provision for such hearings. In the California Youth Authority, records indicate that more than a third of all committee and outside review hearings held between 1975 and 1977 resulted in compromises. Systems without face-to-face hearings, on the other hand, showed few, if any, compromise dispositions; significantly, most complaint systems do not even have a way of indicating compromises in their records.

• The Issue of Frivolous Complaints

My staff complained about frivolous grievances so I asked them to show me some. They came up with a mere handful. Even those probably weren't frivolous to the people who filed them.

-- Administrator

Discussions with staff and administrators during the course of the study sometimes elicited the opinion that some, if not most, inmate complaints are "frivolous" and represent a waste of time and money to review. Even some supporters of formal complaint procedures expressed the concern that many grievances only deal with irritating minor personal problems and leave untouched major issues of broader importance. Others expressed the belief that at least some complaints are instigated by malcontents with too much time on their hands. One warden remarked that he immediately discounts any petition or grievance filed by a certain group of inmates, since his experience tells him that these are the signs of trouble-makers and he does not want to legitimize or encourage such behavior.

Despite such allegations and concerns, no study has been able to demonstrate that a substantial number of complaints in fact are classifiable as frivolous. Critics,

when pressed for examples, are prone to point to a few key exhibits, which are well-remembered, seemingly flagrant, and often apocryphal in origin; nevertheless, a systematic pattern has not yet been found. In most cases, reasonable observers can differ concerning the frivolity of any particular complaint or the sincerity of the complainant. Furthermore, several administrators acknowledged that confinement can turn otherwise minor concerns with food, sanitation, and living conditions into preoccupations, which frequently cause tension and occasionally erupt into violence.

Sometimes complaints that appear frivolous are simply poorly expressed. In systems with hearings these complaints can be revealed as masking underlying dissatisfactions that are more difficult to articulate. An experienced mediator, reviewing a draft of this study, commented that the same is true with labor-management grievance procedures: dealing with superficially frivolous complaints gives both sides experience in working together and enables them to talk about issues that otherwise would remain hidden. "And," he added, "the responsibility of weeding out the frivolous from the significant should provide a valuable learning experience for inmates."

Despite the rebuttals to the criticism, its pervasiveness has moved many systems to establish some type of screening process to weed out patently frivolous complaints. Such a move is often seen as an essential trade-off in maintaining staff support for an inmate complaint system. Obviously, if staff members find themselves overwhelmed with complaints that they perceive as a waste of time, the system will suffer and even the most legitimate complaint may be ignored. On the other hand, it is equally clear that the dismissal of a large number of complaints on the grounds of "frivolity," as determined by staff or administrators, could well be fatal to any sense of credibility among inmates.

Despite the importance of this issue, no totally satisfactory resolution was found in talking to either inmates or staff. More than anything else, the solution hinges on identifying with mutual agreement those complaints which are indeed "frivolous." That this may be an impossible task is pointed out by Lykes in his article entitled "The Pains of Confinement." There is, he notes, a "principle of bureaucratic indifference": issues that seem important or vital to those at the bottom of the heap are viewed with an increasing lack of concern with each step upward.⁵

Two developments offer some hope. First, the issue of frivolity seems to be less of a problem where inmates participate in the intake of complaints, generally as elected grievance clerks. These inmates are in a position to provide potential complainants with credible information, assist them in solving problems informally, and discourage them from filing obviously petty or useless complaints. Second, discussions with individuals who have participated in complaint mechanisms for a year or longer produced a consensus that the flood of complaints anticipated before the program began was much greater than any actual occurrence. Furthermore, the volume of grievances tends to decrease after the first months of operation, as the program ceases to be a novelty.

Finally, an effort to ferret out the frivolous in a totally fair manner may prove to be more work than simply responding to the complaint. As the Chief of Inmate Appeals in the California Department of Corrections commented to the Center:

In regard to the "frivolous" issue, our appeals officers would like to screen out appeals by using this judgment term. We have examined the investigative energies exercised by the courts in determining that a writ is frivolous, and concluded that the same energy might as well be directed toward resolving the appeal.

