

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ISAAC FLORES

James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

KARL MANUEL

James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

TYRONE MORRIS

James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

DARNELL PIERCE

James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

BRIAN SNOWDEN

James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

JAMAR WATERS

James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Plaintiffs,

v.

BRIAN EMIG, in his individual capacity, and in
his official capacity as Warden of
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Civil Action No. _____

JURY DEMAND ENDORSED HEREON

S. HOWARD, in his individual capacity, and in his official capacity as Warden of the Correctional Emergency Response Team (CERT) for the Delaware Department of Correction
245 McKee Rd.
Dover, Delaware 19904

All of the following in their official capacities:

Correctional Officer Kristin Bartell
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Correctional Officer Challis
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Capt. Coviello
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Cpl. Todd Koch
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Sgt. Mejia
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Staff Lieutenant Robert Mock
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Correctional Officer Payton
James T. Vaughn Correctional Center

1181 Paddock Rd.
Smyrna, Delaware 19977

Correctional Officer Spencer
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Lt. Brian Vanes
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Correctional Officer Wiest
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Correctional Officer White
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

Correctional Officer Wilgus
James T. Vaughn Correctional Center
1181 Paddock Rd.
Smyrna, Delaware 19977

JOHN DOES, members of the CERT
Delaware Department of Correction
245 McKee Rd.
Dover, Delaware 19904,

Defendants.

VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF

1. Plaintiffs are individuals incarcerated at the James T. Vaughn Correctional Center in Smyrna, Delaware.

2. Defendants are correctional officers, the Warden of Vaughn, and the Warden of the Delaware Department of Corrections Correctional Emergency Response Team (CERT).

3. Late at night on September 5, 2024, and continuing into the early morning hours of September 6, 2024, Defendants conducted violent, coordinated attacks on Plaintiffs and other individuals incarcerated at Vaughn. The unprovoked and unjustified attacks involved flagrant uses of excessive force, unwarranted and illegal strip searches, sexual assault, threats, degradation, and intimidation.

4. Plaintiffs have therefore filed this suit pursuant to 28 U.S.C. § 2201 and 42 U.S.C. §1983.

5. Plaintiffs seek a declaration that Defendants have violated their constitutional rights, and an injunction preventing any further unconstitutional attacks.

JURISDICTION & VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, in that this is a civil action arising under 28 U.S.C. § 2201 and 42 U.S.C. § 1983 to declare the rights of the parties and redress violations of the Eighth and Fourteenth Amendments to the United States Constitution.

7. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (b)(2), as the parties are all located in this District, and the acts or omissions giving rise to the claims occurred in this district.

PARTIES

8. Plaintiff Isaac Flores is an adult individual who is incarcerated at James T. Vaughn Correctional Center in Smyrna, Delaware. He is a citizen of Delaware.

9. Plaintiff Karl Manuel is an adult individual who is incarcerated at James T. Vaughn Correctional Center in Smyrna, Delaware. He is a citizen of Delaware.

10. Plaintiff Tyrone Morris is an adult individual who is incarcerated at James T. Vaughn Correctional Center in Smyrna, Delaware. He is a citizen of Delaware.

11. Plaintiff Darnell Pierce is an adult individual who is incarcerated at James T. Vaughn Correctional Center in Smyrna, Delaware. He is a citizen of Delaware.

12. Plaintiff Brian Snowden is an adult individual who is incarcerated at James T. Vaughn Correctional Center in Smyrna, Delaware. He is a citizen of Delaware,

13. Plaintiff Jamar Waters is an adult individual who is incarcerated at James T. Vaughn Correctional Center in Smyrna, Delaware. He is a citizen of Delaware,

14. Defendant Brian Emig serves as the Warden of James T. Vaughn Correctional Center in Smyrna, Delaware. He participated in, and/or supervised and directed the attacks on Plaintiffs that took place on September 5 and 6, 2024.

15. Defendant S. Howard is the Warden of the Delaware Department of Corrections Correctional Emergency Response Team (CERT). He participated in, and/or supervised and directed the attacks on Plaintiffs that took place on September 5 and 6, 2024.

16. According to the Department of Correction, the purpose of the CERT is “to perform advanced, high-risk or community operations,” to, “provide tactical responses during

emergency situations,” and to, “assist with escapee/erroneous release operations.” CERT operations are not a regular, everyday function of running any prison in Delaware.¹

17. Defendant Correctional Officer Kristin Bartell is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. She was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

18. Defendant Correctional Officer Challis is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. She was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

19. Defendant Capt. Coviello is a correctional officer employed by the Delaware Department of Correction. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

20. Defendant Corporal Todd Koch is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

21. Defendant Sgt. Mejia is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

22. Defendant Staff Lt. Robert Mock is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

¹ https://doc.delaware.gov/views/bureau_of_prison.blade.shtml.

23. Defendant Correctional Officer Payton is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. She was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

24. Defendant Correctional Officer Spencer is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

25. Defendant Lieutenant Brian Vanes gave the CERT the order to perform mass shakedowns on September 5 and 6, 2024, and directed the unjustified, unlawful, and unconstitutional actions of the CERT.

26. Defendant Correctional Officer Wiest is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

27. Defendant Correctional Officer White is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

28. Defendant Correctional Officer Wilgus is a correctional officer employed by the Delaware Department of Correction, and also a member of the CERT. He was present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024.

29. Defendants John Does are unidentified correctional officers employed by the Delaware Department of Correction who are also members of the CERT. They were present for, and conducted, the attacks on Plaintiffs that took place on September 5 and 6, 2024. Reasonable discovery will identify them by name. Plaintiffs are not able to identify all of the CERT members

who assaulted them, because the CERT operates in full riot gear, which obscures both their faces and their name badges.

FACTS REGARDING JAMES T. VAUGHN CORRECTIONAL CENTER

30. At the James T. Vaughn Correctional Center, Buildings 17, 18, and 19 are the segregated housing unit (SHU). (Declaration of Brian Snowden ¶ 22, attached as **Exhibit A**) (hereafter cited as “Snowden Decl. ¶ __.”).

31. Each building, including Building 18, has four tiers—A, B, C, and D. Snowden Decl. ¶ 23.

32. Each of the tiers has an upper level and a lower level. Each level has twelve single-occupancy cells. There is also one handicapped cell on each tier, so each tier has a total of twenty-five (25) cells. Snowden Decl. ¶ 24.

33. As set forth below, late at night on September 5, 2024, the CERT began an operation on A-Tier in Building 18. Its operation proceeded to B-Tier, and then throughout all of Building 18.

FACTS RELATED TO PLAINTIFF ISAAC FLORES

34. At all times relevant to this case, Plaintiff Isaac Flores was incarcerated at James T. Vaughn Correctional Center. (Declaration of Isaac Flores ¶ 3, attached as **Exhibit B**) (hereafter cited as “Flores Decl. ¶ __.”)

35. On September 5, 2024, Flores was housed in cell B, upper 3 on B-Tier in Building 18. Flores Decl. ¶ 4.

36. Between 11:00 p.m. and midnight on September 5, 2024, the CERT began shaking down cells on A-Tier in Building 18. Next they came to B-Tier and started going cell to cell conducting shakedowns. Flores Decl. ¶ 5.

37. Flores recalls that there were four or five members of the CERT who came to his cell, but the only officers involved that Flores could identify are Defendant Staff Lieutenant Mock, and correctional officer Wiest. Flores Decl. ¶ 6.

38. Staff Lieutenant Mock ordered Flores to get up off his bunk and strip. Flores Decl. ¶ 7.

39. Flores started removing his clothing and complied with all orders issued by the CERT. Flores Decl. ¶ 8.

40. After he had stripped, a CERT member ordered Flores to squat and cough. A member of the CERT then pointed at Flores's penis and made a demeaning joke about it. Flores Decl. ¶ 9.

41. Without any threat from Flores, and without any further orders or warning, a member of the CERT then pepper-sprayed Flores at very close range, in violation of DOC policy and the training provided to correctional officers. A member of the CERT punched Flores in the mouth so hard that Flores's teeth pierced through his lip. Flores Decl. ¶ 10.

42. Still naked, Flores fell to the ground and CERT members continued punching and kicking him in his face, legs, buttocks, and other parts of his body. CERT members simultaneously made comments like, "You're not laughing no more!" Flores Decl. ¶ 11.

43. The CERT handcuffed Flores face down naked on the floor of his cell, then remarked, "You're really going to like this one!" and again pepper sprayed him at close range. Flores Decl. ¶ 12.

44. At no time during the incident did Flores fail to obey an order or resist or threaten the CERT members. Flores Decl. ¶ 13.

45. The CERT then took Flores to a detention cell on C-Tier which had a toilet and sink, but no bunk, locker, or other features of a regular cell. Flores was one of only two individuals placed in these detention cells; all other inmates whose cells were shaken down were placed in C-Tier in regular cells after the shakedowns. Flores Decl. ¶ 14.

46. Flores spent four days in the detention cell. He repeatedly asked Warden Emig and others why he had been placed in the detention cell instead of a regular cell, even though there were regular cells available. Flores Decl. ¶ 15.

47. Eventually correctional officers moved Flores to a regular cell. Flores Decl. ¶ 16.

48. Flores was not allowed to shower for at least a day, in spite of the fact that no one decontaminated Flores after he was sprayed, and he was not able to properly decontaminate himself. Flores Decl. ¶ 17.

49. The CERT wrote Flores up for allegedly resisting them and refusing to obey orders. Flores appealed the write up which was reversed after the hearing examiner found there was no evidence that he had actively resisted or disobeyed orders. Flores Decl. ¶ 18.

50. Flores suffered physical and psychological injuries as a result of the unprovoked and violent attack. A nurse took a photo of the injury to Flores's lip, which has now formed a scar. He also suffered pain in his left shoulder from when the CERT shoved him to the floor and wrenched his arm behind his back to cuff him. He also suffers fear and anxiety as a result of the attack, as well as PTSD any time he hears another inmate or correctional officer mention that the CERT may be operating at Vaughn. Flores Decl. ¶ 19.

51. Because of the arbitrary, unprovoked, and unjustified nature of the attack, Flores has endured the mental torture of fearing death and fearing that another incident like this could happen again any time on any day, for no reason. Flores Decl. ¶ 20.

52. Flores filed a grievance related to the CERT's actions, but his grievance was returned unprocessed, with a note that it was being forwarded to CERT Warden S. Howard. Flores has not heard any follow up since he received that paperwork. A true and accurate copy of his grievance paperwork is attached to his Declaration as Exhibit B-1. Flores Decl. ¶ 21.

FACTS REGARDING PLAINTIFF KARL MANUEL

53. At all times relevant to this case, Plaintiff Karl Manuel was incarcerated at James T. Vaughn Correctional Center. (Declaration of Karl Manuel ¶ 3, attached as Exhibit C) (hereafter cited as "Manuel Decl. ¶ __.")

54. Manuel's cell is located in Building 18, lower 8 at Vaughn. Manuel Decl. ¶ 4.

55. On the evening of September 5, 2024, Manuel was lying in bed watching a football game with ear buds in his ears. Manuel Decl. ¶ 5.

56. Between 9:00 and 10:00 p.m. that night, Manuel heard and saw members of the CERT banging on his cell door. Manuel Decl. ¶ 6.

57. In Manuel's experience, lying flat on one's bunk is standard procedure during a random search of an inmate's cell, so he laid down flat on his bunk. Manuel Decl. ¶ 7.

58. Then the food flap in Manuel's cell door opened, and a big silver canister thrown by a CERT member flew into the cell, hit Manuel in the chest, then activated and started spewing pepper spray into the air. Manuel Decl. ¶ 8.

59. Manuel did not do or say anything that would justify the CERT tossing a pepper grenade into his cell. Manuel Decl. ¶ 9.

60. The pepper spray made Manuel's eyes burn. He had difficulty breathing and fell to the floor. Manuel Decl. ¶ 10.

61. The CERT entered Manuel's cell, put a blanket over him, beat him, pulled his pants down, and digitally sodomized him. Manuel Decl. ¶ 11.

62. During the attack, Manuel suffered an injury to his hand when CERT members stomped on his wrist while he was handcuffed. Manuel Decl. ¶ 12.

63. The only members of the CERT that Manuel can positively identify are Defendant Corporal Todd Koch and Defendant Correctional Officer White. Koch is identified on the Incident Report as the lead officer and the individual who threw the pepper grenade into Manuel's cell through the food flap. White later acknowledged to Manuel that he had been a member of the CERT on the night of the incident. Manuel Decl. ¶ 13.

64. While CERT members were punching Manuel as he laid on the floor of his cell, a CERT member punched Manuel in the mouth, knocking several teeth loose and knocking his denture plate out of his mouth. Three teeth had to be removed on December 11, 2024. Manuel Decl. ¶ 14.

65. CERT then took Manuel to the barbershop area, where nurses were already gathered, apparently in anticipation of the injuries that would result from the raid. Manuel told them he was asthmatic. They ordered him to stand against the wall, but he fell to the ground, saying, "I can't breathe." Manuel Decl. ¶ 15.

66. CERT then took Manuel to the hole. The last thing one of the CERT members said to him was, "Next time you'll listen to me." Manuel Decl. ¶ 16.

67. No one decontaminated Manuel after he was pepper sprayed, and he was not able to properly decontaminate himself. Manuel was not allowed to shower until September 7, 2024. Manuel Decl. ¶ 17.

68. At no time during the incident did Manuel fail to obey an order or resist the CERT members. Manuel Decl. ¶ 18.

69. Eventually Manuel was taken to see a nurse, who said he would report the incident for PREA purposes. Sargeant Hutchinson is conducting the investigation, which is ongoing. Manuel talked with Hutchinson twice and told him the entire story. Hutchinson later came to see Manuel and asked him to fill out a form requesting a transfer out of Vaughn, which Manuel did. Manuel Decl. ¶ 19.

70. Manuel repeatedly informed the Vaughn staff about his hand injury, but Vaughn took no action until September 22, when Manuel's hand was finally x-rayed. The x-rays revealed that Manuel's hand is dislocated in three places, that he suffered tendon damage and a broken finger, and that he will require wrist fusion surgery. Manuel Decl. ¶ 20.

71. Manuel has been told that he will not be able to see a hand specialist until February of 2025. Manuel Decl. ¶ 21.

72. While Manuel was in the hole, a correctional officer brought him some of his property. The officer told Manuel his cell looked like a war zone, and that it made no sense that the CERT had ransacked his cell, breaking Manuel's glasses and his dental plate in the process. Manuel Decl. ¶ 22.

73. Later, while the officer was taking Manuel back to nursing for another evaluation, he again told Manuel in front of several witnesses that Manuel's cell looked like a disaster area, and that CERT had broken his glasses and denture plate. Manuel Decl. ¶ 23.

74. Eventually Manuel saw the dentist, who expressed concern that the CERT had broken his dental plate. Manuel Decl. ¶ 24.

75. When Manuel finally returned to his cell, he found that the CERT had confiscated much of his personal property, including his radio, sneakers, and food—none of which were contraband. His papers were also confiscated, destroyed, or ruined by having water poured all over them. Manuel Decl. ¶ 25.

76. Manuel has suffered physical and psychological injuries as a result of the attack. He has had to increase both the frequency and the dosages of his medications and suffers from PTSD. Manuel lost three teeth as a result of the attack, which affects his speech and eating, and he needs a new denture plate. Manuel Decl. ¶ 26.

77. As a direct result of this attack, Manuel has had to meet weekly with mental health professionals to manage the psychological effects of the attack. His mental state sometimes makes him physically ill to the point of vomiting. Manuel Decl. ¶ 27.

78. Because of the arbitrary, unprovoked, and unjustified nature of the attack, Manuel fears that he could be subjected to another attack by the CERT at any time, without any reason. Manuel does not feel safe at Vaughn, and lives in constant fear of another attack and retaliation. Manuel Decl. ¶ 28.

FACTS REGARDING PLAINTIFF TYRONE MORRIS

79. At all times relevant to this case, Plaintiff Tyrone Morris was incarcerated at James T. Vaughn Correctional Center. His cell was in Building 18, C-Tier, Lower 4. (Declaration of Tyrone Morris ¶ 3, attached as **Exhibit D**) (hereafter cited as “Morris Decl. ¶ __.”)

80. Around 11:00 p.m. on the night of September 5, 2024, Morris woke up after he heard loud knocking on his cell door. He looked out his cell window and saw the CERT outside his door. Morris Decl. ¶ 4.

81. A member of the CERT told Morris to lay face down on his bed and put his hands behind his back. As Morris was complying, a member of the CERT threw a large canister into his cell through the food flap. The canister activated and began spewing pepper spray into the air. Morris Decl. ¶ 5.

82. Morris had not done or said anything that would justify the CERT tossing a pepper grenade into his cell. Morris Decl. ¶ 6.

83. The CERT then rushed into his cell, threw Morris to the ground, beat him, handcuffed him, and again pepper sprayed him with their handheld canisters, this time at very close range. Morris Decl. ¶ 7.

84. CERT members put a knee in Morris's back while he was on the floor, and the beating left a knot on his forehead and bruises all over the right side of his face. Morris Decl. ¶ 8.

85. The pepper spray burned Morris's eyes, nose, and mouth. A member of the CERT put a spit mask over Morris's head, which only exacerbated the effects of the pepper spray. Morris Decl. ¶ 9.

86. During the attack, Morris repeatedly asked, "What did I do?" One of the CERT members answered, "You didn't move fast enough." Morris Decl. ¶ 10.

87. At no time during the incident did Morris fail to obey an order or resist the CERT members. Morris Decl. ¶ 11.

88. Defendant Captain Coviello supervised the incident, and correctional officers Koch, Payton, Challis, Spencer, and Wilgus were involved in the attack. Morris Decl. ¶ 12.

89. The CERT took Morris to see a nurse, but the individual only checked Morris's vitals, while ignoring his complaints about the pepper spray and injuries from the beating. Morris Decl. ¶ 13.

90. No one decontaminated Morris after he was sprayed, and he was unable to properly decontaminate himself. Morris was not allowed to shower for approximately two days. His clothing was contaminated with pepper spray. Morris Decl. ¶ 14.

91. Morris sustained injuries to his back, neck, and left wrist, and had to use a wheelchair for several days following the attack. Morris Decl. ¶ 15.

92. Morris did not see a doctor in the medical department for at least two weeks after the incident. The doctor told Morris that nothing was broken but failed to perform an x-ray on Morris's neck. Morris received pain medication for a time, but it was discontinued, even though Morris was still in pain. Morris Decl. ¶ 16.

93. Morris suffered fear and mental anguish as a result of the attack. He believes that the correctional officers at Vaughn could kill him and get away with it. He has never felt more helpless in his life. Morris Decl. ¶ 17.

94. Because of the arbitrary, unprovoked, and unjustified nature of the attack, Morris fears that he could be subjected to another attack by the CERT at any time, without any reason. He is constantly worried that the correctional officers will assault him again. Morris Decl. ¶ 18.

FACTS REGARDING PLAINTIFF DARNELL PIERCE

95. At all times relevant to this case, Plaintiff Darnell Pierce was incarcerated at James T. Vaughn Correctional Center. (Declaration of Darnell Pierce ¶ 3, attached as **Exhibit E**) (hereafter cited as "Pierce Decl. ¶ __.")

96. On September 5, 2024, Pierce was housed in Building 18, cell upper 10. During the day he saw the CERT coming on and off the tier, bringing inmates onto the tier from other locations. At that time, the CERT was not yet conducting shakedowns in Building 18. Pierce Decl. ¶ 3.

97. When Pierce spoke with the inmates CERT had brought onto the tier during the day, they reported that the CERT had assaulted them, in spite of the fact that they had not caused any problems and had not resisted. Pierce Decl. ¶ 4.

98. One of the CERT members walking through Building 18 during the daytime looked at Pierce as he walked by Pierce's cell and called Pierce a "pussy." Pierce Decl. ¶ 5.

99. Later that night, the CERT came to Building 18, and when they did, Pierce was terrified. The shakedowns and raids were brutal. One inmate was shot in the leg, likely with a rubber bullet, and seriously injured. Pierce heard a staff member yelling, "Is the ambulance here? Make sure he doesn't bleed out!" Pierce Decl. ¶ 6.

100. The CERT came to Pierce's cell. Pierce believes there were 9 or 10 CERT members present, although not all of them were in the cell, and that Defendant Warden Brian Emig was with the CERT. A few days later, Pierce heard other inmates on the tier say that Emig had been present. Pierce Decl. ¶ 7.

101. A female CERT member told him to lay on his back. Pierce did so. Pierce Decl. ¶ 8.

102. The CERT stormed into Pierce's cell, dropped him on the bed, and then tried to pick him up by the back of his shirt, choking him with the collar. Pierce Decl. ¶ 9.

103. The CERT then dropped Pierce to the floor, causing Pierce's right shoulder to hit the edge of the bed on the way down. One member struck Pierce's tailbone and anus with a knee or foot, causing part of his body to go numb. Pierce Decl. ¶ 10.

104. A CERT officer then picked Pierce up by his neck, lifted him up, turned him around and said, "I'm gonna give you an opportunity to fight me." Pierce Decl. ¶ 11.

105. Pierce, who had his hands up, told the officers he was not going to fight, and that he had a heart condition. Pierce Decl. ¶ 12.

106. The officer then hit Pierce, after which Pierce again said, “I’m not fighting you.” Pierce Decl. ¶ 13.

107. The officers then ordered Pierce to strip and turn around. Pierce Decl. ¶ 14.

108. CERT officers then strip-searched Pierce, without any reasonable justification for doing so. Pierce Decl. ¶ 15.

109. While Pierce was being strip searched, an officer grabbed Pierce’s neck and punched him in the back of the head. Pierce believes it was Warden Emig who struck him. Pierce Decl. ¶ 16.

110. While Pierce was naked, one of the CERT members read one of Pierce’s tattoos, and said, “gangster—we got a gangster,” a taunt that was repeated by the other officers. Pierce Decl. ¶ 17.

111. An officer—Pierce believes it was Defendant Todd Koch—then tried again to hit Pierce in the stomach but instead hit him in the pelvis. Pierce Decl. ¶ 18.

112. Pierce again warned CERT officers that he had a heart condition. Pierce Decl. ¶ 19.

113. While Pierce was still naked, one of the officers on the CERT tapped Pierce’s penis and egged him on to fight. Pierce Decl. ¶ 20.

114. Pierce again refused to fight the officer. Pierce Decl. ¶ 21.

115. After putting his clothes back on, Pierce was again challenged to a fight by the officers. He again refused. Pierce Decl. ¶ 22.

116. CERT officers then placed Pierce in handcuffs. Pierce Decl. ¶ 23.

117. While Pierce was cuffed, two of the CERT officers slammed Pierce around the cell by his neck, causing his face to hit the side of his desk. Pierce Decl. ¶ 24.

118. As they exited the cell, the officers slammed Pierce's head against the door. Pierce Decl. ¶ 25.

119. At no time during the incident did Pierce fail to obey an order or resist the CERT members. Pierce Decl. ¶ 26.

120. Once outside his cell, Pierce saw the assault on Brian Snowden taking place. He watched as CERT members pepper-sprayed Snowden, beat him, and then pepper-sprayed him a second time, all without any provocation that Pierce could see. Pierce Decl. ¶ 27.

121. Outside the cell, Pierce asked if he could please just lean over a little due to the assault and his heart condition. A correctional officer who was handling a K-9 told Pierce, "You're not leaning over," and then placed the K-9 right beside Pierce so he could not lean. This happened twice. Pierce Decl. ¶ 28.

122. Eventually officers took Pierce back to his cell. Pierce Decl. ¶ 29.

123. A nurse came to see Pierce while he was lying injured on the floor of his cell. Pierce asked her for a sick call and explained his heart condition. The nurse replied, "I don't have time for this." Pierce Decl. ¶ 30.

124. Pierce suffered physical and psychological injuries as a result of the attack. Pierce had injuries to his head, back, and right shoulder, which still cause him pain. His rectum was bleeding after the attack. He still has pain in his tailbone, especially when sitting. During the assault, he believed he was going to die. He suffers from fear, anxiety, and PTSD. Pierce Decl. ¶ 31.

125. Because of the arbitrary, unprovoked, and unjustified nature of the attack, Pierce fears that he could be subjected to another attack by the CERT at any time, without any reason. Pierce Decl. ¶ 32.

FACTS REGARDING PLAINTIFF BRIAN SNOWDEN

126. Plaintiff Brian Snowden arrived at Vaughn from Virginia on September 4, just one day before the violent raid. When he arrived at Vaughn, Snowden was suffering from pre-existing brain trauma, which resulted in memory loss, seizures, dizziness, and confusion. (Declaration of Brian Snowden ¶ 3, attached as **Exhibit A**) (hereafter cited as “Snowden Decl. ¶ 3.”)

127. On September 5, 2024, Snowden was housed in Building 18, C-Tier, cell 12. Snowden Decl. ¶ 4.

128. On the night of September 5, 2024, Snowden heard the CERT on his tier. When the CERT reached Snowden’s cell at some time after 11:00 p.m., Snowden was lying on his stomach on his bed, with his hands behind his back. The CERT members stormed into Snowden’s cell and ordered him to stand up and face the back wall of his cell. Snowden Decl. ¶ 5.

129. CERT members then ordered Snowden to strip. They then ordered Snowden to turn around, bend at the waist, and spread his buttocks. Snowden complied. A CERT member said, “Cough, motherfucker! Cough!” Another CERT member said, “Fuck it” and pepper sprayed Snowden while he was still bent over. Snowden was temporarily blinded and the pepper spray caused him severe pain. Snowden Decl. ¶ 6.

130. While Snowden was still bent over, naked, and suffering from the pepper spray, one of the CERT members cuffed Snowden behind his back and another tried to forcefully insert an object or his fingers into Snowden's rectum. Snowden Decl. ¶ 7.

131. CERT members then put Snowden's boxers and shirt back on him, even though they were saturated with pepper spray. Snowden Decl. ¶ 8.

132. The CERT then removed Snowden from his cell, slammed him to the floor and punched him in the face at the top of the staircase in the Tier. In spite of the fact that Snowden was yelling that he was not resisting, the officers continued to hit him. One officer said, "This is how we do it in Smyrna—we don't care that you came from Virginia!" The officer threatened to throw Snowden down the staircase. Snowden Decl. ¶ 9.

133. CERT members told Snowden to sit on the ground and cross his legs. Snowden complied, but when he crossed his legs, he felt like his genitals were burning due to the pepper spray soaking his boxers. Snowden Decl. ¶ 10.

134. As a result of the burning, Snowden uncrossed his legs. A CERT member then pepper-sprayed Snowden again at point blank range, while he was still cuffed behind his back, in direct violation of DOC policy and correctional officer training materials. The officer emptied an entire can of pepper spray in Snowden's face, hair, and beard. Snowden Decl. ¶ 11.

135. Snowden thought he was going to die. There was pepper spray soaking his hair, beard, and mouth. He tried to spit out the pepper spray, but a CERT member told him that if he spit again, they would spray him again and then place a spit mask over his head. Snowden explained that there was an excessive amount of pepper spray in his mouth, but the CERT member told him, "suck it up and swallow it, fa**ot." Snowden Decl. ¶ 12.

136. Snowden was forced to swallow the pepper spray, out of fear for his life.

Snowden Decl. ¶ 13.

137. While Snowden was suffering, CERT members cursed at him, yelled at him, and laughed at him. Snowden Decl. ¶ 14.

138. The CERT eventually took Snowden to cell upper 1 on C-Tier. Snowden Decl. ¶ 15.

139. No one decontaminated Snowden after he was pepper-sprayed, and he was not able to properly decontaminate himself. He could not see due to the blinding effects of the pepper spray. In cell 1, Snowden had no cold water. He stripped his clothes off in an attempt to decrease the pain from the pepper spray. He was not given new clothes until the next day. He wasn't allowed to shower for a day or two after the attack. Snowden Decl. ¶ 16.

140. At no time during the incident did Snowden fail to obey an order or resist the CERT members. Snowden Decl. ¶ 17.

141. The officers who searched Snowden's cell threw away grievances, other paperwork, hygiene products, and a book Snowden was reading for no reason. Snowden Decl. ¶ 18.

142. Snowden filed a PREA complaint. The complaint was investigated by Sergeant Hutchins. The investigation was completed on November 19, 2024, and Hutchins told Snowden on December 12, 2024, that he could not see what had happened inside the cell, so he could not substantiate Snowden's PREA complaint. However, Hutchins confirmed that he had seen video of the attack that happened outside the cell. Snowden Decl. ¶ 19.

143. Snowden suffered physical and psychological injuries as a result of the attack. Because he does not know which officers assaulted him, he lives in constant fear that he will be

cuffed, sprayed, and/or assaulted at any time. He suffered severe burning from the pepper spray, and serious pain in his rectum, but was never allowed to complete a rape kit. He suffers shame and mental anguish due to the attack. Snowden Decl. ¶ 20.

144. Because of the arbitrary, unprovoked, and unjustified nature of the attack, Snowden fears that he could be subjected to another attack by the CERT at any time, without any reason. He fears for his life. Snowden Decl. ¶ 21.

FACTS REGARDING PLAINTIFF JAMAR WATERS

145. At all times relevant to this case, Plaintiff Jamar Waters was incarcerated at James T. Vaughn Correctional Center. (Declaration of Jamar Waters ¶ 3, attached as **Exhibit F**) (hereafter cited as “Waters Decl. ¶ _.”)

146. Although his permanent regular housing unit was located in Building 18, Waters on September 5, 2024, was housed in Building 21, D-Tier, Lower 11, for psychiatric close observation (PCO) due to his mental health struggles. Waters Decl. ¶ 4.

147. Waters therefore did not know about the CERT raid on Building 18 on September 5, 2024, although other residents of Building 18 later told him about the raid when he returned from Building 21 to his regular housing assignment. Waters Decl. ¶ 5.

148. At approximately 1:30 a.m. on September 6, 2024, while Waters was sound asleep in his close observation cell in Building 21, the CERT arrived at his cell. Waters Decl. ¶ 6.

149. They did not knock and directly violated Department of Correction policy and operating procedures regarding treatment of an individual placed in PCO by opening Waters’s cell door, storming in, and grabbing Waters out of bed. Waters Decl. ¶ 7.

150. CERT members then threw Waters against the wall. Terrified and confused, Waters tried to protect himself but eventually went limp. Waters Decl. ¶ 8.

151. CERT members punched Waters in his forehead, chin, and body, and smashed his head into the wall. They put Waters's hands behind his back and cuffed him. Waters Decl. ¶ 9.

152. One of the CERT members put a finger in Waters's rectum, without any warning or justification. Waters Decl. ¶ 10.

153. CERT members took Waters out of his cell, marched him to a corner and shoved him up against a wall. Waters Decl. ¶ 11.

154. Eventually the CERT took Waters back to his close observation cell. Waters Decl. ¶ 12.

155. After they had uncuffed Waters, a CERT member told him, "Ok, we're gonna fuck you up." Waters Decl. ¶ 13.

156. Eventually the CERT members left Waters's cell. Waters Decl. ¶ 14.

157. After the CERT left, Waters spoke with Sergeant White. Waters asked White why they would allow the CERT to assault him, and White replied, "We've never seen anything like that before." Waters Decl. ¶ 15.

158. Waters also later spoke with the Sergeant in Building 21 who had opened Waters's cell door for the CERT. The Sergeant told Waters he hadn't wanted to open the cell door for the CERT, but the major of the CERT told him he had to. The Sergeant also told Waters that Defendant Warden Brian Emig had given the greenlight for the CERT raids, and that Emig himself was a former CERT member. Waters Decl. ¶ 16.

159. Defendant Sergeant Kristen Bartell was present while Waters was assaulted, as was Defendant Sergeant Mejia. Waters Decl. ¶ 17.

160. At no time during the incident did Waters fail to obey an order or present a threat to the CERT members. Waters Decl. ¶ 18.

161. Waters suffered physical and psychological injuries as a result of the assault. A doctor in the psychiatric close observation area saw the effects of the attack on Waters, including a bloody head wound. He suffered bruises and scratches on his chest. He suffered pain in his shoulders and neck as a result of the attack. He was x-rayed but never received the results. Waters Decl. ¶ 19.

162. Defendant Warden Brian Emig later came to Waters's cell once Waters had returned to Building 18. Emig told Waters that he was investigating why Waters had been assaulted. Waters challenged him, asking how he could be responsible for investigating the incident when Emig himself was directing the operation. He received no satisfactory reply. Waters Decl. ¶ 20.

163. Because of the arbitrary, unprovoked, and unjustified nature of the attack, Waters fears that he could be subjected to another attack by the CERT at any time, without any reason. The attack severely aggravated his PTSD. Waters have trouble sleeping, and the sounds of cell doors opening causes him fear and anxiety of another attack. Waters Decl. ¶ 21.

ADDITIONAL RELEVANT FACTS

164. The DOC's Use of Force policy provides the framework for how force may be used in DOC facilities consistent with the U.S. constitution, federal case law, and other laws. A true and accurate copy of the DOC's Use of Force policy is attached as **Exhibit G**.

165. Under the DOC Use of Force policy:
- a. COs at Delaware prisons are not permitted to use force to punish people;
 - b. The DOC uses a graduated approach to the use of force, meaning the amount of force that is appropriate (if any) is calibrated to the particular situation;

- c. COs are obligated to de-escalate potential conflicts in order to prevent the need for any use of force;
- d. COs are permitted to use only reasonable force;
- e. Reasonable force means only the amount of force necessary to gain an inmate's compliance, and no more;
- f. COs have an obligation to consider the health and mental status of an individual before using force on them;
- g. COs have an obligation to intervene if they see another individual using excessive force;
- h. COs have an obligation to report any uses of excessive force that they witness;
- i. The use of excessive force by a CO is subject to discipline, up to and including termination.

166. In addition to the Use of Force policy, correctional officer training materials provide specific guidance on the appropriate use of force by COs at Vaughn.

167. Specifically, the materials used by the DOC's Steven R. Floyd Training Academy during both basic and annual refresher trainings of Vaughn COs provide:

- a. All details about the proper use of force under the DOC Use of Force policy;
- b. Specific updates on current case law regarding how to properly use force in correctional settings consistent with the constitutional rights of incarcerated individuals;
- c. That the proper procedure for any given use of force it is to use the minimum amount of force appropriate under the circumstances, evaluate

whether that force has been sufficient to gain compliance, again use force if necessary only as appropriate to gain compliance (evaluating again after using such force), obtain full control of the individual by handcuffing them, and then take the individual to the medical department for evaluation;

- d. In the event that pepper spray is deployed, the CO is directed not to deploy the spray from a distance closer than three feet, because of the risk of serious injury that results from “hydraulic needling” and other harmful effects of the pepper spray;
- e. Pepper-sprayed individuals are never to be left unattended until they have been decontaminated, due to the risk of serious injury from prolonged exposure, and to the fact that it takes ten (10) days for pepper spray to naturally biodegrade;
- f. Specific instructions for how to properly decontaminate pepper-sprayed individuals;
- g. A specific instruction that going “hands-on” with an individual immediately after pepper spraying them is not the proper procedure (because the CO should first evaluate whether the pepper spray alone has been sufficient to gain compliance, in which case going “hands-on” is not necessary and is therefore excessive force);
- h. A specific and detailed explanation of the physical and psychological effects of pepper spray, which include burning, trouble breathing, cough,

eye swelling, anxiety, panic, disorientation, and trouble hearing and responding to commands.

168. Although many of the Plaintiffs filed grievances through Vaughn's internal grievance procedure to challenge the unconstitutional conduct of Defendants, those grievances have not resulted in any meaningful review of the incidents alleged in this lawsuit, nor to Plaintiffs' knowledge have they resulted in any discipline for any of the Defendants. Most of the grievances were "returned unprocessed." *See, e.g.,* **Exhibit B-1** to Flores's Declaration.

169. The simple fact is that the supposed process by which incarcerated individuals in Delaware register complaints against DOC staff for alleged uses of excessive force grievances is so flawed that it does not provide any meaningful administrative remedy. The DOC recently acknowledged as much in another excessive force case. *See* 12/20/2023 Stipulation and Proposed Order Regarding Defendants' Affirmative Defenses, pp. 1-2, Case No. 1:21-cv-01773-GBW (striking DOC's affirmative defense that Plaintiffs had failed to exhaust their administrative remedies), attached as **Exhibit J**.

170. Further, although the stated policy of the Delaware Department of Correction is that all use of force incidents are reviewed by prison officials, this "review" is nothing but a meaningless endeavor whereby prison officials rubber stamp every use of force by DOC staff as appropriate and lawful.

171. Complaints of excessive force by DOC staff are almost never reviewed by any individual other than the warden of the facility at issue; virtually no allegation of excessive force is ever reviewed by anyone outside the facility, and virtually none is ever reviewed by anyone outside the employ and control of the Delaware Department of Correction.

172. Vaughn employs institutional investigators, but these individuals typically investigate staff misconduct other than excessive force (i.e. contraband, improper relationships, etc.).

173. The Warden of Vaughn has the authority to refer excessive force allegations to the Internal Affairs department at the DOC, but in the very rare circumstance where the Warden makes such a referral, the Internal Affairs investigation is so cursory, one-sided, and biased that it invariably results in exoneration for correctional officers. The internal affairs department investigators either do not understand the DOC use of force policy or exonerate COs in spite of concluding that the COs had in fact used excessive force.

174. As a result of all of these factors, Plaintiffs—and indeed all persons incarcerated in Delaware—have no legitimate way to secure redress for excessive force, except through legal action.

175. Plaintiffs also note that complaints about excessive force at Vaughn in general, and about the DOC’s use of the CERT specifically, are sadly nothing new. Following the well-publicized riot at Vaughn in 2017 and the DOC’s chaotic response, then-Governor John Carney commissioned an Independent Review of Security Issues at the James T. Vaughn Correctional Center. A true and accurate copy of the Final Report on the 2017 Vaughn Riot (“Final Report”) is attached as **Exhibit H.**²

176. Portions of the Final Report on the 2017 Vaughn riot could have been drafted in response to this Verified Complaint.

177. The drafters of the Final Report noted that during the response to the 2017 Vaughn riot, “CERT members intentionally wore balaclavas so that they were unidentifiable to

² The Final Report on the 2017 Vaughn Riot is accessible at: [Final Report: Independent Review of Security Issues at the James T. Vaughn Correctional Center - National Policing Institute](#) (last accessed 1/22/2025).

inmates,” and that, “Actions by staff members, before and after the incident that began on February 1, 2017 not only made the facility a more dangerous place to work, but also make communities less safe once offenders subjected to these conditions are released.” Ex. H., p. 22.

178. One of the express recommendations of the drafters of the Final Report was:

The DOC Commissioner should review the practice of masked mass shakedowns by CERT. During interviews, the Independent Review Team heard that CERT members were conducting shakedowns that appeared to be intended to intimidate inmates.

Ex. H, p. 26 (italicized bold text in original; underlining added).

179. The Final Report further notes that, “JTVCC staff do not want to undertake some aspects of their job, instead relying on CERT to do those tasks.” Ex. H., p. 40 (emphasis added).

180. All of this contradicts the DOC’s own stated purpose for employing the CERT—to address emergencies, not to conduct everyday operations at Delaware prisons.

181. According to the facts set forth above, Defendants have completely ignored the Final Report and its recommendations. As a result, the CERT continues to be used to conduct regular prison operations at the whim of the CERT Warden the Warden of Vaughn, to intimidate inmates, and to violate the constitutional rights of individuals incarcerated at Vaughn, including Plaintiffs.

**COUNT I – EIGHTH AND FOURTEENTH AMENDMENTS –
USE OF EXCESSIVE FORCE**

182. The foregoing allegations are incorporated by reference as if fully set forth herein.

183. In all incidents alleged in this lawsuit, all of the Defendants’ use of force was unjustified, unnecessary, and excessive.

184. All Defendants directly participated in the assaults on Plaintiffs, in spite of the fact that Plaintiffs presented no threat, complied with all orders, and did not resist.

185. Defendants' use of excessive force against Plaintiffs violates Plaintiffs' Fourteenth and Eighth Amendment rights to be free from cruel and unusual punishment.

186. Defendants violated the DOC's own Use of Force policy by failing to de-escalate potential conflicts to avoid the need for any use of force in the first instance, by using force where none was necessary because no Plaintiff was failing to comply, by deploying far more force than was necessary supposedly to gain compliance of Plaintiffs, by using pepper grenades when such force was clearly excessive and unnecessary, by using force for no reason other than to punish and harm Plaintiffs, by continuing to use force against Plaintiffs who were already complying and under control, by assaulting Plaintiffs without considering their health or mental status, by failing to intervene while witnessing uses of excessive force, and by failing to report excessive uses of force.

187. Defendants violated the DOC's policies and procedures by ignoring the DOC's training materials in general, and specifically by failing to follow the proper steps for use of force incidents, by deploying pepper spray at a distance much closer than three feet (often point blank range), by going "hands-on" with Plaintiffs immediately after they were pepper sprayed, by failing to decontaminate Plaintiffs who were pepper sprayed, by leaving Plaintiffs unattended without decontaminating after they were pepper-sprayed, by continuing to assault Plaintiffs while knowing they were suffering from the debilitating physical and psychological effects of pepper spray, and by failing to ensure adequate medical evaluation and treatment of Plaintiffs.

188. All of these actions and omissions by Defendants demonstrate that Defendants demonstrated gross negligence, recklessness, and deliberate indifference to Plaintiffs' physical and psychological injuries, pain, suffering, and constitutional rights.

189. In addition, Defendants Emig and Howard were aware of the constitutional violations because they directly observed them, allowed such violations to occur, failed to supervise the individuals committing the violations, and failed to stop the violations, all of which demonstrates deliberate indifference to the violations of Plaintiffs' constitutional rights.

190. Defendants' improper and dangerous use of pepper spray and pepper grenades against Plaintiffs, their failure to decontaminate Plaintiffs, their failure to ensure adequate medical evaluation and treatment for Plaintiffs, and their subsequent punishment of Plaintiffs through loss of privileges, solitary confinement and other sanctions violated Plaintiffs' Fourteenth and Eighth Amendment rights to be free from cruel and unusual punishment.

COUNT II – EIGHTH AND FOURTEENTH AMENDMENTS – FAILURE TO SUPERVISE

191. Defendants Emig and Howard are officials with supervisory and policymaking authority at James T. Vaughn and/or with respect to the CERT.

192. Specifically, Emig and Howard as wardens are responsible for ensuring that all correctional officers under their supervision and control adhere to the DOC's Use of Force Policy, which requires de-escalation of potential conflicts to prevent the need for use of force in the first instance, prohibit the use of force where none is necessary, prohibit the use of any level of force beyond what is necessary to gain compliance of the incarcerated person, and prohibit the use of force to punish incarcerated individuals.

193. Due to their positions as wardens, Emig and Howard are also responsible for ensuring that all correctional officers under their supervision and control act consistent with the initial and annual refresher training courses, which specifically prohibit the deployment of

pepper spray at a distance closer than three feet and further prohibit leaving sprayed individuals unattended without decontaminating them.

194. Contrary to their duties, Emig and Howard either ordered and directed the unconstitutional actions by the CERT, or they observed and supervised those actions without stopping the flagrant CERT attacks, which violated both DOC policy and DOC correctional officer training.

195. In their supervision and direction of the CERT, Emig and Howard knowingly and unreasonably disregarded an objectively intolerable risk of harm and demonstrated deliberate indifference to the constitutional rights of Plaintiffs.

196. Had Emig and Howard properly supervised the remaining Defendants, they could have prevented the violations of Plaintiffs' constitutional rights.

197. Due to the arbitrary, unprovoked, and unjustified attacks, Plaintiffs have a legitimate fear that such attacks will continue to take place under the direction and supervision of Emig and Howard into the indefinite future.

198. The ACLU of Delaware has continued to receive complaints from individuals incarcerated at Vaughn regarding the excessive use of force by corrections officers. (*See* Declaration of Donna White, ¶ 8, attached as **Exhibit I**) (hereafter "White Aff. ¶ __."). The ACLU of Delaware received one such complaint as recently as December 30, 2024. (White Aff. ¶ 9.)

199. By engaging in this conduct, and by failing or refusing to discipline officers employing excessive force against incarcerated persons, Defendants Emig and Howard were personally involved in the violations of Plaintiffs' Eighth and Fourteenth Amendment rights.

200. Defendants Emig and Howard, by virtue of their own deliberate indifference to known deficiencies in their policies, procedures, and actions, allowed an environment to develop in which there was an unreasonable risk that a constitutional injury would occur, and their deliberate indifference caused or contributed to Plaintiffs' injuries.

201. They were subjectively aware of the risk of harm to Plaintiffs because the actions of the CERT were in direct violation of the Use of Force policy that is specifically designed to prevent precisely the type of harm inflicted on Plaintiffs as a result of excessive and unnecessary force.

202. The deliberate indifference of Defendants Emig and Howard to the unjustified, unnecessary, and unconstitutional uses of force inflicted by CERT and correctional officers on duty at Vaughn on September 5 and 6, 2024 were a proximate cause of the assaults on Plaintiffs and the resulting injuries and damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- A. A declaration that Defendants have violated Plaintiffs' constitutional rights;
- B. A preliminary and permanent injunction as prospective relief against any future unconstitutional actions by the CERT at James T. Vaughn;
- C. Money damages against Defendants sued in their individual capacities to compensate Plaintiffs for past injuries and damages they suffered as a result of the assaults by Defendants;
- D. Punitive damages against Defendants sued in their individual capacities;
- E. Attorneys' fees and costs; and
- F. Any other relief the Court deems just and proper.

JURY DEMAND

Plaintiffs demand a jury trial on all claims and issues triable by a jury.

Respectfully submitted,

/s/ Dwayne J. Bensing _____

Dwayne J. Bensing

DE Bar No. 6754

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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Isaac Flores, Karl Manuel, Tyrone Morris, Darnell Pierce, Brian Snowden and Jamar Waters

(b) County of Residence of First Listed Plaintiff New Castle
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Dwayne J. Bensing, Legal Director ACLU of Delaware
 100 W. 10th Street, Suite 706, Wilmington, DE 19801
 (302) 295-2113

DEFENDANTS
 Brian Ermig, S. Howard, Kristin Bartell, O Callis, Capt. Coviello, Cpl. Todd Koch, Sgt. Mejia, Lt. Robert Mock, O Payton, O Spencer, Lt. Brian Vanes, O Wiest, O White, O Wilgus, John Does, mem. of CERT

County of Residence of First Listed Defendant New Castle
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)
 Michael Tipton

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1331, arising under 28 U.S.C. § 2201 and 42 U.S.C. § 1983

Brief description of cause:
Declare the rights of the parties and redress violations of the 8th and 14th Amendments to the US Constitution

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 01/23/2025 SIGNATURE OF ATTORNEY OF RECORD: /s/ Dwayne J. Bensing, #6754

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

**DECLARATION OF BRIAN SNOWDEN IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

I, Brian Snowden, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.

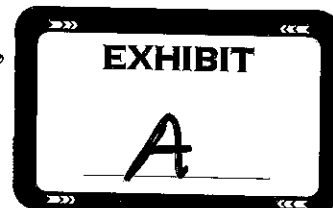
2. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Injunction.

3. I arrived at the James T. Vaughan Correctional Center from Virginia on September 4, just one day before the violent raid. When I arrived at Vaughan, I was suffering from pre-existing brain trauma, which resulted in memory loss, seizures, dizziness, and confusion.

4. On September 5, 2024, I was housed in Building 18, C-Tier, cell 12.

5. On the night of September 5, 2024, I heard the CERT on my tier. When the CERT reached my cell at some time after 11:00 p.m., I was lying on my stomach on my bed, with my hands behind my back. The CERT members stormed into my cell and ordered me to stand up and face the back wall of my cell.

6. CERT members then ordered me to strip. They then ordered me to turn around, bend at the waist, and spread my buttocks. I complied. A CERT member said, “Cough,



motherfucker! Cough!” Another CERT member said, “Fuck it” and pepper sprayed me while I was still bent over. I was temporarily blinded and the pepper spray caused me severe pain.

7. While I was still bent over, naked, and suffering from the pepper spray, one of the CERT members cuffed me behind my back and another tried to forcefully insert an object or his fingers into my rectum.

8. CERT members then put my boxers and shirt back on me, even though they were saturated with pepper spray.

9. The CERT then removed me from my cell, slammed me to the floor and punched me in the face at the top of the staircase in the Tier. In spite of the fact that I was yelling that I was not resisting, the officers continued to hit me. One officer said, “This is how we do it in Smyrna—we don’t care that you came from Virginia!” The officer threatened to throw me down the staircase.

10. CERT members told me to sit on the ground and cross my legs. I complied, but when I crossed my legs, I felt like my genitals were burning due to the pepper spray soaking my boxers.

11. As a result of the burning, I uncrossed my legs. A CERT member then pepper-sprayed me again at point blank range, while I was still cuffed behind my back. The officer emptied an entire can of pepper spray in my face, hair, and beard.

12. I thought I was going to die. There was pepper spray soaking my hair, beard, and mouth. I tried to spit out the pepper spray, but a CERT member told me that if I spit again, they would spray me again and then place a spit mask over my head. I explained that there was an excessive amount of pepper spray in my mouth, but the CERT member told me, “suck it up and swallow it, fa**ot.”

13. I was forced to swallow the pepper spray, out of fear for my life.

14. While I was suffering, CERT members cursed at me, yelled at me, and laughed at me.

15. The CERT eventually took me to cell upper 1 on C-Tier.

16. No one decontaminated me after I was pepper-sprayed, and I was not able to properly decontaminate myself. I could not see due to the blinding effects of the pepper spray. In cell 1, I had no cold water. I stripped my clothes off in an attempt to decrease the pain from the pepper spray. I was not given new clothes until the next day. I wasn't allowed to shower for a day or two after the attack.

17. At no time during the incident did I fail to obey an order, or resist the CERT members.

18. The officers who searched my cell threw away grievances, other paperwork, hygiene products, and a book I was reading for no reason.

19. I filed a PREA complaint. The complaint was investigated by Sargeant Hutchins. The investigation was completed on November 19, 2024, and Hutchins told me on December 12, 2024 that he could not see what had happened inside the cell, so he could not substantiate my PREA complaint. However, Hutchins confirmed that he had seen video of the attack that happened outside the cell.

20. I suffered physical and psychological injuries as a result of the attack. Because I do not know which officers assaulted me, I live in constant fear that I will be cuffed, sprayed, and/or assaulted at any time. I suffered severe burning from the pepper spray, and serious pain in my rectum, but was never allowed to complete a rape kit. I also suffer shame and mental anguish due to the attack.

21. Because of the arbitrary, unprovoked, and unjustified nature of the attack, I fear that I could be subject to another attack by the CERT at any time, without any reason. I fear for my life.

22. At Vaughan, Buildings 17, 18, 19 are the segregated housing unit (SHU).

23. Each building, including Building 18, has four tiers—A, B, C, and D.

24. Each of the tiers has an upper level and a lower level. Each level has twelve single-occupancy cells. There is also one handicapped cell on each tier, so each tier has a total of twenty-five (25) cells.

25. On or about Saturday, January 11, 2025, correctional officers from Vaughan drove me to an outside medical facility so that I could get a CAT scan to determine whether I have suffered any brain injuries or damage.

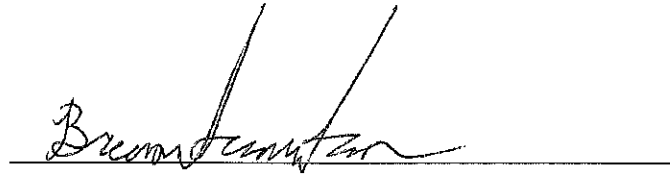
26. When the DOC bus pulled up to the facility, I could see three members of the CERT outside the medical facility. Although I was scared and did not want to get off the bus, I did so, in order to complete the CAT scan.

27. The CERT members followed us inside. Once inside, the female correctional officer who brought me to the facility said she had to use the restroom. In response, one member of the CERT said words to the effect of: “We’ll watch him. If he runs, that’s what I’ve got a gun for. I’ll shoot him in the head.” This remark caused me intense fear that I would again suffer a violent attack by members of the CERT.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.

A handwritten signature in cursive script, appearing to read "Brian Snowden", is written over a horizontal line. The signature is fluid and somewhat stylized, with a prominent initial "B".

Brian Snowden

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

**DECLARATION OF ISAAC FLORES IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

I, Isaac Flores, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.
2. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Injunction.
3. At all times relevant to this case, I was incarcerated at James T. Vaughan Correctional Center.
4. On September 5, 2024, I was housed in cell B, upper 3 on B-Tier in Building 18.
5. Between 11:00 p.m. and midnight on September 5, 2024, the CERT began shaking down cells on A-Tier in Building 18. Next they came to B-Tier and started going cell to cell conducting shakedowns.
6. I recall that there were four or five members of the CERT who came to my cell, but the only officers involved that I could identify are Staff Lieutenant Mock and correctional officer Wiest.
7. Staff Lieutenant Mock ordered me to get up off my bunk and strip.



8. I started removing my clothing, and complied with all orders issued by the CERT.

9. After I had stripped, a CERT member ordered me to squat and cough. Then a member of the CERT pointed at my penis and made a demeaning joke about it.

10. Without any threat from me, and without any further orders or warning, a member of the CERT pepper-sprayed me at very close range. A member of the CERT punched me in the mouth so hard that my teeth pierced through my lip.

11. Still naked, I fell to the ground and CERT members continued punching and kicking me in my face, legs, buttocks, and other parts of my body. CERT members simultaneously made comments like, "You're not laughing no more!"

12. The CERT handcuffed me face down naked on the floor of his cell, then remarked, "You're really going to like this one!" and again pepper sprayed me at close range.

13. At no time during the incident did I fail to obey an order, or resist or threaten the CERT members.

14. The CERT then took me to a detention cell in C-Tier which had a toilet and sink, but no bunk, locker, or other features of a regular cell. I was one of only two individuals placed in these detention cells; all other inmates whose cells were shaken down were placed in C-Tier in regular cells after the shakedown.

