



Second Assessment of the New York City Department of Correction Inmate Grievance System

June 2018

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I. Background

This is the Board of Correction's ("BOC" or "Board") second study of the Department of Correction ("DOC" or "Department") system for receiving and responding to complaints from people in custody. Since the late 1970's, jail and prison grievance systems have helped to promote justice and fairness, identify institutional problems, and address individual issues before they turn to crisis.¹

In the 1980's, the Board and the Department collaborated to establish the first iteration of a centralized grievance system for people in custody. Since then, people in custody have been able to file a complaint or a request for service through DOC's Inmate Grievance and Request Program (IGRP).² The IGRP provides a process for a person to file a complaint; guidelines for the investigation, resolution, and communication with the grievant; and an appellate process should the parties disagree. A complaint is only subject to the formal IGRP process when it is filed in writing directly with the Office of Constituent and Grievance Services (OCGS)³ via a grievance drop box in the facility or by delivering the complaint directly to the grievance office. Recently, the Department also started taking complaints directly in facility housing areas using tablets. The complaint must also be related to one of 29 categories of issues deemed grievable by DOC. If the complaint does not fall into one of these 29 categories, staff deems it either a non-grievable complaint or a request and refers it to a separate office where it is *not* subject to the IGRP.⁴

Additionally, the Department receives notification that friends, family, and advocates, or someone in custody has called 311.⁵ These complaints are also not subject to the inmate grievance and request program, unless OCGS staff follows up with the individual to initiate the complaint process. The independent health authority, Health + Hospitals' Correctional Health Services (H+H/CHS), also takes complaints directly, outside of the DOC complaint system, and receives complaints from 311.

¹ KITTY CALAVITA & VALERIE JENNESS, *APPEALING TO JUSTICE: PRISONER GRIEVANCES, RIGHTS AND CARCERAL LOGIC*, 101-102 (U. of Cal. Press, 2014).

² The 1996 Prison Litigation Reform Act (PLRA) created additional importance for the grievance system, as it required a person in custody to attempt to resolve a complaint via the grievance procedure prior to filing a federal lawsuit. Before filing a federal lawsuit, a person must exhaust all administrative remedies, including pursuing all available appeals. Prison Litigation Reform Act (PLRA), 42 U.S.C. § 1997e(a) (2000).

³ In fiscal year 2017, the Office of Constituent Services staff and the Inmate Grievance and Request Program staff merged to form OCGS. The Department decided to streamline the process and merge both offices after observing that nearly 60% of complaints that OCS received from 311 could be resolved via the grievance program.

⁴ APPENDIX A shows which entities are responsible for each category of complaints.

⁵ Calls to 311 became free for people in custody in 2015.

Table 1.

| Complaints: Problems or Issues from People in Custody | |
|--|--|
| Grievable Complaints | A written complaint submitted by a person in custody regarding one of 29 categories of issues related to their confinement. These complaints are subject to the formal grievance procedure. See Appendix B for categories. |
| Non-Grievable Complaints | A written complaint that does not fall within the 29 grievance categories and thus is not subject to the IGRP process. Appendix A shows the entities responsible for resolution of these complaints. There are 16 categories of this type of complaint. See Appendix B for categories. |
| Request | A written, individually expressed need or desire for a service, assistance, or an accommodation related to the person's confinement. There are seven categories of this type of complaint. See Appendix B for categories. |
| 311 Complaints | Just like any other person in New York City, people in custody can make a free phone call to 311 to file a complaint about government services. All 311 complaints from people in custody are forwarded to OCGS. |
| CHS Complaints | A person in custody can file a complaint with H+H by filling out a second opinion form/ complaint form in the facility clinic, having a family member or friend email CHS Patient Relations, calling 311 or filing a grievance with OCGS. |
| SOURCES: NYC Department of Correction, Health + Hospitals. | |

Most of the findings in this report were developed from a review of formal complaints filed with the Department, some of which concern matters that are grievable and others that do not. This report also presents available information on complaints filed via 311 and complaints filed with CHS; however, detailed resolution data was only available for complaints subject to the grievance process.

The Board is committed to ongoing monitoring of the complaint systems in the New York City jails and to supporting a comprehensive system that is procedurally fair, safe and accessible, transparent and responsive, and coordinated and consistent across all facilities. This larger system must also use patterns of individual complaints to identify areas for policy and practice improvements. The Board's October 2016 Grievance Report included a number of recommendations and next steps for both DOC and BOC aimed at improving the larger complaint system.⁶ The progress made to date in those areas can be found in Appendix C.

⁶ N.Y.C. Bd. Of CORR., [A STUDY OF THE DEPARTMENT OF CORRECTIONS INMATE GRIEVANCE AND REQUEST PROGRAM](#) (Oct. 2016).

II. Summary of Findings

Complaints Received by Office of Constituent and Grievance Services

Complaints from People in Custody & Access to the Grievance Process

1. There were nearly four times as many complaints filed via 311 than complaints filed directly with OCGS.⁷ The number of calls to 311 with complaints about the City's jails increased 49%, from FY 2016 (N=19,971) to FY 2017 (N=29,751), while the number of complaints filed directly with OCGS at DOC facilities decreased 15%, from FY 2016 (N=9,152) to FY 2017 (N=7,757).⁸ Whether or not related to a grievance category, a 311 complaint is not subject to the formal grievance process, unless OCGS staff follows up with the person in custody to file a grievance.
2. In FY 2017, nearly 40% of all complaints that were filed directly with OCGS by people in custody were not subject to the grievance process. This included 2,293 "non-grievable" complaints and 669 requests. In these cases, OCGS notifies the grievants that it has referred the complaint to a different office, but grievants are not told when they can expect a response. People in custody are also not informed about what the investigation or response will look like for complaints not subject to the grievance process.
3. The most frequent complaints filed with OCGS that are not subject to the grievance process concern DOC staff. Complaints of this type increased 348% from FY 2013 (n=280) to FY 2016 (n=1,256), then decreased 22% in FY 2017 (n=974). Complaints to OCGS about medical staff have increased over 300% in the last five years (n=88 in FY 2013) and are the second most frequent non-grievable complaint (n=289 in FY 2017).
4. Over the past five years, employment, financial accounts, jail-time calculations, personal property, and complaints about DOC staff have been among the top five (5) categories (though not always in that order)⁹ for complaints filed by people in custody. In FY 2017, complaints in these categories made up nearly 50% of complaints filed with OCGS by people in custody:
 - Complaints about DOC staff (n=974, 13%);
 - Employment (n=841, 11%);
 - Inmate financial accounts (n=825, 11%);

⁷ It is not clear how many of these complaints are duplicative (*i.e.*, a person in custody filed a written complaint and called 311 about the same issue). It is also not clear how the Department tracks and communicates timely resolution of 311 complaints.

⁸ Data in this report is based on the city's Fiscal Year, which runs from July 1st of one year to June 30th of the following year (*i.e.*, Fiscal Year 2013 ran from July 1, 2012 through June 30, 2013).

