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USP Lewisburg Special Management Unit

**District of Columbia
Corrections Information Council**

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District of Columbia Corrections Information Council

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About the District of Columbia Corrections Information Council

The District of Columbia Corrections Information Council (CIC) is an independent oversight body mandated by the United States Congress and the Council of the District of Columbia to inspect, monitor, and report on the conditions of confinement in correctional facilities where inmates from the District of Columbia are incarcerated. This includes facilities operated by the Federal Bureau of Prisons (BOP), the District of Columbia Department of Corrections (DOC), and private contractors.

The CIC reports its observations and recommendations to the District of Columbia Representative in the United States Congress, the Mayor of the District of Columbia, the Council of the District of Columbia, the District of Columbia Deputy Mayor for Public Safety and Justice, the Director of the BOP, the Director of the DOC, and the community.

Although the CIC does not handle individual complaints or provide legal representation or advice, individuals are still encouraged to contact the CIC. Reports, concerns, and general information from incarcerated DC residents and the public are very important to the CIC, and they greatly inform our inspection schedule, recommendations, and reports. However, unless expressly permitted by the individuals or required by law, names and identifying information of incarcerated residents, corrections staff not in leadership, and members of the general public will be kept anonymous and confidential.

DC Corrections Information Council

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EXECUTIVE SUMMARY

USP Lewisburg – Special Management Unit (SMU)

Date of Inspection:	February 10, 2017
Location:	Lewisburg, Pennsylvania
Distance from DC:	185 Miles from DC
Transportation:	3.3 Hours by Car / Not Accessible by Bus or Public Transit

USP Lewisburg

(as of January 2017)

Security Level: High

Rated Capacity: 931

Total SMU Inmates: 667

(Phase One: 302; Phase Two: 129; Phase Three: 236)

Average Age of SMU Inmates: 44.3 years old

(as of December 2016)

DC SMU Inmates: 83 (12.44% of total population)

(Phase One: 40; Phase Two: 15; Phase Three: 28)

FINDINGS

- **No Significant Changes to Conditions of Confinement:** The BOP significantly decreased the length of the SMU program from 18 to 24 months to 9 to 13 months. However, there have not been significant changes to the conditions of confinement for SMU inmates, such as use of and injuries from restraints, no access to emergency call buttons, lack of programming, and lack of access to mental health services.
- **Inmates Still in SMU Over 24 Consecutive Months:** Inmates in SMU prior to August 2016 may still be housed for an indefinite amount of time, despite the recommendations provided in the DOJ Report to limit the maximum time an inmate may spend in SMU to 24 consecutive months. Six DC SMU inmates reported being in the SMU for three to five years
- **Release from SMU to Community:** SMU inmates may still be released directly from SMU to the community if there for the total allowed designation time of 24 months as well as inmates who were housed in SMU prior to the effective date of the policy revision. The facility did not identify any targeted re-entry programming.
- **No Emergency Call Buttons:** DC SMU inmates reported the cells did not have any emergency call buttons for life-threatening situations.
- **Failure to Respond to Cellmate Concerns:** Individuals commented on notifying staff of potential problems, but staff failed to take action.
- **Staff Response to Inmate Complaints:** DC SMU inmates reported instances of staff retaliation in response to inmates' use of the administrative remedy process, Prison Rape Elimination Act (PREA) complaints, and litigation. DC SMU inmates reported that staff frequently destroy administrative remedy requests by throwing them in the trash; consequently, the requests are never submitted.
- **Injuries From Restraints:** DC SMU inmates reported injuries from restraints occurring after CIC's 2014 inspection, including bruises, cuts, keloids, and extreme swelling around their waists and wrists.
- **Opportunity to Use the Toilet In Restraints:** DC SMU inmates reported not being provided the opportunity to use the toilet while placed in four-point restraints for periods ranging between 48 to 120 hours.
- **Lack of Access to Mental Health Services:** Nine out of 10 DC SMU inmates responding to survey questions reported that they did not have adequate access to mental health services. As reported by

USP Lewisburg in response to CIC's document request, inmates who have been diagnosed with a mental illness represent 19.5% of the SMU population. However, the Office of Inspector General found that the BOP could not accurately determine the number of inmates with mental illness because staff does not always document inmates' mental illnesses.

- **Changes to Mental Health Care Level Assignments:** Three DC SMU inmates reported a change in their mental health care level (MHCL) assignment upon arrival to USP Lewisburg to the lowest care level (MHCL I); and they did not receive treatment for their prior mental health diagnoses.
- **Lack of Private Mental Health Sessions:** DC SMU inmates reported not having the opportunity for private sessions with mental health staff unless they attempt suicide, only communicating through a cell door, and only being handed puzzles as a form of mental health treatment.
- **Responding to Mental Illness Through Use of Restraints:** CIC reviewed records showing an inmate being placed in restraints in response to his outbursts in SMU. Despite his requests for psychotropic medication to help control such outbursts, the inmate was placed in restraints to control his behavior. Records did not show subsequent mental health treatment.
- **Salmonella Outbreak:** The Warden reported a *Salmonella* outbreak between Nov. to Dec. 2016 potentially caused by a contaminated food tray. The facility replaced all food trays in response to the outbreak.
- **Missing Mail:** DC SMU inmates reported never receiving special mail from the CIC that was sent on at least five separate occasions between March to June 2017.
- **Multi-Year Denial of Privileges:** One DC SMU inmate reported a 37-year denial of telephone and visitation privileges, despite only having 18 years left on his sentence.
- **Disproportionate Representation:** DC inmates represented 2.6% of the total federal prison population, but 12% of the SMU population.

RECOMMENDATIONS

1. Revise Program Statement 5217.02 to require individual assessments of SMU inmates housed prior to the effective date of the policy revision to include a limitation of 24 months as of August, 9 2016.
2. Formally develop and implement interactive educational, vocational, and mental health programming for all SMU inmates in all phases.
3. Revise Program Statement 5217.02 to require inmates housed in SMU during the final 180 days (6 months) of his incarceration be individually assessed by a multi-disciplinary team including Executive Staff, the inmate's Unit Team, Health Services, and Psychology Services, to determine if individual can safely be placed in a less restrictive setting to prepare for successful reentry into society.
4. Formally develop and implement a targeted re-entry programming for inmates being released directly to the community from the SMU program.
5. Provide additional guidance to all BOP staff on referral procedures, with a specific focus on post-decision appeal decisions made by the Office of General Counsel (OGC) after transfer to the SMU.
6. In addition to reviewing CDR and rate of assaults to assess the relative safety of USP Lewisburg, the BOP should consider significant incidents and concerns raised through inmate grievances, complaints, and third-party reports to better assess the safety of the SMU program for both inmates and staff.
7. Ensure each cell at USP Lewisburg has an operable emergency call button.
8. Formally develop and implement an expedient alternative practice to assigning cellmates that requires input from mental health staff and inmates.
9. Pursuant to 287 C.F.R. § 115.33, ensure inmate education on how to report incidents or suspicions of sexual abuse or sexual harassment is effectively performed.

10. Revise Program Statement 5566.06, CN-1 to require staff obtain a video camera and record all restraints check, including two-hour Lieutenant Checks, 24-hour Health Services Staff Review, and 24-hour Psychology Staff Check.
11. Revise Program Statement 5566.06, CN-1 to develop and implement protections against being placed in restraints as punishment.
12. Hire an independent Qualified Mental Health Professional (QMHP) to provide evaluations of inmates' current level of functioning for SMU inmates at USP Lewisburg. If, in the clinical judgment of this independent evaluator, the inmate requires a higher level of care, the BOP should make arrangements for their transfer to a more appropriate facility.
13. Revise Program Statement 5310.16 to require inmates in the SMU to sign a document acknowledging receiving a clinical interview for all mental health evaluations.
14. Revise Program Statement 5310.16 to require all staff to document the location of critical contacts with inmates in the SMU.
15. Develop and implement diversion and mitigation interventions for all SMU inmates as required in Program Statement 5310.17 to prioritize alternatives to placing inmates in restraints in response to symptoms of mental illness.
16. Increase staff training on recent BOP policy revisions affecting operations of SMU.
17. Require Executive Staff to frequently monitor special mail procedures, including tracking all incoming & outgoing special mail and requiring SMU inmates to sign a document acknowledging receiving special mail opened in the inmate's presence.
18. Reinstate in-person visitation for all SMU inmates in addition to offering video visitation, with capability for family members to connect remotely from DC.
19. Identify and develop alternatives to imposing sanctions that reduce the use of multi-year denial of telephone and visitation privileges.
20. Require each SMU cell to have blank copies of all administrative remedy forms inside the cell.
21. Require Executive Staff to regularly monitor administrative remedies, including tracking submissions of both informal resolution attempts and initial filings.
22. Revise Program Statement 1330.18 to require inmates in the SMU to sign a document acknowledging submitted informal complaints, initial filings, and appeals with the date and provide a copy to the inmate.
23. Regularly monitor trends of significant incidents, including use of force and placement in restraints, for inmates who choose to use the administrative remedy process to ensure inmates are provided meaningful access to resolve issues relating to their confinement without fear of staff retaliation.
24. Monitor requests for transfer to SMU, placement of inmates in SMU Program, and treatment of inmates for disproportionate treatment based on DC Criminal Code Offender status (indicated by "007, 016, 000).

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I. INTRODUCTION

The Bureau of Prison's (BOP) Special Management Unit (SMU) serves as a behavioral modification program for inmates with unique security and management concerns. Currently, USP Lewisburg houses all inmates designated to the SMU. The facility also houses approximately 200 general population inmates. Following changes in policy made by the BOP to the SMU Program in August 2016, the CIC conducted an inspection of USP Lewisburg in February 2017. This report is intended to serve as a supplemental update of the CIC's 2015 USP Lewisburg inspection report.¹

A. DOJ Reports Addressing the USP Lewisburg SMU Program

Subsequent to the CIC's 2015 USP Lewisburg inspection report, the U.S. Department of Justice (DOJ) issued two separate reports addressing the SMU program: the DOJ Report and Recommendations Concerning the Use of Restrictive Housing (January 2016, "DOJ Report"), and the DOJ Office of the Inspector General (OIG) Review of the Federal Bureau of Prisons' Use of Restrictive Housing for Inmates with Mental Illness (July 2017, "OIG Report").

DOJ Report and Recommendations Concerning the Use of Restrictive Housing

In January 2016, the DOJ released its final report to President Barack Obama setting out over fifty guiding principles to responsibly limit the use of restrictive housing for all correctional systems, as well as providing specific policy recommendations for the BOP to implement in federal prisons.² The limitations on use of restrictive housing recommended by the guiding principles include: using the least restrictive setting necessary to ensure safety; returning inmates to general population as soon as it is deemed safe to do so; increasing out-of-cell time from five hours per week; and discouraging using restrictive housing within last 180 days of incarceration.

The following list includes summaries of the DOJ Report policy recommendations made for the BOP, relating to inmates housed in restrictive housing under the SMU program:³

- Expand the BOP's ability to divert inmates with Serious Mental Illness (SMI) to mental health treatment programs. As the BOP expands its mental health services, it should update its policies to require regular screenings of inmates with SMI. The BOP should revise its Program Statements regarding SMU as necessary, in order to account for these policy changes.
- Cut in half the length of the four-phase SMU program, thereby reducing the total time inmates can spend in the program from approximately 18 to 24 months, to approximately 9 to 12 months.
- Establish an incentive program for high-performing inmates to advance through SMU phases on a shorter timeline than in the proposed timeline above.

¹ In April 2014, the CIC conducted an initial inspection of USP Lewisburg. The report, published November 15, 2015, can be found online at: www.cic.dc.gov/page/inspection-reports. Please refer to the CIC's USP Lewisburg Inspection Report for more general information on the facility and the SMU Program.

² "FACT SHEET: Department of Justice Review of Solitary Confinement," Office of the Press Secretary, The White House (Jan. 25, 2016); U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing: Final Report (January 2016).

³ A summary of the recommendations can be found online at <https://www.justice.gov/archives/dag/report-and-recommendations-concerning-use-restrictive-housing#BOP>.

- Limit the maximum time an inmate may spend in SMU to 24 months. Inmates who complete the SMU program after 24 months would not be returned unless they engage in additional disruptive behavior warranting a new referral to the SMU program.

DOJ OIG Review of the BOP Use of Restrictive Housing for Inmates with Mental Illness

In July 2017, the DOJ OIG released a report on the BOP’s use of restrictive housing, including the SMU program, for inmates with mental illness. The OIG found that BOP policies do not adequately address the confinement of inmates with mental illness in Restrictive Housing Units (RHU), including SMU, and the BOP does not sufficiently track or monitor such inmates. Furthermore, the OIG found that mental health staff do not always document inmates’ mental illnesses, leaving the BOP unable to accurately determine the number of inmates with mental illness and ensure that BOP provides appropriate care to them.⁴

B. Updated BOP Policy Revisions Affecting the SMU Program

In March 2016, President Barack Obama directed the DOJ in a Presidential Memorandum to implement the policy recommendations in the DOJ Report.⁵ On August 9, 2016, the BOP announced changes to the SMU Program in response to the recommendations made by the DOJ Report to limit the use of restrictive housing.⁶

Revisions to the SMU Program

The changes made reflect recommendations in the DOJ Report addressing reducing the length of the SMU program and diverting inmates with SMI from being placed in the SMU. Specifically:

- The SMU program is now a three-level program designed to be nine to 13 months in length. Furthermore, the BOP established the maximum time an inmate may spend in SMU is 24 consecutive months.
- Inmates designated to the SMU Program must have at least 24 months left on his sentence.
- Greater review of mental health records *prior* to placement in a SMU, including sending SMU referrals to the BOP’s Central Office Psychology Services Branch for review to determine whether any mental health concerns exist that would preclude the individual from being housed in a SMU program.
- An inmate already placed in a SMU may be removed from the program if his mental health does not reasonably allow him to complete the program.

II. CIC 2017 Inspection Findings & Recommendations

As a follow-up from the CIC 2015 USP Lewisburg Inspection Report, the CIC is monitoring the SMU compliance with BOP program statements and the implementation of recommendations contained in the 2015 CIC report. Furthermore, new findings were made during the CIC’s 2017 inspection and are included below, along with additional recommendations.

⁴ The OIG made 15 recommendations to the BOP to improve screening, treatment, and monitoring of inmates with mental illness who are housed in RHUs, including the SMU program.

⁵ “Limiting the Use of Restrictive Housing by the Federal Government,” Presidential Memorandum (March 1, 2016).

⁶ FED. BUREAU OF PRISONS, U.S. DEP’T OF JUSTICE, P5217.02, SPECIAL MANAGEMENT UNITS (AUG. 9, 2016); DOJ Report.

A. Conditions of Confinement, Generally

The CIC is pleased to see the changes made by the BOP in significantly decreasing the length of the SMU program, and encourages the BOP's continued efforts to avoid placing inmates in the program.⁷ As observed throughout our report, however, there have not been significant changes to the conditions of confinement for SMU inmates.