15. I spent four days in the detention cell. I repeatedly asked Warden Emig and others why I had been placed in the detention cell instead of a regular cell, even though there were regular cells available.

16. Eventually correctional officers moved me to a regular cell.

17. I was not allowed to shower for at least a day, despite the fact that no one decontaminated me after I was sprayed, and I was not able to properly decontaminate myself.

18. The CERT wrote me up for allegedly resisting them, and refusing to obey orders. I appealed the write up, which was reversed because the hearing examiner found there was no evidence that I had actively resisted or disobeyed orders.

19. I suffered physical and psychological injuries as a result of the unprovoked and violent attack. A nurse took a photo of the injury to my lip, which has now formed a scar. I also suffered pain in my left shoulder from when the CERT shoved me to the floor and wrenched my arm behind my back to cuff me. I also suffer fear and anxiety as a result of the attack, as well as PTSD any time I hear another inmate or correctional officer mention that the CERT may be operating at Vaughan.

20. Because of the arbitrary, unprovoked, and unjustified nature of the attack, I have endured the mental torture of fearing death and fearing that another incident like this could happen again any time on any day, for no reason.

21. I filed a grievance related to the CERT's actions, but my grievance was returned unprocessed, with a note that it was being forwarded to CERT Warden S. Howard. I have not heard any follow up since I received that paperwork. A true and accurate copy of my grievance paperwork is attached to this Declaration as Exhibit B-1.

22. A true and accurate copy of my disciplinary paperwork is attached as Exhibit B-2.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.

A handwritten signature in cursive script, appearing to read "Isaac Flores", written above a horizontal line.

Isaac Flores

FORM#684
GRIEVANCE FORM

For Office Use Only
CASE #: 630345

FACILITY: Staff Lt. Mock / CO. Wiest TODAY'S DATE: 9/11/24
YOUR NAME: Isaac Flores YOUR SBI #: 00928894
DATE AND TIME OF INCIDENT: 9/5/24 23:50 HOUSING UNIT: SHU-18

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DETAILS LIKE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT, WITNESSES AND WHY YOU ARE FILING THIS:

When Cert team came in my cell I was told to strip and squat and cough and open mouth which I fully complied with hands raised then ~~and~~ I was sprayed with my hands up then punch, dropped to floor then kicked and punched some more in face and privates because whole time I was naked after strip search sprayed a 2nd time after cuffed up while still naked on ground with them touching my privates and ~~touching~~ naked body with spray on there hands and put clothes with spray on my body.

ACTION WANTED:

(Note that staff-related issues or problems will be converted into a staff complaint/concern and sent to that staff's unit commander)

I want them held accountable for their actions for the PTSD they caused and the assault, sexual assault, and sexual abuse that occurred for no reason.

YOUR SIGNATURE: Isaac Flores

WAS AN INFORMAL RESOLUTION ACCEPTED? (YES) (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

OFFENDER GRIEVANT'S SIGNATURE: _____

DATE: _____

RECEIVED
SEP 23 2024
JTVCC
GRIEVANCE OFFICE

IF UNRESOLVED, YOU MAY HAVE A HEARING BY THE GRIEVANCE COMMITTEE OR SUBJECT MATTER EXPERT PANEL
COPY TO: INSTITUTIONAL FILE and OFFENDER GRIEVANT

NOTE: If you are grieving the following matters, please use the procedure next to each one and NOT a grievance form.

Disciplinary decision: Appeals of disciplinary actions shall be sent to the Hearing Officer within 72 hours of the offender's receipt of the hearing's written record. See BOP policy 4.2 "Rules of Conduct" on how to appeal.

Classification decision: Written appeals must be submitted within 10 days of receipt of the decision of the committee/board. Refer to BOP Policy 3.3 "Classification" on how to appeal. IBCC decisions shall be sent to the facility warden/designee and CICB decisions shall be sent to the Classification Administrator.

Parole board: Decisions of the Parole Board should be directed to the Board of Parole by writing to their office at: Carvel State Office Building-Fifth Floor, 820 North French Street, Wilmington, DE 19801. Include your name and SBI # and reason for writing.

EXHIBIT
B-1

Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : FLORES, ISAAC J	SBI# : 00928894	Institution : JTVCC
Grievance # : 630345	Grievance Date : 09/11/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status :	Resol. Date :
Grievance Type: Assault by Staff	Incident Date : 09/11/2024	Incident Time :
DOC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier C, Cell 3, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Upper, Tier A, Cell 2, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Inmate claims..I want them held accountable for thier actions for the PTSD they caused, etc.
See scanned document for entire complaint.

Remedy Requested :

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO Date Filed by Medical Unit :

Grievance Amount : (be st...)

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION

Offender Name : FLORES, ISAAC J	SBI# : 00928894	Institution : JTVCC
Grievance # : 630345	Grievance Date : 09/11/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status:	Inmate Status :
Grievance Type: Assault by Staff	Incident Date : 09/11/2024	Incident Time :
DOC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier C, Cell 3, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Upper, Tier A, Cell 2, Single	

INFORMAL RESOLUTION

Offender's Signature: _____

Date : _____

Witness (Officer) : _____

Delaware Department of Correction

Return of Unprocessed Grievance

Offender Name: FLORES ISAAC J	Incident Date: 09/11/2024
SBI #: 00928894	Incident Time
Grievance #: 630345	IGC Recd Date: 09/23/2024
Facility: JTVCC	Category: Individual
Grievance Type: Assault by Staff	Grievance
Location: DCC000017	Return Date: 09/11/2024

- Vulgar/Abusive or Threatening Language.** The Language that is unacceptable has been highlighted. The grievance may be resubmitted omitting this language.
- Disciplinary Action.** Appeals of disciplinary actions shall be sent to the Hearing Officer within 15 days of the offender's receipt of the hearing's written record. Refer to BOP Policy 4.2 "Rules of Conduct" on how to appeal. Disciplinary #
- Parole Decision.** Decisions of the Parole Board should be directed to the Board of Parole by writing their offices at:
Carvel State Office Building - Fifth Floor
820 North French Street
Wilmington, DE 19801
- Classification Action.** Written appeals must be submitted within 10-days of receipt of the decision of the committee/board. IBCC decisions shall be directed to the facility Warden/designee, CICB decisions shall be directed to the Classification Administrator. Refer to BOP Policy 3.3 "Classification" on how to appeal.
- Prohibited Mail.** Written appeals on prohibited mail shall be directed to the facility Warden. Refer to BOP Policy 8.92 "Mailroom Operations" on how to appeal.
- Request.** Requests are not processed through the grievance procedure. Please correspond with the appropriate office to secure the information that is requested.
- Duplicate Grievance(s).** This issue has been addressed previously in Grievance #
- Original Grievances must be submitted to the Inmate Grievance Chairperson. Photocopies are not accepted.**
- Inquiry on behalf of other Inmates.** Inmate cannot submit grievances for other Inmates.
- Expired Filing period.** Grievance exceeds seven (7) days from date of occurrence.
- Staff Investigation:** To request that the actions of staff personnel be investigated write to your Unit Commander with that request. If you receive no response or are dissatisfied with the response of your Unit Commander you may appeal that decision to the Operations Superintendent and ultimately to the War
- Abuse:** Your use of the grievance process has been determined to be abusive. During the restriction period all grievances lodged in excess of the authorized amount shall be returned.
- Others:**
A copy of this grievance was forwarded to the Cert Warden, S. Howard.

Smyrna Landing Road
 SMYRNA DE, 19977
 Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : FLORES, ISAAC J	SBI# : 00928894	Institution : JTVCC
Grievance # : 629401	Grievance Date : 09/07/2024	Category : Individual
Status : Resolved.	Resolution Status : Level 1	Resol. Date : 09/20/2024
Grievance Type : Personal Property	Incident Date : 09/07/2024	Incident Time :
SC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier C, Cell 3, Single	
Grievance Loc : JTVCC-18	Current Housing : Bldg 18, Upper, Tier A, Cell 2, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Inmate claims..Before Cert team came they shaked my tv was on the cable cord and other things.. They sprayed me to me to C-tier and when I got my property I'm missing my cable cord, etc. I want a cable cord and make sure my tv and headphones work. See scanned document for entire complaint.

Remedy Requested :

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO **Date Received by Medical Unit** :

Grievance Amount :

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION

Offender Name : FLORES, ISAAC J	SBI# : 00928894	Institution : JTVCC
Grievance # : 629401	Grievance Date : 09/07/2024	Category : Individual
Status : Resolved	Resolution Status : Level 1	Inmate Status :
Grievance Type : Personal Property	Incident Date : 09/07/2024	Incident Time :
SC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier C, Cell 3, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Upper, Tier A, Cell 2, Single	

INFORMAL RESOLUTION

Investigator Name : Coviello, Jason **Date of Report:**

Investigation Report :

Reason for Referring:

Investigator Name : Ngadeu, Eleonore **Date of Report:** 09/19/2024

Investigation Report : Offender Flores was given a cable cord in replacement of his missing TV cable. Offender Flores was given a cable cord in replacement of his missing TV cable. He was satisfied with the resolution.

Reason for Referring: Lt. Ngadeu,

Please see the claims submitted by offender regarding his property, investigate and resolve if possible.

Thank you,

JTVCC James T. Vaughn Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

Date: 09/19/2024

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION			
Offender Name : FLORES, ISAAC J	SBI# : 00928894	Institution : JTVCC	
Grievance # : 829401	Grievance Date : 09/07/2024	Category : Individual	
Status : Unresolved	Resolution Status:	Inmate Status :	
Grievance Type: Personal Property	Incident Date : 09/07/2024	Incident Time :	
IGC : Burley, Katrina	Housing at the time of Grievance :	Bldg 18, Lower, Tier C, Cell 3, Single	
Grievance Loc : JTVCC-18	Current Housing :	Bldg 18, Upper, Tier A, Cell 2, Single	

Investigator Name : Ngadeu, Eleonore S/Lt. Coviello	09/19/2024
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Offender's Signature:

Isaac J. Flores

Date

9/19/24

Witness (Officer)

CPL Mike Coy

Disciplinary#
1136133

JTVCC James T. Vaughn Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

Date: 09/06/2024

DISCIPLINARY REPORT

Disciplinary Type: Class1 Housing Unit: Bldg 18 IR#: 1198446

SBI#	Inmate Name	Inst. Name	Location Of Incident	Date	Time
00928894	Flores, Isaac J	JTVCC	Bldg.18 B Tier	09/05/2024	23:50

Violations: Falling to obey an order/abide by posted regulations and/or assignments., 1.31 Promoting Prison Contraband

Witnesses: 1. N/A 2. N/A 3. N/A

Description of Alleged Violation(s)

This writer is a sworn Officer for Delaware Department of Corrections - Probation and Parole since October 2014 and has been on the Correctional Emergency Response Team since June 2016.

On 09/05/2024, this Officer was activated by the CERT Team to conduct a mass shake down on Building 18 in order to restore order on Tiers A, B, C, and D after a critical incident occurred earlier that morning. At 2350 hours, this Writer conducted shake down on the room of Offender Flores, Isaac, SBI# 00928824, whom resided in SHU 18- B Tier Upper 3. Prior to entering the room, Offender Flores was given directives by CERT Operators to lay on his stomach with his hands behind his back. This Writer observed through Offender Flores' cell door, Offender Flores moving his right hand away from his back and attempting to place it underneath his waist. He was directed by this Writer to put his hands behind his back again. Upon entering the room with Staff Lt. Mock and CO Wiest, Offender Flores was directed by CO Wiest to stand up in order for CERT Operators to conduct a strip search. This Officer noticed what appeared to be tightly wrapped white paper resembling a blunt laying on Mr. Flores bed which was underneath Mr. Flores. This Officer confiscated the small white blunt and turned it into CIG. Offender Flores was given multiple directives by CO Wiest to Offender Flores to bend at his waist and turn around and cough. Offender Flores refused these directives by not bending his waist and not turning around when told to do so by CO Wiest. Staff Lt. Mock then applied a short burst of pepper spray directly into the face of Offender Flores and was guided to the ground by Staff Lt. Mock and CO Wiest. He was then escorted out of the cell by Staff Lt. Mock and CO Wiest.

Upon further searching the cell, this Officer found 3 additional shorter white blunts with burned tips inside of Offender Flores locker. This Writer also confiscated the 3 additional short blunts and turned these into CIG. It was discovered by CIG that the first blunt confiscated contained a substance that tested positive for suboxone. EOR.

Reporting Officer: Mock, Robert J (Staff Lt./Lt)

Immediate Action Taken

Immediate action taken by: Mock, Robert J -Staff Lt./Lt

N/A

Offender Disposition Details

Disposition: Not Guilty Date: 09/06/2024 Time: 07:05 Cell secured? No

Reason: N/A

Disposition Of Evidence: N/A

Approval Information

Approved: Disapproved: Approved By: Eisenbraun, Michael T (Staff Lt./Lt)

Comments: N/A

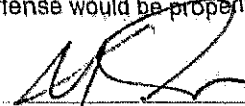
Shift Supervisor Details

Date Received: 09/06/2024 Time: 07:05 Received From: Eisenbraun, Michael T

Shift Supervisor Determination:

Upon reviewing this Disciplinary Report, I conclude that the offense may be properly responded to by an immediate revocation of the following privileges(see reverse side) for _____ hours not to exceed 24 hours)

Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing.


Eisenbraun, Michael T (Staff Lt./Lt)



DR #
1136133

Date: 9/10/24

James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

DISCIPLINARY HEARING DECISION

16 CL3

Class I (Major) Class II (Minor) Summary (24 Hour LOAP) SMT

Inmate: ISAAC FLORES SBI#: 00 928894

Institution: James T. Vaughn Correctional Center Hearing Date: 9/10/24 Time: 1855

Inmate Present: Yes No

Reason (If No): _____

Violation: 1.31

Inmate Plea: N/G

Inmate Statement: IM NOT GUILTY, WHATEVER IT IS, I WANT TO APPEAL.

Witness Name: _____

Testimony: _____

Witness Name: _____

Testimony: _____

Witness Name: _____

Testimony: _____

Decision: Guilty Not Guilty Further Investigation

Rationale: NO PREVIOUS FOR 1.31, ADDING CHARGES RI.OOD ACTIVE RESISTANCE, ILL FALSIFYING PHYSICAL EVIDENCE, 1126 SUBSTANCE ABUSE. PER THE OFFICERS REPORT, VIDEO CAMERA FOOTAGE, CONTRABAND FOUND, FINDING GUILTY ALL CHARGES.

Sanctions: 180 DAYS LOAP, 60 DAYS LOSS OF GOOD TIME. INMATE WISHES TO APPEAL. PAPERWORK GIVEN.

Hearing Officer's Signature: [Signature]

I understand that I may appeal the decision of the Hearing Officer (or Shift Supervisor in the case of a Summary Sanction) to the Commissioner of Correction or his designee. I must complete a Disciplinary Appeal Form within 15 days immediately following the hearing and mail it to the JTVCC Hearing Office.

I do intend to appeal
 I do not intend to appeal

[Signature]
Inmate Signature

ORDER TO IMPLEMENT SANCTIONS

Inmate does not wish to appeal Appeal has been denied by Commissioner or Designee
 Sanctions have been modified Time Limit (15 days since hearing) for appeal has expired

Modifications: _____
It is hereby ordered to implement the sanctions or modified sanctions on Date: _____ Time: _____



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
OFFICE OF LEGAL SERVICES
JAMES T. VAUGHN CORRECTIONAL CENTER
1181 Paddock Road
SMYRNA, DELAWARE 19977
Telephone: (302) 653-9261

Andrew Peruchi
Terry Chike

MEMORANDUM

TO: Chairman, Major Adjustment Board
RE: Loss of Good Time
INMATE: Isaac J Flores SBI# 928894 Bldg. 18
CASE NUMBER: DR# 1136133

CHARGE(S): 1.11/200.212 Falsifying Physical Evidence (1)
1.26 Substance Abuse (3)
1.31 Promoting Prison Contraband (1)

HEARING DATE: September 10, 2024

No. Days Lost: DAYS 15

APPEALED: AUTOMATIC **NOT APPEALED:**

I agree with the decision of the hearing officer that the above inmate is guilty as charged and that the sanction be carried out.

Warden: Brian Emig Date
James T. Vaughn Correctional Center

DR#
1136133

JTVCC James T. Vaughn Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-853-9261

Date: 09/23/2024

DISCIPLINARY HEARING DECISION

Inmate : Flores, Isaac J SBI#: 00928894 Type: Class1
Institution: JTVCC James T. Vaughn Correctional Center Hearing Date: 09/10/2024 Time: 18:55

Inmate Present : Yes Reason (If No): N/A

Violation : 1.00D Active Resistance Towards Staff, 1.11/200.212 Falsifying Physical Evidence and/or Influencing a Witness, 1.26 Substance Abuse, 1.31 Promoting Prison Contraband, Failing to obey an order/abide by posted regulations and/or assignments.

Inmate PLEA : Not Guilty

Inmate Statement : I'm not guilty. Whatever it is, I want to appeal.

Decision : Guilty

Violations	Guilty	Not Guilty
1.00D Active Resistance Towards Staff	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1.11/200.212 Falsifying Physical Evidence and/or Influencing a	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.26 Substance Abuse	<input checked="" type="checkbox"/>	<input type="checkbox"/>
1.31 Promoting Prison Contraband	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Falling to obey an order/abide by posted regulations and/or ass	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Rational : Reviewed officers report and video camera footage.

Sanctions: N/A

Adding charges-

1.00D Active Resistance towards staff - Inmate Flores did not comply with staff directives during an incident which resulted in inmate Flores being sprayed and a physical altercation with the staff (4th offense in 24 months)

1.11 Falsifying Physical Evidence and/or Influencing a witness - "Altering, destroying, concealing or removing anything with the intent to impair its authenticity or availability in such proceeding or investigation." (1st offense)

1.26 Substance Abuse - for possession of a substance which tested positive for Suboxone, the first "blunt" found underneath inmate Flores As well as possession of drug/smoking paraphernalia; the three additional "blunts" with burnt ends found during the cell search. (3rd offense in 24 months)

Based on the written report and the contraband discovered, I am finding inmate Flores guilty on all of the following charges-

- 1.00D Active Resistance towards staff (4th offense)
- 1.11 Falsifying Physical Evidence and/or Influencing a witness (1st offense)
- 1.26 Substance Abuse (3rd offense)
- 1.31 Promoting Prison Contraband (1st offense)

I am finding inmate Flores not guilty on the following charge-
Falling to obey an order/abide by posted regulations and/or assignments (due to not being an institutional charge)

All appropriate charges added and fully explained to inmate Flores during the hearing process. Per the Disciplinary Matrix, sanction imposed will be 180 days LOAP (credited 4 days time served), 60 days Loss of Good Time. Inmate Flores wishes to appeal, and was provided with the appeal paperwork and envelope.

I understand that I may appeal the decision of a Class II Hearing to the Class I Hearing Officer. I may appeal the decision of a Class I Hearing to the facility administrator. I also understand that I have 15 days to submit my notice of appeal in writing to the Class I Hearing Officer if I am appealing a Class II Hearing decision or the Warden if I am appealing a Class I Hearing decision.

I DO DO NOT INTEND TO APPEAL

INMATE'S SIGNATURE

DR#
1136133

JTVCC James T. Vaughn Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

Date: 09/10/2024

66

Inmate : Flores, Isaac J. SBI#: 00928894 Type: Class 1
Institution: JTVCC James T. Vaughn Correctional Center Hearing Date: 09/10/2024 Time: 18:55

MEMORANDUM

To : Flores, Isaac J.
From : Warden
RE : APPEAL DECISION

1. Loss of All Privileges

Your appeal Accepted Denied
The decision of hearing Affirmed Reversed Remanded for further proceedings
The sanction imposed by hearing officer will Remain as imposed by the Hearing Officer Reduced

The basis of this decision is as follows :

Based on the information provided I disagree with the Hearing Officer. Neither the report, evidence, nor testimony meet the elements of the 1.00D, 1.11, and 1.31 charges. The 1.26 charge is supported. As such the appeal is accepted, the decision is reversed, and the sanctions are reduced on those charges. Regarding the 1.26 charge; the appeal is denied, the decision is affirmed and the sanction is reduced to meet the requirements of the matrix to 15 Days Loss of Good Time and 90 days LOAP. The mental health of the appellant was considered and no due process or policy violations were discovered during this review.

2. Loss of Good Time

Your appeal Accepted Denied
The decision of hearing Affirmed Reversed Remanded for further proceedings
The sanction imposed by hearing officer will Remain as imposed by the Hearing Officer Reduced

The basis of this decision is as follows :

Based on the information provided I disagree with the Hearing Officer. Neither the report, evidence, nor testimony meet the elements of the 1.00D, 1.11, and 1.31 charges. The 1.26 charge is supported. As such the appeal is accepted, the decision is reversed, and the sanctions are reduced on those charges. Regarding the 1.26 charge; the appeal is denied, the decision is affirmed and the sanction is reduced to meet the requirements of the matrix to 15 Days Loss of Good Time and 90 days LOAP. The mental health of the appellant was considered and no due process or policy violations were discovered during this review.

3. Time Served

Your appeal Accepted Denied
The decision of hearing Affirmed Reversed Remanded for further proceedings
The sanction imposed by hearing officer will Remain as imposed by the Hearing Officer Reduced

The basis of this decision is as follows :

Based on the information provided I disagree with the Hearing Officer. Neither the report, evidence, nor testimony meet the elements of the 1.00D, 1.11, and 1.31 charges. The 1.26 charge is supported. As such the appeal is accepted, the decision is reversed, and the sanctions are reduced on those charges. Regarding the 1.26 charge; the appeal is denied, the decision is affirmed and the sanction is reduced to meet the requirements of the matrix to 15 Days Loss of Good Time and 90 days LOAP. The mental health of the appellant was considered and no due process or policy violations were discovered during this review.

RECEIVED

SEP 23 2024

EXHIBIT C

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

**DECLARATION OF KARL MANUEL IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

I, Karl Manuel, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.
2. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Injunction.
3. At all times relevant to this case, I was incarcerated at James T. Vaughn Correctional Center.
4. My cell is located in Building 18, lower 8 at Vaughan.
5. On the evening of September 5, 2024, I was lying in bed watching a football game with ear buds in my ears.
6. Between 9:00 and 10:00 p.m. that night, I heard and saw members of the CERT banging on my cell door.
7. In my experience, lying flat on one’s bunk is standard procedure during a random search of an inmate’s cell, so I laid down flat on my bunk.



8. Then the food flap in my cell door opened, and a big silver canister thrown by a CERT member flew into the cell, hit me in the chest, then activated and started spewing pepper spray into the air.

9. I did not do or say anything that would justify the CERT tossing a pepper grenade into my cell.

10. The pepper spray made my eyes burn. I had difficulty breathing and fell to the floor.

11. The CERT entered my cell, put a blanket over me, beat me, pulled my pants down, and digitally sodomized me.

12. During the attack, I suffered an injury to my hand when CERT members stomped on my wrist while I was handcuffed.

13. The only members of the CERT that I can positively identify are Defendant Corporal Todd Koch and Defendant Correctional Officer White. Koch is identified on the Incident Report as the lead officer and the individual who threw the pepper grenade into my cell through the food flap. White later acknowledged to me that he had been a member of the CERT on the night of the incident.

14. While CERT members were punching me as I laid on the floor of my cell, a CERT member punched me in the mouth, knocking several teeth loose and knocking my denture plate out of my mouth. Three teeth had to be removed on December 11, 2024.

15. CERT then took me to the barbershop area, where nurses were already gathered, apparently in anticipation of the injuries that would result from the raid. I told them I was asthmatic. They ordered me to stand against the wall, but I fell to the ground, saying, "I can't breathe."

16. CERT then took me to the hole. The last thing one of the CERT members said to me was, "Next time you'll listen to me."

17. No one decontaminated me after he was pepper sprayed, and I was not able to properly decontaminate myself. I was not allowed to shower until September 7, 2024.

18. At no time during the incident did I fail to obey an order, or resist the CERT members.

19. Eventually I was taken to see a nurse, who said he would report the incident for PREA purposes. Sargeant Hutchinson is conducting the investigation, which is ongoing. I talked with Hutchinson twice and told him the entire story. Hutchinson later came to see Me and asked me to fill out a form requesting a transfer out of Vaughan, which I did.

20. I repeatedly informed the Vaughan staff about my hand injury, but Vaughan took no action until September 22, when my hand was finally x-rayed. The x-rays revealed that my hand is dislocated in three places, that I suffered tendon damage and a broken finger, and that I will require wrist fusion surgery.

21. I have been told that I will not be able to see a hand specialist until February of 2025.

22. While I was in the hole, a correctional officer brought me some of my property. The officer told me this my cell looked like a war zone, and that it made no sense that the CERT had ransacked my cell, breaking my glasses and his dental plate in the process.

23. Later, while the officer was taking me back to nursing for another evaluation, he again told me in front of several witnesses that my cell looked like a disaster area, and that CERT had broken my glasses and denture plate.

24. Eventually I saw the dentist, who also expressed concern that the CERT had broken my dental plate.

25. When I finally returned to my cell, I found that the CERT had confiscated much of my personal property, including my radio, sneakers, and food—none of which were contraband. My papers were also confiscated, destroyed, or ruined by having water poured all over them.

26. I have suffered physical and psychological injuries as a result of the attack. I have had to increase both the frequency and the dosages of my medications, and I suffer from PTSD. I lost three teeth as a result of the attack, which affects my speech and eating, and I need a new denture plate.

27. As a direct result of this attack, I have had to meet weekly with mental health professionals to manage the psychological effects of the attack. My mental state sometimes makes me physically ill to the point of vomiting.

28. Because of the arbitrary, unprovoked, and unjustified nature of the attack, I fear that I could be subject to another attack by the CERT at any time, without any reason. I do not feel safe at Vaughan, and live in constant fear of another attack and retaliation.

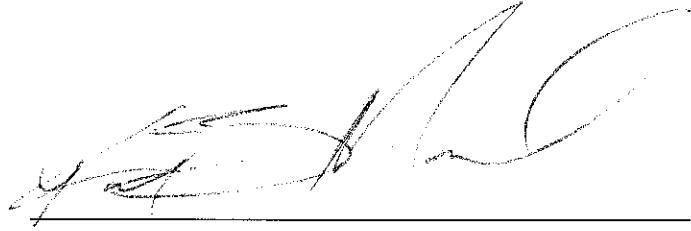
29. Although I have filed multiple grievances and medical grievances, as well as a PREA complaint, nothing has happened as a result. True and accurate copies of my grievance paperwork are attached to this Declaration as Exhibit C-1.

30. I also sent the actual portion of my blanket bearing the burn mark from the pepper grenade to my legal counsel, who has it in his possession.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

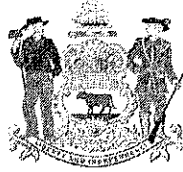
I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.

A handwritten signature in black ink, appearing to read 'Karl Manuel', is written over a solid horizontal line. The signature is stylized and cursive.

Karl Manuel

18 DL10



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
JAMES T. VAUGHN CORRECTIONAL CENTER
PREA INVESTIGATION DIVISION
1181 Paddock Road
SMYRNA, DELAWARE 19977

To: Offender Karl Manuel (00332040)

From: Sgt. Hutchins

Date: Tuesday, November 19th, 2024

Subject: PREA Case #33823

This letter is in response to a PREA allegation made by you or on your behalf. This office has investigated the allegation and determine the outcome to be:

Unsubstantiated

The results have been reviewed with the Critical Review Team and Warden's Office. Please remember, you can contact mental health for services related to dealing with victimization.

PREA Investigator,
Sgt. Hutchins

X

Offender Signature



To (CID) Criminal Investigated Division

From Mr Karl B Marant

Reason Request

Date 10/21/2024

SRI 00332040

Location 18 B L8

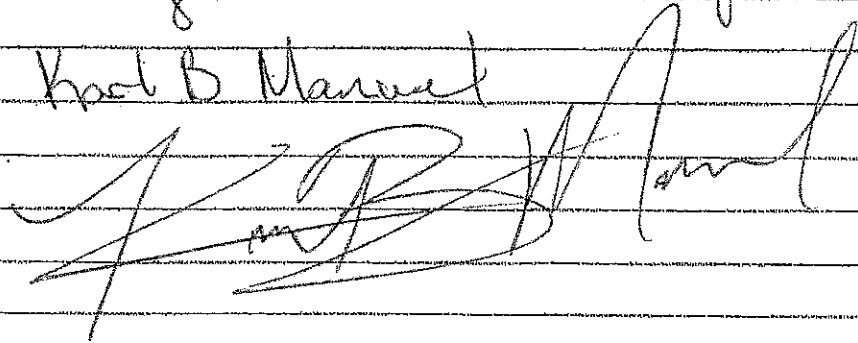
To whom this may concern

I am forwarding your office this request as referred by Cpt DT. Coviello (see previous investigation report, and in doing so i am humbly and respectfully requesting that a more in depth investigation be launched as to my allegations in which i sustained a multitude of injuries as a direct result of the CERT team extraction rot that occurred on 9/5/2024.

Please Note: the manner and actions used were not only excessive but cruel and unusual, malicious and sadist

Thank you for your time and cooperation

Karl B Marant



DN 9/22/24
at Faulkner met w/me
at 9.5.24 about Yokoch grievance

SMYRNA DE, 19977
Phone No. 302-653-9261

* Was seen by my provider
on 9/30/24
X-ray indicated (L) finger
dislocated (R) wrist fracture
scheduled for outside consult

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : MANUEL, KARL C	SBI# : 00332040	Institution : JTVCC
Grievance # : 629966	Grievance Date : 09/13/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status :	Resol. Date :
Grievance Type: Miscellaneous	Incident Date : 09/13/2024	Incident Time :
DOC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier B, Cell 8, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Lower, Tier B, Cell 8, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Inmate claims..that I immediately be seen by the provider, etc. I have become a victim of excessive force, Chris from mental health, wants items replaced, etc. See scanned document for entire complaint.

Remedy Requested :

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO
Date Received by Medical Unit :
Grievance Amount :

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION

Offender Name : MANUEL, KARL C	SBI# : 00332040	Institution : JTVCC
Grievance # : 629966	Grievance Date : 09/13/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status:	Inmate Status :
Grievance Type: Miscellaneous	Incident Date : 09/13/2024	Incident Time :
DOC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier B, Cell 8, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Lower, Tier B, Cell 8, Single	

INFORMAL RESOLUTION

Offender's Signature: _____

Date : _____

Witness (Officer) : _____

FORM #585

MEDICAL GRIEVANCE FORM

FACILITY: JTVCC

DATE: 9/14/2024

GRIEVANT'S NAME: Karl B Manard

SBI: 332040

CASE#: 629857

TIME OF INCIDENT: 9:38 pm 9/5/2024

HOUSING UNIT: KB L-8

MEDICAL; MENTAL HEALTH DENTAL

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

1) Because the medical staff failed to post a Memo regarding my Compression stocking also Polar Vision glasses both were confiscated and destroyed by the CERT Team on 9/5/2024

2) I have filed Sick Call slips requesting to be seen by the provider concerning my broken finger glasses re-injured (R) wrist all which occurred on 9/5/2024 by Cpl % Todd R Koch and members of the CERT team

ACTION REQUESTED BY GRIEVANT:

1) That i ~~be~~ be seen by both the medical Provider that i receive the above mentioned items taken by Del Del CERT team 2) That i be seen by Chris and stay from Mental Health

3) That i have X-Rays and my finger re-set & splinted

GRIEVANT'S SIGNATURE: [Signature]

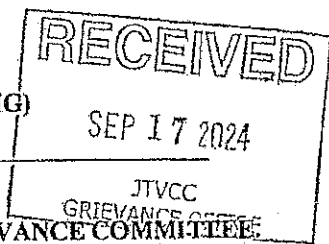
DATE: 9/14/2024

WAS AN INFORMAL RESOLUTION ACCEPTED? (YES) (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____

DATE: _____



IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE MEDICAL GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE GRIEVANT

PLACE THIS SLIP IN THE SICK CALL REQUEST BOX OR DESIGNATED AREA



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
BUREAU OF HEALTHCARE, SUBSTANCE ABUSE, AND MENTAL HEALTH SERVICES

SICK CALL REQUEST FORM

(CIRCLE ONE)

MEDICAL MENTAL HEALTH DENTAL MEDICATION ADMINISTRATIVE

Print name Karl B Manual Date of Request 9/22/24

SBI Number 332040 Date of Birth 11/13/62 Housing location 18 B 28

Are you an inmate worker: Yes No If Yes, what hours do you work? _____

When is a good time to schedule: Before work After work?

Is this illness/injury work related (while working within DDOC)? Yes No

PROBLEM OR REQUEST:

I need a confirmation regarding
Compression Stocking also Polar vision glasses
both were confiscated by CERT Team on 09-5-22

Signature: [Handwritten Signature] Date 9/22-24

DO NOT WRITE BELOW THIS AREA - MEDICAL USE ONLY

Step 1:

Date picked up: 9/22/24 Time picked up: 11-00

By (print name): Michael Wagner Title: ad Initials: mw

Face-to-face conducted Date: 9/22/24 Time: 1400

Notes: mw doctor note

Step 2:

Prioritized as: ROUTINE URGENT

Categorized as: Medical Dental Mental Health Medication Administrative

Nurse Signature & Title: [Handwritten Signature] RN Date: 9/22/24 Time: 2230

Upon completion of this form the nurse prioritizing the request shall immediately enter the information and scan the form into the Electronic Health Record (EHR).

* HSA contacted and socks will be delivered when they arrive to the SHU

↳ There is no active prescription for your glasses. THERE IS AN active optometry consult

FORM#584
GRIEVANCE FORM

For Office Use Only
CASE #: 630613

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FACILITY: JTCC
YOUR NAME: Karl B Mannel
DATE AND TIME OF INCIDENT: 9/5/2024
at or about 9:38 pm

TODAY'S DATE: 9/14/2024
YOUR SBI #: 552040
HOUSING UNIT: 18 B E-8

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DETAILS LIKE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT, WITNESSES AND WHY YOU ARE FILING THIS:

After filing numerous complaints and requesting for a order of protection from Todd R Koch Del Dec, has failed to adhere to my plea and request and as a DIRECT RESULT on 9/5/2024 I became another victim of physical and mental assault and abuse inflicted by Cpl. Todd R Koch. It is a matter of record within the US District Court that I have a pending civil complaint with allegation against Todd R Koch and because of it I have become a target of retaliation and excessive force exercised by Cpl. Todd R Koch

ACTION WANTED: (Note that staff-related issues or problems will be converted into a staff complaint/concern and sent to that staff's unit commander)

I, IM MARTIN Requesting to be protected from Cpl. Todd Koch that I be removed from the SHU and/or transferred to another Correctional facility or back to N.C person (See Exhibits A - B) What supports my allegations. Request that all footage be preserved

YOUR SIGNATURE: *[Signature]*

RECEIVED
SEP 17 2024
JTCC
GRIEVANCE OFFICE

WAS AN INFORMAL RESOLUTION ACCEPTED? (YES) (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

OFFENDER GRIEVANT'S SIGNATURE: _____ DATE: _____

IF UNRESOLVED, YOU MAY HAVE A HEARING BY THE GRIEVANCE COMMITTEE OR SUBJECT MATTER EXPERT PANEL
COPY TO: INSTITUTIONAL FILE and OFFENDER GRIEVANT

NOTE: If you are grieving the following matters, please use the procedure next to each one and NOT a grievance form.
Disciplinary decision: Appeals of disciplinary actions shall be sent to the Hearing Officer within 72 hours of the offender's receipt of the hearing's written record. See BOP policy 4.2 "Rules of Conduct" on how to appeal.
Classification decision: Written appeals must be submitted within 10 days of receipt of the decision of the committee/board. Refer to BOP Policy 3.3 "Classification" on how to appeal. IBCC decisions shall be sent to the facility warden/designee and CICB decisions shall be sent to the Classification Administrator.
Parole board: Decisions of the Parole Board should be directed to the Board of Parole by writing to their office at: Carvel State Office Building-Fifth Floor, 820 North French Street, Wilmington, DE 19801. Include your name and SBI # and reason for writing.

FORM#584
GRIEVANCE FORM

For Office Use Only
CASE #:

FACILITY: _____
YOUR NAME: _____
DATE AND TIME OF INCIDENT: _____

TODAY'S DATE: _____
YOUR SBI #: _____
HOUSING UNIT: _____

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DETAILS LIKE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT, WITNESSES AND WHY YOU ARE FILING THIS:

I am filing this complaint because after being fully aware of on going issues of attacks of physical abuse / excessive force recently and in the past to also include PLEA violation in which Cpl Todd Rhoen is involved on 9/5/24 - on your Del Dept of Correction here at STUCC has failed to adhere to the policy 5.1 which entails to provide safety and protection. It is a matter of record that I don't feel safe at this facility due to being a victim of repeatedly assault mainly launched by Cpl Rhoen (see attached sheet)

ACTION WANTED:

(Note that staff-related issues or problems will be converted into a staff complaint/concern and sent to that staff's unit commander)

YOUR SIGNATURE: _____

WAS AN INFORMAL RESOLUTION ACCEPTED? (YES) (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

OFFENDER GRIEVANT'S SIGNATURE: _____ DATE: _____

IF UNRESOLVED, YOU MAY HAVE A HEARING BY THE GRIEVANCE COMMITTEE OR SUBJECT MATTER EXPERT PANEL.
COPY TO: INSTITUTIONAL FILE and OFFENDER GRIEVANT

NOTE: If you are grieving the following matters, please use the procedure next to each one and NOT a grievance form.

Disciplinary decision: Appeals of disciplinary actions shall be sent to the Hearing Officer within 72 hours of the offender's receipt of the hearing's written record. See BOP policy 4.2 "Rules of Conduct" on how to appeal.

Classification decision: Written appeals must be submitted within 10 days of receipt of the decision of the committee/board. Refer to BOP Policy 3.3 "Classification" on how to appeal. IBCC decisions shall be sent to the facility warden/designee and CICB decisions shall be sent to the Classification Administrator.

Parole board: Decisions of the Parole Board should be directed to the Board of Parole by writing to their office at: Carvel State Office Building-Fifth Floor, 820 North French Street, Wilmington, DE 19801. Include your name and SBI # and reason for writing.

Re-Submission

FORM#584
GRIEVANCE FORM

For Office Use Only
CASE #: 630381

FACILITY: JVCC
YOUR NAME: Karl B. Manned
DATE AND TIME OF INCIDENT: 9-5-2024
"On-Going"

TODAY'S DATE: 9/22/2024
YOUR SBI #: 3320210
HOUSING UNIT: 18B L-8

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DETAILS LIKE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT, WITNESSES AND WHY YOU ARE FILING THIS:

* I am re-submitting my complaint due to the fact that I had more than one complaint when filing.
* I am filing this complaint because I was a victim who was targeted, attacked, assaulted by Cpl 90 Todd R. Koch on 9/5/2024 and as a direct result, I am suffering from a multitude of mental and physical injuries which occurred on the aforementioned date and time.

ACTION WANTED:

(Note that staff-related issues or problems will be converted into a staff complaint/concern and sent to that staff's unit commander)

Because of the on-going/continuous out-right physical attacks I have been the subject matter of by several Del DE Correctional officers, because I have pending current civil complaints filed in U.S. District Court of Delaware and because of these acts of retaliation, I don't feel safe, and humbly am requesting to be removed from the SHU and or transferred back to N.C.

YOUR SIGNATURE: [Signature]

WAS AN INFORMAL RESOLUTION ACCEPTED? (YES) (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

Staff Issues - Daniels

RECEIVED
SEP 23 2024

OFFENDER GRIEVANT'S SIGNATURE: _____

DATE: _____

JVCC
GRIEVANCE OFFICE

IF UNRESOLVED, YOU MAY HAVE A HEARING BY THE GRIEVANCE COMMITTEE OR SUBJECT MATTER EXPERT PANEL. COPY TO: INSTITUTIONAL FILE and OFFENDER GRIEVANT

NOTE: If you are grieving the following matters, please use the procedure next to each one and NOT a grievance form.

Disciplinary decision: Appeals of disciplinary actions shall be sent to the Hearing Officer within 72 hours of the offender's receipt of the hearing's written record. See BOP policy 4.2 "Rules of Conduct" on how to appeal.

Classification decision: Written appeals must be submitted within 10 days of receipt of the decision of the committee/board. Refer to BOP Policy 3.3 "Classification" on how to appeal. IBCC decisions shall be sent to the facility warden/designee and GICR decisions shall be sent to the Classification Administrator.

Parole board: Decisions of the Parole Board should be directed to the Board of Parole by writing to their office at: Carvel State Office Building-Fifth Floor, 520 North French Street, Wilmington, DE 19801. Include your name and SBI # and reason for writing.

FORM#584
GRIEVANCE FORM

For Office Use Only
CASE #:

FACILITY: _____
YOUR NAME: _____
DATE AND TIME OF INCIDENT: _____

TODAY'S DATE: _____
YOUR SBI #: _____
HOUSING UNIT: _____

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DETAILS LIKE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT, WITNESSES AND WHY YOU ARE FILING THIS:

it is also a matter of past and recent (9/5/2024) that i have sustained a dislocated (R) finger that now requires surgery as well as re-injured (R) wrist that is in a brace. Also extensive dental issues broken (dental plate) and loose teeth and broken glasses. I have exhausted all administrative remedies requesting protection and separation as well as a transfer to another facility or out of state. Please Note: The record (exhibit A) indicates that Lt Faulkner is aware of my recent allegations, yet allowed cop/ Koch to work the housing unit on 10-8-24. It is noted that cop Koch is part of a PLEA unit.

ACTION WANTED: which is **ACTIVE**

(Note that staff-related issues or problems will be converted into a staff complaint/concern and sent to that staff's unit commander)

Due to the seriousness of the physical and mental damages sustained as well as the PLEA investigation that i be removed from the 311, that i be placed in the MHO and of T-1 ~ T-2 or another facility West Delaware or out of state as previously requested.

YOUR SIGNATURE: _____

WAS AN INFORMAL RESOLUTION ACCEPTED? (YES) (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

OFFENDER GRIEVANT'S SIGNATURE: _____ DATE: _____

IF UNRESOLVED, YOU MAY HAVE A HEARING BY THE GRIEVANCE COMMITTEE OR SUBJECT MATTER EXPERT PANEL.
COPY TO: INSTITUTIONAL FILE and OFFENDER GRIEVANT

NOTE: If you are grieving the following matters, please use the procedure next to each one and NOT a grievance form.

Disciplinary decision: Appeals of disciplinary actions shall be sent to the Hearing Officer within 72 hours of the offender's receipt of the hearing's written record. See BOP policy 4.2 "Rules of Conduct" on how to appeal.

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County of Delaware
SMYRNA DE, 19977
Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : MANUEL, KARL C	SBI# : 00332040	Institution : JTVCC
Grievance # : 630013	Grievance Date : 09/14/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status :	Resol. Date :
Grievance Type: Staff Issues	Incident Date : 09/14/2024	Incident Time :
IC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier B, Cell 8, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Lower, Tier B, Cell 8, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Inmate claims..I'm again requesting to be protected from Cpl. Todd Koch that I be removed from the SHU and/or transferred to another correction facility.
See scanned document for entire complaint.

Remedy Requested :

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO Date Received by Medical Unit :

Grievance Amount :

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION

Offender Name : MANUEL, KARL C	SBI# : 00332040	Institution : JTVCC
Grievance # : 630013	Grievance Date : 09/14/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status:	Inmate Status :
Grievance Type: Staff Issues	Incident Date : 09/14/2024	Incident Time :
IC : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier B, Cell 8, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Lower, Tier B, Cell 8, Single	

INFORMAL RESOLUTION

Investigator Name : Coviello, Jason Date of Report:

Investigation Report :

Reason for Referring:

Investigator Name : Faulkner, John R Jr Date of Report: 09/22/2024

Investigation Report : I spoke with Inmate Manuel on 9-22-24 at 0949 in SHU 18 at BL8 cell. Inmate Manuel stated to me that Cpl. Koch assaulted him during the CERT shakedown by knocking out his tooth, breaking his glasses and breaking his hand. I did not observe any teeth missing while speaking with Inmate Manuel. He showed me his hand, and I did not see any obvious damage to his hand. I asked if he knew who did this, and he stated he couldn't tell. He said he only knew it was Cpl. Koch when he saw his name on the DR report he received afterward. Inmate Manuel stated the issue started in October of 2019 when Cpl. Koch allegedly assaulted him while he was in a wheelchair. He stated he made a request to Major Tilghman to keep Cpl. Koch away from him and the request was denied. I informed Inmate Manuel that transferring to another institution was not a possibility of this grievance. He stated he understood.

Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : MANUEL, KARL C	SBI# : 00332040	Institution : JTVCC
Grievance # : 630381	Grievance Date : 09/22/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status :	Resol. Date :
Grievance Type: Staff Issues	Incident Date : 09/22/2024	Incident Time :
Offender : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier B, Cell 8, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Lower, Tier B, Cell 8, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Inmate claims..I was victim who was targeted, attacked, and assaulted by Cpl. Todd Koch. See scanned document for entire complaint.

Remedy Requested :

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO	Date Received by Medical Unit :
Grievance Amount :	

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION

Offender Name : MANUEL, KARL C	SBI# : 00332040	Institution : JTVCC
Grievance # : 630381	Grievance Date : 09/22/2024	Category : Individual
Status : Return / Unprocessed	Resolution Status:	Inmate Status :
Grievance Type: Staff Issues	Incident Date : 09/22/2024	Incident Time :
Offender : Burley, Katrina	Housing at the time of Grievance : Bldg 18, Lower, Tier B, Cell 8, Single	
Grievance Loc : JTVCC -18	Current Housing : Bldg 18, Lower, Tier B, Cell 8, Single	

INFORMAL RESOLUTION

Investigator Name : Coviello, Jason	Date of Report: 09/26/2024
Investigation Report : This issue has been thoroughly investigated in previous grievance #630013. Offender Manuel was directed to contact the Criminal Investigation Division for any further action on this as no evidence of assault or wrong-doing on the part of the officer involved could be found.	
Reason for Referring:	

Offender's Signature: _____

Date: _____

Witness (Officer) : _____

To Unit Commander / Deputy Warden / Warden
From Mr Karl B Manuel

Personal Appeal
Date 10/21/2024

SBZ 00333040

Location: 18B L-8

To whom this may concern
I Karl R Manuel will disagree with the decision as to my complaint for the following reasons (A) This is an on going issue with Cpl Todd R Koch and myself where as i have sustained multiple injuries due to his unprofessionalism and excessive force (see exhibits A).

(B) Both medical also dental records support my allegations in which my (R) finger wrist is now dislocated and as a direct result i now have to have MRI and orthopedic consultant (Orthopedic Surgeon) to repair my injuries

(C) 5 teeth now has to be removed as well as another denture plates must now be fabricated as a direct result of Cpl Todd R Koch and the CERT team

Truly Karl B Manuel

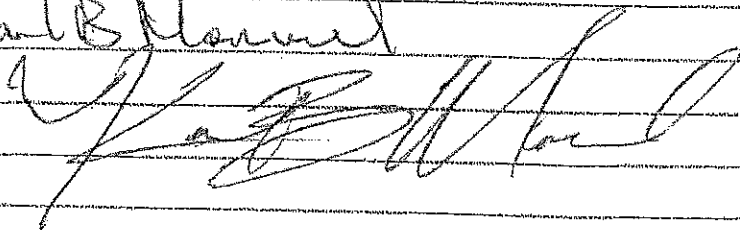


EXHIBIT D

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

**DECLARATION OF TYRONE MORRIS IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

I, Tyrone Morris, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.

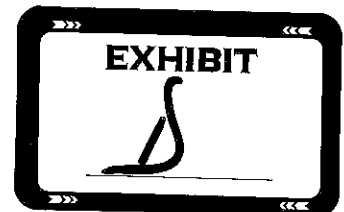
2. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Injunction.

3. At all times relevant to this case, I was incarcerated at James T. Vaughn Correctional Center. My cell was in Building 18, C-Tier, Lower 4.

4. Around 11:00 p.m. on the night of September 5, 2024, I woke up after I heard loud knocking on my cell door. I looked out my cell window and saw the CERT outside my door.

5. A member of the CERT told me to lay face down on my bed and put my hands behind my back. As I was complying, a member of the CERT threw a large canister into my cell through the food flap. The canister activated and began spewing pepper spray into the air.

6. I had not done or said anything that would justify the CERT tossing a pepper grenade into my cell.



7. The CERT then rushed into my cell, threw me to the ground, beat me, handcuffed me, and again pepper sprayed me with their handheld canisters, this time at very close range.

8. CERT members put a knee in my back while he was on the floor, and the beating left a knot on my forehead and bruises all over the right side of my face.

9. The pepper spray burned my eyes, nose, and mouth. A member of the CERT put a spit mask over my head, which only exacerbated the effects of the pepper spray.

10. During the attack, I repeatedly asked, "What did I do?" One of the CERT members answered, "You didn't move fast enough."

11. At no time during the incident did I fail to obey an order, or resist the CERT members.

12. Defendant Captain Coviello supervised the incident, and correctional officers Koch, Payton, Challis, Spencer, and Wilgus were involved in the attack.

13. The CERT took me to see a nurse, but the individual only checked my vitals, while ignoring my complaints about the pepper spray and injuries from the beating.

14. No one decontaminated me after I was sprayed, and I was unable to properly decontaminate myself. I was not allowed to shower for approximately two days. My clothing was contaminated with pepper spray.

15. I sustained injuries to my back, neck, and left wrist, and had to use a wheelchair for several days following the attack.

16. I did not see a doctor in the medical department for at least two weeks after the incident. The doctor told me that nothing was broken, but failed to perform an x-ray on my neck. I received pain medication for a time, but it was discontinued, even though I was still in pain.

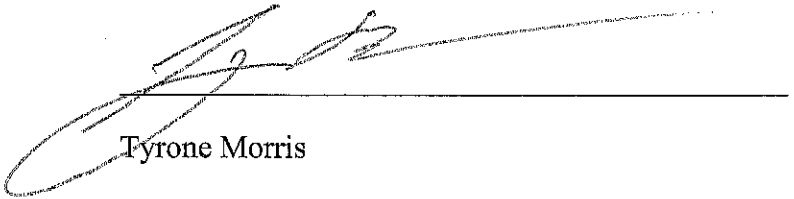
17. I suffered fear and mental anguish as a result of the attack. I believe that the correctional officers at Vaughan could kill me and get away with it. I have never felt more helpless in my life.

18. Because of the random, unannounced, and unjustified nature of the attack, I fear that I could be subject to another attack by the CERT at any time, without any reason. I am constantly worried that the correctional officers will assault me again.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.



Tyrone Morris

EXHIBIT E

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

**DECLARATION OF DARNELL PIERCE IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

I, Darnell Pierce, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.

2. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Injunction.

3. On September 5, 2024, I was housed in Building 18, cell upper 10. During the day I saw the CERT coming on and off the tier, bringing inmates onto the tier from other locations. At that time, the CERT was not yet conducting shakedowns in Building 18.

4. When I spoke with the inmates CERT had brought onto the tier during the day, they reported that the CERT had assaulted them, in spite of the fact that they had not caused any problems and had not resisted.

5. One of the CERT members walking through Building 18 during the daytime looked at me as he walked by my cell and called me a “pussy.”

6. Later that night, the CERT came to Building 18, and when they did, I was terrified. The shakedowns and raids were brutal. One inmate was shot in the leg, likely with a



rubber bullet, and seriously injured. I heard a staff member yelling, “Is the ambulance here? Make sure he doesn’t bleed out!”

7. The CERT came to my cell. I believe there were 9 or 10 CERT members present, although not all of them were in the cell, and that Defendant Warden Brian Emig was with the CERT. A few days later, I heard other inmates on the tier say that Emig had been present.

8. A female CERT member told me to lay on my back. I did so.

9. The CERT stormed into my cell, dropped me on the bed, and then tried to pick me up by the back of his shirt, choking me with the collar.

10. The CERT then dropped me to the floor, causing my right shoulder to hit the edge of the bed on the way down. One member struck me tailbone and anus with a knee or foot, causing part of my body to go numb.

11. A CERT officer then picked me up by my neck, lifted me up, turned me around and said, “I’m gonna give you an opportunity to fight me.”

12. I had my hands up, and told the officers I was not going to fight, and that I had a heart condition.

13. The officer then hit me, after which I again said, “I’m not fighting you.”

14. The officers then ordered me to strip and turn around.

15. CERT officers then strip-searched me, without any reasonable justification for doing so.

16. While I was being strip searched, an officer grabbed my neck and punched me in the back of the head. I believe it was Warden Emig who struck me.

17. While I was naked, one of the CERT members read one of my tattoos, and said, “gangster—we got a gangster,” a taunt that was repeated by the other officers.

18. An officer—I believe it was Defendant Todd Koch—then tried again to hit me in the stomach, but instead hit me in the pelvis.

19. I again warned CERT officers that I had a heart condition.

20. While I was still naked, one of the officers on the CERT tapped my penis and egged me on to fight.

21. I again refused to fight the officer.

22. After putting my clothes back on, I was again challenged to a fight by the officers. I again refused.

23. CERT officers then placed me in handcuffs.

24. While I was cuffed, two of the CERT officers slammed me around the cell by my neck, causing my face to hit the side of my desk.

25. As they exited the cell, the officers slammed my head against the door.

26. At no time during the incident did I fail to obey an order, or resist the CERT members.

27. Once outside his cell, I saw the assault on Brian Snowden taking place. I watched as CERT members pepper-sprayed Snowden, beat him, and then pepper-sprayed him a second time, all without any provocation that I could see.

28. Outside the cell, I asked if I could please just lean over a little due to the assault and my heart condition. A correctional officer who was handling a K-9 told me, “You’re not leaning over,” and then placed the K-9 right beside me so I could not lean. This happened twice.

