



U.S. Department of Justice

Office of the Deputy Attorney General

Bradley Weinsheimer
Associate Deputy Attorney General

Washington, D.C. 20530

September 14, 2023

The Honorable Henry J. Kerner
Special Counsel
U.S. Office of Special Counsel
1730 M. Street, N.W., Suite 300
Washington, D.C. 20036-4505
Via email

Re: OSC File No. DI-23-000376 (FCC Florence)

Dear Special Counsel Kerner:

By letter dated April 14, 2023, and pursuant to 5 U.S.C. 1213(c), the U.S. Office of Special Counsel referred to the Department of Justice (DOJ) a whistleblower disclosure by a federal employee at the Federal Correctional Complex Florence, Colorado (FCC Florence) that officials at FCC Florence instituted a disciplinary policy that violates Bureau of Prisons (BOP) directives and places inmates at risk of harm. The referral requested DOJ to investigate the allegation and report any findings to the OSC. Authority has been delegated to me to review and sign the Department's response, in accordance with 5 U.S.C. 1213(d).

As reflected in the attached report, the BOP Office of Internal Affairs initiated an investigation upon receiving the referral from your office. While some of the allegations from the whistleblower were supported, the investigation did not substantiate there was a violation of law, rule, or regulation at FCC Florence. Rather, the investigation substantiated instances of failures to act in accordance with policy and a lack of managerial oversight related to the implementation of programs that were in effect. These violations of policy and failure to exercise appropriate managerial oversight have been forwarded for disciplinary action. Based upon these facts, however, there are no long-term recommendations to agency policies and practices. Corrective steps have been implemented to avoid these issues in the future, to include requiring additional training on specific policies and procedures, and the discontinuation of the programs that were the subject of the whistleblower complaints.

I trust the enclosed report satisfies your concerns. If you have any questions about the report, please do not hesitate to contact me directly or through Beth Reese, Chief of BOP's Office of Internal affairs.

Sincerely,

Bradley Weinsheimer
Bradley Weinsheimer
Associate Deputy Attorney General

Enclosure

**United States Department of Justice
Federal Bureau of Prisons**

Office of Internal Affairs

Report of Investigation

OSC File Number DI-23-000376

Subject: INVESTIGATION REGARDING A WHISTLEBLOWER ALLEGATION OF VIOLATION OF LAW, RULE, OR REGULATION, AND A SUBSTANTIAL AND SPECIFIC DANGER TO PUBLIC SAFETY AT THE UNITED STATES PENITENTIARY (USP) FLORENCE COLORADO.

SYNOPSIS

This investigation was initiated based upon a whistleblower disclosure that employees at the U.S. Department of Justice (DOJ), Bureau of Prisons, United States Penitentiary Florence, Colorado¹ (USP Florence) may have engaged in conduct that constitutes a violation of law, rule, or regulation, and specific danger to public safety. The Office of Special Counsel (OSC) received these allegations from Special Investigative Agent [REDACTED], at USP Florence, who consented to the release of his name.

[REDACTED] disclosed that BOP officials at USP Florence instituted a disciplinary policy that violates BOP Directives and places inmates at risk of harm. [REDACTED] brought the issues to management's attention, but they remained unresolved. [REDACTED] allegations include:

- During a May 24, 2022, staff meeting, EX1 and EX3 directed staff to physically restrain all inmates who engaged in sexual acts under BOP Program Statement No. 5270.09, Table 1, "Prohibited Acts and Available Sanctions," number 205, notwithstanding the nature of the sexual act. Following implementation of this policy, staff inappropriately restrained inmates in violation of BOP Program Statement No. 5566.06, CN-1, OPI CPD/CBP, "Use of Force and Application of Restraints."
- Following implementation of this policy, staff inappropriately required inmates to participate in a high visibility program for sexual offenders.
- [REDACTED] reported this conduct to agency leadership, including EX1, EX2, and EX3, however, at the time of his complaint the practice continued.

