

REPORT ON CORRECTIONS
TO THE INTERIM COURTS, CORRECTIONS & JUSTICE COMMITTEE
OF THE NEW MEXICO LEGISLATURE

Prepared by Professor John Podmore and Hugh W. Dangler

INTRODUCTION

This report was prepared based upon work done by two contractors, Professor John Podmore and Hugh W. Dangler, hired to assist the interim Courts, Corrections & Justice Committee (CCJ) of the New Mexico Legislature in the fall of 2022. Any opinions expressed are those of the authors and do not necessarily reflect the opinions of the New Mexico Legislative Council or any other member of its staff.

Professor John Podmore is an expert on prison systems. He spent 26 years in the English and Welsh Prison Service and was Warden of His Majesty's Prisons (HMS) at Belmarsh, Swaleside, and Brixton. He has taught human rights and prison management in India and Africa, developed anti-corruption strategies for the United Nations Office of Drugs and Crime (UNODC), and did prior work with New Mexico prisons. He has been an expert witness for the Scottish Prison Service, at US Military Tribunals for Guantanamo Bay, and for a range of private clients.

Hugh W. Dangler has background in state government, having been both a trial attorney and an administrator, including being the Chief Public Defender for the agency now entitled Law Offices of the Public Defender (LOPD), as well as a General Counsel to the Regulation & Licensing Department and a staff attorney at the State Land Office. Mr. Dangler attended hearings of the CCJ, as well as handled prison-related correspondence for then-Co-Chair of the CCJ, now Majority Leader for the House, Representative Gail Chasey. As part of that job, Mr. Dangler was in contact with advocates for women's education, both educators and persons who had returned from completion of their prison terms, returning citizens. He visited with the director of women's educational services for the Western New Mexican Correctional Facility in Grants, Professor Marlene Chavez Toivanen. One of Mr. Dangler's responses to a citizen who had written in concern for her son was circulated in the Hobbs protective custody unit by that citizen and has resulted in a wave of correspondence from inmates of that institution. Mr. Dangler has also met with Ellen Rabin, the Senior Fiscal Analyst for the Legislative Finance Committee (LFC), and reviewed several reports from the LFC concerning its oversight of the Corrections Department (DOC). Mr. Dangler was afforded a lengthy interview with the Secretary of Corrections, Alisha Tafoya Lucero, and has met separately with the Deputy Secretary Melanie Martinez. At the secretary's invitation, he was given a tour of the Women's Correctional Facility in Springer and met with educators and staff there. These sources of information form the basis of this report.

The exhibits attached are A) materials from the DOC regarding programming and a newspaper article about successful education in the Las Cruces prison; B) newspaper articles concerning litigation gathered during the past eight months; C) letters from inmates; and D) articles on the federal penitentiary system showing a remarkable pattern of similar issues in that system.

The report is organized with an Executive Summary, including recommendations; background sections discussing prison systems in general and particular legacy issues affecting New Mexico's DOC; brief reviews of litigation as reported recently; and legislative initiatives during the 2023 legislative session. This report cannot be comprehensive because key stakeholders, such as correctional officers on the line, as well as reformers, and other stakeholders have not been systemically surveyed. It remains a work in progress, presented in this formal manner to at least capture what we have learned so far, and hopefully to give the CCJ some starting points for its work in the interim between legislative sessions.

EXECUTIVE SUMMARY

In hearings before the CCJ, a video was reviewed that appeared to show correctional officers standing by while a group of inmates physically attacked another inmate. These correctional officers were aware that cameras were recording the activity, greatly concerning the presenters of the video as knowledge of a lack of consequence for their actions. Similar scenarios have also come to light whereby correctional officers appear to behave without fear of consequence. The recently filmed incident is under investigation by the DOC and will likely be litigated. In contrast, the DOC presented to the CCJ and featured a number of programs that are directed toward helping inmates deal with their incarceration and helping them transition to civilian life after prison. These programs included Project ECHO, peer-to-peer programming, and an inspired presentation from a returning citizen. Without judgment, an incident wherein things do not appear to be going well inside the penitentiary and evidence of good work being done by the current administration reveal the challenge of the DOC, tasked as it is to keep things running and orderly while simultaneously trying to meet seemingly contradictory goals of safety within the walls and safety outside as inmates are released into the general public.

One central tenet shared by contract staff from working with these issues is that the seeming conflict between safety within and safety after release is an area of opportunity because the ability to work with inmates and prepare them to reintegrate into society actually increases safety within the institution. A second controversial area that we could view as an opportunity is the current dispute between the LFC and the DOC over recordkeeping and the database for recidivism, particularly data on parole revocations. By reducing recidivism, we can mark the larger success of returning citizens, increase public safety by successful returns, and lower the costs of incarceration by minimizing the number of people who recycle through the system. This conflict has been expressed in reports of the LFC criticizing the database. The conflict has also been reflected by the legislature passing a bill that would have created a step program for parole violations, trying to ensure that persons who had not committed new offenses, but had instead relapsed due to drug issues and other failure-to-thrive issues, could be kept from a full return to

prison. That bill was vetoed by the governor. Again, there is no conflict of intention on this issue. The administration is well aware of this problem and expressed a full appreciation, for example, that light supervision of certain probationers actually increases their opportunities to succeed whereas heavier supervision leads to higher rates of recidivism. The goal of both the legislature and the current administration that chose in its CCJ presentation to show work done with inmates for inmates' eventual success is shared. The difficulty is in how to achieve the goal. No one likes the word "process", but an inclusive process could minimize the feeling inside the DOC that outsiders just don't get it and could also overcome some of the resistance to the most well-intentioned reforms.

The recommendations below also include one that at first could seem like an imposition: the endorsement of some sort of independent review of inmate complaints. The goal of this suggestion is that if the process for creating an ombud included all stakeholders, and if it clearly delineated what the ombud role would and would not be, and finally if the lines of communication require that the administration enforce the rule clarifications of the ombud, then there will be tremendous safety benefits because inmates do not perceive a grievance procedure run by the very people who regulate them day-to-day as fair. An independent judiciary is a hallmark of civilian life, and some independent review of what goes wrong inside the penitentiary is critical. But that suggestion will be dead on arrival if there is not a legitimate process for arriving at the precise role of the ombud that includes all the stakeholders.

RECOMMENDATIONS

- 1) Appoint a working group from the LFC and the DOC, including those who work directly with inmates on parole, to hash out which violations could be addressed by continuing a parolee and which violations are worthy of return. Definitions of "absconding" and distinctions between completely falling off the wagon and mere failure to thrive could be hammered out. A key focus of the working group should be creating statistical measures that categorize parolees' behavior as that which: a) creates a risk to the community; b) creates a risk to the parolee through behaviors such as illicit drug use; and c) demonstrates and reveals personal, organizational chaos. If there can be accurate determinations of failure-to-thrive issues, then the legislature would be able to do its primary function of allocating funds in cooperation with the governor to get the best bang for the buck in supportive services that could impact that category of recidivism (third recommendation below).
- 2) Work with DOC leadership on a process to include stakeholders identified in the recently failed oversight bill sponsored by Representative Micaela Lara Cadena so that those in direct communication with inmates can realize that their own safety can be enhanced by working with willing inmates, with the common goal of both the legislature and the DOC of improving safety both within and outside of the New Mexico correctional facilities system. With enhanced safety can come greater job satisfaction, and with that, reduced turnover of staff and the consequent improvement of staff experience. There is potential to develop a virtuous circle. Improving safety furthers the legislative goal of reducing recidivism by

working on prerelease conditions, while the working group in Recommendation 1 clarifies the issues of post-release parole violations.

- 3) Identify the failure-to-thrive issues affecting recidivism and again, work with DOC leadership and rank and file, as well as with different state agencies, to meet those needs. An example of this type of cooperation and the common ground it entails is represented by Senate Bill (SB) 425, passed without an appropriation and signed by the governor, the Medication-Assisted Treatment (MAT) bill, which was also part of the recommendations of the Task Force Report concerning whether to unify New Mexico's jail and prison systems. There are opportunities for housing, training and job assistance, mental health care, and supporting infrastructure in rural parts of the state that might be the best destinations for some returning citizens but are resource-starved. Better resources make real the goal of social inclusion of inmates back into the community, and that in turn gives the added benefit of economic inclusion and the addition of individuals into the state's workforce.
- 4) Building on the stakeholder involvement described above and the model of common ground, work with DOC leadership and stakeholders, especially including line staff as well as those dealing with probation and parole, to define the role of an independent ombud or equivalent concept for a review of inmate complaints that has the stamp of independence, and therefore legitimacy, in the eyes of those incarcerated and their families and supporters.

BACKGROUND: WHAT WE KNOW ABOUT HOW PRISONS FUNCTION

Prisons: the nature of the environment

Prisons, by nature, are closed settings, and many would describe them as total institutions. The essential character of prisons creates a barrier to social intercourse with the outside world: locked doors, high walls, razor wire, and searchlights are literal and metaphoric impediments to constructive dialogue with the outside world that the prison system is there to protect. Prisons are artificial environments. All aspects of life are conducted in the same place and under the same single authority. Each phase of an inmate's daily activities is carried out in the immediate company of a large batch of others, all of whom are treated alike and required to do the same thing together. All phases of the day's activities are tightly scheduled, with one activity leading at a prearranged time into the next, the whole circle of activities being imposed from above through a system of explicit formal rulings and a body of officials.

The overall aim is security and control and to incapacitate those incarcerated, to say that while they may have committed a crime outside, such behavior will not take place in this "total institution". There is daily evidence to the contrary; be it in illicit drug use and the organized crime that underpins it, violence, theft, and indeed sexual violence. And there is ample evidence that staff of all specialisms can be involved either as willing participants, with planned criminal intent, or by dint of conditioning and manipulation. It is an inconvenient truth that prison does not incapacitate.

Total institutions provide no preparation for an individual's return to the outside world that he or she may have left in a state of chaos, damage, and disorder; individuals may return more damaged rather than less. However, while prisons are closed communities, they do not sit in total isolation from the communities they are designed to serve. The vast majority of inmates are eventually released, some after long periods, others by way of a revolving door or short sentences. Many serve long sentences effectively by installments. They can, in effect, be described as merely members of the community passing through. Guards as well as staff from specialist disciplines are also from the community. Prisons and outside communities have an economic, social, and cultural symbiosis that we are often too reluctant to accept. It is this symbiosis that we can use to be part of the solution rather than part of the problem.