⁹ See APPENDIX E, TOP 10 COMPLAINT CATEGORIES BY YEAR.

- Jail time calculations (n=567, 7%);
 - Personal property (n=564, 7%).
5. People in custody have unequal access to the complaint system depending on the jail in which they are housed. Facilities range in the number of grievance boxes they have— from one (1) box in GRVC (on average 672 people per grievance box) to 25 boxes in MDC (on average 30 people per grievance box).¹⁰ Additionally, grievance coordinators’ workloads vary dramatically depending on the facility to which they are assigned.
 6. People in custody are not informed about protections against retaliation for filing complaints.¹¹

Resolutions & Appeals

7. If a person in custody files a complaint that falls into one of the 29 grievable categories, the person is entitled to an initial response from OCGS and three levels of appeal. In FY 2017, 95% (n=4,536) of complaints were closed after the initial OCGS response. DOC classifies this initial response as an “informal” resolution.
8. Only 20 people (0.4%) appealed any grievance decision rendered in FY 2017. Of the 20, one person appealed at the formal level (Inmate Grievance and Resolution Committee (IGRC)); nine (9) appealed at the Warden level; and 10 received a decision from the Central Office Review Committee (CORC). The CORC renders the Department’s final decision on a grievance. It is unclear from the data provided by DOC how many people completed all three levels of appeal.¹² None of the appeals that made it to the CORC were provided to the Board; therefore, BOC could not provide its recommendation whether the final appeal should be granted or denied, as required by DOC policy.¹³

¹⁰ Number of grievance boxes per facility as of January 18, 2018.

¹¹ Neither the OCGS Grievance Form (#7102R) nor the OCGS Poster “Did you Know?” informs people in custody about protections against retaliation for filing complaints. Neither the CHS Complaint Form (CHS #359) nor the “We Care About Your Health” patient brochure informs people in custody about protections against retaliation for filing complaints.

¹² N.Y.C. DEP’T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, SEC. VI(A)(3) at 28 & SEC. VII(B)(3) at 29 (effective Mar. 19, 2014) (noting complaints related to religious matters are appealed to Committee on Religious Accommodations and complaints related to security risk group (SRG) status are appealed directly to the CORC).

¹³ *Id.* SEC. IV(J)(3) at 25 (effective Mar. 19, 2014).

Quality Assurance and Oversight

9. The grievance disposition form provided to people who file complaints with OCGS is confusing and is not currently designed to clearly indicate when a grievant wishes to appeal their informal resolution.¹⁴ Many of the grievance forms audited by the Board appeared incomplete. In 58% (n=152) of all audited complaints, the grievant did not accept or reject the OCGS initial response to the grievance. Of these, 64% (n=97) also did not have a signature. Without this indication, it is impossible to know if the grievant wanted to appeal or if the grievant even received the informal response. This is problematic because this could be interpreted as a waiver of appellate rights.
10. DOC did not properly timestamp a significant number of complaints, thus making it challenging to track compliance with informal resolution and subsequent response deadlines. Forty-one percent (41%) of all cases audited had no time stamp as required by DOC policy.¹⁵
11. Since January 2017, OCGS has been using an electronic system, “Service Desk,” to track all complaints received. This system makes it easier to track the lifecycle of a complaint and allows for more comprehensive quality assurance measures.¹⁶ The Board needs access to Service Desk to audit cases in real time. Many complaints and resulting investigations relate to BOC’s Minimum Standards and as such, provide invaluable information needed to monitor compliance with the Standards.

Complaints Received by Health + Hospitals’ Correctional Health Services

1. In FY 2017, H+H received 2,193 complaints. This is an increase of 51% (n=743) from FY 2016 (N=1,450).

¹⁴ N.Y.C. DEP’T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, DISPOSITION FORM #7102R, ATTACHMENT C (effective Mar. 19, 2014).

¹⁵ *Id.* SEC. IV(A)(1) at 4.

¹⁶ N.Y.C. Dep’t of Corr. Off. of Constituent & Grievance Services, Service Desk Presentation to Board of Correction Staff (Mar. 2, 2017).

2. Nearly all complaints received by CHS in FY 2017 (86%, n=1,896) fell into the following five (5) categories:¹⁷
 - Access (31%, n=679);
 - Prescription Denied (16%, n=361);
 - Prescription Not Received (16%, n=359);
 - Medical Care (16%, n=346);
 - Specialty Clinics (7%, n=151).
3. The majority (86%, n=1,896) of complaints received by H+H were from two sources:
 - 311 referrals to DOC or H+H (56%, n=1,229);¹⁸
 - Legal Aid Society /Prisoners' Rights Project (30%, n=667).

III. Recommendations for Improving the Inmate Grievance System

Addressing Complaints from People in Custody & Access to the Grievance Process

1. Develop a written grievance policy that clarifies how complaints to 311 interact with the grievance system, including the role of OCGS staff in following up on complaints made via 311. For each complaint received via 311, the Department should communicate to the grievant what the next steps will be.
2. Implement a central system for tracking the resolution of complaints not subject to the IGRP process, including a transparent, responsive, and fair administrative process. Educate people in custody and staff about which complaints are not subject to the grievance process and the process for resolving these complaints.
3. Develop a system-wide approach to address complaints about staff. Coordinate with the Department's ongoing staff development efforts, including the Early Warning System required by the *Nunez* Consent Judgment.¹⁹

¹⁷ CHS has expressed concerns regarding the accuracy with which CHS staff have been categorizing complaints related to prescriptions received and prescriptions denied.

¹⁸ 311 determines what type of medical complaints they send to DOC or H&H. Some 311 complaints were initially sent to DOC and upon further review forwarded to H&H by DOC while others were sent from 311 to H&H directly. 311 staff typically refer complaints related to medical conditions directly to H&H.

¹⁹ The *Nunez* Consent Judgment refers to the Consent Judgment in *Nunez v. City of New York, et al.*, 11 Civ. 5845 (LTS)(JCF) (a class-action lawsuit filed against the Department in 2011 on behalf of people in custody who alleged DOC had engaged in a pattern and practice of unnecessary and excessive force against them in violation of their rights). The purpose of the Early

4. Ensure equal access to the grievance process and develop caseload guidelines for grievance coordinators and officers (i.e., number of complaints per staff member) and secure resources to meet these guidelines.

Resolutions & Appeals

5. Shorten and simplify the grievance appeal process: eliminate a step in the appeals process so a grievant need only appeal twice to receive a final determination.
6. Clarify resolution forms and clearly indicate the process to appeal informal resolutions.
7. Share appeals to the CORC with the Board so that BOC recommendations can inform CORC decisions.

Quality Assurance and Oversight

8. Update DOC's complaint tracking system — Service Desk — and provide the Board with direct access so it can regularly audit the grievance process and monitor compliance with Minimum Standards.
9. Develop policies and an internal OCGS monitoring process to ensure (i) grievances are appropriately time stamped by grievance staff; (ii) responses are provided to grievants within the 5-business day timeframe required by DOC policy²⁰; and (iii) grievance staff enters all appropriate data and documentation into Service Desk.
10. Develop an action plan to evaluate and address the drivers of the top grievance categories: employment, inmate financial accounts, jail time calculations, and personal property complaints.

