

**United States Department of Justice
Federal Bureau of Prisons - Office of Internal Affairs**

Report of Investigation

OSC File Number DI-18-1767

Subject: INVESTIGATION REGARDING A WHISTELBLOWER DISCLOSURE THAT EMPLOYEES AT THE BUREAU OF PRISONS, FEDERAL CORRECTIONAL COMPLEX, BEAUMONT, TEXAS, MAY HAVE ENGAGED IN CONDUCT THAT CONSTITUTES A VIOLATION OF THE LAW, RULE OR REGULATION AND A SUBSTANTIAL AND SPECIFIC DANGER TO THE PUBLIC SAFETY.

(1) Summary of the Information with Respect to Which the Investigation was Initiated

This investigation was initiated based upon a whistleblower disclosure alleging that employees at the United States Department of Justice (DOJ), Federal Bureau of Prisons (BOP), Federal Correctional Complex (FCC) Beaumont, Texas, may have engaged in conduct that constitutes a violation of law, rule, or regulation and a substantial and specific danger to public safety. The Office of Special Counsel (OSC) received these allegations from Correctional Officer [REDACTED], at FCC Beaumont, Texas, who consented to the release of his name.

In brief, the allegations involved the following:

- At the direction of management, FCC Beaumont personnel routinely deny inmate requests to be placed in administrative detention and separated from the general prison population by inmates concerned for their personal safety.
- The denial of inmate requests to be placed in administrative detention jeopardizes FCC Beaumont staff member safety.

(2) Conduct of the Investigation

On February 15, 2018, OSC referred this matter to the Attorney General for investigation. On April 16, 2018, the Bureau of Prisons Office of Internal Affairs (OIA) received notice of the need for an investigation. On April 25, 2018, the OIA telephonically contacted the identified whistleblower, [REDACTED], and requested additional information. [REDACTED] said he had not personally witnessed management directing staff to deny inmates Administrative Detention but

that he had been told by a lieutenant that this did occur. He provided the name of the lieutenant. [REDACTED] also advised that he was not present during the specific incident he reported, in which an inmate was denied Administrative Detention and was subsequently assaulted by other inmates. [REDACTED] did provide the names and memoranda of four staff members who reported the incident to him.

Between May 14, 2018, and May 18, 2018, the OIA conducted an on-site investigation at FCC Beaumont, TX. From May 21, 2018, and June 8, 2018, the OIA conducted phone interviews and gathered and reviewed additional documentary information. During the investigation eleven management officials, nine line-staff¹ and one inmate were interviewed.

No witnesses were offered confidentiality for their responses and no witnesses requested or were granted confidentiality for their response. Notice for the on-site investigation was provided to the FCC Beaumont Complex Warden and Special Investigative Agents. The witnesses and subjects were not provided notice of the investigation prior to the interviews. The two identified subjects were management officials and were not entitled to Union representation. No other investigations or reports from other investigations were relied upon as substitutes for the OIA investigation of this case.

(3) Summary of Evidence Obtained from the Investigation

Background:

The Federal Correctional Complex Beaumont is located in Beaumont, Texas, approximately 85 miles east of Houston. The Complex consists of a minimum security camp, a low security institution, a medium security institution and a high security institution².

The management of FCC Beaumont consists of one warden at the low security institution and one warden at the medium security institution. A complex warden oversees these two positions and is also responsible for the high security institution. There is a deputy captain at each of the three institutions and a complex captain who supervises them. There are thirty-four lieutenants at FCC Beaumont.

The low, medium and high security institutions each have a Special Housing Unit (SHU) which confines inmates who need to be separated from the general population of inmates for various reasons. The SHU is a separate housing unit within each institution. Inmates in SHU are usually in single or double cells. They do not interact with the general population of the prison and receive all services in the SHU. Inmate movement and contact in SHU is highly regulated and monitored.

Inmates may be placed in SHU under Administrative Detention or Disciplinary Segregation status. See 28 C.F.R. § 541.22. Administrative Detention may be used to protect inmates who are at risk in general population. See 28 C.F.R § 541.23 (c) (3). This status is known in the BOP

¹ Line-staff are not part of management.

² A high security institution is referred to as a United States Penitentiary.

as Protective Custody (PC). Regulations concerning PC and implementation policies can be found in BOP Program Statement 5270.11, Special Housing Units.

An inmate may be placed in PC status in the following circumstances: (1) The inmate is the victim of an inmate assault, or is being threatened by other inmates, including threats of harm if the inmate fails to act in a certain way, for example refusing to engage in a sexual activity; (2) The inmate's safety is threatened because he provided or is perceived as having provided information to staff or law enforcement authorities regarding other inmates or persons in the community; (3) The inmate refused to enter the general population because of alleged pressures or threats from unidentified inmates, or for no expressed reason; or (4) Based on evidence, staff believe the inmate's safety may be seriously jeopardized by placement in the general population. See 28 C.F.R. § 541.27.