Prisons: the nature of inmates

Prisons contain persons who are suspected of or have been convicted of a crime. Offenses range from relatively minor to the most heinous. Some prisoners will be involved with just one offense, others with many offenses over perhaps long periods of time. Some will be a danger to the community, others a danger to themselves. Some will be innocent of their alleged crime by design or default of the criminal justice system. Whatever the scenario for an individual prisoner, the environment of the institution revolves around crime like no other.

The outside perception is that prison brings about incapacitation and that crime cannot be permitted in prison because it is a total institution. The converse is true: crime can and does take place in prison, and perpetrators merely adapt to the change of environment. Almost all types of crime committed outside the prison walls can be and are committed inside. That might be anything from murder, rape, and robbery to minor theft, drug dealing, and assault. Crime permeates the prison walls. Gangs inside prison operate to the same codes as their equivalents outside. Drugs in prison are trafficked in through the organized crime networks that provide such substances in the community. Prisons can prove to be beneficial for organized criminals who are inside prison. Through corruption, and particularly the use of mobile phones, organized criminals can easily continue to run operations from within their prison cells. Indeed, many organized criminals seek to take full advantage of the benefits available to them, such as education and qualifications, which can enhance their operations even further.

It is also an inconvenient truth that crime inside is not solely committed by inmates. Staff of all ranks, disciplines, and specialisms can be involved by dint of either direct, personal, criminal intent or through conditioning, manipulation, or blackmail. Victims of crime in prison can be inmates or staff directly and members of the community indirectly. Prisons are merely a particular subset of the wider community and not as insulated as many people believe and accept.

Prisons: the nature of relationships

Prisons rely upon the success or otherwise of staff-inmate relationships. Where relationships are managed, controlled, and constructive, a worthwhile environment can be

created. Where relationships are poor or nonexistent, prisons become dangerous places for both groups and for the communities they serve.

Prisons house particularly challenging populations with difficult behaviors. Some of those challenges are often the direct or indirect reason for prisoners' incarceration. The nature of the challenges may cause prisoners and the staff in charge of their care to be vulnerable to a wide range of nefarious influences and activities. Prison regimes that host these relationships face huge challenges when there are insufficient resources and interventions to meet the complex needs of prisoners. There is a real risk that the main priority becomes the management of the numbers rather than the management of the people. Regimes focusing on basic containment subsume attempts at reform and development, resulting in an environment in which both inmates and staff are put at risk and staff cease to see their role as rewarding and fulfilling. This in turn results in rapid turnover that perpetuates low experience and a downward spiral of relationships.

Placing an emphasis on the need for prison staff to establish good relationships with inmates is usually referred to as "dynamic security". This concept rests on the notion that engaging with inmates and getting to know them can enable staff to anticipate and better prepare themselves to respond effectively to any incident that may threaten the security of the prison and the safety of staff and inmates. The principles of dynamic security are more easily applied in institutions where there is an adequate ratio of staff to inmates. Dynamic security refers to the interaction between staff and inmates, with staff developing situational awareness, enabling them to prevent escapes and disruption before they are attempted. The concept of dynamic security includes:

- Developing positive relationships with inmates;
- Diverting inmates' energies into constructive work and activity;
- Providing a decent and balanced regime with individualized programs for inmates;
- Establishing an adequate ratio of staff to inmates; and
- Encouraging good conduct and cooperation on the part of inmates with a system of privileges appropriate for the different classifications of inmates.

Staff will know the inmates in their care, and managers will have systems in place to support such an environment. Staffing levels need not be oppressive, as peer group pressure, individual investment in the regime, and a positive culture provide safety and security.

At the other end of the spectrum are coercive regimes in which the emphasis is on physical and procedural security and constructive staff/inmate engagement is either absent or confrontational. Solitary confinement is the epitome of such an approach, in which inmates can be subject to cruel, inhumane, and degrading treatment tantamount to torture. Staffing levels tend to be oppressive and costly. The safety of inmates and staff is implied to be paramount, but the costs to the mental and physical health of inmates is high, and the stress on staff members is not understood. Incidents, when they take place, tend to be extreme. The use of solitary confinement can often be a downward spiral, with policies for its use either absent or ignored.

Fears of the consequences of its removal lead to its ever more excessive use. Human and physical costs become unacceptable.

BACKGROUND: LEGACY ISSUES FOR PRISONS IN NEW MEXICO

This section examines some of the events and challenges that have created or contributed to problem solving going forward. Not all legacy issues are identified, and additions could be made to this list. Five discussed here are: the riot in the Penitentiary of New Mexico in Santa Fe in 1980; the *Duran* consent decree; the privatization of the state prison system and recent efforts to roll back that trend; a historic trend of male management in DOC administrations paired with a military-style officer corps; and channeling many problems of mental illness into the jail and prison populations for lack of alternative infrastructure.

The modern era of New Mexico's penitentiary system began with what at that time was the worst prison riot in the nation's history. For two days in early 1980, inmates took control of the penitentiary and held 12 officers hostage. Thirty-three people died, and over 200 were injured. The trauma of those events haunted the community of Santa Fe for decades afterward, with stories told by jurors of 19-year-old National Guard members pulling double shifts while using cocaine to stay awake; inmates' stories of persons held in protective custody and murdered in front of others and of unspeakable violence, some of it racially motivated; and finally within the culture of the penitentiary employees, a legacy of fear and remembrance.

Ironically, the *Duran* consent decree, which created federal oversight of New Mexico's penitentiary system, was agreed to prior to the riot. The lawsuit was filed in 1978 by an inmate, Dwight Duran, in an almost 100-page complaint after his friend went untreated and later died as the result of a malignant tumor on his testicles, allegedly a result of beatings and repeated kicks to the groin. The incident occurred in 1976, and the suit named Governor Jerry Apodaca. It was filed amidst other warnings about deteriorating conditions in the penitentiary, including reports from several grand juries. While New Mexico's then-governor, Bruce King, and the state's attorney general agreed to federal oversight in 1979, it was after the riot and changes agreed upon post-riot that a federal judge authorized federal oversight of New Mexico's prisons in 1980. Oversight continued in a constant storm of litigation until 1998. In August 2019, the administration of Governor Michelle Lujan Grisham announced a new agreement that seemingly consigned most (but not all) of the ongoing issues of the consent decree to a historical footnote. The one remaining aspect from the original *Duran* consent decree is a prohibition on overcrowding that remains in effect.

Under Governor Gary Johnson, private prisons were encouraged to take over certain portions of the New Mexico penitentiary system, leading to new levels of decision makers and differences in the treatment not just of inmates, but also of the employees of these privately run prisons. Under current Governor Michelle Lujan Grisham, the DOC has been making efforts to bring prisons back into the direct orbit of the state of New Mexico so that currently the large majority of prison institutions are now publicly run. This legacy issue has created some of the conflict between the LFC and the current administration of the DOC, as it appears that with

declining inmate populations and large facilities coming back into the state-run prison system, some prisons might be subject to consolidation and cost savings. On the other hand, local employment is a huge issue, especially in prisons in rural parts of the state where there may be no other large employers. The continued existence of at least one large privately run prison in Hobbs also complicates any attempts at improving prison conditions since each prison institution has a certain level of autonomy, and that is further complicated by having a governance structure based on profit instead of service and reelection.

Up until the current administration, now in its second term, the leadership of the DOC was almost exclusively male. The current secretary was placed in a situation in which she looked to litigation as a way to assert her rights prior to her current appointment. While this reform is new and encouraging, it does not mask an entrenched law enforcement bias, which can be roughly contrasted with a social worker mentality. Both are necessary in the staffing of a prison: one providing for prevention and containment and the other meeting needs of inmates and giving them hope of returning to society with a decent chance of staying there. This duality of purpose is at the heart of the dilemma of the LFC's attempt on behalf of the legislature to emphasize the importance of recidivism, the rate at which persons released from the DOC then return to the DOC. Safety within a penitentiary institution is generally prioritized over safety outside the institution when inmates are released into the general population. Ironically, the presumption that these goals are in conflict may be mistaken. It is the opinion of contract staff that when people are engaged in activities that they perceive will improve their odds of success on the outside (from obtaining a GED to far more particularized skills), and when incarcerated persons understand exactly what is expected of them (the rules) and have some sense of the fairness of the systems that affect them, they are far less likely to act out, thereby greatly increasing the safety of the correctional officers with whom they are in constant contact and their own safety. The debate over this one point should be had and hashed out. You could sum up the differing attitudes with two aphorisms: "Give them an inch and they'll take a mile" [i.e., restrict inmates' access to everything] versus "People who have nothing to lose are the most dangerous" [i.e., better to engage inmates]. The "problem" with this conflict is compounded by the traditional separation of roles within the institutions: guards guard, and "others" do the social work. There can be advantages when the roles overlap, as the aims of institutional safety and community integration merge rather than compete.

The final legacy issue is perhaps the most important and was featured in a report regarding the feasibility of a combined system of incarceration, including both county jails and state prisons. That report, referenced in the Executive Summary, is titled *SM 6/HM 11 Task Force Report*. The report recommended against combining jails and prisons into a unified system because of a lack of supporting infrastructure to address the needs of inmate populations: from housing to mental health, from drug treatment to health clinics. These issues are at the heart of much of the tensions that resulted in the *Duran* consent decree, down to the detail that the friend of Dwight Duran first got into trouble when he was withdrawing from heroin; then placed in segregation; then apparently beaten. This issue could also be considered the unfunded mandate: requiring DOC staff to work with inmates and address their issues is all a little

hopeless if there are not tools to get those inmates the medical care they need and the drugs they may need to fight addiction and if the DOC is understaffed.

LITIGATION AND RECENT LEGISLATIVE INITIATIVES

This section attempts to capture current legislative initiatives and a snapshot of current and past litigation, not based on a comprehensive review, but simply from newspaper articles, which are attached as an exhibit below.

