

**RESIDENT GRIEVANCE  
SYSTEM**

**ANNUAL REPORT  
FISCAL YEAR 2013**

**DEVELOPMENTAL DISABILITIES  
ADMINISTRATION FACILITIES**

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**PART I**

**RESIDENT GRIEVANCE SYSTEM**

**FISCAL YEAR 2013**

**ANNUAL REPORT**

**BACKGROUND AND STRUCTURE  
DEVELOPMENTAL DISABILITIES ADMINISTRATION  
STATE RESIDENTIAL CENTERS and SECURED EVALUATION,  
THERAPEUTIC AND TREATMENT UNITS**

The Resident Grievance System was established in 1985 as part of a negotiated settlement of the class action lawsuit, *Coe v Hughes, et al.* The negotiated settlement, titled the Coe Consent Decree, created a two tiered advocacy program to enforce rights guaranteed by federal and state laws and regulations; to assist patients with claims for benefits and entitlements; to achieve deinstitutionalization; and to assist patients in resolving civil legal problems. The program is governed by the Code of Maryland Regulations (COMAR) 10.21.14, entitled Resident Grievance System, adopted March 28, 1994 and amended January 26, 1998.

The Resident Grievance System is under the auspices of the Deputy Secretary for Behavioral Health within the Department of Health and Mental Hygiene. The program provides services for residents of the seven Mental Hygiene Administration (MHA) Psychiatric Inpatient Facilities.<sup>1</sup> The Director of the program is responsible for hiring, evaluating, and assigning Rights Advisors (RA) to each of the seven MHA facilities.

On July 1, 2000, the DHMH Secretary, Dr. Georges Benjamin, decreed that the Resident Grievance System be expanded to provide rights advocacy for residents of the State Residential Centers, operated by the Developmental Disabilities Administration (DDA). The policy governing the operation of the RGS in DDA facilities was finalized and distributed to DDA facilities by the DDA Director, Diane K. Coughlin, on December 19, 2002. The policy outlines the procedures governing the administrative process for receiving and investigating reports of injuries, death, allegations of physical, sexual, or verbal abuse, and any other rights issues, in a timely manner, in accordance with Health General §7-1003 (g), Annotated Code of Maryland.

In January, 2009, RGS began to provide services to the two Secured Evaluation and Therapeutic Treatment (SETT'S) Units operated by DDA. The units are located on the grounds of Springfield Hospital Center and Clifton T. Perkins Hospital Centers, respectively. The mission of the SETT units is to provide evaluation and assessment services, as well as, active treatment to court-involved, intellectually disabled individuals within a secure and safe environment. RGS uses the same administrative process as the State Residential Centers (SRC), to assist the individuals residing in the SETT Units.

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<sup>1</sup> Effective July 1, 2014, the Mental Hygiene Administration and Alcohol and Drug Abuse Administration merged to become the Behavioral Health Administration (BHA).

RGS works collaboratively with the Office of Health Care Quality, the Maryland Disability Law Center and other stakeholders to ensure patient safety and protect their legal rights. RAs are responsible for investigating and mediating allegations of rights violations and providing education on patient's rights to residents and staff in MHA inpatient facilities. They also help protect the civil rights (voting, confidentiality, etc.) of patients. RAs are co-located at the facilities and attend and participate in various committees and facility meetings to address patients' concerns and advocate for patients' rights. To ensure patient services are not interrupted, all RAs are trained to provide RGS services in the absence of an assigned RA.

In January 1996, the Resident Grievance System implemented toll-free telephone access to the Central Office in addition to the two regular lines. This service allows residents to have immediate contact with the Resident Grievance System and has enhanced the ability to respond rapidly to patient concerns. Referrals to the Resident Grievance System can be made directly to the assigned Rights Advisor or the Central Office by using the toll free number, 1-800-747-7454. During Fiscal Year 2013, the Resident Grievance System received a total of 3,876 calls via the toll free telephone number.

### **Legal Assistance Providers**

Legal Assistance Providers (LAPs) are the second tier of the patient rights program. Legal Assistance Providers are a group of independent attorneys, contracted by RGS, to provide the following specific legal assistance and representation services to residents within DDA facilities:

1. Admission Hearings - Representation of individuals proposed for admission to a State Residential Center in accordance with Annotated Code of Maryland, Health General §7-503. HG §7-503 requires a showing – by clear and convincing evidence – that the conclusions leading to the decision to admit an individual are supported by the following findings:
  - a. The individual has mental retardation;
  - b. The individual needs residential services for the individual's adequate habilitation; and
  - c. There is no less restrictive setting in which the needed services can be provided that is available to the individual or will be available to the individual within a reasonable time after the hearing.

***In Fiscal Year 2013, the Legal Assistance Providers spent 70.56 hours representing 20 individuals at admission hearings.***

2. Annual Reviews - Annual review of the current status of residents to determine whether they continue to meet retention criteria in accordance with Annotated Code of Maryland, Health General §7-505. HG §7-505 requires a determination of the following:
  - a. Whether this individual continues to meet the requirements of this subtitle for admission to a State Residential Center;
  - b. Whether the services which the individual requires can be provided in a less restrictive setting;

- c. Whether the individual's plan of habilitation as required by §7-1006 of this title is adequate and suitable; and
- d. Whether the State residential center has complied with and executed the individual's plan of habilitation in accordance with the rules, regulations, and standards that the Secretary adopts.

***In Fiscal Year 2013, the Legal Assistance Providers spent 733.02 hours conducting annual reviews for 124 residents.***

- 3. Habeas Corpus / Petition for Release - Representation of individuals who elect to petition for release pursuant to the Annotated Code of Maryland, Health General:
  - a. §7-506 Habeas Corpus - Any individual who has been admitted to a State residential center or any person on behalf of the individual may apply at any time to a court of competent jurisdiction for a writ of habeas corpus to determine the cause and the legality of the detention.
  - b. §7-507 Petition for Release - Subject to the limitations in this section, a petition for the release of an individual who is held under this subtitle from a State residential center may be filed, at any time, by the individual or any person who has a legitimate interest in the welfare of the individual.