On April 14, 2023, OSC referred this matter to the Attorney General for investigation. On April 21, 2023, the Bureau of Prisons (BOP), Office of Internal Affairs (OIA), received notice

¹ OSC File No. DI-23-000376 indicates the instances alleged by the complaint took place at FCI Florence. This is corrected throughout the report to reflect USP Florence.

of the need for an investigation.

Between June 4, 2023, and June 10, 2023, the OIA conducted an on-site investigation at USP Florence. The OIA conducted interviews and gathered and reviewed additional documentary information. During the investigation, the complainant and five relevant staff members were interviewed.

No witnesses were offered confidentiality for their responses, and no witnesses requested or were granted confidentiality for their responses. Notice for the on-site investigation was provided to the USP Florence Warden. The witnesses were not provided notice of the investigation prior to the interview.

No other investigations or reports from other investigations were relied upon as substitutes for the OIA investigation of this case.

In summary, some of allegations were supported. In addition, it was revealed that some policy requirements were not followed, or there was a lack of managerial oversight related to the implementation of programs that were in effect. These violations have been forwarded for disciplinary action. Based upon these facts, there are no long-term recommendations to agency policies and practices.

INVESTIGATION

Background:

The United States Penitentiary (USP) Florence was activated in November 1994, and has a capacity of 1280 inmates. The institution is housed within the Federal Correctional Complex in Florence Colorado which consists of 640 acres of land. The institution is located at 5880 HWY 67 S, Florence Colorado, 81226. USP Florence is a high security facility with six general population housing units, a Special Housing Unit (SHU)², and two specialty units. The two specialty units are the Secure STAGES unit, which has a rated capacity of 70 inmates, and the Pre-Transfer Phase of the Administrative Maximum (ADX) Step Down Program, which houses inmates who are preparing to return to general population institutions. This has a rated capacity of 80 inmates. The average sentence length is 14 years, and the average age of the inmate population is 37 years of age. The facility has dining and kitchen facilities, health services, maintenance shops, commissary services, and an inmate visiting area. There are also religious, education, and vocational training opportunities for the inmate population, as well as recreational activities and psychology-based programs and counseling services.

² SHUs are housing units in Bureau institutions where inmates are securely separated from the general inmate population and may be housed either alone or with other inmates. SHUs help ensure the safety, security, and orderly operation of correctional facilities, and protect the public by providing alternative housing assignments for inmates removed from the general population.

- *Allegation 1. During a May 24, 2022, staff meeting, EX1 and EX3 directed staff to physically restrain all inmates who engaged in sexual acts under BOP Program Statement No. 5270.09, Table 1, “Prohibited Acts and Available Sanctions,” number 205, notwithstanding the nature of the sexual act. Following implementation of this policy, staff inappropriately restrained inmates in violation of BOP Program Statement No. 5566.06, CN-1, OPI CPD/CBP, “Use of Force and Application of Restraints.”*

Policy Requirements:

Federal Bureau of Prisons (BOP), Program Statement 5270.09, Inmate Discipline Program, states in pertinent parts:

HIGH SEVERITY LEVEL PROHIBITED ACTS

205 Engaging in sexual acts.

AVAILABLE SANCTIONS FOR HIGH SEVERITY LEVEL PROHIBITED ACTS

- A. Recommend parole date rescission or retardation.
- B. Forfeit and/or withhold earned statutory good time or non-vested good conduct time up to 50% or up to 60 days, whichever is less, and/or terminate or disallow extra good time (an extra good time or good conduct time sanction may not be suspended).
 - B.1 Disallow ordinarily between 25% and 50% (14-27 days) of good conduct time credit available for year (a good conduct time sanction may not be suspended).
- C. Disciplinary segregation (up to 6 months).
- D. Make monetary restitution.
- E. Monetary fine.
- F. Loss of privileges (*e.g.*, visiting, telephone, commissary, movies, recreation).
- G. Change housing (quarters).
- H. Remove from program and/or group activity.
- I. Loss of job.
- J. Impound inmate’s personal property.
- K. Confiscate contraband.

