

pt 31

given to the inmate.

D. Witnesses Requested by Inmate

The inmate will be given the opportunity to make a statement and present documentary evidence to the investigator and the hearing officer. The inmate may request witnesses on the inmate's behalf. (3-4230, 3-ACRS-3C-09)

1. In regard to witnesses, the disciplinary investigator may elect to take statements in lieu of allowing direct testimony at the disciplinary hearing, disqualify a witness if testimony is not material to the offense (e.g., character witness), or limit the number of witnesses if the testimony is repetitive and/or duplicative. The investigator may also disqualify any proposed witness who has no direct knowledge of the incident. Any discretionary action taken by the investigator as to a witness will be documented and attached to the "Investigator's Report."

2. If the inmate does not wish to request or present witnesses, the inmate will so indicate by initialing the appropriate box of the "Investigator's Report." When written statements are taken, each will be reviewed, dated, and signed by the disciplinary investigator.

3. Reasonable attempts will be made to locate all identified witnesses. It is the inmate's responsibility to provide sufficient information to properly identify a witness. If an inmate refuses to identify a witness it will be the inmate's responsibility to gather any witness statements and provide them to the investigator, such witness statements must be verifiable or will not be considered credible. The inmate must identify all relevant witnesses at least 24 hours prior to the hearing so arrangements can be made for the witnesses statement, either in person, by telephone or written statement. Failure to give timely notice of the identity of an unavailable witness before a hearing constitutes a waiver by the inmate.

4. Witnesses who decline to provide a statement will not be forced to provide a statement or made to testify.

5. Inmates may present witness statements directly to a hearing officer at the hearing. Such witnesses must be verifiable or may not be considered reliable by the hearing officer.

III. Assignment and Responsibilities of Staff Representatives

A. Assignment of a Staff Representative (3-4231)

Any inmate who is incapable of understanding the charge or presenting a defense or if requested will receive the services of a staff representative to assist prior to and during the hearing.

1. If a staff representative is assigned during the investigation, the inmate and his representative will be provided the opportunity to meet and prepare at least 24 hours prior to the scheduled hearing. The assigned staff representative will document all meetings with the inmate.

2. During the investigation the disciplinary investigator will determine when the inmate is incapable of making a defense or when an interpreter is required.

The investigator is to be a neutral party and is responsible for gathering all relevant evidence and/or witness statements.

3. A list of trained staff representatives and interpreters will be maintained by the warden or designee.

B. Responsibilities of the Staff Representative

1. The staff representative:

- a. Will consult with the inmate at least 24 hours before the hearing;
- b. Will explain the charge against the inmate and the potential consequences;
- c. Will explain the ramifications of a guilty plea;
- d. May assist the inmate in investigating and presenting evidence in the inmate's behalf; and
- e. May advocate for the inmate at the hearing and present his case.

2. The staff representative may question all witnesses, except confidential witnesses.

IV. Disciplinary Hearings

A. Inmate Disciplinary Hearing (3-4227 through 3-4230)

Disciplinary hearings of rule violations will be conducted by an impartial disciplinary officer who has had no direct involvement. (3-4228) A written record will be made of the decision and the supporting reasons. A copy will be provided to the inmate and a copy permanently kept in the inmate's field file and facility records unless the disciplinary report is later dismissed. (3-4233, 3-ACRS-3C-12)

1. The disciplinary hearing will commence within seven days of the completion and referral for investigation of the "Offense Report," if practicable.

2. Postponement or continuance of the hearing may be granted in writing for a reasonable period of time for reasonable cause. (3-4227, 3-ACRS-3C-10) A copy of the "Inmate Disciplinary Hearing Docket" (DOC Form 060125E) may be attached to the "Disciplinary Hearing Report."

3. Any delay in the hearing will be documented, giving an approximate date and time of the rescheduled hearing. This will be attached to the "Disciplinary Hearing Report" and a copy provided to the inmate. (3-4227)

4. If the inmate has been transferred, the receiving facility may agree to hold the

disciplinary hearing. Witnesses will be provided as necessary by the sending facility. All documentation will be available at the hearing.

5. The entire disciplinary hearing will be tape recorded, unless the inmate pleads guilty. Each hearing will be recorded on a separate tape. The tape recording will be the audio record of the hearing. These recordings will be maintained for three years following the hearing or the appeal. (3-4228)

6. Only evidence presented during the hearing may be considered when determining guilt or innocence. (3-4232, 3-ACRS-3C-11) An inmate's prior disciplinary record and the evidence presented during the hearing may be considered when determining discipline for an offense.

B. Disciplinary Hearing Guidelines Conducted Via Telephone

1. The hearing may be conducted in person or by speakerphone hookup whereby all parties are able to hear and communicate at all times.

2. The inmate will be identified to the disciplinary hearing officer by a staff member at the holding facility.

3. The telephone hearing will be noted on the "Disciplinary Hearing Report" form.

4. Actions requiring inmate signature will be acknowledged by the disciplinary officer by audio record.

5. Copies of the findings will be forwarded to the inmate upon completion of the due process review.

6. Time limits for the appeal begin upon the inmate's receipt of the offense report due process review.

C. Presence of Inmate During Hearing

1. The inmate will normally be present throughout the hearing, with the exception of the period of deliberation and when confidential information is reviewed. (3-4229, 3-ACRS-3C-08)

2. Should the behavior of the inmate warrant removal from the hearing or denial of attendance, such removal or denial will be documented and attached to the "Disciplinary Hearing Report" form. The hearing will proceed without the inmate present.

3. If the inmate refuses to attend the hearing, it will be documented and the disciplinary officer will impose discipline without a hearing, as the refusal to attend constitutes a waiver by the inmate to an opportunity for a hearing or an appeal.

D. Finding of Guilt

1. Upon a finding of guilt, the inmate will be informed of the evidence relied upon for such finding, the basis for the discipline imposed, and the opportunity to appeal.

Such findings will be documented in the appropriate sections of the "Disciplinary Hearing Report" form.

2. The finding of guilt on the "Disciplinary Hearing Report" form must be documented by a complete, detailed, written statement by the disciplinary officer and a copy provided to the inmate. The reasons must point out the essential facts upon which inferences were based, mentioning what evidence the reporting officer relied on, and if the only witness is one staff member, victim or a citizen, it should give an indication of why the reporting witness was to be believed rather than the inmate or other witnesses. (3-4233, 3-ACRS-3C-12)

3. The discipline imposed will be no more than three disciplinary sanctions within the allowable range of disciplines as listed in Attachment A entitled "Acts Constituting Rule Violation."

4. A copy of the complete offense report, less confidential material, will be forwarded to the facility's record office for proper notation on the "Consolidated Record Card" (DOC Form 060211H), and inclusion in the inmate's field file, computerized record and trust fund account following the due process review. (3-4233, 3-ACRS-3C-12)

E. Suspension of Discipline

The allowable discipline may be suspended for a specified period not to exceed 90 days. If the inmate is found guilty of another offense during the period of the suspended discipline, the suspension will be revoked by the disciplinary officer to run consecutive to the new discipline. An invoked suspended discipline will not be viewed as one of the three disciplines possible for the new offense. Failure to revoke a suspended disciplinary sanction involving a loss of earned credits will be corrected by a records officer or sentence administration auditor when the error is discovered during an audit.

F. Review of Disciplinary Actions

The facility head / district supervisor or designee will review all disciplinary actions resulting in a finding of guilty within two days after completion of the hearing and may affirm, dismiss, modify, or order a rehearing. The inmate will receive a completed copy of the "Disciplinary Hearing Actions" form. (3-4233, 3-4235, 3-ACRS-3C-12)

G. Finding of Not Guilty

Should there be a finding of not guilty, the disciplinary report will not be placed in the inmate's field file and will not be used to discipline the inmate. (3-4234)

V. Appeal Process

A. Due Process Review by the Facility Head/District Supervisor (3-4236, 3-ACRS-3C-13)

The inmate/offender will have 15 days of receipt of the decision of a finding of guilty to

submit an appeal. The facility head/district supervisor will notify the inmate in writing of the results of the due process review within 30 days of its receipt. (3-4236)

1. In conducting the due process review, the facility head/district supervisor or designee will base the decision on the following applicable factors:

- a. Did the inmate receive written notice of the disciplinary charge?
- b. Did the inmate have at least 24 hours to prepare before the hearing?
- c. Did the inmate have the opportunity to present documentary evidence and/or call witnesses, or were written witness statements utilized?
- d. If confidential testimony was used was there a determination of reliability?
- e. Did the inmate receive written findings of the evidence for a determination of guilt and was there some/any evidence to support the finding?
- f. Did the inmate receive a written reason for the discipline imposed?
- g. Did the inmate receive a staff representative if the investigator determined the inmate was incapable of defending himself?
- h. Was the hearing conducted by a hearing officer with no direct involvement?

2. Failure to strictly adhere to this procedure or others does not constitute a due process violation and does not require dismissal/re-hearing of the disciplinary report.

3. If the facility heads/district supervisors orders a rehearing or modifies the discipline, the level of discipline will not be increased.

4. For inmates found guilty of a offense, the "Investigator's Report," "Disciplinary Hearing Report," "Offense Report" form, all evidentiary material, and the tape of the disciplinary hearing will be forwarded to the director or designee within seven working days after responding to the inmate's local appeal.

a. A copy of the entire offense report and all related material will be maintained at the facility.

b. All offense reports copies will be maintained in storage for three years by the facility and will always be made a permanent part of the inmate's field file.

B. Appeal to the Director

1. The inmate may appeal the final decision of the facility head/district supervisor to the director within fifteen calendar days of receipt of the due process review

2. Any inmate filing an appeal will specifically state the grounds for the appeal. Issues not raised are waived. Inmates will use the "Offender Misconduct Appeal Form" (DOC Form 060125L).
3. The director or designee will review the appeal within thirty calendar days of receipt by affirming, dismissing, modifying the decision, or remanding with instructions. The decision of the director or designee is final.
4. A copy of the director's response will be forwarded to the facility head/district supervisor. The inmate will be provided the director's response and a copy of the submitted appeal.
5. Should the inmate be unavailable (i.e., transfer or out witness), a notation of such fact will be made on the form and a copy will be mailed to the inmate through the facility head of the confining facility.
6. Any offense report which is remanded for a rehearing will be returned to the appropriate facility for action.

VI. Notification of Pardon and Parole Board Authorities

A. Parole Consideration

Should the affected inmate be scheduled for parole consideration within 60 calendar days following the occurrence of any offense, the facility head will ensure a photocopy of the "Offense Report" and "Disciplinary Hearing Report" is forwarded to the Pardon and Parole Board with the docket date indicated at the top. The Pardon and Parole Board will be verbally notified if a misconduct conviction occurs within seven days prior to a parole board appearance.

B. Appeal Process

If the "Offense Report" is later dismissed during the appeal process the Pardon and Parole Board will be notified if the offense report has been reported to that agency.

VII. Dismissal of the Offense Report (3-4234)

A. Expungement of Records

Upon receipt of the written notification regarding dismissal of an offense report, the facility head/district supervisor will ensure the following happens:

1. All copies of the report are removed from the inmates field file and destroyed. A complete copy of all dismissed "Offense Report" and all attachments, evidence etc. will be maintained in a file at the facility for four years with access limited to the unit head, investigators or Special Report writers to be used in responding to inmate lawsuits or preparing for criminal prosecution.
2. All notations are deleted from the disciplinary records portion of the "Consolidated Record Card," local records or picture cards, and from any computer record. This excludes the "Facility Misconduct Report Record" (DOC Form 060125D)

which will be maintained for statistical purposes.