A PC inmate is housed in SHU while the Special Investigative Service³ (SIS) determines whether the PC is Confirmed or Unconfirmed. If PC is confirmed the inmate will be scheduled for transfer to another institution where he will be able to live in the general population. If the SIS investigation determines that there is no danger to the inmate in the general population, he will be listed as Unconfirmed. Once the inmate is listed as Unconfirmed he is ordered to return to the general population. The inmate can refuse to return to the general population and will then remain in SHU and be given an Incident Report.⁴ After six months in SHU and three incident reports for refusing to return to the general population, an unconfirmed PC inmate will be scheduled for transfer to another institution. Although approval for the transfer may take longer than six months, a transfer to another institution will eventually occur. Inmates cannot remain in SHU indefinitely and an inmate cannot be forcibly returned to the general population.⁵

Allegation 1. Correctional Officer ██████████ alleged that, at the direction of management, FCC Beaumont personnel routinely deny inmate requests to be placed in administrative detention and separated from the general prison population by inmates concerned for their personal safety. As evidence he provided the name of a specific lieutenant whom he said told him that captains instructed Operations Lieutenants to grant inmate requests for administrative detention in exchange for information about another inmate.

During a phone interview with OIA on April 25, 2018, ██████████ specifically identified Lieutenant 1LF, as the lieutenant who told him management directed FCC Beaumont personnel to routinely deny inmate requests for PC.

Lieutenant 1LF participated in an investigative interview and provided a sworn statement. 1LF stated an inmate who requests PC must give information about why he wants PC. She said this would be things like: who threatened him, who is going to hurt him, what outside gang did he

³ The Special Investigative Service is the investigative office within a prison. They also monitor inmate illegal and gang activity.

⁴ An Incident Report is issued to an inmate for violating prison rules. It results in a hearing to determine guilt and subsequent disciplinary action.

⁵ As a result of this system, it is possible for inmates to manipulate prison officials in an attempt to be moved from one prison to another.

run with and what type of charges he had. She said if the inmate does not provide any of those things he would generally not be put in PC. She said if the inmate does not want to say anything about why he is in danger he may be asked to write down who he is afraid of, in order to make it easier for him to tell what is going on. 1LF stated there had been times when she had told inmates that they needed to provide some type of intel on other inmates such as who had drugs or who was part of a gang or similar things when they requested PC. She further stated that if the inmate provided that type of information, she sent them to SHU for PC but if they did not, she sent them back to the housing unit. 1LF said she would not send an inmate back to the unit if she knew the inmate was actually in danger or if he had provided her with specific information about why he was afraid of harm. 1LF said if an inmate refused to go back to the housing unit after she gave him three verbal commands to do so, then she would write an Incident Report and send the inmate to SHU. 1LF said sometimes telling an inmate he was not going to get PC and ordering him back to the unit was a way to test if the inmate was serious about being in danger. She said if the inmate went back to the unit he was probably not in danger, but if he refused and took an Incident Report, it was more likely that he was really afraid for his safety. 1LF said lieutenants did not deny PC to inmates who refused to provide intel on other inmates, if they knew the inmate was in danger. She also said she did not see any lieutenant use a quid pro quo approach to put an inmate in PC in exchange for information. 1LF further stated she had not seen a specific instance of an inmate being assaulted after having been refused PC. She said the reason she handled PC issues the way she did was because that was the approach encouraged by the other lieutenants. She further stated that she was told by Captain 1CM on more than one occasion, when she was interviewing an inmate requesting PC, to send the inmate back to the unit because he told her, "We don't have time for this". She said she did not remember a specific inmate or instance. 1LF explained that she remembered one instance in which an inmate told her he saw someone who testified against him and requested PC. She said the inmate was obviously scared and he was crying. She said Lieutenant 2LG told the inmate to go back to the unit but the inmate refused and 2LG put him in SHU. 1LF further stated that she had never had any training on how to handle PC issues. She said she had the PC form, but no explanation on how to follow that form.

Captain 1CM was a captain at FCC Beaumont Medium on June 20, 2017. He is currently a captain at FTC Oklahoma. 1CM was interviewed by OIA as part of the investigation and asked to provide information about PC at FCC Beaumont. 1CM said the inmates would request PC from the lieutenant. The lieutenant would conduct an interview, take a photo of the inmate, have medical evaluate him, get a UA and write a memo to SIS. He said the lieutenant would then put the inmate in SHU and SIS would do an investigation to determine if the PC was legitimate. He said even without information they would put the inmate into SHU and let SIS do the investigation. 1CM said that when he was at Beaumont he had many young lieutenants and told them to put the inmate in SHU if the inmate said they felt unsafe or requested PC. He said he told his lieutenants that he and SIS would sort it out after that. He said only experienced lieutenants should attempt to screen out inmates who were trying to manipulate the system. 1CM said the only time an inmate would be denied PC was if they did not actually request PC but said they didn't want to be at Beaumont. The inmate would then be ordered back to the housing unit and if he refused he would get an incident report for refusing to program. After that the inmate would be sent to SHU. 1CM said he had no knowledge of any inmate being assaulted as a result of being denied PC while he was at Beaumont.

Captain 1CM said he never heard a lieutenant take a quid pro quo approach to PC. He said he never saw or heard a lieutenant order an inmate back to the housing unit as a way to test if the inmate was serious about PC. He also said he did not instruct anyone to take that approach. 1CM said lieutenants had monthly meetings and sometimes received training from the SIA on PC and other issues. 1CM said he was never told by any staff that there was a problem with inmates being denied PC. 1CM said he was not instructed to deny PC to inmates by any of his supervisors for any reason.