29. Eventually officers took me back to my cell.

30. A nurse came to see me while I was lying injured on the floor of my cell. I asked her for a sick call and explained my heart condition. The nurse replied, “I don’t have time for this.”

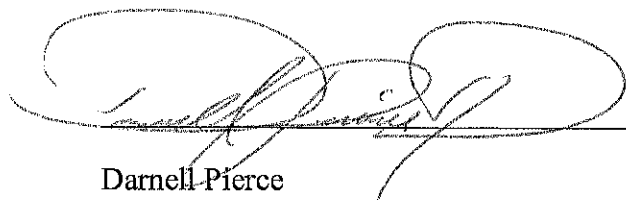
31. I suffered physical and psychological injuries as a result of the attack. I had injuries to my head, back, and right shoulder, which still cause me pain. My rectum was bleeding after the attack. I still have pain in my tailbone, especially when sitting. During the assault, I believed I was going to die. I suffer from fear, anxiety, and PTSD.

32. Because of the arbitrary, unprovoked, and unjustified nature of the attack, I fear that I could be subject to another attack by the CERT at any time, without any reason.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.



A handwritten signature in cursive script, appearing to read "Darnell Pierce", is written over a solid horizontal line. The signature is fluid and somewhat stylized, with large loops and a long tail.

EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

**DECLARATION OF JAMAR WATERS IN SUPPORT OF PLAINTIFFS’
MOTION FOR PRELIMINARY INJUNCTION**

I, Jamar Waters, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.

2. I submit this Declaration in support of Plaintiffs’ Motion for Preliminary Injunction.

3. At all times relevant to this case, I was incarcerated at James T. Vaughn Correctional Center.

4. Although my permanent regular housing unit was located in Building 18, on September 5, 2024 I was housed in Building 21, D-Tier, Lower 11, for psychiatric close observation (PCO) due to mental health struggles.

5. I therefore did not know about the CERT raid on Building 18 on September 5, 2024 while it was happening, although other residents of Building 18 later told me about the raid when I returned from Building 21 to my regular housing assignment.

6. At approximately 1:30 a.m. on September 6, 2024, while I was sound asleep in my close observation cell in Building 21, the CERT arrived at that cell.



7. They did not knock, and directly violated Department of Correction policy and operating procedures regarding treatment of an individual placed in PCO by opening my cell door, storming in, and grabbing me out of bed.

8. CERT members threw me against the wall. Terrified and confused, I tried to protect myself, but eventually went limp.

9. CERT members punched me in my forehead, chin, and body, and smashed my head into the wall. They put my hands behind my back and cuffed me.

10. One of the CERT members put a finger in my rectum, without any warning or justification.

11. CERT members took me out of my cell, marched me to a corner and shoved me up against a wall.

12. Eventually the CERT took me back to his close observation cell.

13. After they had uncuffed me, a CERT member told me, "Ok we're gonna fuck you up."

14. Eventually the CERT members left my cell.

15. After the CERT left, I spoke with Sargeant White. I asked White why they would allow the CERT to assault me, and White replied, "We've never seen anything like that before."

16. I also later spoke with the Sargeant in Building 21 who had opened my cell door for the CERT. The Sargeant told me he hadn't wanted to open my cell door for the CERT, but the major of the CERT told him he had to. The Sargeant also told me that Defendant Warden Brian Emig had given the greenlight for the CERT raids, and that Emig himself was a former CERT member.

17. Defendant Sargeant Kristen Bartell was present while I was assaulted, as was Defendant Sargeant Mejia.

18. At no time during the incident did I fail to obey an order or present a threat to the CERT members.

19. I suffered physical and psychological injuries as a result of the assault. A doctor in the psychiatric close observation area saw the effects of the attack on me, including a bloody head wound. I suffered bruises and scratches on my chest. I suffered pain in my shoulders and neck as a result of the attack. I was x-rayed but never received the results.

20. Defendant Warden Brian Emig later came to my cell once I had returned to Building 18. Emig told me that he was investigating why I had been assaulted. I challenged him, asking how Emig could be responsible for investigating the incident when he himself was directing the operation. I received no satisfactory reply.

21. Because of the arbitrary, unprovoked, and unjustified nature of the attack, I fear that I could be subject to another attack by the CERT at any time, without any reason. The attack severely aggravated my PTSD. I have trouble sleeping, and the sounds of cell doors opening causes me fear and anxiety of another attack.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.

*/s/ Jamar Waters*¹

Jamar Waters

¹ Plaintiffs' counsel submits this Declaration of Jamar Waters with an electronic signature instead of a wet ink signature because Mr. Waters was erroneously and without warning transferred from the custody of the Delaware Department of Correction to the custody of the St. Cloud Correctional Facility in St. Cloud, Minnesota—after Mr. Waters had acknowledged to counsel that all representations contained in this Declaration are true and accurate to the best of his knowledge, but before Mr. Waters could affix his signature to this Declaration. True and accurate copies of email communications confirming Mr. Waters's erroneous transfer to Minnesota, and counsel's inability to contact him, are attached as Exhibits F-1 and F-2. Counsel will file a copy of Mr. Waters's Declaration bearing a wet ink signature as soon as they are able to obtain one.



FW: 270039 Waters, Jamar

From Bowers, Jennifer (OCC) <Jennifer.Bowers@delaware.gov>
Date Tue 1/21/2025 2:30 PM
To Jason Beehler <jbeehler@aclu-de.org>

This Message Is From an External Sender

This message came from outside your organization.

Hello,

Please see below (highlighted) is the contact to set up a telephone conference with Jamar Waters.

Jennifer Bowers

Office of Conflicts Counsel
900 King Street, Suite 320
Wilmington, DE 19801
Phone: 302-468-5066

From: Hamlett, Heather (DOC) <Heather.Hamlett@delaware.gov>
Sent: Tuesday, January 21, 2025 2:26 PM
To: Tipton, Michael H (DOJ) <michael.tipton@delaware.gov>; sara.meyers@Deleware.gov; Bowers, Jennifer (OCC) <Jennifer.Bowers@delaware.gov>
Subject: FW: 270039 Waters, Jamar

FYI highlighted below -contact to schedule for telephone conference.

From: Malecha-Nagel, Penny (DOC) <penny.malecha-nagel@state.mn.us>
Sent: Tuesday, January 21, 2025 2:18 PM
To: Reeves, Michele (DOC) <michele.reeves@state.mn.us>
Cc: sara.meyers@Deleware.gov; jennifer.bowers@deleware.gov; Hamlett, Heather (DOC) <Heather.Hamlett@delaware.gov>
Subject: RE: 270039 Waters, Jamar

Great thank you They will reach out to you to schedule thanks for you help.

Penny Malecha-Nagel, MS, LPCC
State Program Admin Coord/ Facility Division
Minnesota Department of Corrections
1450 Energy Park Dr
St. Paul, MN 55108
C: 651-341-1278

Contributing to a safer Minnesota | mn.gov/doc





From: Reeves, Michele (DOC) <michele.reeves@state.mn.us>
Sent: Tuesday, January 21, 2025 1:16 PM
To: Malecha-Nagel, Penny (DOC) <penny.malecha-nagel@state.mn.us>
Cc: sara.meyers@Deleware.gov; jennifer.bowers@deleware.gov; Heather Hamlett <Heather.hamlett@delaware.gov>
Subject: RE: 270039 Waters, Jamar

Penny,

If they contact me via email at michele.reeves@state.mn.us, I can assist with scheduling a phone within the next couple of weeks.

Michele Reeves
Corrections Security Case Manager - Career | MCF-St. Cloud
Monday-Thursday 6:30-4:30
2305 Minnesota Blvd
St. Cloud, MN 56304
Phone: 320-240-6789

Contributing to a safer Minnesota | mn.gov/doc



From: Malecha-Nagel, Penny (DOC) <penny.malecha-nagel@state.mn.us>
Sent: Tuesday, January 21, 2025 12:17 PM
To: Reeves, Michele (DOC) <michele.reeves@state.mn.us>
Cc: sara.meyers@Deleware.gov; jennifer.bowers@deleware.gov; Heather Hamlett <Heather.hamlett@delaware.gov>
Subject: 270039 Waters, Jamar

Good Morning Michele-

I have included two individuals on this email that work with the Office of Conflicts Counsel -Public Defenders office out of DE. They would like to set up a phone call with Mr. Waters who just arrived to MN from DE as an ICC case. Can you assist them with this process?

Thanks

Penny Malecha-Nagel, MS, LPCC
State Program Admin Coordinator ICC/HOF Unit | Facility Division

Minnesota Department of Corrections
1450 Energy Park Dr
St. Paul, MN 55108
C: 651-341-1278



This email is intended to be read only by the intended recipient. This email may be legally privileged or protected from disclosure by law. If you are not the intended recipient, any dissemination of this email or any attachments is strictly prohibited, and you should refrain from reading this email or examining any attachments. If you received this email in error, please notify the sender immediately and delete this email and any attachments.

Thank you.

 Outlook

Jamar Waters

From Jason Beehler <jbeehler@aclu-de.org>
Date Tue 1/21/2025 3:27 PM
To michele.reeves@state.mn.us <michele.reeves@state.mn.us>; penny.malecha-nagel@state.mn.us <penny.malecha-nagel@state.mn.us>
Cc sara.meyers@Delaware.gov <sara.meyers@Delaware.gov>; jennifer.bowers@delaware.gov <jennifer.bowers@delaware.gov>; Heather Hamlett <Heather.hamlett@delaware.gov>; Dwayne Bensing <dbensing@aclu-de.org>

Hello Ms. Reeves:

I am Jamar Waters's attorney. I understand that he was recently transferred from prison in Delaware to prison in Minnesota. I had an appointment set up to meet with him today to sign important legal paperwork related, but was obviously unable to meet with him as a result of this serious error. As far as I am aware, Jamar has not only never been arrested or faced charges in Minnesota, he's never even been there.

While we investigate the precise chain of events at the Delaware prison that lead to this unjustifiable and entirely preventable error, I would like to speak with Jamar as soon as possible. His family has not been able to reach him. His criminal defense attorney has not been able to reach him. I have not been able to reach him. And we will consider continued lack of access to Jamar as a continued deprivation of his constitutionally guaranteed right to counsel, which will be the responsibility of not only Delaware officials, but Minnesota officials as well, if this continues.

Please arrange a time for me to meet with Jamar by video as soon as possible. Zoom or Teams is fine. A telephone conference is not sufficient, as I need to see Jamar to verify whether he has suffered any physical mistreatment or injuries that need to be documented for any future action.

My cell phone number is 614-432-5363 if you wish to speak with me by phone.

Jason Beehler

Attorney

American Civil Liberties Union of Delaware

302.654.5326 | jbeehler@aclu-de.org

ACLU
Delaware



EXHIBIT G

POLICY 8.30 – USE OF FORCE

<p align="center">POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION</p>	<p align="center">POLICY NUMBER 8.30</p>	<p align="center">TOTAL PAGES 4</p>
<p>RELATED ACA STANDARDS: 5-ACI-ID-19 (4-4090), 5-ACI-ID-20 (4-4091), 5-ACI-ID-21 (4-4092), 5-ACI-3A-16 (4-4190), 5-ACI-3A-31 (4-4202), 5-ACI-3A-32 (4-4203), 5-ACI-3A-33 (4-4203), 5-ACI-3A-35 (4-4206), 5-ACI-3D-08 (4-4281); 4-ALDF-2B-01, 4-ALDF-2B-08, 4-ALDF-7B-08, 4-ALDF-7B-10, 4-ALDF-7B-10-01, 4-ALDF-7B-14-16; 4-ACRS-2B-01, 4-ACRS-2B-03 4-ACRS-7B-17, 4-ACRS-7B-17-1; 4-APPFS-3B-02, 4-APPFS-3B-06, 4-APPFS-3G-01, 4-APPFS-3G-02; 1-CTA-3A-20; 2-CO-3A-01</p>		
<p>CHAPTER: 8 ADMINISTRATION</p>	<p>SUBJECT: USE OF FORCE</p>	
<p>APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE: January 25, 2021 <i>Chari M. Matthews</i></p>		
<p>APPROVED FOR PUBLIC RELEASE</p>		

I. AUTHORITY: 11 *Del. C.* §§462-471, 607A, 4321, 6517, 6571; 29 *Del. C.* § 8903

II. PURPOSE: It is the intent of the Department of Correction (DOC) to provide a single source of reference for its employees concerning the authorization, documentation and control of the use of physical force by Department employees. Employees of the Department may encounter situations that necessitate the use of physical force or a weapon to provide for the safety and welfare of the public, departmental employees, contractors, offenders and themselves. All employees are responsible for understanding existing procedures and directives concerning the use of force and reporting requirements.

III. APPLICABILITY: To Department employees, volunteers, persons or organizations conducting business with the Department.

IV. DEFINITIONS:

Use of Force: An action involving direct or indirect physical contact as employed by Department staff to obtain compliance of offenders and other individuals with orders from staff to (1) control disruptive or violent offenders, (2) enforce or restore order, (3) defend oneself against unwanted physical contact or harm, (4) protect other persons from imminent death, serious bodily harm, or physical harm, (5) protect state property, (6) prevent escapes or capture escaped/ing inmates, (7) administer non-emergent and emergent involuntary medications prescribed by a qualified health professional and (8) apply clinical or therapeutic restraints authorized by a qualified health professional.

Deadly Force: Means force causing, or that a person knows or should know, would create a substantial risk of causing, death or serious bodily harm.

Indirect Contact: Contact employed by Department staff that is achieved through some intervening medium such as impact weapons, OC Spray, Electronic Immobilization Devices (EID), Canine and Firearms.



POLICY 8.30 – USE OF FORCE

Significant Incident Review Board (Board): Responsible for reviewing significant use of force incidents to determine if a matter should proceed administratively or be referred for criminal investigation, either internally (*i.e.*, Internal Affairs) or by an outside agency (*e.g.*, the Delaware State Police). The Board consists of the following members: Deputy Commissioner, Bureau Chief of Prisons, Bureau Chief of Community Corrections, Bureau Chief of Healthcare Services and the Human Resources Director. The Board shall meet as often as is necessary to ensure that matters are reviewed and referred as promptly as possible.

- V. **POLICY:** The Department recognizes that offenders may at times demonstrate violent and destructive behaviors that may seriously endanger the health and safety of staff, offenders or the public. It is understood that the need to use force occurs most often in situations that are unplanned and unanticipated. Split-second decision-making is often necessary. The Department has adopted the attached Use of Force Model to guide staff in making use of force decisions. The Use of Force Model identifies a graduated approach to the use of force in situations that may be experienced by employees. All employees responsible for offender supervision are trained regarding the Use of Force Model and this policy as a means to reduce and prevent the need to use force and to establish guidelines of reasonableness when force is required.

The use of force must be reasonable under the circumstances, and should be used only when no other reasonable alternative is available. If possible, staff shall take reasonable steps to deescalate a situation or otherwise prevent the need to use of force. The use of force may not be used as a retaliatory or disciplinary measure.

The use of deadly force is a last resort and is authorized only when there is an imminent threat to human life or serious physical injury that cannot be prevented by any other available means. The use of deadly force is prohibited when it presents a substantial risk of injury to bystanders or other persons not involved in or related to the need for the use of force. Whenever the use of deadly force is a planned response to inmate actions, and time permits, the respective Bureau Chief and/or the Commissioner shall be consulted.

In accordance with Delaware Code, a guard (Department of Correction, Correctional Officer) or other person authorized to act as a peace officer is justified in using any force, including deadly force, which the person believes to be immediately necessary to prevent the escape of a person from a jail, prison or other institution for the detention of persons charged with or convicted of a crime. This section of the policy applies to offenders housed at Howard R. Young Correctional Institution, Baylor Women's Correctional Institution, James T. Vaughn Correctional Center, Sussex Correctional Institution, and all offenders under the supervision of the Court and Transportation Unit.

Deadly force shall not be used to prevent an escape from any Level IV community confinement facility, nor from any Probation and Parole office, unless there is a threat of death or serious physical injury by the person escaping.

If possible, staff should consider the age, gender, health and mental status prior to the use of force. Medical conditions such as pregnancy, respiratory ailments, advanced age, or physically debilitating diseases may create an increased risk of serious injury and, if known, should be factored into the decision as to the appropriate amount and type of force to use.

POLICY 8.30 – USE OF FORCE

The Delaware Automated Correctional System (DACS) shall serve as a mechanism to track use of force incidents by type, location, and employee.

The DOC prohibits the use of a chokehold, kneehold or other similar acts of applying force or pressure against the trachea, windpipe, carotid artery, side of the neck, or jugular vein of another person unless the officer reasonably believes that the use of such force is necessary to protect the life of the officer using the force or to protect the life of another person and other applicable control methods have been exhausted.

The DOC also prohibits the use of restraint techniques that cause or could cause partial or complete impairment of respiratory exchange, such as the “hogtie” position, or certain restraints on the neck.

Security personnel are authorized to use force to administer clinical therapeutic restraints upon receiving prior authorization from and within the guidelines of *DOC 11-G-01-Restraints*.

Security personnel are authorized to use force to assist clinical personnel while they administer emergent and non-emergent involuntary medications in accordance with *DOC 11-G-3 - Emergency Psychotropic Medication and DOC 11-G-3.1 - Non-Emergency Involuntary Medication Administration*.

Physical instruments of restraint (handcuffs, Shackles, chains, etc.) of any type shall not be applied as punishment.

A program of training will accompany the use of deadly and non-deadly force tactics and equipment.

Use of excessive force by Department employees or other persons is prohibited. Any violation of this policy may result in disciplinary action, up to and including termination.

Personnel involved in, or witness to, a use of force incident shall submit written reports to their chain of command no later than the conclusion of their tour of duty when any of the following occur:

- A. discharge of a firearm or other weapon;
- B. use of force to control offenders and other individuals; or
- C. offender(s) remain in restraint at the end of the shift

Each Bureau that is responsible for the custody and/or supervision of offenders shall be responsible for establishing procedures to implement this policy. These procedures must include the following:

- A. weapons training, certification and re-qualifications for all authorized staff;
- B. provisions requiring prompt medical review and, if appropriate, treatment of persons injured in a use of force incident; and
- C. a review process for all incidents involving the use of force.

POLICY 8.30 – USE OF FORCE

Integrated Use of Force Model

The Use of Force Paradigm for Enforcement and Corrections

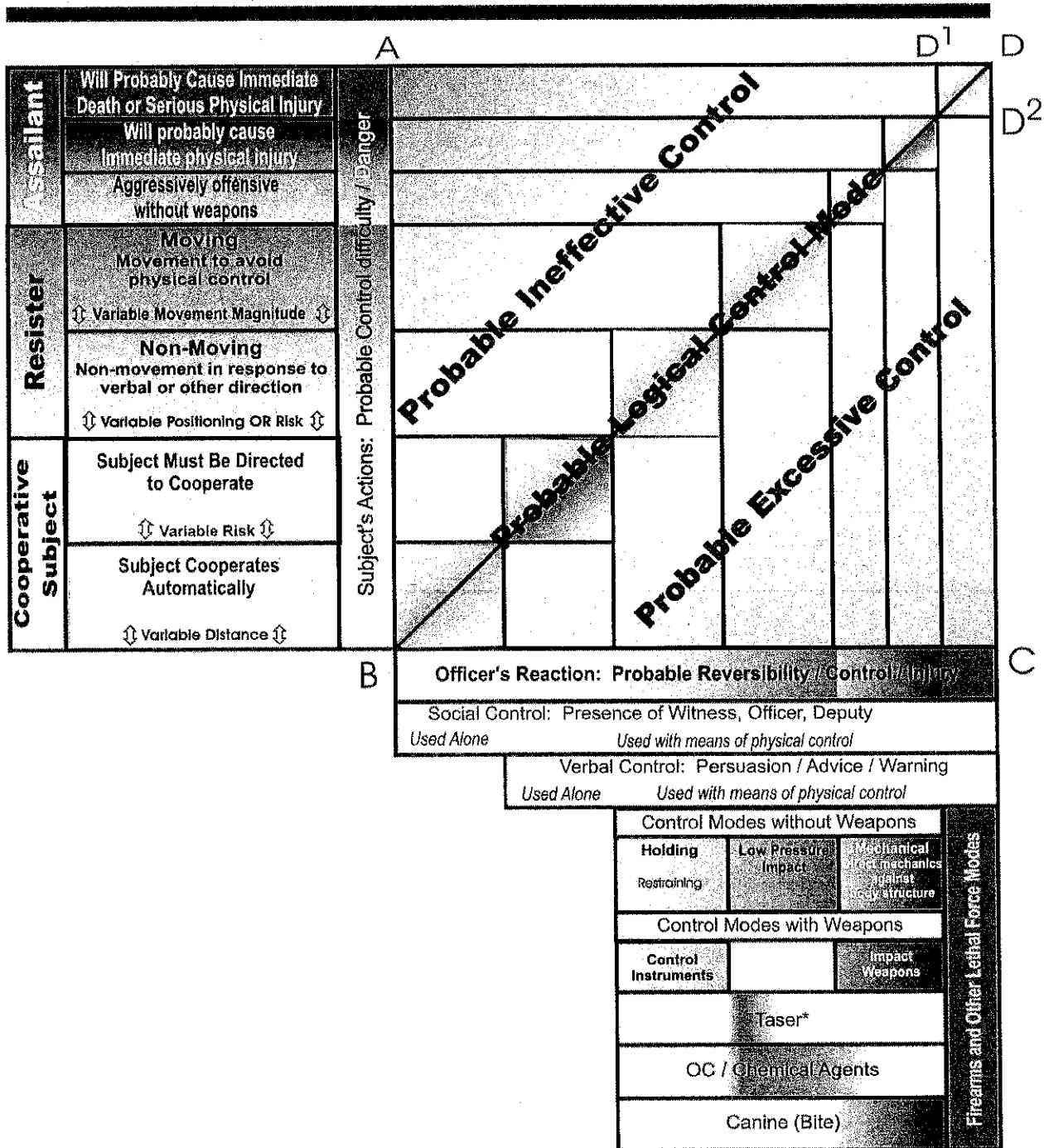


EXHIBIT H

Final Report: Independent Review of Security Issues at the James T. Vaughn Correctional Center

Requested by the Honorable John C. Carney, Jr.,
Governor of the State of Delaware
on February 14, 2017

Led by:

The Honorable William L. Chapman, Jr.

And

The Honorable Charles M. Oberly, III

With Support from:



August 2017



Acknowledgements

Judge (ret.) William L. Chapman and former Delaware Attorney General and United States Attorney Charles M. Oberly, III, would like to thank the Police Foundation Team for their assistance and support in undertaking this review. Police Foundation Team members include:¹

- Frank Straub, PhD, Director, Strategic Initiatives, Police Foundation
- Roger Werholtz, Commissioner (ret.) Kansas Department of Corrections, Corrections Subject Matter Expert
- Robert May, IJIS Institute, Corrections Subject Matter Expert
- Jennifer Zeunik, Director, Programs, Police Foundation
- Joyce Iwashita, Project Assistant, Police Foundation
- Michelle Phillips, Project Associate, Police Foundation
- Maria Valdovinos, Research Associate, Police Foundation
- Ben Gorban, Policy Analyst, Police Foundation

We would also like to thank the people of Delaware who share in the goal of creating a safe and healthy environment at the JTVCC, and assisted us with this review process. This extends the staff of both the Delaware Department of Correction and James T. Vaughn Correctional Center who took the time to provide our team with assistance, access, and honest and candid input. Your perspective and experience have been invaluable.

Thank you to Christian L. Kervick, Executive Director of the Delaware Criminal Justice Council, for guidance and support throughout this review.

We also appreciate the time granted to us by Delaware community members who provided us with their input regarding the James T. Vaughn Correctional Center.

¹ Independent Review Team member bios are attached as Appendix C.

Executive Summary

On February 1, 2017, the State of Delaware was confronted by the news of an ongoing incident in which inmates housed in the C-Building at the James T. Vaughn Correctional Center (JTVCC), seized the building and took hostages. The seizure of the building resulted in the death of one correctional sergeant;² injuries sustained by two other correctional officers; one non-custodial staff member being taken to the hospital for precautionary reasons; and, allegations of inmate injuries.

On February 14, 2017, Governor John Carney issued an Executive Order establishing an Independent Review Team to investigate and report on "any conditions at the James T. Vaughn Center that contributed to the hostage situation on February 1, 2017."³

In response to the Executive Order, the Independent Review Team conducted interviews with correctional, educational, mental health and medical staff, including correctional supervisors, JTVCC administrators, and Delaware Department of Correction (DOC) executive administrators past and present. The Team also reviewed numerous letters from inmates and family members, spoke with community and inmates' rights groups, and interviewed other agency representatives. The Independent Review Team also visited the JTVCC, including the C-Building, observed grievance proceedings, and spoke with inmates individually and in focus groups. The Team also conducted in depth research through review and analysis of policy, training and other departmental documentation; open source media searches; and identification and gap analysis of national corrections and behavioral health best and promising practices. Collectively, the Independent Review Team conducted a comprehensive and thorough review and analysis of the facts and circumstances leading up to the incident that began on February 1, 2017.

On June 1, 2017, the Independent Review Team issued a Preliminary Report concerning the causes and conditions leading up to the incident that began on February 1, 2017. Since June 1, 2017, the Independent Review Team conducted further interviews and assessments. This Final Report expands upon the Preliminary Report. It addresses actions taken by the JTVCC, the DOC, and the State of Delaware since February 2017, and contains specific recommendations to prevent, or at least minimize, the likelihood of another similar event.

The tragic incident that began on February 1, 2017 in the C-Building of the JTVCC could have occurred elsewhere in the facility. Factors unique to that particular building, however, resulted in the incident occurring there. For some period of time, conditions at the JTVCC had deteriorated to the point that there was unrest among inmates, and distrust between inmates and correctional officers, as well as between correctional officers and JTVCC administrators. Factors giving rise to this unrest included adverse working conditions for the correctional officers, who continue to feel unappreciated by the administration, inconsistently implemented

² The Sergeant was posthumously promoted to Lieutenant.

³ Delaware Executive Order No. 2, 2017. The Delaware Executive Order 2 is attached as Appendix F.

rules and regulations, an inmate grievance procedure deemed unfair, a distrusted medical/mental health system, and a real lack of morale permeating the line officers.

The conditions set forth in this report created an environment in which an occurrence like the incident that began on February 1, 2017 would have likely occurred at some point somewhere within the JTVCC. However, the mix of inmates flowing down from maximum to medium security and inmates flowing up from medium towards maximum security in the C-Building and the circumstances giving rise to that mix, as more specifically set forth in the body of the report, hastened the inevitable. Most unfortunately, the Independent Review Team believes that had the request for the removal of certain inmates from the C-Building—made on January 20, 2017 by the very correctional officer who was killed during the incident that began on February 1, 2017—been taken more seriously and carried out, the incident and the resulting death may not have occurred.⁴

As tragic as the unnecessary loss of life is, the incident that began on February 1, 2017 spearheaded long overdue changes in the DOC that will hopefully result in better working conditions for the correctional officers and professional staff as well as living conditions for inmates. Work remains to be done and recommendations are made herein.

Lastly, the Independent Review Team commends Governor Carney for his immediate action in requesting this review and already addressing some of the most pressing problems facing the DOC.

⁴ Due to the ongoing internal affairs investigation, the Independent Review Team was not able to determine whether steps were taken to address Sgt. Floyd's request to remove certain inmates from C-Building.

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Chapter 1. Introduction

On Wednesday, February 1, 2017, inmates housed in the C-Building of the James T. Vaughn Correctional Center (JTVCC) took control of the C-Building unit and held the staff and several inmates hostage. The hostage situation lasted into the early hours of Thursday, February 2, ultimately resulting in the death of one correctional sergeant; injuries sustained by two other correctional officers; one non-custodial staff member being taken to the hospital for precautionary reasons; and, allegations of inmate injuries.

On February 14, 2017, through Executive Order 2, Governor Carney commissioned an independent review of the JTVCC to determine contributors and causes (if possible) of the incident that began on February 1, 2017.⁵ The review required a preliminary report⁶ due June 1, 2017, and a more detailed final report to be submitted in August 2017.

Purpose of this Final Report

This final report builds on the analysis, findings, and recommendations laid out in the Preliminary Report. It also provides more context and depth to the preliminary observations and addresses the steps that the JTVCC, the Delaware Department of Correction (DOC), and the State of Delaware have taken since the incident. Each of the chapters in this final report delve into the topics identified as directly and indirectly contributing to the incident that began on February 1, 2017 in more detail, expands on the findings and recommendations issued in the preliminary report, and includes additional findings and recommendations that tie back to the event.

Methodology

The Police Foundation has a proven history of a commitment to learning and change by conducting in-depth, independent incident and organizational reviews. Recent Police Foundation critical incident reviews include:

- [Bringing Calm to Chaos: A critical incident review of the San Bernardino public safety response to the December 2, 2015 terrorist shooting incident at the Inland Regional Center](#)
- [Managing the Response to a Mobile Mass Shooting: A Critical Incident Review of the Kalamazoo, Michigan, Public Safety Response to the February 20, 2016, Mass Shooting Incident](#)

⁵ The Delaware Executive Order 2 is attached as Appendix F.

⁶ The Preliminary Report is attached as Appendix G.

- [Maintaining First Amendment Rights and Public Safety in North Minneapolis: An After-Action Assessment of the Police Response to the Protests, Demonstrations, and Occupation of the Minneapolis Police Department's Fourth Precinct](#)
- Critical Incident Review of the Orlando Public Safety Response to the Orlando Pulse Nightclub Terrorist Shooting (Soon to be Released)

Upon being selected to support Judge (ret.) William L. Chapman, Jr. and former Delaware Attorney General and U.S. Attorney Charles M. Oberly, III, on the review of the JTVCC, the Police Foundation created an Incident Review team comprised of subject matter experts in corrections, public safety, and critical incident response. The team developed and executed a comprehensive methodology to critically and objectively review and assess the incident, and circumstances leading up to it in order to develop findings and recommendations for improving security at the JTVCC. The methodology includes an extensive review of DOC and JTVCC policies, procedures, practices, and training materials; interviews of current and former Delaware DOC and JTVCC administrators; site visits, tours, and director observation of the JTVCC; focus groups and interviews of JTVCC correctional personnel, contractual personnel, and inmates; interviews of key stakeholders such as advocacy groups and union leadership; and, reviews of relevant literature and media coverage. A more detailed methodology is attached in Appendix B.

Limitations of this Report

Administrators and staff of the State of Delaware, the Delaware DOC, and the JTVCC provided the Independent Review Team exceptional access and assistance in gathering information for this review. They should all be commended for their assistance and support throughout this process.

Due to the ongoing criminal investigation, the Independent Review Team did, however, face some restrictions regarding the details related to the incident that began on February 1, 2017. The team did not, for example, access police investigative reports, DOC Internal Affairs or some other reports involved in the ongoing criminal investigation. These parameters were put in place to ensure that the criminal investigation is not compromised in any way, and to maintain the integrity and focus of this independent review.

Steps in the Right Direction: Actions taken by the State since February 2017

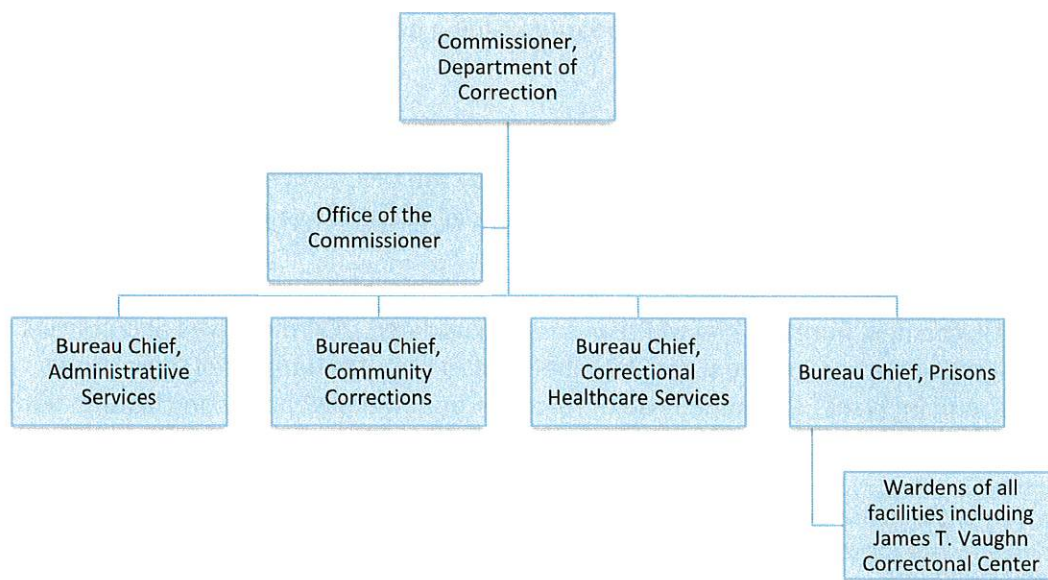
The State of Delaware has taken myriad steps to improve conditions at the JTVCC and to improve the overall status of corrections in Delaware since the hostage-taking incident on February 1, 2017. On February 14, 2017, Governor John C. Carney signed an Executive Order⁷ to

⁷ Delaware Executive Order No. 2, 2017.

launch an independent review into the security of the JTVCC to, “review the events surrounding the hostage incident and related security issues at the James T. Vaughn Correctional Center.”⁸ Governor Carney appointed Judge (ret.) William L. Chapman, Jr. and former Delaware Attorney General and United States Attorney, Charles M. Oberly, III, to lead this work. The Police Foundation was selected to support the work, provide corrections subject matter expertise, conduct interviews, identify findings and recommendations, and draft preliminary and final reports.

In May, the DOC announced the appointment of a new Chief of the Bureau of Prisons (BOP) and a new warden of the JTVCC.⁹ Recognizing the security challenges that the JTVCC faced, the new BOP chief temporarily reassigned an administrative executive from the Howard R. Young Correctional Institution—another Delaware prison—to the JTVCC to serve as Security Superintendent. In this role, the Security Superintendent will ensure that many of the safety and security issues that contributed to the February 1, 2017 incident are addressed.

Figure 1: Delaware Department of Correction Modified Organizational Chart¹⁰



⁸ “Governor Carney Announces Selections to Lead Independent Review of Hostage Incident at James T. Vaughn Correctional Center,” State of Delaware, February 14, 2017, <http://news.delaware.gov/2017/02/14/governor-carney-announces-selections-to-lead-independent-review-of-hostage-incident-at-james-t-vaughn-correctional-center/>.

⁹ DJ McAneny, “Delaware DOC introduces new Bureau Chief of Prisons, James T. Vaughn Correctional Center Warden,” May 19, 2017, WDEL, http://www.wdel.com/news/delaware-doc-introduces-new-bureau-chief-of-prisons-james-t/article_610b4ff2-3cd6-11e7-ae3c-2fe9379d1ced.html.

¹⁰ Full organizational chart retrieved from Department of Correction, last revised January 23, 2017, http://www.doc.delaware.gov/downloads/DOC_Org_Chart_012017.pdf.

On June 2, 2017, the preliminary report of this Independent Review Team was released. The preliminary report evaluated policies, procedures, practices and technology at the facility and within the DOC that directly or indirectly contributed to the incident. The report also provided recommendations that, if taken, may prevent a similar incident and could improve the safety, security and operations of the JTVCC and the DOC.

On June 3, 2017, Governor Carney signed the Fiscal Year (FY) 2018 budget, which included \$16 million to fund salary increases for correctional officers across experience levels and \$2.3 million to authorize new correctional officer positions.¹¹ A newly created Labor-Management committee was also created to examine: officer recruitment and retention, use of mandatory overtime, transitioning to 12-hour shifts, implementing physical fitness testing, creating a career ladder, and revising the DOC “freeze” policy.¹²

Also in June 2017, Governor Carney named a Special Assistant at the DOC to spearhead DOC reforms, and the DOC selected a new Bureau Chief of Community Correction to focus on improving re-entry programs and reducing recidivism.¹³

Likewise, in June 2017, the DOC issued an updated training plan for fiscal year (FY) 2018/19, improving upon training for DOC staff.¹⁴

On July 5, 2017, the *DOC Preliminary Progress Report (Provided in Response to the JTVCC Independent Review Preliminary Report)* was released by the DOC Office of the Commissioner. The progress report outlined how the state will address all of the recommendations in the preliminary report.¹⁵

In August 2017, the new Bureau Chief of Prisons issued updated DOC directives and policies including a directive addressing the use of handheld video cameras during cell extractions, forced moves, and incidents of planned use of force; an updated BOP policy on classification;

¹¹ “Governor Carney Signs Fiscal Year 2018 Budget Plan, Capping General Assembly Session,” State of Delaware, July 3, 2017, <http://news.delaware.gov/2017/07/03/governor-carney-signs-fiscal-year-2018-budget-plan-capping-general-assembly-session/>.

¹² “Investing in the Department of Correction: Agreement with COAD,” State of Delaware, uploaded June 24, 2017, <http://governor.delaware.gov/wp-content/uploads/sites/24/2017/06/COAD-Agreement-FY2017-FY2019.pdf>.

¹³ Esteban Parra, “Former Joe Biden senior counsel to spearhead reform at state DOC,” *The News Journal*, June 28, 2017, <http://www.delawareonline.com/story/news/local/2017/06/28/former-joe-biden-senior-counsel-spearhead-reform-delaware-doc/435655001/>; Esteban Parra, “DOC picks chief to oversee re-entry programs in Delaware prison system,” *The News Journal*, June 29, 2017, <http://www.delawareonline.com/story/news/local/2017/06/29/doc-picks-chief-oversee-re-entry-programs-delaware-prison-system/440696001/>.

¹⁴ *DOC Training Plan FY 2018/19*, provided to Independent Review Team by DOC Executive via email, August 16, 2017, reviewed by Independent Review Team August 2017.

¹⁵ *DOC Preliminary Progress Report*, provided by DOC to Independent Review Team, July 5, 2017, in response to *Preliminary Report: Independent Review of Security Issues at the James T. Vaughn Correctional Center*, reviewed by Independent Review Team July – August 2017.

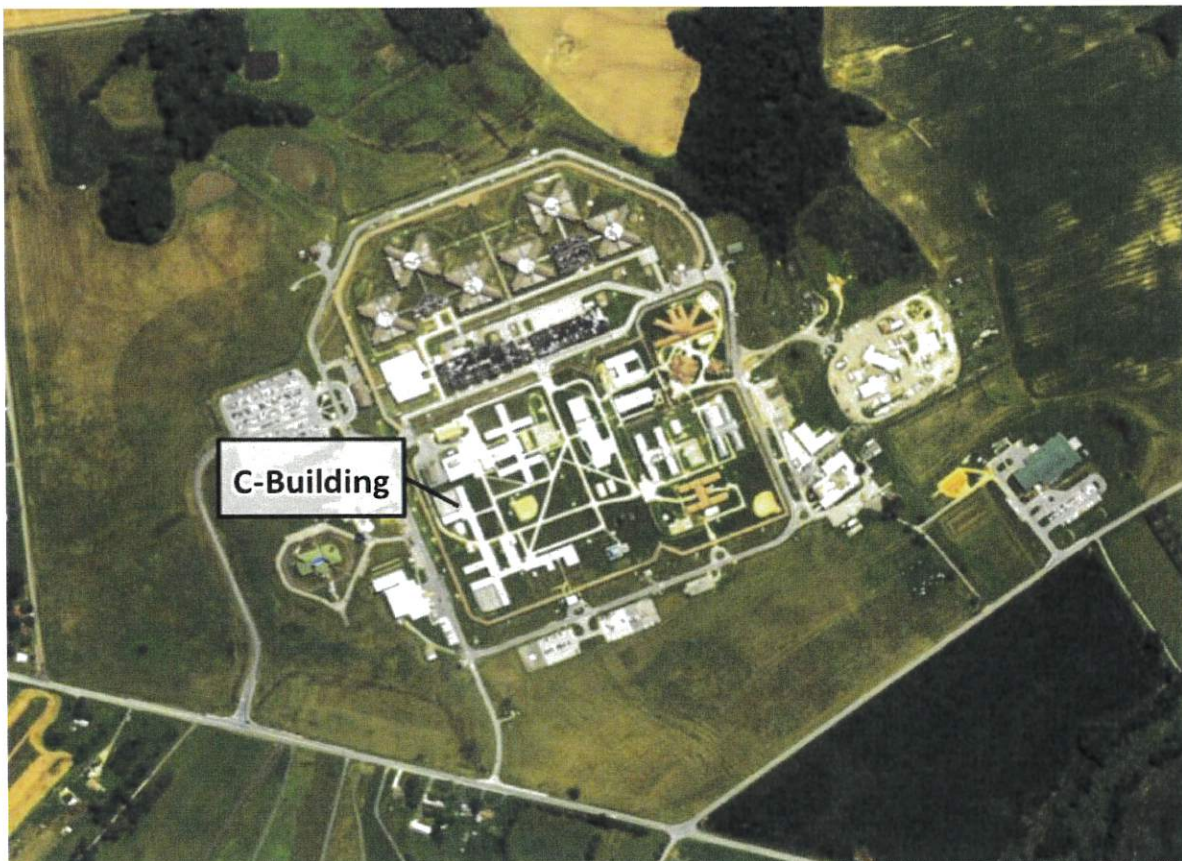
and an updated BOP policy on the range of services used to address offender needs through screenings and assessments.¹⁶

The State of Delaware, the Delaware DOC, and the JTVCC are to be commended for these initial steps on critical issues, and for their commitment to continuing to enhance the security and work environment department-wide through this review. There is more work to be done—but these steps and the continued efforts made by individuals throughout the DOC, especially at the JTVCC—will lay the groundwork for positive changes in policy, procedure, security, systems, and relationships in the JTVCC and at correctional facilities throughout Delaware.

¹⁶ *Directive – Video Recording Planned Use of Force*, provided by DOC to Independent Review Team, August 14, 2017, reviewed by Independent Review Team August 2017; *Bureau of Prisons Policy 3.3: Classification*, provided by DOC to Independent Review Team, August 14, 2017, reviewed by Independent Review Team August 2017; *Bureau of Prisons Policy 3.4: Range of Services*, provided by DOC to Independent Review Team, August 14, 2017, reviewed by Independent Review Team August 2017.

Chapter 2. Background & Incident Overview

The C-Building is one of the older of 18 housing units on the JTVCC campus. Housing units at JTVCC are assigned minimum, medium, or maximum security levels based on the inmates that are housed therein. According to the Federal Bureau of Prisons, minimum security generally includes dormitory housing and a relatively low staff-to-inmate ratio; medium security includes cell-type housing, more-controlled inmate movement, and a higher staff-to-inmate ratio; and maximum security includes the highest staff-to-inmate ratio and close control of inmate movement.¹⁷



Aerial view of the James T. Vaughn Correctional Center. Photo: Esri, U.S. Department of Agriculture Farm Service Agency, Microsoft.

The JTVCC C-Building is divided into three wings (tiers): A, B, and C. The building was designed to house approximately 40 maximum security inmates on each tier—with two inmates assigned to each cell—for a total capacity of 135 inmates.¹⁸ In 2000, when the Medium-High Housing

¹⁷ "About Our Facilities," Federal Bureau of Prisons, last accessed August 17, 2017, https://www.bop.gov/about/facilities/federal_prisons.jsp.

¹⁸ "F-6 Capacity of each housing unit by security level and census of facility on February 1, 2017," provided by DOC to Independent Review Team, May 17, 2017, reviewed by Independent Review Team May – August 2017.

Unit (MHU) and the Security Housing Unit (SHU) were opened, the security level of the C-Building was reclassified from maximum to medium security, but was informally designated “medium-high”—which was defined as housing inmates in a building with a medium security classification, but excluding them from many programs and other opportunities.¹⁹ The designation was also made to facilitate the transition of inmates from maximum security housing to a lower security level housing unit as well as to transition inmates to maximum security, known as “flowing up” and “flowing down.”²⁰

As a building housing “medium-high” inmates, the C-Building was considered fully staffed with one sergeant and three correctional officers on each shift. During the day shift, a counselor was assigned to the building to perform case management duties but did not assist in custodial duties. At the time of the incident that began on February 1, 2017, the custodial staff on duty in the C-Building ranged in experience from less-than-one year to 16 years of service.²¹

On February 1, 2017, one hundred twenty-seven (127) inmates occupied the C-Building.²² Although the building had few rehabilitation and educational programs or job opportunities for inmates, all inmates were eligible to participate in outdoor recreation in an open yard—with no recreational apparatuses such as workout equipment or basketball courts—adjacent to the building.²³ While most of the inmates took advantage of the opportunity to go outside, some opted to spend their recreation time outside of their cells participating in recreation, showers, and phone calls on the tier.²⁴ Three correctional officers remained in the housing unit to oversee indoor recreation, the counselor remained in her office, and the fourth officer proceeded to the outside post to observe outdoor recreation. At approximately 10:30 a.m., the inmates in the yard were notified by the C-Building officer overseeing recreation in the yard to return to the building as outdoor recreation time had concluded.²⁵

Upon re-entering the building, a group of inmates seized control of both the building and the staff members inside—three correctional officers and the correctional counselor.²⁶ Some inmates were also taken hostage.²⁷ A fourth officer, who followed standard security practice by leaving his keys to the C-Building with one of the officers inside prior to exiting the unit to

According to the design capacity study conducted by Tera-Tech INC. in 2000, C-Building’s designed capacity is 68 inmates, but typically houses 115. The building was extremely overcrowded. It was also noted that because the wings (tiers) were so small, direct supervision of each area is impossible. The housing unit has no dayroom adjacent to the living area.

¹⁹ Independent Review Team interview, July 20, 2017; email from JTVCC counseling staff member, August 18, 2017.

²⁰ Independent Review Team focus group with correctional officers, May 4, 2017.

²¹ Independent Review Team interview, May 2, 2017.

²² C-Building roster provided by JTVCC to Independent Review Team, May 16, 2017.

²³ Independent Review Team observations at the JTVCC, May 2, 2017.

²⁴ Independent Review Team interview with DOC executives, May 2, 2017.

²⁵ Independent Review Team phone call with a JTVCC staff member, August 17, 2017.

²⁶ Independent Review Team interviews with DOC executives, May 2-3, 2017.

²⁷ Ibid.

oversee outdoor recreation, was locked outside.²⁸ Additionally, three maintenance workers who had been working on boilers in the basement of C-Building were trapped inside the basement, separated from the inmates and hostages upstairs.²⁹

As soon as the incident began, one of the correctional officers, prior to being taken hostage, used his two-way radio to send a staff-wide request for immediate assistance in the C-Building.³⁰ Administration executives at the JTVCC and the Delaware Department of Correction (DOC) were notified of the incident and issued a statewide lockdown order to prevent a coordinated inmate protest throughout the DOC system.³¹ Consistent with the DOC emergency response plan, JTVCC administrators requested that emergency medical services (EMS) and fire resources be dispatched to the JTVCC in case of injuries, fires or other events that would require an immediate response. The JTVCC warden also followed standard security protocols and had the water and phones in the C-Building turned off until further notice.³²

At 11:03 a.m., the inmates used a radio taken from one of the officers who was being held hostage to request to speak with Governor Carney. Shortly thereafter, the inmates radioed an initial list of demands. A JTVCC negotiator answered the radio and began communicating with the inmates. One of the initial demands included having the phones and water turned back on, which was promptly done.³³

Over the next several hours, the JTVCC negotiator and negotiators from the Delaware State Police, continued to communicate with the inmates to resolve the incident.³⁴ At 2:30 p.m., one of the correctional officers and a second group of inmates being held hostage, were released.³⁵ Shortly after 7:50 p.m., a second correctional officer was released with another group of inmates that were also being held hostage.³⁶

One of the maintenance workers in the basement was able to use a radio channel not monitored by the inmates to communicate with responders outside of C-Building.³⁷ Based on this communication, at 10:10 p.m., responders initiated a rescue effort.³⁸ The maintenance workers were told to use the stairwell to make their way to the roof of C-Building. Once they exited the door and were on the roof, the DOC Correctional Emergency Response Team (CERT)

²⁸ Ibid.

²⁹ Independent Review Team interviews with DOC executives, May 2-3, 2017; Independent Review Team interview with former DOC staff member, May 19, 2017.

³⁰ Independent Review Team interviews with DOC executives, May 2-3, 2017.

³¹ Independent Review Team interview with DOC executive, May 3, 2017.

³² Ibid.

³³ Ibid.

³⁴ Independent Review Team interview with DOC executive, May 2, 2017.

³⁵ Independent Review Team interview with DOC executive, May 3, 2017.

³⁶ Ibid.

³⁷ Independent Review Team interview with DOC executive, May 2, 2017.

³⁸ Independent Review Team interview with DOC executive, May 3, 2017.

used ladders to bring them down from the roof. The successful rescue of the maintenance workers was completed at 10:57 p.m.³⁹

As the incident progressed into the early morning of February 2nd, at 12:24 a.m. the final group of inmates still being held hostage with the building sergeant and counselor were released. However, neither the sergeant nor the counselor were released with them. Negotiations continued through the early morning hours for their safe release.⁴⁰

While these negotiations were ongoing, executives from the JTVCC, the DOC, the Delaware State Police, and other supporting agencies coordinated, planned, and prepared to rescue the hostages and regain control of the C-Building. At 5:06 a.m., DOC CERT and a Delaware State Police Special Operations Response Team entered the building through B-tier followed by a second tier entry minutes later.⁴¹ The teams successfully located the counselor and building sergeant. The counselor was rescued safely and was taken by ambulance to the hospital for precautionary reasons. The sergeant was located; however, he was deceased.⁴²

Other Factors and Incidents Contributing to the Incident that Began on February 1, 2017

During interviews and focus groups conducted by the Independent Review Team, JTVCC employees and inmates identified management and operational issues and inadequate response to prior incidents as having the most direct impact on the incident that began on February 1, 2017. Inconsistent management and the lack of communication in the C-Building and at the JTVCC as a whole, compounded by the inconsistent transfer and utilization of intelligence information regarding inmate activities, hindered actions that may have prevented the incident that began on February 1, 2017. Lack of action following a potential inmate protest in the C-Building on January 15, 2017, did little to discourage a subset of inmates from acting out again. Excessive overtime, fatigued and disgruntled JTVCC staff, animosity between JTVCC staff and between staff and inmates, inmate allegations of inappropriate conduct by some correctional staff, inconsistent discipline, and structural characteristics also contributed to cultivating an environment vulnerable to violence in the C-Building and the JTVCC.⁴³

On January 15, 2017, inmates housed on the A and B tiers of the C-Building refused to return to their cells after recreation until they spoke with a supervisor regarding the conditions in C-

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid; Independent Review Team phone conversation with a Delaware State Police executive, August 23, 2017.

⁴² Independent Review Team interview with DOC executive, May 3, 2017.

⁴³ Independent Review Team interviews with DOC executives, current and former JTVCC staff members and executives, and JTVCC inmates, May 1-5 and 18-19, 2017, July 17-21, 2017.

Building.⁴⁴ While the incident was peacefully resolved by supervisory staff, in the days following that event, correctional officers identified inmates that they believed were primarily responsible for the January 15, 2017 incident and notified their supervisors that those inmates should be removed—at least temporarily—from the C-Building for security purposes.⁴⁵ One of the officers that identified certain inmates was the sergeant who was found deceased following the incident that began on February 1, 2017. Some other supervisors supported the effort, but based on an email written by the warden, it appears that some JTVCC administrators believed that the inmates' disciplinary records did not support their transfer to the Security Housing Unit (SHU).⁴⁶ Because there were no other housing units on the JTVCC compound that could house “medium high” security level inmates, supervisors believed that the SHU was the only place these inmates could be moved.⁴⁷

While “administrative status”—a pre-detention transfer to higher security level that can be implemented at the institutional level—was an option, the correctional officers and some of the first-line supervisors believed that even if the transfers had been made, more senior JTVCC officials would have overruled them and transferred the inmates back to the C-Building to avoid grievances and/or lawsuits.⁴⁸ The Watch Commanders at the JTVCC were constantly told that pre-hearing detention and administrative transfers should not be used if the inmates' disciplinary record did not warrant an increase in security level.⁴⁹ Many supervisors at JTVCC informed higher level administrators about the tension brewing in C-Building and informed them that something needed to be done.⁵⁰ Unfortunately, those supervisor's concerns were dismissed.⁵¹ These issues contributed to JTVCC Watch Commanders' uncertainty regarding their authority to move or transfer inmates, and may have directly contributed to the February 1st incident.⁵²

In November 2016, a JTVCC administrator sent an email instituting a temporary policy change to JTVCC Standard Operating Procedure (SOP) 4.2: Rules of Conduct for Offenders, in response to the Settlement Agreement and Order in the *Community Legal Aid Society, Inc. v. Robert M. Coupe* litigation (CLASI agreement) that resulted, among other changes, in increased recreational time for those held in solitary confinement, including for inmates suffering from mental illness. The changes also pertained to restrictive housing units and inmate recreation

⁴⁴ Independent Review Team interviews with JTVCC line officers and supervisors, May 4, 5, and 19, and July 20, 2017; Independent Review Team review of C-Building January 15, 2017 incident report, May 19, 2017.

⁴⁵ Independent Review Team interviews with JTVCC line officers and supervisors, May 4, 5, 18, and 19, and July 20, 2017.

⁴⁶ Independent Review Team interviews with JTVCC supervisors, May 5 and 19, and July 20, 2017.

⁴⁷ Ibid.

⁴⁸ Bureau of Prisons Policy 4.3: Restrictive Housing, Delaware Department of Corrections; Independent Review Team interviews with JTVCC line officers and supervisors, May 4, 5, and 19, and July 20, 2017.

⁴⁹ Ibid.

⁵⁰ Independent Review Team interviews with JTVCC staff members May 4, 5, and 19, and July 20, 2017.