As stated in the DOJ Report's Guiding Principles, facilities should find ways to increase out-of-cell time to include opportunities for recreation, education, clinically appropriate treatment therapies, skill-building, and social interaction with staff and other inmates.⁸ The Guiding Principles further state units should maintain adequate conditions for environmental, health, and fire safety.⁹ The DOJ Report then recommended changes to the SMU to enhance opportunities for out-of-cell time.¹⁰ Given the decreased SMU population, serious efforts should be taken to address the concerns documented throughout this report to improve the conditions of confinement at USP Lewisburg.

B. SMU Program

Applicability to Inmates Housed in SMU Before Policy Revisions

Under P5217.02, inmates who were housed in the SMU program as of August 9, 2016, or prior to the effective date of the updated policy, would be individually assessed and could be housed in the SMU program for more than 24 consecutive months depending on his program level. Furthermore, on August 10, 2016, the Warden issued a memorandum to all SMU inmates clarifying the applicability of the policy revisions and individual assessments for those SMU inmates who were housed in SMU prior to the effective date of the policy revision.

As shown below, the CIC received reports from six DC SMU inmates who had been in the SMU for three to five years, which was confirmed after checking previous rosters with locations of DC inmates. As clearly stated in P5217.02, some SMU inmates may still be housed for an indefinite amount of time, despite the recommendations provided in the DOJ Report to limit the maximum time an inmate may spend in SMU to 24 months.¹¹

Changes to Program Structure

As previously discussed, the SMU program is now a three-level program designed to be nine to 13 months in length. Furthermore, the BOP established the maximum time an inmate may spend in SMU is 24 consecutive months.

In response to the CIC's 2017 survey, six DC SMU inmates reported being in the SMU for three to five years; seven for one to two years; and 11 for less than one year. Of the six DC SMU inmates who reported being in the SMU for three to five years, two (33%) reported having been diagnosed with a mental health

⁷ For further discussion on the decrease in the SMU population, please refer to Section II(L).

⁸ DOJ Report, p 99.

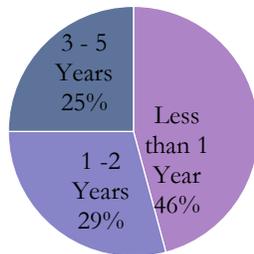
⁹ Id.

¹⁰ DOJ Report, p 116.

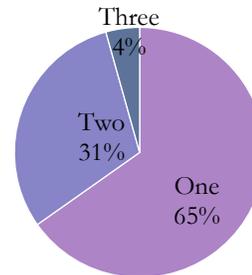
¹¹ DOJ Report, p 112.

illness. Additionally, out of 23 responses, 15 DC SMU inmates reported being sent to the SMU program once; seven sent twice; and one sent three times.

Length of Stay



Number of Times Sent to SMU



Programming

In accordance with the changes made to the SMU program, programming at USP Lewisburg is now being offered as follows:

Phase One

Program Statement 5217.02 states that inmates in Phase One complete their initial programming assessment and continue their involvement in GED or ESL classes, either individually or in a classroom setting. At USP Lewisburg, inmates in GED or ESL classes at Phase One take the classes in their assigned cells and are not allowed to participate via a classroom setting. SMU inmates are offered one hour of recreation in outdoor recreation cages each weekday. Inmates are expected to complete Phase One between six and eight months.

At the time of the inspection, the CIC interviewed 14 DC SMU inmates who were currently at Phase One in USP Lewisburg. Of these 14 inmates, nine (64%) reported they were not participating in any academic, vocational, or mental health programming. One individual explained that in terms of programming he received work packets, but he did not find them helpful or rehabilitative and only completed them to get programming points. Another individual also reported that the SMU programming was not rehabilitative and believed the program only served as “perpetual punitive segregation.”

One individual who was participating in GED classes reported seeing his GED teacher only once every month. He stated the class only consisted of a two to three page packet. Another individual also participating in GED classes noted the absence of any educational teachers present in the SMU.

Phase Two

Program Statement 5217.02 states that inmates in Phase Two continue their involvement in GED or ESL classes, either individually or in a classroom setting. In addition, Psychology staff members are expected to have frequent contact with inmates and may provide in-cell materials or involve inmates in Evidence Based Therapy (EBT) groups. Furthermore, the facility may require individuals to participate in individual and/or small group counseling sessions addressing treatment readiness, fundamental communication skills, criminal thinking, and improvement of coping/problem-solving skills. At USP Lewisburg, inmates in GED or ESL classes at Phase Two take the classes in their assigned cells and are not allowed to participate via a classroom setting. Furthermore, as written in USP Lewisburg’s Admission & Orientation (A&O) Handbook, inmates

who qualify may participate in limited Vocational Training (VT) preparation courses.¹² During the 2017 CIC Inspection, the facility reported that SMU inmates in Phase Two have the opportunity for out of cell time over one hour each weekday. Inmates are expected to complete Phase Two between two and three months.

At the time of the inspection, the CIC interviewed three DC SMU inmates who were currently at Phase Two in USP Lewisburg. Two individuals reported not participating in any vocational or mental health programming. One individual specifically stated a belief that individuals in the SMU are not allowed to participate in any programming while in SMU.

Phase Three

Program Statement 5217.02 states that inmates in Phase Three participate in activities with more interaction in less restrictive environments. Inmates continue to participate in counseling and group counseling sessions as described in Phase Two. Furthermore, BOP policy states programming will normally occur for three to five hours Monday through Friday. At USP Lewisburg, inmates in GED or ESL classes at Phase Three may participate via a classroom setting outside of their assigned cells. SMU Phase Three inmates are offered one hour and forty minutes of out of cell time daily. In addition, SMU Phase Three inmates may have the opportunity to watch television in indoor recreation cages. The indoor recreation cages are also used for group sessions and can accommodate three to four inmates per cell. Inmates are expected to complete Level Three between one and two months.

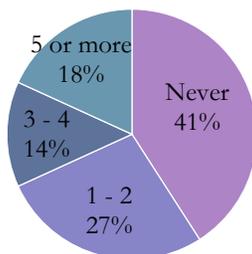
At the time of the inspection, the CIC interviewed four DC SMU inmates who were currently at Phase Three in USP Lewisburg. All four individuals reported that they do not participate in any vocational or mental health programming.

Resets

If inmates are convicted of disciplinary infractions, or otherwise fail to make satisfactory progress, they “reset” and begin the program on Day One of Phase One.

In response to the CIC’s 2017 survey, 13 of 22 DC SMU inmates who responded, reported being reset to Phase One at least once. Of the 22 DC SMU inmates who responded, seven (32%) reported being reset to Phase One at least three times. Of these seven individuals, four (57%) reported being at USP Lewisburg for three to five years (as of February 2017). The chart below breaks down the number of times individuals have been reset to Phase One, for the 22 DC SMU inmates who responded.

Number of Times Reset to Phase One



¹² Qualifications include: (1) Having a high school diploma or GED; (2) Having 6+ months available to complete the course; and (3) No 100 or 200 series incident reports or pending incident reports within the last four months in disciplinary record.

Of the seven individuals who reported being reset to Phase One at least three times, three (43%) reported being diagnosed with a mental health illness. All three individuals further reported that they have not received adequate access to mental health care services at USP Lewisburg. Furthermore, of these three DC SMU inmates with mental health illnesses, one individual reported he was reset to Phase One numerous times, to such an extent that he “can’t even count on both hands.”

Additionally, three DC SMU inmates reported they were reset to Phase One after already completing the SMU program and awaiting transfer. Moreover, two DC SMU inmates reported they were reset to Phase One out of retaliation for filing PREA complaints and lawsuits against the facility.

End of Term Placements

As stated in the DOJ Report’s Guiding Principles, inmates placed in restrictive housing during the final 180 days (6 months) of his incarceration should be safely placed in less restrictive settings.¹³ The Guiding Principles further state that if segregation is determined to still be necessary, targeted re-entry programming should be provided.¹⁴ The DOJ Report then recommended that the BOP draft policy regarding end-of-term restrictive housing, in an effort to prevent inmates from being involuntarily housed in segregation during the final 180 days (six months) of his or her sentence. While the BOP policy revisions now require inmates to have at least 24 months left on his sentence to meet SMU referral criteria, SMU inmates may still be released directly from the SMU program if he is there for the total allowed designation time of 24 months.¹⁵ Furthermore, as stated above, SMU inmates who were housed in SMU prior to the effective date of the policy revision are not limited by the total allowed designation time, and may still be released directly from the SMU program. Finally, at the time of the inspection, the facility did not identify any targeted re-entry programming.

As of January 1, 2017, out of the 124 DC inmates at USP Lewisburg, four were scheduled for release within 12 months, and nine were scheduled for release within 24 months. As of June 2017, two DC inmates at USP Lewisburg have since been released from the BOP, with one individual being released directly from Lewisburg’s SMU program and the other transferred to USP Allenwood within the last two to five months of his sentence.¹⁶

RECOMMENDATIONS:

- Revise Program Statement 5217.02 to require individual assessments of SMU inmates housed prior to the effective date of the policy revision to include a limitation of 24 months as of August, 9 2016.
- Formally develop and implement interactive educational, vocational, and mental health programming for all SMU inmates in all phases.
- Revise Program Statement 5217.02 to require inmates housed in SMU during the final 180 days (6 months) of his incarceration be individually assessed by a multi-disciplinary team including Executive Staff, the inmate’s Unit Team, Health Services, and Psychology Services, to determine if

¹³ DOJ Report, p 95.

¹⁴ Id.

¹⁵ P5217.02, pp 3 & 13.

¹⁶ Except as otherwise noted, the numbers reflect DC population for USP Lewisburg, including those in general population. However, there still exists the possibility that DC inmates can be released directly from involuntary segregation because the significant majority of DC inmates are in the SMU program and there was one confirmed instance of a DC inmate being released directly from the SMU program.

individual can safely be placed in a less restrictive setting to prepare for successful reentry into society.

- Formally develop and implement a targeted re-entry programming for inmates being released directly to the community from the SMU program.

C. Referral Procedures

When considering designating an inmate to the SMU, a copy of the referral is sent to the BOP's Central Office Psychology Services Branch after the Warden at the inmate's current facility approves of the referral and the Regional Director determines there is sufficient evidence to warrant a hearing.¹⁷ As stated in the updated program statement, the Psychology Services Branch reviews the inmate's mental health record to determine whether any mental health concerns exist to preclude the individual from being housed in the SMU. The program statement further directs the BOP to refer to Program Statement 5310.16 (Treatment and Care of Inmates with Mental Illness) when considering housing an individual with a serious mental health illness (SMI) in the SMU. If no evidence is found to preclude a hearing, an impartial Hearing Administrator (trained and certified as a Disciplinary Hearing Officer (DHO)) is appointed to conduct a hearing to determine whether the individual meets the criteria for SMU designation.¹⁸

Once an inmate's SMU referral is approved by the Designation and Sentence Computation Center (DSCC), a copy of the completed report is sent to the referring Warden, who is responsible for delivering the report to the inmate.¹⁹ The inmate is provided the opportunity to appeal the decision and the Hearing Administrator's findings directly to the Office of General Counsel (OGC) by using the Administrative Remedy Program. If an inmate chooses to appeal, he may still be designated and transferred to the SMU and continue with the appeal while housed in SMU.

Multiple DC SMU inmates reported the SMU referral procedure is being enforced as a form of punishment, that it is biased against DC inmates, and that the appeals process is a sham. One DC SMU inmate stated that the Hearing Administrator in his previous facility was the same individual serving as the facility's DHO, resulting in a conflict of interest. Another DC SMU inmate reported he was present at his hearing, but was not provided the opportunity to challenge the findings during the hearing. He appealed the decision while housed in USP Lewisburg, but had not received any response. Two DC SMU inmates reported never receiving the Hearing Administrator's findings and, consequently, they were not afforded the opportunity to appeal the decision. Of significant concern was a DC SMU inmate who appealed the Hearing Administrator's decision to the OGC and had his sanction lifted so that he could be transferred out of the SMU. However, he was not transferred but was instead told by staff at USP Lewisburg, "Once you're in the program (SMU), you have to finish the program."

RECOMMENDATIONS:

- Provide additional guidance to all BOP staff on referral procedures, with a specific focus on post-decision appeal decisions made by the OGC after transfer to the SMU.

¹⁷ P5217.02.

¹⁸ Id.

¹⁹ Id.

D. Safety of the SMU Program

As stated by the BOP, the agency assesses the safety of facilities by reviewing (1) Chronological Disciplinary Records (CDR), including assaults; and (2) Rate of Assaults.²⁰ From January to December 2016, USP Lewisburg reported 12 guilty findings for serious assaults (Prohibited Act 101) and 104 guilty findings for less serious assaults (Prohibited Act 224). The rate of assaults per 5,000 inmates for serious assaults is 47.58 and 412.34 for less serious assaults. A chart of all significant incidents reported by the BOP between January to December 2016 is available in Appendix D.

In addition to the factors listed above, the CIC looks at additional criteria to assess the safety of facilities for staff and inmates, including emergency response, sexual abuse allegations, retaliation, and inmate concerns.

Emergency Call Button

Several DC SMU inmates reported the cells at USP Lewisburg did not have any emergency call buttons for life-threatening situations. One individual described an incident where his cellmate attempted suicide in their cell; however, because there was no emergency call button in the cell, he could only try to get the attention of an officer by kicking the cell door.

Failure to Respond to Cellmate Concerns

SMU inmates at USP Lewisburg, ordinarily, are housed two to a cell, for 23-24 hours a day while in Phase One & Two; and 22-24 hours a day while in Phase Three. As reported in the DOJ and OIG Reports, the practice of housing two inmates in segregation together in the same cell is commonly referred to as “double-celling.” In October 2016, National Public Radio (NPR) and The Marshall Project reported, in part, on the practice & consequences of double-celling at USP Lewisburg’s SMU. The article quoted an anonymous SMU corrections officer, saying: “I’ve gone to as many as three, four cell fights in a day...”²¹ As stated in the DOJ Report’s Guiding Principles, inmates who show signs of psychological deterioration should be *immediately* evaluated by mental health staff.²² The Guiding Principles further state that denial of basic human needs should not be used as a form of punishment.²³

Multiple DC SMU inmates reported having issues with current and/or prior cellmates while at USP Lewisburg. Particularly, DC SMU inmates highlighted instances where they had cellmates with mental health concerns. Several individuals commented that they notified staff of potential problems, but staff failed to take action. One DC SMU inmate reported that, over the course of a year, he had several cellmates with perceived mental health illnesses who had outbursts in the middle of the night and smeared feces on the wall. Another individual reported that an officer denied him outdoor recreation and showers for two consecutive weeks, and informed the individual that the only way to get them back was if he would “f*** his cellie (cellmate) up.”

²⁰ Information can be found on BOP website at https://www.bop.gov/about/statistics/statistics_prison_safety.jsp.

²¹ “Inside Lewisburg Prison: A Choice Between A Violent Cellmate or Shackles,” Published Oct. 26, 2016; NPR News. Available online at <https://www.npr.org/2016/10/26/498582706/inside-lewisburg-prison-a-choice-between-a-violent-cellmate-or-shackles>.

