

MASSACHUSETTS INMATE GRIEVANCE PROCESS FAILS PRISONERS

By

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EVERY prison and jail in America must offer inmates an institutional grievance process allowing prisoners to address concerns and complaints; prisoner's rely on these administrative grievance's to address wrongs and it's an essential element which must be satisfied before any prisoner may file a lawsuit.¹

The grievance process has long been a part of prison life, but in 1996 with the passage of the Prison Litigation Reform Act², PLRA, all correction facilities must establish a fair, impartial, speedy and effective system for the filing and resolution of inmate grievances.

In Massachusetts prisons, the grievance process has evolved into a frustrating exercise. Prisoner's are routinely stymied by prison official's unreasonable interpretation of grievances and hyper-technical application of the grievance policy.³

Before filing a formal grievance, for example, inmates in Massachusetts must submit an "informal grievance"⁴ Grievances are often returned for various reasons. One reason may be that grievances may not be filed on behalf of a group of inmates,⁵ or that the grievance identifies more than one subject⁶ or the result of an informal grievance was not attached. Prison officials must allow time for inmates to make necessary corrections - but too often the slighted prisoner has either given up in frustration or moved on.

Department of Correction's nationwide are obligated under federal law to adopt and adhere to an administrative grievance procedure,⁷; the failure of a state to provide a grievance procedure shall constitute a violation of federal law. Most states obey the law, but will place unreasonable obstacles in the path of prisoner's to meaningfully or adequately get results.

Recently, I filed a grievance challenging a decision by prison authorities to deny me the opportunity to send my electric typewriter for repair. My grievance, if allowed, would impact all prisoners in my correction facility: MCI-Norfolk.

The first iteration of this grievance was returned to me because I wrote the phrase: "Prison officials must permit prison inmates, like me, to send typewriter's for repairs". Grievances may not be filed on behalf of other inmates. I corrected the text and resubmitted.

At the time of this article, my informal grievance was denied. I'm awaiting the results from a formal grievance. Should this grievance be denied, I plan to appeal.

Many grievances touch on civil rights and human rights issues. But, before a prisoner can ask a court of law to review these practices, inmates must exhaust administrative remedies: informal grievance, formal and appeal must be filed.⁸

Logic is an enemy and truth a menace when filing a grievance against prison policy. Prison officials have been given unbridled authority to operate these institutions as they see fit. The grievance process is neither fair or impartial. In fact, handwritten grievances in Massachusetts are made a mockery when typed by authorities. Inmates find their grievances butchered with upper and lower case type that make the complaint look as if it were written by a deranged person. Grievance officials defend this practice saying they type each grievance "as is".

It's not a surprise that jailors refuse to allow broken typewriters be sent for repair. A typewriter is a valuable tool that gives prison inmates a clear voice, access to courts, the press and public. I consider this a First Amendment issue, for example. I argue a typewriter for a prisoner is an essential tool for speech freedom.

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Every prisoner who submits a grievance holds out hope their voice will be heard and their concerns addressed. Sadly, this is often not the case.

Grievances against guards who give undeserved disciplinary reports are summarily denied. Disciplinary reports or actions by correction officers who unfairly submit misbehavior tickets may not be grieved. However, staff misconduct complaints may be reviewed directly by the superintendent of each institution. It's not uncommon for inmate's who submit such complaints to find themselves victims of retaliation and retribution.

Officially, no person reporting any conditions which may constitute a violation under the grievance mechanism shall be subject to retaliation in any manner for so reporting.⁹

Each correction facility has its own special flavor, its own prison politics and its own point of view about the grievance process. In some institutions filing a grievance is akin to being a rat or a snitch. In New York state, prison inmate representatives are elected among the general prison population. In Massachusetts, prison officials control every aspect of the grievance procedure and there's no opinion one way or the other about inmates who submit grievances. What inmates live with is frustration and hopeless despair as most grievances are denied.

Correction facilities across America are evolving, and in general not for the better. Gains made during the tumultuous 1970's and early 80's are being slowly dismantled. Education opportunities, rehabilitation programs and essential privileges are being systematically taken. Slowly, and bit by bit, prison pedagogy is changing dramatically. Many old convicts are reacting to this evolution through a grievance process determined to reinforce administrative goals and not prisoner rights.

Big changes have come to the historic Massachusetts correction facility MCI-Norfolk. Changes have come to all correction facilities across the Commonwealth, and across this nation. Norfolk is an 85 year old medium security institution famous for having once been home to Malcom X, the civil rights and Nation of Islam icon. At one time, Norfolk was considered a model institution - and remnants of that history remain. Only, today there are fewer examples of that model prison left behind. Grievances come fast and furious as many historic privileges are today being dismantled. Old inmates who can recall essential privileges, are frustrated by this modern evolution of prison culture. Concerns that politicians and the Department of Correction are trampling civil rights. Prisoner's voice their concerns through nonviolent grievances; prison officials routinely deny these petitions because they don't align with plans made by politicians and a Department of Correction satisfied with own narrow interests.

END

Notes:

1. Civil Rights of Institutionalized Persons Act, Title 42 USCS §1997(a) (1980)
2. Prison Litigation Reform Act, Title 42 USC §1997 (1996); Also, Id. @n.1
3. 103 Commonwealth of Massachusetts Rules §491, et seq.
4. 103 CMR 491.09 (Must submit informal grievance)
5. 103 CMR 491.11 (May not file for group of inmates)
6. 103 CMR 491.11 (Limit subject matter to one issue)
7. Id. @note 1
8. Id. @note 2
9. Id. @note 1

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