

Volume 1

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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Yvonne Gonzalez Rogers, Judge

CALIFORNIA COALITION FOR WOMEN)
PRISONERS, ET AL.,)

Plaintiffs,)

VS.)

NO. CV 23-04155-YGR

UNITED STATES OF AMERICA)
FEDERAL BUREAU OF PRISONS,)
ET AL.,)

Defendants.)

Oakland, California

Wednesday, January 3, 2024

EVIDENTIARY HEARING

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8:01 a.m.

P R O C E E D I N G S

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THE CLERK: Your Honor, now calling civil matter
CV 23-4155-YGR, California Coalition for Women
Prisoners, et al. vs. United States of America Federal Bureau
of Prisons, et al.

If counsel could please state their appearances for the
record, starting with counsel for plaintiffs.

THE COURT: Come to the mics, please.

MR. GALVAN: Ernest Galvan, Rosen Bien Galvan &
Grunfeld, for plaintiffs.

THE COURT: Hold on. Good morning.

MR. CHA-KIM: Good morning, Your Honor. Stephen
Cha-Kim, Arnold & Porter, for the plaintiffs.

THE COURT: Good morning.

MR. NIMNI: Good morning, Your Honor. Oren Nimni from
Rights Behind Bars, for plaintiffs.

MR. ANDERSON: Good morning. Carson Anderson,
Arnold & Porter, for plaintiffs.

THE COURT: Good morning.

MS. MONTES: Good morning, Your Honor. Amaris Montes
with Rights Behind Bars, for plaintiffs.

THE COURT: Good morning.

MS. JANSSEN: And Kara Janssen with Rosen Bien

1 Galvan & Grunfeld for plaintiffs.

2 **THE COURT:** I don't have you. What's your name again?

3 **MS. JANSSEN:** Kara, K-A-R-A, Janssen, J-A-N-S-S-E-N.

4 **THE COURT:** Okay. Thank you.

5 For the defense.

6 **MS. MATTIOLI:** Madison Mattioli for the United States.

7 **THE COURT:** Good morning.

8 **MS. MATTIOLI:** Good morning.

9 **MS. CZIOK:** Good morning. Abbie Cziok for the
10 United States. Thank you.

11 **THE COURT:** Okay. Good morning.

12 And who do you have with you, Ms. Mattioli?

13 **MS. CASELLI-GROSS:** Joan Caselli-Gross.

14 **THE COURT:** I don't know who you are.

15 **MS. CASELLI-GROSS:** Paralegal with the Eastern
16 District of Montana.

17 **THE COURT:** Joan Caselli-Gross. Thank you.

18 Who else?

19 **MS. MATTIOLI:** We have with us at counsel table, Rob
20 France, agency counsel for BOP, and Kristi Sutton.

21 **THE COURT:** And Ms. Sutton is who?

22 **MS. MATTIOLI:** Agency counsel for BOP.

23 **THE COURT:** Okay. Thank you.

24 Any potential witnesses in the courtroom?

25 **MS. MATTIOLI:** No, Your Honor.

1 **MR. CHA-KIM:** No, Your Honor.

2 **THE COURT:** As I understand it, we are starting with
3 the defendant, is that correct?

4 **MS. MATTIOLI:** That's correct.

5 **THE COURT:** All right. Ms. Mattioli, you may call
6 your first witness. And you should use that podium over there.

7 **ERICKA QUEZADA,**
8 called as a witness for the defendants, having been duly sworn,
9 testified as follows:

10 **THE CLERK:** If you could please state and spell your
11 last name for the Court Reporter.

12 **THE WITNESS:** Ericka Quezada, Q-U-E-Z-A-D-A.

13 **THE CLERK:** Thank you so much. You can have a seat
14 here.

15 **THE COURT:** Good morning.

16 **THE WITNESS:** Good morning. Good morning, Your Honor.

17 **THE COURT:** All right. You may proceed.

18 **MS. MATTIOLI:** Thank you.

19 **DIRECT EXAMINATION**

20 **BY MS. MATTIOLI:**

21 **Q.** Good morning.

22 **A.** Good morning.

23 **Q.** Can you please tell the Court what you do at Dublin?

24 **THE COURT:** Well, it was hard to hear her. And I've
25 got people in the audience. Start with your name.

1 **THE WITNESS:** Okay. My name is Ericka Quezada.

2 **THE COURT:** Okay. Now you can answer the question.

3 **THE WITNESS:** Okay. I am the deputy captain at FCI
4 Dublin so I'm responsible for safety and security primarily.

5 **BY MS. MATTIOLI:**

6 **Q.** And your title is deputy captain, but is there a
7 correctional officer who supervises you?

8 **A.** Not a correctional officer. I'm supervised by the
9 associate warden.

10 **Q.** So would it be fair to say that you are in charge of
11 correctional services at Dublin?

12 **A.** Correct, yes.

13 **Q.** And you report -- you said you report to the warden?

14 **A.** The associate warden and the warden.

15 **Q.** And the warden?

16 **A.** Yeah.

17 **Q.** Who is the associate warden that you report to?

18 **A.** Charmaine Nash.

19 **Q.** Okay. Did Dublin just recently name an interim warden?

20 **A.** Yes.

21 **Q.** And who is that person?

22 **A.** Arthur Dulgov.

23 **THE COURT:** How do you spell the last name?

24 **THE WITNESS:** D-U-L-G-O-V.

25 / / /

1 **BY MS. MATTIOLI:**

2 **Q.** Can you tell the Court about your background prior to
3 coming to the Bureau of Prisons?

4 **A.** Prior to coming to the Bureau, I had a vocational license
5 and I was also a vocational instructor certified through
6 California which kind of gave me the experience that I needed
7 to join the Bureau.

8 **Q.** And what does a vocational instructor do?

9 **A.** I -- I taught students. I taught adult students actually
10 at a female cosmetology school.

11 **Q.** And then when did you come to the Bureau of Prisons?

12 **A.** I joined February 1st of 2009. So next month it will be
13 my 15-year anniversary.

14 **Q.** Where did you first work when you came to the Bureau of
15 Prisons?

16 **A.** I started at FCC Victorville.

17 **Q.** Can you explain what FCC is?

18 **A.** So FCC is Federal Correctional Complex. Victorville was
19 comprised of a total of four -- I'm sorry -- three institutions
20 and a female satellite camp. So they had a penitentiary which
21 housed high- and maximum-security male inmates.

22 They had two FCIs, one that was more of like a medium-high
23 and the other one which was more of a medium-low, and both of
24 those were male facilities as well.

25 And then we had a female satellite camp.

1 Q. So and when you worked there, did you work primarily in
2 one unit over another, or did you go everywhere in the complex?

3 A. Kind of everywhere, but I spent the majority of my time
4 there at the penitentiary.

5 Q. Okay. What did you do after you left Victorville?

6 A. From Victorville I went to FCI Inglewood, and that
7 actually had three smaller facilities so it was primarily --
8 the FCI was low-security sex offenders. It also had a federal
9 detention center and a male camp.

10 Q. And did you -- what did you do primarily at Inglewood?

11 A. I was a lieutenant there. So initially I was a GS-9
12 lieutenant which is kind of a lower-level lieutenant. While I
13 was there, I got promoted to a GS-11 lieutenant. I was the
14 Special Housing Unit lieutenant.

15 While I was there, I received the Special Housing Unit
16 lieutenant of the year for the region. I also after -- after
17 my time as a Special Housing Unit lieutenant, I became the
18 Special Investigative lieutenant there. So I was primarily
19 responsible for conducting investigations of inmates as well as
20 staff because it was an FCI. We didn't have the SIA.

21 After that, I became the administrative lieutenant and
22 had --

23 **THE COURT:** SIA means what?

24 **THE WITNESS:** Oh, sorry. Special Investigative Agent.

25 After that, I became the administrative lieutenant so I

1 was responsible for staff scheduling, a lot of training, and I
2 acted as the captain quite a bit while I was there.

3 **BY MS. MATTIOLI:**

4 **Q.** What kind of reputation had you built for yourself in
5 those jobs?

6 **A.** A very good one. While I was at Victorville, I became
7 part of a pilot program called the field training officer
8 program which is now called the correctional training officer
9 program here in the -- in the Bureau now.

10 I was temporarily promoted while I was at Victorville as a
11 lieutenant so -- and I acted quite a bit in the capacity while
12 I was there prior to getting promoted.

13 I feel like I have a very good reputation within this
14 agency.

15 **Q.** So was Dublin the first female FCI facility that you've
16 worked in?

17 **A.** Yes.

18 **Q.** And when did you come to Dublin?

19 **A.** I arrived January 17th of 2022.

20 **Q.** And when did you start working at the prison?

21 **A.** Probably two days later, immediately.

22 **Q.** What was the supervision structure of correctional
23 services when you arrived?

24 **A.** So because of the apparent issues at FCI Dublin, they
25 decided to kind of restructure everything. Prior to my

1 arrival, all the previous supervisors, anyone in management
2 position, were given notices to basically that they were going
3 to be moving to other facilities.

4 So --

5 **THE COURT:** So did you give them those notices or
6 someone else?

7 **THE WITNESS:** No.

8 **THE COURT:** So do you have personal knowledge of this
9 because it's something you did?

10 **THE WITNESS:** Not at all.

11 **THE COURT:** Or are you just aware of it?

12 **THE WITNESS:** I am aware of it.

13 **THE COURT:** All right. Go ahead.

14 **THE WITNESS:** Okay.

15 **THE COURT:** Next question.

16 **BY MS. MATTIOLI:**

17 **Q.** Were the notices important but other than -- I guess your
18 knowledge is that when you started there were various
19 department heads acting in positions who very quickly left the
20 institution to go to other places.

21 **THE COURT:** Why are you raising your hand?

22 **MR. ANDERSON:** I was going to object.

23 **THE COURT:** Well, then object. What is your
24 objection?

25 **MR. ANDERSON:** She's leading the witness.

1 **THE COURT:** Sustained.

2 **MR. ANDERSON:** And personal knowledge.

3 **THE COURT:** Rephrase.

4 **BY MS. MATTIOLI:**

5 **Q.** When you arrived at Dublin, did the department heads stay
6 the same or did they change?

7 **A.** They changed.

8 **Q.** And when did they change?

9 **A.** Probably within a few months of my arrival.

10 **Q.** Which would have been early 2022?

11 **A.** No. I arrived in July. So probably within a few months
12 they started leaving.

13 **THE COURT:** Hold on.

14 **BY MS. MATTIOLI:**

15 **Q.** Initially you said January. You meant July. You arrived
16 in Dublin in January. Did I hear that?

17 (Simultaneous colloquy.)

18 **THE WITNESS:** I'm sorry. I arrived in Dublin
19 July 17 --

20 **BY MS. MATTIOLI:**

21 **Q.** Okay, okay.

22 **A.** -- of 2022. I'm sorry. It was midyear.

23 **Q.** Okay.

24 **A.** I'm sorry.

25 **Q.** So during the -- around the middle of 2022 --

1 **A.** Yes.

2 **Q.** -- the department heads began changing, and you know that
3 because you saw them leaving?

4 **A.** Correct.

5 **Q.** And you said --

6 **THE COURT:** I need to interrupt.

7 You said -- so now I have the dates right. You arrived in
8 July of 2022.

9 **THE WITNESS:** Yes.

10 **THE COURT:** And then you said -- you said they changed
11 within a few months of arrival. So does that mean the end of
12 2022?

13 **THE WITNESS:** Toward -- toward the end of 2022, all of
14 the previous supervisors and department heads began leaving.

15 **THE COURT:** Okay. Thank you.

16 Go ahead.

17 **BY MS. MATTIOLI:**

18 **Q.** And you also initially testified that the structure of
19 correctional services had been restructured due to the apparent
20 issues in the facility. What was your understanding of the
21 issues that -- at Dublin when you arrived?

22 **A.** There was a lot of misconduct rampant throughout the
23 institution. So initially upon arriving -- and back to the
24 structure of it -- typically at an FCI, there is the warden,
25 two AWs, and a GS-12 captain. And then under all of that of

1 course are the department heads, the lieutenants, etc.

2 The restructuring of Dublin, because of the need of
3 oversight, became the warden, three AWs, two captains, and then
4 so on and so forth with department heads. But that was kind of
5 the main restructuring of the executive department.

6 **THE COURT:** Okay. So I'm trying to get the -- I don't
7 have an org chart. So you said it restructured to include the
8 warden, then three associate wardens as opposed to two.

9 **THE WITNESS:** Correct.

10 **THE COURT:** And two captains as opposed to one.

11 **THE WITNESS:** Correct.

12 **THE COURT:** And that was the executive team?

13 **THE WITNESS:** Correct.

14 **THE COURT:** Okay.

15 Proceed.

16 **THE WITNESS:** Oh, I'm sorry.

17 **THE COURT:** No. I'm telling the lawyer, Ms. Mattioli,
18 to proceed with her next question.

19 **THE WITNESS:** Okay.

20 **BY MS. MATTIOLI:**

21 **Q.** And when you -- did you know about the staff misconduct
22 that was occurring at Dublin before you came to work there?

23 **A.** Yes.

24 **Q.** You had heard about it?

25 **A.** I had heard about it in the news, yes.

1 Q. And given that, why did you come to work at Dublin?

2 A. It was -- it was a difficult decision. I came here
3 because I feel like I can help make some positive changes with
4 the inmate population, with the staff, overall with the agency
5 itself.

6 Q. So you came in with the change of leadership at Dublin in
7 2022?

8 A. Correct.

9 Q. And when you -- when you arrived at Dublin in July of
10 2022, can you tell the Court what you saw when you came into
11 the institution?

12 THE COURT: I guess I think that's ambiguous. I have
13 no idea of what you're talking about. I mean, the physical
14 structure, the people? Be a little more precise.

15 BY MS. MATTIOLI:

16 Q. When you arrived at Dublin in your role as a deputy
17 captain, what did you observe in terms of policy adherence
18 within the staff?

19 A. I think a lot of ignorance when it came to what policy
20 really was, what defined policy, where to look for policy. I
21 think a lot of the staff really didn't know or weren't --
22 weren't trained well enough.

23 The institution was -- was -- it needed a lot of work, a
24 lot of training, a lot of corrective action needed to take
25 place.

1 **THE COURT:** Give me a couple of examples.

2 **THE WITNESS:** Well, the majority of the staff there
3 had only worked during a COVID period. I want to say close to
4 half of correctional services started the agency during the
5 global pandemic and hadn't received proper training. Our
6 national training facility had been closed. In-person training
7 wasn't being conducted from early 2020 until I arrived.
8 That -- not until I arrived, but even when I arrived.

9 I think there was just an overall lack of accountability
10 with -- with staff, with adherence to policy.

11 **BY MS. MATTIOLI:**

12 **Q.** Can you tell us an example of a specific situation that
13 you observed or became aware of that staff were performing a
14 function that was clearly not dictated by policy?

15 **A.** Yeah, actually. I became aware the end of -- sometime in
16 October of 2022 that visual searches were being conducted every
17 time an inmate was subject to a urinalysis test.

18 As soon as I found out, I arranged for all of the female
19 correctional officers, because they would be the only ones
20 performing this, to attend a class that I held on the correct
21 procedures for urinalysis testing and to inform them that it is
22 not allowed for every single UA -- urinalysis -- that they have
23 to have some sort of reasonable suspicion to even conduct a
24 visual search unless it's outlined in policy during medical
25 escort trips, placement in Special Housing Unit, visitation

1 purposes, meaning contact with the public. Those were the only
2 times that it was standard to conduct a visual search. That
3 was -- that was one example.

4 So that -- the training I held on November 2nd comprised
5 of all but one correctional officer -- female correctional
6 officer. And we went through the policy, how to conduct pat
7 searches, how and when to conduct correct visual searches, the
8 procedures for conducting a urinalysis.

9 That class also we discussed the differences of -- of
10 managing female offenders as opposed to male offenders,
11 communication like better communication techniques for -- you
12 know, just as an example.

13 **Q.** And how was that training received by the female
14 correctional officers?

15 **A.** Initially I think upon arriving to the class and kind of
16 being fairly new to the institution, I kind of gave them an
17 opportunity to vent about their -- their complaints and their
18 issues and concerns.

19 Within probably the first 45 minutes of the class, I feel
20 like I got a lot more buy-in and a lot more positive feedback
21 from them. So it was a little rough at first, I think. Change
22 is never accepted immediately. It takes a minute.

23 **THE COURT:** How many people were there when you say
24 only female?

25 **THE WITNESS:** I want to say it was 13, 14.

1 **THE COURT:** Out of how many -- how many correctional
2 officers are at Dublin approximately?

3 **THE WITNESS:** Correctional officers, not including the
4 lieutenant in the lock shop, which all fall under correctional
5 services is roughly 60 -- 60 to 70.

6 **THE COURT:** So 13 or 14 out of 60 to 70.

7 **THE WITNESS:** Are the female, yeah.

8 **THE COURT:** And you didn't do this training with the
9 men?

10 **THE WITNESS:** No, I didn't. The men don't -- don't --
11 I did that because the men don't conduct urinalysis tests or
12 visual searches on the female, or pat searches.

13 **BY MS. MATTIOLI:**

14 **Q.** Has the number of female correctional officers increased
15 since you did that training or has it stayed the same?

16 **A.** It's approximately the same, yeah.

17 **Q.** Do you feel that that number is sufficient to manage the
18 needs of the institution given that they're the only ones who
19 can perform these three functions?

20 **A.** No. I think staffing is short overall. Yeah. But it
21 would be -- it would be ideal to have more female correctional
22 officers.

23 **Q.** Do you do everything you can to ensure that the staffing
24 needs are addressed when -- that you have appropriate female
25 staff on shift --

1 **A.** Absolutely. It's policy --

2 **MR. ANDERSON:** Again, leading, Your Honor.

3 **MS. MATTIOLI:** That was a direct question.

4 **Q.** Do you ensure that there are adequate female staff on
5 shift?

6 **THE COURT:** Overruled. Overruled. Sit down.

7 **THE WITNESS:** Yes. It's policy. We have to have at
8 least one female staff member on every shift.

9 **BY MS. MATTIOLI:**

10 **Q.** And after you conducted that training, are you aware that
11 it addressed the issue with the female correctional officers
12 specific to the urinalysis issue?

13 **A.** Yes. Yes.

14 **Q.** Are you ever aware of somebody blatantly performing a
15 visual search that they knew to be in violation of a policy?

16 **A.** No.

17 **Q.** And if you could just talk very generally --

18 **THE COURT:** How -- how would you know? How would you
19 know if someone performed a search without suspicion?

20 **THE WITNESS:** Well, I wouldn't unless it was reported.

21 **THE COURT:** Correct. So what process is in place for
22 reporting searches done outside of policy? And do the inmates
23 know what the policy is?

24 **THE WITNESS:** The inmates do. Sometimes the inmates
25 know policy better than staff.

1 There are ways for the inmates to report. They can --
2 they can talk to me. They can actually send an email to the
3 correctional services email box which comes directly from the
4 inmate to me. I have -- I have it on my phone, I have it on my
5 desktop.

6 **THE COURT:** You've not received anything?

7 **THE WITNESS:** I haven't received anything that -- no,
8 that's reporting any sort of violation during a UA.

9 **THE COURT:** Okay.

10 Proceed.

11 **BY MS. MATTIOLI:**

12 **Q.** And I was just going to ask if you could explain generally
13 from, in your position, the differences between a female and a
14 male institution as far as enforcing policy and things like
15 that.

16 **THE COURT:** I don't understand that question.

17 **MS. MATTIOLI:** I want her to explain the unique
18 challenge of working in a female institution.

19 **THE COURT:** Okay. That's a better question.

20 **THE WITNESS:** I think in a female institution, there's
21 a lot more communication necessary. It is very unique compared
22 to working in a male facility.

23 I feel at the end of the day, working with the female
24 inmates, they really just want to be heard, they want somebody
25 to listen. And that's -- I mean, that's primarily the major

1 differences.

2 **BY MS. MATTIOLI:**

3 **Q.** Are you aware that communication training is provided to
4 all of the correctional officers you supervise, the men and the
5 women?

6 **A.** Yes. It's part of our annual training.

7 **Q.** And does that happen -- do you get refresher courses from
8 time to time?

9 **A.** Yes. So every year we have in-person annual refresher
10 training, it used to be called. Now it's just annual training.
11 It's approximately -- it's one week to get everybody in.
12 Obviously it lasts through a couple of months. We usually have
13 all of January and February are comprised of annual training,
14 so...

15 **Q.** And there's -- is there a specific component of that
16 training for female offender populations?

17 **A.** Yes.

18 **Q.** Can you tell us about that?

19 **A.** There's a specific policy for managing female offenders.
20 But there's also several trainings that have been implemented
21 at FCI Dublin. Deescalation training. Usually the one that --
22 the training that AW Deveney was responsible for, which is the
23 PREA training. It's very lengthy training.

24 And then just -- I can't remember the title of the course.
25 It's -- it's -- it's one of the many in our annual refresher

1 training courses that is specific to managing female offenders
2 training.

3 Q. Thank you.

4 So, Captain, I'd like to --

5 A. Excuse me.

6 Q. -- dig into the visual search procedures that are
7 happening at Dublin now.

8 A. Okay.

9 Q. Can you tell me what the national BOP policy is on visual
10 searches?

11 A. Yes. Any inmate leaving the institution for an escort and
12 returning must be visually searched upon leaving and returning.

13 Q. Can I stop you.

14 Why would an inmate leave and return to the institution?
15 What are examples of escorted transport?

16 A. Sorry.

17 Q. That's okay.

18 A. For medical trips, court hearings, any type of maybe like
19 furlough out. Anytime an inmate leaves the institution for a
20 writ, for anything. If they're -- if they're leaving to go to
21 another facility and not returning, they would undergo a visual
22 search. And then anytime an inmate comes into the institution
23 after a writ return, medical escort, furlough, anything like
24 that, they -- they would undergo a visual search as well.

25 Q. Okay. So continue.

1 **A.** Okay. So that's one.

2 **Q.** Okay.

3 **A.** Anytime an inmate has any contact with the public, so any
4 sort of social visiting.

5 **THE COURT:** I did not see in the materials provided to
6 me in advance a definition of "public" that's in a BOP manual.
7 Are you aware of one?

8 **THE WITNESS:** It is in the Correctional Services
9 Manual which is sensitive but unclassified. It's an LOU. So
10 it's not available on the sallyport.

11 **BY MS. MATTIOLI:**

12 **Q.** Can you tell the Judge what the definition of "public" is
13 from that manual?

14 **A.** It's anyone who doesn't work for the agency.

15 **THE COURT:** And what's an LOU?

16 **THE WITNESS:** Limited official use.

17 **THE COURT:** Go ahead.

18 **BY MS. MATTIOLI:**

19 **Q.** Are there any other situations in which a visual search is
20 performed?

21 **A.** It could be under reasonable suspicion. So if a staff
22 member believes that an inmate may be holding contraband, they
23 would be able to do a visual search.

24 **Q.** Are visual searches conducted in and out of Special
25 Housing?

1 **A.** Sorry. Yeah. That was the other one. I lost my train of
2 thought there.

3 Anytime an inmate enters or leaves a Special Housing Unit
4 as well.

5 **Q.** And can you explain how a visual search is conducted?

6 **A.** Yes. So the inmate is afforded privacy.

7 **Q.** How?

8 **A.** There are -- there are specific areas that are designated
9 for visual searches. There is one holding area in the Special
10 Housing Unit, and a screen is put up in place whenever a visual
11 search is conducted.

12 In the FCI visiting room, there are three stalls that have
13 curtains that are out of -- out of any sort of visibility.

14 Inside the receiving and discharge area, there are stalls
15 that have an enclosed area. There's a door. So it's maximum
16 privacy.

17 From there, the inmate is requested to remove any watches,
18 jewelry, anything from their hair. They would shake out their
19 hair. From there, they remove their articles of clothing. The
20 articles of clothing are searched and set to the side.

21 From there, the inmate -- you would check the -- the upper
22 head area, in the ears, behind the ears, request the inmate to
23 open their mouths, check the cavity in the mouth, have them
24 shake out their hair.

25 From there, you would check the fingers and the hands,

1 searching just visibly the upper torso area, the front, make
2 sure there's nothing, you know -- like they're not concealing
3 anything under any areas, have them lift if necessary.

4 From there, you would check their -- obviously visibly
5 scan down the body, check the toe area, have them turn around.
6 They are required at that point to -- they're required to open
7 their buttocks area and bend at the waist and then turn and
8 face staff once again, for female inmates, squat and actually
9 cough. From there, the inmate is clear and they can be dressed
10 in clean clothing.

11 Q. At any point, does a staff member make contact with the
12 inmate?

13 A. Not at all. They are not permitted that.

14 Q. And what is the purpose of the visual search following a
15 contact visit with a member of the public?

16 A. Sorry. Can you repeat that?

17 Q. What is the purpose of the visual search? Why do you do
18 it?

19 A. To ensure that they don't have anything that they're
20 leaving with or -- or coming back with. It's contraband, it's
21 safety for the staff, it's to ensure they don't have weapons
22 when they're leaving with staff. Multiple reasons. Primarily
23 contraband, yes.

24 Q. Is there a contraband problem at Dublin?

25 A. Yes. There's a contraband problem at Dublin. There's a

1 contraband problem in prison in general, I believe.

2 Q. What -- what are some typical items of contraband that you
3 encounter at Dublin?

4 A. Primarily narcotics. We have had issues with homemade
5 intoxicants. We've had issues with homemade weapons,
6 electronics, to name a few.

7 THE COURT: Have these searches resulted in the
8 finding of weapons, electronics, or narcotics?

9 THE WITNESS: Yes.

10 THE COURT: And where is that logged?

11 THE WITNESS: The inmates are written an incident
12 report.

13 THE COURT: So when I looked at this --

14 THE WITNESS: Uh-huh.

15 THE COURT: Are you familiar with this government --

16 THE WITNESS: Yes, ma'am.

17 THE COURT: -- Exhibit J?

18 THE WITNESS: Yes.

19 THE COURT: Where in here does it tell me what's
20 found?

21 THE WITNESS: So that's specific to the visiting room.
22 It would be logged in there if contraband was found in the
23 visiting room.

24 THE COURT: Okay. So show me an example.

25 THE WITNESS: Okay.

1 (Witness examines document.)

2 **THE COURT:** You can sit down and look at it. That's
3 fine.

4 **THE WITNESS:** So there's different categories -- or
5 different columns in here. One is the date, the inmate, the
6 inmate's name, the inmate's registration number, the
7 contraband, if there was any, the disposition, and then the
8 staff.

9 **THE COURT:** Right. So could you show me an example of
10 one time where it was found.

11 **THE WITNESS:** Well, I'll look through.

12 (Witness examines document.)

13 **THE WITNESS:** There's one right here.

14 **THE COURT:** Can you give me the date, please.

15 **THE WITNESS:** Excuse me. November 5th of 2023.

16 **THE COURT:** All right. Do you see any other time?

17 **THE WITNESS:** No, ma'am.

18 **THE COURT:** So only one time in the year and a half
19 that this book was -- where you would log that contraband was
20 actually found?

21 **THE WITNESS:** Correct.

22 **THE COURT:** Proceed.

23 **BY MS. MATTIOLI:**

24 **Q.** And is that book a log of all visual searches conducted at
25 Dublin?

1 **A.** No. That's just the visiting room.

2 **Q.** Where are the other logs of visual searches kept?

3 **A.** The Special Housing Unit has an electronic program. So
4 any inmate entering the Special Housing Unit, it's logged in
5 what's called our -- our True Scope Program. And that's --
6 it's obviously in the computer.

7 There's also a visual search logbook for any outside
8 escort trip. So anytime an inmate is taken outside of the
9 facility, for med trips, furloughs, et cetera, there's a visual
10 search logbook for that as well.

11 **Q.** And I'm sorry, did you say that is electronic or that
12 is --

13 **A.** No. That's an actual book as well.

14 **Q.** Okay. And where is that kept in the institution?

15 **A.** That is kept in the lobby.

16 **Q.** Okay.

17 **THE COURT:** That's kept where?

18 **THE WITNESS:** In the lobby area. The staff pass
19 through there on their way out of the institution.

20 **THE COURT:** Okay. So I have one book. There's
21 another book that's in the lobby.

22 **THE WITNESS:** Correct.

23 **THE COURT:** And you said there's an electronic --

24 **THE WITNESS:** Correct. Visual searches in and out of
25 the Special Housing Unit.

1 **THE COURT:** So an electronic for the SHU?

2 **THE WITNESS:** Correct.

3 **THE COURT:** Okay. Thank you.

4 **BY MS. MATTIOLI:**

5 **Q.** And just briefly, is contact with the public the only way
6 that contraband can be introduced into the prison?

7 **A.** No.

8 **Q.** What are just some other examples of how contraband might
9 get there?

10 **A.** We have had contraband come in through the mail, the
11 mailroom. We have had contraband come in through staff.

12 **THE COURT:** Do you log the mail contraband?

13 **THE WITNESS:** Yes. It's in another one of our
14 computer programs called the True Intel.

15 **THE COURT:** And how about the staff contraband?

16 **THE WITNESS:** I haven't had any of that at FCI Dublin,
17 but I haven't come across that.

18 **THE COURT:** Well, you know that it happens.

19 **THE WITNESS:** Absolutely.

20 **THE COURT:** I certainly have evidence that it
21 happened.

22 **THE WITNESS:** Absolutely.

23 **THE COURT:** Go ahead.

24 **BY MS. MATTIOLI:**

25 **Q.** So the logbook for the searches conducted in the visiting

1 room we discussed yesterday.

2 **A.** Uh-huh.

3 **Q.** And there are very few entries for visual searches
4 conducted in December of 2022 compared to December of 2023.
5 Can you explain why that is?

6 **A.** Yes. So in December of 2022, we were on COVID red status
7 so there was no visiting. From the time of my arrival in July
8 until I want to say the end of January, we had fluctuated
9 between COVID yellow and COVID red, which anytime during our
10 COVID red status, there was no movement, no visiting, social
11 visiting.

12 **Q.** Was there other visiting?

13 **A.** We -- we still had legal visits going on. Not -- not to
14 the extent that we do now, but we still had legal visits.

15 And then during COVID yellow, there was modified --
16 modified operations, which was kind of limited visiting.

17 And on top of that, we had roughly half the population
18 that we have now.

19 **Q.** Was there a moratorium on new inmates coming in at any
20 point in 2022?

21 **A.** Yes. So when I arrived in Dublin, we were on a
22 moratorium, so for the entire time that I was there until it
23 was relinquished or redacted on December 22nd or -- roughly
24 around the 22nd of December, or 29th, I'm sorry, our moratorium
25 was lifted.

1 **THE COURT:** What year? What year?

2 **THE WITNESS:** 2022. I apologize. Yeah.

3 **BY MS. MATTIOLI:**

4 **Q.** So the moratorium was lifted in December of '22, but you
5 were still in COVID red status?

