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# CHAIRMAN'S MEMORANDUM

## NO. 7-2005

### May 14, 2005

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**TO: JAIL ADMINISTRATORS & GRIEVANCE COORDINATORS**

**RE: Grievance Process**

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Over the past few years, the Commission has assessed county jails' compliance with 9 NYCRR, Part 7032, Grievance Program. As a result, the Commission found two areas of concern pertaining to grievance program access. First, inmates have been denied grievance forms because of their failure to utilize facilities' informal grievance procedures. Second, inmates have been denied grievance forms because facility staff were of the opinion that the issue(s) brought forth by inmates were not grievable, when in fact they were. The purpose of this memo is to provide updated and clarifying information relative to compliance with Part 7032 in the implementation of inmate grievance programs by county jails.

Pursuant to 9NYCRR, §7032.1, Policy, facilities shall make every effort to resolve inmate complaints in an informal manner. Many benefits are derived from informal resolution. For instance, this approach makes housing unit officers and immediate supervisory staff responsible and accountable for resolving problems in their housing areas, rather than simply advising inmates to file a grievance.

Some facilities have elected to implement procedures whereby inmates are required to exhaust an "informal" process prior to being issued a grievance form. While the Commission encourages inmates to participate in such procedures, there is no requirement for inmates to engage informal procedures as a prerequisite to formal grievance procedure access. Rather, it is solely incumbent upon the facility and its staff to attempt to resolve issues informally, when possible. Accordingly, facility staff cannot refuse an inmate a grievance form based on his/her decision not to participate in an "informal" grievance process.

Pursuant to 9NYCRR, §7032.4(d) facilities shall make forms readily available so that an inmate may file a grievance within five days of the date of the act or occurrence giving rise to the grievance. The Commission defines **readily available** as within 24 hours of the inmate's request. This will provide facilities sufficient time in their effort to resolve complaints informally. Additionally, since grievance forms must be issued within 24 hours of request, arrangements must be made for sufficient access to the forms by facility staff not only during the normal business days, but on weekends and holidays as well.

Section 7032.4(h) precludes any staff member other than the grievance coordinator from making determinations as to whether a grievance subject is grievable. This means that inmate requests for grievance forms, if not informally resolved, shall be granted regardless of the subject. Further, once completed, grievance forms pertaining to any subject must be forwarded to the grievance coordinator for disposition. If the grievance coordinator determines that pursuant to Section 7032.4(h), the subject is not grievable, it may subsequently be returned to the inmate by the grievance coordinator.

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Alan J. Croce, Chairman/Commissioner

Frederick C. Lamy, Commissioner  
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One example of an issue often mistakenly viewed to be non-grievable pertains to inmate health care. As all facilities are required to provide adequate health care to inmates, such issues are grievable pursuant to Part 7032. Facility management should be judicious in their decisions rendered in determinations as to whether a particular issue is grievable.

Enclosed please find forms SCOC 7032-1, SCOC7032-2 and SCOC-INV. These forms have been modified and are now available in pdf format from the Commission's website ([www.scoc.state.ny.us](http://www.scoc.state.ny.us)). While facilities may elect not to use these forms, any substitute must include all information requested on the Commission's forms.

Please ensure that written procedures, inmate handbooks, related grievance forms and staff training/orientation programs reflect the issues outlined above.

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**Alan J. Croce, Chairman/Commissioner**

Enclosures