

<b>DATE:</b>	DECEMBER 27, 2018
<b>NUMBER:</b>	N.1
<b>SUBJECT:</b>	GRIEVANCE PROCEDURE
<b>RELATED SECTIONS:</b>	<a href="#">O.1</a> , <a href="#">O.3</a> , <a href="#">N.3</a>

**PURPOSE**

To establish uniform procedures for the resolution of inmate grievances relating to disciplinary actions and/or conditions of incarceration, and to comply with a U.S. District Court order in *Armstrong v. Schwarzenegger*.

**POLICY**

Each facility shall attempt to resolve inmate grievances in compliance with CCR Title 15, Section 1073 and the Prison Rape Elimination Act of 2003, Section 115-52. Informal resolution of an issue before it becomes a written grievance is both desirable and recommended. Furthermore, written grievances can often be resolved without the intervention of a supervisor, and every effort should be made by a deputy or staff member who receives a grievance to handle it at his or her level. Grievances alleging that an inmate is subject to a substantial risk of imminent sexual abuse shall be referred to as an "Emergency Grievance" and immediately forwarded to the watch commander or designee.

**PROCEDURE**

**I. GRIEVANCES**

- A. Grievances may relate to any condition of confinement, including, but not limited to:
  - 1. Medical care
  - 2. Classification actions
  - 3. Disciplinary actions
  - 4. Program participation
  - 5. Telephone, mail and visitation procedures
  - 6. Food, clothing and bedding
  - 7. Conditions that cause an inmate to believe he/she is at a substantial risk of sexual abuse.
  
- B. Grievances can be submitted in writing by any inmate.
  - 1. Inmates may submit their grievances on a regular Inmate Grievance (J-22 form) or any other writing material. The reverse side of the J-22 form describes the

grievance procedure in English and Spanish. J-22 forms shall be available and accessible to all inmates.

2. Inmates may submit written grievances directly to deputies or other employees at any time when they are in a place they have permission to be. Absent exigent circumstances, any deputy or other staff member who is presented with a written grievance will accept it.
3. The deputy or other employee who initially receives a grievance will sign his or her name and ARJIS number on the J-22 form along with the date and time. The second page of the J-22 form will immediately be given to the inmate as a signed receipt for the grievance.
4. As an alternate means for submitting grievances, secured boxes may be provided for inmates to deposit their grievances into. Any grievance retrieved from one of these dedicated grievance boxes will be signed by the sergeant or designee who collected it, and the signed second page of the J-22 form will be returned to the corresponding inmate as soon as practical.
5. The deputy or other staff member who receives and signs for a grievance will be responsible for entering it into JIMS, making sure to link the inmate(s) to the grievance report. When completing the “summary” in JIMS, the inmate’s grievance may be summarized, but must clearly articulate the nature of the grievance. Once the grievance has been entered into JIMS, the JIMS generated grievance number will be entered on the J-22 form, along with the date and time that the grievance is entered into JIMS. The exception to this is for medical grievances, which shall be given directly to medical staff without first being entered into JIMS.
6. Anonymous or group grievances in which no primary grievant can be identified will be reviewed by the watch commander and forwarded to the facility commander for review. Anonymous or group grievances will not be entered into JIMS. They will serve as a tool for management oversight only. The facility commander will maintain a file containing anonymous and group grievances, along with a description of any action taken.
7. A grievance in which the primary grievant can be identified will be handled as a normal grievance, even if other inmates sign the form. The inmate completing the J-22 form by including his/her name, booking number, and signature in the appropriate spaces, will be considered the primary grievant. In these cases, the grievance will be entered into JIMS and only the primary grievant will be linked to the grievance and receive a written response under the guidelines outlined below.

The deputy or staff member who responds to the grievance shall determine if the grievance alleges the inmate’s health or safety is being threatened by a condition of confinement, or a condition of confinement has prevented the inmate’s effective communication/participation in any court or administrative hearing. If any of the above are alleged, check the corresponding box on the J-22 form and

respond within the time frame outlined in paragraph II.B.1. Place a copy of the grievance/request and response in the inmate's custody record.