L. Restrict to quarters.

M. Extra duty.

Federal Bureau of Prisons Program Statement 5566.06, Use of Force and Application of Restraints, states in pertinent parts:

An employee may not use brutality, physical violence, or intimidation toward inmates, or use any force beyond that which is reasonably necessary to subdue an inmate.

d. When immediate use of restraints is indicated, staff may temporarily apply such restraints to an inmate to prevent that inmate from hurting self, staff, or others, and/or to prevent serious property damage. When the temporary application of restraints is determined necessary, and after staff have gained control of the inmate, the Warden or designee is to be notified immediately for a decision on whether the use of restraints should continue.

Ambulatory restraints should initially be used to restrain an inmate if deemed appropriate for the situation. An example of such situations is when an assaultive incident occurred quickly and ended, and the inmate is no longer displaying signs of violence or aggressiveness. Using ambulatory restraints for a period of time may be appropriate for protecting staff and others, pending an assessment by staff to determine whether the inmate has regained self-control.

Federal Bureau of Prisons Program Statement 5576.12, Oleoresin Capsicum (OC) Aerosol Spray, states in pertinent parts:

The OC aerosol spray is designed primarily for immediate use of force in situations where there is a serious threat to the safety of staff, inmates, or others; to prevent serious property damage; and to ensure institution security and good order.

The policy also states that DOJ officers are not authorized to use less-than-lethal devices if voice commands, or physical control achieves the law enforcement objective. Additionally, DOJ officers are prohibited from using less-than-lethal devices to punish, harass, or abuse any person.

Allegations:

Special Investigative Agent ██████ stated that in November / December 2022, he filed a complaint with the Office of Special Counsel (OSC).³ ██████ stated the complaint he filed dealt with inmates who were engaging in a sexual act (masturbation) in the presence of staff being placed on a “one-hour watch, high visibility program.” ██████ also said that when an inmate was caught engaging in this type of behavior, he is placed into the Special Housing Unit (SHU) and immediately placed in ambulatory restraints.

█████ stated that while he was assigned to the Special Investigative Agent position at USP Florence, he and the Executive Staff were aware there was a history of inmates engaging in sexual

³ See OSC D1-23-00376

acts (masturbation) in the presence of staff at this facility. ██████ said because of the behavior worsening, Executive Staff held two “recalls”⁴ on May 24, 2022.⁵ ██████ said during the recalls, staff from the USP were addressed by EX1 and EX3.⁶

██████ continued, stating that EX1 and EX3 also told staff that when they witness an inmate engaging in a sexual act, they (staff) should hit their body alarm,⁷ use their Oleoresin Capsicum (OC) to spray the individual, and the individual would be placed in restraints. ██████ stated some staff had questions regarding the “program,” to include using their body alarm for this type of behavior, but EX3 and EX1 reiterated the same statement to them.

██████ further stated that inmates at USP Florence who engaged in sexual acts were being placed in ambulatory restraints⁸ even though they were not a danger to staff.

Investigation:

EX1 stated he recalled having a staff recall with EX3, but could not remember verbatim the exact content discussed. EX1 stated it was possible that the recall may have addressed inmates engaging in sexual acts in the presence of staff. EX1 said he was uncertain of how it was presented to staff but remembered staff being told that if they should encounter an inmate engaged in a sexual act, they (staff) should hit their body alarm, if they felt threatened. EX1 denied telling anyone to use OC spray on an inmate engaged in a sexual act and offered he would caution staff about using OC spray unless there was a direct physical threat. EX1 said he has never given any direction to staff to place inmates who engaged in a sexual act into SHU, and then into ambulatory restraints. EX1 denied having knowledge of who may have given this direction. EX1 offered he would not have told staff this because it would not be appropriate for an inmate to be placed in restraints solely for engaging in a sexual act (masturbation).