6 **A.** Correct.

7 **Q.** When did you get out of COVID red status?

8 **A.** So we officially went back to green, normal operations,
9 January 23rd, I believe, of 2023.

10 **Q.** Okay. Since you are in charge of correctional services,
11 when you become aware that a member of your staff is conducting
12 things out of policy, how do you address that from an
13 employment perspective?

14 **A.** There are several ways depending on -- depending on
15 whether or how egregious I suppose it is. There is discussion
16 with the warden, SIA, or SIS, depending on the institution
17 level.

18 **Q.** When you say SIA, do you mean the investigative agent that
19 reports to the Office of Internal Affairs?

20 **A.** Yes.

21 **Q.** Go ahead.

22 **A.** So it would be -- it would be a case of reporting any
23 policy violations.

24 **Q.** If you determined a policy violation to be less egregious,
25 would you -- how would you address that? Do you ever send

1 memos or anything like that?

2 **A.** Yeah. I -- I do. I actually send out -- if I find out,
3 you know, like we're not following a policy specifically, I
4 will definitely address all the staff and let them know, hey,
5 guys, you know, this is policy, this is what we need to be
6 doing, let's make sure we're doing that, you know.

7 A lot of it is -- is training. Really training people on
8 exactly what is policy and how we are expected to implement
9 that.

10 **Q.** Do you have a good rapport with the officers you supervise
11 such that you could approach them directly and communicate that
12 to them?

13 **A.** I feel I do, yes. Yeah.

14 **Q.** Generally feel like that's well received?

15 **A.** Now, yes. Yeah.

16 **Q.** After the initial bumps?

17 **A.** Correct.

18 **Q.** And from --

19 **THE COURT:** Are you only -- are you only supervising
20 the female officers?

21 **THE WITNESS:** No, ma'am. I supervise all of the
22 correctional officers and lieutenants.

23 **THE COURT:** So the only bump that you've talked about
24 is the 45-minute discussion with the female officers. I don't
25 know what other bump you're referring to?

1 **THE WITNESS:** When I was --

2 **BY MS. MATTIOLI:**

3 **Q.** If I could clarify the question, you said initially that
4 change in the institution was difficult. Was that with every
5 correctional officer or just the female officers?

6 **A.** I think it was the institution as a whole, not just the
7 correctional officers. So upon my arrival to FCI Dublin, as a
8 new -- you know, part of the new leadership coming in with a
9 lot of the current supervisors that were there leaving or being
10 expected to leave, there -- there was a lot of hostility. A
11 lot of hostility and anger about what was going on. Not just
12 anger with what had happened, but anger that there was so much
13 change all at once.

14 I personally experienced a couple of lug nuts that
15 suddenly disappeared from my vehicle. There was --

16 **Q.** If I could stop you. When you say that, would that have
17 happened from a staff member? Is that the connection you're
18 drawing there?

19 **A.** I would -- I would have to speculate, but that would be my
20 assumption. We -- we weren't well received, the group of us
21 that came in.

22 **THE COURT:** When you say you were not well received,
23 who specifically was not well received. You and who else?

24 **THE WITNESS:** I believe it was -- we all -- so the new
25 AWs, the warden, and both of the captain -- the other captain

1 and myself. We each reported things that had happened to our
2 vehicles.

3 **THE COURT:** So -- I just want my record to be clear.
4 You live out there in a sense. I don't.

5 **THE WITNESS:** Okay.

6 **THE COURT:** So give me names. When you say that, who
7 do you mean specifically?

8 **THE WITNESS:** Oh, okay. Warden Jusino, Associate
9 Warden Patrick Deveney. At the time, Associate Warden Tammy
10 Robles. And at the time as well, Associate Warden Beth
11 Buckner, Captain Jesse Valero, and myself, we all arrived
12 roughly -- with the exception of Warden Jusino, the rest of us
13 arrived sometime between June and July of 2022.

14 **THE COURT:** Okay. Many of those people aren't on my
15 list of --

16 **THE WITNESS:** They are no longer there. Yeah.

17 **THE COURT:** Okay. So Deveney.

18 **THE WITNESS:** Correct.

19 **THE COURT:** Agostini?

20 **THE WITNESS:** Correct, yes. That's...

21 **THE COURT:** You said Buckner?

22 **THE WITNESS:** Associate Warden Buckner. Yes. She is
23 retired.

24 **THE COURT:** Valero?

25 **THE WITNESS:** He has since retired.

1 **THE COURT:** And --

2 **THE WITNESS:** Robles. Tammy Robles.

3 **THE COURT:** How do you spell that?

4 **THE WITNESS:** R-O-B-L-E-S.

5 **THE COURT:** R-O-B-L-E-S.

6 **THE WITNESS:** And she went to another agency.

7 **THE COURT:** Okay.

8 **THE WITNESS:** So we were the initial --

9 **BY MS. MATTIOLI:**

10 **Q.** And Warden Jusino?

11 **A.** And Warden Jusino who got there, oh, I believe in January,
12 February, prior to us arriving. Yeah.

13 **Q.** And when you say that you felt the staff did not receive
14 your presence well, the one example you give is of lug nuts
15 being taken off your car. Were there other examples of maybe a
16 lesser extent that there was resistance to the change?

17 **A.** I think just a lot of just kind of attitude. A lot of it
18 was just the demeanor of staff, you know. Little -- little
19 difficult to talk to, communicate with at the time.

20 **THE COURT:** Men and women?

21 **THE WITNESS:** Yes.

22 **BY MS. MATTIOLI:**

23 **Q.** So we were talking about from an employment perspective,
24 if -- if an employee was committing policy -- a policy
25 violation that was egregious, could they receive employment

1 discipline for that?

2 **A.** Yes.

3 **Q.** Have you ever received employment discipline?

4 **A.** I have, actually, yeah. In 2012, I received -- I guess, I
5 don't know how to explain it. It was just something in my
6 file, my personnel file, for six months and it was removed
7 after the six months.

8 **Q.** And what were the circumstances of the corrective action
9 or discipline, if you could explain.

10 **A.** So I was working at the Special Housing Unit in the USP,
11 and there were electronic doors that were controlled at the
12 outside of the grille or the outside of the range. Several of
13 us had gone down and we were removing inmates to go to
14 recreation. The door -- we have to -- we would have to call
15 the officer, like holler to him, let him know to open the door.

16 One of the -- one of the officers that happened to be down
17 there told him to open the door. The door opened. The inmate
18 was not restrained at the time, which is very unsafe. So we --
19 we all basically were put under violation. We were removed
20 from the Special Housing Unit for violating that policy.

21 And my discipline was that I received that in my file for
22 six months, and then after the six months, it was removed.

23 **Q.** And just briefly, why is it important that an inmate in
24 SHU is restrained prior to any door being opened?

25 **A.** Staff safety, inmate safety. Special Housing Unit is for

1 violent offenders, inmates who have been in fights or committed
2 more egregious acts against other inmates or staff. So they
3 should be restrained. It's policy to restrain them anytime
4 there is any sort of movement.

5 **Q.** Have you ever had any other employment discipline?

6 **A.** No.

7 **Q.** And going back to the visual searches, whose idea was it
8 to have the correctional staff stand back away from the
9 visiting -- or the visual search booths to be in plain view of
10 the camera?

11 **A.** That was mine.

12 **Q.** And why did you implement that practice?

13 **A.** I think it's safer for both the staff and the inmates.
14 Just so there's some distance and -- and they're -- so that the
15 staff can be seen in camera view and there's no allegations.
16 Or we can either prove or disprove any allegations made.

17 **Q.** So if an inmate made a complaint that you or any member of
18 the executive staff were aware of within the period of time
19 that the cameras could retain footage and they said that visual
20 search was harassive or inappropriate, you could review the
21 video?

22 **A.** Yes.

23 **Q.** And have you had to do that with respect to visual
24 searches?

25 **A.** I have not.

1 Q. Are you aware of that ever needing to be done?

2 A. Yes.

3 Q. And what was determined when the video was reviewed? Do
4 you remember?

5 THE COURT: Well, do you have any personal knowledge
6 of this?

7 How can she answer that question?

8 MS. MATTIOLI: She's in charge of correctional
9 services. She would have to be made aware --

10 THE COURT: You have to lay a foundation. She's just
11 told me she's never done it.

12 MS. MATTIOLI: Okay. I mean, we can move on.

13 Q. So you -- you implemented the practice of having your
14 staff stand in plain view of the cameras doing visual searches?

15 A. I implemented the practice of anytime a visual search is
16 done, that staff maintain camera presence, yes.

17 Q. Are you personally aware of a member of your staff
18 conducting a visual search to retaliate against an inmate for
19 meeting with their lawyers?

20 A. No.

21 Q. Are you aware of a member of your staff conducting a
22 visual search to retaliate against an inmate for reporting
23 sexual misconduct?

24 A. No.

25 Q. Have you ever had an inmate complain to you directly about

1 an improper visual search?

2 **A.** Yes.

3 **Q.** And how was that investigated?

4 **A.** It was reported to the SIA, Special Investigative Agent,
5 and they would -- they conduct the investigation.

6 **Q.** And we'll get into the OIA chain of command later.

7 **A.** Okay.

8 **Q.** But just generally speaking, does Dublin's Special
9 Investigative Agent report to the warden at Dublin?

10 **A.** No.

11 **Q.** Have you ever instructed a staff member to conduct a
12 visual search of a particular inmate because you were concerned
13 about the content of their legal visit or call?

14 **A.** No.

15 **Q.** Are you aware personally of any member of your staff
16 conducting visual searches following legal visits between some
17 attorneys and inmates but not others?

18 **A.** No.

19 **Q.** Captain, do you know which inmates at the FCI are
20 Mx. Beaty's immigration clients?

21 **A.** No.

22 **Q.** Do you know which inmates at the camp are Mx. Beaty's
23 immigration clients?

24 **A.** No.

25 **Q.** And I'm not asking you to name names, but do you know the

1 identities of any current inmates at Dublin who have been
2 identified as verified victims in the criminal cases arising
3 out of FCI Dublin?

4 **A.** One on hearsay, and I don't know for sure.

5 **Q.** And when you say "hearsay," what do you mean? Inmate
6 gossip?

7 **A.** Yeah. Inmate gossip from -- from her, but I don't know
8 whether it's true or not.

9 **Q.** Okay. So she told you directly.

10 **A.** I've heard her yell -- yell it.

11 **Q.** Okay. Would you ever have a need to know which inmates
12 are survivors of sexual abuse?

13 **A.** No.

14 **Q.** Is it part of your job to know that information?

15 **A.** No.

16 **Q.** Why?

17 **A.** Why -- why -- why would I need to? I -- it's my job to
18 ensure the safety and security of the staff, the inmates, and
19 to treat everybody the same and be fair.

20 **Q.** Are you aware of roughly what percentage of Dublin's
21 population has suffered some sort of trauma?

22 **A.** 90 percent.

23 **Q.** Would it be sound correctional policy or practice to alter
24 procedures based on an inmate's trauma?

25 **THE COURT:** I don't understand what you mean by that

1 question. Suffered trauma in what -- when you say that, what
2 do you mean?

3 **THE WITNESS:** Well, there is inmates who have suffered
4 sexual trauma, trauma from childhood, whether it was sexual or
5 physical or mental abuse.

6 **THE COURT:** So prior to arriving, not necessarily as a
7 result of correctional staff?

8 **THE WITNESS:** Correction -- or correct, yeah.

9 **BY MS. MATTIOLI:**

10 **Q.** And would that be -- when I say "trauma," would that be
11 something that might be noted in an inmate's central file, a
12 designation from psychology that they've received mental health
13 services or -- how would you know if somebody had suffered a
14 trauma? Or how would someone know?

15 (Simultaneous colloquy.)

16 **BY MS. MATTIOLI:**

17 **Q.** Yeah, okay.

18 **A.** I said if they told me.

19 **Q.** How is it known to the executive staff that there's a
20 higher --

21 **A.** Okay.

22 **Q.** -- percentage of people who have suffered trauma at
23 Dublin?

24 **A.** I'm not sure if I understand.

25 **THE COURT:** How do you get to the 90 percent?

1 **THE WITNESS:** I think it's just something that's
2 discussed with, like, psychology, that we have -- I think the
3 female population in general has a 90 percent trauma.

4 **THE COURT:** So you're making that -- is this -- I'm
5 trying to understand where you get that number from. Is it
6 just -- has there been a survey? Have you done analysis?
7 Or --

8 **THE WITNESS:** That's a good question. This is what --
9 what is reported and this is part of what's in our training,
10 what's in our trauma informed care training, is that the female
11 population, incarcerated population in general, 90 percent of
12 them have suffered some sort of trauma coming in.

13 **THE COURT:** So that's being -- that's being told to
14 you by BOP generally speaking?

15 **THE WITNESS:** Correct. Yes.

16 **BY MS. MATTIOLI:**

17 **Q.** Captain, do you read inmates' grievances or administrative
18 remedies?

19 **A.** Those are not -- not inclusive. So there is
20 administrative remedies, which I don't respond to. As far as
21 grievances go, I receive grievances in the form of like
22 requests via email.

23 **Q.** Okay. So let me -- let me separate those, then.
24 Administrative remedies, do you read those?

25 **A.** No.

1 Q. Why?

2 A. I'm -- I'm not responsible for responding to them. If
3 someone is responding and they need a specific question, I
4 generally don't receive the administrative remedy. I will -- I
5 will supply policy-based responses if necessary. If -- if the
6 warden's secretary needs a response to or asks me about a
7 policy or something or procedure, I will -- I will give her the
8 response. But I don't receive them.

9 Q. But you don't -- okay. You don't receive copies of them?

10 A. No.

11 Q. What about tort claims? Do you read inmate's tort claims?

12 A. Specific to correctional services, I do. If it's
13 regarding property complaints or -- generally that's it. I
14 think the only ones that I've received are property.

15 Q. Do you know which inmates at the FCI or the camp have
16 pending lawsuits?

17 A. No, I don't.

18 Q. I'm going to switch gears a tiny bit.

19 A. Okay.

20 Q. I hope you can stay with me.

21 How did you and Lieutenant Hardy and Ms. Agostini select
22 inmates for government counsel to interview last week?

23 A. Over the course of the last year or so, there have been
24 inmates come up to us and tell us, you know --

25 MR. ANDERSON: Hearsay, Your Honor.

1 **THE COURT:** I won't accept it for its truth, just for
2 the purpose of why she selected these individuals, for that
3 limited purpose.

4 You may proceed.

5 **THE WITNESS:** Yeah. So we've had inmates come up and
6 say, hey, you know, we think you guys are doing good. There's
7 been a lot of positive changes here. I feel like that they --
8 based on those statements, that maybe -- maybe they would be
9 willing, you know, to speak up if that was the case. I know
10 some of them spoke specifically to Hardy, some of them spoke
11 specifically to Agostini and myself.

12 **BY MS. MATTIOLI:**

13 **Q.** And the ones that you spoke to directly, did you tell them
14 that they had to talk to government counsel?

15 **A.** Absolutely not.

16 **Q.** And did some inmates tell you, no, that they didn't feel
17 comfortable and they didn't want to talk to government counsel?

18 **A.** One of them did.

19 **Q.** Did you make them?

20 **A.** Absolutely not.

21 **Q.** Did you threaten them into speaking with government
22 counsel?

23 **A.** No.

24 **Q.** Did you dismiss them or cut off interviews if they made
25 statements that were unfavorable to current staff?

1 **A.** No.

2 **Q.** Did you listen in on the conversations?

3 **A.** Not at all.

4 **Q.** Did you tell them what to say on the phone with government
5 counsel?

6 **A.** No.

7 **Q.** Is it your understanding that an inmate witness could face
8 retaliation from other witnesses if they testified for the
9 government?

10 **A.** I feel like the other inmates could make things a little
11 difficult for them, I suppose, yes.

12 **Q.** And in your opinion, why would an inmate choose to take
13 that risk and testify here?

14 **MR. ANDERSON:** Speculation.

15 **THE COURT:** Sustained.

16 **BY MS. MATTIOLI:**

17 **Q.** And what would you do if you learned that an inmate was
18 being threatened by other inmates because they chose to testify
19 here today?

20 **A.** I would do everything in my power to safeguard them.

21 **Q.** And how do you safeguard inmates?

22 **A.** Switching housing assignments.

23 **Q.** Is that the only way?

24 **A.** If necessary. I mean, moving their housing, yeah, if I
25 had to.

1 Q. Would you ever place them in protective housing?

2 A. If it was necessary for their safety, yes.

3 Q. And how do you determine --

4 THE COURT: Do you mean the SHU?

5 MS. MATTIOLI: Yes.

6 Q. How do you determine that an inmate should be placed in
7 SHU as protective housing?

8 A. So there are a couple of different ways. One, it could be
9 by the inmate's own wish, coming to me and saying, hey, I don't
10 feel safe, I feel like I may be in harm's way. Obviously that
11 would be more of a last resort.

12 The first would be to maybe reassign them to another
13 housing unit within the general population. If they were not
14 comfortable with that, then it would be the Special Housing
15 Unit.

16 The other way would be is if there were actual viable
17 threats to that inmate, that would obviously be the deciding
18 factor whether we put them in the Special Housing Unit or not.

19 Q. And when we talk about SHU, are the cells in SHU all
20 single cells?

21 A. No. None of them are.

22 Q. Are the -- how often are the inmates allowed to leave the
23 cells?

24 A. So at minimum -- excuse me, let me get a drink real quick.
25 Hold on.

1 Monday through Friday, the inmates have an opportunity to
2 go to the outdoor recreation area that's next to the Special
3 Housing Unit right there, for a minimum of an hour a day in the
4 mornings generally. That can be extended. I believe we're
5 running about an hour and 15 minutes a day to kind of give them
6 a little extra time right now. Those are all recorded in our
7 SHU program.

8 They can also be removed from their cell to go to the law
9 library, which is where they have access to any legal -- legal
10 documents or access to policy. They also have access to email,
11 myself or any of the other executive team. That's where the
12 pilot phone is located, so they can use that at any time during
13 that time.

14 They can come out of their cell to basically get haircuts.
15 They can cut each other's hair, if needed, in one of the
16 holding cells that we have there.

17 Sometimes they're pulled out of their cell if they have a
18 visit with psychology or if they have the disciplinary hearing
19 officer, they're escorted to a separate room.

20 So those are out-of-cell times as well.

21 **Q.** So when you say meet with psychology, do inmates stop
22 programming when they go into SHU?

23 **A.** I think it just depends on the -- I think it depends on
24 the program, whether they're physically able to or not. I know
25 that there are still some programming options available while

1 they're housed in the Special Housing Unit.

2 Q. And you said they can make legal phone calls from the
3 pilot phone while in SHU; is that right?

4 A. Correct.

5 Q. And they can use the computers. Do they have access to
6 the SIA reporting email and opportunities from the computer in
7 SHU?

8 A. From the computer in SHU, they have access to report to
9 OIA, OIG essentially, yeah.

10 Q. So if there was criminal activity occurring in SHU, they
11 have an opportunity to report it?

12 A. Yes.

13 Q. Can you -- can they send cop-outs or administrative
14 remedies from SHU?

15 A. Yes.

16 Q. Can you give just some general examples of infractions
17 that could result in placement in SHU as a disciplinary
18 sanction?

19 A. So disciplinary sanction is only -- is only assigned by
20 the disciplinary hearing officer once the inmate has been found
21 guilty of committing a prohibited act.

22 Inmates are generally placed in the Special Housing Unit
23 for administrative detention. And that's a little different
24 because it's not punitive.

25 The Special Housing Unit, for me, obviously that's --

1 **THE COURT:** When you say it's not punitive, but the
2 inmates don't agree with that, given -- and objectively --

3 **THE WITNESS:** Yeah.

4 **THE COURT:** -- it's hard to say it's not punitive when
5 you're restricted to an hour, maybe an hour and 15 outside,
6 which is vastly different from general population.

7 **THE WITNESS:** Yes, it is.

8 **THE COURT:** And there is no other, it appears to me,
9 no other housing situation where maybe you put someone there
10 for protection but they aren't as limited as those who are put
11 there for disciplinary reasons. I mean, you're treating them
12 just like someone who is being disciplined, which suggests it's
13 punitive.

14 **THE WITNESS:** I suppose so. Disciplinary segregation
15 does have more restrictions to it as far as what is -- what
16 they're allowed to receive like from their own property. Now
17 we have kind of a standardized commissary list. So I can
18 understand that -- that point of view for sure.

19 **THE COURT:** And you also understand that numerous
20 inmates were put in SHU after reporting assaults that happened
21 which led to the criminal indictments? Do you understand that?

22 **THE WITNESS:** I -- I understand that was what was
23 reported, yes.

24 **THE COURT:** Do you understand that's what was found to
25 have been done?

1 **THE WITNESS:** Okay. Yeah. Yes. Yes. That was all
2 before I got there.

3 **THE COURT:** I understand that.

4 **THE WITNESS:** Okay.

5 **THE COURT:** Did you and -- and the executive staff
6 consider that history when you were reformulating policies?

7 **THE WITNESS:** We haven't reformulated policies. I'm
8 not sure I understand that.

9 **BY MS. MATTIOLI:**

10 **Q.** If I could. Do you have authority at Dublin to change
11 BOP's national SHU policy?

12 **A.** No.

13 **THE COURT:** Is there anything other than -- I mean, it
14 seems to me that there should be something that is not SHU that
15 protects the inmates but is not general population. Is there
16 anything in between?

17 **THE WITNESS:** There's not. However, since I have
18 arrived there, there are a lot of things that inmates will not
19 go to SHU for. We've -- we've changed that.

20 **BY MS. MATTIOLI:**

21 **Q.** That they could --

22 **A.** That they could. That they probably would have prior to
23 going to the Special Housing Unit.

24 **THE COURT:** Like what?

25 **THE WITNESS:** So I'm not sure if you're familiar with

1 the prohibited acts and the codes that we use within the --
2 within the prison. There's 100 series, 200 series, 300 and
3 minimal 400 series that we use.

4 Prior -- prior to coming to Dublin and at other
5 institutions that I have worked or done TDYs at, primarily
6 male, inmates who were caught for any 200 series shot -- or
7 prohibited act -- they're called shots -- would be placed in
8 the Special Housing Unit regardless.

9 If an inmate is caught tattooing, not using the phone
10 correctly, those inmates previously would be remanded to the
11 Special Housing Unit. They are not. We don't.

12 The only time that I will ensure an inmate is secured in
13 the Special Housing Unit is if they are a risk to the safety
14 and security of the institution.

15 So if -- to me, if they're using the phone incorrectly
16 that doesn't facilitate any sort of escape or introduction of
17 contraband and isn't a risk to any sort of other staff or
18 inmate there or the security of the institution, I will not
19 place them in the Special Housing Unit.

20 **THE COURT:** Do you have primary authority for making
21 that decision?

22 **THE WITNESS:** I do.

23 **THE COURT:** Okay. So 300 and 400 series violations,
24 they are potentially -- you put them in the SHU for that?

25 **THE WITNESS:** No.

1 **THE COURT:** No?

2 **THE WITNESS:** Not necessarily.

3 **THE COURT:** So is 400 the worst or 100 the worst?

4 **THE WITNESS:** Oh, I'm sorry. 100 is the worst. Yes.

5 **THE COURT:** So for 100 they go in, a violation.

6 **THE WITNESS:** Depending on what it is. Depending on
7 what it is. If -- so this is one of the things that I'm sure
8 AW Deveney will touch on later. It was kind of agreed upon
9 that we had begun having an increased problem with Suboxone use
10 that was not prescribed to inmates.

11 So we decided to -- if an inmate appeared to be actively
12 under the influence and was acting erratic, they would have to
13 have a medical evaluation and be placed in the Special Housing
14 Unit under observation before actually being placed in the
15 Special Housing Unit, like in a cell and housed. Sorry.

16 However, if an inmate receives a urinalysis test and it
17 comes back positive, they do not -- and that's -- that's a 112,
18 okay, a 112 -- they do not go to the Special Housing Unit
19 unless the DHO assigns them disciplinary segregation time.

20 **THE COURT:** DHO means?

21 **THE WITNESS:** Discipline hearing officer. Sorry.

22 **THE COURT:** Okay.

23 Proceed.

24 **BY MS. MATTIOLI:**

25 **Q.** Would it be fair to say that you and the executive staff

1 try to come up with alternatives to placement in SHU?

2 **A.** Yes. So because of the increased narcotic use that we
3 have discovered that had been happening, psychology kind of
4 pitched a diversionary program, so to speak. And in
5 conjunction with the disciplinary hearing officer and myself,
6 kind of came up with a solution to instead of automatically
7 putting these -- these women in SHU, allow them -- we kind of
8 have an empty cell or an empty housing unit in GP right now --
9 allow them a restricted kind of program, so to speak, where
10 they would have to be programming and going to, like, drug
11 treatment. Throughout the day they would have minimum, like,
12 television access and kind of -- kind of restricted movement,
13 and then have more freedom in the evening. They have more --
14 more oversight because our drug treatment specialists have
15 offices in there.

16 So we started that program, and it seems to be working.
17 We've only had kind of one group of females, and it was a
18 six-week-long program. But it was well received and it was
19 definitely kind of an a -- an alternative to -- to going to the
20 Special Housing Unit.

21 **Q.** And using only initials, if you can give me an example of
22 a situation where you could place an inmate in SHU for a
23 non-drug-related issue and you have chosen not to. For
24 example, the things you listed were tattooing or anything
25 non-drug-related.

1 **A.** Yes. I -- I'm not sure of the first name.

2 **Q.** You don't need to use initials if it's confusing. You can
3 just give the example.

4 **A.** Okay. When I -- I want to say back in, oh -- in November,
5 roughly --

6 **Q.** Of 2023?

7 **A.** Of 2022.

8 **Q.** '22?

9 **A.** Yeah. Approximately. Maybe October, November. There was
10 an inmate sent to the lieutenant's office who had been caught
11 tattooing. The inmate was upset because she was in the middle
12 of programming and taking some college classes.

13 And so I -- I had heard her speaking to the lieutenant,
14 and I went and spoke to her and looked up her history. And --
15 and she really had very trivial disciplinary history from the
16 time of her arrival. She was working. She was taking college
17 classes. She was programming.

18 So I -- I told her, you know, number one, it's not
19 sanitary. Number two, that's how a lot of prison diseases are
20 transferred. And she needs to be more concerned about her, you
21 know -- her physical safety, but that I wasn't going to send
22 her to the Special Housing Unit, that she could go back to her
23 unit, continue programming, you know, bettering herself, and
24 see what the disciplinary hearing officer had to say about it
25 because it's ultimately up to him at that point.

1 Q. Can anyone in the institution be placed in SHU without you
2 knowing?

3 A. No.

4 Q. And how are you -- how and when are you notified that an
5 inmate is being placed in SHU?

6 A. My lieutenants are required to call me, even if it's the
7 middle of the night. I get phone calls all hours of the day at
8 times when things happen.

9 But, yes, they are required to call me and give me an
10 example or -- I'm sorry -- give me the exact reason why the
11 inmate is being placed in the Special Housing Unit.

12 So and there have been times when my lieutenants now know
13 my expectations. They will, if they have any questions,
14 obviously call me and give me an example of what happened or
15 describe -- I'm sorry, not example -- describe what happened
16 with the inmate. And ultimately it would be my decision
17 whether they're placed in the Special Housing Unit or not.

18 So I've had lieutenants call me and explain that, you
19 know, a staff member was listening to a phone call. The inmate
20 was making a three-way call. Nothing egregious, you know, was
21 said. And I make the choice to not put them in the Special
22 Housing Unit.

23 Q. Are three-way calls allowed?

24 A. No, they're not.

25 Q. And could an inmate be placed in Special Housing for that

1 under the policy?

2 **A.** They could. It would -- in my opinion, it would have to
3 be a jeopard -- it would have to be something where it
4 jeopardizes safety and security, but --

5 **Q.** In that instance, you chose to keep them in general
6 population?

7 **A.** Correct. And let them go through the disciplinary
8 process.

9 **Q.** So who else on the executive staff knows who's placed in
10 SHU and why they are there?

11 **A.** So from me, once my lieutenants report it to me and the
12 decision is made to place the inmate in the Special Housing
13 Unit, I then have to send a text to all of the executive staff.
14 So it would be Ms. Agostini, Mr. Deveney, Ms. Nash and now
15 Mr. Dulgov.

16 **Q.** And say what?

17 **A.** Just let them know that the name and registration number
18 of the inmate being placed in the Special Housing Unit and what
19 they're being placed in the Special Housing Unit for.

20 That is also followed up by an email from the lieutenants.
21 They send it to house services, psychology, SIS, the executive
22 staff, letting them know this inmate was placed in Special
23 Housing Unit and this is why, so on. Yeah.

24 **MS. MATTIOLI:** So I'm going to pull up an exhibit, if
25 we can, 407.

1 Your Honor, can I push this to the screen before it's
2 admitted so she can look at it?

3 **THE COURT:** Yes. And I should -- I need a copy.

4 **BY MS. MATTIOLI:**

5 **Q.** Captain, have you seen this document before?

6 **A.** Oh, very familiar with this. Yes.

7 **Q.** And can you just tell me generally what it is?

8 **THE COURT:** Ms. Mattioli, do you have two copies for
9 me or just one?

10 **MS. CZIOK:** Two.

11 **THE COURT:** The courtroom deputy will hold on to one,
12 and I've got my copy here.

13 **MS. MATTIOLI:** We have them electronically also and
14 plan to file them afterwards, just so -- if it gets admitted.

15 **Q.** So you said you have seen this document before?

16 **A.** Yes.

17 **Q.** What is it?

18 **A.** So this is a Special Housing Unit weekly review and it's
19 just a review -- I'm sorry.

20 **Q.** Special Housing Unit weekly review.

21 **A.** Uh-huh.

22 **Q.** I'd like to move for the admission of this document, 407,
23 Exhibit 407, and have you explain what it is.

24 **A.** Okay.

25 **THE COURT:** So this is a standard business record, do

1 I take it?

2 **THE WITNESS:** Yes. It's a standard record.

3 **THE COURT:** Okay. I'll admit it. 407.

4 (Defense Exhibit 407 received in evidence.)

5 **BY MS. MATTIOLI:**

6 **Q.** And it -- is it fair to say that the document you've seen
7 before doesn't have black lines or boxes on it?

8 **A.** Correct.

9 **Q.** Okay. So can you explain to us what this SHU report is?

10 **A.** Absolutely.

11 It's -- it's a summary of many things.

12 Up at the top, it would have the housing -- where it says
13 "Quarter Assignment" under there, that would be the housing
14 assignment that the inmate is assigned to in the Special
15 Housing Unit.

16 The next box just under "Inmate Name" obviously would be
17 their full name, the registration number, the unit that they
18 are basically assigned to as far as their case manager. Case
19 manager, unit manager, etc.