***In fiscal year 2013, the Legal Assistance Providers spent 0.0 hours representing 0 individuals in habeas corpus/petition for release.***

- 4. Transfer Hearings - Representation of residents at transfer hearings pursuant to Annotated Code of Maryland, Health General:
  - a. §7-801 Authority of Director - The Director may transfer an individual with developmental disability from a public residential program or a public day program to another public residential program or public day program or, if a private provider of services agrees, to that private program, if the Director finds that the individual with developmental disabilities either can receive better treatment in, or would be more likely to benefit from treatment at the other program; or the safety or welfare of other individuals with developmental disability would be furthered.
  - b. §7-802 Transfer to a Mental Health Program - The Developmental Disabilities Administration may ask the Mental Hygiene Administration to accept primary responsibility for an individual in or eligible for admission to a State residential center, if the Developmental Disabilities Administration finds that the individual would be provided for more appropriately in a program for individuals with mental disorders. The Mental Hygiene Administration shall determine whether transfer to a mental health program is appropriate.
  - c. A dispute over a transfer of an individual from the Developmental Disabilities Administration to the Mental Hygiene Administration shall be resolved in accordance with procedures that the Secretary sets, on request of the Developmental Disabilities

Administration or the Mental Hygiene Administration. The Director shall give the individual with developmental disability the opportunity for a hearing on the proposed transfer.

*In fiscal year 2013, the Legal Assistance Providers spent 95.4 hours representing 9 residents at transfer hearings.*

*In fiscal year 2013, the Legal Assistance Providers spent 67.6 hours representing 13 residents requesting discharge.*

## CLASSIFICATION OF RIGHTS

Resident Grievance System Regulations (RGS), COMAR 10.21.14, define "Rights Issues" broadly as "an alleged violation of a resident's rights, guaranteed by Federal and State constitutions, statutes, regulations, common law, or policies of the Department, Mental Hygiene Administration, and the facility." When the RGS was created, there was a general understanding that all rights issues are not stipulated in the law. Therefore, the RGS remains responsible for protecting all residents' rights, including those rights not stipulated in the law. The RGS Director has the responsibility for developing the classification system and providing guidelines for its use.

The classification system developed by the Director is divided into three major classifications and 16 rights categories. The data in the Annual Report for Fiscal Year 2013 is reported within the three major classifications - grievances, clinical review panels, and information/assistance. For purposes of data collection, form RGS-24 – "Category of Rights Issues" – is used to assign all cases to one of 16 major categories:

- abuse;
- admission/discharge/transfer;
- civil rights;
- communication and visits;
- confidentiality and disclosure;
- environmental;
- freedom of movement;
- money;
- neglect;
- personal property;
- rights protection system;
- treatment rights;
- other;
- no right involved;
- resident-resident assault; and death

### Grievances

A "Grievance" is defined as a written or oral statement which alleges either that an individual's rights have been unfairly limited, violated, or are likely to be violated in the immediate future; or that the facility has acted in an illegal or improper manner with respect to an individual or a group of individuals.

Grievances can be initiated by the individual, an employee of the facility, a family member of the individual, or an interested party,

Grievance management, a major responsibility of the RAs, includes receipt, investigation and resolution of complaints, and compliance with the systematic and orderly 4-stage grievance process. The RA has oversight of the grievance process, ensuring that the 4 stages are completed within 65 working days, as required by COMAR 10.21.14. RAs make every effort to negotiate, mediate and work toward the achievement of a mutually satisfactory resolution at Stage 1.

If unresolved at Stage 1, grievances proceed to Stage 2 for review and recommendations by the Unit Director. Grievances unresolved at Stage 2 proceed to Stage 3 for review, corrective action, if applicable, and/or recommendations by the Chief Executive Officer (CEO), with an optional review by the Resident's Rights Committee. Unresolved Stage 3 grievances are referred to Stage 4 and reviewed at Stage 4 by the Central Review Committee (CRC), chaired by the Director of the Resident Grievance System. Stage 4 grievance decisions are sent to the resident and, when valid, recommendations for corrective action are sent to the facility's CEO for implementation.

Following a thorough investigation by the RA, grievances are determined to be Valid, Invalid, or Inconclusive. A grievance is valid when evidence is sufficient to prove an allegation. When there is insufficient evidence to prove an allegation, a grievance is invalid. A grievance is inconclusive when sufficient evidence does not exist to prove or disprove an allegation.

In fiscal year 2013, Rights Advisors processed a total of 12 grievances. Of those 12 grievances, 9 (75%) were resolved at Stage 1, 0 (0%) were resolved at Stage 2, 1 (8.3%) were resolved at Stage 3 and 2 (16.7%) were resolved at Stage 4

### **Information/Assistance**

Cases classified as Information/Assistance do not allege a rights violation. In these cases, patients are requesting information, clarification, or assistance with a concern. In DDA facilities, Information/Assistance cases can be initiated by Serious Reportable Incidents that have been investigated and found to have been satisfactorily resolved by the facility.

In fiscal year 2013, Rights Advisors processed **535** Information/Assistance cases.

### **ACTIVITY PER FACILITY Fiscal Year 2013**

<i>Facility</i>	<b>Grievances</b>	<b>Information/Assistance</b>	<b>Total Cases</b>
<i>HOLLY CENTER</i>	7	47	54
<i>POTOMAC CENTER</i>	2	487	489
<i>SETT - PERKINS</i>	2	1	3
<i>SETT - SPRINGFIELD</i>	1	0	1
<b>TOTAL</b>	12	535	547

**STAGE 4  
CENTRAL REVIEW COMMITTEE**

A Stage 4 central review committee appeal is the last and final appeal level of the Resident Grievance System. A Rights Advisor is required to make every effort to negotiate, mediate, and resolve the grievance; however, the ultimate decision to resolve or appeal the grievance belongs to the patient. If the patient elects to appeal, the Rights Advisor is required to assist the patient in filing the appeal, even though the RA may not believe that the request has merit.

The **central review committee** is comprised of three members: Director of the Resident Grievance System, Director of the Mental Hygiene Administration, and Clinical Director of the Mental Hygiene Administration, or their designees. The Committee reviews all prior information concerning the grievance and may conduct a further investigation, if deemed warranted by the Committee. At the conclusion of the review, the Committee issues a written decision, based on their findings, and makes recommendations for corrective action, if warranted. The Director of the RGS is responsible for monitoring the implementation of all corrective action recommended by the committee.

There were a total of **2** grievances appealed to Stage 4 in Fiscal Year 2013, representing 16.7% of the 12 total grievances filed.