EX2 denied having any knowledge of any directive given out by EX1 and EX3. EX2 was not present at the USP during the time the directive was allegedly given and did not assume a supervisory role until August 2022. However, CPT1, LT1, and SIST all confirmed ██████ allegations. LT1 said that direction was given to Lieutenants by EX3 that inmates who engage in sexual misconduct will be placed in ambulatory restraints and receive an incident report. LT1 further stated that although he could not recall the exact date of the “recall,” or who may have been present, he was briefed prior to it about what was going to be discussed. LT1 said EX3 expressed that if an inmate engages in a sexual act in the presence of staff, staff should be advised to treat it like an emergency, hit their body alarm, and OC spray the inmate if they did not cease their actions.

⁴ A recall is an assembly of all available staff, generally organized for the purpose of providing staff information on new procedures or upcoming events.

⁵ From the dates of May 4, 2022, through August 1, 2022, the USP Florence Warden position was being covered by staff “acting in the capacity,” to include EX3.

⁶ EX3 was not interviewed related to this investigation. EX3 is on extended sick leave and requested medical disability retirement on June 19, 2023.

⁷ A body alarm is a radio activated emergency device which transmits a signal to a specified receiver / location so immediate assistance can be directed to the location which it is assigned.

⁸ Ambulatory restraints are a form of restraints consisting of handcuffs, leg irons and a belly (martin) chain. This manner of restraints allows the inmate to move upright and take care of basic human needs (i.e., eating and using the restroom).

LT1 also said it was discussed with all the Lieutenants that if an inmate engaged in a sexual act in the presence of staff, they (inmate) would be placed in SHU and placed in ambulatory restraints. LT1 said this directive was given by EX3, and the lieutenants followed his orders.

SIST said he did not attend the staff recall but offered the same information was being relayed during Lieutenant's conference calls with staff. SIST stated lieutenants were telling staff that if an inmate was engaging in a sexual act in the presence of staff, it should be treated like an emergency, and staff should hit their body alarm and OC spray the individual if they did not cease their actions. SIST said this was the same information relayed by EX3 during SHU reviews⁹ which he (SIST) attended. Lastly, SIST stated that Lieutenants were placing inmates in ambulatory restraints and in SHU if they were engaging in a sexual act. SIST said this was discussed with [REDACTED], who brought it to the attention of the Executive Staff. SIST said the reason it was brought to [REDACTED] attention was because it possibly involved staff misconduct.

CPT1 said prior to him assuming a supervisory role at USP, he was directly informed by EX3 that inmates who engage in a sexual act need to be placed in SHU and then be placed in ambulatory restraints. CPT1 said he knew lieutenants were following the directive of EX3 prior to assuming his supervisory role at the USP because he would receive email synopses of any application of restraints from the lieutenants involved. CPT1 said based upon his interpretation of the synopses he received, it was obvious the inmates involved were compliant and the use of ambulatory restraints was not justified.

During this investigation, the OIA reviewed numerous Report of Incidents (BP-E583), their corresponding documentation and videos, and After-Action Reviews (BP-E586) of these incidents. The date range reviewed included dates from May 26, 2022, through February 8, 2023. Many of the incidents reviewed involved inmates being placed in the SHU, and subsequently ambulatory restraints, for engaging in a sexual act in the presence of staff. The videos associated with these BP-E583s include the medical assessment and placement of restraints, and clearly show the inmate was compliant, under control, and not a threat to staff or others.

Conclusions:

There was sufficient evidence to support that EX3 gave various directives which are outside of Bureau of Prisons policy. The video and testimonial evidence indicates that EX3 directed staff to use ambulatory restraints on complaint inmates who engaged in sexual acts, while the testimonial evidence solely reveals that EX3 directed staff to use their OC spray outside of prescribed guidelines and on inmates who were not a threat to staff safety.

- *Allegation 2. • Following implementation of this policy, staff inappropriately required inmates to participate in a high visibility program for sexual offenders.*

Policy Requirements

⁹ A SHU Review is a weekly meeting in which the status of each inmate in the Special Housing Unit is discussed to determine if their programming needs are being met.