B. Restoration of Earned Credits

If any earned credits were revoked as a result of a determination of guilt in the disciplinary hearing, those earned credits will be restored to the inmate's record. The restoration of earned credits does not include any time held in segregation or assignment to level 1 earned credits.

C. Classification

1. The confining facility will be notified to ensure a reclassification committee is convened in accordance with OP-060105 entitled "Classification Assessment Committees" as promptly as practicable to review the inmate's status and determine if a transfer recommendation is warranted.

2. The Pardon and Parole Board must be notified of a return of an inmate to the Pre-Parole Conditional Supervision program.

3. Administrative action, such as transfer or assignment to another program or job, after a finding of guilty will not be construed as discipline as they are the normal incidents of incarceration. If the determination of guilt of an offense affects the inmate's security level, the inmate may be considered for classification following the facility head/district supervisor's review.

vIII. Variations of Normal Procedures for Inmates Supervised by Probation and Parole

A. Time Frames

The "Offense Report" will be served to the inmate within five working days of acceptance by the team supervisor. Variations will be justified in writing and the justification attached to the "Offense Report." The hearing will be conducted within seven days of the inmate's receipt of the "Offense Report."

B. Accepting of "Offense Reports"

Team supervisors may accept "Offense Reports" by telephone. Such acceptance will be indicated on the report.

C. District Review

The district supervisor or designee will conduct the due process review of all disciplinary reports resulting in a finding of guilty within five days after completion of the hearing.

D. Program Removal Hearing

For those inmates on Pre-Parole Conditional Supervision (PPCS) Specialized Supervision Program (SSP) Electronic Monitoring Program (EMP) and House Arrest (HA) the procedures outlined in "Program Removal Hearings" will be utilized.

IX. Authority to Intervene

The director or respective deputy/regional director retains authority to intervene in any disciplinary action at any stage.

X. Reporting Requirements

The facility head will maintain the "Misconduct Report Record." The original record will be sent to the respective deputy/regional director for review and forwarded to Multimedia Resources in accordance with OP-020504 entitled "Director's Monthly Report to the Board of Corrections." A copy will be retained for the facility file.

The director or designee and facility/district will provide necessary data to Multimedia Resources in accordance with OP-020504 entitled "Director's Monthly Report to the Board of Corrections" in order that a monthly statistical misconduct report can be prepared for inclusion in the monthly Board of Corrections Report.

All "Offense Reports" will be entered on the "Facility Misconduct Report Record."

XI. Variations of Normal Procedures for Inmates Housed at Private Prisons

A. Disciplinary Authority

1. Inmates from the Oklahoma Department of Corrections will be subject to the rules and regulations of the contract private prison facility. The contract private prison facility will have physical control and the power to exercise disciplinary authority over all inmates from the Oklahoma Department of Corrections provided:

- a. The disciplinary action is reasonable and proportionate in relation to the violation;
- b. The action taken is impartial and nondiscriminatory;
- c. The action is neither arbitrary nor retaliatory;
- d. The discipline is not physically abusive; and
- e. Accurate, detailed reports of the disciplinary actions against Oklahoma Department of Corrections inmates are provided to the private prison unit within seven working days of the date the action is finalized or the discipline is administered.

2. Administration of a disciplinary sanction which affects time calculation or sentence length must comply with the requirement for the process and must be approved by the private prison unit administrator or designee.

B. Rules and Regulations

Inmates who have violated the private prison facility's rules and regulations will be subject to the same disciplinary rules and regulations as inmates of the facility. However, nothing contained herein will be construed to authorize or permit the

imposition of a type of discipline prohibited by applicable laws.

C. Review Process

Inmates who have been convicted of violating the contract private prison facility's rules and regulations will be entitled to a review process according to the contract facility's procedure to assure due process requirements are met.

When contract facility uses a disciplinary procedure other than the Oklahoma Department of Corrections procedure, the decision of the contract facility in regard to the inmate's appeal is final unless earned credits have been revoked or restitution is ordered. In these cases the inmate may appeal in accordance with paragraph V.

XII. References

57 O.S. § 138, 510 (8)

Wolff v. McDonnell, 418 U.S. 539, 94 S.Ct. 2963 (1974).

Morrisey v. Brewer, 408 U.S. 471, 92 S.Ct. 2593 (1972).

Sandin v. Conner, ___ U.S. ___, 115 S.Ct. 2293 (1995).

Waldron v. Evans, 861 P2d 311 (Okla Crim. 1993)

Canady v. Reynolds, 880 P2d 391 C (Okla Crim. 1994)

Dunn v. Ramsey, 936 P.2d 347 (Okla Crim. 1997)

XIII. Action

The deputy/regional director will be responsible for compliance with this procedure.

The legal division will be responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director.

This procedure will be effective as indicated.

Replaced: Operations Memorandum No. OP-060125 entitled "Disciplinary Procedures" dated March 19, 1996.

Deleted: Addendum- OP-060125-01 entitled "Disciplinary Procedures" dated April 16, 1996

Addendum- OP-060125-02 entitled "Disciplinary Procedures" dated October 22, 1996

Addendum- OP-060125-03 entitled "Disciplinary Procedures" dated May 22, 1997

Addendum- OP-060125-04 entitled "Disciplinary Procedures" dated July 10, 1997

Distribution: Policy and Operations Manual
Department Website

Attachments

Attachment A Acts Constituting Rule Violation
Attachment B Disciplinary Hearing Guide
Attachment C Program Removal Procedures for inmates assigned to PPCS, SSP, EMP or HA

Referenced Forms

| | | <u>Located</u> |
|-------------------|---|------------------|
| <u>DOC060125A</u> | Department of Corrections Offense Report | Attached |
| <u>DOC060125B</u> | Investigator's Report | Attached |
| <u>DOC060125C</u> | Disciplinary Hearing Report | Attached |
| <u>DOC060125D</u> | Facility Misconduct Report Record | Attached |
| <u>DOC060125E</u> | Disciplinary Hearing Docket | Attached |
| <u>DOC060125F</u> | Response from Director or Designee | Attached |
| <u>DOC060125G</u> | Amendment of Rule Violation | Attached |
| <u>DOC060125H</u> | Record of Delivery of Copies of Evidence to Inmate | Attached |
| <u>DOC060125I</u> | Witness Discretionary Action Record | Attached |
| <u>DOC060125J</u> | Notice of Rule and Condition Violation | Attached |
| <u>DOC060125K</u> | Program Rule and Condition Violation Hearing Action | Attached |
| <u>DOC060125L</u> | Offender Misconduct Appeal Form | Attached |
| <u>DOC060211H</u> | Consolidated Record Card (CRC) | <u>OP-060211</u> |

| | | | |
|--|---|-----------|--------------------------|
| Section--09 Programs | Page: 1 | OP-090124 | Effective Date: 04/08/02 |
| Inmate/Offender Grievance | ACA Standards: 2-CO-3C-01, 2-CO-4B-03, 3-4017, 3-4271, 3-4288, 3-4331, 3-ACRS-1E-02, 3-ACRS-3D-07, 3-ACRS-4E-03 | | |
| Ron Ward, Director Oklahoma Department of Corrections | Signature on File | | |

Inmate/Offender Grievance Process

The grievance process is available to the inmate/offender to provide a standard method by which the inmate/offender may seek formal administrative decisions or answers to issues or complaints. (3-4271, 3-ACRS-3D-07) Inmates/offenders are required to exhaust the grievance process prior to filing a lawsuit (4 U.S.C. § 1997 (e) and 57 O.S. § 564). (2-CO-3C-01)

I. Definition of Terms Used in This Procedure

A. Inmate/Offender Grievance

The formal complaint by the inmate/offender using the "Inmate/Offender Grievance Report Form" (DOC 090124A, attached)

B. Request to Staff

A system of two-way communication between staff and inmates to resolve complaints / issues informally. (3-4017)

C. Inmate/Offender

Any person sentenced or assigned to any form of supervision, custody or control by the Oklahoma Department of Corrections either at any prison facility, in the community, probation or parole

D. Reviewing Authority

The facility head or facility correctional health services administrator where the incident occurred and to whom the grievance is first submitted.

E. Administrative Review Authority

The director, chief medical officer, or their designee to whom the formal grievance is submitted for final appeal

F. Department Staff

Any staff member employed by the Oklahoma Department of Corrections. Said designation may also include, for the purpose of this procedure only, employees of a contract provider or volunteer for the Department.

II. Ways the Grievance Procedure Can and Cannot Be Used (Grievable and Non-grievable Issues)

A. Grievable Issues

1. A grievance may be used to address issues regarding conditions of confinement, actions of staff, and incidents occurring within or under the authority and control of the Department of Corrections that have personally affected the inmate/offender making the complaint and for which a remedy may be allowed by the department. (2-CO-4B-03, 34288)
2. The grievance process may be used no matter what the inmate's/offender's custodial assessment or disciplinary status.

B. Non-grievable Issues

1. Misconduct reports received through the department disciplinary procedures may not be appealed through the grievance process. Misconduct reports may only be appealed through the appeal procedures referenced in OP-060125 entitled "Department Inmate Disciplinary Procedures."
2. Grievances may not be submitted about matters that are in the course of litigation.
3. Requests for disciplinary action against staff will not be addressed through the grievance process.

C. Failure to Submit Timely Grievance

An inmate/offender will submit a grievance within the time frames established below, if not, the grievance will be denied as untimely submitted, except as provided for in Part XII of this Policy

III. Access to the Grievance Procedure

The written grievance procedure and grievance forms will be readily available to inmates/offenders and staff throughout the department and the private prison facilities.

A. Availability of Materials/Forms

Materials and forms will be available through the law libraries, general circulation libraries, facilities, district offices and staff. Assistance will be provided by staff as to the proper method of submitting a grievance.

B. Explanation of Process

The grievance process will be explained to inmates/offenders during the training or orientation process which will include non-English translation (oral and written), if the inmate/offender cannot understand English. Appropriate assistance for those impaired or disabled will also be provided. (3-4331)

C. Training

Training will be provided and documented.

1. All department staff employees of private prison or community contract facilities and volunteers will receive written and oral training in the grievance process during

orientation, pre-service and in-service training.

2. All inmates/offenders will receive written and oral training of the grievance process during orientation upon initial reception at the assessment and reception center or the district/sub-office and a refresher course when received upon transfer at a facility or district/sub-office.

D. Reprisals

An inmate/offender will not suffer reprisals for submitting a grievance in good faith.

1. Reprisal means any action or threat of action against anyone for using the grievance process. Actions taken in accordance with the abuse of process procedure below or discipline for false statements are not reprisal.
2. A grievance may be submitted if the inmate/offender feels any reprisal has occurred.
3. The inmate/offender will not receive a misconduct report for submitting a grievance in good faith.
4. A misconduct report may be issued if an inmate/offender has made a threat in a grievance against staff, a volunteer or visitor, or an inmate has provided a falsified forged or fraudulent document as evidence.

E. Direct Involvement

An employee directly involved in the inmate's/offender's complaint may not determine the final resolution of the formal complaint.