²² DOJ Report, p 101.

²³ DOJ Report, p 99.

Sexual Abuse

The Prison Rape Elimination Act (PREA) requires the BOP to implement the national standards to prevent, detect, and respond to sexual abuse and sexual harassment.²⁴ Some of the standards include:

- All inmates are required to receive information explaining how to report incidents or suspicions of sexual abuse or sexual harassment (287 C.F.R. § 115.33).
- Following allegations of sexual abuse made by inmates, the BOP is required to protect against retaliation by using multiple protection measures, such as housing changes or transfers and removing alleged staff abusers from contact with victims (287 C.F.R. § 115.67(b)).
- Inmate victims of sexual abuse are required to receive timely, unimpeded access to crisis intervention services; the facility will also offer a mental health evaluation and treatment (287 C.F.R. §§ 115.82 & 115.83)

In response to the 2017 CIC inmate survey, a majority stated they had not been informed of PREA reporting options. Out of a total of 18 respondents, thirteen DC SMU inmates (72%) stated that they were not told how to report sexual abuse at USP Lewisburg.

Two DC SMU inmates surveyed indicated that they filed PREA complaints for sexual abuse. Both inmates indicated experiences of retaliation as a result of filing those complaints. The inmates explained that multiple correctional officers were made aware of the retaliatory abuses but appropriate safety measures were not subsequently followed. One DC SMU inmate indicated that following an incident where he was sexually abused by a staff member, he sought and received a no-contact order. He further reported that despite the no-contact order, he continued to be under the regular supervision of the alleged abuser.

Furthermore, both DC SMU inmates who reported filing PREA complaints indicated that they were not given access to mental health care. Specifically, the individuals reported they did not have the opportunity to meet with a psychologist after filing PREA complaints.

Staff Retaliation

An overwhelming majority of DC SMU inmates surveyed as part of the February 2017 inspection reported instances of staff retaliation in response to inmates' use of the administrative remedy process, PREA complaints, and litigation. Of the 63% of DC SMU inmates surveyed in 2017 who have used the administrative remedy process at USP Lewisburg, the most common reason why respondents have used the process is for filing complaints against staff. Furthermore, staff retaliation was the most common response as to why DC SMU inmates have chosen not to use the administrative remedy process at USP Lewisburg. Multiple individuals reported instances of excessive use of force and placement in restraints after trying to submit complaints using the administrative remedy process.

In addition, DC SMU inmates reported that inmates are transferred to the D-Block Housing Unit if they file administrative remedy requests or litigate in court. As stated by DC SMU inmates, D-Block is used as a punitive/disciplinary housing unit. Several DC SMU inmates reported the Unit Team on D-Block frequently tampers with inmate mail & documents, including administrative remedy requests and appeals, and engages in abusive staff use of force.

²⁴ Prison Rape Elimination Act of 2003 (Public Law 108-79; Sept. 4, 2003); 28 CFR Part 115, National Standards To Prevent, Detect, and Respond to Prison Rape, Final Rule (June 20, 2012).

RECOMMENDATIONS:

- In addition to reviewing CDR and rate of assaults to assess the relative safety of USP Lewisburg, the BOP should consider significant incidents and concerns raised through inmate grievances, complaints, and third-party reports to better assess the safety of the SMU program for both inmates and staff.
- Ensure each cell at USP Lewisburg has an operable emergency call button.
- Formally develop and implement an expedient alternative practice to assigning cellmates that requires input from mental health staff and inmates.
- Pursuant to 287 C.F.R. § 115.33, ensure inmate education on how to report incidents or suspicions of sexual abuse or sexual harassment is effectively performed. In addition to providing information at orientation, via video, in handbook, and on posters, the facility should obtain acknowledgement from each inmate that they have received and understand the various ways of reporting sexual abuse and sexual harassment.

E. Use of Force & Restraints

In 2015, the CIC found that USP Lewisburg was in non-compliance with the BOP's policy on Use of Force And Application of Restraints.²⁵ Based on observations and inmate reports in 2017, the CIC finds that USP Lewisburg continues to be in non-compliance with BOP policy. Furthermore, the CIC finds that USP Lewisburg is in non-compliance with federal regulations on use of force and four-point restraints, including providing individuals the opportunity to use the toilet while in restraints.²⁶ In response to the CIC's 2017 survey, seven DC SMU inmates reported being placed in restraints at USP Lewisburg.²⁷

Significant Incidents

As shown in the chart below, the total number of incidents involving use of chemicals, force, and restraints declined between 2013 to 2016. The CIC encourages the BOP's continued efforts to promote the safety and security of staff and inmates.

Significant Incident History – Use of Chemicals, Force, and Restraints		
	2013²⁸	2016
Uses of Chemicals	143	94
Use of Force	137	81
Use of Restraints	195	118
Total Number of Significant Incidents – Use of Chemicals, Force, and Restraints	475	293

Source: BOP. Statistics for 2013 dated 01/2013 to 12/2013. Statistics for 2016 dated 01/2016 to 12/2016.

²⁵ FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, P5566.06, CN-1, USE OF FORCE AND APPLICATION OF RESTRAINTS (AUG. 29, 2014).

²⁶ 28 C.F.R. § 552.24(e).

²⁷ Refer to II(E) for further discussion on the duration of restraints used on inmates with mental illness.

²⁸ The initial publication of CIC's 2015 USP Lewisburg Inspection Report erroneously stated "No data provided" for the following numbers. The information was received by the BOP in response to the CIC's inspection request. A corrected version of the 2015 Report is now available on our website, as well as provided in this report.

Use of Chemicals After Restraints

Two DC SMU inmates reported being maced before being placed in restraints and were not given the opportunity to rinse off the chemicals. One individual specifically reported being placed back in his cell after being maced and did not receive any soap or washcloth for three days, and in that time could not clean himself or his bed, which was covered in the chemical.

Harassment, Threats, & Assaults By Staff and Other Inmates

In response to the CIC's 2017 survey, approximately 48% of DC SMU inmates surveyed reported being harassed, threatened, or abused by staff at USP Lewisburg; and 14% reported being harassed, threatened, or abused by other inmates.²⁹ When asked to share the most negative aspects of USP Lewisburg, a majority of DC SMU inmates reported problems with staff, specifically corrections officers, and physical assaults. In addition, DC SMU inmates continued to report staff-on-inmate assaults occurring in areas where there are no cameras, including showers and back hallways.

Duration of Restraints

In response to the CIC's 2017 survey, five DC SMU inmates reported the maximum time they had been kept in restraints at USP Lewisburg as follows: five days; four days; two days; and two individuals reported spending 24 hours in restraints.³⁰

Injuries From Restraints

In response to the CIC's 2017 survey, four DC SMU inmates reported injuries from the use and application of restraints at USP Lewisburg, including bruises, cuts, keloids, and extreme swelling around their waists and wrists. Two individuals also noted permanent nerve damage in their hands. One individual who was diagnosed with a mental health illness reported that he experienced mental and emotional damage as a result of the use and application of restraints.

Reporting & Videotape Requirements of Use of Force & Restraints Incidents

Staff are required to obtain a video camera immediately and record any use of force incident, unless it would endanger the inmate, staff, or others, or would result in a major disturbance or serious property damage.³¹ After an individual is placed in restraints, staff are required to document the two-hour Lieutenant checks, 24-hour Health Services Staff Review, and 24-hour Psychology Staff Check. Restraints checks currently are not required to be videotaped by staff.

In response to the CIC's 2017 survey, two DC SMU inmates reported staff at USP Lewisburg do not use video cameras while being restrained. The CIC received additional concerns from community partners who said frequently there are discrepancies between staff and inmates as to whether the restraints checks are occurring and what is said during the checks.

Documentation of Injuries by Health Services

Program Statement 5566.06, CN-1, states that staff are required to document all incidents of use of restraints, including medical reports. In response to the CIC's 2017 survey, DC SMU inmates reported instances where Health Services at USP Lewisburg failed to document injuries.

²⁹ When asked, "Have you ever been harassed, threatened, or abused by staff here?": 10 reported Yes, and 11 reported No. When asked, "Have you ever been harassed, threatened, or abused by other inmates here?": 3 reported Yes, and 18 reported No.

³⁰ Refer to II(E) for further discussion on the duration of restraints used on inmates with mental illness.

³¹ P5566.06, CN-1.

Opportunity to Use the Toilet

Pursuant to federal regulation 28 C.F.R. § 552.24(e), while an inmate is placed in four-point restraints, he will be afforded the opportunity to use the toilet at every two-hour review, unless he continues to actively resist or becomes violent. In response to the CIC's 2017 survey, three DC SMU inmates reported not being provided the opportunity to use the toilet while placed in four-point restraints for periods ranging between 48 to 120 hours. One individual commented, "They play torture mind-games with the urinal."

Application of Restraints as Form of Retaliation

Pursuant to federal regulation 28 C.F.R. § 552.24(e), use of force may not be used as a way to punish inmates. In response to the CIC's 2017 survey, three DC SMU inmates reported being placed in restraints out of retaliation for filing complaints against the facility, including Prison Rape Elimination Act (PREA) complaints, lawsuits, and incident reports to the BOP Office of Internal Affairs (OIA). Additionally, a DC SMU inmate stated that he chooses not to report any incidents because then "you run into a lot of problems" with staff at USP Lewisburg.

Of particular concern was a DC SMU inmate who said that two SMU inmates who were celled together had set themselves on fire in May 2016 in their cell on D-Block protesting their conditions of confinement. The CIC received additional letters from two different SMU inmates regarding the same incident. Reports received indicated that the SMU inmates informed staff they were going to set themselves on fire and were ignored by staff. After the SMU inmates set themselves on fire, they were placed in restraints.

RECOMMENDATIONS:

- Revise Program Statement 5566.06, CN-1 to require staff obtain a video camera and record all restraints check, including two-hour Lieutenant Checks, 24-hour Health Services Staff Review, and 24-hour Psychology Staff Check.
- Revise Program Statement 5566.06, CN-1 to develop and implement protections against being placed in restraints as punishment.

F. Mental Health Care

Based on DOJ reports, observations, inmate reports, and other information collected in 2017, the CIC finds that USP Lewisburg continues to be in non-compliance with BOP's policies on the SMU program and Treatment and Care of Inmates With Mental Illness.³²

Staffing Levels

As of February 2017, Psychology Services staff at USP Lewisburg consisted of 19 on-site staff, made up of 17 BOP staff members and two U.S. Public Health Service (PHS) staff members, who provide psychology services to a total of 1,247 inmates at USP Lewisburg. Of the 19 staff in Psychology Services, three Psychologists are designated for SMU. Therefore, with a SMU population of 618 inmates at the time of the CIC inspection, USP Lewisburg was operating with one Psychologist per every 206 SMU inmates.³³ Despite the increased ratio of SMU Psychologists to inmates from the OIG report, the CIC continued to receive

³² P5217.02; FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, P5310.16, TREATMENT AND CARE OF INMATES WITH MENTAL ILLNESS (MAY 1, 2014).

³³ As of 2015, USP Lewisburg was operating with 1 Staff Psychologist per every 582 SMU inmates (OIG Report).

reports of inmates not receiving mental health services at USP Lewisburg, as well as reports of declining Mental Health Care Levels (MHCL) of individuals while incarcerated at USP Lewisburg (discussed below).

SMU Population of Inmates with Mental Illness & Access to Mental Health Services

USP Lewisburg is a Mental Health Care Level II facility.³⁴ As of January 2017, USP Lewisburg reported there were 130 SMU inmates overall, including 15 DC inmates, who had been diagnosed with a mental health illness. As reported by USP Lewisburg in response to CIC’s document request, inmates who have been diagnosed with a mental health illness represent 19.5% of the SMU population. However, the OIG found that the BOP could not accurately determine the number of inmates with mental illness because staff does not always document inmates’ mental illnesses.³⁵ In 2015, a SMU Psychologist reported to OIG that approximately 90% of SMU inmates have a mental illness (if including personality disorders).³⁶

Without adequate access to mental health services, many inmates may not have the opportunity to be properly diagnosed, and, consequently, continue to be denied necessary mental health care as required in P5310.16. In support of this finding, in response to the 2017 survey, several DC SMU inmates with no diagnosed mental health illnesses reported requesting mental health services on several occasions but never receiving a response. Out of 10 DC SMU inmates who responded and required mental health services, nine reported not having adequate access to mental health services, and only one reported having adequate access to mental health services.

The CIC asked DC SMU inmates who required mental health services to rate their satisfaction with both the quality and wait times of mental health services at USP Lewisburg.³⁷ Out of 10 DC SMU inmates who responded and required mental health services, all 10 reported being very unsatisfied with the quality of mental health care at USP Lewisburg. Furthermore, out of 10 DC SMU inmates who responded and required mental health services, eight reported being very unsatisfied and two reported being unsatisfied with the wait times at USP Lewisburg.

Change of Mental Health Care Level Assignment (MHCL)

BOP policy states that an individual’s MHCL may only be changed by a psychologist, psychiatrist, or qualified mid-level practitioner after a review of records and a face-to-face clinical interview establishing a diagnosis or indicating the absence of a diagnosis.³⁸ The BOP policy further states that mental health care levels are not changed for administrative, designation, or transfer purposes.

The OIG Report stated that, following the adoption of the revised mental health policy in 2014 increasing the standards of care (P5310.16), there was a 56% decrease in the number of SMU inmates receiving regular mental health treatment. The OIG concluded that mental health staff may have reduced the number of inmates who were required to receive regular mental health treatment because they did not have the necessary staffing to provide the increased treatment standards.

³⁴ For more information about medical care levels, please refer to the CIC Info Sheet – BOP Medical Care Levels. Available online at <https://cic.dc.gov/page/cic-info-sheets>

³⁵ OIG Report.

³⁶ Id.

³⁷ Note: responses of “N/A” were not included in the analysis to ensure that levels of satisfaction refer only to those who have used these services. For instance, analysis of mental health perceptions is based only on responses from inmates who require mental health services.

³⁸ P5310.16

In response to the CIC's 2017 survey, three DC SMU inmates reported a change in their MHCL assignment upon arrival to USP Lewisburg. All three individuals reported being dropped to a MHCL One and being re-diagnosed with Antisocial Personality Disorder, despite having previous diagnoses of serious mental illnesses, including Post-Traumatic Stress Disorder (PTSD), depression, and anxiety.

Evaluations & Private Interviews

As a result of the policy changes made to the SMU Program, additional opportunities were created to review an inmate's mental health concerns and designate him to a different facility, if approved by the BOP's Central Office Psychology Services Branch.³⁹ In addition to an initial intake screening evaluation, inmates in the SMU are supposed to be evaluated every 30 days by mental health staff, with additional services for emergencies or inmates requiring routine/follow-up visits.⁴⁰ Mental health evaluations in restrictive housing, including the SMU, is supposed to include a review of an inmate's records, behavioral observations, a clinical interview, and psychological testing (if clinically indicated).⁴¹

Furthermore, as standard procedure, Psychology Services is supposed to remove inmates from their cells in restrictive housing units, including the SMU, for private interviews to provide appropriate treatment and care consistent with the inmate's MHCL.⁴² There are exceptions from removing inmates from their cells for such interviews, including when inmates are behaving aggressively or for safety and security reasons.