⁵¹ Ibid.

⁵² Due to the ongoing internal affairs investigation, the Independent Review Team was not able to determine whether steps were taken to address Sgt. Floyd's request to remove certain inmates from C-Building.

schedules. Under the new directive, correctional staff were no longer able to revoke certain inmate privileges (see Figure 2, below).

Figure 2: Email Excerpt Regarding SOP 4.2 Sent to All JTVCC Correctional Staff from Warden⁵³

The following programs and services are not considered privileges and cannot be revoked; building recreation indoors or outdoors, Education, Vocational Training, Counseling Services, Drug/ Alcohol Rehabilitation Programs, Regular Work Assignments, Religious Services and Legal Access-Law Library.

In other words, you are no longer permitted to prevent an inmate from attending yard or tier recreation based on a Summary 24, LOAP, and/or a CTQ sanction. You are no longer permitted to tell one or more inmate(s) during recreation to "lock in" simply because they violated a rule. This is not to be considered a restrictive statement that limits emergency situations, but only applies to the range of sanctions that can be taken as part of a Hearing Officer sanction and/or a Summary Disciplinary action.

Because no official interpretation of the settlement and the associated legal documents were disseminated throughout the DOC, and no directives were reviewed or approved by the Attorney General, it seems that individual facilities interpreted and implemented them differently. In fact, while this change in practice had been successfully implemented at other DOC facilities in Delaware, the JTVCC executives' interpretation and the implementation of the settlement without thorough consideration given to the mix of inmates moved to the C-building gave inmates considerable leverage not to follow instructions, further angering officers who already felt that they were not supported at the highest levels.⁵⁴ The misinterpretation was further exacerbated in the C-Building by the sergeant, who was directed by the JTVCC administrators to interpret the policy change as requiring all inmates to participate in recreation at the same time, instead of limiting recreation to one tier at a time in order to control movement.

Additional long-term challenges with the overall culture and leadership at the JTVCC—resources and staffing, recruitment and retention; policies, procedures and practices; officer training; communication; equipment and technology; programs and jobs to facilitate successful reentry into the community upon release; and trust and legitimacy—exacerbated already tense relationships between staff and inmates, and between staff members. Issues in all of these areas also weakened the security of the facility to the point that two separate incidents occurred in two weeks.

While this report identifies numerous issues within the DOC that collectively created tenuous relationships between inmates and correctional officers and between staff members, all of which contributed in some respect to an environment ripe for an incident such as the one that

⁵³ Email from JTVCC warden to all correctional staff, November 16, 2016, provided to the Independent Review Team by a DOC executive in July 2017, reviewed by Independent Review Team July – August 2017.

⁵⁴ Independent Review Team interviews with JTVCC line officers and executives, May 4 and July 19, 2017.

began on February 1, 2017, the fact that the incident occurred in the C-Building was hastened by the unique make-up of that building's inmates.

Chapter 3. Culture and Leadership

Overview

Corrections agencies that have made great and rapid improvements generally have strong leadership that sets clear and measurable goals; a plan for achieving those goals; an explanation to all staff regarding their role in accomplishing the task; and skills and training needed to succeed.

The prison community is a relational system in which a number of persons, inmates and correctional personnel, interact with one another according to specially-prescribed rules of behavior.⁵⁵ The official in the lowest ranks of the custodial bureaucracy - the correctional officer assigned to housing units, the recreation yard, and programs – is the pivotal figure on which the bureaucracy turns. It is the correctional officer who must supervise and control the inmate population in concrete and detailed terms. Counting prisoners, periodically checking groups of inmates as they come and go, searching for contraband or signs of attempts to escape – these make up the minutiae of their shift. In addition, the officer should be alert for violations of rules. Not only must the officer detect and report deviant behavior after it occurs; the officer must curb deviant behavior before it arises as well as when the officer is called on to prevent a minor quarrel among inmates from flaring into a more dangerous situation. The correctional officer's position as a strict enforcer of the rules is undermined by the fact that the officer finds that it is almost impossible to avoid claims of reciprocity. To a large extent the correctional officer is dependent on the inmates for the satisfactory performance of her/his duties. Ultimately, the correction officer is under pressure to achieve a smoothly running tour of duty not with the stick but with the carrot.⁵⁶

The preliminary report indicated that during interviews with management, staff, and stakeholders from the Delaware Department of Correction (DOC) and offenders, the Independent Review Team noted no unifying sense of purpose or method at the James T. Vaughn Correctional Center (JTVCC). No correctional officer interviewed was able to articulate a consistent description of what was expected of them as an employee of the DOC. In fact, the only consistent answer provided by correctional officers was that their goal was to get through their shift safely so that they could go home. Supervisors also described inconsistency in how they supervised staff at the JTVCC, as well as inconsistency throughout the organization. Inmates also expressed frustration with the erratic interpretations of rules and policies, as well as enforcement of those rules and policies by the staff. Correctional officers advised the Independent Review Team that the lack of uniformity in the implementation and enforcement

⁵⁵ G. A. Adetula et al., "The Prison Subsystem Culture: Its Attitudinal Effects on Operatives, Convicts and the Free Society," *Ife Psychologia: An International Journal* 18, no. 1 (2010): 189-205.

⁵⁶ Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (Princeton: Princeton University Press, 1958), 53-57.

of rules was, and continues to be, the norm. Not only are rules enforced differently from institution to institution, but at the JTVCC they were, and continue to be, enforced differently from building to building and even shift to shift.⁵⁷



Map of the four DOC Level V facilities. Photo: Esri, U.S. Census Bureau, Infogroup, Earthstar Geographics.

Almost everyone interviewed by the Independent Review Team also described poor communication regarding policies, operational changes, and day-to-day occurrences and issues. This contributed to an overall operation and management system where the mantra “getting through the day” was the norm. In the resulting environment, most everyone—administrators,

⁵⁷ Independent review team interviews with JTVCC staff members, May 4-5, 2017, and July 17-21, 2017.

supervisors, line staff, and inmates—operated in an environment in which there was a lack of structure and order, rather than actually achieving a purpose, and ended up “doing their own thing” rather than following a clear and unified plan or strategy.

Frequent Factors in Prison Riots:

In their seminal study of prison riots, Bert Useem and Peter Kimball, identified the breakdown of administrative control and operation of the correctional facility as a consistent factor in all of the riots they studied. In fact, they opined that “prison riots are a product of that breakdown and should be thought of as such.” The Independent Review Team similarly identified constituent elements of this breakdown at the JTVCC – inconsistent and incoherent rules for inmates and correctional officers; instability within the correctional chain of command; weak administrators; public dissent among correctional actors; and the disruption of everyday routines.

Source: Bert Useem and Peter Kimball, *States of Siege: U.S. Prison Riots, 1971-1986* (New York: Oxford University Press), 218-219.

Observations

The culture at the JTVCC is adversarial and not conducive to a safe facility

During the Independent Review Team’s initial visit to the JTVCC, a pervasive culture of negativity at the facility was apparent. The Independent Review Team was told of, and observed, adversarial relationships between staff and administration and between staff members and inmates; the devaluing of programs intended to rehabilitate inmates and prepare them for success upon release; and, an overall atmosphere of disrespect.⁵⁸

In follow-up site visits, the accuracy of those initial impressions were reinforced. The team again had the opportunity to speak with current and former JTVCC staff—from the highest positions in administration to the line level correctional officers—and was provided additional contact with inmates. The information provided by all was remarkably consistent. Below are two comments that specifically relate to the culture at the JTVCC.

“The culture of respect was not there. We knew this was going to happen.” [In reference to the incident that began on February 1, 2017].⁵⁹

“Some groups of officers feel empowered to be vulgar, provocative and harassing to inmates.”⁶⁰

⁵⁸ It must be noted that there have been allegations of consistent mistreatment, neglect, and abuse by the JTVCC staff towards inmates, both prior to and after the incident that began on February 1, 2017.

⁵⁹ Independent Review Team interview with JTVCC executive, July 17-21, 2017.

Additionally, the adversarial relationship between the JTVCC staff and the inmates created a culture of persistent permissiveness for some officers to devalue inmates. During focus group interviews with the Independent Review Team, many inmates reported being denied items they consider basic human needs.⁶¹ In fact, there were many allegations and multiple grievances and complaints filed by inmates about JTVCC staff.⁶² These allegations include: lack of medical treatment, access to toiletries, access to law materials, and other forms of mistreatment.⁶³

Some inmates alleged that after the incident that began on February 1, 2017, members of the DOC Corrections Emergency Response Team (CERT) came into the C-Building wearing “masks”—which were identified later as balaclavas—and forced the inmates out of their cells.⁶⁴ This was supported by a JTVCC correctional officer, who also added that CERT members intentionally wore balaclavas so that they were unidentifiable to inmates. While the inmates were out of their cells, the CERT members proceeded to “shake down” the cells, searching for contraband. Due to the fact that they were masked, the CERT members had the opportunity to intentionally or unintentionally destroy or discard the offenders’ personal property, without being identified.⁶⁵ Examples included toothbrushes thrown on the floor and pictures and legal papers damaged or walked on (for more about shakedown procedures see chapter 5).⁶⁶ Another allegation is that toilet paper was only distributed on one shift and no exceptions were made if an inmate ran out before that shift.⁶⁷

Actions by staff members, before and after the incident that began on February 1, 2017, not only made the facility a more dangerous place to work, but also make communities less safe once offenders subjected to these conditions are released. A substantial body of research

⁶⁰ Independent Review Team interview with JTVCC line officer, July 17, 2017. It should be noted that the Independent Review Team saw no evidence that this behavior was true of the majority of uniformed staff at the JTVCC. However, there were JTVCC staff who indicated that there was no attempt to stop this behavior and they subsequently became discouraged, apathetic and resigned to the situation.

⁶¹ Independent Review Team focus groups with JTVCC inmates, May 4, 2017.

⁶² The Independent Review Team is unaware if these allegations have been, or are being investigated, however the DOC administration has been made aware of the allegations. The Independent Review Team does not have information to substantiate any of the allegations made by any of the complainants.

⁶³ Independent Review Team focus group with JTVCC inmates May 4, 2017; Independent Review Team observation of grievance hearings, July 19, 2017; Inmate letters forwarded by the ACLU and independent community groups to the Independent Review Team, May – August 2017.

⁶⁴ The shakedowns are not limited to the C-Building, but are conducted facility-wide. Since they are a routine security practice, it is likely that they continue to occur. The issue described to the Independent Review Team, by inmates, is not that the shake downs occur, but how the CERT members are dressed while conducting them.

⁶⁵ Independent Review Team focus group with JTVCC inmates, May 4, 2017; Independent Review Team interview with JTVCC staff member, July 17-21, 2017; ACLU email to Independent Review Team, received August 7, 2017, reviewed August 2017.

⁶⁶ While it is possible that some of these claims are exaggerated or fabricated, the Independent Review Team heard these allegations frequently enough—and they were corroborated by some staff frequently enough—to believe there may be some validity to the complaints.

⁶⁷ Independent Review Team focus group with JTVCC inmates, May 4, 2017.

identifies characteristics and conditions most likely to contribute to an offender returning to prison after release. The four major factors are: 1) a history of anti-social behavior, 2) anti-social personality traits, 3) anti-social peers, and, 4) anti-social values.⁶⁸ When correctional staff harass, antagonize, or otherwise intimidate offenders, they model two of those four major factors: serving as anti-social peers and modeling anti-social values. For inmates approaching release, this simply reinforces a belief that those are appropriate behaviors.

The JTVCC administrators also slowly decreased the amount of vocational, educational and psycho-therapeutic programs and job opportunities that provide valuable benefits for inmates.⁶⁹ Rehabilitation of inmates into law-abiding citizens is frequently viewed as the ultimate goal of incarceration.⁷⁰ Many effective treatment interventions targeting criminal behavior focus on teaching offenders new ways of thinking and problem solving, providing these individuals marketable educations and job skills, and helping them overcome addictions. The decrease in programs and job opportunities negatively impacted inmates housed in the C-Building prior to the incident, and if not addressed, will have a similar impact on inmates incarcerated in other buildings at the JTVCC.

Some staff believed the decrease in programming was a direct result of budget cuts, while others attributed it to the previous warden's vision that did not include rehabilitation of offenders.⁷¹ The previous administration at the JTVCC replaced rehabilitation with punishment.

Leadership problems existed at all levels of the JTVCC

The Independent Review Team heard of a number of serious leadership problems that existed within the C-Building, and the JTVCC more broadly, prior to the incident that began on February 1, 2017. These ranged from dysfunctional communication practices to verbal abuse and hostile management.

"No matter what you do, you are faced with negativity."⁷²

"All feedback is negative."⁷³

⁶⁸ Shelley Johnson Listwan et al., "The Pains of Imprisonment Revisited: The Impact of Strain on Inmate Recidivism," *Justice Quarterly* 30, no. 1 (2013): 144-168; Craig Haney, "The Psychological Impact of Incarceration: Implications for Post-Prison Adjustment," in *Prisoners Once Removed: The Impact of Incarceration and Reentry on Children, Families, and Communities*, ed. Jeremy Travis and Michelle Waul (Washington, DC: Urban Institute, 2003), 33-66; Shadd Maruna, "Reentry as a rite of passage," *Punishment & Society* 13, no. 1 (2011): 3-28.

⁶⁹ Independent Review Team interviews with JTVCC staff members, July 20, 2017.

⁷⁰ Bruce Bayley, "Why we Incarcerate: Rehabilitation," *CorrectionsOne*, July 16, 2012, <https://www.correctionsone.com/jail-management/articles/5826786-Why-we-incarcerate-Rehabilitation/>.

⁷¹ Independent Review Team interviews with JTVCC staff members, July 20, 2017.

⁷⁰ Independent Review Team focus group with JTVCC line staff, May 1-5, 2017.

⁷³ Ibid.

The Independent Review Team heard frequent complaints regarding favoritism in personnel actions related to both hiring and promotional decisions. While it is not unusual to hear these complaints, especially in a facility where there is turmoil, the Team also heard complaints in some detail that were more disturbing. During Interviews, the Independent Review Team was told that correctional personnel who had been convicted of driving under the influence (DUI) and who had protection from abuse (PFA) orders filed against them were allowed to remain on the job.⁷⁴ In many states, correctional officers in these circumstances are not allowed to remain on active duty because they are required to have unrestricted drivers' licenses and be able to carry firearms and such convictions and orders would prevent them from being able to meet those requirements. The most extreme example provided was that a JTVCC supervisor would work his shift Monday through Friday, and serve a sentence at another Delaware DOC facility on the weekends as a result of a DUI conviction.⁷⁵

The Independent Review Team was also able to review an email memo issued by a JTVCC administrator⁷⁶ regarding the implementation of the Community Legal Aid Society, Incorporated (CLASI) consent agreement.⁷⁷ Some JTVCC staff members believed that the instructions contained in the memo (see Figure 2 on page 17) put staff at risk and restricted their ability to effectively do their job; other JTVCC employees did not share this opinion.⁷⁸ In fact, the Independent Review Team interviewed several staff members who were confident that the CLASI agreement could be successfully implemented at the JTVCC, especially since it had been successfully implemented at other Delaware facilities.⁷⁹

As previously mentioned in Chapter 2, leadership issues existed at all levels of the JTVCC, and a significant disconnect and lack of trust between first-line supervisors and their superiors was noted. The failure to remove inmates from the C-Building based on the intelligence information developed following the January 15, 2017 incident, demonstrated the breakdown in security that developed, in part, from the lack of trust among supervisory personnel.⁸⁰

⁷⁴ Independent Review Team interview with JTVCC staff members, July 17-21, 2017; Independent Review Team phone conversation with DOC human resources representative, August 3, 2017. The Independent Review Team was not provided documentation to substantiate these allegations and was unable to confirm them with court documentation. The Delaware DOC Policy 9.6 states that employees may be "subject to disciplinary action" for committing a crime, but does not provide any specific punishments.

⁷⁵ Independent Review Team interview with JTVCC staff member, July 20, 2017. If this example is accurate, it would indicate an inappropriate tolerance for misconduct and illegal behavior among employees. It may also raise potential legal issues regarding individuals currently incarcerated at the JTVCC.

⁷⁶ Email from JTVCC warden to all correctional staff, November 16, 2016 (see note 53).

⁷⁷ Community Legal Aid Society, Inc. (CLASI) v. Robert M. Coupe is the official civil action; however, many American Civil Liberties Union (ACLU) attorneys help assist in the litigation so many refer to the agreement as the ACLU agreement.

⁷⁸ The impression of the Independent Review Team is that the memo was a passive aggressive attempt to force the implementation of the CLASI agreement to fail.

⁷⁹ Independent Review Team interviews with JTVCC staff members, July 20, 2017.

⁸⁰ Independent Review Team interviews with JTVCC staff, July 20, 2017.

A significant disconnect between JTVCC administrators and line-level staff exists, impacting daily operations

The Independent Review Team identified a significant disconnect between JTVCC administrators, supervisors, staff, and inmates. Some JTVCC staff continue to believe that nothing will change at the JTVCC, despite the changes already being implemented. Supervisors do not believe that they are supported by upper management at the JTVCC or the DOC, and fear disciplinary action if they do something out of the norm or without prior approval. Meanwhile, the JTVCC administrators and senior management believe they are extremely supportive of their supervisors and have given supervisors the authority to do what is in the best interest of the safety and security of the facility. The executives advised the Independent Review Team that they believe in their supervisors, and expect them to do what is necessary to keep the facility operating safely. In the end, the lack of direction at the JTVCC frustrated staff and prisoners alike and tensions grew. Neither the JTVCC administrators, nor DOC executives, seemed to appreciate how the administrative and operational milieu at the JTVCC affected the critical formal and informal control systems that defined safety and security in the C-Building and the prison.

Actions taken by the State since February 2017

The DOC Commissioner's Directives on Leadership and Concepts of Interactive Leadership were shared with the Independent Review Team.⁸¹ These are good and necessary first steps to rebuilding morale at the JTVCC. They are initial steps to make employees feel more appreciated and more positive about their relationship with JTVCC and DOC leaders. Included is the idea that Delaware DOC executives should conduct more frequent visits to all DOC facilities to help build staff morale and keep the executives aware of what is going on in all the facilities statewide.

Additionally, in the *Department of Correction 2017 Strategic Plan: 90 Day Deliverables* two of the key objectives specifically related to leadership: "Develop Leadership Development Program to prepare staff for leadership positions and promotion and to create a succession plan," and, "Ingrain new leadership concept of 'Interactive Leadership' (aka Management by Walking Around) among all staff to improve morale and address cultural issues.

⁸¹ *DOC Commissioner's Directives on Leadership and Concepts of Interactive Leadership*, provided by DOC to Independent Review Team, August 2017, reviewed by Independent Review Team August 2017.

Recommendations

New Recommendations:

1. **Prioritize programs and strategies that facilitate a more positive culture amongst JTVCC staff and between JTVCC staff and inmates.** For example, create a system for recognizing and rewarding staff for engaging in positive, constructive and effective correctional practices. The new warden mentioned a “coin recognition” program he learned in the military and began employing at the JTVCC, in which a coin was given to employees who demonstrated positive practices. Publicizing positive practices shown by employees can also reinforce employee behavior that is desired.
2. **Review and rewrite job descriptions and promotional standards to reflect the skills and knowledge required to enhance staff behavior and facility culture.** Job descriptions and promotional standards are ideal places to promote obtaining the skills and knowledge that can enhance staff behavior and build a more positive culture. As promising practices evolve in corrections, so too should job descriptions and promotional standards.⁸²
3. **JTVCC administrators should discontinue the practice of policy revision/implementation by e-mail or verbal communication.** Corrections is, by necessity, a highly-structured and rule-driven endeavor. When policy changes are made and communicated through non-standardized processes they are subject to inconsistent interpretation and implementation. When the staff doesn’t know whether to follow the official policies, a memo, an e-mail or a verbal order – confusion arises and security is eroded. JTVCC administrators should release updated policies and procedures through a standardized process that includes verbal communication—superiors informing correctional officers during muster⁸³—and written communication—correctional officers receiving a copy of the updated policy or procedure. Additionally, all affected staff should be required to sign a document indicating that they have received, read, and understood changed to policies and procedures and that they will be held accountable for following and correctly applying the new policy or procedure.
4. **The DOC Commissioner should review the practices of masked mass shakedowns by CERT.** During interviews, the Independent Review Team heard that CERT members were conducting shakedowns that appeared to be intended to intimidate inmates. The use of masks to purposefully prevent identification of CERT members and their behaviors of intentionally or unintentionally destroying inmates’ property contributes to problems in the

⁸² A cautionary note regarding this recommendation: Some JTVCC staff members believe that job descriptions and minimum qualifications were frequently rewritten to ensure that a certain person or persons were selected for a given position. Any changes to job descriptions, minimum qualifications, promotional standards, or other job-related items should be discussed prior to the changes being made.

⁸³ Muster—also known as roll call—is a quick assembly prior to shift that allows the supervisory staff to pass on pertinent information to the line staff and provides line staff the opportunity to engage and ask questions to the supervisory staff. Post assignments are also usually given out at this time and uniform inspections completed.

correctional facilities. To ensure that mass shakedowns are conducted in an appropriate manner, CERT members should be required to wear some form of identification—name tag, badge number, or numbered helmet.

5. *The DOC Commissioner should assert the primacy of the central office over the facilities.*

Historically, the Delaware DOC facilities have been led by individual wardens, rather than guided by the central administration, leading to the perception that each warden is “doing their own thing.” To achieve consistency, there must be a clear vision and direction for all DOC facilities and it must be led by the DOC Commissioner. The wardens and administration executives in each of the facilities must then demonstrate their commitment to the same vision and direction. Every facility and unit within the DOC affects how the department performs its mission. All agency leaders and staff should be department-focused, not only facility and/or unit-oriented. All staff members should be expected and held accountable for implementing and ensuring the success of the Department's goals. To address this challenge, the Commissioner and his executive staff should hold regular meetings with frontline managers (wardens and certain other supervisors). At these meetings, wardens should describe the conditions at their respective facilities, explain variances in performance indicators, and gain guidance on strategies to solve specific problems. Also participating in these interactive problem-solving meetings should be civilian and uniformed administrators who can provide their expertise, perspective and support to the leadership and operations of the department.

6. *Evidence-based programs and trainings should be prioritized for all levels of leadership at the JTVCC.*

While the DOC Commissioner’s Directives on Leadership and Concepts of Interactive Leadership are good and necessary first steps to rebuilding morale, they do not address the issues of what leaders want employees to do or where leaders want to take the JTVCC and the DOC with the help, cooperation and support of the staff. Merely creating online training components and courses regarding leadership do not provide opportunities for trainees to effectively demonstrate that they can apply the principles learned in real scenarios. Training should provide guidance on strategies that will move the organization toward DOC mission, goals and objectives. It should communicate strategies based on proven science, and should provide opportunities for practical application of those strategies by staff. Leadership training should not only focus on safety and security as it pertains to the supervisory staff, but the understanding of how important rehabilitation of offenders is to the overall mission of DOC.

Recommendations from the preliminary report:

1. *The DOC Commissioner should develop a detailed strategic plan and implementation process for the Delaware DOC that not only explains what is to be done, but also how it is to be done (in considerable detail so that each staff member can see where they fit), how it will be measured, and why it is important to embark on this effort.*

2. *DOC should hold a one-day conference or similar event to discuss the future of corrections in Delaware.* The conference should be designed to develop consensus among policymakers and elected officials regarding DOC priorities, what they want DOC to do, how they want to see it accomplished and ways that they will each support the effort and goals. The event is an opportunity both to educate policy makers and elected officials on the needs of the DOC as well as for DOC executives to garner support for DOC mission and goals.
3. *The DOC should use the strategic plan and implementation process to inform policies, procedures, and operations; security; budgeting; executive, mid-level and staff training; infrastructure, inmate programing, and services.*
4. *DOC executive leadership should endeavor to build and maintain strong relationships with correctional officers and administrative personnel throughout the agency.*

Chapter 4. Staffing, Compensation, and Safety and Wellness

Overview

The Independent Review Team’s preliminary review of staffing-related issues at the James T. Vaughn Correctional Center (JTVCC) confirmed widespread concerns that the JTVCC is critically understaffed, and as a result, correctional officers are physically and mentally exhausted. This exhaustion actively contributes to officer burnout and turnover, and is in turn, further straining already critically low staffing levels. The low staffing levels and staff burnout also directly contributed to the negative culture documented in the previous chapter. In addition, the high rate of turnover at the JTVCC is one of the most concerning observations documented by the Independent Review Team, particularly in light of a vast body of scientific literature on the health and safety risks of burnout. Physical and mental exhaustion not only negatively impact correctional officer (CO) safety and wellness, but also pose significant security risks to individuals and the institution.

Observations

The JTVCC struggled with critically low staffing levels which were exacerbated by excessive overtime and high rates of turnover

"What is the point in asking for more positions when you can't keep the ones you have filled?"⁸⁴

"A breathing body is better than no body at all."⁸⁵

The current union-negotiated standard work week for correctional staff at the JTVCC is 40 hours per week, and is broken down into five consecutive days of eight-hour shifts followed by two consecutive days off, during each seven-day period.⁸⁶ The three shifts are divided into a morning shift—which runs from 8:00 a.m. to 4:00 p.m.—an evening shift—which runs from 4:00 p.m. to midnight—and an overnight shift—from midnight to 8:00 a.m.

On top of the standard work week, the union-negotiated overtime policy indicates that the State of Delaware will determine overtime availability, with the union participating to ensure a

⁸⁴ Statement made in regards to Governor Carney’s announcement on March 13, 2017, that the FY 2018 budget plan would add 50 correctional officers at JTVCC; Independent Review Team interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

⁸⁵ Ibid.

⁸⁶ “Hours of Work and Work Schedules,” in The State of Delaware and Department of Correction State Merit Bargaining Unit 10 Agreement (includes, Correctional Officers Association of Delaware (COAD), and the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 81, Locals 247, 3384 and 2004, effective July 1, 2015 – June 30, 2018), reviewed by the Independent Review Team, May – August 2017.

fair distribution of overtime. If there is a need for overtime within four hours, it is first offered to employees who are on duty at the time and have signed a voluntary overtime list. However, the State can also designate mandatory overtime—or “freeze” an employee—if the union distribution of overtime “fails to meet operational or security needs.”⁸⁷

Correctional officers at the JTVCC reported routinely working double shifts—a total of 16 consecutive hours—and being “frozen” upwards of two to five times per week. This resulted in some correctional officers working a total of up to 80 hours of overtime, equaling their standard 80 hours per pay period.⁸⁸ In some cases, the overtime requirements are so excessive that correctional officers reported routinely missing out on important family events due to being “frozen” at the end of their shift or being denied vacation time even when a request is put in “six months in advance.” While the excessive amount of mandatory and forced overtime is not necessarily at odds with the union-negotiated overtime policy, the continued reliance on excessive overtime at the JTVCC is needed to compensate for the staffing shortages caused by the number of vacant positions and high rates of turnover at the facility.

The reliance on overtime to compensate for critically low staffing levels is a risky practice. The recent Community Legal Aid Society, Inc. (CLASI) lawsuit⁸⁹ has added an additional layer of concern and confusion to this already critical staffing situation. The correctional officers at the JTVCC are deeply concerned over the staffing implications of the CLASI lawsuit, yet, the JTVCC administrators does not believe that implementing the CLASI recommendations will require additional staff. Due to this combination of factors, the overall quality of the workforce has progressively declined at the JTVCC; complacency and acceptance of marginal performance have become the norm; and turnover rates are high.

High rates of turnover are concerning in any profession, particularly in light of a vast body of scientific literature on the health and safety risks of occupational stressors such as long work hours, rotating shifts and overtime for which low self-reported job satisfaction and organizational commitment, high burnout, and turnover intention are linked outcomes.⁹⁰

⁸⁷ “Hours of Work and Work Schedules,” in The State of Delaware and Department of Correction State Merit Bargaining Unit 10 Agreement (includes, Correctional Officers Association of Delaware (COAD), and the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 81, Locals 247, 3384 and 2004, effective July 1, 2015 – June 30, 2018), reviewed by the Independent Review Team, May 2017.

⁸⁸ Independent Review Team interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

⁸⁹ The CLASI lawsuit, filed by the Community Legal Aid Society, Inc. of Delaware (CLASI) argues that the treatment of inmates with mental illness within Delaware DOC facilities, and specifically within JTVCC, is in violation of both the U.S. constitution and the constitution of the State of Delaware. A settlement reached in September 2016 resulted in a number of recommendations for implementation by JTVCC administrators to improve conditions for inmates with mental illness currently housed in secure/restrictive housing units.

⁹⁰ See for example, C. Finney et al., “Organizational stressors associated with job stress and burnout in correctional officers: a systematic review,” *BMC Public Health* 13, no. 82 (2013); John R. Hepburn and Paul E. Knepper, “Correctional officers as human service workers: The effect on job satisfaction,” *Justice Quarterly* 10, no. 2 (1993):315-337; Eric G. Lambert et al., “The impact of distributive and procedural justice on correctional staff job stress, job satisfaction, and organizational commitment,” *Journal of Criminal Justice* 35, no. 6 (2007): 644-656; Eric

Indeed, “employee turnover can have devastating effects on correctional facilities” not only in terms of recruiting and training costs, but also because “[turnover] may also directly affect the security of the institution as well as the safety of both staff and inmates.”⁹¹ This is especially apparent at the JTVCC.

Low salaries and limited upward mobility have contributed to reliance on overtime and high rates of turnover at the JTVCC

“Inferior salary, no career ladder, no reason to promote.”⁹²

In addition to excessive overtime, the low starting salary and lack of substantial pay increases, and minimal promotional opportunities, have contributed to high rates of officer turnover. For example, correctional officers with 20 years of service in the DOC were paid less than \$10,000 over their starting salary, which has remained consistent across fiscal years (see Figure 3 below):

Figure 3: Delaware DOC Pay Scale, Correctional Officer⁹³

	<i>0-2 years</i>	<i>2-5 years</i>	<i>5-10 years</i>	<i>10-15 years</i>	<i>15-20 years</i>	<i>20+ years</i>
FY 2016	\$31,586.00	\$32,059.79	\$33,021.58	\$34,672.66	\$37,099.75	\$40,438.73
FY 2017	\$32,059.79	\$32,540.69	\$33,516.91	\$35,192.75	\$37,656.25	\$41,045.31
FY 2018	\$32,540.69	\$33,028.80	\$34,019.66	\$35,720.64	\$38,221.09	\$41,660.99

According to the Correctional Officers Association of Delaware (COAD), the low salary for Delaware DOC correctional officers is a primary source of grievance and has contributed to a, “16-year average, 57 percent turnover rate.”⁹⁴ In a review of employees that left the JTVCC between January 1, 2016 and March 31, 2017, 62 out of 75 employees voluntarily resigned.⁹⁵

Lambert and Eugene A. Paoline, “Take this job and shove it: An exploratory study of turnover intent among jail staff,” *Journal of Criminal Justice* 38, no. 2 (2010): 139-148; C. Obidoa et al., “Depression and work family conflict among corrections officers,” *Journal of Occupational and Environmental Medicine* 53, no. 11 (2011); Ikwukananne I. Udechukwu, “Correctional Officer Turnover: Of Maslow’s Needs Hierarchy and Herzberg’s Motivation Theory,” *Public Personnel Management* 38, no. 2 (2009): 69-82.

⁹¹ Eric Lambert and Nancy Hogan, “The Importance of Job Satisfaction and Organizational Commitment in Shaping Turnover Intent,” *Criminal Justice Review* 34, no. 1 (2008): 96-118.

⁹² Independent Review Team Interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

⁹³ “Attachments A/B/C: Unit 10, Correctional Officer Annual Base Salaries, FY 2016” in The State of Delaware and Department of Correction State Merit Bargaining Unit 10 Agreement (includes, Correctional Officers Association of Delaware (COAD), and the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 81, Locals 247, 3384 and 2004, effective July 1, 2015 – June 30, 2018), reviewed by the Independent Review Team, May – August 2017.

⁹⁴ Independent Review Team interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

⁹⁵ “List of Employees Terminated from JTVCC, CY 2016 Through March 31, 2017,” provided by DOC to Independent Review Team, May 2017, reviewed by Independent Review Team May – August 2017.

For many of the correctional officers who remain, they have come to rely heavily on overtime as a supplement to their low salaries. In fact, the State of Delaware, Office of Auditor Accounts, found that in Fiscal Year (FY) 2016 and part of FY 2017, nearly \$39 million of overtimes costs were paid by the Delaware Department of Correction (DOC), “with JTVCC incurring the highest cost of all DOC divisions.”⁹⁶ During the FY 2017 period that was reviewed, the average overtime cost was \$838,839 per pay period.⁹⁷ The overtime paid to all DOC employees during FY 2016 and 2017 amounted to nearly 38 percent of the total overtime paid to all State employees.⁹⁸

In addition to the lack of competitive salaries, the limited opportunities for promotion are a significant source of grievance for correctional officers at the JTVCC. As a result of limited upward mobility, some officers take advantage of external opportunities and leave the JTVCC to join municipal police departments because of better pay and status.⁹⁹

The low salary and limited opportunities for upward mobility has not only impacted the retention of correctional officers, but has also impacted the ability to recruit new officers, further contributing to staffing shortages. During an interview, the Independent Review Team was told that cadet classes are about half the size they were before the incident.¹⁰⁰

Certain timekeeping practices at the JTVCC are problematic

Upon entering and exiting the facility, Delaware DOC employees assigned to JTVCC are required to clock-in and clock-out.¹⁰¹ However, in instances where staff members clock-in before their shift or clock-out late, changes are made by JTVCC timekeepers to reflect the employees as arriving at the exact scheduled start and leaving at the exact scheduled end of their shifts. For example, if an employee arrives early, to ensure that they allot enough time to walk to their post at a far end of the JTVCC compound, that time is modified and therefore uncompensated. Additionally, because the “muster”¹⁰² held before each shift is voluntary, employees who clock-in early to attend have their clock-in time adjusted to indicate that they arrived at the scheduled beginning of their shift. Likewise, if an employee is waiting until their post is properly relieved and therefore leaves after their scheduled shift ends, their clock-out is modified to reflect that they clocked-out on time. While many of the correctional officers interviewed by the Independent Review Team indicated that these timekeeping modifications are a common practice at the JTVCC, they also noted that the changes are not communicated to them prior to

⁹⁶ Thomas Wagner, Jr., “Department of Correction Overtime Analysis,” Office of Auditor of Accounts, State of Delaware, issued May 22, 2017, <http://auditor.delaware.gov/wp-content/uploads/sites/40/2017/05/Department-of-Correction-Overtime-Analysis-Inspection-1.pdf>.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Independent Review Team interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

¹⁰⁰ Ibid.

¹⁰¹ Independent Review Team Interviews with JTVCC line staff and supervisors, July 17-21, 2017.

¹⁰² See note 81 for definition.

being made. Therefore, these modifications do not appear to follow state and federal labor laws and standards and are potentially illegal.

Correctional staff at the JTVCC feel undervalued and dehumanized

Observations and interviews by the Independent Review Team strongly suggest that JTVCC staff are burned out as a result of long-term untreated stress, as well as emotional, cognitive, and physical exhaustion, stemming in large part from the excessive overtime that is being worked. This level of work intrusion into the correctional officers' personal lives has eliminated any sense of work-life balance with significant impacts on their individual, and most probably, their family's mental health and wellness. While issues of work-life balance and the stress it produces are seemingly inherent to the corrections profession, the Independent Review Team observed that these issues are being experienced to an extreme degree at the JTVCC.¹⁰³ In fact, there is ample evidence of burnout throughout the rank-and-file, especially since the incident that began on February 1, 2017. A number of officers who used to take overtime assignments have either stopped volunteering for overtime or have resigned altogether.¹⁰⁴

The excessive amounts of overtime worked by JTVCC correctional officers also impacts their performance and ability to function in a safe and effective manner. This very sentiment was discussed during an Independent Review Team focus group with JTVCC correction officers. Correction officers were described as being so exhausted that it was "chipping away at security and behavior," such that "the unacceptable becomes acceptable."¹⁰⁵ The physical and mental health of correctional officers is critical to the safety of themselves, their families, other officers, inmates, and the overall community. Especially in a facility facing other significant challenges, an officer whose capabilities, judgment, and behavior are adversely affected by poor physical or psychological health may be exacerbated and add to the cycle that permeates the JTVCC.

Prison S.M.A.R.T.:

Prison S.M.A.R.T. is a program based on a breathing technique called "Sudarshan Kriya," which, "teaches advanced breathing practices that create dynamic cleansing effects on the body and the mind," and participants, "learn how to use their breath to reduce the accumulated effects of stress and negative emotions." It also teaches practical life skills that enable participants to better reduce and manage stress in their lives and handle future conflict and stressful situations successfully. Prison S.M.A.R.T. has been implemented in over 45 countries in the past 24 years.

For more information about the Prison S.M.A.R.T. program, visit: <http://www.prisonsmart.org/>.

¹⁰³ Finney et al., "Organizational stressors associated with job stress and burnout in correctional officers: a systematic review" (see note 90).

¹⁰⁴ Independent Review Team interview with JTVCC staff member, May 19, 2017.

¹⁰⁵ Independent Review Team Interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

It is also likely that some members of the staff are suffering from mental health issues—including depression, anxiety, and post-traumatic stress disorder (PTSD)—as a result of the incident that began on February 1, 2017. Among the well-documented psychological outcomes of high and chronic stress are depression¹⁰⁶ and PTSD.¹⁰⁷ Suicide is an outcome that has also been linked to depression and adverse life events.¹⁰⁸ Additionally, research on absenteeism indicates that correctional officers use sick leave as a way of coping with the types of occupational stress they deal with on a regular basis.¹⁰⁹ Delaware DOC officials reported that outreach to correctional staff in the aftermath of the incident that began on February 1, 2017 regarding behavioral health consisted of arrangements for members of the Delaware Psychological Association to provide free short-term counseling to DOC staff and their families, as well as emails to staff directing them to external resources and possible piloting of the Prison Stress Management and Rehabilitation Training (Prison S.M.A.R.T.) peer-to-peer program to work with staff directly involved in the incident.¹¹⁰

Additionally, because JTVCC staff feel undervalued, in the aftermath of the incident that began on February 1, 2017, a number of JTVCC employees planned to engage in a “sick out.”¹¹¹ Along with the high rate of turnover, this combination of factors only exacerbates the already critical staffing issues at the JTVCC.

Actions taken by the State since February 2017

In April 2017, seven Delaware DOC staff members completed a critical incident stress management (CISM) course at the Wilmington Police Department and obtained certification to run CISM debriefs after a critical incident. The DOC Employee Development Center, which administers CISM debriefs, is working to standardize the administration of CISM debriefs going forward.¹¹² Additionally, “more than 300 hours (stemming from 50 behavioral support centers) were devoted to behavioral health support through various avenues including therapy dogs” and, “arrangements were made for individual and group practices from members of the Delaware Psychological Association to provide free short term crisis counseling to DOC staff and

¹⁰⁶ S. J. Lupien et al., “Effects of stress throughout the lifespan on the brain, behaviour and cognition,” *Nature Reviews Neuroscience* 10, no. 6 (2009): 434-445; E. M. Maloney et al., “Chronic fatigue syndrome and high allostatic load: results from a population-based case-control study in Georgia,” *Psychosomatic Medicine* 71, no. 5 (2009): 549-556.

¹⁰⁷ S. J. Lupien et al., “Effects of stress throughout the lifespan on the brain, behaviour and cognition”; D. A. Glover et al., “Allostatic load in women with and without PTSD symptoms,” *Psychiatry* 69, no. 3 (2006): 191-203.

¹⁰⁸ John Mann, “The neurobiology of suicide,” *Nature Medicine* 4, no. 1 (1998): 25-30.

¹⁰⁹ *Nonfatal occupational injuries and illnesses requiring days away from work for state government and local government workers, 2008 & 2009*, (Washington, DC: Bureau of Labor Statistics, 2010).

¹¹⁰ For more information about the Prison S.M.A.R.T. program, visit: <http://www.prisonsmart.org/>.

¹¹¹ Amy Cherry, “E-mail: DOC commissioner asks correctional officers not to participate in coordinated sick calls, WDEL, April 17, 2017, http://www.wdel.com/news/e-mail-doc-commissioner-asks-correctional-officers-not-to-participate/article_df1067d2-23a6-11e7-8a94-ef7df3609eaf.html.

¹¹² *DOC Preliminary Progress Report* (see note 14).

their families,” in response to the incident that began on February 1, 2017.¹¹³ Behavioral health related outreach to correctional staff after the incident also consisted of: emails to staff with information on behavioral health resources, emails with information on children’s trauma response, and an informational PowerPoint presentation on suicide risk and response also emailed to staff.¹¹⁴ The DOC further reported that it is in the early stage of bringing in Prison S.M.A.R.T. to work with staff directly involved in the incident, and pending the success of a pilot trial, rolling it out more broadly.

In June 2017, Governor Carney and the State of Delaware raised salaries for Delaware DOC corrections personnel. On June 20th Governor Carney and the Correctional Officers Association of Delaware (COAD) announced a two-year agreement to raise the annual starting salary to \$40,000 in FY 2018, and to \$43,000 in FY 2019, described by the COAD President as, “a great first step in the right direction.”¹¹⁵ In addition to the increases in starting salaries, the agreement also includes the creation of a new labor management committee to focus on studying “ways to help recruit and retain officers, and decrease the use of mandatory overtime in Delaware’s prisons.”¹¹⁶

In July 2017, Governor Carney signed the fiscal year 2018 budget plan allocating \$16 million to fund pay increases for correctional officers,¹¹⁷ and as of July 1, 2017, the State of Delaware Correctional Officer recruitment posting reflects a \$40,000 salary.¹¹⁸

Also in July 2017, the *DOC Preliminary Progress Report (Provided in Response to the JTVCC Independent Review Preliminary Report)* was released with specific responses regarding staffing and resources. According to the report, “JTVCC is next in line for the Delaware Staffing Analysis (DSAT) staffing review process [already begun at other DOC facilities]. Preliminary JTVCC staffing needs data will be submitted as part of the FY 19 budget process. This staffing analysis is scheduled to begin on July 10, 2017.”¹¹⁹ In the meantime, Governor Carney’s budget proposal included authorization for 50 additional correctional officer positions at the JTVCC.¹²⁰ The

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ “Governor Carney, COAD Announce Agreement to Raise Correctional Officer Pay,” State of Delaware, June 20, 2017, <http://news.delaware.gov/2017/06/20/48390/>.

¹¹⁶ Ibid.

¹¹⁷ “Governor Carney Signs Fiscal Year 2018 Budget Plan, Capping General Assembly Session,” State of Delaware, July 3, 2017, <http://news.delaware.gov/2017/07/03/governor-carney-signs-fiscal-year-2018-budget-plan-capping-general-assembly-session/>.

¹¹⁸ “Correctional Officer Recruitment Announcement #070117-MBDB01-380400,” State of Delaware, reviewed by Independent Review Team, August 2017.

¹¹⁹ *DOC Preliminary Progress Report* (see note 15). Per the Delaware DOC, the DSAT team is “comprised of a group of DOC personnel, who received training from the National Institute of Correction (NIC) on conducting a thorough staffing analysis.”

¹²⁰ “Investing in the Department of Correction,” State of Delaware, uploaded June 24, 2017, <http://governor.delaware.gov/wp-content/uploads/sites/24/2017/06/Investing-in-the-Department-of-Correction-June-6-2017.pdf>.

report also indicated that a 2015 course entitled “From Correctional Fatigue to Fulfillment”¹²¹ is now, “offered as part of Correctional Employee Initial Training (CEIT). Staff hired prior to the course being added to CEIT can register for the course as refresher training.”¹²² Additionally, the DOC has issued a request for proposals for chaplaincy services for DOC personnel.

Recommendations

New Recommendations:

1. ***To the extent possible, reduce reliance on mandatory overtime and limit the number of overtime hours per week for employees at the JTVCC.*** While the DSAT staffing study is being conducted, it was made clear to the Independent Review Team that JTVCC administrators relied on “freezing” employees and using overtime to address staffing shortages, leading to burnout and turnover. Limiting the reliance on mandatory overtime and capping the number of overtime hours has the potential to create a positive work-life balance and reduce turnover. Scientific research is clear that fatigue impacts judgment, tolerance for stress, and increases irritability and opportunity for error. It also makes the job less attractive for new recruits and impacts the organization's ability to recruit and retain quality employees.
2. ***JTVCC administrators should identify evidence-based programs and practices that address officer safety and wellness in correctional facilities.*** JTVCC leadership should ensure that all personnel involved in, or affected by, the incident that began on February 1, 2017—or any incident—feel valued and are provided access to the physical and mental health resources they need in order to perform their duties safely and effectively. JTVCC administrators should create a role of mental health incident commander to oversee correctional officer mental health and wellness. While sharing information about services is commendable, many individuals need help accessing and navigating those services. Furthermore, it is not unusual for post-traumatic stress to manifest itself several weeks or months after an event. Follow-up could fall under the purview of a mental health incident commander.¹²³
3. ***The JTVCC must evaluate its timekeeping practices to ensure they adhere to state and federal labor laws.*** Upon entering and exiting the facility, JTVCC staff are required to clock-in and clock-out. However, JTVCC timekeepers have significant leeway to modify employees’ clock-in and clock-out times without communicating the changes to the

¹²¹ According to the report, the curriculum, “assists employees with identifying stressors, understanding the impacts of correctional work on individuals and families, and identifying health coping strategies.”

¹²² *DOC Preliminary Progress Report* (see note 14).

¹²³ Recommendation adapted from Frank Straub, Brett Cowell, Jennifer Zeunik and Ben Gorban, *Managing the Response to a Mobile Mass Shooting: A Critical Incident Review of the Kalamazoo, Michigan, Public Safety Response to the February 20, 2016, Mass Shooting Incident* (Washington, DC: Police Foundation, April 2017), <https://www.policefoundation.org/publication/managing-the-response-to-a-mobile-mass-shooting/>.

employees. Any changes to an employee's time should be discussed with that employee prior to being made and should also include the employee's supervisor. Additionally, the practice of timekeepers modifying clock-in and clock-out times should be evaluated and changed to ensure adherence to state and federal labor laws and standards.

4. ***JTVCC administrators should compel participation in critical incident debriefings or post-incident counseling not only for those directly involved but also for those not involved.*** These debriefings and counseling sessions should include correctional officers and support staff. Recognizing that resources are an issue, administration executives should consider unit, team, or department-level debriefings to bring closure to the event. This may also alleviate some of the significant turnover since the incident.

5. ***DOC and JTVCC administrators should mandate officer safety and wellness training for all correctional officers on a regular basis.*** While it is commendable that the "From Correctional Fatigue to Fulfillment" training is now part of Correctional Employee Initial Training (CEIT), offering it as a refresher training for staff hired prior to the course being added is insufficient. A mandatory training that focuses on key principles of officer safety and wellness in correctional facilities, addressing stress and fatigue, and identifying when and where to seek additional assistance is imperative.

Recommendations from the preliminary report:

1. *Conduct a comprehensive staffing study to identify proper staffing levels at the JTVCC.*
2. *Update and implement a practical fatigue/stress policy that accounts for work-life balance.*
3. *Create a promotional career ladder with competitive salaries, and merit-based recognition.*
4. *Provide Critical Incident Counseling and Training in Stress Management and Reduction, such as Mindfulness Training.*

Chapter 5. Policies, Procedures, and Practices

Overview

Well-written relevant, policy and procedure is the core of contemporary correctional operations. All correctional agencies must establish well-defined and concise written directives to inform and govern behavior and set clear expectations for correctional officers and inmates. They also confirm that administration executives have performed their role, serve as the basis for staff supervision and training, and mitigate liability if there is an incident or lawsuit.¹²⁴ Especially in correctional facilities, the issues of administrative liability, accreditation standards, case law, and the need to support professional behavior, make having clearly-defined and strong written policies and procedures a necessity.¹²⁵

Observations

Policies and procedures are inconsistently applied, if applied at all, at the JTVCC

The Independent Review Team was told during interviews, and directly observed, a facility plagued by inconsistent application of policies and procedures, if they are applied at all. During focus groups, JTVCC correctional officers mentioned that there are no accountability measures in place to ensure that staff members read and understand policies and procedures and they have no responsibility to effectively apply them. In fact, some JTVCC staff members indicated that they have not read, nor do they regularly consult, the Delaware Department of Correction (DOC) or JTVCC Policies and Procedures Manuals. Others indicated that they intentionally deviate from policies or procedures that they feel restrict their ability to effectively do their job. Meanwhile, other correctional officers indicated that they rarely deviate from the written policies and procedures. This inconsistency was not only identified as a significant area of concern by both staff and inmates, but undeniably contributed to the deterioration of a safe and secure facility, and directly contributed to the incident that began on February 1, 2017.

For example, prior to the incident that began on February 1, 2017, an update to JTVCC Standard Operating Procedure 4.2 was issued via email by a JTVCC administrator (see Figure 2 on page 17). Since the update was issued via email—and some correctional officers do not have access to a computer during their shifts—some correctional officers were unaware that the update had been issued and others only heard about it via word-of-mouth. Additionally, since some correctional officers believed that the modification all but took away their ability to do their jobs while maintaining the safety and security of the institution, they intentionally chose to ignore it.¹²⁶

¹²⁴ “Correctional Policy and Procedure,” National Institute of Corrections, last accessed August 16, 2017, <https://nicic.gov/policy>.

¹²⁵ Ibid.

¹²⁶ Independent Review Team Interviews with JTVCC line staff and supervisors, May 1-5, 2017.

Well-written relevant, policy and procedure is the core of contemporary correctional operations.

Additionally, while the JTVCC policy currently mandates that all supervisors must sign in and out as they conduct security rounds on posts during their shift, because there is no accountability for supervisors who do not sign in and out, few supervisors actually do sign in and out, and even fewer actually conduct security rounds. Even when JTVCC administrators randomly inspect the sign in sheets to check whether supervisors are doing their rounds and signing the log sheets, there is no corrective action taken, nor reprimand levied against, supervisors who have not done so.¹²⁷

This is coupled with the fact that the policy on searching individuals and their belongings prior to entering the compound is inconsistently applied. The Independent Review Team observed staff members entering the facility with unsealed cups and bottles, containers that were not clear, and brown paper bags; some were required to go through a metal detector or scanner, while others were not. A similar lack of consistency was observed with officers removing their utility belts to be searched, and not one officer removed their shoes to be inspected. As a result of the inconsistent application of policies and procedures, supervisors conducting security rounds on their shifts, and security checks of the JTVCC prior to entering the compound and housing units, contraband is easily introduced into the JTVCC, impacting the overall safety and security of the facility.

Post orders are implemented based on impulse or preference, if implemented at all, at the JTVCC

Post orders are written procedures, requirements, guidelines, and tasks for conducting operations at a specific post or station in a correctional facility.¹²⁸ Post orders should be clear and detailed, and should explain how to operate the post daily. They should be accessible on every post for reference and review. For example, if a correctional officer is assigned to manage a housing unit, post orders should detail time(s) for: meals, inmates to be out for recreation, inmates to be able to take showers and use phones, mail hand out, inmates to be able to visit with medical staff for non-emergency illnesses and injuries, and any other routine task conducted daily. The post orders should also identify alternative recreation schedules and locations, if outdoor recreation is canceled due to inclement weather. These orders provide stability to the facility and should be operated consistently across all shifts, with necessary exceptions for time-specific programs and opportunities. Recreation, program, and meal schedules should also be posted in common areas of the facility so that inmates are aware of the daily schedule.

¹²⁷ Independent Review Team phone conversation with JTVCC executive, August 8, 2017.

¹²⁸ "Correctional Policy and Procedure," National Institute of Corrections.

Much like the inconsistent application of policies and procedures at JTVCC, post orders are implemented based on impulse or preference, if implemented at all, which also contributes to an insecure facility. JTVCC staff also indicated to the Independent Review Team that post orders are only available online. Therefore, if a computer is not accessible on the post, correctional officers cannot review their post orders or print out schedules for the inmates, and therefore run their post without necessarily complying with orders.¹²⁹

The inconsistent application of post orders contributed to the introduction of contraband into the C-Building prior to the incident that began on February 1, 2017. JTVCC staff indicated to the Independent Review Team that the post orders on conducting shakedowns of two cells per shift—to look for contraband—is inconsistently applied, or entirely ignored.¹³⁰ Some correctional officers told the Independent Review Team that they frequently do not conduct the required cell shakedowns because they know that the DOC Community Emergency Response Team (CERT) will conduct them when they are called into the facility for mass shakedowns.¹³¹ This was corroborated by an officer, who told the Independent Review Team that, in some cases the JTVCC staff do not want to undertake some aspects of their job, instead relying on CERT to do those tasks.¹³² However, because of the inconsistent application of post orders, the C-Building was not protected from inmates possessing contraband. During the incident that began on February 1, 2017, the inmates that took over the C-Building were in possession of weapons, which are the most severe type of contraband. While it is unclear if the weapons they possessed were homemade shanks or knives, it is clear that the inmates should not have had access to them.

Policies, procedures, and post orders are not comprehensive at the JTVCC

To the knowledge of the Independent Review Team, based on interviews and reviews of DOC documentation, the JTVCC did not have a clear policy, procedure, or post order detailing how to operate housing tiers and entire housing buildings during the mass movement of inmates, based on the staffing levels, layout of the tiers and the building as a whole, and security level classifications of the inmates. Therefore, there was no document to provide direction to correctional officers on how to safely move all of the inmates to and from recreation, to and from meals, and any other instances where mass movement of inmates is necessary. Additionally, no policy, procedure, or post order was in place to search all inmates prior to, and at the conclusion of, any sort of mass movement. In many instances, in order to allow correctional officers to effectively observe and manage mass movement—especially as inmates are going to and from outdoor recreation—facilities allocate separate moving times for each tier. However, because there was no policy, procedure, or post order to effectively and safely oversee mass movement of the approximately 126 inmates in the C-Building as they left and

¹²⁹ Independent Review Team interview with JTVCC officer, May 4-5, 2017.

