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**DIVISION OF ADULT INSTITUTIONS  
OZARK CORRECTIONAL CENTER  
STANDARD OPERATING PROCEDURE**

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D5-3.2 Offender Grievance

January 25, 2016

Effective Date:

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Brian O'Connell, Warden

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**GENERAL INFORMATION:** This institution will comply with D5-3.2 Offender Grievance with additional procedures per Ozark Correctional Center. The standard operating procedure (SOP) is printed below the policy sections as deemed appropriate and clearly marked \*\*\*SOP. Bold print distinguishes procedures.

- I. PURPOSE:** This procedure provides guidelines for offenders and staff to resolve issues of concern to offenders at the earliest opportunity possible.
- A. AUTHORITY:** 217.040, 217.175, and 217.370 RSMo; Title 42 USC (Section 1997), Executive Order 03-11
- B. APPLICABILITY:** Each facility housing offenders under the jurisdiction of the division of adult institutions or division of offender rehabilitative services. Each facility will develop standard operating procedures based on the guidelines established herein.
- C. SCOPE:** Nothing in this procedure is intended to give a protected liberty interest to any offender. This procedure is intended to guide staff actions.

**II. DEFINITIONS:**

- A. Abandonment:** Closure of a complaint due to offender's failure, within applicable time frames, to:
1. file a formal grievance,
  2. appeal chief administrative officer's (CAO) response,
  3. sign receipt of a written response,
  4. failure to provide a forwarding address to the grievance officer per this procedure,
  5. failure to resubmit a complaint in proper format per this procedure.
- B. Abuse of the Offender Grievance Procedure:** An informal resolution request, offender grievance or grievance appeal containing abusive or profane language; threats of physical harm or the submission of intentionally unfounded complaints.
- C. American's with Disabilities Act – (ADA) Grievance:** A complaint alleging any action prohibited by the Americans with Disabilities Act, the federal Rehabilitation Act, and the Missouri Human Rights Act.

- D. Calendar Day:** All days, including weekends and holidays.
- E. Chief Administrative Officer (CAO):** The highest ranking individual at the worksite and in accordance with the CAO reference document available in the department's computer system. Exception: Staff members at the worksite who do not report to the worksite CAO will be accountable to the deputy or assistant division directors or central office section heads who are in their chain of command.
- F. Citizens Advisory Committee on Corrections:** Individuals appointed by the governor who review a sampling of grievance appeals and make recommendations to the department.
- G. Department ADA Coordinator:** An employee appointed by the department director responsible for monitoring department compliance with state and federal disability laws by working with worksite ADA coordinators and division directors or designees to respond to requests for accommodations, complaints, or grievances.
- H. Department Computer System:** The computer system used by department staff members such as, but not limited to the Corrections Information Network (COIN), Missouri Corrections Integrated System (MOCIS), (OPII), Statewide Advantage for Missouri (SAMII), shared network drive, etc.
- I. Duplicate Information Resolution Requests or Offender Grievances:** Those informal resolution requests or offender grievances filed more than once by the same offender on an issue and which have been, or are currently being, addressed through the offender grievance process.
- J. Emergency Informal Resolution Request:** A complaint concerning matters that, under regular time limits, would subject the offender to a substantial risk of personal injury or cause other serious or irreparable harm to the offender.
- K. Exhaustion:** Completion of the formal procedure at the appeal level.
- J. Grievable Issues:** For the purpose of this procedure, all matters related to institutional life except probation and parole matters; actions of state legislature or other federal, state and local agencies; actions in institutions where the offender does not reside, unless said actions personally involve or directly affect the offender; judicial proceedings; conditions which affect another offender without affecting the grieving offender personally.
- M. Grievance Officer:** A caseworker assigned to perform tasks set forth by this procedure.
- N. Informal Resolution Request (IRR):** The first step in the grievance process which attempts to resolve an offender's complaint through discussion between the offender and appropriate staff members.
- O. Misuse of the Offender Grievance Procedure:** Improper or incorrect use of the offender grievance process, including filing of duplicate or expanded informal resolution requests or offender grievances.
- P. Non-Grievable Issues:** For the purpose of this procedure, matters concerning probation and parole; actions of state legislature or other federal, state and local agencies; actions in institutions where the offender does not reside unless said actions personally involve or directly affect the offender; judicial proceedings; conditions which affect another offender without affecting the grieving offender personally.

- Q. Offender on Offender Sexual Abuse:** Sexual abuse of an offender, by another offender including any of the following acts, if the victim does not consent, is coerced into such act by overt or implied threats of violence, or is unable to consent or refuse:
1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
  2. Contact between the mouth and the penis, vulva, or anus.
  3. Penetration of the anal or genital opening of another person, however slight, by a hand, finger, object, or other instrument.
  4. Any other intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or the buttocks of another person, excluding contact incidental to a physical altercation.
- R. Offender Sexual Abuse:** Either offender on offender sexual abuse or staff member on offender sexual abuse.
- S. Offender Sexual Harassment:**
1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one offender directed toward another offender.
  2. Repeated verbal comments or gestures of a sexual nature to an offender by a staff member including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- T. Prison Rape Elimination Act (PREA):** Federal law established to address the prevention, detection, response and monitoring of offender sexual abuse and harassment in prisons, jails and community confinement facilities.
- U. Prison Rape Elimination Act (PREA) Emergency Informal Resolution Request/Emergency Complaint:** Utilized when an offender is in substantial risk of imminent sexual abuse.
- V. Remedy:** An action taken in response to an informal resolution request, grievance, or grievance appeal to resolve a grievable issue.
- W. Staff Member on Offender Sexual Abuse:** Sexual abuse of an offender by a staff member, including any of the following acts, with or without consent of the offender, detainee, or resident:
1. Contact between the penis and the vulva or the penis and the anus, including penetration, however slight.
  2. Contact between the mouth and the penis, vulva, or anus.
  3. Contact between the mouth and any body part where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.
  4. Penetration of the anal or genital opening, however slight, by a hand, finger, object, or other instrument, that is unrelated to official duties or where the staff member, contractor, or volunteer has the intent to abuse, arouse, or gratify sexual desire.