Lieutenant 2LG participated in an investigative interview and provided a sworn statement. 2LG stated that when an inmate requests PC he is to be put in SHU. He explained that if an inmate says his life is in danger but does not want to give details, he should still be put in PC. 2LG said that once an inmate is in SHU for PC the SIS office is notified and they do an investigation to determine if PC is verified or unverified. 2LG stated he has never seen an inmate denied PC in order to get more information from the inmate, that he has never had another lieutenant tell him to do that, nor has any management official told him to do that. 2LG further stated he had been in meetings where he was told if an inmate says he is in fear of his safety, to put him in PC and let the SIS staff do the investigation. He said this was the policy and it should be followed.

Captain 2CH was a captain at FCC Beaumont from July 2014 to November 2017. 2CH participated in an investigative interview and provided a sworn statement. 2CH stated that PC cases were handled the same at USP Beaumont and Beaumont Low and that he had been captain at both. 2CH said an inmate would request PC at the lieutenants' office; then the lieutenant would interview the inmate and see if he was in fear of his life or safety. He said if this was the case the lieutenant would do a memo to the SIS office, take a photo of the inmate, have him evaluated by medical and then would place the inmate in SHU. 2CH explained that most of the time an inmate would say he could not walk the compound or that he did not feel safe and would be put in PC. He said if an inmate said he wanted to go to SHU but would provide no information and did not say he felt unsafe on the compound, he would be ordered back to the unit. He said if the inmate refused, he would then be put in SHU for PC evaluation. 2CH stated he did not have any knowledge of any inmate being assaulted as a result of being denied PC. He further stated that he told his staff to ask the inmate if they felt threatened and if they said yes, they were to send them to SHU. He said he never saw an inmate denied PC for not providing intel about other inmates and he never heard any officers or lieutenants say they had concerns with inmates being denied PC.

Captain 3CL is a captain at FCC Beaumont LOW and has been a captain there since March 2016. Prior to being a captain he was the Special Investigative Agent⁶ (SIA) at Beaumont from 2014 until being promoted to captain. 3CL was interviewed by OIA as part of the investigation and asked to provide information about PC at FCC Beaumont. 3CL said the inmate requests PC from the lieutenant and the lieutenant then gathers information from the inmate about the situation. He said the lieutenant types a memo to the captain and SIS including the information he obtained and places the inmate in SHU pending an SIS investigation. He said the expectation is the lieutenant will place an inmate in PC if the inmate requests PC and an investigation will only be completed by SIS. He said there is no reason to deny an inmate PC if he requests it.

⁶ The Special Investigative Agent is the manager of the Special Investigative Service office within the prison.

3CL said no one told him there were any problems with PC. He said at the LOW they do not get many PC requests. 3CL said he remembered in the past that SIA 1SC wanted to conduct training at lieutenants' meetings regarding PC, based on a PC incident. He said he was not sure of the details of the incident. Other than that situation, he said he had never heard of any problems with inmates being denied PC.

3CL said he had never seen or heard a lieutenant use a quid pro quo approach to PC, requiring information in exchange for granting PC. He said he never saw or heard of a lieutenant ordering an inmate back to the housing unit as a way to test if the inmate was serious about PC. 3CL said he has never been instructed by his supervisors to deny PC to inmates and he has never instructed any of his subordinates to deny PC to inmates for any reason.

1SC is a Senior Intelligence Analyst at Central Office, Washington, D.C. He was the SIA at FCC Beaumont in June of 2017. 1SC was interviewed by OIA during the investigation and asked to provide information about PC procedure at FCC Beaumont. 1SC stated that he could remember two incidents that were brought to his attention at FCC Beaumont which involved problems with inmates requesting PC. He stated that Lieutenant 2LG had been under investigation for his unprofessional handling of an inmate⁷ requesting PC sometime in 2016. He said the other was the incident with inmate N, discussed below.

1SC said that as a result of the first incident he started including PC training in some of the lieutenants' meetings and instructing them individually when he talked with them. He said many of the lieutenants were not familiar with how to handle PC requests. He said some lieutenants would call the SIS office and ask them to talk to an inmate who was requesting PC. He remembered Lieutenant 3LF as one who would do this regularly. 1SC said he instructed the SIS staff to tell any lieutenant that called with this type of request to put the inmate in SHU under PC and complete the required paperwork. He said SIS staff would then have two weeks to investigate the PC claim. 1SC said he told lieutenants to put any inmate requesting PC in SHU and follow the protocol; that they did not need to investigate the situation, only gather the information from the inmate and pass it on to SIS. 1SC said he felt the lieutenants were receptive to his training and instruction. He said there were always many inmates in SHU for PC.

Captain 4CC became the Complex Captain at FCC Beaumont in September 2016 and remains in that position as of the date of the current investigation. 4CC was interviewed by OIA as part of the investigation. He explained the procedure for PC and his expectations of how PC is to be handled. 4CC said the Operations Lieutenant or Activities Lieutenant⁸ is responsible for putting inmates in PC and that following a request from an inmate for PC, the lieutenant would conduct an interview and also have the inmate fill out an interview form with information about why they thought they needed PC. He said that a photograph of the inmate would be taken, a medical assessment would be completed and a memo sent to SIS to investigate and verify PC, and the inmate would be placed in SHU. He further explained that if the inmate gave no information

⁷ SIA 1SC identified the inmate in the incident by name and SA1 reviewed the report of the investigation conducted by SIA 1SC.