BOP policy further states that all critical contacts be conducted in a private area, to the extent possible.⁴³ Critical contacts include diagnostic assessments, suicide risk assessments, crisis intervention, and any other mental health service addressing potentially sensitive issues.⁴⁴ As stated in the OIG Report, BOP Psychology Services Branch officials reported that BOP policy requires inmates to be *treated* in a private area, but not the critical contact with psychology staff. Furthermore, the officials noted that documenting where critical contacts occur is a best practice, but not required by BOP policy. In response, the OIG Report found that the inconsistent documentation of where critical contacts occur by staff "prevents the BOP from assessing the extent to which its policy goal to protect inmate privacy has been achieved and limits its ability to correct practices that are inconsistent with policy, which may limit the appropriate treatment and care afforded to inmates according to MHCL."⁴⁵

When asked if evaluated by mental health staff upon arrival at USP Lewisburg, three DC SMU inmates (13%) said yes, 18 said no (78.3%), and two said they did not know (8.7%). Several DC SMU inmates reported that the evaluation only consisted of a paper questionnaire they completed in their cells and slid through the door. DC SMU inmates did not consider the questionnaire to be an adequate evaluation process.

When asked if evaluated by mental health staff every 30 days, all 21 DC SMU inmates (100%) who responded said no. Several DC SMU inmates reported never having the opportunity for private sessions, only communicating with mental health staff through a cell door, and only being handed puzzles during rounds. One individual who responded to the survey and required mental health services had been in the SMU program since 2015 and reported that he had never communicated in a private setting with

³⁹ P5217.02

⁴⁰ P5217.02

⁴¹ P5310.16, p 20

⁴² P5310.16

⁴³ P5310.16

⁴⁴ P5310.16

⁴⁵ OIG Report, p 47

Psychology staff, and thus never felt that he could safely talk about his sensitive mental health concerns. He further reported he was recently taken off his anxiety medication without any warning, and despite never having a private interview with anyone from Psychology Services.

Of significant concern were two inmate reports describing situations where Psychology staff told inmates psychological evaluations are based solely off an inmate's incident reports. Furthermore, both individuals also reported that inmates are not afforded the opportunity for a private interview with mental health staff unless they attempt suicide. One individual who requested a private interview at least six times since being at USP Lewisburg stated: "The only time they provide one-on-one is when you're hanging from a noose."

Treating Mental Illness Through Use of Restraints

Of the seven individuals interviewed in 2017 who reported being placed in restraints, three (43%) indicated they had been diagnosed with a mental health illness. All three individuals further reported they had not received any mental health care services at USP Lewisburg. One of the DC SMU inmates who was interviewed by the CIC and provided BOP records, evidenced being placed in restraints after repeated requests for a private interview with psychology staff and be placed back on his psychotropic medication to control his behavioral issues. According to documentation, psychology staff responded to his requests for mental health treatment by contacting corrections staff for the behavioral issues in question, specifically the reason given was because of his "unwillingness to engage." Corrections staff then proceeded to place the inmate in restraints.

Inmates suffering from mental illness who are not provided appropriate treatment and care may be prone to violent and/or disruptive behavior resulting from symptoms of his mental illness, as evidenced by the behavioral issues reported by the inmate above. Instead of being provided appropriate mental health treatment, these individuals suffer from the symptoms of their illnesses and are then further punished by being placed in restraints, usually for extended periods of time.⁴⁶

RECOMMENDATIONS:

- Hire an independent Qualified Mental Health Professional (QMHP) to provide evaluations of inmates' current level of functioning for SMU inmates at USP Lewisburg. If, in the clinical judgment of this independent evaluator, the inmate requires a higher level of care, the BOP should make arrangements for their transfer to a more appropriate facility.⁴⁷
- Revise Program Statement 5310.16 to require inmates in the SMU to sign a document acknowledging receiving a clinical interview for all mental health evaluations.
- Revise Program Statement 5310.16 to require all staff to document the location of critical contacts with inmates in the SMU.
- Develop and implement diversion and mitigation interventions for all SMU inmates as required in Program Statement 5310.17 to prioritize alternatives to placing inmates in restraints in response to symptoms of mental illness.
- Increase staff training on recent BOP policy revisions affecting operations of SMU.⁴⁸

⁴⁶ In response to the CIC's 2017 survey, five DC SMU inmates reported the maximum time they had been kept in restraints at USP Lewisburg. Of these individuals, two had been diagnosed with a mental health illness, either at USP Lewisburg or elsewhere, and had been kept in restraints for five days and two days at USP Lewisburg.

⁴⁷ Dr. Andrea Weisman, Ph.D., expert communication, July 19, 2017.

⁴⁸ One DC SMU inmate recommended providing training to staff on the recent changes to BOP policy, specifically the changes made to housing individuals with SMI in the SMU program.

G. Medical Care

Staffing Levels

As of February 2017, Health Services staff at USP Lewisburg consisted of 29 on-site staff, made up of 26 BOP staff members and 3 PHS staff members, who provide health care services to a total of 1,247 inmates at USP Lewisburg (including inmates in the Camp).

Medical Care Levels

USP Lewisburg is a Medical Care Level II facility.⁴⁹ At the time of the CIC inspection, the facility reported that zero inmates at the facility were designated with a Medical Care Level higher than the facility designation. However, one DC SMU inmate interviewed by the CIC reported being a Medical Care Level III. Any inmate arriving to USP Lewisburg who is designated with a Medical Health Care Level III or IV is supposed to be transferred to an appropriate facility within two weeks.

Chronic Care

Inmates with ongoing medical needs are tracked in the BOP by being assigned the status “chronic care.”⁵⁰ As stated in P6031.04, chronic care inmates are seen by a physician at least every 12 months. If illness is properly controlled by treatment, chronic care inmates can be designated as low as Medical Care Level I. In April 2014, USP Lewisburg had 429 inmates on chronic care status. As of January 31, 2017, the facility reported 41 DC SMU inmates on chronic care status. As of February 2017, USP Lewisburg reported having one to two diabetic inmates in the SMU. During the onsite inspection, staff reported that inmates are allowed to self-carry chronic care medications, such as medications for high blood pressure and diabetes. However, pain medications are not typically dispensed for self-carry.

The CIC interviewed nine DC SMU inmates who reported to be on chronic care status. When asked to provide the medical condition for which they were placed on chronic care, inmates gave the following responses: HIV-positive;⁵¹ Hepatitis B; Glaucoma; High Blood Pressure; High Cholesterol; Chronic Asthmatic; and Type 2 Diabetes. Five of the nine DC SMU inmates who were assigned as chronic care (56%) reported receiving timely follow-ups at USP Lewisburg.

Access to Medically Necessary Care

As stated in BOP policy, health services staff are to visit SMU inmates daily to provide necessary medical care.⁵² Emergency medical care is also to be available to SMU inmates. Medical staff reported seeing an average 200-250 inmates per week in February 2017.

⁴⁹ For more information about medical care levels, please refer to the CIC Info Sheet – BOP Medical Care Levels. Available online at

https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/BOP%20Medical%20Care%20Levels%205.17.17.pdf.

⁵⁰ FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, P6031.04, PATIENT CARE (JUNE 3, 2014).

⁵¹ HIV stands for the human immunodeficiency virus.

⁵² P5217.02. Medically necessary care is divided into two separate levels of care and defined as follows: *Medically Necessary – Acute or Emergent*: Medical conditions that without care would cause rapid deterioration of the individual's health, significant irreversible loss of function, or may be life-threatening; *Medically Necessary – Non-Emergent*: Medical conditions not immediately life-threatening, but without care could not be maintained without significant risk of (1) serious deterioration leading to premature death; (2) significant reduction in the possibility of repair later without present treatment; or (3) significant pain or discomfort impairing the individual's participation in activities of daily life. Examples of this include chronic conditions, such as diabetes, heart disease, and HIV. P6031.04.

The CIC asked DC SMU inmates to rate their satisfaction with the wait times of medical care at USP Lewisburg. Approximately 21% reported being “very satisfied” or “satisfied” with the wait times for medical care at USP Lewisburg.⁵³ As for whether medical care responds to sick call slips within 48 hours, 59% of respondents answered “rarely.”⁵⁴ Specifically, one individual reported that he requested an appointment with health services approximately nine months prior to the time of the survey (February 2017), but had yet to receive a visit from Health Services.

Access to Dental Care

As stated in BOP policy, all inmates are entitled to sick call and urgent care for dental services; inmates detained for more than 12 months are also eligible for comprehensive dental care.⁵⁵ Inmates may request urgent dental care on a 24-hour basis for severe dental pain, traumatic injuries, and severe infections showing basic signs of infection.⁵⁶

The CIC asked DC SMU inmates to rate their satisfaction with the quality of dental care and wait times at USP Lewisburg. Approximately 33% of DC SMU inmates surveyed reported being “very satisfied” or “satisfied” with the quality of dental care at USP Lewisburg; 7% reported being “very satisfied” or “satisfied” with the wait times for dental care at USP Lewisburg.⁵⁷ DC SMU inmates reported waiting anywhere between one and four months to receive urgent dental care for wisdom teeth extractions and filling cavities. One individual who exhibited difficulty speaking reported he required dental plates, but was told by the dentist at USP Lewisburg he would have to complete the SMU program to get treatment.

H. Salmonella Outbreak

At the time of the CIC inspection, the Warden reported a *Salmonella* outbreak at USP Lewisburg between November and December 2016. The facility informed the CIC that Health Services treated everyone and the Centers for Disease Control and Prevention (CDC) was notified. The Warden reported the outbreak was not foodborne, and the facility believes the outbreak was potentially caused by a contaminated food tray. Furthermore, the Warden informed the CIC that, in addition to inmates, three staff members at USP Lewisburg got sick from the *Salmonella* outbreak. In addition to providing medical treatment to affected individuals, the facility reported that it replaced the food trays to prevent another outbreak.

Several DC SMU inmates reported getting sick from the *Salmonella* outbreak. DC SMU inmates reported receiving varying levels of treatment, from getting Gatorade to being placed on intravenous (IV) fluids.

⁵³ Out of a total of 19 responses, when asked “Overall, how satisfied are you with the wait times to see medical?”: 9 selected Very Unsatisfied; 6 Unsatisfied; 4 Satisfied; and 0 Very Satisfied. Note: responses of “N/A” were not included in the analysis to ensure that levels of satisfaction refer only to those who have used these services. For instance, analysis of medical health perceptions is based only on responses from inmates who require medical health services.

⁵⁴ Out of a total of 17 responses, when asked “Does health services respond to sick call slips within 48 hours?”: 10 selected Rarely; 5 Sometimes; and 2 Usually. Note: responses of “N/A” were not included in the analysis to ensure that levels of satisfaction refer only to those who have used these services.

⁵⁵ FED. BUREAU OF PRISONS, U.S. DEP’T OF JUSTICE, P6400.03, DENTAL SERVICES (JUNE 10, 2016).

⁵⁶ Id.

⁵⁷ Regarding quality of care, out of 15 responses: 0 reported being very satisfied, 5 satisfied, 3 unsatisfied, and 7 very unsatisfied. Regarding wait times, out of 14 responses: 0 reported being very satisfied, 1 satisfied, 3 unsatisfied, and 10 very unsatisfied. Note: responses of “N/A” were not included in the analysis to ensure that levels of satisfaction refer only to those who have used these services. For instance, analysis of dental care perceptions is based only on responses from inmates who require dental.

I. Recreation

The Recreation Department offers packets to SMU inmates including puzzles and Sudoku every two months. This department also facilitates outdoor recreation for all phases SMU. (See Sec. II.B. of this report.)

When asked to rate their satisfaction regarding recreation, eight DC SMU inmates (44%) reported being very unsatisfied; five (28%) unsatisfied; three (17%) satisfied; and one (6%) very satisfied. Several DC SMU inmates reported that they were frequently denied the opportunity to exercise in outdoor recreation cages, including denials as a form of disciplinary action. One DC SMU inmate stated that he had not had one week with at least five hours in the outdoor recreation cages since arriving to USP Lewisburg (approximately seven months). In addition, DC SMU inmates reported being housed up to six inmates per cage for outdoor recreation. DC SMU inmates also reported that inmates with separatees are placed together in outdoor recreation cages, and reported witnessing inmate-on-inmate assaults.

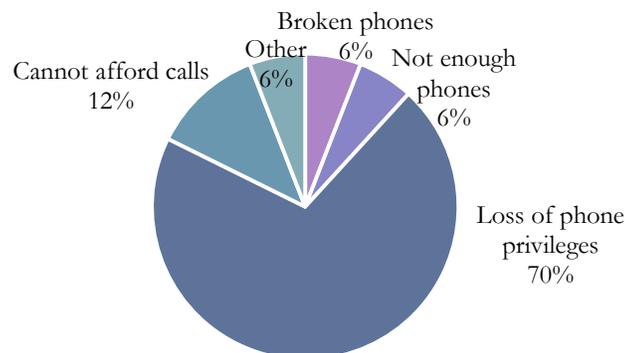
J. Communication & Visitation

Telephone Calls

Program Statement 5217.02 states that inmates in the SMU program may have a minimum of two calls per month, which may be increased as they progress through the program, unless telephone restrictions are placed as result of a disciplinary sanction. SMU inmates in Phase One are allowed to make two 15-minute telephone calls per month; Phase Two can make four 15-minute telephone calls; and Phase Three can make 15 telephone calls per month not to exceed 150 minutes.⁵⁸ In response to CIC's document request, USP Lewisburg reported that the cost of a 15-minute telephone call to DC was \$3.50 per minute.⁵⁹

When asked if they have had any problems accessing the telephone within the past six months, 17 DC SMU inmates (71%) reported yes and seven (29%) reported no. Of the 18 DC SMU inmates who responded to the question, the most common problem regarding telephone use was loss of telephone privileges:⁶⁰

If you have had problems accessing the telephone, why?



⁵⁸ USP Lewisburg, Special Management Unit Population – SMU, Institution A&O Handbook (Nov. 2016).

⁵⁹ Data received January 31, 2017.

⁶⁰ For further discussion on loss of privileges, specifically multi-year denials, please refer to Section II(J).

Unauthorized Monitoring & Destruction of Legal Mail and Non-Legal Mail by Staff

DC SMU inmates noted problems with both legal and non-legal mail. In response to the CIC’s 2017 survey, approximately 45% of DC SMU inmates who answered the question indicated they had problems sending or receiving legal mail at USP Lewisburg.⁶¹ Specifically, multiple DC SMU inmates reported instances of violations of federal regulation 28 C.F.R. § 540.18 (2009), which requires incoming special mail, including legal mail, to be opened in the inmate’s presence, as well as allowing outgoing special mail to be sealed by the inmate and not subject to inspection. DC SMU inmates further reported instances of attempting to send legal mail that is not received by intended recipients.