Warning System is to “effectively identify as soon as possible [uniformed DOC staff] whose conduct warrants corrective action as well as systemic policy or training deficiencies” *Nunez* Consent Judgment, Sec. X(1) at 31.

²⁰ N.Y.C. DEP'T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, SEC. II(F) at 2 (effective Mar. 19, 2014).

IV. Methodology and Sources

The findings in this report are based on the Board's review of aggregate reports from the DOC's Inmate Grievance Request Program for fiscal years 2016 and 2017 and data on complaint resolutions for FY 2017. These are prepared pursuant to the Department's IGRP Directive.²¹ These reports contain the number of grievances, requests and non-grievable complaints submitted each fiscal year disaggregated by month, category, and facility.

To evaluate whether practice is consistent with policy, Board staff conducted a case file audit of 262 complaints from FY 2016. Board staff reviewed 149 grievable complaints and 113 complaints not subject to the grievance process.²² Each case file included an IGRP Statement Form, Investigation Form, and Disposition Form, along with any associated documentation. Case files for complaints not subject to the grievance process did not include back up documentation as these were all referred to the appropriate entity for resolution and there is no unified system to capture and report outcomes for these complaints.²³

Board staff also reviewed data from Health + Hospital's CHS complaint system for fiscal years 2016 and 2017.

V. Complaint System Structure Updates

In January 2017, the Office of Constituent Services (OCS) staff and the IGRP program staff merged to form OCGS. The Department decided to streamline the process and merge both offices after observing that nearly 60% of complaints that OCS received from 311 were resolved via the grievance process.²⁴

Prior to the merger, these two entities functioned separately. OCS handled 311 complaints, and complaints from non-incarcerated people, such as attorneys or family members. The IGRP staff received complaints filed directly from people in custody. Individuals could file a complaint by either requesting to go to the grievance office or by dropping a grievance form into a facility grievance box. Eleven (11) grievance

²¹ INMATE GRIEVANCE AND REQUEST PROGRAM DIRECTIVE 3376, outlines the purpose, policy, and jurisdiction of the Inmate Grievance and Request Program (IGRP) and the resolution and appeals process for grievances filed by people in DOC custody.

²² BOC sampled complaints from across all 12 facilities covered by the Department's 15 grievance service areas.

²³ Auditing these complaints would require case files from other DOC offices, including Facility Leadership, Investigation Division, General Counsel, Disability Rights Coordinator, Health Affairs.

²⁴ N.Y.C. Dep't of Corr. Off. of Constituent & Grievance Serv., FY2015 Spreadsheet (May 2016) (on file with N.Y.C. Bd. Of CORR.).

coordinators handled complaints from all facilities and grievance service areas, some covering more than one facility.²⁵

Under the current system, there are 16 grievance coordinators, and people in custody can request to file a complaint in person at the grievance office or drop a form in a grievance boxes. Additionally, at GRVC and OBCC, grievance staff, equipped with tablets, takes complaints directly from people in their housing areas.²⁶

A new poster created by OCGS informs incarcerated individuals how to file a complaint via the grievance system or by calling 311.²⁷ BOC monitoring staff have reported that the poster has caused concerns and confusion in that people in custody now believe that calling 311 is the process to file a grievance, which, under DOC policy, it is not. The poster does not make clear that grievance coordinators are required to contact grievants to request they fill out a written complaint to initiate the formal grievance process.

People in custody are not informed about protections against retaliation for filing complaints. Neither the OCGS Grievance Form (#7102R) nor the OCGS Poster “Did you Know?” informs incarcerated persons about protections against retaliation for filing complaints.

Access

People in custody have unequal access to the written complaint system depending on the jail in which they are housed. Facilities range in the number of grievance boxes they have — from 1 box in GRVC (on average, 672 people per grievance box) to 25 boxes in MDC (on average, 30 people per grievance box).²⁸ Additionally, while the Department has hired six (6) new grievance coordinators since the merger, grievance coordinators’ workloads vary dramatically depending on the facility to which they are assigned (See Table 2). In addition to grievance coordinators, all facilities now have grievance officers to help with the workload.²⁹

Grievance staff are required to check grievance boxes daily (M-F) and visit restrictive housing areas (e.g. punitive segregation and Enhanced Supervision Housing) a minimum of three (3) times per week.³⁰ After the merger, OCGS leadership encouraged its grievance coordinators to visit housing areas daily to take complaints.

²⁵ Grievance Staffing as of October 2016.

²⁶ OCGS started using tablets at the GRVC Facility in April 2017 and at the OBCC Facility in February 2018.

²⁷ The OCGS Poster “Did You Know?” was created in spring 2017 and subsequently posted in all DOC facilities.

²⁸ Number of grievance boxes per facility as of January 18, 2018.

²⁹ N.Y.C. DEP’T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, SEC. IV(3)(c)(i) at 9 (effective Mar. 19, 2014) (requiring all facilities to have a grievance officer tasked with helping grievance coordinators with their duties and escort people in custody to the grievance office).

³⁰ *Id.* SEC. IV(c)(i) at 10 & SEC. IV(D)(5)(a) at 13.

Table 2.

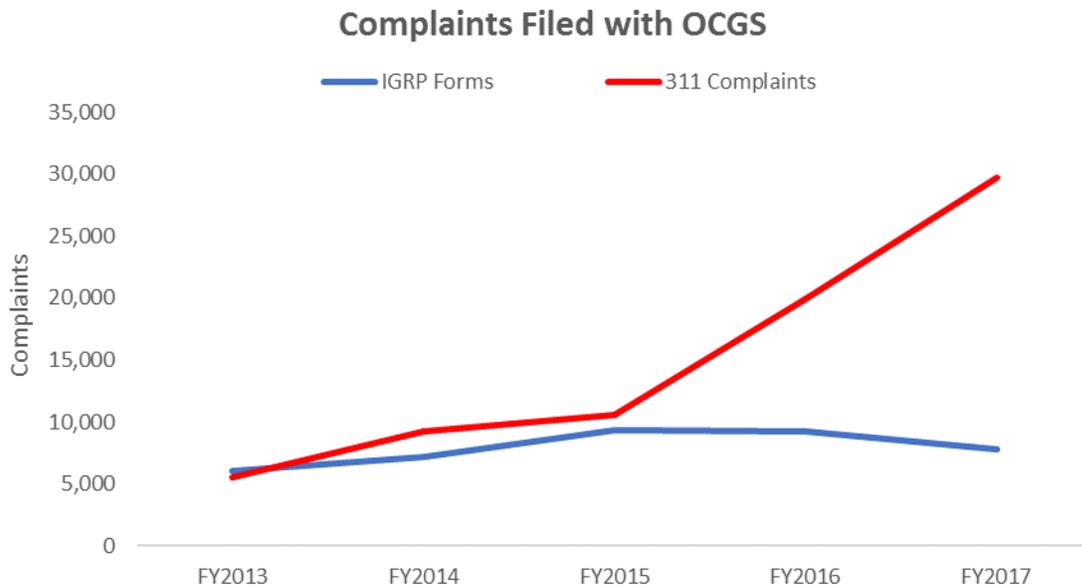
| DOC Grievance System | | | | | FY 2017 Number of Grievances | FY 2017 Rate of Complaints |
|----------------------|----------------|----------------------------|------------------------|-----------------------|------------------------------------|-------------------------------|
| | FY 2017 ADP | Grievance Coordinator** | Grievance Officer** | Grievance Boxes*** | | |
| AMKC | 2123 | 2 | 1 | 5 | 1,989 | 8.0 |
| BKDC | 576 | 1 | 1 | 8 | 181 | 2.7 |
| EMTC | 1,209 | 2 | 1 | 3 | 1,164 | 8.2 |
| GMDC | 682 | 1 | 1 | 5 | 444 | 5.5 |
| GRVC | 672 | 3 | 1 | 1 | 694 | 8.8 |
| MDC | 751 | 1 | 0 | 25 | 326 | 3.7 |
| OBCC | 1,148 | 2 | 1 | 2 | 931 | 6.9 |
| RMSC | 601 | 1 | 1 | 17 | 761 | 10.3 |
| RNDC | 734 | 1 | 1 | 3 | 576 | 6.6 |
| VCBC | 784 | 1 | 1 | 1 | 315 | 3.4 |
| WEST | 44 | 1* | 1* | 0 | 171 | 33.0 |
| NIC | 110 | 1* | 1* | 8 | 205 | 13.0 |
| Total | 9,294 | 16 | 10 | 78 | 7,757 | 7.1 |

