

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General



Inspector General

December 31, 2015

Thomas N. Faust
Director
Department of Corrections
2000 14th Street, N.W., 7th Floor
Washington, D.C. 20009

Dear Mr. Faust:

This letter is to inform you of the results of the Office of the Inspector General's (OIG) special evaluation of the *Department of Correction's Inmate Release Procedures at the Central Detention Facility* (OIG No. 16-I-0071). This special evaluation was part of our *Fiscal Year 2015 Audit and Inspection Plan*.¹ The following sections summarize our special evaluation's scope and methodology, findings, and suggested improvements.

Evaluation Objective

The objective of this special evaluation was to determine whether inmates released between the hours of 10:00 p.m. and 7:00 a.m. were conducted in accordance with the "DOC Inmate Processing and Release Amendment Act of 2012" (codified at D.C. Code § 24-211.02a), hereinafter referred to as "the Act." The Act requires that the DOC meet seven specific provisions prior to an inmate's late night release.²

Evaluation Background

In May 2012, the Council of the District of Columbia's Committee on the Judiciary noted that "[s]ince 2003, the Council has been struggling with the [DOC] to eliminate the late night release of inmates from the D.C. Jail [Central Detention Facility (CDF)]. Such releases potentially harm inmates because access to necessary services such as housing, counseling, and transportation is limited or non-existent."³ The Council further stated that in fiscal year (FY) 2011, 10-15 inmates per month were released after 10:00 p.m.⁴ In the first 6 months of FY 2012, only five inmates were released after 10:00 p.m.⁵

¹ Available at <http://oig.dc.gov>.

² See D.C. Code § 24-211.02a(c).

³ REPORT ON BILL 19-428, "DOC INMATE PROCESSING AND RELEASE AMENDMENT ACT OF 2012," at 1 (2012).

⁴ *Id.* at 2.

⁵ *Id.* at 3.

Evaluation Scope and Methodology

Our special evaluation assessed whether the DOC complied with the Act's provisions for late night releases that occurred during the period of October 1, 2014, through December 31, 2014, and focused only on permanently released inmates.⁶

The DOC provided a list of 711 inmates who were permanently released from the CDF that were within this evaluation scope. Our special evaluation team analyzed the list and determined that only one inmate was released between the hours of 10:00 p.m. and 7:00 a.m.

To further assess the thoroughness of the DOC's inmate release documentation, we reviewed a judgmental sample of other inmate release files from the scope period. We selected three inmate release provisions – clothing, medication, and transportation – and reviewed a sample of inmate release records to determine whether the DOC documented actions taken with regard to these provisions.⁷ From the list of 711 permanently released inmates, the team requested release files for 50 inmates. However, only 37 of the files we received pertained to inmate releases that occurred within the scope period.⁸ These 37 files represented 5 percent of the total inmate release files from the review period.

We conducted our fieldwork from May 2015 to August 2015. Our fieldwork included conducting on-site observations of the CDF, a review of DOC inmate release policies and procedures, interviews with DOC employees, and a review of inmate case files. This special evaluation was conducted in accordance with standards established by the Council of the Inspectors General on Integrity and Efficiency. As a matter of standard practice, our special evaluations pay particular attention to the quality of internal control.⁹

Late Night Release Finding

We found performance in this area to be satisfactory. Between October 1, 2014, and December 31, 2014, there was one instance where an inmate was permanently released between the hours of 10:00 p.m. and 7:00 a.m. This release occurred at approximately 10:34 p.m. Based on our review of the release case files, documentary evidence indicated that the DOC met its statutory requirements outlined in D.C. Code § 24-211.02a.

⁶ “Permanently released” means that an inmate was released to his/her own self-custody and had no other confinement obligations.

⁷ See D.C. Code §§ 24-211.02a(c)(2), (3), and (5).

⁸ Thirteen out of the 50 files requested covered inmates released either prior to October 1, 2014, or after December 31, 2014. As a result, we only reviewed 37 release files.

⁹ Internal control” is defined by the U.S. Government Accountability Office (GAO) as comprising “the plans, methods, policies, and procedures used to fulfill the mission, strategic plan, goals, and objectives of the entity” and “is not one event, but a series of actions that occur throughout an entity’s operations.” STANDARDS FOR INTERNAL CONTROL IN THE FEDERAL GOVERNMENT at 5 - 6 (Sept. 2014). Furthermore, internal control is a process that provides “reasonable assurance” that the objectives of an entity will be achieved; serves as the “first line of defense in safeguarding assets;” and is an “integral part of the operational processes management uses to guide its operations.” *Id.*

Review of Release File Findings

Our review of 37 inmate release files from the expanded, judgmental sample indicated thorough documentation of actions taken prior to inmate releases. Specifically:

- 36 release files indicated that permanently released inmates were provided either their own clothing or seasonally appropriate clothing.
- All 37 release files indicated that the inmate either received medication(s) needed upon release, or did not require medication.
- 36 release files indicated that inmates were provided a Metro farecard for transportation.
- All 37 release files recorded the release time in the electronic database within 10 minutes of the actual release time manually noted on the "Release Authorization Form."

