

NYC Board of Correction Analysis of COVID-
Related Grievances Received by
Department of Correction's Office of
Constituent & Grievance Services (OCGS)
May 1st to December 31st, 2020



**BOARD OF CORRECTION
CITY OF NEW YORK**

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INTRODUCTION AND KEY FINDINGS

On March 5, 2020 the Department of Correction's (DOC or the Department) Office of Constituent & Grievance Services (OCGS) began tracking COVID-related grievances. This report presents findings and information from the Board's review of complaints, concerns and requests for information received by OCGS from May 1st to December 31st and provides an update to the Board's analysis covering the March and April 2020 period published in June of 2020.¹ In reviewing and presenting these findings the Board seeks to understand the issues and concerns raised by people in custody, staff and their respective families during the COVID-19 pandemic and to identify opportunities for DOC and Correctional Health Services' (CHS) to improve COVID-19 response efforts moving forward.

Key Findings:

- From May 1st to December 31st, overall DOC received a total of 21,336 grievances (including concerns and requests for information), six percent (6%, n=1,327) of which OCGS categorized as COVID-related. During the height of the pandemic (in March and April 2020) OCGS received a total of 5,351 grievances with 19% (n=1,016) categorized as COVID-related.
- Over the May to December 2020 period, the jail population increased by 29% from a census of 3,824 on May 1st to a census of 4,940 on December 31st. The monthly total number of grievances received by OCGS increased by 111%, from a total of 1,728 in month of May to 3,644 in December, and the number of COVID-related concerns increased by 197% from 92 in May to 273 in December.
- Concerns about the lack of Social Distancing in the jails was the most frequent kind of COVID-related grievance received by OCGS (42%, n=561). Generally, people were concerned about not being able to keep 6 feet apart and feared they were at greater risk of contracting the virus.² A notable increase in the number of COVID-related grievances started in September and tracks the city's overall increase in COVID-19 transmission as well as the increase in the jail population.
- The Board's qualitative review of COVID-related grievances showed a repeated pattern of concerns from people in custody about being housed with individuals who could potentially be COVID-19 positive, with sixteen percent (16%, n=208) of grievances about people concerned with COVID-19 Exposure Safety and 6% (n=80) about a lack of COVID preventive measures.
- The Board's review of DOC investigations into 38 COVID-related grievances found that in 84% (n=32) the Department completed detailed investigations which addressed all concerns in the grievance filed.

¹ Board of Correction Report

https://www1.nyc.gov/assets/boc/downloads/pdf/Meetings/2020/June/BOC%20Analysis%20of%20COVID-Related%20Complaints_clean%20version_6.8.20%20_final.pdf

² The Board continues to receive complaints and concerns directly from people in custody, staff, family members, defense counsel, and advocates via phone, email, mail, and web form. Phone calls from jail to the Board are free and not monitored by the Department. Board staff developed a new complaint protocol to review these complaints or concerns and refer them to the appropriate agency for a response. The Board also reviews complaints to identify systemic and urgent issues which are escalated to DOC and CHS as appropriate. Of the OCGS grievances referenced above the Board referred 675 from March to December. This includes COVID and non-COVID related grievances.

RECOMMENDATIONS

1. **The city should prioritize decarceration and the Department should reduce housing area capacity.** Decarceration will minimize the spread of COVID-19 within the jails and from the jails to the community. Reducing housing area capacity would give people in custody and staff a better opportunity to practice social distancing which would minimize the spread of COVID among people in custody should there be an active infection. Forty-two percent (42%, n=561) of COVID-related grievances involved concerns about not being able to practice social distancing in housing areas and the Board's weekly housing area capacity analyses continue to find that over ~60% of people in custody are in housing areas that exceed 50% capacity and over ~30% are in areas that exceed 75% capacity, preventing implementation of effective social distancing strategies, such as alternate bed spacing in dorm units.
2. **DOC and CHS should continue to work together with the Department of Health and Mental Hygiene on their COVID-19 public health campaign to communicate health risks and what actions people in custody and staff can take to protect their health and the health of those around them.** The public health campaign should prioritize health education around vaccine safety and mask use in jail housing areas. The weekly flyers shared with people in custody and provided to the Board (and seen by Board staff during on-site inspections) are an important communication tool and include helpful and easy to understand information. While the flyers effectively communicate complex topics in plain language, complaints suggest that more should be done to get information to people in custody. In addition to written communication via the weekly flyers, DOC and CHS should complement these efforts with in-person or video education and materials in additional languages.
3. **CHS should provide COVID test results to people in custody in writing.** This will reduce fears for individuals who are concerned about their own health but also help assure people that new individuals placed in housing units have been tested to keep people safe.