SOURCE: Department of Correction 5 AM Census
NOTES: * NIC and West Facility share one grievance coordinator and one grievance officer.
**Staffing as of April 2017.
*** As of January 18, 2018.

VI. Volume and Type of Complaints

In FY 2017, the OCGS received 7,757 complaints, a decrease of 15% from 9,152 complaints received in FY 2016. In FY 2017, 62% (n=4,795) of all complaints received by OCGS were categorized as grievable, while 38% (n=2,962) were not subject to the grievance process. Over the last five years, the number of non-grievable complaints has nearly tripled, from 853 in FY 2013 to 2,293 in FY 2017. Additionally, the portion of non-grievable complaints has nearly doubled over this time period (14% of all complaints in 2013, 30% in 2017). See Figure 2. Complaints about DOC and CHS staff drive this increase, constituting two-thirds of the increase in non-grievable complaints. Complaints about DOC and CHS staff also make up the majority (55%, n=1,263) of FY 2017 non-grievable complaints overall. Yet, from FY 2013 to FY 2017, the average daily population has been steadily decreasing.

Figure 1.



311 Calls

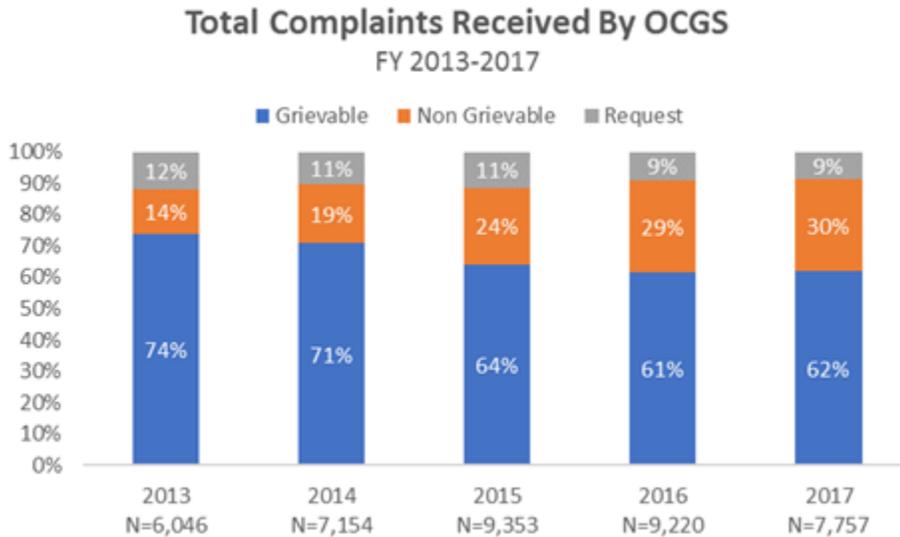
While the number of complaints directly received by OCGS has decreased, the number of jail-related 311 calls has increased by 49% from FY 2016 (n=19,971) to FY 2017 (n=29,751). The Department updated its process for responding to 311 complaints related to the grievable categories, and 311 calls became free for people in custody in 2015. It is not clear how many of these calls relate to matters that are subject to the grievance process, how these calls are addressed; and how many of them were filed in writing.

Table 3.

| Average Daily Population and Number of Complaints | | | | | | | | | | |
|--|--------------|-------------|--------------|-------------|---------------|-------------|---------------|-------------|---------------|-------------|
| | FY 2013 | | FY 2014 | | FY 2015 | | FY 2016 | | FY 2017 | |
| Average Daily Population | 11,687 | | 10,909 | | 9,752 | | 9,757 | | 9,294 | |
| Complaint rate per 100 people in custody per month | 4.4 | | 5.6 | | 8.1 | | 8.0 | | 7.1 | |
| | 2013 | | 2014 | | 2015 | | 2016 | | 2017 | |
| Grievable | 4,468 | 74% | 5,077 | 71% | 5,991 | 64% | 5,670 | 61% | 4,795 | 62% |
| Non Grievable | 853 | 14% | 1,325 | 19% | 2,289 | 24% | 2,700 | 29% | 2,293 | 30% |
| Request | 725 | 12% | 752 | 11% | 1,073 | 11% | 850 | 9% | 669 | 9% |
| Total Complaints | 6,046 | 100% | 7,154 | 100% | 9,353 | 100% | 9,220 | 100% | 7,757 | 100% |
| 311 Complaints | 5,522 | | 9,227 | | 10,571 | | 19,971 | | 29,751 | |

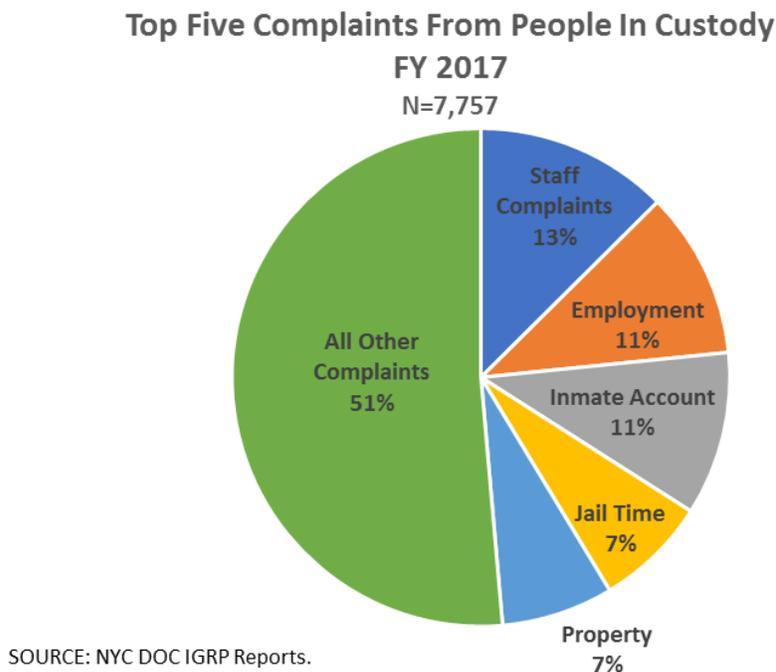
SOURCE: NYC Department of Correction Inmate Grievance Monthly Reports.
 NOTE: The rate is calculated according to this formula: (#complaints/#average daily population)*100 incarcerated people*(31 days/365).