1. If the complaint concerns any direct, personal action by the reviewing authority or facility health services administrator, a designee from the facility will be appointed to resolve the complaint.
2. Direct involvement means direct personal involvement by the unit head in the alleged conduct/incident at issue in a formal complaint, but does not include routine administrative matters such as final review action taken by the unit head in the custodial assessment process.

F. Inmate Assistance

An inmate/offender may assist another inmate/offender at the same facility in preparing the grievance, but the complaining inmate/offender must sign the grievance and submit it to staff.

G. Submitting on Behalf of Another Person

No person may submit a grievance on behalf of another person or about an issue/complaint not directly affecting the complaining inmate/offender.

H. Legible

Inmate/Offender "Request to Staff" (DOC 090124D, attached) forms and grievances submitted to staff for resolution must be legibly written in blue or black ink. No pencil or other color of ink is allowed.

IV. Informal Resolution

Informal resolution requires communicating with staff including submitting a "Request to Staff" complaint is not resolved. The informal resolution process precedes submitting a grievance.

A. Initial Attempt

Before submitting a "Request to Staff" the inmate/offender must try to resolve the complaint by talking with the case manager, probation or parole officer, supervising employee or other appropriate staff within 3 days of the incident.

B. Request to Staff

1. If not resolved, the inmate/offender must submit a "Request to Staff" to the appropriate staff, generally unit staff, stating completely but briefly the problem. This statement must be specific as to the complaint, dates, places, personnel involved and how the inmate/offender was affected.
2. The "Request to Staff" must be submitted within 7 calendar days of the incident, an only one issue or incident allowed per form.
3. Staff will attempt to resolve the issue and will respond in writing to all "Request to Staff" forms being used to attempt informal resolution, within 10 working days of receipt. On the "Request to Staff" form, staff will document any action taken and will cite or quote applicable department procedures. Staff will return the original form to the inmate/offender and will retain a file copy. Local units will develop and implement procedures for maintaining these files.
4. A "Request to Staff" may not be submitted about matters that are in the course of litigation.
5. If there has been no response in 30 calendar days of submission, the inmate may file a grievance to the reviewing authority with evidence of submitting the "Request to Staff" to the proper staff member.

V. Submission and Review of Formal Grievances

A. Submitting the Grievance

If a complaint is not resolved informally, the inmate/offender may obtain and complete the "Inmate/Offender Grievance Report Form" and submit the original grievance form, along with the original "Request to Staff" form used in the informal resolution process, to the reviewing authority.

1. The inmate/offender grievance must be submitted by the complaining inmate/offender within 15 calendar days of the incident or the date of the response to the "Request to Staff" form, whichever is later. The "Request to Staff" must have been timely submitted.

(see Section IV. B. item 2. of this procedure).

2. The reviewing authority may choose to extend the submitting period up to 60 days for good cause.
3. Under no circumstances will the grievance be accepted after 60 days of the incident or the date of the response to the "Request to Staff" unless ordered by a court, the director, chief medical officer, or their designee.
4. Only one issue or incident is allowed per grievance.
5. All medical grievances will be submitted to the facility correctional health services administrator for resolution.
6. Contract private prison facilities are responsible for responding to grievances on matters occurring during the inmate's incarceration in the contract facility. Inmates may file grievances at private prisons with the facility administrator in regard to their stay at the private prison.
7. If the inmate/offender does not follow instructions as explained in this procedure and on the grievance forms, the grievance may be returned unanswered for proper completion. If allowed, the inmate/offender must properly re-submit the grievance within 10 calendar days of the date of the reviewing authority's decision. Continued failure to follow instructions may result in restrictions being imposed (refer to Section IX of this procedure).

B. Where the Grievance is Submitted

1. Inmates/Offenders must submit the grievance to the reviewing authority or facility health services administrator, whichever is appropriate, where the alleged incident occurred. Grievances concerning custody assessment, sentence administration or records must be submitted to the facility where the field file is located. (3-4331, 3-ACRS-4E-03)
2. If the location of the alleged incident is unknown or uncertain, the inmate/offender will consult with their case manager for assistance.
3. If the grievance involves multiple facilities at different locations, such as transfer property, the inmate/offender will submit the grievance to one of the involved reviewing authorities who will investigate, respond to the grievance, and will forward the original grievance to the next reviewing authority for further investigation and response. The inmate/offender will be informed of where the grievance is being forwarded. This process will continue until every involved reviewing authority has reviewed and responded to the grievance. The last reviewing authority will return the original submitted paperwork to the inmate/offender along with the response.

C. Time Frames for the Review of Grievances

1. The reviewing authority will respond on the "Grievance Response from Reviewing Authority" (DOC 090124B, attached), and will forward the original answered grievance forms to the inmate/offender within 15 working days of receipt of the grievance.

2. If the grievance involves multiple units at different locations, the period for response will be 15 working days from receipt of the grievance by each involved unit.
3. If the grievance cannot be answered within the 15-day period, the inmate/offender will be notified in writing, and the due date will be extended no more than an additional 15 working days.
4. If there has been no response by the reviewing authority within 30 calendar days of submission, the inmate/offender may send the grievance to the administrative review authority or chief medical officer with evidence of submitting the grievance to the proper reviewing authority.

VI. Procedures of the Reviewing Authority

A. Tracking Procedures

1. Upon receipt of a grievance, the reviewing authority will assign a grievance number, category code, and stamp or show date of receipt on each and every page received including the envelope.
2. The reviewing authority will screen the grievance to determine:
 - a. whether the grievance concerns an issue or incident involving the unit where the grievance was received.
 - b. whether the issue raised is a grievable issue.
 - c. whether the grievance was submitted in a timely manner.
 - d. whether the instructions for submitting a grievance were followed.
3. If alleged to be of a sensitive/emergency nature, screen the grievance to determine if should be handled as a sensitive/emergency grievance (refer to Section VIII).

B. Answering the Grievance

1. On the "Grievance Response from Reviewing Authority" form the reviewing authority will cite and quote the appropriate department procedures, unit procedures or Oklahoma Statute and will state specific findings of fact, conclusions, and all actions taken by the reviewing authority to investigate and resolve the complaint.
2. The facility head will conduct a final review of the correctional health service administrator's medical grievance response. If they concur with the correctional health services administrator's response, they will affix their signature and date on the "Grievance Response from Reviewing Authority" form. If they do not concur with the correctional health services administrator's response, they will return it to them. The facility head will work with the correctional health services administrator to ensure that the revised response is appropriate.
3. The reviewing authority will have the inmate/offender sign and date the response acknowledging receipt.

4. The original copy of the grievance, the response and all paperwork submitted will be returned to the inmate/offender with one legible copy of all paperwork retained by the reviewing authority.
5. The reviewing authority will either grant or deny the grievance in whole or in part, and if granted will fashion the appropriate remedy and due date.

C. Resolution/Action in Response to a Grievance

1. Resolution/action may be taken at any reviewing level and may include an appropriate remedy as authorized by Oklahoma law.
2. Grievances rendered moot by the inmate/offender discharging will not require a response.

VII. Appeal Process and Procedure

A. Grounds for Appeal

The inmate/offender may appeal the reviewing authority's response to the grievance on the following grounds only:

1. Newly discovered/available evidence not considered by the reviewing authority, relevant to the issue, necessary for a proper decision, and why the evidence was not previously available which if considered may alter the decision. The inmate/offender must clearly state the newly discovered/available evidence.
2. Probable error committed by the reviewing authority in the decision such as would be grounds for reversal. The inmate/offender must clearly state the error committed by the reviewing authority, including the specific section of procedures or statutes not followed by the reviewing authority.

B. Final Appeal to Administrative Review Authority or Chief Medical Officer

The inmate/offender may make a final appeal to the administrative review authority or chief medical officer, whichever is appropriate, within 15 calendar days of receipt of the reviewing authority's response or any amended response.

1. Inmates/Offenders will be charged \$2 per grievance submitted to the administrative review authority or chief medical officer. Inmates/Offenders will not be refused access to the administrative review authority or chief medical officer because of their financial status. If there are not enough funds to cover this cost, the amount will be collected as soon as funds become available. The administrative review authority or chief medical officer has 20 working days from receipt of the grievance to respond and forward the original grievance to the inmate/offender.
2. After answering the grievance, the administrative review authority or chief medical officer will submit a copy of the grievance form to the facility trust fund officer at the facility where the inmate is currently housed, for the \$2 fee to be entered into the system as "Legal Co-Pay."

3. If more time is required, the inmate/offender will receive written notification, and the due date will be extended no more than an additional 20 working days.
4. The administrative review authority or chief medical officer will retain one legible copy of all grievance paperwork on file, send one legible copy of the response to the reviewing authority, and forward the original paperwork to the inmate/offender.
5. Additional issues submitted in the grievance appeal and not presented in the initial grievance to the reviewing authority for response will not be addressed.

C. Administrative Review Action

If the administrative review authority or chief medical officer determines that the grievance needs further investigation or review by a reviewing authority, the grievance may be returned to the reviewing authority for further investigation and for an amended response to the inmate/offender.

1. If the grievance is returned to the reviewing authority, the inmate/offender will be notified by the administrative review authority or chief medical officer as to where the grievance has been sent.
2. The reviewing authority will respond within 15 working days of receipt of the returned grievance.
3. The reviewing authority will forward a copy of the amended response to the administrative review authority or chief medical officer.
4. If the inmate/offender has grounds for appealing the reviewing authority's amended response as stipulated in Section VII. item A. Grounds for Appeal, they may do so within guidelines and time frames specified.

D. Final Ruling

The ruling of the administrative review authority or chief medical officer is final and will conclude the administrative remedy available to the inmate/offender within the jurisdiction of the Oklahoma Department of Corrections. The inmate/offender will have satisfied the exhaustion of administrative remedies required by 57 O.S. § 564. The grievance procedure however, does not satisfy the additional requirements for exhaustion of administrative remedies required by the Governmental Tort Claims Act, 51 O.S. § 151 et seq.

VIII. Sensitive/Emergency Grievances

A. Process

Grievances may be submitted directly to the reviewing authority without informal resolution when the complaint is of a sensitive nature or when substantial risk of personal injury or other irreparable harm exists. The inmate/offender must use the "Inmate/Offender Grievance Report Form," and the word "emergency" will be written at the top of the grievance before submission.

1. Inmates/offenders will be charged \$2 per grievance submitted to the administrative

review authority or chief medical officer. Inmates/offenders will not be refused access to the administrative review authority or chief medical officer because of their financial status. If there are not enough funds to cover this cost, the amount will be collected as soon as funds become available.

2. After answering the grievance, the administrative review authority and the chief medical officer will submit a copy of the grievance form to the facility trust fund officer at the facility where the inmate is currently housed, for the \$2 fee to be entered into the system as a "Legal Co-Pay."
 3. A complaint of an emergency nature is one in which the complaint alleges irreparable harm or personal injury will occur and which the grievance process will be unable to address in a timely preventive manner. A complaint of a sensitive nature is one in which the complaint alleges misconduct by a staff member who either directly supervises the inmate/offender or is the reviewing authority where the inmate/offender is assigned.
 4. The inmate/offender will describe the reason why they believe the grievance to be of sensitive/emergency nature that justifies not submitting the grievance through normal procedures and attempting informal resolution. The grievance must include a statement specifying the personal injury or irreparable harm at risk.
 5. The inmate/offender will forward the grievance directly to the reviewing authority which can provide immediate resolution. If the complaint involves the reviewing authority and is of a sensitive nature, the grievance may be brought directly to the administrative review authority or chief medical officer, whichever is appropriate.
- B. Upon receipt of a grievance so marked, the reviewing authority will have 24 hours to determine if it is in fact an emergency grievance. If so, an expedited review will be conducted and response provided to the inmate/offender within 48 hours of receipt, excluding weekends and holidays. The inmate/offender may appeal that response as provided for in Section VII. The administrative review authority will provide an expedited response to all verified emergency grievances within 72 hours of receipt of the grievance appeal, excluding weekends and holidays.

