

2018 – 2019 Civil Grand Jury

Riverside County Sheriff's Department's Inconsistent Application of Privileges and Rights within the County Detention Centers

Background

The Robert Presley Detention Center (RPDC), located at 4000 Orange Street, Riverside, California is operated by the Riverside County Sheriff's Department (RCSD) and houses inmates/detainees who have been convicted of a misdemeanor or a felony and serving their sentences or are waiting for a court appearance.

The RPDC has various programs for the inmates/detainees ranging from recreational, educational, religious, counseling, including self-help, access to a library as well as other opportunities.

The RCSD is responsible for meeting and upholding Federal and State laws, and local ordinances, through the provision of a responsive, innovative and efficient public safety partnership with the community. This relationship also applies to those persons detained or incarcerated under their supervision. With the implementation of AB109 – Public Safety Realignment that became effective October 1, 2011, county jail facilities are now operating as quasi-prisons. County jails/detention centers were originally designed as short-term incarceration centers for sentences of one year or less. Those detained in the local jail system who fall under AB109 guidelines, are now serving longer sentences, some up to 20 years. The jails are not equipped or prepared to support long term inmates/detainees.

A January 2019 article in the Press-Enterprise (PE) regarding a hunger strike of inmates/detainees housed in the Administrative Segregation (AD-SEG), prompted an inquiry by the Riverside County Civil Grand Jury (RCCGJ). The main issues which prompted the hunger strike centered on the way that AD-SEG classification reviews are conducted and the lack of an equitable appeal process. There were also concerns pertaining to the consistency of implementation of inmate privileges.

This report will focus on two areas: 1. the method and process for classifying an inmate/detainee for (AD-SEG) placement and mandated 30-day review and 2. the stated policy – Title 15 of giving inmates in AD-SEG their 30 minute allotted time for recreational and shower access each day.

While this report addresses issues at RPDC in January 2019, information contained in the Findings and Recommendations sections of this report are also relevant to the other County detention centers: Cois M. Byrd Detention Center, Larry D. Smith Correctional Facility, John J. Benoit Correctional Facility and the Blythe Jail.

ADMINISTRATIVE HOUSING (AD-SEG) POLICY 504.01

When an inmate's presence within a facility's inmate population presents a potential threat to the inmate's own safety, the safety of others, endangers facility security or jeopardizes the integrity of any investigation, the inmate may be placed in administrative housing.

Administrative Custody is defined as: the status of confinement intended for those inmates whose presence poses an imminent threat to other inmates, the facility or facility staff. Administrative Custody is non-punitive in nature. Inmates in administrative custody have access to programs and services as other inmates based on their classification designation.

Administrative Housing is defined as: Administrative housing is intended for administrative custody inmates. Administrative housing is non-punitive in nature and will allow administrative custody inmates to be housed with a cell mate, access to telephones, dayroom and showers as well as personal interaction with a limited number of inmates. Administrative housing provides administrative custody inmates an opportunity to begin the process of returning to a "general population" housing unit by providing an environment where they can demonstrate their ability to be housed in a less restrictive setting.

CLASSIFICATION POLICY 504.02

The Riverside County Sheriff's Department recognizes its duty to protect inmates in its care, custody and control. The Riverside County Sheriff's Department shall establish procedures for the objective classification of all inmates to provide a basis for decisions concerning housing, supervision, protection and the provision of services.

Section 6.0 of Classification Policy 504.02, the Classification Assessment Form (P504.02) is designed to assist the Sheriff's Department in assigning inmates to housing units and activities according to the categories of sophistication, seriousness of offense...assaultive/non-assaultive behavior, previous institutional history, if relevant, and security of the facility.

Section 9.0 of the Classification Policy 504.02, pertains to the reclassification and review process for an inmate/detainee placed in AD-SEG. All inmates/detainees assigned to AD-SEG have their classification reviewed at least every 30 days to ensure that the reason(s) still exist for continued placement. This review is conducted solely by a Classification Sergeant specifically trained in this area. The Classification Sergeant not

only places the inmate in AD-SEG, but also is the staff member who processes any subsequent reviews or grievances filed by the inmate/detainee protesting their placement or continued placement in AD-SEG. The Gang Task Force Sergeant may also be present to give input to ensure there is no gang influence exerted into the General Population, especially if the inmate/detainee being placed in AD-SEG is a verified gang member or affiliate.

