

## **8-03/040.00 Grievances Against Staff**

A grievance against staff is defined as a grievance alleging staff behavior which would be a violation of law, regulation, policy, or procedure.

All inmate grievances involving allegations of force shall be entered into the electronic Line Operations Tracking System (e-LOTS) prior to the end of the shift in which the incident occurred or the allegation is received, tracked under Project Type "Alleged Use of Force" (refer to CDM section 4-01/025.05, "Electronic Line Operations Tracking System (e-LOTS)," and shall be investigated and resolved in accordance with the Department's existing use of force policies. Refer to CDM section 7-06/000.00, "Use of Force Reporting Procedures."

Grievances against staff, including allegations of retaliation or use of force, received more than thirty (30) calendar days after the event upon which the grievance is based will be considered late and denied, absent exceptional circumstances as specified in section 8-04/040.10, "Late Submissions of Grievances." These types of late grievances shall be updated in CARTS as "Denied – Late Submission (Investigation Ongoing)." The aggrieved inmate shall be notified of the denial through the appropriate Interim Status Response, and the grievance shall be thoroughly investigated as delineated in this policy.

### **SUPERVISOR RESPONSIBILITIES**

Grievances against staff shall be reviewed promptly by the watch commander, or other facility lieutenant, who shall evaluate the nature and seriousness of the grievance, and assess the type of response necessary (i.e., immediate or routine). The watch commander, or other facility lieutenant, shall assign the grievance to a supervisor with the permanent rank of sergeant or above, who is not the employee against whom the grievance is directed, nor the employee's direct supervisor. The assigning lieutenant shall ensure the grievance is entered into the Custody Automated Reporting and Tracking System (CARTS) as grievance against staff.

The assigned supervisor shall initiate a comprehensive inquiry which shall include interviewing the aggrieved inmate and gathering any relevant documents and/or evidence. It is important the comprehensive inquiry be conducted as soon as practicable to capture information and/or evidence while it is still fresh and/or available. An interview of the aggrieved inmate shall be conducted in a private area, and shall be recorded using either audio or video media, as part of the inquiry of any grievance against staff with a serious allegation (e.g., use of force, retaliation, etc.), or at the watch commander's discretion.

The purpose of the inquiry is to gather information pertinent to the allegation or incident when a supervisor is determining if there is validity to the allegation(s), and/or if the involved employee's actions were reasonable or potentially involve misconduct. Cases wherein the supervisor has reason to believe the employee(s) committed misconduct shall be referred to the unit commander for disposition and the appropriate administrative action.

Based on the information obtained through the inquiry, the watch commander, or supervising lieutenant, shall ensure a memorandum is submitted to the respective unit commander describing the inmate's grievance, the statements and evidence that support or refute the grievance, the date the unit commander was notified of the alleged misconduct, and the watch commander's recommendation as to the necessity of an administrative or criminal investigation, and the disposition of the grievance in accordance with section 8-04/010.00,

"Dispositions, Interim Status Responses, and Inmate Notifications."

Any grievances against staff which result in the initiation of an administrative investigation must be tracked in the electronic Line Operations Tracking System (e-LOTS) under Project Type "Admin Investigation."

If during any phase of the inquiry, the grievance is determined to pertain to another category (i.e., mail procedures, living conditions, commissary, etc.), and the aggrieved inmate is not alleging staff behavior which would be a violation of law, regulation, policy, or procedure, the watch commander or other facility lieutenant shall ensure that the unit commander is notified of the change in category and the reason for the modification through an entry in CARTS. The concerned supervisor shall ensure the grievance is properly re-categorized in CARTS to reflect the change in grievance type.

## **UNIT COMMANDER RESPONSIBILITIES**

### **Determination of Grievance Classification and Preliminary Data Entry**

Upon review of the comprehensive inquiry and supporting documentation, the unit commander shall determine whether the allegation will be classified as a grievance against staff. That determination shall consider whether the grievance alleges staff behavior which would be a violation of law, regulation, policy, or procedure. When the grievance is determined to be classified as a grievance against staff, the unit commander shall approve the memorandum and grievance disposition, and approve the retrieval of a Preliminary Data Entry (PDE) number from the Performance Recording and Monitoring System (PRMS) in CARTS. However, if the inquiry reveals possible criminal conduct, the PDE entry shall not be completed pending the outcome of the internal criminal investigation.