C. Determination that Grievance is Not Sensitive/Emergency

When the appropriate reviewing authority determines that a grievance is not of sensitive/emergency nature, the grievance will be returned to the inmate/offender with notification that the grievance is not of a sensitive/emergency nature and that the standard grievance process must be followed.

IX. Abuse of the Process

A. Determining Abuse of the Grievance Process

1. The appropriate reviewing authority or chief medical officer may determine there is abuse or misuse of the grievance process, and may restrict the inmate's/offender's capacity to submit a grievance. The abuse may be, but is not limited to:
 - a. grievances intended to harass another;

- b. the continual and repeated submitting of frivolous grievances; frivolous grievances are those with no basis in fact or law.
 - c. the repeated submitting of grievances or "Requests to Staff" about an issue previously addressed by staff in their written response;
 - d. grievances about de minimis (small, trifling, no available remedy) issues;
 - e. repetitive grievances by multiple inmates/offenders about the same issue;
 - f. an inmate/offender using letters and failing to bring complaints by formal grievance; and
 - g. continued procedural defects, such as submitting additional pages, after having been previously warned.
2. If abuse of the process is determined, the inmate/offender will be notified in writing with a copy to the inmate's/offender's field file and a copy to either the reviewing authority or administrative review authority, whichever is appropriate. This will also result in the immediate dismissal of the grievance without a finding or response. If this action is taken at the first level of review, the action is appealable to the appropriate administrative review authority.

B. Restriction Process

1. The restriction may be imposed for a period not longer than 12 months. Further abuse are grounds for extending the restriction.
2. In all grievances submitted during the restriction period, the inmate/offender is required to show cause why they should be permitted to grieve.
 - a. The inmate/offender will submit a duly verified affidavit, made under penalty of discipline for lying to staff, attached to the grievance stating that all contents of the grievance are true and correct to the best of the inmate's/offender knowledge and belief. The affidavit will also contain a list by grievance number, date, description, and disposition at each level, of all grievances previously submitted by the inmate/offender within the last 12 months.
 - b. In each case, before considering the merits of the grievance, the reviewing authority will determine whether the inmate/offender has complied with the requirements for being allowed to submit a grievance.
 - c. If not, the grievance will be returned for correction and written reasons for such action provided to the inmate/offender.
 - d. The grievance may proceed when the inmate/offender meets the guidelines outlined in this section.

X. Confidentiality and Use

A. File Maintenance and Access

All inmate/offender grievance records will be treated as confidential and will be maintained in a file separate from the inmate/offender field file and medical record. Access will be limited to corrections employees who need such information in the performance of their duties, such as staff members preparing responses to grievances and investigations. (3-ACRS-1E-02)

B. Attachments to Special Reports

Copies of completed inmate/offender grievances will be made an attachment to all special reports ordered by any court. If no grievance was submitted by an inmate/offender plaintiff, an affidavit attesting to that fact will be made an attachment to the special report.

XI. Monitoring of Inmate/Offender Grievances

A. Grievance Report Log

1. The reviewing authorities and the facility health services administrators will record a submitted inmate/offender grievances and the actions taken at each level using the "Grievance Report Log" (DOC 090124C, attached).
2. "Grievance Report Logs" will be submitted to the Multimedia Resources unit for analysis by the tenth of each month.

B. Records Keeping

A copy of the grievances submitted and dispositions of those grievances will be maintained for 3 years at each level the grievance was submitted. At the end of the 3-year period, the material may be disposed of in accordance with OP-020202 entitled "Management of Office Records."

XII. Submitting a Grievance Out of Time

- A. If a grievance has been denied by the reviewing authority and the administrative reviewing authority due to the grievance not being submitted in a timely manner, the inmate may make request to submit a grievance out of time.
- B. The request may only be submitted to the director and must be received within 30 calendar days of the date of denial of the untimely grievance by the administrative reviewing authority.
- C. The inmate must prove by substantial evidence that he did not submit the grievance in a timely manner through absolutely no fault of his own.
- D. If the request to submit an untimely grievance is granted the inmate will be directed to re-submit the grievance with the facility reviewing authority within 15 calendar days of the director's decision. If denied relief by the facility reviewing authority the inmate must appeal the decision to the administrative reviewing authority within 15 calendar days of the date the reviewing authority denied relief.

XIII. References

42 U.S.C. § 1997 (e)

51 O.S. § 151 et seq.

57 O.S. § 564, §566

Booth v. Churner, ___ U.S. ___, ___ 121 ___ S.Ct. _ 1819 ___ (2001)

OP-020202 entitled "Management of Office Records"

OP-060125 entitled "Department Inmate Disciplinary Procedures"

XIV. Action

The facility/unit head will be responsible for development of local procedure.

The division head will be responsible for compliance with this procedure.

The general counsel will be responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the director.

This procedure will be effective as indicated.

Replaced: Operations Memorandum No. OP-090124 entitled "Inmate/Offender Grievance Process" dated October 30, 2000

Distribution: Policy and Operations Manual
Department Website

Referenced Forms Title

Located In

| | | |
|--------------------|---|----------|
| <u>DOC 090124A</u> | "Inmate/Offender Grievance Report Form" | Attached |
| <u>DOC 090124B</u> | "Grievance Response from Reviewing Authority" | Attached |
| <u>DOC 090124C</u> | "Grievance Report Log" | Attached |
| <u>DOC 090124D</u> | "Request to Staff" | Attached |

CHAPTER 9: SECURITY AND CONTROL
SUBJECT: USE OF FORCE
SUPERSEDES: NOVEMBER 15, 1993
EFFECTIVE DATE: FEBRUARY 15, 1996
FACILITY: NORTH FORK CORRECTIONAL FACILITY
FACILITY SUPERSEDES: JANUARY 02, 1999
FACILITY EFFECTIVE DATE: AUGUST 11, 2000

APPROVED: SIGNATURE ON FILE
DAVID L. MYERS
PRESIDENT

APPROVED: SIGNATURE ON FILE
LINDA G. COOPER
VICE PRESIDENT, LEGAL AFFAIRS

9-1.1 PURPOSE:

To establish procedures for governing the lawful use of force in CCA facilities.

9-1.2 AUTHORITY:

State and federal law and Corporate and Facility Policy.

9-1.3 DEFINITIONS:

Administrator's Designee - The Assistant Facility Administrator or the Chief of Security. The Facility Administrator's authority to act under this policy shall not be delegated beyond these persons except with the advance written approval of the Vice President, Facility Operations.

Deadly Force - Force that is likely to cause death or serious bodily injury.

Force - Restraining power, physical compulsion, strength directed at a person and includes restraining equipment and physical handling.

Inmate/Resident - Any person housed in a CCA facility.

Reasonable Belief - The belief that force is necessary which can not be the product of the person's imagination but must be based on facts that would lead others to form the same belief.

Serious Bodily Injury - An injury that poses a substantial risk of death or loss of health or limb.

Sufficient Threat - Situations posing a threat justifying the use of Deadly Force and which are:

- In self-defense, and then only to prevent immediate death or immediate serious bodily harm; and
- Defense of another, and then only to prevent immediate death or immediate serious bodily injury.

9-1.4 POLICY:

Every effort will be made to prevent and defuse situations which might require the use of force. If at all possible, non-forceful means (verbal intervention, negotiation, show of force, etc.) will be attempted before using force as a last resort. Verbal provocation alone will not justify the use of physical force.

The use of any type of force for punishment or reprisal, or which is unnecessary or excessive, is strictly prohibited. The amount and type of force used will be the least possible and then only as a last resort, consistent with the safety of the public, staff and inmates/residents.

Personnel will be authorized to use force only if procedures for its use have been specifically set out herein and approved in advance by the Vice President, Operations and the Vice President, Legal Affairs and the employee has successfully completed training in its use. Requests for purchase of any type use of force equipment will be forwarded to the Vice President, Operations for review as to compliance with this policy prior to an obligation for purchase being made.

9-1.5 PROCEDURES:

When negotiations have been utilized or found to be impractical, use of force is justified to maintain or restore institutional safety, security and control. The method(s) of force employed will be the most practical and humane possible under the circumstances.

The following are the specific types of force allowed and applicable procedures.

A. PHYSICAL HANDLING:

1. THE USE OF AN EMPLOYEE'S OWN HANDS IS JUSTIFIED ONLY IN THE FOLLOWING SITUATIONS:
 - a. In self-defense and in defending the general public, staff and inmates/residents such as:
 - i. To prevent or quell a disturbance;
 - ii. To enforce institutional regulations and/or orders in which violation of may threaten the security of the institution;
 - b. To prevent or halt damage to property; and
 - c. To prevent escape.

2. PROCEDURES:

THE STAFF POSITION(S) AT THE FACILITY WHO AUTHORIZES THE USE OF PHYSICAL HANDLING IS:

Warden, ADO, Assistant Shift Supervisor and above, however, any trained employee may use Physical Handling if needed immediately to resolve the situation and restore order.

APPROVED:
ON-FILE

VP, OPERATIONS

Exceptions:

None

3. TRAINING:

- a. Positions trained:
All security staff, SORT Team members.
- b. Amount of initial training:
Twelve (12) hours.
- c. Amount and frequency of follow-up training:
Four (4) hours annually.

B. RESTRAINT EQUIPMENT.

1. RESTRAINTS MAY BE USED AS A PRECAUTIONARY MEASURE:

- a. In self-defense and in defending the general public, staff and inmates/residents such as:
 - i. To prevent or quell a disturbance;
 - ii. To enforce institutional regulations and/or orders in which violation may threaten the security of the institution;
- b. To prevent or halt damage to property;
- c. To prevent injury to self, staff, other persons or property; or
- d. For medical reasons, by direction of the medical personnel.
- e. As a precautionary measure in the movement of inmates/residents (e.g., the use of handcuffs in moving inmates/residents to and from a cell in detention, escorting an inmate/resident to a special housing unit pending investigation, etc.); and
- f. To prevent escape of an inmate/resident under escort. Use will be based on facility procedures which consider the following:
 - i. Security classification of the inmate/resident;
 - ii. Anticipated contact with the public;
 - iii. Physical and mental health of the inmate/resident;
 - iv. Demonstrated behavior of the inmate/resident;
 - v. Age, size and stature of the escort as compared to the inmate/resident; or
 - vi. Mode of travel.

AT THIS FACILITY, PROCEDURES FOR USE OF RESTRAINTS TO PREVENT ESCAPE WHILE UNDER ESCORT ARE AS FOLLOWS:

Inmates under restraint will be cuffed in front with belly chain and leg irons. If no belly chain is used, the inmate will be cuffed behind the back.

2. In no event will an inmate/resident remain in restraints once they have been placed into a secure room or cell, unless the Chief of Security or Duty Officer has determined that this is necessary to prevent injury to the inmate/resident and that no less intensive method is appropriate.
 - a. The restrained inmate/resident will be checked at least every 15 minutes.