Following the onsite inspection in February 2017, the CIC encountered several instances of missing mail where two DC SMU inmates reported never receiving special mail from the CIC that was sent on at least five separate occasions between March to June 2017. The CIC also received similar reports from community partners providing legal services who have attempted to send legal mail to SMU inmates.

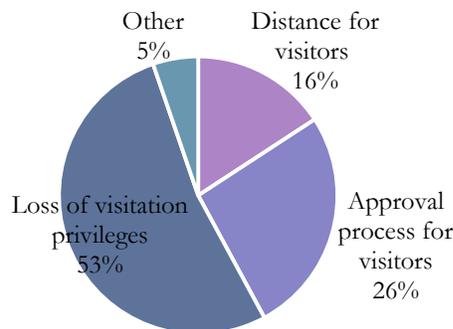
A long-term DC SMU inmate reported that litigious inmates and inmates who choose to use the administrative remedy process are sent to the D-Block Housing Unit, where the Unit Team reportedly confiscates and destroys all incoming and outgoing special mail.⁶²

Video Visitation

Visitation for all SMU inmates at USP Lewisburg occurs remotely through video visitation and is only available for immediately family members.

When asked if they have had any problems receiving visits within the past six months, 16 DC SMU inmates (70%) reported yes, six (26%) reported no, and one (4%) reported N/A. Of the 19 DC SMU inmates who responded to the question, the most common problem regarding visitation was loss of visitation privileges:⁶³

If you have had problems receiving visits, why?



In addition to loss of privileges, many DC SMU inmates noted family members were reluctant to spend resources and finances to travel to USP Lewisburg because the facility only offers video visitations to immediate family members for one hour on Saturdays and Sundays.

⁶¹ Out of a total of 22 responses, when asked “Have you had any problems within the past six months sending or receiving legal mail?”: 10 selected Yes; 11 No; 1 N/A.

⁶² For further discussion on placement in the D-Block Housing Unit, please refer to Section II(C).

⁶³ For further discussion on loss of privileges, specifically multi-year denials, please refer to Section II(J).

RECOMMENDATIONS:

- Require Executive Staff to frequently monitor special mail procedures, including tracking all incoming & outgoing special mail and requiring SMU inmates to sign a document acknowledging receiving special mail opened in the inmate's presence.
- Reinstate in-person visitation for all SMU inmates in addition to offering video visitation, with capability for family members to connect remotely from DC.

K. Discipline

The Inmate Discipline Program allows BOP staff to impose sanctions on inmates who commit prohibited acts.⁶⁴ Disciplinary measures may include revocation of an inmate's visiting privileges, revocation of telephone privileges, forfeiture of good time credit, or placement in disciplinary segregation within the SHU, among others.

Fairness of Disciplinary Decisions

As stated in 28 CFR § 541.7(b), the UDC is ordinarily made up of two or more staff members who were not victims, witnesses, investigators, or otherwise significantly involved in the incident. The DHO must be an impartial decision maker who was not a victim, witness, investigator or significantly involved in the incident.⁶⁵ Furthermore, the DHO must be certified and receive specialized training to conduct hearings.

Regarding discipline, the CIC asked DC SMU inmates about the fairness of disciplinary decisions by the DHO and the UDC. Out of 16 DC SMU inmates who responded to the question, four reported that the UDC's decisions are fair, eight that they are unfair, and four did not know. Out of 17 DC SMU inmates who responded to the question, four reported that the DHO's decisions are fair, eleven that they are unfair, and two did not know. Specifically, seven DC SMU inmates reported the DHO's findings at USP Lewisburg was biased against inmates.

Multi-Year Denial of Telephone and Visitation Privileges

If an inmate is found to have committed a prohibited act, he is then subject to a list of available sanctions, the severity of which corresponds to the prohibited act committed.⁶⁶ For all listed prohibited acts, regardless

⁶⁴ 28 CFR § 541.1; *see also* FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, PROGRAM STATEMENT NO. 5270.09, INMATE DISCIPLINE PROGRAM (Aug. 1, 2011). If a staff member observes or reasonably believes an inmate has committed a prohibited act, staff prepare an incident report describing the incident and deliver the report to the inmate within 24 hours of becoming aware of the incident. Then, the Investigating Officer, an BOP supervisory level staff member not involved in the incident, begins investigating the incident and either: (1) suspends the investigation if it appears likely there may be criminal prosecution; (2) informally resolves the incident report, only for moderate or low level prohibited acts; or (3) completes the investigation and forwards the incident report to the Unit Disciplinary Committee (UDC). Next, the UDC must review the incident report and hold an initial hearing within five working days after the incident report was issued, for moderate or low level prohibited acts. Extensions over five days must be approved by the Warden. After reviewing the incident report and holding an initial hearing, the UDC then determines that either: (1) the inmate committed the prohibited act and sanctions may be imposed; (2) the inmate did not commit the prohibited act; (3) refer the incident report to the Discipline Hearing Officer (DHO) for further review based on the seriousness of the prohibited act; or (4) automatically refer the incident report to the DHO if the inmate is charged with a Greatest or High severity prohibited act. Finally, the DHO conducts a hearing on the incident report referred by the UDC no less than 24 hours after the inmate receives written notice. After the DHO hearing is conducted, the DHO then determines that either: (1) the inmate committed the prohibited act and sanctions may be imposed; (2) the inmate did not commit the prohibited act; or (3) refer the incident report back to the UDC for further investigation, review, and disposition.

⁶⁵ 28 CFR § 541.8(b).

⁶⁶ 28 CFR § 541.3; P5270.09.

of severity, an inmate is subject to loss of privileges (e.g., visitation, telephone, e-mail, commissary, movies, recreation) even when the committed act was not connected to that privilege.⁶⁷ In the BOP Program Statement on discipline, loss of recreation privileges are explicitly excluded for Special Housing Unit (SHU) inmates, but does not specifically exclude SMU inmates.⁶⁸ However, the BOP Program Statement on SMU states that recreation privileges may not be limited as part of a disciplinary sanction.⁶⁹

In response to the CIC's 2017 survey, 13 of the 18 DC SMU inmates who answered the question indicated they had problems accessing the telephone because their telephone privileges were suspended. Of those 13, seven reported multi-year denial of these privileges. Furthermore, 12 of the 19 DC SMU inmates who answered the question indicated they had problems receiving visits because their visitation privileges were suspended. Of those individuals without visitation privileges, six reported multi-year denial of these privileges. Of most concern was a DC SMU inmate who reported a 37-year denial of both telephone and visitation privileges, despite only having 18 years left on his sentence. Another DC SMU inmate reported that the problems surrounding access to communication causes feelings of "extreme alienation" and deteriorates his mental health.

RECOMMENDATIONS:

- Identify and develop alternatives to imposing sanctions that reduce the use of multi-year denial of telephone and visitation privileges.

L. Administrative Remedy Program

The Administrative Remedy Program in BOP facilities, commonly referred to as the grievance process, allows inmates to seek formal review of complaints related to their confinement. For more information about administrative remedies, please refer to the CIC Info Sheet – BOP Administrative Remedies (aka "Grievance") Process.⁷⁰ Based on observations, inmate reports, and findings made in 2017, the CIC finds that USP Lewisburg is in non-compliance with federal regulations on the administrative remedy program.⁷¹

In the year prior to the inspection, the most common categories of administrative remedy submissions at USP Lewisburg were medical, staff, and mental health care. A chart of all submissions from January 2016 to December 2016 is available in Appendix C.

Inadequate Access to Administrative Remedy Forms

The CIC received reports from community partners of SMU inmates stating they frequently did not have access to administrative remedy forms, and are required to request the forms directly from staff.

Unsent and Unanswered Administrative Remedy Requests

In response to the CIC's 2017 survey, DC SMU inmates largely reported that staff frequently destroy administrative remedy requests by throwing them in the trash; consequently, the requests are never

⁶⁷ U.S.P. LEWISBURG, SPECIAL MANAGEMENT UNIT POPULATION – SMU: INSTITUTION ADMISSION AND ORIENTATION HANDBOOK (NOVEMBER 2016).

⁶⁸ "Loss of recreation privileges (exercise periods) may not be imposed on inmates in a Special Housing Unit (SHU), but may be used for general population inmates."

⁶⁹ P5217.02

⁷⁰ Available online at

https://cic.dc.gov/sites/default/files/dc/sites/cic/page_content/attachments/BOP%20Administrative%20Remedies%2011.15.17%20REVISED.pdf

⁷¹ 28 C.F.R. § 542.

submitted and inmates do not receive responses to requests. Additionally, DC SMU inmates commented that many times staff destroy the informal complaint, written by inmates on a scrap piece of paper, and then are denied when submitting their formal complaint for failure to complete the informal resolution.

Thorough Investigation of Administrative Remedy Requests and Appeals

In response to the CIC's 2017 survey, DC SMU inmates commented that their problems are not being rectified through the administrative remedy process. A majority of respondents reported that they do not believe the process worked or that the process was dealt with fairly at USP Lewisburg. Many individuals further reported a belief that the administrative remedy process is corrupt. Specifically, when asked whether the administrative remedy process was fair or unfair, one individual articulated his belief that the process was unfair, "Because the system is designed to protect and serve employees at all costs," and not designed to bring about fair results.

Staff Retaliation For Submitting Administrative Remedies

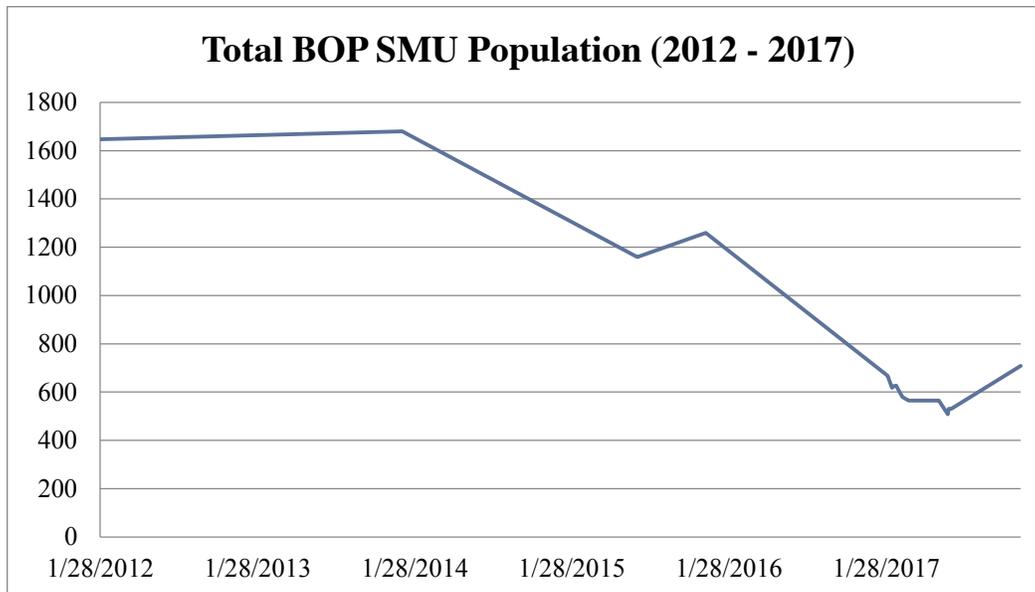
In response to the CIC's 2017 survey, staff retaliation was the most common response as to why DC SMU inmates have chosen not to use the administrative remedy process at USP Lewisburg. Multiple individuals reported instances of excessive use of force and placement in restraints after trying to submit complaints using the administrative remedy process. Staff retaliation is discussed further below in Section II(C).

RECOMMENDATIONS:

- Require each SMU cell to have blank copies of all administrative remedy forms inside the cell.
- Require Executive Staff to regularly monitor administrative remedies, including tracking submissions of both informal resolution attempts and initial filings.
- Revise Program Statement 1330.18 to require inmates in the SMU to sign a document acknowledging submitted informal complaints, initial filings, and appeals with the date and provide a copy to the inmate.
- Regularly monitor trends of significant incidents, including use of force and placement in restraints, for inmates who choose to use the administrative remedy process to ensure inmates are provided meaningful access to resolve issues relating to their confinement without fear of staff retaliation.

M. Disproportionate Representation & Treatment of DC SMU Inmates

Since its initiation in 2009, the SMU population throughout the BOP has been steadily decreasing. As shown below, the SMU population has continued to decrease through June 2017.⁷²



In June 2015, the BOP reported a total of 1,159 SMU inmates, of which 124 were from DC. At that time, DC inmates represented 11% of the SMU population. In January 2017, the BOP reported a total of 667 SMU inmates, of which 83 were from DC. At that time, DC inmates represented 12% of the SMU population. While the CIC is encouraged by the steady decrease of inmates in the SMU population, DC inmates continue to be disproportionately represented.⁷³

As stated in BOP policy, inmates can be sent to the SMU program if he meets certain criteria, including participating in “disruptive geographical group/gang-related activity.”⁷⁴ Individuals processed into the federal system, who were convicted and sentenced in DC Superior Court, are assigned a federal register number ending in “007.” The majority of individuals surveyed by the CIC commented that DC inmates are frequently targeted and considered to be part of a gang, based on their common geographic location. Specifically, individuals reported being targeted based on their federal register number ending in “007.” One individual stated: “It seems like when officers see 007, you become a target.” Some individuals further noted staff refer to DC inmates as the “DC Blacks” or “007s (pronounced [double-oh sevens],” a fictitious gang name placed upon individuals with a federal register number ending in “007.”

Other comments received related to racist attitudes and comments. One DC SMU inmate reported a recent increase in racial diversity of staff members at USP Lewisburg. The CIC encourages the BOP’s continued efforts to address staff diversity and is pleased to learn the facility has relocated more diverse staff members to USP Lewisburg.

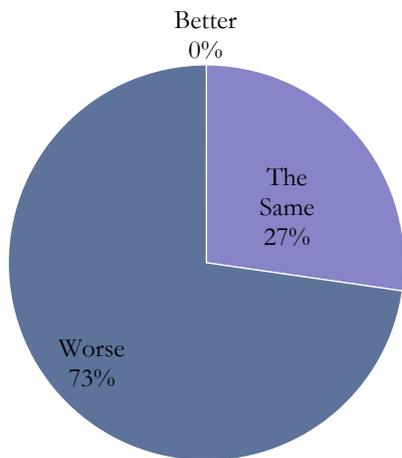
⁷² Refer to Appendix A for exact SMU population numbers reported between 2012 to 2017.

⁷³ DC inmates currently represent approximately 2.6% of the federal prison population. As of 4/1/2017, the BOP housed a total of 4,884 DC inmates. On 5/27/2017, the BOP reported a total population of 187,910 inmates.

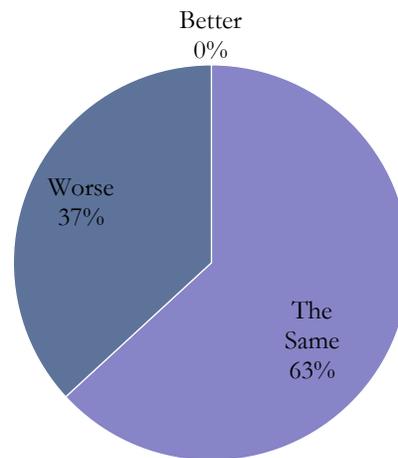
⁷⁴ P5217.02.