¹³⁰ Post Order Index, provided by DOC to Independent Review Team, May 2017, reviewed by Independent Review Team May – August 2017.

¹³¹ Independent Review Team interview with JTVCC executive, July 19, 2017.

¹³² Ibid.

returned from recreation, (even though C-Building was fully staffed when the incident began) the staff lost control of C-Building and were vulnerable to being taken hostage.

JTVCC administrators and leadership frequently override policy and procedure decisions

The Independent Review Team had little success in finding a correctional officer or staff member at the JTVCC who has much confidence in the inmate security level classification system and other policies and processes related to inmate security classification. While elements of the classification systems used in the JTVCC are successfully implemented at other correctional facilities in Delaware, employees at the JTVCC suggested to the Independent Review Team that they have little to no confidence in their success at the JTVCC, because JTVCC administrators and leadership frequently override their decisions. Not only does this suggest lack of confidence in the system's accuracy, but also a lack of confidence in the staff doing the classification.

Before housing an inmate, JTVCC staff must administer a series of inmate security and program classification instruments to each inmate. In addition to the standard security classification instrument, staff must administer a Level of Service Inventory-Revised (LSI-R)¹³³ on most inmates, a Risk-Needs-Responsivity (RNR)¹³⁴ instrument, and a Prison Rape Elimination Act (PREA) scoring instrument. The LSI-R is a well-recognized risk-needs instrument utilized by a number of correctional systems, the RNR is designed to assess an inmate based on the risk they present and what they need to respond positively to reduce the likelihood of recidivism upon release, and the PREA instrument attempts to measure a person's vulnerability to sexual exploitation or their propensity to engage in predatory behavior within the correctional setting.¹³⁵ While all of these instruments were designed to serve a purpose, some JTVCC staff feel there is little use for them at the JTVCC.

The Independent Review Team was told by some JTVCC staff that their belief that these instruments have little to no purpose comes from the fact that JTVCC administrators and other leaders frequently override the classifications made by the classification administrators. For example, the Independent Review Team was told about four levels of review above the person

¹³³ The Level of Service Inventory-Revised (LSI-R) is an assessment tool used to identify an offender's risk of reoffending. The tool involves a survey of offender attributes and their situation, and may be used to make supervision and treatment determinations. See D.A. Andrews and James Bonta, "LSI-R," MHS Assessments, accessed August 30, 2017, <https://www.mhs.com/MHS-Publicsafety?prodname=lsi-r>.

¹³⁴ The Risk-Needs-Responsivity (RNR) instrument is a tool used for offender assessment and treatment. Upon assessing an offender's risk and needs, the tool matches offenders to services aimed at advancing rehabilitative goals and reducing recidivistic crime. See "Risk-Needs-Responsivity (RNR) Simulation Tool," Center for Advancing Correctional Excellence, accessed August 30, 2017, https://www.gmuace.org/research_rnr.html.

¹³⁵ The Prison Rape Elimination Act (PREA) is a federal law passed by Congress in 2003. The law requires corrections facilities to assess an inmate's risk of being sexually abused by other inmates or sexually abusive toward other inmates during an intake screening. See "§ 115.41 Screening for risk of victimization and abusiveness," National PREA Resource Center, accessed August 30, 2017, <https://www.prearesourcecenter.org/ec-item/1189/11541-screening-for-risk-of-victimization-and-abusiveness>.

who completes the classification instrument: the Institutional Based Classification Committee (IBCC), the treatment administrator, the Security Superintendent of Programs, and the warden. Approximately 20 percent of the inmate security classification scores were overridden by JTVCC administrators or one of the levels of review.¹³⁶ Likewise, few programs are in place in which to place the inmates based on the results of the LSI-R, and little consistency exists between personnel who administer it, rendering the instrument is almost worthless. Likewise, the Independent Review Team was told that scores from the PREA instrument were often questioned based on completely erroneous assumptions and characteristics—such as a person’s size (a large person could not be a likely victim)—that defeat the purpose of the instrument.

Additionally, correctional officers and first-line supervisors feel that their recommendations to move problematic inmates are overridden by JTVCC administrators and leadership. As detailed in Chapter 2, following an incident in the C-Building on January 15, 2017, correctional officers and first-line supervisors attempted to notify superiors of certain problematic inmates they believed needed to be removed from the C-Building and indicated that they felt that if the issue remained unaddressed, something else was going to happen in C-Building.¹³⁷ However, the correctional officers and some of the first-line supervisors believed that even if moves were made, their superiors would override the decision to move them—much like they override classification decisions—to avoid potential grievances and lawsuits.¹³⁸

Actions taken by the State since February 2017

In July 2017, the *DOC Preliminary Progress Report (Provided in Response to the JTVCC Independent Review Preliminary Report)* was released with specific responses regarding policies, procedures, and practices. According to the report, progress is being made to break the Code of Silence by implementing, “the DOC4U email address which staff can use to relay questions, concerns, [and] suggestions directly to the Commissioner and his executive staff,” is considering a proposal to, “assist in improving dialogue at the prison facilities, both between staff-staff and between staff-inmates,” and has identified data and metrics that could inform the creation of a performance management system to hold staff accountable for the implementation of, and adherence to, policies and procedures.

Additionally, JTVCC staff—including the new warden—have acknowledged that a review of the policies and procedures is ongoing.¹³⁹ The Bureau of Prisons has also begun to update their

¹³⁶ Independent Review Team Interview with JTVCC staff member, July 20, 2017.

¹³⁷ Independent Review Team interviews with JTVCC line officers and supervisors, May 4, 5, and 19, and July 20, 2017.

¹³⁸ Independent Review Team interviews with JTVCC staff members, July 17-21, 2017.

¹³⁹ Independent Review Team Interviews with JTVCC executives, July 19-20, 2017.

policies, such as their policy on classification.¹⁴⁰ One issue that was uncovered by the new administration at the JTVCC is that all the policies and procedures are saved in files that cannot be changed or modified, and thus, they all have to be re-written as they are being revised. It is commendable that the new administration executives are taking this important step. The JTVCC has also implemented “muster,” which is a quick assembly prior to shift that allows the supervisory staff to pass on pertinent information to the line staff and provides line staff the opportunity to engage and ask questions to the supervisory staff. Post assignments are also usually given out at this time and uniform inspections completed.¹⁴¹

Recommendations

New Recommendations:

- 1. All JTVCC employees should be required to sign a document indicating that they have read the DOC and the JTVCC Policies and Procedures identified by their superiors, as soon as possible, and should also be required to sign a copy of each policy or procedure update.** The fact that some correctional officers admitted to the Independent Review Team that they have not read the policies and procedures manuals is inexcusable and a significant liability for the JTVCC and the DOC. JTVCC administrators should ensure that all current employees have the most updated copy of both manuals. Administrators should determine what policies, procedures and post orders are essential for each employee and require them to be familiar with them, and have signed a document indicating that they have read them and accept personal responsibility to be held accountable for understanding and implementing them. Additionally, as procedural or policy modifications are made—and approved by the warden and the Bureau Chief of Prisons—all employees should be given a copy and required to sign it and return it to their immediate supervisor.
- 2. Officers assigned to a specific post should be required to sign off on the post orders upon assuming the post.** Having post orders for each post on each shift, and taking the time to create standardized post orders for day-to-day prison operations and management is necessary to provide the JTVCC staff with direction and guidance to operate a safe and secure facility. Requiring officers assigned to a post to sign off on the post orders once assuming their post is another way to move toward stability and accountability at the JTVCC.
- 3. Policies, procedures, and post orders should continue to be reviewed, revised, and updated annually.** Mechanisms for temporary and emergency revisions should be put in place immediately, but current policies reside in a single source by this method. An effective

¹⁴⁰ Bureau of Prisons Policy 3.3: Classification, provided by DOC to Independent Review Team, August 14, 2017, reviewed by Independent Review Team August 2017. The Independent Review Team is separately providing more detail on options for further refinement of the BOP classification policy and related directives.

¹⁴¹ Currently, muster is being held 15 minutes prior to each shift and employees are not being compensated for attending.

system should also have a mechanism—usually a person or persons—who review facility and field policies to ensure that they conform to the agency policies, and that post orders conform as well. Policies, procedures, and post orders should also be reviewed, revised, and updated to adapt to national correctional facility best practices. Delaware officials should periodically review DOC policies of other states and systems to glean innovative and evidence-based ideas in correction policy.

4. **Identify, and implement, security level and program classification systems that are effective and evidence-based.** Staff should be included in identifying program and security level classification instruments that are tailored to the JTVCC. Typically, each LSI-R takes about an hour to administer and score, so the investment in staff time is enormous, for a test, the reliability and validity of which is questioned by staff. Likewise, with no consistency between personnel who administer these instruments, significant resources and valuable information are currently being wasted. It must be understood that classification should balance the need for protection, the needs of offenders, and the efficient and effective operation of the correctional system.¹⁴²
5. **JTVCC administrators and leadership should provide documentation with specific explanations for overriding security level classifications and other security-based decisions made by staff.** Sometimes, offender security levels need to be reclassified and offenders housed accordingly. Housing units also need to be restructured to deal with both long and short-term offenders. Staff involved in the administration of these various instruments, and correctional officers who interact with inmates every day should be trusted to make decisions—or at least provided an opportunity to provide input into—and movements in the best interest of the facility, without concern that they will be overridden. If the system is functioning properly, the myriad levels of review that currently exist at JTVCC are not necessary.
6. **Establish a Contraband Introduction Unit (CIU) at the JTVCC.** Stricter guidelines should be implemented at all entry points of the JTVCC in order to decrease the amount contraband introduced into the facility. A CIU should be created to conduct regular screening and scans of JTVCC visitors, employees and inmates. Likewise, the use of drug detection K-9s randomly assigned to entrance posts, would be an additional method to deter individuals from attempting to introduce contraband into the JTVCC. Not allowing employees to bring bags into that facility that are not clear; to include brown paper bags or plastic bags, so the

¹⁴² “Public Correctional Policies,” American Correctional Association, January 25, 2017, downloaded August 16, 2017, http://www.aca.org/ACA_Prod_IMIS/docs/GovernmentAffairs/ACA_PUBLIC_CORRECTIONAL_POLICIES_BOOK.pdf?WebsiteKey=139f6b09-e150-4c56-9c66-284b92f21e51&=404%3bhttp%3a%2f%2fwww.aca.org%3a80%2fACA_Prod_IMIS%2fACA_Member%2fdocs%2fGovernmentAffairs%2fACA_PUBLIC_CORRECTIONAL_POLICIES_BOOK.pdf; *Bureau of Prisons Policy 3.3: Classification* (see note 140).

gatehouse officers or CIT can see what is in a container. Anyone entering the facility should remove their shoes to decrease contraband introduction.

Recommendations from the preliminary report:

1. *Review, revise and update policies, procedures and post orders annually.*
2. *Conduct a review of the DOC Uniform Classification System and related practices at James T. Vaughn Correctional Center.*
3. *Implement Roll Calls to communicate more effectively with staff.*
4. *Break the Code of Silence and bridge the gap between line officers and the corrections administration.*
5. *Immediately address the disconnect between JTVCC administrators and supervisors.*
6. *DOC should research, identify and implement a performance management system that holds all staff accountable for the implementation of and adherence to policies and procedures, safety and security practices, as well as efficient and effective operations.*
7. *Decrease the inmate population or encourage alternatives to incarceration programs.*
8. *Research other Departments of Correction structures in the surrounding area.*

Chapter 6. Officer Training

Overview

Given the increasing costs associated recruiting and training new correctional officers and decreasing budgets, the retention of correctional officers is a critical issue for all elected officials, public policy makers, and correctional administrators.¹⁴³ Correctional officers must have adequate security skills. They must also have strong interpersonal skills and the capacity to understand various cultural aspects of diverse offenders. They must also know how to de-escalate volatile situations.¹⁴⁴ This has not been the case at the James T. Vaughn Correctional Center (JTVCC).

Observations

The current training curricula provided to the JTVCC staff is inadequate and ineffective

Training, as “a formal exchange of job-related knowledge and/or skills from someone having it to someone needing it, where something is acquired and applied, resulting in something of value for the agency,”¹⁴⁵ is a critical component of criminal justice roles. The Independent Review Team observed, and heard from numerous JTVCC staff members, that the training currently provided falls short of meeting this definition.

Effective implementation of training requires effective instructors. A JTVCC staff member alleged that not all training instructors are certified to instruct correctional training courses.¹⁴⁶ The Independent Review Team was also told that if an officer is not able to have inmate contact due to an assault or potential assaults in the institution, they are temporarily resigned to the training department in Dover, until the officer is cleared to return to full duty at their institution.¹⁴⁷

Based on staff interviews and focus groups at the JTVCC, offender rehabilitation is not a priority and as a result very little, if any, training is focused on providing staff with the skills to promote

¹⁴³ Carl Nink, *Correctional Officers: Strategies to Improve Retention* (Centerville, UT: MTC Institute, 2010), <http://www.mtctrains.com/wp-content/uploads/2017/06/Correctional-Officers-Strategies-to-Improve-Retention.pdf>.

¹⁴⁴ *Let the American Correctional Association Be Your Correctional Training Partner*, American Correctional Association, April 30, 2014, https://www.aca.org/ACA_Prod_IMIS/docs/international/aca-international-course-catalog-300414-final.pdf?WebsiteKey=139f6b09-e150-4c56-9c66-284b92f21e51&=404%3bhttps%3a%2f%2fwww.aca.org%3a443%2faca_prod_imis%2faca_member%2fdocs%2finternational%2faca-international-course-catalog-300414-final.pdf.

¹⁴⁵ “Training Coordinators/Directors,” National Institute of Corrections (2005).

¹⁴⁶ Independent Review Team phone interview with JTVCC staff member, August 17, 2017.

¹⁴⁷ The Independent Review Team has not been able to substantiate or refute these allegations; however, it must be noted that ineffective training will lead to ineffective implementation.

offender rehabilitation. Some correctional officers do not seem to prioritize offender rehabilitation either, stating that “money spent on programs [by the Delaware Office of Management and Budget, the DOC, and the JTVCC] for inmates is money that we don’t get.”¹⁴⁸ Incorporating the benefit of offender rehabilitation in training as well as how it is funded may decrease animosity between staff and offenders who are interested in programming. It must also be noted that some offenders expressed the requirement to complete rehabilitation and programming as part of their sentence; if the JTVCC is ill-equipped to fulfill the needs of the inmate population, they are doing a disservice to the community at large.

According to information gained from JTVCC staff during interviews, the required 40 hours of annual in-service training provided to JTVCC staff is not beneficial to the officers, and they do not retain much of the information. Most of the training is delivered online and many of the JTVCC staff reported that it is of little value because they often do not have time to actually watch the videos; they can be interrupted while watching the videos and taking the courses; and the trainings normally consist of watching a presentation and taking a pass-or-fail test to see if information is at least temporarily absorbed. This training style is not entirely conducive to providing opportunities to actually implement the principles learned and demonstrate true understanding. It also does not allow instructors to observe and provide immediate feedback in areas for improvement or require repetition to ensure that the principles are truly absorbed. Additionally, it was brought to the attention of the Independent Review Team that, in some cases, one correctional officer would complete the training for all of the officers assigned to that shift while the other officers performed their daily duties as assigned.¹⁴⁹

The JTVCC administrators justified the heavy reliance on online training that is completed on post because of the existing staff shortages at the facility. With the staff shortage, they explained, they are unable to schedule time for officers to be away from their posts or away from the JTVCC to complete in-person training, even if it is more effective and better for the overall benefit of the facility.

The courses and the length of each course is pre-determined and they tend to focus on security skills, including: conducting a count, shakedown procedures, riot control and report writing.¹⁵⁰ At the JTVCC, some officers indicated that the training they received was not consistent with Delaware Department of Correction (DOC) practices, rather they are instructed on the basics and learn “how things are at [JTVCC]” from more senior staff once they get to the institution. Since there is currently no ability for the individual facilities to tailor the annual in-service training curriculum to the specific needs of their facility, the typical employee merely learns how to be a “logistics specialist,” keeping track of the whereabouts of inmates in their assigned area and ensuring that the inmates get to and from a variety of activities within the institution.

¹⁴⁸Independent Review Team focus group with JTVCC correctional officers, May 4, 2017.

¹⁴⁹Independent Review Team interview with JTVCC line officer, July 17, 2017.

¹⁵⁰ Morris L. Thigpen, Virginia A. Hutchinson, and Kristin D. Keller, *Interpersonal Communications in the Correctional Setting: Instructor Guide* (Washington, DC: National Institute of Corrections, 2004), <https://s3.amazonaws.com/static.nicic.gov/Library/020035.pdf>.

One extremely important area of training that is not conducted annually at the JTVCC is Interpersonal Communication (IPC) Skills.¹⁵¹ Multiple JTVCC staff members told the Independent Review Team that some officers lack the ability or skills to communicate effectively with inmates and fellow officers.¹⁵² One officer bluntly stated, “we need to have IPC refresher courses more often.”¹⁵³ Some correctional training programs that contain IPC tend to be conceptually-based rather than skills-based, however, so they tend to be unattractive to correctional facility leaders, who are more concerned with ensuring that their staff have the necessary skills.

Correctional officers must have adequate security skills. They must also have strong interpersonal skills and the capacity to understand various cultural aspects of diverse offenders. They must also know how to de-escalate volatile situations.

Actions taken by the State since February 2017

In July 2017, the *DOC Preliminary Progress Report (Provided in Response to the JTVCC Independent Review Preliminary Report)* was released with specific responses regarding training. According to the report, the DOC, “continues to be actively engaged in a robust ACA accreditation schedule for all of its facilities.”¹⁵⁴ The report also indicated that, “DOC implemented a Department-wide training plan which includes new employee orientation, annual training, and refresher training.”¹⁵⁵ The report indicates that Crisis Intervention Training (CIT), “was added to DOC’s training catalogue in 2016. Leadership courses are currently available to DOC staff via external opportunities such as the Office of Management and Budget (OMB)’s training courses.”¹⁵⁶ In fact, as of the date of publication of this final report, 94 DOC officers have been sent to 40-hours of CIT training for correctional personnel.¹⁵⁷

The DOC is also attempting to implement 16 hours of training that will be required to be “in the seat” at the Employee Development Center, instead of on post at the institution, this has not been implemented to date.¹⁵⁸ The DOC correctional officer training Plan for FY 2018/19 was

¹⁵¹ Independent Review Team interviews with JTVCC staff members, July 17-21, 2017.

¹⁵² Independent Review Team interviews with JTVCC staff members, July 17-21, 2017.

¹⁵³ Independent Review Team interview with JTVCC correctional officer, July 17, 2017.

¹⁵⁴ *DOC Preliminary Progress Report* (see note 15). After Independent Review Team follow-up with a DOC executive, it was indicated that while numerous facilities in Delaware recently completed their audits and were pending accreditation following hearings in August 2017, the JTVCC audit has not been assigned an anticipated date, but will be seeking ACI accreditation.

¹⁵⁵ *DOC Preliminary Progress Report* (see note 15).

¹⁵⁶ *Ibid.*

¹⁵⁷ Independent Review Team interview with DOC executive, May 1, 2017.

¹⁵⁸ *DOC Training Plan FY 2018/19* (see note 14).

signed on June 21, 2017 and includes changes to the training curriculum that will benefit correctional staff. The time spent on diversity and transportation of offenders training will increase, and DOC will also implement additional courses on correctional fatigue to fulfillment and cross gender supervision. Interpersonal communications and interpersonal conflict resolution are designated 21 hours and 7 hours of training time, respectively.

Recommendations

New Recommendations:

- 1. *The Delaware DOC should expedite the implementation of the 16 hours of “in the seat” training and reduce the number of online training hours.*** The *DOC Training Plan FY 2018/19* identifies one of its goals and objectives as “[d]eliver one day of EDC In-the-Seat training to employees on-site/on-shift (Emergency Preparedness, QRT and CPR/AED in FY18; Emergency Preparedness QRT and First Aid in FY19). The second day of In-the-Seat training will be conducted at the EDC.”¹⁵⁹ These in-person training hours should be mandated for priority topics and courses to ensure that staff can apply the key training principles in real world scenarios including role plays, tabletop exercises, and training simulators. The DOC should also create two working groups—one for custodial staff and one for non-custodial staff—to review research and practices from other state correctional systems to determine if 16 hours is an adequate number of “in the seat” training hours, what topics may be prioritized during that time, and identifying other innovative contemporary training topics and strategies.
- 2. *Individual DOC facilities should be able to tailor aspects of the annual in-service training to their specific needs.*** The JTVCC and other facilities should be given the ability to conduct certain trainings on priority topics such as effective leadership and management in a correctional environment, creating a positive culture through respectful communication, and procedural justice and active listening. Additionally, including an IPC component in the annual in-service review would be beneficial for all staff at the JTVCC and leadership courses including *Making Direct Supervision Work: The Role of the Housing-Unit Officer* and *Making Direct Supervision Work: The Role of the First-Line Supervisor*. These training hours should be updated on an annual basis and meet federal, state, and other appropriate certification standards.
- 3. *Ensure that training courses prioritize topics and courses that are essential to operating a 21st Century correctional facility that focuses on rehabilitation.*** Entry level and in-service training should be contemporary, robust, multi-dimensional, and prepare correctional personnel to confront novelty as well as develop and implement a

¹⁵⁹ *DOC Training Plan FY 2018/19* (see note 14).

response amidst uncertainty.¹⁶⁰ It would be beneficial to review entry-level and in-service curricula from other state DOC agencies such as Maryland or New Jersey.¹⁶¹

4. ***Prohibit training from being conducted while on post.*** Mandating that training be completed while on post distracts officers from their job duties and does not allow them to get the full benefit of the trainings. Implementing a process where all training is completed while officers are not on post, will allow the officers more time to understand the content, address any concerns if needed, and truly focus on learning.
5. ***The JTVCC should expedite the creation of a field training officer (FTO) program, link it to other leadership development and upward mobility opportunities, and ensure that qualified applicants are selected.*** The JTVCC should require FTOs to apply and be selected based on their ability to effectively manage and contribute to a culture of positivity at the JTVCC. FTOs should also be qualified to deliver training in critical courses of instruction. As part of a regular review process, FTOs should be evaluated on their instruction in, and daily application of, key principles identified through the ACA accreditation process and the JTVCC training review.¹⁶²
6. ***Require that all DOC training instructors complete train-the-trainer courses from an accredited agency such as the National Institute of Corrections (NIC) or the American Correctional Association (ACA).*** In order to ensure that trainers are providing information and instructions that coincide with promising practices and national standards, all trainers should be required to complete train-the-trainer trainings or receive certification from an accredited agency. Additionally, consideration should be given to augmenting the JTVCC training staff with personnel from other facilities, the Central Office, and external subject matter experts—including practitioners, academics, and national-level experts with curricula vitae (CVs) that reflect their expertise.

Recommendations from the preliminary report:

1. *Prioritize achievement of American Correctional Association (ACA) accreditation at the JTVCC.*

¹⁶⁰ “In order to perform effectively under stress, law enforcement training should strive to provide stressful encounters that replicate challenging, real life situations and encounters.” *Stress and Decision Making* (Federal Law Enforcement Training Center, 2011), https://www.fletc.gov/sites/default/files/imported_files/reference/research-papers/Stress-and-Decision-Making-04-06-12--Approved---Pulic-Release--508-Accessible.pdf, 2-3.

¹⁶¹ For examples see “Correctional Entry-Level Objectives,” Maryland Department of Public Safety and Correctional Services, effective July 1, 2012, <http://mdle.net/pdf/CELTPObj-7-1-13.pdf>; “New Jersey Department of Corrections Site Visit Report,” https://www.excelsior.edu/c/document_library/get_file?uuid=7d4e5175-0d16-4f99-bcba-108ecb4853ce.

¹⁶² FTO training programs are operational in several DOC facilities. The DOC is moving towards standardizing the FTO program across its facilities.

2. *Ensure training topics and hours meet national corrections standards and include real world scenarios.*
3. *Provide refresher and specialized training, such as Crisis Intervention Training (CIT) and leadership training, on an annual basis.*
4. *Develop a Field Training Officer program.*

Chapter 7. Communication

Overview

Clear and consistent communication and information-sharing is central to any successful professional environment, but is particularly important to maintaining a safe and secure correctional facility.

Clear and consistent communication and information-sharing is central to any successful professional environment, but is particularly important to maintaining a safe and secure correctional facility. Lack of communication between officers from one shift to another, between front-line staff and supervisors, and between supervisors and JTVCC administrators culminated in an overwhelming culture of divisiveness at the JTVCC and contributed to the incident that began on February 1, 2017. As one JTVCC executive said to the Independent Review Team, “[o]nce communications breaks down, the team breaks down, and everything breaks down.”¹⁶³

Observations

Breakdowns in communication compound issues throughout the JTVCC

Lack of communication—between officers from one shift to another, between front-line staff and supervisors, and between supervisors and JTVCC administrators—was identified as a priority problem at the JTVCC by all levels of staff interviewed by the Independent Review Team. Information about potential problematic inmates and security issues, updates to policies and procedures, and other daily occurrences, is not consistently and accurately shared between shifts, compound buildings, and all levels of custodial and non-custodial staff.

The lack of consistent strategy and communication by JTVCC administrators contribute to confusion and the dissemination of inaccurate or incomplete information to rank-and-file correctional officers. With no clear and consistent communication from JTVCC administrators to the entire staff, policies and procedures were essentially open to the interpretations of individual supervisors and correctional officers, leading to significant inconsistencies in the ways in which the same posts were operated from shift-to-shift and day-to-day. These inconsistencies caused by the lack of communication not only led to stress and confusion for correctional officers and their colleagues, but also for inmates, who told the Independent Review Team that they were equally frustrated by the lack of uniformity. Additionally, when inmates feel that they are being communicated with differently by different correctional

¹⁶³ Independent Review Team interview with JTVCC executive, July 19, 2017.

officers, they are more likely to feel targeted and angry, and are more likely to act out. Therefore, the lack of communication contributed to conflicts between staff members as well as between staff and inmates contributed to a hostile environment at the JTVCC.

One of the core factors that shape staff and inmate perceptions of the DOC is the fairness and consistency in which policies, procedures and practices are communicated and exercised – otherwise known as “procedural justice.”¹⁶⁴ When correctional personnel act fairly, they create legitimacy and encourage general rule-following behavior on the part of staff and inmates. “A prison environment provides considerable opportunity for arbitrary and capricious exercise of power, and for authorities to act based on personal prejudice and implicit bias. By acting based on rules and by applying those rules evenly across people and time, authorities are viewed as acting fairly. Because rules are explicitly specified in prison settings, the authorities have considerable capacity to shape and explain their actions by reference to the rules. It is relatively easy for prison authorities to be seen as following the rules in many situations because the rules are codified and known to all.”¹⁶⁵

The lack of communication at the JTVCC was most apparent in the weeks prior to the February 1, 2017 incident. As discussed in Chapter 2 of this report, an incident involving inmates occurred on a much smaller scale in the C-Building of the JTVCC on January 15, 2017. Following the incident, some correctional officers identified the inmates that they believed were primarily responsible for the incident, and attempted to notify supervisors that those individuals should be removed—at least temporarily—from C-Building. When they shared this vital information with their supervisors, no action was taken. In some cases, they were told that if they were scared, they should find another line of work¹⁶⁶ and in others, the Independent Review Team was told, “when things get reported it goes on deaf ears.”¹⁶⁷ However, the front-line supervisors who did pass along the critical information indicated to the Independent Review Team that, likewise, they were not taken seriously or were overridden by their superiors without being provided an opportunity to explain or provide input.

When staff members develop intelligence information or operational insights and are not listened to, or taken seriously by their supervisors, critical pieces of information are not acted upon and future information that could be vital to overall safety and security is not shared. In this case, the lack of action taken based on staff communication regarding the January 15, 2017 incident, directly contributed to the incident that began on February 1, 2017.

¹⁶⁴ Tom R. Tyler, *Why People Obey the Law* (Princeton, New Jersey: Princeton University Press, 2006).

¹⁶⁵ Jonathan Jackson et al., “Legitimacy and procedural justice in prisons,” *Prison Service Journal* 191 (2010): 5.

¹⁶⁶ Independent Review Team interview with JTVCC staff member, July 20, 2017.

¹⁶⁷ Independent Review Team interview with JTVCC staff member, July 17, 2017.

Inmate information management systems are not used effectively by the JTVCC staff

An offender management system should provide correctional staff “real-time offender data improving the safety of staff and inmates along with better care of inmates.”¹⁶⁸

The Delaware Department of Correction (DOC) uses an offender information management system, known as the Delaware Automated Correctional System (DACS), which allows correctional officers to enter in and view information on inmate activities from previous shifts. DACS contains complete demographic and programming information on inmates and detainees, and grievances, with the exception of medical, mental health, PREA, and gang information. For more sensitive information about inmates—including potential gang affiliation—certain employees at each DOC facility have access to an additional system, known as IntelliDACS. IntelliDACS is primarily used by the Security Threat Group (STG) at the JTVCC. The STG—which is currently one officer who performs this duty when not assigned to other tasks—identifies, researches, and validates each inmate’s potential gang involvement in the JTVCC and any additional information regarding potential gang involvement prior to their sentence, and enters the information into IntelliDACS. Despite these information management systems, sharing of gang information and intelligence within the JTVCC and between facilities is limited. JTVCC staff reported to the Independent Review Team that in C-Building, some gang members were not only housed in adjacent cells and across the hall from each other – making communication and planning much easier—but in some cases were even housed in the same cells. Especially after October 2016, when all three tiers of the building were allowed out of their cells for recreation at the same time, this lack of information sharing and communication posed significant security issues for correctional officers.

There are no opportunities—such as roll calls, unit meetings, or all-staff meetings—for staff to share information on a regular basis and debrief after events

The breakdown of communication between individual JTVCC staff members and the lack of effective use of the offender information management systems is exacerbated by the fact that there are no opportunities for staff to share information on a regular basis or debrief after certain events. “Muster”—also known as roll call—is an effective way for supervisory staff to inform correctional officers about important policy and procedure updates, STG information, and other critical information occurring in the JTVCC. It is also an opportunity for correctional officers to inform their colleagues and supervisors about potentially problematic inmates under their supervision and to provide innovative solutions to ongoing challenges. When broadened beyond individual musters, and extended to meetings of the staff of an entire housing unit and

¹⁶⁸ “Strategic Offender Management System (SOMS),” California Department of Corrections and Rehabilitation, last accessed August 23, 2017, <http://www.cdcr.ca.gov/SOMS/index.html>.

the entire JTVCC staff, these meetings are even more impactful to identify and mitigate potential larger security issues and concerns in the facility. In essence, line staff need to feel they are a trusted part of the solution, know who is under their supervision and what potential risks those individuals pose, and feel empowered to supervise the inmates as safely as possible.¹⁶⁹

Additionally, debriefs and after-action reports are valuable opportunities to communicate as a team. Some of the best lessons learned, best practices, and improvements come from reviews of specific decisions made and actions taken in response to a particular incident, especially when such reviews are completed in a manner that emphasizes discussing, learning, and improving.¹⁷⁰ Regularly reviewing best practices and lessons learned from incidents and discussing how to incorporate these practices has assisted other agencies in managing and improving their response to critical incidents.¹⁷¹ Since the C-Building staff—and the JTVCC staff as a whole—did not conduct any debriefs or after-action reports following the January 15, 2015 inmate uprising, there was no opportunity to identify lessons learned and make the necessary changes to increase the safety and security of the JTVCC prior to the incident that began on February 1, 2017.

Actions taken by the State since February 2017

In July 2017, the *DOC Preliminary Progress Report (Provided in Response to the JTVCC Independent Review Preliminary Report)* was released with specific responses regarding communication. According to the report, the DOC STG Subcommittee of the Reset & Rebuild Initiative is actively working to address the issues related to sharing of gang intelligence and general information in DACS. The DOC strategic plan also contains deliverables to improve communication of inmate affiliation and membership in gangs to line staff and incorporate gang information into the inmate classification process.¹⁷² A second STG investigator is also being hired at the JTVCC to facilitate the identification and sharing of information related to

¹⁶⁹ The Department has already taken steps in this direction. Several committees have been established by Commissioner Phelps after the incident. One is an STG Committee, which is led by Warden Wesley and Major Merson. The committee is examining how each institution handles STG intelligence and will make recommendations to the commissioner.

¹⁷⁰ For more critical incident reviews, visit the Police Foundation's critical incident review library at <https://www.policefoundation.org/critical-incident-review-library/>.

¹⁷¹ Rick Brazier et al., *Bringing Calm to Chaos: A Critical Incident Review of the San Bernardino Public Safety Response to the December 2, 2015, Terrorist Shooting Incident at the Inland Regional Center*, Critical Response Initiative (Washington, DC: Office of Community Oriented Policing Services, 2016), <https://www.policefoundation.org/bringing-calm-to-chaos-a-police-foundation-review-of-the-san-bernardino-terrorist-attacks-2/>; Frank Straub, Jennifer Zeunik, and Ben Gorban, "Lessons Learned from the Police Response to the San Bernardino and Orlando Terrorist Attacks," *CTC Sentinel* 10, no. 5 (May 2017), <https://ctc.usma.edu/posts/lessons-learned-from-the-police-response-to-the-san-bernardino-and-orlando-terrorist-attacks>.

¹⁷² *Department of Correction 2017 Strategic Plan: 90 Day Deliverables*, provided by DOC to Independent Review Team, July 2017, reviewed by Independent Review Team July – August 2017.

inmates' gang affiliations.¹⁷³ While some gang intelligence information should not be open to all staff depending on the type and veracity of the information, other intelligence should be shared as appropriate for the safety of the facility. Correctional officers should know when they are housing multiple gang members in the same building, tier, or cell.

Additionally, the new warden of the JTVCC is to be commended for immediately attempting to address and resolve the communication issues that contributed to the incident that began on February 1, 2017. Since his appointment, the new warden has started an informal "Word of the Day" test—in which he tells one staff member a specific word and, over the course of the day, asks other staff members if they know the word—to identify and begin to resolve some communication issue areas.¹⁷⁴ The JTVCC has also implemented musters in order to facilitate the sharing of important information between shifts, buildings, and ranks.

The DOC also has identified an internal debrief as a possible topic for the new Labor-Management Committee.¹⁷⁵ It is important that lessons be learned and improvements be identified from the incident that began on February 1, 2017, be studied and applied by the JTVCC, and be shared by the DOC and the State of Delaware more generally.

Recommendations

New Recommendations:

1. ***The JTVCC should continue to test communication channels and immediately address identified issues.*** The new JTVCC warden shared his informal "Word of the Day" technique with the Independent Review Team. It is an excellent technique to determine if the lines of communication are open and to identify gaps. The next step is to deliver more complex information over time, across shifts, across locations, and upward as well as downward through the organization to continue to test communication channels and facilitate information sharing. Additionally, as the tests become more complex, the timeframe to address the issues and the importance afforded to solving them must be treated accordingly.
2. ***JTVCC administrators and all levels supervisors should build relationships and regularly communicate with one another to share promising practices.*** Other DOC facilities are valuable resources to learn about successful practices and should be adapted at the JTVCC, including the implementation of muster. Sharing lessons learned with the DOC and between DOC facilities can bridge information gaps and identify innovative practices that facilitate communication and positively contribute to safe and secure facilities.

¹⁷³ DOC Preliminary Progress Report (see note 15).

¹⁷⁴ Independent Review Team interview with JTVCC warden, July 19, 2017.

¹⁷⁵ The Independent Review Team understands that a DOC debrief with other emergency response agencies into the incident that began on February 1, 2017 has been postponed due to the ongoing criminal investigation.

3. ***JTVCC administrators and all levels of supervisors should receive training in communication skills.*** It was repeatedly suggested to the Independent Review Team that the DOC conduct training for JTVCC supervisors on the importance of sharing information throughout the chain of command and consistency in communicating policies and procedures. Leadership training that stresses the importance of communication and improving morale to “ensure all correctional employees feel valued, heard and supported,” is necessary for the JTVCC.¹⁷⁶
4. ***Require employees to enter in, and read, information into DACS at the beginning and end of each shift.*** In order to ensure effective communication between shifts, and in lieu of larger staff meetings, all JTVCC employees should be required to submit summaries—highlighting problematic inmates, potential threats, any notable occurrences, and other information—into DACS at the end of their shift. Employees at the beginning of their shifts should be required to log into DACS and read these summaries prior to going to their post assignments so that they are aware of any potential issues. Additionally, greater information sharing and usage of gang information through DACS and certain information on STG threats from IntelliDACS will support safety throughout the JTVCC.

Recommendations from the preliminary report:

1. *The Commissioner should order a review of the current structure and communication practices of the James T. Vaughn Correctional Center, and perhaps the entire Department.*
2. *The Department should conduct leadership development training for JTVCC supervisors to reinforce the need for consistent application of policies and procedures, and to educate them on the need to share information both laterally and horizontally throughout the entire chain of command.*
3. *Although limited, additional information about gang members (at least leader, member, associate) must be made available to line staff who supervise them in housing units in addition to the STG check box in DACS. Bulletins with important information that comes to the attention of the STG unit should also be shared as appropriate.*
4. *DACS should be programmed to enable officers to see all the identified gang members on a tier with one click – perhaps a snapshot of the floor plan with flags where gang members are housed.*
5. *Conduct a joint debrief/table top review of the incident response with DSP and other emergency response agencies.*

¹⁷⁶ DOC Commissioner’s Directives on Leadership and Concepts of Interactive Leadership (see note 81).

6. *DOC should conduct an internal debrief of all major incidents, and specifically the February 1, 2017 incident, to identify and share lessons learned, provide an opportunity(s) for staff to contribute to the review process, and help bring closure to JTVCC staff and other units that responded to the incident.*

Chapter 8. Equipment and Technology

Overview

Equipment and technology are critical tools for correction institutions. These resources not only extend the ability of correction staff to operate a safe and secure facility for both staff and inmates, but they also serve a vital role when incidents do occur. The lack of the proper equipment and technology can have serious consequences during any critical incident, but are magnified during a critical incident in a correction facility. Technological failures do not only consist of technology failing to operate temporarily, but are also caused by the inability to rely on equipment and technology to function as designed and intended. It is therefore critical that the Delaware Department of Correction (DOC) and its information technology (IT) personnel maintain information systems and other technology that fully meet the needs of correction-specific staff.

Currently, when the DOC purchases technology equipment, such purchases are completed through the Department of Technology Information (DTI).¹⁷⁷ DTI's *2016-2019 Statewide Information Technology Strategic Plan* states their mission is, "to provide technology services and collaborative solutions for Delaware."¹⁷⁸ Correction officials reported to the Independent Review Team that during the incident that began on February 1, 2017, DTI staff were extremely helpful and responsive to the needs and requests of correction and law enforcement officials.

Observations

The hardware/server infrastructure at the JTVCC is outdated

The offender information management system used by all Delaware Department of Correction is the Delaware Automated Correction System (DACS). The hardware/server infrastructure used to run DACS is approximately five years old and is in need of replacement. The system also lacks redundancy—which would enable DACS to continue to operate should the primary server go down for any reason—and is costly to maintain.

Additionally, the *Department of Correction 2017 Strategic Plan: 90 Day Deliverables* includes goals to upgrade staff and inmate phones to Voice over Internet Protocol (VoIP) to facilitate communication, medical care delivery, and treatment options; to implement video visitation for inmates and their families; and, to offer digital and electronic programming, entertainment,

¹⁷⁷ DTI provides the IT infrastructure and applications for the state. DTI advocates for resources from the State legislature, federal agencies, or foundations to implement plans for IT systems integration.

¹⁷⁸ *Statewide Information Technology Strategic Plan: 2016-2019*, Delaware Department of Technology and Information, downloaded May 22, 2017, <https://dti.delaware.gov/pdfs/strategicplan/Delaware-Statewide-IT-Strategic-Plan.pdf>.

and operational functionality via tablets for inmates.¹⁷⁹ In order to support the second focus area—“Improve Delivery & Quality of Service to Offenders”—and achieve all of the identified goals, the IT systems at both the JTVCC and the DOC must to be updated significantly. A number of additional Access Points are needed in order to enable all of these technologies to operate simultaneously, as well as prepare for the use of new mobile technologies as they continue to be adapted for correctional facilities.

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Some of the DOC-specific equipment and technology needs have been overlooked

Undoubtedly, purchasing equipment and technology across State agencies is a good business practice that enables the State of Delaware to take advantage of significant cost savings as well as create a more consistent infrastructure. However, although the DOC has many of the same needs as other State agencies, the DOC also has some specific needs driven by its need to confine individuals for long periods of time, many of whom have the potential to be dangerous and unpredictable, as occurred during the incident that began on February 1, 2017. Since providing a safe and secure environment for both those confined and those who work in correctional facilities requires the use and understanding of specialized equipment and technology, consideration must be given to the unique equipment and technology needs of the DOC. Therefore, a specialized group of IT technicians/correctional officer (CO) technicians and similar staff supporting information technology should be employed by, or under the direct oversight of, the DOC.

Additionally, several buildings at the JTVCC do not have any type of cameras and few, if any cameras, are believed to have audio capability. Some cameras at the JTVCC are very basic, are not connected to recording devices, and those that are connected only retain footage for 15 days.

The lack of cameras contributed to insufficient security at the JTVCC

Correction facilities install cameras to cover areas that officers are unable to continuously monitor and enable correctional officers to view inmates and operations beyond what they can see themselves. There are various reasons for the lack of cameras in the C-Building including the difficulty of running conduit/cables, low ceilings, and cost. Only one camera was installed that was capable of viewing the exterior of C-Building. In fact, during the incident that began on

¹⁷⁹ Department of Correction 2017 Strategic Plan: 90 Day Deliverables (see note 172).

February 1, 2017, that pan, tilt, and zoom camera (PTZ) was directed to focus on the front of C-Building and is the only camera that captured video of the C-Building during the incident.¹⁸⁰

The lack of additional cameras at the C-Building, and cameras equipped with microphones—which enable correctional officers to listen to discussions between inmates and other potentially suspicious events as they transpire, even if inmates cover the camera lenses or stand outside of their view—indirectly contributed to the incident that began on February 1, 2017. Many correctional institutions nationwide have more than one camera per housing unit with capabilities to not only record video, but also audio. These cameras are fed to a specific room on the compound where they are monitored in real-time, to provide continuous situational awareness of the entire facility and further contribute to institutional safety and security.



James T. Vaughn Correctional Center. Photo: "James T. Vaughn Correctional Center," Delaware Department of Corrections, <http://www.doc.delaware.gov/BOP/PrisonDCC.shtml>.

¹⁸⁰ "Discrepancies memo: 2014 equipment budget request and camera proposal, provided by DOC to Independent Review Team, May 2017, reviewed by the Independent Review Team, May 2017.

Radios are not provided to all JTVCC staff

Some civilian staff at the JTVCC indicated to the Independent Review Team that, because of the lack of radios at the facility, they are not issued radios or other means of communication during their shifts.¹⁸¹ During the incident that began on February 1, 2017, many civilian staff did not know what was occurring until notified by telephone.

Actions taken by the State since February 2017

The DOC and the JTVCC have taken steps to directly address technology-related shortfalls. The Delaware Division of Communication is working on encrypting the DOC radios and the DOC is exploring means to expedite the process.

In March 2017, Governor Carney announced the investment of \$340,800 in new security and communications equipment to better equip correctional officers to respond to and prevent violent incidents at the JTVCC and in Level V facilities statewide. Governor Carney proposed another \$1.2 million for equipment purchases in his Fiscal Year (FY) 2018 Budget Proposal.¹⁸²

In August 2017, the Bureau Chief of Prisons issued a directive to all DOC facilities requiring that they implement procedures to incorporate the use of handheld video cameras during cell extractions and forced moves, including for all incidents of planned use of force.¹⁸³

Recommendations

New Recommendations:

1. ***The DOC should prioritize the replacement/upgrade of the hardware/server infrastructure used to operate DACS, including accounting for addition Access Points and Active Port costs.*** The server/hardware infrastructure has reached the end of its usefulness and should be replaced. This also presents the opportunity for the DOC and the JTVCC to create redundant capability, upgrade servers/hardware to support the goals and objectives identified in the DOC Strategic Plan, and ensure that vital systems continue to be available to run in the event of critical operations.

¹⁸¹ Independent Review Team interview with JTVCC staff member, May 5, 2017.

¹⁸² "Governor Carney takes steps to address security concerns at James T. Vaughn Correctional Center," State of Delaware, March 13, 2017, <http://news.delaware.gov/2017/03/13/governor-carney-takes-steps-to-address-security-concerns-at-james-t-vaughn-correctional-center/>.

¹⁸³ In the preliminary report, the Independent Review Team recommended that the DOC explore a Body-Worn Camera (BWC) program with their Community Emergency Response Team (CERT). At the end of January 2017, the DOC concluded a test of BWCs during use of force instances at the Howard R. Young Correctional Institution and concluded that handheld camcorders were more efficient for planned uses of force.

2. ***DOC should authorize additional Correctional Officer Technician positions for IT support throughout their facilities.*** Technicians that routinely work in a correctional environment should be specially trained in corrections. With the increase of technology in DOC facilities, correctional officer technicians that are localized, trained as correctional officers, and have relevant operational knowledge, are needed to meet the growing needs of the facilities.
3. ***The State of Delaware should consider the unique technology and equipment needs of the DOC and specific facilities.*** Given the unique roles and responsibilities of the DOC and its facilities, the State of Delaware should consider and support certain and reasonable budget requests for needed equipment and information technology systems. The Delaware offender management system (DACS) supplies critical information to all staff in the DOC and failure or lapses in its operation could have serious consequences.
4. ***The JTVCC should purchase equipment, such as cameras, that contribute to overall inmate, staff, and facility safety and security.*** While there are always budget limitations, requests to support critical equipment and technology needs should be prioritized to inform legislators which requests are deemed most critical. Many correctional institutions nationwide have more than one camera per housing unit with capabilities to not only record video, but also audio. These cameras are fed to a specific room on the compound where they are monitored in real-time, to provide continuous situational awareness of the entire facility and further contribute to institutional safety and security.
5. ***JTVCC civilian staff should be provided with radios or other devices to communicate with sworn correctional staff.*** It is both a concern and a potential liability that certain staff are not provided with a means of communication during their shifts. During the incident that began on February 1, 2017, many civilian staff did not know that an incident was occurring, or of its severity, until someone called them by telephone.

Recommendations from the preliminary report:

1. *With the review and approval of the newly appointed Warden, the Department should purchase all recommended cameras, recorders and related equipment necessary to adequately cover all of JTVCC as recommended by the recent review done by DTI and have the systems installed as soon as possible.*
2. *The Department must expedite the encrypting of all the radios (agency wide) to prevent this issue in the future.*
3. *The Department should be authorized the funding needed for the replacement of the offender information system known as DACS including Access Points and Active Port costs.*
4. *Delaware DOC should explore developing a policy and pilot test a Body Worn Camera program with their CERT Team. Based on this experience, the Department could expand the*

use of BWCs to officers who work in buildings where there are higher numbers of incidents and altercations (medium-high and high security).

Chapter 9. Inmate Health, Programs, and Resources

Overview

It is important for correctional executives and correctional officers to recognize that most incarcerated individuals will, at some point, be released from institutional confinement and free to reenter society. In fact, during any given year, approximately 600,000 – 700,000 individuals are released from state prisons to reenter society.¹⁸⁴ At present, corrections is among, if not, the component of the criminal justice system most directly involved in influencing reentry outcomes.¹⁸⁵

Reentry is the term used to describe the process of, as well as, the “issues related to the transition of offenders from prison to community supervision.”¹⁸⁶ The corrections profession has found itself overburdened and strained in the task of ensuring the safety, health, and wellness of an ever-increasing number of inmates.

Therefore, throughout the corrections profession, “a number of practitioners in the corrections field have embraced the challenge of rethinking their core functions through a reentry lens.”¹⁸⁷ Successful reentry, however, is the only way to begin to alleviate some of the pressure that mass incarceration has placed upon criminal justice institutions and facilities.

Observations

Required inmate medical and mental health services and processes are inconsistent at the JTVCC

“Delivery of health care is terrible. There are numerous delays. Inmates are not being seen for chronic care. Medical needs are not being met.”¹⁸⁸

Inmate access to medical and mental health services is mandated by the United States Supreme Court.¹⁸⁹ Also, meeting inmate medical and mental health needs makes facilities safer and more manageable. In interviews with inmates and staff at the JTVCC, the Independent Review Team

¹⁸⁴ E. Ann Carson and William J. Sabol, *Prisoners in 2011*, Bulletin (Washington, DC: Bureau of Justice Statistics, 2012), NCJ 239808, <https://www.bjs.gov/content/pub/pdf/p11.pdf>; Joan Petersilia, *When Prisoners Come Home: Parole and Prisoner Reentry* (New York: Oxford University Press, 2009).

¹⁸⁵ Jeremy Travis, “Reflections on the Reentry Movement,” *Federal Sentencing Reporter* 20, no. 2 (2007): 84-87.

¹⁸⁶ Joshua A. Markman et al., *Recidivism of Offenders Placed on Federal Community Supervision in 2005: Patterns from 2005 to 2010*, BJS Special Reports (Washington, DC: Bureau of Justice Statistics, 2016), NCJ 249743.

¹⁸⁷ Travis, “Reflections on the Reentry Movement,” 84 (see note 185).

¹⁸⁸ Independent Review Team interview with JTVCC staff member, July 17-21, 2017.

¹⁸⁹ *Estelle v Gamble*, 429 US 97 (1976) reh. den. 429 US 1066 (1977), and on remand 554 F2d 653 (5th Cir. 1977), reh. den. 559 F2d 1217(5th Cir.1977) and cert den. 434 US 974 (1977), accessed August 30, 2017, <https://www.law.uh.edu/healthlaw/perspectives/Privacy/030128HIPAAs.pdf>.

heard numerous complaints regarding the access, delivery, and quality of the healthcare services. Many individual correctional officers at the JTVCC understand the need for access to medical and mental health services. However, the entire facility must recognize the importance of inmate access to timely services and there must be a structure in place that ensures that inmate needs can be met in a timely and safe manner these services are not provided in a timely and safe manner at the JTVCC as well as throughout the DOC system.

During the course of this review, the Independent Review Team met with a number of staff members from the DOC health contractor. The staff members expressed their desire to provide quality health care despite the security concerns of working in a correctional facility. In fact, some staff members noted that they provide more care than the budget supports, but willingly do so in order to provide for the inmates. They also advised that some of their colleagues have since left because of additional security concerns stemming from the incident that began on February 1, 2017.¹⁹⁰

Within the JTVCC, access to proper medical attention has been hampered by many factors, including a lack of processes and challenges posed by the electronic health record system being used by the Delaware Department of Correction (DOC). Issues with parts of the system have required medical staff to manually enter inmate medication needs, prevented staff from accessing patient information, and caused disruptions in medication tracking, all of which delay or disrupt the provision of medical care in a timely and safe manner. Additional modules and patches have been added to address the issues with the system, but sometimes, without the technical support or training needed for contractual staff to adapt to the updates.¹⁹¹

In some cases, access to needed medical attention and services has been outranked in importance by concerns regarding facility safety and staffing needs. While safety concerns and staffing needs must be accounted for, inmate care cannot be prevented because of how a particular JTVCC employee may feel on a certain day. In some cases, inmates and correctional officers indicated that in the event of a staffing shortage, JTVCC administrators and supervisors would not assist in covering a post so that medical staff could be properly escorted through a housing unit. Instead, the executives and supervisors would relay the message that if there was nobody available to escort the medical staff through the housing unit there would be no medical care during that shift or day.

Finally, some medical bills are sent directly to inmates, rather than the healthcare contractor. Because most inmates do not have the ability to pay the potentially-costly bills for the services rendered, their unpaid bills are turned over to collections agencies for follow-up. This process can create confusion and be a significant obstacle to successful release and reentry into the community. It also affects the unpaid vendor or specialist, making them less likely to be willing

¹⁹⁰ Independent Review Team interview with DOC health contract staff members, July 17-21, 2017.

¹⁹¹ Ibid.

to provide services in the facility in the future, and further reducing the quality of the services provided.

The lack of programming is a result of the philosophy, not budgets, at the JTVCC

“We need to prepare these men to go home.”¹⁹²

“If the education isn’t accessible, then the jobs are not accessible either.”¹⁹³

The JTVCC civilian staff in the education, medical, and legal departments are short-staffed. As the inmate population grows, the demands for their services and programs continues to increase, but because they are limited in number and availability, these individuals are unable to meet the demands of the inmates. While the JTVCC administrators are correct to be concerned about the need for custody staff, it is similarly important that the staff who provide programs and opportunities not be forgotten, as they contribute to the day-to-day operations of the facility.

For example, the educational programming currently consists of 16 teachers assigned to the entire Delaware Department of Correction (DOC) from the Department of Education (DOE), offering approximately four hours of education per teacher per day.¹⁹⁴ This education is focused on fulfilling the requirements for an Adult Basic Education (ABE) certification, General Equivalency Diploma (GED), or high school degree. As in many other correctional institutions, the focus of this educational programming is heavy on trades and the opportunities available are in food service, construction, trucking, and hospitality industries. However, the Independent Review Team encountered many conflicting views about the value of inmate education and programming. The Independent Review Team learned that despite the DOE being responsible for providing the educational programming for the DOC, DOE staff, “does not want to change, does not want to accept the change in philosophy [within corrections towards rehabilitation].”¹⁹⁵ In recent years, a DOE contractor responsible for delivering education services had reportedly not been doing so, and as a result, there was a 14-month period in which GED education was not available to inmates.¹⁹⁶

Additionally, JTVCC staff advised the Independent Review Team that the facility’s previous administration executives simply did not support inmate programs.¹⁹⁷ Therefore, programs were steadily eliminated at the JTVCC, often with the administration executives citing financial reasons or concerns over whether programs were evidenced-based.¹⁹⁸ However, it became

¹⁹² Independent Review Team interview with JTVCC staff member, July 17-21, 2017.