BACKGROUND

The Board has been working closely with DOC's Office of Constituent and Grievance Services (OCGS) and reviewing all COVID-related grievances submitted to DOC. OCGS is the office responsible for handling complaints, concerns, and requests for information received from people in custody, family, attorneys, and others.³

DOC currently has 35 OCGS staff members. In addition to responding to 311 concerns (including from people in custody who can call 311 from their housing areas), OCGS civilian and uniform staff are assigned to each facility and, prior to the current pandemic, would tour all housing areas. Since March 5th, OCGS has been tracking COVID-related concerns in three main categories: Environmental (e.g., lack of access to PPE and cleaning supplies), Medical (e.g., concerns about COVID-19 exposure safety and access to medical care), and Staff (e.g., concerns about DOC staff from people in custody as well as grievances made by DOC staff members or their families regarding staff working conditions).⁴ Due to the pandemic, DOC civilian grievance staff are working remotely to review grievances and ensure they are addressed. Working from home has presented challenges and OCGS is currently working with limited staff capacity and modified services. To minimize disruption in services, 10 uniform grievance officers are still working directly in the facilities and distributing resolutions to people in custody.

HOW MANY COVID-RELATED GRIEVANCES HAVE BEEN FILED?

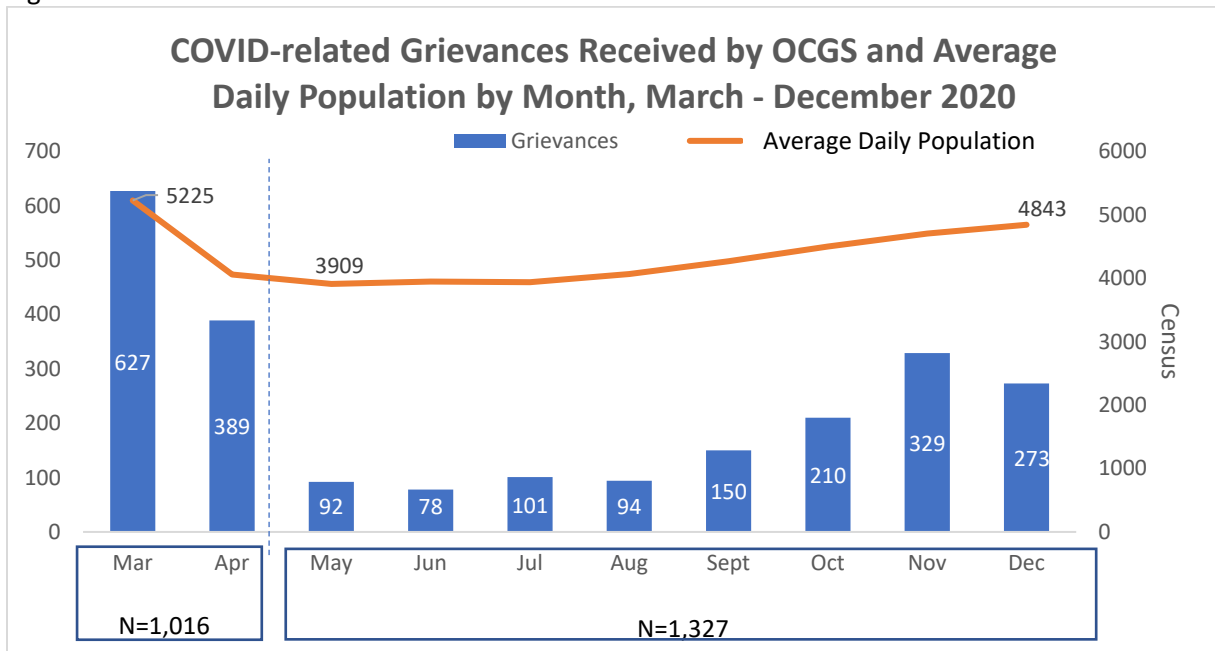
From May 1 to December 31st DOC received a total of 21,336 grievances (including requests for information). Six percent (6%, n=1,327) of these concerns were identified as COVID-related by OCGS.

Over this period the jail population increased by 29% from a census of 3,824 on May 1st to a census of 4,940 on December 31st. The monthly total number of grievances also increased by 111% from a total of 1,728 in May to 3,644 in December. The monthly total number of COVID-related concerns increased by 197% from 92 in May to 273 in December.

³ A "grievance" received by OCGS is not necessarily a complaint. It may be a question or an inquiry. Some may be directed to the wrong agency – for example, they may have been intended for the New York State Department of Corrections and Community Supervision (DOCCS), not the NYC DOC.

⁴ OCGS began tracking COVID-related Environmental grievances on March 5th, Medical H+H COVID-related grievances on March 6th and Staff COVID-related grievances on March 13th.

Figure 1.



Sources: OCGS Service Desk System and Average Daily Population calculated from DOC 5 am Census reports.

