



Department of Corrections

Significant Deficiencies Demonstrate
Need for Overhaul of the Prisoner
Grievance Process



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Dear Colleagues,

As of December 1, 2022, Vermont's Department of Correction's (DOC) oversaw 1,258 prisoners (called incarcerated individuals by DOC) housed at six in-state correctional facilities and 110 prisoners housed at a private facility in Mississippi. Providing these prisoners with a fair and effective process for voicing complaints can help ensure their safety as well as the safety of staff who work in the facilities.

DOC is charged by law with establishing a means for receiving prisoner complaints and developed a rule and a policy that lay out a prisoner grievance process, including the timeframes for submissions and DOC's responses. Vermont's prisoners have commented that DOC's grievance process takes too long and is not useful for addressing their concerns—which range widely, from complaints about food being cold, to unaddressed medical needs, to allegations of abuse by correctional officers.

Our audit reviewed DOC's process for receiving and responding to prisoner grievances. Overall, we identified significant deficiencies in this process. Indeed, the recordkeeping system that DOC uses to collect information on grievances—the Offender Management System (OMS)—does not have reliable, basic information to determine the number, type, status, or outcome of prisoner grievances. For example, OMS has grievance records and data that are inaccurate or otherwise unusable while some records are missing entirely. In addition, OMS does not contain the dates that complaints are submitted or when staff respond to the prisoner or take action to resolve issues, so it is not possible to determine the extent that the Department is meeting its own timeframes for responding to grievances. Currently, the only way to obtain accurate information about grievances and DOC's responses is to open the grievance forms scanned into OMS, if they have been scanned which is not always the case, and read the handwritten remarks by the prisoners and DOC staff.

OMS's limitations means that it is not possible to quantify the types and sufficiency of DOC's responses to grievances. Nevertheless, by reviewing scanned copies of paper forms used in the grievance process, we found dozens of instances of staff replies to prisoners that were vague and unresponsive, as well as examples in which DOC simply did not respond to a grievance at all.

The staff who oversee the grievance process have not received comprehensive and standardized training on the process, including how to record information in OMS. Indeed, staff responsible for coordinating grievances expressed concerns to us about the use of OMS, the degree of judgement needed to address grievances, and their lack of training.

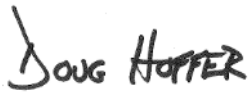
No member of executive management has been tasked with overseeing whether the grievance process is working, or whether staff are complying with the guidance and requirements that have been provided.

To address the issues we identified, including unreliable and incomplete data, the lack of assurance that concerns are resolved, and the absence of centralized accountability, the prisoner grievance process needs an overhaul.

This report makes recommendations that, if implemented, would provide DOC improved transparency and assurance that grievances are appropriately reviewed and responded to. In commenting on a draft of this report, DOC acknowledged a need for improvement and summarized the steps it plans to take to implement our recommendations.

I would like to thank Commissioner Deml and the DOC staff for their cooperation and professionalism during our audit. This report is available on the state auditor's [website](#).

Sincerely,



DOUGLAS R. HOFFER
State Auditor

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Highlights

Policies and processes for correctional facility operations are established by state corrections departments in order to safeguard the life, health, and safety of staff and incarcerated individuals. Grievance policies are an example of this.¹ Grievance processes are critical for incarcerated individuals seeking redress for complaints. The safety of all parties is at risk if incarcerated individuals do not have an effective, fair, and equitable way to bring issues about conditions of confinement to the attention of correctional officials.

Individuals incarcerated in Vermont's correctional facilities can lodge complaints about the conditions of their confinement through the Department of Corrections' (DOC) grievance process, which is required by statute.² The nature of grievances varies significantly—from the relatively trivial (e.g., receipt of cold food) to potentially life-threatening (e.g., medical emergencies or physical abuse by correctional officers or other incarcerated individuals).

Incarcerated individuals have complained about the ineffectiveness of DOC's grievance process, primarily that it takes too long and lacks fairness. Accordingly, the objective of this audit was to assess the process DOC uses to receive and respond to incarcerated individuals' grievances. We focused on grievances at four of the six in-state facilities and from individuals housed out-of-state under DOC's contract with a privately-owned facility in Mississippi. **Because of the significant deficiencies in the DOC information system used to record grievances described in the findings sections of this report, we were unable to perform a systemwide audit of these issues, including how long DOC takes to respond to grievances.** Instead, we had to limit our use of the system to (1) documenting errors and incomplete records, and (2) reviewing specific grievances and how they were handled.³

Objective 1 Finding

DOC's process to receive and respond to grievances lacks transparency due to unreliable data, does not provide assurance that complaints are resolved, and operates without centralized accountability. Specifically, there were significant deficiencies in the (1) accuracy and completeness of DOC's grievance data, (2) responses to grievances, and (3) executive oversight of the process.

- The Offender Management System (OMS) that DOC uses to record the grievances of incarcerated individuals cannot be used to reliably determine the number,

¹ [Prison and Jail Grievance Policies: Lessons from a Fifty-State Survey](#) (Michigan Law Prison Information Project, October 18, 2015).

² [28 V.S.A. §854](#) requires DOC to establish grievance procedures for incarcerated individuals.

³ Our scope period was January 1, 2021 to June 30, 2022 and we used DOC's grievance policy in effect during that period. Appendix I contains our scope and methodology. Appendix II contains a list of abbreviations used in this report.

type, facility, status, and outcomes of grievances. This is because grievance records and data were missing and data in OMS was inaccurate or otherwise unusable. In addition, OMS does not contain data that can be used to track the timeliness of DOC's responses to grievances filed.

- Because of these system limitations, it was not possible to comprehensively quantify the types and quality of DOC's responses to grievances. Nevertheless, we found dozens of instances in which DOC did not provide clear responses to grievances or did not respond at all. Moreover, DOC does not have a process to confirm that actions promised in response to grievances were taken.
- DOC has not designated an executive to be responsible for ensuring that the grievance process is working as intended and to look for trends indicating potential problems that should be addressed departmentwide, at a particular facility, or with a specific aspect of the process.

All together, these deficiencies hinder DOC from demonstrating that it addresses complaints when notified through individual grievances or from identifying trends across the incarcerated population, facilities, or DOC staff.

Among the causes of the deficiencies in the DOC grievance process were (1) a system that was not designed to track the progress and results of grievances, and (2) a lack of training, guidance, and executive oversight.

Recommendations

We made [recommendations](#) to improve the grievance process, such as assigning responsibility for the grievance process to a DOC executive. This executive should monitor the process to ensure it is performed in accordance with requirements and recommend improvements to the process and OMS.

Background

Except in the case of serious employee misconduct or emergencies,⁴ DOC's grievance [rule](#) and policy⁵ require incarcerated individuals to first attempt to address issues by submitting an "informal complaint," either verbally or in writing.⁶ DOC staff are instructed to attempt to resolve the complaint if it is within the scope of their responsibility. For example, a correctional officer on duty may receive an informal complaint that an incarcerated individual's mattress is damaged, and the officer may resolve the complaint by ordering a new mattress.

If the incarcerated individual and the staff member do not agree on a resolution, the individual may then file a written "formal grievance." DOC facility-level staff are supposed to investigate or otherwise respond to formal grievances. If incarcerated individuals disagree with the facility-level staff's response, which may include a decision by the facility's superintendent, they may appeal to the executive management and Commissioner at DOC's Central Office.⁷ It is important that incarcerated individuals follow this process because they are prohibited from filing a Federal or State lawsuit about the conditions of their confinement unless they have first done so.⁸

Individuals handwrite their informal complaints and grievances onto carbonless copy paper forms, which are available in facility housing units. Incarcerated individuals are supposed to hand grievance forms to staff members, who are supposed to sign and date their receipt of the form and return one of the copies to the grievant. The four in-state facilities we toured also contained mailboxes for internal and external mail that incarcerated individuals could use to submit forms.

DOC staff manually route informal complaints and grievance forms within the facility as needed. For example, grievances about medical issues are reviewed and responded to by the onsite medical staff of DOC's health services contractor, and grievances that allege staff misconduct are reviewed by the

⁴ DOC defines emergencies as issues that present a threat of death, injury, or disruption of facility operations, or a need for prompt disposition because time is lapsing for action or decision. Serious staff misconduct is defined as behavior where if proven would likely result in disciplinary action being taken against the employee. Complaints in these areas proceed directly to a formal grievance.

⁵ Unless otherwise noted, the grievance policy referred to in this report is the version effective January 1, 2007. DOC issued a [revision](#) to this policy effective September 19, 2022, which was after our audit scope period.

⁶ Although not included in the scope of this audit, DOC's grievance process is also used by individuals supervised by DOC's field offices.

⁷ See Appendix III for a flowchart of DOC's standard grievance and appeal process.