⁸ The Operations Lieutenant is the highest ranking lieutenant at an institution on any given shift. The Activities Lieutenant is the second highest ranking lieutenant on any given shift.

about why they were afraid or provided no information about who they were afraid of, they would not be put in SHU but that the inmate would be ordered to return to their housing unit. He said if the inmate refused to go back to the cell they would be put in SHU with an Incident Report for failing to follow an order. 4CC further explained that if an inmate was reluctant to give information, his approach would be to ask the inmate requesting PC to give him a nickname, unit or cell number of the person who threatened them, the name of a gang who threatened them or anything that could identify who threatened them. He said if the inmate said they did not want to provide that information he would continue to interview them until they gave a name. He explained that he had never had an inmate not give him anything that he could put them in PC for, in his entire time at FCC Beaumont.

4CC said he had not seen or had reported to him any instances of an inmate being refused PC and then being assaulted. He said he had not been told by any officers or lieutenants that they wanted to put an inmate in PC but were discouraged from doing so. He said he had never had any pressure from any of his superiors to deny inmates PC and that he had never told anyone who works for him not to put inmates in SHU who requested PC. He said the job of correctional officers involves protecting inmates.

Attorney 1AH is the Supervisory Attorney assigned to the Consolidated Legal Center at Beaumont⁹. 1AH is responsible to represent the Bureau in legal cases brought by inmates against the Bureau. She also provides legal advice to FCC Beaumont management on issues involving legal aspects of confining inmates. 1AH participated in an investigative interview and provided a sworn statement. 1AH stated she had never had any lieutenant tell her that he would deny an inmate PC if the inmate did not provide intelligence about other inmates. She said she had personally suggested to lieutenants that if an inmate requests PC he should be put in SHU and then an investigation would be conducted to verify the status of the inmate.

Allegation 2. [REDACTED] *alleged that the denial of inmate requests to be placed in administrative detention jeopardizes FCC Beaumont staff member safety. As evidence, he provided names of staff witnesses who alleged that a particular inmate¹⁰ was assaulted immediately following a denial of the inmate's request for Protective Custody.*

An investigative interview was conducted with Correctional Counselor¹¹ 1CH, who was identified by [REDACTED] as a witness to misconduct. 1CH provided a sworn affidavit. During the interview 1CH stated that on June 20, 2017 at approximately 2:45PM, he was in his office and received a call from Lieutenant 3LF. He said 3LF told him inmate N., from 1CH's unit had a problem with his cell mate and needed to talk to him (1CH). 1CH said he asked 3LF to hold the inmate at the lieutenants' office so he could ask the cell mate if there was a problem, to which 3LF replied that he would not. 1CH said he also heard Lieutenant 4LW in the background

⁹ The Consolidated Legal Center at Beaumont, or CLC, is the office of Bureau of Prisons attorneys that are responsible for legal matters at FCC Beaumont and several other federal prisons in the South Central Region.

¹⁰ The inmate was identified by name and was interviewed as part of the investigation; however, his name will be withheld from this report and he will be identified as "inmate N."

¹¹ A correctional counselor is assigned to manage the day-to-day needs of inmates under his care. He maintains his office on the inmate housing unit; in order to be accessible to the inmates he supervises.

agreeing with 3LF. 1CH stated he then left his office to find inmate N.'s cell mate and investigate the situation. 1CH explained that the cell mate said there was no problem between him and inmate N., however he indicated that there was a problem with inmate N. being on the unit. 1CH stated he then returned to his office and contacted 3LF again, requesting that inmate N. be held at the lieutenants' office because there was some indication that a problem other than with the cell mate was occurring. 1CH said 3LF told him it was too late, because the inmate was already on his way back. 1CH stated at that time a group of inmates arrived to his office, escorting inmate N. 1CH said he advised 3LF of the situation and hung up the phone. 1CH said his co-worker, Case Manager 1CM, was in her office at the time and that she instructed the other inmates to leave the area and for inmate N. to enter the office, following which she closed the office door so that they could speak to inmate N. privately. 1CH said he contacted the compound officer to request his presence in the area, due to the group of inmates now gathered outside of his office¹². 1CH stated it was at that time that a second inmate opened the office door and rushed in. 1CH said this inmate began hitting inmate N. in the back of the head and face with closed fists. 1CH explained that as the two inmates came around his desk and began to pose a risk to himself and his co-worker, he grabbed the inmate assaulting inmate N. and threw him to the corner of the office where he struck his head on the concrete wall and ceased to be a threat. He said at the same time, inmate N. had lain down on the floor under his (1CH's) desk and 1CH put his hand on inmate N's shoulder and ordered him to stay down. 1CH said at that point other staff, including 3LF began showing up to his office. 1CH said 3LF asked him what happened and that he (1CH) became angry because he had asked 3LF to hold inmate N. at the lieutenants' office. 1CH recalled that he told 3LF he had put his (1CH's) life in danger, the inmate's life in danger and everyone's life in danger by sending the inmate back. 1CH said at that point Lieutenant 4LW began pointing in his face and yelled for him (1CH) to "Shut-up." 1CH stated that he pushed 4LW's hand out of his face and then 4LW yelled, "I got your mutherfucking ass now, we finally got yo ass now." 1CH said other staff, whom he does not remember, then removed 4LW from his office.

1CH stated this was the only time he had personally experienced an inmate being assaulted as a result of not receiving PC. He said he had heard rumors this had happened before.