Perhaps the best way to bring the legacy issues described above into a more current focus would be to review some of the legislative initiatives brought during the 2023 legislative session. The most directed initiative regarding reform was House Bill (HB) 297. Sponsored by Representative Micaela Lara Cadena, this bill would have created a Corrections Advisory Board, required the posting of proposed rule changes within the DOC, and had the aim of establishing an independent ombud to handle complaints within the DOC. In committee hearings, the secretary of corrections raised objections, including insufficient inclusion of the DOC in the creation of the bill, and ambiguity of the position and powers of the ombud. Without being stated in an explicit form, it might be assumed that DOC leadership had as a concern an increase in administrative burdens, and perhaps the unfunded mandate detailed as the final legacy issue above. HB 297 did put forward an inclusive strategy for bringing together the various stakeholders, including correctional staff, formerly incarcerated individuals, family members of incarcerated individuals, as well as institutions. If those stakeholders were included in direct discussions during the interim, it might be possible to find common ground where an independent process could achieve the legitimacy of review that inmates appear to be still seeking¹.

SB 84 was proposed to address the legislature's ongoing concern about "technical" parole violations, mandating a step procedure such as that used by courts that would have imposed lesser sanctions for failures to appear or take a drug test. It passed both chambers but was vetoed by the governor.

SB 399 addressed the legislature's ongoing concern with solitary confinement or the use of segregation as a management tool within corrections. That bill did not make it out of committee. SB 425 addressed the need for MAT for those fighting addiction within the prison

¹Contract staff answered one letter from a concerned constituent of then-Co-Chair of the CCJ, Representative Gail Chasey. Staff also had several phone conversations with this mother of a son incarcerated at the Lea County Correctional Facility in Hobbs. That letter was then circulated by her son, and that contract staff person received a large number of complaints, which itself could be a separate report. Many of those complainants had sufficient detail to appear to be actionable. This footnote merely offers that the perception of inmates, at least in the Hobbs facility, is that the grievance process is insufficient and that fairness of process matters tremendously to those inmates seeking to better themselves and their conditions. If the DOC were to perceive the ombud as a safety valve, to handle some, but almost certainly not all, of this pent-up demand, the creation of such a position might be seen to increase public safety, both within the institution and for the general public, as inmates who have been listened to are released and perhaps had some of their grievances addressed in a systemic manner.

and jail populations. SB 425 did pass both chambers and was signed by the governor. The \$10 million appropriation attached to the original bill was dropped during the process of passing through both chambers.

Another way to think about the "problems" of institutionalization in systems of incarceration is to examine litigation. In the short period in which current contract staff has been working, the following headlines of present and future litigation have been reported:

- State spent over \$400K fighting prison rape suit (October 1, 2022, *Santa Fe New Mexican*);
- Corrections employee fired for reporting issues, suit says (October 8, 2022, *Santa Fe New Mexican*);
- ACLUNM: Assault shows need for prison oversight (October 18, 2022, *Santa Fe New Mexican*);
- Former workers drop suit, agree to settlement (October 31, 2022, *Santa Fe New Mexican*);
- Correction officers sued over abuse allegations (April 13, 2023, *Santa Fe New Mexican*); and
- State pays \$200K to settle suit in female inmate's death in Grants (October 18, 2023, *Santa Fe New Mexican*).

These articles indicate that the costs of litigation are high for the state of New Mexico. Whatever the merits are of each individual allegation, the collective breadth of the different lawsuits, involving allegations of coverups, rape, inattention, and infighting suggest that there are tremendous challenges in running a system as complex as New Mexico prisons. One could take the view that these are "necessary" costs to running the system as it is, or one could view that there is opportunity to do better and deliver a more just and fair system. Either way, litigation is a current, ongoing, and costly reality, an indicator species of unmet need.

FINAL THOUGHTS

This report is neither comprehensive nor determinative as to the current state of New Mexico's penitentiary system. It seeks to strike a balance between the willingness of the current administration to try to meet legislative goals and to support innovative programs such as they featured in their presentation to the CCJ and what can be seen as real challenges that are seemingly inherent to corrections in general, including the needs of many as yet unheard voices, both in the community and, we might surmise, in the rank and file of workers within the DOC.

The limited contact that contract staff had with individual members of the DOC, both in administration and those interviewed members of line staff, was positive and encouraging. The fact that a single polite letter to a constituent opened a kind of firehose of correspondence from inmates in one particular institution is not intended to offer evidence of the truth of the allegations but is intended to reflect actual voices of current inmates (granted, a very self-selecting group). Likewise, the listing of litigation is not offered as any kind of indictment but

instead offers an opportunity for a discussion with administration that might lead to a willingness to tackle the status quo together.

The background of prisons in general is supported by research that Mr. Podmore would be happy to discuss personally with the chair and members of the CCJ. The suggestions and recommendations are offered as starting places. The very concept of working together is in its own way somewhat radical, but it is suggested only in the spirit of recognizing that we are in this together, that problems do and will exist in the unique world of prisons, and that true reform will succeed only from areas of agreement between those that observe and fund the system and those who maintain it.

EXHIBITS TO FOLLOW

NB: EXHIBIT C LETTERS FROM INMATES

The three letters enclosed are selected based on specific permission given by these two inmates to use their letters. Documentation accompanying the complaint of a writeup for failure to submit to a urine sample is available but not submitted here because the point is not to litigate this matter, but simply to inform the CCJ of the very specific nature of complaints.

There were several other letters, and two of them are quoted here because they show a discernment about the running of prison and what would help other inmates:

"One of the big issues is O.U.D. for MAT. If I can fight for that treatment so those who need it can start now, so they will have some tools to stay clean and not come back to prison once released. If an inmate with O.U.D. is denied the one tool that works (M.A.T.), ***they will always choose the drug they know vs. the treatment they don't know.*** This is why so many inmates get released only to die of overdose within days of their release." [emphasis added]

Quoting from another letter not disclosed in full:

"I personally am not writing for any of my personal grievances. I just want to see change. This facility is grossly understaffed (security wise, programming wise) ill equipped to handle such a wide range of people and security levels and honestly uncaring about the general welfare of its residents unless it jeopardizes it's employees' status of employment or endangers the GEO company's legal liability."

Also included is a letter from contract staff to one of the inmates so that it can be seen that no promises of representation were made. The inmates who are responding are doing so knowing this. The inmates who have given specific permission to use their letters are doing so with the knowledge that they might, or will, be retaliated against. Inmates with the courage to speak up may be an untapped resource for improving New Mexico's prison systems.

Peer Lead

Challenge of Life Balances

A peer lead class that emphasizes life skills and re-directing past behaviors into solutions. Topics include: Compulsive and impulsive behaviors, codependency and healthy boundaries, healthy communication and active listening, anger awareness, parenting, empowerment and self-worth, commitment to life balances, creative solution based thinking, the power of laughter, positivity, and gratitude, and self-care and resources. Currently there are 12 participants to begin class on September 1, 2022 and 34 waitlisted participants.

Roots for Success

An environmental literacy education peer lead program. Roots for Success consists of 10 modules related to agricultural, recycling, etc. This program also offers apprenticeship and pre-apprenticeship in the state of New Mexico. There are currently 13 participants to begin on August 25, 2022.

Greenhouse Program

Supported by in-reach program Harvest Now that provides to prison greenhouse programs across the USA. Allows for food to be donated to surrounding communities in food deserts. Many individuals that participate have completed the Roots of Success program.

Project Echo

We currently have 2 trained facilitators with 23 to be trained on September 26 – 30, 2022. Once new facilitators are trained, Project Echo will begin workshops again teaching about communicable diseases, Diabetes, COVID-19, Hep-C, STIs, bacteria, viruses, and Interpersonal Violence.

Alternative to Violence Program (AVP)

An in-reach program that provides tools on how to handle conflicts in a peaceful way. Participants learn about problem solving and effective listening. We have several trained facilitators at SCC that have earned their Gold Certificate that allows them to teach workshops when they release from prison. Workshops are generally held every other month (schedule dependent) with a session scheduled August 29th and 30th.

Certified Peer Support Worker (CPSW)

A certification by the State of New Mexico to prepare peer support workers for employment and volunteer opportunities in the behavioral health system. Springer Correctional Center held a 40-hour training block for selected candidates and credentialing exam. There have been 10 successful certifications earned. Various workshops and trainings are being made available via zoom for continuing education hours.

Women in Leadership

An in-reach foundation offered to the entire facility via zoom. This in-reach foundation offers different support groups throughout the week. Examples include: Sister Circle, life skills, creative writing, spirituality, Gangsters Anonymous, and even offers an opportunity to voice opinions and concerns over their recorded podcast. This foundation also helps with re-entry and after release. The co-founder of

Women in Leadership, Stacy Burleson, offers 1 on 1's before and after release to help the offenders reconnect with their families and community. *Women in Leadership* approximately has 70 participants weekly.

Staff Supervised

Heavy Equipment Operator is a program that offers an opportunity to offenders to be OSHA/NCCER certified in Specialized Heavy Equipment Operations – Excavator. One of the 10 participants have been released and since tested and been certified. The other 9 participants are pending testing here at the facility.

Mesalands Community College offers all verified high school or equivalent offenders an Associate's Degree plan in various areas including Liberal Arts, Business Administration and General Occupational Studies. Various classes are offered and usually rotated to enrolled college students. There is currently 1 Associates Degree graduate for FY22 and 34 pending enrollments for the Fall 2022 semester.

New Mexico State University offers all verified high school or equivalent offenders an Associate's Degree plan in Computer Technology and certificates in Computer Technology, Web Fundamentals, and Game Design. There is currently 1 Associates Degree graduate from FY22 and 18 pending enrollments for the fall 2022 semester.

Adult Education is a program offered to achieve the Hi-Set diploma. There are multiple resources available to aide in the preparation and teaching of gaining Hi-Set diplomas. Resources include a "check-out" system where students may check out verified and approved material to take to units and study. There 11 Hi-Set graduates with 40 currently enrolled students.

Heidelberg Pen-Pal program is a recently offered correspondence program open to the entire facility. The program offers the opportunity to correspond with Heidelberg students that are interested in a related field of the criminal and justice system. This semester there are two topic choices to choose from, criminal and religion. There are currently 33 participants.

Wheels for the World, Joni and Friends

This program rehabilitates wheelchairs to distribute throughout the world for those in need. From July 2021 to June 2022, the program has employed 21 workers and restored 686 wheelchairs and sent out 525. They have also restored an estimated 300 walkers, 200 pairs of crutches and about 100 canes.