⁸ [42 USC §1997e](#) states that no action can be brought with respect to prison conditions under Federal law until administrative remedies are exhausted. In addition, the Vermont Supreme Court has held that when administrative remedies are established by statute or regulation, a party must exhaust all such remedies before filing a lawsuit.

facility Superintendent. DOC's responses are supposed to be manually routed back to the grievant.

Each facility superintendent designates a grievance coordinator (generally an assistant superintendent) to coordinate investigations and responses. DOC also has a Central Office grievance coordinator to coordinate all appeals. Additionally, by [contract](#), DOC requires its out-of-state facility contractor CoreCivic to use the Vermont grievance process. The contractor has assigned a staff member to coordinate the routing and review of all grievances received and to work with a grievance coordinator in DOC's out-of-state unit. The contractor responds to issues under its control, such as complaints about facility operations, and the DOC coordinator responds to issues under Vermont's control, such as complaints involving DOC rules. Regardless of the issue grieved, the contractor is supposed to provide all grievance forms to the DOC out-of-state grievance coordinator for review and monitoring.

Grievance coordinators are responsible for recording informal complaints and grievances in DOC's OMS. When a grievance record is created, OMS auto-generates a sequential six-digit unique ID number assigned to that record. DOC staff are supposed to scan all forms submitted by the incarcerated individual and DOC's responses into that grievance ID's record. Staff are expected to enter a short narrative description and choose from dropdown menu options that characterize the complaint and its status.

DOC staff create a grievance record for all informal complaints and grievances, even those that they reject⁹ or that never progress beyond an informal complaint. Between January 2021 through June 2022, DOC created a total of 11,812 grievance records in OMS¹⁰ and, as of July 7, 2022, approximately half of these records remained informal complaints that had not progressed to become formal grievances.

In this report, we use the term grievance record for each unique grievance ID in OMS. We use the term grievance only when we are referring to a formal grievance and DOC's response, which excludes those grievance IDs in which the incarcerated individual only submitted an informal complaint.

⁹ DOC may reject a grievance under circumstances defined by the grievance rule and policy, such as when the grievant uses derogatory or obscene statements or grieves decisions made by the Court or Parole Board over which the Department has no responsibility. In addition, DOC's rule states that an unacceptable grievance is one that involves actions that have another existing appeals process, which includes discipline of an incarcerated individual unless the incarcerated individual is alleging discrimination or staff misconduct. DOC provides incarcerated individuals with a [Notice of Right to Grieve](#) form upon admission to a facility. This notice lists what can and cannot be grieved.

¹⁰ This includes all grievance records for the six in-state facilities, the contracted out-of-state facility, and field offices.

Objective 1: Process Lacks Transparency, Does Not Ensure Grievances Get Resolved, and Operates Without Executive Accountability

DOC's grievance process has significant deficiencies that hinder the Department from demonstrating that it addresses grievances in accordance with its rule and policy, including its timeframe requirements. First, OMS has grievance records and data that are inaccurate or otherwise unusable while some records are missing entirely. Furthermore, OMS has not been set up to record critical data, such as timeliness of responses. As a result, OMS data cannot be used to reliably determine the number, type, facility, status, or outcomes of grievances. Second, though these system limitations prohibit quantifying the types and sufficiency of DOC's responses to grievances, there are instances in which DOC did not provide clear responses or did not respond *at all*. Moreover, DOC does not confirm that actions promised in response to grievances were taken. Third, DOC has not designated an executive to be responsible for ensuring that the grievance process is working as intended, including monitoring trends that may indicate problems departmentwide, at a particular facility, or with a particular DOC process or staff.

Grievance Data in OMS

DOC's grievance rule requires that DOC maintain a departmentwide grievance system capable of accurately recording and tracking all written grievances and their status. Overall, OMS does not accurately record and track the statuses of grievances and therefore is not compliant with this requirement. Moreover, OMS provides no transparency as to whether or to what extent DOC responds to grievances within required timeframes.

Not All Grievances are in OMS

Because DOC relies on paper forms that are manually routed throughout the facility, it is not possible to verify that all grievances are recorded in OMS. In fact, we found grievance records that were deleted, not entered, or missing the paper forms.

- **DOC staff deleted grievance records.** Between January 1, 2021 and June 30, 2022, OMS records show that 14 DOC staff deleted 42 grievance records.¹¹ In 25 of these cases, we asked the staff who deleted records to

¹¹ Data about these deleted grievances were retained in the OMS database and was accessed by the DOC OMS manager, who provided these records to us.

explain why it was done. In 11 of the 25 cases, staff reported that they could not recall why they had deleted the record. In the remaining 14 cases, staff provided a reason, most commonly that the record was a duplicate of another grievance. DOC's [record retention schedule](#) states that informal complaints, formal grievances, appeals, and DOC's responses are required to be kept for 3 years after the record has been completed and closed.¹² There are 172 DOC staff with the ability to delete grievance records in OMS.¹³ DOC has not provided these staff with written procedures on whether or when it is appropriate to delete a grievance in OMS, such as if staff record that the grievance was created in error and is a duplicate of an existing grievance. DOC also does not require prior approval for grievance deletions or require staff to record the reason for the deletion and does not monitor who has deleted files or when this occurs. Without any limitations or oversight on deletions, DOC risks that staff will delete grievance records inappropriately.

- **DOC staff did not enter some grievance records from the out-of-state facility into OMS.** The contracted private facility that houses Vermont incarcerated individuals provides DOC with a monthly log of every grievance it receives. Our review of five of the contractor's monthly logs found that DOC's out-of-state grievance coordinator did not enter seven grievance records into OMS.¹⁴
- **DOC staff did not scan paper forms.** Sixty-seven grievance records did not contain any scanned forms. This is important because (1) each of the four facility grievance coordinators that we interviewed stated that they do not keep copies of the paper forms after scanning them into OMS,¹⁵ and (2) the information that staff entered into OMS for these records is minimal. For example, in one grievance, staff typed into the narrative "wants to see medical" and in another, staff categorized the grievance as a staff conflict issue and typed that the incarcerated individual "states that he and other inmates have been experiencing issues" with a specific officer. For these and other examples, OMS does not include what the incarcerated individual wrote on the grievance form, and does not indicate that DOC did anything to investigate or respond.

¹² DOC's record retention schedule also requires the Department to retain databases or systems used to record grievances until superseded, at which point it would be appraised by the Vermont State Archives and Records Administration for continuing value.

¹³ The number of DOC staff who can delete grievance records in OMS is as of November 21, 2022. Of the 172 staff with this ability, 95 can delete any grievance records and 77 can delete records pertaining to their site.

¹⁴ DOC entered these grievances into OMS after we pointed this out.

¹⁵ Two grievance coordinators reported that they send the forms back to the incarcerated individual and two reported that they shred them.

Grievance Records Contained Missing, Inaccurate, or Unusable Data

DOC's grievance rule and policy require that the system used to record grievances be able to produce reports for facility management, executive management, and the Commissioner. These reports are supposed to identify trends.

OMS generates reports that summarize various data in the system, such as the facility, the grievance category, whether the grievance is open or closed, the stage of the grievance, and its outcome. However, these data were often missing, inaccurate, or unusable in OMS. Thus, these reports would be error-filled and any resulting analyses would be flawed. Currently, the only way to obtain accurate information about grievances and DOC's responses is to open the scanned forms and read the handwritten remarks, which is impractical at a departmentwide level.

- **Facility Data.** OMS often contained inaccurate facility data. For example, OMS listed 277 grievance records under the out-of-state facility but 147 of these (53 percent) pertained to other facilities. The DOC staff member that manages OMS stated that some of the facility errors were due to a glitch in the system that was occurring without DOC's knowledge prior to this audit bringing it to DOC's attention.¹⁶ Other grievance records listed under the wrong facility were attributed to staff errors.
- **Grievance Record Categories.** OMS has a dropdown menu of 121 options to categorize grievance records, but DOC has not defined the different category options, and some are vague, such as "grievance submitted" and "interpersonal-other." Others appear duplicative, such as "Alternative Diet" and "Food-Diet." Of the 11,812 grievance records in our review period, we saw that 283 (two percent) were categorized under "Misconduct—Staff" but that staff also used the category "Conflict—Staff" for 1,358 grievance records (11 percent) for the same type of allegations.
- **Grievance Record Status.** OMS contains a field for recording whether a grievance record is open or closed. For the period reviewed, 5,793 grievance records in OMS were listed in open status as of July 7, 2022. Of these, about 25 percent had not been updated in more than a year, and about 60 percent had not been updated for more than six months. In contrast, the longest time period allowed by DOC's grievance rule for any one of the grievance process steps is no more than 40 business days (20 days to respond to a grievance appeal with the option of a 20-day

¹⁶ This DOC staff member reported that the vendor was contacted and this glitch has been fixed.

extension). Some grievance coordinators stated that they never close grievance records in OMS.