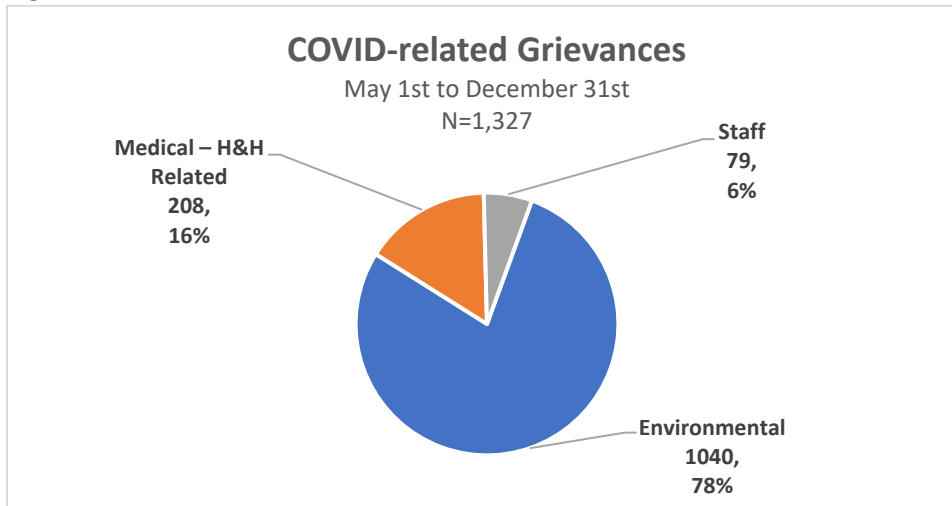
WHAT ISSUES ARE PEOPLE CONCERNED ABOUT?

COVID-Related Grievances

Since March 5, 2020, OCGS has been categorizing COVID-related grievances into three main categories: Environmental, Medical H&H, and Staff. From May 1st to December 31st, 78% (n=1,040) of COVID-19 concerns were categorized as Environmental (e.g., lack of access to PPE and cleaning supplies), 16% (n=208) were categorized as Medical H&H (e.g., concerns about COVID-19 exposure safety and access to medical care), and 6% (n=79) were categorized as Staff (e.g., concerns about DOC staff from people in custody as well as grievances made by DOC staff members or their families regarding staff working conditions). OCGS classifies COVID related grievances into four (4) subcategories: Related to Coronavirus, Coronavirus, PPE items / lack of, and Facility Cleanliness.⁵

⁵ The OCGS process for coding COVID-related grievances has evolved since the beginning of the pandemic. Originally OCGS began using the subcategory “Related to coronavirus” on March 5th, and subcategory “Coronavirus” on March 7th, “PPE items/lack of” on April 16th, and “Facility cleanliness” on April 20, 2020.

Figure 2.



Source: OCGS Service Desk System.

Note: This graph shows COVID-related grievances as categorized by OCGS’s three main COVID categories.

Table 1.

Total COVID-related Grievances 2020											
OCGS Categories and Subcategories	First Report N=1,016		Second Report N=1,327								Total
	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	
Environmental	217	215	50	48	71	67	131	185	282	206	1472
Coronavirus		1									1
Facility Cleanliness		4	6	8	10	3	9	23	15	26	104
PPE Items/lack of Related to Coronavirus		5	15	3	3	3	8	19	30	28	114
	217	205	29	37	58	61	114	143	237	152	1253
Medical – H&H Related	232	135	25	25	18	23	12	18	26	61	575
Coronavirus	232	135	25	25	18	23	12	18	26	61	575
Staff	178	39	17	5	12	4	7	7	21	6	296
PPE Items/lack of Related to Coronavirus			2	1	3		2	2	1	1	12
	178	39	15	4	9	4	5	5	20	5	284
Total	627	389	92	78	101	94	150	210	329	273	2343

Source: OCGS Service Desk.
Note: The OCGS process for coding COVID-related grievances has evolved since the beginning of the pandemic. OCGS began using the subcategory “Related to coronavirus” on March 5th, “Coronavirus” on March 7th, “PPE items / lack of” on April 16th, and “Facility cleanliness” on April 20, 2020.

COVID-related grievances by BOC categories

BOC staff reviewed and recoded all COVID-related concerns into more specific categories to better understand the underlying issues raised in the grievances.⁶ The more specific categories of grievances

⁶ BOC’s Grievance team reviewed all COVID-related complaints received by OCGS and recoded the grievances into 14 more specific subcategories to understand the underlying nature of the complaints.

identified by BOC were found in each of the three main categories used by DOC to classify covid-related grievances: Environmental, Medical H+H, and Staff. Table 3 provides examples of concerns reported in each category. The following five (5) more specific BOC-coded categories made up 84% (n=1,115) of all COVID-related grievances:

- 42% (n=561) were grievances about lack of social distancing occurring in the jails.
- 16% (n=208) were grievances about people concerned with COVID-19 exposure safety.
- 13% (n=167) were grievances about a lack of PPE and cleaning supplies.
- 7% (n=99) were grievances about COVID testing concerns.
- 6% (n=80) were grievances were concerns about a lack of COVID preventive measures.

Across all DOC categories and nearly all BOC-coded categories, COVID concerns increased from May to December. While in March and April, during the height of COVID in the jails, concerns about a lack of COVID preventive measures (PPE & cleaning supplies) were the top COVID-related concerns among people in custody, from May to December, the top concern among people in custody was the inability to social distance in housing areas and the risk of getting COVID in crowded housing areas. People filing these grievances stated that overcrowding in their housing area made it nearly impossible to socially distance.⁷

Table 2.