Classification Deputies, who are also specifically trained in the classification process, are responsible for informing inmates/detainees of the reason(s) for their placement in AD-SEG per Section §9.4 of the Classification Policy 504.02.

If an inmate/detainee opposes their placement in AD-SEG, they may file, in writing, an informal review of their classification status. Jail staff (Classification Sergeant), shall conduct this review within 72 hours of receipt of the written request and inform the inmate/detainee of the results of the review.

GRIEVANCE/WRIT PETITION POLICY 507.02

The Corrections Division shall accept inmate grievances. Any inmate using form RSD 559 may file a written grievance to complain about any condition of confinement over which RCSD has control.

Section 1.0 Definition

An inmate grievance is an allegation by an inmate regarding any current condition of confinement, act, rule, and policy, written or unwritten in which an inmate feels their rights or privileges have not been recognized or have been violated. Typical grievances range from, but are not limited to, classification actions, programs access, telephone usage, day room access, mail distribution, disciplinary actions, food quality, clothing, bedding and hygiene items allotment. Staff members are encouraged to resolve inmate grievances at the lowest appropriate level. However, serious grievances such as the use of force, employee misconduct, lack of or improper medical, dental, and mental health care, or failure to protect, shall be brought to the immediate attention of a supervisor.

There are several steps or levels an inmate is entitled to pursue in order to get an issue resolved. Per Section 2.8 – Appeal Process of the Grievance/Writ Petition Policy 507.02, stipulates that an inmate/detainee may send his/her appeal up to the Commander's level (Captain), in order for an issue to be resolved.

METHODOLOGY

Interviews

- Inmate who wrote the grievance and was directly involved in the hunger strike – January 2019
- Correctional Lieutenant
- Correctional Sergeant
- Correctional Corporal

Documents Reviewed

- Administrative Housing Policy 504.01 (last revised 4-12-19) – RCSD
- Classification Policy 504.02 (last revised 10-30-17) – RCSD
- Specialty Housing Policy 504.11 (last revised 6-1-2016) – RCSD
- Grievance/Writ Petition Policy 507.02 (last revised 6-6-18) – RCSD
- Board of State and Community Corrections (BSCC), State of California, Manual Title 15 – Crime Prevention and Corrections; Division 1, Chapter 1, Subsection 4; effective January 1, 2019
- Inmate Orientation Manual (last revision noted 2016) – RCSD
- Letter listing of inmate grievances which prompted the hunger strike from inmate on hunger strike
- 2017-2018 Riverside County Civil Grand Jury Report – Riverside County Sheriff's Department, Corrections Division, Correctional Centers, Inmate Services issues
- Press-Enterprise Newspaper article dated January 22, 2019-*Riverside County jail inmates hope hunger strike will lead to policy changes*
- Press-Enterprise Newspaper article dated April 17, 2017-*Why some Riverside jail inmates are on a hunger strike*
- Riverside County Sheriff Department Law Enforcement Code of Ethics
- Riverside County Sheriff Department Law Enforcement statement of "Our Values"
- Riverside County Sheriff Department Law Enforcement Mission Statement

FINDINGS

Inequality in the Application of the Grievance/Writ/Appeal Process and Staff Responses

1. According to §9.1 of the Classification Policy (504.02), inmates who disagree with their AD-SEG placement status are only allowed the recourse of filing a grievance at the informal level. The policy requires a response to be given by the Classification Sergeant within 72 hours. Inmates placed in AD-SEG housing are not allowed to be present during the review of the grievance. As a result, they are not given the opportunity to make a statement or give any factual or mitigating reason(s) or evidence for their removal from AD-SEG status. They are not allowed to

be present for any 30-day review. The inmate's/detainee's options are further restricted as the policy makes no provision to file a more formal appeal to a Lieutenant or Captain to protest his/her placement.

However, it is important to note that for all routine grievances inmates/detainees are allowed, per the Grievance/Writ Policy 507.02, Section 2.8.4, to appeal an issue up to the Commander (Captain) level.