5. Any other intentional contact, either directly or through the clothing, of or with the genitalia, anus, groin, breast, inner thigh, or the buttocks that is unrelated to official duties or where the staff member has the intent to abuse, arouse, or gratify sexual desire.
6. Any attempt, threat, or request by a staff member to engage in the activities described in paragraphs (1) through (5) of this definition.
7. Any display by a staff member of his uncovered genitalia, buttocks, or breast in the presence of an offender.
8. Voyeurism by a staff member which is an invasion of privacy of an offender, for reasons unrelated to the staff member's official duties, such as peering at an offender who is using a toilet in his cell to perform bodily functions; requiring an offender to expose his buttocks, genitals, or breast; or taking images of all or part of an offender's naked body or of an offender performing bodily functions.

**X. Unfounded:** An allegation that has been determined not to have occurred.

**Y. Worksite ADA Coordinator:** An individual appointed by the CAO or designee at each institution, office, regional or field services office, to review, address and propose resolutions of requests for accommodations, complaints, or grievances based on the ADA, Rehabilitation Act, and Missouri Human Rights Act, at that location.

### III. PROCEDURES:

#### A. GENERAL INFORMATION:

1. This procedure shall be available to offenders in institutional libraries and to staff in the department policy and procedure manual. This procedure should be kept current at all times.
2. Each offender shall be able to use the offender grievance procedure unless limitations have been placed on the offender as a result of misuse of the offender grievance procedure.
3. Offenders are required to begin the procedure by filing an informal resolution request except as stipulated in this procedure.
4. Staff members shall ensure that all offenders have the opportunity to pursue resolution of complaints through the offender grievance process and shall assist or arrange assistance for those offenders who cannot complete the forms themselves.

**\*\*\*SOP: Offenders will be instructed regarding the grievance office location and information procedures during reception and orientation upon arrival at this institution.**

5. The offender grievance flow chart reference document will assist in understanding the offender grievance process.
6. All allegations of offender sexual abuse and harassment are to follow the process in accordance with the PREA informal resolution request (IRR)/offender grievance/offender grievance appeal section of this procedure.

#### B. PROCEDURAL REVIEW:

1. Prior to implementation of revisions, the proposed procedure will be posted for 30 calendar days for comments. Where available, this should include an announcement on the cable television system. Comments by staff and offenders pertaining either to the current procedure or proposed revisions should be sent to the procedures and forms management unit at central

office in accordance with department procedures regarding procedures and forms development and maintenance.

C. TRAINING OF OFFENDERS AND STAFF MEMBERS:

1. Offenders shall receive orientation as part of the reception program at the diagnostic centers and shall receive follow-up education during the reception and orientation process at the facility to which they are assigned.
  - a. When possible, the institutional grievance officer or designee should provide the instruction.
2. Staff shall receive instruction on the offender grievance procedure during basic training and core training.

D. REPRISALS FOR USING THE OFFENDER GRIEVANCE PROCEDURE:

1. No reprisals shall be taken against any offender for use of, or participation in, the offender grievance procedure.
  - a. Offenders may be held accountable for misusing or abusing the offender grievance as stated in this procedure. This action is not considered a reprisal.
2. If an offender believes that a reprisal has occurred, the offender may obtain an offender grievance appeal form from the grievance officer or designee or unit case management staff member and shall state the alleged reprisal and bypass filing an IRR and grievance.
3. The offender will return the offender grievance appeal form to the grievance officer or designee who will maintain a record of the form and forward it and pertinent information such as conduct violation reports, staff memo's, classification hearing forms, etc. to the appropriate division director or designee for review.
4. If the division director or designee determines the offender may have been subject to a reprisal for use of, or participation in, the offender grievance process, the division director or designee will respond to the offender's grievance appeal and will initiate appropriate action.
5. If the division director or designee determines that the complaint is not a reprisal, the original offender grievance appeal form will be sent back to the grievance officer or designee at the institution from which the complaint was initiated.
6. Upon receipt of the original offender appeal form, the grievance officer or designee will:
  - a. deliver a copy of the offender grievance appeal form and division director's response to the offender, and
  - b. will instruct him to resubmit the complaint on the IRR form.

E. ABUSE OR MISUSE OF THE OFFENDER GRIEVANCE PROCEDURE:

1. All offenders are encouraged to utilize this procedure for the redress of grievances; however, offenders must refrain from knowingly and deliberately filing improper, duplicative, expanded or frivolous IRR, offender grievances or offender grievance appeals.
2. Abuse of the offender grievance procedure:

