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**The Special Counsel**

December 11, 2023

The President  
The White House  
Washington, D.C. 20500

Re: OSC File No. DI-23-000261

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) by the Department of Justice (DOJ) in response to the Special Counsel's referral of a disclosure of wrongdoing at the Bureau of Prisons (BOP), Federal Detention Center Miami (FDC Miami), Miami, Florida. The whistleblower, [REDACTED], a case manager who consented to the release of her name, alleged a violation of law, rule, or regulation, gross mismanagement, a gross waste of funds, and an abuse of authority. I have reviewed the disclosure and the agency report, and, in accordance with 5 U.S.C. § 1213(e), I have determined that the report meets all statutory requirements and the findings appear reasonable.<sup>1</sup>

*The Allegations*

[REDACTED] alleged that FDC Miami officials routinely fail to process inmate applications and referrals for BOP programs in a timely manner. She further alleged that agency officials directed her to post-date documents to appear compliant with agency policy. In addition, she alleged that FDC Miami officials misinform inmates during the Admissions and Orientation (A&O) process upon their arrival at FDC Miami regarding the availability of certain BOP programs. As summarized below, the agency investigation partially substantiated the allegations.

*The Investigative Findings*

First, the investigation did not substantiate that BOP officials routinely fail to process inmate applications and referrals for BOP programs in a timely manner. When interviewed, [REDACTED] identified three examples in which she referred an inmate for home confinement and alleged that the referrals were not processed in a timely manner due to unexplained delays between the submission of

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<sup>1</sup> The whistleblower's allegations were referred to Attorney General Merrick Garland for investigation pursuant to 5 U.S.C. § 1213(c) and (d). The investigation was conducted by the BOP Office of Internal Affairs, and the Attorney General delegated his authority to review and sign the report to Associate Deputy Attorney General Bradley Weinsheimer.

the referral and the decision by agency management. In the first example, ██████ referred an inmate for home confinement on March 16, 2022, and the referral was signed and rejected on May 11, 2022; in the second example, she referred an inmate for home confinement on December 1, 2022, and the referral was signed on February 14, 2023; in the third example, the inmate was referred for home confinement on November 2, 2022, and the referral was signed on December 17, 2022. The agency disagreed with the contention that the referrals were untimely processed in these cases, finding no violation of any applicable law, rule, regulation, or agency policy, and no evidence of unnecessary or excessive delays. For example, the report noted that one of the inmates was found to have previously violated the terms of home confinement, causing his referral to be denied, and in another example the agency needed clarification regarding a pending juvenile criminal charge against the inmate before it could make a determination on the referral.

The investigation also did not substantiate the allegation that FDC Miami employees have misinformed inmates during the A&O process as to the availability of “treaty transfers” in accordance with BOP Program Statement 5140.42, *Transfer of Offenders to or From Foreign Countries*.<sup>2</sup> The report noted that ██████ had not previously attended A&O but relied on information from two inmates who told her that they did not receive information about the treaty transfer process. The investigation found that FDC Miami officials provide a lesson to inmates during A&O to ensure that inmates are aware of the treaty transfer process and that they should inform their case manager if they wish to apply for a treaty transfer.

The agency investigation did substantiate the whistleblower’s allegation that she was directed to post-date inmate applications for the treaty transfer program. In relevant part, Program Statement 5140.42 provides that the inmate’s application packet must be forwarded to the Assistant Administrator, Correctional Programs Branch, within 60 calendar days of the inmate’s initial request to be transferred. The investigation revealed evidence of at least one instance in which ██████ was directed to post-date paperwork to make FDC Miami appear compliant with the 60-day deadline. Specifically, one of ██████’s supervisors, Case Management Coordinator 1 (CMC-1), instructed her to generate a “new” application packet for an inmate who had previously requested a treaty transfer. The “new” application packet gave the appearance that the inmate initially requested a transfer on December 17, 2022, when the inmate had requested a transfer more than a year earlier, on October 18, 2021. Furthermore, CMC-1 admitted when interviewed that he also ordered ██████ to post-date three other application packets, which she refused.

The agency also did not substantiate additional allegations that ██████ raised during the investigation, namely, that inmates have been given improper credit toward their sentences for completing rehabilitative courses as part of the Release Preparation Program (RPP), or that FDC Miami officials included inaccurate information in ██████’s performance evaluations. Of note, the investigation found that while inmates have been given credit for completing RPP requirements, one of ██████’s supervisors, Unit Manager 1 (UM-1), input an incorrect date when applying RPP credit to one inmate’s file. Additionally, the investigation found that another supervisor, Unit Manager 2 (UM-2), provided incorrect information to the agency regarding an April 2023 team meeting. UM-2 originally

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<sup>2</sup> The treaty transfer program permits eligible inmates to apply to be transferred to their country of citizenship or nationality for the remainder of their sentence.

stated that [REDACTED] was not invited to the meeting because she was on leave, but after a review of [REDACTED]'s time and attendance records disproved that assertion, UM-2 stated that [REDACTED] did not attend the meeting because she was on a job modification assignment at the time. On another occasion, UM-2 was found to have denied [REDACTED] annual leave without a work-related reason.

Based on the investigative findings, the agency found misconduct on the part of CMC-1, UM-1, and UM-2. Specifically, the agency determined that CMC-1 instructed [REDACTED] to violate policy, UM-1 was inattentive to duties, and UM-2 engaged in conduct unbecoming of a manager and provided an inaccurate statement during the investigation. Consequently, the report stated that these findings would be forwarded to BOP's Human Resources Division for appropriate disciplinary action.

*The Whistleblower's Comments and Special Counsel's Determination*

In her comments, [REDACTED] disputed the agency's findings and presented additional examples in which inmates did not receive prompt decisions on their referrals for home confinement or for placement in a Residential Reentry Center (RRC). [REDACTED] underscored the costs of incarceration and emphasized that each day an inmate remains incarcerated when he or she could be transferred to an RRC or to home confinement constitutes a waste of BOP's resources. [REDACTED] also commented that UM-1 and UM-2 encouraged her to post-date paperwork related to the treaty transfer program, but CMC-1 was the only supervisor to instruct her to do so in writing. Moreover, she rejected the report's conclusion that UM-1 input the incorrect RPP date for only one inmate, as she contends that RPP dates were falsified for multiple inmates. Lastly, [REDACTED] expressed dissatisfaction with the lack of disciplinary action having been taken against the involved agency officials to date.

I thank the whistleblower for bringing forward these allegations to OSC. As required by 5 U.S.C. § 1213(e)(3), I have sent copies of this letter and the agency report to the Chairs and Ranking Members of the Senate and House Committees on the Judiciary. I have also placed redacted copies of these documents and a redacted copy of the referral letter in our public file, which is available at [www.osc.gov](http://www.osc.gov). This matter is now closed.

Respectfully,



Karen Gorman  
*Acting Special Counsel*

Enclosures