



U.S. Department of Justice
Federal Bureau of Prisons

Washington, DC 20534

February 20, 2019

Donald Isaac,
Executive Director
441 4th St NW, Suite 270N
Washington, DC 20001

Dear Mr. Issac,

This letter is in response to the draft inspection report received on November 13, 2018, regarding the April 11 - 12, 2018, visit to United States Penitentiary (USP) Atwater, California. The Federal Bureau of Prisons (Bureau) recognizes the value of the Corrections Information Council (CIC) inspections of its facilities and the voice it provides the DC Superior Court inmates. We hope to continue working closely with the CIC to improve the Bureau facilities and to raise awareness with regard to those inmates' needs.

The Bureau notes the draft report findings are based on a small percentage of DC inmates assigned to USP Atwater. At the time of the visit, USP Atwater housed thirty (30) inmates from the DC area, which constitutes two percent (2%) of the total population of the facility. Throughout the report of the CIC visit, unsubstantiated inmate allegations are made without direct observation of the CIC or supported by facts that can be corroborated. The Bureau takes allegations of misconduct seriously. If provided with specific case information, the Bureau will investigate any matter that warrants review.

I offer the following response to statements and recommendations in the report:

The draft report states: "Prior to the inspection, during the opening session, and through inmate interviews, the CIC learned that there were frequent facility lockdowns throughout the past year (counting back from April 2018), that affected access to programming and communication."

Response: United States Penitentiaries are high security level facilities tasked with ensuring the safety and security of its inmates, staff, and the public. Penitentiaries house some of the most violent, and volatile inmates within the federal prison system. Specifically, with regard to the inmate population of USP Atwater, eighty four percent (84%) of the inmate population has a history of violence, with thirty five percent (35%) of these inmates having a serious history of violence. Eleven percent (11%) of the inmate population is serving a Life sentence, and many are verified gang members or known affiliates of violent gangs.

The decision to place a facility on limited operations status (commonly referred to as "lockdown") is done to provide for the safety and security of the institution, the staff, the inmate population, and the public. It allows time for investigations into incidents that have the potential to result in further acts of inmate violence, and with that, the potential for greater injury to inmates and to responding staff. What may first appear to be a simple fight between two (2) inmates may have wider implications if these inmates are members of rival gangs or differing races or from opposing geographical locations. Limited operations allows staff the opportunity to search all areas of the facility for weapons and other forms of contraband which could compromise the safety and security of the facility.

As referenced in the CIC report, incidents, which precipitated the decision to place USP Atwater on limited operations status, included an escape of an inmate from the secure confines of the facility, and various assaults perpetrated by inmates with weapons against fellow inmates and staff.

The draft report states: "Prior to the inspection, during the opening session, and through inmate interviews, the CIC learned that inmates who do not make payments required under the Inmate Financial Responsibility Program (FRP), have their inmate accounts frozen. Many DC inmates reported having FRP payments greater than the \$25 that is typically charged per payment in other BOP facilities."

Response: Per the Bureau policy, *Inmate Financial Responsibility Program (IFRP)*, unless otherwise stipulated in the Judgement & Commitment order, inmates, including D.C. Superior Court inmates, are responsible for making satisfactory progress in meeting their financial obligations toward the payment of court imposed fines, assessments, and restitution. They are also responsible for providing documentation to the Unit Team of any payments, which are made by the inmate directly to the court.

In calculating the amount of money an inmate will be responsible for paying toward their court imposed financial obligation(s), the Unit Team will review the total funds deposited into the inmate's trust fund account for the previous six (6) months (this includes monies earned through his work detail, and monies which are forwarded to the inmate from friends or family); subtract the previous payments made by the inmate during the previous six (6) months; and subtracting \$450 (excluded in order to allow the inmate the opportunity to better maintain telephone communication with family members, and friends). Any money remaining after this computation is considered for payments toward his financial obligation.