- **Milestone Events.** OMS includes a field for recording milestones in the grievance process. The dropdown menu for this field allows staff to record milestones such as “Investigator Assigned” and “Commissioner Answer to Appeal.” For 970 grievance records, staff used this data field to record that an appeal was submitted to the Central Office, but in 723 of these instances (75 percent) staff did not complete this field to record that DOC had responded.
- **Outcomes.** OMS contains a field with a dropdown menu to record the outcome of each step in the grievance process. For example, an OMS user can choose “supervisor resolved” for issues that staff addressed or “grievance denied” and “grievance sustained” to record the results of investigations. For the period we reviewed, staff closed 6,019 grievance records in OMS but did not record any outcome determination in 2,087 (35 percent) cases.

OMS Does Not Record Critical Grievance Data

DOC grievance coordinators enter very little data into OMS (see Appendix IV for an example). This limits the type of analysis that can be performed. For example, DOC’s grievance rule and policy require that incarcerated individuals and DOC complete the grievance process steps within certain timeframes. These timeframes also differ depending on whether the grievance is a standard or emergency grievance. For example, DOC is required to respond to a standard grievance within 20 business days and to an emergency grievance within 8 hours. OMS does not collect data that could be used to determine whether DOC meets these or other timeframe requirements.

- **Milestone Dates.** OMS does not include the date when an incarcerated individual follows a step in the grievance process (e.g., submits an informal complaint, formal grievance, or grievance appeal) nor when DOC completes a step (e.g., investigation is completed or appeal is answered). DOC staff stated that OMS cannot be used to track whether timeframes are met. Of the six grievance coordinators responsible for ensuring DOC meets timeframe requirements that we interviewed, three reported creating their own spreadsheets to track deadlines, one reported going back into the scanned forms, one reported using an email folder, and one reported keeping the information “in my head.” As a result, DOC cannot demonstrate nor ensure whether or to what extent staff follow the timeframe requirements in rule and policy.

- **No emergency grievance field.** OMS does not record which grievances are emergencies. This information is necessary to track the extent to which such grievances were addressed in a timely manner.
- **No record of the open or closed status of each process step.** OMS has a single status field for the grievance record. As a result, OMS cannot be used to track, through each iteration of the process (i.e., informal complaint, formal grievance, grievance appeal), what is completed and what remains open.

In addition, DOC may agree that a grievance warrants action on its part (e.g., fix a toilet, attend to a medical issue), but OMS does not have a field to record the actions DOC has agreed to take in response to a grievance nor that the action does in fact occur. Therefore, it is not possible to use this system to determine whether or not promised actions were carried out.

Causes of OMS Deficiencies

There are several causes of OMS deficiencies. First, OMS does not have data entry controls to identify and correct omissions or errors during data entry. For example, OMS does not have automated controls that (1) require specific fields be completed before a record will save, such as the incarcerated individual's name or the grievance's milestone events or outcomes or (2) check for logical inconsistencies (e.g., difference between the facility housing the individual and the facility on the grievance record). DOC's contract with the OMS vendor does not specify that the system have such data entry controls.

Second, DOC has not issued guidance and definitions regarding the proper use of OMS fields, such as how to determine which category or categories should be selected and when a grievance record should be closed.

Third, DOC has not trained authorized staff to enter information into the system and the staff members we spoke with commonly cited a need for OMS grievance training.

Fourth, DOC has not established oversight and monitoring controls to identify whether and when data entry issues occur. For example, DOC does not run reports of the grievance IDs to identify and follow-up as needed on potential issues (e.g., grievances that have not been closed after an extended period or for which a response to an appeal is pending).

Overall, without data entry controls, standardized guidance, training, and routine oversight of staff use of the system, the grievance data in OMS is not reliable or useful. The grievance coordinators we spoke with all

reiterated limitations with using OMS, and generally indicated that they use a lot of individual judgement in determining what fields to fill in and how and when to do so. Staff also stated that it takes a lot of time to scan the paper grievance forms into the system to maintain the records. While scanning the original paper forms into the electronic system does preserve the original documents, without also establishing controls and using OMS for standardized data entry of basic information, DOC cannot track or review staff practices or overarching trends, and the system serves as little more than an electronic filing cabinet for scanned handwritten documents.

DOC Responses to Grievances and Appeals

DOC's grievance rule, policy, and other guidance did not include any requirements or information on what constitutes a sufficient or adequate response—for example, minimum thresholds of information to provide or sample language for staff to use or avoid in responses. Grievance coordinators reported that they review staff responses and conduct coaching, as needed, to improve responses.

DOC recorded responses to grievances on two forms and provided the incarcerated individual a response to their grievance via one or both:¹⁷

- DOC's *grievance submission* forms have sections for a supervisor to record "yes" or "no" as to whether the supervisor resolved the issue and what action was taken. We saw instances when the supervisor's response addressed what the individual had grieved. For example, in an April 2021 grievance, the individual stated she had moved to a new housing unit but had not yet gotten an updated identification bracelet, and the supervisor noted on the form that he had resolved the grievance and confirmed the updated bracelet was issued. In another case, the supervisor resolved the grievance by rejecting it because the complaint was not a grievable issue under DOC's process. The supervisor also noted on the form the DOC process that needed to be followed.
- DOC's *grievance investigation* form has sections for investigators to summarize the investigative work they did and their recommendations. The grievance coordinators then recommend to the superintendent that the grievance be denied, sustained, or found meritorious in part.¹⁸ For

¹⁷ These forms were changed as part of DOC's new grievance policy that was effective September 19, 2022.

¹⁸ According to DOC's grievance policy in force during our audit period, (1) denied is defined as there was no evidence to support the basis of the grievance or that actions being grieved were unwarranted, (2) sustained is defined as there was evidence to support the basis of the grievance and that the grievance coordinator will offer a remedy, and (3) meritorious in part is defined as there is evidence to support part of the grievance and the grievance coordinator determines that a partial remedy will be offered. DOC's new grievance policy now requires the superintendent to select an outcome of denied, meritorious in part, and resolved.

example, a July 2021 grievance describes the grievant being harassed by another incarcerated individual. The form notes the investigative actions taken (e.g., file review, interviews) and sustained the grievance resulting in the harassing individual being moved to a different unit.

Because of the limitations in the OMS data previously described, we were unable to systematically review and comprehensively quantify the types and sufficiency of DOC's responses to grievances. This same obstacle would impede a DOC analysis of responses as well. Nevertheless, we conducted an ad hoc review of individual records in OMS, in which we read through scanned forms to see whether and how staff completed required steps or filled in sections of the forms that indicate the results of an investigation or the merit of the complaint. As described above, we saw instances of staff using the grievance submission form to indicate a supervisor resolved the issue and using the investigation form to summarize investigative work and determinations.

However, we also found dozens of examples in OMS in which (1) the scanned forms did not provide evidence that DOC investigated or responded to the grievance or appeal or (2) DOC's response was vague, did not address the issue grieved, or was limited to stating the individual should take actions already taken.¹⁹ We also saw instances of staff stating they would take some future action but with no specifics and nothing else in the OMS file indicating confirmation or follow-up.

Since our methodology was necessarily limited due to OMS unreliability, it is possible that DOC took an action in response to a grievance that it did not record in OMS or that staff did not scan all documents into this system. As a result, we cannot determine the extent to which all of DOC's responses contain the types of flaws demonstrated by these examples. Nevertheless, we believe that these examples demonstrate a need for greater care and oversight.

Grievances With No DOC Investigation or Response

OMS did not always have evidence showing that DOC investigated and/or responded to a grievance. For example:

- In August 2021, an incarcerated individual grieved that the computation of the remaining length of his sentence was incorrect and provided the rationale for this belief. The individual listed this as an emergency. On the grievance form, the supervisor checked that the grievance had been resolved, stating "This is not an emergency and will be forward(sic) to

¹⁹ We did not review those grievance records that were limited to informal complaints and did not progress to a formal grievance.

grievance coord. for review.” There was no evidence in OMS that this grievance was forwarded for review, investigated, or that the individual received any further response.

- In March 2022, an incarcerated individual grieved that he had been provided clothing that did not fit even though he had twice submitted the required forms to get a different size. There was no evidence in OMS that this grievance was investigated or that a response was provided to the individual.
- In the out-of-state grievance records we reviewed, there were at least four grievances that neither DOC nor the contractor responded to. For example, in June 2021, an incarcerated individual grieved a pay issue pertaining to his job in the kitchen. The DOC staff member responsible for monitoring out-of-state grievances confirmed that no one responded to these grievances but could not explain why.

Investigations of Grievances Alleging Staff Misconduct Not Tracked

DOC’s grievance rule states that all grievances alleging serious staff misconduct where, if proven, the behavior would likely result in disciplinary action being taken against the employee, are required to be forwarded to a DOC executive, who then will forward it to an outside entity for investigation and response (currently the Department of Human Resources—DHR).²⁰ In practice, facility superintendents and DOC executive management stated that they use their discretion as to whether an allegation of misconduct needs to be referred to DHR or will instead be investigated internally.

