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# "They Just Want Someone They Can Talk To:" Administrative Perceptions of Prison Grievance Resolution Programs

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“THEY JUST WANT SOMEONE THEY CAN TALK TO:” ADMINISTRATIVE  
PERCEPTIONS OF PRISON GRIEVANCE RESOLUTION PROGRAMS

A Thesis

Presented to the

McAnulty College and Graduate School of Liberal Arts

Duquesne University

In partial fulfillment of the requirements for the degree of

Master of Arts

By

Erica Paige Zaveloff

April 4, 2008



Erica Zaveloff

“They Just Want Someone They Can Talk To:” Administrative Perceptions of Prison  
Grievance Resolution Programs

**Master of Arts**

Thesis

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## Abstract

### “THEY JUST WANT SOMEONE THEY CAN TALK TO:” ADMINISTRATIVE PERCEPTIONS OF PRISON GRIEVANCE RESOLUTION PROGRAMS

By: Erica Zaveloff

April 4, 2008

Thesis Supervised by Dr. Norman Conti and Dr. Charles Hanna

This study compares prison grievance resolution programs currently being utilized in New Jersey and Pennsylvania. The effectiveness of each program is examined through administrators' perceptions of how well the programs are working. The Chief Grievance Processor and a Facility Grievance Coordinator in the Pennsylvania Department of Corrections and the Head Corrections Ombudsman in the state of New Jersey were interviewed. Effectiveness is determined through a comparison of what administrators report and the stated objectives of each program. It is hypothesized that administrators from both states will believe the processes are currently working effectively because of bureaucratic pressure. Results show that administrators in Pennsylvania support this hypothesis, while the administrator interviewed in New Jersey made suggestions for change. The results also show while neither program operates more effectively in terms of their stated goals, the New Jersey Office of the Corrections Ombudsman functions with a larger scope of potential change.

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## Introduction

In the early 1970's penologists and criminologists articulated the necessity of grievance resolution processes in correctional facilities. In reaction to the 1971 prison riots at Attica, professionals claimed that formal grievance resolution processes for airing inmate complaints would be a humane and efficient method of thwarting future attempts at inmate uprising (Fitzharris, 1973; Tibbles, 1971). In calling for the implementation of grievance resolution processes in state and federal prisons, many researchers also recommend the utilization of a corrections ombudsperson. However, since the initial proposal of grievance resolution processes and a corrections ombudsperson, there has been little research into the effectiveness of such programs in redressing complaints. Since there have been continued inmate complaints, violence, and riots in the three and a half decades since the inception of grievance programs an evaluation of these programs is long overdue (Fitzharris, 1973; Tibbles, 1971).

My research asks how well prison administrators and corrections Ombudspeople (collectively referred to hereafter as administrators) believe the current grievance resolution processes are working and the extent to which they are achieving their stated goals in the New Jersey Department of Corrections (NJ DOC) and the Pennsylvania Department of Corrections (PA DOC). A main area of investigation will be the relationship between current grievance resolution processes and the negotiation of order within total institutions. In response to the demand for a well-designed grievance resolution process, the NJ DOC and the PA DOC implemented methods of airing grievances within each state's prison system. New Jersey implemented both an internal

formal method in addition to a correctional ombudsperson while Pennsylvania applied only an internal formal method of grievance resolution. However, the strengths and weaknesses of these programs have not been investigated since their inception in the mid-1970's.

This study is significant because of its potential to highlight both the positive and negative aspects of the current grievance resolution operating systems. Asking how well administrators believe current grievance processes are working has not yet been explored by researchers. In fact, little to no research exists that evaluates grievance programs in prisons in general. This study is novel research that exposes new areas for investigation within the realm of public policy. Therefore, discovering what administrators believe is working and what is not has policy implications that could affect funding for grievance programs as well as supporting a better relationship between staff and inmates. Mathew Silberman, in his article "Dispute Mediation in the American Prison: A New Approach to the Reduction of Violence," suggests that institutions that do not have an adequate means of redressing grievances are more likely to experience unruly inmates with greater potential for violence (1988, p. 527). Moreover, providing suitable grievance resolution mechanisms conforms to national and international human rights laws, creating more humane living conditions for people who are incarcerated (Tibbles, 1971).

Evaluating grievance mechanisms also has practical implications. Creating and sustaining workable relationships between staff and inmates is highlighted by researchers as one means of maintaining order within a prison (Silberman, 1988; Bottoms, 1999). A grievance resolution mechanism that provides both staff and inmates with a means of

voicing grievances supports the goal of prisons to reduce violence and maintain order. In the Attica prison riots in 1971, where dozens of people died, inmates presented negotiators with a list of twenty eight demands, or grievances. Some of these grievances include demands that a decent penal system ought to provide, such as adequate food, water, and shelter for inmates (Tibbles 1972; pp. 383-84). Evaluating current grievance mechanisms is necessary in order to prevent such gruesome acts from occurring in the future. Therefore, my research asks how well prison administrators believe the current grievance resolution programs in New Jersey and Pennsylvania are working, and the extent to which they are achieving their stated goals.

## Literature Review

### *Introduction*

This study is concerned with how well prison administrators and corrections ombudspople believe current grievance resolution processes are working, especially in terms of each programs' official mission. This chapter begins with a definition of total institutions. To help me explain this I will compare total institutions to less formal organizations to highlight the uniqueness of total institutions. A distinction is necessary because, as sociologist Erving Goffman suggests, organizations and total institutions differ in terms of the degree of control the establishment has over the environment and population, and in the goals of the establishment (1961). A prison, for example, is a total institution that has a high level of control over the population that necessarily operates within its confines.

An understanding of how total institutions are unique helps to understand how grievance resolution programs in total institutions are also unique. Unlike organizations, where policies do not dictate every action of its population, total institutions control the minute details of the daily routine. For example, the potential for dissatisfaction with the policies of the institution and for abuse of power are high, like in a prison, because of the degree of control that a prison has over its population. Without a means of expressing frustrations and reporting abuses, the potential for rebellion, which is often violent, is likely. This is especially likely in prisons where some members of the population have previously engaged in violent behavior. Therefore, grievance mechanisms in prisons must be designed to respond to complaints in a timely manner with the potential to create real and obvious change, however minor, to the operating policies of that prison.

This chapter continues with a discussion of current grievance resolution options in organizations, noting how the goals of organizations to facilitate functionality, restore relationships, and protect interests are represented by the processes they utilize. While these goals are often shared by total institutions, organizations are different because unlike prisons, members of organizations are free to leave the organization when a dispute arises or a policy is considered unsatisfactory. Through a discussion of grievance resolution processes in organizations, the ways in which total institutions are unique and therefore require particular grievance resolution programs are emphasized.

The last section of this chapter explores total institutions, emphasizing the ways in which prisons are unique. Discussing grievance procedures in the unique context of prisons and other total institution is significant because previous research fails to address

this topic. Means of addressing grievances must be particularly formatted to accommodate the encompassing nature of prisons. I discuss research about current options for airing grievances in total institutions, especially prisons, noting the fundamental tension between the exercise of power of total institutions and the concept of autonomy that alternative dispute resolution (ADR) encourages. Grievance resolution processes in the Pennsylvania Department of Corrections (PA DOC) and the New Jersey Department of Corrections (NJ DOC) are the focus of this study as they are representative of the two main options for airing grievances in the United States corrections system: formal written processes and an ombudsperson. The PA DOC utilizes a formal written process of grievance resolution, which entails filing a series of bureaucratic paperwork, while the NJ DOC utilizes a formal written process along with the Office of the Corrections Ombudsman. Comparing the processes offered in NJ and PA questions whether or not including alternative and/or supplemental means of airing grievances to the formal process of grievance resolution will contribute to an inmates' sense of having their voice heard, thus contributing to the degree of social order in a prison.

The literature reviewed in this chapter explores available options of grievance resolution procedures and their basis in prison policies. Although the intent of my research is to investigate administrators' perceptions of these processes, I have found no relevant research that considers this question. Past research calls for the necessity of incorporating a grievance mechanism into prisons, yet fails to further investigate the strengths and weaknesses of such programs. Past research also fails to determine how to measure effectiveness in terms of grievance resolution. This chapter, therefore, provides

an overview of what has been researched in the field of grievance resolution mechanisms in organizations and total institutions, which focus on what programs are available. My study will assist in filling the gap of current research in the field of grievance mechanisms in prisons.

### *Overview and Definitions*

The goal of grievance resolution processes is to address complaints and conflicts that arise from organizational and institutional policies, customs, and rules, and the behavior of any employee or official of that organization or institution (Jan Brakel, 1982; p. 111). As ombuds practitioner Mary Rowe highlights in her article, *People Who Feel Harassed Need a Complaint System with both Formal and Informal Options*, the U.S. public is becoming increasingly diverse demographically, thus requiring methods to prevent and manage potential harassment and dispute related issues between individuals, and also between an organization/institution and an individual or group of individuals (1990; p. 161). Moreover, as Deborah Kolb, an authority on negotiation explains, when employees and/or members of an organization or institution have access to an outlet through which complaints and grievances can be voiced, the interests of the individual and the organization are enhanced (1988; p. 673). In response, organizations and institutions are exploring formal and informal methods of reporting and adjudicating problems, particularly those that interfere with the rights, level of comfort, and productivity of members of an organization or institution (Kolb, 1988; p. 674).

For the purpose of this paper, I will use Erving Goffman's definitions of an organization and a total institution. Goffman's work is relevant to this study because his

research focuses on the effects of institutionalization on an individual and subsequently, how an individual adjusts to the attempts of institutionalization as is expressed through the power and control of the overarching establishment (Goffman 1961). He theorizes that because of the invasiveness of the policies of total institutions, which are unlike those of less total organizations, the individual acquires a sense of powerlessness that can manifest itself in the form of unruliness and/or violence (Goffman 1961, p. 58; Silberman 1988, p. 523). A grievance resolution process that effectively facilitates the expression of inmates' complaints could potentially thwart violent uprisings. Distinguishing between an organization and a total institution highlights how grievance resolution programs can be formatted to most effectively serve the establishment and the population of said establishment.

Goffman defines an organization as “a system of purposely co-ordinated activities designed to produce some over-all explicit ends” (1961; p. 175). Examples of organizations that will be used in this paper are colleges and universities and corporations and businesses that employ sizable staffs. Organizations operate towards explicit ends, such as educating students or earning a higher profit than the previous fiscal year. Organizations are not physically or geographically confined as total institutions tend to be. According to Goffman, a total institution differs from an organization in that a total institution is a formal organization that is “lodged within the confines of a single building or complex of adjacent buildings, referring to such a walled-in unit...” (1961; p. 176). He explains that, “A total institution may be defined as a place of residence and work where a large number of like-situated individuals, cut off from the wider society for an appreciable period of time, together lead an enclosed, formally administered round of

life” (1961; p. xiii). Examples of total institutions that will be discussed in this paper are long term care nursing homes and prisons. Total institutions also operate towards an explicit end, such as caring for patients or punishing offenders, yet do so within restricted confines. The power of a total institution over the population it serves is more severe and invasive than is the power of an organization.

### *Grievance Resolution in Organizations*

Employees of an organization and the public utilize grievance resolution mechanisms when either the behavior of particular individuals in an organization or a policy of the organization is deemed unsatisfactory. Most, if not all, organizations use a formal written process as their main method of grievance resolution. A formal written process varies from organization to organization; however, most formal processes consist of recording the particular complaint through a series of bureaucratic documents. Duquesne University, for example, includes filing a formal grievance as an option for victims of sexual harassment in the student handbook that is distributed annually (Duquesne University Student Handbook 2007-2008). However, because of the formality of filing a written grievance, and the fact that it does not restore the relationship post-harassment, in the case of minor disputes (which does not include sexual harassment) Duquesne University suggests trying informal methods of resolution first, such as approaching the person who the dispute is with and trying to resolve the conflict together (Duquesne University Student Handbook 2007-2008).