Furthermore, as part of the 2017 CIC survey, DC SMU inmates were asked to answer how they feel they are treated by both staff and other inmates, in comparison to the treatment of other inmates. The responses are noted below.

**Compared to other inmates,
how are DC inmates treated
by staff?**



**Compared to other inmates,
how are DC inmates treated
by other inmates?**



RECOMMENDATIONS:

- DC Criminal Code Offenders made up 2.6% of BOP population, and 12.6% of SMU Program population in February 2017. Monitor requests for transfer to SMU, placement of inmates in SMU Program, and treatment of inmates for disproportionate treatment based on DC Criminal Code Offender status (indicated by “007, 016, 000”).

III. Appendix

A. Methodology

In accordance with the Memorandum of Understanding (MOU) between the CIC and the BOP that requires at least 30 days' notice of an inspection, the CIC notified the BOP on June 20, 2017, of its request to inspect USP Lewisburg's SMU program, including a tour of all areas to which inmates have access, discussions with staff, and confidential interviews with DC inmates. Prior to the on-site inspection, the CIC communicated with DC inmates at USP Lewisburg, informing them of the upcoming inspection and offering them the opportunity for a confidential interview with a member of the CIC.

The CIC conducted an on-site inspection of USP Lewisburg on February 10, 2017. The CIC representatives on the inspection were Executive Director Michelle Bonner and Program Analyst Laura de las Casas. The CIC was escorted during the tour by members of the executive staff. The onsite inspection consisted of an opening session with executive staff, a tour of the facility, dialogue with facility staff, and private interviews in the attorney-client visiting rooms at USP Lewisburg with DC SMU inmates. After the onsite inspection, USP Lewisburg arranged additional telephone calls, akin to attorney-client legal calls, between the CIC and additional DC SMU inmates. The CIC also sent letters with a survey to DC Code Offenders who were transferred out of USP Lewisburg between January and February 2017. In total, the CIC interviewed 24 DC SMU inmates.

The CIC inspected two SMU housing units during the onsite inspection: J Block & X Block. J Block houses SMU Phase One inmates. The X block houses SMU Phases One, Two, and Three inmates who require protective custody, as well as inmates who completed the SMU program and are awaiting transfer to another facility.

After the inspection, the survey responses were compiled using Survey Monkey, a business intelligence tool, with unique identifiers used instead of individual names to protect confidentiality. Data was exported to Microsoft Excel, and charts were created on Microsoft Word. Extended responses from the surveys were compiled with comments from other forms of communications with DC inmates at the facility, including correspondence, and were used to inform analysis and provide context in applicable sections. Between January 2016 to October 2017, the CIC received 15 letters from DC SMU inmates. The CIC also received information regarding conditions of confinement from community partners and family members of incarcerated individuals who were housed in USP Lewisburg's SMU program during the time of the inspection.

In addition to the on-site inspection, survey data, and communication with individuals incarcerated at the facility, the CIC reviewed general inmate and facility data related to inmate population and demographics, facility staffing, significant incidents, urine surveillance, and disciplinary records. The CIC also reviewed an education report, dining menus, commissary lists, the Admissions and Orientation Handbook, the most recent American Correctional Association (ACA) audit report, the most recent PREA audit report, and administrative remedy filings and responses at the facility, Regional Office, and Central Office levels. Additionally, the CIC reviewed reports issued by the DOJ and Office of Inspector General specifically addressing SMU and use of restrictive housing in BOP facilities.

The CIC provided the BOP with a draft version of the report for review of factual information and an opportunity to respond to follow-up questions and any other information in the report. The BOP response to the CIC draft report is included at the end of this report.

B. Declining Numbers in SMU Table

As of Date	SMU Population	Source
1/28/2012	1647	DOJ Restrictive Housing Report (2016)
12/30/2013	1680	CNA Report: BOP SHU Review and Assessment (2014)
6/29/2015	1150	CIC 2015 Inspection Report – BOP Response

12/5/2015	1260	DOJ Restrictive Housing Report (2016)
1/31/2017	667	CIC 2017 Inspection
2/10/2017	618	CIC 2017 Inspection
2/14/2017	624	BOP Inmate Statistics (online) - Restricted Housing
2/20/2017	627	BOP Inmate Statistics (online) - Restricted Housing
2/28/2017	599	BOP Inmate Statistics (online) - Restricted Housing
3/7/2017	579	BOP Inmate Statistics (online) - Restricted Housing
3/21/2017	565	BOP Inmate Statistics (online) - Restricted Housing
4/24/2017	565	BOP Inmate Statistics (online) - Restricted Housing
5/9/2017	565	BOP Inmate Statistics (online) - Restricted Housing
5/30/2017	565	BOP Inmate Statistics (online) - Restricted Housing
6/20/2017	508	BOP Inmate Statistics (online) - Restricted Housing
6/22/2017	530	BOP Inmate Statistics (online) - Restricted Housing
6/28/2017	530	BOP Inmate Statistics (online) - Restricted Housing

C. Administrative Remedy Filings & Appeals

The table below provides an overview of the administrative remedies tracking data at USP Lewisburg from January 2016 to December 2016. The information was provided by the facility as part of CIC's document request.

Facility Level (BP-9s)					
	Submitted	Rejected	Filed	Answered	Granted
Medical (excl. forced treatment)	147	38	109	94	2
Staff/Others - Complaints	91	30	61	58	1
Mental Health Care	43	11	32	32	1
Institutional Operations	36	20	16	15	0
Classification Matters	27	7	20	19	0
Institutional Programs	26	7	19	18	0
Transfer – Request/Objection	23	6	17	17	0
Food	17	4	13	7	0
Jail Time Credit	17	3	14	14	0
Mail Communication	17	4	13	13	0
Legal Matters	14	6	8	8	0
Dental Care	12	4	8	8	0
Education, Recreation, Leisure	11	3	8	8	0
DHO/CDC/Cont. Housing Appeals	10	7	3	3	0
Records Management	10	2	8	8	0
Searches and Use of Restraints	9	2	7	7	0
Sentence Computation	8	3	5	4	1
UDC/RRC Actions	8	3	5	5	0
Community/Pre-Release Programs	6	2	4	4	0
Disability – Physical or Mental	5	2	3	3	0
Visiting	4	2	2	2	0
Communication – Other Than Mail	3	0	3	3	0
Other Statutorily-Mandated Procedures	2	1	1	1	0

Special Housing Units	2	1	1	1	0
Medical Treatment - Forced	1	1	0	0	0
PREA	1	0	1	1	0
Regional Office (BP-10s)					
	Submitted	Rejected	Filed	Answered	Granted
DHO/CDC/Cont. Housing Appeals	315	194	121	116	9
Staff/Others - Complaints	113	83	30	29	0
Medical (excl. forced treatment)	55	22	33	30	1
Classification Matters	37	21	16	16	3
Institutional Operations	32	25	7	7	0
Mental Health Care	26	10	16	14	0
Institutional Programs	23	11	12	12	0
Jail Time Credit	18	10	8	7	3
Legal Matters	14	10	4	4	0
Transfer – Request/Objection	14	7	7	7	1
Special Housing Units	13	9	4	4	0
PREA	11	1	10	10	6
Searches and Use of Restraints	9	6	3	3	0
Disability – Physical or Mental	7	4	3	3	0
Food	7	3	4	3	0
Sentence Computation	7	3	4	4	0
Mail Communication	5	4	1	1	0
Records Management	5	2	3	3	0
Dental Care	4	1	3	3	0
UDC/RRC Actions	4	1	3	3	1
Community/Pre-Release Programs	3	0	3	3	0
Education, Recreation, Leisure	3	0	3	1	0
Visiting	2	0	2	2	0
Communication – Other Than Mail	1	1	0	0	0
Central Office (BP-11s)					
	Submitted	Rejected	Filed	Answered	Granted
DHO/CDC/Cont. Housing Appeals	130	74	56	11	0
Staff/Others - Complaints	57	42	15	12	0
Institutional Programs	43	21	22	19	0
Medical (excl. forced treatment)	27	6	21	20	0
Mental Health Care	18	9	9	8	0
Classification Matters	13	4	9	6	0
Jail Time Credit	13	3	10	10	1
Institutional Operations	10	5	5	1	0
Legal Matters	10	4	6	3	0
Special Housing Units	9	6	3	2	0
PREA	8	0	8	7	0
Disability – Physical or Mental	4	2	2	2	0
Records Management	3	1	2	1	0
Sentence Computation	3	2	1	1	0
Education, Recreation, Leisure	2	2	0	0	0
Searches and Use of Restraints	2	1	1	0	0

Transfer – Request/Objection	2	0	2	2	0
Visiting	2	0	2	1	0
Communication – Other Than Mail	1	0	1	0	0
Community/Pre-Release Programs	1	0	1	0	0
Food	1	0	1	0	0
Other Statutorily-Mandated Procedures	1	0	1	1	0
UDC/RRC Actions	1	1	0	0	0

D. Significant Incidents

The table below provides an overview of the significant incidents at USP Lewisburg for 2013 and 2016. The information was provided by the facility as part of CIC's document request. The average daily SMU population at USP Lewisburg between March 2013 to February 2014 2013 was 883. As of December 2016, USP Lewisburg had 787 SMU inmates.

Significant Incident History		
	2013	2016
Institution Locked Down	0	0
Inmate Suicides	0	0
Inmate Homicides	0	0
Inmate Deaths From Natural Causes	0	0
Assault On Inmate, With Weapon	6	4
Assault On Inmate, No Weapon	71	69
Assault On Staff, With Weapon	0	1
Assault On Staff, No Weapon	80	20
Attempted Assault On Inmate, With Weapon	0	0
Attempted Assault On Inmate, No Weapon	3	0
Attempted Assault On Staff, With Weapon	0	1
Attempted Assault On Staff, No Weapon	31	13
Escape from Secure Facility	0	0
Sexual Act, Non-Consensual on Inmate	0	0
Sexual Assault on Staff	0	0
Sexual Contact, Abusive on Inmate	1	1
Uses Of Chemicals	143	94
Use of Force	137	81
Use of Restraints	195	118
Total Number of Significant Incidents	667	333
Form 583 Reports Filed (Reports To Central Office)⁷⁵	428	313
Total Number of Significant Incidents <u>Not</u> Reported Electronically to Central Office	239	20

Source: BOP. Statistics for 2013 dated 01/2013 to 12/2013. Statistics for 2016 dated 01/2016 to 12/2016.

⁷⁵ Form 583 is used to report significant incidents to the BOP Central Office. The form is an electronic version of the Report of Incident form. Issues reported to the Central Office generally include deaths, suicides, escapes, serious assaults and other serious acts of misconduct by inmates, and uses of force, chemicals, or restraints by staff.



U.S. Department of Justice

Federal Bureau of Prisons

Washington, DC 20534

APR - 5 2018

Michelle R. Bonner, Esq.
Executive Director
DC Corrections Information Council
2901 14th Street, NW
Washington, DC 20009

Dear Ms. Bonner,

This letter is in response to the draft inspection report received on January 19, 2018, regarding the February 10, 2017, visit to USP Lewisburg. The Bureau of Prisons (Bureau) recognizes the value of the Corrections Information Council (CIC) inspections of its facilities and the voice it provides D.C. Superior Court inmates. We hope to continue working closely to improve Bureau facilities and raise awareness with regard to those inmates' needs. I offer the following response to the statements and/or recommendations in the report:

The Administrative and Supervisory Staff at USP Lewisburg ensure all staff conduct themselves in a professional manner and in accordance with all laws and policies which govern the Bureau. Throughout the report, unsubstantiated allegations are made without direct observation by the CIC or supported by facts that can be corroborated. The staff at USP Lewisburg are highly trained, professional employees. They respond to emergencies, communicate daily with inmates and perform their assigned duties without fail. The Special Management Unit (SMU) assists with the orderly running of other Bureau of Prisons facilities by removing the most disruptive inmates from their general population. Staff interact, monitor, and provide supervision 24 hours a day to ensure the safety and security of both staff and inmate. They are held to the highest professional standards.

The Bureau takes allegations of misconduct and denial of services to inmates seriously. If provided with specific creditable case information, the Bureau will assist in any assessment and investigate.

Since the time of the the CIC inspection of USP Lewisburg, the facility received their American Correctional Association (ACA) re-accreditation in August 2017 and was 100% compliant with the Prison Rape Elimination Act (PREA).

USP Lewisburg had several program reviews over the past year to include the following:

- Correctional Services- earned a Superior Rating -March 2017
- Health Services- earned a Superior Rating -February 2017
- Psychology Services- earned a Superior Rating -November 2017
- Safety- earned a Superior Rating -April 2017

Overall, USP Lewisburg has 8 "Superior" program review ratings and 5 "Good" ratings.

These results are a testament to the hard work, dedication and integrity of the staff.

Response to Allegations:

The draft report was prepared and submitted to the Bureau nearly a year after the inspection was conducted.

The draft report states: "*Injuries From Restraints: DC SMU inmates reported injuries from restraints occurring after CIC's 2014 inspection, including bruises, cuts, keloids, and extreme swelling around their waists and wrists.*"

Response: Restraints are applied and checked according to established Use of Force Policy. However, it is not uncommon for inmates to manipulate restraints and claim injury. Medical staff document any efforts to manipulate restraints, educate inmates on the health consequences of self-injury, and encourage inmates not to engage in this behavior during restraint checks.

The draft report states: "*Opportunity to Use the Toilet In Restraints: DC SMU inmates reported not being provided the opportunity to use the toilet while placed in four-point restraints for periods ranging between 48 to 120 hours.*"

Response: The Bureau contends that the statements are unfounded. Procedures are outlined in the Use of Force Policy. Inmates are afforded the opportunity to use the toilet during restraint checks every thirty minutes, which is documented and

reviewed.

The draft report states: *"The DOJ Report then recommended changes to the SMU to enhance opportunities for out-of-cell time. Given the decreased SMU population, serious efforts should be taken to address the concerns documented throughout this report to improve the conditions of confinement at USP Lewisburg."*

Response: As inmates successfully progress through the SMU phases the out-of-cell time and programs increase accordingly.

The draft report states: *"One individual who was participating in GED classes reported seeing his GED teacher only once every month. He stated the class only consisted of a two to three page packet. Another individual also participating in GED classes noted the absence of any educational teachers present in the SMU."*

Response: Education staff are required to visit each inmate in the program a minimum of once a week. GED teachers prepare inmates for GED tests by talking to their students. In calendar year 2016, 32 SMU inmates completed the GED program. In 2017, 35 SMU inmates completed the GED program.