OCGS COVID-Related Grievances				
May – December 2020				
N=1,327				
	Environmental	Medical – H&H Related	Staff	Total
OCGS Main COVID-related Categories:	1,040	208	79	1,327
BOC Coded Categories:				
Social Distancing	538	2	21	561
COVID-19 Exposure Safety	150	42	16	208
PPE & Cleaning Supplies	152		15	167
COVID Testing Concerns	19	79	1	99
COVID Preventive Measures Concerns	62	2	16	80
Access to Medical	6	61	3	70
Unsanitary Conditions	63	1	1	65
Quarantine Unit Safety	26	14		40
Not COVID Related	14	1		15
Early Release-COVID	7	3		10
Unknown	3	2	3	8
Unsafe & Unsanitary Working Conditions			3	3
Other Jurisdiction COVID Concern		1		1

Source: BOC staff analysis of all OCGS COVID-19 grievances in the OCGS Service Desk System.

⁷ More information on DOC’s housing capacity can be found in WEEKLY COVID-19 UPDATES (August 8 – present), available at <https://www1.nyc.gov/site/boc/covid-19.page>.

Table 3.

Examples of COVID-related Grievances Filed with OCGS
<p>The grievances cited below were selected and paraphrased by Board staff to provide additional context on the types of grievances in each category coded by BOC staff. They are not intended to be statistically representative of all grievances in each category and these specific grievances may not have been substantiated by OCGS.</p>
<p><u>Social Distancing</u></p> <p>A person in custody concerned about major overcrowding in a housing area. (July 23, 2020)</p> <p>A family member of a person in custody was concerned about serious violations with regards to social distancing and COVID prevention. The grievant alleged the housing area was overcrowded with a census of forty (40) instead of twenty-five (25) and noted DOC was no longer practicing every other bed spacing in the unit. (September 25, 2020)</p> <p>An attorney received concerns from clients at one facility, the occupants of the unit said individuals are being transferred during the night which makes them very concerned about their health and well-being. (Nov 12, 2020)</p> <p><u>COVID-19 Exposure Safety</u></p> <p>A person in custody concerned about new people being transferred into the housing area without testing them and exposing them to COVID. (June 1, 2020)</p> <p>An advocate filed a grievance on behalf of a person in custody. The person in custody was concerned about being housed with people that tested positive for COVID putting him and others in the unit at risk of contracting the virus. (December 22, 2020)</p> <p><u>PPE & Cleaning Supplies</u></p> <p>A person in custody concerned about the lack of PPE and cleaning supplies. (May 28,2020)</p> <p>During a video conference the advocate filing the grievance was made aware of a lack of PPE and cleaning supplies in their client’s housing area. (December 21, 2020)</p> <p><u>COVID Testing Concerns</u></p> <p>A person in custody filed a grievance about being placed in quarantine without testing positive for COVID and alleged the Department refused to administer a test. (December 25, 2020)</p> <p>A person in custody requested a COVID test prior to going to court. (July 22,2020)</p> <p><u>COVID Preventative Measure Concerns</u></p> <p>An attorney filed a grievance on behalf of a person of custody. A person in custody was concerned about not being able to practice certain precautions recommended by public health authorities to prevent the spread and transmission of COVID-19. The grievant cited concerns about newly admitted individuals being transferred into the housing unit increasing the census and the potential for exposure. (October 23, 2020)</p> <p>A civilian staff member was concerned about an increasing number of uniform staff not wearing masks on DOC buses transporting staff to facilities to prevent the spread of COVID. (July 20, 2020)</p>
<p>Source: OCGS Service Desk System.</p>

Medical H+H Concerns

Medical and mental health concerns were the most frequent kind of grievances received by OCGS in 2020.⁸ The number and proportion of these grievances increased during March in the midst of the pandemic, as people were concerned about exposure to COVID-19 and wanted to know how to prevent the spread of the virus.

From May 1st to December 31st there were 208 COVID-related concerns categorized by OCGS in the 'Medical H+H' category. OCGS refers all Medical H+H concerns to Correctional Health Services (CHS) as these grievances fall outside of the purview of the grievance system. These grievances are investigated and resolved by CHS and the Board does not have access to these resolutions.

Ninety-six percent (96%, n=200) of COVID-related Medical H+H grievances were filed by people in custody (n=192) or their families (n=8). The remaining 4% (n=8) were filed on behalf of incarcerated individuals by advocates, attorneys, or city hall.

The top COVID Medical H+H grievances were about, COVID testing (38%, n=79), access to medical services (29%, n=61), exposure to COVID-19 and safety protocols (20%, n=42), and quarantine unit safety issues (7%, n=14).

WHO IS FILING COVID-RELATED GRIEVANCES?