Organizations also offer alternatives to formal methods of grievance resolution. Alternative dispute resolution (ADR) is an umbrella term that encompasses various forms

of grievance and conflict resolution procedures (United States General Accounting Office Report, p. 7). ADR tends to focus on understanding the underlying interests of the adversaries, resolving the conflict, and possibly making a change at the place of employment (United States General Accounting Office Report, p. 7). One example of ADR is what human resource management and labor relations expert Douglas McCabe calls “Internal corporate tribunals and peer review systems and procedures,” which are being implemented in organizations as part of a trend towards formalizing employee assertion and appeal procedures. McCabe also considers the use of arbitration as a means of airing grievances in organizational settings. Unlike internal peer review tribunals, arbitration addresses grievances through an outside professional (McCabe, 1997; p. 351). An advantage to arbitration is that the professional arbitrator is neutral and not a peer employee. However, some literature suggests that from a management perspective, arbitration can be a disadvantage because the organization relinquishes decision-making control to an outside source (McCabe, 1997; p. 352).

McCabe highlights an important concern that is emphasized through the arbitration process: the tension between organizational control and individual autonomy. This issue is extremely relevant in total institutions where the degree of control and lack of autonomy are exaggerated, which will be further discussed later in this paper. However, despite concerns raised by some management officials, arbitration has gained popularity because of its accessibility and neutrality.

The Administrative Dispute Resolution Act of 1990 sanctions organizations to adopt ADR policies to supplement other grievance resolution processes available.

Included in this mandate, is the authorization for the application of an ombudsperson (United States General Accounting Office Report, p. 8). Despite the increasing popularity of an ombudsperson in organizations, the role and function of the organizational ombudsperson are not clearly understood (Wagner, 2000; p. 99). In an attempt to explain the functions of an organizational ombudsperson, Marsha Wagner, ombuds officer at Columbia University, explains the variety of cases that might be brought to an ombudsperson:

...the majority of concerns that come to the attention of an organizational ombudsman do carry with them not only an alleged individual or systemic lapse or offense but the potential that such an action or approach or inadequacy could be repeated, and this could affect others. The organizational ombudsman has an obligation to look within each complaint for the possibility of a recurrence or pattern and to take steps to change the structure in order to prevent a similar problem in the future (2000; p. 100).

Therefore, unlike other forms of alternative dispute resolution that tend to focus solely on the case at hand, the organizational ombudsperson makes recommendations to organization officials about possibilities for change that will mitigate potential complaints and disputes from transpiring for the same reason in future instances (Wagner, 2000; p. 100). An ombudsperson operates as an agent of change as well as an educator and trainer. As Wagner explains, an ombudsperson informs employees of a particular organization about the purpose of a specific rule. Other roles include promoting civility, teaching negotiation skills, and offering other options for resolution besides an ombudsperson (Wagner, 2000; pp.104-05).

An ombudsperson is an important option for grievance resolution because system wide changes in policy can be made. The better a grievance process can address

grievances and change inadequate policies, the better the relationship between the individual and the organization. The interests of both the organization and the individual are acknowledged. Providing an impartial source of addressing concerns is also significant in total institutions, as will be discussed in the next section, where the individual has less control over his/her life.

### *Grievance Resolution in Total Institutions*

Grievance resolution processes in total institutions are unique because of the encompassing nature of the institutional environment (1961, p. 6). In a total institution, administrators determine most of the daily routine and enforce the daily practices to other institutional employees, such as correctional officers or nursing home attendants (Goffman, 1961; p. 7). Unlike behaviors in an organization that can be determined without the consent of the organization, activities in a total institution must first be reviewed and approved by the governing administration of the institution. In a total institution, policies govern all aspects of daily life, so access to effective grievance mechanisms is especially important because it can potentially provide members with at least some sense of control over the environment in which they live (Goffman 1961, p. 6; Bottoms 1999, p. 206).

Grievance resolution programs that provide people with a sense of control are important factors in maintaining order within total institutions because of the degree of power that a total institution has over the lives of those who live within its confines. In what Erving Goffman calls “adjustments,” a person engages in a process that relinquishes his/her control of personal freedoms to the overarching establishment. Grievance resolution programs are a potential means of providing people who are incarcerated with

control over their environment. Research suggests that incarcerated people who perceive that they have some control of their environment experience “a more positive adjustment” (Wright 1991: 221; Bottoms 1999; Goffman 1961). “A more positive adjustment” indicates that the transition from a life on the outside to a life as an incarcerated individual does not completely deny the individual control over his/her environment. Fewer violent rebellions and positive working relationships between staff and inmates result when an inmate feels that s/he has greater control of his/her environment (Wright 1991: 221; Bottoms 1999; Goffman 1961).

While most institutions employ a method of airing grievances, this study is only concerned with those total institutions that house a population within the confines of its’ structure. Nursing homes are one such institution that utilizes grievance mechanisms. The basic rights to dignity, quality of care, and quality of life are federally protected for people who reside in nursing homes (Monk, 1984; p. 42). Abraham Monk, explains, however, that because enforcing basic rights is challenging through the regular inspection process, and because people who live in nursing homes are often separated from access to adequate legal representation due to locale and/or physical capability, a proper mechanism for airing grievances is critical (1984; pp. 202-03). Therefore, law requires that states institute an ombudsperson in nursing homes as a method of airing grievances. An ombudsperson in a nursing home functions as an impartial and confidential means of addressing concerns, such as infringement of residents’ rights, the quality of care, and the legitimacy of policies (Monk, 1984; p. 37).

Prisons are another institution that employs grievance resolution mechanisms. Samuel Jan Brakel, identifies five major objectives of grievance mechanisms in prisons:

“(1) improve institutional management and problem identification, (2) reduce inmate frustration and the potential for prison violence, (3) increase the prospects of inmate rehabilitation, (4) keep down the volume of litigation, and last, but not least, (5) promote ‘justice’ in institutional relations and procedures” (1982, p. 111). Because of the particular components of prisons that are discussed next, they are unique total institutions and therefore require specific mechanisms for airing grievances.

Prisons are distinct total institutions, as Anthony Bottoms explains, in at least six senses. To begin with, Bottoms points out that prisons share in common the fact that they are a total institution with other associations such as mental hospitals, boarding schools and monasteries (1999; p. 207). However, because of the physical features of prisons they tend to encompass the lives of inmates to a greater extent than other total institutions (Goffman 1961, p. 4; Bottoms 1999, p. 201). As Goffman explains, “Their encompassing or total character is symbolized by the barrier to social intercourse with the outside and to departure that is often built right into the physical plant, such as locked doors, high walls, barbed wire, cliffs, water, forests, or moors” (1961, p. 4). Nursing homes and monasteries, for example, are not separated from the general public by impenetrable walls and do not make leaving the institution a punishable offense by law.

Second, Bottoms explains that because prisons are punitive establishments, they are different from other total institutions. Main features of the penal system are the prevention of future crime through deterrence and punishing people who have been convicted of crimes (Bottoms 1999, p. 208). People who are in prison, therefore, are not in prison willingly and are aware of the fact that they are being held against their will.

Monasteries or nursing homes are total institutions that are voluntarily entered whereas prisons are legally mandated. As a punitive establishment, a source outside of the individual implements and enforces the punishment. Therefore, a person cannot enter prison out of their own volition, they must be ordered to do so by the state.

Third, prisons are unique total institutions because of the routine organization of space and time. Daily patterns of work, sleep, recreation, and food are created and vary from prison to prison (Bottoms 1999, p. 208). Although many nursing homes and monasteries also operate according to mandated routines, prisons are distinct in terms of the degree of structure needed to successfully function. Prisons are more structured because, as Goffman explains: “A third type of total institution is organized to protect the community against what are felt to be intentional dangers to it, with the welfare of the person thus sequestered not the immediate issue: jails, penitentiaries, P.O.W. camps, and concentration camps” (1961, pp. 4-5). The routine policies of prisons are intended to control convicted felons and are therefore more severely structured. Prisoners are considered potentially dangerous to themselves and others so more stringent routines are imposed on them.

Fourth, continuing from above, daily routines are central to prisons’ nature and operating structure. Because routines in prisons are more pronounced than in other institutions or organizations, the potential for rebellions against the required customs are more likely. As Bottoms explains, “People are not automata. And sometimes routines will be resented or rebelled against by those who are subjected to them...” (1999, p. 209). Thus, implementing routines in prisons has the potential to be cyclical: routines are instituted initially to ensure the successful operation of the prison. However, in response

to the strict routines imposed by the prison, prisoners rebel for the sake of change. As a result, the prison might institute even stricter routines to thwart future attempts at rebellion. Because violent rebellion against strict policies is an apparent possibility in prisons, a functional means of expressing inmate concerns about these strict policies is necessary for the maintenance of order.

Fifth, staff-inmate relationships are complex. The implementation of a daily social routine depends on correctional officers and prison officials (Bottoms 1999, pp. 209-10). This role inherently requires a relationship with the prisoners who the correctional officers and officials impose the routine upon. According to Bottoms, order can be maintained in prisons through staff-inmate relationships:

Rather, order in prisons is to a large extent achieved through the subtle interplay of relationships between prison officers and prisoners, as they work their way through the prison day. Thus we ultimately cannot understand day-to-day order in prisons unless we understand both the prison's daily routines and the interpersonal (but structured) relationships that grow up around them (1999, p. 211).

Because a goal of prisons is to maintain order within the institution, the relationships between those who ensure that order is occurring and those who have the potential to disrupt order is crucial. Although nursing homes might value order, the relationship between staff and patients does not so powerfully affect the existence of order. The hierarchal nature of prison staff and inmates increases the potential for abuse of power. Inmates must be provided with a means of reporting abuse to maintain order within a prison.

Sixth, prisons are, as Bottoms explains, “restricted *geographical locales*, or *places*” (1999, p. 211). Not only do the walls of a prison contain the people who live and work there, prisons also contain a particular history that affects how staff and inmates are perceived. For example, a study by Sparks, Bottoms, and Hay of two maximum security English prisons found that a culture of loyalty to the prison management in one particular prison known as Long Lartin influenced how future management was treated by both staff and inmates. They also found that a culture of fear developed among staff and inmates in another prison called Albany because of two particular instances when order was breached (Sparks, Bottoms, and Hay, 1996). This suggests the permanence of prisoners in the institution cultivates a culture based on past experiences, and thus shapes future interactions between staff and inmates as either positive or negative.

#### *Current Options being Utilized in Prisons*

Federal law requires that states must implement and use a grievance resolution process in their prison systems. In reaction to congested courts from suits filed by inmates, the Prison Litigation Reform Act (PLRA) of 1996 requires inmates use institutional processes of grievance resolution before bringing the issue to court (Alderstein, 2001; p. 1683). This contributes to the importance of instituting and maintaining effective grievance procedures in institutions, as inmates are legally required to utilize such processes before moving to the litigation stage. Processes that are not effectively addressing grievances will not reduce court congestion from incarcerated individuals as the PLRA intends. This section describes the current and mandatory options for grievance resolution being utilized in prisons.

A formal written process serves as one option for airing grievances in prison. The formal written process of reporting a grievance entails filing bureaucratic paperwork documenting in detail the nature of the complaint. According to the Pennsylvania Department of Corrections (PA DOC) Inmate Grievance System Policy, “The Inmate Grievance System is intended to deal with a wide range of issues, procedures, or events that may be of concern to an inmate. It is not meant to address incidents of an urgent or emergency nature. When faced with an incident of an urgent or emergency nature, the inmate will contact the nearest staff member for immediate assistance” (PA DOC Policy # DC-ADM 804). However, to avoid a flood of paperwork in the Office of the Facility Grievance Coordinator, the PA DOC, along with most other state prison systems, supports resolving grievances informally through dialogue; then, if the complainant still considers the situation to be unsatisfactorily addressed, a written grievance should be filed (PA DOC and VT DOC are examples).