• Reduction in Litigation or Violence

As noted earlier, the limitations on the design for this study excluded any attempt to demonstrate statistically any relationship between complaint procedures and other aspects of prison life. Nevertheless, during the course of the study it became clear that many administrators and staff believe that the introduction and use of formal complaint procedures had resulted in distinct changes, most of them for the good. Among the changes most frequently mentioned were the diversion of complaints from litigation and a lessening of tension and violence.

Reduction in Litigation. As courts become more congested and administrators find themselves subjects of suits with growing frequency, the desire to find administrative channels for dealing with inmate complaints has grown. While there is no conclusive evidence that the procedures reviewed actually have diverted complaints from litigation, many of those interviewed believed that they had. One thing is clear: complaint procedures are resolving a large number of complaints that are justiciable; that is, they have sufficient legal merit on their face to overcome a motion to dismiss if they were filed as litigation.* What is not

clear is the proportion of inmates who would have sought litigation in the absence of procedures.

Reduction in Violence. While equally difficult to prove, there still is consensus among many practitioners that complaint mechanisms act to reduce violent acts by both individuals and groups. Four quotations, all from line staff or administrators of different institutions, illustrate the many opinions that were expressed to researchers during this study:

- I think it has kept complaints from turning into violent actions by having some way to air a problem.
- The formal system helps in that while it is being processed, there is enough time for the inmate to simmer down enough to look at the problem more realistically and sometimes the problem is no longer a problem.
- It (the complaint procedure) acts as a pressure relief valve in letting off the inmates' frustrations and hostility; it allows the administration to feel out the inmates and take care of things that need changing. Also, it allows the administration to use the system to protect themselves and officers legally.
- We used to have a lot of food riots in this institution. When inmates didn't like a meal they'd throw it around. Now they just file a grievance. The food even got a little better!

FOOTNOTES

¹Michael Keating, Jr., Virginia A. McArthur, Michael Lewis, Kathleen Sibelius and Linda R. Singer, Grievance Mechanisms In Correctional Institutions. Washington, D.C.: U.S. Department of Justice, 1975, p. 31.

²John R. Hepburn, James H. Laue, and Martha L. Becker, To Do Justice: An Analysis of the Development of Inmate Grievance Resolution Procedures and a Final Report to the Center for Community Justice. St. Louis, MO: University of Missouri at St. Louis, 1978, pp. 77 and 75.

³Joan Nuffield, Inmate Grievance Procedure Pilot Project (Saskatchewan Penitentiary): An Evaluation. Ottawa, Canada: Solicitor General, January 1979 (unpublished report), p. 114.

⁴Gresham M. Sykes, The Society of Captives: A Study of Maximum Security Prisons, 1958. Excerpted in L. Radzono Wilz, The Criminal in Confinement, 1971, p. 137.

⁵Lynne Fingerman, 1977 Evaluation of the Ward Grievance Procedure of the California Youth Authority. San Francisco, CA: American Arbitration Association, 1978, pp. 60 and 71.

*For example, a 1978 study of the New York system concluded that, at a minimum, 19 percent of the grievances filed in two institutions were justiciable and could have gone to court; an additional 22 percent were considered meritorious but needed additional information for certainty. See John Hepburn, James H. Laue, and Martha L. Becker, To Do Justice: An Analysis of the Development of Inmate Grievance Resolution Procedures, p. 424.

4 Conclusions and Recommendations

The results of this study support four general conclusions:

1. Formal complaint mechanisms, particularly administrative grievance procedures, have become a prevalent, widely accepted component of correctional institutions. These procedures handle a wide range of complaints and perform satisfactorily to most administrators.
2. When the actual operations of several of the procedures, together with the perceptions of their users, were compared, those in which inmates and impartial outsiders participated in general appeared to be more effective and more credible than those run solely by staff or outsiders.
3. Although a participatory design is an important element for an effective procedure, it is not sufficient; all procedures require careful implementation and maintenance. Particularly important to credibility is the willingness of the system to meet its own deadlines and abide by its established procedures.
4. The introduction of adequate record-keeping, particularly in jails, is crucial if the performance of procedures is to be monitored and evaluated.