20 The IA date would be the initial placement date in the
21 Special Housing Unit.

22 Oh, I can't even read that.

23 **Q.** It's a little blurry. We don't need every single
24 detail --

25 **A.** No? Okay.

1 Q. -- but generally these -- why are these documents created?
2 How are they used?

3 A. Oh, so, in many ways. Every week we have a meeting and we
4 discuss every single inmate in the Special Housing Unit.

5 Q. Can I stop you very briefly. When you say "we have a
6 meeting," who attends the meeting?

7 A. It's the warden, the AWS, the executive assistant, myself,
8 the unit managers, the CMC, Case Management Coordinator, the --
9 either the Health Services Administrator or the assistant, the
10 chief psychologist, the Special Housing Unit lieutenant, the
11 Special Investigative lieutenant, and usually we also have a
12 Special Investigative technician there as well.

13 Q. Do all of those people meet in person every week?

14 A. Yes.

15 Q. To discuss this report that is generated?

16 A. Yes.

17 Q. So what is the purpose of the meeting with the department
18 heads and these reports?

19 A. To discuss kind of what's going on with the inmate, why
20 they've been placed in SHU, whether they should be released or
21 remain in the Special Housing Unit, what -- for example, some
22 of these have, under SIS Comments are listed any -- any
23 investigation that's ongoing with the inmate.

24 We also discuss any psychological concerns with the
25 inmates. Psychology will put their notes in there. Any health

1 concerns with the inmates. Any behavior history while housed
2 in the Special Housing Unit is -- would be documented.

3 Unit team would have their notes documented which is
4 usually how far away they are from receiving halfway house,
5 what their projected release dates are, any --

6 **THE COURT:** What does SIS refer to?

7 **THE WITNESS:** Special Investigative Services.

8 **BY MS. MATTIOLI:**

9 **Q.** And in discussing all of those various topics, I guess if
10 you could -- why -- why are you doing that? Why do you, as the
11 captain who has authority to place people in SHU, meet weekly
12 with other department heads to talk about what's going on in
13 SHU?

14 **A.** It's important to make sure that inmates are housed
15 appropriately; to see -- basically we go over whether the
16 inmate should -- where we are as far as the investigation is;
17 if the investigation is closed; what the findings were of those
18 investigations; whether the inmate should remain in the Special
19 Housing Unit; if there's a threat or if they're pending a
20 transfer.

21 If we can release them back to general population, we --
22 we would do so at those meetings. But as far as releasing back
23 to general population, it's not exclusive to these meetings.
24 So it's just an overall where we're at and how are the inmates
25 faring.

1 **Q.** Would you say that those meetings improve transparency
2 about the use of SHU?

3 **A.** Oh, absolutely. Yeah, we -- there's a lot of
4 communication that goes on during these meetings for sure.

5 **THE COURT:** When did they start? Were these weekly
6 reviews, were they in place before you arrived?

7 **THE WITNESS:** Yes. Yes, ma'am.

8 **THE COURT:** So how do you know that they increase
9 transparency if they were already being used?

10 **BY MS. MATTIOLI:**

11 **Q.** Just generally --

12 **THE COURT:** The question was did those meetings
13 improve transparency about the use of SHU. How did they
14 increase transparency if they were in use before you even
15 arrived?

16 **THE WITNESS:** No. The meetings in general, they --
17 they increased transparency between all of us regarding what's
18 going on with these inmates.

19 **THE COURT:** And how were they different than what was
20 going on before? I mean, I don't understand how -- what
21 change, if any -- like, if these things were already happening
22 and there were problems before and you have the same process,
23 how is it any different?

24 **THE WITNESS:** I think we've become a little more, I
25 guess -- we've improved as far as what's required in -- in the

1 actual notes. I know some of the notes from prior meetings,
2 unit team wouldn't have very much in there, or there would be
3 no health services notes. Those are just examples.

4 But one of the things that we, as an executive team, have
5 required is for unit team to go in there and make sure that
6 there are accurate notes; as soon as the inmates are placed in
7 the Special Housing Unit, to ensure that we have all the
8 documentation and everything, when we look at these, whether
9 it's at the -- at the meeting or not, so that if there's a
10 potential issue with an inmate or, say, we have a violent
11 inmate and we don't know whether they can actually be subjected
12 to maybe like an OC if we had some sort of use of force or --

13 **THE COURT:** When you first arrived, there were people
14 in the SHU; right?

15 **THE WITNESS:** Yeah. The numbers were pretty low.

16 **THE COURT:** Did you do an evaluation of those at that
17 time?

18 **THE WITNESS:** Absolutely.

19 **THE COURT:** And when was -- when was that? Was that
20 in July, August, September, October? When?

21 **THE WITNESS:** They -- we have the meetings about all
22 the inmates in the Special Housing Unit every week. So from --
23 from the minute I arrived, they -- they were every week.

24 **THE COURT:** Okay. What does it mean when you have --
25 there's, on this Exhibit 407, the first couple blocks talk

1 about alleged PREA victim, one December 2022 and the other
2 October 2022.

3 What does that reference?

4 **THE WITNESS:** That would reference whether they had an
5 inmate-on-inmate PREA allegation. So if they were the victim
6 of an allegation of PREA from another inmate, that -- that
7 would be listed in there.

8 **THE COURT:** How do I know that's inmate-on-inmate and
9 not correctional officer-on-inmate?

10 **THE WITNESS:** Well, I suppose you -- you wouldn't.
11 But any PREA allegation with staff, they're not -- they're not
12 referenced in our True program so -- okay, let me go back.

13 So Special Investigative Services will do inmate-on-inmate
14 PREA. So if there are any notes in the SIS column that have
15 anything to do with being a victim of a PREA, that would not
16 involve staff at all. No staff-on-inmate PREA is ever put into
17 the True Intel system.

18 **THE COURT:** Why not?

19 **THE WITNESS:** Because it's -- that's something only
20 for SIA. That's not something that -- that's completely
21 separate from the internal investigation.

22 **THE COURT:** So SIS versus SIA?

23 **THE WITNESS:** Correct. SIS is Special Investigative
24 Services. SIA is the Special Investigative Agent who only
25 oversees the staff side of allegations. The Special

1 Investigative Services is only -- only has oversight over the
2 inmate investigative, if that explains it.

3 **THE COURT:** Proceed.

4 **THE WITNESS:** Okay.

5 **MS. MATTIOLI:** And I have one more exhibit on this
6 topic.

7 If we could pull up 405, please.

8 **Q.** And, Captain, what is this exhibit depicting?

9 **A.** This is the weekly Special Housing Unit staff visitor log.

10 **Q.** Okay. And can you tell me why do you have a log of who
11 visits the Special Housing Unit?

12 **A.** So we know who's going in and out, number one. Number
13 two, because it's policy that certain people visit Special
14 Housing Unit, whether it's daily, per shift, per week, and this
15 is a way that we track to make sure everybody's doing what
16 they're supposed to be doing.

17 **Q.** Can you give me an example of a staff member required to
18 visit SHU daily, if there are any?

19 **A.** It would be the lieutenants and the health services. The
20 lieutenants are required to visit Special Housing Unit every
21 shift. The health services department are required to visit
22 the Special Housing Unit at least once a day, but they visit
23 twice, in the morning and the evening, to conduct pill line.

24 **Q.** To conduct...?

25 **A.** Oh, pill line. To issue medications to the inmates in the

1 Special Housing Unit.

2 **Q.** What about psychology?

3 **A.** Psychology is required weekly or on an as-needed. And
4 they will go down there and pull inmates. They're required to
5 do evaluations on inmates periodically, yeah.

6 **Q.** So would it be fair to say that there's still a normal --
7 or not normal -- there's still activity happening in SHU when
8 an inmate is there? They're having contact with department
9 heads on a regular basis?

10 **A.** Yes. If not -- yeah. Absolutely a regular basis. Unit
11 team daily, lieutenants daily per shift, department heads at
12 bare minimum weekly, yes.

13 **Q.** And do the department heads communicate with the inmates
14 in SHU when they go? What is the purpose of them visiting SHU?

15 **A.** It's to give them updates on halfway house dates and
16 releases and FSA credits that were -- yeah, just to communicate
17 and discuss. The unit team will give them administrative
18 remedy paperwork or receive it. Those are just some examples,
19 yeah.

20 **Q.** So if an incident occurred while an inmate was in SHU,
21 would -- during these interactions, would they be able to just
22 verbally say to the staff member I have something I'd like to
23 talk to you about?

24 **A.** Yes.

25 **Q.** And how would you facilitate a conversation that could be

1 private if necessary?

2 **A.** If it were me, I would wait until, you know, everybody's
3 kind of got off the range to pull them out and, you know,
4 obviously take them into another room and have a conversation
5 with them. I've done it many times.

6 **Q.** Okay.

7 **A.** Yeah.

8 **MS. MATTIOLI:** I'm not sure if I moved to admit this
9 exhibit.

10 **THE COURT:** You did not.

11 **MS. MATTIOLI:** If not, I would like to move the
12 admission of Exhibit 405 as a business record.

13 **THE COURT:** I'll admit it.

14 **MS. MATTIOLI:** Thanks.

15 (Defense Exhibit 405 received in evidence.)

16 **BY MS. MATTIOLI:**

17 **Q.** Have you or anyone -- I guess can anyone recommend that an
18 inmate be released from SHU early if they're there for a
19 disciplinary sanction?

20 **A.** Yes. So if the disciplinary hearing officer -- we'll
21 just -- as an example, if a disciplinary hearing officer
22 sanctions an inmate to two weeks, 14 days of disciplinary
23 segregation time, it would -- it would be at my discretion to
24 release them early, and I make a habit of doing so.

25 **MS. MATTIOLI:** I would like to pull up Exhibit 408.

1 Q. Have you seen this document before?

2 A. Yes.

3 Q. And when have you seen it? Did you create it?

4 A. No. It's actually something that I have used as a SHU
5 lieutenant myself at FCI Inglewood. And it was given to me by
6 my former captain.

7 And it's basically -- it's used to let the disciplinary --
8 or the disciplinary hearing officer know that we are ending an
9 inmate's disciplinary segregation early.

10 Q. So is it a form, sort of something that is in a standard
11 format that somebody can plug their information into? Is that
12 what you mean by you took it from another institution?

13 A. It was kind of a template memo that was shared with me
14 that, you know --

15 Q. Yes, thank you.

16 A. Yeah.

17 Q. So this template memo, this one in particular, do you know
18 that you've seen it before?

19 A. Yes.

20 Q. And it's something that your staff would generate and you
21 would sign off on it?

22 A. Yes.

23 MS. MATTIOLI: So I would like to move the admission
24 of this document, 408.

25 THE COURT: I'll admit it.

(Defense Exhibit 408 received in evidence.)

BY MS. MATTIOLI:

Q. Why would you -- why would someone fill out this memo and recommend release from SHU early?

A. My lieutenants do this at my request.

Q. And why would you request that they do that?

A. Because I -- I don't -- I don't feel like they need to be in SHU that exorbitant amount of time, yes.

Q. Would that be based on information you receive at weekly SHU meetings that continued placement is just no longer necessary for safety?

A. Partially, yes. So part of -- part of my rationale behind that, if an inmate was placed in the Special Housing Unit for a fight, for example, anytime there's an incident like that, we are required to do an investigative case to make sure, number one, that the parties involved are both safe to go back to the institution or to the general population.

Those cases sometimes take a little bit of time. We have camera footage that we have to review. There are other inmates that have to be interviewed, just to make sure we've covered all of our bases.

Once the investigative case is complete, it's submitted to me. I will sign off or, you know, request corrections or maybe additional interviews or information.

Once I sign off on it, it goes to the associate warden,

1 either one generally can kind of take a look at it and sign
2 off.

3 From there, it goes to the warden. The warden will take a
4 look at it. They can push it back if they request more
5 information. Or -- and this is all electronically in our
6 program. Once the -- once the warden signs off, the case is
7 officially closed.

8 So generally, they have 30 days to complete an
9 investigation, or they have to request additional time via
10 memorandum.

11 I require my SIS technicians to complete cases within two
12 weeks to me. They can request to me if they need more time for
13 that, but I like to try to get them done as quickly as
14 possible.

15 From there, the inmates at that point could be sitting in
16 the Special Housing Unit for 30 days and receive an incident
17 report for the fight. And then the disciplinary hearing
18 officer could give them an additional 14 days.

19 To me, they've already been in Special Housing Unit for
20 30 days and they've behaved, I'm going to send them back to the
21 housing unit.

22 **Q.** Is this sort of an acknowledgment of time served?

23 **A.** Uh-huh, yes.

24 **MS. MATTIOLI:** Your Honor, I'm not sure if you want to
25 take a break.

1 **THE COURT:** I was just going to tell you you have one
2 minute.

3 **MS. MATTIOLI:** Yeah.

4 **THE COURT:** So --

5 **MS. MATTIOLI:** It's a good place to break.

6 **THE COURT:** So we will stand in recess until
7 10:00 a.m. Hold on.

8 **MR. ANDERSON:** Your Honor, we would just ask that the
9 witness not discuss the substance of her testimony with counsel
10 during the break.

11 **THE COURT:** So ordered. So at this point, you may not
12 discuss your testimony with anyone. All right?

13 **THE WITNESS:** Sounds good.

14 **THE COURT:** Take your break.

15 **THE WITNESS:** Thank you.

16 **THE COURT:** All right. We will stand in recess until
17 10:00 a.m.

18 (Recess taken at 9:40 a.m.)

19 (Proceedings resumed at 10:01 a.m.)

20 **THE COURT:** You may proceed.

21 **MS. MATTIOLI:** Thank you, Your Honor.

22 **Q.** I have just two questions to clear up about visual
23 searches and SHU before we move on.

24 Are inmates in view of any cameras when they are visually
25 searched?

1 **A.** No.

2 **Q.** How many inmates are currently at Dublin?

3 **A.** It's roughly 712.

4 **Q.** And how many spots are there in SHU?

5 **A.** We have 16 beds -- or 16 cells. All are doubled so a
6 total of 32.

7 **Q.** Thank you.

8 Captain, can you briefly tell me the policy on cell
9 searches?

10 **THE COURT:** Can I get one clarification? The 700,
11 does that include the camp?

12 **THE WITNESS:** Yes.

13 **BY MS. MATTIOLI:**

14 **Q.** Can camp inmates go to SHU?

15 **A.** Yes.

16 **Q.** Can you briefly tell me about the policy on cell searches?

17 **A.** Yes. So every cell -- excuse me -- must be searched every
18 month. So within -- within one month's time, the unit officers
19 are required to have a search to every single cell within the
20 unit.

21 **Q.** Are you aware of a staff member searching or tossing an
22 inmate's cell following a legal visit?

23 **A.** No.

24 **Q.** Are you aware of a staff member tossing an inmate's cell
25 in retaliation for an inmate meeting with a lawyer?

1 **A.** No.

2 **Q.** Are random cell searches required?

3 **A.** Yes.

4 **Q.** And how do you know that the searches are random?

5 **A.** Well, there's -- there's a couple different types of
6 searches, I suppose, that can be done. But based on our
7 computer program, the staff have to log -- have to log every
8 search that they do in that program as far as the cells go.

9 If a staff member suspects an inmate may have something,
10 they can search that cell even if it has been searched in that
11 month. So there's that as well.

12 Can I guarantee they're done at random? I mean that's --

13 **THE COURT:** Do you have a program?

14 **THE WITNESS:** Yes.

15 **THE COURT:** Do you have a program that tells -- that
16 just generates, you know, a random list that no one knows
17 because it's computer generated --

18 **THE WITNESS:** Okay.

19 **THE COURT:** -- that says these are the cells that you
20 randomly search today. So that you take out the discretion of
21 an officer to claim that it's random when in fact perhaps it's
22 not?

23 **THE WITNESS:** No, we don't -- we don't have a program
24 like that currently.

25 **THE COURT:** Have you ever heard of it, of a program

1 like that?

2 **THE WITNESS:** No.

3 **BY MS. MATTIOLI:**

4 **Q.** If you suspected that one of your staff members was
5 performing cell searches in a way that was not random, how
6 would you address that?

7 **A.** I would, first of all, ask them why, why they were doing
8 that, why they chose a particular cell. And if their response
9 is inadequate, that they had some sort of suspicion or
10 something, then it would be something that I would bring to the
11 warden's attention and possibly refer to SIA, if necessary.

12 **Q.** Thank you.

13 If non-contraband items are taken from a cell, what is the
14 process the inmate uses to have their property returned?

15 **A.** Inmates would receive a confiscation form. If the item
16 was taken and then they would basically have to prove purchase
17 or ownership and get that item back, depending on what it is,
18 yes.

19 **Q.** Would staff ever have a reason to remove an inmate's legal
20 paperwork?

21 **A.** No.

22 **THE COURT:** In fact, it would be entirely
23 inappropriate; correct?

24 **THE WITNESS:** The policy is that we can look through
25 the inmate's paperwork to see if there is any hidden

1 contraband. But we cannot read it, we are not allowed to read
2 it.

3 **THE COURT:** And you certainly can't take it? Officers
4 can't take legal mail, can they?

5 **THE WITNESS:** If it was found -- if there was
6 narcotics or something found, the correctional officers
7 generally would call SIS to come and get the narcotics.

8 But the legal mail itself, unless it was sprayed with some
9 sort of -- we've had legal mail come in -- under the pretense
10 of legal mail come in that has been sprayed with chemicals that
11 the inmates -- it's known as K2. If that were to have been
12 found with something, then that would be taken as evidence.

13 **THE COURT:** What is that again?

14 **THE WITNESS:** It's a synthetic narcotic. It's called
15 K2. It's a -- it's a street drug.

16 **THE COURT:** And how do you -- do you have a process by
17 which you check whether legal mail is appropriately designated
18 as legal mail, that is, that it's true legal mail as opposed to
19 someone pretending that it's legal mail?

20 **THE WITNESS:** Right. So the mailroom has that -- that
21 process, yes.

22 **THE COURT:** Say that again.

23 **THE WITNESS:** The mailroom -- receiving and discharge,
24 inmate systems management kind of is responsible for all of the
25 incoming, outgoing mail throughout the institution.

1 It is up to them to call the inmate up to receive legal
2 mail. At that point, the -- between -- well, R&D and --
3 between R&D and the unit team --

4 **THE COURT:** R&D is...?

5 **THE WITNESS:** Is the mailroom. I'm sorry.

6 Inmate systems management receiving and discharge, they're
7 kind of the all-encompassing area that has to do with any --
8 any -- any mail, sorry. Referred to -- I'll stop with the
9 lingo, or at least try to, prison terminology.

10 So they're responsible for issuing the legal mail to
11 staff -- or to the inmates. I'm sorry.

12 If there is something suspicious, generally they will call
13 SIS and it can be tested at that point.

14 **THE COURT:** Proceed.

15 **BY MS. MATTIOLI:**

16 **Q.** And if it's found to be clear from contraband, the
17 inmate -- would the inmate receive the mail --

18 **A.** Oh, immediately --

19 **Q.** -- at that point?

20 **A.** Yes.

21 **Q.** Okay. I'm going to pull up Exhibit 411, please.

22 Captain, what is this document?

23 **A.** This is the movement schedule for the institution, for the
24 FCI.

25 **Q.** And how are you aware of this document's existence? How

1 is it created?

2 **A.** I created it.

3 **Q.** Okay.

4 **MS. MATTIOLI:** I'd like to move the admission of
5 Exhibit 411.

6 **THE COURT:** I'll admit it.

7 (Defense Exhibit 411 received in evidence.)

8 **BY MS. MATTIOLI:**

9 **Q.** Can you explain briefly in a nutshell for the Court how
10 many staff members are responsible for moving Dublin's
11 700 inmates to and from daily activities pursuant to this
12 schedule.

13 **A.** Oh, that's -- that's a difficult one to answer. From --
14 okay. So we have compound officers that would actually
15 announce the movement.

16 **Q.** And how is the movement announced?

17 **A.** They would call the control center, and the control center
18 would announce it over the intercom.

19 Also at that time when they call the control center, the
20 unit officers who have radios become aware of the move that
21 they're calling.

22 From there, the unit officers would open the doors to the
23 units to allow the inmates to move to recreation, education,
24 health services, psychology, if they have call-outs, wherever
25 they happen to be going.

1 Q. What is a call-out?

2 A. Oh, sorry. Yes. Call-out.

3 A call-out is basically a scheduled appointment for an
4 inmate. So the previous day, any inmate that may have an
5 appointment for the next day, it would be uploaded in what's
6 called our SENTRY system.

7 Q. When is it uploaded in SENTRY?

8 A. So it would have to be entered by noon in order for it to
9 reflect the next day. By noon the day of to reflect the next
10 day.

11 Q. And why is the noon deadline important?

12 A. Because the system won't generate anything after that for
13 the next day, yeah.

14 Q. And what do you do with the system-generated list of
15 call-outs once they're generated and printed? How are they
16 published?

17 A. Okay. So the lieutenant runs the report in the evening,
18 evening shift every day. He would typically -- or he or she --
19 would typically save it to a shared drive that staff have
20 access to.

21 They are also printed and delivered to the housing units
22 so that the inmates will actually have copies in -- in every
23 single housing unit. So the inmates can go and look and see,
24 okay, I have -- I have to be at the -- at medical at 7:30, I
25 have a class at 9:00, so on and so forth.

1 **Q.** So, and I just want to make sure we're all very clear
2 about the process. On noon of the day ahead of the
3 appointment, the appointments are put into the system so that
4 the evening shift on that day can print them and give notice to
5 the inmate so that they will be ready for the appointment the
6 following day.

7 **MR. ANDERSON:** Leading, Your Honor.

8 **BY MS. MATTIOLI:**

9 **Q.** Is that accurate?

10 **THE COURT:** It is leading, but I don't have a jury
11 here. I'll let you know if I think that it's substantive in a
12 way that isn't appropriate.

13 Answer the question.

14 **THE WITNESS:** That would be correct.

15 **BY MS. MATTIOLI:**

16 **Q.** Okay. Would it be easy for a staff member to find an
17 inmate if they weren't in the place that they were supposed to
18 be pursuant to the call-out list that was generated?

19 **A.** In theory. It -- yes and no. So it -- if an inmate
20 misses a call-out, there's a -- there are certain procedures we
21 have to follow.

22 Obviously they would contact other areas to see if the
23 inmate is in there, like maybe recreation and they missed the
24 appointment or perhaps the housing unit they're assigned to or
25 work if they weren't paying attention, wherever they happened

1 to be working at.

2 If after within that 30-minute time frame from the time
3 the staff kind of makes it aware that, hey, we're looking for
4 this inmate, and we are still unable to find the inmate, the
5 institution is -- is recalled so --

6 **Q.** The entire institution is recalled?

7 **A.** With the exception of our UNICOR call center and food
8 service, all the other programming areas, recreation and
9 everything, is recalled back to the unit so that we can locate
10 that inmate on the off chance there was an escape or something
11 else.

12 **Q.** So if there were last-minute changes to a call-out that
13 resulted in an inmate not being where they were supposed to be
14 or being somewhere else, it could potentially result in every
15 single inmate --

16 **THE COURT:** That is -- that is significant leading.
17 Try again.

18 **BY MS. MATTIOLI:**

19 **Q.** I mean you've already answered it, so I'll move on.

20 What if there was an incident or an emergency and someone
21 wasn't where they were supposed to be? How does that create a
22 safety risk?

23 **A.** Well, it -- it would affect the entire institution
24 obviously. Within that 30 minutes, we would have to recall and
25 possibly do a count to identify that all the inmates are

1 accounted for and where they're supposed to be.

2 Q. What is a count? Can you tell us how -- what is the
3 procedure for a count?

4 A. Okay.

5 Q. Briefly.

6 A. Briefly, okay.

7 It's basically just locating inmates, taking a head count.
8 Certain times a day, several times a day, we have to actually
9 count each individual inmate. A couple times a day we have to
10 do an actual stand up to make sure the inmates are healthy and
11 everyone's accounted for. We physically count them.

12 Q. When you say "stand up," you mean -- what do you mean by
13 that?

14 A. The inmates actually stand, like, and kind of present
15 themselves to staff so that we make sure they're alive, they're
16 not poked full of holes, there is nothing wrong with them,
17 they're not -- you know, medical attention isn't necessary.

18 Q. Okay.

19 Okay, I'm going to switch gears.

20 A. Okay.

21 Q. If I asked you a question using the term "sexualized
22 environment," what would that mean to you?

23 A. Quite a bit. A sexualized environment. An environment
24 that would promote sexual language, deviancy, behaviors.

25 Q. What would indicate that an environment is sexualized in a

1 correctional setting?

2 **A.** Indicators. Behaviors. Suspicious behaviors. Comfort
3 level. Banter.

4 **Q.** Is that based on your personal knowledge of working in
5 institutions? Have you seen personally examples of sexualized
6 behavior in institutions?

7 **A.** Within the institutions that I've been to, I've seen kind
8 of some suspect behaviors that definitely raise some question.

9 **Q.** And just to fully recap, what would be -- if you said
10 that's a suspect behavior, what would -- what would the red
11 flag suspect behavior be to you?

12 **A.** Okay. Too comfortable, too close, too friendly, too
13 personalized.

14 **Q.** Between who?

15 **A.** Between staff and inmates. Really even between staff.
16 It's not appropriate for a workplace, period.

17 **Q.** Is Dublin a sexualized environment?

18 **THE COURT:** I need a time frame.

19 **BY MS. MATTIOLI:**

20 **Q.** Now.

21 **A.** Not -- not that I've seen at all.

22 **Q.** In your experience since you started in July of 2022,
23 would you characterize Dublin as a sexualized environment?

24 **A.** I have not observed that.

25 **Q.** Are you aware of any member of your staff sexually abusing

1 inmates in your custody?

2 **A.** I am -- I am not aware of my staff. And -- and those who
3 have been accused, we -- and staff have been placed on
4 administrative leave and separated.

5 **Q.** Okay. Have you ever covered for a staff member committing
6 sexual abuse of an inmate?

7 **A.** No.

8 **Q.** Have you ever ignored an inmate's complaint that a
9 staff --

10 **A.** No.

11 **Q.** -- member had sexually abused or harassed them?

12 **A.** Sorry. No.

13 **THE COURT:** Have you received any?

14 **THE WITNESS:** I have received some, yes.

15 **BY MS. MATTIOLI:**

16 **Q.** And what do you do when you receive those complaints?

17 **A.** I immediately report them to the warden, SIA.

18 **THE COURT:** So you don't investigate yourself? You
19 just pass it on?

20 **THE WITNESS:** Correct. I -- I don't investigate.

21 **BY MS. MATTIOLI:**

22 **Q.** In your opinion, are the inmates at Dublin at an increased
23 risk of sexual victimization by your staff?

24 **A.** Not currently.

25 **Q.** And why is that?

1 **A.** I feel like a message has been sent, not just by
2 everything that happened before we got there, but everything
3 that we've enforced since being there.

4 **Q.** And I'd like to talk about that.

5 Do you feel -- well, let me ask you this. What was the
6 camera system like when you arrived?

7 **A.** I want to say Dublin had approximately 170ish, -80ish
8 cameras. We currently have 386 cameras. There are cameras
9 everywhere.

10 **Q.** Have the cameras helped?

11 **A.** I believe so. Absolutely. I think they've helped both
12 the staff and inmates feel a lot safer.

13 **Q.** And how do the cameras help the staff feel safer?

14 **A.** I think the staff are aware of their placement, and I
15 think there's -- there's this -- been this inherent fear that
16 every staff member at Dublin is involved and accused and kind
17 of put into that same category as the ones who were there doing
18 all of this.

19 And so I -- I -- I believe it has helped them feel a
20 little more protected that they're on camera and people can see
21 that they're doing their job right, the right way.

22 **Q.** Captain, have you ever sexually harassed an inmate?

23 **A.** No.

24 **Q.** Have you ever sexually abused an inmate?

25 **A.** No.

1 **Q.** Now that we understand your background in the enforcement
2 of correctional policies, can you recap for the Court the
3 changes that you have seen at Dublin since you've been there --
4 and that was a very long question -- in terms of policy
5 enforcement.

6 **A.** I believe since arriving there, staff have become more
7 aware of what the expectations are, what policies are.

8 I think there's much more structure and discipline and
9 accountability with the staff primarily, but with the inmates
10 as well. And they know the expectations that if policy is not
11 adhered to, there will be consequences to it.

12 And I believe that the staff, the executive team and the
13 new staff that we have now, have made a difference in
14 improving, I believe, morality with the inmates and the staff.

15 And is it a hundred percent? No, it's not. It's going to
16 take some time. Dublin has been a damaged facility. It has.
17 And that's not something that you can fix overnight, but I work
18 very hard to make sure there's positive changes there.

19 **Q.** Do you feel like the training that you personally have
20 implemented has helped?

21 **A.** I do. And I think it's been well received.

22 **Q.** Do you have an example of how this increased structure
23 also benefits the inmate population?

24 Take a minute, if you need it.

25 **THE COURT:** Do you have a tissue? Can we get her some

1 tissue?

2 **THE WITNESS:** I apologize.

3 **BY MS. MATTIOLI:**

4 **Q.** I can let you explain to the Court why this is emotional
5 for you.

6 **A.** Because what I do matters to me. My integrity matters to
7 me. I've spent 15 years with this agency, and I love my job.
8 I love the people. Sorry. I love the good people that I work
9 with, and I love that I feel like I can make a difference. So
10 coming here has been a challenge and a struggle, and it's not
11 done yet.

12 **THE COURT:** To the courthouse or to Dublin?

13 **THE WITNESS:** No. No. Coming here to Dublin. This
14 has been a challenge, too, okay? For sure.

15 But coming to Dublin, you know, was not an easy decision
16 for me. And it took -- I took a lot of time thinking about if
17 this was a challenge that I really was ready to take on, and it
18 was. And so I'm -- I'm emotionally vested in this place. So
19 what happens there, what happens here, it matters to me.

20 Can you repeat the question? I'm sorry.

21 **THE COURT:** New question. She answered it.

22 **MS. MATTIOLI:** I don't have any further questions for
23 you.

24 **THE COURT:** Okay.

25 Cross.

1 **MR. ANDERSON:** Your Honor, may we approach with
2 binders?

3 **THE COURT:** You may.

4 I did get two hearing binders. Do you have additional
5 ones?

6 **MR. ANDERSON:** These binders are specific exhibits
7 that we think we will use with Ms. Quezada, just for
8 convenience, so I don't have to send you running around with
9 different binders.

10 **THE COURT:** Okay. So this then is my copy set. Do we
11 have a copy set for the clerk? Can I write on them or not?

12 **MR. ANDERSON:** You can write on them, keep them, do
13 whatever you like with them. We can get a set for the clerk,
14 yes. And we have a set for Ms. Quezada.

15 **THE WITNESS:** I've got one. Yeah, thank you.