OMS has no category labeled “serious staff misconduct.” Instead, there are several categories that, depending on what is being alleged, could constitute serious staff misconduct (e.g., categories labeled “misconduct—staff,” “discrimination—staff,” “conflict—staff”).

We requested evidence of investigation and the ensuing results for 18 grievances that alleged staff misconduct at the four in-state facilities. DOC provided evidence that four were sent to DHR for investigation and 10 were investigated internally. DOC did not have evidence that an investigation,

²⁰ The State’s policy on employment-related investigations, which was issued after DOC’s grievance rule, requires organizations to notify and coordinate with DHR whenever they have reason to suspect that an employee has engaged, or is engaging in misconduct. This policy defines misconduct as the deliberate or negligent failure to comply with the requirements of the State workplace and does not entail deciding, prior to an investigation, whether the alleged behavior would likely result in disciplinary action. [Employment Related Investigations](#), (DHR Policy 17.0, effective November 3, 2016).

internal or otherwise, was conducted for the remaining four examples (22 percent).²¹

In addition, there is no way to systematically determine whether DOC has reported each allegation of staff misconduct to DHR or had the grievance investigated. This is because DOC does not record this information in the grievance forms or the OMS grievance records. When incarcerated individuals submit a grievance alleging staff misconduct, they are told that it will be investigated but that they will not be told the results. The superintendents of the four in-state facilities we visited stated that they keep investigation information outside of OMS so it cannot be accessed by other staff and described personal tracking mechanisms that ranged from a spreadsheet to handwritten notes. Because of the lack of systematic tracking, DOC leadership may not be aware that there is a misconduct complaint for which an investigation was not completed or aware of patterns in these complaints.

Appeals With No DOC Responses

The DOC Central Office grievance coordinator oversees the routing of the paper grievance appeals forms, which are submitted via mail. Each appeal is assigned to a member of DOC's executive management team for review and response. For example, the DOC Director of Health Services is typically assigned medical appeals. During our audit scope period, incarcerated individuals could submit two levels of grievance appeals—to an executive and then to the Commissioner.²² DOC's grievance rule and policy state that the department will respond to an appeal within 20 business days.²³

We identified examples of appeals to which DOC did not respond *at all*, as follows:

- OMS contained 723 appeals to the Central Office but no record that the Department had responded to the appeal. We reviewed the paper forms scanned into OMS for 25 of these appeals and confirmed that in 7 cases (28 percent) OMS did not contain a response to the incarcerated individual's appeal. For example, in September 2021 an incarcerated individual appealed a facility's response to a grievance about mail that

²¹ In our previous reports on how State government handles allegations of employee misconduct, we found that it was not possible to evaluate decisions on whether and by whom investigations of employee misconduct were to be conducted because of weaknesses in the State's reporting process: [Agency of Human Services: Process and Documentation Improvements Could Better Support Decision-Making in Employee Misconduct Cases](#) (SAO Rpt. No. 17-04, June 23, 2017) and [State Employee Misconduct: Handling of Allegations by the Department of Human Resources and Selected Organizations Needs Improvement in Documentation and Timeliness](#) (SAO Rpt. No. 17-03, June 23, 2017).

²² DOC's revised policy eliminated the appeal to a Corrections executive, leaving only an appeal to the Commissioner.

²³ Per the DOC grievance rule and the policy effective during the period audited, DOC can also take an additional 20 business days to respond to appeals upon written notice to the incarcerated individual.

was rejected and not delivered. More than a year later, DOC had not responded to this appeal.

- We also inquired about appeals pertaining to staff misconduct grievances. DOC's Central Office grievance coordinator confirmed that the department did not respond to at least 22 of these types of appeals.

DOC's Central Office does not track and monitor whether and when appeals are responded to.

Vague or Inconclusive DOC Responses

Neither DOC's grievance rule or policy defines or otherwise explains what constitutes a resolution. The following are examples of grievances in which DOC's responses were vague or inconclusive. In each of these examples, there was no further information in OMS or on the scanned grievance forms to indicate that DOC had responded further.

- A February 2021 grievance stated that the incarcerated individual had submitted multiple forms to a specifically named DOC staff member about being charged for canteen items the individual had not received. The DOC supervisor's response to the grievance was to tell the incarcerated individual to submit a request to the same DOC staff member that the grievant had stated had not previously responded.
- A July 2021 grievance alleged that the incarcerated individual was not paid for nine days of work and that, as directed, he had resubmitted timesheets and notified multiple DOC staff members of the discrepancy on three occasions. The DOC supervisor's response to this grievance was to instruct the incarcerated individual to submit a fourth written request for a time sheet review to yet another DOC staff member.
- An April 2022 grievance stated that the incarcerated individual had put in several medical slips requesting antibiotics but had not received a response. DOC's only response, dated the same day as the grievance states, "Medical has been notified and the Dr. was contacted."
- A November 2021 grievance stated that the incarcerated individual's mail had been mistakenly rejected and provided the DOC policy citation and definition explaining why it was a mistake to reject. The only response to this grievance states "will forward for review and follow-up."
- An August 2021 grievance stated the incarcerated individual had an infected tooth and had requested to see a dentist multiple times. The only response to this grievance states "will forward to medical for review."

The vagueness in the response examples above appear due, in part, to the range of personal judgement used by staff. DOC has not established guidance or training for answering grievances. Some staff indicated that they know issues grieved have been addressed because the incarcerated individual does not submit another complaint. Other staff stated they expect that the staff member who writes out the response on the grievance form is responsible for ensuring action/completion. No one, including facility superintendents and DOC executive management, tracked whether or when responses that say DOC will take action have in fact been occurring.

As a result of the lack of guidance and standardized procedures for responding to grievances, in many cases it is not clear whether DOC agrees or disagrees that the issue grieved has merit, or whether DOC is going to take or has taken an action.

Executive Oversight of the Grievance Process

The State of Vermont guidance on internal control standards for managing the resources entrusted to management to carry out government programs and allow “reasonable assurance that what they expect to happen, actually does,” states,

“Executive management needs to set the organization’s direction regarding internal control (i.e.: “tone at the top”). If executive management does not establish strong, clearly stated support for internal control, the organization as a whole will most likely not practice good internal control. Similarly, if control activities are not integrated with staff duties and responsibilities, the system of internal control will not be effective. While everyone in an organization has responsibility for ensuring the system of internal control is effective, the greatest amount of responsibility rests with the managers of the organization.”²⁴

In interviews, grievance coordinators expressed concerns about the use of OMS, the degree of judgement needed to address grievances, and their lack of training. Additionally, the facility grievance coordinators, all of whom are assistant superintendents, noted that though they have many areas of responsibility and oversight, much of their time has been spent on administrative tasks for grievances, such as routing paper forms, establishing grievance files in OMS, and scanning documents.

²⁴ [Internal Control Standards: A Guide for Managers](#) (Vermont Department of Finance and Management, Edition 2.0, September 3, 2019).

Incarcerated individuals have also expressed dissatisfaction with DOC's grievance process. In particular, recent surveys of individuals housed at Southern State Correctional Facility found that about 80 percent disagreed or strongly disagreed that DOC's grievance process is a useful tool to address their concerns.²⁵

DOC has not assigned a member of its executive team to be responsible for the grievance process as a whole so there is no one at the executive level responsible for identifying and addressing the deficiencies we identified. Accordingly, the grievance process would benefit from clear and explicit DOC executive oversight and accountability.

Training

Training is important to ensure that the grievance rule and policy are effectively carried out and that staff have the skills to make decisions about grievances. The grievance rule states the Department will ensure that staff are educated and oriented to the practices and expectations regarding informal complaint resolution and the grievance process. Nevertheless, neither the grievance coordinators nor other facility or Central Office staff that make decisions on grievances received comprehensive and standardized training on the process, including how to record information in OMS. DOC's Correctional Academy includes a training session on the grievance process but not all staff who deal with grievances have gone through this class or they took it many years ago. Some grievance coordinators reported receiving some on-the-job guidance from the person who previously filled the role, but none received any formal instruction and most attributed mistakes or omissions to the lack of training. For example, the Central Office grievance coordinator reported that she did not go through Correctional Academy training and that when she was given the grievance responsibility, the prior coordinator provided about 1.5 hours of on-the-job training.²⁶

Monitoring Compliance

The grievance rule and policy contain a variety of requirements that DOC is supposed to follow. In addition, [DOC policy](#) states that the department supports continuous improvement in the workplace and will conduct regular security and operation audits at its facilities.²⁷ Such audits are supposed to include the grievance process.

Departmentwide, no one has been tasked with identifying whether DOC is compliant with timeline requirements, ensuring that grievances or appeals

²⁵ [Vermont Prison Climate Surveys 2021](#) and [Vermont Prison Climate Surveys 2022](#) (The University of Vermont Justice Research Initiative).

