Definitions

In this rule, “relevant director” means:

- Assistant Commissioner Custodial Operations – for the purpose of this rule the “relevant director” for all public prisons as well as any associated work camps.

- The Director Custodial Contracts – for the purpose of this Rule the “relevant Director” for Acacia Prison.

In this rule, a reference to the “Designated Superintendent” is to be read as including a reference to the Director Acacia Prison.

Note

This Rule does not affect any rights a prisoner may have to communicate in writing to the persons specified in s 67 of the Prisons Act 1981 or in Policy Directive 36.

Prisoners are expected and encouraged to attempt to resolve any requests, complaints or grievances at the lowest level of authority possible. This will generally allow for the speedy resolution of the matter and prevent delays in reaching a solution to the problem.

1. Requests and complaints

1.1 A prisoner may make a request or complaint on any matter except those relating to prisoner placement and assessment. (The appeal procedures for prisoner placement and assessment are contained in Adult Custodial Rule 18.)

All staff involved in dealing with and resolving requests or complaints by prisoners are required to be aware of and comply with Prisons Regulations 1982 r 22(1).

1.2 In accordance with the provisions set out in this Rule, a prisoner may make a request or complaint to:

a) the officer in charge of the prisoner  
b) the Designated Superintendent  
c) a prison visitor  
d) the relevant Director, or  
e) the Chief Executive Officer.
1.3 Nothing in this Rule prevents a prisoner making a request or complaint to more than one of the persons listed in paragraph 1.2.

1.4 If a prisoner makes a request or complaint to the officer in charge of the prisoner then:

a) the request or complaint may be made either verbally or in writing

b) the officer must record the request or complaint on the prisoner's management file unless the request/complaint is of a frivolous or minor nature

c) if the officer considers it to be appropriate, the officer may interview the prisoner

d) where it is within the officer's authority to do so, the officer may determine the request or complaint and any determination made by the officer must be recorded on the prisoner's management file

e) if a prisoner is not satisfied with the determination of the matter by the officer, then the prisoner may request that the matter be referred to any of the other persons listed in paragraph 1.2 or follow the grievance procedure (see section 3) if it is an issue or concern covered by that process

f) if the determination of the request or complaint is not within the officer’s authority, the officer must arrange for the matter to be referred to a person who has authority to determine the matter and the prisoner must be notified of the person to whom the matter has been referred.

1.5 If a prisoner makes a request or complaint to the Designated Superintendent then:

a) except in the case of minor or frivolous matters, the Designated Superintendent must keep a separate record of all requests or complaints made by prisoners and received by the Designated Superintendent

b) where the Designated Superintendent is unable (for example, due to a conflict of interest) to determine the request or complaint, the prisoner must be advised of the following options available to the prisoner:

   (i) the prisoner may request an interview with a prison visitor, or

   (ii) the prisoner may ask that the Designated Superintendent forward the request or complaint to the relevant Director.

1.6 If a prisoner requests an interview with a prison visitor, the provisions of r 77 of the Prison Regulations 1982 apply.

1.7 If a prisoner asks that a request or complaint be forwarded to the relevant Director then:

a) the Designated Superintendent must arrange for the matter to be recorded in writing, signed by the prisoner and forwarded to the relevant Director
b) the relevant Director must determine the matter and inform the Designated Superintendent of the decision

c) the Designated Superintendent must inform the prisoner of the Director’s decision.

1.8 If the Chief Executive Officer receives a request from a prisoner under s 67 of the Act, the Chief Executive Officer may, if the Chief Executive Officer considers it appropriate, forward the request or complaint to the relevant Designated Superintendent or other appropriate person for his/her determination.

1.9 Where a prisoner makes a complaint concerning an officer, the prisoner must be informed that the officer may be informed of the subject matter of the complaint.

2. Withdrawal of Complaint

2.1 The following process must be followed if a prisoner wishes to withdraw a complaint:

a) The prisoner must make a statement in writing withdrawing the complaint, and

b) The statement must be signed by the prisoner in the presence of an independent third person who has not been involved with the complaint. Where practicable, this is to be a non-uniformed officer such as a member of the prison administration, a chaplain, prison support officer, registered nurse, official prison visitor or a justice of the peace.

3. Prisoner Grievance Procedure

A grievance is an issue or concern that a prisoner does not believe has been adequately dealt with at Unit officer level and which the prisoner wishes to pursue further. The following matters are excluded from the prisoner grievance process:

- Prisoner placement and assessment (Refer to Adult Custodial Rule 18 for the appeal procedures)
- Unit Conference decisions (Refer to Adult Custodial Rule 18 for the appeal procedures)
- Statutory disciplinary decisions
- Offences or acts of a criminal nature
- Serious Misconduct by Department of Justice staff (Refer to Policy Directive 41 for incidents to be reported to the Manager Internal Investigations Unit)
- A grievance lodged on behalf of another prisoner.

The issue should have been raised with staff prior to a prisoner lodging a grievance as this course of action is in line with Unit Management principles.

Where a prisoner wishes to lodge a formal grievance, the prisoner grievance process shall be followed as detailed in the Prisoner Grievance Process manual.
A prisoner may access the grievance procedure regardless of their placement or any regime under which they are placed. The Prisoner Grievance Form A (in TOMS) is to be accessible and freely available to all prisoners.

The withdrawal of a grievance must be in accordance with 2.1(b) above and be recorded on the appropriate grievance form.

4. **Alleged assault by a prisoner**

4.1 If a prisoner makes a complaint to any officer that the prisoner has been assaulted by another prisoner then:

   a) that officer must advise the Designated Superintendent both verbally and in writing of the complaint as soon as possible
   b) the Designated Superintendent must direct officers to investigate the complaint.

4.2 The Designated Superintendent must notify the relevant Director and the Internal Investigations Unit of any complaint alleging serious assault.

4.3 The Designated Superintendent must request a police investigation if:

   a) the investigations indicate that the assault may constitute an indictable offence or
   b) the prisoner so requests.

4.4 The Designated Superintendent may also request an internal investigation if a police investigation is requested under paragraph 4.3.

5. **Alleged assault by an officer**

5.1 If a prisoner makes a complaint to any officer that the prisoner has been assaulted by an officer, then the officer must advise the Designated Superintendent both verbally and in writing of the complaint as soon as possible.

5.2 The Designated Superintendent must cause the complaint to be reduced to writing by the prisoner. If the prisoner is unable to write, the Superintendent shall nominate a person who is acceptable to both the prisoner and the Superintendent, to transcribe the prisoner’s statement.

5.3 The Designated Superintendent must refer the complaint as soon as possible to the Internal Investigations Unit for investigation.

5.4 If a prisoner requests to refer the complaint to the police, the Designated Superintendent shall also notify the police and request that they investigate the matter.

5.5 The Designated Superintendent must notify the relevant Director of the complaint and action taken.
6. **Approved**

Rule made pursuant to s 35 of the *Prisons Act 1981* by the Chief Executive Officer of the Department of Corrective Services with the approval of the Minister.

Commissioner:

Minister:

Date: 14 October 2003