- a. Abusive or Profane Language: If an offender submits an IRR form, offender grievance form or offender grievance appeal form containing abusive, offensive, or profane language or drawings, the receiving staff member will consult with the grievance officer or designee.
    - (1) The IRR, offender grievance or offender grievance appeal will be entered into the department computer system as outlined in this procedure.
    - (2) The grievance officer or designee may return a copy of the IRR to the offender and direct him, in writing, to rewrite the complaint in a proper manner.
    - (3) The offender should be given 5 calendar days to resubmit the form.
    - (4) Should the offender fail to resubmit the IRR or resubmit it in the proper format, it will be considered abandoned.
  - b. Threats: If an offender submits an IRR, offender grievance form or offender grievance appeal form containing a threat of bodily harm to a specific individual, appropriate action may be taken.
    - (1) Upon approval of the division director or designee, a conduct violation may be issued for threats. This conduct violation will not be viewed as a retaliatory reprisal.
  - c. Continued filing of abusive, profane or threatening complaints will be considered abuse of the procedure and will be dealt with as in this procedure.
3. Misuse of the Offender Grievance Procedure:
- a. Duplicate complaints are prohibited. Specific issues or incidents will be addressed only once by an IRR form, offender grievance form or an offender grievance appeal form.
  - b. Expanded complaints are prohibited. Each IRR form, offender grievance form and offender grievance appeal form is limited to one grievable issue. The addition of other issues at any stage of the review process is prohibited.
  - c. Unfounded complaints are prohibited.
  - d. Continued filing of duplicate, expanded, or unfounded IRR forms, offender grievance forms, or offender grievance appeal forms will be considered misuse of the procedure and will be dealt with as stated in this procedure.
4. Restrictions for Abuse or Misuse of the Offender Grievance Procedure: Offenders who misuse or abuse the grievance procedure should be brought to the attention of the CAO within 5 working days.
- a. The CAO will review documentation relating to the misuse or abuse.
    - (1) The CAO may issue a letter of caution.
    - (2) The CAO may issue a letter of limited filing status, limiting the offender to 2 new complaints per week for a maximum duration of 90 days.
    - (3) Subsequent restrictions must be approved by the division director or designee and should be for no more than an additional 90 days.

- (4) When there is evidence to support an unfounded allegation, the CAO or designee will issue a conduct violation and the CAO or designee will issue a letter of limited filing status.
- b. In no instance will an informal resolution request, offender grievance or offender grievance appeal which would qualify for an emergency complaint be denied due to restrictions.
  - (1) These complaints will be processed under the procedures for handling emergency grievances until a determination is made that the complaint is not an emergency issue, as stated in this procedure.
- c. A list of offenders on restriction will be documented on the offender grievance restriction log.

F. EMERGENCY INFORMAL RESOLUTION REQUESTS:

- 1. Staff members will determine if an informal resolution request should be considered an emergency. If considered an emergency, the receiving staff member will deliver the informal resolution request to the CAO or designee within the same work day.
  - a. The CAO or designee may confer with the central office grievance staff members to make a determination if the informal resolution request should be handled as an emergency.
  - b. If the informal resolution request is handled as an emergency, the CAO shall immediately refer it to the first official in the chain of command who may be able to initiate immediate corrective steps.
    - (1) The first official in the chain of command who receives the emergency informal resolution request should respond to the offender within 7 calendar days.
  - c. Allegations of offender abuse by employees shall immediately be reported in accordance with the department procedure regarding offender physical abuse or offender sexual abuse and harassment.
  - d. If the offender wishes to appeal the response, the offender may continue to the grievance phase of the procedure.
  - e. All appeals of informal resolution requests that are considered to be emergencies should be responded to within 7 calendar days from receipt.
- 2. If not considered an emergency, the offender will be informed that the complaint will be processed in accordance with this procedure.

G. LETHAL INJECTION COMPLAINTS:

- 1. If a capital punishment offender wishes to file a grievance on the lethal injection process he may request an offender grievance appeal form from the grievance officer or designee.
  - a. The grievance officer or designee will ensure the offender has been sentenced to death and if so, will provide an offender grievance appeal form.
- 2. The offender will complete the form and return it to the grievance officer or designee.

3. The grievance officer or designee will maintain a copy and will forward the original to the central office grievance staff members.
4. Central office grievance staff members will immediately record receipt of the offender grievance appeal in the department computer system and will record the complaint log number on the form.
5. The appeal will then be processed in accordance with this procedure.

H. PROBATION AND PAROLE COMPLAINTS:

1. Offenders may grieve all matters related to institutional life, except:
  - a. probation and parole matters;
    - (1) All decisions of the board of probation and parole shall be pursued in accordance with the guidelines in the probation and parole procedures regarding appeal of parole decisions.
    - (2) Other probation and parole matters, including complaints concerning community release centers and offender sexual abuse and harassment, may be pursued in accordance with the probation and parole procedure regarding complaints/inquiries and investigations.
    - (3) The probation and parole procedures regarding complaints, inquiries and investigations is located in the institutional library.

I. AMERICANS WITH DISABILITIES ACT INFORMAL RESOLUTION REQUESTS, OFFENDER GRIEVANCES AND OFFENDER GRIEVANCE APPEALS:

1. If an informal resolution request, offender grievance or offender grievance appeal appears to be related to an alleged physical or mental disability case management or grievance staff members will consult with the worksite ADA coordinator who will determine whether the complaint is related to the ADA, Rehabilitation Act, or Missouri Human Rights Act.
2. If the complaint is related to the ADA, Rehabilitation Act, or Missouri Human Rights Act, the ADA site coordinator will notify the grievance officer or designee and offender that it will be processed as an ADA complaint.
3. An IRR will be tracked and processed pursuant to this procedure. The ADA site coordinator shall be responsible for the informal discussion with the offender, following the steps outlined in this procedure.
4. If the IRR cannot be resolved by discussion, the ADA site coordinator will conduct an informal, but thorough, investigation when necessary affording all interested persons an opportunity to submit evidence relevant to the complaint.
  - a. The ADA site coordinator will prepare a written response to the IRR and provide it to the case management staff members. Review of the response with the offender will proceed in accordance with this procedure.
5. If the offender is not satisfied after completing the informal resolution request process, he may file a formal grievance in accordance with this procedure.
  - a. The ADA site coordinator will be given a copy of the offender grievance and the offender grievance response.