*\*Both Stage 4 grievances were filed by a guardian of a resident of the Holly Center.*



**DDA Trending Data  
2005 – 2013**

Year	2005	2006	2007	2008	2009	2010	2011	2012	2013
<b>Grievances</b>	52	45	46	19	10	8	18	51	12
<b>Abuse</b>	24	28	18	9	2	2	5	14	5
<b>Neglect</b>	1	1	1	1	1	0	0	1	2
<b>Treatment</b>	12	4	10	5	4	1	3	20	0
<b>I &amp; A</b>	726	572	603	558	358	268	397	579	535
<b>Abuse</b>	0	1	3	2	2	3	10	6	4
<b>Neglect</b>	0	0	4	0	2	10	7	5	2
<b>Treatment</b>	538	424	426	449	280	268	195	339	245
<b>Stage 4</b>	0	0	1	0	0	0	3	5	2
<b>Deaths</b>	13	14	11	13	12	8	7	3	3

All numbers represent totals

**Legend**

I & A = Information and Assistance requests

Trending Data indicates a significant decrease in Grievances from 2008 to 2013, with a spike in 2012, while Information and Assistance requests began a decline in 2009 and lasted 3 years, before beginning another pattern of increases. Death trends, on the other hand, have consistently decreased throughout the years. Prior to 2011, there were no significant amount of stage 4 grievances.

It is important to note that in January 2009, the RGS began to provide services to the two Secured Evaluation and Therapeutic Treatment (SETT) Units operated by DDA. Prior to 2009, all data only included the two State Residential Centers, Holly Center and Potomac Center. The addition of the SETT Units appeared to have no negative impact. On the contrary, the data reflects an interesting decrease in both Grievances and Information and Assistance request the first two years of the SETT Units addition to the RGS.

**PART II**

**DEVELOPMENTAL DISABILITIES ADMINISTRATION  
FACILITIES DATA  
Fiscal Year 2013**

**Rhonda Callum, MS  
Director**

**John Hancock  
Database Program Manager**

DEMOGRAPHIC INFORMATION FY 2013

AGGREGATE  
GRIEVANCES (DDA)

SEX	#	%	AGE	#	%	RACE	#	%
Female	2	17	<18	0	0	African American	11	92
Male	10	83	18-44	5	42	Asian	0	0
			45-64	7	58	Caucasian	0	0
			65+	0	0	Hispanic	1	8
Class	0	0	Class	0	0	Class	0	0
Total	12	100	Total	12	100	Total	12	100

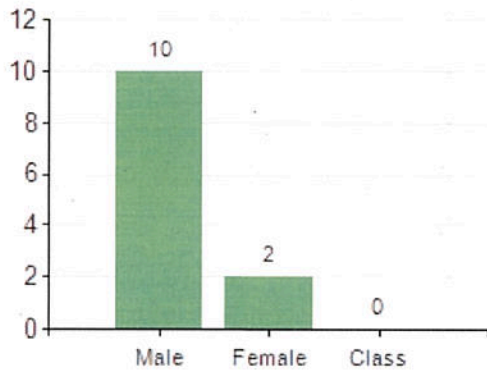
AGGREGATE  
INFORMATION/ASSISTANCE (DDA)

SEX	#	%	AGE	#	%	RACE	#	%
Female	210	39	<18	6	1	African American	225	42
Male	324	61	18-44	376	70	Asian	0	0
			45-64	132	25	Caucasian	264	49
			65+	20	4	Hispanic	45	9
Class	1	0	Class	1	0	Class	1	0
Total	535	100	Total	535	100	Total	535	100

*Note: Class represents demographic information representative of a class action initiated by a group of residents and cannot be assigned to any of the specific demographic areas (sex, age and race) listed on the chart.*

