NC Department of Adult Correction
PROTECTION • INNOVATION
REHABILITATION

Roy Cooper, Governor

Todd Ishee, Secretary

MEMORANDUM

To: Chairs, House Appropriations Subcommittee on Justice and Public Safety
Chairs, Senate Appropriations Subcommittee on Justice and Public Safety
Chairs, Joint Legislative Oversight Committee on Justice and Public Safety

From: Todd Ishee, Secretary

Re: Inmate Grievance Resolution Board Annual Report, Fiscal Year 2022-2023

Date: September 26, 2023

This memorandum is presented as the Annual Report of the North Carolina Inmate Grievance Resolution Board ("IGRB"), as directed by Section 16C.13B (b) of Session Law 2015-241, which provides in relevant portion:

> The Department of Public Safety (Adult Correction) and the Inmate Grievance Resolution Board shall report by October 1 of each year to the chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and the Joint Legislative Oversight Committee on Justice and Public Safety on the Inmate Grievance Resolution Board. The annual report shall include the following with respect to the prior fiscal year:
>
> (1) Brief summary of the inmate grievance process
> (2) Number of grievances submitted to the Board
> (3) Number of grievances resolved by the Board
> (4) Type of grievance by category
> (5) Number of orders filed by examiners.

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Section 1:
Brief Summary of the Inmate Grievance Process

A. Introduction

Pursuant to Chapter 148, Article 11A of the North Carolina General Statutes, the North Carolina Department of Adult Correction ("NCDAC") has established an Administrative Remedy Procedure ("ARP") by which offender grievances may be shared and addressed. See N.C.G.S. § 148-118.1 and see NCDAC-Prisons Policy & Procedures G.0300, Administrative Remedy Procedure. Both state and federal law require that offenders exhaust administrative remedies prior to filing a lawsuit against NCDAC or Prisons. See N.C.G.S. § 148-118.2 and, for federal guidelines, 42 U.S.C. § 1997e(a).

The Article further establishes the IGRB as a separate agency within NCDAC. See N.C.G.S. § 148-118.6, et seq. The IGRB is comprised of 5 members of the public, whom are appointed to 4-year terms by the Governor. The Board may perform any functions assigned to it by the Governor and meets quarterly to maintain general review of the ARP with grievance summaries and statistical information. The IGRB employs an Executive Director, Grievance Examiners, and administrative support who conduct IGRB operations and business, including "investigat[ion] of inmate grievances" pursuant to the ARP.

B. Revisions to the Grievance Process

During FY 2022-2023, the Board adopted substantial revisions to the ARP to increase the availability, functionality, and transparency of the offender grievance process. The policy revisions were published in the September 1, 2023, North Carolina Register and are attached to this memorandum for informative purposes. The revisions were also sent to the United States Department of Justice in accordance with 28 CFR § 40.20 (2022). The revisions are currently in process of issuance and are anticipated to be effective in October 2023.

The revisions modernize the offender grievance process, allowing for electronic submission of offender grievances through offender's tablets. See Section .0304 Submission of Grievances. The revisions also raise limitations on offender grievance submission, permitting up to three grievances regarding separate incidents. See Section .0306(c)(1) Rejection of Grievances. Lastly, the revisions establish clearly defined roles and responsibilities of prison facility staff throughout the grievance process. See Sections .0305 Screening Officer and .0309 Grievance Review Procedure.

C. ARP Training and Audits

Throughout the past two fiscal years, Board staff undertook a statewide training initiative, reaching over 700 staff members at all prison facilities. The trainings were facility-based and paired with an audit of the facility grievance practices. Training topics included the history and purpose of the grievance process as well as more technical information for the processing of offender grievances. Board members also participated in the facility training visits.

Board staff have already begun internal training on the grievance application available on the offender tablets and anticipate training on the tablet application for facility staff this fall.

D. Communication of the Procedure

Upon entrance to prison, every offender is given written notification of the grievance process; a verbal explanation of the grievance process; and, the opportunity to ask questions about the grievance process. Physical copies of grievance forms will remain available to the offenders upon request and copies of the procedure are to be posted in the facilities or available from the offender library. At facilities where the grievance process is available on offender tablets, the grievance application will maintain an electronic version of grievance forms and an electronic copy of the grievance policy. If the offender is not capable of understanding the procedure or completing the grievance form, they may request assistance from staff or fellow offenders (where permissible based on their classification or housing assignment).

E. Submission of Complaints

The procedure encourages offenders to informally attempt to resolve their grievances with prison staff. If an offender cannot resolve their grievance informally, they may file a written grievance regarding their complaints, utilizing a Form DC-410 or, where available, electronically transmitted through their offender tablets. The forms are completed by the offender and may be submitted to any staff member at their housing facility. Each grievance should be concerning one specific action, incident, policy, or condition within the facility or within Prisons as a whole.

F. Emergency Grievances

Offenders may also submit emergency grievances which are defined as matters which present a substantial risk of physical injury or other serious and irreparable harm to the grievant if regular time limits are followed. Confidential grievances have been eliminated in the planned revision to the ARP as all grievances are considered confidential, according to both statute and policy.

G. Grievances related to Sexual Abuse or Sexual Harassment

Grievances related to allegations of offender sexual abuse or sexual harassment are given special accommodations within the ARP. All grievances related to sexual abuse or harassment are: escalated to Step 2 level of review; assigned to a specially-trained PREA investigator; and, provided to the Department's Prison Rape Elimination Act ("PREA") Office. Grievances regarding sexual abuse or harassment are the only grievances that may be submitted by third parties if the offender agrees to participate in the grievance process.

H. Prohibition of Reprisals

Reprisals by staff for an offender's good faith use of the grievance process are explicitly prohibited. Offenders are prohibited from making false allegations against staff through the grievance process.

I. Rejection of Grievances

Each facility is required to appoint a facility screening officer who maintains responsibility for receipt, processing, and screening of offender grievances. Following submission by the offender, screening

officers review the grievances and notify the offender whether the grievance has been accepted for processing or rejected within 3 days. Reasons for rejection are limited and set forth in Section .0306 of the ARP. Facility heads are charged with periodic review of rejected grievances to ensure the rejections are consistent with policy.

J. Grievance Review Process:

The grievance process is comprised of 3 steps and shall be completed within 90 days.

a. Step 1:

After initial screening and acceptance into the grievance process by the facility screening officer, a grievance is assigned for review and investigation to the staff member whom the screening officer believes can best provide information related to the grievance. The assigned staff member should prepare a written Step 1 response to the grievance, with supporting documentation, within 15 days. The response is provided in writing to the offender, explaining the basis for the response and attempting to resolve the grievance. The offender shall then sign the grievance response to designate whether they agree or disagree with the Step 1 response, including whether they wish to appeal the grievance to Step 2 of review.

b. Step 2:

Within 20 days following the appeal from Step 1, the facility head, or designee, reviews the Step 1 findings and conducts any necessary additional investigation into the grievance. The facility head, or designee, then completes a Step 2 written response to the offender and has this response delivered to the offender. Again, the response is presented to the offender and they sign to designate whether they agree or disagree with the response, including whether they wish to appeal the grievance to the IGRB for Step 3 of the grievance review process.

c. Step 3:

If the offender chooses to appeal the grievance to Step 3, the offender's housing facility electronically transmits the appeal to the IGRB, where the appeal is assigned to a Grievance Examiner. The Grievance Examiner reviews the grievance record pursuant to the procedures established by the ARP. Examiners may conduct an independent investigation limited to the specific issues brought forward in the grievance; or examiners may rely on the investigations already completed by the named facility. Where appropriate, Examiners may attempt to resolve grievances through mediation with all parties.

At the conclusion of such review, investigation, and mediation, the Examiner issues an Order, which completes Step 3 review of the grievance. The Order may provide such relief as is appropriate or may deny or dismiss the grievance appeal. Orders granting relief to offenders shall be transmitted to the Secretary and the Director of Prisons. The Order is binding unless the Secretary: (i) finds that such relief is not appropriate; (ii) gives a written explanation for this finding; and (iii) makes an alternative order of relief or denies the grievance relief. N.C.G.S. § 148-118.8(b).

Section 2:
The Number of Grievances Received by the Board

In Fiscal Year 2022-2023, the IGRB received 9,791 Step 3 offender grievance appeals. This represents a 9% decrease in the number of grievance appeals received compared to FY 2021-2022 and a combined 20% decrease since FY 2020-2021. The decrease in grievance appeals may correlate to several factors: increased training for facility staff participating in the grievance process; continued easing of pandemic restrictions and resumption operations in Prisons; and offenders receiving increased access to tablets for communication, programming, and entertainment.

Statistical information and graphics regarding the total number of grievance appeals received at the IGRB are included in Figures 1 through 8. The figures demonstrate the varying levels of grievances across regional divisions, custodial classification, and grievance subject matter.