An investigative interview was conducted with Case Manager 1CM, who was identified by [REDACTED] as a witness to misconduct. 1CM provided a sworn affidavit. During the interview 1CM stated that on June 20, 2017 at approximately 2:45PM, she was in 1CH's office when he was contacted on the radio by 3LF. She said 1CH called 3LF on the phone and pushed speaker, allowing her to hear the conversation. 1CM said she heard 3LF say that inmate N. was at the lieutenants' office claiming he could not live with his current cell mate. She said 3LF stated he told the inmate to go back to the unit because it was a unit team issue (cell change). 1CM explained that 1CH then told 3LF that inmate N. had been living with his cell mate a long time and that could not be the real problem, and requested 3LF to hold the inmate at the lieutenants' office. She stated 1CH then called inmate N.'s cell mate and inquired about a problem between the two, to which the inmate said there was no problem between them, but that inmate N. was gang affiliated and other inmates on the unit had problems with him living in the unit. 1CM said

¹² An inspection of the area conducted by SA1, during the investigation, revealed that 1CH's office was at the back of the housing unit. A group of inmates outside of his door would have posed a significant danger to 1CH, 1CM and inmate N. as there would have been no route of escape from the office, in the event of violence.

1CH then called 3LF back and pushed speaker on the phone again. She said 1CH told 3LF what inmate N.'s cellmate had said about inmate N. being gang related and having a problem with inmates on the unit, to which 3LF replied that it was too late because he was already en route back to the unit. 1CM said the phone conversation ended and approximately three minutes later inmate N. showed up at 1CH's office being surrounded by a group of inmates. She said she instructed the group of inmates to leave the area and then shut the door with inmate N. in the office. She explained that inmate N. looked scared at the time and said, "I told the lieutenants that my life was in danger, it was not about my cellie, these inmates gonna kill me." 1CM said 1CH was trying to reach the compound officer on the radio when another inmate ran into the office and began punching inmate N. on the head, torso and upper body. She said 1CH physically separated the two inmates, resulting in both inmates being on the floor, after which they began to comply with verbal commands. She stated that 3LF arrived with multiple staff at about that time and 1CH said to 3LF, "Why did you send him back, I told you his life was in danger, this could have been prevented." 1CM further explained that 3LF did not have time to respond because Lieutenant 4LW came from behind 3LF and started yelling at 1CH to, "shut-up". She stated 4LW put his hand out and was shaking it near 1CH's face, when 1CH pushed his hand away and told him, "Don't you ever put your hands in my face, can't you see I am still in control of this inmate on the ground. I am sick of custody supervisors putting their hands in my face." She said 4LW continued yelling and said, "I got your motherfucking ass now, we finally got yo ass now." 1CM said two other staff members (whom she could not remember) then pulled 4LW from the office.

1CM stated she had not personally experienced a lieutenant say that an inmate will not be put in PC without giving up some information of value. She said she had heard that this occurs, but she could not remember any specific person who told this to her.

Correctional Officer CO1 was working as one of two unit officers in Unit EB on June 20, 2017. CO1 submitted a memorandum about the assault that occurred on inmate N. in Correctional Counselor 1CH's office on that date. In her memorandum she stated in part,

At approximately 3:00pm I received a call from 3LF letting me know he was sending inmate N. back to the unit and that he had tried to check in and go to SHU. 3LF told me that "if he gets into a fight not to scream on the Radio, just call it".

CO1 was identified by [REDACTED] as a witness to misconduct. She participated in an investigative interview and provided a sworn statement. CO1 stated that she saw inmate N., leaving the unit at approximately 2:30PM on June 20, 2017 and that it was Yard Recall.¹³ She said he was carrying what she thought was a laundry bag with all of his property. She said she asked inmate N. where he was going and he said, "I've gotta go." She said she thought he must have been going to the lieutenants' office since he had all of his belongings. CO1 said when the Yard Recall was over she locked the unit door and then heard 3LF calling her on the radio. She stated she went to her office, where Correctional Officer CO2 was at the time, and called 3LF on the phone. CO1 said

¹³ Yard Recall occurs at the end of the regular work day, prior to the afternoon count and is the time all inmates are to return to their assigned housing units. It is an open move and inmates are allowed at this time to move freely throughout the prison. It lasts for approximately 15 minutes.

3LF told her that inmate N. was coming back and that if he got into a fight, not to scream on the radio, just to call it. CO1 said she then went back to the unit door, unlocked it and looked out to find inmate N. She said it was at that time she heard a call on the radio for a fight and that she did not realize the fight was in her unit. CO1 said CO2 responded to the fight and she began giving orders for the rest of the inmates in the housing unit to “rack-up.”¹⁴ She further explained that she had not seen inmate N. come back into the unit but that it must have occurred at the end of the Yard Recall, before she locked the door.

Correctional Officer CO2 was working with CO1, as the second of two unit officers on June 20, 2017. He submitted a memorandum about the assault that occurred on inmate N. in Correctional Counselor 1CH’s office on that date. In his memorandum he stated in part,

I would also like to add that 3LF called the unit via telephone before the fight happened stating that he was going to send inmate N. back to the unit and that he had tried to check in and ask for protective custody, and that they were probably going to fight, by doing so 3LF endangered staff, inmates and the orderly running of the facility.