Ordinarily, the minimum payment is \$25 per quarter; however, if inmates earn more or receive more money in the course of the review period, the payment can increase substantially, to include a monthly payment rather than a quarterly payment. Inmates with small assessment fees (i.e. \$100), are encouraged to make a single, one-time payment if they have the funds available to them to do so. Inmates may also make payments directly to the parties to whom they owe, but must provide Unit Team staff with a receipt as proof.

Per Bureau policy, inmates who refuse to participate in the IFRP are subject to consequences. These consequences include the Unit Team notification to the United States Parole Commission of the inmate's refusal; monthly Commissary spending limitations; and denial of placement in a Residential Re-Entry Centers (RRC or "halfway house"). If it is apparent an inmate deliberately moved monies from his account in anticipation of his upcoming IFRP payment withdrawal, and to avoid making this payment, his account may be encumbered, or "frozen," per policy, at the Warden's discretion, and until the amount of the IFRP payment is made.

The draft report states: "The CIC received numerous comments regarding the disciplinary process at Atwater, primarily in reference to the severity of sanctions. Sanctions at Atwater were said to often include monetary fines, loss of commissary, loss of phone use, loss of email, loss of visits, and having phone and email contact lists deleted."

Response: The Bureau categorizes prohibited acts perpetrated by inmates into categories based upon the severity level of the incidents. One hundred (100) level series incident reports are of the greatest severity, followed by two hundred (200) level series incident reports, which are of a high severity, three hundred (300) level series which are of moderate severity and four hundred (400) level series offenses which are of low severity. Institution Discipline Hearing Officers (DHO) are responsible for conducting hearings involving greatest severity, high severity, and repetitive moderate severity incident reports.

Per Program Statement 5270.09, Inmate Discipline Program, the DHO is required to impose specific sanctions when a finding of guilt is made with regard to greatest severity offenses, and high severity level offenses. These sanctions include the disallowance of good conduct time; monetary restitution when government property is destroyed; monetary fines which can be up to \$500 or seventy-five percent (75%) of an inmate's trust fund balance for greatest severity offenses; and up to \$300 or fifty percent (50%) of the inmate's trust fund balance in high severity offenses. Loss of privileges (i.e. visiting, commissary, phone, email access) is also an allowable sanction per policy, and may be imposed by the Unit Discipline Committee (UDC) for moderate and low severity offenses. There is, however, no sanction, which results in inmate phone, and/or email contact lists being "deleted." If an individual is removed from an inmate's phone and/or email contact lists, this is done as a result of an internal investigation into possible illegal activity (i.e. attempted introduction of drugs and other contraband items into the facility), which could greatly jeopardize the safe and orderly running of the facility.

A review of hearings conducted by the DHO from November 2017 to November 2018 indicated two hundred sixty-one (261) inmates were sanctioned for greatest severity level prohibited acts, and four hundred ninety-five (495) inmates were sanctioned for high severity level prohibited acts. Of these seven hundred fifty-six (756) hearings, only forty-five (45), or six percent (6%) were for inmates sentenced within the District of Columbia. Of these forty-five (45) DC inmates, eleven 11, or twenty four percent (24%) were seen by the

DHO for the commission of more than one prohibited act during the past year. There is no evidence to support DC inmates were sanctioned outside of the guidelines of Bureau policy.

The draft report states: "During the opening session and in interviews with inmates, the CIC received reports that inmates have had the names and contact information of family and friends deleted off of their phone and email lists, making it extremely difficult to stay in touch with their loved ones."

Response: The Bureau encourages inmates to maintain contact with friends and family as this allows for the continuation of relationship ties, and provides inmates with opportunities to work toward reintegration into society. Inmates have the avenues of in-person visitation, phone, email, and the exchange of letters in order to begin to accomplish these goals. These are not avenues, which should be utilized to introduce contraband, or to plan the commission of additional criminal acts. The adherence to laws, rules, and regulations are the building blocks to a pro-social society, and to committing oneself to a life free of further acts of crime.