Although a means of airing grievances in correctional facilities is mandated by law, the methods enacted vary from jurisdiction to jurisdiction and also from institution to institution (Jan Brakel 1982, p. 115). Samuel Jan Brakel explains: “The differences extend to composition and jurisdiction of the grievance boards, operating procedures including ‘due process’ requirements, and the timing and form of board response” (1982, p. 115). Specifics of the time and form of the grievance board response are open to variation. For example, according to the PA DOC Inmate Grievance System Policy, “**When** the Grievance Officer submits the grievance for formal resolution, he/she shall provide a written response to the inmate within 10 working days of receipt of the grievance” (PA

DOC Policy # DC-ADM 804). The Vermont Department of Corrections, however, does not require a response to a formal written grievance for up to twenty working days and the Colorado Department of Corrections does not require a response for up to forty-five working days (VT DOC website and CO DOC website).

Pennsylvania follows a three-phase approach to the grievance process. The first phase begins when the inmate files the initial grievance with the Grievance Coordinator at the facility where he/she is being housed (PA DOC Policy # DC-ADM 804). Phase-II is considered a first level appeal, an option if the inmate is not completely satisfied with the decision of the Grievance Officer (PA DOC Policy # DC-ADM 804). Phase-III is an appeal to the Secretary's Office of Inmate Grievances and Appeals; this office will review all final appeals and will base their decision on the policies and procedures of the Department of Corrections (PA DOC Policy # DC-ADM 804).

Despite the fact that formal written grievance mechanisms are federally mandated, little literature exists that considers whether or not formal mechanisms of resolving grievances in prisons are even effective in addressing complaints or maintaining order. In fact, not much literature exists on grievance resolution processes in total institutions in general, which may be due to the public's lack of awareness that these programs exist, or because of an organizational unwillingness to be studied. Also, prisons are bureaucratic establishments with less than transparent operating procedures, which may make studying the program complicated. Moreover, measuring effectiveness is complex because of the large number of variables that need to be controlled. There are

many spurious variables to consider when proving that a program is operating in line with its official goals.

Currently, some researchers are calling for grievance resolution mechanisms in prisons based on particular situational prevention theories that suggest methods for airing grievances will enhance the prison experience for both staff and inmates through maintenance of order (Homel and Thompson 2005, pp. 8-9; Wortley 2002, p. 216). However, it is not specified whether a formal method of grievance resolution or an alternate form of grievance resolution will be most effective in maintaining order within a prison. Other researchers suggest that a formal written process is not adequate and that prisons require other forms of airing grievances to supplement a formal process (Tibbles, 1972; Fitzharris, 1973; Silberman 1988 and 1995). Because of the pervasiveness of prison regulations in the lives of inmates, prisoners not provided fair grievance procedures might be likely to, as David Adlerstein suggests, “externalize their discontent onto other inmates, prison officials, and the general populace upon release” (2001, p. 1683).

Therefore, many researchers suggest including an Office of the Ombudsman as another channel for airing grievances. Because of the independence, confidentiality, and neutrality of an ombudsperson, which a formal grievance mechanism can not guarantee, an ombudsperson is a desirable method of airing grievances in prisons (Tibbles 1972, p. 386). As Theartrice Williams, Ombudsman for Corrections in the state of Minnesota explains, “Corrections officials have traditionally functioned with a wide range of discretionary powers that virtually go unchecked. The ombudsman may provide the

check” (1975, p. 488). The impartiality and confidentiality inherently included in the role of an ombudsperson provides people who are incarcerated an outlet of complaint not directly related to the prison. Inmates, theoretically, will feel that their voices are being heard and therefore have more control over their environment, thus operating within the framework of order.

Mathew Silberman highlights both the positive and negative effects of the incorporation of an ombudsperson in the correctional system. In terms of the positive implications, he explains that ombudsperson can make suggestions to change rules and regulations, and the rights of prisoners (1995; p. 208). Silberman explains the positive results of using an ombudsman: “When changes occur in response to inmate concerns, the level of alienation that contributes to hostility and aggression among inmates is reduced” (1995; p. 208). However, Silberman also provides a caveat about the potential strain an ombudsperson can have on staff-inmate relationships. Aware of the various roles that an ombudsperson can assume, Silberman explains that an ombudsperson with too much authoritative power “would erode the authority of correctional staff” (1995; p. 208).

Silberman highlights a significant drawback to third-party involvement in total institutions. Inmates can potentially make deleterious prison conditions worse by disclosing information to an ombudsperson. Silberman explains: “Ombudsmen and mediators will contribute to the empowerment of inmates and their reduced alienation but must not become vehicles for increased inmate-staff strife. There is always the risk that conflicts between two fundamentally different interest groups will be made worse” (1995; p. 219). The potential of an ombudsperson to create change in prisons conflicts

with the degree of power the prison possesses. In establishing an ombudsperson in prisons, therefore, limiting the degree of authoritative power the ombudsperson has can help to mitigate the strain on staff-inmate relationships. As Silberman suggests, the ombudsperson should make recommendations for change but should not have the power to enforce his or her recommendations (1995; p. 208).

The New Jersey Department of Corrections serves as an example of an ombudsperson being used in a prison. While the NJ DOC recommends that a person must first attempt the formal process of grievance resolution, inmates are not limited to only the formal method. In New Jersey the Office of the Corrections Ombudsman, now managed by the Department of the Public Advocate, is not directly employed by the Department of Corrections or housed within the confines of a prison. As a third party investigating potential abuse and unsatisfactory policies, the Office of the Corrections Ombudsman might contribute to the damage of staff-inmate relationships. However, an ombudsperson also has the potential to create positive policy changes while addressing the needs of both staff and inmates. Therefore, I will investigate whether or not the Office of the Corrections Ombudsman is functioning in line with its stated goals through interviews with the head Corrections Ombudsman in the state of NJ.

Overall, there are many gaps in the literature about grievance resolution programs in total institutions, especially prisons. The research suggests that grievance resolution programs are necessary in maintaining order in prisons, yet there exists little literature about the format of such a program. Two main programs exist in prisons, the formal written process and an ombudsperson; however, no research exists about how well either type is working, if at all. Also, there is a lack of research investigating why only a

handful of states use an ombudsperson. Through interviews with administrators in NJ and the PA DOC this study will provide information that previous research has not addressed.

## Conceptual Framework

Organization and order depend on some form of negotiation. Negotiated order refers to the give-and-take relations within a context limited by explicit and, usually official, rules and laws in order to achieve some favored purpose. For instance, Anselm Strauss explains:

The negotiated order on any given day could be conceived of as the sum total of the organization's rules and policies, along with whatever agreements, understandings, pacts, contracts, and other working arrangements currently obtained. These include agreements at every level of organization, of every clique and coalition, and include covert as well as overt agreements (1978; p. 5-6).

In a prison setting negotiated order manifests itself in unofficial agreements between inmates and staff and can be seen as a consequence of individual strategies for adjustment in striving towards gaining autonomy. Inmates, now deprived of many of the amenities and luxuries of their "outside" lives, negotiate with staff to ease the transition to an institutionalized life by structuring their lives to enhance satisfaction. I expect that programs that are working effectively result in more satisfied inmates. Moreover, I expect that the NJ Office of the Corrections Ombudsman effectively addresses inmate grievances because of the impartial nature of the role of the ombudsman.

Informal agreements are limited in scope and influence, however, as the structural context of negotiations affects the course of such negotiations. Strauss lists eight aspects

of the structural milieu that affect the direction of the negotiations. Examples include the number of negotiators and how experienced they are, the balance of power among those negotiating, the stakes, the visibility of the negotiation to others, and the alternatives to not negotiating (Strauss, 1978; p. 238 and Fine, 1984; pp. 241-242). The balance of power between inmates and staff contribute to the limited scope of negotiated order in prisons. Prison staff, mainly correctional officers, have more institutional power than inmates, yet are restricted in terms of their authority to make systemic and/or policy related change. The influence of a correctional officer is limited to a case by case basis because of the balance of power between the institution and the correctional officer.

Although informal negotiations between staff and inmates contribute to the order of an institution, often times, because of the limited scope of negotiated order, other means of addressing dissatisfaction are necessary. Formal means of addressing inmate dissatisfaction also contribute to the maintenance of order in a prison. The most common means of doing so is through inmate grievance resolution programs. Inmate grievance programs maintain order through addressing inmate complaints and often times, making change at the inmates' request. Grievance programs enhance the control of the prison by creating a more orderly environment while simultaneously providing inmates with a sense of autonomy. Inmates have a means of airing complaints as soon as they are incarcerated, helping to ease the transition from an autonomous life to a managed life inside the institution.

Therefore, grievance resolution programs in prisons can ease the adjustment process of newly incarcerated individuals while continuing to provide inmates with a

means of expressing concerns throughout the duration of their incarceration. I expect that the grievance programs in NJ more effectively provide a means of addressing inmate concerns. However, I also expect that because of bureaucratic pressure and biases, administrators from each program will believe the grievance programs they work in are operating effectively.

The independent variable of this study is the grievance resolution programs available in the NJ DOC and the PA DOC. Because little published information exists about these programs, the majority of the data pertaining to these programs will come from interviews with administrators who have experience with the grievance resolution programs. The information conveyed in the interviews will help me to determine if the grievance resolution program functions in terms of its stated goals and objectives. The interviews will also help me to analyze ways to change the current programs to operate in line with the official goals and objectives if they currently are not doing so.

The dependent variable of this study is how well administrators believe the process is working in meeting the stated goals of the program. I will measure perceptions through interviews with prison administrators. I am limited in my means of measuring effectiveness because I can not directly interview inmates nor can I participate in the process first hand. Therefore, the measurement of effectiveness in this study will not be a quantitative scaled determinant of levels of effectiveness. Rather, the measurement of effectiveness is qualitative and based on the reported experiences of administrators involved in the grievance program.

## Data and Methodology

I interviewed administrators involved with grievance programs to determine how well administrators believe the current grievance processes are working. Specifically, I am concerned with how well administrators believe the current processes are working in terms of the official goals of each program. I expect that if a person who is incarcerated has an effective means of airing grievances, then order is more likely to be maintained. Therefore, if the grievance resolution programs are operating effectively, order is probable.

The design of this study is a qualitative program evaluation of the current grievance resolution processes in the NJ DOC and the PA DOC. The programs were evaluated through administrative perceptions of how well the programs are working in terms of stated goals of the program. The goals, processes, and impacts of the inmate grievance resolution programs are examined. Data were collected through scheduled in-person interviews with administrators involved with the grievance programs as well as from secondary sources, such as scholarly articles and books. Interviews lasted between one and two hours each. I used a digital recorder during the interview with the head Corrections Ombudsman in NJ, while bureaucratic policies prevented me from doing so in PA.

After obtaining Duquesne University Institutional Review Board (IRB) approval, I recruited administrators through a letter inviting their participation and ensuring that involvement is voluntary. The sample for this research is a purposive sample. In New Jersey I interviewed the head Corrections Ombudsman and in the PA DOC I interviewed

the Chief Grievance Processor and a Facility Grievance Coordinator (also referred to as a Superintendent's Assistant) at the institutional level. I selected this sample because it represents those administrators who have daily experiences and interactions with the grievance resolution programs in each state. Before the interviews began, each participant was required to read and sign a voluntary consent form. Participation was voluntary and participants were not compensated for their involvement with the research.