**United States Penitentiary Florence Colorado Institution Supplement 5500.14,
Inmate Accountability, states in pertinent parts:**

HIGH VISIBILITY INMATE MONITORING PROGRAM: The High Visibility Inmate Monitoring Program has been implemented in order to enhance the accountability of inmates who require additional supervision and to monitor their activities during the course of the day.

Staff will consider the following criteria in assigning inmates to the High Visibility Inmate Monitoring Program:

A. Inmates with a history of escape from a secure facility, conspiracy to escape from a secure facility, inmates who are determined to have the financial resources to effect a successful escape, and inmates who, at the Warden's discretion, are determined to be an escape or security risk.

B. Inmates will pick up their Red Card IDs from the Unit Officer prior to reporting to their assigned work detail or assigned area. They will be responsible for turning their Red Card ID Card over to the Detail Officer in the respective area they are assigned. Prior to departing the area, they will pick up their ID card from the Detail Officer. It is the inmate's responsibility to check-in with a staff member every two (2) hours and to ensure anytime they are departing an area, their ID card is given to the next appropriate Detail Officer they will be reporting to. It will be the responsibility of the staff member to make irregular checks, during the two-hour time frame, of the inmates in this program while assigned to their area.

Investigation:

According to [REDACTED], both EX1 and EX3 stated they were implementing a new program. The new program was going to be called a “one-hour watch, 205¹⁰ program” which was later changed to a High Visibility Watch Program.¹¹ [REDACTED] said that EX3 and EX1 told staff they had conducted a similar program at another location, and it was successful. [REDACTED] said that EX3 and EX1 explained to staff that any inmate who engaged in sexual misconduct or who was sanctioned by the Disciplinary Hearing Officer (DHO) for engaging in sexual misconduct would be in the “program.” [REDACTED] said EX3 and EX1 stated that any individual in the program would have to wear a yellow card around their neck from a lanyard, would wear a jumpsuit with no pockets, and would report to staff every hour for accountability purposes. [REDACTED] indicated EX3 and EX1 made these statements to staff during the May 24, 2022, staff recall.

[REDACTED] stated sometime after the recall (unknown date), and during a Special Housing Unit (SHU) review meeting, he was directed by EX3 to have the SIS office (SIS), create cards for individuals who would be in the High Visibility Program. [REDACTED] said when this occurred EX2 was not assigned to USP Florence, and EX3 was the acting Warden at the USP who made the decision which individuals would be assigned to the program.

¹⁰ 205 is the inmate discipline incident report code for engaging in sexual acts.

¹¹ [REDACTED] stated the name was changed to avoid addressing the incident report code 205 (engaging in a sexual act).

█████ offered that the High Visibility Program was not voluntary. █████ said inmates placed in the program would have to sign a form indicating they were aware of the expectations of the program. █████ said the “program” caused problems amongst the inmates. █████ said some individuals would refuse the “program” and refuse to leave SHU. █████ said these individuals would have to be classified as Unverified Protective Custody cases.

EX1 stated he could not remember telling staff that a High Visibility Program was going to be implemented at the USP, but he did speak with EX3 on occasion and ask him what he was going to do about inmates engaging in sex acts, and if he had a plan to deal with it. EX1 said he asked EX3 this on multiple occasions, and never received a direct answer. EX1 said EX3 told him he had a plan but did not elaborate on it, and only said, “I have it covered.” EX1 said he recalled EX3 mentioning implementing a one-hour watch and was aware the USP laundry was sewing up pockets on inmate uniforms, but said he was unaware of inmates being placed on a yellow card or having to wear it around their neck. EX1 said he has never seen this occur because he does not spend a lot of time at the USP, since he is responsible for the Administrative Maximum (ADX). EX1 offered he has most likely only been to the USP about 20 times since he arrived at FCC Florence (16 months), and this was being “generous.” EX1 said there was no reason to go to the USP since there is an SES Warden assigned to the institution who runs the daily operations. EX1 stated he was not involved in establishing the High Visibility Program at the USP, and the program was established solely by EX3.