Aggregate Cases for Gender for DDA for FY13

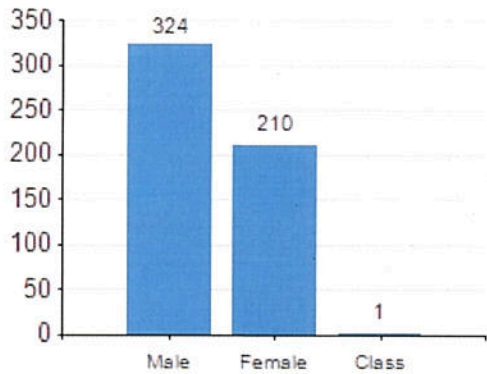
Grievance Numbers



Grievance Percentages



Information/Assistance Numbers

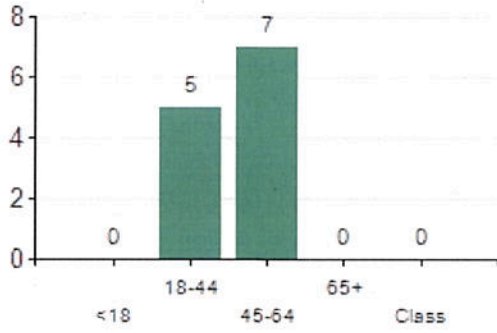


Information/Assistance Percentages

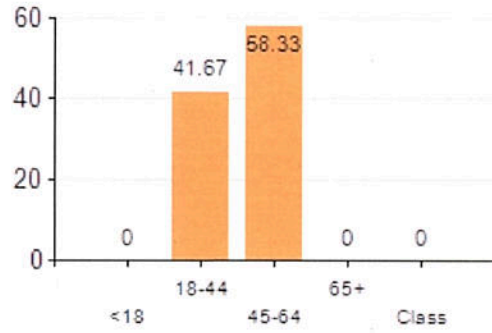


Aggregate Cases for Age for DDA for FY13

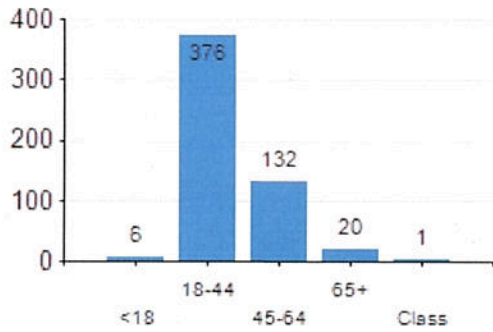
Grievance Numbers



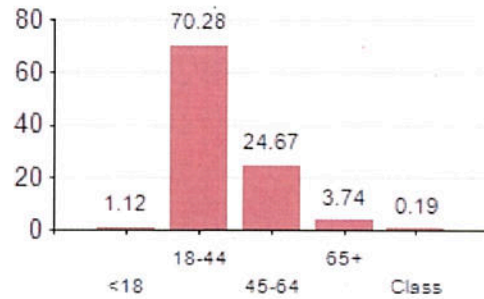
Grievance Percentages



Information/Assistance Numbers

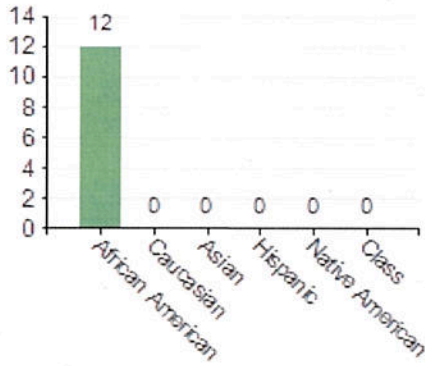


Information/Assistance Percentages

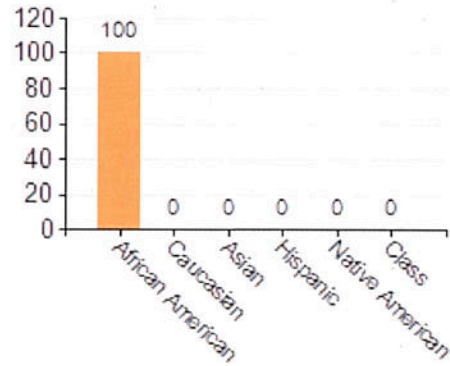


Aggregate Cases for Race for DDA for FY13

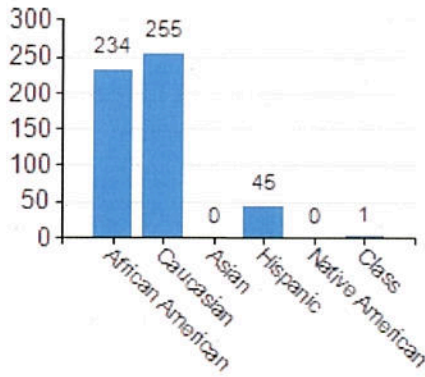
Grievance Numbers



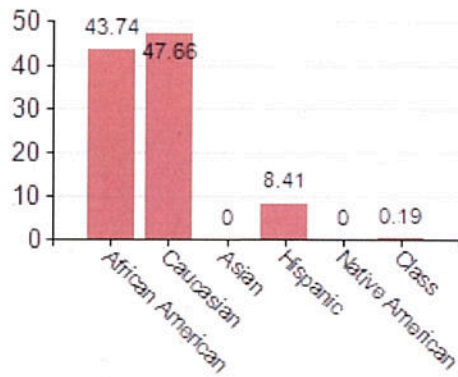
Grievance Percentages



Information/Assistance Numbers



Information/Assistance Percentages



Grievances – Holly Center

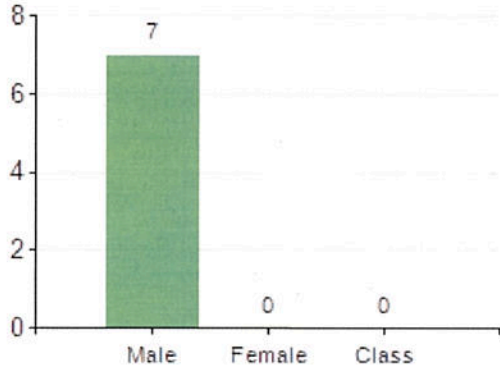
SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	7	100
Male	7	100	18-44	0	0	Asian	0	0
			45-64	7	100	Caucasian	0	0
			65+	0	0	Hispanic	0	0
Class	0	0	Class	0	0	Class	0	0
Total	7	100	Total	7	100	Total	7	100

Information/Assistance – Holly Center

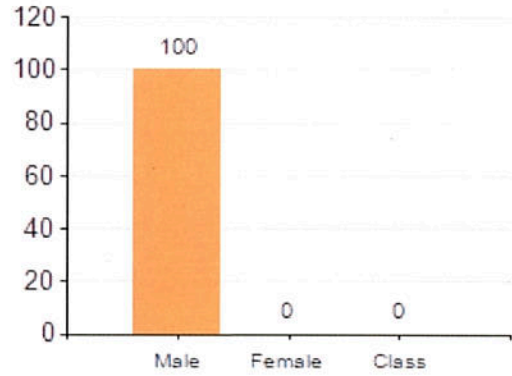
SEX	#	%	AGE	#	%	RACE	#	%
Female	18	38	<18	0	0	African American	22	47
Male	29	62	18-44	11	23	Asian	0	0
			45-64	22	47	Caucasian	25	53
			65+	14	0	Hispanic	0	0
Class	0	0	Class	0	0	Class	0	0
Total	47	100	Total	47	100	Total	47	100