Based on this policy, inmates/detainees may appeal any issue up to the level of Commander, except for an inmate/detainee appealing their AD-SEG placement status, who is restricted to only being allowed to file at an **informal** level.

Inconsistency in Applying Privileges

2. Based on the Press-Enterprise article of January 2019, in addition to the testimony provided, there is a continuing pattern of the basic issues being addressed with the inmate/detainee population in regards to the grievance references in the year 2017 and now in 2019.

One of the biggest issues prompting the hunger strike was the inconsistent and capricious application of the 30 minute free period allotted each day to the inmates/detainees. This time allows them to take advantage of privileges such as telephone access and day room time which includes being able to take a shower. Some of the complaints reported time was cut short for various reasons, and was not compensated for at a later time. Inmates/detainees are entitled to their allotted time under the written policies.

AD-SEG inmates are housed in individual cells for 23.5 hours per day. Some inmates who are deemed compatible to be housed together through the classification process may be placed in a two-person cell for housing consolidation. Preventing, denying or curtailing the allotted time with no appropriate alternative to compensate for lost time, is not only unfair, but could be interpreted as cruel treatment.

When inmates/detainees raise concerns about issues on the limitations of their privileges, the concerns would be corrected for a few weeks or months, and then staff would revert back to their "old ways".

This inconsistency of access to privileges and programs caused the inmate population to question whether corrections' policies are enforced, or how much arbitrary discretion staff is allowed in following them.

Detention Centers Take Reactive Stances to Issues

3. There is currently no mechanism in place for inmates to bring issues to staff that affect them, other than through the grievance process. To notify

management about any issues of concern, inmates/detainees must file individual grievances. This is a REACTIVE stance.

Recommendations

Riverside County Board of Supervisors Riverside County Sheriff's Department

Inequality in the Application of the Grievance/Writ/Appeal Process and Staff Responses

1. The RCSD must ensure that the grievance/appeal process, which is afforded to every incarcerated/detained person, be universally applied to all situations. Those housed in AD-SEG units must be afforded the same opportunity and right as any other inmate/detainee, to appeal their placement up the chain-of-command to a Commander (Captain) level.

All policies and procedures must be reviewed and updated annually to ensure conflicting or inconsistent information is corrected. A dated annotation should indicate that policies are reviewed every year, even if no changes were needed. This would ensure policies are routinely checked and remain current. All grievances, including those for AD-SEG placement, should be reviewed at the Lieutenant level and possibly the Commander/Captain level. This would provide a balanced oversight process and comply with other appeals that may rise to the Commander's level for review.

In addition, all grievance responses from any staff member must be reviewed by a Lieutenant to ensure the response is professionally written and appropriate since ultimately, grievances could be subpoenaed by a court as evidence.

Inconsistency in Applying Privileges

2. All correctional policies must be enforced, especially in regards to privileges, in order to maintain stability and assure the inmate population that all policies will be consistently enforced and not be applied capriciously. Staff must not create a work culture of deliberate indifference or institutional complacency.

When situations occur which disrupt the inmates'/detainees' normal routine of rights and privileges, there must be a mechanism in place to ensure the inmates'/detainees' privileges and rights are promptly restored keeping in mind security. Inmates should not be unnecessarily deprived of their entitlements without a contingency plan in effect. Consistency and continuity are key elements in a correctional setting.

Detention Centers Take Reactive Stances to Issues

3. The RCSD should develop a workable plan for inmates to bring their grievances or issues to a manager, on a consistent monthly basis. This would allow potential issues to be addressed and rectified before they escalate. This could take the form of a mutually agreed upon method. A face-to-face discussion would be best, but if this is not practical for security purposes, another workable method should be considered. This process would be a great example of taking a proactive stance.

This plan to bring issues to management's attention on a monthly basis is not intended to, nor should it replace, individual grievances which inmates/detainees have a right to file at any time. The purpose of this plan is to bring issues to management's attention on a monthly basis in order to resolve them quickly. It would allow management a real-time opportunity to take a proactive stance in addressing and correcting issues quickly, before they escalate to a reactive situation which could result in a hunger strike or worse.

Proactive stances and approaches to issues or concerns are not only more desirable and productive, but also are more effective than reacting to a situation after the fact, to rectify an issue.