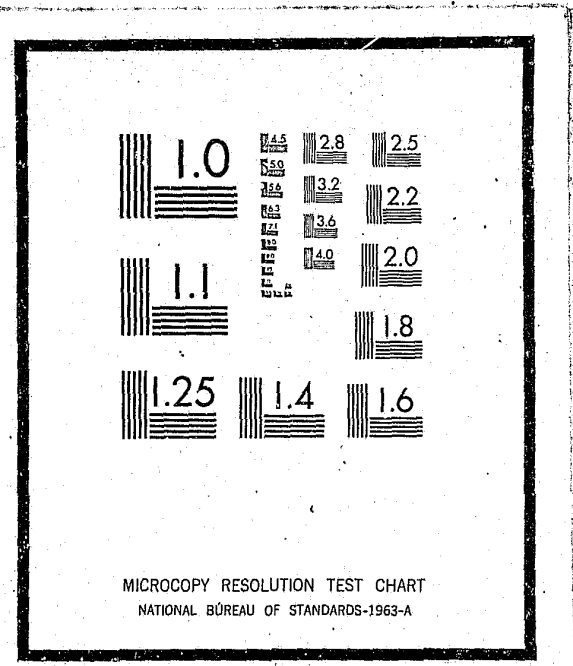


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INMATE AND STAFF PARTICIPATION AS A KEY ELEMENT IN NEW CALIFORNIA YOUTH AUTHORITY GRIEVANCE PROCEDURE

Since September, 1973, four hundred inmates in a California Youth Authority institution have been experimenting with a unique approach to handling grievances. While correctional administrators across the country have adopted with increasing regularity a great variety of grievance mechanisms, the California procedure is the first to involve inmates and line staff in the hearing and resolution of all grievances.

When the Youth Authority began to consider the establishment of some sort of grievance mechanism for inmates in mid-1972, a departmental task force was assigned to develop certain basic principles. The following elements were identified by the task force as essential for an effective mechanism:

- o participation by elected inmates and by line staff in designing procedures and in resolving grievances;
- o simplicity: a small number of easily-understood steps;
- o availability to all inmates with guarantee against reprisal;
- o guaranteed written responses to all grievances with reasons stated;
- o speed: time limits for receipt of all responses and for any action putting responses into effect, with special

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provisions for emergencies;

- o representation of inmates at all levels of the procedure;

- o appeal to some sort of independent review outside the department;

- o monitoring of all procedures; and

- o some impartial method of determining whether a complaint falls within the procedure.

Karl Holton School in Stockton was selected as the first testing site for these principles and was assigned the task of designing a procedure that fit comfortably with the characteristics of its physical set-up, inmate population (average age, 19-1/2) and behavior modification program while observing the guidelines. The Center for Correctional Justice, a Washington, D.C. organization that has been involved in the design, implementation and evaluation of correctional grievance mechanisms for several years, was asked by the Youth Authority to provide assistance to the Karl Holton drafters, a committee of inmates and staff members from one 100-bed living unit in the institution.

What emerged from this collaboration was a procedure differing considerably from traditional approaches to correctional grievances. Heretofore, grievance mechanisms, whether based on the ombudsman concept or on a formal, multi-level appeal

process, generally have excluded inmates and line staff alike from any role in resolving grievances. In the ombudsman approach, someone from the institution, department or executive branch of the state government is designated to receive and investigate inmate complaints. Based on his findings, the ombudsman makes recommendations which may be accepted or rejected by the administrators to whom he reports. If the ombudsman's recommendations are rejected, he usually may make them public by releasing them to the press.

In a typical multi-level procedure, an institutional supervisory staff member is assigned to investigate complaints and recommend disposition to the decision-maker, usually the superintendent or warden. A dissatisfied complainant can appeal the warden's decision to the department head or his designee and, in some rare instances, to an outside board that gives advisory opinions to the involved institutional or departmental administrator.

In both of these approaches, primary focus is on the investigator or reviewing decision-maker, who assumes total responsibility for the investigation of complaints and the formulation of solutions. Inmate participation is limited to the filing of a complaint under the ombudsman system and to some sort of appearance at a formal hearing(s) under the multi-level

appeal process. Line staff are excluded from participation in either form of procedure.