EX2 said that upon her arrival in August 2022, she became aware of the High Visibility Program, which staff referred to as the “205 program.” EX2 said she inquired what the parameters of the program were and was told the “program” was for inmates who were found in possession of a weapon, engaged in a sexual act, or found in possession of drugs. EX2 said she was also told inmates in the “program” would have to wear jumpsuits and a yellow card around their neck whenever they left their cell. EX2 said she had no idea who created the program.

LT1, SIST, and CPT1 confirmed the High Visibility Program exists, and that it was implemented by EX3. They agreed the program was originally called the “205 program,” but the name was changed to the High Visibility Program. All understood that the High Visibility Program was originally designated for individuals who engaged in sexual misconduct, but it has grown to include other inmates. LT1 offered that 99% of the inmates in the High Visibility Program were in it for receiving incident reports for engaging in a sexual act. LT1’s, SIST’s, and CPT1’s description of how the program worked was identical to that of █████, to include inmates being placed in jumpsuits, wearing yellow cards and lanyards around their necks, and reporting to staff every hour. All three said the program has been in effect since sometime in 2022, and recalled it being implemented at a recall held at the USP. LT1 and SIST added that originally when an inmate in the High Visibility Program was released from the SHU, EX3 wanted them to remain in the program indefinitely; however, this never came to fruition.

Additionally, CPT1 stated the program was already in effect when he began acting at the USP Captain in December 2022, and the program was established by EX3. CPT1 said prior to him assuming the role at the USP, EX3 made it a point to familiarize him with the program.

During this investigation, the OIA reviewed all TRULINCS¹² bulletin board posting to the inmate population of USP Florence from August 20, 2021, through June 5, 2023. At no time was a message sent to the inmate population notifying them of the High Visibility Program or expectations of it. The OIA also reviewed each Protective Custody case from January, 2022 through June 5, 2023. The review did not reveal any correlation between the High Visibility Program and any inmate request for Protective Custody. Lastly the OIA reviewed the USP Florence Institution supplement on inmate accountability. Although a High Visibility Program exists at USP Florence, the way it was implemented by EX3 was not consistent with their current written directive.

Conclusions:

There is sufficient evidence to support that the High Visibility Program at USP Florence was being implemented by EX3 and was outside of policy. Furthermore, there was sufficient testimonial evidence that the High Visibility Program was being used, often, to identify inmates who had engaged in sexual misconduct. However, there was no indication that the program was causing inmates to request Protective Custody as asserted by ██████ in his complaint to the OSC. Additionally, based upon the testimony of EX1, in which he indicates he did not follow up with EX3 related to curtailing any inmate sexual misconduct, it is evident EX1 did not provide sufficient managerial oversight regarding policy implementation. Therefore, allegation 2 is partially substantiated.

- *Allegation 3: ██████ reported this conduct to agency leadership, including EX1 EX2, and EX3; however, to date, the practice continues.*

Investigation

██████ said when he became aware of what was taking place (restraints being used, High Visibility Program etc.) he approached EX1 and EX3 and advised them they were violating policy by placing compliant inmates in ambulatory restraints and labeling inmates in the general population through the High Visibility Program. ██████ said EX1 and EX3 just “brushed him off.” ██████ said he had no other recourse then to anonymously report the policy violations to the Office of the Inspector General (OIG). ██████ stated that once EX2 arrived at USP Florence, he again addressed his concerns with her. ██████ said EX2 sent an email to all staff on January 12, 2023, reiterating the Use of Force and Application of Restraints policy. ██████ said EX2 also addressed inmates being placed in restraints for reasons not authorized. ██████ said after EX2 sent the email, the application of restraints on inmates who engaged in sexual acts decreased.

EX1 denied having any conversations with ██████ regarding the High Visibility Program or use of ambulatory restraints. EX1 offered that he does not talk to ██████ often since they were assigned at different institutions of the Florence Complex.