Cases for Gender for Holly Center for FY13

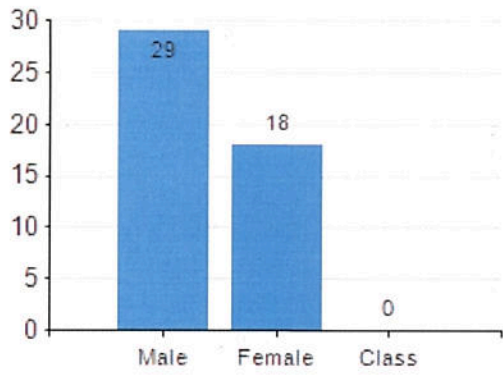
Grievance Numbers



Grievance Percentages



Information/Assistance Numbers



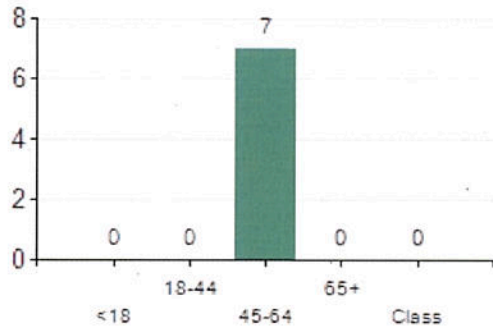
Information/Assistance Percentages



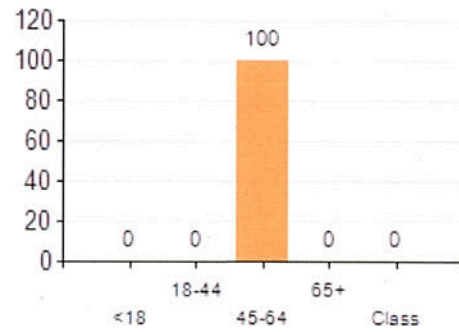


Cases for Age for Holly Center for FY13

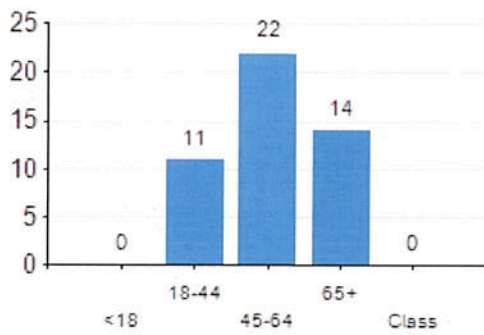
Grievance Numbers



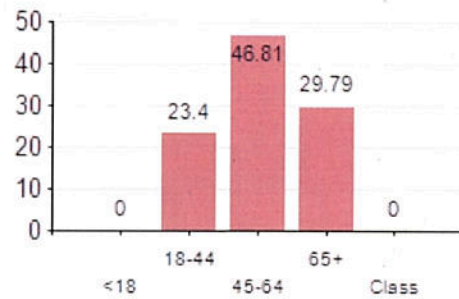
Grievance Percentages



Information/Assistance Numbers

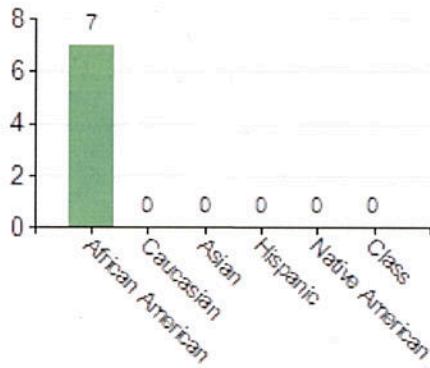


Information/Assistance Percentages

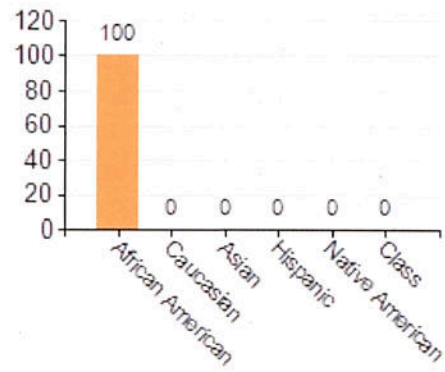


Cases for Race for Holly Center for FY13

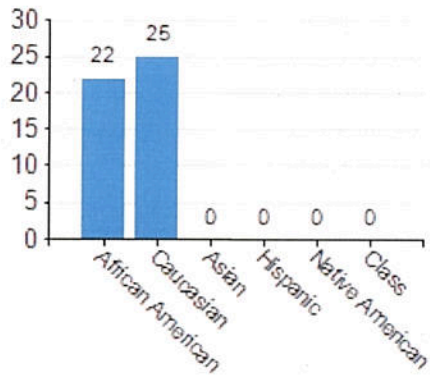
Grievance Numbers



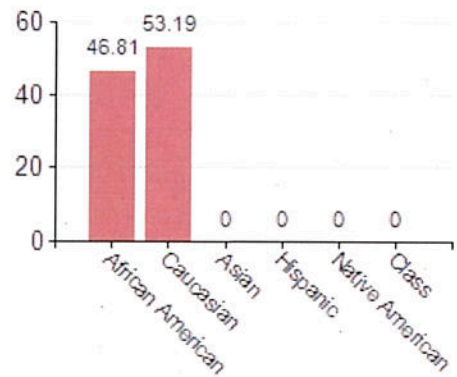
Grievance Percentages



Information/Assistance Numbers



Information/Assistance Percentages



Grievances – Potomac Center

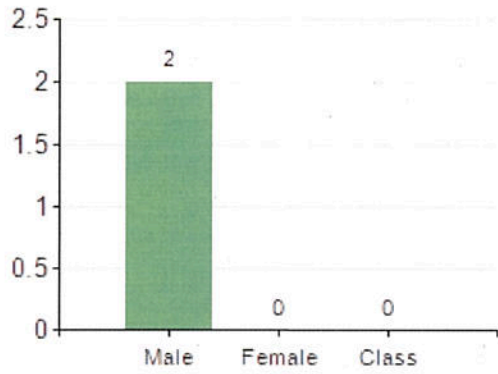
SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	2	100
Male	2	100	18-44	2	100	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	0	0
Class	0	0	Class	0	0	Class	0	0
Total	2	100	Total	2	100	Total	2	100

Information/Assistance – Potomac Center

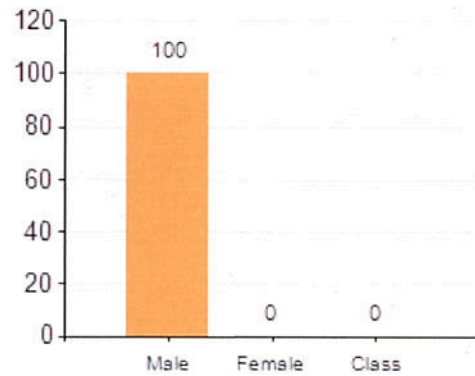
SEX	#	%	AGE	#	%	RACE	#	%
Female	191	39	<18	6	1	African American	202	42
Male	295	61	18-44	364	75	Asian	0	0
			45-64	110	23	Caucasian	239	49
			65+	6	1	Hispanic	45	9
Class	1	0	Class	1	0	Class	1	0
Total	487	100	Total	487	100	Total	487	100

