

**Jail Administration for Corrections Section 9**

1983 Lawsuits; Prison Litigation Reform Act; and  
Jail Detainee Grievance Process

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**42 USC § 1983**

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

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**Prison Litigation Reform Act**

Congress passed the "Prison Litigation Reform Act of 1995" in response to the overwhelming effects of litigation in the federal courts.

The PLRA makes it a requirement that inmates MUST exhaust all administrative remedies available to them prior to filing a federal suit.

42 USC § 1997 (e)(a) states, "No action shall be brought with respect to prison conditions under section 1983 of this title, or an other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

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**Prison Litigation Reform Act**

SCOTUS has held that if the jail or prison has a grievance process in place, the PLRA requires that all claims/issues touching on jail conditions – including medical care, violence and religious freedom issues – must have completed the grievance process before those issues can be the subject of federal litigation. This is true even though the grievance procedure does not make any provision for the payment of money to the plaintiff if the grievance is sustained.

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**Prison Litigation Reform Act**

Additionally, if the grievance policy has a time limitation for initiating the grievance, it is in essence a new, and much shorter, statute of limitation.  
*Jernigan v. Stuchell* "an inmate who begins the grievance process but does not complete it is barred from pursuing a § 1983 claim under PLRA for failure to exhaust his administrative remedies"  
*Pozo v. McCaughtry* "to exhaust remedies, a prisoner must file complaints and appeals in the place, and at the time, the prison's administrative rules require"  
*Hartsfield v. Vidor* "inmate cannot simply fail to file a grievance or abandon the process before completion and claim that he has exhausted his remedies or that it is futile for him to do so because his grievance is now time-barred under the regulations"

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**Prison Litigation Reform Act  
Consequences**

Under PREA, time constraints do not apply.  
Inmates are eliminated from filing future § 1983 law suits if they have filed 3 cases which have been dismissed by the court as frivolous.  
Missouri also has an exhaustion statute: RSMo. § 506.384.1 "No civil action may be brought by an offender, except for constitutional deprivation, until all administrative remedies are exhausted."

**In Missouri, civil rights claims brought under 42 USC § 1983 are governed by a 5-year statute of limitation.**

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### **Why is the Grievance Process Important?**

Proper handling of Inmate Grievances reduces litigation and liability for the agency.

The grievance process is necessary to communication issues that, we as administrators, may not be aware of and need the opportunity to correct without litigation.

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### **Grievances**

If you do not have a policy and procedure related to GRIEVANCES, this creates a greater liability issue than having a well structured plan for handling them.

Prison Litigation Reform Act (PLRA) makes it the responsibility of the Detainee to exhaust Administrative Remedies prior to filing a Federal Law Suit. (1983 Civil Rights)

If the court determines the detainee has filed 3 frivolous law suits in the Federal System, the detainee is prohibited from filing further law suits in the Federal Court System.

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### **Things to Take into Account**

How the grievance process is communicated to the detainees?

(Handbook; Orientation; etc.)

Policy / Procedure

Consistency issues.....

Accuracy issues.....

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**Authorized (Unit) Staff**

Ensures properly trained staff are the ones to respond to grievances

Improves consistent responses to communicate corrective action

Reduces stress on staff and inmates

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**Issues in the Facility that Represent the Bulk of Grievances**

MEDICAL

MAIL

USE OF FORCE

DISCIPLINE

RELIGIOUS

FOOD

CONDITIONS OF CONFINEMENT

ACCESS TO THE COURTS

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**Most Common Mail Complaints**

- Someone opened my legal mail.
- I did not receive all the mail sent to me.
- You rejected my mail and I was not notified.
- You wrongly rejected my mail.
- I should not have to request exception.

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***Most Common Religious Complaints***

- ☐ I shouldn't have to tell you who my religious advisor is.
- ☐ I don't have to tell you how I converted.
- ☐ I shouldn't have to explain my beliefs to you.
- ☐ You are making me participate in religious programs.
- ☐ By not allowing me to participate in Programs, you are interfering in the practice of my religious beliefs.