Figure 2.



SOURCE: Department of Correction IGRP Reports FY2013-2017.

Figure 3.



In FY 2017, nearly 40% of all complaints received by OCGS were not subject to the grievance process (30%, n=2,293 non-grievable; 9%, n=669 requests). These complaints are forwarded to five (5) other DOC offices, including the Investigation Division, facility leadership, and the Health Affairs Division (see Appendix A). Once forwarded, OCGS and grievants are not updated on the complaint's resolution.

DOC categorizes complaints into 52 distinct categories (See Appendix D for a listing of all complaint categories). These categories range from concerns about staff and housing assignments to complaints about noise and food. The most common complaints include those about DOC staff, employment, inmate financial accounts, jail-time, and property. Complaints falling into these five (5) categories made up nearly 50% of all complaints received by OCGS in FY 2017 (n=3,771).

DOC Staff (13%, n=974)

Complaints about DOC staff increased 348% from FY 2013 (n=280) to FY 2016 (n=1,256), then decreased 22% in FY 2017. This was the most frequent complaint category in FY 2016 and FY 2017. Complaints about staff are not subject to the grievance process and are referred to the facility's Warden for handling.

Employment (11%, n=841)

Complaints about employment relate to an individual's payroll, workload, job tasks, scheduling and/or lack of opportunity for work assignments while incarcerated.

Employment complaints have decreased by 20% since FY 2016.

Inmate Financial Accounts (11%, n=825)

Complaints about incarcerated persons' accounts tend to be related to account pin numbers and the proper crediting of money to accounts from any source except DOC employment (i.e., family deposited funds or money transfers from New York State prisons). The number of complaints regarding accounts increased 27% from FY 2016 (n=647) to FY 2017.

Jail-Time Calculations (7%, n=567)

These complaints are generally filed to challenge the accuracy of a person's projected date of release or transfer to a state facility, and are most frequently filed in facilities that hold sentenced individuals, the Eric M. Taylor Center for men (82%, n=463) and the Rose M. Singer Center for women (8%, n=46). Both facilities have seen a slight increase in these types of complaints from FY 2016 to FY 2017.

Property (7%, n=564)

These complaints are typically related to the disappearance or changed condition of personal property. The number of complaints regarding property has decreased by 43% since FY 2015 (from 810 in FY15 to 688 in FY 2016 to 564 in FY 2017).

Complaints related to employment, inmate financial accounts, jail-time calculations, and personal property were among the top complaint categories subject to the grievance process from FY 2013 through FY 2017 (though not in this order).³¹ This suggests there are systemic challenges in these operational areas that DOC should address.

Complaints to OCGS about medical staff increased 301% from FY 2013 (n=88) to FY 2016 (n=353), then decreased 18% in FY 2017 (n=289). They are the second most frequent complaint not subject to the grievance process (n=289 in FY 2017) filed with OCGS. It is unknown how many of these complaints were also filed with CHS.

³¹ See APPENDIX E, TOP 10 COMPLAINT CATEGORIES BY YEAR.

VI. OCGS Complaint Trends by Facility

Simultaneous with an annual decrease in the overall number of complaints filed with OCGS, complaints decreased at nine (9) of 12 facilities from FY 2016 to 2017. Complaints at OBCC (43% decrease) and NIC (42% decrease) decreased over 40%. Three facilities saw an increase in the total number of complaints filed in FY 2017: GRVC (21% increase), West Facility (11% increase), and AMKC (6% increase).

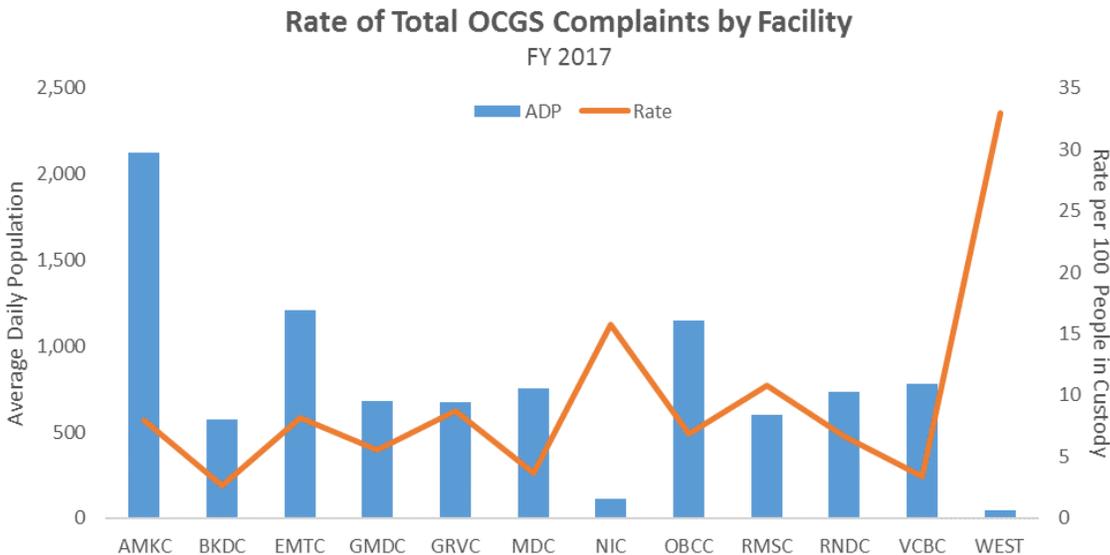
Table 4.

| OCGS Complaints By Facility | | | | | |
|--|---------------------|--------------|--------------|--------------|--------------|
| | Fiscal Years | | | | |
| | 2013 | 2014 | 2015 | 2016 | 2017 |
| AMKC | 1,100 | 1,063 | 1,754 | 1,877 | 1,989 |
| BKDC | 206 | 181 | 197 | 240 | 181 |
| EMTC | 609 | 616 | 573 | 1,303 | 1,164 |
| GMDC | 650 | 825 | 1,212 | 688 | 444 |
| GRVC | 693 | 503 | 456 | 575 | 694 |
| MDC | 380 | 662 | 527 | 398 | 326 |
| NIC | 235 | 265 | 794 | 358 | 205 |
| OBCC | 711 | 1,366 | 1,567 | 1,655 | 931 |
| RMSC | 828 | 896 | 798 | 788 | 761 |
| RNDC | 313 | 272 | 982 | 731 | 576 |
| VCBC | 277 | 334 | 381 | 453 | 315 |
| WEST | 44 | 171 | 112 | 154 | 171 |
| Total | 6,046 | 7,154 | 9,353 | 9,220 | 7,757 |
| SOURCE: Department of Correction IGRP Reports FY2013-2017. | | | | | |

West Facility and NIC had the highest rate of complaints: 33 complaints per month per 100 people incarcerated at West Facility and 16 complaints per month per 100 people at NIC. These two jails house populations with high security or special needs.³² NIC also had the highest rate of complaints (1.77) filed about medical staff in FY 2017.