The draft report states: *"At the time of the inspection, the CIC interviewed three DC SMU inmates who were currently at Phase Two in USP Lewisburg. Two individuals reported not participating in any vocational or mental health programming. One individual specifically stated a belief that individuals in the SMU are not allowed to participate in any programming while in SMU."*

Response: The required programs in the SMU are as follows:

SMU Programming

Phase 1:

1. Completion of an Autobiography - assists the treatment specialists in identifying areas in which improvement is needed to identify what additional services may provide assistance to the individual.
2. Thinking Errors Workbook - identifies and discusses different thinking errors.
3. Basic Cognitive Skills Workbook - focuses on developing an understanding and use of rational thinking.
4. Anger Workbook - identifies what anger "looks" and "feels"

like and addresses healthy ways in which to respond to anger.

5. Living As If (workbook) - discusses how beliefs impact daily interactions.
6. Coping Skills (workbook) - identifies and encourages the practice of stress reducing skills.
7. My Change Plan - promotes prosocial change.

If an inmate is a SMU repeater, they are asked to complete a written assignment which addresses the difficulties (criminal thinking, 8 positive attitudes) encountered leading back to the placement in the SMU.

Phases 2 and 3:

At phase 2 and 3 inmates are moved to our programming units (I and F) where they are offered one hour a week of group programming. This includes Priority Practice Groups:

- Basic Cognitive Skills
- Criminal Thinking
- Anger Management
- Emotional Self-Regulation

Incentives Programming:

- Reading With Purpose:
- A New Earch
- A Child Called It
- Lost Boy
- A Man Called Dave
- Learned Optimism
- Man's Search for Meaning
- Tuesdays with Morrie

Additional Self-Help Programming:

- Addiction-Treatment
- Behavioral Modification
- Health and Wellness
- Mental Health
- Recovery
- Stress and Anger
- Transitions - Life Events
- Distress Tolerance
- Motivation for Change
- Emergency Coping Skills
- Grief and Loss
- Sleep Disturbance

Radio Programming

Offered to all SMU inmates on a weekly basis covering a wide variety of mental health topics, including management of depression, anxiety/worry, anger, stress, grief, guilt, shame, perfectionism, self-esteem, forgiveness, and substance abuse issues. Guided meditation is also offered daily for inmates who wish to participate.

The draft report states: *"One DC SMU inmate indicated that following an incident where he was sexually abused by a staff member, he sought and received a no-contact order. He further reported that despite the no-contact order, he continued to be under the regular supervision of the alleged abuser."*

Response: This is an unsubstantiated allegation made without direct observation by the CIC or supported by facts that can be corroborated. Furthermore, mistreatment of inmates to include insulting remarks, physical abuse, sexual abuse or discrimination based on residency status, race, ethnicity, religious preference, gender, sexual orientation, etc. is prohibited. USP Lewisburg follows PREA compliance reporting procedures according to PREA policy. An environment of respect is practiced and taught from the top down. All instances of staff misconduct are investigated and referred accordingly. If the CIC provides the Bureau with specific information regarding this incident, it will be investigated.

The draft report states: *"Two DC SMU inmates reported being maced before being placed in restraints and were not given the opportunity to rinse off the chemicals. One individual specifically reported being placed back in his cell after being maced and did not receive any soap or washcloth for three days, and in that time could not clean himself or his bed, which was covered in the chemical."*

Response: All inmates are decontaminated according to the Bureau of Prisons' Use of Force policy and all inmates are provided with an opportunity to shower following any use of Oleoresin Capsicum. If the CIC provides the Bureau with specific information regarding these statements, it will be investigated.

The draft report states: *"Program Statement 5566.06, CN-1, states that staff are required to document all incidents of use of restraints, including medical reports. In response to the CIC's 2017 survey, DC SMU inmates reported instances where Health Services at USP Lewisburg failed to document injuries."*

Response: All reviews are and were in accordance with policy. Health Services staff conduct initial restraint checks as well as additional checks and make note of any injuries or circulatory issues and recommend adjustments accordingly.

The draft report states: *"Pursuant to federal regulation 28 C.F.R. § 552.24(e), use of force may not be used as a way to punish inmates. In response to the CIC's 2017 survey, three DC SMU inmates reported being placed in restraints out of retaliation for filing complaints against the facility, including Prison Rape Elimination Act (PREA) complaints, lawsuits, and incident reports to the BOP Office of Internal Affairs (OIA). Additionally, a DC SMU inmate stated that he chooses not to report any incidents because then "you run into a lot of problems" with staff at USP Lewisburg."*

Response: All instances of staff misconduct, to include retaliation, are investigated and referred accordingly. Inmates are not placed in restraints out of retaliation for filing complaints. The Bureau welcomes the opportunity to investigate these claims and urges the CIC to provide specific details.

The draft report states: *"Of particular concern was a DC SMU inmate who said that two SMU inmates who were celled together had set themselves on fire in May 2016 in their cell on D-Block protesting their conditions of confinement. The CIC received additional letters from two different SMU inmates regarding the same incident. Reports received indicated that the SMU inmates informed staff they were going to set themselves on fire and were ignored by staff. After the SMU inmates set themselves on fire, they were placed in restraints."*

Response: There was an incident where two inmates set items in their cell on fire in protest of receiving incident reports. Neither of the inmates set themselves on fire. This incident occurred in an attempt to have staff open their cell door while they were unrestrained, in an attempt to assault staff. Staff immediately responded to the incident, removing the inmates from the self-imposed danger. One inmate attacked and resisted staff. This incident was reviewed, and it was determined the staff response was appropriate and without hesitation.

The draft report states: *"Lack of Access to Mental Health Services: Nine out of 10 DC SMU inmates responding to survey questions reported that they did not have adequate access to mental health services. As reported by USP Lewisburg in response*

to CIC's document request, inmates who have been diagnosed with a mental illness represent 19.5% of the SMU population. However, the Office of Inspector General found that the BOP could not accurately determine the number of inmates with mental illness because staff does not always document inmates' mental illnesses."

Response: The Office of Inspector General did make the finding referenced by the CIC. However, upon being informed of the auditors' concern the Bureau immediately addressed technical oversights in our electronic mental health record system. OIG was satisfied by the Bureau's corrective actions and the Bureau was notified on December 12, 2017, of OIG's decision to close this recommendation. BOP internal controls, such as program review, indicate inmates with mental illness are receiving appropriate care.

The draft report states: *"Three DC SMU inmates reported a change in their mental health care level (MHCL) assignment upon arrival to USP Lewisburg to the lowest care level (MHCL I); and they did not receive treatment for their prior mental health diagnoses."*

Response: This statement does not have sufficient detail for the Bureau to comment on the specific cases. However, Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness, outlines the process of assigning and changing mental health care levels. The Program Statement also specifies the minimum frequency of care required for each care level. Internal controls and reviews, such as program review, indicate inmates are receiving appropriate care. The Bureau encourages the CIC to provide the specific details of this statement in order to investigate the circumstances or validity.

The draft report states: *"Lack of Private Mental Health Sessions: DC SMU inmates reported not having the opportunity for private sessions with mental health staff unless they attempt suicide, only communicating through a cell door, and only being handed puzzles as a form of mental health treatment."*

Response: BOP Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness, specifies the parameters for private mental health contacts. The Program Statement also details the use of evidence based clinical interventions to address mental illness. Thirty day SMU reviews may occur cellside.

The draft report states: *"Responding to Mental Illness Through Use of Restraints: CIC reviewed records showing an inmate being placed in restraints in response to his outbursts in SMU. Despite his requests for psychotropic medication to help control such outbursts, the inmate was placed in restraints to control his behavior. Records did not show subsequent mental health treatment."*

Response: The Bureau does not use restraints as a response to mental illness. This statement does not provide enough specific information to adequately respond. If the CIC provides the specific details regarding this incident and the alleged practice, it will be investigated.

The draft report states: *"DOJ OIG Review of the BOP Use of Restrictive Housing for Inmates with Mental Illness In July 2017, the DOJ OIG released a report on the BOP's use of restrictive housing, including the SMU program, for inmates with mental illness. The OIG found that BOP policies do not adequately address the confinement of inmates with mental illness in Restrictive Housing Units (RHU), including SMU*, and the BOP does not sufficiently track or monitor such inmates. Furthermore, the OIG found that mental health staff do not always document inmates' mental illnesses, leaving the BOP unable to accurately determine the number of inmates with mental illness and ensure that BOP provides appropriate care to them.**"*

Response: OIG's recommendation (#4) for BOP policy to better address conditions of confinement for inmates in restrictive housing were directed toward small restrictive housing units other than SHU, SMU, and ADX that may not have clear policy directing conditions of confinement. The conditions of confinement for SMU inmates are clearly laid out in Program Statement 5217.02, Special Management Units. In addition, Extended Restrictive Housing for SMU inmates (recommendation #2) is clearly defined in Program Statement 5310.16, Treatment and Care of Inmates with Mental illness.

** The Office of Inspector General did make the finding referenced by the CIC. However, upon being informed of the auditors' concern, the BOP immediately addressed technical oversights in our electronic mental health record system. OIG was satisfied by the BOP's corrective actions and the BOP was notified on December 12, 2017, of OIG's decision to close this recommendation.

The draft report states: "In response to the CIC's 2017 survey, six DC SMU inmates reported being in the SMU for three to five years; seven for one to two years; and 11 for less than one year. Of the six DC SMU inmates who reported being in the SMU for three to five years, two (33%) reported having been diagnosed with a mental health illness."

Response: The Bureau cannot provide any details regarding these statements without knowing the specific details.

The draft report states: "At the time of the inspection, the CIC interviewed 14 DC SMU inmates who were currently at Phase One in USP Lewisburg. Of these 14 inmates, nine (64%) reported they were not participating in any academic, vocational, or mental health programming."

Response: Inmates in all phases of the SMU are required to participate in all programs. These programs were stated earlier in this response. The Bureau encourages the CIC to share specific details regarding these cases, in order to adequately respond.

The draft report states: "At the time of the inspection, the CIC interviewed three DC SMU inmates who were currently at Phase Two in USP Lewisburg. Two individuals reported not participating in any vocational or mental health programming. One individual specifically stated a belief that individuals in the SMU are not allowed to participate in any programming while in SMU."

Response: The Bureau requires specific information to investigate these statements. As stated earlier, the aforementioned programs are a required part of the SMU program.

The draft report states: "Of the seven individuals who reported being reset to Phase One at least three times, three (43%) reported being diagnosed with a mental health illness. All three individuals further reported that they have not received adequate access to mental health care services at USP Lewisburg. Furthermore, of these three DC SMU inmates with mental health illnesses, one individual reported he was reset to Phase One numerous times, to such an extent that he "can't even count on both hands."

Response: The only way to determine the validity of these statements would be if the CIC provided specific information regarding these statements.

The draft report states: "SMU inmates at USP Lewisburg, ordinarily, are housed two to a cell, for 23-24 hours a day while in Phase One & Two; and 22-24 hours a day while in Phase Three. As reported in the DOJ and OIG Reports, the practice of housing two inmates in segregation together in the same cell is commonly referred to as "double-celling." In October 2016, National Public Radio (NPR) and The Marshall Project reported, in part, on the practice & consequences of double-celling at USP Lewisburg's SMU. The article quoted an anonymous SMU corrections officer, saying: "I've gone to as many as three, four cell fights in a day." As stated in the DOJ Report's Guiding Principles, inmates who show signs of psychological deterioration should be immediately evaluated by mental health staff.²² The Guiding Principles further state that denial of basic human needs should not be used as a form of punishment."

Response: BOP policy and practice support the DOJ Guiding Principles. Specifically, BOP Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness, requires the Mental Health Treatment Coordinator to work with a multidisciplinary team to mitigate the negative impact of restrictive housing or identify an appropriate placement. In addition, in the case of deterioration, crisis intervention and/or suicide risk assessment must take place promptly.

The draft report states: "Furthermore, both DC SMU inmates who reported filing PREA complaints indicated that they were not given access to mental health care. Specifically, the individuals reported they did not have the opportunity to meet with a psychologist after filing PREA complaints."

Response: Program Statement 5324.12, Sexually Abusive Behavior Prevention and Intervention Program, requires all staff report incidents of sexual abuse to the Operations Lieutenant (see section 115.61) and the Operations Lieutenant promptly refers all inmates reported or suspected of being the victim of sexually abusive behavior to Psychology Services for assessment of vulnerability and treatment needs (see section 115.82). If the CIC provides the Bureau with specific information regarding this case, it will be investigated.

The draft report states: "Based on DOJ reports, observations, inmate reports, and other information collected in 2017, the CIC finds that USP Lewisburg continues to be in non-compliance with BOP's policies on the SMU program and Treatment and Care of Inmates With Mental Illness.

Staffing Levels

As of February 2017, Psychology Services staff at USP Lewisburg consisted of 19 on-site staff, made up of 17 BOP staff members and two U.S. Public Health Service (PHS) staff members, who provide psychology services to a total of 1,247 inmates at USP Lewisburg. Of the 19 staff in Psychology Services, three Psychologists are designated for SMU. Therefore, with a SMU population of 618 inmates at the time of the CIC inspection, USP Lewisburg was operating with one Psychologist per every 206 SMU inmates. Despite the increased ratio of SMU Psychologists to inmates from the OIG report, the CIC continued to receive reports of inmates not receiving mental health services at USP Lewisburg, as well as reports of declining Mental Health Care Levels (MHCL) of individuals while incarcerated at USP Lewisburg (discussed below)."

Response: BOP internal controls and reviews, such as program review, indicate inmates are receiving appropriate care.

The draft report states: *"SMU Population of Inmates with Mental Illness & Access to Mental Health Services*
USP Lewisburg is a Mental Health Care Level II facility. As of January 2017, USP Lewisburg reported there were 130 SMU inmates overall, including 15 DC inmates, who had been diagnosed with a mental health illness. As reported by USP Lewisburg in response to CIC's document request, inmates who have been diagnosed with a mental health illness represent 19.5% of the SMU population. However, the OIG found that the BOP could not accurately determine the number of inmates with mental illness because staff does not always document inmates' mental illnesses."

Response: The Office of Inspector General did make the finding referenced by the CIC. However, upon being informed of the auditors' concern, the BOP immediately addressed technical oversights in our electronic mental health record system. OIG was satisfied by the BOP's corrective actions and the BOP was notified on December 12, 2017, of OIG's decision to close this recommendation.

BOP internal controls, such as program review, indicate inmates with mental illness are receiving appropriate care.

The draft report states: *"In 2015, a SMU Psychologist reported to OIG that approximately 90% of SMU inmates have a mental illness (if including personality disorders).³⁶ Without adequate access to mental health services, many inmates may not have the opportunity to be properly diagnosed, and, consequently, continue to be denied necessary mental health care*

as required in P5310.16. In support of this finding, in response to the 2017 survey, several DC SMU inmates with no diagnosed mental health illnesses reported requesting mental health services on several occasions but never receiving a response. Out of 10 DC SMU inmates who responded and required mental health services, nine reported not having adequate access to mental health services, and only one reported having adequate access to mental health services."