8. If the grievance must be routed to another individual or unit for resolution (e.g. the shift sergeant, food services, commissary.), the person who initially received the grievance will make an entry into the "action taken" area of the grievance in JIMS. This entry will include the name of the person the grievance is being forwarded to, and the date and time it was forwarded.

After investigating the nature of the grievance, a written response to the inmate will be entered in the "narrative" area of the grievance in JIMS. Two copies of the response shall be printed out. The action officer will deliver the response to the inmate. The inmate will sign and date one copy of the response. The signed copy will serve as an acknowledgement that a written response was delivered to the inmate. In the event the inmate refuses to sign the response, the action officer and a witness will notate the refusal on the copy of the grievance. The signed copy of the response along with the original J-22 form shall be filed in the inmate's custody record.

Note: There may be instances that will prevent the action officer from delivering a grievance response to an inmate (i.e. the action officer is assigned to another division, facility, etc.). In those situations, the action officer may request assistance or designate someone from their classification (i.e. sworn, counseling, food services, medical services, etc.) to deliver the response to the inmate.

9. After a grievance has been resolved, it must be closed out in JIMS. In order to do this, the staff member resolving the grievance must complete the grievance detail section in JIMS by entering:
  - a. his or her name as the "action officer"
  - b. The "action date" of the resolution; and
  - c. The "action taken" that resolved the grievance (unless these three fields are filled with the appropriate information, JIMS will not remove the grievance from the pending grievance queue)

## II. GRIEVANCE REVIEW

- A. A grievance not resolved to the inmate's satisfaction may be directed by the inmate in writing through successive levels of command until a resolution is obtained, or until the facility commander reviews the grievance.
  1. The reviewing command staff member at any level can affect a resolution of the grievance.
  2. At each level of review of the grievance, a written response containing the details of the resolution or the reasons for denial will be documented in JIMS, and a JIMS Web "inmate grievance report" will be provided to the inmate.

B. The level of review time frames for grievances are as follows:

1. First level – A deputy or other staff member at the lowest appropriate level will investigate the grievance, resolve the issue, and direct a written response to the inmate within 7 calendar days of the receipt of the grievance.

When a grievance alleges that the inmate's health or safety is being threatened by a condition of his or her confinement or that the conditions of confinement prevent his or her effective communication or participation in a court or administrative proceeding (including a CDCR parole revocation hearing), the period for response shall be reduced to 4 calendar days.

2. Second level – The grievance review officer has 10 calendar days to respond.
3. Third level – The facility commander has 10 calendar days to respond. The decision of the facility commander is final.

### III. APPEALS OF DISCIPLINE

Appeals of discipline will be processed in accordance with Detention P&P Section O.1. They will not be processed as grievances.

### IV. EMERGENCY GRIEVANCES

When an emergency grievance is received alleging that an inmate is subject to substantial risk of imminent sexual abuse, the deputy shall immediately forward the grievance (or any portion thereof that alleges the substantial risk of imminent sexual abuse) to the watch commander or designee, at which time immediate corrective action (separate the alleged victim) may be taken. The watch commander or designee shall provide an initial written response, via JIMS using the PREA dropdown, within 48 hours, and shall issue a final decision/response within 5 calendar days. The initial response and final decision/response shall document the determination whether the inmate is in substantial risk of imminent sexual abuse, and the action taken in response to the emergency grievance.

### V. FRIVOLOUS GRIEVANCES

- A. No grievance will be deemed frivolous if it directly pertains to an inmate's health or safety.
- B. A grievance may be deemed frivolous by the facility commander if it clearly falls into any of the categories below:
  1. The grievance concerns a matter that is trivial or minor.
  2. The grievance addresses an issue that has previously been brought to the attention of jail staff by the same inmate.

3. The grievance alleges a single instance of non-compliance with policy by staff, and such non-compliance does not affect the fundamental rights of the inmate.
  4. The grievance concerns an established policy or practice of the Sheriff's Department that the inmate claims violates his or her rights, when no good faith legal argument exists that the policy or practice amounts to violation of the inmate's statutory or constitutional rights.
- C. If the facility commander finds a grievance to be frivolous, he or she shall state so in the response to the grievance and enter it into JIMS in the normal manner.
1. In the narrative section, the facility commander will note his or her finding and justification for determining the grievance is frivolous.
  2. The facility commander will direct that the inmate receive a copy of this policy and procedure section.

