



*A bi-weekly newsletter to inform Union members on important grievance results, trends, procedures and important information relevant to a better quality of work life.*

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*-APPEALING TO A HIGHER COURT:*

*Your right to utilize your entire chain of command*

**The Arizona Correctional Peace  
Officers Association**

**Check and Mate Newsletter**

**No. 5**



## **The Check and Mate Newsletter No. 5**

*A bi-weekly newsletter to inform Union members on important grievance results, trends, procedures and important information relevant to a better quality of work life.*

### **APPEALING TO A HIGHER COURT: Your right to utilize your entire chain of command**

**FACT:** The world is changing all around us. Just 20 years ago, people weren't going around like incoherent robots, oblivious to their surroundings, with their heads bowed down, constantly fiddling with their smart phones, even while walking.

**FACT:** As the world changes, so must we. We have to improvise, adapt and overcome if we are to maintain our sanity and come out on top.

**FACT:** As the world changes, so does our immediate environment, to include our careers.

Not all changes, however, are for the best. But always remember this: when life hands us lemons, then we must make lemonade, dig?

Don't let cell phone zombies annoy you as they come barreling down towards you in a busy mall, oblivious to the fact that they are so hypnotized by their smartphones, that they are on a collision course with you. Walk around them. Don't collide with them as I often do just to see the looks on their faces as they bounce off of me and land on their rear ends as if they ran into a brick wall.

Find another way around any obnoxious obstacle, which by the way, leads us to the point of this ridiculous rhetoric of mine:

**FACT:** *The Arizona Department of Corrections Policies have changed over the past few years and not always for the best when it comes to the interest of the soldiers in the trenches: you.*

## **CASE HISTORY**

*Point in case:*

### **D.O. 517- Employee Grievances.**

*Let's take a nostalgic look at what the previous policy had to say about "what" you could grieve before it was changed:*

#### **D.O. 517.01 CRITERIA**

**1.1. The grievance procedure may be used to address:**

**1.1.1 Any employment-related matter of concern that directly and personally affects an employee, provided the Department has complete or partial jurisdiction over the matter and neither statute nor Arizona Department of Administration (ADOA) Personnel Rules provide an alternative means of resolution. (i.e. separate appeal procedure)**

**1.1.2 Allegations of discrimination**

**1.1.3 Allegations of noncompliance with ADOA Personnel Rules**

**1.1.4 Allegations of noncompliance with the Americans with Disabilities Act**

**1.2 While an employee may not submit a grievance challenging the following management rights, an employee may submit a grievance challenging the manner of their administration, insofar as the exercise of**

**these rights personally affects the employee. The Department has the right to:**

**1.2.1 Direct its employees**

**1.2.2 Hire, promote, transfer, assign and retain employees**

**1.2.3 Maintain the efficiency of government operations and determine the methods, means and personnel by which these operations are to be conducted.**

*As you can plainly see for yourself in the previous policy, there were a lot of options and avenues of resolution for those annoying little problems that fall in between the cracks like abuse of power, misuse of policy, and a host of other nuances that go on behind the dreadful code of necessary silence that is common with all Law Enforcement entities.*

*I can absolutely tell you from experience that when the previous policy was still intact, many things that now fall into the cracks, were successfully exposed and resolved amicably.*

*So, with that said, let us now look at the revamped and current policy and see, what we can now resolve utilizing the grievance system:*

## CURRENT POLICY

### D.O 517.01 CRITERIA

**1.1 The grievance procedure may be used to address an employee's disagreement with the receipt of a disciplinary action that is:**

**1.1.1 A written reprimand.**

**1.1.2 A suspension of 40 hours or less for a full authority peace officer.**

**1.1.3 A suspension of 80 hours or less for a covered employee who is not a full authority peace officer.**

**1.2 A grievance that includes an allegation of unlawful discrimination or harassment will be reviewed or investigated according to the provisions of the separate complaint process outlined in Department Order #527, Employment Discrimination and Harassment, and not the grievance system.**

*As you can plainly see, the policy has now been streamlined to a bare bones platform where, whether intentional or not, many problems that could have been previously resolved, now fall through the cracks of the "Better luck next time" speech.*

*That's the reality and here I will now illustrate, for educational purposes, a real-life case that just recently transpired, involving a member of AZCPOA that came forth after their administration attempted to renege on a memorandum given to said employee and treated them in an undignified and unbecoming manner.*