As a result of its observations and experience, the Center makes the following recommendations to jurisdictions that operate correctional institutions.

1. Every correctional institution should have a formal procedure for resolving inmates' complaints. In

addition to providing for guaranteed written responses to complaints within prescribed time limits, each procedure should include inmates and staff as active participants in resolving complaints; there also should be provision for the review of decisions by impartial outsiders.

2. Complaint procedures should be designed or modified by inmates, staff, and administrators. The resulting programs should be implemented strategically, with appropriate demonstrations of administrative support and provision for sufficient orientation and training of all who will be affected by them. Once installed, established rules should be followed and periodic orientation and refresher training provided.
3. All complaint systems should be supported by management information systems. Using record information supplemented by periodic observations and interviews, each correctional agency should monitor the performance of its own procedure and determine the satisfaction of inmates and staff with its fairness, responsiveness, and general effectiveness. In addition, each jurisdiction should arrange for periodic outside evaluation.
4. Legislatures with authority over prisons and jails should enact provisions that institutionalize formal complaint systems. Statutes should require inmate participation, outside review, adequate record-keeping, regular monitoring, and outside evaluation.

Formal procedures to resolve inmates' complaints can no longer be considered a frill; they are an important and particularly sensitive component of the apparatus of correctional management. As such, they need regular and intelligent upkeep. At least for the time being, most local jurisdictions need some assistance in carrying out these tasks.

Appendix A

SUMMARIES OF EXISTING COMPLAINT PROCEDURES

SUMMARY OF EXISTING COMPLAINT PROCEDURES - PRISONS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
Alabama	Grievance Procedure	1977	Yes	No	No	Yes Warden	Not Available
	Ombudsman	1978	Yes	No	N/A	No	332 (since 2/15/78)
Alaska	Grievance Procedure	1977	Yes	Yes	No	Yes Director of Corrections	Not Available
	Ombudsman	1979	Yes	-	N/A	No	Not Available
Arizona	Grievance Procedure	1975	Yes	Yes	Yes	Yes Director of Corrections	Not Available
Arkansas	Grievance Procedure	1974	Yes	Yes	Yes	Yes Board of Corrections	Not Available
California	Grievance Procedure	1973	Yes	Yes	No	Yes Director of Corrections	25,194 (FY 1977-78)
Colorado	Grievance Procedure	1976	Yes	Yes	Yes	Yes Director of Corrections	Not Available
Connecticut	Grievance Procedure ¹	1977	Yes	Yes	No	Yes Warden	Over 1,500
	Ombudsman	1972	Yes	No	N/A	No	Over 1,000
Delaware	Grievance Procedure	1978	Yes	Yes	Yes ²	Yes Outside Review Board	Approximately 300

¹Functions in some but not all facilities²Inmates participate in decision-making roles in hearing

SUMMARY OF EXISTING COMPLAINT PROCEDURES - PRISONS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
Florida	Grievance Procedure	1975	Yes	Yes	No	Yes Director of Corrections	6,183 at institution level 1,537 by central office
Georgia	Grievance Procedure	1974	Yes	Yes	No	Yes Director of Corrections	288 (to final level of review)
Hawaii	Grievance Procedure	1970	Yes	Yes	No	Yes Director of Corrections	356
Idaho	Ombudsman	1969	No	No	N/A	No	Not Available
	Grievance Procedure (unwritten)	1976	Yes	Yes	No	Yes Director of Corrections	
Illinois	Grievance Procedure	1972	Yes	No	Yes	Yes Director of Corrections	Final Level: 3,745 (1978 only)
Indiana	Grievance Procedure	Not Available	Yes	No	Yes ²	Yes Executive Director Adult Authority	Not Available
	Ombudsman	1974	Yes	No	N/A	No	Approximately 5,000
Iowa	Grievance Procedure	1973	Yes	Yes	Yes	Yes Commissioner, Department of Social Services	300
	Ombudsman	1972	Yes	Yes	N/A	No	Approximately 2,300
Kansas	Grievance Procedure	1975	Yes	Yes	No	Yes Director of Corrections	Not Available
	Ombudsman	1975	Yes	Yes	N/A	No	1,204 (9/75-7/78)