The sample interviewed for this study can be generalized to other administrators who operate in similar grievance resolution programs. Although grievance resolution programs and management styles are not standardized among prisons in the United States, there are similarities among the format of formal written processes and ombudsperson programs in other prisons. For example, Vermont utilizes a similar written process to that of PA while California utilizes a Corrections Ombudsman similar to that of NJ (Vermont DOC website; Memorandum from the CA DOC, 2007). Therefore, I deliberately chose samples that are representative of options that most states utilize: a formal written process and an ombudsperson. Differences only exist in minor technicalities in the formal written processes, such as the length of time within which the prison is required to respond to a formal written grievance. The scope of an ombudsperson's authority differs among programs, yet the underlying concept remains common.

I used a guide to structure the interview. Probing questions were used to further investigate answers that are unclear. Interview questions focused on three main categories: history of the program, process of the program, and effectiveness of the

program. Because little literature exists about grievance programs in prison, I first asked about the history of the program to gain a better understanding of the program in the larger context of the evolution of the prison and alternative dispute resolution (ADR) in general. Second, I asked about the logistics of the grievance resolution process. Understanding the logistics of the process allows me to evaluate how much autonomy the inmate gains and/or retains through each method of grievance resolution. Moreover, I can evaluate the degree of power the institution maintains and how often change occurs as a result of an inmate grievance. Last, asking how well administrators believe the process is working highlights both the productive and inadequate aspects of each program, noting areas of potential change.

There are ethical considerations in obtaining data for this study. A participant faces potential professional repercussions because of the bureaucratic nature of prisons which are concerned with maintaining a respectable character and reputation. Anonymity and participation are optional and are the chief measure used to respect the rights of the participants in this study. To minimize potential ethical concerns, participants are required to read and sign a voluntary consent form that informs participants of their rights and of the nature of the study. Signatures granting permission to use a digital recorder, and participants' name and professional title are included in the voluntary consent form to ensure that professional ramifications are minimized.

## Data Analysis

The data for this study were analyzed through the lens of grounded theory (Glasner & Strauss, 1967). Through grounded theory, researchers analyze data while

looking for emerging themes. After this process, a theory is developed. Once themes emerged in the interview notes and transcriptions, I compared the themes to each programs' stated mission and objectives. The degree to which the stated goals and objectives of each program are mentioned and discussed during the interviews was used to measure the effectiveness of the program. Moreover, effectiveness was measured through how well the process lends itself to the goals and mission of the program.

Interview notes and transcriptions were analyzed and compared until important themes surfaced. I began with the transcription of the interview with Luis Silva, the head Corrections Ombudsman for the state of New Jersey. It eventually emerged that Mr. Silva emphasized and reiterated certain topics throughout the duration of the interview by beginning a sentence with the word "Again." I categorized the 36 sentences that began with "Again" into six categories: 1.) litigation, 2.) limited resources and staff, 3.) working relationships with corrections staff, 4.) relationship with inmates, 5.) length of investigation and response, and 6.) perceptions of the Office from staff and inmates.

After determining tentative initial categories of analysis for the program in NJ, I examined the notes from the PA DOC interviews to search for emerging patterns. My goal in doing so was to establish categories of analysis that transcend each program and can fairly evaluate the processes in both states. Through a systematic "milking down" of data, categories emerged in the PA DOC notes similar to those in NJ. Therefore, the categories I will use to analyze the grievance programs in PA and NJ are as follows: 1.) litigation, 2.) time, 3.) working relationships with staff, 4.) relationship with inmates, and

5.) resources. An explanation of each category is described next in relation to the responses from those interviewed in each state.

*PA DOC Interview and Categories of Analysis*

“Litigation” refers to the role of the grievance program in relation to the litigation process. Those interviewed in the PA DOC consider the grievance program a way of **preparing for** litigation. Grievance processors in Central Offices train staff members at the institutional level who do initial grievance responses, such as superintendent’s assistants, medical staff, deputies, secretaries, and correctional officers. Part of this training includes an explanation that if s/he signs a grievance, s/he must be able to defend it in court (Interview with Chief Grievance Processor; 1/17/08). Moreover, during my interview at the institutional level, the Superintendent’s Assistant explained that all grievance responses are proofread by the Superintendent’s Assistant before returning to the inmate to ensure that responses follow policy and are professional, just in case the grievance goes to court (1/29/08). According to the Chief Grievance Processor, these policies are in place to ensure a fair and thorough investigation of grievances (Interview; 1/17/08).

“Time” refers to the length of the investigation and length of the institutional response to an inmate grievance. The PA DOC follows strict policies about the allotted time within which an inmate must file a grievance after an incident occurred, and how long the institution has to respond to said grievance. According to the Chief Grievance Processor and PA DOC Policy DC-ADM 804, inmates must file a grievance within 15 days of the incident, or the grievance can be rejected for timeliness. The policy also

dictates that the institution must respond within ten days after the grievance has been received and verified (PA DOC Policy DC-ADM 804). The Chief Grievance Processor believes the time deadlines “keeps the process moving” (Interview; 1/17/2008).

“Working relationships with staff” refers to the ways in which the grievance processors interact with DOC staff. Included in this category are the ways in which the Grievance Office is perceived by DOC administrators and staff. Grievance investigations are delegated to particular DOC staff members based on the nature of the complaint. Therefore, the investigation and resolution of complaints are contingent on working relationships between various DOC departments and staff, and the Superintendent’s Assistant at the institutional level, as well as with the Chief Grievance Processors at Central Offices. Part of the reason why the Chief Grievance Processor considers the process so effective is the working relationship between Central Offices, Superintendent’s Assistants, and the various offices and staff (Interview; 1/17/2008). The Chief Grievance Processor calls this an example of the “awesome system of check and balances” in the PA DOC inmate grievance system (Interview; 1/17/08).

“Relationship with inmates” refers to how the Grievance Officers and people who work with the grievance program interact with the inmates, and therefore, the inmates’ perceptions of the process. This category also explores the effect of the process on the lives of the inmates. From the perspective of the Facility Grievance Coordinator at the institutional level, the inmates trust the process because of the multiple levels of appeals. The Facility Grievance Coordinator emphasized the importance of Central Offices, which operates outside of the DOC, as another means of checks and balances that ensures every

grievance gets investigated and followed through with (Interview; 1/29/08). However, the Chief Grievance Processor believes that inmates lump all DOC workers together so inmates do not perceive the grievance office as neutral (Interview; 1/17/08). Both grievance processors at the institutional level and Central Offices believe that the PA DOC Inmate Grievance System provides inmates with a sense of control over their environment (Interviews; 1/17/08 & 1/29/08).

Lastly, “resources” refer to the number of office staff working to address inmate complaints. In Central Offices there are five total officers in the final review office. According to the Chief Grievance Processor, staffing is not an issue in Central Offices. Staffing at the institutional level was not reported as a problem either, most likely because of the delegation of investigations to other DOC staff and departments.

#### *NJ Office of the Corrections Ombudsman and Categories of Analysis*

Again, “litigation” refers to the role of the grievance program in relation to the litigation process. Luis Silva considers the Office of the Ombudsman a way of **preventing** litigation. Litigation can be costly and time consuming to the state of New Jersey, explains Luis Silva, “Because again, if we see something that is in direct violation of the administrative code, or something that could lead to some type of litigation...if we can prevent it, eventually that should translate into one less lawsuit and additional costs to the state of New Jersey” (Interview; 2/19/2008). The Office of the Corrections Ombudsman functions as an additional avenue of grievance redress along with the formal written process at the institutional level. As will be discussed later in this section,

working relationships with staff exemplify the role of the Corrections Ombudspeople to prevent litigation.

As stated earlier, “time” refers to the length of the investigation and length of the institutional response to an inmate grievance. Unlike the clear time deadlines of the PA DOC, the Office of the Corrections Ombudsman follows less stringent time requirements. The institutional remedy process in the NJ DOC has 21 working days to respond to a grievance. In his attempt to get inmates to utilize the institutional grievance process before contacting the Office of the Ombudsman, Luis Silva explains that often times inmates will get a response within a week, recommending inmates try using the institutional process first (Interview 2/19/08). Luis Silva explains his policy:

I have not established a deadline but usually within three weeks they do get some type of response. Since we do expect inmates to utilize their institutional remedy process...assuming it's not an emergent situation, they may actually get a letter from us suggesting they use their institutional remedy process prior to contacting us. So there may be times that within a week they may actually get a response (Interview; 2/19/08).

For Luis Silva and the Office of the Corrections Ombudsman, a fair investigation is emphasized more than a timely response.

Again, “working relationships with staff” refers to the ways in which the grievance processors interact with DOC staff. Because of the goal of preventing litigation, NJ DOC staff members take seriously the recommendations from the Office of the Corrections Ombudsman. For example, “If we feel that the potential for litigation is very strong, I think most administrators and executive staff will understand why we might be recommending something, and some may implement change immediately”

(Interview with Luis Silva; 2.19.2008). Moreover, because the Office of the Corrections Ombudsman approach DOC staff diplomatically, the response from the staff has thus far been positive: “In general, everyone’s been really, really supportive and cooperative with our office. And again, it’s because we don’t go out as headhunters. We’re just trying to find if there’s a problem; we want to be able to identify it, get it addressed, and let’s get on to the next one” (Interview with Luis Silva; 2/19/08). Similar to the PA process, the Office of the Corrections Ombudsman relies on institutional staff to implement change. Therefore, the effectiveness of the program is in part contingent on the working relationships between DOC staff and the Office of the Corrections Ombudsman.

As stated earlier, “relationship with inmates” refers to how the Assistant Corrections Ombudsmen interact with the inmates, and therefore, the inmates’ perceptions of the Ombudsmen and the process. This category also explores the effect of the process on the lives of the inmates. Luis Silva attributes the high volume of cases addressed annually in the Office of the Corrections Ombudsman to the fact that inmates trust the Office and the process. For example, “So they just want someone to listen and for someone from our office, someone from the outside to listen, because again, inmate representatives and inmates can share all the information they want with the administrative staff, but they just don’t always trust them” (Interview; 2/19/08). Unlike the Chief Grievance Processors from Central Offices in PA, Assistant Ombudsmen tour correctional facilities weekly. While doing so, inmates can relay information to the Ombudsmen, thus providing the inmates with the sense that they have “someone they can talk to” (Interview with Luis Silva; 2/19/08).

Lastly, as described earlier, “resources” refer to the number of office staff working to address inmate complaints. Luis Silva reported that the number of Assistant Ombudsmen currently employed is not sufficient enough to address the volume of complaints that reach the Office. For instance, from a telephone company report, Mr. Silva learned that in one month anywhere from 17,000 to 20,000 attempted calls to the Office were made. In that particular month, the Office handled 500 (Interview with Luis Silva; 2/19/08). While many of these can be attributed to repeat callers, a drastic difference between the numbers exists. Luis Silva explains:

...in 2001 I think we had 20,000 plus cases that we handled and now we’re down to 8900. Well some on the outside world look and say things are getting better-well not exactly. It’s just that I don’t have sufficient support staff to handle the calls and the correspondence that comes in here...If I have 3 people answering the phones at one time, we’re going to generate 3 times as much business (Interview 2/19/08).

Therefore, the more staff available to process inmate grievances, the more grievances addressed.

A description of each grievance process follows, along with an explanation of the stated goals and mission of each program. The categories of analysis are then used to analyze the effectiveness of each program through cross referencing them with the official goals of each states grievance resolution program.

#### *PA DOC Grievance Process*

The Pennsylvania Department of Corrections (PA DOC) grievance process operates according to a multi-level appeal approach that addresses and resolves inmate complaints. Beginning when the inmate feels a reason to grieve, the inmate files a complaint at the institutional level to the office of the Superintendent’s Assistant, also

called the Facility Grievance Coordinator. Upon receiving a response from the institution, policy DC-ADM 804 authorizes an appeal can be filed to central offices in Harrisburg, PA (Interview with the Chief Grievance Processor, PA DOC, January 17, 2008). A meticulous system of checks and balances guarantees a full investigation of grievances deemed acceptable by the policies of the PA DOC. *Institutional Level*

The grievance process begins when an inmate considers an issue worth grieving. 12,906 grievances were filed in 2007, ranging from complaints about the sugar level in the jelly to the quality of available cancer treatment (Interview with Chief Grievance Processor, PA DOC; January 17, 2008). The Chief Grievance Processor of the PA DOC assures that the grievance office takes complaints about jelly as seriously as complaints about cancer treatment because of a moral and professional obligation to “fix things” (Interview; January 17, 2008). A Grievance Officer cannot begin an investigation on their own volition (Interviews in PA DOC; January 17 and 28, 2008). Grievance Officers begin complaint investigations upon receiving a formal grievance from an inmate.