16 **MR. ANDERSON:** And Carson Anderson, Madam Reporter.

17 **THE COURT:** Thank you. You may proceed.

18 **MR. ANDERSON:** Thank you, Your Honor.

19 **CROSS-EXAMINATION**

20 **BY MR. ANDERSON:**

21 **Q.** I want to make sure that I pronounce your name correctly.
22 Is it Ms. Quezada?

23 **A.** Uh-huh.

24 **Q.** Okay. And my name is Carson Anderson. I'm with the law
25 firm Arnold & Porter, representing the plaintiffs in this

1 matter. Thank you for coming in here today to talk to us.

2 So I'd like to start by talking about the annual training
3 that you discussed with Ms. Mattioli.

4 **MR. ANDERSON:** And I'd actually like to pull up
5 Exhibit 212. And I apologize, Your Honor, that one is actually
6 not in the binder, but I have a paper copy I can approach with.

7 **THE COURT:** Is it in your other binder?

8 **MR. ANDERSON:** It would be a defendants' exhibit so
9 perhaps it's up there. But we have a full set of defendants'
10 exhibits if you would like a full set up there with you.

11 **THE COURT:** I don't have that one.

12 **MR. ANDERSON:** I will approach with a paper copy.

13 **THE COURT:** You may approach. Never approach without
14 asking.

15 **THE WITNESS:** Thank you.

16 **THE COURT:** And you have one -- and I take it you've
17 exchanged exhibits. So Ms. Mattioli has hers?

18 **MR. ANDERSON:** That's right. And this is a
19 defendants' exhibit in any event.

20 **THE COURT:** Proceed.

21 **BY MR. ANDERSON:**

22 **Q.** Ms. Quezada, do you recognize this exhibit here,
23 Exhibit 212?

24 **A.** Yes.

25 **Q.** So is this the agenda for the 2023 training that you

1 discussed with Ms. Mattioli earlier?

2 **A.** Yes.

3 **Q.** And I think you said it was a weeklong training, but it
4 lasted January and February. Is that just because only a
5 certain number of folks can attend the training and so you have
6 to do it week after week?

7 **A.** Yes. We have an institution that has to run still so --

8 **Q.** Sure.

9 **A.** -- can't have all the staff go at the same time, for sure.

10 **Q.** So you recognize this document. And this is -- this is
11 the schedule for that annual training then?

12 **A.** It appears so, yes.

13 **MR. ANDERSON:** Your Honor, we would move to admit
14 Exhibit 212.

15 **THE COURT:** Admitted.

16 (Defendants' Exhibit 212 received in evidence.)

17 **BY MR. ANDERSON:**

18 **Q.** So I think I wrote it down. I think you said that the
19 PREA training during this annual training -- I think the word
20 you used was extensive or lengthy. Am I mischaracterizing your
21 testimony there? I think you said -- I had it written down
22 here. You said very lengthy.

23 **A.** Okay.

24 **Q.** Do you agree that it was a very lengthy training?

25 **A.** Being that most of the time it went over the allotted

1 hour, yeah, or hour and a half or whatever it was. I don't
2 remember the exact time, but, yeah.

3 **Q.** So if we flip to page 2 of Exhibit 212, if we look at the
4 very top time slot, it's from 6:00 a.m. to 6:30, sexual abusive
5 behavior and intervention, and the topics include Prison Rape
6 Elimination Act?

7 **A.** Uh-huh.

8 **Q.** So during this annual training, the only time that was
9 allotted in this -- in this agenda was a 30-minute slot at
10 6:00 a.m. in the morning for PREA?

11 **A.** That was part of it.

12 **Q.** That was part of that 30-minute slot?

13 **A.** That's part of the PREA training.

14 **MR. ANDERSON:** You can set that exhibit aside.

15 **Q.** You said that sometimes inmates know -- know the policies
16 better than staff. What did you mean by that?

17 **A.** There are a lot of inmates there that actually take the
18 time to research the policy. And there are a lot of newer
19 staff that -- that don't know all of the policies and
20 everything it encompasses.

21 So, yes, there are times when inmates are more versed in
22 policy than a lot of the newer staff that we have.

23 **Q.** I'd like to talk about visual searches. You said that a
24 visual search, you know, it's mandatory for it to be performed
25 anytime there's a suspicion of contraband potentially after a

1 visit. And if I mischaracterize anything you said, please
2 correct me.

3 **A.** Yeah. It is policy that visual searches are performed
4 after any contact with any public.

5 **Q.** And -- and that is due to a suspicion of contraband
6 perhaps being transferred to the incarcerated person?

7 **A.** That's due to the possibility at any point of contraband
8 being passed.

9 **Q.** And why does that apply to a legal visit?

10 **A.** It applies to all visits.

11 **Q.** But why does the suspicion of possible, you know,
12 conveyance of contraband, why does that apply to a legal visit?

13 **A.** There -- there's always the possibility, sir, of
14 contraband getting into the institution, whether it is with a
15 social visit or a legal visit. There have been other
16 institutions that I have worked in that we have actually had
17 attorneys bring narcotics in to inmates.

18 Is it -- is it every attorney? No. But there is the off
19 chance. And it's policy to make sure -- the policy is in place
20 to make sure that that doesn't happen.

21 **Q.** During your tenure at Dublin, have you ever encountered a
22 situation where an attorney provided contraband?

23 **A.** No.

24 **Q.** I think earlier you were discussing a log with
25 Ms. Mattioli and Judge Gonzalez Rogers and you found one entry,

1 I think it was from November 5 of 2023, and that was the only
2 entry you could find where a visual search had led to the
3 finding of contraband based on the information that was in that
4 logbook.

5 **A.** Correct.

6 **Q.** Was that contraband conveyed to the incarcerated person
7 during a legal visit?

8 **A.** I couldn't tell you. It doesn't say.

9 **Q.** It doesn't say that in the log?

10 **A.** It -- it doesn't say when -- it gives the description,
11 which I mentioned earlier, of the date, the inmate's name, all
12 of that good stuff, during that time period of every inmate
13 that was searched in the visiting room.

14 **Q.** It would not include who the inmate visited with during
15 that search --

16 **A.** Not in the logbook, no.

17 **Q.** So you don't keep that information in the logbook?

18 **A.** The logbook is just the visiting room. Anyone who has
19 come in or out of the visiting room.

20 **Q.** And attorneys only meet with inmates in that visiting
21 room?

22 **A.** Correct.

23 **Q.** So that logbook would be the full universe of potential
24 attorney-client visits where contraband could have been
25 conveyed?

1 **A.** It -- it -- yes. It would be any outside attorney,
2 correct.

3 **Q.** But you can't tell me where -- whether that November 5
4 meeting was from a legal visit?

5 **A.** No.

6 **Q.** You were going through the visual search process, and it
7 sounded very detailed with checking fingers and hair and
8 opening mouths and --

9 **A.** Yes.

10 **Q.** -- and lots of stuff. About how long does the visual
11 search take?

12 **A.** I would say anywhere from -- maybe like seven to ten
13 minutes.

14 **Q.** Per inmate?

15 **A.** Yeah.

16 **Q.** And in the entirety of that logbook, you only found one
17 instance where contraband was being -- was found on an inmate
18 after that search?

19 **A.** Correct.

20 **Q.** But every inmate who goes to a legal visit has to go
21 through that seven- to ten-minute strip search every single
22 time?

23 **A.** Every inmate leaving the visiting room has to go through a
24 visual search, yes.

25 **Q.** I think you were asked some questions about contraband

1 coming into FCI Dublin potentially through staff.

2 **A.** There -- there would always be that risk at any
3 institution.

4 **Q.** And I think -- I think you were asked by the Judge whether
5 you know that contraband is coming in through staff, and I
6 think -- I wrote it down in quotes, you said absolutely.

7 **A.** Excuse me?

8 **Q.** I -- I think you were asked, you know, in the context of
9 that conversation about contraband potentially coming in
10 through staff, I think you said that you weren't personally
11 aware of any contraband coming in through staff?

12 **A.** Correct.

13 **Q.** But I think the question was do you know that contraband
14 is coming in through staff, and I think you said absolutely?

15 **A.** That contraband could come in by staff, yes.

16 **Q.** And you meant at Dublin when you answered that question?

17 **A.** It could at Dublin.

18 **MR. ANDERSON:** Before we move off of the visual search
19 log, I'll just note for the record that plaintiffs -- we don't
20 have access to that log. It was submitted in camera. Just
21 noting for the record that we don't have a copy of it for
22 purposes of cross-examination.

23 **THE COURT:** So noted.

24 **BY MR. ANDERSON:**

25 **Q.** Inmates who meet with the Mexican consulate in the

1 visitation area, are they visually searched? Do they go
2 through the same procedure after meeting with the Mexican
3 consulate?

4 **A.** Yes.

5 **Q.** Yes.

6 During your -- your direct, you mentioned the SIA officer
7 at FCI Dublin. Who is that?

8 **A.** Currently we have an acting. His name is Lieutenant
9 Baudizzon.

10 **THE COURT:** Lieutenant what?

11 **THE WITNESS:** Oh, Baudizzon. B-A-U-D-I-Z-Z-O-N.

12 **BY MR. ANDERSON:**

13 **Q.** How long has he been at Dublin?

14 **A.** I want to say maybe like eight months at most. But he
15 wasn't always the acting SIA.

16 **Q.** You say "acting SIA." I guess what does the "acting"
17 refer to there?

18 **A.** So we don't currently have a Special Investigating Agent
19 assigned to FCI Dublin. Our previous one retired. So
20 Lieutenant Baudizzon, who was the Special Investigative
21 Lieutenant, is now acting in the role of the Special
22 Investigative Agent.

23 **Q.** And so you said so he's not assigned to Dublin. Does that
24 mean he shares assignments between Dublin and other facilities
25 as well?

1 **A.** Okay, I'm sorry. He is assigned to Dublin. He is a
2 lieutenant assigned to Dublin. He's in -- acting in the role
3 of the Special Investigative Agent.

4 **Q.** Okay. Got it. So he is there every day?

5 **A.** Yes. Monday through Friday.

6 **Q.** Monday through Friday.

7 **A.** Yes.

8 **Q.** Who was the SIA agent before Lieutenant Baudizzon?

9 **A.** Stephen Putnam.

10 **Q.** And he's retired now?

11 **A.** I believe he's officially, yes, retired.

12 **Q.** You had a number of discussions with Ms. Mattioli about
13 potential staff violations of policy at Dublin.

14 Do you keep a log of every violation of policy that is
15 committed by staff?

16 **A.** No, I don't keep a log.

17 **Q.** If you were to keep a log, about how many entries would
18 you find this year?

19 **A.** I --

20 **THE COURT:** This year as of two days?

21 **MR. ANDERSON:** Last year, 2023. Thank you,
22 Your Honor.

23 **THE WITNESS:** I -- I wouldn't know. I don't know.

24 **BY MR. ANDERSON:**

25 **Q.** Is there someone who would be better equipped to answer

1 that question, or are you the person most knowledgeable on that
2 topic?

3 **A.** I don't know if there really is someone who would know the
4 exact number of that. There are different department heads who
5 supervise different areas. I am responsible for correctional
6 services. There are other supervisors that oversee unit team
7 and work with them daily. So --

8 **Q.** But you aren't logging or recording staff violations of
9 policy?

10 **A.** Staff violations of policy would either go to one of the
11 SIA -- or go to the SIA and be reported. Or we would do
12 remedial training, make sure staff are aware of what policy is.
13 There's procedures and processes.

14 But I couldn't tell you the exact number of policies that
15 have been violated, if that's what you're asking.

16 **Q.** Thank you.

17 So you mentioned that there was a -- I quoted -- or have
18 quotes here. You said anger and hostility towards -- towards
19 the -- I guess the incoming executive team by, you know, some
20 folks who were, I guess, legacy Dublin staff when you first
21 arrived at the facility.

22 Do you recall that testimony?

23 **A.** I recall.

24 **Q.** And I think you were asked about lug nuts. You know, you
25 gave an example of lug nuts being removed from your car.

1 **A.** Uh-huh.

2 **Q.** Do you have other examples that you could provide of how
3 this anger and hostility was displayed?

4 **A.** I think I already did. Some -- so some of the other
5 executive staff reported similar issues with their vehicles.
6 Other than that, just kind of attitude, demeanor.

7 **Q.** Anything ever worse than lug nuts? I think Ms. Mattioli's
8 question was was there something lesser than lug nuts. Was
9 there anything worse than lug nuts being removed?

10 **A.** Not that I recall, no.

11 **Q.** Who were the perpetrators of this anger and hostility?

12 **A.** I think just in general, what I felt, a lot -- a lot of
13 the staff just felt kind of angry at the situation in general.
14 I mean, but that's -- that's me speculating on what I kind of
15 received from body language and -- but did I have anybody
16 outright, like, yell at me? No.

17 **Q.** Can you give me any -- any names of staff who had -- who
18 displayed anger and hostility towards the outgoing staff?

19 **A.** Not offhand.

20 **Q.** If you thought about it, could you?

21 **A.** I -- at this point, I wouldn't be comfortable giving you
22 names. Yeah.

23 **Q.** Do you have one in mind?

24 **A.** No.

25 **Q.** Was that anger and hostility -- did you ever see it

1 directed towards inmates?

2 **A.** I haven't. I haven't seen that, no.

3 **Q.** So you -- I think you testified that the newcomers, and
4 you listed a number of them, Warden Jusino, Deveney, Buckner,
5 among others, you listed that they were eventually well
6 received after the anger and hostility died down.

7 All of those individuals that you listed, are they gone
8 now with the exception of Patrick Deveney?

9 **A.** Morgan Agostini and myself were kind of left. Yeah. The
10 rest of them either retired or went to other agencies.

11 **Q.** Is Deveney also leaving?

12 **A.** Not that I know of.

13 **Q.** Okay. I didn't know with -- you know, I know you recently
14 got a new warden. I didn't know how that affected Mr. Deveney.

15 I think you said all inmates in the SHU are restrained
16 during moves because of a risk for violence and to protect
17 officer safety; is that right?

18 **A.** Officers and inmates alike, yes.

19 **Q.** So that applies to everyone who is in the SHU is
20 restrained during -- during a move in the SHU?

21 **A.** During movement times. Once the inmates have been moved,
22 then the restraints are removed.

23 **Q.** What are those restraints?

24 **A.** Hand restraints.

25 **Q.** And behind the back, in the front?

1 **A.** Behind the back.

2 **Q.** Attached to the feet? Any details you can give me?

3 **A.** So inmates are restrained behind the back unless medical
4 dictates that they need to be restrained in the front. Front
5 restraints, per policy, require a Martin chain. And that
6 would -- that would be it.

7 **Q.** What's a Martin chain?

8 **A.** It's a chain that goes around the waist that the
9 restraints are connected to.

10 **THE COURT:** Is it five-point?

11 **THE WITNESS:** No. No. No, no, no. No. It's just --
12 it still allows like movement and they can sign their name,
13 they can use the restroom. And that would just be like
14 escorting purposes. And that's only if it's like dictated by
15 medical.

16 So and the reason for the Martin chain is I've actually
17 seen it, if the inmates are restrained in front, they can still
18 use their arms to hurt someone else, so generally it's in the
19 back.

20 **BY MR. ANDERSON:**

21 **Q.** So these restraints that are put on everyone in the SHU
22 during movement, you even restrain folks who are put in the SHU
23 for their own protection, for example, because of a PREA
24 incident? They're restrained just like someone who is in the
25 SHU for a violent offense?

1 **A.** Anyone in the SHU that moves from, like, their cell to
2 recreation is moved via -- placed in hand restraints during any
3 movement.

4 **Q.** Even if they are in the SHU for their own protection?

5 **A.** Even if they are in the SHU for their own protection.

6 **Q.** What series of offense is a UA, a positive UA?

7 **A.** A 100 series.

8 **Q.** UA goes to the SHU?

9 **A.** No. I did explain that.

10 **Q.** Yeah. I think your testimony was that if there's a
11 positive UA, it's up to, I think you said the DHO?

12 **A.** Right. The disciplinary hearing officer. So they would
13 have to go see -- they would have to have their hearing for
14 that. If the disciplinary hearing officer sanctions them to
15 disciplinary segregation, then they would be -- that is -- that
16 is Special Housing, that's the SHU.

17 **Q.** What is the rate of positive UAs where the DHO is sending
18 the individual to the SHU?

19 **A.** I don't know. Couldn't tell you. I'm sure we can look up
20 those statistics, but offhand, I don't know.

21 **Q.** All decisions about going to the SHU go through you,
22 though; right?

23 **A.** Yeah. Even if they're sanctioned. So I become aware if
24 the DHO sanctions them to DS time. They will let me -- well,
25 the lieutenant will let me know, hey, this inmate has been

1 sanctioned to DS time. And that's why they would go to the
2 SHU.

3 **Q.** But you can't tell me how often someone with a positive UA
4 actually ends up in the SHU?

5 **A.** I don't know how many of them actually receive
6 disciplinary segregation time once they have gone through the
7 hearing. That's a statistic that we could look up.

8 **Q.** I think you said that it's your policy not to send
9 incarcerated persons to the SHU for tattooing; is that right?

10 **A.** For tattooing or self-mutilation, I -- I don't, yeah.

11 **Q.** Are you aware that there's plaintiffs in this case who
12 have been put in the SHU because of tattooing?

13 **A.** Since I've been there? It's not typically something that
14 I -- that I do. There's -- there's two -- it's tattooing or
15 self-mutilation. So generally I don't do that.

16 I will say up until about -- oh, when was it? Six months
17 ago, there were actually two captains. So myself and another
18 captain. Yeah. That's been mentioned.

19 **Q.** The other captain, is that the same role? You both -- you
20 had co-management of SHU decisions? Tell me about this other
21 captain.

22 **A.** So we primarily shared the responsibilities. There -- if
23 I was on vacation, then obviously he was consulted. Kind of
24 just vice versa.

25 **Q.** Who was that other captain?

1 **A.** Jesse Valero. And he's retired.

2 **Q.** I think you said that you could -- you could review video
3 to take a look at an incident before making a decision about
4 whether to send somebody to the SHU or not. Is that right? Or
5 did I get -- did --

6 **A.** The lieutenants have that capability.

7 **Q.** Do you know how long video is kept?

8 **A.** I don't -- I don't know our exact capability at Dublin,
9 but I believe it's a minimum of 14 days.

10 **Q.** Have you ever had an instance where you wanted to review
11 video but you could not review it because it had already been
12 deleted?

13 **A.** Me personally, no.

14 **Q.** Going back to searches, I think the policy is that only --
15 only female correctional officers can perform the visual
16 searches; is that right?

17 **A.** Correct.

18 **Q.** Does that apply to a trans man who is incarcerated at FCI
19 Dublin?

20 **A.** Correct.

21 **Q.** So a trans man at FCI Dublin is visually searched by a
22 female correctional officer?

23 **A.** The Transgender Manual -- if the inmate is designated as a
24 female and assigned to a female institution, it would be the
25 same sex as the institution that they are assigned to unless

1 there is a waiver or something in place which currently at
2 Dublin we do not have any.

3 **Q.** Are you evaluating whether you should implement any
4 policies, you know, for addressing issues specific to
5 transgender individuals incarcerated at Dublin?

6 **A.** That's not up to me.

7 **Q.** Who is it up to?

8 **A.** Above my pay grade. Probably between like the AW, the
9 warden, psychology. But that's -- yeah, that's not something
10 that I can determine.

11 **Q.** Have you made any recommendations to them that that's
12 something they should look into?

13 **A.** I haven't made any recommendations, no.

14 **THE COURT:** What's the BOP policy?

15 **THE WITNESS:** The BOP policy is that unless they have
16 that waiver, which I believe ends up going up to central
17 office, if I remember correctly, that they -- if they're
18 assigned to a female institution, that -- that their visual
19 searches are performed by the same sex as the institution
20 they're assigned to, which would be female in our case.

21 **BY MR. ANDERSON:**

22 **Q.** Are there any incarcerated individuals at Dublin who have
23 such a waiver?

24 **A.** No.

25 **Q.** What's the process for getting that waiver?

1 **A.** I believe the inmate has to apply for it and it has to go
2 through, if I remember right -- I don't know all the details of
3 it, but it goes through psychology, the warden. I want to say
4 it goes to region and central office possibly. But that's not
5 really my field of expertise as far as like waivers and such.

6 **Q.** I think you said that 90 percent of -- at least the number
7 you have heard from BOP is that 90 percent of -- of folks
8 incarcerated at Dublin, or perhaps it's just generally in the
9 prison population, have suffered trauma. Do you recall that
10 testimony?

11 **A.** Female. Female.

12 **Q.** Have you done any survey at Dublin to figure out what the
13 number is at Dublin?

14 **A.** Not that I know of.

15 **Q.** Why not?

16 **A.** I mean, I personally don't do a survey. If that has been
17 done, I don't know.

18 **Q.** Why haven't you conducted that survey?

19 **A.** I'm not -- I'm not in a position to conduct a survey.
20 That would be something that, like, the region would initiate
21 or central office would initiate, yeah.

22 **Q.** Could you make a recommendation to region to implement a
23 survey about that or about other topics?

24 **A.** I -- I believe that's -- I haven't, no. I haven't made a
25 recommendation. Could I? I suppose.

1 Q. I think you described something like a sort of an
2 alternative to the SHU. I think it was with a housing unit
3 that was unoccupied and you were sort of using it as an
4 alternative to the SHU. Did I understand your testimony right?

5 A. It sounds like it.

6 Q. Have you surveyed those individuals who were placed in
7 there to find out what they thought of that?

8 A. I -- I haven't conducted any surveys.

9 Q. Okay.

10 Ms. Mattioli asked you a couple questions about the
11 interviews that you conducted when determining what witnesses
12 might testify on behalf of the government at this hearing. Do
13 you recall that testimony?

14 A. Uh-huh.

15 Q. How many incarcerated individuals did you speak with?

16 A. Five.

17 Q. Only five?

18 A. Yes.

19 Q. Did other individuals, to your knowledge, speak with other
20 folks, or were you the only one interviewing these incarcerated
21 individuals for potential testimony?

22 A. Lieutenant Hardy spoke to, I want to say two or three at
23 the camp.

24 Q. Besides you and Lieutenant Hardy, was anyone else
25 interviewing incarcerated individuals --

1 **A.** Not to my knowledge.

2 **Q.** We're going to come back to the call-out sheet, but
3 towards the end of your testimony you were talking about a
4 call-out sheet with Ms. Mattioli, you know, that it has to be
5 filled out by noon the day before in order for the inmate to
6 move the next day. Did I get that right?

7 **A.** The inmate information has to be basically inputted into
8 the SENTRY system in order for it to go in the next day, yes.

9 **Q.** For the inmates that you interviewed for purposes of
10 determining whether they would testify at this hearing, were
11 they entered into the system by noon the day before that
12 interview?

13 **A.** No, huh-uh.

14 **Q.** How did you get an interview with them if they weren't on
15 the call-out sheet?

16 **A.** I called them up to my office to -- to chat with them.

17 **Q.** So you can bypass the call -- the call-out sheet?

18 **A.** Well, it wasn't an appointment. Yeah.

19 **Q.** So if -- if -- if an attorney wanted to meet with an
20 inmate, they would need to be on the call-out sheet by noon the
21 day before. But if you want to meet with an inmate, you can
22 just call them out?

23 **A.** Correct. I -- I can. If I would like to have a
24 discussion with an inmate regarding anything, I can actually go
25 to the housing unit and talk to them if I need to, yeah.

1 Q. Have you ever seen a call-out sheet be edited, you know,
2 after noon the day before?

3 A. It's a system-generated sheet so...

4 Q. So is the answer no?

5 A. I've never seen -- I've never seen one edited.

6 Q. Can an individual be added after noon?

7 A. It won't be -- it won't go on that sheet, no.

8 Q. And there's no way to edit it?

9 A. No. Not that I know of.

10 Q. You had some testimony about trial Exhibit 407.

11 MR. ANDERSON: Could we pull that up. I don't believe
12 this one is actually in -- in our binder yet.

13 Q. Do you recall testifying about this document --

14 A. Yes.

15 Q. -- Ms. Quezada?

16 Who creates the content that goes into this document?

17 A. It's collaborative.

18 Q. What do you mean by that?

19 A. The chief psychologist or one of her psychology staff that
20 have access to the program would enter their notes.

21 Unit manager, case manager that have access to the program
22 would enter the unit team notes.

23 SIS, special investigative services technician or
24 lieutenant who has access to the program would enter those
25 notes.

1 Health services, either the health services administrator
2 or the assistant, would enter those notes.

3 Correctional services would either be my SHU lieutenant or
4 myself that could enter those notes.

5 **Q.** Okay. Okay. So the fields are filled in by the
6 appropriate person and then it ends up in this report, and you
7 review it each week in your weekly meeting with the warden and
8 other individuals about, you know, SHU determinations; is that
9 right?

10 **A.** Correct.

11 **Q.** So you said that these meetings were still ongoing
12 before -- even before you arrived at -- at Dublin; is that
13 right? You know, there were standing meetings in place?

14 **A.** Yes.

15 **Q.** But you weren't at those meetings so you don't have
16 personal knowledge of what went on during them.

17 **A.** Correct.

18 **Q.** Do you keep minutes of these weekly meetings?

19 **A.** Not usually. These are generally the minutes. And
20 sometimes for my own, I'll take notes.

21 **Q.** So I thought you had this before you went to the meeting.

22 **A.** We do. This is what we discuss. We discuss all of this
23 right here. And then whoever is going to be released -- or
24 like I'll take notes, but I don't type up minutes on it, no.

25 **Q.** So there's no document that would reflect what was

1 discussed at each of these weekly meetings?

2 **A.** Correct.

3 **Q.** There's no memo, no minutes.

4 The Judge asked you about the second block down where it
5 says "Psychology Services Comments." And for the record, look
6 at page 1 of Exhibit 407.

7 And you were asked about the line that said "alleged PREA
8 victim." Do you recall that?

9 **A.** Yes.

10 **Q.** And you testified that you know that that is an
11 inmate-on-inmate PREA record because a staff on incarcerated
12 person record would not be reflected in this document?

13 **A.** Okay. No. Let's back up here.

14 So what I testified to was I thought she was -- I thought
15 I was reading SIS comments. I couldn't see all of it like I
16 can now. If it's in SIA -- or the SIS comments, it would only
17 refer to an inmate-on-inmate PREA. Okay? Which is what I said
18 prior.

19 **Q.** So -- so you're correcting your testimony.

20 **A.** No. I'm reiterating what I said earlier.

21 **Q.** Okay. So this SIS comments, that would contain --

22 **A.** Yeah. If SIS said PREA, and I thought that's what I was
23 looking at, was SIS notes because I can't read any of it, to be
24 honest with you, it's very blurry. If the SIS notes said PREA
25 victim, then it would only pertain to inmate-on-inmate PREA

1 because that's all SIS would have access to.

2 **THE COURT:** But this one doesn't say that.

3 **BY MR. ANDERSON:**

4 **Q.** This is one --

5 **THE COURT:** Go ahead.

6 **BY MR. ANDERSON:**

7 **Q.** This one is listed under "Psychology Services Comments."

8 **A.** Correct. So I have no idea whether -- whether that would
9 be PREA on inmate, staff, that we -- I just know that they're
10 the victim of a PREA.

11 **Q.** So it could be either?

12 **A.** It could be, under psychology notes. I have no idea.

13 **Q.** Don't you think it would be important to know that during
14 these weekly meetings?

15 **A.** What's important is to note that they are a victim of --
16 of a PREA. So whether it's a staff or an inmate, I think is --
17 that's not up to me to determine because I am not here to
18 decide what's more egregious. I know that victims of -- of
19 PREA involving staff is much more egregious. The fact that
20 they're a PREA victim is -- they're still a victim regardless.
21 Okay? So whether it's staff or inmate is not up to me to know
22 at that point.

23 **Q.** What are the potential decisions that you make at these
24 weekly meetings after discussing this log with -- with the
25 warden, et cetera?

1 **A.** Whether an inmate would be a good candidate to transfer to
2 another institution, whether an inmate would be released from
3 the Special Housing Unit. I mean, basically that's it.

4 **Q.** Wouldn't having details about the specific PREA incident
5 help inform those decisions?

6 **A.** Not necessarily. If -- if an inmate -- if it affected
7 whether an inmate needed to be released to general population
8 or couldn't, that would be part of an investigation, and that
9 would be noted in the SIS notes, whether it was unsafe for an
10 inmate to return to general population. I guess if -- if that
11 answers your question.

12 **Q.** You supervise correctional officers. Wouldn't you want to
13 know if a particular correctional officer was related to this
14 PREA allegation before you made a decision about housing or --
15 or transfer?

16 **A.** Can you -- can you -- I'm sorry. Repeat that.

17 **Q.** Yeah. So you supervise correctional officers; correct?

18 **A.** Correct.

19 **Q.** And wouldn't you want information about -- let's say this
20 were a PREA allegation --

21 **A.** Uh-huh.

22 **Q.** -- that dealt with an officer on your staff. Wouldn't you
23 want that information while you're making a decision about
24 whether to release this individual, transfer this individual,
25 et cetera?

1 **A.** If an inmate made an allegation, a PREA allegation against
2 staff, the staff would either be reassigned or they would be at
3 home, not in the institution.

4 **Q.** I think Judge Gonzalez Rogers asked you if you made any
5 considerations of sort of the prior culture and misconduct at
6 FCI, if you factored any of that in to your revisions of the
7 SHU policy. And I think your response was well, I can't revise
8 the SHU policy so, no, we didn't; is that right?

9 **A.** Policy is policy. But policy doesn't necessarily
10 dictate -- I mean, what are you -- what are you getting at?

11 **Q.** Yeah, I'll rephrase. It was a bad question.

12 **A.** Okay.

13 **Q.** Yeah. When you were -- when you were revising the SHU
14 policy when you arrived --

15 **A.** I don't revise policy.

16 **Q.** Okay.

17 **A.** Okay.

18 **Q.** Okay. So that answers part of my question.

19 Have you been in any policy discussions at FCI Dublin
20 since you arrived where the prior culture of misconduct at
21 Dublin were considered as that policy was revised?

22 **A.** That -- that just -- I'm sorry, that doesn't make sense to
23 me.

24 **MR. ANDERSON:** Could I get the question read back?
25 And then I can -- hopefully I can clarify it.

1 **THE COURT:** You may.

2 **MR. ANDERSON:** I don't have a realtime up here.

3 **THE COURT:** The question was have you been in any
4 policy discussions at FCI Dublin since you arrived where the
5 prior culture of misconduct at Dublin were considered as that
6 policy was revised?

7 The problem is she has testified she doesn't revise
8 policy.

9 **BY MR. ANDERSON:**

10 **Q.** So you haven't been in any discussions regarding revising
11 policy at FCI Dublin since you revised -- since you've arrived?