Reentry Programming

Date at the Gate is a re-entry resource that aides in providing clothing upon an offender's release. The re-entry coordinator is in communication with the *Peaceful Habitation Foundation* that supplies and ships the clothing donations to the facility. There is a form that is provided to request the sizes and preferences for each individual offender. The foundation also offers services and resources after release and is also noted on the form for the offender to request.

BrightSpace Tablets are re-entry and resource tablets that are offered to the entire facility. The offender is issued a username and password for sign-in. There are multiple re-entry and substance abuse management classes available for relapse prevention and re-entry life skills. Examples include: Motivational thinking, wellness recovery plans, work, financial, education, and computer essentials. There are TED Talks that available for listening and books that are optional for reading. There are numerous cognitive behavioral therapy classes offered some examples include: mental health, problem solving, family obstacles, partner violence, interpersonal skills, anger, and moral reasoning. There are opportunities to achieve certificates after completion of certain classes.

Behavioral Health Programming

Intensive Outpatient Program (I.O.P)

This program is based on learning how to cope and learn better life management skills. This program is taught by a clinician on sight both in the morning and afternoon (two different groups). The A.M. group currently has 11 participants and the P.M. group currently has 9 participants. There is a waitlist of 19 participants.

Residential Drug Alcohol Program (R.D.A.P)

RDAP is offered in two forms at SCC - a 6-month group for offenders not required to participate in Adult Education and a 9-month program for those mandated for Adult Education. The program includes substance abuse management and prevention. There are currently 12 participants in the 6 month program and 9 participants in the 9 month programs. There is a waitlist of 28 participants.

Sober Living

A 3-month rotational program that allows offenders to prepare for further programming such as I.O.P and R.D.A.P. The groups are peer lead and is used as a stepping stone of how the programming units are ran and what is to be expected while programming. There are currently 27 participants.

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LAS CRUCES BULLETIN

Prison's education program helps inmates



(<https://cdn2.creativecirclemedia.com/lascruces/original/20230519-080833-SNMCF%201.jpg>)

The education program at the Southern New Mexico Correctional Facility west of Las Cruces helps inmates learn a variety of subjects, from language to computer skills.

COURTESY PHOTO



Posted Friday, May 19, 2023 8:10 am

By Mike Cook

Students attend classes four-five hours a day five days a week, studying reading, math, history, science, language arts and other subjects, and can even take college-level courses. They use pencils and paper, textbooks, computers and tablets.

The setting could be any high school in Las Cruces. It's actually Southern New Mexico Correctional Facility (SNMCF), located about 13 miles west of Las Cruces.

The prison houses more than 600 adult male inmates, and 80-90 are enrolled in its high school equivalency (HSE) classes, taught by four instructors in morning, afternoon and night classes. Inmates have a wide range of educational backgrounds: some have completed a few years of elementary school, some are high school graduates, others have some college credits.

“We meet them where they are,” said Alex Hallwyler, SNMCF program manager and supervisor of education, who became a teacher at the facility four years ago.

In class, inmates might learn basic computer skills, work on fractions or improve their reading skills. They could also do beginning algebra or complex geometry. Most speak English, but some are learning it as a second language.

One of the instructors, K.C. Cunningham, also teaches a Freedom Writers course to help inmates improve their writing skills.

“Our educational system is the key to success when (inmates) leave the facility,” said Cunningham, who has been teaching at SNMCF for about a year and a half. She has a bachelors degree in secondary education with a minor in history and a masters degree in curriculum development.

“With the right tools, they can do it,” she said. “We teach everything.”

Sometimes, Cunningham said, “You can see the lightbulb go on” and know the student is progressing, doing math problems he never thought he could do or thinking about going to college for the first time in his life.

“They talk about what they want to do,” Cunningham said. “They talk about the future. That’s a huge, huge motivator.”

“Inmates are coming to us at the lowest point in their lives,” Hallwyler said. Taking classes, they see themselves making progress and it snowballs, he said, as they think, “Maybe it can happen. Maybe I can do this.”

“I love seeing that happen,” Cunningham said. “Our job is to find that and run with it.”

It’s especially heartwarming, she said, when an inmate tells her about a conversation he has had with his wife, girlfriend or mother about the progress he is making in class.

“Education really does have the power to change lives,” Cunningham said.

The prison offers a wraparound program, Hallwyler said, so students can not only take classes to prepare for the HSE exam, they also can enroll in beginning college-level classes like welding and auto mechanics.

Since July 2022, SNMCF has also offered a heavy equipment operator certification program. Through a partnership with the New Mexico Workforce Connections Department and an outside vocational training provider, “eight inmates completed rigorous instruction, utilizing online curriculum, video lectures and practice on an official CAT heavy equipment simulator,” the New Mexico Corrections Department (NMCD) said. “The training culminated in hands-on assessments with an instructor on site, for both construction site and tool safety, and 40-hour training on an actual bulldozer that had been transported onto prison grounds.”

“The program was a huge success and planning has begun for another cohort to begin in July 2023,” NMCD said.

SNMCF also offers two post-secondary programs, including Ashland University, which allows incarcerated students to receive Pell Grant funding to complete four-year degrees, NMCDC said. "Instruction takes place on specialized tablets utilizing a secure cellular network," the department said. "The program is rigorous and students are held to the same academic standards as on-campus students at the university," NMCD said.

They can also continue their educations in person or remotely at New Mexico State University or Doña Ana Community College, and SNMCF even helps with admission forms and applying for financial aid.

"I love the classes," said SNMCF Warden Ronald Martinez. "They have a chance to get out and make it again," he said. "We are here to rehabilitate the inmates, to make every inmate a productive citizen when they leave."

Because of its education program, "morale is so much better" at the prison, the warden said. "They have hope. We want to give them a second chance and make them well-rounded citizens."

Cunningham said she feels a real connection with her students.

"They have helped me see the positive side," she said. "I enjoy being there with them."

"I've got a great staff here," Martinez said. "They care about what they do."

SNMCF also has two full libraries on site that provide assistance to inmates with resources and materials needed for their own legal research, the department said.

SNMCF "is contributing to the statewide goal of 165 HSE completions by the end of FY23 (June 30)," NMCD said.

SNMCF has 12 successful completions this school year, with additional groups of students starting the testing process every week. In just one week in April, seven students completed all testing and were waiting for scores.

"Our completion number is up from seven high school graduates in FY21 and eight graduates in FY22," the department said.

"We offer cognitive and family reunification programs, helping participants learn from their own life stories and prepare to be more positive influences in their communities and families," said NMCD Public Relations Manager Carmelina Hart. "Our department also offers comprehensive reentry services, including requesting replacement of vital documents (Social Security cards and birth certificates), resume writing and job searching, and general pre-release planning and preparation.

Visit www.cd.nm.gov/divisions/adult-prison/nmcd-prison-facilities/southern-new-mexico-correctional-facility/.

State spent over \$400K fighting prison rape suit

Officials settled for \$100K with woman alleging guard abused her twice a week

By Phaedra Haywood
phaywood@sfnwmexican.com

October 1st

State officials paid \$100,000 recently to settle a lawsuit brought by a woman who said a guard at the Springer Correctional Center repeatedly raped her while she was an inmate at the women's prison between 2016 and 2018.

For a year, the woman alleged, the guard forced himself on her twice a week.

She is one of at least 11 women who have filed lawsuits since 2018 contending officials at Springer fostered an environment that emboldened guards to exploit them with impunity and made them afraid to report the alleged abuse.

State corrections officials announced last year a plan to close the facility, a former detention center for boys that has been plagued with sexual assault claims since female inmates were moved there in 2016. The Corrections Department, which set no timeline for shutting down the prison, cited a dwindling inmate population and aging infrastructure. But the agency appeared to back off the plan, at least temporarily, after facing pushback from a small community that relies on jobs at the prison.

In the meantime, the costs of civil complaints alleging abuse are mounting.

The woman who most recently settled with the state had a co-plaintiff who accused a different guard of sexually assaulting her at the Springer facility. She agreed to a \$50,000 settlement in March.

As of August, the state had spent \$409,000 defending itself against the women's lawsuit, New Mexico General Services Division spokesman Thom Cole wrote in an email.

The state Corrections Department did not respond to a request for comment.

An attorney for the two women, Erlinda O. Johnson, said Friday the state's willingness to spend more fighting the

Please see story on Page A-8

Incomplete 2nd page not included

EXHIBIT

B

Corrections employee fired for reporting issues, suit says

Manager at women's prison says she was terminated after pointing out hostile and misogynistic conditions she witnessed

By Phaedra Haywood
phaywood@sfnewmexican.com

10/8/22

Veronica Bernal Martin's attorney describes the long-time New Mexico Department of Corrections employee as "a true believer" — someone committed to returning inmates to society in better shape than when they arrived at prison.



**Veronica
Bernal Martin**

She had worked for the department for more than a decade when she was promoted to unit manager at Springer Correctional Center in 2019.

Martin jumped at the chance to put her master's degree in public administration to good use, attorney Ryan Villa said Friday, though it meant moving her family hundreds of miles from the Las Cruces area to the tiny town of Springer near the Colorado border.

"She was absolutely committed to the goal of rehabilitating these women in Springer. It was sort of her life's work," Villa said. "She was climbing the ladder, and she really felt she could accomplish a lot of things and help these women better their lives and make the community safer."

Today, the 45-year-old mother of four is struggling to recover from a stroke and is locked in a bitter legal battle with the state after being fired — in retaliation, Villa claims, for reporting the hostile and misogynistic conditions she encountered at the women's prison.

"No woman should be treated as inferior to their male counterparts, have to witness her female colleagues undermined, demeaned, and sexually harassed, or have to

Please see story on Page A-4

Corrections employee fired for reporting issues, suit says

Continued from Page A-1

go to work every day in a hostile work environment," Villa wrote in the Whistleblower Protection Act lawsuit he filed on Martin's behalf in state District Court.

"When a woman complains to her employer that she and her colleagues are experiencing gender discrimination and sexual harassment in a hostile workplace it's the employer's responsibility to investigate those claims and to protect the women reporting from retaliation," the complaint continued. "Here, Ms. Bernal Martin's employer did exactly the opposite: they retaliated against her."

Allegations of sexual harassment and retaliation are nothing new at Springer. But in the past, they've largely come from inmates.

Nearly a dozen women have filed lawsuits since 2018, alleging they were sexually assaulted while incarcerated at the facility. They contend officials fostered an environment that emboldened guards to exploit them with impunity and made them afraid to report the alleged abuse.