Based on the above findings, we are reasonably assured that the DOC's inmate release files were thorough and accurate.

Suggestions for Improvement

During the course of this special evaluation, we noted four conditions that merit your attention. The corresponding suggestions, if implemented, will improve the processing and release of inmates from the CDF.

- **Inmate's Written Agreement to Access Residence or Other Housing.** The Act requires that:

[t]he inmate has a residence or other housing that the inmate is able to access and the inmate has agreed, in writing, to access the residence or housing at the time of the inmate's release; or . . . [a] shelter is able and willing to receive the inmate at the time of the inmate's release and the inmate has agreed, in writing, to access the shelter at the time of the inmate's release.^{10]}

Although DOC's current inmate release procedures require DOC personnel to verify that inmates are able to access a residence or other housing at the time of release, there is nothing in the procedures detailing what the verification process entails and there is no requirement that DOC personnel document actions taken to verify inmates' housing arrangements upon release. Without obtaining confirmation of the

¹⁰ D.C. Code §§ 24-211.02a(c)(1)(A) and (B).

inmate's residential or housing arrangements, an inmate could be released without access to adequate shelter. To address this risk, the DOC could institute a process that both details the steps that DOC personnel can take to confirm the inmate's ability to access a residence or other housing arrangement (e.g., by calling the family member/friend/shelter where the inmate will be staying and providing notes of the discussion in the "Inmate Acknowledgement of Release Processing"), and have the inmate verify in writing that he will access the residence or other housing arrangement.

- **Transportation Immediately Following Late Night Release.** We found that the DOC had limited options to provide transportation for inmates released late at night. Previously, the DOC had a purchase order agreement with a taxi company to provide transportation for late night inmate releases. However, due to lack of use, the Office of Contracting and Procurement reportedly canceled this purchase order. The Act requires the inmate to have immediate transportation upon release from the CDF by "[a] member of the [DOC] transportation unit; [a] taxi, at the [DOC's] expense; or [a] friend or family member" ¹¹ As a result of the DOC's inability to obtain taxi services, the only other options are to have a DOC transportation unit or family member/friend provide transportation from the CDF. DOC should implement steps to become compliant with the Act and/or seek an amendment if providing taxi service is no longer viable.
- **Inmate's Waiver to Remain at the CDF Overnight.** The Act provides inmates with the option to remain at the CDF until release at 7:00 a.m. ¹² We found that current policy requires inmates to sign the "Safe Release of Inmates Amendment Act Notice and Waiver" (DOC waiver) if they elect to remain at the CDF until 7:00 a.m. Inmates agree to a waiver stating that they have "knowingly, intelligently, and voluntarily decided to remain at the CDF until 7:00 a.m." The DOC waiver also requires an inmate to agree to, *inter alia*:

indemnify and save harmless the said District of Columbia, its officers, agents, servants and employees, against any and all claims for damages, costs and expenses arising out of any deprivation, infringement, injury or damage to [the inmate] or [the inmate's] property from the election to stay overnight in a [DOC] [f]acility.

As a result of the wording contained in the DOC waiver, inmates who choose to stay overnight and agree to the above language may be deprived of the same rights and protections that other CDF inmates receive during mandated incarceration. To address this risk, the DOC should seek a legal opinion from the D.C. Office of the

¹¹ *Id.* § (c)(5).

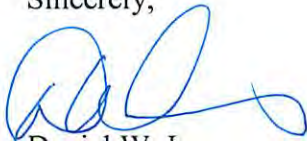
¹² *Id.* § (c)(6).

Attorney General to ensure the waiver does not encumber an inmate's applicable rights and protections.

- **Warden Certification of Late Night Requirements.** The Act requires the Warden to certify, in writing, that the requirements of D.C. Code § 24-211.02a(c) have been met.¹³ Currently, the DOC Inmate Records Office and Inmate Reception Center send the Warden the following forms: "Inmate Acknowledgment of Release Processing," "Release Authorization Form," and "Safe Release of Inmates Amendment Act Notice and Waiver." However, current DOC procedures do not require that an inmate's "Medication Receipt Release/Transferred Inmates" form be sent to the Warden for certification and review. As a result, in the future, the DOC may not comply with the statutory requirements governing late night releases. To address this risk, the DOC should review its processes to ensure all required documents are reviewed and certified by the Warden prior to an inmate's release.

We appreciate the cooperation and courtesies extended to our staff during this engagement. If you have any additional questions related to this letter, please contact me or Mr. Edward Farley, Assistant Inspector General for Inspections and Evaluations, at (202) 727-2540 or Edward.Farley@dc.gov.

Sincerely,



Daniel W. Lucas
Inspector General

DWL/mnw

cc: The Honorable Phil Mendelson, Chairman, Council of the District of Columbia
The Honorable Kenyan McDuffie, Chairperson, Committee on the Judiciary
The Honorable Jack Evans, Chairperson Committee on Finance and Revenue
Mr. Rashad M. Young, City Administrator, District of Columbia
The Honorable Kathy Patterson, District of Columbia Auditor, Office of the D.C.
Auditor

¹³ *Id.* § (c)(7).