Response: This statement does not have sufficient detail for the Bureau to comment on the extent to which staff were responsive to individual requests for mental health services. However, for inmates with personality disorders such as antisocial personality disorder, Criminal Thinking and other group interventions offered in the SMU are widely accepted evidence-based treatments. If the CIC provides the Bureau with specific information, it will be reviewed.

The draft report states: *"The CIC asked DC SMU inmates who required mental health services to rate their satisfaction with both the quality and wait times of mental health services at USP Lewisburg. Out of 10 DC SMU inmates who responded and required mental health services, all 10 reported being very unsatisfied with the quality of mental health care at USP Lewisburg. Furthermore, out of 10 DC SMU inmates who responded and required mental health services, eight reported being very unsatisfied and two reported being unsatisfied with the wait times at USP Lewisburg. BOP policy states that an individual's MHCL may only be changed by a psychologist, psychiatrist, or qualified mid-level practitioner after a review of records and a face-to-face clinical interview establishing a diagnosis or indicating the absence of a diagnosis. The BOP policy further states that mental health care levels are not changed for administrative, designation, or transfer purposes."*

Response: This statement does not have sufficient detail for the Bureau to comment on inmate opinions regarding satisfaction with mental health care. The statement above is broken up and responses to specific sections are provided directly below them.

The draft report states: *"In response to the CIC's 2017 survey, three DC SMU inmates reported a change in their MHCL assignment upon arrival to USP Lewisburg. All three individuals reported being dropped to a MHCL One and being re-diagnosed with Antisocial Personality Disorder, despite having previous diagnoses of serious mental illnesses, including Post-Traumatic Stress Disorder (PTSD), depression, and anxiety."*

Response: The Bureau carefully screens all inmates prior to SMU placement. Inmates with serious mental illness are not designated to the SMU. Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness, outlines the process of assigning and changing mental health care levels. The Program Statement also specifies the minimum frequency of care required for each care level.

The draft report states: "As a result of the policy changes made to the SMU Program, additional opportunities were created to review an inmate's mental health concerns and designate him to a different facility, if approved by the BOP's Central Office Psychology Services Branch. In addition to an initial intake screening evaluation, inmates in the SMU are supposed to be evaluated every 30 days by mental health staff, with additional services for emergencies or inmates requiring routine/follow-up visits. Mental health evaluations in restrictive housing, including the SMU, is supposed to include a review of an inmate's records, behavioral observations, a clinical interview, and psychological testing (if clinically indicated)."

Response: Formal reviews and internal controls, such as program review, indicate Lewisburg mental health staff are conducting screenings and reviews consistent with BOP policy. Specifically, staff are conducting intake screenings, 30 Day SMU Reviews, 18 Month Extended Restrictive Housing Reviews, and providing emergency services such as suicide risk assessments and crisis intervention.

The draft report states: When asked if evaluated by mental health staff every 30 days, all 21 DC SMU inmates (100%) who responded said no. Several DC SMU inmates reported never having the opportunity for private sessions, only communicating with mental health staff through a cell door, and only being handed puzzles during rounds. One individual who responded to the survey and required mental health services had been in the SMU program since 2015 and reported that he had never communicated in a private setting with Psychology staff, and thus never felt that he could safely talk about his sensitive mental health concerns. He further reported he was recently taken off his anxiety medication without any warning, and despite never having a private interview with anyone from Psychology Services. Of significant concern were two inmate reports describing situations where Psychology staff told inmates psychological evaluations are based solely off an inmate's incident reports. Furthermore, both individuals also reported that inmates are not

afforded the opportunity for a private interview with mental health staff unless they attempt suicide. One individual who requested a private interview at least six times since being at USP Lewisburg stated: "The only time they provide one-on-one is when you're hanging from a noose."

Response: Thirty Day SMU Reviews may take place cell side. However, they should be continued in private upon an inmate's request or if sensitive material is being discussed. Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness, specifies the parameters for private mental health contacts.

The draft report states: *"Of the seven individuals interviewed in 2017 who reported being placed in restraints, three (43%) indicated they had been diagnosed with a mental health illness. All three individuals further reported they had not received any mental health care services at USP Lewisburg. One of the DC SMU inmates who was interviewed by the CIC and provided BOP records, evidenced being placed in restraints after repeated requests for a private interview with psychology staff and be placed back on his psychotropic medication to control his behavioral issues. According to documentation, psychology staff responded to his requests for mental health treatment by contacting corrections staff for the behavioral issues in question, specifically the reason given was because of his "unwillingness to engage." Corrections staff then proceeded to place the inmate in restraints. Inmates suffering from mental illness who are not provided appropriate treatment and care may be prone to violent and/or disruptive behavior resulting from symptoms of his mental illness, as evidenced by the behavioral issues reported by the inmate above. Instead of being provided appropriate mental health treatment, these individuals suffer from the symptoms of their illnesses and are then further punished by being placed in restraints, usually for extended periods of time."*

Response: The Bureau does not use restraints as a response to mental illness. Mental health providers use medication and/or evidence-based psychosocial treatments, as appropriate, to treat mental illness. If the CIC provides the specific details regarding this incident and the alleged practice, it will be investigated. If the CIC provides the Bureau with specific information regarding these statements, it will be investigated.

Recommendations by CIC:

1. Revise Program Statement 5217.02 to require individual assessments of SMU inmates housed prior to the effective date of the policy revision to include a limitation of 24 months as of August, 9 2016.

Response: Thank you for your input. The Bureau will consider your recommendation.

2. Formally develop and implement interactive educational, vocational, and mental health programming for all SMU inmates in all phases.

Response: Education and Psychology staff currently provide programming opportunities for SMU inmates. Vocational training programs consistent with inmate security needs are being explored. Examples of programs were provided on pages three and four in this response.

3. Revise Program Statement 5217.02 to require inmates housed in SMU during the final 180 days (6 months) of his incarceration be individually assessed by a multi-disciplinary team including Executive Staff, the inmate's Unit Team, Health Services, and Psychology Services, to determine if individual can safely be placed in a less restrictive setting to prepare for successful reentry into society.

Response: Program Statement 5217.02 is in the process of being updated to reflect compliance with ACA standard 4-RH-0030.

4. Formally develop and implement a targeted re-entry programming for inmates being released directly to the community from the SMU program.

Response: USP Lewisburg currently has a Re-Entry Affairs (RAC) Coordinator on staff who works with inmates to address re-entry and release preparation needs. The RAC provides inmates within 18 months of release a packet containing information specific to the inmate's location destination to include shelter, food banks, felon friendly employment, medical and mental health assistance locations. The Re-Entry Coordinator also works with the Unit Team to insure the inmate has at least one form of identification.

5. Provide additional guidance to all BOP staff on referral procedures, with a specific focus on post-decision appeal

decisions made by the Office of General Counsel (OGC) after transfer to the SMU.

Response: SMU Referral procedures are addressed extensively in Program Statement 5217.02. The Bureau does not agree that staff require guidance on the referral procedures or post decision appeal decisions.

6. In addition to reviewing CDR and rate of assaults to assess the relative safety of USP Lewisburg, the BOP should consider significant incidents and concerns raised through inmate grievances, complaints, and third-party reports to better assess the safety of the SMU program for both inmates and staff.

Response: These factors are currently considered.

7. Ensure each cell at USP Lewisburg has an operable emergency call button.

Response: Staff conduct 30 minute-irregular rounds, as required per policy, and are available on a 24-hour basis to address emergencies or any other inmate issues or complaints.

8. Formally develop and implement an expedient alternative practice to assigning cellmates that requires input from mental health staff and inmates.

Response: The on-going and current practice of cell assignments consists of a weekly and as-needed multi-disciplinary committee. This committee includes Psychology, Correctional Services, Unit Team, and Executive Staff oversight.

9. Pursuant to 287 C.F.R. § 115.33, ensure inmate education on how to report incidents or suspicions of sexual abuse or sexual harassment is effectively performed.

Response: This information is provided during the intake screening process, signed and dated by the inmate indicating he was advised of the reporting procedures identified in the institution A&O handbook. Additionally, it is posted in the entry way of each individual housing unit. USP Lewisburg was found to be 100% PREA compliant in 2017.

10. Revise Program Statement 5566.06, CN-1 to require staff obtain a video camera and record all restraints check, including two-hour Lieutenant Checks, 24-hour Health Services Staff Review, and 24-hour Psychology Staff Check.

Response: The Bureau disagrees with this recommendation.

11. Revise Program Statement 5566.06, CN-1 to develop and implement protections against being placed in restraints as punishment.

Response: Program Statement 5566.06 requires:

"Restraint equipment or devices may not be used (as a method of punishing an inmate)".

It further outlines the requirements of the "After-Action Review Team" which reviews the use of force incident (placement of an inmate in restraints) to determine compliance with the provisions of the policy.

12. Hire an independent Qualified Mental Health Professional (QMHP) to provide evaluations of inmates' current level of functioning for SMU inmates at USP Lewisburg. If, in the clinical judgment of this independent evaluator, the inmate requires a higher level of care, the BOP should make arrangements for their transfer to a more appropriate facility.

Response: BOP policy requires a thorough screening process to keep inmates with serious mental illness out of the SMU as well as processes to remove inmates who deteriorate in the SMU. These processes are conducted with oversight from the Central Office. The BOP hires doctoral level psychologists as front line providers of mental health services. These highly trained professionals have the expertise to determine an inmate's need for care.

USP Lewisburg's Psychology Department are highly trained and professional staff who are properly tasked with making decisions regarding inmate mental health needs.

13. Revise Program Statement 5310.16 to require inmates in the SMU to sign a document acknowledging receiving a clinical interview for all mental health evaluations.

Response: The current policy requires staff to document the details of such meetings. If necessary, the psychology staff may choose to take additional steps in documenting a location.

14. Revise Program Statement 5310.16 to require all staff to document the location of critical contacts with inmates in the

SMU.

Response: The BOP shares the CIC's interest in ensuring inmates are removed from their cells for mental health contacts and evaluations that warrant a private setting, as described in policy. BOP is currently exploring strategies to enhance oversight in this area, including a modification to its documentation system that would prompt the author of the mental health note to indicate the location of the contact.

15. Develop and implement diversion and mitigation interventions for all SMU inmates as required in Program Statement 5310.17 to prioritize alternatives to placing inmates in restraints in response to symptoms of mental illness.

Response: Psychology Services staff are available to work with inmates on a variety of diversion and mitigation intervention including improving coping skills and anger management.

16. Increase staff training on recent BOP policy revisions affecting operations of SMU.

Response: Bureau of Prisons' staff, to include USP Lewisburg, are highly trained professional staff and are trained with the recent BOP policy revisions affecting SMU operations.

17. Require Executive Staff to frequently monitor special mail procedures, including tracking all incoming & outgoing special mail and requiring SMU inmates to sign a document acknowledging receiving special mail opened in the inmate's presence.

Response: Correctional Systems and Correctional Programs staff are properly trained in the day-to-day management of inmate mail processing. All mail is processed according to established Bureau of Prisons' policies.

18. Reinstate in-person visitation for all SMU inmates in addition to offering video visitation, with capability for family members to connect remotely from DC.

Response: Video visiting is available in the front entrance of USP Lewisburg. It was implemented as the primary means of visiting to enhance the safety of both inmates and staff. Inmates may request contact visits as special visits. The visiting policy is applied consistently to all inmates regardless of where they resided before their incarceration.

19. Identify and develop alternatives to imposing sanctions that reduce the use of multi-year denial of telephone and visitation privileges.

Response: Sanctions imposed for prohibited acts serve a twofold purpose. First, as punishment for the prohibited act and second, as a deterrent for both the offender and other inmates to dissuade them from committing similar prohibited acts.

DHO's at USP Lewisburg sanction "progressively" in accordance with nationally accepted standards taught during the Discipline Hearing Officer Certification Course conducted at the Management and Specialty Training Center. The concept of progressive sanctioning involves imposing a comparatively minimal sanction for a first-time offense using loss of a privilege, such as commissary, for a limited period of time.

The practice of progressive sanctioning involves increasing the length of sanctions imposed, as well as including sanctions involving loss of privileges not directly related to the misconduct, after other less restrictive sanctions have been deemed ineffective at deterring a given inmate from repetitively engaging in a specific prohibited act.

Therefore, multi-year denial of a specific privilege for a given inmate would result only in cases where an inmate repetitively commits the same prohibited act after less restrictive sanctions were already imposed and deemed ineffective.

Finally, should an inmate appeal the decision of the DHO, the review authority always considers whether an appropriate sanction was imposed for the severity of the prohibited act, and other relevant circumstances.

20. Require each SMU cell to have blank copies of all administrative remedy forms inside the cell.

Response: Administrative Remedy Procedure forms are controlled by staff to insure the remedy request is assigned a Remedy ID number and properly logged so it can be tracked through the multi-level procedure.

21. Require Executive Staff to regularly monitor administrative remedies, including tracking submissions of both informal resolution attempts and initial filings.

Response: The Executive Assistant provides direct oversight of

the Administrative Remedy process at USP Lewisburg to include initial filings and informal resolution attempts. Additionally, USP Lewisburg Executive Staff make routine rounds to address and resolve inmate grievances and/or issues.

22. Revise Program Statement 1330.18 to require inmates in the SMU to sign a document acknowledging submitted informal complaints, initial filings, and appeals with the date and provide a copy to the inmate.

Response: Once received, staff enter the complaint into the database and the complaint is assigned a number which is written on the form and provided to the inmate when the response is provided. This number is used for the next appeal if the inmate wishes to continue his complaint to the next level.

23. Regularly monitor trends of significant incidents, including use of force and placement in restraints, for inmates who choose to use the administrative remedy process to ensure inmates are provided meaningful access to resolve issues relating to their confinement without fear of staff retaliation.

Response: The Administrative Remedy Coordinator and Administrative Remedy Clerk see all filed remedies and thus, are aware of any trends in filing subject matter.

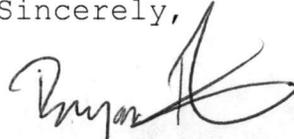
24. Monitor requests for transfer to SMU, placement of inmates in SMU Program, and treatment of inmates for disproportionate treatment based on DC Criminal Code Offender status (indicated by "007, 016, 000).

Response: All inmates in the Bureau of Prisons are treated fairly and according to established BOP policies and guidelines. Inmates' designations to the SMU are based upon established guidelines and not based upon their geographical origin or sentencing district.

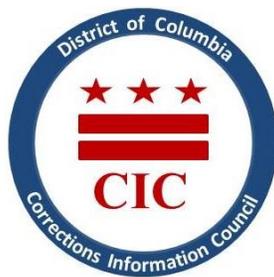
I appreciate the opportunity to review and provide comments to your inspection report of USP Lewisburg. I hope to continue working closely with the CIC to improve the operations of Bureau facilities and ensure we are meeting the needs of the inmate population.

Please contact me at (202)353-3584 if I may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan Feinstein". The signature is stylized with a large, sweeping flourish at the end.

Bryan Feinstein
Acting Administrator
Correctional Programs Branch



**District of Columbia
Corrections Information Council**

The electronic version of this report
is available on the CIC website:
<https://www.cic.dc.gov/>