6. Offender appeals of ADA grievances will be processed in accordance with this procedure.
7. The grievance officer or designee will refer all ADA grievance appeals to the department ADA coordinator for response.
8. The ADA site coordinator will be copied at each level of the offender grievance process.
9. Each ADA site coordinator will file the ADA complaint or grievances form with the department ADA coordinator on a monthly basis.

J. REMEDIES:

1. Remedies shall be determined by the respondent with the goal of appropriately resolving legitimate complaints at the lowest level possible.
2. Each complaint filed pursuant to this procedure should be answered in writing at each level of decision and review. The response should state the reason the decision was reached.
  - a. All grievances filed in accordance with this procedure which are found to be of merit, shall be afforded an appropriate remedy, which may include:
    - (1) a recommendation for change or modification of policy, procedure or condition;
    - (2) restitution of funds or monetary compensation for offender property lost or damaged while under the direct control of staff or due to staff members' negligence;
      - (A) Replacement or reimbursement of offender property must be in accordance with the department procedure regarding responsibility for lost or damaged offender property.
      - (B) When an item is replaced or compensation awarded, the grievance staff member should notify the property officer in writing so this information can be documented in the offender's personal property file.
    - (3) correction of records – example: dismiss and expunge violations, reissue and/or rehear conduct violations, reclassifications, sentence calculations, etc; or
    - (4) other remedies, as appropriate, which may include reasonable accommodation or reasonable modification to a condition, program or service.
  - b. Any personnel action taken as a result of a complaint is confidential and shall not be specified in the response to the offender.
  - c. Consequential or punitive damages will not be provided.

K. INFORMAL RESOLUTION REQUEST PROCESS:

1. Any offender who wishes to file an informal resolution request on a grievable issue must do so within 15 calendar days from the date of the alleged incident. The functional unit manager may waive this time period in extenuating circumstances when an offender is unable to file the request within the specified time frame, because he is out to court, in hospital, etc.
  - a. There will be no time limit for submitting complaints regarding allegations of offender sexual abuse. All complaints regarding offender sexual abuse will be processed as outlined in accordance with this procedure.

- b. The offender should request an informal resolution request form from the staff member responsible for processing informal resolutions requests and should state the subject of the complaint.

**\*\*\*SOP: At OCC, the staff member responsible for processing the initial IRR shall be the case manager assigned to the housing unit wing in which the offender currently resides. This statement is true for all of section K of this SOP.**

- (1) Staff will provide one form for each complaint.
  - (2) If an offender requests more than one form at one time, the offender should state the subject of each separate complaint.
  - (3) It will be the staff members' discretion to determine if multiple forms should be provided or if the offender will be required to turn in the form before another form is provided.
    - (A) The offender should provide whatever material or information is available to him.
    - (B) The time limitation will be suspended in the event a court orders exhaustion of administrative remedies prior to filing a lawsuit.
      - (i) If a determination is made that the complaint shall be handled as a court ordered grievance, the staff member will immediately provide all information to the grievance officer or designee.
2. Only original informal resolution request forms will be accepted.
  3. If the complaint concerns impounded, confiscated or censored property or mail, case management staff members will notify the property room in writing so property is held until the grievance process is finalized.

**\*\*\*SOP: The offender's case manager will notify, via memorandum/e-mail, the 2<sup>nd</sup> shift housing unit sergeant regarding an offender's impounded property being retained until the IRR/grievance process is finalized. The property will be retained within a secured area. In regarding to complaints involving censored mail, the case manager should notify the deputy warden of offender management that a complaint has been made.**

4. The grievance officer or designee shall assist or arrange assistance for those offenders who cannot complete the forms themselves.
5. The case management staff member will immediately record receipt of the form in the department computer system and will record the complaint log number in the complaint number section of the informal resolution request form.
  - a. The first set (XXXX-00-0000) will be the institutional call letters.
  - b. The second set (XXXX-00-0000) will be the year the complaint was received.
  - c. The third set (XXXX-00-0000) will be the sequential number of the complaint for that institution for that calendar year.

- d. One of the following categories or subcategories will be indicated in the department computer system as determined by the case management staff member. The categories or subcategories may include, but not limited to:

- (1) Classification
  - (A) administrative segregation
  - (B) custody score
  - (C) cell assignment
  - (D) cellmate
  - (E) vocational educational/education assignment services
  - (F) institutional assignment
  - (G) Missouri sex offender program
  - (H) protective custody
  - (I) program assignment
  - (J) initial/reclassification analysis
  - (K) strip/dry cell/suicide watch
  - (L) sentencing issues
  - (M) transfers
  - (N) work assignment
  - (O) adult internal management system
- (2) Activities/Privileges
  - (A) Canteen
  - (B) vocational education/educational assignment services
  - (C) food service
  - (D) legal service
  - (E) mail service
  - (F) religious issues
  - (G) recreation
  - (H) visitation
  - (I) legal mail
  - (J) censored mail
  - (K) other
- (3) Due Process
  - (A) sanctions imposed
  - (B) accuracy of violation report
  - (C) due process of violation
- (4) Harassment
  - (A) cell search
  - (B) discrimination
  - (C) sexual harassment by offender
  - (D) sexual harassment by staff
  - (E) verbal harassment by offender
  - (F) verbal harassment by staff
  - (G) search of person
  - (H) other
- (5) Medical
  - (A) dental treatment