- b. At such time as it is safe to remove the restraints, they will immediately be removed.
- c. Should it be necessary to keep the inmate/resident in restraints for longer than one hour, a medically qualified person will be summoned to examine the inmate/resident and advise on a course of action.

3. PROCEDURES:

- a. AT THIS FACILITY, THE POSITION(S) THAT CAN AUTHORIZE THE USE OF RESTRAINT EQUIPMENT ARE AS FOLLOWS:

Instruments of restraint, such as handcuffs, irons, and straight jackets, are never applied as punishment and are applied only with the approval of the warden/superintendent or designee.

Senior Correctional Officers or above may use hand restraints if needed immediately to restore order.

Exceptions:

None

- b. AT THIS FACILITY, THE RESTRAINT EQUIPMENT AUTHORIZED FOR USE IS AS FOLLOWS:

Handcuffs; Belly Chains; Soft (human) Restraints; Leg irons; Flex-Cuffs

APPROVED:
ON FILE
VP, OPERATIONS
ON-FILE
VP, LEGAL
01/02/99
DATE

4. TRAINING

- a. Positions trained:
Designated Staff
- b. Amount of initial training:
Four (4) hours.
- c. Amount and frequency of follow-up training:
Two (2) hour annually.

C. INFLAMMATORY AGENTS

- 1. Inflammatory agents include such products as Oleoresin Capsicum (Pepper Mace) and Oleoresin Capsicum/CS (Pepper Mace Grenades) may be used in the following situations:
 - a. In self-defense and in defending the general public, staff and inmates/residents such as:
 - i. To prevent or quell a disturbance;
 - ii. To enforce institutional regulations and/or orders in which violation of may threaten the security of the institution;
 - b. To prevent or halt damage to property; and
 - c. To prevent escape.

2. As with all types of force, the amount of force used in the use of inflammatory agents will be no more than is necessary to control the situation.
3. Inflammatory agents will only be used by staff who have successfully completed training in its use and only in accordance with the following procedures:

4. PROCEDURES:

- a. **AT THIS FACILITY, THE POSITION(S) THAT CAN AUTHORIZE THE USE OF INFLAMMATORY AGENTS IS(ARE) AS FOLLOWS:**

Warden, ADO, Assistant Shift Supervisor and above.

- b. **AT THIS FACILITY, THE EQUIPMENT AUTHORIZED IS AS FOLLOWS:**

Oleoresin Capsicum (OC); OC/CS

620 OC/CS Grenade

MK Ballistic Stream

MK Fogger

Projecto Jet Fogger

- c. **AT THIS FACILITY, ADDITIONAL PROCEDURES ARE AS FOLLOWS:**

When time permits, the inmate's medical records will be reviewed prior to the use of inflammatory agents.

5. TRAINING:

- a. **Positions trained:**
SORT team officers, Transportation officers, Senior Correctional Officers, and above.
- b. **Amount of initial training:**
Four (4) hours.
- c. **Amount and frequency of follow-up training:**
Two (2) hour annually.

D. STRAIGHT BATONS.

1. STRAIGHT BATONS MAY BE JUSTIFIED ONLY IN THE FOLLOWING SITUATIONS:

- a. In self-defense and in defending the general public, staff and inmates/residents such as:
 - i. To prevent or quell a disturbance;
 - ii. To enforce institutional regulations and/or orders in which violation of may threaten the security of the institution;
- b. To prevent or halt damage to property; and
- c. To prevent escape.

2. PROCEDURES:

- a. **THE POSITION(S) AT THIS FACILITY THAT AUTHORIZES THE USE OF BATONS AND RIOT STICKS IS(ARE):**

Proprietary Information - Not For Distribution - Copyrighted
Property of Corrections Corporation of America

APPROVED:
ON FILE
VP, OPERATIONS

ON-FILE
VP, LEGAL
01/02/99

Warden, ADO

Exceptions:

None

APPROVED:
ON FILE
VP, OPERATIONS
ON-FILE
VP, LEGAL

b. AT THIS FACILITY THE AUTHORIZED BATON AND RIOT STICK EQUIPMENT USED IS(ARE):

Thirty-six (36) inch Riot Baton
Twenty-four (24) inch Riot Baton

3. TRAINING:

a. Positions trained:

Designated Personnel.

b. Amount of initial training:

Eight (8) hours.

c. Amount and frequency of follow-up training:

Four (4) hours annually.

E. CHEMICAL AGENTS.

1. CHEMICAL AGENTS MAY BE JUSTIFIED ONLY IN THE FOLLOWING SITUATIONS:

a. In self-defense and in defending the general public, staff and inmates/residents such as:

- i. To enforce institutional regulations and/or orders in which violation of may threaten the security of the institution; or
- ii. To prevent or quell a disturbance.

b. To prevent or halt damage to property; and

c. To prevent escape.

2. PROCEDURES:

a. THE POSITION(S) AT THIS FACILITY THAT AUTHORIZES THE USE OF CHEMICAL AGENTS IS(ARE) AS FOLLOWS:

Warden, ADO, Assistant Shift Supervisor and above.

Exceptions:

None.

APPROVED:
ON-FILE
VP, OPERATIONS
VP, LEGAL
01/02/99
DATE

b. AT THIS FACILITY, THE CHEMICAL AGENTS AUTHORIZED ARE AS FOLLOWS:

CS; Smoke projectiles; Appropriate Delivery Equipment

3. TRAINING:

a. Positions trained:

Assistant Shift Supervisor and above, plus SORT members.

- b. Amount of initial training:
Four (4) hours.
- c. Amount and frequency of follow-up training:
Two (2) hours annual refresher training.

F. ELECTRONIC STUN SHIELDS:

1. ELECTRONIC STUN SHIELDS ARE JUSTIFIED ONLY IN THE FOLLOWING SITUATIONS:

- a. In self-defense and in defending the general public, staff and inmates/residents such as;
- b. To enforce institutional regulations and/or orders;
- c. To prevent or quell a disturbance; and
- d. To prevent escape.

2. PROCEDURES:

a. THE POSITION(S) AT THIS FACILITY THAT CAN AUTHORIZE THE USE OF ELECTRONIC STUN SHIELDS IS (ARE) AS FOLLOWS:

Warden, ADO, Assistant Shift Supervisor and above

Exceptions:

None

b. AT THIS FACILITY THE ELECTRONIC STUN SHIELD EQUIPMENT AUTHORIZED IS AS FOLLOWS:

Nova Stun Shield

APPROVED:
ON-FILE
VP, OPERATIONS
ON FILE
VP, LEGAL
01/02/99
DATE

3. TRAINING:

- a. Positions trained:
Assistant Shift Supervisor or above, SORT members
- b. Amount of initial training:
Four (4) hours
- c. Amount and frequency of follow-up training:
Two (2) hours

G. TASER

1. THE TASER IS JUSTIFIED ONLY IN THE FOLLOWING SITUATIONS:

- a. In self-defense and in defending the general public, staff and inmates/residents;
- b. To enforce institutional rules and/or orders in which violation of may threaten the security of the institution;
- c. To prevent or quell a disturbance;

- d. To prevent or halt damage to property; and
- e. To prevent escape

2. PROCEDURES:

- a. AT THIS FACILITY, THE POSITION(S) THAT CAN AUTHORIZE USE OF TASERS IS (ARE) AS FOLLOWS:

Not in use at this facility.

Exceptions:

None

- b. AT THIS FACILITY, THE TASER EQUIPMENT AUTHORIZED IS AS FOLLOWS;

None

APPROVED:

VP, OPERATIONS

VP, LEGAL

DATE

3. TRAINING:

- a. Positions trained:

None

- b. Amount of initial training:

None

- c. Amount and frequency of follow-up training:

None

H. NON-LETHAL WEAPONS

- 1. NON-LETHAL WEAPONS MAY BE JUSTIFIED ONLY IN SELF-DEFENSE AND IN DEFENDING THE GENERAL PUBLIC, STAFF AND INMATES/RESIDENTS SUCH AS:

- a. To halt further destruction to property;
- b. To safeguard the general public, staff and inmates/residents; and
- c. To quell a disturbance and return order to the facility.

2. PROCEDURES

- a. THE POSITION(S) AT THIS FACILITY THAT AUTHORIZES THE USE OF NON-LETHAL WEAPONS IS (ARE) AS FOLLOWS:

Warden, ADO, Assistant Shift Supervisor and above

Exceptions:

None

- b. AT THIS FACILITY, THE NON-LETHAL WEAPONS AUTHORIZED ARE AS FOLLOWS:

APPROVED:

ON FILE

VP, OPERATIONS

ON FILE
 VP, LEGAL
01/02/99
 DATE

28b stinger baton
15 RP stinger grenade
00 Omni Blast
23 FB Distraction Device
#23BR Sand Bag

3. TRAINING:

a. Positions trained:

Assistant Shift Supervisor and above and all SORT Team members

b. Amount of training:

Four (4) hours conducted during Initial Firearms and Chemical Agents Training

c. Amount and frequency of follow-up training:

Two (2) hours Annual Refresher Training

I. FIREARMS AND OTHER DEADLY FORCE.

1. This force may be used only when negotiations and all other types of approved force have been exhausted or found impractical. Approval will be obtained from the Warden/Administrator or their designee prior to arming employees with firearms. The most common form of deadly force will be use of firearms.

The use of firearms is always considered to be the use of deadly force. Other instruments can become deadly force if they are used in a manner likely to lead to death or serious bodily injury of the person against whom it is being used. For example, a baton used forcibly on a person's head, throat or neck could obviously lead to death or serious bodily injury, whereas if used on the legs, it would not.

Weapons or other deadly force may be used only when there exists **Reasonable Belief and Sufficient Threat**.

2. FIREARMS: WHO MAY CARRY/WHEN.

- a. Only those employees who meet all applicable corporate and facility policies and procedures; all applicable state and local laws; and who have been designated in writing by the Warden/Administrator, will be permitted to carry or use firearms in the course of their employment.
- b. No employee will be permitted to carry a facility owned weapon to their home or to have it on their person while off duty.
- c. The Vice President, Operations or Warden/Administrator may at any time, with or without cause, order that an employee's designation to carry arms be suspended, either indefinitely or for a fixed period.
- d. No weapon will be brought into the secure perimeter of the facility, except with the authority of the Warden/Administrator or their designee.
- e. Employees will carry firearms only while assigned to posts that are inaccessible to inmates/residents such as gunwalks, watchtowers, mobile patrols and transportation.

DEADLY FORCE WILL BE USED ONLY IN ACCORDANCE WITH THE FOLLOWING:

3. PROCEDURES:

a. NEGOTIATOR - If negotiator varies depending on situation, specify:

As specified by the Warden.

b. AT THIS FACILITY, THE POSITION THAT AUTHORIZES THE USE OF FIREARMS IS AS FOLLOWS:

Warden, ADO

Exceptions:

None

c. AT THIS FACILITY, THE AUTHORIZED FIREARMS EQUIPMENT IS AS FOLLOWS:

12 gauge shotgun: .38 caliber pistol

Mini 14 carbine

APPROVED:
ON FILE
VP, OPERATIONS
01/02/99
DATE
ON FILE
VP, LEGAL
ON FILE
DATE

4. TRAINING:

a. Positions trained:

All personnel who escort or directly supervise inmates off the facility. As selected by the Chief of Security and approved by the Warden

b. Amount of initial training:

Forty (40) hours.

c. Amount and frequency of follow-up training:

Eight (8) hours annually.

d. ADDITIONAL TRAINING PROCEDURES AT THIS FACILITY ARE:

I. Verbal Warning: If feasible and if to do so would not increase the danger to the officer or others, a verbal warning to submit to the authority of the officer will be given prior to the use of deadly force.