### **Determination of Course of Action**

The concerned unit commander is responsible for evaluating each inmate grievance against staff to determine the appropriate course of action. The validity of the allegations, the nature and seriousness of the allegation(s), the potential for employee discipline, and the concerned employee's performance history are potential factors to consider in the evaluation. Depending on the circumstances, the following courses of action should be considered by the unit commander:

- Non-disciplinary actions including informal counseling, training, mentoring, and no further action for unsubstantiated allegations, as appropriate;
- Conduct a unit level administrative investigation;
- Request the Internal Investigation Bureau (IAB) conduct an administrative investigation. The request may be sent via e-mail from the concerned Division Chief directly to the Captain of IAB. (Use Exchange Group, "IAB Investigation Request.");
- Request the Internal Criminal Investigation Bureau (ICIB) conduct a criminal investigation if there is reason to believe a crime has been committed. The request may be sent via e-mail from the concerned Division Chief directly to the Captain of ICIB. (Use Exchange Group, "CIB Investigations Request.").

Refer to CDM section 4-10/005.00, "Disposition of Use of Force Review and Staff Discipline" for additional procedures and documentation requirements related to administrative investigations and staff discipline.

### **Result of Inmate Grievance Against Staff Review**

When it is determined that an inmate grievance against staff is to be investigated as an administrative or criminal investigation, the original grievance form, a copy of the Interim Status Notification form, and the "Result of Inmate Grievance Against Staff Review" form (SH-J-455) shall be sent to Discovery Unit for processing. Other documents associated with an active investigation shall not be sent. The Discovery Unit may be contacted for inquiries regarding appropriate documents for submission.

If the unit commander determines an administrative, or criminal investigation is not warranted, he or she shall ensure the "Result of Inmate Grievance Against Staff Review" form, the original Inmate Grievance Form, a copy of the inmate notification of disposition print-out from CARTS, and the watch commander's memorandum with their findings are forwarded to the respective area commander for review. The unit commander shall ensure that the completed and approved "Result of Inmate Grievance Against Staff Review" form and supporting documentation are sent to the Discovery Unit for processing and closure in PRMS.

When conflict resolution techniques were utilized to resolve, or attempt to resolve a grievance, the unit commander shall ensure the "Conflict Resolution Techniques Utilized" category is appropriately checked. Refer to section 8-04/020.00, "Conflict Resolution." Refer to section 8-04/010.00, "Dispositions, Interim Status Responses, and Inmate Notifications" for acceptable dispositions for inmate grievances against staff and allegations of force.

If the review of an appeal of a grievance against staff results in a disposition modification, the unit commander shall ensure that an updated "Result of Inmate Grievance Against Staff Review" form is submitted to the Discovery Unit (refer to section 8-04/030.10, "Appeals of Grievances Against Staff").

At the conclusion of the investigation, the final disposition must be updated and closed in e-LOTS and CARTS by the concerned unit.

## **Required Notification to the Aggrieved Inmate**

The aggrieved inmate shall be provided with a response within fifteen (15) days of the Department's receipt of the grievance. This response shall consist of either the result of grievance, or a notification that the Department is unable to complete the investigation within fifteen (15) days, and has therefore initiated an extension or placed the grievance in an interim status (refer to section 8-04/010.00, "Dispositions, Interim Status Responses, and Inmate Notifications").

In cases where the Department has provided the inmate with an Extension Notification or Interim Status Notification, the aggrieved inmate must be notified of the results of the investigation, within ten (10) calendar days of the unit commander's approval of the disposition; however, a notification of the disposition to the aggrieved inmate shall not be made regarding allegations of force or when an administrative or criminal investigation has been initiated until the entire process has been completed, including the Internal Affairs Bureau's review of administrative investigations. Once the review process has been completed for these types of investigations, the aggrieved inmate shall be notified of the results of the investigation, but not any discipline imposed, within ten (10) calendar days.

## **Required Notification to the Involved Employee**

In accordance with the Peace Officer's Bill of Rights as specified within the California Government Code under sections 3305, 3306, and 3306.5, the involved employee(s) shall be provided with a copy of the completed "Result of Inmate Grievance Against Staff Review" form. In addition, if the review of an appeal of a

grievance against staff results in a disposition modification, the involved employee(s) shall be provided with a copy of the updated "Result of Inmate Grievance Against Staff Review" form (refer to section 8-04/030.10, "Appeals of Grievances Against Staff."

With the exception of those grievances resulting in alleged force, administrative, or criminal investigations, the unit commander shall ensure the inmate grievance is completed and the original is forwarded to the Discovery Unit within sixty (60) days of receipt of the initial grievance.

All grievances against staff shall be reviewed by the concerned area commander.

Grievances against healthcare staff shall be reviewed and addressed as outlined in Correctional Health Services (CHS) policy. Refer to section 8-03/020.00, "Healthcare Grievances."

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