²⁶ The Central Office grievance coordinator's primary role is as DOC's records and information management specialist.

²⁷ [Security and Compliance Audits – Facilities](#) (DOC #403.01, effective September 4, 2007).

are responded to, or evaluating responses to grievances. Further, the last time an internal audit of the grievance process at the in-state facilities occurred was in 2012—10 years ago. This was before OMS's implementation.

System Solutions

A core component in DOC's grievance rule is maintaining a departmentwide system capable of accurate recording and tracking of all grievances and their status. The OMS manager indicated awareness of many of the reliability issues we specify in this report. However, since its implementation in 2015 the grievance section of OMS has not been updated. In addition, DOC has not established other mechanisms for staff to use to maintain adequate records or track grievance status.

DOC's grievance process is largely manual, including hand carrying grievance submissions and DOC responses around the facility and scanning paper forms into OMS. Efficiencies could be gained by making it a more automated process. For example, most incarcerated individuals are assigned a tablet by DOC, and DOC's current tablet vendor states that its tablets could be used to file grievances. Members of DOC management are currently discussing piloting the use of tablets for the grievance process. Such a change merits consideration. However, there are challenges that DOC staff have identified that would need to be addressed. For example, if grievances submitted via a tablet are not uploaded into OMS directly and instead are manually entered by DOC staff, this likely would result in data entry errors and increase the time spent on documenting grievances. Without an assigned executive team member responsible for considering the grievance process as a whole, DOC initiatives like the pilot to use tablets for grievances are less likely to be successful.

Making the grievance process more automated could help lessen the burden on DOC's staff. This is important because DOC has had difficulty obtaining and maintaining a fully-staffed department, suffering from almost double the staff turnover rates of State government as a whole.²⁸ In addition, in DHR's 2022 survey of employee engagement, only 8 percent of DOC staff agreed that the Department had enough staffing necessary to achieve its mission and only 27 percent believes that the amount of work they are expected to do is reasonable.²⁹

Analysis of Grievance Data

Analyzing grievance data for trends can help DOC isolate problem areas that need to be addressed and identify opportunities for improvement. As a result

²⁸ In fiscal year 2021, DHR reported that DOC's turnover rate was 23 percent versus 12 percent for State government as a whole. [State of Vermont Workforce Report Fiscal Year 2021](#) (DHR, January 14, 2022).

²⁹ [Analysis of State of Vermont Employee Engagement Survey Results - 2022](#) (DHR, June 2022).

of this audit, the Commissioner and executive team began receiving grievance trend reports, but no executive is specifically tasked with reviewing them to identify significant patterns DOC-wide or at specific facilities, or to spot concerning or anomalous data.

For example, in our review of the OMS data, we saw a difference between the number of grievances submitted by individuals incarcerated in-state versus out-of-state. During the 18-month period reviewed, the six in-state facilities averaged 9.7 grievance records per incarcerated individual, while the out-of-state facility averaged 1.9 grievance records.³⁰ DOC's out-of-state unit officials stated they do not believe this is concerning. This lower grievance rate by itself may not indicate that there is a problem with the grievance process at the out-of-state facility because individuals sent to the Mississippi facility do not mirror the in-state population.³¹ Nevertheless, it could indicate a need for a closer look at how the facility handles grievances. This is especially true since, according to the supervising attorney of Vermont's Prisoners' Rights Office, complaints from incarcerated individuals about correctional officers throwing away grievances are more common at the out-of-state facility than at DOC's in-state facilities.

Conclusions

A fair and equitable grievance process provides incarcerated individuals with a means to fix problems with the conditions of their confinement, thereby improving their safety as well as the safety of those who work in correctional facilities. Vermont's DOC may be processing individual grievances so that individual complaints are addressed appropriately, but the flaws and limitations of the system it uses to record grievances prevent DOC from demonstrating that this is done consistently. Indeed, we found dozens of examples in which DOC did not provide a response to a grievance or appeal, or the response was vague or inconclusive. Moreover, the variety and number of missing data and errors in OMS demonstrates that DOC's grievance process needs an overhaul that provides or improves training, guidance, and system controls. Such an overhaul calls for sustained attention at the executive level. Currently, DOC has not tasked an executive with responsibility for the grievance process. By tasking one of its executives with this role, DOC not only could improve the perception of the grievance process by staff and incarcerated individuals but could also identify areas for possible operational improvement. Such improvement could help alleviate some of the administrative burden placed on DOC's staff.

³⁰ As discussed in a previous section of the report, OMS grievance records contained incorrect facility data so there is imprecision in these averages.

³¹ For example, an incarcerated individual must be sentenced and medically cleared in order to be placed in the out-of-state facility.

Recommendations

We make the recommendations in Table 1 to the DOC Commissioner:

Table 1: Recommendations and Related Issues

Recommendation	Report Pages	Issue
1. Establish standardized written requirements, guidance, and procedures for deleting grievance records in OMS.	5-6	There were grievance records in OMS that were deleted. DOC has no written procedures on whether or when it is appropriate to delete a grievance in OMS. DOC also does not require prior approval for grievance deletions or require staff to record the reason why and does not monitor who has deleted files or when this occurs.
2. Establish data entry controls to ensure that grievance records are accurate, complete, and include sufficient information for DOC to reliably track and compile reports on grievances, including the number, type, facility, status, and outcomes.	7-9	OMS grievance data were often missing, inaccurate or unusable. OMS does not have data entry controls to identify and correct omissions or errors during data entry.
3. Establish guidance and definitions for the proper use of OMS fields, including use of the category, status, event, and outcome fields.	7-9	OMS grievance data were often missing, inaccurate or unusable. DOC has not issued guidance and definitions regarding the proper use of OMS fields
4. Establish, within OMS or elsewhere as needed, the ability to track departmentwide: (1) the dates informal complaints, formal grievances, and appeals are received and the dates individuals are provided responses, (2) records of emergency grievances, (3) any action DOC has agreed to take and whether it has done so, and (4) the open and closed status of each informal complaint, formal grievance and appeal.	8-9	DOC's grievance rule and policy require that incarcerated individuals and DOC complete the grievance process steps within certain timeframes. OMS does not collect data that could be used to determine whether DOC meets these requirements. In addition, DOC may agree that a grievance warrants that it take action, but OMS does not have a field to record the actions DOC has agreed to take in response to a grievance nor that the action does in fact occur.
5. Provide comprehensive, standardized training in the grievance process and recording data in OMS to all staff responsible for providing written responses and maintaining grievance records.	9, 15-16	DOC has not trained authorized staff to enter information into the system and the staff members we spoke with commonly cited a need for OMS grievance training. In addition, DOC's responses to grievances were sometimes vague, did not address the issue grieved, or were limited to stating that individuals should take actions already taken. DOC has not established training for answering grievances.

Recommendation	Report Pages	Issue
6. Ensure staff follow established requirements, including conducting departmentwide oversight and monitoring to identify and correct issues.	9, 15-17	DOC has not established oversight and monitoring controls to identify whether and when data entry issues occur. For example, DOC does not run reports of the grievance IDs to identify and follow-up as needed on potential issues. In addition, the last time an internal audit of the grievance processes at the in-state facilities occurred was in 2012—10 years ago.
7. Ensure that incarcerated individuals receive a written response to each formal grievance and grievance appeal submitted. In instances when the response includes that DOC will take some action, ensure tracking and confirmation demonstrating that it has happened.	11-15	OMS did not always have evidence showing that DOC (1) investigated and/or responded to a grievance or (2) responded to a grievance appeal. In addition, no one, including facility superintendents and DOC executive management, tracked whether or when responses that say DOC will take action have in fact been occurring.
8. Track that all grievances alleging staff misconduct are investigated, either through OMS or another mechanism, to include when allegations are reported to DHR and investigated.	12-13	There is no way to systematically determine whether DOC has reported all allegations of staff misconduct to DHR or had them investigated because DOC does not record information on the results of investigations into employee misconduct grievances on the grievance forms or the OMS grievance records. Because of the lack of systematic tracking, DOC leadership may not be aware that there is a misconduct complaint for which an investigation was not completed or that there was a pattern of complaints.
9. Establish written guidance and procedures for staff responsible for answering grievances, that provides thresholds and examples of DOC’s expectations for the content of responses including ensuring that the response addresses the issue grieved.	14-15	DOC’s responses to grievances were sometimes vague, did not address the issue grieved, or were limited to stating that individuals should take actions already taken. DOC has not established guidance for answering grievances.
10. Assign responsibility for the grievance process to a DOC executive, including to monitor the extent to which the grievance process is performed in accordance with the rule and policy and to review the process as a whole to recommend improvements to the process and OMS.	15-17	DOC has not assigned a member of its executive team to be responsible for the grievance process as a whole so there is no one at the executive level to identify and recommend solutions to the deficiencies we identified, including in areas such as training, monitoring compliance, identifying system solutions, and analyzing grievance data for patterns or concerning or anomalous data.