Formal grievance forms are available in each residential housing unit (RHU), where an inmate can easily access them. The PA DOC, however, encourages informal attempts at resolving grievances before filing a formal complaint (PA DOC Policy DC-ADM 804; Interview with Superintendent’s Assistant, January 29, 2008). For example, rather than filing a complaint against a correctional officer or administrator, PA DOC promotes informal methods of addressing the issue through methods such as dialogue and compromise. A grievance resolved informally is filed as a “withdrawal,” whereby the grievance is considered resolved and therefore cannot be appealed (Interview with

Superintendent's Assistant; January 29, 2008). A section on the official inmate grievance form asks the inmate to list actions taken and staff contacted before submitting an official grievance (DC-804 Official Inmate Grievance Form). Although the PA DOC supports an informal method of addressing complaints, inmates are not required to take other actions before filing a formal grievance. A grievance cannot be rejected for skipping the informal method.

Grievances, however, can be rejected for a number of other reasons. Reasons for a returned or rejected grievance are listed in DC-ADM Policy 804 and the Inmate Handbook. Group grievances are prohibited, where the complaint uses "we" language rather than "I." Grievances must also be "legible, *understandable*, and presented in a courteous manner" (DC-ADM Policy 804). To minimize discrimination based on language or level of education, inmates can assist other inmates in filing a grievance, so long as the original complainant signs the form. Other reasons for rejection include not filing a grievance within 15 days of the events upon which claims are based, filing a complaint involving matters at another institution, exceeding the two-page limit, filing a frivolous grievance, and a failure to sign and date the grievance form with your commitment name and number (DC-ADM Policy 804; Interviews with PA DOC Administrators; January 17 and 29, 2008).

Upon receiving a grievance, the office of the Superintendent's Assistant in each institution has ten working days to investigate the complaint and reply to the inmate. If a grievance is rejected for any of the reasons listed above and in Policy 804, the inmate has five days to resubmit the grievance with the necessary changes. Investigations are

delegated on a case-by-case basis to appointed grievance officers in each institution. A grievance officer is “An appropriate Department Head of management level staff person designated by the Facility Grievance Coordinator, to provide initial review of an inmate grievance arising from his/her specific area of responsibility (a Unit Manager would be assigned to provide initial review of a grievance regarding a housing unit)” (DC-ADM Policy 804, pp. 2-3). Correctional officers are not permitted to be appointed as grievance officers.

Complaints regarding specific services offered within the institution are investigated by the Office that oversees said service. Allegations of staff abuse are forwarded to the Security Office and the Office of Professional Responsibility (OPR) for investigation. The OPR works for the PA DOC but not for the individual institution. Therefore, the OPR acts as a checks and balance for institutional level investigations as it is an external source investigating an internal issue (Interviews with PA DOC administrators; January 17 and 29, 2008). Complaints regarding healthcare are forwarded to the Medical Unit in the institution or to the Bureau of Healthcare Services while grievances concerning issues related to religion are forwarded to the Religious Unit. Each Unit/Office investigates the allegation, and then reports back to the Facility Grievance Coordinator for final review (Interviews with PA DOC administrators; January 17 and 29, 2008).

If the inmate considers the initial review decision from the grievance officer unsatisfactory an appeal must be filed within ten working days from the date of the initial review decision. According to DC-ADM Policy 804, “Each appeal must be clearly

labeled as an appeal at the top of the document....The appeal must clearly identify the Initial Review decision and the basis for the appeal....Only one appeal of any Initial Review will be permitted. Failure to comply may result in the appeal being dismissed” (p. 8). The Facility Grievance Coordinator notifies the inmate of the response within ten working days of receiving the appeal. A response upholds the initial response, remands the appeal, or dismisses the appeal. A brief statement of the reason(s) for the decision is included with the response (DC-ADM Policy 804; Interviews with PA DOC Prison Administrators; January 17 and 29, 2008).

*Appeal to Secretary’s Office of Inmate Grievances and Appeals (Central Office)*

Any inmate dissatisfied with the appeal response from the Facility Grievance Coordinator may submit an appeal to the Secretary’s Office of Inmate Grievances and Appeals (which I will refer to as Central Office) within 15 working days of the appeal decision (DC-ADM Policy 804). In order to appeal to Central Office, procedures established for Initial Review and Appeal to Facility Manager must be exhausted. Of the 12,906 grievances filed in the PA DOC in 2007, 1,222 went to Central Office for final review. Central Office usually receives 10-15% of all grievances filed annually in the PA DOC (Interview with Chief Grievance Processor; January 1/17/2008). Central Office addresses grievances from all adult correctional facilities in Pennsylvania. Employees in Central Office are paid by the Secretary’s Office, not directly by the PA DOC. Therefore, Grievance Officers in Central Office “look and work outside of the box,” or the institution (Interview with Chief Grievance Processor; 1/17/2008). Second level appeals are not necessarily more serious in nature; they are appeals because in the mind

of the inmate, the issue is serious enough to exhaust all possible grievance resolution mechanisms (Interview with Chief Grievance Processor; 1/17/2008).

Upon receiving an appeal, Central Office begins an investigation into the circumstances of the complaint. An inmate must include the original grievance, initial response, appeal to manager, copy of manager's response, and the appeal to Central Office when filing a second level appeal. Starting with the version provided by the inmate, Central Office works with numerous Office and institutions to "fill in the puzzle" (Interview with Chief Grievance Processor; 1/17/2008). The Chief Grievance Processor considers the process a "fine tuned machine," citing the working relationships between Central Office and various Bureau's, Offices, and institutions as a guarantee of thorough investigations of inmate complaints. Similar to complaints filed at the institutional level, grievances that Central Office cannot sufficiently address are referred to personnel that can appropriately investigate the claim. Central Office also refers to attorneys in the Office of Chief Council for legal advice if the inmate states his/her intent of bringing the complaint to litigation. All avenues of grievance resolution in the Department of Corrections must be exhausted before moving to litigation (Interview with Chief Grievance Processor; 1/17/2008).

Central Office responds to an appeal to final review within 30 working days of receipt. Final appeal responses are sent directly to the complainant via inter-institution mail. According to DC-ADM Policy 804: "One of the following dispositions must appear on the appeal response: Uphold Initial Response, Uphold Initial Response/Health Care, Uphold Initial Response/Publication, Uphold Revised Response/Remand, Amend,

Resolved, Permit Publication, Dismiss, and Dismiss Untimely” (p. 11). Central Office also mails the Facility Grievance Coordinator a copy of the appeal response with an explanation of whether the decision consists of amending the grievance. If still dissatisfied with the response, the inmate can now bring the complaint to litigation.

### *Objectives of the Inmate Grievance System*

The purpose of the PA DOC inmate grievance system focuses on the resolution of inmate problems and concerns. The services offered through the inmate grievance program are very specific, as the stated purpose of the program underlines. According to Policy DC-ADM 804, the stated purpose of the inmate grievance system “...establishes procedures for the review of inmate grievances. These procedures ensure that an inmate has an avenue through which resolution of specific problems can be sought” (p. 1). Stringent policies make certain that all specific problems filed at the institutional and central appeals level are addressed and resolved within a required period of time.

### *NJ DOC Grievance Process*

Similar to the PA DOC, the New Jersey Department of Corrections (NJ DOC) grievance resolution process functions according to a multi-phase appeal approach that addresses and resolves inmate complaints. When an inmate feels a reason to grieve, s/he has two options: file a grievance at the institutional level through the formal written process, or file a grievance with the Office of the Corrections Ombudsman in the Department of the Public Advocate (Interview with Luis Silva; 2/19/08). Although an inmate does not technically have to file a grievance at the institutional level before filing

with the Office of the Corrections Ombudsman, members of the Office of the Corrections Ombudsman are more selectively accepting cases and recommending inmates use the institutional process first due to limited staff resources (Interview with Luis Silva; 2/19/08).

### *Institutional Level*

The grievance process begins when an inmate considers an issue worth grieving. The internal grievance mechanism in the New Jersey DOC adheres to the stipulations set forth in Title 11 of the Americans with Disabilities Act. Title 11 states, in part, that “no otherwise qualified disabled individual shall, solely by reason of such disability, be excluded from participation in, be denied the benefits of or be subjected to discrimination’ in programs or activities sponsored by a public entity” (NJ DOC Policy 10A: 1-3.3 Required ADA notice). Therefore, grievances are addressed to the DOC’s designated ADA coordinator.

According to the NJ DOC grievance policy, grievances may be filed orally or in writing, and must contain the name and address of the grievant. Once a grievant becomes aware of an alleged violation, the grievant has 30 days to file a complaint (NJ Administrative Code 10A: 1-3.3). Upon receiving the complaint, the institution has 21 working days to investigate the grievance and respond to the inmate. According to the New Jersey Administrative Code, “The investigation will be conducted by the agency’s designated ADA Coordinator. The rules contemplate informal but thorough investigations, affording all interested person and their representatives, if any, an opportunity to submit evidence relevant to a grievance” (Section 10A: 1-3.3). A written

determination of the “validity” of the grievance and a “description of the resolution” are forwarded to the grievant by the designated decision maker no later than 45 days after the initial filing of the grievance (NJ Administrative Code Section 10A: 1-3.3).

*Office of the Corrections Ombudsman*

The Office of the Corrections Ombudsman operates as a separate and neutral investigatory entity whereby inmates and the family of inmates can file grievances throughout their period of incarceration. Unlike the formal process at the institution which can be reached only through filling out a grievance form, a grievance can be filed with the Office of the Corrections Ombudsman through institutional and/or U.S. mail by filling out a request for assistance form available in each institution, and via the telephone. In addition to the ten phone numbers an inmate is permitted to call, s/he can also call the toll free number for the Office of the Corrections Ombudsman (Interview with Luis Silva; 2/19/08). Through the telephone intake process, an inmate expresses their concerns, which are then, as Mr. Luis Silva the head Corrections Ombudsman for the state of New Jersey explains, “referred to one of the assistant ombudsmen assigned to that particular facility to determine what course of action to take” (Interview; 2/19/08).

During the 2007 calendar year the Office of the Corrections Ombudsman processed 8,903 cases. According to the 2007 Annual Statistical Report on Cases Processed, “This figure represents a reduction of 15% from CY-2006 (10,469). The reduction is attributed to additional reductions in support and field staff during this past year” (pp. 3-4). Of the 8,903 total cases, the majority (1,882) were related to issues pertaining to records. Other

categories of complaints include discipline (260), assault: inmate on inmate (29), medical (898), and property (724) (2007 Annual Statistical Report on Cases Processed; p. 4).

The Office of the Corrections Ombudsman also differs from the institutional process in that family members can file a grievance on behalf of the inmate. Grievances from family members are scrutinized more than inmate complaints, though, because of past occurrences when a family member grieved without the consent of the inmate. Family members are encouraged to inform the inmate that they intend to file a grievance. Also, family members are encouraged to tell their incarcerated family member to also submit something in writing to the Office which expresses the inmates' request for assistance (Interview with Luis Silva; 2/19/08).