12 **A.** Policy is pretty black and white. It's our law. I don't
13 have the right to revise policy. So I'm -- I'm just -- I guess
14 I'm just trying to figure out like --

15 **Q.** So then is it your understanding that no policies have
16 been revised at FCI Dublin in light of the prior culture of
17 misconduct that was there?

18 **A.** Policy is enforced. It's my job to make sure we are
19 enforcing and advising staff of what policy is. It's not my
20 job to revise policy.

21 **Q.** Have you been in any discussions regarding how you will
22 enforce a policy that considered the conditions at FCI Dublin
23 and the prior culture while you were making those -- during
24 those discussions about how you were going to enforce policies?

25 **A.** I'm sorry. You're -- you're just kind of losing me now.

1 Repeat the question -- that question one more time.

2 Q. Sure. So I -- just help me out here, and if I'm being
3 confusing or if I'm misunderstanding your testimony --

4 A. Uh-huh.

5 Q. -- please let me know.

6 I think you said that policy is black and white, you don't
7 change policy, but you work on enforcing the policy; is that
8 right?

9 A. Correct.

10 Q. Have you made changes to how policies are enforced since
11 you arrived at FCI Dublin?

12 A. I -- I believe by educating staff and following up and
13 making sure there's a system of accountability to make sure
14 that people are doing what they're supposed to be doing, if
15 that's what you're getting at, yes.

16 Q. And while -- while you are determining how to revise
17 enforcement of these policies, did you consider the prior
18 culture at FCI Dublin before you arrived?

19 A. Of course. I think what went on prior to us arriving had
20 an impact on how -- how we manage a lot -- everything.

21 MR. ANDERSON: Could we pull up Exhibit 405, which was
22 already admitted.

23 Q. Do you recall discussing this document?

24 A. Yes.

25 Q. And before we move on, outside of the policies that you

1 are not in control of, does FCI Dublin have its own operating
2 procedures that are specific to Dublin?

3 **A.** Each institution would have an institution supplement that
4 manages kind of within the scope of policy.

5 **Q.** So going back to Exhibit 405, I think you testified this
6 is a SHU visitation log.

7 **A.** Correct.

8 **Q.** Is that right?

9 **A.** Yeah.

10 **Q.** So my question is, is this the whole thing or, you know,
11 do you have a log of what was discussed or what was observed
12 during each one of these visits?

13 **A.** No. This is a log of who visited.

14 **Q.** And do you have a log that describes what happened at each
15 of these visits?

16 **A.** No.

17 **Q.** Let's turn to -- before I move on, if an inmate -- if an
18 incarcerated person raised an issue with someone during one of
19 these visits, where would that be reflected?

20 **A.** Depending on what it is, the staff member would write a
21 memo or email to someone who would need to know. It just
22 depends on what the issue or concern would be.

23 **Q.** And where would we find those notes, those logs?

24 **A.** I -- I -- I'm not sure what you're getting at there.

25 **Q.** I just want to know how I would find out what happened

1 during each one of these staff visits.

2 **A.** We conduct rounds and we talk to the inmates. That's --

3 **Q.** But that's not logged anywhere?

4 **A.** No, it's not. It's not, no.

5 **Q.** Let's move on to Exhibit 408.

6 Do you remember talking about this Exhibit 408?

7 **A.** Yes.

8 **Q.** And I think just so we're all on the same page, I think
9 this was a memo about releasing incarcerated persons from the
10 SHU for, you know, various reasons that you described during
11 your direct testimony.

12 **A.** Correct.

13 **Q.** And I think you said that there's a process of
14 investigations and interviews and some analysis that occurs
15 before this memo is generated?

16 **A.** I'm sorry. Can you repeat that?

17 **Q.** Yeah. Before this memo is generated, I think you said
18 that there's interviews and some analysis that goes into it
19 before you would ultimately get a recommendation like the one
20 here in Exhibit 408; is that right?

21 **A.** No. I gave an example of -- for -- like an example of an
22 amount of time maybe an inmate -- and that would be one of the
23 reasons for this.

24 **Q.** The incarcerated persons who are on this list, how did
25 they end up on that list?

1 and what might not.

2 And I guess my question is, is this the entirety of the
3 memo? Or are there exhibits, are there supplemental materials
4 that you would review to -- to consider that analysis that you
5 just went through for each one of these individuals?

6 **A.** Exactly -- I'm sorry. I just gave you several examples of
7 why I would write this up. So what exactly are you looking for
8 from me?

9 **Q.** Yeah. Those underlying materials, those investigations
10 that you just described, are those documented?

11 **A.** Yes.

12 **Q.** Okay. But they're not part of the memo?

13 **A.** Not at all.

14 **Q.** I think you testified on direct that you do not know the
15 identities of individuals, incarcerated individuals, you don't
16 know who has made PREA allegations, who has, you know, been a
17 survivor or a victim of a PREA event; is that right?

18 **A.** Correct.

19 **Q.** I'd like to ask you to turn to Exhibit 209. It's actually
20 not in your binder. It just came up on direct.

21 **MR. ANDERSON:** But could we pull it up. It should be
22 in a binder up there, Your Honor. If you want a paper copy, we
23 can certainly get you one.

24 **Q.** Do you recognize this document, Ms. Quezada?

25 **A.** Yes.

1 Q. And what is this document?

2 A. It's a policy.

3 Q. What policy?

4 A. The Sexually Abusive Behavior Prevention and Intervention
5 Program Policy.

6 THE COURT: I would like a copy.

7 MR. ANDERSON: Sure. It's trial Exhibit 209.

8 THE COURT: Okay. The clerk needs one, too.

9 MR. ANDERSON: I appreciate that.

10 Q. Is this a policy that you use as part of your job,
11 Ms. Quezada?

12 A. It's one of many, yes.

13 Q. So I would like to direct you to page 29 of this policy.

14 Just -- is this -- you would consider this a PREA policy?

15 A. Yes.

16 Q. Okay. And if we look down at the -- I guess it's the
17 bottom half of page 29, this is -- this section relates to
18 screening for risk of sexual victimization and abusiveness.
19 And the bottom bullet is -- pertains to screening for inmates
20 with a history of sexual victimization while in BOP custody.

21 Do you see that, Ms. Quezada?

22 A. Uh-huh.

23 Q. And feel free to flip through this however you like, and
24 we can certainly get you a paper copy.

25 But the next section that I would direct you to would

1 be -- would be page 33, the section at the top which pertains
2 to use of screening information.

3 And so this section here relates to how that screening
4 information about, you know, potential sexual abuse while in
5 BOP custody should be used by you and your staff.

6 And looking -- looking at the bottom paragraph, you know,
7 could you go ahead and read that to yourself.

8 **A.** Okay.

9 (Witness reads document.)

10 **Q.** And if you could also just read bullet A there.

11 **A.** (Witness reads document.)

12 **Q.** And that says the agency -- looking at Exhibit 209,
13 page 33, The agency shall use information from the risk
14 screening required by section 115.41 to inform housing, bed,
15 work, education and program assignments with the goal of
16 keeping separate those inmates at high risk of being
17 sexualized -- being sexually victimized from those at a high
18 risk of being sexually abusive.

19 So I think this reg requires you to use the information
20 that you have available to you about the identity or about
21 specific PREA incidents when making housing, bed, work
22 assignments, et cetera, but you don't know which individuals at
23 the institution have -- are survivors or victims of PREA
24 incidents; is that right?

25 **A.** Against staff. With staff, yes, that is correct.

1 So when it comes to making decisions as far as housing, we
2 cannot house those who are victims of PREA with those who are
3 the assailants of PREA. Okay. So when it comes to actually
4 having that sexual PREA -- PREA victim label or PREA aggressor
5 label, I don't know whether it's inmate or staff that that
6 label was put there for.

7 So those are taken into consideration when it comes to
8 housing for sure.

9 **Q.** So then is it your testimony that you do know individuals
10 who have, you know -- are survivors or victims of a PREA
11 incident, but you don't know whether it was a staff incident or
12 an incident with another incarcerated individual?

13 **A.** Correct. And I believe that was the question. Whether I
14 know whether an inmate was a victim of a staff PREA allegation.
15 I have no way to determine that. I have no idea. Whether an
16 inmate was a victim of PREA, that I can tell, but that could
17 have been another inmate.

18 **THE COURT:** Can I ask, on this subsection A, it makes
19 a distinction between inmates of high risk of being sexually
20 victimized from those at high risk of being abusive.

21 Taking that, looking back at the other document from the
22 SHU where there was the -- the one reference of the alleged
23 PREA victim, if someone was alleged to have been the abuser as
24 opposed to the victim, would this weekly SHU log, 407, have a
25 designation of alleged PREA abuser?

1 **THE WITNESS:** Yes.

2 **THE COURT:** So you have seen abusers versus victims?

3 **THE WITNESS:** Correct.

4 **THE COURT:** And are there other PREA designations that
5 get used other than "victim" and "abuser"?

6 **THE WITNESS:** I don't believe so.

7 **THE COURT:** So if I -- if one of the victims from one
8 of my trials -- well, let me ask this.

9 In terms of implementing 115.42, what document identifies
10 these individuals for general population? Because 407 is just
11 for the SHU. So how do you implement 115.42? Where -- where
12 do you have that information for the general population as
13 opposed to the SHU?

14 **THE WITNESS:** So that would -- it would be a SENTRY
15 assignment.

16 **THE COURT:** It would be what?

17 **THE WITNESS:** SENTRY, S-E-N-T-R-Y. It's kinds= of our
18 system that shows -- the inmate would receive like a special
19 category in, like, their documentation, our electronic
20 documentation, between the screening health services,
21 psychology and unit team, they would ask a series of questions
22 from that inmate to see whether they have ever -- and they're
23 fairly generalized -- upon intake whether the inmate has ever
24 been a victim of any sort of sexual assault or anything like
25 that.

1 From there, if there's more in-depth questions that need
2 to be asked, it would be psychology. So once -- once they
3 answer yes to any of those questions, they're given an
4 assignment in their record that says whether they are a victim
5 or not.

6 **THE COURT:** But this is at intake?

7 **THE WITNESS:** It generally can be at any point. Once
8 an inmate says, hey, you know what? This happened with another
9 inmate, this happened to me, I'm a victim, immediately that
10 inmate is given that assignment in their record that says, you
11 know, like victim of a sexual assault until it's officially
12 verified or unverified.

13 But that's -- it's a -- it's a code that's kind of
14 designated in our program that not everybody would be able to
15 see.

16 So only -- only certain people would be able to see it on
17 a report and see like where the inmate is -- is housed and what
18 special, like, categories that they have, whether they're --
19 it's kind of hard to explain because it's a whole system of
20 logging what programs they're enrolled in. And it comes up on
21 their -- it's called a PP-44.

22 **THE COURT:** So who would have been in charge of
23 updating your system for all the victims who testified in all
24 of the criminal cases in front of me?

25 **THE WITNESS:** I -- for any criminal case, I believe it

1 would be the SIA and --

2 **THE COURT:** So Lieutenant Putnam --

3 **THE WITNESS:** Yes.

4 **THE COURT:** -- would have done that?

5 **THE WITNESS:** Would have done that. Currently it
6 would be -- I mean, if there was a new allegation, it would be
7 Lieutenant Baudizzon.

8 **THE COURT:** And do you know whether it was done? Has
9 anybody bothered to check whether it was done?

10 **THE WITNESS:** Lieutenant Baudizzon would be the one.
11 Because I don't -- I don't track -- like, I haven't tracked any
12 of the -- I'm sorry -- any of the cases. I -- I'm not privy to
13 any of that.

14 So there's a whole tracking system for any victim of PREA,
15 whether it's staff or inmate, and either Lieutenant Baudizzon
16 or AW Deveney would have that information, but I don't.

17 **THE COURT:** Okay.

18 **MR. ANDERSON:** We can take down Exhibit 209.

19 If I didn't move to admit it, we would move to admit that,
20 Your Honor.

21 **THE COURT:** It's admitted, 209.

22 (Defendants' Exhibit 209 received in evidence.)

23 **BY MR. ANDERSON:**

24 **Q.** Ms. Mattioli asked you a number of questions about cell
25 searches and whether or not they're random. And I -- I wrote

1 down you said, "Can I guarantee they are -- they're at random?
2 I mean, yes."

3 Do you recall that testimony?

4 **A.** I don't -- I -- okay.

5 **Q.** So I guess --

6 **A.** No, I don't recall that. Sorry.

7 **Q.** Yeah. Do you think the cell searches at Dublin are
8 random?

9 **A.** I believe so.

10 **Q.** Have you done an audit to determine whether they actually
11 are random?

12 **A.** We -- we do an audit toward the last -- my lieutenants do
13 an audit toward the last week or so to make sure all of the
14 cells have actually been searched. And if there are certain
15 cells that have not been searched, they'll call the housing
16 unit officer and let him know, hey, these are the cells that
17 still haven't been searched for the month. Make sure you, you
18 know, search some of those so that all of the cells are
19 searched as required per month.

20 **Q.** So that sounds like an inventory audit to make sure that
21 every cell has been searched. My question is do you conduct an
22 audit to make sure that searches are actually being conducted
23 at random?

24 **A.** No, I don't. I don't conduct an audit like that.

25 **Q.** Have you ever referred a case to SIA to determine if the

1 search was actually random?

2 **A.** I have not.

3 **Q.** Could you use a random number generator to figure out what
4 cell is going to be searched?

5 **A.** I suppose I could, and it may be something that I actually
6 consider now.

7 **Q.** If you could look into something like that, consider that,
8 that could be interesting and probably more random; right?

9 **A.** Correct.

10 **THE COURT:** Does BOP have a definition of the word
11 "random"?

12 **THE WITNESS:** Do they have a definition of it?

13 **THE COURT:** Yeah.

14 **THE WITNESS:** Not that I believe.

15 **BY MR. ANDERSON:**

16 **Q.** I'd like to turn to -- switch back to the topic of two
17 person visual searches.

18 **MR. ANDERSON:** And I'd like to pull up Exhibit 406.
19 And that should be in the skinny binder, Your Honor.

20 **THE COURT:** I have it.

21 **BY MR. ANDERSON:**

22 **Q.** Ms. Quezada, do you recognize Exhibit 406 as an email that
23 you sent to alldubusers@bop.gov on April 14, 2023?

24 **A.** Yes.

25 **MR. ANDERSON:** Your Honor, we would move to admit

1 Exhibit 406.

2 **THE COURT:** 406 is admitted.

3 (Defendants' Exhibit 406 received in evidence.)

4 **MR. ANDERSON:** So if we could -- if we could blow up
5 the first paragraph of the email there.

6 **Q.** Hopefully -- can you read that?

7 **A.** Uh-huh.

8 **Q.** Okay. It looks like you wrote, "Due to recent concerns
9 and in order to safeguard staff, FCI Dublin will immediately
10 implement a two-person visual search procedure when conducting
11 inmate visual searches."

12 Do you see that?

13 **A.** Yes.

14 **Q.** What were the recent concerns that you described in this
15 email?

16 **A.** Staff part of concerns of possible false allegations
17 against them. So in order to protect them, you know, with all
18 of the new cameras and everything, this is the procedure that I
19 came up with.

20 **Q.** So these were concerns by staff, not concerns by
21 incarcerated individuals?

22 **A.** Correct.

23 **Q.** Did you make this policy of these two-person visual
24 searches, did you make that mandatory or required after you
25 sent this email?

1 **A.** Okay. So this isn't a policy. This was something that I
2 put out to my staff that I wanted them to follow for their own
3 safety and their protection.

4 **Q.** Okay. So, sorry. That's my problem on the definition of
5 policy.

6 After you sent out this email, did you make this procedure
7 of conducting two-person visual searches after visits, did you
8 make that mandatory?

9 **A.** It's not mandatory. It's a recommendation for their
10 safety. Policy is that it really only has to be one to one.
11 Okay? That's the staff ratio.

12 However, just to be on the safe side, this is kind of
13 something that I put out there as the recommendation.

14 **Q.** So your goal was not to make this a mandatory procedure
15 after sending this email?

16 **A.** No. It's not mandatory. Yeah, I mean...

17 **Q.** It was at your staff's discretion of whether to perform
18 the two-person visual search or not?

19 **A.** I had staff coming to me saying, you know, what's to
20 protect me if this were to happen.

21 I said, you know what? Maybe it's good just to take a
22 witness and have them stand off to the side.

23 So this is not a mandatory thing. If staff are more
24 comfortable with this, then let's do it. Let's all do it.

25 So --

1 Q. And so is this email about making the visual searches
2 two-person rather than one-person? Or is this email about
3 doing the visual searches at all?

4 A. Visual searches are -- are necessary and mandatory in some
5 cases. So this is just --

6 I'm sorry. What is the meat and potatoes of that
7 question?

8 Q. Sorry. It was a bad question.

9 My question is after you sent this email, it was your
10 intent that visual searches -- okay. Let's strike that.

11 At the time this email was sent, were visual searches
12 required after every staff -- or after every visit between an
13 incarcerated person and a visitor?

14 A. Yes.

15 Q. Okay. Was your staff actually conducting visual searches
16 after every visit with an incarcerated person at the time you
17 sent this email?

18 A. To be frank, I -- I am not a hundred percent sure whether
19 every single one of them were doing it, which is -- I'm sorry,
20 wait. Where am I with this? April. Okay.

21 Let me back up here. I'm trying to get my time frame.

22 When -- when they came to me with this, the staff were
23 doing it. I think going back to what I had said previously, we
24 held a training in November, and that was when my staff became
25 aware that, yes, that you guys have to do this. You can't only

1 be doing it just during -- it was the whole -- Mattioli and I
2 went through all of that when she asked me -- I don't know if
3 you recall my testimony about the UAs.

4 At this point, staff were doing the visual searches. And
5 the only thing that I have to go on that, obviously, were the
6 logbooks to make sure that they're getting done.

7 Do I look at the logbooks every day? No, I don't. Am I a
8 hundred percent sure they were all doing it? My staff, no.

9 **Q.** If we scroll down in this email, it looks like you
10 actually copied and pasted program statement 5580.18 into your
11 email; is that right? If we look at the --

12 **A.** I quoted policy, yes.

13 **Q.** And looking at bullet point 1 in that policy, it says,
14 "Staff may conduct a visual search where there is a reasonable
15 belief that contraband may be concealed on the person or a good
16 opportunity for concealment has occurred."

17 **A.** Okay.

18 **Q.** So that policy is written in the optional tone because it
19 says staff may conduct a visual search; is that right?

20 **A.** That -- correct. This -- staff may conduct it if there's
21 a reasonable -- okay. That's this particular policy, yes.

22 **Q.** And Dublin's implementation of this policy is that it is
23 required every time there is contact between an incarcerated
24 person and a visitor?

25 **A.** So that's in a different policy. Okay? So there are

1 mandatory times when a visual search is required, and that is
2 what I went over before. Anytime they're coming or going from
3 the institution, placement in special housing, contact with the
4 public. Okay?

5 Staff may also conduct a visual search if they have
6 reasonable suspicion an inmate has contraband, and that's what
7 this is pertaining to.

8 There are the mandatory times, and then there are times
9 when they may only conduct it. They can't do random visual
10 searches. They can do it at this particular time as well.

11 **Q.** What policy --

12 **A.** Does that clarify?

13 **Q.** It is.

14 What policy is it that spells out that the searches are
15 mandatory after any visit between an incarcerated person and a
16 member of the public?

17 **A.** So there are two different policies where it's actually
18 stated. One is the Receiving Discharge Manual which is
19 5800.18. And then the other one is the Correctional Services
20 Manual, and that's 5500.15.

21 **THE COURT:** Hold on. 5580.18 --

22 **THE WITNESS:** No.

23 **THE COURT:** That's the one I'm looking at. I don't
24 have 5800.18. Do I?

25 **MS. MATTIOLI:** Those were --

1 **THE COURT:** In the -- into the mic.

2 **MS. MATTIOLI:** Those are the documents that we
3 introduced yesterday in camera. They are sensitive but
4 unclassified. They're not available to the public.

5 **THE COURT:** Okay. Which -- which exhibit?

6 **MS. MATTIOLI:** You used letters, and we'll tell you
7 exactly which one they were.

8 **MR. ANDERSON:** May I have a copy, Ms. Mattioli, for
9 purposes of cross-examination?

10 **THE COURT:** At this point, hold on. I want to --
11 which is the letter?

12 **MS. MATTIOLI:** What was the policy number, Captain?

13 **THE WITNESS:** 5500.15.

14 **MS. MATTIOLI:** They were individual pages.

15 **THE WITNESS:** Right.

16 **MS. MATTIOLI:** So all we provided was an excerpt
17 because she can't bring the whole thing --

18 **THE COURT:** What is the letter?

19 **MS. MATTIOLI:** I'm trying to find it.

20 (Pause in the proceedings.)

21 **THE COURT:** All right. I think I have it. H.

22 You can show him the one page.

23 **MS. MATTIOLI:** For the record, we think it was
24 Exhibit I that we're --

25 **THE COURT:** Well, I'm looking at H, which is

1 section 303.

2 **MS. MATTIOLI:** Is that the same policy?

3 **THE WITNESS:** I'm sorry. I missed what she said.

4 **THE COURT:** Exhibit I is the one we've been talking
5 about which is in the record which is her email 414.

6 Exhibit H is the one page --

7 **MS. MATTIOLI:** Could you possibly hand the exhibit to
8 the witness so she can confirm that it is the exhibit that
9 we're talking about before we hand it over?

10 **THE WITNESS:** Yeah. This is one of them. 5500.15.

11 **MS. MATTIOLI:** And what number -- or letter was that?

12 **THE COURT:** H.

13 **MS. MATTIOLI:** H. Thank you.

14 **THE COURT:** Just the one page.

15 **MS. MATTIOLI:** So we don't have a printed copy, but we
16 can publish it.

17 **THE COURT:** Here you go. You can see this one, and
18 then give it back to me.

19 (Counsel examines document.)

20 **BY MR. ANDERSON:**

21 **Q.** So looking here at Exhibit H to yesterday's hearing, which
22 is marked P550015, is this a BOP-level policy or is this a
23 Dublin policy?

24 **A.** Okay. So there's -- there's only BOP policy.

25 **Q.** Okay.

1 **A.** This is BOP policy.

2 **MR. ANDERSON:** Just for the record, this is the first
3 that plaintiffs' counsel is getting a look at this. Let me
4 confer with co-counsel briefly. No?

5 **THE COURT:** No one is going to see that but you right
6 now.

7 **MR. ANDERSON:** Okay. Fair enough. So I'm hesitant to
8 read anything into the record given its sensitivity. I can
9 return it.

10 **THE COURT:** Let me have it back.

11 **MR. ANDERSON:** Yeah.

12 **THE WITNESS:** So to answer your question with that,
13 there is another one as well, which is the one that is
14 referenced here. Sorry. It's 5580.18.

15 What I'm referencing in the bottom of this, and I state
16 that in the email, which is 5521.06 which is searches. But
17 5580.18 also goes into the mandatory requirements for a visual
18 search as well.

19 **BY MR. ANDERSON:**

20 **Q.** So it's the policy that I was just looking at, Exhibit H,
21 that reflects this -- this mandatory visual search --

22 **A.** That's one of two.

23 **Q.** Okay. That's one of two.

24 **THE COURT:** What she just said is that the other one
25 is 5580.18.

1 **BY MR. ANDERSON:**

2 **Q.** Which is on Exhibit 406 that's pictured in front of you?

3 **A.** No. If you read lower, please -- it says it's recommended
4 staff familiarize themselves with program statement 5580.18,
5 section 112, pages 10 to 14, which outlines the specific
6 procedures for conducting a visual search on an inmate.

7 Then it says please see below for additional information
8 regarding visual searches of inmate, 5521.06, June 4, 2014,
9 searches of housing unit, inmates and inmate work areas.
10 That's what's outlined below that information.

11 **THE COURT:** But that one is not mandatory.

12 **THE WITNESS:** This one is --

13 **THE COURT:** That is permissive.

14 **THE WITNESS:** This is permissive. This is --

15 **THE COURT:** So I was just trying to focus on the
16 mandatory.

17 **THE WITNESS:** Okay.

18 **THE COURT:** I have this document, Exhibit H --

19 **THE WITNESS:** Yes.

20 **THE COURT:** And you said there were two.

21 **THE WITNESS:** Yeah. There was another one. It was
22 just a single page that was given yesterday. And at the bottom
23 left-hand corner, it should say 5580.18.

24 **MS. MATTIOLI:** I don't believe that we introduced that
25 yesterday.

1 **THE COURT:** Okay. Do you have 5580.18?

2 **MS. MATTIOLI:** Not in the courtroom. But we do have
3 it and we can bring it.

4 **THE WITNESS:** That one's not -- yeah, that one's --
5 can be accessed on the website so --

6 **MS. MATTIOLI:** Oh, that's available online?

7 **THE WITNESS:** That one is not an LOU, yeah.

8 **THE COURT:** And that says it's mandatory?

9 **THE WITNESS:** Uh-huh.

10 **THE COURT:** That's a "yes"?

11 **THE WITNESS:** Yes.

12 **THE COURT:** Continue.

13 **BY MR. ANDERSON:**

14 **Q.** After you sent this email in April of 2023, did your staff
15 carry out visual searches on a mandatory basis after visitation
16 with the public as required by the two policies that we just
17 discussed?

18 **A.** As far as I'm aware, yes.

19 **THE COURT:** Is there a document that shows how many
20 people went to the visitation room after April 14th, 2023?

21 **THE WITNESS:** There would be documentation that we can
22 run from a program to see how many, like, inmate visitors there
23 were as far as like their social visits, but not legal visits
24 or consultants [sic] or anything like that.

25 **THE COURT:** So let me ask a different question.

1 **THE WITNESS:** Okay.

2 **THE COURT:** I have your log. What document is
3 available for me to check in terms of cross-checking that log
4 with the number of inmates who had contact with the public and
5 therefore were subject to the mandatory search after
6 April 14th, 2023?

7 **THE WITNESS:** In our inmate visiting program, that
8 would be a document that we could -- we could compile for you.

9 **THE COURT:** Okay. So you can compile that for me?

10 **THE WITNESS:** Uh-huh.

11 **THE COURT:** All right. I want it compiled, and I
12 want -- I want it so that I can do the cross-reference. Thank
13 you.

14 Go ahead.

15 **BY MR. ANDERSON:**

16 **Q.** The logbook that the Judge was just referencing, how often
17 do you review that logbook?

18 **A.** The lieutenants are required to view it at least once a
19 day on the weekends when we have visiting. And if we have --
20 I'm sorry. You asked me.

21 Kind of periodically, yeah.

22 **Q.** What does "kind of periodically" mean?

23 **A.** I think I've reviewed it maybe once or twice in the time
24 that it was open.

25 **Q.** So --

1 **THE COURT:** There are times in this log when someone
2 seems to just sign. Does that mean someone has reviewed it?

3 **THE WITNESS:** Yes. I believe that's what you're
4 seeing, yes.

5 **BY MR. ANDERSON:**

6 **Q.** Okay. So my question was what does "kind of periodically"
7 mean.

8 You said, "I think I've reviewed it maybe once or twice in
9 the time that it was open."

10 By that you mean you think you reviewed the logbook once
11 or twice during the time period that that logbook covers?

12 **A.** I believe that I have actually reviewed, yes, once or
13 twice in the time that either I was assigned to the institution
14 or the logbook was actually open, the actual logbook itself.

15 **Q.** Okay. So that's once or twice over the last year or --

16 **A.** Prior to this.

17 **Q.** Once or twice over the last year prior to you looking at
18 it, you know, today or getting ready for this hearing?

19 **A.** Correct.

20 **Q.** Do you have any statistics -- you know, could you tell me
21 what percentage of legal visits were followed by a visual
22 search after you sent your email in April of 2023?

23 **A.** I don't have any statistics for you.

24 **Q.** Would it surprise you to learn that my co-counsel in this
25 case was visiting Dublin through last summer and the fall and

1 that visual searches were not taking place after these legal
2 visits?

3 **MS. MATTIOLI:** Your Honor, I'm going to object to
4 that.

5 **THE COURT:** What's the legal objection?

6 **MS. MATTIOLI:** Foundation for this witness --

7 **THE COURT:** That's the legal objection. Sustained.
8 Lay a foundation before you ask the question.

9 **BY MR. ANDERSON:**

10 **Q.** Would you be surprised to learn --

11 **THE COURT:** Why do I care if she's surprised? What I
12 need is information.

13 **BY MR. ANDERSON:**

14 **Q.** Do you have knowledge that visual searches were not taking
15 place after legal visits through last summer and this fall?

16 **A.** I found out about one occasion where a staff member did
17 not conduct visual searches, and I addressed it via email.

18 **Q.** You are only aware of one occasion?

19 **A.** That's the only occasion I became aware of, yes.

20 **Q.** When did you become aware --

21 **THE COURT:** Finish off, yeah. Keep going.

22 **BY MR. ANDERSON:**

23 **Q.** When did you become aware of that?

24 **A.** A few months ago, if I recall. Maybe October, November.

25 I don't -- I don't remember for sure.

1 **Q.** Do you recall the individual that you became aware of who
2 was not conducting visual searches after legal visits?

3 **A.** Yes, I do.

4 **Q.** What is their name?

5 **A.** I'm not going to tell you that. I'm sorry. I've
6 addressed it with their supervisor. I addressed it with the
7 institution.

8 **MR. ANDERSON:** Your Honor, we would ask that she
9 disclose the name.

10 **THE COURT:** So this is a correctional officer who was
11 not following the policy?

12 **THE WITNESS:** This is a non-custody -- someone who --
13 I am not -- I don't oversee personally --

14 **THE COURT:** I'm asking whether this person works for
15 Dublin or not?

16 **THE WITNESS:** Yes, they do.

17 **THE COURT:** All right. Someone give her a piece of
18 paper. Write the name down.

19 **MR. ANDERSON:** May I approach, Your Honor?

20 **THE COURT:** You may. I don't know that she has a pen.

21 **MR. ANDERSON:** May I take one off the cart?

22 **THE COURT:** You may. Write the name down. I'll
23 decide later what to do with it.

24 And you're going to leave it right there at the witness
25 stand. You go back to your thing. I'll pick it up at the

1 recess, which we're going to have as soon as you're done with
2 this line.

3 **MR. ANDERSON:** I only have one more exhibit today.

4 **THE COURT:** So it's a new issue?

5 **MR. ANDERSON:** It's the same issue, one more exhibit.

6 **THE COURT:** We are going to stand in recess then until
7 12:30.

8 Again, you are admonished you cannot talk to anybody,
9 including the lawyers, about your testimony.

10 And we'll stand in recess until 12:30. Leave that Post-it
11 there.

12 **THE WITNESS:** Yes, ma'am.

13 (Luncheon recess was taken at 11:53 a.m.)
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1 **AFTERNOON SESSION**

12:31 p.m.