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***Most Common Food Complaints***

- ☐ Insufficient caloric value.
- ☐ Not enough (milk, fruits, etc.)
- ☐ There is a "hair" (or anything else they can think of) in their food.
- ☐ I didn't get a meal.

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***Most Common Medical Complaints***

- ☐ You are denying me adequate medical care.
- ☐ You are denying me my medication.
- ☐ You charged me for treatment and I am a Federal Inmate.
- ☐ Why won't you give me the medication I got when I was not in jail?

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***Most Common Discipline Complaints***

- ☐ I was denied due process.
- ☐ The disciplinary result it too severe.
- ☐ The discipline result infringes on my other protected rights.

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***Most Common Access to Court Complaints***

- ☐ I need all of my legal documents in my possession.
- ☐ Staff violated confidentiality by searching through my legal documents.
- ☐ Staff read through my discovery.
- ☐ I don't get enough time in the law library.

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***Most Common Use of Force Complaints***

- ☐ You didn't have to do that.
- ☐ Your response was excessive.
- ☐ You violated my 8<sup>th</sup> Amendment Rights.
- ☐ You caused me injury and have to pay for treatment.

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217

**Number of the Mail Closure**

Captan, My ibuprofen for my arthritis ran out last nite and I saw the nurse today and was charged 5.50 for the visit , then told tnite at med pass That I don't get the ibuprofen. I've got arthritis in my knees and the are so swollen right now witout the 'anti-inflammatory' tha I can barely walk. I was unable to sleep at all last nite and i'm in so much pain I couldn't eat today. Thisis unacceptable and is medical neglect. I also am suffering from a head injury with chronic headache and 'strobing' in the eye that for the 2nd time since being housed here has been struck. If I wasn't indgent I could purchase and take ibuprofen myself. I'm at themercy of your medical staff whom I believe is doing this, retaliating against me because of all my medical issues and because the were made to come t court. As I mentioned to you previously I was told by ASST PROSECUTOR in court to file a 'civil' suit about medical conditons. I'm prepared to do so if I'm not provded what I need to function, sleep and eat while in your facility. Sincerely INMATE

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**Number of the Mail Closure**

I have received your grievance. We conducted a review. We confirmed you were seen by nurse, an assessment was conducted and the doctor was called. The doctor ordered no medication at this time. The doctor's order was followed. Disagreement with the doctor's order is not a grievable matter. -  
SERGEANT

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219

**Number of the Mail Closure**

This grievance is regarding the issue of the fact that on monday, 04-03-2017, at approximately 11.00pm, i received a legal mail envelope from an attorney which had been tampered with in at least one of many ways, specifically by having the metered postage label ripped off and removed from the envelope. These intentional actions by a public servant employed by this county are unlawful and unconstitutional, and were done for no reasonable purpose but to destroy evidence and cover up the fact that this piece of upps delivered mail was at this facility longer than it should have been prior to being delivered to me "over 24 hours" and especially "no the same day as it arrived", and or to harass me, discriminate against me, retaliate against me, oppress me, prevent me from accessing the courts, and to prevent me further from defending myself from government action. This action has been proven to be approve and condoned by the full echelon of this department because this type of tampering with mail, especially legal mail, has happened many times before and has been raised in prior grievances, but it is still happening on a regular basis. This type of tmpering with mail, especially legal mail, is unreasonable and is an egggerated response to what ever reason you might have for doing so. This action of a public servant prevents me from knowing when this upps mail was sent, knowing the Actual amount of postage used to compare the weight and amount of contents sent to me versus the weight and amount of contents i received after it was tampered with, and being able to determine if the envelope which was tampered with was even the envelope that the attorney actually sent to me. All of these actions of te staff members of this department violate federal and state laws and abridge my -and others- federal and state constitutional rights. My requested remedies are that an investigation be conducte nd that i be provided with the names of any and all employees involved in this incident, tha i receive a sincere in-person apology and cordial handshake from each and every person involved, that 1,000 dollars for this incident be deposited into an interest bearing account in my name, that all public servants working for this county government department -sheriff's office- undergo extensive training regarding the constitutional rights of persons, and that a letter of admission to the act and the condoning of these acts, by all who have such involvement, be sent to the united states postmaster general and the united states attorney general. I also request that you preserve and provide to me copies of any and al audio and video recordings, documents, communications, and things associated in any way with this incident, including the parts of the envelope and labels removed from the rest of the envelope, all similar incidents prior, and all policies thereof. Any claim or statement not specifically addressed or responded to, and disputed or denied, will be construed as an admission to the act or failure to act by you and or your staff contained within said claim or statement. Any and all reprisals or retaliation will be thoroughly documented and this must be stated because I have personally encountered and been subjected to such immature, unprofessional, and unconstitutional behavior during my illegal incarceration in this county government facility. Thank you.