- (B) medical treatment issues
  - (C) mental health services
  - (D) operational issues
- (6) Property
- (A) wages
  - (B) loss of property
  - (C) damage of property
  - (D) denial of property
  - (E) offender account issues
- (7) Use of Force
- (A) excessive use of force
  - (B) sexual abuse by offender
  - (C) sexual abuse by staff
  - (D) physical abuse by offender
  - (E) physical abuse by staff
- (8) Other
- (A) conditions of confinement
  - (B) violation of policy by staff
  - (C) accident or injury
  - (D) failure to protect
  - (E) offender grievance procedure
  - (F) lethal injection process
  - (G) other
- e. Details of the complaint should be entered in the comments section in the department computer system.
6. The staff member receiving the informal resolution request shall review the complaint to ensure it is within procedural guidelines.
- a. The staff member shall attempt to discuss the issue with the offender prior to developing a response. The staff member will document the results of the discussion and action taken to resolve the complaint in the appropriate section of the informal resolution request form.  
  
**\*\*\*SOP: When an issue concerns contract services, the contract services provider shall be responsible for attempts at discussing the issue with the offender and subsequent response as needed.**
  - b. If the offender refuses to discuss the complaint, the staff member will document on the informal resolution request form that the offender refused to discuss the complaint.
  - c. The offender will review the summary of the discussion as documented by the staff member and will indicate his response by selecting the resolved or unresolved section of the informal resolution request form.
    - (1) If the complaint is resolved by discussion, the staff member will provide a copy of the offender informal resolution request form. It is the offender's responsibility to copy additional attachments for his personal file prior to submitting the complaint.

- d. The offender and staff member will sign and date the form.
  - (1) If the offender refuses to sign this portion of the form, the staff member will document such by notating refused to sign in the offender's signature box and process the informal resolution request in accordance with this procedure.
- e. The staff member shall enter the discussion date in the department computer system.

**\*\*\*SOP: At OCC, the offender's case manager who receives the IRR shall make the appropriate entries.**

  - (1) If complaint is resolved by discussion, this information will be entered in the department computer system.
7. If the complaint is not resolved by discussion, the classification staff member or designee will investigate and develop a proposed response for the approval of the functional unit manager or designee and the deputy warden or designee.

**\*\*\*SOP: At OCC, the case manager who received the IRR shall investigate the matter further, gather documentation as appropriate, and process an appropriate response for the functional unit manager.**

  - a. The staff member will enter the "to reviewer" date in the department computer system.
  - b. Upon approval, the case management staff member or designee will sign as investigator, the functional unit manager or designee will sign as respondent and the deputy warden or designee will sign as reviewer.
  - c. Those complaints which must be referred to a contract services provider will be referred to the appropriate section head for investigation and development of a response.
    - (1) If the contract includes responding to informal resolution requests and offender grievances, responders will follow the chain of command within the appropriate section of the contract services provider.
    - (2) If the complaint is being responded to by a contract services provider, the section head or designee will sign as respondent on the informal resolution request form.
    - (3) The deputy warden or designee will review all responses by contract providers to ensure compliance with the department procedure regarding criminal investigation unit responsibilities and actions.
  - d. The department staff member will enter the "from reviewer", date, action, outcome and outcome date in the department computer system.

**\*\*\*SOP: At OCC, the case manager handling the IRR shall make the appropriate entries to complete the IRR as below and then forward the IRR and all documentation to the grievance officer.**
  - e. Informal resolution requests should be responded to as soon as practical, but within 40 calendar days of receipt.

8. The offender will review the findings and recommendations in the presence of the case management staff member and indicate his response by marking either the satisfactory or unsatisfactory section of the informal resolution request form.
  - a. The offender will sign and date the form.
  - b. The case management staff member will provide a copy of the offender's informal resolution request form and informal resolution request response if the response is not contained on the form itself.
    - (1) It will be the offender's responsibility to copy any attachments, more than 6 pages, for his personal file prior to submitting the complaint.
  - c. If the offender refuses to sign the form, such will be noted in the appropriate signature line of the informal resolution request form and the complaint will be considered abandoned.
  - e. The staff member will enter the offender response and date.
  - f. If the offender chooses to file a grievance, an offender grievance form will be provided.
9. Upon completion, the original informal resolution request form and all investigative materials will be maintained in the individual informal resolution request file.
10. Expiration of the response time limit at any stage of the process shall allow the offender to move to the next stage of the process by notifying the grievance officer or designee.

**\*\*\*SOP: Offenders may contact the grievance officer/designee during normal work hours, Monday through Thursday.**

- a. The staff member will enter the offender response as "exceeded time frame" in the department computer system.
11. Offenders who transfer from one institution to another and have a complaint about the institution from which they transferred, may bypass the informal resolution request process and proceed by filing a grievance within 15 calendar days of the transfer date.
12. If an offender is transferred during the processing of an informal resolution request, the informal resolution request form will be forwarded to the grievance officer or designee at the receiving institution for processing. The grievance officer or designee will enter the response as transferred in the department computer system.
  - a. The grievance officer or designee will send an offender clearance form and a copy of the informal resolution request form to the receiving institution's grievance officer or designee for delivery to the offender.
  - b. If the offender wishes to continue the complaint, he is responsible for filing the completed offender grievance form within 15 calendar days of receipt of the offender grievance form with the receiving institution's grievance officer or designee, who will forward it to the sending institution's grievance officer or designee for processing.
  - c. Original informal resolution request forms will be maintained at the initiating institution. Only copies will be forwarded to the receiving institution.
13. A monthly informal resolution request file will be maintained including all informal resolution request forms submitted during each month.