Nearly 90% (89%, n=1,186) of all grievances received by OCGS from May 1st to December 31st were filed by people in custody (85%, n=1,122) or their families (5%, n=64), two percent (2%, n=25) were from DOC staff, and two percent (2%, n=26) were from attorneys on behalf of their clients. Grievances from people in custody increased by 253% from 66 in May to 233 in December. COVID-related grievances began increasing in September as the city experienced a second wave of COVID. Last year, during the height of the pandemic in March and April, grievances from DOC staff and their families were 18% (n=179) of all COVID related grievances received by OCGS.

⁸ A total of 6,420 or 20% of all concerns filed with OCGS (N=32,720) were categorized as medical or mental health related in calendar year 2020.

Table 4.

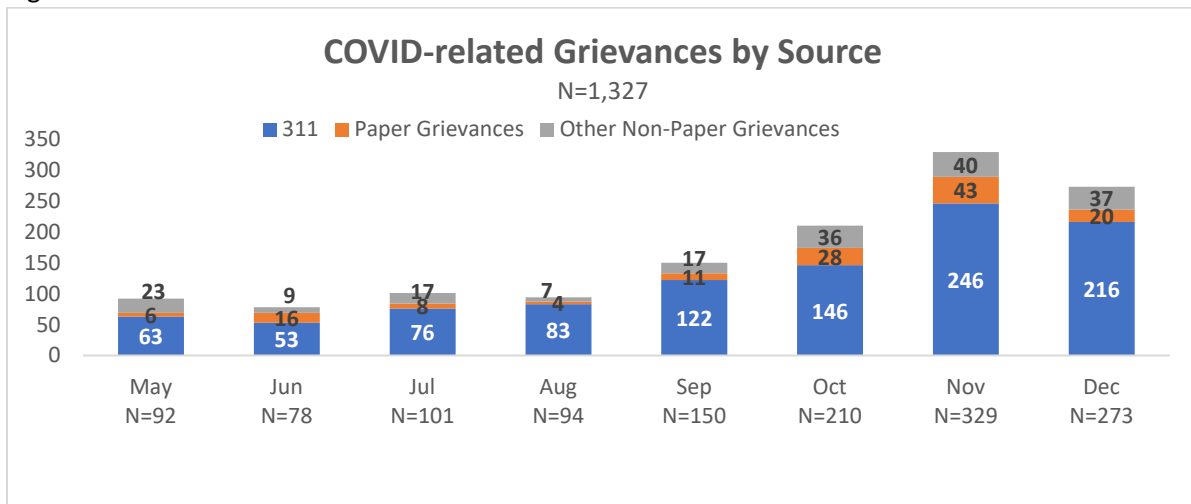
COVID-related Grievances by Who Filed the Grievance									
May 1 - December 31, 2020									
Complaint From	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Person in Custody	66	66	73	85	138	181	280	233	1,122
Advocate		1	8	4	7	8	18	20	66
Family of PIC	7	5	4	2	3	9	20	14	64
Attorney	12	2	3			7	2		26
DOC Staff	3	2	9	1	1	3	3	3	25
Anonymous	2	1	2	1		1	4		11
City Hall	1	1		1		1		3	7
SCOC			2		1				3
Citizen	1								1
CHS							1		1
Family of Staff							1		1
Total	92	78	101	94	150	210	329	273	1,327

Source: BOC staff analysis of all OCGS COVID-19 grievances in the OCGS Service Desk System.
 Notes: The categories in the above table were coded by BOC staff as DOC does not require OCGS staff to categorize who is filing complaints in Service Desk. The grievances included in the table above include a total of 42 COVID related grievances received by the Board and forwarded to OCGS for investigation and resolution. Complaints from city hall and CHS are typically from or on behalf of people in custody by their advocates forwarded to OCGS.

HOW ARE PEOPLE FILING COVID-RELATED GRIEVANCES?

Three quarters (76%, n=1,005) of all COVID-related grievances received by OCGS from May 1st to December 31st were filed via 311, 14% (n=186) were filed by other modes (i.e. by attorneys, the Contact the Commissioner online form, etc.), and 10% (n=136) were paper-based grievances filed directly in a facility.

Figure 3.



Source: BOC staff analysis of all OCGS COVID-Related concerns in the OCGS Service Desk System.

Note: The "Other Non-Paper Grievances" category includes concerns from attorneys, BOC referrals, Contact the Commissioner webpage, Emails, and Health+Hospitals.

HOW IS DOC RESPONDING TO COVID-RELATED GRIEVANCES?

Due to the pandemic DOC civilian grievance staff are now working remotely to review concerns and ensure they are addressed. Working from home has presented significant technical challenges and OCGS is currently working with limited staff capacity and modified services. To minimize disruption in services, 10 uniform grievance officers are working directly in the facilities and distributing resolutions to people in custody. To better understand how DOC is responding to COVID-related grievances, BOC staff reviewed aggregate resolution data for all COVID-19 grievances from May 1st to December 31st. Of the 1,327 COVID-related grievances received by OCGS, 84% (n=1,120) were accepted, 11% (n=148) of grievances were rejected, 3% (n=42) were returned, and 1% (n=15) were modified. Eighty-six percent (86%, n=128) of all COVID-related 311 concerns were “rejected” and 31% (n=42) of all COVID-related grievances filed on paper were “returned” via a Return of Grievance form.