2 **THE COURT:** We are back on the record. And the record
3 will reflect that the parties are present, the witness is on
4 the stand. I have counsel.

5 What I am going to do is I haven't decided whether it's
6 necessary to disclose the person identified or not. At this
7 point I have the Post-it. I've put it on a piece of paper. It
8 will be marked Exhibit M under seal at this point.

9 (Defense Exhibit M marked for identification.)

10 **THE COURT:** And I will hold on to it. Proceed.

11 **MR. ANDERSON:** Thank you, Your Honor.

12 Again, Carson Anderson from Arnold & Porter.

13 **Q.** Captain Quezada, welcome back. Before we took our lunch
14 recess, I believe you testified that you became aware of an
15 individual on your staff who was not enforcing the mandatory
16 visual search after visitations with the public and that you
17 became aware of that in October; is that right?

18 **A.** I'm not exactly sure on the date.

19 **Q.** If you were to give me an estimate.

20 **A.** Possibly October, November maybe. I'm guessing.

21 **Q.** More than a month ago or less than a month ago?

22 **A.** I'm not sure. There was an email that was sent and I --

23 **THE COURT:** I can't hear you. Say that again.

24 **THE WITNESS:** Oh, I'm not a hundred percent sure.

25 Well, if we're in January, I believe it was -- I believe it was

1 more than a month ago.

2 **BY MR. ANDERSON:**

3 **Q.** So within a month? Within a month of today?

4 **A.** I believe it was --

5 **Q.** Or more than --

6 **A.** -- more than a month ago.

7 **Q.** Okay.

8 **THE COURT:** Was it before or after Thanksgiving; do
9 you remember?

10 **THE WITNESS:** I don't recall. I want -- I want to say
11 before, but I'm not a hundred percent sure.

12 **THE COURT:** Okay. Thank you.

13 **MS. MATTIOLI:** Your Honor, if I could, if it would be
14 helpful, it was admitted yesterday.

15 **THE COURT:** What was admitted?

16 **THE WITNESS:** The email address --

17 **MR. ANDERSON:** Your Honor, Ms. Mattioli can cover this
18 on redirect.

19 **THE COURT:** Proceed.

20 **BY MR. ANDERSON:**

21 **Q.** Okay. So let's go with sometime before Thanksgiving is
22 your best recollection.

23 **A.** I'm guessing, yeah.

24 **Q.** Okay. This procedure of mandatory visual searches, that
25 is important to you?

1 **A.** Policy is important to me, so it would be, yes.

2 **Q.** I'd like to mark or pull up the next exhibit. It's called
3 tab 2 in your witness binder. It was not -- it is not an
4 exhibit that was on anyone's exhibit list. It was an exhibit
5 to the hearing yesterday.

6 **THE COURT:** Okay.

7 **BY MR. ANDERSON:**

8 **Q.** And I apologize for the quality of this. I won't take
9 credit for being the person to take a picture of it, but this
10 is what we have.

11 **THE COURT:** So this is next in order, which would be
12 413?

13 **MR. ANDERSON:** 413?

14 **THE COURT:** I cannot hear you. What's the next in
15 order? Someone just tell me. I don't care who.

16 **MS. CZIOK:** 417, Your Honor.

17 **THE COURT:** All right. 417. Proceed.

18 **BY MR. ANDERSON:**

19 **Q.** So, Captain Quezada, looking here at Exhibit 417, is this
20 an email chain that you started on Monday, December 18th?

21 **A.** This would be correct, yes. This is what I was referring
22 to.

23 **THE COURT:** You can't mumble. I'm hard of hearing at
24 this point.

25 **THE WITNESS:** Sorry.

1 Yes.

2 **MR. ANDERSON:** Your Honor, we would move to admit
3 Exhibit 417.

4 **THE COURT:** It's admitted.

5 (Defendants' Exhibit 417 received in evidence.)

6 **BY MR. ANDERSON:**

7 **Q.** So looking at your -- the bottom email here, the one that
8 you sent on December 18th, Captain Quezada --

9 **A.** Uh-huh.

10 **Q.** -- you write, "Please ensure that all unit team staff
11 responsible for facilitating legal visits in the FCI visiting
12 room understand that visual searches are required," and that's
13 bolded, "for every inmate leaving the FCI visiting room after
14 any type of visit to include legal visits."

15 **A.** Correct.

16 **Q.** Now, you sent this email on December 18; correct?

17 **A.** Uh-huh.

18 **Q.** And that would be at least several weeks after you became
19 aware of an individual on your staff who was not conducting
20 these mandatory searches?

21 **A.** No. As I said before, I wasn't sure of the time frame,
22 and I had sent this out just after becoming aware of that
23 staff. This was the email that I was referring to, and I
24 couldn't remember when I had sent it.

25 **Q.** And so when the Judge asked you if it was before or after

1 Thanksgiving and you said before --

2 **A.** And I said I couldn't recall, that it may have been
3 before, that I thought maybe it was. But like I said, I -- I
4 couldn't recall.

5 **Q.** So you sent this email. This is about two weeks ago. And
6 you could not recall that it was two weeks ago and you thought
7 that it was sometime before Thanksgiving?

8 **A.** Correct.

9 **Q.** Is that right?

10 **A.** Yeah. Correct.

11 **Q.** Okay. To your current recollection, not the recollection
12 that we discussed before we showed you -- before we talked
13 about this exhibit, what was the amount of time that passed
14 between learning about that staff member who was not enforcing
15 this mandatory policy and sending this email, according to your
16 current recollection?

17 **A.** It was probably within a day or two, at most.

18 **Q.** So my question is then what prompted you to send this
19 email?

20 **A.** It was reported to me that staff weren't following the
21 policy that every inmate undergo a visual search every time
22 they're leaving the visiting room, and that was the staff
23 member, and I -- this is how I addressed that.

24 **Q.** This staff member reported it to you or someone else
25 reported it to you basically, you know, telling you that that

1 staff member wasn't following the procedure?

2 **A.** The SIS lieutenant reported it to me. And I wanted to
3 make sure that I addressed it so that everybody is clear and
4 following policy.

5 **Q.** And that SIS lieutenant is who?

6 **A.** Lieutenant Baudizzon.

7 **Q.** Do you know, if you know, how did they find out about this
8 policy not being followed?

9 **A.** I believe an inmate spoke to him and said that one staff
10 in particular wasn't doing it. So he brought it to my
11 attention.

12 **Q.** I'm not asking for the name. My question is do you know
13 the name of that inmate?

14 **A.** No, I don't.

15 **Q.** But the SIS sergeant would or the SIS -- I'm sorry if I --

16 (Simultaneous colloquy.)

17 **THE WITNESS:** Lieutenant. Yes, the SIS lieutenant
18 would.

19 **THE COURT:** Do not talk over each other.

20 **THE WITNESS:** I'm sorry.

21 **MR. ANDERSON:** My apologies, Your Honor. That was my
22 fault.

23 **Q.** Continuing in this email, the second paragraph says,
24 "There have been multiple complaints that this is only
25 happening occasionally during legal visits when certain staff

1 are providing oversight."

2 So I think you just described one complaint. What was the
3 second complaint?

4 **A.** Well, that was -- sorry. That was what Baudizzon had told
5 me. Lieutenant Baudizzon said that he heard from this inmate
6 that this apparently has been happening. So it came from the
7 inmate that there were multiple.

8 So just to cover, I wanted them to make sure, hey, it
9 needs to happen, people need to get in line and follow policy.

10 **Q.** Okay. So it wasn't that you had received multiple
11 complaints. You were informed of multiple complaints?

12 **A.** Correct.

13 **Q.** The second sentence you write, "We cannot allow this to be
14 viewed as retaliation because other staff are failing to follow
15 policy in ensuring every inmate undergoes a visual search."

16 Did I read that correctly?

17 **A.** Yes.

18 **MR. ANDERSON:** We can take that exhibit down.

19 **Q.** Earlier you mentioned Dublin-specific procedures as
20 opposed to -- as opposed to policies from the BOP. But you
21 also mentioned Dublin-specific procedures. Do you recall that?

22 **A.** Institution supplements.

23 **Q.** Institution supplements.

24 **A.** That's what they're called.

25 **Q.** Is it true that during your time at Dublin, you are not

1 aware of any new institution supplements to protect the victims
2 of staff sexual abuse?

3 **A.** Correct.

4 **MR. ANDERSON:** Nothing further, Your Honor.

5 **THE COURT:** Redirect?

6 **MS. MATTIOLI:** Thank you, Your Honor.

7 **REDIRECT EXAMINATION**

8 **BY MS. MATTIOLI:**

9 **Q.** Captain, just to pick up that line of questioning from the
10 December 18th email, can you explain the distinction and why
11 you addressed the body of the email that is no longer on the
12 screen --

13 **MS. MATTIOLI:** I don't -- can we -- can you pull that
14 back up, please.

15 **THE CLERK:** Sorry. I'm switching back. I thought --

16 (Simultaneous colloquy.)

17 **MS. MATTIOLI:** Sorry. That's okay.

18 Can we zoom in on the body of the text?

19 **Q.** Who is -- who is this email addressed to?

20 **A.** So it's addressed to each unit manager.

21 **Q.** Okay. Let me stop you.

22 Do you supervise unit managers?

23 **A.** No.

24 **Q.** So can you explain why this individual staff member might
25 not have known about the visual search policy?

1 **MR. ANDERSON:** Speculation.

2 **THE COURT:** Sustained.

3 **BY MS. MATTIOLI:**

4 **Q.** Do unit managers -- are unit managers correctional staff?
5 Do they fall under your supervision?

6 **A.** No.

7 **Q.** Do they routinely perform correctional functions?

8 **A.** No.

9 **Q.** And what is the -- what is the name for a -- when a staff
10 member is pulled from their normal duty and assigned to a
11 correctional role?

12 **A.** Two different names. It used to be called or known as
13 augmentation and now it's reassignment.

14 **Q.** So is it possible that a unit manager could be reassigned
15 to a correctional role and be unaware of a policy that existed
16 in that setting?

17 **MR. ANDERSON:** Speculation.

18 **BY MS. MATTIOLI:**

19 **Q.** What was your understanding of this specific situation?

20 **A.** Lieutenant Baudizzon had come to me. He is responsible
21 for doing any -- all retaliation monitoring. He brought this
22 to my attention.

23 And being that the particular staff member was a member of
24 unit team, it was something that I needed to make sure was
25 addressed with department heads over unit team as well as my

1 lieutenants, my -- my management supervisors so that they know
2 that we cannot allow that.

3 **Q.** Was it your understanding based on the report that you
4 received from Lieutenant Baudizzon that this was an intentional
5 policy violation?

6 **A.** No.

7 **Q.** What is your understanding of the violation?

8 **A.** My understanding was just that she was supervising the
9 legal visits and allowed the inmates to be dismissed without
10 this happening. Whether it was intentional or unintentional, I
11 don't know.

12 **Q.** And when you found out about it, you addressed it through
13 this memo?

14 **A.** Through this email, yes, I did.

15 **Q.** Okay.

16 Was it your understanding that the nature of the complaint
17 that this visual search was not being conducted, was the
18 complaint sexual in nature?

19 **A.** No.

20 **Q.** What was your understanding of the nature of the inmate's
21 complaint? How was it conveyed to you?

22 **MR. ANDERSON:** Your Honor, I think there's a lack of
23 foundation.

24 **THE COURT:** About her own understanding? Overruled.

25 **THE WITNESS:** Can you repeat that? I'm sorry.

1 **BY MS. MATTIOLI:**

2 **Q.** Yes. What was your understanding of the nature of the
3 inmate's complaint? Why was the inmate complaining?

4 **THE COURT:** Well, that's two different questions. The
5 second one is stricken.

6 **MS. MATTIOLI:** Okay. Understood.

7 **THE WITNESS:** The nature of the complaint.

8 **THE COURT:** Your understanding.

9 **THE WITNESS:** My understanding.

10 Okay. My understanding of it --

11 **BY MS. MATTIOLI:**

12 **Q.** Yes.

13 **A.** -- was the inmate was complaining that sometimes it's
14 being done and sometimes it's not, and they named a particular
15 staff member who did not do it.

16 **Q.** Okay.

17 **THE COURT:** Who is -- who is on that email? There are
18 three people to whom it is directed. What is the role of
19 Grover?

20 **THE WITNESS:** Each one of those are unit managers.

21 **THE COURT:** Define a unit manager.

22 **THE WITNESS:** They are the supervisor of all of the
23 case managers, counselors, and unit secretaries. They oversee
24 kind of the -- they oversee unit staff.

25 **THE COURT:** And case managers, counselors, and unit

1 secretaries are not correctional officers?

2 **THE WITNESS:** Correct.

3 **THE COURT:** Are they in the nature of lay employees?

4 They're BOP employees.

5 **THE WITNESS:** Correct.

6 **THE COURT:** So what's the difference?

7 **THE WITNESS:** Correctional officers, basically I guess
8 it could be broken down into essential and non-essential maybe.
9 That's kind of how the government seems to do it.

10 Correctional officers are responsible 24/7 for safety and
11 security of the inmate. We have to be there regardless.

12 Unit team is -- their primary function is to kind of be a
13 liaison between the inmate and the outside world. Counselors
14 set up social visiting, birth certificates, Social Security
15 cards.

16 Case managers are responsible for, oh, making sure the --
17 their classification is correct and establishing like halfway
18 house.

19 And then the secretaries do kind of the footwork of the
20 unit team.

21 **THE COURT:** So why are they doing searches at all?

22 **THE WITNESS:** So the way the Bureau sees it is we are
23 all correctional service -- correctional officers first. We
24 all go to the same training. We all are responsible for kind
25 of that oversight.

1 Unit team is responsible for supervising any legal visits
2 that are set up. So when -- when we have a legal visit
3 regardless, unit team is the one who would be supervising and
4 making sure the inmates, like, arrive and leave as required.
5 And that's part of it.

6 And it happened to be one of their staff on this
7 particular occasion that was brought to my attention that was
8 not following the policy that's required.

9 **THE COURT:** When you did your training -- and you told
10 me there are 12 to 13 people -- did you not include then the
11 unit managers who were supervising the legal visitations?

12 **THE WITNESS:** No, I didn't.

13 **THE COURT:** Why not? If they were supposed to be
14 doing these searches?

15 **THE WITNESS:** The training that I put on was primarily
16 for my staff because they are 90 percent of the time the ones
17 who are doing pat searches, visual searches, urinalysis
18 testing. So I felt it was very important to get them in and
19 get them trained and understanding what's to be expected of
20 them.

21 **THE COURT:** And you just forgot that there was this
22 other group that fell within the policy but you didn't know one
23 way or the other whether they were complying with policy?

24 **THE WITNESS:** No, ma'am. I didn't -- I didn't forgot
25 about them. I just -- I have not had that training for the

1 entire institution yet.

2 **THE COURT:** And these individuals who are on this
3 email, these unit managers, were they part of the old group or
4 part of the new regime?

5 **THE WITNESS:** They're all part of the new. All the
6 management there, yeah.

7 **THE COURT:** And did they not know what the policy was?

8 **THE WITNESS:** You -- you would have to ask them. I --
9 I am hoping that they would, at a management level, but that
10 they would understand policy.

11 **THE COURT:** But they weren't enforcing it.

12 **MS. MATTIOLI:** If I could, Your Honor, I think there's
13 a fundamental disconnect happening. And an organization chart
14 would be extremely helpful so -- and I will endeavor -- the one
15 that I was provided was unwieldy. I will try my best to get it
16 in a format that you can digest.

17 **Q.** When you say "unit manager," what does that mean? Does
18 that mean a line staff person?

19 **A.** No.

20 **Q.** Okay.

21 **A.** They're a department head like I am.

22 **Q.** Okay. So a unit manager is then part -- they are
23 responsible for supervising --

24 **A.** Uh-huh.

25 **Q.** -- the individual line staff who may be conducting these

1 searches?

2 A. Correct.

3 Q. The unit managers themselves are not conducting the
4 searches?

5 A. They -- they could.

6 Q. They could.

7 A. Just like I could.

8 Q. Right.

9 A. Yes.

10 Q. But this email was directed at the supervision level;
11 correct?

12 A. Correct.

13 Q. Okay.

14 So it is possible that a line staff member might not be
15 aware of the policy --

16 A. Correct.

17 Q. -- regarding visual searches.

18 A. Yes.

19 Q. And it came to your attention that in fact they didn't --
20 either they didn't know or they weren't -- they just weren't
21 doing it?

22 MR. ANDERSON: Leading, Your Honor.

23 THE COURT: Okay. I understand what the issue is.

24 MS. MATTIOLI: Okay.

25 THE COURT: Let's keep going.

1 **MS. MATTIOLI:** Okay.

2 **Q.** You were asked on cross-examination if there was ever an
3 event that you wanted to review video for but the video was
4 missing. Do you remember that? Or not missing but it had been
5 overwritten, it didn't exist.

6 **A.** Okay. Yeah. I recall that.

7 **Q.** Would -- would it be your understanding then that that
8 would be referring to an allegation that was older than the
9 capability of the recording system, so possibly older than
10 14 days?

11 **A.** Yeah.

12 **Q.** And in your experience, in your opinion, does the current
13 inmate population have a problem speaking up in a timely
14 fashion when they feel that there are issues?

15 **THE COURT:** That's not an appropriate question.

16 **MR. ANDERSON:** Objection.

17 **THE COURT:** Sustained. She lacks foundation to answer
18 that question.

19 **MS. MATTIOLI:** I mean, she --

20 **Q.** Do you interact with inmates on a daily basis?

21 **THE COURT:** Given the way you framed it, she lacks
22 foundation.

23 **MS. MATTIOLI:** Okay. Can I ask a different question?

24 **THE COURT:** Try.

25 / / /

1 **BY MS. MATTIOLI:**

2 **Q.** Do you interact with inmates on a daily basis?

3 **A.** Yes.

4 **Q.** Do you do rounds?

5 **A.** Yes.

6 **Q.** What are rounds?

7 **A.** Walking around and talking to the inmates.

8 **Q.** And when you do rounds, what happens?

9 **A.** Inmates come to me with questions, concerns, complaints.

10 **Q.** So in your -- and how often do you do them?

11 **A.** Daily.

12 **Q.** So in your experience of doing rounds, do inmates approach
13 you with issues?

14 **A.** Yes.

15 **Q.** Do you have an opinion about whether they feel comfortable
16 raising issues?

17 **THE COURT:** Sustained.

18 **BY MS. MATTIOLI:**

19 **Q.** With you?

20 **MR. ANDERSON:** Speculation.

21 **THE COURT:** Sustained.

22 **BY MS. MATTIOLI:**

23 **Q.** Do they raise issues with you?

24 **A.** Yes.

25 **Q.** What types of issues do they raise while you're doing

1 rounds?

2 **A.** Oh, concerns about medical, about their property, any --
3 any numerous -- I mean, anything.

4 **Q.** And just to clear up an issue that did come up. I think
5 it was clear, but I want to make it crystal clear on the
6 record.

7 If there is a sustained PREA allegation against a staff
8 member, is that staff member still working?

9 **A.** No.

10 **Q.** Okay.

11 And there was some testimony with the Judge about the
12 potential of running certain logs. Do you actually have
13 personal knowledge that that can be done to cross-check the
14 visual searches with the inmates who have legal visits?

15 **A.** Not legal visits.

16 **THE COURT:** I didn't ask just about legal visits. I
17 asked about any visits.

18 **BY MS. MATTIOLI:**

19 **Q.** Any visitation. Any visitation.

20 **A.** So it would be only social visiting. I can only run logs
21 on social visiting.

22 **Q.** But you can run them, you personally?

23 **A.** I can personally run them, yeah.

24 **Q.** Okay. I was just --

25 **A.** But it wouldn't include any other visiting except for

1 social visiting.

2 **Q.** And you talked about on direct that the other types of
3 visitation would be transfers outside, to outside facil --
4 medical appointments or things like that; right? Or what other
5 visitation is there?

6 **A.** I just mean like any visitation with like the Mexican
7 consul or visitation with attorneys or --

8 **Q.** Right.

9 **A.** -- anything like that. There is --

10 **Q.** Okay.

11 **A.** -- no log for any of that.

12 **Q.** So the log that you would then be cross-checking are only
13 the visual searches conducted with visitation. There are other
14 visual searches. You talked about them.

15 **A.** Correct.

16 **Q.** The SHU, the transport.

17 **A.** Right.

18 **Q.** Those would not be reflected in the cross-check.

19 **A.** Correct.

20 **THE COURT:** Well, they're not in that log --

21 **MS. MATTIOLI:** Right.

22 **THE COURT:** -- to begin with. The SHU is not in that
23 log. As I understand it, this is just from the visitation
24 room.

25 **MS. MATTIOLI:** That's correct. But there are other

1 records of visual searches that exist. I just wanted to make
2 that clear.

3 **Q.** And, Captain, the last question I have for you is if -- if
4 you did run those logs and you determined that a member of
5 either your staff or the unit team, anybody, was not conducting
6 searches in accordance with policy, do you personally feel that
7 you would be equipped to address that situation with your
8 staff?

9 **A.** Absolutely.

10 **Q.** And how would you address it?

11 **A.** I believe first and foremost I would not find out if they
12 understand and know the policy, and if they don't, do some
13 in-depth training.

14 If they do and it's blatant, then I would let SIS know and
15 let the warden know that we would need to do a referral.

16 **Q.** And do you personally feel like you have the support of
17 the executive team to address an issue like that?

18 **A.** Absolutely.

19 **MS. MATTIOLI:** Thank you.

20 **THE COURT:** Redirect limited to the scope -- or
21 recross limited to the scope of redirect.

22 **MR. ANDERSON:** Just one question, Your Honor.

23 **RECROSS-EXAMINATION**

24 **BY MR. ANDERSON:**

25 **Q.** The conversation that you just testified about with

1 Lieutenant Baudizzon regarding a staff member's failure to
2 follow a policy on visual searches, is that conversation
3 documented anywhere?

4 **A.** I'm not sure if he documented it or maybe submitted a memo
5 or referral. I -- you would have to ask him. I'm not sure.

6 **Q.** To your knowledge, you don't know?

7 **A.** I don't know. Yeah.

8 **MR. ANDERSON:** Nothing further.

9 **THE WITNESS:** Okay.

10 **THE COURT:** All right. I have questions.

11 **THE WITNESS:** Okay.

12

13 **BY THE COURT:**

14 **Q.** So you arrive and staff is angry and hostile and there's
15 a -- not a positive culture.

16 **A.** Correct.

17 **Q.** Did you and the executive team have discussions about what
18 to do with respect to changing that culture?

19 **A.** Yes.

20 **Q.** All right. How many conversations did you have?

21 **A.** Too many to count.

22 **Q.** Okay. So this was -- this was a daily thing perhaps, or
23 how often would you say?

24 **A.** At minimum, weekly. Yeah.

25 **Q.** How did you decide to change the culture?

1 **A.** We had a lot of input from a company called The Moss
2 Group. We decided to --

3 **Q.** Hold on. You had a lot of input from a company called --

4 **A.** I'm sorry. The Moss Group.

5 **Q.** The Moss Group. And what is that company?

6 **A.** That's a good question. Prior to my arrival, most of our
7 arrival, they came in and kind of did a -- an assessment -- a
8 cultural assessment, I suppose.

9 **Q.** And was the cultural assessment of staff and inmates or
10 just staff, or who was it of?

11 **A.** I believe it was both. It was just -- yeah, both staff
12 and inmates and...

13 **Q.** Okay. Do you know who hired them or -- do you know who
14 hired The Moss Group?

15 **A.** I believe it was the agency. Just central office level
16 brought them in.

17 **Q.** And what did they -- what did they tell you, generally
18 speaking?

19 **A.** They spoke of their experiences managing an institution
20 who had been through similar to what Dublin had.

21 **Q.** Okay.

22 **A.** They gave us advice as far as how to kind of increase
23 morale. A lot of that was just additional training for staff,
24 maybe -- maybe events which -- which we have -- which we have
25 tried to do, especially with some of those training events that

1 we've had, bring in kind of the -- I guess, for example, we had
2 kind of a mock scenario, and executive staff, we bought pizza.
3 Kind of went over the debrief of everything. And gave staff an
4 opportunity to provide some feedback and input on improvement
5 or kind of what their thoughts were, what they saw. That's
6 just one example.

7 Correctional Workers Week hadn't been done, and those are
8 events planned specifically for staff. They had input as to
9 different techniques that we can use to teach staff better
10 communication with -- with the inmates, and managing and making
11 sure staff are aware of certain lines and boundaries to keep
12 when managing inmates.

13 So I feel like with a lot of their input, they also gave
14 us kind of a staged goal plan or a plan for -- for over the
15 next several years for the institution overall. Just kind of
16 gave us ideas on which goals to set now, you know, to make sure
17 we meet those and which to set for the future.

18 **Q.** And how about with respect to the inmates? What did they
19 tell you?

20 **A.** With respect to the inmates, I think a lot of that really
21 pertained to -- to better communication, more -- providing the
22 inmates with more -- more tools to vocalize concerns,
23 complaints, responsiveness to inmates because I know that was a
24 huge problem prior to our arrival. Staff weren't responsive to
25 the inmates' cop-outs or electronic requests. The emails that

1 they would send to the wardens and the AWs and the captains
2 weren't being responded to. Their tort claims were kind of
3 just shoved under -- or I guess just disregarded.

4 I know when I got there, there were tort claims that I had
5 going back from 2020 that I had my lieutenants take care of.
6 And I know that there -- the same could be said for
7 administrative remedies.

8 We played a lot of catch-up. We let the inmates know that
9 we were visible, we were there for them to report, to discuss
10 anything they needed to. And I feel like we've -- we've
11 achieved that.

12 **Q.** What's your backlog on tort claims at this point?

13 **A.** I have one that I -- was due December 31st. And I have --
14 I have to follow up and make sure that he turned that in to the
15 warden's secretary. That's the only one that I currently had
16 out.

17 **Q.** Did The Moss Group prepare a written report?

18 **A.** Not to my knowledge.

19 **Q.** How did they then communicate with you?

20 **A.** We had -- so we had meetings with them in person. They
21 came to the institution. They met with executive staff.

22 **Q.** Did you memorize the goals, short-term and long-term, or
23 how were you supposed to --

24 **A.** We had notes that we tracked. And I'm sure Agostini has
25 those.

1 **MS. MATTIOLI:** There is a written report, Your Honor.
2 We can give it to you for in-camera review at this point if you
3 would like to see it.

4 **THE COURT:** I'd like to see it.

5 **THE WITNESS:** Sorry.

6 So there were notes that we would -- we would track on
7 that that Agostini has. It may -- it may very well be the same
8 thing.

9 And then at one point, they came out to the institution
10 and did training with all of the department heads and
11 management that were there. So -- and that was to include the
12 lieutenants.

13 **BY THE COURT:**

14 **Q.** Was that -- the telephone line that got put in, was that a
15 result of the recommendations from The Moss Group?

16 **A.** I don't recall that.

17 **Q.** The new telephone line.

18 **A.** I don't believe so. I could be wrong, though.

19 **Q.** Has there been any communication, either written or oral,
20 with the inmates to explain that there's kind of a new approach
21 given that the old crew had been -- has left the facility and a
22 new crew came in? Has anybody bothered to talk to the inmates
23 collectively?

24 **A.** I believe so. I --

25 **Q.** Have you -- have you heard -- have you gone to a

1 gathering, an assembly where the warden has talked to
2 everybody?

3 **A.** We --

4 **MS. MATTIOLI:** Can --

5 **THE WITNESS:** Go ahead. I'm sorry.

6 **MS. MATTIOLI:** Well, town hall.

7 **THE WITNESS:** I was going to mention that. Yeah.

8 So when we all got there, of course we only had half
9 the -- half the amount of inmates that we had. As a group,
10 once we were all there, we did go around to each individual
11 housing unit and introduce ourselves and who we were and what
12 our roles were.

13 So I want to say that something was also put out on like
14 our inmate bulletin system. But I do know -- but I can't say
15 for sure. But I do know that at least we did.

16 **BY THE COURT:**

17 **Q.** And did you address head on or were you at any meeting
18 where anybody addressed head on the conduct of the prior
19 administrations and how that was going to be different?

20 **A.** Absolutely.

21 **Q.** Okay. What -- what did you all communicate?

22 **A.** So once the new team of executive staff arrived, we had a
23 meeting internally before the rest of the new managers were
24 there and discussed exactly what the allegations were and that
25 we are establishing a zero tolerance from here on out, that

1 it's unacceptable, that every single allegation is going to be
2 sent up.

3 Numerous people had been put on admin leave from the time
4 that even I arrived up until I want to say August of this
5 past -- this past year, August 2023. Yes.

6 We have established a zero tolerance. Allegations are
7 taken very seriously. And upon arrival of all the -- the
8 department heads, that was expressed to them in meetings as
9 well.

10 **Q.** You testified that staff expressed anger and hostility.
11 You said certainly to you. You couldn't -- you didn't know
12 whether that extended to inmates. I'm not sure why there would
13 be a difference.

14 But at what time, or has it, at what time did that cease?
15 Where are we in the continuum of anger and hostility versus
16 not?

17 **A.** I think it was gradual. Honestly, I feel like now I -- I
18 don't experience that. I don't experience that going to work
19 now, the anger and the hostility.

20 It definitely was very apparent when I first arrived to
21 the institution. When all of the -- the supervisors that were
22 in place at the time were being essentially forced to leave, a
23 lot of those staff believed it was unfair. They were very
24 angry about all of the changes. And that anger and hostility
25 was kind of aimed primarily at the new regime, if you want to

1 call it, coming into the institution.

2 I feel like once that was gone and -- and we had new
3 supervisors in place over time, we've been able to -- to show
4 that -- that, number one, accountability is number one, and
5 that we're here for both the staff and the inmate population.
6 That they can come to us with grievances or whatever they need
7 to.

8 And I do feel like it's been a gradual shift. But to this
9 point, I no longer experience the anger and hostility that I
10 did 18 months ago.

11 **Q.** Did anyone express to you -- part of me -- well, I'm still
12 trying to understand how there's anger and hostility given the
13 fact that the people who were forced to leave engaged in
14 criminal conduct.

15 **A.** I -- I think there might have been a misunderstanding.

16 So it's not just the staff -- the staff who engaged in
17 criminal conduct, I think there was a lot of anger at those
18 people because I think at one point, the staff that worked
19 there trusted them.

20 But that's not the anger and hostility that I'm referring
21 to. It's the anger and hostility -- the decision was made to
22 kind of wipe the slate clean at FCI Dublin. So it wasn't just
23 the supervisors that had been caught. It was all supervisors.
24 It was any department head, lieutenant, any manager of any
25 department who had been there more than six months was

1 relocated. And they didn't have a choice. And it was to start
2 fresh at FCI Dublin.