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**Example of Final Grievance Response**

I have received your grievance, we conducted a review. If there was a meter label on the mail in question, it was appropriate for staff to remove it. The removal of the meter label did not result in any degradation of the mail received and delivered to you. Labels and stickers are commonly removed from incoming mail for safety and security purposes. Labels, stickers, etc. removed by staff are disposed of at the time of removal. -SERGEANT

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**Example of Good Response Appeal**

My original grievance still stands. I was subjected to cruel and unusual punishment by being placed in the restraint chair. My grievance was not addressed. It said I had no proof that the deputy lied. What more proof do I need then me denying it the whole time while on camera and then no contraband being found. The restraint chair is to be used under extreme circumstances only, if video footage is watched you will see that I was not combative towards staff and was not being harmful towards myself. But reading a book at the time in bed when SWAT was brought in on myself. 2 hours I spent in that chair, for what reason. To secure a search warrant is no excuse. Not only that the chair wasn't used as it was designed. The cameras will show how I was placed in the restraint chair was different than the makers 'pro-strait' intended. This can be verified by watching the instructional video that came with the restraint chair, because of this I was in pain for over 2 hours. I asked several times why I was being placed in the chair when I was not out of control, I was told the captain ordered it. From the inmate handbook it states the Captain will review the appeals, I believe having JAIL CAPTAIN review this. Appeal would be a conflict of interest, being he is involved in this. Complaint. Video footage from SWAT, and video footage from booking will support these facts. I wish for this issue to be addressed in a timely manner. If it can not be resolved I will appeal to the sheriff and if I have to I will take it to the courts for review under 1983. My rights were violated, and video footage will show this as well as the standard operating procedure was not followed using the restraint chair.

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**Example of Good Response Appeal**

A review of your grievance has been conducted. You have, on several occasions, reported the possession of razor blades and/or revealed what appeared to be razor blades in your mouth. With the incident in question, you were maintained in the holding cell. The tactical team secured you in the restraint chair to protect you and others from the threat of being cut by what appeared to be a razor blade. Your clothes were changed out and thoroughly searched. Then, the holding cell you were in was thoroughly searched. When nothing was located, officers sought a search warrant in an effort to secure the cutting instrument. You were maintained in the restraint chair for your safety and the safety of others as well as maintaining control of you while seeking the search warrant.

CAPTAIN  
Detention Division Commander

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**Example of What the Grievance**

Att CAPTAIN I have been on disciplinary action "lockdown" for almost 20 days as of today. I received a disciplinary wright up on 6-20-15 for a violation of 2.26 and a 3.0 per the write up they read as such "2.26 failure to imediately lockdown as directed by staff member: 3.0 refusing to obey a proper directive-order of any staff member. In regards to these violation I recieved a panel review consisting of OFFICER 1 OFFICER 2 and OFFICER 3 on 6-22-15. The officer report consists and read's as follows on june 20th 2015, at aprox 2000 hours master control called for lockdown during med pass. DEPUTY observed inmate mery talking on the phone after med pass had been concluded for b tank, I then checked on medical in a tank. After checking medical in a tank i observed INMATE was still on the phone. I called in two more times and advised INMATE he had time during the day to make his phone calls and he needed to return to his cell for lockdown"3.0" INMATE asked for a few more m8nutes. I advised he had time during the day to make phone call and to lockdown"2.26" or i was going to shut the phone off. INMATE remained on the phone. At 2214 hours, DEPUTY turned off the phone, INMATE then returned to his cell without further incident. End report