Prior to the investigation, CO2 experienced significant personal health problems. He was on extended sick leave at the time of the investigation and was unable to be interviewed or provide a sworn statement.

Correctional Counselor 2CH responded to the assault in 1CH’s office. He participated in an investigative interview and provided a sworn statement. 2CH stated that he responded to a staff needs assistance call on the radio on June 20, 2017, at approximately 3:15PM. He said when he arrived at 1CH’s office he saw one inmate on the floor and inmate N. standing behind Jones. He said he was one of the first staff members there, but that he did not remember who else was there, other than 1CH and 1CM. 2CH said he thinks he put handcuffs on the inmate on the floor and while doing that 4LW arrived and asked 1CH if he was ok. He said both 1CH and 4LW were talking loudly at one another and other staff tried to calm them both down. 2CH explained that he escorted the inmate who had assaulted inmate N. to SHU and he did not remember seeing any physical contact between 1CH and 4LW, before he left the area.

2CH stated that he did not have personal knowledge that the assault had anything to do with PC, although he had heard rumors to that effect. 2CH further stated that he never heard any lieutenant say that inmates would not get PC if they did not provide some helpful intel on other inmates. He stated that he had heard lieutenants say an inmate needs to provide information about who they are afraid of or who might hurt them if they are requesting PC; but that he had not heard any lieutenant say that if the inmate did not provide that information they would be denied PC.

Human Resource Specialist HR1 was identified from a memorandum he submitted, as having responded to the emergency radio call on June 20, 2017, in 1CH’s office. HR1 participated in an

¹⁴ When an emergency occurs in the prison it is common protocol that inmates are locked into their cells. This isolates any problem and helps to maintain control. When this occurs staff instruct inmates to, “rack-up” or “lock-down”.

investigative interview and provided a sworn statement. HR1 stated that he heard a radio call for assistance and responded to the area. He said when he arrived at 1CH's office, 4LW and 1CH were arguing. He said 4LW was pointing his finger at 1CH, but he was not sure if it was in his face. He said 1CH slapped 4LW's hand away and said, "Don't put your finger in my face," and 4LW then replied, "Step outside." HR1 said he was not sure what 4LW meant by that statement. HR1 explained that 3LF asked him to escort one of the inmates from the office and he did so, while 1CH and 4LW continued to argue.

Lieutenant 3LF participated in an investigative interview and provided a sworn statement. 3LF stated that on June 20, 2017 he was working as the Activities Lieutenant. He recalled that sometime around 2:30PM he saw inmate N. standing at the Main Corridor gate¹⁵ in front of the lieutenants' office. 3LF said he talked with inmate N. at the gate but did not let him into the corridor. He said inmate N. told him something about wanting a bed change but that he did not say he was in fear for his safety. 3LF said he told the inmate he needed to see his counselor for a bed change and that he should go see him. 3LF stated he then went to call 1CH, from the lieutenants' office, to let him know his inmate was there and what he was requesting. 3LF said if inmate N. had told him he had a fear for his safety or that he wanted PC, he would have locked him in the "tank"¹⁶ in the lieutenants' office and begun to gather more information about why the inmate was afraid. 3LF said when he talked with 1CH he was told there were no issues with inmate N. and he had been with his cell mate for a while. He also said 1CH told him he was going to find out what was going on. 3LF said 1CH may have asked him to hold the inmate but he could not remember. 3LF explained that he did not go back out to interact with the inmate; rather he waited in the lieutenants' office for 1CH to call back. He said when 1CH called back and said there was some bigger problem he looked out the window and saw that the inmate was already gone. He said that is when he told 1CH, "Too late he is already gone." 3LF stated 1CH did not have any specific information about why the inmate wanted out of the unit. However, he said he called CO1, who was working the unit; to let her know there was a problem with the inmate and to be aware. He said he told CO1 that the inmate wanted to check-in, not to scream over the radio and if there was a fight, just to call it and he would be over. 3LF stated he told that to CO1 based on the information he was told by 1CH, not because of anything inmate N. had told him. He further stated that approximately five minutes later there was a radio call for assistance in the unit where inmate N. lived. 3LF said he responded to the radio call and when he arrived in 1CH's office he saw two inmates being restrained by staff. He said 1CH and 4LW were already arguing and pointing at each other when he arrived. 3LF said he thought 4LW was telling 1CH to calm down and 1CH was saying he wouldn't calm down, because inmate N. should never have been sent back. He further stated that he saw 1CH slap 4LW's hand down from his face but did not see any other physical contact between them. 3LF said he told some staff to take 4LW out of the area so he could deal with the inmate situation.

3LF stated he has locked up many inmates on day watch for PC. He said if an inmate says he feels in danger he takes that very seriously and follows protocol to keep the inmate safe. He

¹⁵ USP Beaumont consists of a number of inmate housing units and various administrative buildings connected by fenced walkways that are not covered. The Main Corridor is a paved and covered walkway that connects a number of the administrative buildings. This walkway is accessed by locked gates. An inmate wishing to speak to someone in the lieutenants' office must wait at the locked gate in front of the office until he is contacted by staff.

¹⁶ The "tank" is a locked cell in the lieutenants' office used to hold inmates for brief periods.

further stated he has not and would not deny an inmate PC for not providing information either about the people who want to hurt him or about general intel of the prison. He explained that he may try to get more information from an inmate in the course of putting them in PC but he would not deny an inmate PC if he failed to produce that information.