## CASE STUDY:

*The case of "The reneged Memo" or better known as "Sorry, but I'm going back on my word!"*



## NOTE:

*(names have been omitted for employee privacy and the case streamlined for readability but the actual facts have not been altered or enhanced)*

*A female Sergeant was given a memorandum advising her that she was being transferred to dayshift. The Sergeant signed the memo and went on vacation. While on vacation, the dayshift slot that she was going to fill was instead given to a male Sergeant.*

Upon her return from annual leave, she was told that she was going to graves instead. She was not afforded any other explanation other than the administration has the right to move employees as per policy. She was given a new memorandum which she refused to sign until she could discuss the situation with her chain of command. When she was given the opportunity to discuss the situation with her administration, her administrator made a rather rude and offensive remark to her instead of addressing the issue.

Now there are several issues here. This is not so much a matter of "Can we" but of "Should we" when it comes to administrators making these staff moves and treating staff as if they were spackle to fill in a hole in a wall.

This is a solid employee with almost 20 years of faithful service.

No credible explanation was given as to why administration would renege on a signed memorandum and then speak to the employee in a disrespectful, "We can do what we want to do" manner.

Now, lets be realistic here. We can be told to utilize the chain of command to resolve this issue but, what happens when you do try and instead, you are swept under the rug?

This happens constantly and many either turn a blind eye to the action, bury their heads in the sand like an ostrich or simply give in not wanting to stir the waters in fear of retaliation.

Now, under the old policy, the employee could have easily grieved this behavior because of the way the policy was bent inappropriately and for treatment unbecoming. The policy allowed a platform for the employee to seek further relief outside of her normal resources. But now, the policy does not allow this.

See the problem here? Administrators may try to sugar coat this with a myriad of internal solutions but in the end, this employee is going to graves and she is going to have to learn to live with being spoken to in this manner and to, as we say in the trenches, "Suck it up!"

That's where the Union comes in. We will always try to find alternate solutions to otherwise insurmountable problems. Were just like the dinosaurs in "Jurassic Park" who were all engineered to be made females to control breeding, but much like them, we will always find a way.

And we did.



## WHAT DID WE DO?

So, after the memorandum was ignored and the employee treated in a manner unbecoming, we discussed the option of utilizing the higher chain of command:

The R.O.D.

And why not? They are amical, courteous and receptive to courtesy and have an open-door policy.

The employee discussed her unfortunate situation with the ROD and he sided with the employee after reviewing the situation.

The Sergeant was treated in a fair, firm and consistent manner and was ultimately placed on dayshift after her original memorandum was honored.

Excellent job and way to stay neutral and do the right thing.

## LESSONS LEARNED

Let's not focus on what went wrong here because we all know what went wrong here.

Instead, lets focus on what went right here, shall we?

Even though the grievance policy has been changed as to not allow certain problems to be addressed, there are always other ways we can still attain the same goal and an important one follows: The Upper chain of command.

1-Always try to resolve problems amicably and at the lowest level. Be Fair, Firm and Consistent when speaking to an employee. This applies

to staff and administrators alike. No one wants to be treated like spackle.

2-If you are in the right and policy has been flexed inappropriately towards you, then fight for your right. No one has the authority to bend policy to their convenience and get away with it. This is a myth.

3-Policy states, what it states, and is not subject to interpretation. This is also a myth. Don't fall for it!

4-If you have exhausted your immediate chain of command with no results and you are in the right, invoke your right to seek relief from the rest of your chain of command, i.e. Warden, RODS and Director. This is allowed. Many consider this as a taboo that will get you nowhere but this is also a myth, as this last case proved.

5-Communicate with your chain of command in writing so that you have a record of events that can be used as evidence for future resolution.

6-If taking your case to a higher authority, always have policy and evidence such as memorandums available to solidify your case.

7-And finally, always consult your Union representative in all matters as we have experience in all these areas and are more than happy to assist you.

Remember, just because the world changes around you doesn't mean you are limited in what you can do. You just have to find another way.

If in doubt, just watch "Jurassic Park" again.

That movie never gets old for me.



*Yours in Solidarity,*

*Carlos Garcia*

*Executive Grievance*

*Coordinator*

***Deeds not words!***