³² West Facility houses people who cannot be housed elsewhere due to security concerns. Movement and access to services is limited in West Facility. The facility also includes a unit that houses male or female individuals with contagious diseases, such as tuberculosis. NIC houses people who have acute medical conditions and require infirmary care or people who have a disability that requires housing compliant with the American with Disabilities Act (ADA).

Figure 4.



SOURCE: NYC Department of Correction.

NOTE: The rate is calculated according to this formula: $(\# \text{complaints} / \# \text{average daily population}) * 100 \text{ people in custody} * (31 \text{ days} / 365)$

VII. Complaint Resolutions and Appeals

Timeliness

To better understand the complaint resolution process and compliance with DOC's IGRP Directive, Board staff audited a total of 262 complaints from FY 2016 — a sample comprised of 149 complaints subject to the grievance process (n=149) and 113 complaints not subject to the grievance process (n=113).

The Department's IGRP Directive requires staff to time stamp all complaint forms and respond to complaints within five (5) business days.³³ Board staff found that 41% (n=107) of complaints were not time stamped as required by policy³⁴, rendering the recorded date unreliable and making timeliness difficult to monitor. Complaints that were not time stamped included handwritten dates and a grievance coordinator's signature.

Among all complaints with a time stamp (59%, n=155), it took an average of six (6) business days to reach resolution. The time to reach a resolution ranged from a

³³ N.Y.C. DEP'T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, SEC. II(F) at 2 & SEC. IV (G)(1) at 16 (effective Mar. 19, 2014).

³⁴ *Id.* SEC. IV(A)(1) at 4.

minimum of one (1) business day to a maximum of 34 business days and a median of five (5) business days. Sixty-three percent ((63%, n=56) of audited grievable complaints and 14% n=10) of audited complaints not subject to the grievance process were resolved within five (5) business days as required by DOC policy.³⁵ Currently, people in custody are not informed about what the investigation or response will look like for complaints not subject to the grievance process.

Resolution

Ninety-five percent (95%, n=4,536) of all grievable complaints in FY 2017 were “informally resolved.” The Department considers a complaint informally resolved if the grievant indicates via grievance form that he is satisfied with the grievance coordinator’s initial response. Problematically, DOC considers a complaint informally resolved if grievants do not indicate on the form whether or not they accept DOC’s informal resolution.

Many of the grievance forms audited by the Board appeared incomplete. In 58% (n=152) of all audited complaints, grievants did not accept or reject the OCGS informal response to their grievance. Of these, 64% (n=97) also lacked a signature without which it is impossible to know whether the grievant received the resolution form.

When a complaint is non-grievable, OCGS informs the grievant that his or her complaint has been forwarded to the appropriate entity. The IGRP response form provides no further information to grievants on how to follow-up on their complaints. Eighty-seven percent (87%, n=98) of audited non-grievable complaints were referred to other entities. Among these audited complaints, 62% (n=70) were referred to the Warden (n=39) or Deputy Warden (n=31); 9% (n=10) were referred to a medical administrator; and 15% (n=17) did not have a referral documented.

Appeals

The grievance disposition form provided to those who file complaints with OCGS is confusing and does not clearly indicate when a grievant wishes to appeal the informal resolution.³⁶ This is problematic because this could be interpreted as a waiver of appellate rights.

Grievants can appeal the grievance resolution at three levels: (1) the informal resolution; (2) the Inmate Grievance Resolution Committee (IGRC); and (3) the Warden. The

³⁵ For non-grievable complaints, this “resolution” is a referral to the appropriate entity. See Appendix A for a list of entities that address complaints not subject to the grievance process.

³⁶ N.Y.C. DEP’T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, DISPOSITION FORM #7102R, ATTACHMENT C (effective Mar. 19, 2014).

Department's Central Office Review Committee (CORC) is the last step and renders the final decision in the grievance process. The Board provides an opinion and recommendation at the CORC stage. Completing the current process can take up to 10 weeks from filing a grievance to receiving a CORC decision (See Appendix F).

In FY 17, only 20 people (0.4%) appealed a grievance decision. Of these appeals, one person appealed at the first formal level or IGRC, nine (9) appealed at the Warden level; and 10 received a CORC decision (0.2%). It is unclear from the data DOC provided how many people completed all three levels of appeal.³⁷ The Department failed to ask the Board for an opinion and recommendation on all appeals to the CORC in FY 2017.

Nearly 40% (n=2,962) of complaints received in FY 2017 were not related to one of the 29 categories of grievable complaints and thus not eligible for DOC's grievance process. Complaints received via 311 are also not subject to this process, unless a grievance coordinator follows-up with the person in custody to file a grievance.

Table 5.

| Grievance Resolution Stages | | |
|--|---------------|----------------|
| FY 2017 | | |
| | Count | Percent |
| Total Complaints | 7757 | 100% |
| <i>Grievable Complaints</i> | 4,795 | 62% |
| Informally Resolved | 4,536 | 94.6% |
| Transferred / Discharged | 116 | 2.4% |
| Not Resolved | 82 | 1.7% |
| Withdrawn | 41 | 0.9% |
| Resolved at CORC | 10 | 0.2% |
| Resolved at Warden Level | 9 | 0.2% |
| Resolved at Formal Level | 1 | 0.0% |
| Total Grievable Complaints Resolved | 4,794 | |
| <i>Non Grievable Complaints</i> | 2,293 | 30% |
| Resolution unknown | - | |
| Requests | 669 | 9% |
| Resolution unknown | - | |
| 311 Complaints | 29,751 | |
| Resolution unknown | - | |

SOURCE: NYC Department of Correction Resolution Data FY2017.

³⁷ N.Y.C. DEP'T. CORR., DIRECTIVE 3376, INMATE GRIEVANCE AND REQUEST PROGRAM, SEC. VI(A)(3) at 28 & SEC. VII(B)(3) at 29 (effective Mar. 19, 2014) (noting complaints related to religious matters are appealed to Committee on Religious Accommodations and complaints related to security risk group (SRG) status are appealed directly to the CORC).

VIII. Complaints Received by Health + Hospitals

In addition to data on complaints filed with OCGS, Board staff reviewed data from CHS's complaint system for fiscal years 2016 and 2017.