To offset the lack of inmate participation there has been some attempt to transform into grievance mechanisms existing representative inmate councils, which are permitted to discuss issues and make suggestions for policy changes in direct dialogue with the administration. The difficulties involved in making the council responsive to individual grievances and the absence of a structure with time limits and a requirement for definite responses generally have limited the successful use of an inmate council as a grievance mechanism. Moreover, line staff also are excluded from representation on most inmate councils.

After considering the available approaches and the CYA requirement for inmate and line staff participation, the drafting committee at Karl Holton adopted what might be called the "mediation approach" to correctional grievances. Central to the approach is a framework within which inmates and staff work together to determine the merits of complaints and to design jointly resolutions that are satisfactory to the complainant as well as to the general inmate population and staff. To facilitate this shared responsibility for the handling of grievances, it was decided to apply the principles

and techniques of mediation, already proven effective in the field of labor relations and community disputes.

Having agreed to this theoretical framework, the drafting committee began to flesh out its procedure. The first level took the form of a committee of two inmates and two staff members. Among these four voting committee members, the agreement of three is required for a majority decision or recommendation. In the event of an even split, the two conflicting recommendations are forwarded to the next level of the procedure. A fifth member of the committee serves as chairperson and acts as a mediator. Since the chairperson has no vote, his or her role is limited to persuasion and the suggestion of imaginative compromise solutions.

Youths with complaints may obtain help in filing written grievances from inmate clerks who maintain a record of filed complaints and inform the committee chairperson of submitted grievances. Each complainant may have a representative of his choice to help present his case to the committee.

The drafting committee recognized one problem with its design. The task of a mediator is to promote accommodation by pinpointing issues and suggesting alternative solutions. Much of the success of this role depends on the objectivity of the individual acting as mediator. Considering the

chairperson's position of authority in institutional management, his mediator's function in the Karl Holton procedure requires him to step out of his usual role. (In an earlier experiment with the mediation model in Massachusetts, this role was filled by an outside volunteer). On the other hand, because the chairperson possesses real management authority, he can ensure the rapid execution of committee decisions or recommendations that apply to the living unit he supervises. For inmates, the problem posed by the chairperson's role is mitigated by the fact that only the four committee members actually vote on solutions; the chairperson cannot impose a settlement on either side.

A second step in the procedure was designed to give institutional and, where appropriate, departmental management the opportunity to review findings of the inmate/staff committee and to accept or reject its recommendations. The inmate grievant dissatisfied with management disposition of his complaint is free to appeal to outside review.

The purpose of outside review is to provide an objective look at inmate grievances and their resolutions and to promote the likelihood of reaching reasonable decisions at earlier levels of the procedure by subjecting all decision to the possibility of third-party review. The review process itself

is totally neutral, in that it assigns the examination of facts and issues to an outside fact-finder with commitments to neither the institution nor the inmates. The decisions of the outside arbiter are advisory in nature, and administrators are free to accept or reject them. At the same time, they must announce formally and quickly whether they accept or reject the outside reviewer's decision and give reasons in the event of a rejection.

At Karl Holton, the drafting committee established a tripartite outside review panel, with one member appointed by the superintendent or departmental director, one by the complaining inmate and a chairperson drawn from a list of volunteer professional arbitrators maintained by the San Francisco regional office of the American Arbitration Association. The tripartite panel was adopted to ensure that the arbitrators, unfamiliar with the correctional environment, would get a balanced input of information about the institution.

Once the drafting committee completed its work, the process of implementation of the procedure began in early September, 1973. The Center for Correctional Justice, with the assistance of the Institute for Mediation and Conflict Resolution, a New-York-based organization with broad experience in teaching mediation and other conflict resolution skills,

spent three days with key personnel in the first two levels of the Karl Holton procedure. Administrators, staff, and inmates participated in group discussions, simulations and analyses of their own performances on videotape. Once key personnel were trained, they, in turn, met with small groups of their fellow inmates or staff to explain the operations of the procedure.

The first living unit at Karl Holton began operation of its procedure in mid-September, and implementation throughout the institution continued on a unit-by-unit basis until March, 1974, when all units had functioning grievance procedures. By the end of March, 151 grievances had been submitted. Most grievances (73) concerned the substance or application of living unit or institutional policies; 60 complaints involved a specific staff member's action or decision; seven grievances sought changes in departmental policy; and two grievances dealt with other inmates. Acceptable explanations for rejection in those cases where the complainant's grievance was denied were obtained by wards at the first two levels of the procedure in all but four cases, which were appealed to independent review.