3 So new supervisors, new management, new exec team, all of
4 these changes happened within the first few months of my
5 arrival there. And it was -- it was managers and supervisors
6 who weren't directly involved or, you know, had no knowledge of
7 what the other parties were doing. But it was -- it was a
8 necessary change for Dublin. But it wasn't -- it wasn't
9 accepted real well from the staff.

10 **THE COURT:** All right.

11 Follow-up in terms of my questions, Ms. Mattioli?

12 **MS. MATTIOLI:** I have none.

13 **MR. ANDERSON:** No.

14 **THE COURT:** Okay. You may step down. I am not
15 releasing you because I want you to go get me that other
16 information.

17 **THE WITNESS:** Okay.

18 **THE COURT:** And just send it to Ms. Mattioli. If I
19 have questions, I'll have you come back, but I don't know that
20 I will.

21 **THE WITNESS:** Yes, ma'am.

22 **THE COURT:** All right. You may step down. You can
23 leave. Hand it to the lawyers.

24 **THE WITNESS:** Okay.

25 **MR. CHA-KIM:** Before we move on to the next witness, I

1 just wanted to clarify the scope of the Court's exclusion order
2 for witnesses. If they can be instructed not to speak about
3 the substance of the testimony with other witnesses after they
4 leave the stand.

5 **THE COURT:** So you're not released yet so you can't
6 speak to anybody about anything.

7 **THE WITNESS:** Yes, ma'am.

8 **MR. CHA-KIM:** Thank you, Your Honor.

9 **THE COURT:** Next witness.

10 **MS. MATTIOLI:** For the record, I'm going to call
11 Patrick Deveney, D-E-V-E-N-E-Y.

12 **THE COURT:** So can I ask, Mr. Deveney, come on
13 forward. The marshals were asking about folks in lockup. Have
14 they been released to go back, or are we going to get to them
15 today?

16 **MS. MATTIOLI:** We are not going to get to them today.

17 **THE COURT:** Have they been released to go back?

18 **MS. MATTIOLI:** Not yet. We can -- I was speaking with
19 the Clerk about that. I told her to hold off for a second, but
20 I don't think that we're going to get to them.

21 **THE COURT:** Okay.

22 **THE CLERK:** If you could please raise your right hand.

23 **PATRICK DEVENEY,**
24 called as a witness for the defendants, having been duly sworn,
25 testified as follows:

1 **THE WITNESS:** I do.

2 **THE CLERK:** Thank you.

3 If you could just please state and spell your last name
4 for the court reporter.

5 **THE WITNESS:** Patrick Deveney, D-E-V-E-N-E-Y.

6 **THE CLERK:** You can have a seat. Thank you.

7 **THE COURT:** Good afternoon.

8 **THE WITNESS:** Good afternoon, Judge.

9 **THE COURT:** You may proceed.

10 **DIRECT EXAMINATION**

11 **BY MS. MATTIOLI:**

12 **Q.** Make sure you speak into the microphone and answer my
13 questions with a yes or a no as opposed to "uh-huh" or "huh-uh"
14 or head nodding. I just want to make that clear.

15 **A.** Yes.

16 **Q.** Do you mind if I call you Pat?

17 **A.** Not at all.

18 **Q.** Can you please tell the Court about your background?

19 **A.** Well, my background, to begin, would start with before I
20 got into the agency, I was a social worker for five years
21 working in New Jersey. I got into the agency as a correctional
22 officer, worked my way up with increasing responsibilities.

23 I activated an institution in Berlin, New Hampshire. I
24 moved on to being a unit manager at Devens in Massachusetts,
25 FMC Devens, a medical center.

1 I moved on to there to being an ACA or American
2 Correctional Association and Prison Rape Elimination Act
3 compliance agency liaison for central office.

4 And to speak about that a little bit is I would be
5 considered a subject matter expert in Prison Rape Elimination
6 Act.

7 I would travel the country helping federal facilities,
8 make sure that they were compliant to ACA standards or American
9 Correctional Association standards and Prison Rape Elimination
10 Act compliance.

11 From there I moved on to being an associate warden at FDC
12 SeaTac in Washington before I took my role as the associate
13 warden at FCI Dublin in July of 2022.

14 **Q.** Can you please tell the Court briefly some of the duties
15 that you have as an associate warden?

16 **A.** Judge, as an associate warden, there is typically two
17 associate wardens at a federal correctional institute. In my
18 tenure at FCI Dublin, I've -- I've done both responsibilities.
19 There is associate warden of programs, and there's associate
20 warden of operations.

21 I began as associate warden of programs where I oversaw
22 correctional programs or unit team religious services,
23 psychology, a lot of the departments that oversee programming.

24 I was the Prison Rape Elimination Act compliance manager
25 for the institution, where I continue to be.

1 I moved on to taking over the operations side of the house
2 which is the health services side, food service, facilities,
3 safety, human resources, and also the labor relations manager,
4 chairperson for the institution dealing with union, union
5 issues for the institution.

6 I have direct oversight of essentially half of the
7 institution where I oversee the departments and I report
8 directly to the warden.

9 **Q.** And have you taken on the role of acting warden for a
10 period of time?

11 **A.** Yes. Since Warden Jusino's retirement in August, I have
12 been acting as acting warden taking on that role, as well as
13 the Prison Rape Elimination Act, the PREA compliance manager;
14 LMR chair, labor management relations; and a number of other
15 disciplines to oversee the institution.

16 **Q.** Okay. So I'm going to back up just a little bit. I'm
17 going to orient you in time to July of 2022. That's when -- is
18 that when you started at Dublin?

19 **A.** Correct.

20 **Q.** As an associate warden?

21 **A.** Correct.

22 **Q.** Can you please tell the Court your impression of the
23 institution's functioning when you arrived?

24 **A.** To start, I would have to say as taking my time as a -- as
25 an agency liaison and traveling the country, seeing

1 approximately 45 to 50 federal institutions, I understood that
2 every institution is not ran the same. I've done six tours in
3 the agency, this Dublin being my sixth. It was by far one of
4 the -- one of the worst institutions that I've come across.

5 Just from the policy compliance standards, the morale, the
6 lack of trust, it was -- it was a tall task to try to come in
7 and restore the culture, restore the confidence. It was, for
8 lack of a better term, the institution was in shambles.

9 **THE COURT:** What do you mean when you say lack of
10 trust? Who are you talking about?

11 **THE WITNESS:** The staff and the inmate population.

12 **THE COURT:** And how about the morale?

13 **THE WITNESS:** The morale was the lowest I've seen in
14 the agency.

15 **THE COURT:** Staff and inmates?

16 **THE WITNESS:** Correct, Judge.

17 **THE COURT:** Or just staff?

18 **THE WITNESS:** Both.

19 In July of 2022, my first week on the job was we had a --
20 a cultural assessment conducted by The Moss Group which was a
21 third-party contractor based on our task force findings from
22 central office.

23 So originally -- I don't know the exact date, but there
24 was a task force initiated from central office that entailed
25 the assistant directors, the director, a number of their staff

1 that came into the institution, and they -- they made multiple
2 findings of what needed to be addressed and what needed to be
3 fixed.

4 A number of those things that were identified were
5 coverage on off-shift hours by management, additional training
6 for staff, additional oversight of the inmate population.

7 **BY MS. MATTIOLI:**

8 **Q.** Can I just stop you briefly. When you say coverage on all
9 shift hours by department heads, what do you mean by that?

10 **A.** So typically with management, you have -- you typically
11 work Monday through Friday. It's a 6:00 to 2:00 institution.
12 At Dublin, there was a lack of oversight when we originally
13 arrived. So we immediately implemented a coverage on off-shift
14 hours.

15 **THE COURT:** When you say 6:00 to 2:00, 6:00 to
16 2:00 a.m. -- I mean 6:00 a.m. to 2:00 p.m. or 2:00 a.m.?

17 **THE WITNESS:** 6:00 a.m. to 2:00 p.m.

18 So we implemented off-shift coverage by the department
19 heads. We implemented a late night coverage, if you will, for
20 every -- every manager in the institution to include the
21 executive staff. I would work weekends and I would work late
22 nights, as well as my counterparts.

23 From the task force findings, they implemented an
24 additional few jobs for the institution or few job positions to
25 help remedy the -- the concerns that we had. That would be to

1 include, as I originally stated, there were two associate
2 wardens at a typical FCI. They implemented a third associate
3 warden to oversee the institution or help assist in overseeing
4 the institution.

5 We also reimplemented the camp administrator executive
6 assistant position that was abolished years prior.

7 We implemented a GS-13 captain. And then the captain role
8 turned into a deputy captain role, a GS-12 deputy captain role.

9 To include in that, central office also implemented a
10 family planning coordinator position as a neutral party to
11 assist the institution in any issues they may have with outside
12 stakeholders.

13 **BY MS. MATTIOLI:**

14 **Q.** Can you explain what the executive assistant position is?

15 **A.** The executive assistant position is essentially the
16 right-hand person to the warden. They would assist the warden.
17 They report directly to the warden. And they assist the warden
18 in any -- any duties or administrative tasks that need to be
19 completed at the institution.

20 In most cases, for the federal government and the Bureau
21 of Prisons, you'll have an executive assistant who also plays a
22 dual role as a camp administrator if there is a satellite camp
23 on site.

24 **Q.** When you say camp administrator, what do you mean by that?

25 **A.** A camp administrator is essentially increased oversight.

1 It would be like an additional unit manager at a federal
2 correctional institute.

3 Q. And who is the executive assistant at FCI Dublin in the
4 camp?

5 A. Morgan Agostini.

6 Q. And how often do you communicate with Ms. Agostini?

7 A. On a daily basis.

8 Q. And you mentioned a family -- the --

9 A. Family planning coordinator. Amberly Newman --

10 Q. Okay.

11 A. -- is the position for -- for that role.

12 Q. And what is your understanding of what Amberly Newman
13 does?

14 A. That's actually a newer implemented position for the
15 agency, Judge. We're still learning the -- the duties and
16 responsibilities for that position. But essentially it's my
17 understanding that they assist with outside stakeholders in
18 trying to mitigate any concerns that we may have.

19 Q. Are you aware of any other recommendations from The Moss
20 Group?

21 A. Yes. So as we had the task force findings from central
22 office, we initially -- we went straight to work in July to
23 address a number of those concerns to include the contract with
24 The Moss Group.

25 And essentially The Moss Group is a cultural assessment.

1 So it's a third-party assessment of subject matter experts in
2 sexual abuse in confined settings. They had over 200 audits at
3 other correctional facilities that -- for female offenders.
4 And they gave us an assessment of the current culture at FCI
5 Dublin.

6 And to include what we can do to restore or improve in the
7 culture of the institution. That includes the staff culture
8 and the inmate population culture.

9 **Q.** Did they have any specific recommendations regarding
10 training or any other topic?

11 **A.** There were specific recommendations. We have to increase
12 training opportunities for staff. And to note during this time
13 frame, we're coming out of COVID. Training was at minimal.
14 There was a number of times where the implementation from the
15 agency based on CDC guidelines would say you have -- you
16 operate in green status which would be a fully operational
17 facility; you have a yellow status which would be a modified
18 operation; or a red status, which means you have minimal
19 movement, minimal programming at the institution.

20 So when we first arrived, we were in -- in the majority of
21 a red status where we had minimal movement at the institution.

22 **Q.** And when -- when did the institution move out of red
23 status?

24 **A.** I don't know off the top of my head. I can't remember the
25 exact date, but I would believe it would be sometime in early

1 2023.

2 **Q.** Okay. The year is fine.

3 What are rounds?

4 **A.** Well, rounds are essentially your physical presence and
5 your approachability inside of the institution.

6 In regard to Prison Rape Elimination Act, you're talking
7 about PREA unannounced rounds.

8 In regard to --

9 **Q.** Hold on. What is a PREA unannounced round?

10 **A.** So that is a part of law where you -- in our case, we have
11 institutional duty officers, which is an assignment that
12 management or supervisors will have that they tour the
13 facility. Their tour usually starts on a Tuesday and it goes
14 until the next Monday. And they do unannounced rounds on every
15 shift to ensure that there's no -- no concerns of sexual abuse
16 or harassment going on in the institution.

17 And those are documented rounds that are audited by a
18 third party every three years.

19 **Q.** Can inmates approach the individuals conducting the
20 assessments?

21 **A.** Yes.

22 **Q.** So -- and by individuals, I mean inmates.

23 **A.** Yes.

24 **Q.** And do they?

25 **A.** Yes.

1 **Q.** If you know?

2 **A.** Yes, they do.

3 **THE COURT:** How do inmates know that there is this
4 round happening?

5 **THE WITNESS:** Well, it is a common practice, Judge.
6 If it's a department head that's coming in to, let's say, the
7 housing units to do unannounced rounds, they're making sure
8 that the sanitation is at an appropriate level. They're also
9 engaging the inmate population.

10 And at any point, an individual in our care and our
11 custody and care can approach the department head with the
12 understanding that they're either there for sanitation, to do a
13 sanitation inspection, or that it's a PREA unannounced round,
14 or a Prison Rape Elimination Act unannounced round.

15 **THE COURT:** Given the prior history of management and
16 the warden himself being the perpetrator of criminal sexual
17 activity, what steps, if any, did you take to ensure that the
18 inmates knew that they could approach these people and not
19 distrust them in the same way that the prior warden they knew
20 to distrust?

21 **THE WITNESS:** Well, Judge, that's a great question.
22 And the whole point of the rounds is to be present, be
23 approachable, to gain the trust of the -- of the inmate
24 population.

25 And in order to do that, you have to open up that line of

1 communication. You have to be able to engage the individual,
2 let them know why you're there.

3 And then when you're dealing with female offenders
4 specifically, they are -- they are treated differently than
5 male offenders. And you have to be able to engage them and
6 have healthy conversations with them to have an understanding
7 of why you're there and to address their concerns as they come
8 up.

9 It doesn't necessarily have to be about PREA. It could be
10 about anything. It could be about medical. But it's the
11 presence of them being in -- in that area.

12 For the former warden to be doing unannounced rounds,
13 that's not -- it is -- it is a good practice when you're doing
14 it the right way, when you're actually trying to engage the
15 inmate population to -- to address their concerns.

16 As I do my rounds, I -- that's simply what I'm doing.

17 Unfortunately when you're talking about someone that has
18 ulterior motives, there is -- there is really no way for you to
19 determine what their intentions are.

20 But the intention of the policy and the law is that -- is
21 that we're making sure that we're providing a safe and humane
22 environment for our population.

23 And under my supervision, under the warden's supervision,
24 we are continuously trying to communicate with the inmate
25 population to allow them -- to afford them a healthy line of

1 communication, to let them know that we're here to address
2 their concerns, that we're here to mitigate any -- anything
3 that we can for them. Because at the end of the day, we are in
4 the customer service business.

5 **THE COURT:** And how are you measuring success or
6 failure?

7 **THE WITNESS:** I think that -- really, Judge, that
8 comes back to the amount of complaints that we may receive. If
9 we don't have a healthy culture, then we're -- unfortunately,
10 we may not get the reports coming to us.

11 And in the case of Dublin, it simply came down to the -- a
12 very fundamental breakdown of communication to the point that
13 the inmate population no longer trusted in communicating with
14 staff and management and leadership, and they turned to outside
15 advocates to help them. And in that case, they came in as
16 rescuers to help the inmates.

17 In a healthy communication style within a correctional
18 setting, especially dealing with female offenders, you have to
19 have an open line of communication and they have to have
20 avenues for them to be able to communicate you -- I'm sorry --
21 to communicate with you.

22 Judge, I monitor seven mailboxes. I monitor them at
23 night. It's not uncommon for an inmate to get a response from
24 me at 3:00 in the morning. And that is an example of -- of how
25 we're opening up healthy lines of communication with our --

1 with our offenders and trying to address their concerns in an
2 expeditious manner.

3 My main focus when I arrived was pretty simple. On the
4 matter of everything that we're dealing with around us, the
5 political climate, the lack of trust, the breakdown of the
6 culture at the institution, it simply came back to increasing
7 communication, increasing our efficiency with responsiveness,
8 but we absolutely have to follow through.

9 If we can maintain those three steps, we will be able to
10 restore their trust in the institution and our outside
11 stakeholders.

12 **THE COURT:** Proceed.

13 **BY MS. MATTIOLI:**

14 **Q.** Pat, what is main line?

15 **A.** Judge, main line is -- is what our term is for standing at
16 lunch or really morning meal, afternoon meal, dinner meal.

17 The point of main line is essentially to have a presence
18 and to be available to the inmate population. That was one of
19 the things that we -- we emphasized and we -- we reinstated at
20 the institution to ensure all department heads were standing
21 main line, to include the executive staff, and that we were
22 approachable by our offenders.

23 At first, we got a lot of pushback from staff because they
24 felt that they were breaking the chain of command. They didn't
25 understand why we were so approachable. And we had to train

1 and educate our staff in what the purpose of and why it was
2 important.

3 When I originally arrived, I would have a line probably
4 almost a football field long of inmates that wanted to make
5 complaints. I can stand main line now and I may have one or
6 two inmates that want to address me for miniscule things that I
7 can more than likely get an answer for them within a day or
8 two.

9 **Q.** How often do you stand main line?

10 **A.** I try to stand main line daily. Recently it has been a
11 little complicated with our litigation and -- and with just
12 trying to run an institution as the acting warden, as the
13 associate warden, as the PREA compliance manager.

14 If I can speak on that for a minute, Judge. When I -- as
15 a subject matter expert in PREA, when I originally arrived at
16 Dublin, I wanted to do an initial internal PREA audit just for
17 the institution alone, just for my knowledge base of kind of
18 where we were at.

19 We were originally tracking, off the top of my head, we
20 were originally tracking 38 cases, 37 cases. After my -- my
21 review and my assessment of the institution, we went -- within
22 one week we went from 37 to 120. Currently we are tracking
23 around 160 PREA cases.

24 Why is that important? Because again it's about trying to
25 monitor for retaliation, making sure that we're providing a

1 healthy and sustained environment for our female offenders.
2 We're engaging our inmate population.

3 But at the end of the day, I want to make sure that any of
4 the -- the alleged victims in our institution, that I'm able to
5 address their concerns in an expeditious manner. Policy states
6 that we only have to document an encounter every 90 days, but
7 at Dublin we've initiated an every 30 day encounter.

8 So I have an SIA, or Special Investigative Agent, that
9 will make contact with our alleged victims on at least a 30-day
10 basis and document those encounters.

11 **Q.** I'm going to show you an exhibit now. It's 213.

12 Pat, what is this exhibit?

13 **A.** Judge, this is obviously a photograph of myself. I've --
14 I've instructed those to be posted in every single housing
15 unit, to include the camp.

16 And again the reason for me posting my picture up is to --
17 for the inmate population to know who I am, what my title is,
18 and who they can come to if they have a PREA concern, and who
19 else they can go to if they lack the confidence in approaching
20 me on this subject.

21 I'm a very -- if I can be honest, I'm a very large white
22 male. I can be very intimidating to female offenders. I want
23 them to understand what I look like, who I am, so I can be
24 approachable. And I am visible in the institution. You really
25 can't miss me.

1 So if they are uncomfortable with speaking with me, I've
2 listed a number of other advocacy groups and -- and other
3 options that they have to -- to communicate with outside --
4 outside entities.

5 **Q.** You know what this exhibit is -- well, did you create
6 this?

7 **A.** I -- we did create this. This was something that, again,
8 as my -- in my background in social work, I constantly try to
9 reassess, reevaluate, are we doing enough, what else can we be
10 doing better.

11 There is a number of things that I could say we could be
12 doing better, but at the end of the day it talks about that
13 follow-through of the three implementation process that I'm
14 trying to emphasize at Dublin.

15 And the follow-through is simply what can we be doing
16 better? What -- what are we missing? If there's a lack of
17 trust with the inmate population, I want to make sure that they
18 know who they can turn to. At the very least, they can turn to
19 me and I will address their concerns in an expeditious manner.

20 **Q.** Can you please --

21 **THE COURT:** I don't understand what you meant by
22 tracking cases and why it's positive that the numbers are up.

23 **THE WITNESS:** That's a great assessment, Judge.

24 With that, again it goes back to that lack of trust. I --
25 I went above and beyond as far as my assessment of the -- of a

1 PREA audit, internal audit.

2 As an agent's liaison in a previous role, you help educate
3 institutions and executive staff on what we could be doing
4 better. In Dublin's case, a majority of the cases that I began
5 tracking weren't reported locally. So that means I have to
6 communicate with the internal -- Office of Internal Affairs,
7 Office of Inspector General, regional office, central office,
8 any -- any outside entities, our rape crisis center with
9 Tri-Valley to see if they got any reportable incidents of
10 sexual abuse, of sexual harassment.

11 And in my findings, even though they may not have reported
12 to be a victim to me as the PREA compliance manager, if they
13 filed a tort claim or they filed any other type of complaint
14 that dealt with sexual abuse or sexual harassment, I wanted to
15 ensure that I was tracking them so there wasn't any retaliation
16 on their behalf.

17 If you're going to claim to be a victim and if you are a
18 victim, I -- I surely want to ensure that you're safe,
19 especially in our facility.

20 **BY MS. MATTIOLI:**

21 **Q.** And when you say PREA cases, are those only staff cases,
22 staff on inmate?

23 **A.** Both. That would be staff-on-inmate and inmate-on-inmate
24 cases.

25 **Q.** Okay. Can you please tell the Court about the current

1 practice Dublin has regarding placing staff on administrative
2 leave?

3 **A.** Judge, this one -- this one has been a sensitive subject
4 for Dublin specifically. To start, as -- as a PREA compliance
5 manager and the acting warden, I am familiar with the process.
6 We're currently tracking -- we currently have around 19 staff
7 on administrative leave out of approximately 207 filled
8 positions.

9 Now, with -- with the institution and with tracking of the
10 cases, administrative leave, we go above and beyond when we're
11 talking about PREA allegations. If I receive a report of -- of
12 sexual abuse at the institution, PREA protocols establish that
13 it has to be some type of physical touching of the genitalia or
14 breasts when you're dealing with female offenders. In our
15 case, any type of touching would result in a -- in a staff
16 member being placed on administrative leave.

17 **Q.** And just to unpack that, is that a -- is that dictated by
18 a local supplement, or is that something that you have just
19 decided to do?

20 **A.** That's something that we've decided to do locally, Judge.
21 And again it also -- it is in line with what the -- what
22 Director Peters has testified to Congress with -- I don't know
23 the date on the top of my mind. I believe it may be in
24 February or March of 2023, saying that there are no staff
25 working behind a fence that have any type of PREA allegation

1 against them.

2 Q. And does that apply nationwide or just at Dublin?

3 A. It does apply nationwide when you're talking about
4 physical touching of the genitalia.

5 Q. Right.

6 A. Of the -- but specifically at Dublin, if there's any type
7 of touching, out of an abundance of caution, we have been
8 placing the staff on administrative leave.

9 Q. Okay. Can you explain, I guess, the process for
10 determining -- what is the PREA checklist?

11 A. Judge, a PREA checklist is essentially any staff member
12 who receives a PREA allegation has a checklist of who they
13 can -- who they can report to. They want to ensure
14 safeguarding of the individual. They want to ensure that the
15 appropriate parties are notified.

16 That way we can -- we can then begin an investigation and
17 determine whether we have to initiate full PREA protocols and
18 begin monitoring for retaliation.

19 Q. And so what are full PREA protocols?

20 A. When, as a PREA compliance manager, I will determine
21 whether full PREA protocols should be initiated. And in that
22 case, I would notify the warden.

23 And a full PREA protocol is that I would be notifying
24 the -- the special investigative agent at the institution. I
25 would notify the chief psychologist. And I would notify the

1 health services administrator.

2 When dealing with specifically about staff investigations,
3 I want to make sure that non-bargaining staff or supervisors
4 are the only ones that handle those cases for the sensitivity
5 of those -- of those subjects.

6 **THE COURT:** The checklist that you referred to, that's
7 a checklist for the inmate or for the victim?

8 **THE WITNESS:** That's a checklist for staff to make
9 sure that they're following the proper protocols.

10 **BY MS. MATTIOLI:**

11 **Q.** Is that with respect to collecting information necessary
12 to follow up on the report?

13 **A.** That is correct.

14 **Q.** So if you became aware of an allegation of staff-on-inmate
15 sexual abuse and you implemented a PREA protocol and notified
16 the SIA, what happens after that?

17 **A.** I notify the SIA. I ensure that the chief psychologist
18 conducts a sex abuse intervention encounter within 24 hours.
19 And I ensure that the health services administrator conducts a
20 medical injury assessment. There isn't a time frame on that,
21 but we try to expedite that as much as possible?

22 And then if it's a staff case, I notify the regional
23 director. And I notify her that in these cases we're going to
24 be referring it to Office of Internal Affairs and Office of
25 Inspector General for investigation.

1 And if it deals with touching, then I'm also notifying the
2 regional director that we will be placing that staff member on
3 administrative leave.

4 **Q.** And will they remain -- how long do they remain on
5 administrative leave?

6 **A.** Judge, the staff that are on administrative leave remain
7 on administrative leave until Office of Inspector General
8 releases the case to office of Internal Affairs and the case
9 is -- is further investigated and either sustained or
10 unsustained.

11 **THE COURT:** So this is an outside agency that's doing
12 that particular evaluation?

13 **THE WITNESS:** That is correct.

14 **BY MS. MATTIOLI:**

15 **Q.** And the PREA protocol that you just talked about, is this
16 done with every single allegation of sexual abuse?

17 **A.** Every single allegation, that is correct.

18 **Q.** What is your understanding of when a medical S-A-N-E or
19 S-A-R-T exam would be done?

20 **A.** A SAFE or a SANE exam is anytime that there is any type of
21 physical penetration, Judge, we would send the -- the offender
22 to the outside hospital. Specifically we have a -- we've sent
23 out guidance to send them to Oakland where a SAFE or a SANE
24 exam would be conducted by an experienced medical provider,
25 otherwise known as a rape kit.

1 Q. Right.

2 MS. MATTIOLI: Your Honor, just to clean it up, I
3 didn't move to admit 213.

4 THE COURT: It's admitted.

5 (Defense Exhibit 213 received in evidence.)

6 MS. MATTIOLI: Can we pull up 217.

7 Q. Pat, do you know what this is?

8 A. Yeah, Judge. This is my guidance to staff at the
9 institution. This would be a memo that specifically is posted
10 in control, giving guidance to staff on who to contact in the
11 case that a SAFE or a SANE would be -- would be required for
12 any cases that were physical penetration.

13 Q. And are you aware of -- are you aware if an inmate has had
14 to be transferred to Oakland in the last 12 months for one of
15 these exams?

16 A. Yes.

17 Q. You are aware, or an inmate has?

18 A. An inmate has -- has been transferred to the outside
19 hospital for a SAFE and SANE exam.

20 Q. Okay.

21 THE COURT: Once or more than once?

22 THE WITNESS: One time, Judge. It was an
23 inmate-on-inmate allegation.

24 MS. MATTIOLI: Your Honor, I move to admit 217.

25 THE COURT: It's admitted.

(Defense Exhibit 217 received in evidence.)

BY MS. MATTIOLI:

Q. So you were -- when you came to Dublin, you were aware of the issues that the institution was facing?

A. Yes.

Q. Why did you decide to take the job at Dublin?

A. That's a great question.

Judge, I decided to come to Dublin because, as a social worker, as someone that wants to change hearts and minds, not to sound cliché, but someone that wants to make a positive impact for an institution, there is literally no better institution to try to make that positive impact than FCI Dublin.

It's been an extremely challenging 18 months, but over the last course of the last six months, Judge, it has also been the most rewarding tour that I've had thus far.

Q. What has made it rewarding for you?

A. The impact that we're starting to establish at the institution, the trust that we're starting to gain amongst the inmate population and staff.

And that's -- that is evidenced by seeing the number of -- of staff that are willing to -- to sign up for collateral duties. When I originally arrived, no one would be willing to step up for -- for anything to help out. There was a lot of trauma amongst the inmate population and amongst the staff.

1 That has began to shift. And I have been seeing the
2 change. At any given time, staff understand the stress that
3 we're dealing with at the institution. And on any given day, I
4 have -- I have staff and -- and inmates come up to us and
5 approach me and ask if there's anything they could do.
6 Eighteen months ago that was not the case.

7 **Q.** Were there any other changes implemented after you started
8 your tour at Dublin that you feel have -- have helped the
9 culture change?

10 **A.** Awards, recalls, identifying positive staff interactions
11 with -- with -- with -- amongst female offenders. Additional
12 training. We really focused on training, coming out of COVID,
13 understanding that we've had minimal movement for a long time.
14 We've hired a large number of our staff during the COVID era,
15 if you will, where staff don't necessarily understand what it's
16 like to -- to work in a normal operating setting in a
17 correctional environment.

18 The -- the emphasis on additional training has really
19 provided us more insight and input on -- on how we can kind of
20 pivot and do better and improve on things at the institutional
21 level.

22 A number of our staff -- I don't have the numbers off the
23 top of my head -- but more than half of our staff have less
24 than five years in the agency. So there's not much experience.

25 And we have resources at our fingertips. Even though we

1 are -- our staffing levels are -- are -- aren't at the best
2 levels, but central office is willing to assist us, the
3 regional office is willing to assist us.

4 Speaking on the -- the budget, we have utilized all of our
5 resources to try to turn FCI Dublin around.

6 **Q.** Do you know how many cameras were online and functioning
7 when you got there?

8 **A.** Judge, when I originally arrived at Dublin, we had
9 approximately 124 cameras. We were beginning to initiate the
10 phase of adding cameras.

11 Today we have 386 cameras at the institution. There have
12 been updated through -- with better fiber cable. The pixel
13 system in the cameras is very clear. We are the pilot program
14 for the updated camera system agency wide.

15 The cameras are -- have been instrumental in making
16 progress in ensuring a safe and humane environment for our
17 offenders and for our staff as well.

18 **Q.** Do you know what a SHU meeting is?

19 **A.** Judge, a SHU meeting, otherwise a Special Housing Unit
20 meeting, is a weekly review conducted by the executive staff
21 and the pertinent department heads.

22 In these meetings at Dublin, we hold them on Tuesday
23 mornings. Every Tuesday morning, we review every single
24 individual in restrictive housing on every single case, and we
25 thoroughly review what's going on with their case and why

1 they're -- why they were placed in restrictive housing.

2 A number of the times, you're talking about unwitnessed
3 fights, investigations that -- that we need to find out whether
4 the individual is safe for general population. We're reviewing
5 their disciplinary record. We're reviewing their projected
6 release, their mental health, their medical health.

7 We're trying to ensure that placement in restrictive
8 housing is warranted on a weekly basis. And if -- if we can
9 determine that they're safe to go back to general population,
10 we try to get them back to general population as expeditiously
11 as possible.

12 **Q.** Do you try to consider alternatives to SHU?

13 **A.** Yes. Your Honor, in the case of Dublin, as the acting
14 warden, I did see an increase in drug use at the facility to
15 the point that I -- we were -- we were seeing a spike in
16 positive urinalysis, is what we were speaking about yesterday
17 and today.