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - PRISONS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
Kentucky	Grievance Procedure	1977	Yes	Yes	Yes ²	Yes Independent Arbitrator	160
	Ombudsman	1974	Yes	No	N/A	No	518 (1/78-10/78)
Louisiana	Grievance Procedure (unwritten)	1973	Yes	No	Yes ²	Yes Secretary of Corrections	Not Available
Maine	Grievance Procedure	1974	No	No	No	Yes Commissioner	Not Available
Maryland	Grievance Commission	1974	Yes	No	Yes	N/A	Not Available
Massachusetts	Grievance Procedure	To be implemented in 1979	Yes	Yes	Yes ²	Yes Outside Review	N/A
Michigan	Grievance Procedure	1973	Yes	Yes	No	Yes Director of Corrections	2,657 (1976-77 final level of review)
	Ombudsman	1975	Yes	No	N/A	No	3,400 "contacts" in 1978
Minnesota	Ombudsman	1972	No	Yes	N/A	No	6,854
Mississippi	Grievance Procedure	1976	Yes	Yes	No	Yes Warden	680
	Ombudsman	1978	Yes	N/A	N/A	No	Not Available

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Department	Type of Complaint System	Date Introduced	<u>RESPONSES</u>		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
Missouri	Grievance Procedure	1974	Yes	Yes	Yes	Yes Director of Corrections	Not Available
Montana	Grievance Procedure	1974	Yes	Yes	Yes	Yes Outside Review Board	626
Nebraska	Grievance Procedure	1974	Yes	Yes	No	Yes Director of Correctional Services	Not Available
	Ombudsman	Not Available	Yes	No	N/A	No	Not Available
Nevada	Grievance Procedure ¹	1978	Yes	Yes	Yes ²	Yes Director of Corrections	280 (7/77-7/78)
	Ombudsman	1976	Yes	Yes	N/A	No	Not Available
New Hampshire	Grievance Procedure	1977	Yes	No	No	Yes Warden	Not Available
New Jersey	Grievance Procedure ¹	1978	Yes	Yes	Yes ²	Yes Director of Corrections	111 (through 9/78)
	Ombudsman	1972	No	No	N/A	No	1,827 (1978)
New Mexico	Grievance Procedure	1974	Yes	Yes	Yes	Yes Corrections Commissioner	Not Available
New York	Grievance Procedure	1976	Yes	Yes	Yes ²	Yes Commission of Corrections/ Independent Arbitrator	18,000

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - PRISONS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
North Carolina	Grievance Procedure Grievance Commission	1975	Yes	Yes	Yes	Yes Grievance Commission	20,261
		1975	Yes	Yes	No	Yes Corrections Commissioner	
North Dakota	Grievance Procedure	1972	No	Yes	Yes	Yes Director of Corrections	208 (1978)
Ohio	Grievance Procedure	1976	Yes	Yes	Yes	Yes Chief Inspector	2,183 (FY 1977-78)
Oklahoma	Grievance Procedure	Not Available	Yes	Yes	No	Yes Director of Corrections	Not Available
Oregon	Grievance Procedure	1977	Yes	Yes	Yes	Yes Director of Corrections	Not Available
	Ombudsman	Not Available	No	No	N/A	No	6,000
Pennsylvania	Grievance Procedure	1976	Yes	Yes	No	Yes Director of Corrections	5,935 (to 3/78)
Rhode Island	No Formal System						
South Carolina	Grievance Procedure ¹	1976	Yes	Yes	Yes ²	Yes Outside Review	307 at one institution
	Ombudsman	1972	No	Yes	N/A	No	512 in 1978