my issues with this writup are as follows one during the panel review i told HEARING PANEL that there was never any verbal command or type of "direct order"and that also DEPUTY was present in the hallway during and briefly after med pass was completed at this time and no commands were even relayed by him a this time either. I do not deny the fact that i was on the phone briefly at this time but the disciplinary action that was presented and upheld against me does not fit the profile or nature of what was written in the report due to the lack of "direct command wording in your diciplinary form or handbook as mentioned, also to prove my grievance in this situation the DEPUTY cleary states and i quote"i observed INMATE Was still on the phone. I called in two more times and advised INMATE "you read his report prior to this you will find at no time did he gve a first order to return to my cell little alone a second and skip's directly to say an "aditonal two times" which lead's me to believe he is only trying to use my current situation for a traing exercise to practice his newly found position in your facility but in regards to this matter i do not find that a 15 day write up or lockdown order should be upheld I This matter "2.26" or the 3.0 and i cannot find a rule violation even pertaining to the situation at hand please review this and consider this diciplinary for dismissal or amendment of sentence thankyou...

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**Example of What the Grievance**

This is not a grievable matter. You will need to address your concerns through the disciplinary process.

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**Example of What the Grievance Appeal**

I hereby incorporate and attach by reference any and all facts, complaints, problems, statements, demands, requests, and remedies listed in the prior grievance document regarding the issue of the fact that on tuesday, 2-28-2017, at approximately 6.05am, SERGEANT handed, touched, and grabbed my "kosher" tray, and then even handed it to another inmate, which includes the fact that neither of them had any gloves on their hands. Since the grievance this is connected to has not been addressed at all or has not been adequately addressed by someone who understands how to properly respond to a grievance, I am confused as to whether this grievance is ever going to be answered and/or how long I would have to wait, so I will submit this grievance appeal, even if early, to make sure it is on file, and I will re-file it if necessary. To reply to the incoherent babble that started this confusion, by the mystery "admin user" who responded, it doesn't make sense because- 1. They must have responded to the wrong grievance because the submission of two similar grievances within a two day period confused the "admin user" who responded, prematurely, to both this and the other, grievance. 2. They must have thought they responded to someone else's grievance, and-or. 3. The fact that february has 28 days this year obviously eluded that same mystery "admin user" and-or they are confused by the fact that not all months have 31 days, and they don't understand that 03-01-2017 is just one day after 02-28-2017. The first response doesn't make sense with this grievance and therefore is obviously not a response to "this" grievance, so it will be construed and accepted as a nullity and that this grievance has not been responded to. The second response doesn't make sense with this grievance and therefore is not a response to "this" grievance, so it will be construed and accepted as a nullity and that this grievance has not been responded to. All grievances should be responded to with the specific details supporting the reason for denial or avoidance and with enough particularity to allow the person-inmate with less than average intelligence to determine what they did wrong and how to follow-up or fix it. Everything else is unconstitutionally vague, and "you" can't create the error you are defaulting people because of. Any claim or statement not specifically addressed or responded to, and disputed or denied, will be construed and accepted as an admission to the act or failure to act by you and-or your staff contained within said claim or statement. Any and all reprisals or retaliation will be thoroughly documented and this must be stated because I have personally encountered and been subjected to such immature, unprofessional, and unconstitutional behavior during my wrongful incarceration in this county government facility. Thank you.

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**Sample of Food Complaint**

I have received your grievance. I conducted a review. The meal service and practices of meal service delivery do not violate Kosher meal handling procedures.