- a. All original informal resolution request material will be transferred to the grievance officer or designee for filing or formulation of an offender grievance file.
- b. A copy of all informal resolution request material will be maintained in the informal resolution request file.

L. OFFENDER GRIEVANCE PROCESS:

1. After completing the informal resolution request process, if the offender is not satisfied, he may obtain an offender grievance form from designated staff.
2. A staff member providing the offender grievance form should enter the complaint number in the designated space of the offender grievance form.
3. The offender should complete the offender grievance form and submit the original to the designated staff member to submit to the grievance officer or designee. Only the signed original form will be accepted.
4. A grievance must be filed within 7 calendar days after the offender receives the response on the informal resolution request form. Failure to do so will result in the complaint being abandoned.
5. The time limitation will be suspended for exceptional circumstances.
  - a. In the event a court orders exhaustion of administrative remedies prior to filing a lawsuit.
  - b. If a determination is made that it shall be handled as a court ordered grievance, the staff member will immediately provide all information to the grievance officer or designee.
  - c. The offender will provide a copy of the court's order to be attached to the offender grievance which is filed beyond the time limit.
  - d. The grievance officer or designee receiving a grievance with an attached court order should verify the court document for authenticity.
6. The grievance officer shall assist or arrange assistance for those offenders who cannot complete the forms themselves.
7. Upon receipt, each grievance will be entered in the department computer system including the date of receipt.
8. Within 10 calendar days, the grievance officer or designee should:
  - a. prepare a grievance file containing the original informal resolution request form and all documents pertinent to the grievance;
  - b. forward the offender grievance form to appropriate staff for response, if the division of offender rehabilitative services or a contract service is involved; and
  - c. if the grievance officer or designee determines that the offender's complaint is an ADA issue, he will consult with the worksite ADA site coordinator to determine the status and outcome.
9. The grievance officer or designee shall prepare a proposed response using the recommended CAO's format.

- a. Those issues which must be referred to a contract services provider will be referred to the appropriate section head for investigation and development of a response.
  - b. If the contract includes responding to grievances, responders will follow the chain of command within the appropriate section of the contract services provider.
  - c. The proposed response will be attached to the offender grievance form and, along with all investigative materials, shall be submitted to the CAO or designee who will approve, modify or disapprove.
    - (1) The CAO or designee will review all responses by contract providers to ensure compliance with the department procedure regarding criminal investigation unit responsibilities and actions.
  - d. The grievance officer or designee will enter the “to reviewer” date in the department computer system.
  - e. The CAO or designee should respond to offender grievances within 40 calendar days of receipt.
  - f. When finalized for return to the offender, the CAO or designee will sign the form.
    - (1) If the response concerns medical, mental health, education, treatment centers or a contract service, the appropriate section head or designee and the CAO or designee will cosign the form.
  - g. The grievance officer or designee will enter the “from reviewer”, date, action and outcome date in the department computer system.
10. The offender will review the response in the presence of the grievance office staff member or designee and indicate his response by marking either the accept or appeal on the offender grievance form.
  11. The offender will sign and date the form.
  12. The grievance officer or designee will provide a copy of the offender’s grievance and grievance response if the response is not contained on the form itself. It is the offender’s responsibility to copy any attachments for his personal file prior to submitting the complaint.
  13. If the offender refuses to sign the form, such will be noted in the offender signature section of the offender grievance form and the complaint will be considered abandoned.
  14. The grievance officer or designee will enter the offender response and date in the department computer system.
  15. If the offender chooses to appeal, the grievance officer or designee will provide the offender with the offender grievance appeal form.
  16. Upon completion, the original offender grievance form and all investigative materials will be maintained in the individual offender grievance file.
  17. The grievance officer or designee will be responsible for monitoring logs and time frames. Any problems with meeting response time frames should be reported to the warden and monitored by the central office grievance staff members.



18. Expiration of the response time limit at any stage of the process shall allow the grievant to move to the next stage of the process by notifying the grievance officer or designee as specified in the standard operating procedures.

**\*\*\*SOP: The grievance officer/designee shall be responsible for maintaining a tracking system for all offender grievances. Offenders may contact the grievance officer/designee during normal work hours, Monday through Thursday.**

- a. The grievance officer or designee will enter the offender response as exceeded time frame in the department computer system.

M. APPEAL:

1. If the offender wishes to appeal a grievance, the offender must submit the original offender grievance appeal form to the grievance officer or designee within 7 calendar days. Failure to do so will result in the appeal being considered abandoned.
2. Upon receipt, each appeal will be entered in the department computer system, including the date of receipt in the grievance office.
3. Appeals will be referred to the appropriate division director or designee. The grievance officer or designee will enter the "to central office" date in the department computer system.
4. Upon receipt by central office, the "received in central office" date will be entered in the department computer system.
5. All appeals will be reviewed to determine if additional action is necessary and will then be responded to by the division director or designee.
6. An appeal response should be provided as soon as practical, but within 100 calendar days of receipt.
7. A designated central office staff member will enter the action, outcome, outcome date and returned to institution date in the department computer system and will return the offender grievance file to the institution.
8. Upon receipt, the grievance officer will enter the "received in institution" date.
9. The offender will review the response in the presence of the grievance officer or designee.
  - a. The offender will sign and date the form.
  - b. The grievance officer or designee will provide a copy of the offender grievance appeal form and offender grievance appeal response if the response is not contained on the form itself. It is the offender's responsibility to copy any attachments for his personal file prior to submitting the complaint.
  - c. If the offender refuses to sign the form, such will be noted in the offender signature section of the offender grievance appeal form and the complaint will be considered exhausted.
10. The grievance officer or designee will enter the offender's response and date in the department computer system.
11. Upon completion, the original offender grievance appeal form and all investigative materials will be maintained in the individual offender grievance file.