¹⁹³ Independent Review Team interview with DOC executive, May 2, 2017.

¹⁹⁴ Independent Review Team interview with DOC executive, May 2, 2017.

¹⁹⁵ Ibid.

¹⁹⁶ Ibid.

¹⁹⁷ Independent Review Team interviews with JTVCC staff members, July 17-21, 2017.

¹⁹⁸ Ibid.

apparent to the Independent Review Team that unequal allocation of facility resources was the root cause. Correctional officers and other staff indicated that security was prioritized over programs, going so far as to say that, “all the money goes to ‘level V’ ...but there is no money left in the budget for programming at ‘level IV’.”¹⁹⁹

The lack of support for inmate programming remains apparent throughout all levels of JTVCC staff. Because of the attitude of administration executives, some correctional officers do not understand the value of programming and treatment for inmates, and worry that additional programming will further overburden them.²⁰⁰ These negative views towards programming, seem to be starkly at odds with Delaware DOC’s overall vision regarding programming and the vision of other DOC facilities such as Sussex. As one JTVCC correctional officers summarized, “I’m not sure what direction the department as a whole is moving.”

A recurring theme throughout the interviews conducted by the Independent Review Team, was how other facilities are managing to deal with the same budget challenges as the JTVCC and are still managing to keep programs running. As one correctional officer mentioned, “Sussex is doing it the right way.”²⁰¹ As an example, the warden at another DOC facility is self-funding inmate programming in unique and creative ways—by looking for staff who have vocational interests and an interest in working with inmates and hiring them to do the programming—the staff at the JTVCC have not been leveraged this way.²⁰²

The lack of rehabilitative programs and job opportunities negatively impacts inmates at the JTVCC

The general consensus among both inmates and staff is that the inmate population at the JTVCC does not have sufficient access to the educational, vocational, and substance abuse programs necessary to be able to work toward rehabilitation. While the JTVCC does offer some programs, inmates must be assigned to certain security classifications and housing units to be eligible to participate. However, the Independent Review Team was told that there are a number of inmates on waiting lists to participate in programs, even those programs that are court ordered.²⁰³ This inability to access rehabilitative programs and job opportunities significantly increases inmates’ likelihood of recidivism.

The lack of sufficient programming and access to opportunities at the JTVCC is also the source of a significant number of the inmate complaints received by the American Civil Liberties Union (ACLU) of Delaware. Inmates housed in the Security Housing Unit (SHU) and the Medium-High

¹⁹⁹ Independent Review Team interview with DOC executive, May 2, 2017.

²⁰⁰ Independent Review Team interview with a representative of the Correctional Officers Association of Delaware, May 1, 2017.

²⁰¹ Independent Review Team interview with JTVCC correctional officer, May 2, 2017.

²⁰² Ibid.

²⁰³ Independent Review Team interviews with JTVCC inmates and staff members, May 4-5, 2017, and July 20, 2017.

Housing Unit (MHU) do not have access to programs or to the prison library materials.²⁰⁴ Therefore, these inmates remain idle for the majority of the day. In fact, inmates pleaded, “we need jobs, we need programs,”²⁰⁵ to the Independent Review Team, and these pleas were corroborated by JTVCC staff who acknowledged, “these guys have nothing to do.”²⁰⁶ Inconsistent volunteer access between facilities may also hamper opportunities for inmates. In an interview with the Independent Review Team, a clergy member reported being able to enter other facilities without difficulty but was asked for additional requirements to enter the JTVCC.²⁰⁷

The significant amounts of idle time allow inmates ample time to devise, test, and refine plans to act out and obtain contraband. While the incident that began on February 1, 2017 continues to be the subject of investigation, there seems to be wide consensus that it was a planned event. Based on interviews and information gathered from both internal and external after-action reports reviewed by the Independent Review Team, it is likely that the building resentment that contributed to the incident that began on February 1, 2017 might have otherwise been released or redirected if they had been engaged in programming, education, and jobs to look forward to.

The JTVCC does not incentivize positive behavior

“[T]here is low reward (for inmates) for positive behavior and high reward for negative behavior.”²⁰⁸

In addition to fueling idleness, the lack of programming also reduces inmates’ opportunity to earn time off—also known as “good time credits”—from their sentences. These credits are acquired when an inmate completes a program or performs well at their prison job.²⁰⁹ However, with the lack of programming and the ability to earn “good credits” at the JTVCC the day-to-day routine is centered on getting through the day and avoiding being disciplined. It is important to note that correctional officers echoed the inmates’ sentiment—Independent Review Team interviews with JTVCC correctional officers conveyed that idleness is a problem, and that they would much rather see inmates working or learning job skills.²¹⁰ Many inmates were forthcoming in their assessment that there are no worthwhile incentives to demonstrate positive behavior because there are no “good time credits” to be earned.²¹¹ Some inmates went

²⁰⁴ Inmate letters forwarded by the ACLU and independent community groups to the Independent Review Team, May – August 2017.

²⁰⁵ Independent Review Team observations on site at the JTVCC, May 2, 2017.

²⁰⁶ Independent Review Team interviews with JTVCC staff members, July 17-21, 2017.

²⁰⁷ Independent Review Team interview with clergy member and volunteer in Delaware, July 21, 2017.

²⁰⁸ Independent Review Team interview with JTVCC staff member, July 19, 2017.

²⁰⁹ Independent Review Team interviews with JTVCC staff members, May 1-5, 2017.

²¹⁰ Independent Review Team interviews with JTVCC officers, May 4-5, 2017.

²¹¹ Independent Review Team interviews with JTVCC inmates, May 4, 2017, and July 20, 2017.

so far as to comment, “there was a lot less fighting when we had more programs.”²¹² Incentives for positive behavior are essential to encourage and reinforce desired behavior.

Incentivizing Good Behavior:

In recent years Departments of Correction in various states have introduced initiatives designed to provide inmates with incentives for good behavior. In 2004, the Arizona Department of Corrections implemented ‘Getting Ready,’ a program that uses a three-tiered system of graduated earned incentives, allowing inmates to earn certain rewards for good behavior over time. From 2004-2007, the program was found to decrease inmate assaults on other inmates by 46 percent, inmate assaults on staff by 33 percent, suicides by 67 percent, and sexual assaults by 61 percent.

Similarly, in Colorado, the state’s Department of Corrections has implemented incentive-driven initiatives that have been seen to decrease disciplinary violations. Colorado’s program has grown to include an Incentive Living Program available at facilities that house medium custody offenders where eligible inmates must meet certain behavioral and programmatic requirements and are offered additional privileges, programs, and responsibilities.



Arizona Department of Corrections



Sources: Dora Schriro, “Getting Ready: How Arizona Has Created a ‘Parallel Universe’ for Inmates,” *National Institute of Justice Journal* No. 263 (June 2009), <https://www.ncjrs.gov/pdffiles1/nij/226871.pdf>; Kirk Mitchell, “Limon prison incentive programs keep inmates in check,” *The Denver Post*, November 14, 2010, <http://www.denverpost.com/2010/11/14/limon-prison-incentive-programs-keep-inmates-in-check/>; and, Colorado Department of Corrections, Regulation Number 650-01, Incentive Living Program, <https://drive.google.com/file/d/0B4vYiI52TzO6TWw5cmZnbW1rNFk/view>.

Because inmates cannot earn privileges—such as extra time to watch television—there is little incentive to follow the rules. For example, during the summer months, temperatures in some of the housing units at the JTVCC reach upwards of 100 degrees. Hot, bored, and restless inmates are much more difficult to manage, and some engage in violent behavior just to be placed in an air-conditioned building like the SHU and MHU.²¹³

Even when the JTVCC implements a program that includes some progression of privileges between and within different security levels, many incentives fail to consider a totality of

²¹² Independent Review Team interview with JTVCC inmate, July 20, 2017.

²¹³ Independent Review Team interviews with JTVCC staff members, July 19-21, 2017.

circumstances. For example, the JTVCC recently incorporated a Residential Treatment Unit to provide inmates access to certain mental health programming, but while an inmate participates in the program, they may be required to give up a uniform that identifies them as lower security.²¹⁴

Actions taken by the State since February 2017

In July 2017, the *DOC Preliminary Progress Report (Provided in Response to the JTVCC Independent Review Preliminary Report)* was released. According to the report, the DOC is also an active participant in the Smart Pre-Trial Policy Working Group, which “seeks, in part, to reduce pretrial detention rates consistently with public safety.”²¹⁵ Engaging in coalition building with external community service providers is a promising strategy to preemptively provide programming and ease the burden on correctional facility programs.

In August 2017, the DOC released the *Department of Correction 2017 Strategic Plan: 90 Day Deliverables*. The DOC Strategic Plan includes the goal to “modify and expand education and job training opportunities for level 4 offenders,” and includes an articulated commitment to begin utilizing the Risk-Need-Responsivity assessment results to appropriately assign inmates to relevant programming.²¹⁶ The Strategic Plan also includes the vision, “to develop re-entry focused community corrections programs and facilities that provide treatment, education, and/or training programs to match offender needs.”²¹⁷ The new Bureau of Community Corrections (BCC) Chief—who has an impressive knowledge of evidence based correctional programming—explained that his first task is to ensure that field operations are incorporating evidence-based programs and methods, including at the JTVCC.

²¹⁴ Independent Review Team interview with JTVCC contractual staff member, July 20, 2017.

²¹⁵ *DOC Preliminary Progress Report* (see note 15).

²¹⁶ *Department of Correction 2017 Strategic Plan: 90 Day Deliverables* (see note 172).

²¹⁷ *Ibid.*

National Criminal Justice Reform Project:

In March 2017, the State of Delaware was selected to participate in the National Criminal Justice Reform Project to improve reentry services for inmates. The project supports planning and implementation of evidence-based reform. In Delaware, the project focuses on reducing recidivism and improving the reentry process, and improving access to mental health and substance abuse treatment for offenders in the state’s criminal justice system.

More information on the National Criminal Justice Reform Project can be found at <http://www.ncjp.org/ncjrp>. A draft system blueprint of the Delaware recidivism reduction system is displayed in Figure 4.



Source: “Delaware to Participate in National Criminal Justice Reform Project,” State of Delaware, March 27, 2017, <http://news.delaware.gov/2017/03/27/delaware-to-participate-in-national-criminal-justice-reform-project/>.

Recommendations

New Recommendations:

1. ***The DOC should conduct an independent assessment of the health care and mental health care provided at the JTVCC.*** Further examination is needed to understand the state of the delivery and quality of the healthcare services at the JTVCC. The review should focus on the current systems in place for determining if inmates are receiving the physical and mental health care that they are mandated to be provided, ensuring that medical staff are escorted through each housing unit at structured times, and determining if medical personnel and contractors have sufficient expertise and authority to be sure appropriate services are delivered in a timely and sufficient manner. The DOC review should also include determining if appropriate and effective incentives and penalties exist to encourage community standard-of-care services and ensuring that service providers work with the healthcare company to receive payment for their services instead of having to bill inmates. As part of the assessment, or in conjunction with it, the DOC should also have a third-party

with experience in electronic health records review the current electronic health records system.²¹⁸

2. ***Develop a strategic plan to prioritize the restoration and expansion of evidence-based programs and job opportunities at the JTVCC.*** Evidence-based programs and job opportunities provide inmates with the education, marketable skills, drug and/or alcohol rehabilitation, cognitive behavioral interventions, and other needed opportunities to increase their successful re-entry and decrease their likelihood of recidivism. In addition to helping eliminate inmate idleness, these programs and opportunities are typically powerful incentives for positive behavior.
3. ***Identify creative solutions, including working with JTVCC staff and counselors, to deliver inmate programming and opportunities.*** Given staff shortages, the DOC is considering hiring “casual/seasonal employees to work with BOP & OC (Planning and Research) to recruit volunteers who can be trained to administer CBT programming in the Level V facilities.”²¹⁹ However, as other DOC facilities have done, the JTVCC should consider leveraging staff and counselors to offer programs. Some of the counselors reported eagerness to offer programs, and indicated they could do so with a little training, saying, “many of us have advanced degrees, but we aren’t allowed to go to training to learn more progressive methods.”²²⁰ Likewise, some of the correctional officers indicated they would be willing to oversee certain programs.
4. ***Review contracts for behavioral health and substance abuse treatment programs to identify opportunities for cognitive behavioral interventions to be included in the delivery of services.*** Among the articulated goals of the *Department of Correction 2017 Strategic Plan: 90 Day Deliverables* is to, “increase capacity to provide cognitive behavioral therapy programming addressing criminal thinking patterns (in level 5 facilities) in response to clearly identified needs.”²²¹ The JTVCC, and the DOC at large, should review educational programming as some systems have successfully built cognitive behavioral components into their curricula.
5. ***The JTVCC must develop a system of privileges and incentives to encourage positive behaviors on the part of inmates.*** Developing a system of privileges and incentives that provides rewards—including being allowed to spend additional free time in the air-conditioned buildings—and further encourages positive inmate behavior would make inmates easier to manage and provide them opportunities to practice some of the skills and

²¹⁸ No member of the Independent Review Team has sufficient knowledge as to the sufficiency or quality of health care, be it general medical or mental health care, administered within the DOC. However, enough complaints were raised to believe an independent assessment of the current delivery of health care services should be undertaken.

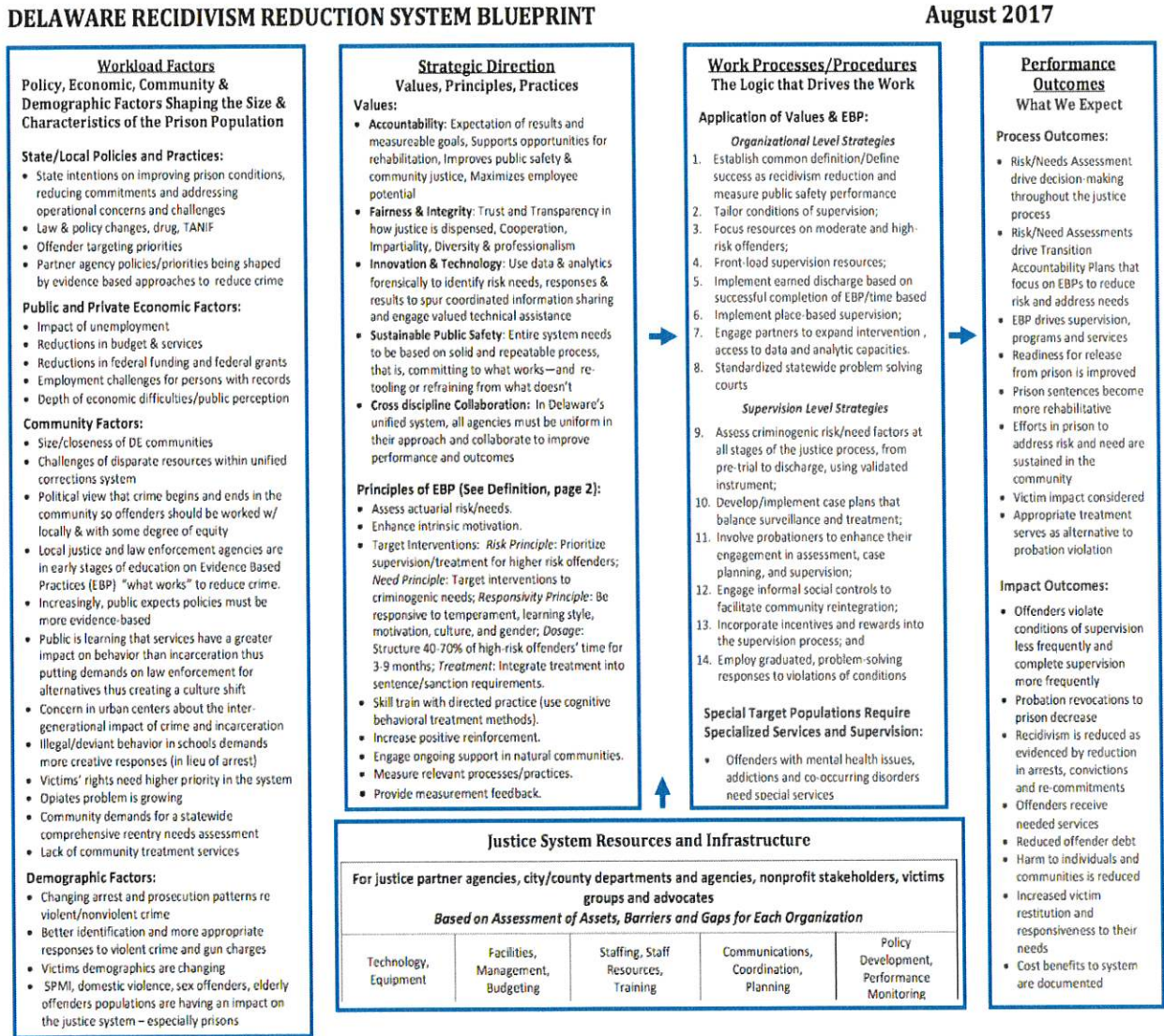
²¹⁹ *Department of Correction 2017 Strategic Plan: 90 Day Deliverables* (see note 172).

²²⁰ Independent Review Team interviews with JTVCC staff members, July 17-21.

²²¹ *Department of Correction 2017 Strategic Plan: 90 Day Deliverables* (see note 172).

behaviors they will need to succeed upon release. Additionally, positive inmates make the facility safer.

Figure 4: Delaware Recidivism Reduction System Blueprint²²²



²²² "Delaware Recidivism Reduction System Blueprint," provided to the Independent Review Team by Superior Court Judge, August 28, 2017.

Chapter 10. Building Trust and Legitimacy

Overview

An institutionalized culture of negativity exists at the JTVCC, in which administration executives, correctional officers, support staff, and inmates view one another as adversaries. The failure to demonstrate basic levels of respect and performance at multiple levels only works to foster resentment, model anti-social behavior and likely contributed, at least indirectly, to the incident that began on February 1, 2017.

As the *Final Report of the President's Task Force on 21st Century Policing* aptly notes, "any law enforcement organization can make great rules and policies that emphasize the guardian role but if policies conflict with existing culture, they will not be institutionalized and behavior will not change."²²³ This lesson is directly applicable to correctional organizations. Regardless of location and rank, the role of the staff in any correctional facility is to ensure the safety and security of inmates, staff, and overall operations. To this end, it is the responsibility of JTVCC administrators to ensure that they have the trust and legitimacy to effect positive change and that they expect the same of their staff.

Defining Procedural Justice and Legitimacy:

Procedural justice, "describes the idea that how individuals regard the justice system is tied more to the perceived fairness of the process and how they were treated, rather than to the perceived fairness of the outcome." Procedural justice directly contributes to the development and establishment of legitimacy, defined as "a property of an authority or institution [such as the police or corrections] that leads people to feel that the authority or institution is entitled to be deferred to and obeyed." In order to ensure procedural justice and increase legitimacy, individuals accused of violating the law (or a rule) must perceive that: 1) they are being treated fairly relative to others; 2) they are given the chance to explain or defend their behavior; and 3) their explanation is taken into account before any disciplinary action is taken.

Sources: Emily Gold and Melissa Bradley, "The Case for Procedural Justice: Fairness as a Crime Prevention Tool," *Community Policing Dispatch* 6, no. 9 (2013), https://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp; T. R. Tyler, "What is Procedural Justice?: Criteria Used by Citizens to Assess the Fairness of Legal Procedures," *Law and Society Review* 22, no. 1 (1988): 103-135; T.R. Tyler, *Why People Obey the Law* (New Haven, CT: Yale University Press, 1990); J. Sunshine and T.R. Tyler, "The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing," *Law & Society Review* 37, no. 3 (2003): 513-547.

²²³ President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015), http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf.

Observations

JTVCC administrators and leadership do not have the trust of the JTVCC staff

"[A]ny law enforcement organization can make great rules and policies that emphasize the guardian role but if policies conflict with existing culture, they will not be institutionalized and behavior will not change."²²⁴

An endemic lack of trust and legitimacy caused by adversarial relationships is evident throughout the staff at the JTVCC. In focus groups and individual interviews with correctional officers, the Independent Review Team was told that many staffing and promotional decisions are made based on friendships and promises, and that a dangerous level of complacency among supervisors and a high tolerance for disorganization on the part of JTVCC administrators has set in.²²⁵ This complacency and tolerance for disorganization has allowed for low levels of competency among staff, as some seem to be unaware of their job duties.²²⁶ At the same time, it has, according to interviews conducted by the Independent Review Team, allowed others to develop a feeling of superiority, operating in an unnecessarily strict and inflexible manner.²²⁷ Additionally, non-custodial staff reported feeling like, "the forgotten ones," because they are rarely involved in decision-making processes that impact them and are frequently dismissed as unimportant.²²⁸ In order to ensure the success of corrective actions, and the future of the JTVCC, it is important that the principles of building trust and legitimacy be prioritized.

The JTVCC inmate grievance system is dysfunctional and impacts the ability of inmates to trust the JTVCC staff

The Independent Review Team notes numerous complaints and negative comments from both staff and inmates regarding the grievance system at the JTVCC. The most common issues raised are: the burden of proof; the multiple grievance and appeals processes including separate grievance processes for food service, healthcare, operations, and disciplinary issues; and, slow responses to letters and complaints filed. This has all led to inmates characterizing the grievance processes as essentially "meaningless" or "a joke."²²⁹

²²⁴ Ibid.

²²⁵ Independent Review Team interviews with JTVCC staff members, July 17-21, 2017.

²²⁶ Ibid.

²²⁷ Inmate letters forwarded by the ACLU and independent community groups to the Independent Review Team, May – August 2017.

²²⁸ Independent Review Team interviews with JTVCC staff members, May 4-5, 2017.

²²⁹ Independent Review Team grievance hearing observations, July 19, 2017.

The levels of proof required of inmates are, in many cases, unreasonable and appear to be designed to ensure that an inmate rarely, if ever, wins a grievance on property issues. For example, the Independent Review Team was permitted to observe a grievance hearing over an allegation of an inmate's clock being broken during a cell shakedown. The burden of proof required the inmate to furnish a receipt identifying proof of ownership and a receipt proving that the clock was in working order at the time it was allegedly damaged. During another observed grievance hearing, the inmate was required to demonstrate that the towel he was claiming had been taken was his, despite the fact that marking of personal clothing and property with a name and identifier to indicate ownership would have been considered a rule violation subject to discipline. With seemingly impossible burdens of proof to meet, inmates have little faith in the process and feel that the JTVCC staff do not care about the safety and security of their belongings.

Similarly, the decision-making process for grievances at the JTVCC is of questionable validity. Two inmates and three JTVCC staff participate in the decision-making process, which automatically provides the staff the majority in any decision, a majority which the staff almost always uses to deny the grievance. The Independent Review Team also observed staff telling inmates to vote to uphold grievances—which staff indicated they were going to vote to deny—so that the inmates on the hearing would not be subject to any retribution from the inmate filing the grievance. Inmate participation, as it currently exists in this process, is entirely perfunctory and furthers the perception that the process is unfair.

On top of the hearing process being unfair, decisions made by the Regular Grievance Committee are not final, but rather are recommendations that are reviewed by a JTVCC administrator, who makes the final decision despite not participating in the hearing. Moreover, on the rare occasion that the grievance decision favors the inmate, one of the staff members that was on the committee and participated in the hearing is called in to the administrator's office to explain why they ruled in favor of the inmate, and then most rulings are reversed anyway. This undoubtedly contributes to the anger and frustration of inmates who already believe the process is stacked against them.

The Independent Review Team also heard a great deal of frustration regarding the length of time to receive responses to their letters and complaints. The timeframe can reportedly range anywhere from a week to several months.²³⁰

Actions taken by the State since February 2017

The identified issues related to trust and legitimacy were not included in the preliminary report and have not been specifically responded to by the JTVCC or the Delaware Department of

²³⁰ Inmate letters forwarded by the ACLU and independent community groups to the Independent Review Team, May – August 2017.

Correction. However, the appointment of the new warden and the new Bureau of Community Corrections (BCC) Chief—who has an impressive knowledge of evidence based correctional programming—is a commendable step towards rebuilding the trust and legitimacy at the JTVCC.

Recommendations

New Recommendations:

1. ***JTVCC administrators and leadership should adopt procedural justice as the guiding principle in their interactions with correctional staff in order to develop internal legitimacy.*** As the *Final Report of the President’s Task Force on 21st Century Policing* states, “when an agency creates an environment that promotes internal procedural justice, it encourages its officers to demonstrate external procedural justice.” Just as employees are more likely to take direction from management when they believe that management’s authority is legitimate, inmates will be more likely to cooperate with correctional officers when they believe their authority is legitimate.”
2. ***JTVCC correctional staff should similarly adopt procedural justice as the guiding principle in their day-to-day interactions with inmates.*** Correctional officers, much like law enforcement officers, have to strike a delicate balance between the enforcement of rules and their guardianship over inmates in order to ensure all around safe operations. As they issue warnings and citations and revoke privileges, it is important they ensure inmates are protected from undue harm and are being treated fairly and equitably. “A key factor in the social order of a prison is legitimacy of the prison regime in the eyes of the inmates . . . The legitimacy of authorities depends in large part upon the procedural fairness with which officers treat prisoners.”²³¹
3. ***The JTVCC should establish a culture of transparency and accountability in order to rebuild trust and legitimacy with inmates.*** Trust and legitimacy between correctional officer line staff and JTVCC leadership is a pre-requisite to making sure decision-making is understood and in accord with stated policy. It can be incorporated into many types of administrative processes (such as disciplinary processes and adverse incident debriefs) and even spur the development on new processes such as “good outcome” debriefs.
4. ***The JTVCC grievance processes and procedures should be reviewed and revised to be more efficient and fairer.*** The JTVCC and/or its designee should review the current JTVCC inmate grievance process and conduct a gap analysis against national evidence-based best practices to revise the system. Research on grievance processes and procedures in other states and in other DOC systems should be reviewed to gain insight into innovative and contemporary grievance processes. Specifically, a single, consistent grievance process for all inmate issues

²³¹ Jonathan Jackson et al., “Legitimacy and Procedural Justice in Prisons,” *Prison Service Journal* 191 (2010): 4-10.

and concerns should exist. The burden of proof in these cases should be a standard and reasonably met by the individual filing the grievance. The Regular Grievance Committee should be structured in a way that provides the inmate a realistic opportunity to win hearings, should the committee decide. The current structure puts inmates in an awkward and risky position and provides little actual meaning. The appeals process should also be reviewed to remove the sole decision-making authority from someone who did not observe the hearing. Inmates are allowed very few possessions and the current system places unnecessary obstacles in the way of properly accounting for their property, creates needless opportunities for conflict, and contributes to the lack of legitimacy inmates afford JTVCC staff and administration executives. For example, keeping inventories of inmate property rather than requiring inmates to retain their receipts for years to prove they own an item, and allowing inmate clothing and towels to be marked in a standardized manner to prove ownership could help to dispel some conflict and grievances.

Conclusion

For years, excessive mandated overtime and fatigue; the inconsistent application of policies and procedures; inconsistent management; and, the lack of communication, adversarial relationships, and a general lack of respect at all levels of the JTVCC have contributed to poor correctional officer morale and increasing hostility between inmates and correctional officers. At the same time, the lack of inmate programming and training and the inconsistent application of policies has worsened inmate morale, and left them with extensive amounts of idle time in which to plan disruptive, dangerous, and deadly acts. All of these issues culminated into two inmate uprisings in two weeks at the JTVCC, the second (the incident that began on February 1, 2017) ended with one sergeant killed and other correctional personnel injured.

Throughout this independent review process, JTVCC staff recounted numerous instances wherein prison management failed to act to prevent, defuse, or address concerns raised regarding by correctional staff regarding potentially dangerous inmates and unprofessional staff. The Independent Review Team also heard complaints from focus groups and individual interviews with, and letters written by, inmates, advocates, and attorneys. A review of policy coupled with information gathered from JTVCC staff and inmates, points to procedural inconsistencies, the use of shaming tactics and verbal and physical abuse at the hands of some correctional officers, lack of programming and adequate medical care, and an ineffective grievance system. Left unattended, these issues will continue to provide a fertile ground for violent incidents in the JTVCC.

The observations and recommendations herein are provided not as an indictment of any person or institution, but rather, as a learning opportunity by identifying changes to systems and decision points that promise to improve the JTVCC environment.

Administrators at the JTVCC, the DOC, and the State of Delaware are to be commended for acknowledging the severity of the incident that began on February 1, 2017 and the environment in which the incident was able to occur, and taking steps to correct the issues that directly and indirectly contributed.

There is still much work to be done. We strongly encourage the Delaware DOC to also engage with other states, such as New York, Maryland, and Virginia, and research innovative corrections approaches being used in these states and elsewhere. This research can help to identify evidence-based promising and best practices that are working to improve their corrections outcomes, and could be tailored to work in Delaware. Continuing to make changes to enhance the culture at the JTVCC and throughout the DOC facilities will result in a safer, and more secure environment for staff and inmates. Continuing conversations with the JTVCC staff, DOC and stakeholders over time will be vital in rebuilding an environment with trust, procedural justice, and legitimacy that will address critical security issues and facilitate a process of healing.

Acronym List

ACA	American Correctional Association
ACLU	American Civil Liberties Union
BOP	Bureau of Prisons
BWC	Body Worn Cameras
CERT	Correctional Emergency Response Team
CIT	Crisis Intervention Training
CLASI	Community Legal Aid Society, Incorporated
COAD	Correctional Officers Association of Delaware
DACS	Delaware Automated Correctional System
DOC	Delaware Department of Correction
DTI	Delaware Department of Technology and Information
JTVCC	James T. Vaughn Correction Center
MHU	Medium-High Housing Unit
OMB	Office of Management and Budget
PREA	Prison Rape Elimination Act
SHU	Security Housing Unit
STG	Security Threat Group
SMI	Seriously Mentally Ill

Glossary

American Correctional Association (ACA)—A private, nonprofit organization that administers the only national accreditation program for all components of adult and juvenile correction; purpose is to promote improvement in the management of correctional agencies through the administration of a voluntary accreditation program and the ongoing development and revision of relevant, useful standards. (11-A-06, Statewide Quality Improvement Program).

Classification—Prison classification is a method of assessing inmate risks that balance security requirements with program needs. Newly admitted inmates are transported from city or county jails to a prison receiving center where the risk assessment process begins.

Correctional Officer—An officer responsible for the custody, safety, security, and supervision of inmates in a prison or any other correctional facility.

Contraband—Anything that is not authorized on the grounds of the JTVCC.

Delaware Automated Correctional System (DACS)—A State of Delaware computer system containing the non-medical offender information concerning sentencing, housing, and programming.

Detainee—A person held in custody pending trial; not convicted of a crime but does not have bail or is being held without bail.

Grievance—A written complaint or petition, either informal or formal, by an inmate concerning an incident, procedure, or condition within an institution, facility or the Department which affects the inmate complainant personally.

Honor visit—Specialized privilege arranged by a housing unit counselor. Inmates must fulfill certain criteria to be eligible for an Honor visit. The visit is held outside in a picnic area with the inmate and his visitors. The visitors are allowed to bring “outside” food to the visit after being searched to dine with the inmate at the visit.

Muster—Also known as roll call, is a briefing where supervisors take attendance, inspect uniform and equipment, inform the oncoming shift of any outstanding incidents that may have occurred, inform officers of inmates or units to observe closely, related any law or procedural changes, and other similar issues.

Post Orders—Post orders are written documents that clearly outline duties, responsibilities, and expectations of officers while they are assigned to that post.

Pre-Hearing Detention (PHD)—Confinement of an offender until an investigation is completed or a hearing scheduled. Such detention shall not be punitive and should be used only when necessary to ensure the offender’s safety or the security of the institution.

Recreation—Recreation is time outside of the cell, not showering, or cleaning up; at a minimum recreation should be one hour three times a week.

Roll Call—A roll call is a briefing where supervisors take attendance, inspect uniform and equipment, inform the oncoming shift of any outstanding incidents that may have occurred, inform officers of inmates or units to observe closely, related any law or procedural changes, and other similar issues.

Shakedown—A thorough search of a prison cell to uncover contraband and excessive property.

Watch Commander—A BOP employee of rank of Lieutenant or higher with supervisory responsibilities over the entire facility during any shift or tour of duty.

Appendix A: Full Listing of Recommendations

Recommendation 3.1: Prioritize programs and strategies that facilitate a more positive culture amongst JTVCC staff and between JTVCC staff and inmates.

Recommendation 3.2: Review and rewrite job descriptions and promotional standards to reflect the skills and knowledge required to enhance staff behavior and facility culture.

Recommendation 3.3: JTVCC administrators should discontinue the practice of policy revision/implementation by e-mail or verbal communication.

Recommendation 3.4: The DOC Commissioner should review the practices of masked mass shakedowns by CERT.

Recommendation 3.5: The DOC Commissioner should assert the primacy of central office over the facilities.

Recommendation 3.6: Evidence-based programs and trainings should be prioritized for all levels of leadership at the JTVCC.

Recommendation 4.1: To the extent possible, reduce reliance on mandatory overtime and limit the number of overtime hours per week for employees at the JTVCC.

Recommendation 4.2: JTVCC administrators should identify evidence-based programs and practices that address officer safety and wellness in correctional facilities.

Recommendation 4.3: The JTVCC must evaluate its timekeeping practices to ensure they adhere to state and federal labor laws.

Recommendation 4.4: JTVCC administrators should compel participation in critical incident debriefings or post-incident counseling not only for those directly involved but also for those not involved.

Recommendation 4.5: DOC and JTVCC administrators should mandate officer safety and wellness training for all correctional officers on a regular basis.

Recommendation 5.1: All JTVCC employees should be required to sign a document indicating that they have read the DOC and the JTVCC Policies and Procedures identified by their superiors, as soon as possible, and should also be required to sign a copy of each policy or procedure update.

Recommendation 5.2: Officers assigned to a specific post should be required to sign off on the post orders upon assuming the post.

Recommendation 5.3: Policies, procedures, and post orders should continue to be reviewed, revised, and updated annually.

Recommendation 5.4: Identify, and implement, security level and program classification systems that are effective and evidence-based.

Recommendation 5.5: JTVCC administrators and leadership should provide documentation with specific explanations for overriding security level classifications and other security-based decisions made by staff.

Recommendation 5.6: Establish a Contraband Introduction Unit (CIU) at the JTVCC.

Recommendation 6.1: The Delaware DOC should expedite the implementation of the 16 hours of “in the seat” training and reduce the number of online training hours.

Recommendation 6.2: Individual DOC facilities should be able to tailor aspects of the annual in-service training to their specific needs.

Recommendation 6.3: Ensure that training courses prioritize topics and courses that are essential to operating a 21st Century correctional facility that focuses on rehabilitation.

Recommendation 6.4: Prohibit training from being conducted while on post.

Recommendation 6.5: The JTVCC should expedite the creation of a field training officer (FTO) program, link it to other leadership development and upward mobility opportunities, and ensure that qualified applicants are selected.

Recommendation 6.6: Require that all DOC training instructors complete train-the-trainer courses from an accredited agency such as the National Institute of Corrections (NIC) or the American Correctional Association (ACA).

Recommendation 7.1: The JTVCC should continue to test communication channels and immediately address identified issues.

Recommendation 7.2: JTVCC administrators and all levels supervisors should build relationships and regularly communicate with one another to share promising practices.

Recommendation 7.3: JTVCC administrators and all levels of supervisors should receive training in communication skills.

Recommendation 7.4: Require employees to enter in, and read, information into DACS at the beginning and end of each shift.

Recommendation 8.1: The DOC should prioritize the replacement/upgrade of the hardware/server infrastructure used to operate DACS, including accounting for addition Access Points and Active Port costs.

Recommendation 8.2: DOC should authorize additional Correctional Officer Technician positions for IT support throughout their facilities.

Recommendation 8.3: The State of Delaware should consider the unique technology and equipment needs of the DOC and specific facilities.

Recommendation 8.4: The JTVCC should purchase equipment, such as cameras, that contribute to overall inmate, staff, and facility safety and security.

Recommendation 8.5: JTVCC civilian staff should be provided with radios or other devices to communicate with sworn correctional staff.

Recommendation 9.1: The DOC should conduct an independent assessment of the health care and mental health care provided at the JTVCC.

Recommendation 9.2: Develop a strategic plan to prioritize the restoration and expansion of evidence-based programs and job opportunities at the JTVCC.

Recommendation 9.3: Identify creative solutions, including working with JTVCC staff and counselors, to deliver inmate programming and opportunities.

Recommendation 9.4: Review contracts for behavioral health and substance abuse treatment programs to identify opportunities for cognitive behavioral interventions to be included in the delivery of services.

Recommendation 9.5: The JTVCC must develop a system of privileges and incentives to encourage positive behaviors on the part of inmates.

Recommendation 10.1: JTVCC administrators and leadership should adopt procedural justice as the guiding principle in their interactions with correctional staff in order to develop internal legitimacy.

Recommendation 10.2: JTVCC correctional staff should similarly adopt procedural justice as the guiding principle in their day-to-day interactions with inmates.

Recommendation 10.3: The JTVCC should establish a culture of transparency and accountability in order to rebuild trust and legitimacy with inmates.

Recommendation 10.4: The JTVCC grievance processes and procedures should be reviewed and revised to be more efficient and fairer.

Appendix B: Methodology

In February 2017, at the request of Governor John Carney and his Executive Order to launch an independent review into the security of the James T. Vaughn Correctional Center (JTVCC), the Police Foundation (PF) created an Independent Review Team. The Team, comprised of subject matter experts in corrections and public safety and critical incident response, developed and executed a comprehensive methodology to critically review and assess the incident and circumstances leading up to it in order to develop lessons learned and recommendations for improvement for the JTVCC, the Delaware Department of Correction, and the State of Delaware. Sources and types of information included: site visits to the JTVCC to get a sense of the facility; focus groups of JTVCC correctional officers and inmates and interviews with key stakeholders to gain perspectives from those involved and affected; document reviews; and literature and media coverage reviews. The following sections detail the Independent Review Team's methods.

On-site data collection

Site Visits

The Independent Review Team conducted three site visits: May 1-5, 2017; May 18-19, 2017; and, July 17-21, 2017. During the months of May through August, the team interviewed more than 120 people, individually and in focus groups. Those interviewed included the following:²³²

- Secretary of Safety and Homeland Security
- Commissioner, Department of Corrections
- Bureau Chief of Prisons, Department of Corrections
- Current Warden, JTVCC
- Former Warden, JTVCC
- Major, Delaware State Police
- JTVCC administrators
- JTVCC Supervisors
- JTVCC Correctional Officers
- JTVCC Civilian Staff
- JTVCC Contractual Staff
- JTVCC Inmates, housed in multiple security levels
- Community Leaders/Group Representatives

²³² Number includes interviewees who were DOC employees as of February 1, 2017. Some interviewees may have retired or otherwise left the department by the date of report release.

Materials collection and review

The Independent Review Team collected and reviewed numerous documents, data, reports, letters and other materials from the State of Delaware and community members through materials requests as well as collection of materials while on site. Review of these documents assisted in identifying findings and recommendations. Materials reviewed included the following:

- Department of Correction and James T. Vaughn Correctional Center policies and procedures
- Letters from JTVCC inmates and families of inmates
- Video of interviews with JTVCC staff
- Use of force reports
- Staffing-related assignments, plans, and reports
- Training materials
- Equipment inventories and plans
- Grievance-related logs and documents

Off-site data collection

Literature review

In addition to the information collected while on site, the Independent Review Team collected and reviewed relevant literature and media to critically assess the events surrounding the incident that began on February 1, 2017, and related security issues.

Media analysis

The incident that began on February 1, 2017, death of a correctional officer, and subsequent events at the JTVCC were reported on television, the Internet, and social media. The Team read articles and reviewed other relevant media postings, websites, and audio.

Analysis

Based on the on- and off-site data collection and analysis, the Independent Review Team evaluated policies, procedures, practices and technology at the facility and within the JTVCC and the DOC that likely contributed to the incident that began on February 1, 2017. These and other related areas of focus were identified and used to develop the foundation for the observations and recommendations in this report.

Development of Recommendations

The analysis of key focus areas provided a foundation from which to develop findings and recommendations for improving security concerns at the JTVCC that can be used by the State of Delaware to take actions that can help prevent similar incidents in the future.

Appendix C: About the Team

Appointed Independent Reviewers

The Honorable William L. Chapman, Jr., is currently Chief Talent and Diversity Officer and Senior Counsel at Potter Anderson & Corroon. Originally from New York City, Judge Chapman came to Delaware as a Deputy Attorney General for the Delaware Department of Justice after receiving his A.B. from Brown University in 1983 and graduating from Georgetown University Law Center in 1986. He has served the State as a Family Court judge for the past twenty years and has been active in the community through organizations such as The Walnut Street YMCA, Big Brothers, Big Sisters of Delaware and St. Michael's School & Nursery.

The Honorable Charles M. Oberly, III, served as United States Attorney for the District of Delaware from 2010 to 2017 and has served as Attorney General of Delaware from 1983 to 1995. Originally from Delaware, U.S. Attorney Oberly received his B.A. from Pennsylvania State University in 1968 and his J.D. from University of Virginia School of Law in 1971.

Police Foundation Team

Chief Frank Straub (Ret.), PhD, director, strategic initiatives, provided on-site project management, coordinating the work of subject matter experts and providing law enforcement guidance and expertise to the project. He managed the document review process and worked to ensure that all on- and off-site decisions and activities met project goals. A 30-year veteran of law enforcement, Dr. Straub currently serves as the Director of Strategic Studies for the Police Foundation, where he works on Critical Incident Reviews including the San Bernardino terrorist attack—and the resulting report *Bringing Calm to Chaos*—and the Orlando Pulse shooting (in progress). Dr. Straub last served as the Chief of the Spokane (WA) Police Department. Dr. Straub has also served as the Director of Public Safety for the City of Indianapolis and as the Public Safety Commissioner for the City of White Plains, New York. Dr. Straub previously served as the Deputy Commissioner of Training for the New York City Police Department, and as a federal agent. He holds a Ph.D. in Criminal Justice, from the City University of New York's Graduate Center, an M.A. in Forensic Psychology from John Jay College of Criminal Justice, and a B.A. in Psychology from St. John's University. Dr. Straub is a Non-Resident Fellow at the Combating Terrorism Center at West Point.

Jennifer Zeunik, director, programs, provided overall project structure and oversight. She worked with project staff in driving toward goals and deliverables and coordinated activity of on- and off-site staff and subject matter experts. She also served as a writer, editor, and quality control manager on the preliminary and final reports, ensuring report cohesion and clarity. Ms. Zeunik has 20 years of public sector and nonprofit program management experience, working closely with all levels of government. In her career, Ms. Zeunik has provided strategic management expertise to criminal justice clients focused on justice policy research, business

development activities, program management, strategic planning, training and technical assistance management, and development of strategic communications. She served as a lead writer on numerous published reports throughout her career, including the *IACP National Policy Summit on Community-Police Relations: Advancing a Culture of Cohesion and Trust* report as well as the COPS Office-funded Police Foundation *Collaborative Reform Initiative: An Assessment of the St. Louis County Police Department* and the San Bernardino terrorist shooting critical incident review, *Bringing Calm to Chaos*.

Roger Werholtz, corrections subject matter expert, provided corrections subject matter expertise to the project. Mr. Werholtz is the former Interim Executive Director for the Colorado Department of Corrections, where he oversaw a budget of more than \$825 million and a workforce in excess of 6,000 people. Mr. Werholtz has also served in various senior executive positions within the Kansas Department of Corrections, including as Secretary of Corrections from 2002 to 2010. Mr. Werholtz received a M.S.W. with an emphasis in Social Service Administration, Management, and Evaluation from the University of Kansas, and a B.A. in English and Theater from Washburn University.

Robert May, corrections subject matter expert, provided corrections subject matter expertise to the project. Mr. May has more than 40 years of criminal justice and corrections experience, including 12 years as chief criminal investigator and lieutenant in county and state law enforcement agencies, at the University of Maryland at Baltimore Police and Washington County Sheriff's Department, Maryland. Mr. May currently serves as Assistant Director for Program and Technology Services at the IJIS Institute. Before joining IJIS, Mr. May held a number of leadership positions with organizations including the Criminal Justice Institute, Association of State Correctional Administrators, JBS International, National Treatment Alternatives for Safer Communities, SocioTechnical Research Applications, and the American Jail Association. Mr. May has graduate studies from the Federal Bureau of Investigation, and received a B.S. in Behavioral Science with a minor in Criminal Justice from the University of Maryland, College Park.

Joyce Iwashita, project assistant, provided on- and off-site coordination and general project support including report writing and editing. She supports projects such as Collaborative Reform, Critical Incident Reviews, and the Police Data Initiative. Before joining the Police Foundation, Ms. Iwashita supported the Herbert Scoville Jr., Peace Fellowship, and interned with the U.S. Senate, U.S. Department of Veterans Affairs, and National Criminal Justice Association. A Harry S. Truman Scholar, Ms. Iwashita received her B.A. in Economics from Lewis & Clark College in Portland, Oregon.

Michelle Phillips, project associate, provided on- and off-site project support as well as document writing, review, and editing. Ms. Phillips received a M.S. in Criminal Justice with a specialization in Law and Courts from the University of Baltimore and a B.S. degree in Criminal Justice, with a minor in Applied Psychology, from Coppin State University. Ms. Phillips has previous work experience as a correctional officer for the Maryland Department of Public

Safety and Correctional Services. Ms. Phillips has worked on federally funded research projects to include areas such as public health and safety, community policing, and reentry.

Maria Valdovinos, research associate, provided on- and off-site project support as well as document writing and editing. Ms. Valdovinos came to the Police Foundation from the Federal Bureau of Investigation, where she served as a research fellow and provided research, analytical, and project management support to projects focused on targeted violence on college campuses and police officer wellness. She has training in both qualitative and quantitative research methods, an academic background on the social, cultural, and organizational determinants of health, and project management experience in research on police organizations and within correctional institutions. At the Foundation, Ms. Valdovinos works on a portfolio of projects focused on safety, health, and wellness among correctional personnel and incarcerated persons. Ms. Valdovinos has a B.A. from Northwestern University and an M.A. from George Mason University, where she is currently pursuing her Ph.D. in Sociology with a focus on the criminal justice system, corrections, and reentry.

Ben Gorban, policy analyst, provided off-site input project support as well as document writing, review, and editing. Mr. Gorban is a policy analyst with more than eight years of experience supporting law enforcement–related projects including the provision of technical assistance and policy analysis support on projects related to countering violent extremism, community policing, and the role of social media in law enforcement. Mr. Gorban’s areas of expertise include research, resource development, and information dissemination. He received his M.S. in Justice, Law, and Society from American University in 2011 and his BA in both Philosophy and Justice, Law, and Society from American University in 2009.

Appendix D: About the Police Foundation

The Police Foundation is a national nonmember, nonpartisan, nonprofit organization that has been providing technical assistance and conducting innovative research on policing for nearly 45 years. The professional staff at the Police Foundation work closely with law enforcement, community members, judges, prosecutors, defense attorneys, and victim advocates to develop research, comprehensive reports, policy briefs, model policies, and innovative programs. The organization's ability to connect client departments with subject matter expertise, supported by sound data analysis practices, makes us uniquely positioned to provide critical incident review, training and technical assistance.

The Police Foundation has been on the forefront of researching and providing guidance on community policing practices since 1970. Acceptance of constructive change by police and the community is central to the purpose of the Police Foundation. From its inception, the Police Foundation has understood that in order to flourish, police innovation requires an atmosphere of trust; a willingness to experiment and exchange ideas both within and outside the police structure; and, perhaps most importantly, a recognition of the common stake of the entire community in better police services.

The Police Foundation prides itself in a number of core competencies that provide the foundation for critical incident reviews, including a history of conducting rigorous research and strong data analysis, an Executive Fellows program that provides access to some of the strongest thought leaders and experienced law enforcement professionals in the field, and leadership with a history of exemplary technical assistance program management.

Other Police Foundation critical incident reviews include:

- [Managing the Response to a Mobile Mass Shooting: A Critical Incident Review of the Kalamazoo, Michigan, Public Safety Response to the February 20, 2016, Mass Shooting Incident](#)
- [Maintaining First Amendment Rights and Public Safety in North Minneapolis: An After-Action Assessment of the Police Response to the Protests, Demonstrations, and Occupation of the Minneapolis Police Department's Fourth Precinct](#)
- [Bringing Calm to Chaos: A critical incident review of the San Bernardino public safety response to the December 2, 2015 terrorist shooting incident at the Inland Regional Center](#)
- [A Heist Gone Bad: A Police Foundation Critical Incident Review of the Stockton Police Response to the Bank of the West Robbery and Hostage-Taking](#)
- [Police Under Attack: Southern California Law Enforcement Response the Attacks by Christopher Dorner](#)

Appendix E: Inmate Letters from the JTVCC

The Independent Review Team received and reviewed hundreds of letters from current or former JTVCC inmates, as well as from their relatives, friends and attorneys. They also received and reviewed letters from groups, including the American Civil Liberties Union (ACLU), the Delaware Coalition for Prison Reform and Justice, The Link of Love Support Group, and the NAACP Prison Chapter 2032 on behalf of JTVCC inmates. The team also interviewed several inmates and held inmate focus groups during site visits to the JTVCC. The inmates allege mistreatment by correctional officers at the JTVCC, specifically CERT officers, including physical and verbal abuse, asserting that officers intentionally destroyed their property and legal papers as a form of retaliation for the February 1st incident. Other letters address problems with the JTVCC grievance process, contending that the practice and procedure is unfair.

The Independent Review Team believes that it is important that this report give voice to those concerns as a critical perspective explored for this independent review.

Excerpt from an inmate letter received by the ACLU March 2017; referencing alleged actions by the CERT team at JTVCC on March 9, 2017.

observe the comings and goings from this building. On March 9th approximately starting at 5 pm, recreation was cancelled due to an institutional lockdown. 10 pm, inmates observed the CERT (Corrections Emergency Response Team) escort the first inmate down the walkway, hunched over at the waist, handcuffed by three guards, one on each side and one behind them with the pepper ball, bean bag gun. From then until about 12am, about nine inmates were escorted to the hole, hung over in pain, spit gags over their heads, no shoes, barefoot and barely clothed, dragging these men down the walkway. You could clearly see that the individuals were in great pain. The CERT are responsible for most of the assaults on the inmates. And the kicker? No medical staff were in sight. These inmates were bloody and all.

Excerpt from an inmate letter received by the ACLU March 2017; specifically addressing the classification decision process.

Classification J.B.C.C. Board member [REDACTED]
The follow and recommend whatever security ask for. If the board so happen to give you a lesser security they do it while knowing the Wardens will simply "VETO" their decision. An officer can easily and routinely do Fabricate an incident report to cause an offender to be moved to higher security because of some type of personal animosity. The board simply reviews the Paperwork in front of them and make an recommendational without ever given the offender a chance to speak.

Excerpt from an inmate letter received by a Delaware Reverend March 1, 2017; alleging that CERT team members perform "masked" mass shakedowns.

On 2-27-17, the prison brought their Cert team through for a "shake down". These men and women wore mask and no name tags. So that they could not be identified.

Excerpt from an inmate letter received by the ACLU March 2017; specifically addressing the alleged mistreatment of inmates by correctional officers.

The real problem is the constant concern of mistreatment, harassment, disrespect of the inmates, not to mention the assaults that the CO's demonstrate on the inmates that NEVER get heard of. The people meaning the inmates here at J.T.V.C.C. not only agree to a federal investigation to avoid the state from try to sweep the situation under the rug but also for the warden down to be changed because not only the CO's are responsible but mainly the warden, deputy warden, commissioner are the main ones responsible because the situation could of been avoided had they paid attention of the concerns and grievances of the inmates instead of ignoring them.

Excerpt from an inmate letter received by the ACLU July 2017; specifically alleging "unjust practices" at the JTVCC that contributed to the uprising.

There's a major misconception of what transpires here at JTVCC. The hostage incident I can assure you was not the result of any one specific or personal confrontation, but a build up of many of the unjust practices in this prison. We've related our grievances to Administration here and to the higher ups in Dover numerous times without any acknowledgement or concrete results.

Excerpt from an inmate letter received by the ACLU February 2017; alleging unprovoked use of less lethal force in other housing units, days after the C-Building uprising.

4. CELL DOOR AFTER CELL DOOR WAS APPROACHED, AND, WITHOUT PROVOCATION MACE / CAPSTUN WAS SPRAYED, IMMEDIATELY FOLLOWED BY THE SOUND OF INMATES HOWLING IN PAIN AS BODIES WERE HEARD AUDIBLY BEING SLAMMED AROUND CELLS.
5. ALONG WITH THE YELLING OF SEVERAL INMATES SCREAMING OUT, "I'M NOT DOING ANYTHING," THE RAUCOUS LAUGHTER, "HOOTS", AND MOCKING HOLLERING OF GUARDS WAS ALSO HEARD. THIS, ACCOMPANIED BY, "MAN UP BITCHES, IT'S PAYBACK TIME"; "FUCKING FAGGOTS... ASSHOLES"; "YALL THOUGHT IT WAS OVER...", ETC.. BY GUARDS.

Excerpt from an inmate letter received by a Delaware Reverend (no date provided); alleging inmate concerns prior to the February 1st incident went unanswered, ultimately resulting.

The 18-hour prison hostage situation three weeks ago that ended with [REDACTED] dead could have been avoidable had the unit manager investigated the inmates concerns seriously.

A pay raise will not correct the poor management issues that plague JTVCC

Excerpt from an inmate letter received by a Delaware Reverend (no date provided); alleging inmate concerns prior to the February 1st incident went unanswered, ultimately resulting.