Figure 1: Total Grievance Appeals Received by Board by Region

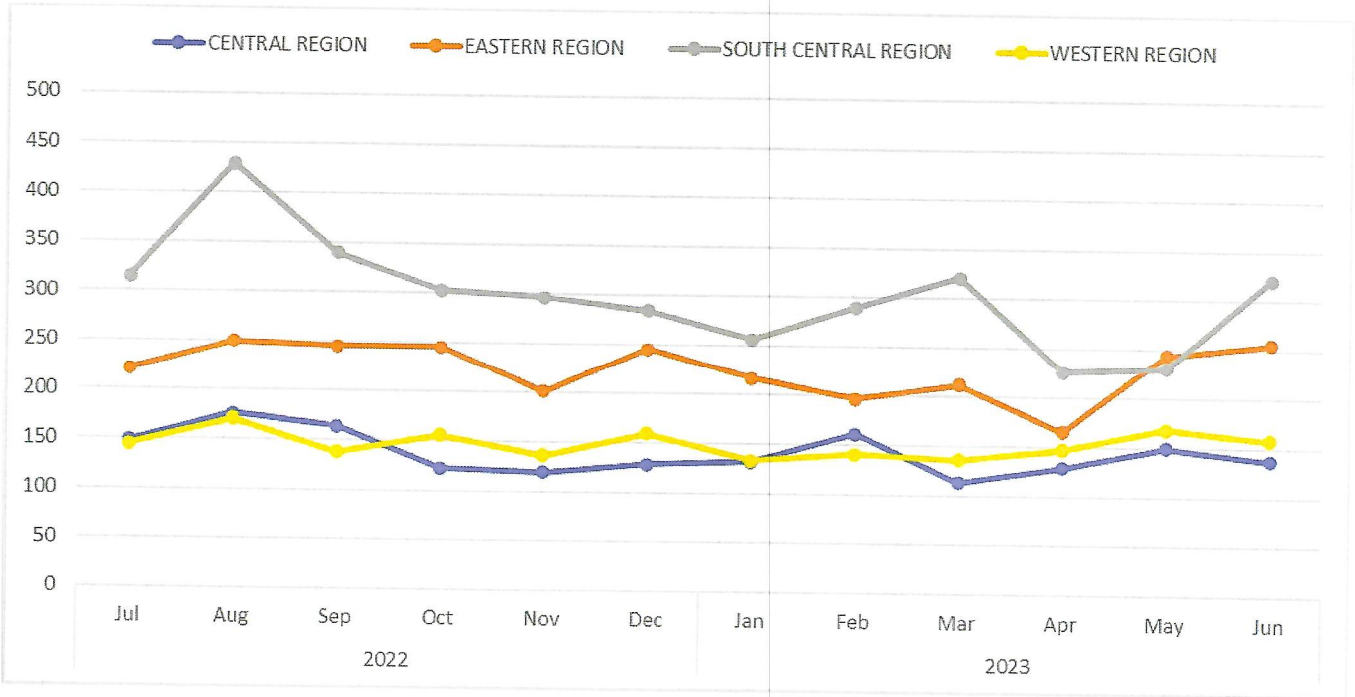


Figure 2: Grievance Appeals Received by Board by Facility - Central Region

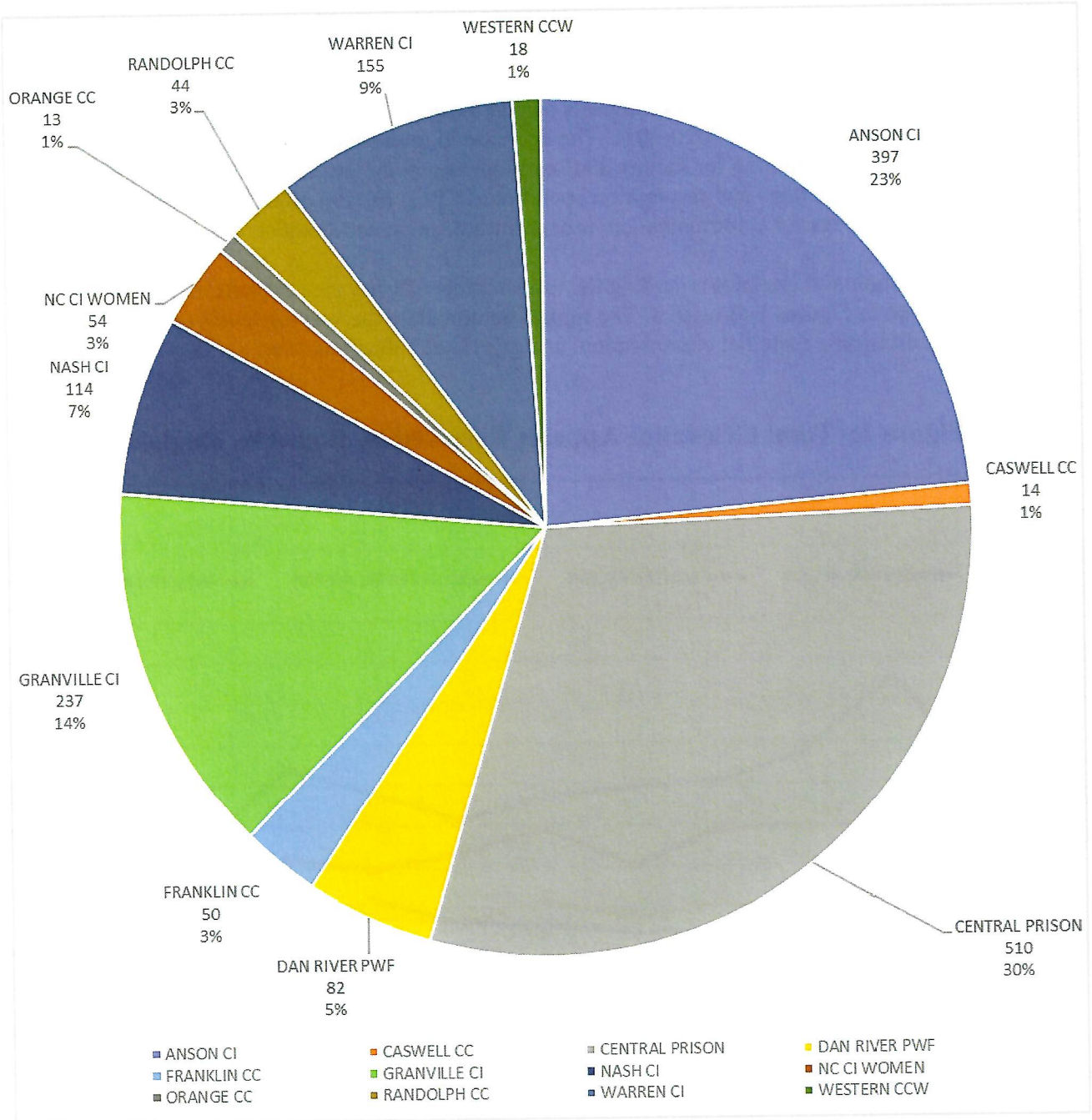


Figure 3: Grievance Appeals Received by Board by Facility - Eastern Region

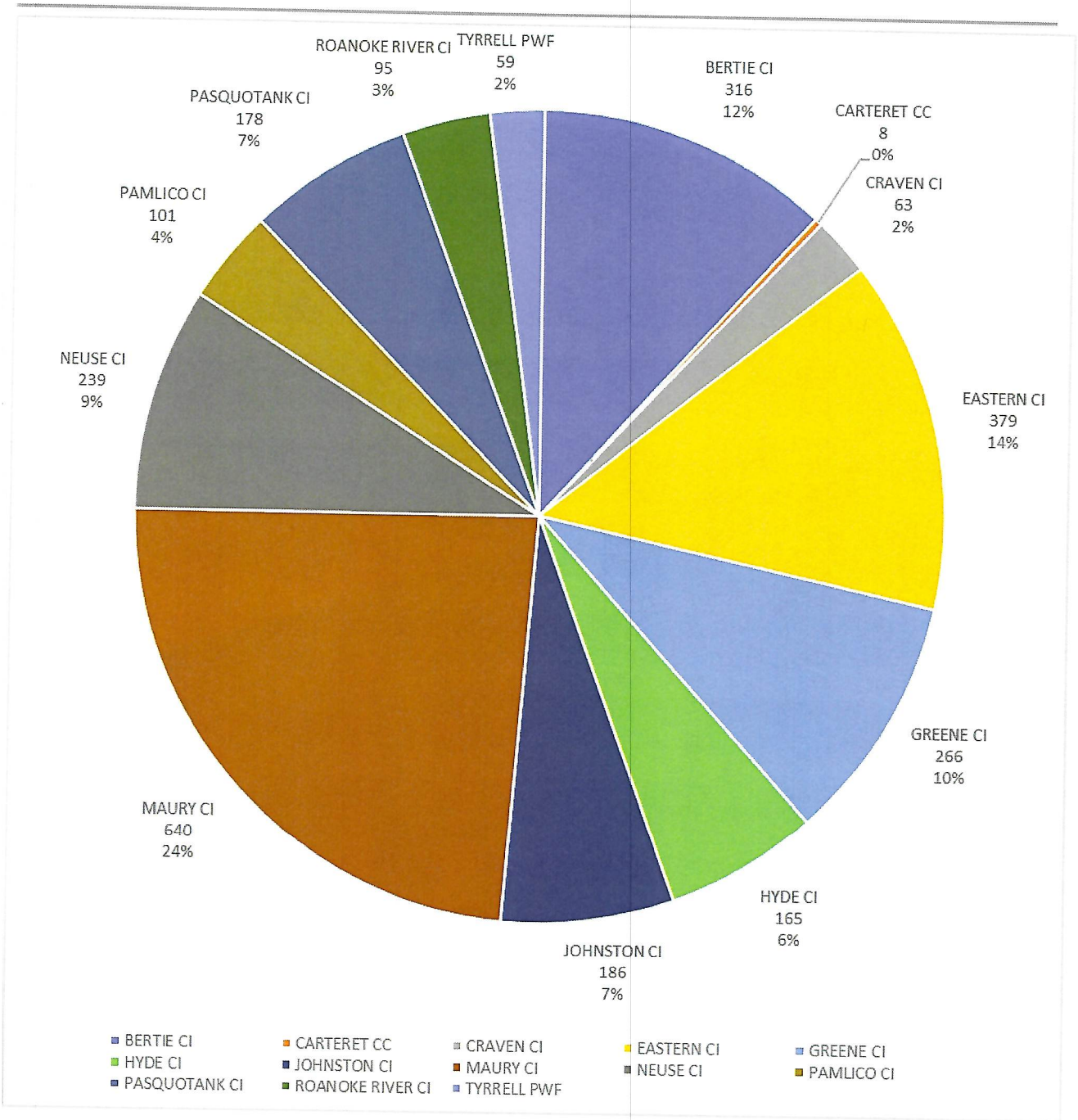


Figure 4: Grievance Appeals Received by Board by Facility -South Central Region

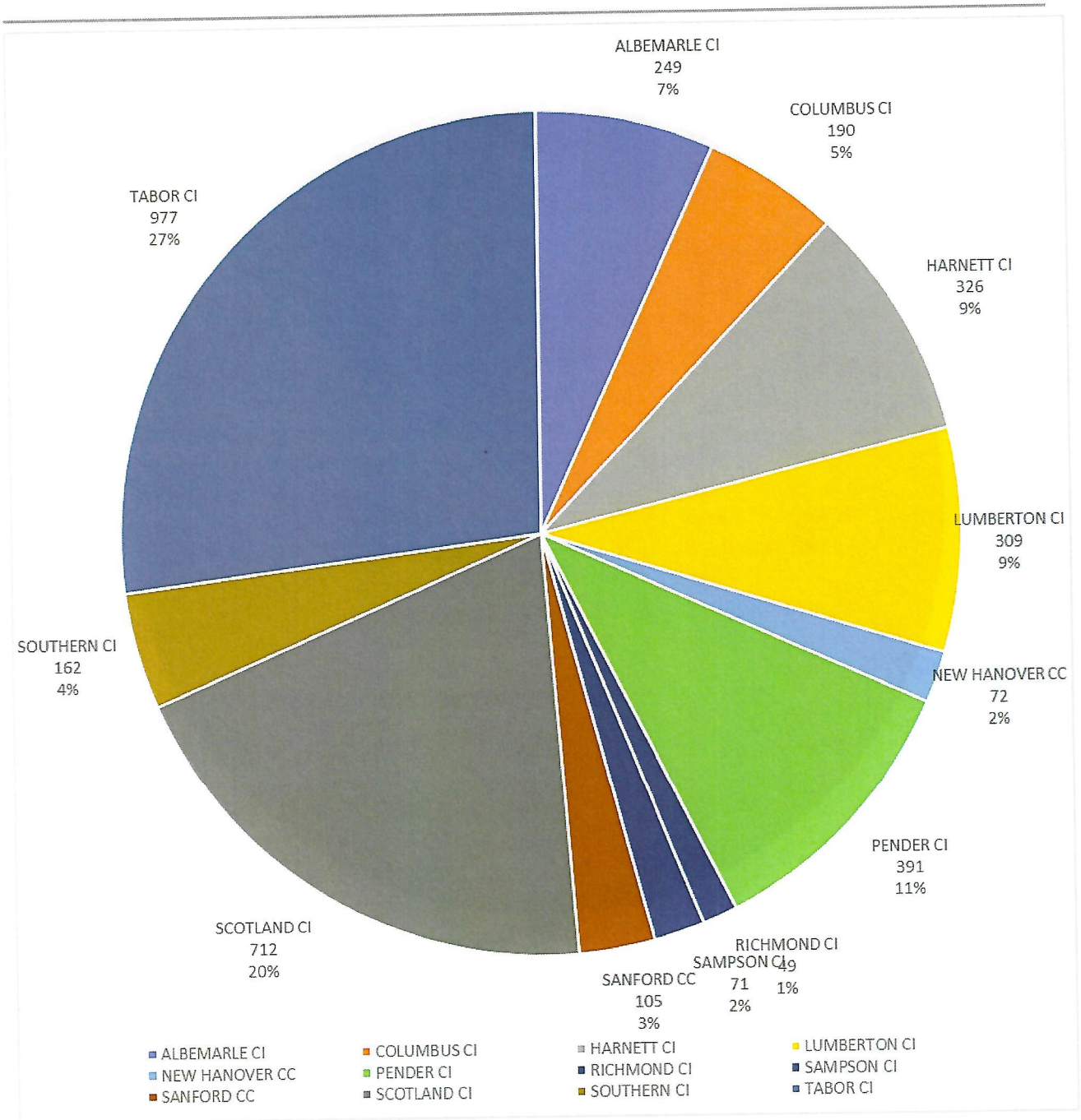


Figure 5: Grievance Appeals Received by Board by Facility - Western Region

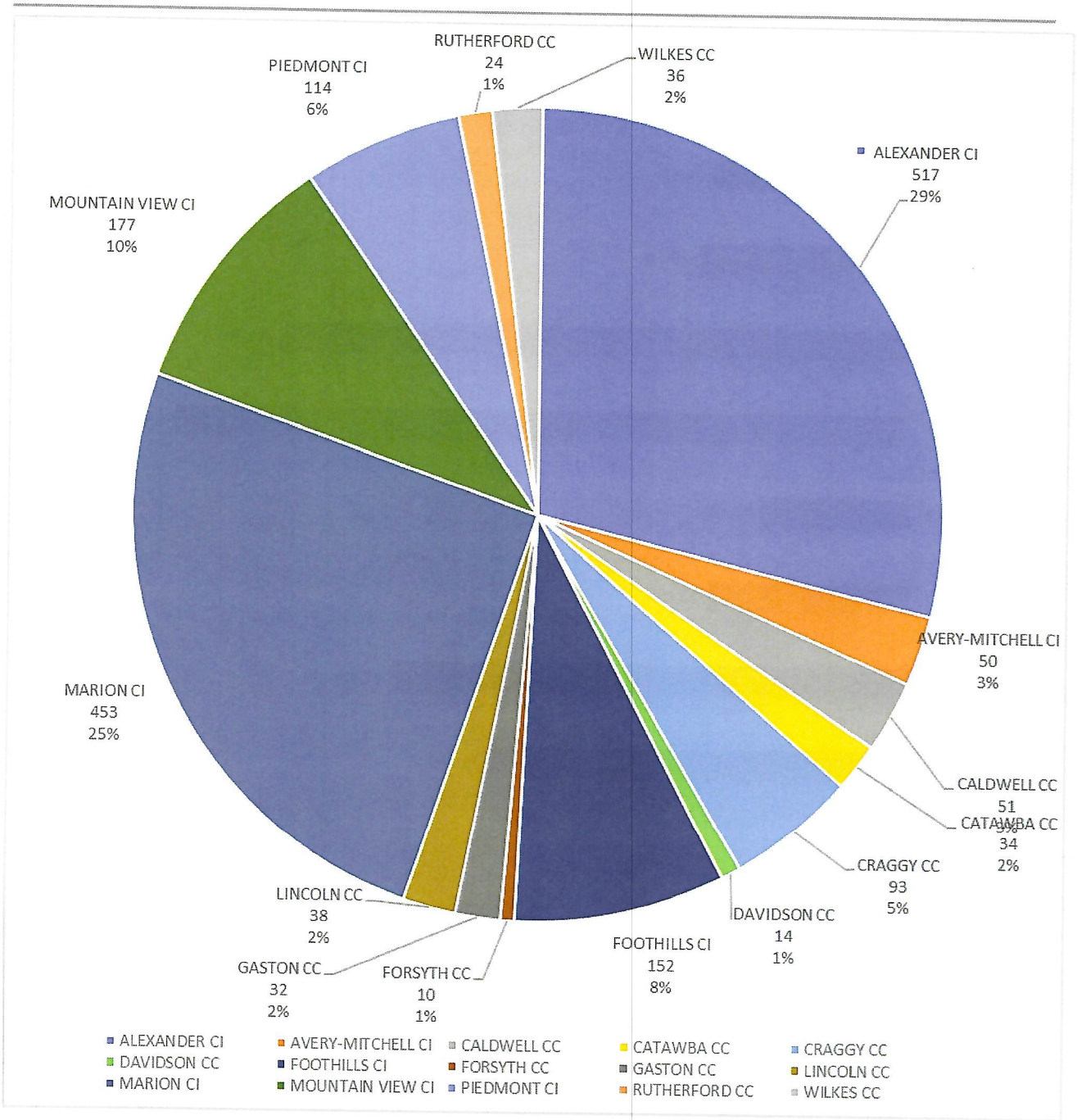