12. After receiving the offender grievance appeal response, the offender has exhausted the grievance process.

N. PREA INFORMAL RESOLUTION REQUEST/GRIEVANCE/APPEAL:

1. The department shall not impose a time limit on when an offender may submit a complaint regarding an allegation of offender sexual abuse.
  - a. The department will not require an offender to use the informal grievance process, or to otherwise attempt to resolve with staff members, an alleged incident of offender sexual abuse.
2. All informal resolution requests, offender grievances or offender grievance appeals containing allegations of offender sexual abuse, will be processed in the manner outlined in this section.
  - a. An offender who alleges offender sexual abuse may submit an informal resolution request, offender grievance, or offender grievance appeal without submitting it to a staff member who is subject to the complaint.
  - b. A staff member who is the subject of the complaint should not be the respondent.
3. When the staff member responsible for processing information resolution requests, offender grievances, or offender grievance appeals receives a complaint alleging offender sexual abuse, a copy of the form will be forwarded to the shift commander and the offender sexual abuse coordinated response will be initiated in accordance with the department procedure regarding PREA.
4. Informal resolution request alleging sexual abuse will be processed normally with the exception of the following:
  - a. A response should be completed as soon as practical, but no later than 30 calendar days of receipt.
5. Offender grievances alleging sexual abuse will be processed normally with the following exceptions:
  - a. the CAO or designee should respond within 30 calendar days of receipt.
  - b. Computation of the 30 day time period will not include the days between the offender's receipt of the informal resolution request and receipt of the offender's grievance by the grievance office or designee.
6. Offender grievance appeals alleging offender sexual abuse will be processed normally with the following exceptions:
  - a. A response should be provided as soon as practical, but no later than 30 calendar days of receipt.
  - b. Computation of the 30 day time period will not include the days between the offender's receipt of the offender grievance response and receipt of the offender grievance appeal by central office grievance staff members. Appeals will be referred to the deputy division director or designee.
  - c. An extension of time to respond, of up to 70 days, may be claimed if the normal time period for response is insufficient to make an appropriate decision.

- (1) The offender will be notified in writing of any such extension and will be provided a date by which a response will be provided.
    - d. At any level of the administrative process, including the offender grievance appeal level, if the offender does not receive a response within the time allotted for reply, including any properly noticed extension, the offender may proceed to the next level of the offender grievance process.
  7. Third Party Reporting: Third parties, including fellow offenders, staff members, family members, attorneys, and outside advocates, shall be permitted to assist offenders in filing requests for informal resolution requests, grievances or appeals relating to allegations of offender sexual abuse. This assistance cannot interfere with the safety and security of the institution.
    - a. When a staff member receives a request from a third party to file a complaint via the offender grievance procedure on behalf of an offender regarding allegations of offender sexual abuse, the staff member will require the party making the complaint to submit such in writing.
    - b. Administrative or case management staff members will then prepare a report of incident in accordance with procedure for possible investigation or inquiry.
    - c. When a staff member receives documentation from the reporting third party, it will be attached to an informal resolution request form and will immediately be recorded in accordance with this procedure. A copy of the documentation will also be forwarded to the CAO or designee in order to be attached to the possible investigation or inquiry.
    - d. The case manager shall attempt to discuss the issue with the offender (victim) prior to developing a response to confirm if the alleged victim agrees to have the request filed on his behalf.
    - e. If the offender declines to have the request processed on his behalf, the case manager shall document the offender's decision in the discussion section of the information resolution request form and the complaint shall be considered withdrawn for grievance purposes.
    - f. If the offender agrees to have the request processed on his behalf, it will then be documented in the discussion section of the informal resolution request and will be processed normally in accordance with this procedure.
  8. Nothing in this section shall restrict the agency's ability to defend against an offender lawsuit on the ground that the applicable statute of limitations has expired.
- O. PREA – EMERGENCY INFORMAL RESOLUTION REQUESTS:
1. Allegations of offender sexual abuse by employees shall immediately be reported to the CAO or designee for possible investigation or inquiry.
  2. If the staff member who processes the informal resolution requests determines that it meets the definition of a PREA emergency complaint, the offender will be provided an informal resolution request form.
  3. Emergency informal resolution requests will be processed as follows:

- a. The offender will request an informal resolution request form from case management staff members and briefly state the issues and subject of the complaint in accordance with this procedure.
- b. When a staff member receives the completed informal resolution request form from the offender, the staff member will record receipt of the form in accordance with this procedure and it will be taken to the CAO or designee immediately.
- c. Upon receipt of an informal resolution request from an offender, the CAO or designee may confer with the PREA site coordinator to make the determination if the informal resolution request should be handled as an emergency.
- d. The CAO or designee will prepare an initial response which will be attached to the informal resolution request and provided to the offender within 48 hours of receipt of the initial filing date. The offender will sign and date the form.
- e. A final response from the CAO or designee will be provided to the offender within 5 calendar days from the initial filing date. The offender will sign and date the form.
- f. The initial and final response for the informal resolution request shall document the department's determination whether the offender is in substantial risk of imminent sexual abuse and the action taken in response to the emergency informal resolution request.
- g. If the offender is unsatisfied with the final response for the informal resolution request and chooses to file a grievance, an offender grievance form will be provided. The grievance or grievance appeal will then be processed as a non-emergency PREA complaint as noted in this procedure.