If an individual is removed from an inmate's phone and/or email contact lists, this is done as a result of an internal investigation into possible illegal activity (i.e. attempted introduction of drugs and other contraband items into the facility), which could greatly jeopardize the safe and orderly running of the facility.

In September 2017, the inmate population of USP Atwater was provided with a signed memorandum from the Warden reminding them of the importance of adhering to the TruLincs (phone, and email system) policy regulations and procedures. This memorandum also informed the inmate population this would be strictly monitored beginning in October 2017, thereby providing the inmate population with ample time in which to ensure they were in compliance. The inmate population was reminded inmate contact lists might not possess another inmate's immediate family member, friend, or contact. This stipulation excludes attorneys, which may be shared amongst inmates, clerks of court, and a mother, father, sister, brother to more than one inmate. Inmates were also reminded to ensure the relationship status of each contact be accurately reflected on the inmate's contact list, as this is required by Bureau policy.

The draft report states: "Prior to inspection, during the opening session, and in interviews with inmates, the CIC learned that Atwater implemented policies to restrict the sources from which reading material and mail enters the facility. More specifically, the policies designated that books had to be ordered through the prison, and that general mail from family could not be on colored paper, contain marker, crayon, stickers, lipstick, etc. Since the inspection, the BOP rescinded facility policies that added such restrictions to the purchase of reading material."

Response: In September 2017, the inmate population of USP Atwater was provided with a signed memorandum from the Warden, advising them that beginning in October 2017, changes to mail procedures would be in place. Specifically, the memo set forth the requirement that all incoming general correspondence envelopes and paper must be white in color, not made from card stock, or contain drawings, writings made in crayon or marker, free of any labels, free of any fragrance sprayed onto the correspondence, and the advisement of no "homemade" greeting cards. This was implemented in order to thwart the introduction of drugs and other forms of contraband into the facility, which would create an unsafe environment for inmates and staff. Inmates, along with friends and family members, have previously attempted to introduce drugs/narcotics through the saturation of cards, and envelopes with illicit substances, which are often difficult to detect visually by staff. These safeguards assist staff in closely monitoring the mail. It is important to note this has been adopted at other facilities other than USP Atwater due to the valuable contribution it has made in the detection of contraband via mail. In this September 2017 memorandum, inmates were also notified, of changes in book ordering procedures, which were intended to thwart the introduction of contraband. These changes required inmates to personally purchase books from a Bureau approved vendor, rather than receiving books from an outside source (i.e. Amazon, Barnes and Noble), or receiving books purchased for them by family and friends from an outside source (i.e. Amazon, Barnes and Noble). These changes to the book ordering procedures were adopted by several other facilities within the Bureau.

In May 2018, the Bureau reversed the changes to book ordering procedures, and inmates were once again able to purchase books from an outside source (i.e. Amazon, Barnes and Noble). Inmates were also permitted to have family members/friends purchase books for them from an outside source (i.e. Amazon, Barnes and Noble) and to have the book mailed directly to the facility.

The draft report states: "Prior to the Atwater inspection, through correspondence with sentenced DC code offenders, the CIC learned that many DC inmates are transferred to USP Atwater as a disciplinary measure."

Response: A review of the inmates sentenced in the District of Columbia who are currently assigned to USP Atwater indicates only one (1) inmate was transferred to USP Atwater from another Bureau facility for disciplinary purposes.

The draft report states: "The CIC received a number of concerns from Atwater inmates that their unit teams do not understand their DC sentences, and therefore do not provide adequate opportunities to participate in programs that would assist in their chances of being granted parole. Some also reflected that they do not have adequate opportunities to meet with the parole board."

Response: It is up to the inmate to enroll and to complete recommended programs. Staff members at USP Atwater do not compute the sentences of any inmate. This is the responsibility of the Designation and Sentence Computation Center (DSCC) located in Grand Prairie, Texas. The Unit Team works closely with the United States Parole Commission with regard to any DC inmates who are eligible for parole, and with the staff of Court Services and Offender Supervision Agency (CSOSA) in order to coordinate the release of DC inmates when their sentences have been satisfied.