Management's Comments

On December 14, 2022, DOC's Commissioner provided written comments on a draft of this report. These comments are reprinted in Appendix V.

Appendix I

Scope and Methodology

To address our objective, we reviewed [28 V.S.A. §854](#), which requires DOC to establish a grievance procedure for incarcerated individuals. We also reviewed DOC's grievance rule and policy that was in effect during the scope of our audit.³² In addition, we discussed DOC's grievance process with the supervising attorney of Vermont's Prisoners' Rights Office.

Our scope period was grievances submitted and entered into OMS for an 18-month period (January 1, 2021 to June 30, 2022). We focused our audit on the three largest in-state correctional facilities³³ and the women's in-state facility.

- Northern State Correctional Facility. This men's facility is located in Newport and, as of June 29, 2022, housed 382 incarcerated individuals.
- Northwest State Correctional Facility. This men's facility is located in St. Albans and, as of June 29, 2022, housed 162 incarcerated individuals.
- Southern State Correctional Facility. This men's facility is located in Springfield and, as of June 29, 2022, housed 285 incarcerated individuals.
- Chittenden Regional Correctional Facility. This women's facility is located in South Burlington, and as of June 29, 2022, housed 89 incarcerated individuals.

For each of these facilities, we met with the grievance coordinator and discussed the processes used to obtain, respond to, and record grievances in OMS. We also toured each of these facilities and observed how incarcerated individuals could obtain and submit grievance forms. In addition, we interviewed the superintendent, supervisors, correctional officers, and health services administrator at each facility to obtain an understanding of their respective roles in the grievance process.

We also reviewed the grievance process used by incarcerated individuals housed at the Tallahatchie County Correctional Facility in Tutwiler, Mississippi. As of June 29, 2022, there were 123 Vermont incarcerated individuals located at this facility. Our work related to this facility was limited to reviewing Vermont's [contract](#) with the contractor, CoreCivic, interviewing the CoreCivic grievance coordinator, and interviewing the grievance coordinator in DOC's out-of-state unit. We also compared five of the

³² [Offender Grievance System](#) (Administrative Rule #060006, effective March 15, 2006) and *Offender Grievance System for Field and Facilities* (#320.01, effective January 1, 2007). During our audit, DOC issued a revised grievance policy, [Grievance System](#) (#320.01, effective September 19, 2022).

³³ The other two in-state correctional facilities are Marble Valley Regional Correctional Facility located in Rutland and the Northeast Correctional Complex located in St. Johnsbury. As of June 29, 2022, these facilities housed 98 and 158 incarcerated individuals, respectively.

Appendix I

Scope and Methodology

grievance monthly logs that CoreCivic submits to DOC to the grievances contained in OMS to identify grievance records missing from the system. We followed up on these discrepancies with the DOC out-of-state grievance coordinator.

We interviewed the Central Office grievance coordinator to obtain information about the appeal process. We also interviewed DOC executives that handle appeals related to in-state and out-of-state facilities and health care services. In addition, we interviewed the Central Office supervisor in charge of the implementation of the Prison Rape Elimination Act to discuss the intersection of grievances and sexual assault and harassment complaints.

To determine the type of training DOC provides on grievances, we communicated with the DOC director in charge of the Correctional Academy and reviewed the slides used during the session on grievances.

To assess whether we could use data in OMS as evidence, we reviewed DOC's contract with the system vendor and interviewed the OMS business application support unit manager and staff that use OMS. During this assessment, we learned that (1) OMS contained little or no controls over the data entry process, (2) DOC had issued no OMS instructions and had conducted no training on how to use the OMS grievance function, and (3) there were errors in the system. Accordingly, we determined that we could not rely on the data in the system to draw conclusions related to our objective. As a result, except for determining the number of grievance records in the system for background purposes, we did not use data from the system except to document and report on errors and incomplete records and review the scanned forms in the system related to specific grievances.

We obtained an MS Excel® file of all grievance records entered into OMS between January 1, 2021 and June 30, 2022. We used our data analysis software, IDEA®, to perform various analyses to identify, for example, the number of records that:

- were deleted,
- had no attachments,
- had no entries in the category fields,
- remained in open status even after months of inactivity,
- were in closed status even though there was no outcome posted, and

Appendix I

Scope and Methodology

- included appeals in which the system did not record a response.

We also used IDEA® to identify the number of grievances submitted by individuals incarcerated out-of-state that were listed under an in-state facility.

As necessary, we (1) followed up on discrepancies with applicable DOC staff and/or (2) checked the results of our analyses by reviewing scans of the paper forms contained in the on-line version of OMS. We also used the on-line version of OMS to browse grievance records for the facilities in our scope and review scans of the paper grievance forms filled in by incarcerated individuals and DOC staff.

As it pertains to internal controls, we limited our work to that previously described in this appendix. We considered the State’s internal control guidance and a generally accepted internal control standard when evaluating the results of our work.³⁴

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

³⁴ [Internal Control Standards: A Guide for Managers](#) (Vermont Department of Finance and Management, Edition 2.0, September 3, 2019) and [2013 Internal Control – Integrated Framework](#) © Committee of Sponsoring Organizations of the Treadway Commission (COSO). All rights reserved. Used with permission.

Appendix II Abbreviations

DHR	Department of Human Resources
DOC	Department of Corrections
OMS	Offender Management System
V.S.A.	Vermont Statutes Annotated

Appendix III

Flowchart of the Standard Formal Grievance Process

Except in certain circumstances (e.g., allegations of serious staff misconduct), incarcerated individuals start the grievance process by submitting an informal complaint verbally or in writing. Incarcerated individuals can file a formal grievance if they are not satisfied with DOC's response to the informal complaint.

According to DOC's grievance rule, there are two types of grievances—emergency and standard.³⁵ Emergency grievances are supposed to be reviewed and responded to within 8 hours. Figure 1 outlines the process used to address a standard grievance from submission to the last administrative appeal. At any point in this process, DOC may reject the grievance if it determines that the incarcerated individual filed an unacceptable grievance. Unacceptable grievance examples include those that (1) use profanity, derogatory, or obscene statements, (2) are repetitive or identical to another grievance the incarcerated individual files, or (3) involve decisions over which DOC has no jurisdiction (e.g., decisions by the Courts).³⁶

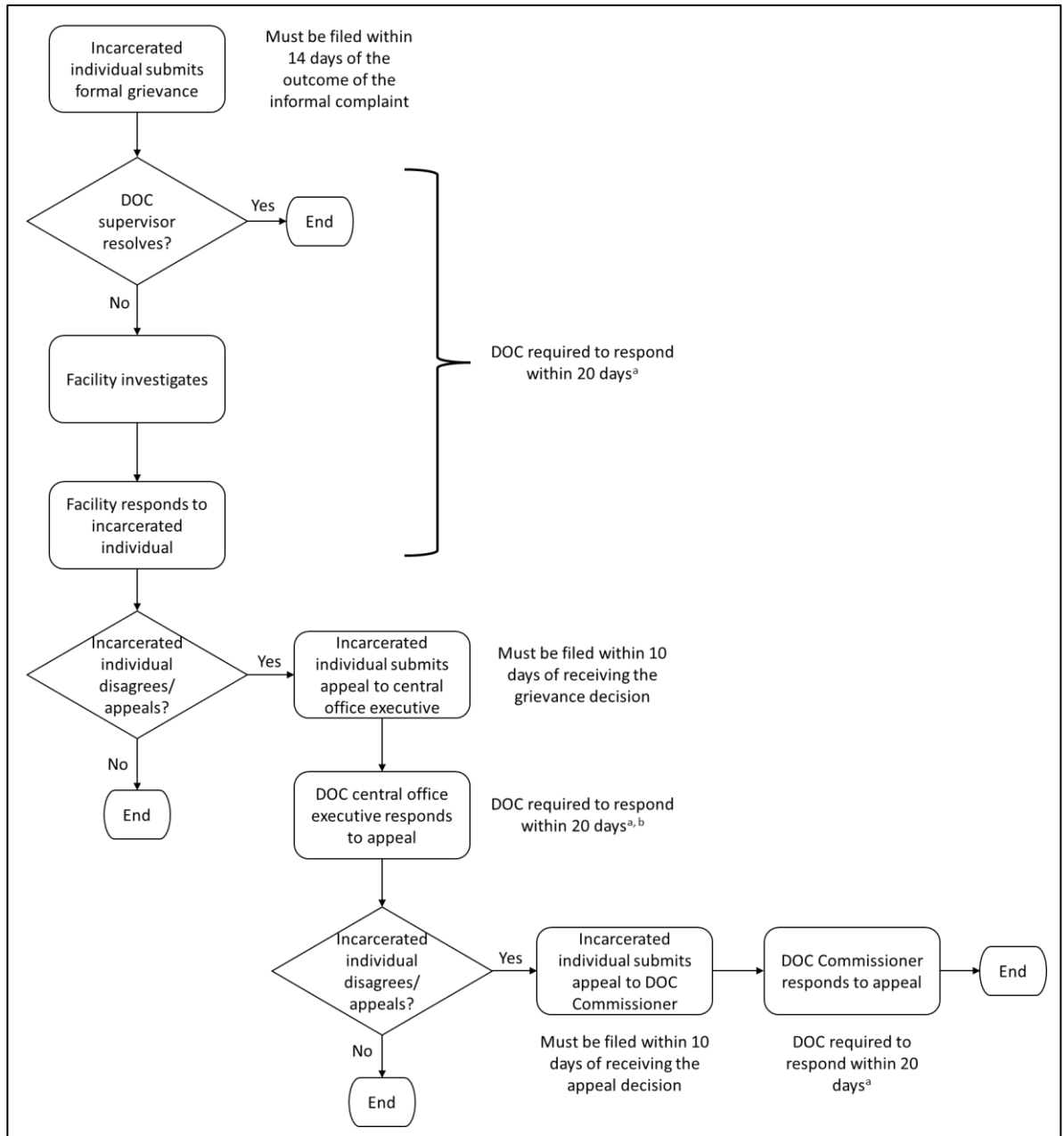
³⁵ DOC defines an emergency grievance as one that presents: (1) a threat of death or injury, (2) a threat of disruption of facility operations, or (3) a need for prompt disposition because the time is lapsing when meaningful action or decision is possible.