Cases for Gender for Potomac Center for FY13

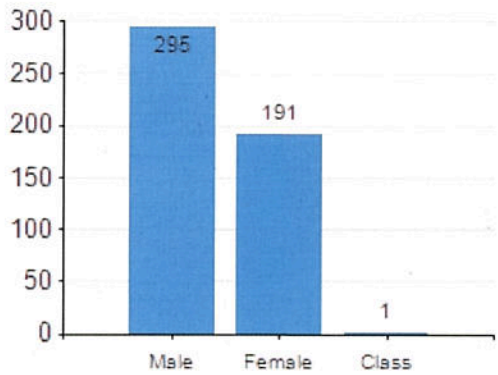
Grievance Numbers



Grievance Percentages



Information/Assistance Numbers

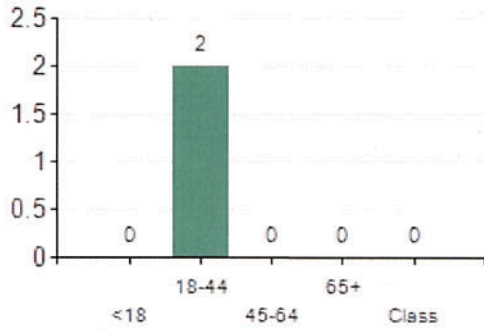


Information/Assistance Percentages

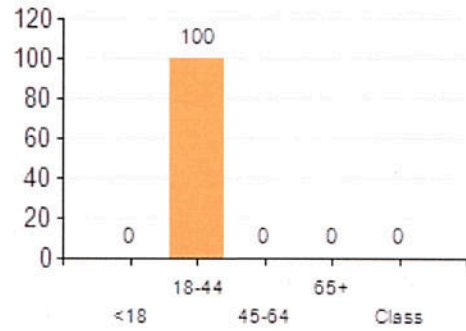


Cases for Age for Potomac Center for FY13

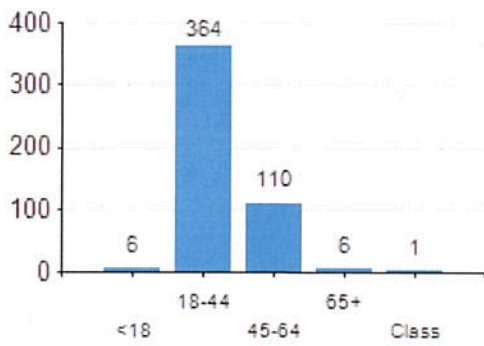
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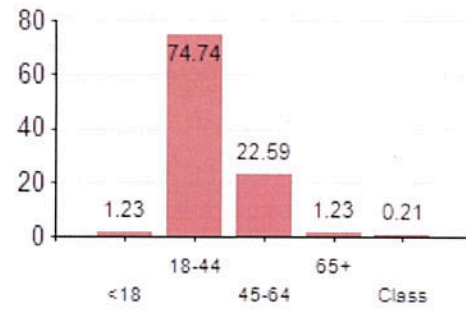
Grievance Percentages