Programming allows inmates with the opportunity to obtain skills necessary for successful re-entry into society. The Unit Team reviews program participation every three to six months (depending on the inmate's release date), with the Unit Team recommending programs which would likely prove beneficial to the individual inmate.

There are eight D.C. Offenders at USP Atwater who are eligible for parole. The United States Parole Commission determines if and when DC inmates are eligible to receive a parole hearing. This entity forwards a listing of those inmates who are to be on the "hearing docket" to the Case Management Coordinator and to the assigned Case Manager. Staff at USP Atwater do not make the determination when an inmate is eligible for parole; only the United States Parole Commission makes that determination. The Case Manager compiles any documents, which the United States Parole Commission requests prior to the parole hearing and which may be used to determine whether an inmate will be granted parole. The Bureau does not determine what documents are to be forwarded to the United States Parole Commission;

the United States Parole Commission tells the Bureau which documents they wish to review.

The draft report states: "During the inmate interviews, and through completed surveys, numerous inmates reported that they do not receive all of the hygiene products that they should, and this issue has only been exacerbated by the facility lockdowns."

Response: Inmates within the general population of USP Atwater may purchase hygiene items in the Commissary. Items available to the general population include an assortment of skin lotions, soaps, deodorant, chap sticks, band aids, cotton swabs, toothpaste, dental floss, denture cream, mouth wash, an assortment of shaving products, shampoos/conditioners, pomade, hair grease, hair ties, brushes, and picks. A smaller list is available to inmates who are in the Special Housing Unit (SHU), and which is also available to inmates during instances of "lockdown." Items such as soap, and toothpaste are not included on the list, as these items are provided free of charge to those inmates assigned to the SHU, or during times of "lockdown." Inmates assigned to the SHU and during periods of "lockdown" are also provided with cleaning supplies, pencils, notebook paper, envelopes, and toilet paper on a weekly basis.

The draft report states: "Positive highlights from the Special Housing Unit (SHU) included that Atwater provides SHU inmates with limited programming on one of the unit ranges. Of significant concern, however, a number of inmates reported that an inmate died on the unit, after officers failed to respond to his requests for medical assistance in a timely manner."

Response: Programs available to inmates assigned to SHU include: Anger Management (self-study with video); "Turning Point" modules-Preparing for Change, Coping, Attitudes, Gambling, and Substance Abuse; Rational Emotive Behavioral Therapy (REBT) workbooks of various topics including depression, grief, anger, sleep hygiene, anxiety and worry, guilt, self-esteem, and shame; Adult Continuing Education courses; consumer math courses; GED preparation (video based); parenting courses; "Earning Freedom" video and workbook based program; "Mastermind" video based program; Introduction to Buddhism (video based); and the Threshold program available through Religious Services. Staff of Unit Team, Psychology Services, Religious Services, Re-Entry Services, and Education make regular rounds in order to monitor the progress of the inmates assigned to the SHU.

Regarding the allegation of staff failure to respond to an inmate's requests for medical assistance in a timely manner, thereby leading to his death, we note that procedures are in place to ensure the timely and appropriate provision of medical care to inmates in the SHU. However, the Bureau may not disclose non-public information specific to a particular inmate absent appropriate process, and therefore is unable to respond with specificity to the allegation noted in the report.

The draft report states: "The Reintegration Housing Unit (RHU) is a specialized unit created as an alternative to traditional segregated housing, targeted to "male inmates identified as verified or unverified protective custody cases. Atwater is one of three BOP facilities where the program is available. There were no DC inmates in the RHU program at the time of the inspection."

Response: There are currently three (3) inmates assigned to the RHU at USP Atwater who are serving DC sentences. Designations to any facility are at the sole discretion of the staff of the Designation and Sentence Computation Center (DSCC) located in Grand Prairie, Texas. While there are criteria to be considered for transfer to a RHU, the sentencing district of the inmate is not one of them.