The state has paid hundreds of thousands of dollars to settle several complaints and paid contract attorneys hundreds of thousands more to fight the cases in court. At least five are still pending.

Corrections Department spokeswoman Carmelina Hart acknowledged receiving a request for comment for this story but did not provide a comment Friday.

Martin was excited when she first settled her family into a trailer on Springer Correctional Center grounds, her lawsuit says. But within a month or so of starting her new job, she began to receive reports from inmates about abuse of authority and retaliation by correctional staff.

She reported her concerns to Warden Marianna Vigil and Maj. Robert Gonzales, but as the months passed, she experienced sex discrimination and harassment herself and witnessed other female staff members being harassed and humiliated by Gonzales, Martin says in her lawsuit.

Gonzales and Vigil both have been named as defendants in five lawsuits filed by inmates accusing them of failing to properly supervise corrections employees in a way that kept inmates from harm.

In November 2019, Martin complained to officials higher up the chain of command, including former Deputy Director of Adult Prisons German Franco, about an incident in which she claims Gonzales cursed at a female employee.

Director of Adult Prisons John Gay showed up at Springer three days later, the lawsuit says. But instead of investigating the conditions Martin reported, the lawsuit says he placed her on administrative leave and officials began investigating fabricated misconduct allegations made against her as a pretext for her eventual firing.

"She was walked off prison grounds. Her family was uprooted and forced to leave their home on prison grounds and move back to southern New Mexico," the

lawsuit says.

Prior to her reports, Martin's lawsuit says, she had never been the subject of investigation or discipline in her career.

After filing written reports about gender discrimination at Springer, she became the subject of three separate investigations, including one that accused her of creating a hostile workplace for Gonzales and another investigation into allegations she had coerced a female inmate into making a complaint about her mistreatment by a guard, according to the lawsuit.

Martin filed a gender discrimination and retaliation complaint with the New Mexico Human Rights Bureau in December 2019, her lawsuit says.

And on May 14, 2020, she emailed then Director of Adult Prisons Gary Maciel and Corrections Secretary Alisha Tafoya Lucero for help.

"I am being wrongly accused and not expecting you to believe me but rather fully investigate all those involved," she wrote in the email. "I am respectfully requesting that I and all those involved be polygraphed."

In the email, Martin added she felt she was being retaliated against for reporting Gonzales and begged officials to investigate her claims.

"At the end of the day I have no regrets and know that regardless [of] the outcome I did the right thing," she wrote.

"On a personal note, I am depressed, I fought so hard to be a Unit Manager up north," she wrote. "I was so scared to be a Unit Manager. I wanted to be a good boss and a fair leader. This was my dream and it only lasted eight months."

The lawsuit says Tafoya Lucero took no action to protect Martin or respond to

her complaints.

Martin was officially terminated in July 2020, her lawsuit says.

In June 2021, the New Mexico Human Rights Bureau issued a probable-cause determination, concluding she had been retaliated against and that the investigations against her and her termination were "pre-textual," according to the lawsuit.

Martin appealed her firing to the State Personnel Office, Villa said. In May 2022, the department agreed to reinstate her to a Unit Manager position at Southern New Mexico Correctional Facility — where she had originally worked — as part of a negotiated settlement in her case.

Martin asked during negotiations that her benefits be restored as if she had never been fired, Villa said. The state refused to grant that request, the lawyer added, but Martin agreed to the settlement because she was eager to get back to work.

Less than two weeks after she returned to work in late May, Villa said, Martin suffered a stroke.

The disability insurance she had prior to her firing had not been restored, Villa said, meaning she's without an income while she attempts to recover.

"Now her family is in dire financial stress because she can't work and she doesn't have that disability policy that she lost because of this wrongful termination," Villa said.

Martin's case is scheduled to go to trial in March.

She's seeking an unspecified amount of actual, compensatory and special damages, including two times her back pay with interest, and reinstatement of her benefits.

LOCAL & REGIONAL

ACLU-NM: Assault shows need

Video of Aug. 10 incident at Los Lunas prison shows guards failing to intervene as inmates attacked another prisoner

By Phaedra Haywood
phaywood@sfnewmexican.com

A video that shows four inmates attacking another state prisoner in full view of two guards who failed to intervene prompted an hourslong debate among lawmakers on how to reform what some critics call a culture of corruption and dysfunction inside New Mexico's prison system.

Barron Jones, a senior policy strategist for the American Civil Liberties

Union of New Mexico, and civil rights attorney Matthew Coyte told members of the legislative Courts, Corrections and Justice Committee on Monday the recorded incident took place Aug. 10 in an empty housing unit at the Central New Mexico Correctional Facility in Los Lunas.

Coyte — who has obtained multimillion-dollar settlements from the state on behalf New Mexico inmates — said the video signals an urgent need to revisit legislative reforms that failed in the past.

If the guards in the video, including a captain, seemed unconcerned about the potential repercussions of failing to protect the attacked inmate, he said, it was because they knew Corrections Department officials would protect them from consequences.

"He knows there is a video, and he does not care," Coyte said. "He knows he's untouchable and the video won't see the light of day. ... He knows he's not going to be accountable.

"Nobody wants to address the elephant in the room, which is corruption and misfeasance," Coyte added.

The committee chairwoman, Sen. Gail Chasey, D-Albuquerque, said she asked

BER/THE NEW MEXICAN
Universalist Con-
House seat.

Ronchetti spotlighted her death, which came days after Beltran's release from prison, during a televised debate Oct. 12 with Democratic Gov. Michelle Lujan Grisham.

"His story is about the

Tuesday, October 18, 2022

THE SANTA FE NEW MEXICAN

A-7

GIORION

for prison oversight

Corrections Secretary Alisha Tafoya Lucero about the video and was told the matter was "under investigation."

Tafoya Lucero did not respond to a request for an interview.

Agency spokeswoman Carmelina Hart confirmed the incident was under investigation. She wrote in an email Monday, "Safety of inmates and staff is of the highest priority for the Department."

She added, "Preliminary results of the investigation revealed that there were no significant injuries, and no one had to be transported due to injuries. The Correctional Officers involved were placed on administrative leave pending

the outcome of the investigation."

Coyte recommended the Legislature take a two-pronged approach to prison reform, with one piece of legislation creating independent oversight and another addressing conditions for guards and inmates, with education and training components.

The oversight body should have "golden key access" to prison facilities and documents, Coyte said, but no connection to the Corrections Department or authority beyond issuing reports.

Potential prison reform legislation would get more support if it was

Please see story on Page A-8

Prison oversight

13

Continued from Page A-7

targeted in part at reducing legal expenses, he said.

"Nobody cares about inmates, in the general sense," he said. "But they care about money."

The Corrections Department has paid about \$8 million to settle 74 lawsuits since 2018, Jones told legislators, and most of the cases involved civil rights violations. That figure does not include legal expenses borne by the state, which often are significantly more than the amount paid out in settlements.

ACLU-NM is working on a lawsuit against the state with a private attorney who represents the inmate attacked in the video, Jones confirmed Monday.

Jones spent a total of about a decade in New Mexico prisons in the late 1990s and early 2000s. He told lawmakers there is a disconnect between what they hear from Corrections Department officials and his own experience.

"Every time I hear the New Mexico Corrections Department leadership come to a committee hearing, they paint this really rosy picture of what takes place behind the walls, and it makes me cringe," he said. "I know [inmates] aren't getting programming. ... They're not getting the tools they need to better themselves."

Jones and Coyte said the Corrections Department also lacks a transparent representation of staffing shortages.

Some committee members spoke with emotion about the complex nature of the problems in the state's prisons.

Rep. Eliseo Lee Alcon, D-Milan,

asked the committee not to discount the trauma endured by prison workers.

"I'm pretty sure that 90 percent of the correctional officers that work in the state of New Mexico are suffering from [PTSD] and should probably get compensated," he said.

Sen. Antoinette Sedillo Lopez, D-Albuquerque, called the video "extremely disturbing" and asked Coyte if prison conditions put the state at risk of the U.S. Department of Justice imposing its own oversight or someone filing a lawsuit that could result in court-ordered monitoring.

Coyte said yes, but he is more concerned about the risk of a prison riot.

Rep. Micaela Lara Cadena D-Mesilla, said in an interview Monday after the hearing she is working with ACLU-NM and might sponsor a bill creating an independent panel to oversee the Corrections Department and a transparent rule-making process for the agency.

Unlike other departments, Cadena said, Corrections does not have a public process for creating policies.

She said the state owes it to inmates, lawmakers and the public to be clear about what the rules are "so people can ask real questions about those rules and our obligations when we lock someone up."

"What we've seen in that video is that they are routinely covering up all sorts of things that happen behind those bars," she said.

Two bills that proposed prison oversight in 2021 died without becoming law.

Former workers drop suit, agree to settlement

Employees who looked into
staff misconduct alleged
officials covered up findings

By Phaedra Haywood
phaywood@sfnewmexican.com

Four former state Corrections Department investigators recently agreed to settlements totaling \$310,000 in exchange for dropping a lawsuit that alleged high-ranking agency officials quashed their findings of employee misconduct and retaliated against them by gutting their division.

The plaintiffs worked in the Office of Professional Standards, which is responsible for investigating staff misconduct, identifying trends, providing training and recommending policy changes to the Corrections Department secretary. It is considered by some an internal affairs department.

According to their whistleblower lawsuit — filed in state District Court in 2021 and settled earlier this month — department officials up to and including Secretary Alisha Tafoya Lucero “wanted to control, and continue to keep secret ... files and investigations which reflected badly upon her, the department and its officials.”

When the employees balked at participating in what the lawsuit claims were cover-ups, the department and Tafoya Lucero took resources away from their office “until the unit became so understaffed, underfunded and under resourced and unsupported that it became a mere shell.”

A Corrections Department spokeswoman called the allegations in the lawsuit “false.”

“These settlements represent a compromise to avoid the expense of litigation and are in no way an admission of liability,” Corrections Department spokeswoman Carmelina Hart wrote in

Former workers drop suit, agree to settlement

Continued from Page A-1

an email Friday.

Tafoya Lucero did not respond to an email asking for an interview or a phone message left with her executive assistant Friday.

One of the plaintiffs — former Investigative Supervisor Robert Parra — was placed on administrative leave for more than two years leading up to the filing of the lawsuit, according to the complaint.