Figure 6: Grievances Appeals Per Standard Population - Close Custody

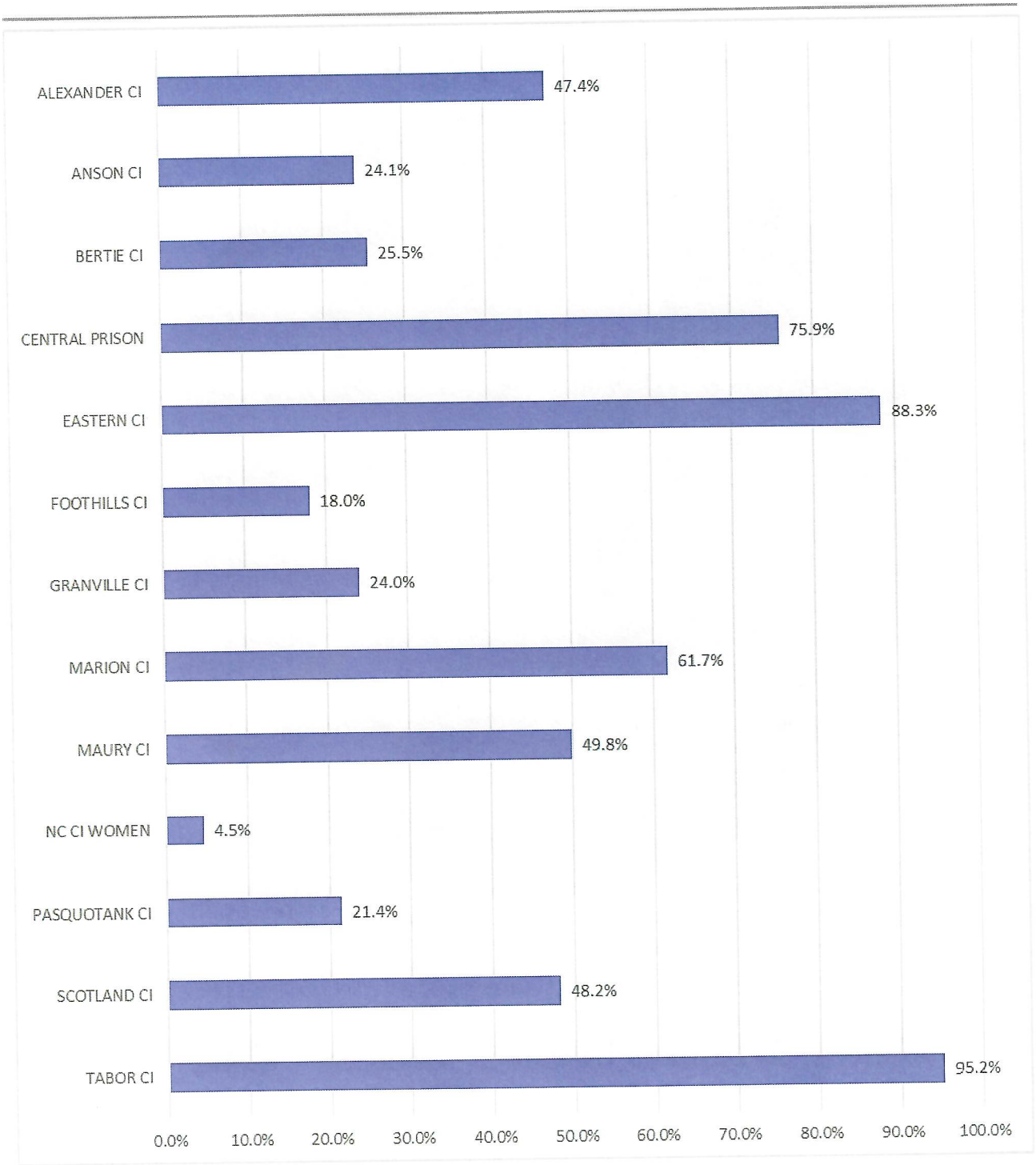


Figure 7: Grievances Appeals Per Standard Population - Medium Custody

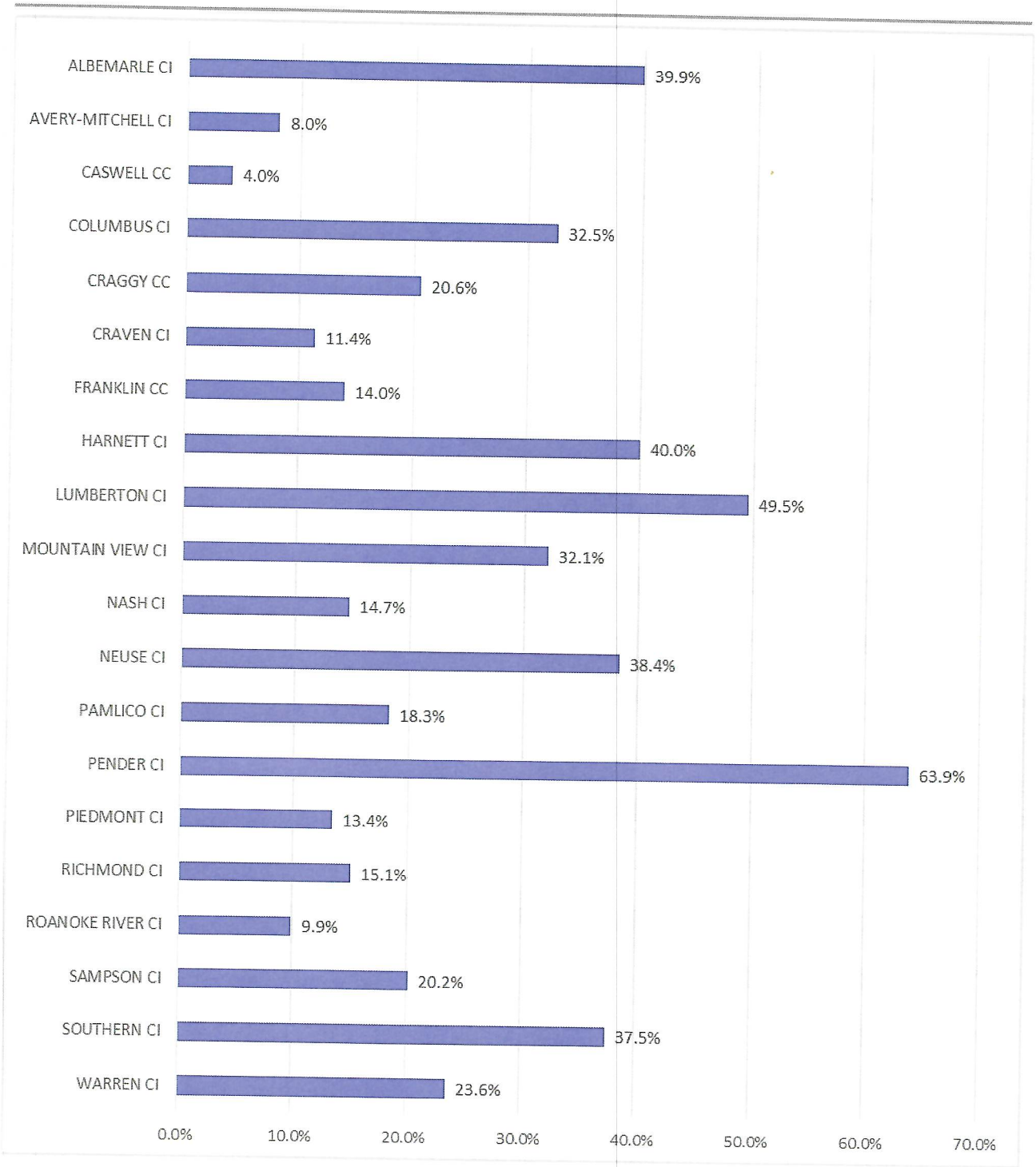
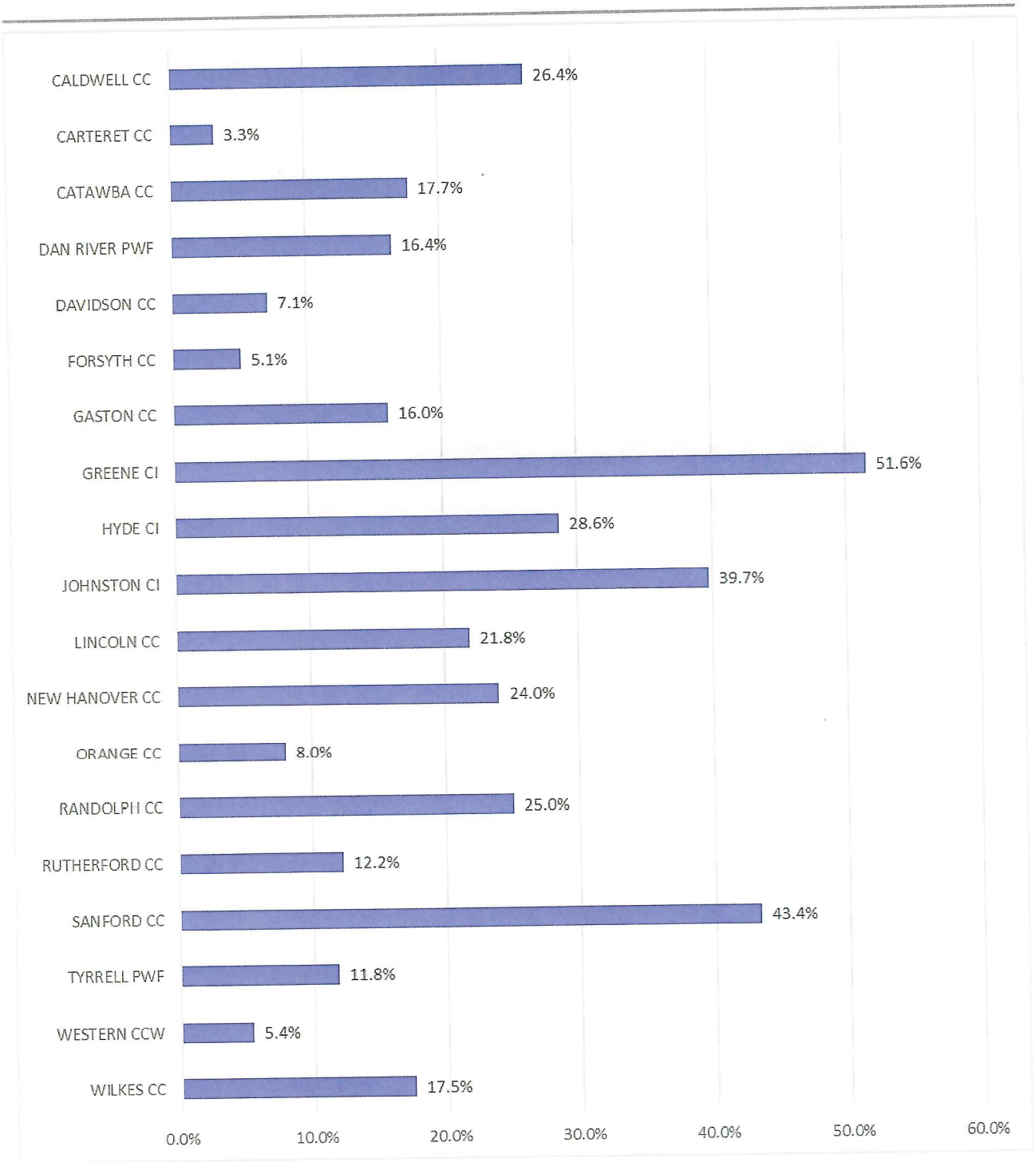


Figure 8: Grievances Appeals Per Standard Population - Minimum Custody



Section 3:
The Number of Grievances Resolved by the Board

A grievance appeal is considered "completed" if it has completed Board review and a final response has been mailed to the offender. In Fiscal Year 2022-2023, the IGRB resolved and completed 8,768 offender grievance appeals. Figures 9 and 10 track the offender grievance submissions by level of review and demonstrate the general functionality of the grievance process at the facility step levels. Section 16C.13B (b) of Session Law 2015-241 only requests information related to grievance appeals to Step 3, or the Board level. However, while functionality rates have remained relatively static since FY 2021-2022, the total accepted grievances at facilities statewide has declined approximately 12% during FY 2022-2023.