## VI. VEXATIOUS GRIEVANCE WRITER

- A. An inmate who has filed repetitive grievances that are frivolous in nature, or concern an established policy or practice of the Sheriff's Department that the inmate claims violates his or her rights, when no good faith legal argument exists that the policy or practice amounts to a violation of the inmate's statutory or constitutional rights may be considered a vexatious grievance writer.
1. Only the facility commander can determine when an inmate will be classified as a vexatious grievance writer. If so, the inmate shall be considered a vexatious grievance writer for a period of 90 days.
  2. An incident report will be written documenting the determination of a vexatious grievant and establish the 90-day timeline.
  3. The inmate will be given a copy of this policy and procedure section.
  4. A Jail Population Management Unit (JPMU) deputy will add "VEX" to the inmate's hazard alerts in JIMS, via the classification evaluation update screen, thus identifying the inmate as a vexatious grievance writer.
- B. A vexatious grievant shall continue to have the right to file grievances; however, his or her grievance may, at the discretion of the facility commander, be denied without a hearing or any right of appeal.
1. The facility commander will note at the bottom of the grievance form: "This is a frivolous grievance," return a copy to the inmate and place the white copy in the inmate's custody record. The grievance will be entered into JIMS. In the "actions" area, the staff member will indicate the facility commander has determined the grievance to be frivolous, and the inmate has been classified as a vexatious grievance writer.

2. If a grievance filed by a vexatious grievant is deemed frivolous, the vexatious grievant shall have his or her 90-day period reset and a new 90-day period shall commence. This will be documented in an incident report.

## VII. GRIEVANCE AS DISTINGUISHED FROM A PERSONNEL COMPLAINT

If a grievance addresses the actions of a specific deputy or staff member, the deputy or staff member who receives and signs for the grievance will return the second page to the inmate, and then immediately give it to his or her supervisor for review. The supervisor who first receives the grievance will make a JIMS entry omitting the name(s) of the subject employee(s). Using the criteria described below, the supervisor will determine whether it is a grievance about jail conditions/practices, or a complaint about an employee. If it is determined to be a grievance about jail conditions, the supervisor will handle it as a grievance pursuant to this section. If it is to be handled as a complaint against staff, the supervisor who first received the grievance will contact the complainant to obtain a detailed statement about the allegation(s) and document it on the grievance form, omitting the name(s) of the subject employee. The corresponding box on the form will be checked and the grievance will be closed in JIMS. The supervisor will then give the grievance to his/her watch commander for review and determine the appropriate action. If no immediate action is required, the grievance will be forwarded to the supervisor of the employee named in the complaint to determine if a formal investigation is warranted. If a formal investigation is recommended, the supervisor will complete the Complaint Form (IA-1 form) and forward it to Internal Affairs who will determine if the personnel complaint should be handled at the facility level or Internal Affairs.

1. Some grievances submitted by inmates are actually complaints about employee misconduct. Conversely, some allegations of employee misconduct are grievances about jail conditions and practices. The procedures described in this section apply only to grievances. Supervisors must be able to effectively distinguish between grievances that are truly grievances, and grievances that are complaints alleging misconduct by personnel.
2. If the inmate is alleging that a particular jail practice is unfair or unlawful, this is a grievance. If the inmate is alleging that an employee's actions violated policy, this is a personnel complaint.
3. Naming a specific deputy or other employee does not automatically turn the grievance into a personnel complaint. Often, inmates will file complaints against a deputy for enforcing a DSB policy that the inmate believes is unlawful or unfair. Such complaints are grievances rather than personnel complaints, because the inmate's issue is with the policy itself, not the deputy who enforces the policy.

## XII. GRIEVANCES DETERMINED TO BE AN INMATE REQUEST

Grievances received which do not fit the criteria as described in section I. A. above, may be processed as an Inmate Request. If upon receiving a Grievance form, it is determined to be an inmate request, check the two corresponding boxes "This is not a grievance" and "This is an inmate request;" resolve according to N.3 Inmate Request Forms (No entry in JIMS).