³⁶ Upon admission to a facility, DOC provides incarcerated individuals with a [Notice of Right to Grieve](#), which lists the types of conditions that are and are not eligible to be grieved.

Appendix III

Flowchart of the Standard Formal Grievance Process

Figure 1: Flowchart of the Standard Grievance Process (All Days are Business Days)



^a DOC's grievance rule allows DOC to take a 20-day continuance with written notice to the incarcerated individual. The Central Office grievance coordinator stated that continuances are no longer being issued.

^b DOC's new grievance policy, effective September 19, 2022, eliminated this appeal level.

Appendix IV

Example of a Grievance in OMS

Figure 2 is an example of a grievance record in OMS. This example illustrates (1) the type of data that can be recorded in OMS that was not entered, (2) types of paper forms that are scanned into OMS, and (3) that it was closed even though the Central Office grievance coordinator confirmed that DOC did not reply to the incarcerated individual’s appeals.

Figure 2: Example of a Grievance in OMS

Summary Screen

Grievance #	Date	Status
146232	06/25/2021 10:34	Closed

Category: (Misconduct - Staff)
 Subjects: ██████████
 Witnesses:
 Narrative Authors: ██████████
 Narrative: States that a CO was calling him names, humiliating him and kicked his cell door shut on his finger, then denied him medical attention. Also states the CO was trying to get other inmates to harm him and teach him a lesson.

Detail Screen – Attachment Tab

On Summary
Screen
↓

Normally No
Data
↓

On Summary
Screen
↓

See Below
Screen Shot
↓

Not Used
↓

Categories	Subject(s)	Witnesses / Other Involvement	Details / Narratives	Attachment(s)	Staff Response And Assignment	Custom Forms	Reports
Start Date: 9/27/2022 End Date: 10/8/2022				Print Scan Scan Options Import Export Remove			
Document Category: <input checked="" type="checkbox"/> All Dates <input type="checkbox"/> All Bookings				<input type="checkbox"/> Public Only			
<input type="checkbox"/> Select \ Unselect All							
Selected	Date/Time	Name	Category	Description	File Type		
<input checked="" type="checkbox"/>	07/29/2021 12:07	Decision Appeal to Corrections Execu...	Due Process and Incident Reportn...	Grievance 5; received 7/16	PDF		
<input checked="" type="checkbox"/>	07/29/2021 10:29	Decision Appeal to Corrections Execu...	Due Process and Incident Reportn...	Grievance 7; received 7/16	PDF		
<input checked="" type="checkbox"/>	06/28/2021 11:29	Offender/Inmate Grievance Submissi...	Due Process and Incident Reportn...	Emergency Grievance- Retalibaion Allegation	PDF		
<input checked="" type="checkbox"/>	06/25/2021 10:36	Offender/Inmate Grievance Submissi...	Due Process and Incident Reportn...	Staff Misconduct	PDF		

Detail Screen – Staff Response and Assignment Tab

Categories	Subject(s)	Witnesses / Other Involvement	Details / Narratives	Attachment(s)	Staff Response And Assignment	Custom Forms	Reports
Staff Responsible		Event Type		Start Date		Comments	
Next Step Designee		Outcome		End Date		Appeal By Date	
						Add Record	
Responder Staff Name	Next Step Designee	Start Date	End Date	Event Type	Outcome	Comments	Appeal By Date

As of November 14, 2022, data could not be entered into the start and end date fields.

These attachments contain (1) original grievance, (2) second grievance alleging retaliation, and (3) two appeals. DOC did not respond to the appeals.

When filled in, this tab is used to record the levels that the grievance has gone through and the outcome for each level (e.g., resolved, denied).

Status recorded as closed even though no response to appeal.

Appendix V Comments from Management

The following is a reprint of management's response to a draft of this report.



Agency of Human Services

State of Vermont
Department of Corrections
NOB 2 South
280 State Drive
Waterbury, VT 05671-2000

(Phone) 802-241-2442
(Fax) 802-241-0020

December 14, 2022

Electronic Mail—Return Receipt Requested

Mr. Douglas R. Hoffer
Office of the Vermont State Auditor
132 State Street
Montpelier, VT 05633-5101

Dear Mr. Hoffer:

Thank you for your recent draft report titled, "Department of Corrections: Significant Deficiencies Demonstrate Need for Overhaul of the Prisoner Grievance Process." The Department of Corrections (hereafter "the Department") appreciates the opportunity to contribute to this effort. Please enclose this letter in your final report in your appended "Comments from Management."

In early 2023, the Department will develop a plan to address the issues facing the Department's tracking of and response to grievances. Specifically: shortcomings of the Department's system used to record grievances ("grievance system"), inadequate training on responding to grievances, and lack of executive oversight of the grievance process.

Grievance System Modernization

The Department recognizes its current grievance system requires modernization and investment. The current system is antiquated, manual, lacks functionality to transparently display data, and hinders Department leadership from exercising system-wide oversight.

The Department also affirms and fully agrees on the importance of an effective grievance system for those in its care and custody. The grievance process is a primary pathway through which incarcerated individuals report concerns and seek redress, and it plays a key role in alerting Department staff to issues requiring immediate resolution. A modern and reliable grievance system is necessary to ensure a successful grievance process.

The Department planned for a major redesign of its grievance system as part of its new Offender Management System (OMS) contract bid process next year (2023). However, given the timeframe for a comprehensive overhaul, the Department will expedite structural and technological changes to the grievance process immediately, including the creation of a plan for the digitalization of grievances.

Appendix V

Comments from Management

The Department will seek solutions to create an e-grievance system leveraging the tablets already in use by Vermont's incarcerated individuals. A backup manual system will be retained in case of technological failure, or for those who require an accommodation to the digitized process.

Upon establishing a plan, the Department will work with its tablet vendor, or another technology vendor, to allow automated reporting, dashboarding, and trend analysis enabling Department executive leaders to quickly identify key trends in the grievance process and take appropriate corrective action.

Corrections Investigative Unit

The Corrections Investigative Unit (CIU) was statutorily authorized by the Vermont Legislature in 2021 in 28 V.S.A. § 124 and given authority to investigate allegations of violations of the federal Prison Rape Elimination Act (PREA); major incidents including escapes and deaths of individuals in DOC custody; compliance with DOC policies, procedures, and directives; the movement of contraband in facilities; and threats against staff and incarcerated individuals. The statute also authorizes coordination with external law enforcement and investigative agencies.

The Department will launch the CIU and charge it with internal auditing of the grievance process. As part of its commitment to improve its grievance process and to ensure greater transparency in this commitment, the Department will immediately staff and fund this unit using existing resources within the Department. A CIU is considered a best practice, and its addition will add accountability and oversight to Vermont's correctional system.

In the interim, and until a final determination is made of the proper executive-level authority to oversee the grievance process, the Department's General Counsel, an exempt executive-level position that reports directly to the Commissioner of the Department of Corrections, will provide oversight of the grievance process.

Training

Further, the Department recognizes training will play a key role in ensuring all Department staff properly respond to grievances, including the use of any new systems or technologies deployed in the coming months. The Department recently developed a new training on the grievance process that reflected the updates of the grievance policy; this training will be part of the Vermont Correctional Academy Curriculum henceforth (please see the attached PowerPoint for greater detail) and will be available to all current staff.

Work Already Underway

The Department retained external corrections experts to review its grievance system and full investigatory processes; this work began in 2021 and continues today. The Department will expand this work to include the resolutions described above and will partner closely with these experts to design and implement the reforms in a timely manner.