Figure 9: Grievances Appeals Submitted with Outcomes

STEP	OUTCOME	COUNT
STEP 01	AGREED	11601
STEP 01	APPEALED	12208
STEP 01	COMPLETED	517
STEP 01	OFFENDER RELEASED	236
STEP 01	PENDING	546
STEP 01	TIME VIOLATION	762
STEP 02	AGREED	3291
STEP 02	APPEALED	9029
STEP 02	COMPLETED	34
STEP 02	OFFENDER RELEASED	122
STEP 02	PENDING	474
STEP 03	COMPLETED	8768
STEP 03	PENDING	264

Figure 10: Grievances Appeals Submitted with Outcomes

Section 4:
The Type of Grievances by Category

Information regarding the categories of the Step 3 grievance appeals received at the IGRB are included below. Figures 11 through 22 track the 5 broad subject matter categories and the 35 discreet sub-categories within those areas.

Figure 11: Grievance Appeals by Main Category:

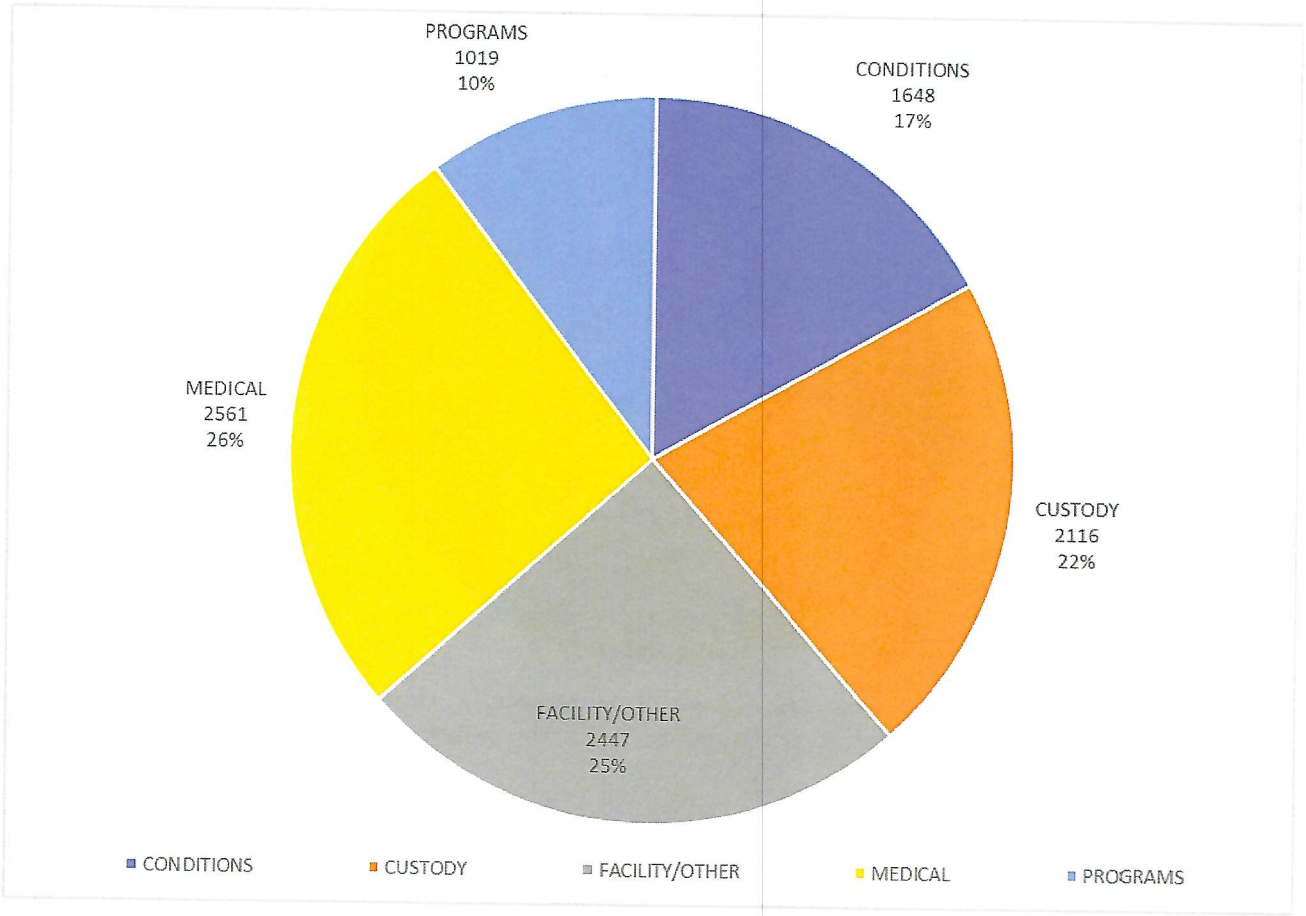


Figure 12: Grievance Appeals by Sub-Category – Conditions:

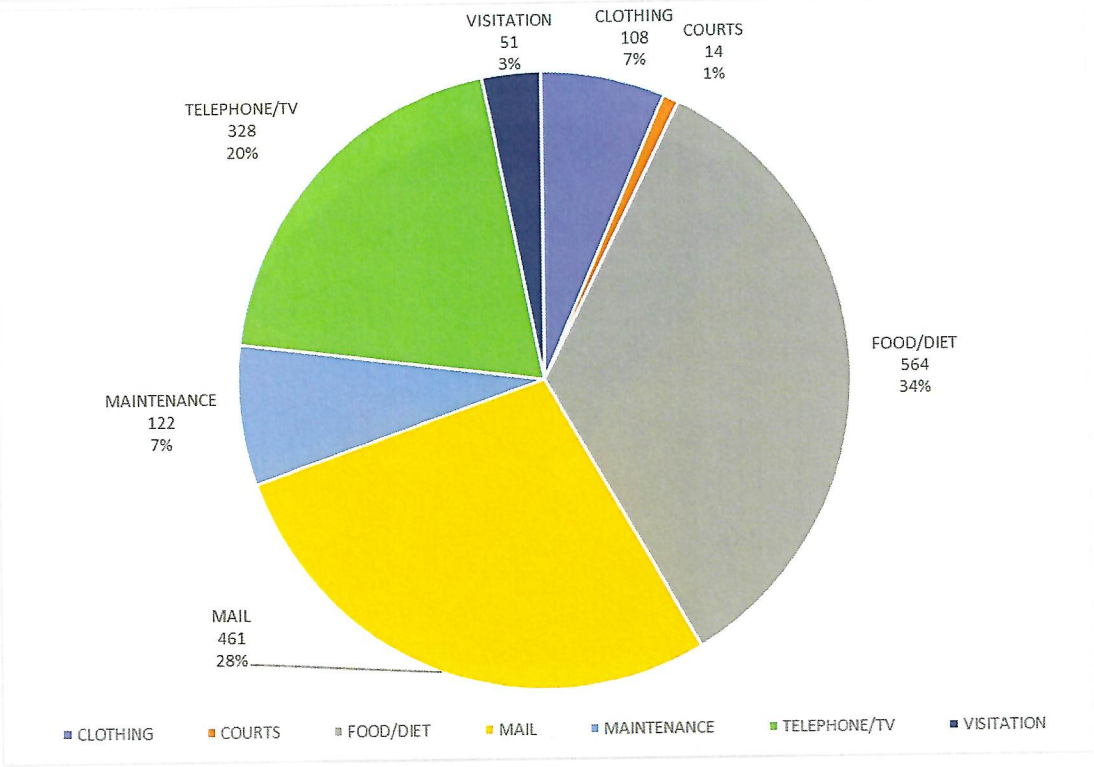


Figure 13: Grievance Appeals by Sub-Category – Custody

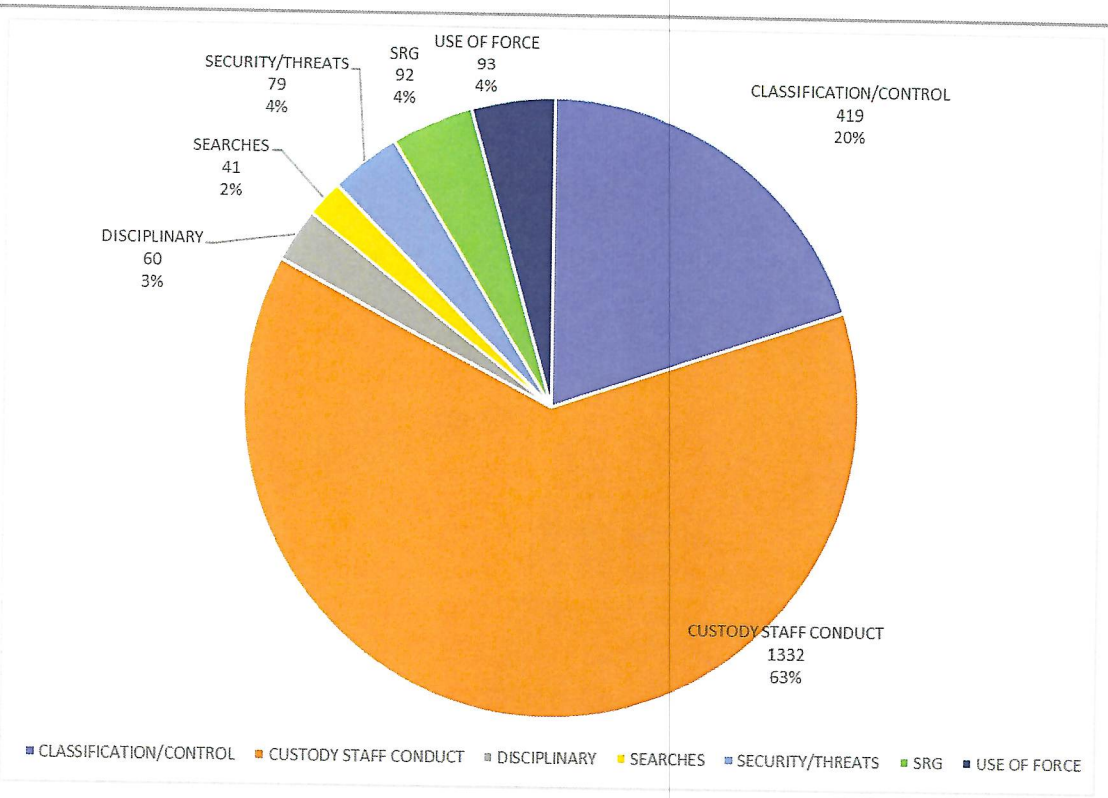


Figure 14: Grievance Appeals by Sub-Category - Facility/Other

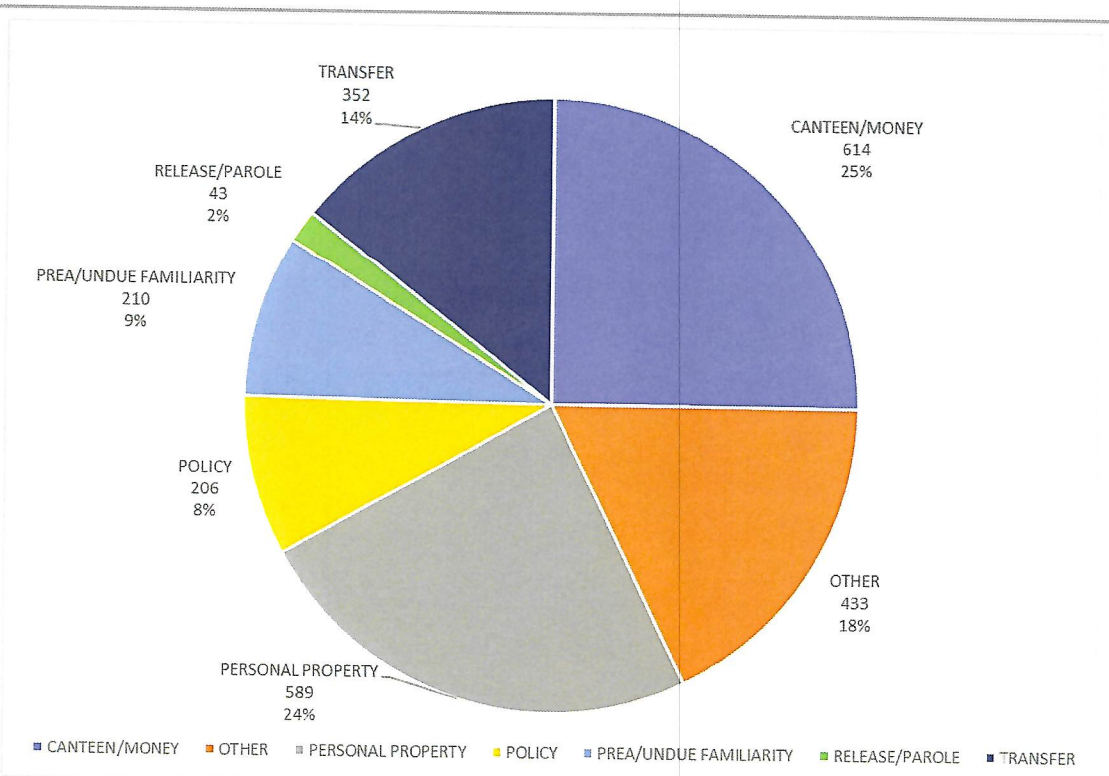


Figure 15: Grievance Appeals by Sub-Category – Medical

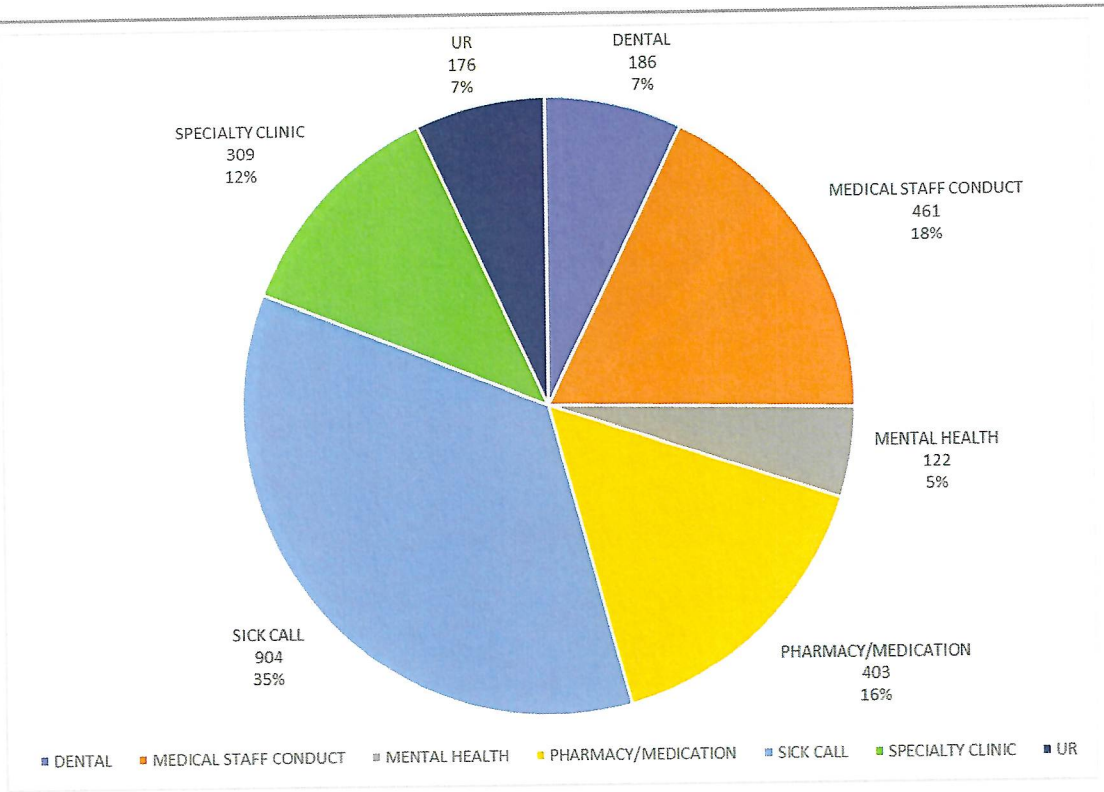


Figure 16: Grievance Appeals by Sub-Category – Programs

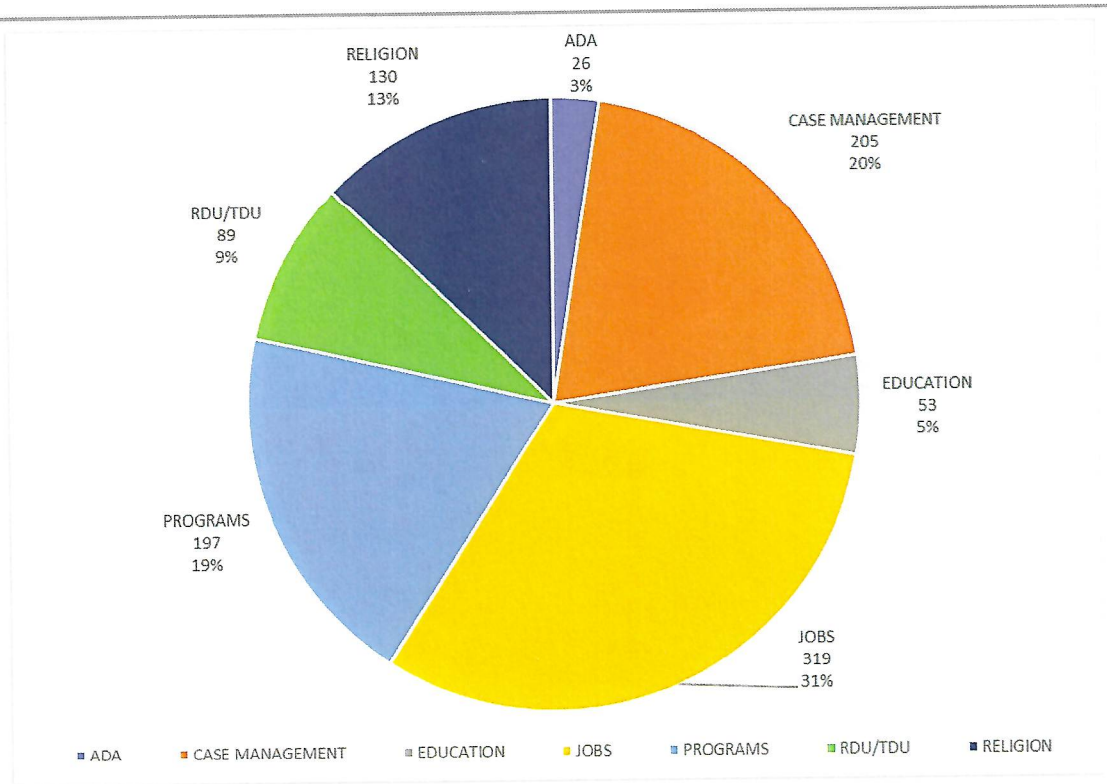


Figure 17: Grievance Appeals by Region and Category

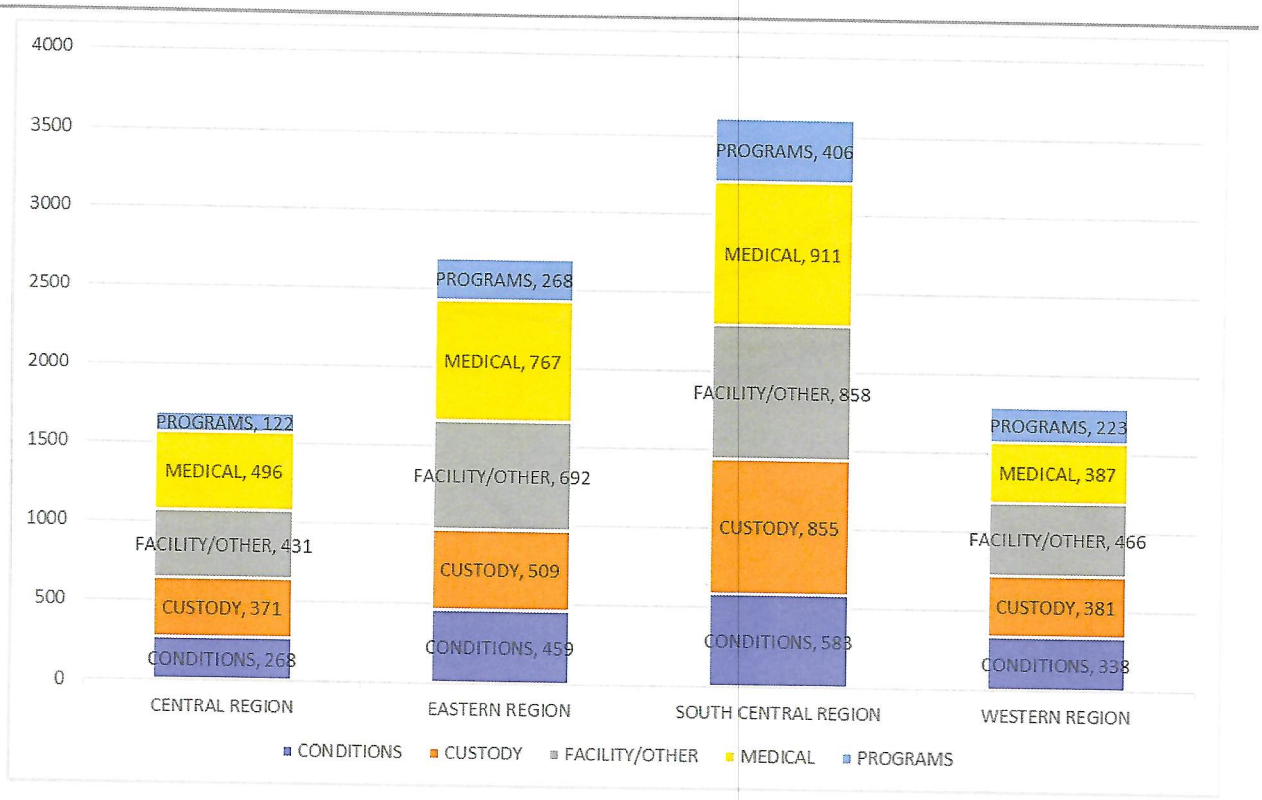


Figure 18: Regional Grievance Appeals Trends by Category – Conditions

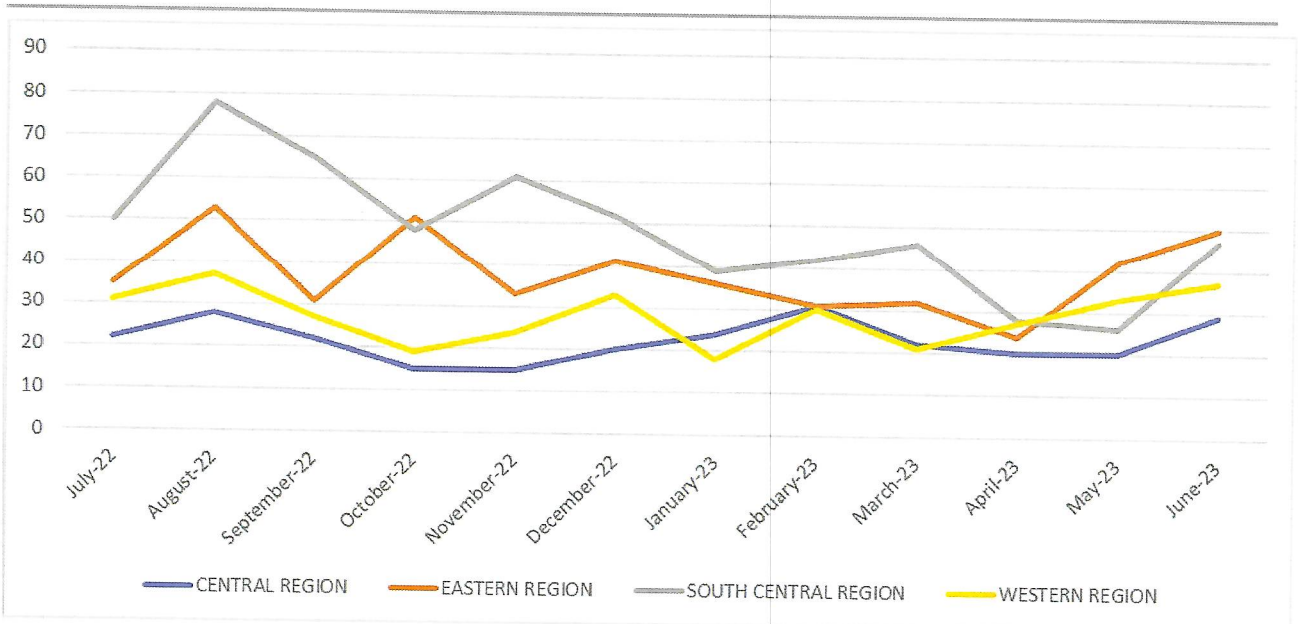


Figure 19: Regional Grievance Appeals Trends by Category – Custody