The draft report states: "The Challenge program is a BOP program designed to be a therapeutic community to address issues of substance abuse and mental illness. Atwater staff reported that while the capacity of the unit is 128, the capacity of the Challenge program itself is only 60. DC inmates reflected, however, that during facility lockdowns they are not able to participate in programming, and thus have been stuck in certain program levels because they cannot complete the level of components."

Response: The Bureau's Challenge Program is a residential, evidence-based, cognitive-behavioral program, which utilizes a modified therapeutic community model. It is intended for men who wish to make positive lifestyle changes, which begins to occur through participation in-group and individual therapeutic activities. The program typically requires nine (9) months to one (1) year for the inmate to complete, and is a means to begin to challenge criminal thinking errors, personal beliefs, and assumptions in order to make pro-social decisions.

The Challenge Program at USP Atwater, like all Challenge Programs within the Bureau, requires the participating inmates to reside in one designated housing unit. Each housing unit, including general

population units and the Challenge Program Unit, has a maximum inmate capacity of 128 beds. However, the number of inmates who may participate in the Challenge Program at any given time is dependent upon the number of Challenge Treatment Specialists who are currently assigned to the Unit. This allows ample time for the Challenge Treatment Specialists to work with inmates individually as they work through the process of change, and to conduct group therapy sessions, and activities.

Currently, there are three (3) Challenge Treatment Specialists who are assigned to the Unit. Only twenty (20) inmates per Challenge Treatment Specialist is permitted by Bureau policy. Therefore, the number of Challenge participants at USP Atwater is sixty (60). Inmates who have successfully completed the Challenge Program may reside on the Unit to assist in serving as mentors (or "big brothers") to those inmates who are in the beginning stages of the Program. The number of inmate mentors at this facility ranges between ten (10) to fifteen (15) inmates. At present, there are nine (9) inmates from DC who are participating in the Challenge Program.

Unit Team staff are available to the Challenge Program Unit inmates, and meet with the inmates every three (3) to six (6) months (depending upon their release date) to monitor program participation (to include programs outside of Challenge such as Education programs). Release Preparation courses, such as the Release Orientation Program (ROP), are mandatory for the majority of the inmate population (excluding inmates with Life sentences). As indicated previously, the decision of the Warden to "lockdown" is made with the safety and security of all inmates, including inmates from the D.C. area, and staff in mind. Challenge Program participants may continue to work on various writing and workbook assignments during instances of "lockdown."

The draft report states: "During the opening session executive staff explained that the warden implemented an incentive-based program model designed to "engage inmates to invest in themselves." The program rewards inmates for completing education programs."

Response: USP Atwater offers the inmate population various programs which, when successfully completed, result in a monetary award. These monetary incentive awards range from \$5.00 to \$100, and are intended to provide encouragement to the inmate population to complete these valuable programs as they prepare themselves for re-entry into society. These programs are divided into the categories of Apprenticeship, Literacy, Model Programs, Psychology, and Vocational Training. A list of the programs, along with the corresponding monetary incentive awards are as follows:

APPRENTICESHIP

<i>Program</i>	<i>Department</i>	<i>Monetary Award</i>
Horticulture Apprentice	Education	\$100.00
Cook Apprentice	Education	\$100.00
Electrician Apprentice	Education	\$100.00
HVAC Apprentice	Education	\$100.00
Landscape Tech Apprentice	Education	\$100.00
Stationary Engineer Apprentice	Education	\$100.00
Teacher Aide Apprentice	Education	\$100.00

LITERACY

<i>Program</i>	<i>Department</i>	<i>Department Monetary Award</i>	<i>Warden Monetary Incentive Award</i>	<i>Cumulative Award Amount</i>
ESL- English as Second Language	Education	\$25.00		
GED- General Education Development	Education	\$25.00	\$50.00	\$75.00