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - PRISONS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
South Dakota	Grievance Procedure	1977	Yes	Yes	Yes	Yes Board of Corrections	62
Tennessee	Grievance Procedure	1976	No	No	Yes	Yes Director of Corrections	Not Available
Texas	Grievance Procedure	1975	Yes	Yes	No	Yes Director of Corrections/ Designate	Not Available
Utah	Grievance Procedure	1972	Yes	Yes	Yes	Yes Outside Review	5 since 12/1/78
Vermont	Grievance Procedure	Not Available	Yes	Yes	No	Yes Director of Corrections	Not Available
Virginia	Grievance Procedure	1974	No Answer	No Answer	Yes	No Answer	Approximately 11,000
	Ombudsman	1977	Yes	Yes	N/A	No	Approximately 4,000
Washington	Grievance Procedure ¹	1976	No	No	Yes ²	Yes Warden	Approximately 50
West Virginia	Grievance Procedure	1977	Yes	Yes	No	Yes Commisioner of Corrections	Not Available

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - PRISONS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
Wisconsin	Grievance Procedure	1972	Yes	Yes	No	Yes Secretary of Health and Social Services	25,125 (11/20/72-10/77)
Wyoming	Grievance Procedure	1977	Yes	No	Yes	Yes Board of Reform	Not Available
American Samoa	No Formal System						
Canal Zone	Grievance Procedure	1969	No	No	Yes	Yes Warden	Not Available
District of Columbia	Grievance Procedure	1978	Yes	Yes	No	Yes Director of Corrections	200
Puerto Rico	No Formal System						
U.S. Bureau of Prisons	Grievance Procedure (Administrative Remedy Proced.)	1973	Yes	Yes	No	Yes Director - Bureau of Prisons	Approximately 80,000

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - JAILS

Department	Type of Complaint System	Date Introduced	<u>RESPONSES</u> Within Specified Time Limits		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing				
ARIZONA: Maricopa Co.	Grievance Procedure	1976	Yes	Yes	Yes	Yes Director of Corrections	Not Available
CALIFORNIA: Alameda Co.	Grievance Procedure	1970	Yes	No	Yes	No	1,970 (1977)
Contra Costa Co.	Grievance Procedure	1958	Yes	Yes	Yes	Yes Outside Board	Not Available
Sacramento Co	Grievance Procedure	1973	Yes	No	Yes	Yes Superintendent/Warden	Not Available
San Diego Co	Grievance Procedure	1977	Yes	Yes	No	Yes Superintendent/Warden	Not Available
San Francisco	Grievance Procedure	1976	Yes	Yes	Yes ²	Yes Sheriff	675
	Ombudsman	1975	No	Yes	N/A	Independent Group	925 (including grievance procedure)
San Mateo Co.	Grievance Procedure	1971	No	No	Yes	Yes Sheriff	120 (1978)
Santa Clara Co.	Grievance Procedure	unknown (formalized in 1973)	Yes	No	No	Yes Sheriff	Not Available

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - JAILS

Department	Type of Complaint System	Date Introduced	<u>RESPONSES</u>		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
COLORADO Denver	Grievance Procedure ²	1973	No	No	Yes ²	Yes Director of Corrections	Not Available
CONNECTICUT New Haven	Grievance Procedure	1972	Yes	No	No	Yes Director of Corrections	Not Available
FLORIDA Broward Co.	No formal procedure						
Dade Co.	Grievance Procedure	To be introduced 1979	Yes	Yes	Yes	Yes Director of Corrections	N/A
Duval Co.	Grievance Procedure	1975	Yes	No	Yes	Yes Department Director	46 since 7/77
Hillsborough Co.	No formal procedure						
Pinellas Co.	Grievance Procedure	1978	No	Yes	Yes	Yes Director of Corrections	Not Available
GEORGIA Fulton Co.	Grievance Procedure	1978	Yes	Yes	Yes	Yes Outside Review Board	Not Available

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - JAILS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
ILLINOIS Cook Co.	Ombudsman	1975	Yes	No	N/A	N/A	Not Available
Du Page Co.	No Formal system						
INDIANA Marion Co.	Grievance Procedure	1972	Yes	No	Yes	Yes Jail Commander	Not Available
Lake Co.	No formal system						
LOUISIANA Orleans Parish	Grievance Procedure (Unwritten)	1975	No	No	No	No	Not Available
MARYLAND Baltimore City	Grievance Procedure	1977	Yes	Yes	Yes	Yes Outside Review Board	Over 200
Baltimore Co.	No formal system						
Montgomery Co.	Grievance Procedure	1978	No	No	Yes	No	Not Available