CAPTAIN  
Detention Division Commander

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**Sample of Food Complaint**

I Simply lets begin with today's lunch, i am on the kosher diet so i recieve celery once a day for dinner or lunch, today 11-19-15 at lunch the celery i recieved was moldy and smelled horrible, when i presented this issue to DEPUTIES they simply said nothing but just stood there blankly staring at me as if i were speaking a different language than english, i then looked at them n asked do you expect me to eat moldy old food n DEPUTY shrugged her shoulders like i dont care n DEPUTY said not one word but looked away as if he could not hear me, i then tossed all of the celery onto the cart and said keep your moldy celery because it was blatently obvious that niether of them were going to do a damn thing. This needs to be handled or i will be contacting my attorney to have the health department come in and do inspections, also i will be contacting several different people among the ones i already have n regards to the forced diabetic diet you have me on and the fact that al the other inmates receive a variety of food and meals where i and my fellow kosher diet people are being discriminated against with being served the same exact meals daily which is unexceptable.  
please correct these problems asap thankyou

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**Sample of Food Complaint**

I have received your grievance. We conducted a review. We confirmed that kitchen staff assembled your tray and photographed it prior to delivery due to your recent and repetitive complaints. The food service manager verified your tray as complete and the food to be fresh and ready for consumption. Additionally, you were observed walking away from the meal cart with your tray. In the future, you are required to report any deficiency prior to walking away with your meal tray. Kosher meals are approved by a dietician. - SERGEANT

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**Example of Complaint of Confinement Grievance**

Captain, for the 2nd day in a row, without any type of notice the shower heads 2 and 3 are being withheld from pcdc inmates causing 'scalding hot' temperatures in number one without the temperature moderating benefit of others running at same time...what's going on Now is these dirty, stinkers that don't like to wash their 'privates' and cause their cellies to have to smell their offensive Vaginas and butts...this is not an additional element that needs to be thrwn into the mix of this equation we are forced to live in...20 plus women, with lockdown times can't adapt to this type of 'restraint', especially without any preperation and or advance notice. Please correct this matter because these dirty girls tha used this as an excuse not to shower yesterday will be 'extremely objectionable' to those of us around them. Please turn the showers back on today so tey may be used as the were withheld all day yestrday. Thankyou for your concern with this most serious situation.

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**Example of Complaint of Confinement Grievance**

I have received your grievance. We conducted a review. We confirmed that the water has been periodically shut off to the showers for maintenance work. We also confirmed that the water has been restored. In the future, if you have a maintenance issue to report, please submit it on the proper form. - SERGEANT

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**Example of Access to the Courts Grievance**

This grievance is concerning the issue of the fact that on monday, 04-03-2017, at approximately 11.00pm, i received a book, which was a legal book, but it had been severely damaged, obviously intentionally and with substantial anger, res ipsa loquitur, on it's spine, along with other damage also. These actions of staff have no reasonable purpose but to harass me, discriminate against me, retaliate against me, oppress me, prevent me from accessing the courts, and to prevent me further from defending myself from government actions. My requested remedies are that an investigation be conducted and that i be provided with the names of any and all employees involved in this incident, that i receive a sincere in-person apology and cordial handshake from each and every person involved in any way, that 1,000 dollars for this incident be deposited into an interest bearing account in my name, that this legal book be replaced or that i be reimbursed for the full retail price of it, and that all public servants working for this county government deptment -sheriff's office- undergo extensive training regarding the constitutional rights of persons, along with the treatment of those persons' property. I also request that you preserve and provide to me copies of any and all audio and video recordings, documents, communications, and things associated in any way with this incident, especially all audio and video from stationary and-or body cameras which show this books arrival at this facility, any room which it went to or was kept in, any movement of the book throughout the facility or otherwise, and its delivery to me, and also any policy regarding claims of damage or loss of property by employees of this department or the county government as a whole. Any claim or statement not specifically addressed or responded to, and disputed or denied, will be construed and accepted as an admission to the act or failure to act by you and-or your staff contained within said claim or statement. Any and all reprisals or retaliation will be thoroughly documented and this must be stated because I have personally encountered and been subjected to such immature, unprofessional, and unconstitutional behavior during my illegal incarceration in this county government facility. Thank you.