MODEL PROGRAMS

<i>Program</i>	<i>Department</i>	<i>Warden Monetary Incentive Award</i>
FPI Lean Basics (16 Hours)	Education	\$5.00
Inside Out Dad (12 Hours)	Education	\$5.00
Managing Diabetes (12 Hours)	Health Services	\$5.00
Money Smart (16 Hours)	Education	\$5.00
Ultra Key 6 Typing Instruction (16 Hours)	Education	\$5.00
Anger Management	Psychology	\$5.00
Basic Cognitive Skills	Psychology	\$5.00
Criminal Thinking	Psychology	\$5.00
Emotional Self-Regulation	Psychology	\$5.00
Illness Management & Recovery	Psychology	\$5.00
Wellness Recovery Action Plan	Psychology	\$5.00
Threshold Program (6 to 9 months)	Religious Services	\$15.00

PSYCHOLOGY

<i>Program</i>	<i>Department</i>	<i>Department Monetary</i>	<i>Warden Monetary</i>	<i>Cumulative Monetary Award</i>
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		<i>Incentive Award</i>	<i>Incentive Award</i>	
Non-Residential Drug Abuse Program (6 Months)	Psychology	\$30.00	\$15.00	\$45.00
Challenge Program (9 Months to 1 Year)	Psychology	\$120.00	\$15.00	\$135.00

VOCATIONAL TRAINING

<i>Program</i>	<i>Department</i>	<i>Warden Monetary Incentive Award</i>
VT Building Trades (100 Hours)	Education	\$25.00
VT Illustrator (100 Hours)	Education	\$25.00
VT Office Automation (100 Hours)	Education	\$25.00

The draft report states: "Over the past year, there have been general reports that BOP residential reentry center/halfway house time has decreased, in terms of availability and amount of time spent, due to a reduction in the number of active facilities."

Response: Bed space in Residential Reentry Centers (RRC) is limited. We balance the available capacity with the RRC needs of releasing inmates so that each inmate in need of this transitional service has the opportunity to participate in the program.

Over the past few years, there has been a push to place more inmates into RRC's for longer periods. The average length of stay in RRCs increased from about 120 days in 2009/2010 to 140 days in 2017. The Bureau is unable to sustain this level of placement and anticipate the average length of stay will return to approximately 120 days. As of February 2019, the average length of stay is 124 days.

The length of placement for an inmate is decided on a case-by-case basis. This has been managed by the reassignment of inmates to other RRCs, reducing the time some inmates are assigned to an RRC, and the decision to place some eligible, minimum-security level inmates on direct home confinement, with daily reporting to a "Day Reporting Center" in lieu of more traditional RRC placement. USP Atwater continues to examine all cases to ensure compliance with the Second Chance Act, and to ensure inmates who complete the Bureau's Residential Drug Abuse Program are referred for the required amount

of RRC placement to remain eligible for any early release benefit granted under 18 USC 3621 (E).

The draft report states: "Following an alleged incident of sexual misconduct, any evidence collection is completed at a clinic that is an hour drive from USP Atwater."

Response: Per the Bureau's national policy relative to "Sexually Abusive Behavior Prevention and Intervention Program," victims of sexual assault are offered access to forensic medical examinations without financial cost to the inmate. These examinations are to be performed by certified Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) where possible. Bureau medical staff are responsible for the examination, documentation, and treatment of inmate injuries arising from sexually abusive behaviors, including testing when appropriate for HIV, and other sexually transmitted diseases.

At USP Atwater, the Health Services Administrator (HSA) is responsible for ensuring the victim's transport to the current contractor, Rape Crisis Center in Fresno, California, for the administration of a forensic medical examination and for any related physical health care measure, which cannot be accomplished at the institution. The Rape Crisis Center in Fresno is the closest facility with the required SAFE/SANE certified staff.

I appreciate the opportunity to review and provide comments to your inspection report of USP Atwater. I hope to continue working closely with the CIC to improve the operations of Bureau facilities and to ensure we are meeting the needs of the inmate population.

Please contact me at (202) 353-3638 if I can be of further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Brewer". The signature is written in black ink and is positioned above the typed name and title.

David Brewer
Administrator, Correctional
Programs Branch