The Department operationalized specific changes to its grievance policy in September 2022, following the conclusion of your investigatory period. These changes included new procedures and updates to OMS, such as an "Emergency" category that can be selected when uploading grievances into the

The PowerPoint document is not included in this report.

Appendix V

Comments from Management

system. The Department also refined the grievance categories in OMS after the investigatory period; it is awaiting finalization and deployment of those changes.

I hope these immediate actions demonstrate a genuine interest in improvement and a good faith attempt by the Department to tackle these important and challenging system changes. Thank you for the thoughtfulness and thoroughness of your review of the Department's grievance system and your detailed recommendations. I look forward to continuing this conversation as we move to modernize Vermont's correctional system and make it safer, healthier, and more humane.

Sincerely,



Nicholas J. Deml
Commissioner

Appendix V Comments from Management

Vermont Department of Corrections Responses to State Auditor's Office Recommendations

Auditor Recommendation	Report Pages	Issue	DOC Response
<i>1. Establish standardized written requirements, guidance, and procedures for deleting grievance records in OMS.</i>	5-6	<i>There were grievance records in OMS that were deleted. DOC has no written procedures on whether or when it is appropriate to delete a grievance in OMS. DOC also does not require prior approval for grievance deletions or require staff to record the reason why and does not monitor who has deleted files or when this occurs.</i>	The Department plans to include specifications for deleting grievance records to be developed and incorporated into a tech guide as part of the new digitized grievance system.
<i>2. Establish data entry controls to ensure that grievance records are accurate, complete, and include sufficient information for DOC to reliably track and compile reports on grievances, including the number, type, facility, status, and outcomes.</i>	7-9	<i>OMS grievance data were often missing, inaccurate or unusable. OMS does not have data entry controls to identify and correct omissions or errors during data entry.</i>	The Department plans to develop workflows for data entry specifications for grievances within its digital grievance system to ensure data is complete and accurate. This will be incorporated into a digital grievance and OMS tech guide.
<i>3. Establish guidance and definitions for the proper use of OMS fields, including use of the category, status, event, and outcome fields</i>	7-9	<i>OMS grievance data were often missing, inaccurate or unusable. DOC has not issued guidance and definitions regarding the proper use of OMS fields.</i>	The Department plans to develop a digital grievance/OMS tech guide and data dictionary to incorporate definitions of each category, status, event, and outcome field. This will correspond with directions on how to properly use digital grievance/OMS fields to streamline data entry.
<i>4. Establish, within OMS or elsewhere as needed, the ability to track departmentwide: (1) the dates informal</i>	8-9	<i>DOC's grievance rule and policy require that incarcerated individuals and DOC complete the grievance</i>	The Department has updated OMS to include an "Emergency" category that can be selected when uploading grievances into the

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The PowerPoint document is not included in this report.

<p><i>complaints, formal grievances, and appeals are received and the dates individuals are provided responses, (2) records of emergency grievances, (3) any action DOC has agreed to take and whether it has done so, and (4) the open and closed status of each informal complaint, formal grievance and appeal.</i></p>		<p><i>process steps within certain timeframes. OMS does not collect data that could be used to determine whether DOC meets these requirements. In addition, DOC may agree that a grievance warrants that it take action, but OMS does not have a field to record the actions DOC has agreed to take in response to a grievance nor that the action does in fact occur.</i></p>	<p>system; there is also an open and closed functionality in place, but not for each individual level. The current practice is to open and close the grievance at the highest level. Grievances officially remain closed once they have been considered resolved. Looking into 2023, the Department will transition to a new digital grievance tablet-based system that will automatically incorporate these milestones, statuses and automated reporting mechanisms for Department-wide tracking and response.</p>
<p><i>5. Provide comprehensive, standardized training in the grievance process and recording data in OMS to all staff responsible for providing written responses and maintaining grievance records.</i></p>	<p>9, 15-16</p>	<p><i>DOC has not trained authorized staff to enter information into the system and the staff members we spoke with commonly cited a need for OMS grievance training. In addition, DOC's responses to grievances were sometimes vague, did not address the issue grieved, or were limited to stating that individuals should take actions already taken. DOC has not established training for answering grievances.</i></p>	<p>The Department has developed a new training on the grievance process that reflects the updates of the grievance policy that will be part of the Academy Curriculum. Please see PowerPoint provided. Please note this training material will be updated in 2023 to reflect the new digital grievance tablet process. Core power users for the new system will also receive specialized focused training and help train other members of the Department. The Department will also consider making mandatory a training in its Learning Management System to ensure the entire Department is trained on grievances.</p>
<p><i>6. Ensure staff follow established requirements, including conducting departmentwide oversight</i></p>	<p>9, 15-17</p>	<p><i>DOC has not established oversight and monitoring controls to identify whether and</i></p>	<p>The Department has temporarily assigned the General Counsel as the interim executive responsible</p>

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<p><i>and monitoring to identify and correct issues.</i></p>		<p><i>when data entry issues occur. For example, DOC does not run reports of the grievance IDs to identify and follow-up as needed on potential issues. In addition, the last time an internal audit of the grievance processes at the in-state facilities occurred was in 2012—10 years ago.</i></p>	<p>for monitoring the oversight of the grievance process. Some of this responsibility will be re-assigned with the establishment of the Corrections Investigation Unit (CIU), where the unit director will be the executive responsible for internal auditing of the grievance process. Monitor and oversight will include self-reporting audits by site grievance coordinators and semi-annual visits across the state to address issues in person. A monthly check in with each coordinator, or all coordinators together, will be part of the interim oversight until the CIU is established. The new digital grievance system will also provide data summaries, tracking, and trend analyses for better executive-level management and oversight.</p>
<p><i>7. Ensure that incarcerated individuals receive a written response to each formal grievance and grievance appeal submitted. In instances when the response includes that DOC will take some action, ensure tracking and confirmation demonstrating that it has happened.</i></p>	<p>11-15</p>	<p><i>OMS did not always have evidence showing that DOC (1) investigated and/or responded to a grievance or (2) responded to a grievance appeal. In addition, no one, including facility superintendents and DOC executive management, tracked whether or when responses that say DOC will take action have in fact been occurring.</i></p>	<p>With a digital process in place, there will be additional controls to determine that grievance responses and outcomes have been confirmed and communicated back to the grievant. Currently, OMS tracks the responses before the responses are provided to the grievant. A digital grievance system will create an instant and definitive “paper trail” that will record grievance outcomes and current grievance statuses system wide. Grievances requiring action will be automatically surfaced for the Department.</p>

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<p>8. Track that all grievances alleging staff misconduct are investigated, either through OMS or another mechanism, to include when allegations are reported to DHR and investigated.</p>	<p>12-13</p>	<p>There is no way to systematically determine whether DOC has reported all allegations of staff misconduct to DHR or had them investigated because DOC does not record information on the results of investigations into employee misconduct grievances on the grievance forms or the OMS grievance records. Because of the lack of systematic tracking, DOC leadership may not be aware that there is a misconduct complaint for which an investigation was not completed or that there was a pattern of complaints.</p>	<p>The Department seeks to implement updated tracking of all grievances, including those documenting alleged staff misconduct, through the new digital grievance system. The Director and staff of the CIU will be charged with independently overseeing this process and providing regular updates to the Commissioner, DHR, Office of the Governor, and other stakeholders as appropriate.</p>
<p>9. Establish written guidance and procedures for staff responsible for answering grievances, that provides thresholds and examples of DOC's expectations for the content of responses including ensuring that the response addresses the issue grieved.</p>	<p>14-15</p>	<p>DOC's responses to grievances were sometimes vague, did not address the issue grieved, or were limited to stating that individuals should take actions already taken. DOC has not established guidance for answering grievances.</p>	<p>In the immediate term, Department has developed a new training on the Grievance Process that includes examples of responses that directly address the grievant's concern. Please see PowerPoint provided. For 2023, in partnership with its technology vendor and external consultant, the Department will amend its current training materials to reflect the new digital grievance system and CIU investigatory workflows.</p>
<p>10. Assign responsibility for the grievance process to a DOC executive,</p>	<p>15-17</p>	<p>DOC has not assigned a member of its executive team to be</p>	<p>The Department has temporarily assigned the General Counsel as the</p>

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<p><i>including to monitor the extent to which the grievance process is performed in accordance with the rule and policy and to review the process as a whole to recommend improvements to the process and OMS.</i></p>	<p><i>responsible for the grievance process as a whole so there is no one at the executive level to identify and recommend solutions to the deficiencies we identified, including in areas such as training, monitoring compliance, identifying system solutions, and analyzing grievance data for patterns or concerning or anomalous data.</i></p>	<p>interim executive responsible for monitoring the oversight of the grievance process. Some of this responsibility will be re-assigned to the Director of the Corrections Investigation Unit once established.</p>
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