II. Warning Shots: Are not authorized.

III. Assault or Riot: All other means will be used before utilizing firepower. When necessary, all lethal fire will be directed to stop the action.

IV. Officers will not normally fire if it endangers the lives of innocent bystanders.

J. PROCEDURES BEFORE USE

The types of force specified in this policy will be used only:

1. After obtaining specific written approval from the Vice President, Operations and the Vice President, Legal Affairs.

2. By employees who have successfully completed initial training in the levels of force authorized for use at their facility and who participate in periodic review to maintain current knowledge and;
3. In accordance with facility procedures approved by the Vice President, Operations and the Vice President, Legal Affairs.

K. PROCEDURES AFTER USE.

Immediately following the use of force, either deadly or non-deadly, the following steps will be taken:

1. **Medical Care:** Will depend on the seriousness of the situation, the degree of care required and the location of the situation.
2. **Death or Serious Bodily Injury:** The Warden/Administrator will immediately notify the contract officer; proper law enforcement authorities; the Vice President, Operations; the Vice President, Legal Affairs; and the Vice President, Communications.
3. **Physical Examinations:** The participants (including staff) except those requiring immediate transportation to the hospital, will receive a physical examination as soon as possible.
4. **Chemical Agents:** When used, affected inmates/residents will be permitted to wash their face, eyes or other exposed areas as soon as possible after the use of the chemical and will be allowed to change their clothes.

L. REPORTS

As it is anticipated that any use of force may result in litigation, the procedures specified in CCA Policy 5-1, Incident Reports, will be followed. Additionally, any reports required by law enforcement authorities will be completed and a copy will be submitted with the Incident Report.

M. ADDITIONAL PROCEDURES USED AT THIS FACILITY ARE AS FOLLOWS:

HOSTAGE SITUATIONS: No employee will take any action involving the use of force where hostages have been taken, without prior approval of the Warden or designee.

9-1.6 REVIEW:

This policy will be reviewed as necessary by the Vice President, Operations and the Vice President, Legal Affairs.

9-1.7 APPLICABILITY:

All CCA Facilities.

9-1.8 ATTACHMENTS:

None

9-1.9 REFERENCES:

Miller v. Leathers, 913 F.2d 1085 (4th Cir. 1990, *en banc*); and ACA Standards. The ACA Standards for this facility are:

3-4087, 3-4088, 3-4089M, 3-4183, 3-4183-1M, 3-4191, 3-4194, 3-4195, 3-4196, 3-4198, 3-4268M

CHAPTER 9: SECURITY AND CONTROL
SUBJECT: INMATE PROPERTY
SUPERSEDES: JANUARY 22, 1999
EFFECTIVE DATE: SEPTEMBER 15, 2000

APPROVED: SIGNATURE ON FILE
WARDEN BRADLEY

9-110.1 PURPOSE:

To establish specific guidelines governing the personal property that inmates may retain in their possession and establish specific procedures regarding the control and safeguarding of inmate personal property.

9-110.2 AUTHORITY:

Facility Policy.

9-110.3 DEFINITIONS:

Exchange Items - Issued property which must be presented for exchange of new or clean, similar items.

Immediate Family - Wife, father, mother, sister, brother, child or grandparent.

Legal Materials - Materials of a legal nature which are pertinent and necessary to an ongoing legal matter which relate to the inmate or upon which the inmate is working.

Non-Consumable Items - Property items which cannot be used up or eaten by inmates within a reasonable period of time, i.e., appliances, clothing, linens, hobby supplies.

Personal Clothes - For the purpose of this policy, personal clothes refers to any clothing items which are not issued.

Personal Property - Non-issued property items which an inmate will be permitted to retain pursuant to this policy and procedure.

Property File - A file maintained on each inmate by the Property Officer which documents all property in an inmate's possession while at this facility.

Property Officer - Any correctional employee, regardless of rank or title, who is assigned by the Warden or designee to be responsible for the orderly processing and proper documentation of an inmate's property while at the facility. These duties include maintaining a property inventory, and disposal of property items which are in excess of the established limits.

9-110.4 POLICY:

- A. It is the policy to specify the personal property inmates can retain in their possession and limit the quantities in order to comply with fire codes and safety regulations; to better utilize the limited space in living quarters; and, to more effectively facilitate security searches and eliminate contraband items with a search of the inmate's property.
- B. The facility will maintain accurate and current records of inmate property in order to resolve theft or loss damage claims, and to ensure accountability.

9-110.5 PROCEDURES

A. ALLOWABLE PROPERTY UPON ADMISSION

1. All property arriving at this institution is itemized using Form 9-110b, "Personal Property Inventory/Receipt", and is kept in a permanent file. The inmate will also receive a current copy of this form at initial intake and whenever his property is updated.
2. All inmates sign for clothing and bedding received on Form 9-110b, "Personal Property Inventory/Receipt" and Form 9-110 E, "Ditty Bag".
3. Inmates who arrive with currency, cashier's checks, or money orders in their possession will immediately relinquish the currency, cashier's checks, or money orders to the Intake Officer. The Intake Officer will indicate the amount of each cashier's check, money order and all currency received on a CCA triplicate money receipt and will submit the currency, cashier's checks and money orders to the Business Office to be deposited in the inmate's account. Inmates will be required to complete 17-101B, "Acknowledgment of Inmate allowing CCA - NCF to deposit funds".
4. Inmates who arrive with any type of medication will relinquish it to the Intake Officer upon arrival. The Intake Officer will record all such medications on the Personal Property Form 9-110b and will submit all medications to the Health Services Staff, and have him/her sign for receipt of same.
5. Inmates who are received wearing personal clothes will be issued facility uniforms. Personal clothing articles will be washed/disinfected prior to storage or prior to allowing the inmate to possess. Unallowable property will be disposed of in accordance with Section F of this policy.
6. CCA will issue a combination lock to designated inmates based on unit assigned. The inmates will use these locks only for the purpose of securing their property. Any other use of these locks by the inmate may result in disciplinary actions and the loss of use of the combination locks.
7. Facility standard issue:
 - a. 7 T-shirts
 - b. 2 towels and 2 washcloths
 - c. 1 hygiene kit (1 toothbrush, 1 toothpaste, 1 razor, 1 bar of soap, 1 deodorant and 1 shampoo).

B. FACILITY ISSUED PROPERTY

1. Upon admission, inmates will be issued clean clothing and linens. All items will be properly fitted, durable, climatically suitable and presentable.
2. All facility issued property to the inmate will be listed on Form 9-110b. The inmate will sign for each item issued and will be held liable for any damage to or loss of facility property in excess of normal wear or use.

3. Form 9-100b will also reflect the date and quantity of facility issued items to the inmate and the Intake Officer whom issued the property. The completed form will become part of the inmates property file.
4. In the event an inmate should have in his possession facility property in excess of what the Intake Officer(s) have issued, the excess will be taken by a Intake Officer and a disciplinary report will be completed.
5. Inmate pillow(s) and mattress(s) are assigned to the housing units and are to remain on the assigned bed(s). Prior to an inmate taking possession of his/her assigned bed the pillow and mattress will be cleaned and/or disinfected. Any damaged pillows or mattresses will be repaired or replaced.
6. All linens and towels will be washed on a weekly basis. This service will be performed by the facility laundry staff.
7. Facility standard issue:
 - a. Four shirts;
 - b. Four pants;
 - c. One coat (if the season requires)
 - d. Seven underwear;
 - e. Seven socks;
 - f. One pair tennis shoes (if needed);
 - g. One blanket;
 - h. Two towels and two wash cloths;
 - i. Two sheets and one pillow case;
 - j. One combination lock;
 - k. One inmate handbook;
 - l. One I.D. badge or bracelet;
 - m. One hygiene kit; and,
 - n. One laundry bag.
8. All used linens, uniforms, blankets, and jacket prior to reuse or storage will be washed and/or disinfected and inspected to ensure the inmate will be issued clean suitable items.
9. Inmates assigned to special work areas (such and maintenance, yard crew, etc.) will be furnished all necessary suitable personal protective clothing and equipment by their work supervisor. work areas will be furnished all necessary safety equipment by the inmates supervisor. The inmate will be held responsible for any item issued and will have to return any items issued by the end of the working day or by the time the inmate supervisor designates.

C. ACQUISITION OF PROPERTY

1. In addition to the property which inmates are allowed to have upon admission, inmates may acquire additional personal property through the facility commissary and special commissary purchases.
2. Inmates are not allowed to exchange personal property between themselves.
3. Inmates may acquire books, magazines and newspapers in accordance with institutional policy.
4. Inmates may not acquire personal property in any manner other than those listed in this section.

D. COMMISSARY PURCHASES

1. Inmates must fill out the Commissary Order Form available through their counselor.
2. To ensure that non-consumable items do not exceed the amount outlined on the Maximum Allowable In-Cell Property Matrix (9-110a), the Commissary will only allow them to be purchased in those quantities.

E. SPECIAL COMMISSARY PURCHASES

1. A list of items that may be purchased outside of the facility commissary is posted in the inmate housing areas.
2. Inmates may request special commissary purchases by filling out the special commissary order form on the second Friday of the month by 0700 and deposit it into the commissary box.
3. Commissary staff will deduct the funds from the inmates account at that time.
4. When the ordered item arrives, the Commissary Officer delivers it to the Property Officer to record on the Inmate Property Receipt Form (9-110F) and to give to the inmate, who signs for the item. If the item is one in which required the inmates identification # engraved, the Property Officer will do this before issuance.

E. AMOUNT OF ALLOWABLE PROPERTY

1. Inmates will only be allowed to retain personal property as authorized by this policy and only in an amount which does not exceed the capacities of individual storage areas and lockers provided by the institution.
2. The Allowable Personal Property attachment 9-110B lists the personal property an inmate may have in his/her possession.
3. The walls, doors, grills or windows in each living unit will not be covered with pictures, curtains, screens, paper, cellophane, cloth, cardboard, or any other similar item. Nude photos, drawings, paintings or other representations will not be allowed on display.
4. When personal property exceeds these capacities, the inmate will be required to make a determination as to what property will be retained and the remaining property will be disposed of in accordance with this policy. Should the inmate be unwilling or unable to make a determination as to what property to retain, the decision will be made by the Warden or

designee, and the remaining property will be disposed of in accordance with this policy.

F. DISPOSAL OF PROPERTY

1. If the inmate's personal property is deemed to be in excess of institutional limitations, it will be disposed of in accordance with this section.
2. The inmate will designate how the property is to be disposed of by completing the NFCF Disposition of Inmate Property Form 9-110D. This form will become part of the inmate's property file. The property may be disposed of in one of the following ways:
 - a. Destroyed by facility staff;
 - b. Mailed to an address designated by the inmate, provided the inmate has adequate funds to pay postage;
 - c. Picked up by an inmates visitor within thirty (30) calendar days of inmate arrival; or
 - d. Donated to charity through the intake Property Officer.
3. Upon the inmates release or transfer, all property in storage will be released to the inmate.