The entire top brass were cavalier and dismissive of our issues. This non-observant attitude and lack of oversight allowed many aforementioned officers to function and operate with the mindset of impunity. The entire top brass supported, encouraged, and fostered the policies that - then Warden - Commissioner Phelps implemented to degrade and dehumanize the inmate class. Many of the aforementioned officers in collecting and implementing Phelps policies have either been a direct participant in causing serious bodily or mental harm to members of the inmate class or the direct beneficiary of the abuse or excessive force. Some of policies include; half-rations in shu 18, cell extractions, transfer to solitary for minor infractions, being found guilty of fabricated offenses etc..

Excerpt from an inmate letter received by a Delaware Reverend March 2017; addressing the fact all correctional officers do not have "malice in their hearts" and all inmates are not "savages."

Sure, not all C.O.'s have malice in their hearts and we know this, but they must understand, that not all inmates are savages. We are a people who made lawless mistakes in the presentation of our past lives, but we have already been condemned, prosecuted, and punished for our actions; so there is no need for D.O.C to oppress us with unnecessary and unconstitutional treatment. In the prejudice and blind eyes of the free world (society), Correctional officers are super heroes, but we live inside a different reality, and in our reality, C.O.'s are our living nightmare... we suffer greatly inside our captivity.

Excerpt from an inmate letter received by a Delaware Reverend (no date provided); alleging that correctional officers at the JTVCC are not professional and "lack respect" and allegations of the disciplinary process at the JTVCC not following regulations.

Correctional Officers are unprofessional, lack admiration and respect for the offender.

The Department rules and regulations governing the disciplinary proceedings is that of a kangaroo court.

The Department rules and regulations governing the grievance proceedings is a sham. The Major always override the Board favorable vote.

Excerpt from an inmate letter received by a Delaware Reverend March 2017; alleging that inmates in C-Building had a peaceful demonstration prior to February 1st to address some of the allegations of mistreatment of inmates by staff.

I was involved in the original demonstration in C-Building reasons for, because guards/CO's not only talked down to you because you're a inmate but also the abuse of authority, not allowing us to take showers after recreation, implementing there own rules. These issues here have constantly been brought up by complaining to Lt's and filings of grievances but the grievance process here is only one sided and that's for the CO's only. This is not only a C-building thing it's also the rest of the jail where these things are happening.

Excerpt from an inmate letter received by the June 2017; alleging that supervisors do not conduct regular security rounds in their assigned areas and allegations of abuse and mistreatment from the correctional officers towards inmates.

C-building Staff: LT. [REDACTED] and LT. [REDACTED] were the area LT's they were hardly ever seen. They were inaccessible to prisoners and often ignored letters and request for one-on-one conversations. % [REDACTED]; % [REDACTED], and % [REDACTED] work 8 to 4 were the most AGGRESSIVE, confrontational, disrespectful, and verbally abusive staff ever assemble. Only worst were the 4 (four) horsemen (LT. [REDACTED], LT. [REDACTED], LT. [REDACTED], and LT. [REDACTED]). C-building 8 to 4 was a daily exercise of human degradation; % [REDACTED] would "spit" on inmates, hang on their phone calls, use profanity towards. % [REDACTED] and % [REDACTED] at their whim when the...

In a March 22, 2017 letter, the ACLU urged the Independent Review Team to conduct an examination of the way in which inmates are treated. The letters addressed issues including inmate treatment as well as the conditions of JTVCC. The issues ranged from inadequate clothing, a reduction in programs and jobs, decrease in visits and changes in honor visits to concerns regarding the grievance process and classification that was "often said to be inapplicable, to allegations of correctional officers abusing inmates, someone officers went so far as to not wear name tags to hide their identity." Representatives of the ACLU believe that these problems "would be resolved by a well operated prison system, and that their resolution would result in [a] more humane, safer prison and a reduction in recidivism."

In addition to receiving letters from inmates, the Coalition for Prison Reform held a Prison Reform Town Hall and received information from former inmates and family members. Based on the "barrage of letters" and the information provided to the Coalition at the Town Hall, the Coalition contends that there is "no question in our mind that mental and physical torture at a criminal level is taking place in the prison system especially at James T. Vaughn Correctional Center following the February 1, tragedy."

It must be noted that in one inmate letter it stated that some officers are "reasonable and understand" while others are described as "unprofessional, nasty, rude, disrespectful, mean and abusive." The letter goes on to say, "We do not want correction[a] officers belittling us, cursing us or abusing their power, under no circumstance should we be treated as less than human beings." While the Independent Review Team is unable to verify alleged instances of abuse, including the allegations of post-February 1st abuse, there appears sufficient similarity in the claims as to warrant further investigation by the appropriate state authorities.

It is understood that working in a prison is very stressful and dangerous; however, there are policies and procedures that should be in place to govern the behaviors of inmates as well as

officers in order for the facility to be operated in the most safe, secure and humane way possible.

Appendix F: State of Delaware Executive Order #2

STATE OF DELAWARE



EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER TWO

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: NAMING RETIRED JUSTICE HENRY DUPONT RIDGELY AND RETIRED JUDGE WILLIAM L. CHAPMAN, JR. TO LEAD AN INDEPENDENT REVIEW OF SECURITY ISSUES AT DELAWARE CORRECTIONAL FACILITY

WHEREAS, on February 1, 2017, an event occurred at the James T. Vaughn Correctional Center, in which several inmates took several employees hostage, and assaulted a correctional officer leading to the correctional officer's death; and

WHEREAS, since February 1, 2017, the events leading up to the hostage incident, and the response thereto, are being reviewed by investigative authorities, including the Delaware State Police and the Department of Correction Internal Affairs Unit; and

WHEREAS, it is advisable and in the best interest of the State that independent examiners review the events surrounding the hostage incident and related security issues at the James T. Vaughn Correctional Center, and the findings from the investigations conducted by the Delaware State Police and the Department of Correction, and make recommendations to help assure the safety and security of all persons housed in and working at the James T. Vaughn Correctional Center.

NOW, THEREFORE, I JOHN C. CARNEY, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby DECLARE and ORDER the following:


1. Retired Justice Henry duPont Ridgely and Retired Judge William L. Chapman, Jr. are hereby named to lead an independent review regarding any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017 (the "Independent Review Team"). Although the central focus of the review is the state of security and any potential changes that might be required at the James T. Vaughn Correctional Center, the Independent Review Team shall not be precluded from examining practices at other correctional facilities, in Delaware or elsewhere, should the Independent Review Team believe that such an examination is helpful to its review.
2. Justice Ridgely and Judge Chapman are appointed by the Governor as Co-Chairs and shall serve at the pleasure of the Governor.
3. The Governor may increase the size of the Independent Review Team and appoint additional members at his pleasure.
4. To assist the Independent Review Team in its investigative and administrative needs, the Independent Review Team is authorized to engage the services of necessary professional consultants, provided that the Independent Review Team shall first obtain the written consent of the Governor.
5. No later than June 1, 2017, the Independent Review Team shall issue a preliminary report addressing the following issues:
 - a. Initial findings concerning any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017; and
 - b. Initial findings and recommendations for improving security concerns at the James T. Vaughn Correctional Center.

6. The Independent Review Team shall issue a final report to the Governor as soon as practicable, but in no event later than August 15, 2017, regarding any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017. In the final report, the Independent Review Team shall also provide recommendations for improving security concerns at the James T. Vaughn Correctional Center, and it may, in its discretion provide recommendations for improving security concerns at other State correctional facilities should it have the basis to do so. The final report may also contain recommendations concerning additional relevant safety and security issues that may require further investigation in the near future.
7. The Department of Correction, the Department of Safety and Homeland Security, and any other executive agency with pertinent information concerning the investigation shall cooperate with the Independent Review Team and provide information to the Independent Review Team as requested. Additionally, the Independent Review Team is encouraged to consult with nationally recognized criminal justice agencies or organizations as the Independent Review Team shall deem necessary or useful.
8. To the extent reasonably required by the Independent Review Team, for the integrity of the investigation or because of security concerns related to the James T. Vaughn Correctional Center and/or the Department of Correction, the communications, deliberations and work product of the Independent Review Team shall be confidential. Further, the records, investigations, and deliberations of the Independent Review Team, along with all internal communications and communications with the Governor and his designees, are intended to be protected by the executive privilege. The final report of the Independent Review Team is intended to be a public document, except to the extent

that the Independent Review Team determines that the security of the Department of Correction or other State correctional facilities, or of any person, requires that specifically identified information remain confidential.

APPROVED this 14th date of February 2017.





John C. Carney
Governor

ATTEST:



Acting Secretary of State

Appendix G: Preliminary Report

**PRELIMINARY REPORT:
INDEPENDENT REVIEW OF SECURITY ISSUES AT THE
JAMES T. VAUGHN CORRECTIONAL CENTER**

Commissioned by The Honorable John C. Carney, Jr., Governor of the State of Delaware on February 14, 2017

Led by:

The Honorable William L. Chapman, Jr., Judge (ret.)

And

The Honorable Charles M. Oberly, III, United States Attorney (ret.)

With Support from:



PRELIMINARY REPORT: INDEPENDENT REVIEW OF THE
JAMES T. VAUGHN CORRECTIONAL CENTER

1

Acknowledgements

Judge Chapman (ret.) and former United States Attorney Oberly would like to thank the Police Foundation Team for their assistance and support in undertaking this review. Police Foundation Team Members include:

- Frank Straub, PhD, Director, Strategic Initiatives, Police Foundation
- Jennifer Zeunik, Director, Programs, Police Foundation
- Maria Valdovinos, Research Associate, Police Foundation
- Michelle Phillips, Project Associate, Police Foundation
- Joyce Iwashita, Project Assistant, Police Foundation
- Roger Werholtz, Commissioner (ret.) Kansas Department of Corrections, Corrections Subject Matter Expert
- Robert May, IJIS Institute, Corrections Subject Matter Expert

We would also like to thank the Delaware Department of Corrections and James T. Vaughn Correctional Center staff who took the time to provide our team with honest and candid input. Your perspective and experience are invaluable to this process. We also appreciate the time granted to us by those Delaware community members who provided us with their input regarding the James T. Vaughn Correctional Center.

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Executive Summary

Introduction

The James T. Vaughn Correctional Center is the only adult, male correctional center run by the State of Delaware that houses minimum, medium, and maximum security inmates, as well as pre-trial detainees. On Wednesday, February 1, 2017, inmates housed in C-building of the JTVCC took control of the unit and held staff hostage. The hostage situation lasted into the early hours of Thursday, February 2, ultimately resulting in the death of one correctional officer and injury to other corrections personnel.

The February 1-2, 2017, hostage incident at James T. Vaughn Correctional Center (JTVCC) ended after almost 15 hours, but the investigation into the event continues. Existing security issues within the facility that may have served as precursors to the incident remain to be addressed.

The purpose of this Independent Review is to “review the events surrounding the hostage incident and related security issues at the James T. Vaughn Correctional Center.”¹ This preliminary report provides an initial overview of policies, procedures, practices and technology at the JTVCC, and within the DOC, that could have contributed to the incident. In addition, the report recommends actions that, if taken, may prevent a similar incident, as well as improve the safety, security, and operations of the JTVCC and the DOC. A final report is scheduled to be released in August 2017.

Key Themes of the Review

This Independent Review provides an overview of JTVCC issues from the perspective of correctional officers, executives, staff, inmates and other community members. The review identifies security issues that likely contributed to the February 1st incident. Recommendations center on corrections philosophy and leadership; institutional culture; staffing; policy, procedure and practice; officer training; communication; and equipment and technology.

Some of the overarching themes in this report include the following:

- **Establish and communicate a strategic plan for the future of corrections in Delaware.**
- **Address staffing issues and support correctional officer (and inmate) wellness.**
- **Improve communication and consistency of policies, procedures, and practices.**
- **Evaluate equipment, technology, and management needs of the department.**
- **Continue efforts to address the institutional culture within the JTVCC.**

This preliminary report is intended to provide actionable recommendations that inform the State of Delaware’s budget and policy decisions to address security in Delaware corrections.

¹ Delaware Executive Order No. 2 is attached to this report as Appendix B.

Section 1. Introduction

Background

The James T. Vaughn Correctional Center (JTVCC) is the State of Delaware's largest adult male correctional facility, and is located near Smyrna, Delaware. It is a 'Level 5' prison currently housing approximately 2,500 minimum, medium and maximum security inmates.²

On February 1-2, 2017, inmates in the C-Building of the JTVCC took staff hostage for a period of close to 15 hours. Beginning at 10:38 a.m. on Wednesday, February 1st, when a correctional officer made a call for immediate assistance in C-Building, inmates in the building took control of all three tiers of the main floor of the building, holding four correctional staff members hostage.³ Through the next several hours, the Delaware Department of Correction (DOC), Delaware State Police (DSP) and others responded. The incident ended after 5:00 a.m. on Thursday, February 2nd, following a breach of the building.⁴ The incident ultimately resulted in the death of one correctional officer and injury to other corrections personnel.

This act of aggression and violence by Vaughn inmates is criminal, and the murder of Lieutenant Steven Floyd is an enormous loss – not only to his family and loved ones but to the Department of Correction, and the entire State of Delaware.

Purpose of this Preliminary Report

On February 14, 2017, following the February 1-2, 2017 incident at the JTVCC, Governor John C. Carney signed an Executive Order⁵ to launch an independent review into the security of the JTVCC to "review the events surrounding the hostage incident and related security issues at the James T. Vaughn Correctional Center."⁶ According to Governor Carney, the State of Delaware is determined to identify what went wrong and how to address it. "We will leave no stone unturned in our efforts to find out exactly what happened inside Vaughn and what we can do prevent that from happening again," said Governor Carney during a press conference.⁷

At the time, Governor Carney appointed former Delaware Chief Justice Henry DuPont Ridgely (ret.) and former Judge William L. Chapman, Jr. (ret.) to lead this work. In April 2017, Justice Ridgely recused himself and former United States Attorney for the District of Delaware, Charles M. Oberly, III was

² James T. Vaughn Correctional Center. <http://www.doc.delaware.gov/BOP/PrisonDCC.shtml> (accessed May 25, 2017).

³ Independent Review Team interview, May 3, 2017.

⁴ Ibid.

⁵ Delaware Executive Order No. 2. (2017).

⁶ State of Delaware. (2017, February 14). Governor Carney announces selections to lead independent review of hostage incident at James T. Vaughn Correctional Center. <http://news.delaware.gov/2017/02/14/governor-carney-announces-selections-to-lead-independent-review-of-hostage-incident-at-james-t-vaughn-correctional-center/> (accessed May 30, 2017).

⁷ Lamar, A. (2017, February 2). Delaware prison hostage dead, Gov. Carney vows justice. *Dover Post*. <http://www.doverpost.com/news/20170202/delaware-prison-hostage-dead-gov-carney-vows-justice> (accessed May 29, 2017).

appointed in his place. The Police Foundation was chosen to support the work, conduct interviews, compile recommendations, and draft preliminary and final reports.

The purpose of this preliminary report is to evaluate policies, procedures, practices, and technology at the facility and within the DOC that could have contributed to the incident, and to recommend actions, that if taken, may prevent a similar incident, as well as improve the safety, security, and operations of the JTVCC and the DOC.

According to the Executive Order, this Preliminary Report, "will address the following issues:

- a. Initial findings concerning any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017; and
- b. Initial findings and recommendations for improving security concerns at the James T. Vaughn Correctional Center."⁸

Methodology

The Police Foundation has a proven track record of commitment to learning and change by conducting in-depth, independent incident and organizational reviews. Recent Police Foundation critical incident reviews include:

- [Bringing Calm to Chaos: A critical incident review of the San Bernardino public safety response to the December 2, 2015 terrorist shooting incident at the Inland Regional Center](#)
- [Managing the Response to a Mobile Mass Shooting: A Critical Incident Review of the Kalamazoo, Michigan, Public Safety Response to the February 20, 2016, Mass Shooting Incident](#)
- [Maintaining First Amendment Rights and Public Safety in North Minneapolis: An After-Action Assessment of the Police Response to the Protests, Demonstrations, and Occupation of the Minneapolis Police Department's Fourth Precinct](#)
- [Critical Incident Review of the Orlando Pulse Nightclub Terrorist Shooting \(To Be Released August 2017\)](#)

Upon selection, the Police Foundation created an Incident Review team comprised of subject matter experts in corrections, public safety and critical incident response to support Judge Chapman and U.S. Attorney Oberly on the Vaughn review. The team developed and executed a comprehensive methodology to critically review and assess the incident (to the extent possible), and circumstances leading up to it in order to develop findings and recommendations for improving security at the JTVCC. The methodology includes an extensive review of DOC policies, procedures, practices, and training materials; interviews of current and former Delaware DOC and JTVCC administrators; site visits and tours of JTVCC for direct observation; focus groups and interviews of JTVCC corrections personnel and inmates; interviews of key stakeholders such as advocacy groups and union leadership; as well as reviews of relevant literature and media coverage. A more detailed methodology is attached in Appendix C.

⁸ Delaware Executive Order No. 2. (2017).

Limitations of this Report

The State of Delaware provided the Independent Review Team exceptional access and assistance in gathering information for this review. The Delaware Department of Correction and JTVCC staff should be commended for their assistance throughout this process. Their consistent and unwavering support with scheduling and communication with staff and inmates within the prison was invaluable to the Team.

Due to the on-going criminal investigation, the Independent Review Team did, however, face some restrictions regarding many of the important details regarding the February 1-2, 2017 hostage incident. The team has not reviewed any police investigative reports or DOC Internal Affairs reports, as a result of the on-going criminal investigation. These parameters were put in place to ensure that the criminal investigation is not compromised in any way, and to maintain the integrity and focus of this preliminary report. In addition, the Independent Review Team faced an exceptionally short timeline in which to provide this preliminary report by the June 1, 2017 deadline so that the Governor and the General Assembly had time to consider the recommendations for policy and budget implications. These limitations should be noted when reviewing the Preliminary Report.

Next Steps

While this report outlines the broad focus areas that will improve security at the JTVCC, the Independent Review Team will continue to research, investigate, and analyze the security issues at the JTVCC. The Independent Review Team will provide a more detailed assessment of JTVCC issues in a final report that is scheduled to be issued in August 2017.

Section 2. Correction Philosophy & Leadership

Overview & Observations

When examining an event as serious as the James T. Vaughn Correctional Center (JTVCC) hostage situation that occurred on February 1-2, 2017, and the death of a correctional officer, one may consider organizational philosophies, such as mission or vision statements trivial. However, there is a compelling reason to discuss them. When written clearly, and backed with determined leadership, political and stakeholder support, as well as the use of evidence-based practices; such statements provide a foundation upon which to build and maintain a unified approach to operations, a sense of purpose, support for officer and inmate safety, and a touchstone for the thousands of decisions that are made in a correctional center every day.

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During interviews with Delaware Department of Correction's leadership, staff, stakeholders and inmates, it became clear that there is no unifying sense of purpose or approach to the management of the JTVCC. Line officers were most concerned with only trying to get through the day safely so that they could get home at the end of their shift. Not one officer could provide a consistent response when asked what was expected of them as an employee of the DOC. Supervisors also described inconsistency in how they supervised staff at the JTVCC, as well as inconsistency throughout the organization. Inmates expressed frustration with the shifting interpretations of rules and policies, as well as enforcement of those rules and policies by some staff. Nearly everyone with whom the Independent Review Team spoke complained about poor communication regarding policies, operational changes, and day-to-day issues. These patterns of operation and management have led to a sense of chaos where "getting through the day" becomes the norm rather than actually achieving a purpose. In this environment, most everyone—administrators, supervisors, and line staff—end up "doing their own thing" rather than following a clear and unified plan or strategy.

The Delaware Department of Correction's mission is to: "Protect the public by supervising adult offenders through safe and humane services, programs and facilities."⁹ The questions then become:

- What does this mission statement mean?

⁹ Delaware Department of Correction Annual Report 2016.
http://www.doc.delaware.gov/downloads/DOC_2016AnnualReport.pdf (downloaded May 23, 2017).

- How are people protected?
- Is it simply by confining inmates in correctional facilities until they are scheduled to be released?
- Does it involve any kind of preparation for the safe and successful return of inmates to the community?
- What is the purpose of the programs provided; to keep inmates busy and constructively occupied; to help them develop more pro-social behaviors; to reduce their risk of re-offending?

During our assessment, we found no evidence of a unifying plan or strategy for the Department. Similarly, no evidence exists that employees (at various levels) have a clear understanding of how their respective roles fit into such a plan, nor how their actions either support or undermine that plan or the associated goals. In the absence of a clearly defined and consistently communicated plan, staff simply “fill in the blanks” with their own interpretation of what good correctional operations are, which contributes to the high level of inconsistency and apathy reported.

The Mission Statement of the Bureau of Prisons is somewhat more specific. It reads: “Mission: To provide overall administrative support to prison facilities, which enforce judicial sanctions for offenders and detentioners in a safe, humane environment. The Bureau also provides protection for the public with incarceration and rehabilitation programs that address societal and offender needs.

- Protection for the public through incarceration of the offender.
- Protection for the public through rehabilitation of the offender to prevent future crime.
- A safe and humane living environment for the incarcerated offender.
- A safe and appropriate working environment for staff.
- A range of correctional programs necessary to meet the needs of both society and the individual while implementing court-ordered sanctions in the least restrictive environment consistent with public safety.”¹⁰

The Independent Review Team saw no reason to believe that the Delaware DOC is deficient in its ability to minimize the probability of escapes from custody. What is more concerning, however, is the approach being used to meet the rehabilitation and prevention of future crime described in the second paragraph of the Bureau of Prisons’ mission statement. What are the rehabilitation methods used within the facilities? How are offenders assigned to them? What can staff do to support those methods? What can they do to inadvertently undermine rehabilitation efforts?

One complaint heard repeatedly from staff during interviews was the lack of regular training and the quality of the training provided. Anecdotally, we learned that Correctional Emergency Response Teams (CERT)¹¹ received regular and intensive training, and were viewed by administration as the “diamonds of the Department.”¹² It is important that CERT members receive regular and high quality training and that they practice those skills frequently; the roles they may be expected to perform are critical. However,

¹⁰ “Mission Statement.” Bureau of Prisons. <http://www.doc.delaware.gov/BOP/index.shtml> (downloaded May 23, 2017).

¹¹ Correctional Emergency Response Teams (CERT) is a division of the DOC’s Special Operations Unit. CERT oversees the selection, training, and operation of tactical responders. For more information, see: http://www.doc.delaware.gov/downloads/policies/policy_9-20.pdf.

¹² Independent Review Team interview, May 5, 2017.

when something goes wrong in a prison, it is rarely due to something as dramatic as a breakdown in CERT operations.

In the JTVCC, the accumulation of small errors, omissions, and oversights such as errors in classification calculations, failures to follow procedures, and/or mistakes made by fatigued and inexperienced staff were among the failures identified. These failures were exacerbated by perceived injustices, grievances, overcrowded and/or poorly maintained facilities, a lack of programming and work opportunities, inappropriate staff-inmate interactions, and the inconsistent application of policies and procedures by corrections staff.

All staff, not just specialized units, should receive regular and quality training, skills practice, and testing so that they are able to perform their jobs as well as CERT members perform theirs. When staff see attention, perks, and praise focused primarily on specialized units, it sends the message that they are less important, less valued, and command a lower priority within the facility. Our discussions with staff left a clear sense that this might be true at the JTVCC. All staff want to know that what they do has value and significance, yet we found few people at the JTVCC who were able to describe their contribution to the mission and success of the department.

Corrections agencies that have made great and rapid improvements generally have strong leadership that sets clear and measurable goals; a plan for achieving those goals; an explanation to all staff regarding their role in accomplishing the task; and skills and training needed to succeed. Commissioner Perry Phelps articulated a clear vision of where the Delaware DOC should be heading, and how it should get there.¹³ Department of Safety and Homeland Security Secretary Robert Coupe, who preceded Commissioner Phelps, was recognized for his strong leadership as well as the policy changes he made during his tenure as the commissioner. Commissioner Phelps is committed to continuing and building on Secretary Coupe's vision for Delaware's DOC.

Corrections agencies that have made great and rapid improvements generally have strong leadership that sets clear and measurable goals; a plan for achieving those goals; an explanation to all staff regarding their role in accomplishing the task; and skills and training needed to succeed.

A clear sense of mission and vision, combined with a detailed plan for carrying out that mission, that includes roles for all staff, conveys a sense of value and purpose for those involved and will provide the foundation upon which to move individual facilities and the department in a unified direction. Even the most talented and energetic corrections leader cannot accomplish this alone. It is imperative that

¹³ Commissioner Perry Phelps, Independent Review Team interview, May 2, 2017. Commissioner Phelps mentioned planning a visit to the Virginia DOC to discuss with Director Harold Clarke the best practices they have implemented statewide. Delaware may consider adoption of their leadership program. VA also has a 2-week program by executives from UVA, and offer a 2-year program for others who are promoted.

endorsement and support of reform efforts come from elected officials, stakeholders, and other interested parties.

Recommendations

1. ***The DOC Commissioner should develop a detailed strategic plan and implementation process for the Delaware DOC that not only explains what is to be done, but also how it is to be done (in considerable detail so that each staff member can see where they fit), how it will be measured, and why it is important to embark on this effort.*** Once the plan is finalized, it should be discussed regularly with staff, stakeholders, and the public. Feedback regarding progress in accomplishing the goals of the plan must be provided to staff and stakeholders, so that they all have a sense of participation and accomplishment.
2. ***DOC should hold a one-day conference or similar event to discuss the future of corrections in Delaware.*** The purpose of the convening would be to allow the Governor and Commissioner, preferably in conjunction with bipartisan legislative leadership, to explain in some detail their vision and strategic plan for the agency, and to provide an opportunity to solicit feedback and input into the plan. Part of the conference should explore national trends, the current state of research, and what has and has not worked in other jurisdictions. Finally, the conference should conclude with a request for support for the vision and implementation plan from those in attendance with a commitment from them to execute, sustain, and regularly evaluate the plan in their respective roles.¹⁴
3. ***The DOC should use the strategic plan and implementation process to inform policies, procedures, and operations; security; budgeting; executive, mid-level and staff training; infrastructure, inmate programming, and services.*** The strategic plan and the implementation process are disciplined efforts that will produce fundamental decisions and actions that shape and guide what the DOC is, who it serves, what it does, and why it does it, with a focus on the future. Effective strategic planning articulates not only where the DOC is going and the actions needed to make progress, including making Delaware DOC an attractive place to work, but also how it will know if it is successful.¹⁵
4. ***DOC executive leadership should endeavor to build and maintain strong relationships with correctional officers and administrative personnel throughout the agency.*** The quality of executive leadership's internal communication influences their *credibility*. Effective communication with employees—that is two-way, open, responsive, sincere, compassionate, and respectful—can instill in correction's staff a sense of empowerment and appreciation. Such communication efforts create an empowered workforce that is happier and more committed to the organization, which eventually contributes to the agency's performance. Moreover, such employees identify more with their

¹⁴ Ongoing work that may tie in with this the Justice Reinvestment Initiative (JRI) as well as the National Criminal Justice Reform (NCJR) effort, both of which the State of Delaware are involved with.

¹⁵ For an example, see <http://www.balancedscorecard.org/>.

organization and are more willing to go the extra mile, express their opinions, and make a difference in the organization.¹⁶

¹⁶ Men, L.R. (August 13, 2014). Chief Engagement Officer. The role of CEOs in internal communication. *Institute for Public Relations*. <http://www.instituteforpr.org/chief-engagement-officer-role-ceos-internal-communication/> (accessed May 27, 2017).

Section 3. Resources & Staffing

Overview

Most of the staffing-related issues at the James T. Vaughn Correctional Center (JTVCC) identified by the Independent Review Team fell into two categories: resource/staffing levels and officer safety and wellness. The review indicates that the JTVCC is critically understaffed, and as a result, officers are physically and mentally exhausted. With this combination of factors, the risks for burnout, apathy, and turnover are high, further straining already critically low staffing levels. Physical and mental exhaustion not only negatively impacts officer safety, health and wellness, but also poses significant security risks to individuals and the institution.

Observations

Resources / Staffing Levels

The current union-negotiated standard work week for correctional staff at the JTVCC is 40 hours per week, and consists of five consecutive workdays followed by two consecutive days off during each seven-day period.¹⁷ Three work shifts exist: the morning shift runs from 8 a.m. to 4 p.m., the evening shift from 4 p.m. to 12 a.m., and the overnight shift from 12 a.m. to 8 a.m.

The current union negotiated overtime policy indicates that the State of Delaware will determine overtime availability, with the union participating to ensure a fair distribution of overtime. Need for overtime within four hours can result in that overtime being offered on site to employees on the overtime list who are on duty at the time. The State can designate mandatory overtime if the union distribution of overtime "fails to meet operational or security needs."¹⁸

Officers at the JTVCC report working significantly more hours than the standard hours of work and schedule. Officers report routinely working double shifts (16 hours), being frozen upwards of 2-5 times per week¹⁹ for a total of up to 80 hours of overtime in addition to the standard 80 hours per pay period. Although the excessive overtime is not necessarily at odds with the union negotiated overtime policy currently in effect, it seems that the State is overly relying on overtime at the JTVCC to compensate for high rates of turnover and high numbers of vacancies. The State of Delaware, Office of Auditor Accounts found that in Fiscal Year (FY) 2016 and part of FY 2017, nearly \$39 million of overtimes costs were paid

¹⁷ Article 21: Hours of Work and Work Schedules, in The State of Delaware and Department of Correction State Merit Bargaining Unit 10 Agreement (includes, Correctional Officers Association of Delaware (COAD), and the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 81, Locals 247, 3384 and 2004, effective July 1, 2015 – June 30, 2018). Reviewed by the Independent Review Team, May 2017.

¹⁸ Article 24: Hours of Work and Work Schedules, in The State of Delaware and Department of Correction State Merit Bargaining Unit 10 Agreement (includes, Correctional Officers Association of Delaware (COAD), and the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 81, Locals 247, 3384 and 2004, effective July 1, 2015 – June 30, 2018). Reviewed by the Independent Review Team, May 2017.

¹⁹ Independent Review Team interview, May 1, 2017.

by the Department of Correction (DOC), “with JTVCC incurring the highest cost of all DOC divisions.” During the reviewed FY 2017 period, the average OT cost was \$838,839 per pay period.²⁰ The overtime paid to DOC employees during FY 2016 and 2017 amounted to nearly 38 percent of all overtime for all State employees.²¹

The use of overtime to compensate for insufficient staffing has resulted in several irregular and unsystematic scheduling practices that have increasingly become standard practice. For example, “getting frozen” at end of shift has reportedly been a standard practice at the JTVCC for the past 6 years.²² A second unsystematic practice that has resulted from unscheduled overtime is the extension of shifts from 8 to 10 hours, which has only displaced the understaffing problem from one shift to the next. For example, a logged staff grievance indicates that “the creation of 10 hour shifts has left insufficient staffing on the night shift,” posing a safety risk.²³ A third irregular practice due to insufficient staffing has been the collapsing and/or shutting down of posts when there is not sufficient staff to cover them. Although the administration reportedly works to rotate collapsing posts when short staffed,²⁴ the shutting down of post coverage, even if reserved for non-critical posts only, negatively impacts the facility’s ideal operations. Finally, insufficient staffing has caused the cancellation of in-service and other training opportunities that are critical to staff performance and security operations.

In addition to excessive overtime, the low starting salary in conjunction with the lack of any substantial pay increases, and promotional opportunities, have contributed to high rates of officer turnover. The table below indicates that officers at the JTVCC can expect to earn less than \$10,000 over their starting salary after 20 years of service in the Department, and this has been consistent across fiscal years.

Table 1: Delaware DOC Pay Scale, Correctional Officer²⁵

	0-2 years	2-5 years	5-10 years	10-15 years	15-20 years	20+ years
FY 2016	\$31,586.00	\$32,059.79	\$33,021.58	\$34,672.66	\$37,099.75	\$40,438.73
FY 2017	\$32,059.79	\$32,540.69	\$33,516.91	\$35,192.75	\$37,656.25	\$41,045.31
FY 2018	\$32,540.69	\$33,028.80	\$34,019.66	\$35,720.64	\$38,221.09	\$41,660.99

According to the Correctional Officers Association of Delaware (COAD), the low salary for Delaware DOC correctional officers is a primary source of grievance and has contributed to a “16-year average, 57

²⁰ Thomas Wagner, Jr., R., CFE, CGFM, CICA. Department of Correction Overtime Analysis. (2017). State of Delaware, Office of Auditor of Accounts. <http://auditor.delaware.gov/wp-content/uploads/sites/40/2017/05/Department-of-Correction-Overtime-Analysis-Inspection-1.pdf>.

²¹ Ibid.

²² Independent Review Team interview, May 1, 2017.

²³ JTVCC Staffing Grievances. (2016). Reviewed by the Independent Review Team, May 2017.

²⁴ Independent Review Team interview, May 19, 2017.

²⁵ Attachments A/B/C: Unit 10, Correctional Officer Annual Base Salaries, FY 2016 in The State of Delaware and Department of Correction State Merit Bargaining Unit 10 Agreement (includes, Correctional Officers Association of Delaware (COAD), and the American Federation of State, County, and Municipal Employees, AFL-CIO, Council 81, Locals 247, 3384 and 2004, effective July 1, 2015 – June 30, 2018). Reviewed by the Independent Review Team, May 2017.

percent turnover rate.”²⁶ In a review of employee “terminations” from the JTVCC from January 1, 2016, through March 31, 2017, 62 out of 75 employees that left the department resigned voluntarily.²⁷

Officer Safety and Wellness

Observations and interviews by the Independent Review Team strongly suggest that JTVCC staff are burned out as a result of long-term untreated stress, as well as emotional, cognitive, and physical exhaustion, stemming in large part from the excessive overtime that is being worked.

Although overtime is voluntary, the overtime requirements are so excessive that correctional officers report routinely missing out on important family events due to being “frozen” at the end of their shift or being denied vacation time even when a request is put in “six months in advance.” This level of work intrusion into correctional officers’ personal lives has eliminated any sense of work-life balance with significant impacts on their individual, and most probably their family’s mental health and wellness.

It is also likely that some members of the staff may be suffering from mental health issues such as depression, anxiety, and post-traumatic stress disorder, tied to the February 1, 2017 uprising. An officer whose capabilities, judgment, and behavior is adversely affected by poor physical or psychological health may not only be a danger to her or himself, but also to other officers, inmates, and to the community she or he serves.

Findings

“What is the point in asking for more positions when you can’t keep the ones you have filled?”²⁸ Line staff work excessive amounts of overtime impacting their performance and ability to function in a safe and effective manner. At the same time, the correctional staff has come to rely heavily on overtime as a supplement to their low salaries. Current DOC administration reliance on overtime to compensate for critically low staffing levels is a risky practice. The recent Community Legal Aid Society, Inc. (CLASI) lawsuit²⁹ has added an additional layer of concern and confusion to this already critical staffing situation. The correctional officer staff is deeply concerned over the staffing implications of CLASI, yet, the JTVCC administration does not believe that implementing CLASI recommendations will require additional staff. Due to this combination of factors, the overall quality of the workforce has progressively declined at JTVCC and complacency and acceptance of marginal performance has become the norm.

²⁶ Independent Review Team interview, May 1, 2017.

²⁷ Delaware DOC, List of Employees Terminated from JTVCC, CY 2016 Through March 31, 2017. Reviewed by the Independent Review Team, May 2017.

²⁸ Statement by corrections staff and the union to the Independent Review Team regarding the Governor’s announcement on March 13, 2017, that the FY 2018 budget plan would add 50 correctional officers at JTVCC. Independent Review Team interviews, May 1-5, 2017.

²⁹ The CLASI lawsuit, filed by the Community Legal Aid Society, Inc. of Delaware (CLASI) argues that the treatment of inmates with mental illness within Delaware DOC facilities, and specifically within JTVCC, is in violation of both the U.S. constitution and the constitution of the State of Delaware. A settlement reached in September 2016 resulted in a number of recommendations for implementation by JTVCC administration to improve conditions for inmates with mental illness currently housed in secure/restrictive housing units.

"A breathing body is better than no body at all." Correctional staff at the JTVCC feel undervalued and dehumanized, which seem to have significantly impacted their mental health and overall wellness. There is ample evidence of burnout throughout the rank and file. Information collected indicates that since the February 1st incident, a number of officers who used to take overtime assignments have backed off or quit altogether.³⁰ Organizational leadership should ensure that all personnel involved in or affected by the incident feel valued and are provided access to the physical and mental health resources. Research indicates that correctional officers use sick leave as a way of coping with this type of stress,³¹ and the JTVCC has already experienced a "planned" sickout.³² Along with high rates of turnover, this combination of factors only exacerbates the already critical staffing issues at the JTVCC.

Recommendations

1. **Conduct a comprehensive staffing study to identify proper staffing levels at the JTVCC.** Fatigue impacts judgment, tolerance for stress, and increases irritability and opportunity for error. It also makes the job less attractive for new recruits and impacts the organization's ability to recruit and retain quality employees. A comprehensive staffing study will provide insight into the appropriate staffing requirements for maintaining continuity of operations in a safe manner that does not negatively intrude on the staff's personal lives.³³
2. **Update and implement a practical fatigue/stress policy that accounts for work-life balance.** Given the current overtime practices at the JTVCC, it is important to ensure that there is a clear and practical fatigue/stress policy in place that prioritizes the safety of officers. Many fatigue policies require an uninterrupted 8-hour fatigue recovery period, but this is unrealistic if it does not take into account commuting time, and other typical family and personal life requirements. In a recent study, Van Dongen, James, Paech, Hinson, Whitney and Vila (2017) found that impaired cognitive flexibility due to sleep deprivation predicted degraded deadly force decision-making in law enforcement simulations.³⁴
3. **Create a promotional career ladder with competitive salaries, and merit-based recognition.** Corrections administrators, staff and union officials expressed concern that the current salary for the correctional officer position in Delaware is inadequate for the demands of the job, and there are no additional incentives to overcome the low salary. It is likely that staff are working external jobs to "make ends meet" exacerbating the fatigue risks of routine double shifts. The non-competitive salary has created a situation for the JTVCC in which new staff have no intention of staying or putting in

³⁰ Independent Review Team interview, May 19, 2017.

³¹ Bureau of Labor Statistics. Nonfatal occupational injuries and illnesses requiring days away from work for state government and local government workers, 2008 & 2009. (Washington, D.C.: 2010).

³² Email (April 17, 2017) where DOC commissioner asks correctional officers not to participate in coordinated sick calls. For more information see: http://www.wdel.com/news/e-mail-doc-commissioner-asks-correctional-officers-not-to-participate/article_df1067d2-23a6-11e7-8a94-ef7df3609eaf.html.

³³ At time of printing, with the assistance of the National Institute of Corrections, the Delaware DOC had begun a staffing study at the JTVCC.

³⁴ Van Dongen, H., James, S.M., Paech, G.M., Hinson, J.M., Whitney, P., Vila, B.J. (2017). Impaired cognitive flexibility due to sleep deprivation predicts degraded deadly force decision-making in high-fidelity law enforcement simulations. *Sleep, 40 (suppl.1): A57-A58.*

much effort beyond the minimal effort required because they don't believe their efforts are valued. The perceived lack of organizational commitment and staff dissatisfaction contributes to staff feeling disconnected from fellow officers, which negatively impacts camaraderie. Research indicates that turnover has "devastating effects on correctional facilities" with direct implications for safety.³⁵

4. **Provide Critical Incident Counseling and Training in Stress Management and Reduction, such as Mindfulness Training.** It is likely that some officers assigned to JTVCC may be in need of immediate and continued mental health services in the wake of the incident. It is not unusual for post-traumatic stress to manifest itself several weeks or months after a traumatic event. Stress reduction and mindfulness training are highly recommended. Recent research with police officers receiving a form of mindfulness training indicates reductions in perceived stress and anger, and improvements in mental health, physical health, fatigue, and sleep disturbances,³⁶ and is a way for the JTVCC to potentially counteract the adverse health impacts of chronic stress.

³⁵ Lambert, E. & Paoline, E.A. (2010). Take this job and shove it: An exploratory study of turnover intent among jail staff. *Journal of Criminal Justice*, 38(2), 139-148.

³⁶ Christopher, M.S., Goerling, R.J., Rogers, B.S., Hunsinger, M., Baron, G., Bergman, A.L. & Zava, D.T. (2016). A pilot study evaluating the effectiveness of a mindfulness-based intervention on cortisol awakening response and health outcomes among law enforcement officers. *Journal of Police and Criminal Psychology*, 31(1), 15-28.

Section 4. Policy, Procedure & Practice

Overview

The James T. Vaughn Correctional Center (JTVCC) has been operating as an overcrowded facility with insufficient staff for several years.³⁷ A June 2000 Design Capacity Study conducted by Tetra-Tech Inc. concluded that a sizeable portion of the inmate housing at the JTVCC is extremely crowded and insufficient from both space and functionality standpoints.³⁸ The Delaware Center for Justice has also raised the issue of overpopulation at the JTVCC, contending that Delaware's prison facilities are functioning above operational capacity.³⁹

Most recently, JTVCC has been mandated to implement the Community Legal Aid Society, Inc. (CLASI) agreement to ensure the fair treatment of inmates challenged by mental health issues and to limit inmate time in solitary confinement. In an attempt to comply with the court mandated agreements, Delaware Department of Correction (DOC) policies and procedures were sometimes modified by JTVCC administrators and staff as they endeavored to maintain operations while managing the new requirements. In some cases, procedural modifications may have impacted the safety and security of the institution, putting staff and inmates at risk.⁴⁰

Observations & Findings

Impact of Infrastructure on Policy Enforcement

Since it was opened, the JTVCC has gone through multiple transitions, and currently houses inmates classified at pre-trial, minimum, medium, and maximum security levels. The JTVCC is the only Delaware Correctional Facility that houses maximum security inmates on a permanent basis.

The prison's infrastructure has changed to help accommodate the inmate population. For example, the C-Building originally designed to house maximum security inmates was re-purposed to house medium security inmates.⁴¹ Operating a housing unit that it is inconsistent with the population it was designed to house poses potential security concerns. Maximum security housing units are designed to limit and control the movements of high risk inmates. Medium security inmates, have more "freedom" of movement within housing units and other areas of the facility. In C-Building, inmates were allowed to

³⁷ JTVCC CY16 and CY17 overtime usage; S10 and S11: 2016 and 2017 Staffing Grievances; 2005 Task Force Final Report; S9: Security Vacancies, JTVCC. Reviewed by the Independent Review Team, May 2017.

³⁸ Tetra-Tech, Inc. June 2000. Design Capacity Study.

³⁹ Statement by the Delaware Center for Justice Incorporated. <http://www.dcjustice.org/wp-content/uploads/2013/08/Vaughn-response-FINAL.pdf> (downloaded May 27, 2017).

⁴⁰ Community Legal Aid Society, Inc. v. Robert M. Coupe, solely in his official capacity as commissioner of the Delaware State Correction. (D. Del. 2016). <https://www.aclu-de.org/wp-content/uploads/2016/09/CLASl-v-Coupe-Agreement-and-Order-09-02-2016.pdf>.

⁴¹ Information provided by Bureau Chief Christopher Klein, Deputy Bureau Chief Robert May, and Major John Brennan during Independent Review Team's Site Visit and Tour of JTVCC on May 2, 2017.

occupy areas of the housing unit that were difficult for staff to safely observe and control because of the building's design.

Staff members advised that inmates who were "flowing down" from the Medium-High Unit (MHU) and inmates "flowing-up" from medium-only housing units converged in C-Building prior to the February 1st incident. The use of C-Building for this purpose was fairly new and post orders were not revised or updated to specifically address the convergence of inmates with different security levels in the housing unit. Additionally, staff members who had worked in C-Building prior to the incident, advised that they all ran the tiers differently, in part because of the lack of updated post orders. The staff comments were similar to the lack of consistency noted by inmates.

Staff Complacency and Inconsistent Administration of Policies and Procedures

Some officers and supervisors have become complacent, others are unaware of what their job duties are, and others are very strict and operate their units in a very controlled manner, rarely deviating from the Delaware DOC policies and procedures. The lack of consistent operations as well as the inconsistent administration of policies and procedures were identified as significant areas of concern by staff and inmates.

The "team concept" may also be a contributing factor to the complacency of JTVCC officers generally, and to officers assigned to C-Building. The team concept assigns a defined group of officers to a post or unit for an undisclosed length of time. Some officers advised that they have been assigned to the same housing unit for years. In speaking with staff, it was discovered that the security in C-Building was unsatisfactory. Officer discretion was the leading factor in how the tiers operated each day and on each shift. Due to inconsistencies from shift to shift and officer to officer, the inmates had little or no structure and were given different answers by correctional officers in response to their questions regarding the policies and procedures they were expected to follow. The lack of effective communication and inconsistent operations within the housing unit became a point of contention among the inmates. More than one inmate stated that consistency in following procedures was more acceptable than inconsistency, which seems to be the prevailing norm.⁴² Officers and inmates are concerned about retaliation if they report an officer for not enforcing the rules appropriately or performing their duties unprofessionally.

Concerns about the Uniform Classification System

Classification systems are used by most corrections agencies to determine an inmate's risk level for escape and behavior while incarcerated. The system helps guide corrections officials in making decisions about housing, programming, and job assignments. Most often, the intent of internal classification systems is to ensure that prisoners who are at risk for placement in a special management population are supervised accordingly.⁴³ As noted throughout this report, officers and supervisors alike complained about the classification system allowing inmates who they believe should be in higher levels of security

⁴² Independent Review Team interviews, May 4-5, 2017.

⁴³ Austin, J. & Hardyman, P. "Objective Prison Classification: A Guide for Correctional Agencies." National Institute of Corrections. 2004. <https://s3.amazonaws.com/static.nicic.gov/Library/019319.pdf> (accessed May 27, 2017).

to be moved to less secure housing units. Issues about overrides and inmates' affiliation with gangs were also described to the team. Delaware DOC Policy #4.6, Classification, Section IV states that, "The Bureau Chiefs of Prisons and Community Corrections are responsible to develop and routinely evaluate and monitor compatible classification systems for their respective populations."

There appears to be some misunderstanding about a supervisor's authority to move problem inmates immediately off the tier, without reclassification. The supervisors do not have faith in the classification system and believe that if they move an inmate to a higher security housing unit without reclassification; the inmate will just be moved back. During the supervisory focus group, multiple Captains and Lieutenants provided examples of a Major moving an inmate back to a housing unit within 24 hours of his removal.⁴⁴ The staff believe that this empowers the inmates and further shows the lack of support from upper prison management. The upper prison management does agree that all inmate moves will be investigated, but encourages supervisors to move inmates if they deem it necessary.⁴⁵

A Disconnect between JTVCC Administrators and Supervisors

There appears to be a divide between DOC executives, mid-level managers, shift supervisors, and line officers. Some supervisors advised that they have not received appropriate supervisory training, which impacts their ability to perform their duties as effectively as they should. Some supervisors advised that they are uncomfortable making decisions without approval from a Major or Deputy Warden, which in turn could be detrimental to daily operations and facility security. Supervisors do not believe that they are supported by upper management at the JTVCC or the DOC, and fear disciplinary action if they do something out of the norm without prior approval. On the other hand, JTVCC senior management believes they are very supportive of their supervisors and have given supervisors the authority to do what is in the best interest of the safety and security of the correctional center. They advised that they believe in their supervisors and expect them to do what is necessary to keep the facility operating safely.

Supervisors believe that there is an adversarial relationship between upper management and them; an "us against them" mentality.⁴⁶ Supervisors are aware that some decisions need to be made immediately, without prior approval from higher levels of management. For example, the immediate placement of inmates who pose a threat to involuntary administrative segregation, pending investigation. However, they do not exercise this authority citing the fact that the classification system limits their ability to move inmates. Comments from the supervisory focus group indicate that some supervisors feel micro-managed and some are afraid to make decisions, while others are slow to respond to issues. The clear disconnect between JTVCC administrators and supervisors negatively impacts the implementation of policies and procedures, as well as undermines the day to day operations and security of the facility.

Inmate Programs and Incentives for Good Behavior

⁴⁴ Independent Review Team interview, May 5, 2017.

⁴⁵ Independent Review Team interviews, May 4-5, 2017.

⁴⁶ Independent Review Team interview, May 5, 2017.

Multiple inmates and inmate advocates contend that the inmate population does not have sufficient educational, vocational and substance abuse programs. The JTVCC does offer programs, however inmates must be assigned to a certain classification and housing unit in order to participate in the programs. Due to the overcrowded prison, inmates are on waiting lists to participant in programs, even programs that are court ordered.

Inmates are also concerned about the lack of job opportunities. Many inmates expressed that they were bored and had no incentives to do right or comply with the rules at the JTVCC. For example, one inmate advised that "Honor Visits"⁴⁷ were removed by the current prison administration. Both inmates and officers contended that when the prison is short staffed the visits are cancelled first and the visiting room posts are collapsed to send officers onto the compound. The inmates feel that this is unfair and something else that is taken away from them. Correctional officers also echoed that inmates do not have sufficient work options. All correctional officer's interviews expressed the opinion that idleness was a problem, and that they would much rather see inmates working or learning job skills.⁴⁸

The civilian staff in the education, medical, and legal departments are short staffed as well. As the inmate population grows the demands for services and programs increases. The administration is very concerned about the need for custody staff; however, support staff is also needed to ensure the operation of the prison. Good credits are acquired when an inmate is assigned to a work detail or program; an incentive for inmates to behave appropriately. With the lack of programing and the ability to earn "good credits" the day-to-day routine is centered on getting through the day and avoid being disciplined versus promoting rehabilitation and good behavior.

Recommendations

1. **Review, revise and update policies, procedures and post orders annually.** Review and update all institutional policies, procedures, and post orders annually to reflect what is necessary to effectively and safely operate a post. All housing unit post orders should be modified to specifically address how recreation, meals, and outside escorts for inmates should be conducted. When a post order is modified prior to the annual review, all staff should be made aware of this modification via email and roll call briefings. All memorandums modifying policies, procedures, or post orders should be on post for officer's review.
2. **Conduct a review the DOC Uniform Classification System and related practices at James T. Vaughn Correctional Center.** A national classification expert should be retained to review the classification system used by DDOC and, in particular, at the JTVCC. As part of that review, if warranted, the expert should conduct a Reliability Assessment (degree of consistency of the system) and Validity Study (review of the items used in classifying and statistical test of its ability to predict risk). The

⁴⁷ An Honor Visit is a specialized privilege that allows an inmate a contact visit with their family members outside in a picnic area. Outside food is also allowed during honor visits. Inmates must be recommended for honor visits and meet eligibility criteria such as six-months of full-time work activity. For more information, see: <https://www.law.umich.edu/special/policyclearinghouse/Documents/DE%20-%20JTVCC%20Inmate%20Housing%20Rules%20and%20Reference%20Guide.pdf>.

⁴⁸ Independent Review Team interviews, May 4-5, 2017.

Department could ask the National Institute of Corrections for technical assistance to assist with this issue and to identify national experts. Even if no changes are needed, it would restore some level of confidence in the classification system and perhaps even help improve morale.

3. **Implement Roll Calls to communicate more effectively with staff.** Shift roll calls give supervisors and officers the opportunity to share information about the prison. This forum is where officers may raise concerns about posts or shakedown procedures as well as get information from prior shifts. It is recommended that even if it is not feasible to have a shift roll call that there be team rolls calls, where Lieutenants can verbally communicate with the staff about new policies and procedures and answer any questions staff may have.
4. **Break the Code of Silence and bridge the gap between line officers and the corrections administration.** There is a clear peer expectation that officers will keep what happens behind the prison wall and out of the public eye. The JTVCC needs to address the code of silence issues with its middle level management. Line officers appear to be communicating concerns to mid-level management, but upper management is not receiving the information. Majors and Deputy Wardens at JTVCC should be more accessible to the line staff. For example, administrators could hold “line staff only” Town Hall meetings and should routinely walk the compound and engage officers on shift.⁴⁹
5. **Immediately address the disconnect between JTVCC administrators and supervisors.** The lack of communication and differences in perception regarding the relationship between facility senior administrators and supervisors is negatively impacting the implementation of policies and procedures, and may in fact jeopardize the safety and security of staff and inmates. This inconsistency should be addressed through a culture assessment and more immediately by the DOC Human Resources staff.
6. **DOC should research, identify and implement a performance management system that holds all staff accountable for the implementation of and adherence to policies and procedures, safety and security practices, as well as efficient and effective operations.** DOC should consider performance management systems similar to the New York City Police Department’s CompStat or New York City Department of Correction’s T.E.A.M.S. performance management and accountability system to support effective, efficient, safe and secure facility operations.⁵⁰
7. **Decrease the inmate population or encourage alternatives to incarceration programs.** The Independent Review Team is aware that staffing the JTVCC is a challenge for the State of Delaware. In addition, consideration of sentencing length is a legislative matter, and discussions regarding changes in Delaware’s laws could result in reducing the prison population. Alternative sentencing and reentry services (including training of all staff to support and complement those services) could

⁴⁹ Dennehy, K. & Nantel, K. (2006). Improving prison safety: breaking the code of silence. *Washington University Journal of Law & Policy*, 22(175). http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1352&context=law_journal_law_policy (accessed May 27, 2017).

⁵⁰ See for example – Straub, Frank and Paul E. O’Connell (1999). “Why the Jails Didn’t Explode.” *City Journal*.

also help reduce the prison population, and at the same time possible reduce the continuing need or more correctional officers.

8. **Research other Departments of Correction structures in the surrounding area.** Comparing policies regarding incarceration rates, recidivism, staff turnover and benefits may be beneficial in revising Delaware DOC policies. Consider reviewing sentencing and bail proceeding guidelines in Delaware to determine how they may be contributing to the increase in the prison population. It would also be enlightening to review changes made in sentencing laws over the last decade to better understand incremental movement in sentencing practices. The review would also help to determine if those changes have yielded quantifiable improvements in public safety, and whether the changes were worth the costs.