It is not possible to know the reasons for rejection or return of a grievance without a manual review of each grievance because reasons for rejection are not systematically recorded in a distinct field in the Department’s Service Desk grievance tracking system.⁹ BOC could not determine the stage of resolution for each complaint based on what is tracked in Service Desk.

As required by DOC policy, when a grievance is appealed to the Central Office Review Committee (CORC) for a final decision, the Board is provided with an, “opportunity to offer any opinion or advice it may wish with regard to the proper resolution of the appeal of the grievance or request.”¹⁰ The Board provided an opinion for a COVID-related grievance appealed to the CORC in November 2020.¹¹ The complaint alleged that the dorm he was housed in was overcrowded and this contributed to raised tension levels in the unit and posed a threat to the environment. He requested the Department decrease overpopulated housing areas. Board staff reviewed the facts and circumstances underlying the appeal, including a review of relevant records to inform its advisory opinion. Board staff’s five-page opinion issued in December 2020 recommended that DOC grant the grievance request and immediately require all dorms to be below 50% capacity, and mandate empty beds between people in custody to implement CDC and NYC DOHMH recommendations on preventing the spread of COVID-19 in congregate settings. DOC did not accept the Board’s recommendation.

⁹ Reasons for rejection are recorded in a text field in Service Desk which does not facilitate aggregate or systematic reporting.

¹⁰ NEW YORK CITY DEP’T OF CORR., DIRECTIVE 3376R-A, INMATE GRIEVANCE PROCEDURES, IX.E. at 19 (eff. Dec. 10, 2018), available at <https://on.nyc.gov/2YsXaWL>.

¹¹ This grievance appealed to the CORC is not reflected in the resolutions presented in Table 5 because DOC did not code this grievance as being COVID-related in the OCGS system.

Table 5.

COVID-related Grievance Filed with DOC Resolution Status, May- December 2020										
Resolution Status	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total	Percent
Accepted	83	64	88	86	139	156	262	242	1,120	84%
Formally Resolved		1							1	<1%
Modified		2	1			4	8	0	15	1%
Rejected (Non-paper grievances)	9	6	10	7	8	37	44	27	148	11%
Return of Grievance* Form 7117R for paper grievances		5	2	1	3	12	15	4	42	3%
Total	92	78	101	94	150	210	329	273	1,327	

Source: Data for COVID-related grievances from OCGS electronic database Service Desk System from May- December 2020, resolution status as of January 19, 2021. Note: * Return of Grievance form 7117R is only completed for grievances filed on paper in the facility.

BOC Review of Return of Grievance Forms

People in custody who file paper grievances are given a Return of Grievance form when their grievance does not meet guidelines identified in the “Inmate Grievance Procedures” Directive 3376R-A.¹² The form provides the reason for the return and allows the person in custody five business days to resubmit their grievance. Form 7117R “Return of Grievance” identifies 12 reasons for returning the concern.¹³ Some forms identify more than one reason for the return. A similar process of notifying the grievant of the rejection does not exist for grievances filed via 311 or through other modes of filing (non-paper grievances). While non-paper grievances have a note with a reason for rejection available in Service Desk, this reason is not always communicated to the grievant and can only be seen by doing a manual review in Service Desk.

Between May 1st and December 31st, people in custody filed 136 paper-based grievances, 31% (n=42) were returned. To better understand the reasons for returning these paper-based grievances, BOC staff manually reviewed all Return of Grievance forms available in the Service Desk tracking system (n=42) for the concerns filed on paper from May 1st to December 31st.

¹² NEW YORK CITY DEP’T OF CORR., DIRECTIVE 3376R-A, INMATE GRIEVANCE PROCEDURES (eff. Dec. 10, 2018), available at <https://on.nyc.gov/2YsXaWL>.

¹³ Reasons identified on the Return of Grievance Form 7117R include grievances that concern: a disciplinary hearing; not being personally affected by an issue on behalf of group; not signed and/or dated or missing name and book and case; grievance contains multiple issues; grievance is incomplete; grievance contains an issue that cannot be resolved by DOC because it is beyond DOC authority; grievance not within 10 day timeframe, issue was previously addressed; description does not match action requested; UOF; or Nunez-related.

Table 6.

OCGS Return of Grievance Form Review				
May 1st to December 31st				
N=42				
	Environmental	Medical – H&H Related	Staff	Total
OCGS Main COVID-related Categories	36	4	2	42
BOC Coded Complaint Category				
Social Distancing	23			23
COVID-19 Exposure Safety	3	2		5
PPE & Cleaning Supplies	3		1	4
Unsanitary Conditions	3			3
COVID Testing Concerns	1	2		3
COVID Preventive Measures Concerns	2			2
Access to Medical			1	1
Not COVID Related	1			1
Source: BOC staff analysis of all OCGS COVID-19 grievances in the OCGS Service Desk system. Note: The categories in the above table were coded by BOC staff and show a breakdown of the 42 "Return of Grievance Forms" reviewed.				