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - JAILS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
Prince George's Co.	Grievance Procedure	Not Available	Yes	Yes	Yes	Yes Director of Corrections	Not Available
MASSACHUSETTS Middlesex	Grievance Procedure ²	1971	No	No	Yes ²	Yes Superintendent/Warden	25
Norfolk Co.	Grievance Procedure (unwritten)	1975	No	No	Yes	Yes Sheriff	Not Available
	Ombudsman/Deputy Master	1975	No	Yes	N/A	N/A	Not Available
Salem	Assistant Deputy Master (unwritten)	Not Available	No	No	Yes	No	Not Available
Suffolk Co.	Ombudsman (unwritten)	1977	No	Yes	No	Yes Sheriff	Not Available
Worcester Co.	Grievance Procedure	1973	Not Available	No	No	Not Available	Not Available
MICHIGAN Genesee Co.	No formal system						
Macomb Co.	No formal system						

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SUMMARY OF EXISTING COMPLAINT PROCEDURES - JAILS

Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
MICH. CONT. Oakland Co.	No formal system						
Wayne Co.	No formal system						
MISSOURI Jackson Co.	Grievance Procedure	1975	Yes	No	No	Yes Director of Corrections	Not Available
St. Louis	Grievance Procedure	1976	Yes	No	Yes	Yes Director of Corrections	Approximately 1,300
	Ombudsman	1976	No	No	N/A	Yes Director of Corrections	Approximately 5,000
NEW JERSEY Essex Co.	Inmate Committee	1975	Yes	Yes	Yes ²	Yes Warden	20-25 daily
	Ombudsman	1975	Some	Yes	N/A	N/A	20-25 daily
Middlesex Co.	Grievance Procedure (unwritten)	1978	Yes	No	Yes	Yes Director of Corrections	Not Available
Union Co.	Grievance Procedure	1973	No	Yes	No	Yes Warden	Not Available
NEW YORK City of NY	Grievance Procedure	Planned for 1979	Yes	Yes	Yes ²	Yes Commissioner	Not Available Not available

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Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
N.Y. CONT. Erie Co.	Grievance Procedure	Not Available	Yes	Yes	No	Yes Warden	Not Available
Nassau Co.	Grievance Procedure	1974	No	No	Yes ²	Yes Division of Corrections	Not Available
	Ombudsman	Not Available	No	No	N/A	N/A	Not Available
Suffolk Co.	Grievance Procedure	1976	No	No	Yes ²	Yes Sheriff	Not Available
Westchester Co.	No formal system						
OHIO Cuyahoga Co.	Grievance Procedure	1977	Yes	Not Available	No	Not Available	Not Available
Franklin Co.	No formal system						
Montgomery Co.	Grievance Procedure	1965	No	No	No	Yes Sheriff	Not Available
Summit Co.	Grievance Procedure	1978	No	Yes	No	Yes Superintendent/Warden	Not Available
	Ombudsman	1977	No	No	N/A	N/A	Not Available

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Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
OKLAHOMA Oklahoma Co.	Grievance Procedure	Unknown	No	No	No	No	Not Available
OREGON Multnomah Co.	Grievance Procedure (Unwritten)	1976	No	No	No	Yes Director of Corrections	Not Available
PENNSYLVANIA Allegheny Co.	Grievance Procedure	1967	Yes	Yes	Yes	Yes Prison Board & Sheriff	200 (1977)
	Ombudsman	1975	No	Yes	N/A	N/A	50 (1977)
Delaware Co.	Grievance Procedure	1969	No	No	No	Yes Prison Board	Not Available
TENNESSEE Shelby Co.	Grievance Procedure	1975	Yes	Yes	Yes	Yes Superintendent/Warden	157 (1977)
	Ombudsman	1976	Yes	No	N/A	N/A	245
TEXAS Baxter Co.	Grievance Procedure	1979	Yes	Yes	Yes ²	Yes Superintendent/Warden	Not Available
Dallas Co.	Grievance Procedure	1977	Yes	Yes	Yes	Yes Sheriff	Not Available
Harris Co.	Grievance Procedure	1977	Yes	Yes	Yes	Yes Sheriff	86