EX3 was unable to be interviewed due to extended sick leave and as of June 19, 2023, submitted paperwork for disability retirement from the agency.

EX2 confirmed that on January 12, 2023, she sent an email message to all staff reiterating the use

¹² TRULINCS stands for the Trust Fund Limited Inmate Contact Service. This is an electronic bulletin board that messages are posted on for the inmate population and is accessible by all inmates.

of force and application of restraints policy. EX2 said she also addressed some of the questions regarding “205 behavior,” and stated in the email that although an inmate is not being placed in restraints, this does not mean they are not being held accountable. EX2 said that since she sent this email, the use of restraints on inmates engaging in “205” activity has decreased, and there must be additional factors that would warrant placement of restraints. EX2 stated that as of June 5, 2023, the High Visibility Program was still in effect at USP Florence but stated that inmates are not being placed in restraints solely for engaging in a sexual act.¹³ Lastly, EX2 said when she wanted to better understand the High Visibility Program no one other than ██████ could provide her documentation related to it. EX2 said ██████ provided her the documentation via email, but there was never a conversation about it or its appropriateness.

During this investigation the OIA determined the High Visibility Program was still in effect as of June 5, 2023. However, during the OIA investigation, and after being presented with the facts and circumstances surrounding the application of the program, and its inconsistency with local policy, EX2 initiated corrective action. Specifically, EX2 ceased the use of the yellow card and the wearing of it on June 27, 2023. Additionally, on July 5, 2023, EX2 addressed the current local policy with staff and advised them the program was no longer in effect and the current local policy was to be used for all inmates that require additional supervision. The OIA was also able to determine that the practice of using restraints on inmates solely for engaging in sexual acts has ceased. Based upon a review of the Report of Incidents, and absent additional behavior warranting the use of restraints, the last incident identified occurred in December, 2022.

Conclusions:

During this investigation the OIA established that the use of restraints on compliant inmates has ceased.

Investigative Findings Summary:

The investigation revealed sufficient evidence that EX3 began a “one-hour” High Visibility Watch Program that did not exist in the institution supplement for inmate accountability and advised staff to place inmates, particularly those who engaged in sexual acts, in restraints outside of policy and regardless of whether the inmate was compliant. Furthermore, compliant inmates were being placed in ambulatory restraints and were placed into the High Visibility Program which was often used to identify inmates who engaged in sexual acts in the presence of staff. Additionally, the preponderant evidence supports EX3 also advised staff they could use OC spray on inmates who engage in sexual misconduct outside of the parameters of the policy. The testimonial evidence provided by CPT1, LT1, and SIST combined with the documentary evidence reviewed further support this.

Additionally, the investigation revealed sufficient evidence that during the time the High Visibility Program was established, the USP was being managed by acting Wardens, and EX1 was responsible for providing managerial oversight and was accountable for determining policy in such areas as program emphasis and operating guidelines. Absent a full-time Warden assigned to the

¹³ As of June 30, 2023, the High Visibility Program has been discontinued.

institution, EX1 was responsible for its operation. Furthermore, EX1 admitted he spoke to EX3 about problems at the USP, particularly inmates engaging in sexual acts, but never followed through on the potential solution. This is supported by EX1's testimony.

Violation of Laws, Rules, or Regulations:

There is no evidence of a violation of federal regulations by staff at USP Florence CO in connection with these allegations. However, it was determined there was a violation of Bureau of Prisons policy and procedures.

Action taken or planned as a result of the investigation

(A) Changes in agency rules, regulations, or practices.

1. All USP Florence Lieutenants will be retrained in the Bureau of Prisons Policy regarding the Use of Force and Application of Restraints.
2. The High Visibility Program has been discontinued, and any new program will be consistent with the local Inmate Accountability Institutional Supplement.

(B) Restoration of any aggrieved employee.

Not applicable.

(C) Disciplinary action against any employee.

The OIA investigative findings are being forwarded for disciplinary action against EX1 and EX3.

(D) Referral to the Attorney General of any evidence of criminal violation.

Not applicable