No deadline establishes when a response must be issued to the grieving inmate. Despite the lack of a policy that dictates a response time, a reply is usually received within three weeks. Mr. Silva explains, "Since we do expect inmates to utilize their institutional remedy process...they may actually get a letter from us suggesting they use their institutional remedy process prior to contacting us. So there may be times that within a week they may actually get a response" (Interview; 2/19/08). Unless the situation is considered an emergency, the Office of the Corrections Ombudsman responds to inmates suggesting they utilize the institutional process before filing a grievance with the Office of the Corrections Ombudsman. In the past the Office addressed those minor issues. However, because of a smaller staff, a fewer number of grievances can be addressed (Interview with Luis Silva; 2/19/08).

The Office of the Corrections Ombudsman engages in a working relationship with the administrators in charge of the institutional grievance process. Because the grievance process, including the Office of the Corrections Ombudsman, seeks to prevent litigation, working relationships among all staff involved in the process is key to the prevention of litigation. Institutions send a monthly grievance report to the Office of the Corrections Ombudsman through which the Ombudspeople can tell if an inmate has filed a grievance at the institutional level (Interview with Luis Silva; 2/19/08). Although the Office of the Corrections Ombudsman works under the Department of the Public Advocate and not the Department of Corrections, an ombudsperson can enter an institution at any time. In fact, Luis Silva asks that all assistant ombudsmen visit the facilities they are assigned to on a weekly basis, making sure to tour at least one living area and one congregate area while there (Interview; 2/19/08). Touring the institutions enables an outside entity to monitor the conditions inside each correctional facility.

Unlike formal written processes, Ombudspeople can initiate investigations based on what they observe during tours of the facilities. Many of these investigations occur informally between an ombudsperson and a correctional staff member. Luis Silva explains that often making a formal statement isn't necessary:

...many of the investigations we do are many times informal. There's no need to make a formal statement...we just make some inquiries, basically. We'll do some inquiries and if we're satisfied with what the responses are, then end of case. Or if we're not satisfied, many times formally...we'll make certain recommendations, or express our concerns. And we've been fortunate that most, if not all of the administrators, have always been very cooperative... (Interview; 2/19/08).

Inmates also report information to the Ombudspeople informally during the tours of the facilities. An ombudsperson then passes this information on to the prison administration informally at first and possibly formally, depending on the administrative response.

### *Goals and Mission of the Office of the Corrections Ombudsman*

In a 2007 report, Luis Silva, head Corrections Ombudsman, divided the intent of the Office into three categories: mission, goals, and objectives. The goals, mission, and objectives of the Office of the Corrections Ombudsman focus on the investigation of inmate complaints, the maintenance of working relationships with DOC staff, and staying attuned with events and feelings in the institution. The goals, mission, and objectives of the NJ Office of the Corrections Ombudsman lends itself to the original concept of ombudsmen as neutral and impartial observers who recommend change.

The mission of the Office of the Corrections Ombudsman pertains to the investigation of complaints and subsequent recommendations for change. As the first specification of the mission explains, the office intends “To investigate complaints, concerns, or inquiries about alleged acts, omissions, improprieties and/or broader systematic problems” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). A unique aspect of a corrections ombudsman lies in the impartial nature of the investigations. This concept is highlighted in the mission: “To offer options, facilitate resolutions, informally investigate or otherwise examine inmate concerns and issues independently, confidentially and impartially” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). In line with the original concept of an ombudsman, corrections ombudsmen do not have the power to make change, only to recommend it.

They “make recommendations for direct action to correct situations of concern of the incarcerated” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007).

The goals of the Office of the Corrections Ombudsman provide accountability, a responsible process, and working relationships with staff. For example, one listed official goal of the Office is, “To provide a viable, responsible, and concerned medium by which the needs and problems of the inmate population may be addressed” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). To ensure the needs and problems of inmates are adequately addressed, ombudsmen engage in and maintain functional working relationships with institutional staff. For example, another goal of the Office is “To maintain a sound, working relationship with institutional administrators, significant departmental decision makers, and where indicated, outside agency personnel” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). Located outside of any correctional institute, The Office of the Corrections Ombudsman relies on institutional staff to ensure the humane treatment of inmates.

The objectives of the Office more specifically explain the intent and purpose of the Corrections Ombudsman. A main objective of the Office is “To relieve the pressures, tensions, and hostilities that abounds within the prisons by means of more open communication, i.e., a ‘release valve’” (Mission, Goals, and Objectives of the Office of the Corrections Ombudsman, 2007). Ombudsmen gain a sense of the “tone” of the institution, which can be potentially hostile, through maintaining visibility in the institutions. Therefore, another objective is, “To maintain high visibility within the institutions and department in order to afford inmates the opportunity for necessary

interviews, and to develop and maintain good relationships with both staff and inmates” (Mission, Goals, and Objectives of the Office of the Corrections Ombudsman, 2007).

Other objectives of the Office pertain to its relationship with the inmate population. Emphasized in the objectives are approaches such as honesty, being non-judgmental, and maintaining objectivity. For example, an objective of the Office is “To respond promptly, obtain and provide accurate information, and deal honestly and effectively with all inmates seeking assistance” (Mission, Goals, and Objectives of the Office of the Corrections Ombudsman, 2007). Since the Office of the Ombudsman is located outside of the Department of Corrections, its objective to operate impartially is supported.

#### *Goals of Program and Categories of Analysis*

The following analysis examines the interviews with Pennsylvania and New Jersey administrators in relation to the stated goals and objective of each program. The five categories of analysis described in the previous section are used to determine the degree to which the administrators interviewed discuss the goals of the program. Through the categories of analysis, which represent the major themes of the interview, I looked for the prevalence of concepts and ideas from the official goals and objectives of each grievance program. Assuming the goals of each program represents the ideal effective functioning of the process from the perspective of each state, how often the goals are discussed highlights the degree to which the process operates in line with said goals. The more often the goals are represented in the interview, the more effective the

process is working from the perspective of the person being interviewed (See Table 1 for a comparative look at the processes in NJ and PA).

An obvious limitation to this line of thinking is that the degree to which the topics are discussed does not necessarily represent the degree to which the topics are practiced. While an administrator might talk about the importance of maintaining working relationships with DOC staff, in actuality working relationships might not be occurring or practicable. However, what this line of thinking does reveal is how well the programs are working from the subjective perspective of the administrators outside of the goals of the program. Also, it reveals the variables necessary to manage an effective grievance program in line with goals in each state. Although the topics discussed might not be practiced, they expose aspects of current programs that need to be changed and/or enhanced. Therefore, as will be discussed later, valuable policy implications are revealed through this analysis.

#### *Category 1: Litigation*

The official purpose of the Pennsylvania DOC Inmate Grievance System is as follows: “This policy establishes procedures for the review of inmate grievances. These procedures ensure that an inmate has an avenue through which resolution of specific problems can be sought” (Policy DC-ADM 804). Although the official purpose of the Inmate Grievance System makes no direct reference to litigation, the interviews speak otherwise. The strict policies of the Inmate Grievance System guarantee a fair and thorough investigation through its system of checks and balances (Interviews; 1/17/08 and 1/29/08). However, the thorough investigation helps not only the person grieving,

but the PA DOC as well. The PA DOC operates in anticipation of litigation. A series of bureaucratic paperwork ensures that the methodical investigations are well documented in the case of a grievance going to litigation.

Through the methodical investigation and documentation of grievances in preparation for litigation, “an avenue through which resolution of specific problems can be sought” is provided (PA DOC Policy DC-ADM 804). Basing the policy in terms of preparing for litigation ensures that the goals of the PA Inmate Grievance System are met. Operating under the assumption that grievances will eventually go to litigation in turn provides inmates with a fair and thorough means of filing grievances.

The official mission, goals, and objectives of the New Jersey Office of the Corrections Ombudsman make no direct reference to litigation either. However, the interview with Luis Silva makes clear the intent of the Office to prevent potential litigation. The mission, goals, and objectives do provide the necessary means of preventing potential litigation. For example, the third mission listed says the Office will “...make recommendations for direct action to correct situations of concern of the incarcerated” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). The nature of the role of the Corrections Ombudsmen allows for the address of particular issues as well as systemic problems. Corrections Ombudsmen in NJ can initiate investigations out of their own volition (Interview with Luis Silva; 2/19/08). Since the Assistant Ombudsmen tour facilities regularly, Luis Silva explains that “We can initiate investigations on our own, based on what we observe” (Interview; 2/19/08).

The Corrections Ombudsman's role as an outside and extra source of grievance redress supports the intent of preventing litigation. Luis Silva explains this topic in more detail:

...I was contacted by Pennsylvania maybe 2 or 3 years ago and they were inquiring about our office and they were considering at that time of creating some type of ombudsperson. I guess it boils down to some departments feel they don't need a third person to oversee things. They feel that their own institutional grievance process is sufficient. The only thing I would say to that is if you're not able to convince or satisfy this inmate then the next recourse is then the court of law. You know, here at least we could be used as an extra buffer before it gets to a court of law (Interview; 2/19/08).

Because New Jersey utilizes two avenues of grievance redress, the Office of the Corrections Ombudsman operates under the assumption that they work to prevent litigation, not prepare for it. Luis Silva explained that while the formal institutional response might just say "no" to an inmate's grievance, the Office of the Corrections Ombudsman will respond with a "no," then explain why and offer other options for resolution (Interview; 2/19/08). The nature of the ombudsman position coupled with the interactions with DOC staff and inmates supports the programs intent of preventing litigation. The ways in which working relationships contribute to preventing litigation will be discussed in the working relationships with staff section.

### *Category 2: Time*

The PA Inmate Grievance System policy clearly outlines the timeframes within which grievances must be filed and responded to. These deadlines were clearly described during the interviews with both administrators in PA. The Chief Grievance processor believes that these deadlines are what keep the process moving (Interview; 1/17/08). In

fact, deadlines are so closely adhered to that a grievance can be rejected for timeliness if it was not filed within 15 days of the alleged event (Interviews; 1/17/08 and 1/29/08). In terms of the goal of providing a procedure whereby an inmate has an avenue to resolve specific problems, the emphasis on time facilitates this process. Deadlines, especially those that refer to institutional response time, maintain a functioning program that falls in line with the stated purpose of the system.

The Office of the Corrections Ombudsman follows less stringent time policies. While the first official objective listed mentions time, the quality of the investigation is emphasized more than the time of the investigation and/or response: “To respond promptly, obtain and provide accurate information, and deal honestly and effectively with all inmates seeking assistance” (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). As mentioned earlier, inmates usually receive a response between one and three weeks after filing the grievance. However, no policy directly dictates a timeframe within which the Office must respond by. The objectives do stipulate, however, that the investigation be fair, accurate and honest.

### *Category 3: Working Relationships with Staff*

Although not directly mentioned in the official purpose, the effectiveness of the PA Inmate Grievance System relies on working relationships with DOC staff. Grievances that cannot be directly answered through the Facility Grievance Coordinator or Central Offices are delegated to the appropriate Bureau or Department. Reiterated during the interviews and described in the Inmate Grievance System policy, “The Secretary’s Office of Inmate Grievances and Appeals may review an appeal with the

relevant bureau (health care issues with the Bureau of Health Care Services, education issues with the Bureau of Corrections Education, etc.)” (PA DOC Policy DC-ADM 804). Therefore, in order to effectively carry out the official purpose of the Inmate Grievance System, working relationships with DOC staff are an imperative.

Similarly, the effectiveness of the Office of the Corrections Ombudsman relies heavily on the participation of DOC staff. Because of the nature of the job, ombudsmen in any organization or institution do not have the power to make change, only to recommend it. DOC administrators, however, can institute changes. Luis Silva describes the importance of working relationships with DOC staff: “But again, we try to be very subtle and very careful in not destroying bridges because again, of the volume of number of cases we deal with, you don’t want to alienate a person or facility that you need to resolve certain issues” (Interview; 2/19/08). Mr. Silva’s description of sustaining working relationships lends itself to a goal of the office, “To maintain a sound, working relationship with institutional administrators, significant departmental decision makers and where indicated, outside agency personnel (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007).