Lieutenant 4LW participated in an investigative interview and provided a sworn statement. 4LW stated that on June 20, 2017 he was the evening watch Operations Lieutenant¹⁷ and that he arrived to work between 2:30Pm and 2:45PM for the beginning of his 3:00PM shift. He said it was Yard Recall at the time and he remembered 3LF talking to an inmate at the Main Corridor gate in front of the lieutenants' office. He further explained that he heard the inmate say, "I can't stay in my cell, I need to move to a different cell". 4LW said when he heard this he knew that it was an issue he did not need to deal with and he walked into the lieutenants' office to relieve the day watch Operations Lieutenant¹⁸. 4LW said he saw 3LF come into the lieutenants' office and get on the phone but he was getting a briefing from the day watch Operations Lieutenant and exchanging equipment and was not sure to whom 3LF was talking. He further stated that approximately 15 minutes later he heard an inmate fight announced on the radio and that he responded to the unit identified on the radio call. 4LW said he did not immediately know where the fight was until he saw some staff in the corner near the counselor's office. He explained he then went into 1CH's office and saw one inmate on the floor bleeding from the head and inmate N. saying, "I didn't do that to him." 4LW said 1CH was yelling, "We need medical, we need medical." 4LW said he asked the inmate who was bleeding if he was ok and he said yes, following which he told 1CH to calm down. 4LW said he raised both of his hands and was telling 1CH to, "calm down", while moving his hands up and down. He stated 1CH said, "Who are you telling to calm down" and then, "Why are you putting your hands in my face?" 4LW said 1CH then slapped his arm and 4LW then said to him, "Are you serious?" 4LW stated that he then became angry and did not know why 1CH was so upset. He said he pointed his finger at 1CH and told him again to calm down. 4LW said it is possible he said something to 1CH about losing his job, that he was very angry and confused at the time and did not remember exactly what he said. 4LW said he recalled someone telling him to calm down and saying, "We got this, go ahead and step out." He said he saw 3LF there and then he left 1CH's office. 4LW explained he knows he was wrong for losing his temper and getting angry with 1CH at that time. He said he was confused as to why 1CH was so angry and what had actually happened because he was just coming on shift and did not have all of the information.

4LW stated that if an inmate requests PC or tells him he fears he is in danger; he would take the inmate to the lieutenants' office and find out more information about the situation. He said if an inmate cannot give him more information he would still send him to SHU. Warner stated he would not deny PC to any inmate for lack of providing information because that could result in him (4LW) going to jail for failing to protect an inmate who said he was in danger. 4LW further stated that he had never seen any lieutenant deny PC to any inmate who said he was in fear for his safety or who requested PC and that if he did observe that, he would intervene and not let it happen.

¹⁷ The Operations Lieutenant is the highest ranking lieutenant in the institution. On evening watch, when executive staff generally are not at the institution, the Operations Lieutenant is the highest ranking staff member on-duty and is responsible for all aspects of running the institution.

¹⁸ Lieutenant 5LN was identified as the Operations Lieutenant on-duty.

Lieutenant 5LN participated in an investigative interview and provided a sworn statement. 5LN stated that he was working the day inmate N. was assaulted. However, he said that he left the institution to get food after 4LW relieved him and returned for a second shift after the incident with inmate N. was over¹⁹. 5LN said that if an inmate requests PC he asks for more information. He explained he may tell an inmate he cannot place him in SHU without more information, if the inmate does not provide anything when he first requests PC, but that he still plans to put them in SHU. He said he has never denied an inmate PC for failing to provide information. 5LN said they have lieutenants' meetings once a month and the SIS staff provide information at that meeting. He said not at every meeting but on a regular basis they discuss PC. He stated they are told if an inmate requests PC they have to put them in SHU. 5LN further stated that he had never been told by any of his supervisors that an inmate should be denied PC for failing to provide information.

At the time of the investigation inmate N. had been transferred from USP Beaumont and was incarcerated at USP Lee, Virginia. The SIS department at USP Lee conducted an interview with inmate N., who declined to provide a sworn statement. The SIS department summarized the interview in a memorandum. Inmate N. confirmed that on June 20, 2017 he was assaulted by another inmate at USP Beaumont in 1CH's office. He confirmed that on the same day and just prior to the assault he did go to the lieutenants' office and request to have a new cell. Inmate N. said he did talk to 3LF and that he did not talk to anyone else. Inmate N. said he told 3LF that he needed to move to another unit and 3LF told him to go back to the unit. Inmate N. said he then told 3LF he was in fear of his life and needed PC but 3LF told him to go back to his unit.

Additional Investigative Findings:

A review of the weekly SHU inmate rosters was conducted at the time of the investigation. The review of the USP revealed that 40 inmates of the 121 in SHU (33%) were there for PC issues. The review of the medium security institution revealed that 56 of the 115 inmates in SHU (49%) were there for PC issues. The review of the low security institution revealed that 48 of the 122 inmates in SHU (39%) were there for PC issues. Additionally, the review of the low security institution revealed that 27 of the 48 in that SHU for PC were sent there from the USP.

A review of Lieutenant Meeting Minutes from meetings between May 2017 and May 2018²⁰ revealed one meeting with notes referring to PC issues. That meeting occurred on July 13, 2107. The minutes regarding PC issues attribute the following to SIA Childress:

PC Cases: Any generalized perceived threat against an inmate should be taken seriously with a threat assessment conducted. The inmate does not have to supply any names, only specific information about the threat.