G. TEMPORARY TRANSFERS

1. If an inmate is temporarily transferred from this institution for up to 90 days, the inmate's property will remain and will be stored in the Property Room.
2. If an inmate is temporarily transferred out of this facility for a period of time which is anticipated to exceed 90 days, the inmate's property will be transferred with the inmate to the new location.
3. Each time inmate property is packaged for storage, a Personal Property Receipt Form 9-110b must be completed.

H. ALLOWABLE PROPERTY FOR INMATES IN SPECIAL MANAGEMENT UNITS

1. Inmates in Administrative Segregation, or Pre-Hearing Detention will be allowed to retain property according to the procedures as outlined in Policy 10-100; Segregation.

I. LEGAL MATERIALS

The amount of personal property an inmate may have in his possession, including legal materials, is limited to the amount which an inmate may store in his/her living area in the storage space provided.

J. ABANDONMENT OF PROPERTY

1. Upon arrival, each inmate will complete a Disclaimer Form, Form 9-110C, which gives the facility the discretion to dispose of an inmate's property should the inmate abandon his/her property by escaping from custody. A copy of this form will be kept in the inmate's property file.
2. In the event of an escape, staff may use an inmate's property for investigative purposes to determine escape mode, route, etc., and then they will dispose of the property. Methods of disposal will include, but are not limited to:

- a. Destruction;
 - b. Mailing the property to an address previously designated by the inmate, at the inmate's expense. This would require the inmate to have a sufficient amount of money in his/her account to pay for postage; or
 - c. Having the person who has been designated on the disclaimer form by the inmate, pick up the property within thirty (30) calendar days from the date of escape.
3. The amount of personal property an inmate may have in his possession, including legal materials, is limited to the amount which an inmate may store in his living area up to 2 cubic feet.
- K. All inmates will sign a Disclaimer Form, Form 9-110C, every time they arrive at the facility, stating that all their personal property is accounted for and that they understand it is their responsibility to keep their cell doors or lockers secured when they leave their respective housing units. If property is found to be missing when an inmate is received at the facility, a Report of Lost Inmate Property, Form 14-6A, will be completed and mailed to the appropriate authorities, i.e., the prison or jail facility at which the inmate was housed prior to transfer.

L. EXCEPTIONS

1. If a documented medical condition exists, the Health Services Unit will authorize or provide the special property required, only after prior approval of the Warden. Inmates in possession of property so approved will be allowed to retain such property; however, these items will not be replaced without subsequent medical documentation and approval of the Warden.
2. In unusual cases, exceptions to this policy may be approved on a case-by-case basis by the Warden, if it is deemed that such exception is in the best interest of the inmate and the facility, with the provision that such exceptions are not made on an arbitrary or capricious basis.

M. AVAILABILITY TO INMATES

1. During orientation a member of the staff will discuss inmate property and answer questions.
2. A copy of this policy will be kept in the general library.
3. Notice of any changes will be posted in the inmate housing units.

9-110.6 REVIEW:

The Chief of Security will review this policy on an annual basis and make recommendations for necessary revisions to the Warden.

9-110.7 APPLICABILITY:

All inmates and staff.

9-110.8 ATTACHMENTS:

- 9-110A Maximum Allowable In-Cell Property Matrix
- 9-110B Personal Property Inventory / Receipt
- 9-110C Disclaimer Form
- 9-110D Disposition of Inmate Property
- 9-110E Receipt of Ditty Bag, Combination Lock & Inmate Handbook Form
- 9-110F Inmate Property Receipt

9-110.9 REFERENCES:

ACA Standards. The ACA Standards for this facility are:

3-4268M, 3-4279, 3-4272, 3-4280, 3-4281, 3-4316, 3-4317, 3-4318, 3-4321, and 3-4324.

CHAPTER 14: RESIDENT RIGHTS
SUBJECT: INMATE/RESIDENT GRIEVANCE PROCEDURES
SUPERSEDES: APRIL 1, 1992
EFFECTIVE DATE: JULY 15, 2000
FACILITY: NORTH FORK CORRECTIONAL FACILITY
FACILITY SUPERSEDES: JULY 15, 2000
FACILITY EFFECTIVE DATE: AUGUST 23, 2000

APPROVED: SIGNATURE ON FILE
MIKE QUINLAN
PRESIDENT

APPROVED: SIGNATURE ON FILE
LINDA G. COOPER
VICE PRESIDENT, LEGAL AFFAIRS

14-5.1 PURPOSE:

To establish procedures for inmates/residents to formally file complaints about facility conditions, treatment, policies, and procedures. To provide that such complaints are reviewed in a fair and expeditious manner and resolved in the best interest of both the inmate/resident and the facility.

14-5.2 AUTHORITY:

Corporate and Facility Policy and Contract.

14-5.3 DEFINITIONS:

- A. Emergency Grievance - A grievance, the resolution of which, if subject to the normal time limits, would subject the grievant to a substantial risk of personal injury or irreparable harm.
- B. Grievance - A written complaint concerning the substance or application of a written or unwritten policy or practice, any single behavior or action toward an inmate/resident by staff or other inmates, or any condition or incident within the department or institution which personally affects the inmate/resident.
- C. Reasonable Suspicion - A suspicion which is based upon documentable, articulable facts which, together with the employee's knowledge and experience, lead him/her to believe that an unauthorized situation or violation of rules exists.
- D. Reprisal - any action or threat of action against anyone for the good faith use of or good faith participation in the grievance procedure.

14-5.4 POLICY:

It is the policy of CCA to encourage informal resolution of complaints at the lowest possible level since grievances should be, whenever possible, resolved through direct contact with staff responsible for the particular problem area and with two-way communication encouraged between staff and inmates/residents.

However, all inmates/residents shall have access to formal grievance procedures any time the informal process has not provided successful resolution of the complaint.

Inmates/residents shall not be subject to retaliation, reprisal, harassment, or discipline for use or participation in the grievance procedure. Any allegations of this nature will be thoroughly investigated

by the Warden/Administrator and reviewed by the Vice President, Facility Operations and Vice President, Legal Affairs.

14-5.5 PROCEDURES:

A. INFORMAL RESOLUTIONS

Inmates/residents are encouraged to resolve questions, disputes and complaints through informal communication with correctional staff or utilization of inmate information request forms.

AT THIS FACILITY, THESE FORMS ARE ENTITLED:

None.

B. GRIEVABLE MATTERS

The following matters are grievable by inmates/residents:

1. Application of policies, rules, and procedures;
2. Individual staff and inmate/resident actions, including any denial of access of the grievance procedure;
3. Reprisals against inmates/residents for filing an appeal under the Inmate/Resident Grievance Procedures;
4. The loss of property legitimately possessed by an inmate/resident; and
5. Any other matter relating to the conditions of care and supervision within the authority of CCA, except as noted below.

C. NON-GRIEVABLE MATTERS

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

1. State and Federal court decisions;
2. State and Federal laws and regulation;
3. Final decisions on grievances; or
4. Contracting agency (BOP, INS, state department of corrections, etc.) policies, procedures, decisions or matters.

D. GRIEVANCE AVAILABLE REGARDLESS OF CLASSIFICATION

An inmate/resident confined to this facility can invoke the grievance procedure regardless of disciplinary, classification, or other administrative decision to which the inmate/resident may be subject.

E. NO GRIEVANCES TO BE SUBMITTED ON BEHALF OF ANOTHER

While an inmate/resident may not submit a grievance on behalf of another inmate/resident, assistance from a staff member or inmate/resident may be provided when necessary to communicate the problem on the grievance form.

F. FACILITY GRIEVANCE OFFICER

The Warden/Administrator is to designate an individual or individuals as Facility Grievance Officer(s) whose responsibilities will include overall coordination of the grievance procedure, investigation of grievances and preparation of written decisions on the grievance matter. This individual will be responsible for carrying out the duties outlined herein.

G. TIME GUIDELINES

1. The total time for the grievance process will be no more than ninety (90) days from filing to a final appeal decision, unless unusual circumstances are present.
 - a. The inmate/resident must file the grievance within seven (7) days of the alleged incident.

The time for filing may begin from the date the problem or incident became known to the inmate/resident if the problem or incident was such that the inmate/resident did not or could not have known of it on the date of occurrence.
 - b. The Facility Grievance Officer shall, within fifteen (15) days of receipt of an inmate/resident grievance, conduct an investigation of the grievance and render a decision.
 - c. The inmate/resident is to submit any appeal to the Warden/Administrator or designee within five (5) days of receiving the decision from the Grievance Officer.
 - d. The Warden/Administrator will render a written decision on the grievance appeal within fifteen (15) days of receipt from the inmate/resident.
 - e. **AT THIS FACILITY, ADDITIONAL PROCEDURES ARE:**

None.
2. Upon notice to the grievant, the time limitations provided at any stage of this procedure may be extended to allow for a more complete investigation of the claims contained in the grievance. Justification for the extension must be provided in writing on the Inmate/Resident Grievance Form.
3. At all stages of the grievance process, upon receipt of the grievance, the grievance will be date stamped.

H. EMERGENCY GRIEVANCE PROCEDURE

1. If the subject matter of the grievance is such that compliance with the regular time guidelines would subject the inmate/resident to risk of personal injury, the inmate/resident/student may detail the basis for a need of immediate response and ask that the grievance be considered an emergency grievance.
2. If the Facility Grievance Officer, after reviewing the basis for the grievance being designated an emergency, determines that an emergency does exist, action shall be taken to resolve the grievance within twenty-four (24) hours of receipt of the grievance.
3. After the initial action, the Facility Grievance Officer will prepare and give to the inmate/resident, within seventy-two (72) hours of receipt of the grievance, a written decision.
4. If the inmate/resident appeals the decision, the Warden/Administrator or designee will respond with a written decision within five (5) days.

I. GRIEVANCE REMEDIES

The grievance procedure is to afford the grievant a meaningful remedy. Remedies include the following:

1. Replacement - Restoration of property by substituting a similar or like item. This will normally be ordered before monetary reimbursement is given;

2. Reimbursement - Money will be given for items lost or destroyed. The value to be reimbursed will be determined by the Warden/Administrator.
3. Change of procedures or practices;
4. Correction of records; or
5. Other remedies, as appropriate.

J. FILING THE GRIEVANCE

1. In filing a grievance, the inmate/resident must complete the *Inmate/Resident Grievance Form* (Form 14-5A) and place it in the Grievance Mail Box, or, if a Grievance Mail Box is not used, forward it to the Facility Grievance Officer.

The Grievance Mail Boxes shall be checked daily, except for weekends and holidays, by the Facility Grievance Officer. **AT THIS FACILITY, THE PROCEDURE FOR FORWARDING THE GRIEVANCE TO THE GRIEVANCE OFFICER IS AS FOLLOWS:**

1. The Inmate/Resident Grievance Forms (Form 14-5A) are available upon request in the Housing Units, Library, Segregation and Education Building.
 2. To maintain confidentiality, a grievance drop box will be placed in Alpha South, Chow Hall, Medical and Segregation. The Grievance Officer will check each box twice daily, Monday through Friday, except holidays, and remove the grievances that have been filed for that day.
 3. Emergency grievances and grievances filed by inmates in segregation may be given to any staff member in the grade of Assistant Shift Supervisor or above.
2. Grievances are considered special correspondence. Sealed letters will not be opened for inspection if the letter is labeled "Grievance" and addressed to the Facility Grievance Officer unless there is reasonable suspicion to believe the sealed envelope contains contraband. If reasonable suspicion exists, the envelope may be opened, after obtaining the Warden/Administrator or designee's approval, and inspected for contraband only.
 3. If a grievance is submitted for review and the grievant is released from custody, efforts to resolve the grievance will normally terminate. If the grievant wishes to pursue grievance resolution, as in property losses, it is the grievant's responsibility to notify the Facility Grievance Officer of that intention and to provide an address and any other pertinent information.