The Office of the Corrections Ombudsman also relies heavily on working relationships with staff to work towards the goal of preventing litigation. Litigation is prevented when a problem or issue is changed to better the conditions of confinement of incarcerated individuals. Since ombudsmen cannot directly make change they rely on DOC administrators to do so. If DOC administrators ignore the recommendations of Corrections Ombudsmen, change does not occur, which raises the chance of an issue

moving to litigation stage. Luis Silva emphasized this point during the interview, explaining the importance of Assistant Ombudsmen using diplomacy in order to institute change: “And again, I do believe that if they use diplomacy, they’ll get anything they want, or close to it. At least feel you’ve done the best you can” (Interview; 2/19/08). Therefore, working relationships with staff not only meets the objectives of the Office, it helps to meet the goal of preventing litigation.

**Table 1: A Comparison of NJ and PA Grievance Processes**

<u>Categories of Analysis</u>	<u>New Jersey</u>	<u>Pennsylvania</u>
<b>Litigation</b>	Prevent	Prepare for
<b>Time</b>	Vague policies	Strict policies
<b>Working Relationship with Staff</b>	<ul style="list-style-type: none"> <li>• Process contingent on relationship with DOC staff</li> <li>• Share goal of preventing litigation</li> <li>• Believes staff take recommendations seriously because of shared goal</li> </ul>	<ul style="list-style-type: none"> <li>• Process contingent on working relationship with DOC staff</li> </ul>
<b>Relationship with Inmates</b>	<ul style="list-style-type: none"> <li>• Interact with inmates</li> <li>• Visible in institution</li> <li>• Believes inmates trust process and see Office as neutral and fair</li> </ul>	<ul style="list-style-type: none"> <li>• Little to no interaction with inmates</li> <li>• Central Office not present in institutions</li> <li>• Believes inmates trust process because of levels of appeals</li> </ul>
<b>Resources</b>	Limited	Sufficient

*Category 4: Relationship with Inmates*

Central Office has limited interaction with inmates in the institutions. Grievances are mailed to the Office, investigated, and mailed back to the inmate in the institution.

While this has the potential to portray Central Office as neutral, especially because Central Office operates “outside” of the box, the Chief Grievance processor thinks the inmates lump all DOC workers together and do not perceive the grievance office as neutral (Interview; 1/17/08). However, the Facility Grievance Coordinator I interviewed believes that inmates trust the PA process because of the level of appeals (Interview; 1/29/08). Despite the varying opinions among PA administrators about how inmates view the process, both administrators agree that the investigations they carry out are fair, thorough, and with the well being of the inmates in the forefront of the process (Interviews; 1/17/08 and 1/29/08).

The Inmate Grievance System provides inmates with the opportunity to resolve specific problems. Providing a fair and thorough investigation lends itself to such a purpose. For instance, the interviewed Grievance Facility Coordinator explained that inmates should not live in rat-infested or inhumane conditions and should also have a tool to complain with (Interview, 1/29/08). Similarly, the Chief Grievance Processor expressed a moral and professional obligation to “fix things” (Interview, 1/17/08). A moral obligation refers to the idea that all human beings deserve the basic rights to humane treatment and living conditions. A professional obligation can be traced to the goal of preventing litigation and carrying out the purpose of providing an inmate grievance resolution system.

Although providing the grievance process may serve the institutions own ends, it does have positive effects on the lives of the inmates. Both administrators interviewed in PA report that they believe the grievance system facilitates order in the institutions; there

would be more chaos if no grievance mechanism existed (Interviews; 1/17/08 and 1/29/08). The Chief Grievance Processor attributes the program to subsiding anger and loss of control because the inmates have an avenue of resolution. The Chief Grievance Processor continued by explaining that inmates get a feeling of control when they receive a response from the institution, especially when the response is in favor of the inmate, which can help to reduce violence (Interview, 1/17/08). While the Facility Grievance Coordinator agrees that the process provides a sense of control over their lives during confinement, s/he believes that the grievance program is used to resolve issues throughout one's stay, and *not* to prevent violence (Interview, 1/29/08).

Corrections Ombudsmen tour facilities regularly, and therefore engage in direct contact with people who are incarcerated. Corrections Ombudsmen also usually oversee cell searches to ensure that no personal property is damaged. Moreover, as Luis Silva explained, in the past Corrections Ombudsmen have met with inmate representatives to diffuse tense situations that could potentially result in protests and/or violent behavior (Interview, 2/19/08). This visibility in the institutions represents the Offices' objective "To keep a pulse on the tone of the institutions" (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). Walking through the facilities and observing first hand the conditions of confinement and listening to what the inmates have to say while passing through, provides the Assistant Ombudsman with a sense of the atmosphere and attitude of that facility. If an Ombudsman witnesses a messy congregate area or broken showers, for example, the Ombudsman can file a direct complaint with the Superintendent of that facility. Usually, reports Luis Silva, changes are made faster this way than when a correctional officer files a report for repair (Interview, 2/19/08).

Because of the visibility of the Corrections Ombudsmen and their ability to influence change quickly, inmates tend to trust the process of the Office. Partly grounded in the history of the Office as impartial and fair, Luis Silva believes inmates are more confident in the Office of the Corrections Ombudsman than in the DOC process. Mr. Silva explains the importance of having a process that inmates trust:

Again, individuals, if they don't, or feel that they don't have someone to talk to, can explode at any moment. I think historically when things have occurred in correctional facilities and there have been major disruptions and riots it's because of a sometimes simple incident; however, once it explodes and expands now they use it as an opportunity to bring about all the grievances they've had for the past five or ten years (Interview, 2/19/08).

Trust of the process can be attributed to the Office's mission "To offer options, facilitate resolutions, informally investigate or otherwise examine inmate concerns and issues independently, confidentially and impartially" (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007). Also, the "continuity of services" offered and stated in the objectives of the Office reflect the historical basis of trust for the process.

Trust for the Office is based not only on history, however, but on the facilitation of open communication between inmates, DOC staff, and the Assistant Ombudsmen. Open communication contributes to the Office functioning as a "release valve." Mr. Silva explained that often times simply clarifying the institutional response to an inmate eases the feelings of the inmate. For instance, providing inmates with reasoning behind why a decision has been made and then offering potential courses of action, work to reduce inmate frustrations. When an inmate understands why a decision has been made, Mr. Silva explains, the less frustrated s/he will be, thus reducing the potential for negative behavior (Interview, 2/19/08). Therefore, explaining the rationale behind a decision

supports the Offices' objective "To relieve the pressures, tensions, and hostilities that abounds within the prisons by means of more open communication, i.e., a 'release valve'" (Mission, Goals, and Objectives of the Corrections Ombudsman, 2007).

*Category 5: Resources*

Without sufficient resources the official purpose of the PA DOC Inmate Grievance System cannot be fulfilled. However, the five grievance processors in Central Offices are considered sufficient by the Chief Grievance Processor. The Facility Grievance Coordinator suggests the role at the institutional level is difficult because of the dual functioning as the Superintendent's Assistant and the Facility Grievance Coordinator. Although the job has many expectations, the weight is leveled because of the working relationships with DOC staff members. Delegated staff members carry out many of the investigations while the Facility Grievance Coordinator proofreads and processes them. The working relationships among staff members at the institutional level and the adequate number of grievance processors at Central Office facilitate the effectiveness of the PA DOC Inmate Grievance System.

A central theme in the interview with the head NJ Corrections Ombudsman is the inadequate number of staff in the Office. When asked if he would change anything about the Office of the Ombudsman, Mr. Silva replied, "I would have to go back to staffing. Staffing is always so essential in providing effective services" (Interview, 2/19/08). With only two Principal Clerk Typists, where only one answers phones at a time, the intake process is slower therefore reducing the volume of cases. At one time the Office had five support staff members with about two or three answering the phones at all times. Mr.

Silva points out, however, that since the Office is down to four Assistant Ombudsmen, "...having only one person answering the phone at a time might be the best route to try and control the calls coming in" (Interview, 2/19/08). With such a small staff, the degree to which the Office can function in terms of its stated mission, goals, and objectives is tested

The five total Corrections Ombudsmen are stretched thin across fourteen institutions in the state of New Jersey. Limited staff resources undermine the Office's intent to be present and visible in each institution. It also makes the intake process more selective, causing the Office to turn grievances to the institutional process that they previously would have investigated themselves. The mission, goals, and objectives of the Office of the Ombudsman are affected by a smaller staff. For instance, responding promptly and maintaining high visibility within the institutions becomes harder with the more institutions a person is in charge of. As discussed earlier, faith and trust in the program depend largely on the presence of an Assistant Ombudsman in the facility. Although inmates likely trust the Ombudsmen more than DOC staff, the degree to which limited staff affects that trust cannot be determined through this study.

## Discussion

At the conclusion of this study it became apparent that interviewing inmates who use the grievance process will help in determining effectiveness of grievance resolution programs. This study opens the door for future research in this area. Studies that focus on an inmate's perception of the grievance process have the potential to greatly expand understanding of grievance programs across the country. More effective and better

functioning grievance programs, in turn, may prevent problems from advancing to the litigation stage, which is costly, time consuming, and often times leave inmates more frustrated than when the grievance process began.

A question that arises from the interviews is whether either process plays a role in grievances progressing to litigation. PA operates in anticipation of litigation while NJ operates to prevent litigation, yet neither state has quantified the function of their grievance program in reducing the number of cases that go to litigation. In fact, neither state has determined whether the grievance process even reduces the prevalence of legal action. However, since PA assumes that a case will go to court, whether or not the grievance process affects the decision to go to court is irrelevant. NJ on the other hand, considers the Office of the Corrections Ombudsman another buffer to prevent grievances from moving to litigation. Without numbers that support this goal, however, administrators in NJ are blindly assuming that the Corrections Ombudsman program is in fact preventing litigation.

Aware of this point, Mr. Silva explained his intent to research the relationship of his Office and litigation (Interview, 2/19/08). He explains:

One of the things I would like to do in the next year or so is to be able to at least identify the inmates that have filed litigation within the DOC and see whether or not they've ever contacted our office....Again, it depends on what they're filing the lawsuit on. If it has to do with any living conditions, that might help me to quantify it a little bit because perhaps if the individual might have come to our office, we might have then prevented them from having to take the matter to court because there's always going to be some costs involved in litigation (Interview, 2/19/08).

Future research about the relationship between prison grievance programs and litigation is necessary to determine how well such programs are working to resolve inmate issues. Despite the PA DOC's seemed acquiescence to grievances moving to litigation, preventing litigation serves institutional and inmate interests. Preventing litigation may reduce costs, satisfy inmates, and create a more ordered environment. Again, more research in this area is necessary to fully understand the nature of the relationship between grievance resolution programs, litigation, and social order in institutions.

The goal of preventing litigation supports the intent of the Prison Litigation Reform Act (PLRA) to reduce the number of cases filed in court by people who are incarcerated. As mentioned earlier, during the 80's and 90's courts became increasingly congested with suits filed by inmates complaining about conditions of confinement (Alderstein, 2001). In reaction to this, the PLRA mandates that inmates must exhaust institutional processes before taking legal action. Therefore, the Office of the Corrections Ombudsman supports this goal through working to prevent inmates from taking their complaints to court.

A surprising discovery of the interviews relates to the length of time used to investigate and respond to inmate grievances. I expected timeliness to be a main concern of both programs because of the precarious nature of human emotions, especially those of frustrated people imprisoned within the confines of a total institution. However, Pennsylvania stressed timeliness while NJ did not. PA emphasizes following strict deadlines when filing, investigating, and responding to grievances, in order to cover all their bases in case a grievance goes to litigation. In terms of the PA DOC's anticipation

of litigation, following meticulous policies makes logical sense. The Office of the Corrections Ombudsman' lack of a formal timeline is what I found most surprising.