Return of Grievance forms can have more than one reason for the rejection. The most frequently selected reasons for return of paper grievances were: the grievances has been previously addressed (n=24), the grievance appears to be a group grievance (n=8), which is not allowed under DOC policy, and the grievance description does not match action requested (n=4).

Review of COVID-related Grievance Investigations and Resolutions

Complaints received by OCGS that are subject to the grievance process (grievable complaints) are typically addressed by OCGS staff working in the facility.¹⁴ However, depending on the nature of the complaint, grievable complaints may be addressed by OCGS staff or assigned to other units (e.g., Environmental Health Office, Warden's office). Some grievable complaints and those that are not subject to the grievance process are assigned to other units (e.g., Warden's office, DOC Health Affairs, Correctional Health Services) who investigate and address the concern but are not required to provide the grievant with a resolution. DOC policy requires that all information related to the complaint be uploaded and entered into DOC's electronic database called Service Desk.

To get a better understanding of the grievance resolution process, Board staff reviewed investigations and resolutions for a total of thirty-eight (38) COVID-related grievances.¹⁵ The sample included 26 grievances filed via 311, five (5) paper grievances filed directly in the facilities, and seven (7) grievances filed via other modes (i.e. Email, Contact the Commissioner Form, H+H) Thirty-three (n=33) grievances were categorized by OCGS as "Environmental" and were subject to the grievance process but forwarded to the Warden's office to be addressed and five (5) were categorized as Staff and not subject to the

¹⁴ DOC's grievance system categorizes complaints into 26 categories subject to the grievance process (i.e., "grievable" complaints) and 14 categories that are not subject to the grievance process (i.e. "non-grievable" complaints). [See Form 7100R-A](#).

¹⁵ Board staff used Randomizer website to randomly select grievances to audit. The randomizer is a free resource for researchers and students in need of a quick way to generate random numbers. See <https://www.randomizer.org> This sample does not constitute a representative sample of the DOC population.

grievance process according to DOC policy. Board staff randomly selected grievances from the top four (4) BOC coded COVID-related categories and the sample was not statistically representative of all COVID-related grievance resolutions

Table 7.

COVID-Related Grievances by BOC Re-Coded Categories		
OCGS Main COVID-related Category	Environmental	Staff
	33	5
BOC Category		
COVID-19 Exposure Safety	9	1
PPE and Cleaning Supplies	10	0
Social Distancing	8	2
COVID Preventive Measures Concerns	6	2
Source: BOC staff analysis of all OCGS COVID-19 grievances in the OCGS Service Desk system. Note: The categories in the above table were coded by BOC staff.		

For each investigation BOC staff reviewed all documentation available in DOC’s Service Desk system. Documentation reviewed by BOC staff included: the original complaint, the Warden’s memo, Captain’s investigation form, and any other relevant supporting documentation available in the Service Desk system. For the five (5) paper grievances included as part of this evaluation Board staff reviewed all related forms and documentation including the inmate statement form, the investigation form, disposition form, and any other available supporting documentation. Grievances filed on paper are required to receive a response regardless of the grievance being subject to the grievance process.

The Board’s review sought to answer the following questions:

1. **Timeliness:** How long did it take for the grievance to be addressed? While DOC's Directive requires grievances be addressed within seven (7) business days, since grievance staff started working remotely in March 2020 this timeline has been extended to ten (10) business days.
2. **Response:** For grievances sent to the Warden’s office for investigation, Board staff sought to understand whether the investigations included a detailed response to all concerns / allegations. For paper grievances Board staff sought to understand whether all paper grievances were time-stamped. Other questions included: did the grievant receive a disposition form?; were disposition forms signed and accepted by the grievant?; and did the grievant appeal the decision?
3. **Supporting Documentation:** Did the investigation include applicable supportive documentation to address the concerns?

Timeliness

The average time to resolve a grievance was 10 business days and the median was 7 business days. The time to reach a resolution ranged from a minimum of 2 to a maximum of 46 business days. Due to COVID-19, facility leadership changes and staff shortages at some facilities, OCGS informed the Board that some investigations are taking longer than usual. The average time to respond to a grievance varied by facility.

Table 8.

Average Response Time by Facility (Business Days)				
Facility	Number of Grievances in Audit	Average Days to Respond**	Minimum	Maximum
AMKC	14	6.5	2	9
GRVC*	8	24	4	43
MDC	6	14	4	46
NIC	3	8	3	14
RNDC	2	5	5	5
VCBC	4	5.5	3	7
WF	1	5	5	5

Source: BOC staff analysis of all OCGS COVID-19 grievances in the OCGS Service Desk system.
NOTE: * Average days to respond calculation includes two grievances from GRVC that were still opened, and no investigation could be located in Service Desk. ** During COVID a response is required within 10 business days.