Three others, including former Office of Professional Standards Bureau Chief Carl Vigil, former management analyst Vanessa Paul and supervisor Tasha Yazzie-Chase resigned in 2019 “in lieu of being placed on admin leave or terminated.”

Parra will receive \$198,000 to settle his claims against the department; Vigil will receive \$72,000; Paul \$25,000; and Yazzie-Chase \$15,000, according to Oct. 4 settlement agreements posted on the state Sunshine Portal.

The state has spent \$62,000 litigating the case to date, General Services Department spokesman Thom Cole wrote in an email Tuesday.

The plaintiffs’ complaint detailed a plethora of misconduct they claim was substantiated through the course of investigations conducted as part of their job.

For example, the complaint says, the employees discovered a warden at Southern New Mexico Correctional Facility had created a “burn pit” on

prison grounds where he and his wife brought “various contraband” to be destroyed.

The professional standards office sent the report up the chain of the command, the lawsuit says, but the warden was allowed to retire without discipline.

According to the lawsuit, another investigation dubbed the “quid pro quo investigation” revealed a warden had offered a corrections officer a bribe to make false allegations against three other officers.

Jim Brewster, then the department’s general counsel, didn’t want Parra to submit a report in the case, the lawsuit says, “because it was tied to the burn pits” and he didn’t want the report to be released to an investigative reporter who had filed a records request in the matter.

Other investigations in which employee misconduct was substantiated but didn’t result in consequences included a case in which a guard was caught on video attacking an inmate and another in which staff leaked the identity of a confidential informant who had been providing information about staff and inmates smuggling drugs into a facility, the lawsuit says.

After the leak, the employee became a target at the prison where he worked, the lawsuit says, and had to resign for his own safety, costing OPS a valuable source of information.

When the plaintiffs realized their findings were being buried or ignored, their complaint says, they complained up the chain of the command and even met with liaisons from then-Gov. Susana Martinez’s office, who were “dis-

missive” of their concerns.

“The cases discussed in the lawsuit were investigated and cleared by the previous administration,” Hart wrote in an email.

Most of the events occurred before Tafoya Lucero was named to head the department in the spring of 2019, but the alleged retaliation and defunding of the department occurred on her watch and with her knowledge, according to the lawsuit, in which she is a named defendant.

Vigil met with Tafoya Lucero in April 2019, when she was interim cabinet secretary. He shared his concerns the office’s findings were being covered up, but “she did not act,” the lawsuit contends.

OPS had investigated Tafoya Lucero twice before she became secretary, according to the lawsuit — once in 2015 and once in 2017 for an incident in which she was accused of hitting a corrections officer with her vehicle after failing to stop at a checkpoint while entering prison grounds.

In May 2019, a month after he met with Tafoya Lucero, Parra was placed on administrative leave, according to the lawsuit, which adds he wasn’t informed or interviewed about the reasons he was placed on leave — which he said were fabricated — until 14 months later.

By the time they filed their complaint in 2021, the complaint says Parra had been on administrative leave without a determination for more than 2½ years.

Under her direction, the lawsuit says, officials retaliated against the OPS unit by not filling open positions, radically reduc-

ing funding and removing their authority to open investigations.

Vigil, Paul and Yazzie-Chase resigned within months of Parra being placed on leave, the lawsuit says.

Attorney Nicholas Davis, an attorney for the plaintiffs said Thursday the net effect has been that OPS is no longer serving its function.

“While the details of the Whistleblowing were the basis for the complaint ... the larger concern is that the facts these plaintiffs alleged showed the dismantling of any sort of internal oversight and to my knowledge nothing has been put in its place,” Davis said.

Hart did not directly respond to a question about the number of vacancies in the unit.

“The OPS bureau is under the administrative services division, has oversight, and a robust team of trained investigators across the state,” she wrote in an email. “The bureau chief directs the actions of field and facility investigations and works directly with division level managers to ensure appropriate action is taken on all cases.”

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Corrections officers sued over abuse allegations

Inmates say guards pinned them, taunted them about being unable to breathe

By Morgan Lee

The Associated Press

Advocates for prisoners' rights have filed a civil rights lawsuit against five state corrections officers alleging they ignored requirements that they videotape a prison-cell encounter with an inmate who says he was sexually abused, beaten without provocation and taunted with words that evoked the 2020 death of George Floyd at the hands of police.

The New Mexico Prison & Jail Project filed the lawsuit Tuesday seeking damages in U.S. District Court on behalf of Carl Berry, a Black inmate, in an April 2021 confrontation at the Northeast New Mexico Correctional Facility in Clayton.

The five officers named as defendants are Christian Trujillo, Emanuele Bobbio, Danny Pelayo, Ashely Lawrence and Bernardo Villegas.

Please see story on Page A-5

Index Classifieds **B-6** Comics **B-10**

Design and headlines: Zach Taylor, ztaylor@sfnewmexican.com


2

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Lock it in!

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1. APY=Annual Percentage Yield. Membership are compounded and credited to your account

*New Mexican front page
4/13/23*

Corrections officers sued over abuse

Continued from Page A-1

Corrections Department spokeswoman Carmelina Hart said the agency does not comment on pending litigation. She said all but one of the officers — Villegas — still work at the agency, and three of them still work at the Clayton facility.

The advocacy group reconstructed events from the testimony of the plaintiff and other inmate witnesses, along with unredacted portions of an internal investigation by the state Correction Department's Office of Professional Conduct.

Officers told investigators Berry was restrained physically and with pepper spray after swinging an elbow at an officer. They denied the inmate's account of abuses.

The lawsuit alleges Berry was face-down on the ground when a corrections officer placed a foot on his back and said, "Let me guess, you can't breathe."

Attorneys for the Prison & Jail Project say the date of the encounter on April 15, 2021, corresponded with the murder trial of former Minneapolis Police officer Derek Chauvin in the killing of Floyd. Chauvin pinned Floyd to the ground with his knee for 9½ minutes. The case centered on excruciating bystander video of Floyd gasping repeatedly, "I can't breathe." The case triggered worldwide protests and a reexamination of racism and policing in the U.S.

Chauvin was convicted of murder and manslaughter April 20, 2021.

Several officers involved in the New Mexico altercation acknowledged to Corrections Department investigators a video

camera should have been used inside the cell.

"Its use could have prevented questions, provided answers and the truth would have come out," one officer told investigators.

Prison & Jail Project Director Steven Robert Allen said video recordings were required because the use of force by corrections officers was planned and not reactive. The Corrections Department declined to release a copy of its policy to the AP.

The lawsuit alleges the corrections officers retaliated against Berry after he spoke out earlier in support of another inmate who was surrounded by officers. Those events also are chronicled in a separate 2022 lawsuit alleging battery and sexual abuse

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Santa Fe for

allegations

by corrections officers against another inmate.

The new lawsuit says at least five corrections officers and a manager later entered the plaintiff's cell and ordered a cellmate to leave.

The lawsuit alleges one officer pushed his crotch up against Berry's backside. It says Berry objected and wasn't provoked

into retaliating, but he was thrown to the ground, beaten and taunted further.

The inmate in New Mexico "thought he was going to die, and why wouldn't he?" Allen said. "That kind of terrorizing of a Black prisoner in a prison here in New Mexico is completely unacceptable."

The lawsuit alleges battery, cruel and unusual punishment and violations of free speech rights, seeking unspecified compensation.

The inmate initially filed an administrative complaint under provisions of the Prison Rape Elimination Act. It is unclear whether officers were disciplined.

No criminal charges have been filed. The inmate is serving a sentence after pleading guilty to armed robbery in 2016.

Information from The New Mexican was used in this story.

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State pays \$200K to settle suit over female inmate's death in Grants

2 months after arriving at N.M. women's prison, Harris Hopkins died of 'profound malnutrition' from untreated celiac disease

By Daniel J. Chacón

dchacon@sfnewmexican.com

A day after Jennifer Harris Hopkins started serving her sentence at a state-run women's prison in Grants in February 2016, she reported she was suffering from celiac disease, which required routine care and a specialized diet.

In the months that followed, Harris Hopkins allegedly told medical staff at the correctional facility repeatedly she was suffering from symptoms associated with the disease, which, according to the National Institutes of Health, is triggered by eating foods with gluten.

"I am malnourished and vitamin deficient," she wrote in a grievance with the state Corrections Department in July of that year. "The items above can kill me. HELP ME!"

Two months later, Harris Hopkins was dead — and the Office of the Medical Investigator found evidence of "profound malnutrition" from untreated celiac disease, a chronic digestive and immune disorder that damages the small intestine.

Nearly seven years after Harris Hopkins was laid to rest at South Park Cemetery in Roswell, the state has paid her estate \$200,000 to settle a wrongful death lawsuit that alleged the Corrections Department and others failed to provide the late inmate the care she needed.

In an email, Corrections Department spokeswoman Carmelina Hart wrote the situation began under the administration of former Gov. Susana Martinez and noted the settlement "represents a compromise to avoid further expense of litigation and is in no way an admission of liability."

Harris Hopkins' medical condition was well known to correctional medical staff, according to the lawsuit.

While she reported suffering from a disease that required a special diet the day after she started serving a four-year prison sentence for unlawful taking of a motor

Inmate

Continued from Page A-5

vehicle, a third-degree felony, prison staff members also had noted Harris Hopkins' medical condition during the intake process, the lawsuit states.

Her medical problems surfaced immediately.

About two days after she was taken into custody at the New Mexico Women's Correctional Facility, Harris Hopkins was transported to Cibola General Hospital, also in Grants, for emergency medical treatment.

She exhibited "a number of concerning symptoms" but was discharged the same day, according to the lawsuit, which states doctors at the hospital characterized her symptoms as arising from "asthma with acute exacerbation."

About a week later, in early March, Harris Hopkins filed a request for medication to treat

her disease to help with nausea, diarrhea and vomiting, the lawsuit states.

She put in another request to medical staff later that month.

"In that document, Ms. Harris Hopkins reported anal bleeding, double vision, and 'intense pain' in her stomach" as a result of her disease, the lawsuit states. "Ms. Harris Hopkins wrote, 'help me please.'"

In April, Harris Hopkins reported to medical staff yet again she suffered from celiac disease. The nurse who saw her was dismissive, writing Harris Hopkins "alleged" she had celiac disease, the lawsuit states.