K. FACILITY GRIEVANCE OFFICER'S REVIEW

1. Upon receipt of the grievance, the Facility Grievance Officer will assign a number to the grievance and maintain a permanent grievance log.
2. The Facility Grievance Officer shall conduct an investigation into the issue of the grievance, render a written decision on the Report and Decision portion of the Inmate/Resident Grievance Form, and forward a copy to the inmate/resident.
3. When a grievance decision specifies that an action is to be taken, it will include a date for completing the action.

4. In cases where the Facility Grievance Officer has resolved the matter to the inmate/resident's satisfaction, she/he will so note and have the inmate/resident sign the report in the space provided.

L. APPEAL

1. Barring extraordinary circumstances, a grievance shall be considered settled if the decision at any step is not appealed by the inmate/resident within the given time limit.
2. Grievances which are prematurely appealed to the Warden/Administrator or designee will be returned without review.
3. If an inmate/resident is not satisfied with the decision of the Facility Grievance Officer, the inmate/resident may appeal to the Warden/Administrator or designee by completing the Request for Warden/Administrator Review portion of the grievance form and submitting this form to the Warden/Administrator.
4. The Warden/Administrator or designee will review the issue of the grievance and the decision to determine if the grievance has been appropriately addressed. The Warden/Administrator can obtain and review any information necessary to render a decision as to the appeal.
5. A copy of the completed grievance form will be returned to the Facility Grievance Officer who will forward a copy to the inmate/resident.
6. **AT THIS FACILITY, ADDITIONAL PROCEDURES ARE AS FOLLOWS:**
None.

M. RECORDS

1. Records regarding the filing and disposition of grievances shall be collected and maintained systematically by the Facility Grievance Officer through either hard copy or computerized form. The record shall include a log showing the following:
 - a. grievance number;
 - b. date of receipt;
 - c. name of grievant;
 - d. subject of grievance;
 - e. disposition date;
 - f. brief description of the disposition; and
 - g. appeal results, if any.

This log shall be forwarded to the Vice President, Legal Affairs on a monthly basis.

2. Record Retention. Records will be retained according to CCA Corporate and Facility Policy 1-15.
3. Record Location. No copies of grievances shall be placed in an inmate/resident's file.
4. Confidentiality. Records regarding the participation of an individual in the grievance procedures shall not be available to employees or inmates/residents, except for clerical processing of records by CCA. Employees participating in the disposition of a grievance shall have access to records essential to the resolution of the grievance.

N. DISTRIBUTION AND TRAINING

A copy of this Policy and Procedure will be provided to each staff member currently employed and will be readily available for each inmate/resident currently housed at the facility. All new staff will receive a presentation on this Policy and Procedure during pre-service training. New inmates/residents will be informed of the grievance procedure upon entry to the facility and a copy will be posted in each entry area and other appropriate areas. If there is difficulty in understanding the procedure, every effort shall be made to explain the policy and procedure on an individual basis.

O. AT THIS FACILITY, ADDITIONAL PROCEDURES ARE AS FOLLOWS:

CCA grievance forms, 14-5A, are to be used for any issue regarding the NORTH FORK Correctional Facility, its procedures or staff. Grievances not filed on form 14-5A will be returned without review. Staff will use Attachment 14-5B to document the formal investigation of the grievance.

REFUSAL OF GRIEVANCES

1. **Issue addressed in previously written correspondence.**
2. **Grievances filed on forms other than 14-5a.**
3. **No more than one issue addressed on the grievance.**

14-5.6 REVIEW:

- A. Grievance procedures shall be monitored by the Vice President, Legal Affairs through review of records and computer printouts.
- B. This policy will be reviewed at least annually by the Vice President, Legal Affairs.

14-5.7 APPLICABILITY:

All CCA facilities.

14-5.8 ATTACHMENTS:

1. Form 14-5A - Inmate/Resident Grievance Form
2. Other Forms for this facility are as follows:
14-5B - Grievance Investigation Form

14-5.9 REFERENCES:

ACA Standards. The ACA Standards for this facility are:
3-4017, 3-4175, 3-4268M, 3-4271, 3-4331M, 3-4459

CHAPTER 15 : INMATE RULES AND DISCIPLINE
SUBJECT: OFFENSE AND PENALTY CODE - ADULT
SUPERSEDES: SEPTEMBER 1, 1988
EFFECTIVE DATE: APRIL 1, 1992
FACILITY: NORTH FORK CORRECTIONAL FACILITY
FACILITY SUPERSEDES: JANUARY 22, 1999
FACILITY EFFECTIVE DATE SEPTEMBER 15, 2000

APPROVED: SIGNATURE ON FILE
DAVID L. MYERS
PRESIDENT

APPROVED: SIGNATURE ON FILE
LINDA G. COOPER
VICE PRESIDENT, LEGAL AFFAIRS

15-1.1 PURPOSE:

To ensure a safe and orderly facility environment.

15-1.2 AUTHORITY:

Corporate and Facility policy, state and federal law.

15-1.3 DEFINITIONS:

- A. Contracting Agency - The governmental entity contracting with CCA for the housing of inmates.
- B. Extra Duty - For pre-trial detainees, extra duty is the assignment of sanitation tasks in one's living area. If the pre-trial detainee agrees, the extra duty may be performed throughout the entire facility. For convicted inmates, extra duty may be performed throughout the entire facility.
- C. Offense - The violation of a specific rule resulting in a disciplinary report.
- D. Penalty - The punishment to be imposed following a disciplinary hearing. No inmate is to be punished except after a finding of guilt by a Disciplinary Board or Hearing Officer and only according to the penalty schedule set out herein. In addition to punishment by facility authorities, inmates may also be prosecuted by state or federal court for criminal conduct arising from an incident.
- E. Rule - A written requirement as to conduct governing the safe and orderly operation of a facility. All rules governing the conduct of inmates which could result in disciplinary actions are contained in this policy.

15-1.4 POLICY:

Any action or attempted action by an inmate which violates established CCA facility rules or Contracting Agency rules and poses a threat to the safe and orderly operation of the facility will be dealt with through appropriate disciplinary action following the guidelines for offenses and penalties set out herein or as required by the Contracting Agency.

Discipline will never be of a nature or administered in a way that will degrade or humiliate. The following actions will never be used as a means of discipline or punishment:

- Corporal punishment;
- Physical restraint;
- Psychological intimidation;
- Denial of regular meals;
- Denial of medical care;
- Denial of sufficient sleep;
- Denial of sufficient exercise;
- Denial of legal assistance.

15-1.5 PROCEDURES:

A. NOTICE OF OFFENSES AND PENALTIES

A copy of offenses and penalties will be given, in writing, and explained to each inmate upon admission to the facility during an orientation session. Any changes in the rules will be communicated to the inmates in writing. A copy of these offenses and penalties shall be posted in conspicuous locations throughout the facility.

B. MINOR OFFENSES

1. DISORDERLY CONDUCT: Behavior such as loud talking or yelling, pushing, which creates a disturbance and/or disrupts the orderly running of the facility.
2. FAILURE TO MAINTAIN PERSONAL HYGIENE: Not having a clean body and clothes.
3. POSSESSION OF GAMBLING PARAPHERNALIA: Having in one's control, items for use in operating or acting in any game of chance involving betting or wagering of goods or other valuables.
4. PRESENT IN AN UNAUTHORIZED AREA: Being in an area that is designated through verbal, written or posted orders as "off limits" to a specific inmate or inmates in general.
5. SELF MUTILATION: Inflicting injury on one's self. For example, cutting on one's own body or tattooing.
6. SMOKING IN RESTRICTED AREA OR AT A RESTRICTED TIME: Smoking of any form in an area or at a time designated verbally or through written post orders as a no smoking area.
7. UNEXCUSED ABSENCE FROM PLACE OF ASSIGNMENT: Being away without authorization from an appropriate supervisor, from the place of assignment such as dorm, work area, recreation area, infirmary, etc.
8. UNSANITARY AND DISORDERLY HOUSING CONDITIONS: Not keeping a clean, neat living area. The area should be kept in a manner so that all possessions are stored in an organized manner in areas designated for such. The area should be free from dirt and clutter.
9. USE OF VULGAR, ABUSIVE OR OBSCENE LANGUAGE: Use of words and/or phrases that are vulgar, abusive or obscene.

C. MAJOR OFFENSES

1. ARSON: Starting or causing to be started a fire which could or does cause damage to person(s) or property.
2. ASSAULT: An attack upon the body of another person. This includes rape.
3. ATTEMPT/CONSPIRACY: This is an offense for inmates who do not actually commit the offense but participate in the following ways:
 - a. attempts to commit the offense;
 - b. solicit another or others to commit the offense;
 - c. conspires with another or others to commit the offense;
 - d. facilitate the action of another or others in committing the offense.
4. COUNTERFEITING, FORGERY OR UNAUTHORIZED REPRODUCTION: counterfeiting, forging or reproducing without approval, any document, article, identification, money, security or official paper.
5. DEATH OF ANY PERSON: Any act of which the end result is the death of any person including inmates, staff or civilians.
6. DESTRUCTION, ALTERATION OR DAMAGE TO PROPERTY: Destroying, changing or hurting property of CCA or any other person.
7. DETAINING A PERSON AGAINST HIS WILL: Keeping a person in or removing from an area without the agreement of the person who is being kept or removed. Example: Taking of hostages.
8. ESCAPE: Leaving the grounds of an institution or from the custody of an employee outside the facility without permission or failure to return from a furlough or pass.
9. FAILURE TO FOLLOW VERBAL OR POSTED RULES AND/OR ORDERS: Not following specific rules and/or orders which have been designated for the clean, safe, orderly operation of the facility of which the inmates have been told of in advance through posting or verbally by an employee of the facility or person who has charge of the inmate at the time. This includes failure to follow the facility procedures for taking count.
10. FIGHTING: Engaging in physical conflict with another person.
11. GAMBLING: Operating or acting in any game of chance involving betting or wagering of goods or other valuables; or possess gambling paraphernalia.
12. HINDERING AN EMPLOYEE IN THE PERFORMANCE OF HIS DUTIES: Acting in such a way to interrupt an employee during his work time such as causing delays, giving false information.
13. INSURRECTION: Participation or encouraging others to participate in unauthorized activity such as rioting or a work stoppage.
14. POSSESSION OF CONTRABAND: Having in one's control any item which has not been approved by the facility including weapons or any item which has been altered for use as a weapon, intoxicants, drug paraphernalia.
15. POSSESSION OF STOLEN PROPERTY: Having in one's control any item which has been stolen from any other person.
16. REFUSAL TO SUBMIT TO A DRUG OR INTOXICANT TEST: Not giving a urine sample for use in testing for drug usage or refusing to submit to a breathalyzer.