The CHS Patient Relations Unit responds to complaints about health care in the jails. A person in custody can file a complaint with H+H by:

- Filling out a second opinion³⁸/complaint form and dropping it in the facility clinic complaint box;
- Having a friend, family member, or advocate email CHS Patient Relations;
- Calling 311; or
- Filing a grievance with DOC OCGS.

CHS saw an increase of 51% in the total number of complaints — from 1,450 in FY 2016 to 2,193 in FY 2017. The facility with the most complaints was AMKC, which is also the facility with the highest average daily population. Eighty-six percent (86%, n=1,896) of CHS complaints were received from two sources: 311 referrals (either to H+H or to DOC and then referred to H+H) (56%, n=1,229), and Legal Aid Society Prisoner's Right Project (30%, n=667).

The top five concerns from people in custody concerned:³⁹

- access to care (31%, n=679);
- prescriptions denied (16%, n=361);
- prescriptions not received (16%, n=359);
- medical care (16%, n=346); and
- complaints about specialty clinics (7%, n=127).

The Board also reviewed the number of complaints by CHS service departments⁴⁰ and found that nearly 40% of them fell into the "other" department category (39%, n=845). The high frequency of complaints in this category makes accurate analysis of this data challenging. CHS reports that the "other" department category includes complaints

³⁸ A "request for a second opinion" is a matter in which the patient disagrees with a diagnosis or treatment plan. For patients in the NIC infirmary, a request for a second opinion also includes a matter in which there has been a change in a specialty clinic physician's recommended treatment plan or a change in the specialty clinic appointment date or time period. N.Y.C. DEPT. HEALTH AND MENTAL HYGIENE, CORR. HEALTH SERV., INTERDISCIPLINARY POLICIES, PATIENT COMPLAINTS AND REQUESTS FOR SECOND OPINIONS, POLICY No. INT16 at 1 (revised Dec. 2007); N.Y.C. DEPT. HEALTH AND MENTAL HYGIENE, CORR. HEALTH SERV., INTERDISCIPLINARY POLICIES, REPORTING COMPLAINTS RECEIVED FROM NON-PATIENT SOURCES, POLICY No. INT16A at 1 (revised Aug. 2009).

³⁹ CHS has expressed concerns regarding the accuracy with which CHS staff have been categorizing complaints related to prescriptions received and prescriptions denied.

⁴⁰ H+H categorizes complaints into seven (7) department categories: Clinic Administrator, Dentistry, Medicine, Mental Health, Nursing, Pharmacy, and Other.

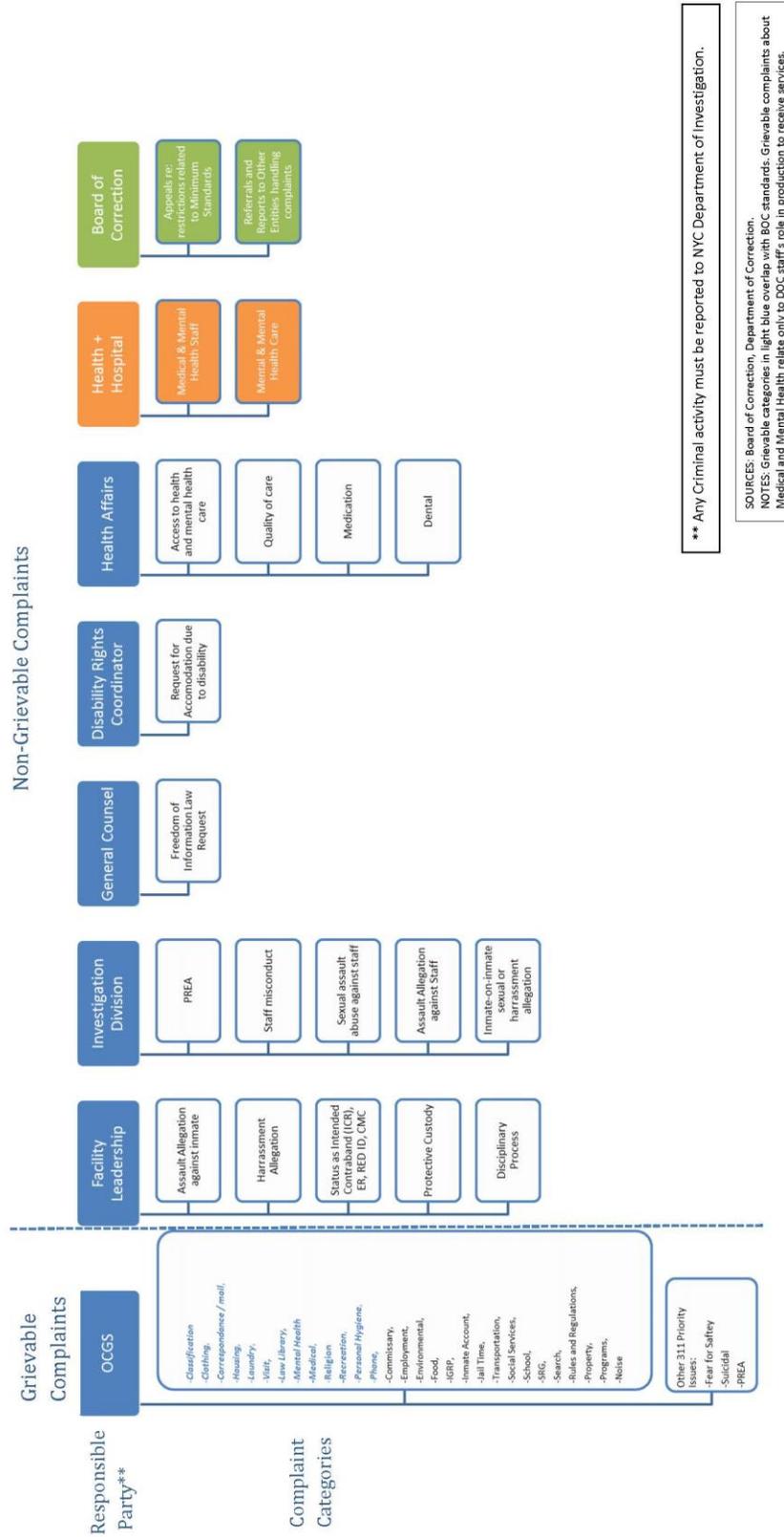
related to DOC in some way (e.g., “someone said I signed a refusal form and I haven’t” or “I have not been taken to Bellevue”).

The H+H service department with the next highest number of complaints was the Medicine department (33%, n=722), which includes complaints related to access to medical care and medication.

The Board and CHS are currently working together to create a monthly report to monitor complaints related to health care in the jails and their resolution. This report and other fact-finding will allow for the presentation of additional findings in future BOC grievance reports.