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Department	Type of Complaint System	Date Introduced	RESPONSES		Formal Hearing Provided	Appeals Permitted/ Final Level of Review	Number of Complaints Dealt With Since Initiation
			In Writing	Within Specified Time Limits			
UTAH Salt Lake Co.	Grievance Procedure	1974	Yes	Yes	Yes	Yes Sheriff	Not Available
	Ombudsman-planned						
VIRGINIA Fairfax Co.	Grievance Procedure	1978	Yes	Yes	No	Yes Director of Corrections	Not Available
WISCONSIN Milwaukee Co.	Grievance Procedure	1936	No	No	Yes	Yes Superintendent/Warden	Not Available
	Ombudsman	1978	No	No	N/A	N/A	Not Available
WASHINGTON King Co.	Grievance Procedure	Not Available	Yes	Yes	Yes	Yes Superintendent/Warden	Not Available
	Ombudsman	Unknown	Yes	No	N/A	N/A	Not Available

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Appendix B

SITE VISIT REPORTS

Prison Systems

o California Youth Authority

Formal multi-level grievance procedures in all institutions and parole offices began in 1973 by administrative decision and were confirmed by legislation in 1976. If a complaint cannot be resolved informally by the inmate grievance clerk, it goes to a hearing committee composed of inmates and staff. The committee's decision may be appealed to the superintendent (or director in the case of departmental policy), then to outside review by the American Arbitration Association, which makes recommendations to the superintendent or director. By law these recommendations must be followed unless specific criteria are met. Time limits exist at each level. (Institution Visited: DeWitt Nelson Training Center at Stockton, population 400.)

o Connecticut

The ombudsman program, operating in six state facilities, began in 1974, and is run by the Hartford Institute of Criminal and Social Justice (a private organization) under contract to the Department of Corrections. Ombudsman staff investigate complaints received either orally or in writing, and make recommendations to a warden or to the commissioner. In addition, a grievance coordinator has operated on a pilot basis in one institution since 1978. The coordinator investigates complaints and forwards recommendations to the warden. (Institution Visited: Connecticut Correctional Institution at Somers, population 994.)

o Federal Bureau of Prisons

A formal multi-level grievance procedure, known as the Administrative Remedy Procedure, began in all federal institutions in 1973. If informal resolution by a correctional counselor fails, the appeal goes to the warden, then to the regional office, then to the central office in Washington, D.C., for final resolution. Time limits exist for all stages. (Institution Visited: Federal Correctional Institution at Danbury, Connecticut, population 500.)

o Kentucky

A formal multi-level grievance procedure has been in operation in some institutions since 1977, with plans to expand it state-wide by the end of 1979. The appeal process uses inmate grievance clerks to attempt informal review of complaints, followed by hearings before staff/inmate committees. Appeals are made to institutional superintendents and the department's director. Advisory outside review is provided by the Young Lawyer's Section of the Kentucky Bar Association. There is an ombudsman appointed by the Department's director to whom grievances may go directly and who handles complaints from inmates in institutions lacking a grievance procedure. The ombudsman also monitors the grievance procedures. (Institution Visited: State Reformatory at La Grange, population 1,650.)

o Michigan

Inmates have had access to a formal multi-level grievance procedure since

1973. The inmate is first required to exhaust informal channels and if still dissatisfied can file a formal grievance. Levels of review include the unit manager, institutional manager, and departmental grievance coordinator. Time limits exist at each level, but no hearings are held. Once the grievance procedure has been exhausted, the inmate may appeal to the Legislative Corrections Ombudsman's Office. Created by legislation in 1975, this independent office investigates inmates' complaints and disciplinary appeals. (Institution Visited: State Prison of So. Michigan, population 5,400.)

o Minnesota

In 1971, the state legislature established an ombudsman's office as an independent state agency with an ombudsman appointed by the governor. He is empowered to accept complaints from any source (including both inmates and staff) and conduct investigations in state facilities and participating county facilities. Matters may be resolved through informal agreement or by formal recommendations to the commissioner. The grievant is informed in writing of the disposition of his case. (Institution Visited: Lino Lakes Correctional Facility, population 100.)