Luis Silva found the quality of the investigation more important than the timeliness of the investigation and response. In fact, the time category of analysis occurred less frequently than all other categories used to analyze the interviews. Even though the Office might take longer to investigate complaints, Mr. Silva believes inmates use the process because of the fair and impartial investigations and the explanatory nature of the responses. This process, however, is threatened by the shortage of staff in the Office. In the past when there were sufficient numbers of staff members to answer the phones and to investigate complaints, the Office handled a wide range of complaints. Now that only one person usually answers the phones with four Assistant Corrections Ombudsmen responsible for fourteen institutions, inmates are often told that the Office can not investigate their grievance until an institutional level grievance is filed first. This seems to only extend the grievance process. The inmate who files a grievance with the Corrections Ombudsman first, waits a week or more for the initial response that says to go back to the institutional level. The institutional process can take up to 21 working days. If the inmate is still not satisfied with the institutional response, they must now re-file a grievance with the Office of the Ombudsman; a response from the Office can take up to three weeks.

To mitigate this problem the Office of the Corrections Ombudsman needs clearer guidelines explaining whether filing a grievance at the institutional level first is a prerequisite to filing a grievance with the Office. Instituting stricter guidelines, however,

might undermine the perceptions of the Office as operating outside of the institution; strict policies too closely resemble institutional policies. Further investigation into how receiving an answer from the Office informing them to file a grievance at the institutional level affects the inmates is necessary. Mr. Silva explained that even though the Office tells the inmate to file at the institutional level, the inmate still receives some type of response, which helps to reduce their level of frustration (Interview, 2/19/08). Also, because an inmate may call the Office and file a complaint, Mr. Silva believes there is a sense of immediate gratification because the inmate knows that the Office received their complaint instead of wondering when the grievance has reached the Office through the mail (Interview, 2/19/08).

The effectiveness of both programs is contingent on working relationships with DOC staff. Issues are addressed and changes are made through the interaction with DOC staff. Because the Office of the Corrections Ombudsman works outside of the DOC, this relationship is even more important. In his call for a mediation model of dispute resolution in prisons, Mathew Silberman explains the potential of a corrections ombudsman to resolve disputes and make change, and also includes a caveat about such potential:

For disputes concerning fundamental concerns such as rules and regulations, rights of prisoners, and complaints that are systematic in nature, an *ombudsman* can make suggestions concerning changes in policies and practices in the institution or in an entire prison system (see State of Minnesota, 1985). It is important that the ombudsman not have the power to enforce his or her recommendations since this would erode the authority of correctional staff. But the ability to gain objective insights regarding problems before they blow up in someone's face is important. When changes occur in response to inmate concerns, the level of alienation that contributes to hostility and aggression among inmates is reduced (1995, p. 208).

While the corrections ombudsmen in New Jersey support Silberman's prediction that corrections ombudsman can make changes in an institution or systemically, they challenge his caveat about eroding the authority of correctional staff.

From the information gathered during the interview with Mr. Silva, the existence of the Assistant Corrections Ombudsmen in NJ does not challenge the authority of DOC staff. The nature of the ombudsman position prohibits the ombudsman from making any direct change to policy, they can only recommend it. The DOC staff is responsible for making changes, and many times, take credit for thinking of and instituting such changes. The changes recommended by the Office and instituted by DOC administrators reflect well on the administrators, contributing to a sense of respect for those in charge. The potential for the erosion of power is minimized because of the shared goal of preventing litigation. Mr. Silva explains this concept in more detail:

If we feel that the potential for litigation is very strong, I think most administrators and executive staff will understand why we might be recommending something. And some may implement some change immediately; others take their time implementing some change. Perhaps they just don't want to feel that they're doing something because someone else told them to do it or recommend for them to do it, or something else. Personally, I don't care who gets the credit for it as long as change does occur and it's for the better for everyone. If they want to take the credit and say well it was at the recommendation of the ombudsman, then that's fine (Interview, 2/19/08).

Therefore, it serves DOC administrators interests to take the Corrections Ombudsmen's recommendations seriously. Rather than eroding the authority of DOC staff, the Office of the Corrections Ombudsmen works to support their authority.

The PA program focuses on situational issues, thus maintaining the authority of DOC administrators. Administrators in NJ could be reluctant to enact change because of

the systemic nature of the issues being addressed. While systemic change might occur as a result of the PA Inmate Grievance System, neither the official purpose nor those interviewed mentioned systemic change. The nature of the changes resulting from filing a grievance in PA pertains to changing the conditions of confinement for the individual who filed the grievance. Unless, however, the grievance refers to issues about food service, for example, which if changed, will affect all other inmates because all inmates dine in the institution. The interactions with DOC staff described during the PA interviews pertain to the delegation of investigations, and not the recommendation of change. The interactions with DOC staff described during the NJ interviews pertain to both the delegation of investigations *and* to the recommendation of change. Therefore, the potential for the erosion of administrative power is higher in NJ, yet does not exist because of the shared goal of preventing litigation.

To an extent, the effectiveness of both programs depends on its relationship with inmates. Based on the interviews with PA grievance processors, they feel that inmates trust the grievance process because of the level of appeals and therefore, fair and thorough investigations. Mr. Silva, however, emphasized impartiality, neutrality, and a historical precedent of being both. Anthony Bottoms emphasizes this concept of historical precedent in his article *Interpersonal Violence and Social Order in Prisons*. Bottoms explains that in prisons “...the walls *contain a whole history*” (Bottoms, 1999; p. 211). Prison cultures are constructed in part from the past experiences of prisoners, representing the longevity and continuity of inmates in prisons (Bottoms, 1999; p. 211). Inmates who have had positive experiences with a grievance resolution program in the past, therefore, are more likely to trust the process in the future. Moreover, the fair

experience of one inmate is shared with other inmates, helping to spread a culture of trust for the process throughout the institution.

Mr. Silva believes inmates trust the Office of the Corrections Ombudsman because of their historical experience with the Office as neutral, impartial, and fair. Luis Silva emphasized this concept during the interview: “I think that throughout the years they’ve seen that we are, the way they look at us is that we’re their advocates and we do handle all issues as fairly and as impartial as possible” (Interview, 2/19/08). In support of Bottoms’ claim of a historical culture in prisons, the neutral and impartial experience of inmates with the Corrections Ombudsman in the past contributes to the present day trust inmates have for the Office and the process. From the perspective of PA administrators inmates also trust the Inmate Grievance System. Although the historical foundation of this trust was not mentioned or emphasized in either interview, based on Bottoms’ observations, part of the current trust of the process comes from historical encounters with the process.

The degree to which a sizable staff affects the effectiveness of the process was surprisingly emphasized by Luis Silva. When looking at the statistics of the Office of the Corrections Ombudsman, the number of grievances appears to be reducing annually. Based on these numbers alone, the Office is effectively reducing grievances, therefore increasing inmate satisfaction. However, as mentioned earlier, because of a reduction in staff size, the Office is unable to yield the volume of cases that come to the Office. This factor alone threatens the potential of the Office to operate at its most effective, as described by its goals, mission, and objectives. Luis Silva described encounters with

inmates who claim that they cannot reach the Office over the phone because either no one answers or the phone lines are busy (Interview, 2/19/08). Granted, inmates can file a grievance at the institutional level or via institutional or U.S. mail, yet calling seems to be the preferred method of reaching the Office. Of the 9,524 grievances filed with the Office of the Corrections Ombudsman, 5,953 made initial contact over the phone while 2,347 used Inmate Requests Forms or wrote a letter (2007 Annual Statistical Report on Cases Processed).

An important area of research for NJ is whether or not more inmates have chosen to go to litigation since the reduction of Corrections Ombudsman staff. Also, more research is needed into whether inmates' perceptions of and use of the Office have changed as a result of the smaller staff. Doing so would benefit both staff and inmates. Inmates would benefit from more research into the effects of limited resources because the ability of the staff to address a particular volume of cases directly impacts their daily lives. Instances where the Office cannot address the quantity of cases that are filed can result in costly litigation suits for inmates. Moreover, inmates who feel their concerns are not being addressed are more likely to engage in disruptive or violent behavior. The prison riots in Attica in 1971 are a prime example: inmates ceased rioting when the New York Commissioner of Corrections agreed to 28 inmate demands, or grievances (Tibbles, 1972; p. 383). The inmates' voices were heard.

Research pertaining to limited resources benefits staff both in the Office of the Corrections Ombudsman and in the NJ DOC. The four assistant Corrections Ombudsmen work to address grievances in 14 institutions while one person usually

works to intake and process all grievances. A bigger staff in the Office would allow more time for each investigation and case. Also, a larger staff reduces the number of facilities an Ombudsperson must visit weekly, therefore reducing the amount of traveling each Ombudsperson must do. Increasing resources benefits DOC staff, as researchers suggest, because the more an inmate feels their voice is being heard, the more likely they are to act in line with the expectations of the institution (Tibbles, 1972; Fitzharris, 1973, and Silberman, 1995 are some examples). When inmates operate within the expected norms and behaviors of the institution, order is maintained.

## Conclusion

This study set out to determine administrators' perceptions of the effectiveness of prison grievance resolution programs. In order to determine the effectiveness of such programs in terms of their stated goals, I interviewed the Chief Grievance Processor and a Facility Grievance Coordinator in the PA DOC and the Head Corrections Ombudsman in the state of NJ. I expected to find that administrators from both states believe their programs operate effectively because of bureaucratic pressure and bias. I also expected to find that the NJ Office of the Corrections Ombudsman more effectively addresses grievances because it is a supplemental means of grievance redress to the formal written process. The interviews revealed that while neither program is operating more effectively in terms of their stated goals, the Office of the Corrections Ombudsman has the potential to influence change in a larger scope than the PA DOC because of the nature of the role of an ombudsman.

This study reveals the need for future research into inmates' experiences with grievance resolution programs. A comparative analysis of inmates in both NJ and PA will better highlight how each process works and whether one process operates more effectively than the other from the perspective of inmates. Interviewing inmates about their perceptions of grievance programs will expand and enhance the information gathered in this study. Understanding how both inmates and administrators perceive the process can contribute to change that will positively affect both staff and inmates. Inmates benefit from having their voices heard while staff benefit from negotiated order.

Upon analyzing each program in terms of its stated purpose, neither process is operating more effectively than the other. The methods used in this study limit this determination as those interviewed work directly with the process and therefore have the potential for biased perceptions. Similarly, because of the bureaucratic nature of prisons and government funded agencies that value reputation, those interviewed might feel limited in what they can reveal about the process, especially the weaknesses of the process. In fact, those interviewed from the PA DOC said they believed the process works fine as is. Again, future research focusing on inmate perceptions of the process will mitigate the potential for bureaucratic biases.

Although this study revealed that neither program is operating more effectively than the other in terms of their stated goals, it is the opinion of the author that the Office of the Corrections Ombudsman functions with a larger influence for potential change. Because the Office includes systemic change as a focus, Corrections Ombudsmen can influence both case-by-case change and system wide policy. As a result, inmates may

feel more included in the change process, thus gaining a sense of power. For instance, Matthew Silberman explains:

Mediation strategies which reduce the alienation of prisoners reduce the likelihood that they will engage in self-help in the form of assaulting another person. The existing formal system of written appeals, rather than increasing participation in a decision-making system, alienates inmates further by isolating them from the decision makers through several levels of bureaucracy (1988; p. 527).

Therefore, because inmates can file a grievance over the phone, through the mail, or via a family member outside of the institution, and because inmates often receive a response within a week, the Office of the Corrections Ombudsman increases inmates' sense of participation in the decision making process. Again, future research comparing the experience of inmates who use a formal written process and inmates who have the option to use a Corrections Ombudsman is necessary to fully understand how well the programs are working.

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