P. CITIZENS ADVISORY COMMITTEE ON CORRECTIONS:

1. Executive Order 03-11 established the Citizens Advisory Committee on Corrections for the purpose of reviewing offender grievances referred by the department.
2. Central office grievance staff selects a sampling of completed appeals to be sent each month to the citizens advisory committee.
  - a. The offender grievance file will be copied and mailed to one of the committee members along with a citizens advisory committee recommendation form.
  - b. A record of the outgoing file will be maintained by central office grievance staff.
  - c. A citizens advisory committee member may review the offender grievance file and make a recommendation to the department.
  - d. The recommendation will not be provided to the offender except as outlined in III.Q.3.
3. After reviewing the grievance file, committee members return the file to the central office grievance staff.
  - a. Central office grievance staff will record the return of the file and the recommendation of the citizen advisory committee member.
  - b. Central office grievance staff will review each file returned from the citizens advisory committee to determine if additional review and/or action may be necessary.

- c. The file will be forwarded to the division director and/or department director for final review/action if warranted.
  - d. The citizens advisory committee recommendation form from the citizens advisory committee will be sent to the institution to be filed in the offender's grievance file.
4. The department director may choose to review grievance files submitted/returned from the citizens advisory committee and/or may select grievance files to review as determined necessary.

Q. REPORTS:

1. Statistical reports will be generated for each level of the offender grievance process from the department computer system.

R. FILE MAINTENANCE:

1. Informal resolution request files and offender grievance files are generated in anticipation of litigation.
2. All relevant reports, requests, statements, procedures or any other pertinent evidence or related documents should be maintained in a file assigned to that informal resolution request or offender grievance.
3. Informal resolution request and grievance files will be maintained for 7 years at the work site and will be archived permanently.

S. ACCESS TO FILES:

1. Consistent with ensuring confidentiality and security, staff who are participating in the investigation and disposition of a grievance shall only access records essential to the resolution of the informal resolution request or offender grievance, including necessary medical and investigative files.
2. Consistent with ensuring confidentiality and security, the warden may authorize access to staff who are participating in an investigation and disposition of an informal resolution request or offender grievance or similar complaint to records essential to the resolution of the issue under review.
3. Offender grievance files and material therein shall be confidential and shall not be distributed except at the direction of the division director/designee or department director or pursuant to a court order.
4. Copies of investigative materials, such as internal affairs investigative reports, staff statements, staff reports and employee personnel information will not be given to the offender.

T. MISCELLANEOUS:

1. Alternate Respondent: When the person who would normally sign as respondent at the institution level is specifically grieved against for a personal action directly against the offender, responses will be generated and signed by the staff member's supervisor. Personal action does not include normal and customary actions performed as a result of official duties (i.e. conduct violation review, classification assignments, etc.).
2. Offender Releases: When an offender is transferred out of state, paroled, placed under electronic monitoring or in a residential facility, or is released from all jurisdiction of the

department, the offender is responsible for providing the grievance officer with an address in writing, within applicable time frames, to receive a response or to continue a pending offender grievance. Failure to do so will result in abandonment of the offender grievance.

3. Escape or Abscond: In the event that an offender escapes or absconds, the offender grievance will be considered abandoned.

#### IV. REFERENCES

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|----|---|
| A. | Offender Grievance Flow Chart (11-03)                           |
| B. | Letter of Caution (5-00)  |
| C. | Letter of Limited Filing Status (5-00) (format)                 |
| D. | Recommended CAO's Response (5-00) (format)                      |
| E. | 931-3376 Informal Resolution Request (12-04)                    |
| F. | 931-3377 Offender Grievance (12-04)                             |
| G. | 931-3378 Offender Grievance Appeal (5-03)                       |
| H. | 931-3412 Citizens Advisory Committee Recommendation (3-14)      |
| I. | 931-3919 ADA Complaint/Grievances (4-95)                        |
| J. | 931-4268 Offender Grievance Restriction Log (2-00)              |
| K. | D1-2.1 Procedures and Forms Development and Maintenance         |
| L. | D1-8.1 Criminal Investigation Unit Responsibilities and Actions |
| M. | D1-8.6 Offender Abuse/Sexual Contact                            |
| N. | D1-8.13 Offender Sexual Abuse and Harassment                    |
| O. | D3-6.1 Responsibility for Offender's Lost or Damaged Property   |
| P. | P6-6.1 Parole Decisions   |
| Q. | P7-1.7 Complaints, Inquiries and Investigations                 |

- V. **HISTORY:** Previously addressed by Division Rule 116.040 Offender Grievance Procedure, IS8-2.1, 09-15-1992; Original rule effective November 1, 1980. Revised 11-1-1981, 3-1-1988, 6-7-1988, 10-17-1989, 4-2-1990, 5-1-1990, 6-1-1990, 7-9-1990, 8-1-1990, 9-4-1990, 10-1-1990 and Institutional Services Policies 8-2.1, Original rule effective January 15, 1992.

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|----|--------------------------|-------------------|
| A. | Original Effective Date: | October 1, 1991   |
| B. | Revised Effective Date:  | January 16, 1992  |
| C. | Revised Effective Date:  | May 15, 2000      |
| D. | Revised Effective Date:  | March 2, 2002     |
| E. | Revised Effective Date:  | June 6, 2002      |
| F. | Revised Effective Date:  | January 1, 2004   |
| G. | Revised Effective Date:  | February 24, 2005 |
| H. | Revised Effective Date:  | March 11, 2005    |
| I. | Revised Effective Date:  | July 24, 2006     |
| J. | Revised Effective Date:  | September 9, 2007 |
| K. | Revised Effective Date:  | January 2, 2009   |
| L. | Revised Effective Date:  | January 1, 2015   |
| M. | Revised Effective Date:  | January 25, 2016  |