¹⁹ According to the staff roster for June 20, 2017, 5LN was the Day-Watch Operations Lieutenant from 7AM to 3PM. The roster then indicates he was assigned over-time as the Activities Lieutenant from 3PM to 10PM.

²⁰ Only one year of meeting minutes were retained.

A review of the Internal Affairs case brought against 2LG, for acting unprofessionally when an inmate requested PC, revealed that misconduct was sustained and discipline is currently pending. The incident in that case occurred in April 2016.

(4) Violation of Laws, Rules, or Regulations

Allegation 1.

The allegation that management at FCC Beaumont direct personnel to routinely deny inmate requests for PC was predicated on the experience of one lieutenant. In addition there was no specific instance identified in which this was directly observed. The interview with 1LF revealed her to be forthcoming with information; however she was unable to clearly define the process for managing an inmate who requested PC. 1LF appeared to believe that it was her duty to determine whether or not the inmate was honest in his assertion that he needed PC. In contrast to the allegation, she was also clear that neither she nor any other lieutenant would deny PC to an inmate who was in danger.

The captains and lieutenants interviewed, with the exception of 1LF, were clear that a lieutenant's duty, upon receiving a PC request, was to gather as much information as possible, pass it on to SIS and then put the inmate in SHU. This approach is in accordance with Program Statement 5270.11.

Current SHU housing records support the reports made by FCC Beaumont management. A large percentage of inmates housed in SHU, at the time of the investigation, were there for PC issues. These findings are inconsistent with the allegation that management is instructing inmates to be denied PC, in which case much lower numbers of inmates in PC would be expected and there would be no reason to find USP inmates housed in the low security institution SHU for PC.

Training to lieutenants regarding PC issues was recorded as provided only once in one year. Not all FCC Beaumont lieutenants attended the training. 1SC said that he conducted an additional training immediately after the incident in April 2016 regarding PC issues. As a result, there was only evidence that two official instances of instruction, regarding PC issues, were presented to lieutenants over a two year period.

The investigation of 2LG indicates that an incident reported to management, involving improper conduct of a lieutenant, is taken seriously. That incident resulted in an investigation and potential discipline.

The current investigation revealed insufficient evidence to support the allegation that management at FCC Beaumont direct personnel to routinely deny PC to inmates. Rather, the investigation revealed that a lack of clear instruction on managing PC requests may play a part in the perception that inmates are being denied PC.

Allegation 2.

The investigation revealed sufficient evidence that the incident involving inmate N. being assaulted was the result of a poorly managed PC situation. The evidence was not clear whether or not inmate N. specifically requested PC. Although inmate N. stated that he did request PC, 3LF said he did not. The only other witness to the interaction, 4LW, stated that he did not hear inmate N. request PC. However, he also stated he was not present for the entire conversation.

It was clear that following the phone conversations between 3 LF and 1CH, that 3LF believed the inmate had come to seek PC. This is evidenced by his own statements and the statement and memoranda provided by the two officers, whom he called to alert to a possible physical altercation. His duty at that time was to take direct action and intercept inmate N. on his route back to the housing unit, or at the least send additional staff to support the two officers on the unit. When 3LF failed to take more decisive action, no one was prepared for the assault when it occurred. 3LF endangered the safety of an inmate and also endangered the safety of staff by his inaction.

It was also clear that 4LW's response, upon arriving at the scene of the incident, was unprofessional and caused a loss of confidence in those staff involved in the situation. 1CH was understandably experiencing a heightened emotional response as a result of being involved with one inmate assaulting another in his office. 4LW, as the highest ranking lieutenant, was expected at the time to de-escalate the situation and investigate what happened. Instead, he let his emotions get the better of him and he had to be instructed to leave the area by his subordinates. This action led to his failure to be able to adequately investigate the situation and more importantly, led those involved to believe he lacked the ability to manage PC issues.

(5) Action taken or planned as a result of the investigation

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

Bureau of Prisons Program Statements 5270.11 explains the reasons for which an inmate may be placed in administrative detention for PC. The program statement does not specify a list of requirements for PC, nor does it specify required actions. A detailed and exhaustive list of requirements and actions would be untenable. The program statement allows for use of sound correctional judgment, in light of specific facts associated with an individual inmate situation. Accordingly, there is currently no need for a change in agency rules, regulations or practices.

During the course of the investigation, 4CC was notified of the lack of clear understanding some of his lieutenants expressed regarding how to manage PC issues. He committed to including direction in upcoming lieutenants' meetings.

Additionally, information will be provided to the FCC Beaumont Complex Warden regarding the OIA investigation, its findings and outcome. He will be tasked to have his captains develop a standardized approach to managing PC requests at FCC Beaumont. He will also be tasked to develop a format in which

all lieutenants at FCC Beaumont can receive regular instruction on how to manage inmate requests for PC.

- (B) Restoration of any aggrieved employee.

Not applicable.

- (C) Disciplinary action against any employee.

Disciplinary action will commence for 3LF, to ensure that his failure to take significant action, when provided with information identifying a high risk situation, does not occur in the future.

Disciplinary action will commence for 4LW, to ensure that unprofessional conduct that detracts from the confidence of his subordinates and interferes with his duties does not occur in the future.

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

Not applicable