"Thereafter, Ms. Harris Hopkins' health began to deteriorate," according to the lawsuit, which states a nurse documented later that month Harris Hopkins' abdominal area appeared the size of a woman who is 30 to 40 weeks pregnant.

After filing the grievance pleading for help in July, Harris Hopkins was once again taken

to Cibola General Hospital for emergency medical care. She was hospitalized for three days before Cibola's staff discharged her back to the women's prison, the lawsuit states.

The attending physician concluded in his medical report "it is possible that this lady does suffer from celiac disease and that she might be better served by the attention of a gastroenterologist in the future," the lawsuit states.

By the fall of 2016, Harris Hopkins' health had "declined precipitously" without the medical care she needed, the lawsuit states. She had lost 34 pounds while in custody.

Her condition became critical Sept. 7, 2016, but she wasn't taken to the hospital, according to the lawsuit. Instead, she was transferred to the Central New Mexico Correctional Facility in Los Lunas.

"Once she arrived, her condition was dire and correctional staff finally took Ms. Harris Hopkins to the University of

New Mexico Hospital for proper medical care," the lawsuit states.

"Ultimately, UNMH staff was unable to save Ms. Harris Hopkins. She died on September 16, 2016," according to the lawsuit, which states other inmates and Harris Hopkins' mother had warned the Corrections Department and medical staff of her deteriorating medical condition before she died.

In addition to the Corrections Department, the wrongful death lawsuit also named Corizon Health, Inc., Centurion Correctional Healthcare of New Mexico, LLC, and Cibola General Hospital Corp. as defendants. It was unclear Monday whether Harris Hopkins' estate has reached settlements with those entities as well.

The attorney representing the estate, Alexandra Freedman Smith, did not return a message seeking comment.

Follow Daniel J. Chacón on Twitter @danieljchacon.

3-20-23

Dear Mr. Dangler,

First off I want to say thank you to you & Rep. Gail Chasey for taking the time to review my complaints with this prison and for taking action against the NMCD. Its definitely overdue.

My first complaint/issue with LCCF is that they serve us left over food, alot! Its so often that its hard to keep track of on paper on a regular basis. I know that NMCD policy is pretty strict about not serving leftovers. Theres health, safety concerns.

Secondly, they dont serve us fruit! Fruit is no longer listed on the menu. The only "vitamic C" that is mentioned on the menu is Punch. But "punch" is packed with sugar & everything bad for you. We need to have fruit - or at least fruit juice. Fruit/Juice is healthy food. This is part of a well-balanced diet plan. Not the junk they keep giving us.

They dont give us whats on the menu - at least certain items. Like fruit Cobbler, salsa, Iced white cake (we get cake - no icing). There's more examples but that's what came to me just now. These items are part of our caloric intake. Not getting them is depriving us of much needed calories.

The issue with rec. is touchy. NMCD policy & LCCF/ORE policy both state that outdoor rec is to be given to us unless there is inclimate weather. But ~~we~~: We were locked down for 29 days in January. Then we were in "pod restriction" for a week. After that we were only given indoor rec. We finally got a few days of outdoor rec. ~~we~~ That was around the first week or second week of March. On weekends, we get indoor

rec. The reason we've been given is the same two reasons: "The warden says to give you indoor rec", & "the weather is bad -" hot or cold or windy.

Yesterday, Sun. 4.2.23 at 2pm it was 79° & the the winds wer SW 20 mph. But we~~s~~ were given indoor rec

Each time we get locked down, no matter if its one day or 30 days, we get put in pod restriction for 3-7 days. That interferes with our "programming" - including school, work, rec.

Speaking of work. There's not much here for us in P.C. NMCD policy states that no matter what "class" an inmate is classified under, the same programming is to be offered. Jobs are hard to get. Most of us are pod porters. Which pays \$0.10 per hour. \$10 bucks a month, minus CVR & "Savings" which go into our release account. That's not much to live on.

Plus, inflation is costing us as well. Our low cently wages stay the same but ~~everything~~ on commissary has gone up - including hygiene. It wouldn't be so bad if the hygiene products LCCF & other facilities provided for us were any good - but they are the cheapest products with low quality.

Programming is pretty shotty. Classes are offered to make this place look good but in reality it really doesn't offer much.

Not only that. But if you want to take a college course, you have to have at least 6 months clear conduct. Then, if you (for whatever reason) get taken out, then you have to pay for the course.

Because we do not have any incentive to stay

out of trouble & we don't have much programming & we have to spend the majority of time locked in our pod, we get write-ups. So we can't stay clear conduct for 6 months.

Lockdowns that are caused by other units are supposed to punish them. I understand that we might have to be locked down initially, but once they have the situation under control, they should let the rest of us out. Instead, it's always a group punishment. And when we go through a shakedown, they do us last. Always. Even though we're the more behaved unit.

If we don't have programming then we just sit around causing little troubles. If we can't program & rehabilitate how are we suppose to better ourselves.

The Disciplinary Hearing Officers are corrupt, as well. By policy they are supposed to be unbiased. But they find us guilty — almost every time. Even without adequate evidence. Several people have told me that the D.H.O. has said that they're "been told to find everyone guilty".

I feel that STIU is harrassing me for almost every visit I get. now I filed an informal complaint on 12-16-21 & not even 3 weeks later I land up in seg on 12-26-21 for no reason. They made it all up to justify their reactions

Because of this treatment I don't even want to file anymore because of retaliation or ending up in

seg again.

The inequality of treatment is so bad. They get away with it by threatening to put us p.c.'s back on the line. Though they knowingly can't put our lives in danger, they've done it before. So we just stay quiet.

Medical won't do much for us, either. All they want to do is prescribe I.B.U's. & Tylenol, when I have a gunshot wound in my hip. That dept. is ran by a woman who runs off good people who do try to help. This woman claims to be a doctor, but she is not. Even security has told her that. But no one can get rid of her.

I would like to talk to you about all of these issues or even other issues. If you would, please call the facility & set up a telephonic call at 575-392-4055, & ask for the Housing 1 caseworker.

Thank you for your
time & consideration.

Sincerely,
Toby Hayes #74681

Hugh W. Dangler
Attorney at Law
on contract with the Legislative Council Service
staff for the Courts, Corrections & Justice Committee
an interim Committee of the NM Legislature

Date: May 14th, 2023

Dear Toby Gonzales:

I appreciate your help. Your descriptions are detailed and the issues raised represent so many aspects of your life inside. Even though I work for the Legislature, I'm not sure our mail correspondence is sacrosanct. I think the attorney-client privilege is what forms the basis of Legal Mail, so you won't see on my return envelope to you that marker that all of you put on your correspondence to me. This means that the Penitentiary, or its designee (I think they use contractors to monitor mail) could open my letters to you and likely yours to me. I mention this in case my letter arrives already opened. I don't want you to get upset about that. Along those same lines, as I just explained to your Mom I don't think I can be using calls into the case worker who very kindly allowed me one such phone call. I think that she did not realize that I don't represent all of you folks; that I work for the New Mexico Legislature. That makes it hard for her to justify attorney phone calls. Again, I think those protections are pretty narrow and meant for those inmates with attorneys who are working their cases, as few as that may be. Now, it could be in the future that I could negotiate the right to talk to inmates, but I would have to get that permission from the Secretary of Corrections. That also assumes I keep this job past June 30th when my current contract ends.

The final note I have for you and your Mom will already have asked you. I would like your letter to be an attachment to my report to the Legislative Committee. I'm putting a lot into this report, but the actual voices of folks inside the penitentiary I believe are powerful in themselves. On the other hand, there are reprisals for any kind of speaking out, I realize this. So, if you would prefer it, I would only refer generally to the correspondence I have received and not use your letter, eloquent as it is. Up to you. I certainly don't want to make your life any harder.

Again, my thanks for all your observations about what things are like where you are living.

With respect,
Hugh W. Dangler
1461 Diolinda Rd/Santa Fe, NM 87505

MR. Dangler

First off I want to say thank you for taking the time out of your day to help me. I have two reports here that you asked me to write to you and explain about L.C.C.F taking my Good time from me. The first report charge A/17 Refusal to submit to a drug test, the disciplinary officer Ms. Puentes found me guilty after my hearing, but during my hearing she did not ask me not one question on why I could not urinate? When S.T.I.V. Flores came into my pool I-C pool I had just finished urinating right when he came to get me to take a U.A., so I could not urinate for him (MR. Flores) within one hour for the fact that I got shot in 2005 and fragments from the bullet went to my bladder and I had a bladder infection so the doctors had to cut me open and remove the fragments from my bladder and I was on a catheter for about one and a half months so I just can't urinate when I feel like it I have a very hard time at times urinating. At my disciplinary hearing all the disciplinary officer did was state the date and time and ask me about my statement that's it. On the date and time on the report I told MR. Flores that I had just urinated and I am going to have a hard time urinating for him within one hour because I got shot and had a bladder infection and I can't force myself to urinate and he told me just go stand over there, I never told him I will just refuse. For this report and it's only my second one they took 120 days loss of commissary, phone, and visits plus 60 days loss of earned good time which this is way too excessive for first only being my second one in 8 years and for the fact that the disciplinary

1 of 3

officer did not ask not one question on why I couldn't urinate. There was minimal evidence besides the officer stating that I refused and due to my medical situation I was sent back to the pod and not given adequate time to urinate.