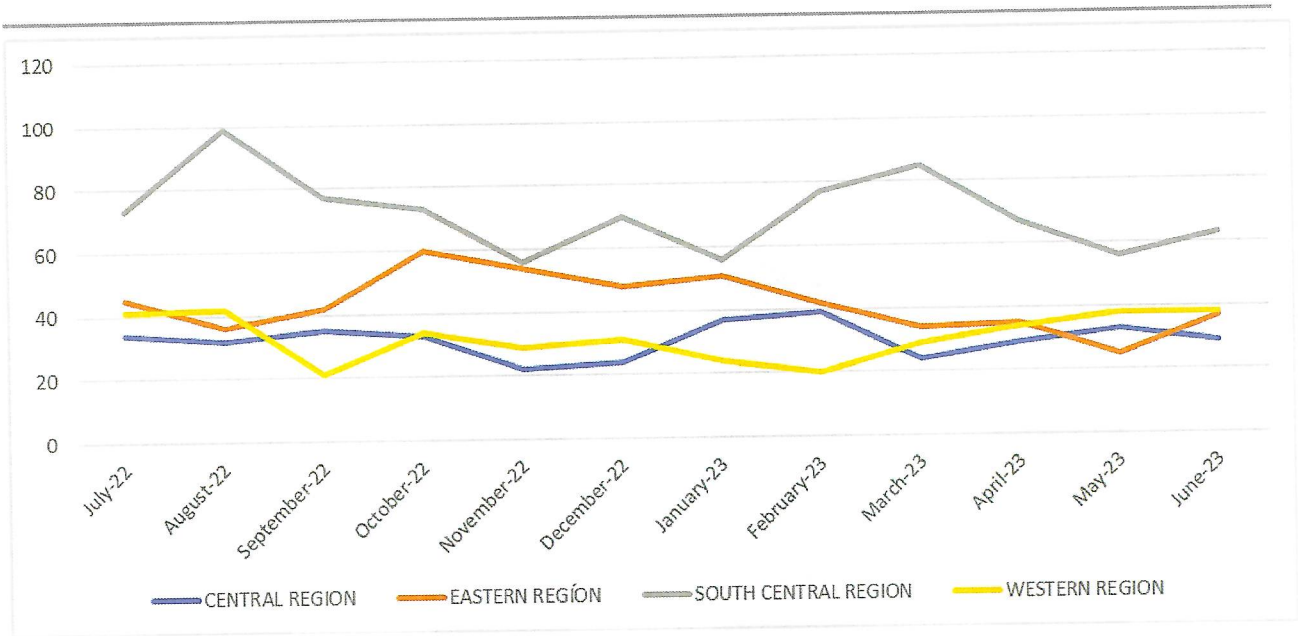


Figure 20: Regional Grievance Appeals Trends by Category – Facility/Other

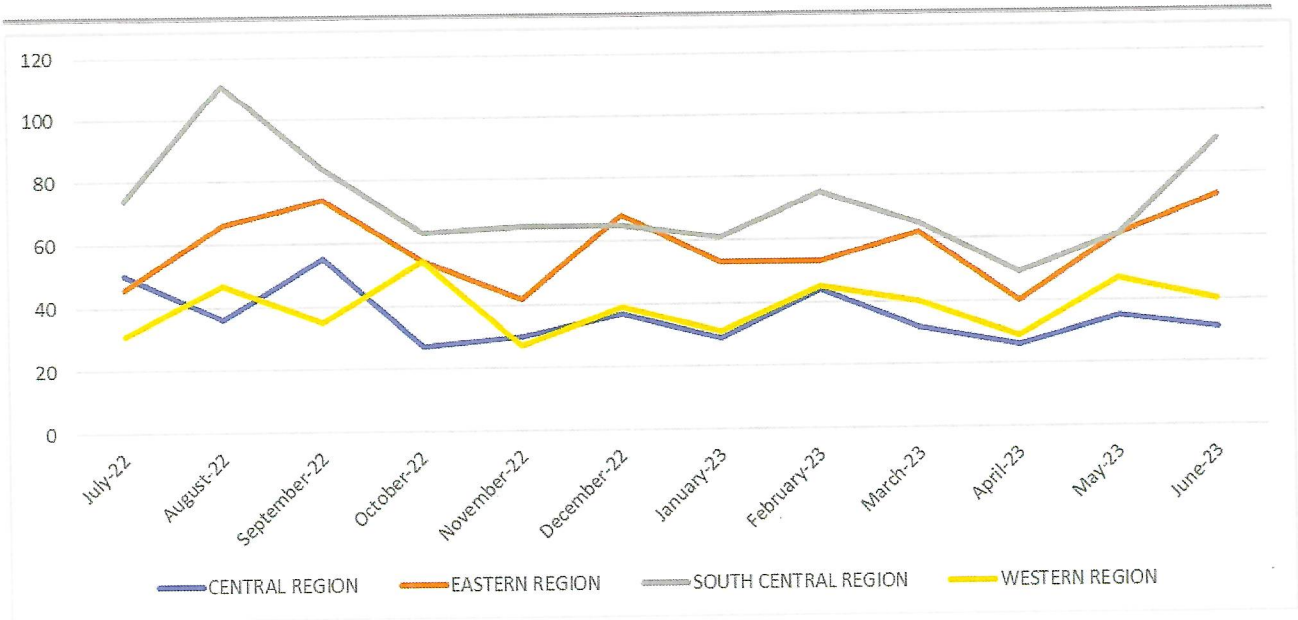


Figure 21: Regional Grievance Appeals Trends by Category – Medical

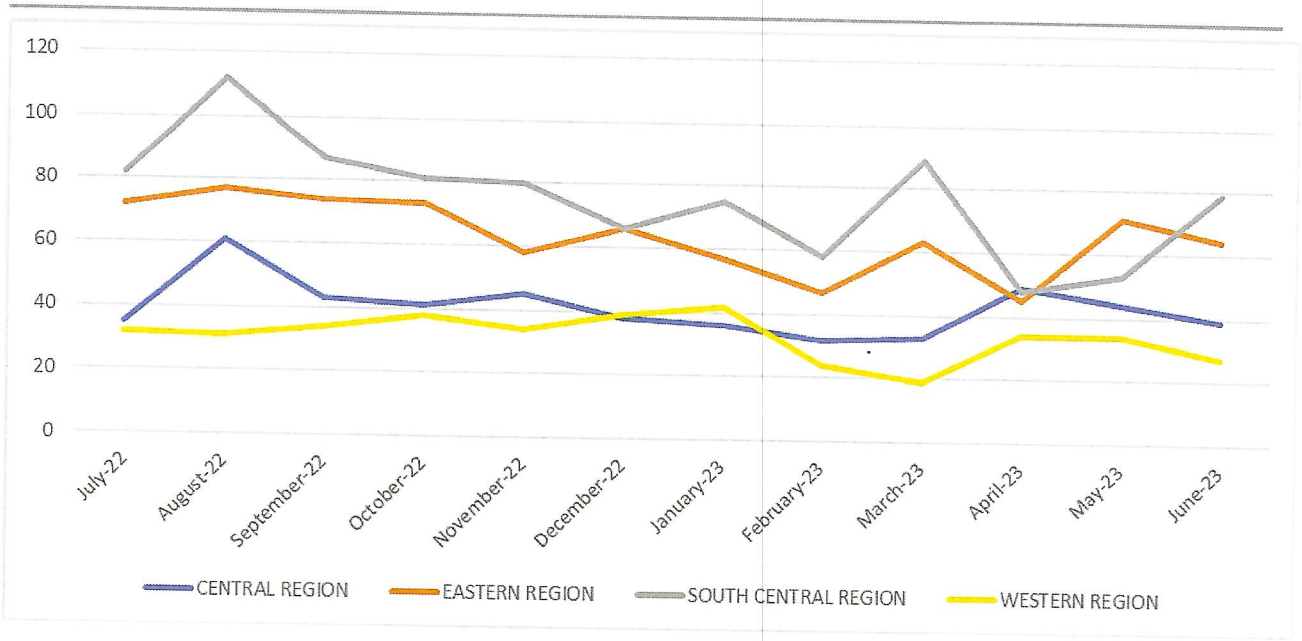
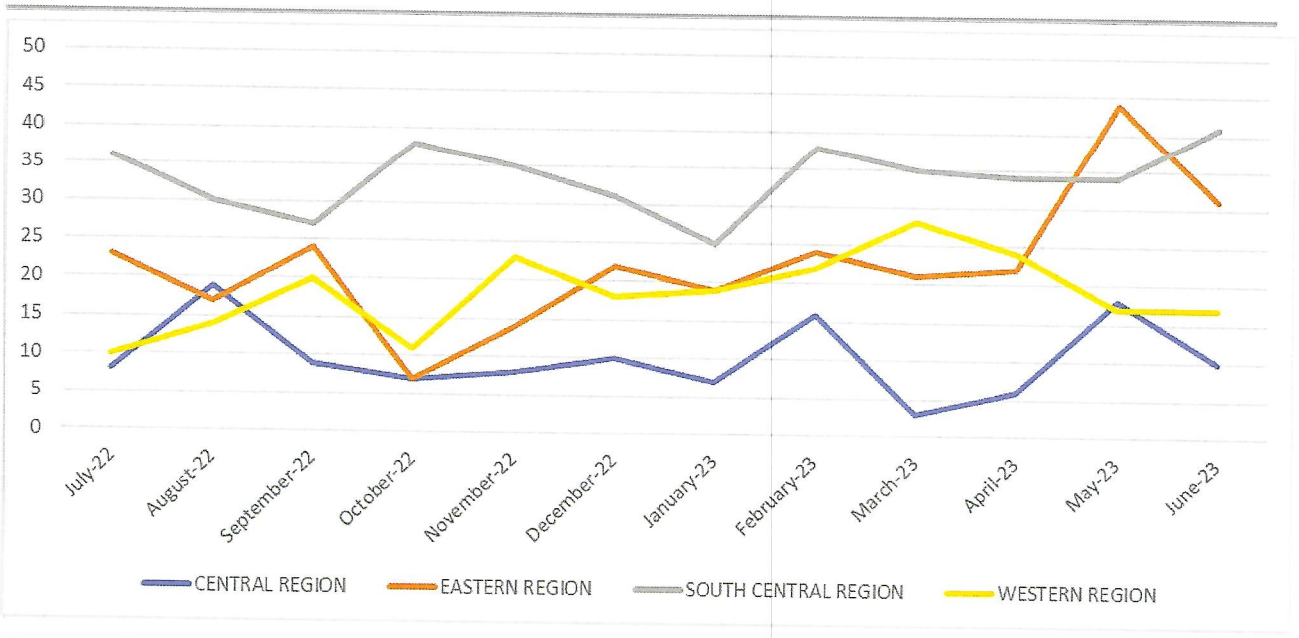


Figure 22: Regional Grievance Appeals Trends by Category – Programs



Section 5:
The Number of Orders Filed by the Board

Following their investigations, Grievance Examiners employed by the Board issued 9,835 written orders during Fiscal Year 2022-2023. The disposition or merit codes of the responses to Step 3 offender grievances appeals are listed below in Figure 23. Merit Code "Resolved-IGRB Staff" indicates that the Grievance Examiner took affirmative action and resolved the offender's grievance, such as engage in informal mediation with a prison facility. Merit Code "Resolved-Prison Staff" indicates that the prison facility provided the offender with a satisfactory resolution in response to the grievance and no further action was necessary.

Figure 23: Disposition/Merit Code of IGRB Orders:

Merit Code	Count
Dis.-Lacks merit	1,202
Dis.-Lacks supporting evidence	1,499
Dis.-Out of scope	267
Dis.-Unable to substantiate	61
Inmate no longer pursuing	1
Inmate paroled/released	64
Resolved-Prison Staff	4,259
Resolved-IGRB Staff	2,482
Total	9,835