It should be noted that the State of Delaware has begun working toward a number of these recommendations already by participating in two federal initiatives that will provide support and resources to these reform efforts. The [Justice Reinvestment Initiative](#) through the U.S. Department of Justice, Bureau of Justice Assistance provides policy guidance to assist in justice reinvestment. In March 2017, the State of Delaware also partnered with the National Governors Association and the National Criminal Justice Association's [National Criminal Justice Reform Project](#). The Project, in its planning phase, will provide support to the state in making some of the reforms listed above.

Section 5. Officer Training

“Inmate rehab doesn’t happen here. Promoting inmate development and discipline doesn’t happen. They have too much idle time and the ACLU (CLASI) agreement took [our] ability to discipline away.”⁵¹

Overview

The James T. Vaughn Correctional Center (JTVCC) appears to operate under an “enforcement and compliance,” oriented philosophy with limited focus given to effective programming and rehabilitation. As such, according to those interviewed by the Independent Review Team, much of the training resources are directed toward specialized team training and equipment for units held in high regard such as CERT, while other more basic training has been overlooked.

During interviews, correctional officers reported that training at the JTVCC is limited and “horrible.”⁵² In those rare instances that training is provided to officers and supervisors, it is one dimensional, static, and overly elementary. JTVCC employees at all levels indicated they had only participated in basic security related training during the past several years. Supervisors report that subject matter experts are not used for in-service training classes (with very few exceptions), and administration notes that since 2010, most of the training has moved to online platforms.⁵³ When in-person training is conducted, it is reportedly carried out by people who have worked in the training division for many years with no recent facility experience or familiarity in evidence-based correctional practices.⁵⁴

The Correctional Officers Association of Delaware reports that there have been no formal changes in DOC training since 1985,⁵⁵ suggesting that training issues may extend beyond the JTVCC and may be a department-wide challenge. Among the overall issues identified in the delivery of training and education within Delaware DOC are budget constraints and insufficient staffing levels that limit training opportunities and the ability of personnel to participate in training because of the demands of maintaining basic facility operations.

The continued use of outdated training exposes the Delaware DOC to operational risks, safety and security issues, low morale and litigation. The Delaware DOC should address training deficiencies to identify and implement best practices, mitigate risk, improve safety and security, increase professionalism, improve operations, and reduce exposure to adverse litigation at the department and facility levels.

⁵¹ Independent Review Team interview, May 5, 2017.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Independent Review Team interview, May 1, 2017.

⁵⁵ Ibid.

Basic Training for Correctional Officers

Per Department of Correction Policy, all new correctional officers must successfully complete the Correctional Officer Employee Initial Training (CEIT), a 10-week training course.⁵⁶

As of FY 2016 CEIT training consists of:⁵⁷

Table 2: Correctional Officer Employee Initial Training (CEIT)

CEIT Course	Hours
Basic Training Orientation	5.5
Personnel Office Briefing	1.0
Overview of Criminal Justice System	1.0
Professional Ethics/Codes of Conduct	1.5
Tours	8.0
Ethics and & Professionalism	1.5
Sexual Harassment	2.0
CPR, Hanging, AED, Cut down tool	8.0
Diversity	1.5
Security	1.5
Classification	1.5
Rules for Treatment of Offenders	2.5
DTAC/Red Man	40.0
Use of Force	7.0
Population Count	2.0
Conducting Post Assumption & Inspections	1.5
Key & Tool Control	1.0
Transportation of Offenders	1.5
Use of Restraints	4.0
Staff Manipulation	2.5
Cyber Awareness	4.0
Contraband & Searches	16.0
Emergency Preparedness	24.0
Interpersonal Communications	21.0
IPC Conflict Resolution	7.0
Cross Gender Supervision	3.0
Stress Awareness/HMS Briefing	1.5
Report Writing	24.0
Prison Gangs	4.0
Legal Issues	4.0

⁵⁶ State of Delaware, Department of Correction, Policy Manual, Chapter 16, Employee Development/Staff Training.

⁵⁷ Delaware DOC Training Plan, FY 2016/17. Reviewed by the Independent Review Team, May 2017.

Chemical Agent Munitions	4.5
Evidence Handling and Documentation	3.0
Fingerprint Training	2.0
Special Medical Topics/Epilepsy	7.0
The AID Epidemic	4.0
Controlled Substances/Street Drugs	3.0
Self-Contained Breathing Apparatus & Practical	5.0
Portable Fire Extinguisher w/ Practical	1.0
Use of Force	7.0
Quick Response Team Training	7.0
QRT – Riot Control	7.0
Observation	40.0
700 MHz Radio	2.0
Food Services Orientation	1.0
40 cal/12 Gauge Basic	40.0
Suicide Prevention	8.0
Drugs in the Workplace	0.5
Hazardous Chemicals Right to Know	0.5
Education	1.0
PREA	3.0
Union Presentation	1.0
Business Office Briefing	1.0
Fleet Cards	0.5
Deferred Compensation	0.5
K-9 Briefing	0.5
Aerobic	30.0
Total number of hours	383.5

In-Service Training

DOC training policy requires that each officer complete 40 hours of subsequent in-service training on an annual basis. Per the policy, that training should, at a minimum, include the following training areas:

- Standards of conduct/ethics
- Security/Safety/Fire/Medical/Emergency/Preparedness
- Offender Supervision/PREA/Suicide Prevention
- Use of Force
- Cyber-Security
- Sexual Harassment
- Quick Response Team
- Firearms Requalification

Delaware Department of Correction Training Plan, FY 2016/17

DOC has delineated a training plan for FY 2016/17 that includes achieving American Correctional Association (ACA) Accreditation for training within two years. As of May 2017, it is reported that only the Central Office, Sussex, Parole, and the Halfway House have received ACA accreditation.⁵⁸

Observations & Findings

"We are trying to do 2017 corrections in a 1972 facility." The Correctional Officers Association of Delaware reports that there have been no formal changes in DOC training since 1985.⁵⁹ The continued use of outdated training creates an organization that is out of touch, one dimensional, and unable to cope with current correctional thinking and practices that often drive policies and court orders impacting corrections across the country.

Among the overall issues identified in the delivery of training and education within Delaware DOC are budget constraints, inadequate staffing, insufficient pay, lack of diversity among JTVCC employees, and the lack of open-mindedness among JTVCC employees. For example, the Commissioner observed that inadequate staffing led to the cancellation of scheduled training. In some isolated cases, training classes had to be cancelled mid-stream to meet security-based staffing requirements.

"There is no field training officer(s) in JTVCC." A recurring theme heard throughout interviews with staff is that the JTVCC is a challenging environment, and is often the first facility that newly graduated correctional officers are assigned to. It is likely that the current training curriculum is inadequate for the challenging conditions of the JTVCC, and that new recruits need additional on the job training in basic jail operations.

Recommendations

1. **Prioritize achievement of American Correctional Association (ACA) accreditation at the JTVCC.** This accreditation will require the facility to meet a threshold of standards to improve existing conditions.
2. **Ensure training topics and hours meet national corrections standards and include real world scenarios.** The ability to understand and apply response strategies in a high-stress environment improves performance. Training should be contemporary, robust, multi-dimensional, and prepare public safety personnel to confront novelty as well as develop and implement a response amidst chaos and uncertainty.⁶⁰ Consideration should be given to augmenting the JTVCC staff with personnel from other facilities or the Central Office to ensure training is conducted and all personnel are able to participate.

⁵⁸ ACA, personal communication, May 2017.

⁵⁹ Independent Review Team interview, May 1, 2017.

⁶⁰ "In order to perform effectively under stress, law enforcement training should strive to provide stressful encounters that replicate challenging, real life situations and encounters." U.S. Department of Homeland Security, Federal Law Enforcement Training Center, Training Research Branch, Training Innovation Division publication – "Stress and Decision Making" (July 11, 2011), p. 2-3.

- 3. Provide refresher and specialized training, such as Crisis Intervention Training (CIT) and leadership training, on an annual basis.** In-service training, regardless of the topic, should be updated on an annual basis and meet federal, state, and other appropriate certification standards. Leadership training for middle management is highly recommended. *It should be noted that Delaware DOC is currently working towards the implementation of CIT training for corrections personnel. So far this year, 94 officers have been sent to 40-hours of CIT training.*⁶¹
- 4. Develop a Field Training Officer program.** Pairing new recruits with more senior officers who could act in the capacity of a field training officer may help overcome some of the current training limitations by providing additional on the job training for new officers. Current seniority based scheduling practices, which distribute senior officers to day shifts and new officers to overnight shifts, however, makes this difficult by significantly limiting the contact they have with each other.

⁶¹ Independent Review Team interview, May 1, 2017.

Section 6. Communication

Overview

Communication at the James T. Vaughn Correctional Center (JTVCC), and to some extent, the Delaware Department of Correction (DOC), is another consistent challenge identified by the Independent Review Team.

Observations & Findings

JTVCC staff of all levels interviewed by the Independent Review Team identified communication as the number one problem at the JTVCC. This is not simply a case of the "right hand not knowing what the left is doing;" it seems even the fingers (staff) on the same hand (within the JTVCC) do not effectively communicate with each other. The Team was told that policy and rule change are often made verbally, by memo or e-mail.⁶² As a result, policies and procedures are not updated and are not followed. This leads to inconsistency in the way the supervisors run their shifts, causing stress and confusion among both correctional officers and inmates, significantly increasing the likelihood of conflict between staff and supervisors and staff and inmates.⁶³

"Systems are not communicating."⁶⁴

While information on activities from previous shifts can be seen by checking the Delaware Automated Correctional System (DACS), no roll call occurs prior to shift, nor is there a shared officers dining room or congregation area where information may more easily flow. The only break room is a small room on the admin floor that the officers said they barely use because it's not close to any compound posts. New policies are emailed, however if the email is not consistently checked, staff may not receive the information. Roll call briefings could provide a useful platform to give and receive information about previous shifts as well as get clarification of the implementation of new institutional directives.

Inconsistency among Supervisors

Related to the communication issue outlined above, line staff made similar observations, but also pointed to inconsistency in supervision by lieutenants as a "huge" problem.⁶⁵ During the site visit, the Independent Review Team observed considerable inconsistency in JTVCC practices such as pat searches, staff entry through the security systems at the gatehouse, and rules posted on bulletin boards. Some staff hypothesized that perhaps the switch to the Team concept gave lieutenants more control and took

⁶² Independent Review Team interviews, May 4, 2017.

⁶³ Ibid.

⁶⁴ Ibid.

⁶⁵ Ibid.

some from Captains, which may have led to more inconsistency. Lieutenants were described as being so micro-managed that some are afraid to make decisions while others are slow to respond. Line officers described their main concern of just trying to get through the day and could offer no consistent answer as to what is expected of them. Supervisors themselves complained of inconsistency, and of inconsistency at higher levels within the organization.⁶⁶

The consistency issue bleeds over to the inmate population as well. Inmates expressed frustration with the shifting interpretations of rules and policies and their enforcement by staff. Line staff admitted that some correctional officers are strict in enforcing rules while others are lax. Inmates are uncertain which rules apply on which shifts. When officers are stationed in housing units where inmates are unfamiliar with them, it creates stress and uncertainty for all involved. This was a strongly held belief by both inmates and line staff as well as supervisors we interviewed.⁶⁷

JTVCC correctional officers also expressed a lack a trust for their supervisors. They believe the supervisory staff do not look out for them, and will “throw them under the bus” any chance they get.⁶⁸ Line staff also described their relationship with the warden, deputy warden, and majors as adversarial; adding, “it’s always them against us.”⁶⁹ While this attitude exists at some level in most correctional organizations, it was widespread and pervasive at the JTVCC.

Such patterns of operation can lead to a sense of chaos where just “getting through the day” becomes the only staff goal. In such cases, staff often end up “doing their own thing,” rather than following a clear plan or strategy.⁷⁰ Line staff reported that they have even stopped writing up inmates for misbehavior because they are usually overruled by supervisors and there are few negative consequences for the inmate so “why bother?”⁷¹ This is clearly a reflection of inconsistent supervision, and can lead to more and more aggressive behavior by inmates. One quote from a correctional officer summed this issue up well; “We need consistency to restore confidence in DOC leadership.”⁷² A high level JTVCC official summed this issue up perfectly when he stated, “each shift is its own little island; there is no consistency. Shift change changes the entire way the jail is run.”⁷³

Line staff are largely uninformed about the gang members they supervise

The disconnect between line staff and administration extends to the level and significance of Security Threat Group (STG, i.e. gang) activity in the facility. Sharing of gang information and intelligence within the facility or among facilities does not appear to be happening. The STG team identifies and validates gang involvement, researches additional information regarding their gang involvement on the street and enter the information into IntellIDACS. This is all that is required by policy. However, the only gang

⁶⁶ Ibid.

⁶⁷ Independent Review Team interviews, May 4-5, 2017.

⁶⁸ Independent Review Team interview, May 4, 2017.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Independent Review Team interviews, May 4-5, 2017.

⁷² Independent Review Team interview, May 4, 2017.

⁷³ Independent Review Team interview, May 5, 2017.

information line staff can see in DACS is a checked STG box, which indicates the inmate is either a gang leader, member or associate. For legal reasons, access to IntelliDACs is limited. Another problem is that line staff can also only see who is an identified gang member by searching on the individual inmate's name in DACS. Staff reported that in C-Building, gang members were not only housed in the same cell, but also in adjacent cells and across the hall from each other – making communication and planning much easier. This situation was compounded by the fact that since October, all three tiers of C-Building were in the yard for recreation together.

Case managers reported they do not access the details of gang members, and that information is not considered in classifying inmates. Although gang information is shared with the Security Team, the STG system is not linked to the classification system. The level of gang involvement should be factored in to decisions about security level and housing assignments.

Emergency Response Silos

During the incident on February 1-2, 2017, three command posts existed, leading to some confusion according to those we interviewed. The primary Command Post inside of the JTVCC was led by the Warden, who by policy is in charge of the incident. DOC leadership, along with IT staff and officials from Homeland Security and State Police were at the DOC Central Administration Emergency Operations Center on McKee Road in Dover. The third command post was the Delaware State Police (DSP) mobile command post outside of Vaughn where DSP, FBI, and others congregated. While this situation is not entirely inappropriate, the communication and decision making process was reportedly confused by the three locations. While some chaos and confusion is expected during an incident involving so many agencies, this situation could serve as an example for policy revision and training for future events. Although not totally preventable, disparate radio frequencies used by various agencies also complicated the situation to some degree. A result of the confusion caused by the three command posts was that the Wilmington Police Department was asked by DSP to deploy a drone to fly over C-Building and monitor conditions live. The Warden was unaware that it had been requested by the outside command post and at first threatened to shoot it down because he thought it was a news media drone.⁷⁴

Recommendations

- 1. The Commissioner should order a review of the current structure and communication practices of the James T. Vaughn Correctional Center, and perhaps the entire Department.** The review must examine related specific JTVCC policies. This should occur under the guidance of the new Warden with the assistance of the Warden from or Deputy Warden from Sussex. The outcome would either be reinforced policies or revised policies that ensure that information flow occurs both up and down the ranks of officers but also to line staff (including civilians) as appropriate. It is the Independent Review Team's understanding that due to retirements, as many as eight new lieutenants may be at JTVCC in the next few months. This provides an excellent opportunity for a new approach to leadership and communication.

⁷⁴ Independent Review Team interview, May 18, 2017.

2. The Department should conduct leadership development training for JTVCC supervisors to reinforce the need for consistent application of policies and procedures, and to educate them on the need to share information both laterally and horizontally throughout the entire chain of command.

Lieutenants and captains appear to be tentative and afraid to make decisions or share information with each other or with their superiors. These leaders need to better understand their superiors' expectations. Lieutenants and captains need to understand that decisions need to be made, and that while they will be held accountable, they will not be punished for making decisions as long as they are based in policy. Training should occur once a new JTVCC Warden is in place so that he can be part of this training and make expectations clear. The new JTVCC Warden should participate in this training to incorporate clarification of his expectations. Beyond the training, follow up meetings should be held to regularly evaluate, make adjustments and reinforce weaknesses as needed.⁷⁵

3. Although limited, additional information about gang members (at least leader, member, associate) must be made available to line staff who supervise them in housing units in addition to the STG check box in DACS. Bulletins with important information that comes to the attention of the STG unit should also be shared as appropriate.

Roll Calls are a good place to update staff on gang-related news without the risk of written documents falling into the wrong hands. Line staff need to feel they are a trusted part of the solution, and feel empowered to supervise the inmates as safely as possible. They also have a right to know who is under their supervision.⁷⁶

4. DACS should be programmed to enable officers to see all the identified gang members on a tier with one click – perhaps a snapshot of the floor plan with flags where gang members are housed.

With the constant movement of inmates by staff on all shifts, it is easy to lose track of who is in your unit and such a feature would enable supervisors to easily see who is housed near whom and perhaps enable them to do a better job of separating gang members.

5. Conduct a joint debrief/table top review of the incident response with DSP and other emergency response agencies.

The Independent Review Team understands that the debrief has been postponed due to the ongoing criminal investigation however, as soon as possible, the primary agencies involved in this incident should conduct a table top debrief of the incident and identify issues that need addressed in the form of revised policies, training and practice as well as possible technology needs and equipment (e.g., ramming equipment, drones, etc.). Issues such as multiple command posts discussed here, the need for a joint emergency frequency for all responding agencies, joint training for DSP and DOC emergency response teams, negotiators, IT personnel, etc.

6. DOC should conduct an internal debrief of the incident to identify and share lessons learned, provide an opportunity(s) for staff to contribute to the review process, and help bring closure to JTVCC staff and other units that responded to the incident.

⁷⁵ Note - This recommendation is related to the recommendation in the Training Section regarding the need for supervisors to receive training when promoted. The absence of that training may well be part of this problem.

⁷⁶ Note - The Department has already taken steps in this direction. Several committees have been established by Commissioner Phelps after the incident. One is an STG Committee, which is led by Warden Wesley and Major Worsen. The committee is examining how each institution handles STG intelligence and will make recommendations to the commissioner.

openly and honestly discussing the event and identifying policies, procedures and practices to improve operations to prevent similar events.⁷⁷

⁷⁷ See for example – Darling, M., Parry, C., & Moore, J. (July-August 2005). “Learning in the thick of it.” Harvard Business Review.

Section 7. Equipment & Technology

Overview

Equipment and technology are critical tools for correctional institutions. Such resources not only extend the ability of corrections to operate a safe and secure facility for both staff and inmates, but they also serve a vital role when incidents do occur. As such, the State of Delaware should assist the Department of Correction (DOC) with requesting and purchasing needed equipment and technology systems, some of which may fall outside of normal procurement practices.

In our review of the equipment and technology at the James T. Vaughn Correctional Center (JTVCC), the Independent Review Team identified both equipment and technology needs as well as statewide purchasing practices that should be reviewed and potentially revised. The lack of the proper equipment and technology in a corrections environment could contribute to a serious incident, and/or inhibit the Department's ability to properly respond when an incident occurs—such as the one that occurred on February 1-2, 2017.⁷⁸

In March 2017, Governor Carney announced the investment of \$340,800 in new security and communications equipment to better equip correctional officers to respond to and prevent violent incidents at the JTVCC and in Level V facilities statewide. Governor Carney proposed another \$1.2 million for equipment purchases in his Fiscal Year (FY) 2018 Budget Proposal.⁷⁹

Observations

Purchasing Practices and Equipment Training

Currently, when the DOC purchases technology equipment (i.e. new phone system), such purchases are completed through the Department of Technology Information (DTI).⁸⁰ DTI's *2016-2019 Statewide Information Technology Strategic Plan* states their mission as "to provide technology services and collaborative solutions for Delaware."⁸¹ Corrections officials reported that during the February 1st and 2nd incident, DTI staff were extremely helpful and responsive to corrections and law enforcement official's needs and requests.

Undoubtedly, purchasing equipment and technology across state agencies is good business practice that enables significant cost savings and creates a more consistent infrastructure across the state. However,

⁷⁸ Some of the equipment and technology needs discussed in this report were in the process of being addressed at the time of this writing.

⁷⁹ State of Delaware. (2017, March 13). Governor Carney takes steps to address security concerns at James T. Vaughn Correctional Center. <http://news.delaware.gov/2017/03/13/governor-carney-takes-steps-to-address-security-concerns-at-james-t-vaughn-correctional-center/> (accessed May 27, 2017).

⁸⁰ DTI provides the IT infrastructure and applications for the state. DTI advocates for resources from the State legislature, federal agencies, or foundations to implement plans for IT systems integration.

⁸¹ Delaware Department of Technology and Information. *Statewide Information Technology Strategic Plan: 2016-2019*. <https://dti.delaware.gov/pdfs/strategicplan/Delaware-Statewide-IT-Strategic-Plan.pdf> (accessed May 22, 2017), p.8.

consideration must be given to the unique equipment and technology needs of the DOC. Although the DOC has many similar needs as other state agencies, they also have some needs that are unique to corrections. Corrections agencies have the responsibility to confine individuals, many for long periods of time. These confined individuals have the potential to be dangerous and unpredictable. Providing a safe and secure environment for both those confined and those who work in corrections facilities requires the use of specialized equipment and technology that other government agencies may not need.

Telephone Systems

The Department of Correction recently purchased a new telephone system for the JTVCC. Although the Department was interested in another telephone system made specifically for corrections, DTI reportedly purchased a Cisco Voice over Internet Protocol (VOIP) phone system telephone system to be consistent with other state agencies. The system was not believed to meet the unique needs of a corrections environment.

Several issues have been identified with the system, some of which compounded the February 1st JTVCC incident. Rather than use the Cisco system, which lacks call tracking or the ability to listen in and record conversations, officials were forced to use the inmate phone system for communications with the inmates in C-Building. Issues with the phones' Emergency Off Hook feature and switchboard have caused Primary Control to receive hundreds of false alarms and other calls that may hamper vital communications. Since the incident, the issue reported was that the wrong call center had been purchased and a new purchase would have to be made to fix the situation at an estimated cost of \$200,000 (\$1,000 license fee per phone for 200+ phones).⁸²

Cameras and Recorders

Cameras enable correctional officers to view inmates and operations beyond what staff can see themselves. Cameras that are capable of recording over a period are an essential tool for corrections. Additionally, cameras featuring microphones which provide the ability to not only view images, but also to listen in and record audio are especially helpful. Unfortunately, several buildings at the JTVCC do not have any type of cameras and few if any are believed to have audio capability. Some cameras are also not connected to recording devices, and those that are only retain footage for 15 days.

Unfortunately, several buildings at the JTVCC do not have any type of cameras and few if any are believed to have audio capability. Additionally, some cameras are also not connected to recording devices, and those that are only retain footage for 15 days.

⁸² Independent Review Team interview, May 18, 2017.

Various reasons, including the difficulty of running conduit/cables, low ceilings, cost, and reduced need due to low security levels, have been given to explain the absence of cameras in these buildings. Only one camera was installed to view the compound. On February 1st, this camera was used to record the outside of C-Building. The PTZ camera (pan, tilt, and zoom) was directed to focus on the front of C-Building. This camera was fed to a monitor capable of recording the event. This is the only camera that captured video of C-Building.⁸³

Responding to the tragic events on February 1st and 2nd was made even more difficult because there are no cameras inside C-Building. While cameras may not have prevented the incident from occurring, they could have had a deterrent effect and could have provided additional information for post incident investigations had they been installed inside the housing unit. Had the cameras been equipped with microphones, they could have enabled officials to listen to the events as they transpired even if the inmates covered the camera lenses.

Radios

There were two issues mentioned regarding the use of radios during the incident. First, the new 700 MHz system the DOC purchased several years ago is not encrypted. This allowed the transmissions during the early portion of the event to be broadcast over the internet by persons outside of Delaware. This was eventually stopped by reducing the range of the frequency to 10 miles. The department is reportedly in the process of encrypting the radios to prevent this issue in the future.⁸⁴

The second issue is that civilian staff (education, medical, etc.) mentioned that they do not have radios.⁸⁵ During the February 1st incident, many civilian staff did not know what was occurring until someone called them by telephone.

Information Systems (DACs and IntelliDACs)

The offender information management system used at the Department of Correction is the Delaware Automated Correction System (DACs). DACs contains complete demographic and programming information on inmates and detainees, grievances, etc. with the exception of medical, mental health, PREA, and gang information.

All correctional officers can access DACs from their post terminals and DOC policy 15.9 also authorizes controlled access to DACs by authorized employees of other State agencies and approved contract service providers (e.g. the medical and mental health and the substance abuse treatment provider). When correctional officers log into DACs at the start of their shift on their post, any messages and notifications will immediately pop up. Officers use DACs to record their counts throughout their shift as well.

⁸³ Discrepancies memo. 2014 equipment budget request and camera proposal. Reviewed by the Independent Review Team, May 2017.

⁸⁴ Independent Review Team interview, May 18, 2017.

⁸⁵ Independent Review Team interview, May 5, 2017.

The only PREA or STG (gang) related information that appears in DACS viewable by line staff is a check box to alert staff that a person is a suspected sexual aggressor or gang member. That is all that correctional officers can see regarding gang members among the population they supervise. The STG box will appear with a 'check' if the inmate has been confirmed as a gang member, associate or suspect. DACS is programmed to flag 'keep separate' or 'no contact' inmates, which alerts staff of the need to keep designated offenders separated.

Body Worn Cameras (BWC)

The use of Body Worn Cameras (BWC) by law enforcement agencies has increased dramatically over the past several years due to a number of high-profile incidents involving the use of deadly force.⁸⁶ Although this technology is beginning to find its way into institutional corrections, its use is so new that none of the national correctional organizations have adopted any policies or practice guidance on BWC use as of this writing. Several local corrections agencies across the country have equipped their correctional officers with body worn cameras due to litigation over use-of-force incidents.⁸⁷ In California, San Francisco, Santa Clara and Tulare Counties have equipped their jail officers with body cameras as of late 2015.⁸⁸ In 2016, the City of Atlanta Department of Corrections purchased and issued 130 body worn cameras, suggesting a growing trend at the local level.⁹⁰

The use of BWC can have several advantages for corrections. For example, having an audio and video of an interaction or altercation between a staff member and an inmate that results in a grievance, injury or disciplinary action can help resolve the facts of the incident. The mere fact that officers are wearing them may impact how an officer interacts with an inmate and it may also impact an inmate's behavior. In a 2014, a U.S. Department of Justice report, *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*, several police executives said the presence of cameras leads to better behavior by both the officer and the person being recorded.⁹¹ Other benefits cited included defusing tensions during encounters with the public and improving relationships with the community. Police officers also reported a noticeable improvement in the quality of their encounters with the

⁸⁶ IJIS Institute. Corrections tech 2020: technological trends in custodial & community corrections. March 2017. http://cymcdn.com/sites/www.ijis.org/resource/collection/93F7DF36-8973-4B78-A190-0E786D87F74F/Corrections_Tech_2020_FINAL_20170331.pdf (accessed May 22, 2017), p. 23.

⁸⁷ Ibid.

⁸⁸ Tulare County Sheriff. (2016, October 10). Sheriff awarded grant for body-worn cameras in the jails. <http://www.tularecounty.ca.gov/sheriff/index.cfm/media/news-releases/sheriff-awarded-grant-for-body-worn-cameras-in-the-jails/> (accessed May 30, 2017).

⁸⁹ Kaplan, T. (2015, September 15). Santa Clara County opts for body cameras on jail guards after inmate beating death. *The Mercury News*. <http://www.mercurynews.com/2015/09/15/santa-clara-county-opts-for-body-cameras-on-jail-guards-after-inmate-beating-death/> (accessed May 30, 2017).

⁹⁰ McCann, B. (2016, January 28). Atlanta department of corrections deploys body cameras. *CivSource*. <https://civsourceonline.com/2016/01/28/atlanta-department-of-corrections-deploys-body-cameras/> (accessed May 30, 2017).

⁹¹ Miller, L. and Toliver, J. 2014. *Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned*. Washington, DC: Office of Community Oriented Policing Services. http://www.policeforum.org/assets/docs/Free_Online_Documents/Technology/implementing%20a%20body-worn%20camera%20program.pdf (accessed May 30, 2017).

public.⁹² Prince George County Department of Corrections in Maryland has issued body cameras to their emergency response teams, and observed that “inmates are beginning to show a little more restraint in their interactions with officers.”⁹³ Real-time sharing of body-camera video could improve situational awareness for outside response teams coming to incidents at jails and prisons.

Findings

Purchasing Practices (Telephones). Corrections agencies clearly have needs that are unique to their specific operating environment. The issues associated with the new phone system provide an example of this issue. Centralized purchasing at the state level is appropriate; however, the unique requirements of a corrections-based communication system should be considered and may necessitate a departure from current purchasing policies and procedures.

Cameras and Recording Devices. Corrections agencies use cameras to cover areas that officers are unable to continuously monitor. There were no cameras in C-Building and numerous other buildings in JTVCC. Of the cameras that are in use, few can be recorded and none are believed to have audio capability. The annual budget for camera maintenance and repair at JTVCC is \$25,000.

Radios. The 700 MHz radios were not encrypted which allowed communications during the incident to be monitored by persons outside of JTVCC and streamed over the internet. This was not only disturbing for the families of those involved in the incident but could have jeopardized emergency operations. Civilian staff were not equipped with radios and were therefore not immediately aware of the emergency until they were informed by officers later.

DACS. DACS technology is 5 years old and lacks redundancy and is costly to maintain. The Department is already taking steps to replace DACS and include some of these missing capabilities at an estimated cost of \$1.2 million.

Recommendations

- 1. *With the review and approval of the newly appointed Warden, the Department should purchase all recommended cameras, recorders and related equipment necessary to adequately cover all of JTVCC as recommended by the recent review done by DTI and have the systems installed as soon as possible.*** DOC was already working on a plan to upgrade and expand the camera system prior to the event and those plans were reaching the final stage of pricing when the incident occurred. Since the incident, the Electronic Technicians and a company they work with have been tasked with submitting a plan for a total camera system upgrade for JTVCC with microphones and cables for recording. The estimated cost to purchase and install the needed equipment is approximately \$2.3 million and will take 18 months to complete.

⁹² Ibid.

⁹³ Bui, L. (2016, February 23). Maryland county equips some detention officers with body cameras. *Washington Post*. https://www.washingtonpost.com/local/public-safety/maryland-county-equips-some-detention-officers-with-body-cameras/2016/02/22/374ed9e6-c39b-11e5-8965-0607e0e265ce_story.html?utm_term=.13b07cd2e5a6 (accessed May 31, 2017).

2. The Department must expedite the encrypting of all the radios (agency wide) to prevent this issue in the future. It is the Team's understanding that the radios assigned to personnel in JTVCC are being encrypted following the incident. If this process is not yet complete, the Department should expedite the process at JTVCC as well as at all facilities in the DOC system. Funds should be allocated to ensure an expedited system-wide process.

3. The Department should be authorized the funding needed for the replacement of the offender information system known as DACS including Access Points and Active Port costs. The DOC can ill afford DACS to go down or be disrupted, especially during an emergency. DACS and IntelliDACs were used heavily to inform emergency operations during the incident that occurred on February 1st and 2nd. One feature that should also be programmed into DACS is one that would enable correctional staff working housing units to be able to pull up all identified STGs in their tier or housing unit with one click. It is critical that DACS have a redundant platform as well as other features identified by DOC IT personnel.

With the trend toward the use of tablets in corrections, the Department should be authorized the necessary funds to purchase the Access Points needed now as well as to purchase additional Access Points as the use of these mobile technologies grows. Included in this funding authorization should be funding to support the Active Ports needed at DTI to support access points.

4. Delaware DOC should explore developing a policy and pilot test a Body Worn Camera program with their CERT Team. Based on this experience, the Department could expand the use of BWCs to officers who work in buildings where there are higher numbers of incidents and altercations (medium-high and high security). The Department should consult with correctional agencies already using body cameras to learn from their experience as a first step. A well-thought-out policy and implementation is essential before purchasing or deploying body cameras. Messaging should convey that the use of this technology is not because the Department lacks trust its correctional officers, but rather they want to provide them with a tool to help keep them safe. Issues such as privacy, when to activate, data storage and retention, integrity of data to be used as evidence, and public disclosure must all be addressed in a policy before equipment is used. The Department must also take into consideration the concerns of officers and conduct the proper training on the policy regarding the use of the technology. The use of Body Cameras can serve as a training tool by supervisors to assess an officer's performance and provide constructive feedback. The Bureau of Justice Assistance, U.S. Department of Justice, has an excellent Body Worn Camera toolkit. Although designed to assist police agencies, this toolkit organizes frequently asked questions, resources, and other information including research, policy, technology, and privacy.⁹⁴

⁹⁴ For more information, see: <https://www.bja.gov/bwc/>.

Conclusion

"Officers are not doing their jobs because they are fearful, apathetic or feel no one cares about them. We need to fix our people by caring for them, proper training, enforcing policy, and holding people (staff) accountable."⁹⁵

State of Delaware elected leadership and executives have an opportunity to make significant change and improvement in the JTVCC. The Independent Review Team noted, based on a materials and document review, that much of what was found during this review, and is presented in this preliminary report, echoes the same findings and recommendations found in the DOC security report issued on February 14, 2005, following a tragic incident that occurred in the JTVCC in 2004. The long-standing issues within the facility, if left unattended, will continue provide fertile ground for chaos and violence in the facility.

Based on the observations made, as well as the focus groups and interviews conducted, the Team found a clear and pervasive sense of frustration, cynicism, and apathy within the JTVCC. Staff conveyed that supervisors are reluctant to address performance issues for fear of being overruled or losing a badly needed body to fill a post. Non-custodial staff reported that morale is at its lowest it has been in 30 years. Many employees, the Team was told, had stopped trying because of fear, frustration, and/or exhaustion, and simply focus on making it through the day and going home.

During the course of this preliminary review, the Independent Review Team received inmate-based complaints during interviews of inmates, advocates, and attorneys. Inmate concerns expressed to external organizations included inconsistent discipline; lack of programming and medical care; a grievance process that most see as meaningless; the use of shaming tactics; and, the harassment of inmates by damaging or destroying their property under the guise of security searches and facility shakedowns. These complaints and other concerns will be referred to the DOC Commissioner and explored more fully in the final report.

The Independent Review Team notes that some progress has already begun. Indeed, several of the recommended actions in this report are also currently underway by the Delaware DOC.⁹⁶ Continued exploration of the role that culture plays at the JTVCC, as well as how the issues discussed in this report contribute to that culture, will continue to be examined by the Team. The recommendations contained in this report, if implemented, have the potential to transform the JTVCC, and lives of those who live and work in the facility.

⁹⁵ Independent Review Team interview, May 3, 2017.

⁹⁶ Delaware DOC Actions road to improvement chart. Reviewed by the Independent Review Team, May 2017.

Acronym List

ACA	American Correctional Association
ACLU	American Civil Liberties Union
BOP	Bureau of Prisons
BWC	Body Worn Cameras
CERT	Correctional Emergency Response Team
CIT	Crisis Intervention Training
CLASI	Community Legal Aid Society, Incorporated
COAD	Correctional Officers Association of Delaware
DACS	Delaware Automated Correctional System
DOC	Department of Corrections
DTI	Delaware Department of Technology and Information
JTVCC	James T. Vaughn Correction Center
MHU	Medium-High Housing Unit
OMB	Office of Management and Budget
PREA	Prison Rape Elimination Act
SHU	Security Housing Unit
STG	Security Threat Group
SMI	Seriously Mentally Ill

Glossary

American Correctional Association (ACA)—A private, nonprofit organization that administers the only national accreditation program for all components of adult and juvenile correction; purpose is to promote improvement in the management of correctional agencies through the administration of a voluntary accreditation program and the ongoing development and revision of relevant, useful standards. (11-A-06, Statewide Quality Improvement Program).

Classification—Prison classification is a method of assessing inmate risks that balance security requirements with program needs. Newly admitted inmates are transported from city or county jails to a prison receiving center where the risk assessment process begins.

Correctional Officer—An officer responsible for the custody, safety, security, and supervision of inmates in a prison or any other correctional facility.

Contraband—Anything that is not authorized on the grounds of the JTVCC.

Delaware Automated Correctional System (DACS)—A State of Delaware computer system containing the non-medical offender information concerning sentencing, housing, and programming.

Detainee—A person held in custody pending trial; not convicted of a crime but does not have bail or is being held without bail.

Grievance—A written complaint or petition, either informal or formal, by an inmate concerning an incident, procedure, or condition within an institution, facility or the Department which affects the inmate complainant personally.

Honor visit—Specialized privilege arranged by a housing unit counselor. Inmates must fulfill certain criteria to be eligible for an Honor visit. The visit is held outside in a picnic area with the inmate and his visitors. The visitors are allowed to bring "outside" food to the visit after being searched to dine with the inmate at the visit.

iCASH—A system used by JTVCC's Business Office to track inmate accounts, including money received from family and friends, inmate wages, funds for commissary purchases and payments ordered by the courts.

Recreation—Recreation is time outside of the cell, not showering, or cleaning up; at a minimum recreation should be 1 hour three times a week.

Roll call—A roll call is a briefing where supervisors take attendance, inspect uniform and equipment, inform the oncoming shift of any outstanding incidents that may have occurred, inform officers of inmates or units to observe closely, related any law or procedural changes, and other similar issues.

Shakedown—A thorough search of a prison cell to uncover contraband and excessive property.

Appendix A: Full Listing of Recommendations

Recommendation 2.1

The DOC Commissioner should develop a detailed strategic plan and implementation process for the Delaware DOC that not only explains what is to be done, but also how it is to be done (in considerable detail so that each staff member can see where they fit), how it will be measured, and why it is important to embark on this effort.

Recommendation 2.2

DOC should hold a one-day conference or similar event to discuss the future of corrections in Delaware.

Recommendation 2.3

The DOC should use the strategic plan and implementation process to inform policies, procedures and operations; security; budgeting; executive, mid-level and staff training; infrastructure, inmate programming, and services.

Recommendation 2.4

DOC executive leadership should endeavor to build and maintain strong relationships with correctional officers and administrative personnel throughout the agency.

Recommendation 3.1

Conduct a comprehensive staffing study to identify proper staffing levels at the JTVCC.

Recommendation 3.2

Update and implement a practical fatigue/stress policy that accounts for work-life balance.

Recommendation 3.3

Create a promotional career ladder with competitive salaries, and merit-based recognition.

Recommendation 3.4

Provide Critical Incident Counseling and Training in Stress Management and Reduction, such as Mindfulness Training.

Recommendation 4.1

Review, revise and update the policies, procedures and post orders annually.

Recommendation 4.2

Conduct a review the DOC Uniform Classification System and related practices at James T. Vaughn Correctional Center.

Recommendation 4.3

Implement Roll Calls in order to communicate more effectively with staff.

Recommendation 4.4

Break the Code of Silence and bridge the gap between line officers and the corrections administration.

Recommendation 4.5

Immediately address the disconnect between JTVCC administrators and supervisors.

Recommendation 4.6

DOC should research, identify and implement a performance management system that holds all staff accountable for the implementation of and adherence to policies and procedures, safety and security practices, as well as efficient and effective operations.

Recommendation 4.7

Decrease the inmate population or encourage alternatives to incarceration programs.

Recommendation 4.8

Research other Departments of Correction structures in the surrounding area.

Recommendation 5.1

Prioritize achievement of American Correctional Association (ACA) accreditation at the JTVCC.

Recommendation 5.2

Ensure training topics and hours meet national corrections standards and include real world scenarios.

Recommendation 5.3

Provide refresher and specialized training, such as Crisis Intervention Training (CIT) and leadership training, on an annual basis.

Recommendation 5.4

Develop a Field Training Officer program.

Recommendation 6.1

The Commissioner should order a review of the current structure and communication practices of the James T. Vaughn Correctional Center, and perhaps the entire Department.

Recommendation 6.2

The Department should conduct leadership development training for JTVCC supervisors to reinforce the need for consistent application of policies and procedures, and to educate them on the need to share information both laterally and horizontally throughout the entire chain of command.

Recommendation 6.3

Although limited, additional information about gang members (at least leader, member, associate) must be made available to line staff who supervise them in housing units in addition to the STG check box in DACS. Bulletins with important information that comes to the attention of the STG unit should also be shared as appropriate.

Recommendation 6.4

DACS should be programmed to enable officers to see all the identified gang members on a tier with one click – perhaps a snapshot of the floor plan with flags where STG members are housed.

Recommendation 6.5

Conduct a joint debrief/table top review of the incident response with DSP and other emergency response agencies.

Recommendation 6.6

DOC should consider an internal debrief of the incident to identify and share lessons learned, provide an opportunity(s) for staff to contribute to the review process, and help bring closure to JTVCC staff and other units that responded to the incident.

Recommendation 7.1

With the review and approval of the newly appointed Warden, the Department should purchase all recommended cameras, recorders and related equipment necessary to adequately cover all of JTVCC as recommended by the recent review done by DTI and have the systems installed as soon as possible.

Recommendation 7.2

The Department must expedite the encrypting of all the radios (agency wide) to prevent this issue in the future.

Recommendation 7.3

The Department should be authorized the funding needed for the replacement of the offender information system known as DACS including Access Points and Active Port costs.

Recommendation 7.4

Delaware DOC should explore developing a policy and pilot test a Body Worn Camera program with their CERT Team. Based on this experience, the Department could expand the use of BWC to officers who work in buildings where there are higher numbers of incidents and altercations (medium-high and high security).

Appendix B: State of Delaware Executive Order #2

STATE OF DELAWARE



EXECUTIVE DEPARTMENT
DOVER

EXECUTIVE ORDER
NUMBER TWO

TO: HEADS OF ALL STATE DEPARTMENTS AND AGENCIES

RE: NAMING RETIRED JUSTICE HENRY DUPONT RIDGELY AND RETIRED JUDGE
WILLIAM L. CHAPMAN, JR. TO LEAD AN INDEPENDENT REVIEW OF SECURITY
ISSUES AT DELAWARE CORRECTIONAL FACILITY

WHEREAS, on February 1, 2017, an event occurred at the James T. Vaughn Correctional Center, in which several inmates took several employees hostage, and assaulted a correctional officer leading to the correctional officer's death; and

WHEREAS, since February 1, 2017, the events leading up to the hostage incident, and the response thereto, are being reviewed by investigative authorities, including the Delaware State Police and the Department of Correction Internal Affairs Unit; and

WHEREAS, it is advisable and in the best interest of the State that independent examiners review the events surrounding the hostage incident and related security issues at the James T. Vaughn Correctional Center, and the findings from the investigations conducted by the Delaware State Police and the Department of Correction, and make recommendations to help assure the safety and security of all persons housed in and working at the James T. Vaughn Correctional Center.

NOW, THEREFORE, I JOHN C. CARNEY, by virtue of the authority vested in me as Governor of the State of Delaware, do hereby DECLARE and ORDER the following:

1. Retired Justice Henry duPont Ridgely and Retired Judge William L. Chapman, Jr. are hereby named to lead an independent review regarding any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017 (the "Independent Review Team"). Although the central focus of the review is the state of security and any potential changes that might be required at the James T. Vaughn Correctional Center, the Independent Review Team shall not be precluded from examining practices at other correctional facilities, in Delaware or elsewhere, should the Independent Review Team believe that such an examination is helpful to its review.
2. Justice Ridgely and Judge Chapman are appointed by the Governor as Co-Chairs and shall serve at the pleasure of the Governor.
3. The Governor may increase the size of the Independent Review Team and appoint additional members at his pleasure.
4. To assist the Independent Review Team in its investigative and administrative needs, the Independent Review Team is authorized to engage the services of necessary professional consultants, provided that the Independent Review Team shall first obtain the written consent of the Governor.
5. No later than June 1, 2017, the Independent Review Team shall issue a preliminary report addressing the following issues:
 - a. Initial findings concerning any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017; and
 - b. Initial findings and recommendations for improving security concerns at the James T. Vaughn Correctional Center.

6. The Independent Review Team shall issue a final report to the Governor as soon as practicable, but in no event later than August 15, 2017, regarding any conditions at the James T. Vaughn Correctional Center that contributed to the hostage situation on February 1, 2017. In the final report, the Independent Review Team shall also provide recommendations for improving security concerns at the James T. Vaughn Correctional Center, and it may, in its discretion provide recommendations for improving security concerns at other State correctional facilities should it have the basis to do so. The final report may also contain recommendations concerning additional relevant safety and security issues that may require further investigation in the near future.
7. The Department of Correction, the Department of Safety and Homeland Security, and any other executive agency with pertinent information concerning the investigation shall cooperate with the Independent Review Team and provide information to the Independent Review Team as requested. Additionally, the Independent Review Team is encouraged to consult with nationally recognized criminal justice agencies or organizations as the Independent Review Team shall deem necessary or useful.
8. To the extent reasonably required by the Independent Review Team, for the integrity of the investigation or because of security concerns related to the James T. Vaughn Correctional Center and/or the Department of Correction, the communications, deliberations and work product of the Independent Review Team shall be confidential. Further, the records, investigations, and deliberations of the Independent Review Team, along with all internal communications and communications with the Governor and his designees, are intended to be protected by the executive privilege. The final report of the Independent Review Team is intended to be a public document, except to the extent

that the Independent Review Team determines that the security of the Department of Correction or other State correctional facilities, or of any person, requires that specifically identified information remain confidential.

APPROVED this 14th date of February 2017.



John C. Carney
John C. Carney
Governor

ATTEST:

[Signature]
Achy Secretary of State

Appendix C: Methodology

In February 2017, at the request of Governor John Carney and his Executive Order to launch an independent review into the security of the JTVCC, the Police Foundation (PF) created an Independent Review Team. The Team, comprising subject matter experts in corrections, public safety and critical incident response, developed and executed a comprehensive methodology to critically review and assess the incident and circumstances leading up to it in order to develop lessons learned and recommendations for improvement for the State of Delaware. Sources and types of information included: site visits to JTVCC to get a sense of the facility; focus groups of JTVCC correctional officers and inmates and interviews with key stakeholders to gain perspectives from those involved and affected; document reviews; and literature and media coverage reviews. The following sections detail the Independent Review Team's methods during the data-gathering phase.

On-site data collection

Site Visits

The Independent Review Team conducted two site visits: May 1-5, 2017 and May 18-19, 2017. During the month of May, the team interviewed 84 people, individually and in focus groups. Those interviewed included the following:⁹⁷

- Secretary of Safety and Homeland Security
- Commissioner, Department of Corrections
- Bureau Chief of Prisons, Department of Corrections
- Warden, James T. Vaughn Correctional Center, Department of Corrections
- Major, Delaware State Police
- JTVCC Supervisors
- JTVCC Correctional Officers
- JTVCC Civilian Staff
- JTVCC Inmates, housed in multiple security levels
- Community Leaders/Group Representatives

Materials collection and review

The Independent Review Team collected and reviewed numerous documents, data, reports, letters and other materials from the State of Delaware and community members through materials requests as well as collection of materials while on site. Review of these documents assisted in identifying findings and recommendations. Materials reviewed included the following:

- Department of Correction and James T. Vaughn Correctional Center policies and procedures
- Use of force reports

⁹⁷ Number includes interviewees who were DOC employees as of February 1, 2017. Some interviewees may have retired or otherwise left the department by the date of report release.

- Staffing-related assignments, plans, and reports
- Training materials
- Equipment inventories and plans
- Grievance-related logs and documents

Off-site data collection

Literature review

In addition to the information collected while on site, the Independent Review Team collected and reviewed relevant literature and media to critically assess the events surrounding the February 1, 2017, incident at the JTVCC and related security issues.

Media analysis

The February 1, 2017, hostage incident, death of a correctional officer, and subsequent events at the JTVCC were reported on television, the Internet, and social media. The Team read articles and reviewed other relevant media postings, websites, and audio.

Analysis

Based on the on- and off-site data collection and analysis, the Independent Review Team evaluated policies, procedures, practices and technology at the facility and within DOC that could have contributed to the February 1, 2017, incident. These and other related areas of focus were identified and used to develop the foundation for findings and recommendations.

Development of Recommendations

The analysis of key focus areas provided a foundation from which to develop findings and recommendations for improving security concerns at the JTVCC that can be used by the State of Delaware to take actions that can help prevent similar incidents in the future.

Appendix D: About the Police Foundation

The Police Foundation is a national nonmember, nonpartisan, nonprofit organization that has been providing technical assistance and conducting innovative research on policing for nearly 45 years. The professional staff at the Police Foundation work closely with law enforcement, community members, judges, prosecutors, defense attorneys, and victim advocates to develop research, comprehensive reports, policy briefs, model policies, and innovative programs. The organization's ability to connect client departments with subject matter expertise, supported by sound data analysis practices, makes us uniquely positioned to provide critical incident review, training and technical assistance.

The Police Foundation has been on the forefront of researching and providing guidance on community policing practices since 1970. Acceptance of constructive change by police and the community is central to the purpose of the Police Foundation. From its inception, the Police Foundation has understood that in order to flourish, police innovation requires an atmosphere of trust; a willingness to experiment and exchange ideas both within and outside the police structure; and, perhaps most importantly, a recognition of the common stake of the entire community in better police services.

The Police Foundation prides itself in a number of core competencies that provide the foundation for critical incident reviews, including a history of conducting rigorous research and strong data analysis, an Executive Fellows program that provides access to some of the strongest thought leaders and experienced law enforcement professionals in the field, and leadership with a history of exemplary technical assistance program management.

Other Police Foundation critical incident reviews include:

- [Managing the Response to a Mobile Mass Shooting: A Critical Incident Review of the Kalamazoo, Michigan, Public Safety Response to the February 20, 2016, Mass Shooting Incident](#)
- [Maintaining First Amendment Rights and Public Safety in North Minneapolis: An After-Action Assessment of the Police Response to the Protests, Demonstrations, and Occupation of the Minneapolis Police Department's Fourth Precinct](#)
- [Bringing Calm to Chaos: A critical incident review of the San Bernardino public safety response to the December 2, 2015 terrorist shooting incident at the Inland Regional Center](#)
- [A Heist Gone Bad: A Police Foundation Critical Incident Review of the Stockton Police Response to the Bank of the West Robbery and Hostage-Taking](#)
- [Police Under Attack: Southern California Law Enforcement Response the Attacks by Christopher Dorner](#)

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ISAAC FLORES, *et al.*,

Plaintiffs,

v.

BRIAN EMIG, *et al.*

Defendants.

Civil Action No. _____

DECLARATION OF DONNA WHITE

I, Donna White, make the following declaration upon my personal knowledge:

1. I am over the age of eighteen (18), and I am otherwise competent to testify on the matters stated in this Declaration.

2. I submit this Declaration related to the facts alleged in this lawsuit.

3. I am the Litigation Paralegal at the ACLU of Delaware.

4. One of my job responsibilities is to process intake forms submitted to the ACLU of Delaware from individuals concerned about infringements of their, or their loved ones', civil rights and civil liberties.

5. As part of my job, I process a high number of intake forms submitted by individuals incarcerated in Delaware prisons.

6. I initially processed all of the intake forms submitted to the ACLU of Delaware by the Plaintiffs in this lawsuit. Most of those intake forms arrived in September and October of 2024.

7. Since the submission of the intake forms by the Plaintiffs in this lawsuit, the ACLU of Delaware has continued to receive intake forms complaining about the events that took place at Vaughan from September 5-6, 2024.



8. In addition to continued complaints about the September 2024 incident, the ACLU of Delaware has continued to receive additional intake forms from individuals incarcerated at Vaughan who allege that they have been subjected to various uses of excessive force.

9. As recently as December 30, 2024, the ACLU of Delaware received an intake form from an individual incarcerated at Vaughan alleging that he was subjected to excessive force at the hands of correctional officers.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2025.

A handwritten signature in cursive script, appearing to read "Donna White", is written above a horizontal line.

Donna White

EXHIBIT J

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

WILLIAM DAVIS, et al.,)
)
Plaintiffs,)
)
v.) C.A. No. 21-1773-GBW
)
KIRK NEAL, et al.,)
)
Defendants.)

**STIPULATION AND PROPOSED ORDER
REGARDING DEFENDANTS’ AFFIRMATIVE DEFENSES**

WHEREAS on September 19, 2023, Plaintiffs filed their Third Amended Complaint (“TAC”) (D.I. 60);

WHEREAS on December 1, 2023, Defendants filed their answer to the TAC alleging thirty-six affirmative defenses (D.I. 69), three of which (Affirmative Defenses 21, 31, and a portion of 27) relate, in whole or in part, to Plaintiffs’ obligations to exhaust administrative remedies under the Prison Litigation Reform Act (the “Exhaustion Affirmative Defenses”);

WHEREAS on December 8, 2023, Plaintiffs moved to strike the Exhaustion Affirmative Defenses (the “Motion to Strike”) (D.I. 71);

WHEREAS on December 13, 2023, the parties met and conferred to discuss Plaintiffs’ Motion to Strike;

NOW THEREFORE IT IS HEREBY STIPULATED AND AGREED, by and between the parties, through their undersigned counsel and subject to the approval of the Court, as follows:

1. Defendants shall strike Affirmative Defense Nos. 21 and 31 relating to exhaustion;
2. Defendants shall revise Affirmative Defense No. 27 to read: “Plaintiffs claims are

barred, in whole or in part, by the Prison Litigation Reform Act ('PLRA'), except that any and all defenses related to the PLRA's exhaustion requirement under 42 U.S.C. § 1997e are stricken;"

3. In accordance with this Stipulation, Defendants shall file an Amended Answer to the Third Amended Complaint by no later than January 5, 2024.

**WHITEFORD, TAYLOR
& PRESTON LLC**

/s/ Dan A. Griffith
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ACLU-DE

/s/ Dwayne Julian Bensing
Dwayne Julian Bensing (#6754)
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dbensing@aclu-de.org

Dated: December 20, 2023

SO ORDERED this _____ day of _____, 2023

SAUL EWING LLP

/s/ Marisa R. De Feo
James D. Taylor Jr. (#4009)
Marisa R. De Feo (#6778)
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Hon. Gregory B. Williams