Information/Assistance Numbers

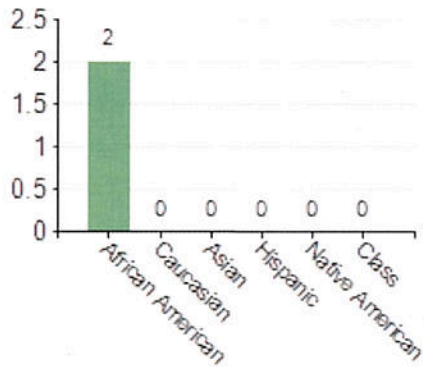


Information/Assistance Percentages

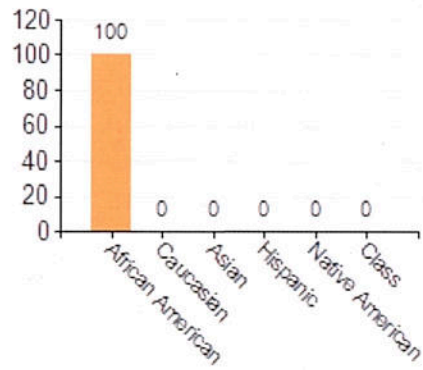


Cases for Race for Potomac Center for FY13

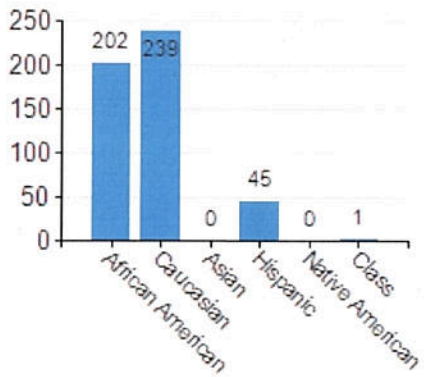
Grievance Numbers



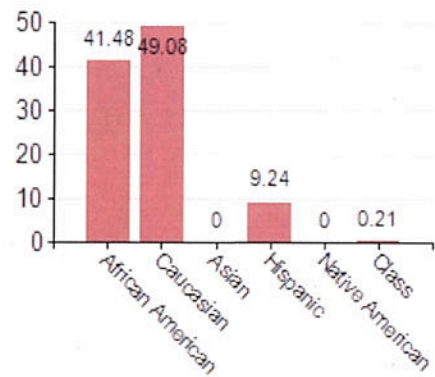
Grievance Percentages



Information/Assistance Numbers



Information/Assistance Percentages



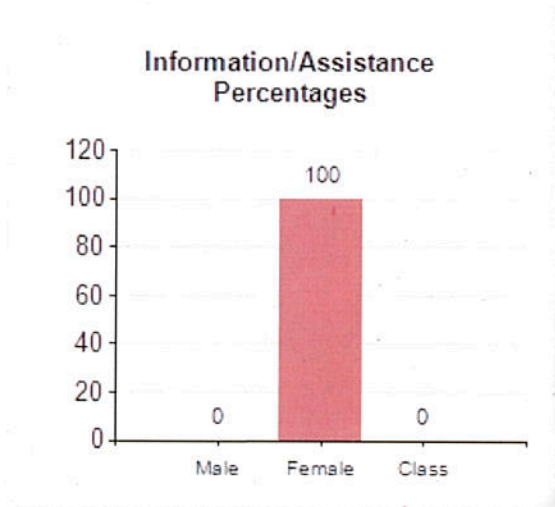
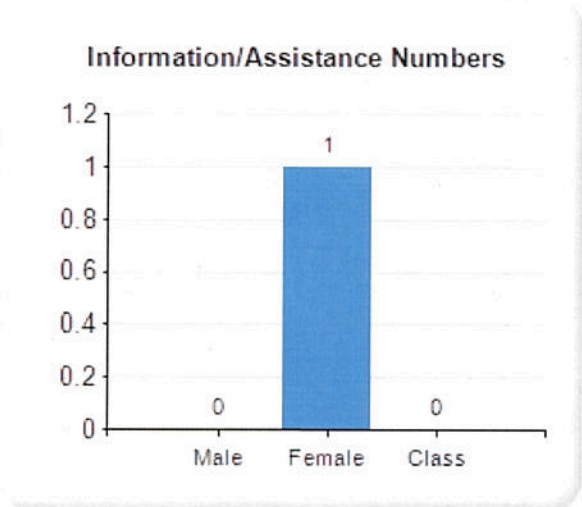
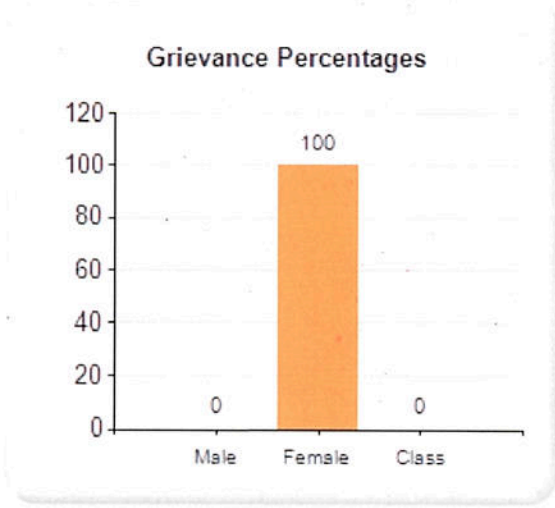
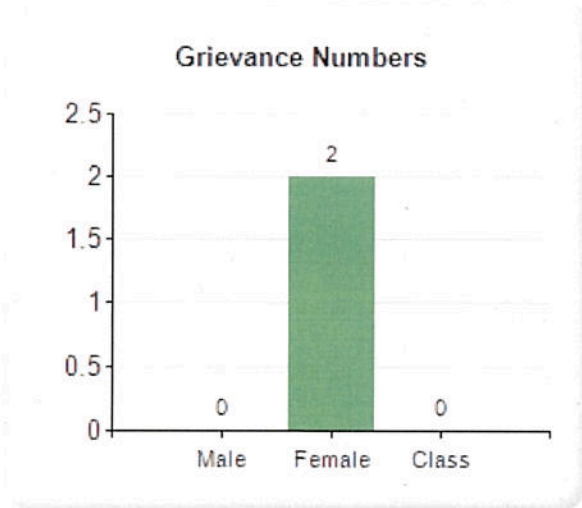
Grievances - Clifton T. Perkins Hospital SETT Unit

SEX	#	%	AGE	#	%	RACE	#	%
Female	2	100	<18	0	0	African American	2	100
Male	0	0	18-44	2	100	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	0	0
Class	0	0	Class	0	0	Class	0	0
Total	2	100	Total	2	100	Total	2	100

Information/Assistance - Clifton T. Perkins Hospital SETT Unit

SEX	#	%	AGE	#	%	RACE	#	%
Female	1	100	<18	0	0	African American	1	100
Male	0	0	18-44	1	100	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	0	0
Class	0	0	Class	0	0	Class	0	0
Total	1	100	Total	1	100	Total	1	100

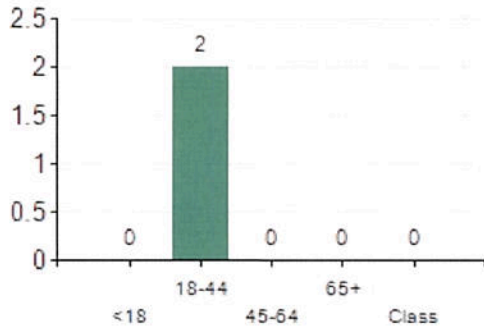
Cases for Gender for SETT Perkins for FY13