o Nevada

A prison mediator, appointed by the department's director, coordinates the complaint program in all institutions and directly handles complaints for some facilities. The program was initiated in July 1977, in response to prison unrest. In some facilities, matters that cannot be settled informally are heard by an inmate/staff committee, with the prison mediator acting as chairman. Appeals go to the superintendent and director. Time limits exist at each level of review. (Institutions Visited: Northern Nevada Correctional Center, population 700; Nevada Women's Correctional Center, population 55.)

o New York

Formal multi-level grievance procedures exist in all institutions, introduced in 1976 by legislative act. The system includes elected inmate clerks, inmate/staff committees, and appeals to the superintendent and a Central Office Review Committee, who review issues not satisfactorily resolved at lower levels. Outside review is conducted by the Commission of Corrections, which sometimes delegates its functions to professional arbitrators. (Institution Visited: Green Haven Correctional Facility, population 1,870.)

o North Carolina

A formal multi-level grievance procedure began in 1975 in all institutions. An inmate goes to a correctional officer and, if not satisfied, to the superintendent of the institution. The complaint may then be handled by an institutional or field area committee composed of administrative staff. Unresolved complaints may be appealed to the Inmate Grievance Commission, appointed by the governor. If commission staff are unable to work out a satisfactory solution with the department, they may formally recommend solutions to the Secretary of the Department of Corrections. Time limits exist at each level of review except the Grievance Commission. (Institutions Visited: Central Prison, population 1,600; Correctional Center for Women, population 490.)

o South Carolina

A formal multi-level grievance procedure has existed in some institutions since 1976. An inmate complainant goes first to an inmate clerk, who attempts to work out an informal resolution, then to a hearing before a committee composed of staff and inmates. Appeals can be made to the warden, the commissioner, and finally, to a private group independent of the department. The independent review is not binding; the commissioner makes

the final decision. Time limits exist for each level of review. The department also has an internal ombudsman, to whom grievances may go directly. (Institution Visited: Kirkland Correctional Institution, population 930.)*

Jails

- Baltimore City Jail - Baltimore, Maryland (population 1,300)

A formal multi-level grievance procedure was instituted in 1977. A complaint not resolved informally by an inmate council representative or section officer goes to an Inmate Grievance Committee made up of inmates and staff, then to the deputy wardens, then to the warden. Outside review is provided by volunteers from the Bar Association of Baltimore City Young Lawyers Section, who make recommendations to the warden. Time limits are provided at all stages.

- Essex County Jail - Newark, New Jersey (population 510)

The grievance system includes an elected inmate committee and internally appointed ombudsman. Both programs were established in 1976 by the warden. The ombudsman may receive complaints directly or through Inmate Committee floor representatives. Recommendations are forwarded to the warden. No time limits are set forth for responding.

- Jefferson County Jail - Louisville, Kentucky (population 600)

A formal multi-level appeal procedure was begun in 1977. Complaints are investigated by the staff of the Inmate Grievance Mechanism Program. If not resolved informally, they go to a hearing board

made up of staff, inmates and a community person, then to the director of the jail. Outside review is conducted by the Corrections Commission, whose recommendation goes to the director. Time limits exist at each level.

- San Francisco Jail - California (population 750)

An ombudsman program was implemented in late 1976 under a grant from the American Bar Association. The procedure is open to staff and inmates, who initiate grievances by direct contact with ombudsman staff or through a "grievance box." Grievances not resolved informally through the efforts of an "investigator" result in a formal recommendation by the ombudsman. If not acceptable, the recommendation may be appealed to the "Grievance Advisory Panel," comprised of a staff member, an inmate, and an ombudsman representative, or the undersheriff. Unsatisfactory responses can then be appealed to a Community Advisory Committee, which includes outside volunteers, or directly to the sheriff. All levels of appeal have time limits.

*This facility was initially visited only to pre-test data collection instruments and procedures. However, since relatively few modifications were made following the visit, the findings are included in the analysis.

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