



## DEPARTMENT OF CORRECTIONS

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LaDonna H. Thompson  
Commissioner

Al C. Parke  
Deputy Commissioner

### MEMORANDUM

Date: September 14, 2009

To: LaDonna H. Thompson, Commissioner

From: James Erwin, Director of Operations

A handwritten signature in cursive script, appearing to read "James Erwin", written over the "From:" line.

RE: OCCC Investigative Report

Please find attached the requested Investigative Report in regard to the allegations of sexual misconduct by staff members of the Otter Creek Correctional Complex in July of 2009.

Cc: Al C. Parke, Deputy Commissioner

JE/mss

**This report documents the investigation conducted by an investigative team from the Kentucky Department of Corrections in response to allegations of sexual misconduct by staff members at the Otter Creek Correctional Complex as managed by Corrections Corporation of America.**

### **I. Incident Details:**

CCA notified KDOC on July 2, 2009 that a list of nineteen (19) inmate names was sent by an OCCC inmate to a Hawaiian inmate's mother. The list contained names of inmates alleged to have been sexually assaulted by OCCC staff, sixteen (16) of the names were Kentucky inmates. The list included several cases involving KDOC inmates that had previously been reported and investigated; it also included names of inmates not reported to KDOC. The list was also sent to the Honolulu Advertiser Newspaper and to CCA.

Upon receipt of the allegation, Commissioner L. Thompson assigned an Investigative Team to immediately review the allegations.

\*OCCC housed inmates from both the Kentucky and Hawaii Department of Corrections at the time that the letter was authored.

### **II. KDOC Investigative Team Members:**

Wende Abernathy-Perkins, Corrections Program Administrator  
Jeff Hulker, Adult Institutions PREA Program Administrator  
Eric Buckley, Contract Management Branch Manager  
Gary Prestigiacomio, Deputy Warden FCDC  
Darryl Neace, OCCC State Monitor

### **III. Review Process:**

- Review of OCCC Incident Reports and Investigative files
- Review of Personnel records for each alleged perpetrator.
- Each case was re-investigated regardless of the original disposition for the case. In some instances, this required interviewing inmates released from incarceration.
- Review of the OCCC protocol and process for investigating PREA allegations

#### **IV. Guidelines of PREA (Prison Rape Elimination Act)**

- A.** The Prison Rape Elimination Act is a federal law passed in 2003 whose overall purpose is "to provide for the analysis of the incidence and effects of prison rape in Federal, State, and local institutions and to provide information, resources, recommendation and funding to protect individuals from prison rape."
- B.** KDOC's Sexual Abuse / Assault Prevention and Interventions Programs (KDOC Policy and Procedure 14.7) supports PREA goals and standards and requires the following incidents to be reported:
  - Inmate-to-inmate non-consensual sexual acts
  - Inmate-to-inmate abusive sexual contacts
  - Staff Sexual Misconduct (All Staff to Inmate sexual contact shall be considered Non-Consensual)
  - Staff Sexual Harassment
- C.** KDOC Policy 14.7 requires that each alleged PREA incident is reported in three steps:
  - 1. Extraordinary Occurrence Report (EOR)
  - 2. Sexual Acts/Contact Allegation Form
  - 3. Notification of the Kentucky State Police
- D.** PREA Investigations result in one of the following dispositions:
  - 1. Substantiated – Event determined to have occurred
  - 2. Unsubstantiated – Insufficient evidence to make determination
  - 3. Unfounded – Determined not to have occurred

## **V. Summary of Investigative Findings**

- A. The below listed sixteen (16) names are the KDOC inmates identified in the letter that was submitted to the Honolulu Advertiser Newspaper.

1.	[REDACTED]	[REDACTED]
2.	[REDACTED]	[REDACTED]
3.	[REDACTED]	[REDACTED]
4.	[REDACTED]	[REDACTED]
5.	[REDACTED]	[REDACTED]
6.	[REDACTED]	[REDACTED]
7.	[REDACTED]	[REDACTED]
8.	[REDACTED]	[REDACTED]
9.	[REDACTED]	[REDACTED]
10.	[REDACTED]	[REDACTED]
11.	[REDACTED]	[REDACTED]
12.	[REDACTED]	[REDACTED]
13.	[REDACTED]	[REDACTED]
14.	[REDACTED]	[REDACTED]
15.	[REDACTED]	[REDACTED]
16.	[REDACTED]	[REDACTED]

- B. In order to establish a baseline for the investigation, the Team reviewed KDOC Records to identify the eleven (11) PREA cases that had been reported by OCCC to KDOC in accordance with CPP 14.7 for 2007, 2008, and prior to July 2, 2009:

INMATE	STAFF	Disposition
1. [REDACTED]	George Hale	Substantiated / Prosecuted
2. [REDACTED]	Randy Hagans	Substantiated / Prosecuted
3. [REDACTED]	Gordan Tackett	Substantiated / Not prosecuted due to inability to prove sexual contact.
4. [REDACTED]	Kevin Younce	Substantiated / Prosecuted
5. [REDACTED]	Charles Prater	Substantiated / Prosecuting
6. [REDACTED]	[REDACTED]	Unsubstantiated
7. [REDACTED]	[REDACTED]	Unsubstantiated
8. [REDACTED]	[REDACTED]	Unsubstantiated
9. [REDACTED]	[REDACTED]	Unfounded
10. [REDACTED]	[REDACTED]	Unfounded
11. [REDACTED]	[REDACTED]	Unfounded

- C. After comparison of the reported 16 allegations (A.) to the 11 cases previously reported (B.), the Team determined that there were eight cases that had not been reported by OCCC as PREA cases to KDOC:

INMATE	STAFF
1. [REDACTED]	[REDACTED]
2. [REDACTED]	[REDACTED]
3. [REDACTED]	[REDACTED]
4. [REDACTED]	[REDACTED]
5. [REDACTED]	[REDACTED]
6. [REDACTED]	[REDACTED]
7. [REDACTED]	[REDACTED]
8. [REDACTED]	[REDACTED]

- D. Investigative interviews by KDOC and reviews of OCCC investigative files were conducted on all eight (8) cases listed above in section V. C. The file reviews determined that there was no evidence to warrant a PREA investigation for the cases involving inmates [REDACTED], [REDACTED], [REDACTED] or [REDACTED]. Furthermore, during the interviews of the inmates by KDOC, the inmates did not reveal any PREA allegations or concerns.

INMATE	STAFF	DISPOSITION
1. [REDACTED]	[REDACTED]	No PREA Evidence
2. [REDACTED]	[REDACTED]	No PREA Evidence
3. [REDACTED]	[REDACTED]	No PREA Evidence
4. [REDACTED]	[REDACTED]	No PREA Evidence

- E. Investigative interviews and reviews of OCCC investigative files by KDOC were conducted on all eight (8) cases listed above in section V. C. The file reviews determined that there was sufficient evidence to warrant a PREA investigation for the four (4) below listed cases. These cases were not reported or investigated as PREA events as required by CPP 14.7.

1. [REDACTED]: [REDACTED] was discharged for violations of inappropriate correspondence. Review of investigative file revealed that [REDACTED] alleged that [REDACTED] made sexual comments to her.

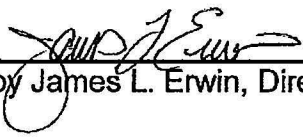
2. [REDACTED] was terminated for Misconduct/Destruction of Property. Staff Contact form states that [REDACTED] was observed kissing inmate [REDACTED].
3. [REDACTED] was terminated for Inappropriate Contact with Former Resident.
4. [REDACTED] was terminated for Transfer of Contraband to Residents. [REDACTED] wrote in a statement that he "talked to her a lot", and that he brought her cigarettes.

F. During the KDOC interviews and file reviews, an additional three (3) possible PREA cases were revealed. These three cases were not reported or investigated as PREA events as required by CPP 14.7:

5. [REDACTED]. Unknown writer authored a report that she witnessed [REDACTED] try to get [REDACTED] in the staff bathroom.
6. [REDACTED]. [REDACTED] reported [REDACTED] making sexual remarks to her and that she witnessed him touching another inmate's breast.
7. [REDACTED] reported that he observed [REDACTED] and [REDACTED] kissing.

## **VI. Review Team Recommendations**

1. OCCC to conduct PREA investigations in accordance with CPP 14.7 for the seven cases identified in Section V. E. and F.
2. Provide Direct supervision of Kentucky inmates by female staff in housing units and medical unit
3. Increase Female staffing ratio for Security Staff
4. CCA OCCC to conduct a security assessment of vulnerable areas to include those areas where PREA incidents have been reported and implement measures to mitigate future occurrences. The measures can include but are not limited to use of technology and automation (cameras and remote sensors), policy and procedures, or improvements to physical structures. The assessment must be reviewed and proposed corrective actions approved by the KYDOC
5. CCA OCCC to report any sexual contact involving any inmate incarcerated at the facility, to include inmates from other jurisdictions, to KYDOC in accordance with Prison Rape Elimination Act (PREA) standards as those incorporated by the Kentucky Department of Corrections and as required by KYDOC Corrections Policies and Procedures.
6. Enhance effectiveness of Internal Affairs through training on PREA investigations
7. Enhance the organization of the Internal Affairs by implementing a cross-referenced filing system.
8. Interpersonal Communications training included in the Basic Officer Training and annual in-service training curriculum
9. Implementation of new policy limiting/restricting inmate access to areas where PREA incidents have been alleged to have occurred
10. PREA Retraining for CCA OCCC staff
11. Implement plan to provide additional security surveillance cameras
12. Establishment of a new staff position to monitor institution's security cameras
13. Revise Key Control Policy to limit access to secure areas
14. Reinforcement of policies to prohibit non-assigned staff from entering other posts

  
Prepared by James L. Erwin, Director of Operations