

Date: _____

To: Director of Arizona Department of Corrections
Charles L. Ryan
1601 W. Jefferson
Phoenix, AZ 85007

Subject: Retaliation & Conspiracy to Violate Inmates' First Amendment Rights
RE: _____ (facility name)

Dear Director,

The primary problem concerns Arizona State Prison Officials' conspiratorial practice to violate inmates' First Amendment rights. Part of this practice consists of manifold reprisals and deliberate disregard for rules and regulations which govern their duty to receive, process and answer inmate grievances according to Department Order 802, in compliance with 28 CFR Part 40; Order 95781, Standard for Inmate Grievance Procedure.

According to the Department Order 802 - Inmate Grievance Procedure the purpose of Department Order 802 is to provide prisoners with access to an inmate grievance as an opportunity for informal resolution and formal review of an issue impacting conditions of confinement or institutional life that personally affects the prisoner griever. This Department Order provides timely administrative remedies to prisoners' complaints which might otherwise unnecessarily burden the courts.

All Department staff are responsible for promoting meaningful dialogue and timely written communication with prisoners to resolve prisoner complaints and disputes at the lowest possible level at the earliest possible opportunity. The Division Director for Offender Operations is responsible for the overall operation of the Inmate Grievance Procedure under the direction of the General Counsel and the Central Office Appeals Unit Administrator. Appeals Officers are responsible for monitoring the effectiveness of the procedure and ensuring that all appeals are presented to the Director for review. Wardens are responsible for ensuring that they serve as the first level of appeal in the grievance process, that there are no barriers between inmates and the grievance system (D.B.802.01.1.7), and Department staff follow all procedures outlined in this Department Order.

Under Article II Section 5 of the Constitution of the State of Arizona, the right of petition and of the people peaceably to assemble for the common good shall never be abridged. The Universal Declaration of Human Rights guarantees under Article 8: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the Constitution or by law."

Prison officials can ban petitions, like those asking for improvements in prison conditions, as long as prisoners have other ways to voice their complaints, like through the Inmate Grievance Procedure. (*Duamutef v. O'Keefe*, 98 F.3d 22 (2d Cir. 1996)) Similarly, 42 U.S.C. § 1997(e) Applicability of Administrative Remedies reads: "(A) No action shall be brought with respect to prison conditions under Section 1983 of this Title or by any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility, until such administrative remedies as are available are exhausted."

However, when we exercise use of the grievance procedure, Arizona Department of Corrections (ADC) Officials join together to harass and retaliate against us with a combination of any of the following unethical acts. I have personally experienced the harassment I have marked with an X:

- 1) Refuse to answer 802s
- 2) Refuse to give receipt for 802s
- 3) Claim to never have received 802s from prisoners
- 4) Claim to return 802s to prisoner (prisoner never receives 802)
- 5) Use the prisoner appeals screening process to manipulate improper, excessive, and repetitive delays.
- 6) Detaching prisoners' supporting documents from 802s and returning 802s to prisoners with written statement refusing to process 802s because no supporting documents accompany 802s
- 7) Dishonesty in "screening out" 802s (this unethical method is used in the "Rejection

Criteria" to obstruct the 802 from ever being processed)

___ 8) Reporting deliberate false information in the course of responding to 802s

___ 9) Punitive and harassing cell searches to dissuade submittal of 802s and/or instigate other prisoners against the grievance to influence or coerce the withdrawal of 802s

___ 10) Intra-facility, intra-housing, and inter-cell transfers; reclassification, subsequent unassignment, and disregard for reassignment, etc.

Such acts of moral turpitude are some of the dirty tricks used in their collusive practice of reprisals. They are concerted acts which violate the Conspiracy Law of Title 42 U.S.C. 1995(3) and 1986. They are underhanded attempts to assail our efforts to be heard - to frustrate our use of the grievance procedure - and render the "vehicle for review" ineffective. Thus, we become disturbed with a mental anguish that compels us to grab and adopt other means and channels through which to seek and obtain resolution.

The obligation to exhaust under the Prison Litigation Reform Act (PLRA) only applies as long as some remedy remains available or a prisoner has been reliably informed that administrative remedies are not available. (*Brown v. Valoff* 422, F.3d 926, 935 (9th 2005))

The United States Supreme Court requires prisoners to exhaust administrative remedies *only to the extent that a remedy remains available*, before entering the arena of judicial review. However, this process becomes unfairly difficult when ADC officials tamper with the appeals process. ADC officials should understand and respect the reality (Law) that grievances filed through an official grievance procedure are Constitutionally protected, and deliberate interference with its procedure may result in civil or prosecutorial penalty.

Conclusion

This problem permeates the prison population and adversely affects numerous prisoners. Some prisoners decline to use the grievance procedure due to fear of reprisals. Others have witnessed uncorrected problems that fellow prisoners continue to experience and feel the use of the 802 lacks corrective action. Nevertheless, I persist in spite of the onslaught of reprisals. I suffer from many of the aforementioned unethical acts. I also have unanswered 802s in desperate need of location and resolution.

Therefore, I request a thorough and appropriate investigation to ascertain necessary facts to correct this unlawful problem.

Respectfully Submitted,

Signature: _____

Name, ID#: _____

Additional Information (Log #, comments, description of event, etc.): _____

CC: Facility Warden
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ACLU of Arizona, PO Box 17148, Phoenix, AZ 85011
Senator Kirsten Sinema and Senator Martha Mc.Sally, 2201 E. Camelback Rd., Ste 115, Phoenix, AZ 85016
Representative Raul Grijalva, 738 N. 5th Ave, #110, Tucson, AZ 85705
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