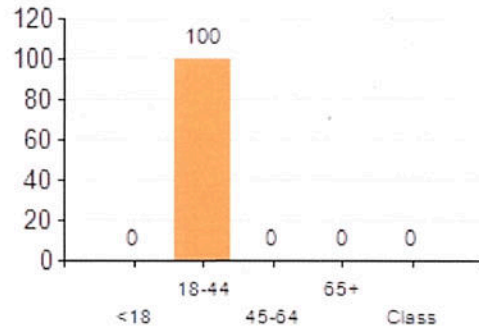


Cases for Age for SETT Perkins for FY13

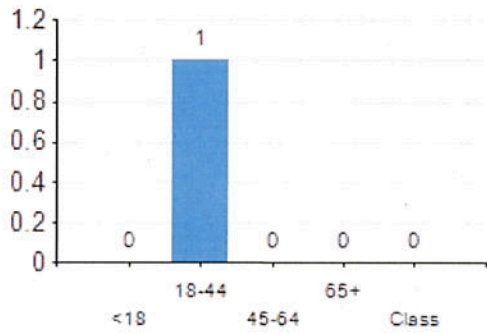
Grievance Numbers



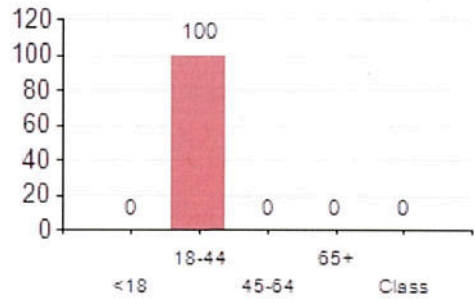
Grievance Percentages



Information/Assistance Numbers

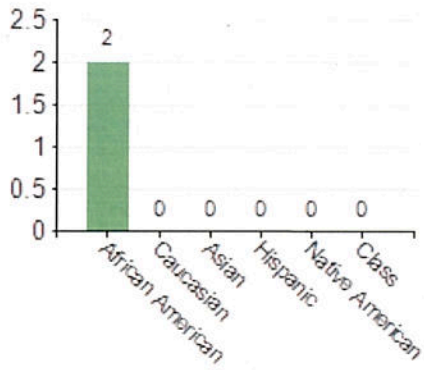


Information/Assistance Percentages

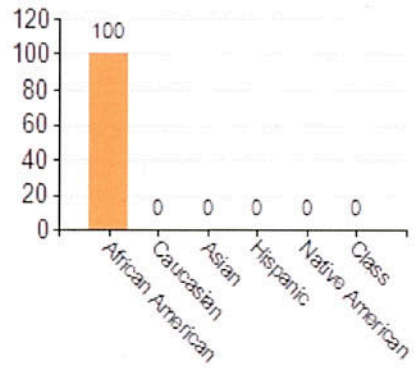


Cases for Race for SETT Perkins for FY13

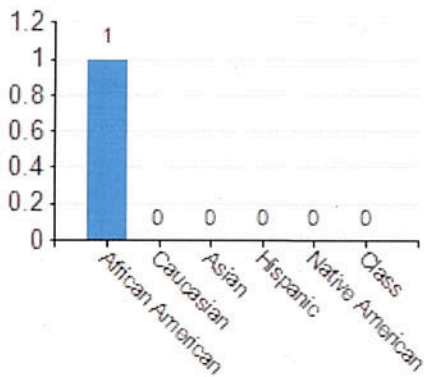
Grievance Numbers



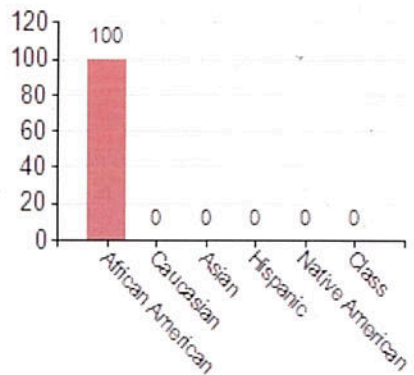
Grievance Percentages



Information/Assistance Numbers



Information/Assistance Percentages



Grievance - Springfield Hospital SETT Unit

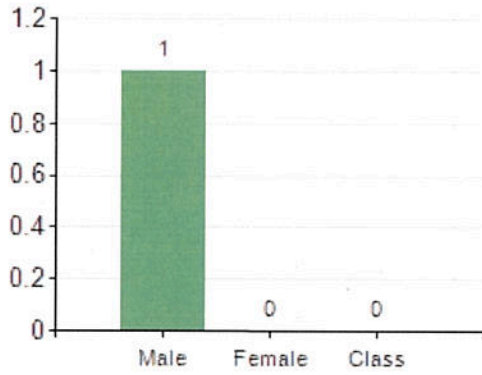
SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	0	0
Male	1	100	18-44	1	100	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	1	100
Class	0	0	Class	0	0	Class	0	0
Total	1	100	Total	1	100	Total	1	100

Information/Assistance - Springfield Hospital SETT Unit

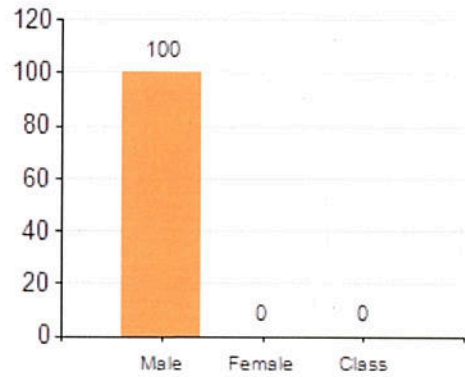
SEX	#	%	AGE	#	%	RACE	#	%
Female	0	0	<18	0	0	African American	0	0
Male	0	0	18-44	0	0	Asian	0	0
			45-64	0	0	Caucasian	0	0
			65+	0	0	Hispanic	0	0
Class	0	0	Class	0	0	Class	0	0
Total	0	100	Total	0	100	Total	0	100

Cases for Gender for SETT Springfield for FY13

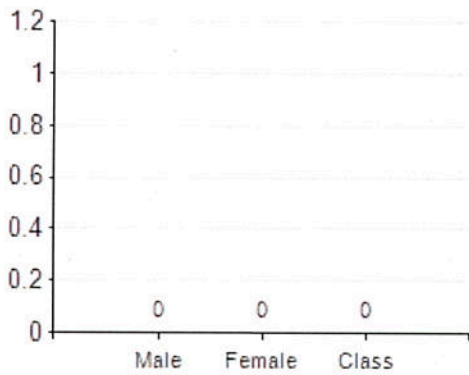
Grievance Numbers



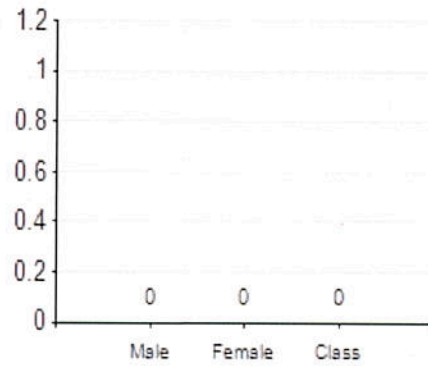
Grievance Percentages



Information/Assistance Numbers

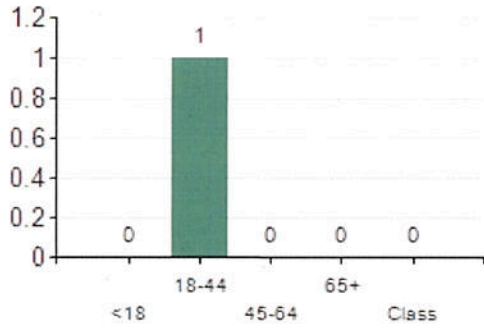


Information/Assistance Percentages

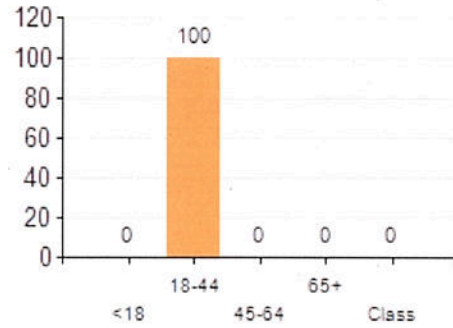


Cases for Age for SETT Springfield for FY13

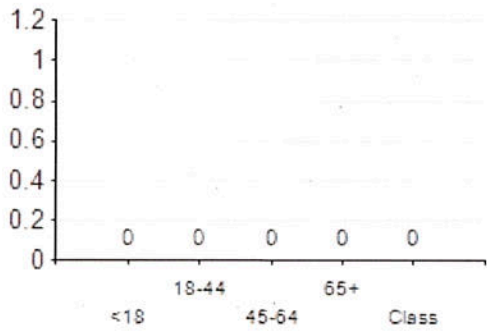
Grievance Numbers



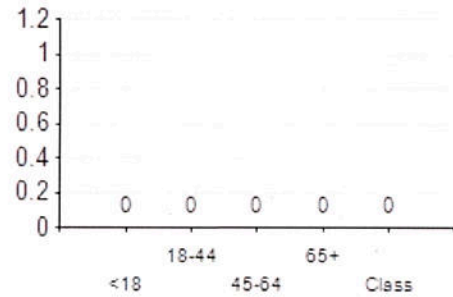
Grievance Percentages



Information/Assistance Numbers



Information/Assistance Percentages



Cases for Race for SETT Springfield for FY13