Responses

Of the five (5) paper grievances filed directly in the facility on paper forms,¹⁶ all were time-stamped as required by DOC policy. While each of the five paper grievances received a disposition form (Form 7102R) within seven (7) business days, the forms did not have a clear resolution because further investigation needed to be completed by the Warden's office. All but one disposition form had the grievant's signature. Three (3) grievants accepted the grievance coordinators resolution, one rejected it, and one form was blank. Only one grievant checked the box requesting to appeal the resolution to the Commanding Officer.

Eighty-four percent (n=32, 84%) of investigation packets reviewed fully addressed each allegation mentioned in the grievance. Four investigations (n=4) did not address the complaint in full or at all. Two (n=2) investigations are still opened in Service Desk and no packet could be located in Service Desk.

Facility staff assigned to Environmental grievances are required to speak with the detainee about the complaint and obtain a voluntary statement and acknowledgement that the complaint has been received. These complaints are investigated by the facility (not OCGS staff). The facility is not required to provide a resolution to the individual but are required to upload the investigation into the service desk system for review by OCGS.

Supporting Documentation

Grievance investigation packets can include a variety of documentation such as warden memos, captain's investigation forms (AR600), and profiles from the Department's Inmate Look Up system, etc. DOC policy does not specify whether or what supporting documentation should be included in grievance investigation packets. The Board's review found that the amount of supporting documentation and level of detail included in the investigations varied significantly by the Captain conducting the investigation. Over half of (n=20, 53%) of investigation packets reviewed included at least some additional documentation to support whether the allegations were substantiated. Eleven (n=11, 29%) did not

¹⁶ Three (3) of the five (5) grievances files on paper forms concerned matters that are subject to the grievance process and 2 related to matters falling outside the grievance process per DOC policy.

include any additional documentation to support the decision, and seven (n=7, 18%) investigations either did not require additional documentation or simply could not be addressed with the information available in the grievance itself and therefore documentation was not included.

Table 9. **Examples of Grievance Investigations and Outcomes**

Type of Documentation Reviewed	Concern	Resolution
Did not Address all allegations but Provided Documentation for the one Addressed	One grievant filed a grievance via 311 stating that there was a COVID-19 outbreak in his housing area and staff were not changing their gloves while conduction searches leading to the infection of others in the housing area. The grievant requested that the number of “visitors” entering the unit be limited and cleaning protocols be followed.	The investigation concluded that the housing area was heavily staffed due to the nature of the area’s residents and that staff adhered to PPE guidelines. The investigation did not address whether cleaning protocols are being followed and if the housing area is clean or how the housing area was being cleaned.
Addressed All Allegations and Relevant Documentation Provided	PIC submitted a paper grievance stating that there were no masks available in his housing area on November 15th and 16 th despite officer’s attempt to locate any in neighboring housing units. He is requesting to be provided with masks daily to limit his exposure to COVID 19.	The housing area officer verified that masks are presently available but made no mention of what the availability was on November 15 th and 16 th . In a memo dated November 25, 2020 detailing the facility’s investigation, the mask supply log revealed a mask count of 7 on November 15, 2020 and zero on the 16 th . Low mask counts were reported to the warden on both days. A supply of 40 masks was delivered to the housing unit on November 15, 2020. Grievant signed, rejected and did not request to appeal.
No Documentation Needed to Address Grievance	Person in custody wanted to know what the sign that had been posted in the housing unit meant. He did not understand what the word “asymptomatic” meant.	Captain conducting the investigation explained what asymptomatic was to the incarcerated individual and why a unit is given this designation. They also went over DOC policies for preventing the spread of COVID-19 in the jails.
	A person in custody wanted DOC to force incarcerated individuals to wear masks and was upset because there were more than 10 people in his unit.	Captain conducting the investigation provided paperwork that showed there were 19 people in the unit which was below 50% capacity. The memo explains that masks are available for all incarcerated individuals to wear and they are strongly suggested to use them. Staff are required to wear masks.

<p>No Documentation Included</p>	<p>A person in custody stated that he believed two people in his unit had tested positive for COVID. He alleged there were no masks and no social distancing in the unit.</p>	<p>The Captain conducting the investigation is unable to obtain health information for incarcerated individuals so he could not confirm the allegation. He stated that the unit has masks available for all incarcerated individuals but did not provide a copy of the "Mask availability form" to support that claim.</p>
<p>Unable to Address with Information Available in Grievance</p>	<p>A wife was concerned that her husband could get COVID while in the jails because she believed no precautions were taken to protect him. She wanted him moved to another facility.</p>	<p>The Captain investigating the grievance reached out to the husband who refused to provide a statement or cooperate with the investigation. The Captain cited DOC policy and procedures for preventing the spread of COVID in the jails in his investigation.</p>
<p>Source: BOC staff analysis of a sample of OCGS COVID-19 grievances in the OCGS Service Desk system.</p>		