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**Example of Answer to the Custodian of Records Request**

I have received your grievance. We conducted a review. The receiving employee reported that the book showed signs of wear on the spine when searching it for contraband. The book was delivered to you. There is no evidence to support your claim that the book was damaged after receipt at the facility and by staff. Your embedded records request will be forwarded to the Custodian of Records. – SERGEANT

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**Grievance – A Few Things**

It is always appropriate to “reject” a grievance for procedural error. (Outside of the submission requirements; More than one issue stated in the grievance; etc.)

It is very important that you and your staff follow the procedures for how your facility handles grievances

It is acceptable to return it stating they failed to provide “specific and detailed information to demonstrate that the submission is within the requirements as outlined in the Inmate Handbook.”

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**Grievance – A Few Things**

The Missouri Department of Corrections showed us what not to do (Hammett v. Cofield, et al 2012)...a grievance which failed procedurally was still addressed on the merits and the Court found that their response opened the door for the case to be heard.

**This is why the Department should not...  
on the grounds to...  
and...  
and...**

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**Grievance...A Few Things**  
**It is always best to address**  
**grievances at the lowest**  
**possible level.**

SCOTUS and HOBBS.....

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**Recommended Grievance Procedure**

You may submit a Grievance to the Detention Division Supervisory Staff if you feel you have been subjected to ~~abuse or mistreatment~~ your ~~Constitutional Rights~~ ~~with~~ ~~improper~~. You are ~~not~~ ~~to~~ ~~be~~ ~~held~~ ~~responsible~~ ~~for~~ ~~the~~ ~~grievance~~ submission. You are ~~not~~ ~~responsible~~ ~~for~~ ~~the~~ ~~grievance~~ ~~on~~ ~~behalf~~ ~~of~~ ~~other~~ ~~detainees~~.

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**Recommended Grievance Procedure**

Grievances are ~~submitted on the block~~ in the dayroom. You ~~must~~ ~~file~~ ~~your~~ ~~grievance~~ ~~with~~ ~~the~~ ~~lowest~~ ~~possible~~ ~~level~~ ~~of~~ ~~the~~ ~~alleged~~ ~~abuse~~ ~~or~~ ~~discrimination~~ ~~you~~ ~~are~~ ~~reporting~~ (unless you are reporting sexual abuse/harassment) and ~~not~~ ~~be~~ ~~held~~ ~~responsible~~ ~~for~~ ~~the~~ ~~grievance~~. The Detention Division Supervisory Staff will investigate your grievance and resolve any issues found. You will be ~~notified~~ ~~of~~ ~~the~~ ~~results~~ ~~in~~ ~~writing~~ ~~only~~.

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**Recommended Grievance Procedure**

**Provide** the Detention Division Supervisory **Commander** **with** you **may** **submit** **an** **appeal** to the Detention Division Commander **in** **the** **dayroom**. You **must** **include** **your** **written** **response** **to** **the** **findings** **and** **actions** **of** **the** **Detention** **Division** **Supervisory** **Staff's** **findings** **and** **actions**. **The** **Detention** **Division** **will** **review** **your** **appeal** **and** **provide** **you** **with** **its** **written** **response** **within** **10** **business** **days** **of** **the** **date** **of** **the** **appeal**.

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**Recommended Grievance Procedure**

**Provide** the Detention Division **Commander** **with** you **may** **submit** **an** **appeal** to the Detention Division Commander **in** **the** **dayroom**. You **must** **include** **your** **written** **response** **to** **the** **findings** **and** **actions** **of** **the** **Detention** **Division** **Supervisory** **Staff's** **findings** **and** **actions** and include specific details. **The** **Detention** **Division** **will** **review** **your** **appeal** **and** **provide** **you** **with** **its** **written** **response** **within** **10** **business** **days** **of** **the** **date** **of** **the** **appeal**. You will be **provided** **with** **the** **written** **response** **within** **10** **business** **days** **of** **the** **date** **of** **the** **appeal**.

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**Recommended Grievance Procedure**

**Your failure to exhaust each appellate level in the specified order and described manner will disqualify you from the grievance process.**

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**Jul Administration for Chapter Section 9**

QUESTIONS?

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