Summary of Second Report of which I am addressing to you;

On the date and time of 12-26-2022 3:13 pm officer J. Etter found a small square piece of folded paper with markings on it and he suspected it to be "spice" which is synthetic cannabinoids and he submitted it to evidence on 12-26-22 at 4:30 pm and on 12-27-22 officer Etter retrieved the piece of paper with pen markings on it from evidence at 8:00 am, at 8:05 am officer Etter tore a small piece of the paper with pen markings on it and placed it in an testing ampoule which is a M.M.C International B.V. synthetic cannabinoids test. At 8:07 am the small piece of paper and liquid turned orange once in contact with the liquid inside the ampoule which is a presumptive positive for synthetic cannabinoids. In this case the disciplinary officer's findings is supposed to be based on evidence well in this case the evidence is based in ~~the~~ black and white "pictures" so how can I fight this if the "pictures" are black and white not in color how do I of the disciplinary officer know that the Ampoule test was orange? For this report the disciplinary officer took 120 days loss of commissary, phone, and visits, and 30 days loss of earned Good time;

this report should of been dismissed for the fact that the evidence was no where to be found. The disciplinary officer here at L.C.C.F. was a collections officer here at L.C.C.F. before she became the D.H.O. there for there is no bipartison she finds almost every single one of us guilty even though there is no evidence. ~~With~~ With this I am losing out on going home with my family just for L.C.C.F's mistakes on not doing their job collectly. Here are the copies of both reports, if there is anything else you need please let me know. Thank you for your time and help Have a good day

Respectfully
Toby Hayes #74681

MR. H.W. DANGLEZ,

4-13-23

NEVER MR. I PRAY THIS FINDS YOU IN ALL THE BEST MY
NAME IS PRESTON BLAKE, CURRENTLY INCARCERATED NMCID
SINCE 2008. I AM ONE OF ONLY A FEW INMATES WHO FIGHT FOR
PRISONERS RIGHTS. I HAVE CURRENT LITIGATION AT VARIOUS
CLAIMS SINCE 2010, CLAIMS THAT SURVIVE. THIS IS A 1983, IN
THE U.S. DISTRICT COURT FOR S.M. PRESTON BLAKE V. GEO
GROUP et al, CASE #: 1:17-cv-00207-JAP-KK (NEW MLI-KK). THE
COURT HAS KICKED IT TO MAGISTRATE, THEN BACK TO U.S. DIST
COURT TRIAL JUDGE, THEN IMMEDIATELY BACK TO MAGISTRATE.
THEY'VE DENIED DISCOVERY PROCESS AS WELL AS APPOINTMENT OF
COUNSEL... DESPITE CLEAR SHOWING THAT THIS FACILITY HAS NO
EFFECTIVE ACCESS TO LAW LIBRARY. NOT ONLY THAT, BUT THEY
HELD ME IN SOLITARY CONFINEMENT FROM 10-4-22 TO 1-5-23
WITH NO ACCESS TO LAW LIBRARY AS WELL AS SEIZED ALL
LEGAL PROPERTY AND WITHHELD IT THE ENTIRE 3-4 MONTHS I
WAS IN SOLITARY. THE COURT WAS SUFFICIENTLY ADVISED, AND
EVEN DENIED INJUNCTIVE RELIEF. THIS IS ALL DOCUMENTED IN
THIS COURT CASE.

ON 3-6-23, MY HAND WAS BROKEN IN MEDICAL, I'VE BEEN
DENIED ANY TREATMENT, MY HAND HEALED DEFORMED AND
IS NOW CONSTANTLY IN PAIN. ALSO DOCUMENTED WAS NECK
AND SHOULDER INJURED THE SAME INCIDENT IN MEDICAL.
THEY HARASSED ME WITH SECURITY DRUG TESTING, NOT DONE
BY MEDICAL, BUT BY SECURITY WHERE HIPAA WAS VIOLATED
BY NOTIFYING SECURITY OF RESULTS OF VA DRUG TEST...
HAVING SECURITY PERFORM DRUG TESTING WAS ALSO HIPAA
VIOLATION. I WAS FORCED BY MEDICAL TO TAKE SECURITY
DRUG TESTING 3 TIMES IN 4 WEEKS, WITHOUT CAUSE. I AM
GOING TO FILE, MY HAND WAS LEFT WITHOUT MEDICAL CARE,
HEALED DEFORMED, I STILL HAVE NOT BEEN TREATED. I AM
NOT ALLOWED TO VIEW ANA COPY MEDICAL RECORDS, WHICH
IS ALSO MY RIGHT.

Anyway, I saw your letter in regards to this facility's programming as well as Bill 297. I am a GPI inmate or protective custody inmate here at LCCF. We get no programming at all. The rest of general population has school, college, R-DAP, etc. Back here we have nothing at all. We never had outside recreation for the first 3 months of this new year. There is no jobs, except pod-porter, while G.P. has all the prison's jobs. This is basically dead time for us.

What I really want to know is, what is in Bill 297 concerning solitary confinement... more so I am curious about medical assisted treatment mentioned. What is it and was it passed? I ask because I have been advocating and fighting to be put on medical assisted treatment for O.U.D. (Opiate Use

Disorder). NMCD has refused it, despite the positive effects it has had in other states such as Rhode Island, where it all but eradicated violence and drug abuse in their prison system. Now that Fentanyl is an epidemic, it is starting to infiltrate the NMCD. So those of us who have this disorder have no means to combat the disorder, especially those of us in 'P.C.' where we have no programs, no drug programs, no tools at all. So I am interested because if I can get the tools (M.A.T.) before I am released, my chances of being successful upon release increase 100%. I am in prison behind a drug addiction.

If you can find a moment, please check into my current litigation and maybe House Bill 297? I appreciate your time and concern sir. Take care!

Respectfully

PRISONER BLAKE 52893

- LCCF -

Thursday Sept 29th 2022

Senators push federal prison oversight bill

By Michael R. Slsak
and Michael Balsamo
Associated Press

WASHINGTON — A bipartisan group of U.S. senators introduced legislation Wednesday to overhaul oversight and bring greater transparency to the crisis-plagued federal Bureau of Prisons following reporting from the Associated Press that exposed systemic corruption in the federal prison system and increased congressional scrutiny.

The bill, called the Federal Prison Oversight Act, would require the Justice Department to create a prisons ombudsman to field complaints about prison conditions, and would compel the department's inspector general to evaluate risks and abuses at all 122 federal prison facilities.

The bill, sponsored by Sens. Jon Ossoff, D-Ga., Mike Braun, R-Ind., and Dick Durbin, D-Ill., is being introduced a day before Bureau of Prisons Director Colette Peters is scheduled to testify before the Senate Judiciary Committee, which Durbin chairs.

Ossoff, Braun and Durbin are three founding members of the Senate Bipartisan Prison Policy Working Group. The panel launched in February amid turmoil at the Bureau of Prisons, much of it uncovered by AP

reporting, including rampant sexual abuse and other criminal misconduct by staff, chronic understaffing, escapes and deaths.

"It's no secret that BOP has been plagued by misconduct," Durbin said. "One investigation after another has revealed a culture of abuse, mismanagement, corruption, torture, and death that reaches to the highest levels. And yet it still operates without any meaningful independent oversight. The result has been catastrophic for both incarcerated people and staff."

A companion bill in the House is sponsored by Rep. Kelly Armstrong, R-N.D., and Rep. Lucy McBath, D-Ga.

Under the Federal Prison Oversight Act, the Justice Department's inspector general would be required to conduct risk-based inspections of all federal prison facilities, provide recommendations to address deficiencies and assign each facility a risk score. Higher-risk facilities would then receive more frequent inspections.

The inspector general would also be required to report findings and recommendations to Congress and the public, and the Bureau of Prisons would then need to respond with a corrective action plan within 60 days.

Rules help abusive prison staff escape punishment, report says

By Joe Davidson
Washington Post

WASHINGTON — Federal prison officials accused of misconduct, including sexual abuse, are more likely to escape sufficient punishment because of the agency's reluctance to rely on inmate testimony, a watchdog investigation found.

Beyond allowing Federal Bureau of Prisons' officials to avoid full consequences for illegal or inappropriate behavior, this hesitancy also "emboldens miscreant staff members" who believe they can "act without fear of disciplinary consequences," said a Justice Department Office of Inspector General report issued this month.

The memo to Bureau of Prisons Director Colette S. Peters from Inspector General Michael E. Horowitz said "the circumstances that gave rise to this memorandum and the BOP's conflicting response to it continue to raise significant concerns about the BOP's handling of disciplinary matters in cases where inmate testimony is necessary to sustain misconduct charges."

Those circumstances involved a BOP employee who initially received only a 10-day suspension for the "appearance of an inappropriate relationship with an inmate, not the sexual misconduct or failure to provide truthful information," Horowitz wrote. The light disciplinary action resulted from "BOP opting not to rely on inmate statements to make administrative misconduct findings and take disciplinary action against BOP employees" without other evidence. After the suspension was served and the employee was back to work, more prisoners made sexual abuse allegations against

the staffer, who was ultimately criminally charged and convicted of engaging in a sexual act with an inmate.

Inconsistent with other information the Justice Department releases about convictions, the inspector general's memo did not include the date and place of the abuse, the name and position of the offender or even the sentence imposed. A spokesperson also refused to provide those details.

While investigating this case, inspectors learned that "BOP will not rely on inmate testimony to make administrative misconduct findings and take disciplinary action against BOP employees," the report said, unless there is other evidence independently establishing the misconduct.

That practice, according to the inspector general's office, increases the likelihood of "serious insider threat potential, including the risk of serious harm to inmates"; is contrary to federal regulations and prison policy; "can result in the BOP failing to hold staff members accountable for patently false statements"; and "unjustifiably dismisses inmate testimony, which may be highly credible."

Although prison officials have no "formal policy or practice of categorically rejecting inmate testimony, the BOP is reluctant to rely on inmate testimony in administrative matters, has a general practice of avoiding calling inmates as witnesses in Merit Systems Protection Board (MSPB) and arbitration proceedings," the memo said, referring to an independent, administrative agency that resolves federal workplace disputes.

That practice, the report added, effectively means that "significantly more" evidence is needed to discipline a BOP

employee than otherwise would be the case — "at least in matters involving staff on inmate sexual assault."

"The credibility of each witness should be assessed individually," Horowitz wrote.

In Peters' written response to the inspector general, she said "inmate statements are used for investigative leads" and BOP "considers all evidence ... to include inmate statements." Peters said the inspector general's conclusions are "particularly troubling" regarding the lawyers who defend BOP before the MSPB, who "abide by" ethical standards for federal attorneys.

Peters agreed with two of the inspector general's three recommendations but not one calling for the agency to create a policy on the proper handling of inmate statements in administrative proceedings. Peters said that would subject litigation and investigative practices to labor-management negotiations, potentially limiting attorney discretion. The watchdog said it found BOP's response not "relevant or compelling."

The inspector general also noted that inmates do testify in federal courts "and there is no valid reason for the BOP to decline to rely on such testimony other than for investigative lead purposes in administrative matters."

Shane Fausey, president of the American Federation of Government Employees' Council of Prison Locals, which represents BOP staffers, declined to comment because he had not fully reviewed the report. Inmate advocates praised the inspector general's memo but said much work is needed on a prison agency that has been the target of repeated abuse complaints.