Outside review panel decisions in the four cases submitted for review resulted in the following dispositions:

1. A change in departmental policy on facial hair;
2. Confirmation of the administrative relocation of a popular teacher, together with a recommendation for the adoption of a procedure to elicit inmate and staff input into future decisions to transfer teachers;
3. The appointment of an institutional task force to study the feasibility of expanding the presently inadequate canteen service available at the institution;
4. A recommendation that the institution work out a method of opening and inspecting incoming mail for contraband in the presence of each inmate recipient.

Early operations of the procedure overwhelmingly confirm the belief that inmates and line staff can work together to solve problems. The expectation of many that each committee meeting would inevitably split into two mutually hostile factions rarely able to agree simply has not materialized. In only six of the first 151 grievances submitted to the procedure did the ward/staff committee fail to reach a majority decision.

Based on the early success of the experiment at Karl Holton, the Youth Authority has decided to extend grievance procedures to all of its institutions, camps, and reception centers and to develop and test models for parole regions and

other community programs. Initial planning and design work are already underway in the department's largest institution (1,200 inmates), a reception center, and an innovative community program.

The experience of the past year has demonstrated that there can be no pre-packaged model procedure appropriate for each of the many different Youth Authority institutions and programs that vary widely in size, the age and sophistication of inmates, programs and treatment modes. Moreover, it is vitally necessary that each institution and, in some instances, each living unit within an institution, develop its own procedure if inmates and staff are going to have a real stake in making their procedure work. Thus, it is possible that future Youth Authority procedures may include adaptations of the ombudsman or elements of the multi-level appeal process providing that they conform to the departmental guidelines. Should such a variety develop, it will present a unique opportunity to compare the results of the different approaches.

Throughout the first year of the project, the Youth Authority's Research Division conducted an evaluation of the operation of the procedure at Karl Holton. The research design included pre- and post-implementation measurements of social climate and attitudes of staff and inmates toward the

handling of grievances. Structured interviews with inmates, both users and non-users of the procedure, and staff members on four selected living units were conducted at regular intervals to measure changes in attitudes.

The early data collected by the Research Division seems to support subjective estimates of the procedure's generally positive impact. Interviewed wards view the procedure as a means for bringing about genuine change, and a majority of interviewed staff thought the procedure necessary, fundamentally fair and not destructive of inmate-staff relations.

The Research Division used several interns (law or graduate sociology students) to conduct some of the structured interviews involved in the evaluations. Those who had been involved in the initial research planning and who had been conducting interviews twice each month since August were debriefed in a tape-recorded session in February, 1974. Their comments highlighted some of the project's most striking successes:

I definitely see that the wards [inmates] see it as a good system, especially when it has to do with policy. They could effect change in that respect... In terms of affecting institutional or dorm policy, most of them like it because -- like this one young man says again -- some grievances have been in actual fact resolved satisfactorily and they have been able to see it.

I think that the learning process they went through -- maybe that's something we haven't really talked too much about, but the grievance procedure as a learning tool and the wards working with the system to bring about change.

In measuring whether it's a good procedure or not, whether or not the wards do see it as having made a difference, I think there is an unqualified "yes" -- it has made a difference in their dorms. And the unique thing in terms of talking about sophistication of the wards -- they recognize this is a sharing of power.

One of the wards told me that one thing that resulted from the ward grievance procedure is that, "I do have rights as a human being in an institution"...and, although he's sort of fuzzy in terms of rights, the whole notion that it occurs to him that he is a human being with integrity that has certain rights -- however restricted -- has been part of his learning...

Having worked in an institution myself, I wasn't really sure it was such a good idea. Now I'm sort of sold on it. And I think it's a fabulous idea, not only from the standpoint of ward rights -- or at least not necessarily the rights -- but at least realizing that they are human beings and that they have some interests of their own.

The CYA's experience with grievance procedures indicates that the development of a mechanism which grants a responsible role to inmates and line staff for the handling of inmate grievances can produce an impact reaching far beyond the settling of specific complaints. A mechanism with roots in the inmate and staff population may be able to promote an atmosphere of fairness and justice generally unknown in

correctional institutions and agencies. The correctional system cannot afford to ignore the possibilities of this approach.

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