IX. Appendix A: Complaint Types and the Entities Who Handle Them

COMPLAINT TYPES AND ENTITIES WHO HANDLE THEM



X. Appendix B: Grievance, Non-Grievable, and Request Categories

| Grievance Categories | | Non-Grievable Categories | | Request Categories | |
|---|--|--|--|------------------------------------|--|
| Classification | | Assault allegation | | Change of Religion Card | |
| Clothing | | Sexual assault/abuse allegation | | Religious Accommodations | |
| Commissary | | Staff complaint | | Request for Information | |
| Correspondence / Mail | | Harassment allegation | | Request for Social Services | |
| Employment | | Inmate altercation | | Request for Release of Property | |
| Environmental | | Inmate on inmate sexual assault/abuse allegation | | Request for Transfer of Funds Form | |
| Food | | Inmate on inmate verbal harassment allegation | | Other Request | |
| Housing | | Status as an intended contraband recipient (or ER, Red ID, or CMC) | | | |
| Inmate Grievance and Request Program | | Disciplinary process | | | |
| Inmate Account | | Medical staff | | | |
| Jail Time | | Mental health staff | | | |
| Laundry | | Request for protective custody | | | |
| Visit | | Request for accommodation due to disability | | | |
| Law Library | | Freedom of Information Law request | | | |
| Mental Health (complaints involving Department personnel) | | Contraband | | | |
| Medical (complaints involving Department personnel) | | | | | |
| Noise | | | | | |
| Personal Hygiene | | | | | |
| Phone | | | | | |
| Programs | | | | | |
| Property | | | | | |
| Recreation | | | | | |
| Religion | | | | | |
| Rules and Regulations | | | | | |
| School | | | | | |
| Search | | | | | |
| Security Risk Group / Watch group | | | | | |
| Social Services | | | | | |
| Transportation | | | | | |
| SOURCE: NYC Department of Correction Directive #3376, March 19, 2014. | | | | | |

XI. Appendix C: Status of BOC October 2016 Recommendations

Status of Recommendations for DOC from BOC's October 2016 Report:

- Review the adequacy of resources devoted to the DOC grievance system.
 - **Progress:** OCGS hired six (6) new grievance coordinators. All but two (2) facilities have a dedicated and permanent officer assigned (NIC and WF share an officer).
- Increase the legitimacy and efficiency of the grievance system through education, communication, and participation.
 - **Progress:** DOC created a new poster which references the merger between OCS and IGRP and the creation of OCGS. The poster also gives steps for filing a grievance or calling 311. However, the poster does not make clear that a grievance form will need to be filled out in order for OCGS to address the complaint.
- Strengthen DOC's use of grievance data to improve IGRP and other policies. Evaluate, track, and better communicate DOC's process for handling non-grievable complaints and review all grievance categories to ensure that grievance staff can effectively triage those complaints that it cannot resolve alone.
 - **Progress:** OCGS creates weekly and monthly reports for facility Wardens on the number of grievances filed and response rates.
- Pursue an electronic kiosk system for the filing of grievances.
 - **Progress:** DOC grievance coordinators are currently using tablets at GRVC and OBCC to take complaints directly in the housing area.

Status of Recommendations for BOC from the October 2016 Report:

- Convene an inter-agency team of DOC and H+H staff on a biannual basis to review grievance data and systemic trends to identify issues and determine areas for policy improvement. The team will consider supporting an independent study of the grievance process to assess grievants' perceptions as to whether the system is unbiased, responsive and respectful — in other words whether DOC has a procedurally fair system.
 - **Progress:** The Board convened an interagency team of DOC and H+H staff that held meetings in October 2017 and April 2018.
- Conduct and publish an annual audit of a random sampling of grievance case files with a focus on understanding informal resolutions. Since the number of non-grievable complaints has more than tripled between FY 2013 and FY 2015, the Board's next audit will check for patterns, timeliness of resolution, and proper referrals of non-grievable complaints.

- **Progress:** This report serves as the Board's second assessment of the Inmate Grievance and Request Program. It includes findings based on an audit of complaints not subject to the grievance process and recommendations to improve accountability related to these complaints.
- Develop and conduct a new annual survey of the City's jail population to further inform grievance policy and the grievance system, and more closely monitor the operation of, and concerns expressed at, inmate council meetings. The survey will illuminate critical qualitative information to better understand perceptions of the grievance program and focus on dimensions of procedural fairness.
 - **Progress:** The Board has expanded its research capacity and identified researchers to advise and evaluate the best approach to gathering feedback from incarcerated people on the grievance program and conditions in custody.

XII. Appendix D: Number of Complaints by Category (FY 2017)

| FY 2017 Complaints Received by OCGS | | |
|--|--------------|----------------|
| Complaint Category | Count | Percent |
| Complaints about DOC Staff | 974 | 13% |
| Employment | 841 | 11% |
| Inmate Account | 825 | 11% |
| Jail Time Calculations | 567 | 7% |
| Property | 564 | 7% |
| Request for Information | 370 | 5% |
| Other (Timeliness or Personal Jurisdiction) | 320 | 4% |
| Environmental | 295 | 4% |
| Complaints about Medical Staff | 289 | 4% |
| Medical Complaints | 252 | 3% |
| Other Requests | 237 | 3% |
| Disciplinary process | 184 | 2% |
| Correspondance /Mail | 180 | 2% |
| Assault Allegation | 135 | 2% |
| Status as an Intended Contraband Recipient or Enhanced Restraining, Red ID, or Centrally Monitored Cases | 135 | 2% |
| Food | 131 | 2% |
| Commissary | 124 | 2% |
| Security Risk / Watch Group | 123 | 2% |
| Visit | 104 | 1% |
| Religion | 101 | 1% |
| Programs | 96 | 1% |
| Phone | 91 | 1% |
| Classification | 86 | 1% |
| Harassment Allegation | 71 | 1% |
| Law Library | 67 | 1% |
| Clothing | 54 | 1% |
| Other Combined (There were 26 categories with less than 50 complaints) | 541 | 7% |
| Total Complaints | 7,757 | 100.0% |

SOURCE: NYC Department of Correction IGRP Report FY2017.

XIII. Appendix E: Top Ten Complaints Received by OCGS (FY 2013 -2017)

| Top Ten Complaints Received by OCGS | | | | | |
|---|---------------------|-------------|-------------|-------------|-------------|
| Complaint Category | Fiscal Years | | | | |
| | 2013 | 2014 | 2015 | 2016 | 2017 |
| Staff complaint | 280 | 505 | 936 | 1256 | 974 |
| Employment | 883 | 1018 | 1151 | 1046 | 841 |
| Inmate Account | 755 | 801 | 901 | 647 | 825 |
| Jail Time | 474 | 489 | 419 | 550 | 567 |
| Property | 705 | 741 | 810 | 688 | 564 |
| Request for Information | 392 | 441 | 525 | 461 | 370 |
| Other (timeliness or personal jurisdiction) | 73 | 208 | 353 | 414 | 320 |
| Environmental | 237 | 272 | 441 | 533 | 295 |
| Medical staff | 88 | 130 | 201 | 353 | 289 |
| Medical | 163 | 195 | 244 | 200 | 252 |

XIV. Appendix F: Current & Proposed Grievance Appeal Process