18 Inmates were -- were being found under the influence.
19 They were just found in their cells lying on the floor, not
20 understanding what exactly is going on. We would conduct
21 medical injury assessments, make sure that they're okay.

22 And when we're getting these increased positive UAs, drug
23 possessions, I have to determine whether restrictive housing is
24 a good form of -- of -- of placement for these individuals.

25 At Dublin, we determined that creating a diversion program

1 was necessary. The diversion program is essentially an
2 alternative to restrictive housing for individuals that were
3 found to have -- that have a positive UA or found in possession
4 of drugs.

5 And we created a program that they would go through the
6 disciplinary process because they would -- they would be issued
7 an incident report of greatest severity or high severity,
8 100 series or 200 series.

9 And as they're going through the disciplinary process,
10 they would be afforded an opportunity through the discipline
11 hearing officer that if they want help, they can enter into
12 this 12-week program in general population and we would divert
13 them from restrictive housing to -- to complete this program.

14 **THE COURT:** So what's your assessment of how the drugs
15 are getting into the facility?

16 I have this logbook here, and it shows one out of the
17 entire period for the entire logbook that the strip searches --
18 or that the visual searches only resulted in a finding of one
19 incident of contraband.

20 **THE WITNESS:** Judge, if I had that answer, I would --
21 I would have eliminated drug introductions altogether.
22 Unfortunately, it is a process of elimination. I can't say --
23 I can't rule out that it's coming in from visitation. I can't
24 rule out that it's coming in from the camp warehouse.

25 At the moment, when we were finding out that we had an

1 increase in drug introductions, we were -- we were feeding food
2 service -- camp food service was being fed out of the FCI. So
3 we were making the food trays in the FCI and transporting them
4 to the camp. And then the dirty trays were being brought into
5 the FCI. So we have reason to believe that drug introductions
6 were happening through that process. And we've -- we've
7 established new procedures for that.

8 We tried to open up camp food service based on limited
9 staffing. We have to continue feeding them out of the FCI.
10 But instead of making the trays in the FCI, instead we -- it's
11 called bulk feeding where we'll make the large pans and we
12 escort the large pans over to the camp where they make the
13 trays at the camp, and then they clean the trays before they're
14 brought back into the FCI.

15 That's one method of trying to prevent introduction.

16 We've also looked at reassignments of -- of work details.
17 And, Judge, in my opinion, those reassignments have had the
18 most impact in minimizing or eliminating drug introduction at
19 the -- at the institution.

20 **THE COURT:** And what about the possibility that it's
21 coming in through staff?

22 **THE WITNESS:** Judge, that's always a possibility,
23 unfortunately. And when we find those incidents, I can assure
24 you that I want to make sure that they are dealt with
25 expeditiously.

1 I don't have any reason to believe at this moment that
2 they're coming in from staff. But we have -- we have been --
3 we have had some flags that have raised in the process of -- of
4 eliminating some of the other concerns of introduction.

5 **BY MS. MATTIOLI:**

6 **Q.** If you reassigned an inmate's work detail, are they
7 generally happy about that?

8 **A.** No. For the concern of complacency, for the concern for
9 safety and security of compromising staff, it is a best
10 practice to reassign work details every six months.

11 Some details are a little bit more specific where they
12 require you to -- to work in that -- that detail for longer,
13 such as like an electrician's apprenticeship program or through
14 UNICOR. But overall it is a good practice to reassign work
15 details every six months.

16 **Q.** And just to go back briefly to the SHU, since you started
17 at Dublin, have you ever personally been concerned that SHU was
18 being used to retaliate against those who report staff
19 misconduct?

20 **A.** No. Judge, I don't have any concerns about utilizing SHU
21 for -- for retaliation purposes.

22 Restrictive housing is essentially utilized for safety and
23 security to ensure that the individual is okay to be in general
24 population.

25 If there is a concern of them being in general population,

1 then restrictive housing would be utilized. But not in the
2 case of -- of a PREA allegation.

3 We do safeguard our -- our alleged victims. We fill out a
4 form to safeguard them to ensure that we're using the least
5 restrictive housing.

6 Would there be a case where we have to utilize restrictive
7 housing? Only a case where -- where their safety would be in
8 jeopardy in general population or in the course of trying to
9 conduct an investigation to whether it would be looking into
10 their personal property if they have some type of physical
11 evidence that -- that may assist in a case.

12 But in an overall, restrictive housing is not used as a
13 form of retaliation for PREA purposes.

14 **Q.** Are you aware of -- are you personally aware of an inmate
15 being placed in SHU for investigative purposes?

16 **A.** In regard to PREA?

17 **Q.** Yes.

18 **A.** In my tenure, SHU has not been used to place inmates in
19 restrictive housing for PREA allegations.

20 Have we received PREA allegations from individuals that
21 are already in -- in restrictive housing? Yes, we have. But
22 not for the purpose -- we don't put them in restrictive housing
23 based on the allegation itself.

24 **THE COURT:** And you understand that there was evidence
25 that came out that that's what was happening?

1 **THE WITNESS:** Yes, Judge, I am aware of that. Being
2 accurate or not is -- is really what would be the question.

3 I can tell you in my tenure, we have never placed an
4 individual in restrictive housing based on a PREA allegation.
5 It's usually -- there is an investigation for other reasons,
6 whether it be drug introduction or unwitnessed fight.

7 And in some cases, they may then -- they may then make a
8 PREA allegation with the misunderstanding that, oh, I'm an
9 alleged victim so you can't place me in restrictive housing.

10 And there is -- that's just a matter of educating that
11 individual and telling them why they're placed in restrictive
12 housing and what are the purposes or the scope of the
13 investigation that they're under.

14 **THE COURT:** Let's go ahead and take our break.

15 **MS. MATTIOLI:** Okay.

16 **THE COURT:** And you're instructed not to discuss your
17 testimony with anyone, including the lawyers, during the break.

18 All right. We will stand in recess until 2:20.

19 **THE CLERK:** Court is in recess.

20 (Recess taken at 2:03 p.m.)

21 (Proceedings resumed at 2:21 p.m.)

22 **THE COURT:** Okay. We're back on the record.

23 The record will reflect that the witness is on the stand.

24 Counsel, you may proceed.

25 **MS. MATTIOLI:** Thank you, Your Honor.

1 I also have a copy of the Moss report for in camera.

2 **THE COURT:** All right. Thank you.

3 Let's see. That will be identified, next in order is N as
4 in Nancy.

5 (Defense Exhibit N marked for identification.)

6 **MR. CHA-KIM:** Just a request, Your Honor, that as
7 before, if I could be afforded an opportunity to look at the
8 report in questioning.

9 **THE COURT:** I'll consider that.

10 **MR. CHA-KIM:** Thank you.

11 **BY MS. MATTIOLI:**

12 **Q.** Can you tell us about Dublin's pilot phone program,
13 please.

14 **A.** Yes.

15 Judge, another first for Dublin and first for the agency
16 is our pilot phone program. So we -- we heard our -- our
17 complaints about confidential phone calls. We heard a lot
18 about it.

19 **Q.** From who?

20 **A.** From -- from our own staff in central office, from our
21 regional office. Obviously outside stakeholders. Just
22 complaints from the inmates also.

23 And we have to look at things from outside the box
24 perspective. Dublin is not a pretrial facility, and we
25 understand that this is a civil -- civil action, civil lawsuit,

1 but we still want to afford our offenders an opportunity to
2 counsel.

3 How can we do that? We came up with -- we implemented a
4 pilot phone program.

5 **THE COURT:** Whose idea was it?

6 **THE WITNESS:** It was a collaboration between the
7 regional office, the warden, myself, and just thinking outside
8 the box as far as how can we provide confidential phone calls
9 for -- for our offenders.

10 Now, we tried to mirror something along the pretrial
11 facility but in order to take that a step further, how can we
12 make it confidential.

13 And we were able to identify a room with a door that
14 closes in every single housing unit. Again, it was a first.
15 We had the program numbers. It is a pilot program. We are
16 working through any difficulties that we may have. But we've
17 made leaps and bounds. We've made a lot of strides in making
18 it an effective program for our offenders.

19 The program originally started as -- as a way to
20 communicate with legal advocates, verified victims through the
21 courts to contact their advocates. And we've expanded that to
22 attorneys. We've expanded that to family courts. We've
23 expanded that to a number of other entities. As long as the --
24 the inmate or the attorney is requesting the -- the utilization
25 of the program, we utilize our resources to try to add that

1 number.

2 Currently we're -- we started with one, and we're
3 currently -- today I believe we're at 386 -- 368 numbers in the
4 program.

5 **BY MS. MATTIOLI:**

6 **Q.** Can any inmate use the pilot phone?

7 **A.** Any inmate can use the pilot phone if they have -- if they
8 know that there's a number loaded in there.

9 **Q.** What I'm getting at is it only for verified victims?

10 **A.** No.

11 **Q.** Okay.

12 **A.** It's utilized for every -- every offender in our
13 institution.

14 **Q.** As long as they have made a request or in some cases their
15 attorneys have made requests to have the phone number added,
16 once it's added, any inmate can call that number?

17 **A.** That is correct.

18 **MS. MATTIOLI:** Your Honor, on the list that we
19 submitted of the phone numbers that have been added to the
20 program yesterday, the pink highlights were from witness victim
21 advocate groups. So it's distinguishing legal numbers and
22 other advocacy groups.

23 **THE WITNESS:** And to clarify that, those are numbers
24 that will never be removed from the program.

25 / / /

1 **BY MS. MATTIOLI:**

2 **Q.** Which numbers are removed?

3 **A.** The -- the numbers that aren't highlighted could be
4 removed. Not that we will remove them, but the -- the
5 implementation of this program in its current state allows us
6 the opportunity to program approximately 2,000 numbers.

7 Now, it didn't start as that. It originally started as 28
8 and we've grown that to 2,000, which is significant progress.
9 But at the same time, we do have movement, individuals
10 transfer, numbers aren't utilized anymore.

11 And we are looking at implementing notifying the inmate
12 population through TRULINCS of giving them a six-month grace
13 period and trying to identify numbers that aren't being
14 utilized so we can delete them and they can apply another
15 number if they like.

16 But we have to find ways to make sure that we're within a
17 reasonable range of numbers on the program.

18 **Q.** Can you explain what TRULINCS is?

19 **A.** Judge, TRULINCS is the messaging system that the inmate
20 population utilizes. It could be TRULINCS for email purposes.
21 Also it's utilized for video visiting. Also utilized for phone
22 calls as well. And --

23 **THE COURT:** Is it like Facetime or something? What is
24 it? Give me an example of what --

25 **THE WITNESS:** Video visiting would be like a Facetime.

1 So they would enter -- they would log -- they would block a
2 time and a date of when they are requesting a video visit with
3 their loved ones and that -- there's a room that they can go
4 into and they can have a video visit with their loved ones.

5 **THE COURT:** And is that one room per housing unit, or
6 is that somewhere central?

7 **THE WITNESS:** It's two rooms per housing unit.

8 **BY MS. MATTIOLI:**

9 **Q.** Can you explain the email process that inmates can use?

10 **A.** As far as...?

11 **Q.** Do they have the option to email both department heads and
12 external email addresses?

13 **A.** So as you -- in the exhibit with my -- my picture, it gave
14 you opportunities of instant -- people you can contact. In the
15 drop-down box in the TRULINCS message, you can contact OIG
16 which is an external agency. It's not tracked. It's not
17 reportable. They are able to email out to loved ones, to
18 advocacy groups. They can -- they can email anybody.

19 The capabilities of them contacting outside stakeholders,
20 outside resources are limitless. They could contact them, if
21 they like, through the TRULINCS system. They could contact
22 staff. They can contact department heads.

23 As I was stating before, I monitor seven mailboxes on my
24 government phone, and I try to stay up with that. And if
25 I'm -- if I'm coming up with an estimate, I typically respond

1 to an inmate email within 24 to 48 hours, which I believe is
2 pretty efficient.

3 **Q.** Do you meet with other department heads to discuss
4 responsiveness of other email boxes that you don't monitor
5 directly?

6 **A.** Yes. So in our department head monthly meetings, I ensure
7 that the supervisors are being -- going back to the
8 communication responsiveness and followthrough, we have
9 established an expectation. If it's an executive staff member,
10 I would -- my expectation is I get a response within 24 hours.
11 If it's a peer or another staff member, three days is
12 reasonable. And if it's an inmate request, within three days
13 is a reasonable amount of time.

14 **Q.** And you said they can email -- that inmates can email OIG
15 directly. Are those emails traceable?

16 **A.** Those emails are not traceable, and they can contact OIG
17 directly.

18 **Q.** Can they also write to OIG just through the mail?

19 **A.** Yes. Our offenders can write to OIG through the mail, and
20 that's considered legal mail or special mail where it's not
21 monitored or read by staff.

22 **Q.** And then just because I wasn't sure if it was clear, are
23 the pilot phone lines monitored by staff?

24 **A.** Judge, the pilot phone program is not monitored by staff.

25 **Q.** They're not recorded, the content of the calls are not

1 recorded?

2 **A.** The content of the calls are not recorded. We can only
3 have a log of the numbers that were dialed, the connected calls
4 in comparison to the not connected calls. It only takes a
5 minute to connect that call. And that's the only thing that we
6 can monitor. Everything else is unmonitored.

7 **Q.** Can you tell us about the MOU that Dublin has with
8 Tri-Valley Haven?

9 **THE COURT:** Well, before you move to that, were the
10 notices that I asked you to put up, put up?

11 **THE WITNESS:** Yes, Your Honor.

12 **MS. MATTIOLI:** We have a copy of the notice. It's
13 being printed to introduce as an exhibit. We were notified
14 that they were all posted.

15 **THE COURT:** All right. Go ahead.

16 **BY MS. MATTIOLI:**

17 **Q.** And just for the record, can you explain what transpired
18 yesterday and what we're talking about?

19 **A.** So for the record, Your Honor, I recall you asking us to
20 remove the -- any postings that said that the pilot phone room
21 would be open from 8:00 to 2:00. We identified one posting
22 that was still up in one housing unit, so one room. That was
23 removed.

24 Since then, we have added an updated guidance to the
25 inmate population via TRULINCS letting them know that the rooms

1 will be open -- I don't remember the exact verbiage, but you'll
2 have that in evidence. And then on top of it, we posted it in
3 every single -- outside of every single pilot phone room as
4 requested.

5 **Q.** And why did you only find one notice that said 8:00 to
6 2:00?

7 **A.** Because it wasn't guidance that we were utilizing anymore,
8 Your Honor. It was something that we initially established
9 just to get us started as a pilot program.

10 There was a TRULINCS message that went out when it
11 originally was established in April prior to the Deputy
12 Attorney General's visit.

13 And that notice was only viewable for three months. And
14 then it falls out of TRULINCS. Because you can put a time
15 frame of when it can be viewable by the inmate population.

16 So that was something that was originally established, but
17 we no longer utilize. And there is a specific time frame of
18 when we went to the -- the rooms would be open and available
19 all the time, and they would be unsecured, which I believe off
20 of my recollection was July of 2023 when we implemented that.

21 **THE COURT:** Well, I will note that when I looked at
22 the calls, I would say, you know, back of the envelope,
23 90 percent were all before the 2:00 p.m. cutoff. So if there
24 was a change, it's not clear to me it was properly
25 communicated.

1 **THE WITNESS:** Your Honor, it absolutely is clear now.
2 The inmate population is aware that they could utilize the
3 phones at any time.

4 **THE COURT:** Proceed.

5 **BY MS. MATTIOLI:**

6 **Q.** Can you just explain briefly, when you say posted to
7 TRULINCS, is that an email -- an email that's sent to the
8 inmate? How are they able to access the notice?

9 **A.** That notice -- the postings to TRULINCS is a PDF that is
10 established that it gets emailed to every single individual in
11 our custody, and they can review that at any time. It would be
12 in their possession. So they can -- they can review it on
13 their own.

14 **Q.** As soon as you pushed the notice to TRULINCS, an inmate
15 could log in on a computer and something would pop up and say
16 you have a new notice to review?

17 **A.** That's accurate.

18 **Q.** Essentially?

19 **A.** It's similar to an email. You would have an unread
20 message and they could click on it. The subject is Update -- I
21 believe Pilot Phone Program Update, and they could review the
22 update.

23 And then if I could just back up for a minute. Again,
24 another form of communication and overemphasizing the
25 communication at Dublin is we also have to notify our staff as

1 well of what's going on so they can help us relay these
2 messages in an effective manner.

3 So on top of notifying the inmate population, we also did
4 notify all of our staff that the -- the -- the guidance is
5 updated, and they were sent an email out as well.

6 **Q.** Just if we could -- maybe this would be related. Are
7 there other notices posted throughout the housing units to any
8 other confidential reporting methods?

9 **A.** My photo. Those are posted in all the housing units. All
10 the bulletin boards have updated information that they can
11 contact individuals. To my recollection -- I don't know
12 exactly what's on it currently, but every -- every bulletin
13 board in every housing unit is consistent. And they are --
14 they're in view of all the inmates in our custody and care.

15 **Q.** Are there any phone numbers painted on the walls?

16 **A.** Current -- yes. The Crime Stoppers number is painted on
17 the walls in every housing unit. And the Crime Stopper number
18 is a direct line to Special Investigative Services where our
19 inmate population can -- can make a report or an allegation to
20 staff that are only monitored by SIS, or Special Investigative
21 Services.

22 **Q.** Thank you.

23 Can you tell us about the MOU with Tri-Valley Haven?

24 **A.** Yes. The MOU with Tri-Valley Haven, Judge, is our
25 contract with them for -- as a rape crisis center. So we have

1 an MOU, Memorandum of Understanding, with Tri-Valley that they
2 will provide services, advocacy services, to our alleged
3 victims of -- of any type of sexual abuse or sexual harassment.
4 It's open to any inmate that can request to be seen by
5 Tri-Valley.

6 And another -- above -- going above and beyond at Dublin
7 is we -- Tri-Valley -- in an ordinary institution, you have a
8 rape crisis center MOU where you can contact them via phone.
9 At Dublin we actually have in-person contact visits with
10 Tri-Valley where they come in every other Thursday to meet with
11 the inmate population. The inmate simply just has to make a
12 request to psychology and they will be placed on call-out to
13 meet with Tri-Valley.

14 **THE COURT:** My memory is that there was a complaint in
15 the record that one of the main Tri-Valley personnel was
16 married to one of the correctional officers which
17 relationship -- that this person indicated had a -- what's the
18 word I want to use? Made it less likely for people to feel
19 comfortable using that group. Your response on that?

20 **THE WITNESS:** Well, Judge, if I -- if I believe what
21 you're -- you're suggesting, it would be our -- our staff, two
22 of our staff that were married. One of them being a
23 psychologist and the other being another staff member. We did
24 receive complaints about that, or I am aware that that was a
25 concern from our -- our inmate population.

1 But psychologists are held to a higher standard. I don't
2 have any concerns as far as their professionalism and the way
3 that they carry themselves and their confidentiality or
4 maintaining confidentiality with our inmate population in
5 regard to any conversations or encounters they may have.

6 If there's a concern from an individual in our custody and
7 care, that's understandable. I'm open to suggestions as far as
8 other opportunities or anything that might be available for
9 them. But it does go back to how do we restore the trust
10 amongst our inmate population and with our staff.

11 Our staff are held to a higher standard. We all took the
12 oath of office. We understand that. And at the end of the
13 day, I have no concerns about our psychology staff and their
14 treatment, their mental healthcare for our inmate population.

15 I don't have any concerns about their confidentiality or
16 maintaining confidentiality amongst our inmate population.
17 They're held to a higher standard and they maintain their
18 professionalism.

19 **BY MS. MATTIOLI:**

20 **Q.** Do Tri-Valley Haven staff come into FCI Dublin on any
21 other occasion other than every other Thursday?

22 **A.** That's a good question. That's something that we've
23 also -- another first for a correctional setting is they come
24 in for an art program that actually recently just ended, but
25 they are interested in continuing that art program with the

1 inmate population.

2 So Tri-Valley is not only a service that they could be
3 utilized over the phone, it's also in person. And then on top
4 of it, they come in for programming purposes as well.

5 And to add to that's, I have specifically trained all them
6 in Prison Rape Elimination Act as a badged visitor of the
7 institution. So they understand the concerns that we have at
8 the institution and that they're able to meet with our inmate
9 population and have contact with them on a regular basis.

10 **Q.** Pat, are you aware of a member of your staff conducting a
11 visual search to retaliate against an inmate for meeting with
12 their lawyers?

13 **A.** I am not aware.

14 **Q.** Are you aware of a member of your staff conducting a
15 visual search to retaliate against an inmate for reporting
16 sexual misconduct?

17 **A.** I am not aware.

18 **Q.** Have you ever instructed a staff member to conduct a
19 visual search of a particular inmate because you were upset
20 about the content of their legal visit or call?

21 **A.** Absolutely not.

22 **Q.** Are you aware of a staff member searching an inmate's cell
23 following a legal visit in retaliation for the inmate meeting
24 with their lawyer?

25 **A.** No.

1 **Q.** If I asked you a question using the term a "sexualized
2 environment," within a correctional setting, what does that
3 mean to you?

4 **A.** Judge, in my understanding, a sexualized environment would
5 be one that would condone pet names amongst staff and inmates,
6 would condone inappropriate comments, it would condone
7 inappropriate touching.

8 In my professional experience, Dublin is not a sexualized
9 environment. Every allegation that I have received has been
10 handled expeditiously and to the letter of the law.

11 **Q.** Are you aware of any member of your staff sexually abusing
12 the inmates in your custody?

13 **A.** I am not aware.

14 **Q.** Have you ever covered for a staff member who was
15 committing sexual abuse of an inmate?

16 **A.** No.

17 **Q.** Have you ever ignored an inmate's complaint that a staff
18 member had sexually abused or harassed them?

19 **A.** We have zero tolerance when it comes to any type of
20 allegation of sexual abuse or sexual harassment. So regardless
21 of the claim, they all are treated the same.

22 **Q.** Have you ever sexually harassed an inmate?

23 **A.** No.

24 **Q.** Have you ever sexually abused an inmate?

25 **A.** No.

1 Q. Have you ever had any employment discipline?

2 A. No.

3 Q. In your opinion, are the inmates at Dublin at an increased
4 risk of sexual victimization at the facility?

5 A. They are not at an increased risk.

6 Q. Is there always a risk?

7 A. There is always a risk in a correctional setting,
8 Your Honor. Not just Dublin, but in general.

9 That is something that we understand in a correctional
10 setting.

11 Unfortunately dealing with female offenders, there is a
12 risk of sexual victimization. Part of female offender training
13 that we've emphasized at the institution is understanding
14 our -- our population, understanding that 90 percent of our
15 population has some type of trauma or sexual abuse in their
16 past.

17 How does that trigger their -- their trauma? How do we --
18 how do we work amongst our -- our offenders? And how do we
19 treat them in a fair and humane environment? How do we provide
20 a safe environment for them?

21 There is a number of things that I can -- I can talk
22 about, Your Honor, that I believe we have made progress on,
23 that I firmly believe that it is not a sexualized environment,
24 that we address things in a very efficient and effective
25 manner.

1 And to my knowledge, FCI Dublin is trending in the right
2 direction. We aren't where we want to be, but we are -- we are
3 heading in the right direction. And I'm positive that we are
4 going to be in a normal state here in the very near future.

5 **Q.** If you could explain just briefly the challenges that you
6 indicate make Dublin not where you would want it to be.

7 **A.** So it -- it goes back to the communication, the building
8 trust, not only amongst our -- our offenders, the individuals
9 in our custody and care, but also our staff.

10 Your Honor, I can't do everything myself. I have to rely
11 on the individuals and the staff around me. And it -- it takes
12 trust. It takes building morale and understanding that we're
13 committed to doing the right thing.

14 In the past, I do believe that staff weren't supported,
15 that communication was severely broken, and that there was just
16 a complete distrust amongst staff and the inmate population in
17 accountability.

18 And that's just not a Dublin problem. That is -- that is
19 larger than Dublin. When you have 9,000 open Office of
20 Internal Affairs cases that have been pending for years,
21 there's a lack of accountability.

22 When you have thousands of Office of Internal -- Office of
23 Inspector General cases that are open and pending with no
24 accountability, staff that are -- that are walking that fine
25 line of trying to do the right thing or not seeing someone

1 that's doing -- doing the right thing not be held accountable,
2 unfortunately, it does lead to a culture of everyone's fending
3 for themselves. It leads to a culture that -- of -- a culture
4 of mistrust.

5 And I've taken the job at Dublin as a challenge to restore
6 that trust amongst outside stakeholders, but before I could do
7 that, I do have to restore the trust amongst the staff and the
8 inmates. And that's not an easy task.

9 I think I can say without a shadow of a doubt it's
10 probably the most challenging in the Bureau of Prisons, but I
11 am committed to it and so are the staff.

12 **Q.** Are you confident that you and your staff are prepared to
13 continue facing the challenge of fixing this problem?

14 **A.** I am extremely confident. I signed up for this. This is
15 my expertise. And I enjoy doing it.

16 Now, I am not happy to hear about the egregious acts that
17 happened prior to our administration. But I am -- I am
18 confident we are going to restore the trust at FCI Dublin.

19 **MS. MATTIOLI:** No further questions.

20 **THE COURT:** Cross.

21 **MS. MATTIOLI:** Your Honor, did you want this exhibit?
22 This is the pilot phone notice that I meant to introduce
23 through him. It's 418.

24 **THE COURT:** Thank you.

25 418 is admitted.

(Defense Exhibit 418 received in evidence.)

MR. CHA-KIM: May I begin, Your Honor?

THE COURT: You may.

CROSS-EXAMINATION

BY MR. CHA-KIM:

Q. Good afternoon.

A. Good afternoon.

Q. I may be a little more formal than Ms. Mattioli and call you Mr. Deveney, if that's okay.

A. Absolutely.

Q. So we haven't met before. My name is Stephen Cha-Kim. I'm a partner at the law firm Arnold & Porter.

And I promise I will try my best to slow down. I've been sitting down all day.

My name is Stephen Cha-Kim. I'm with the law firm of Arnold & Porter. I represent the plaintiffs. And I'll be asking you a few questions today about your testimony.

Mr. Deveney, first of all, I just want to get some clarity on this because it's a bit confusing to me. You are currently the acting warden or the associate warden?

A. So I am the acting warden this week, and I'm the associate warden of operations.

Q. Okay. Because the interim warden by the name of Dulgov assumed that position on December 17th, didn't he?

A. That's accurate.

1 Q. Okay. But -- so he is the interim warden, but you are
2 also still acting warden?

3 A. He had preplanned leave for the week, so in his absence,
4 I -- I'm experienced and I can cover on his behalf.

5 Q. When is he due to return?

6 A. I believe next week, the -- Monday.

7 Q. So I want to begin with this word "culture" that's been
8 used a lot. So culture of rot, cultural problems. You agree
9 there was -- there has been a cultural level problem at FCI
10 Dublin. That's fair to say; right?

11 A. Previous to my administration, yes.

12 Q. Your testimony is the culture is no longer a -- a problem,
13 that part of it is solved?

14 A. My testimony is that the culture is being restored, it's
15 in progress.

16 Q. Okay. So the job is not done, right?

17 A. We are in the process of restoring trust and ensuring that
18 our inmates have a safe and humane environment.

19 Q. And that's a project that takes time, I think you would
20 agree; right?

21 A. Everything takes time.

22 Q. Right. And that process, as you say, is still underway at
23 FCI Dublin; right?

24 A. The process of building trust does not happen overnight.

25 Q. Right. And I take it from your testimony given your

1 experience at other federal correctional facilities, you have
2 seen a lot of problems around the country at BOP facilities; is
3 that fair to say?

4 **A.** I've seen how other institutions are run.

5 **Q.** Okay. Ever seen an institution where seven individuals
6 who worked there, including the warden, have been convicted or
7 pleaded guilty to sexual abuse or harassment or retaliation,
8 criminal claims?

9 **A.** That is unique.

10 **Q.** Now, you testified that one of the problems you have, and
11 you were just alluding to this now, is, quote, how do we
12 restore the trust amongst our inmate population, unquote.

13 And that's something you're still working on; right?

14 **A.** Trust -- trust is something that takes time.

15 **Q.** Right. And that's going on right now in the context of
16 several criminal investigations that are still ongoing at FCI
17 Dublin; right?

18 **A.** Those criminal investigations were prior to my tenure.

19 **Q.** But they're still ongoing, right, at the facility?
20 Current ones?

21 **A.** The current -- there are no current criminal -- the --
22 prior to my administration, there are still ongoing criminal --
23 criminal investigations.

24 **Q.** I mean as of today, are there criminal investigations by
25 the Department of Justice or other law enforcement entities

1 into possible criminal conduct at FCI Dublin?

2 **A.** That's accurate.

3 **Q.** Okay. So you're trying to restore the trust when criminal
4 investigations are still ongoing. And I think you testified
5 it's fair to say that the staff is pretty much in transition.
6 Is that fair to say?

7 **A.** No. They're not in transition. They're -- we're working
8 on building trust back --

9 **Q.** Ms. Quezada testified about --

10 **THE COURT:** You need to slow down. And you need to
11 let him answer. I do not have a jury in that box. I know how
12 all these tactics work.

13 **MR. CHA-KIM:** Understood, Your Honor.

14 **THE COURT:** Proceed.

15 **MR. CHA-KIM:** I apologize.

16 **Q.** So I think you testified that most of your staff at FCI
17 Dublin have under five years' experience in the Bureau of
18 Prisons; is that right?

19 **A.** That's accurate.

20 **Q.** Okay. And Captain Quezada testified earlier that she
21 described the dynamic as, you know, an old guard giving way to
22 a new guard.

23 Would you agree with that assessment?

24 **A.** Can you clarify old guard versus new guard?

25 **Q.** So there are a number of people from -- who were working

1 at the facility for a number of years, including under Warden
2 Garcia, many of whom but not all who have left; right? In the
3 recent months and years?

4 **A.** There are a number of staff that have left.

5 **Q.** Right. And then in their place or in place of some of
6 them are a large number of new or some number of new
7 individuals who are generally inexperienced in that they have
8 less than five years' experience in the Bureau of Prisons; is
9 that what your testimony was?

10 **A.** Not inexperienced. They are --

11 **Q.** Under five years' experience?

12 **A.** They have less than five years' experience.

13 **Q.** Okay. I'm cognizant of trying to slow down. I apologize.
14 And in the context of trying to rebuild that trust,
15 19 individuals, I think you said, are currently on
16 administrative leave?

17 **A.** Approximately.

18 **Q.** And is it possible that some of those 19 individuals could
19 come back to work?

20 **A.** That is a possibility.

21 **Q.** Okay. So those cases are unresolved?

22 **A.** That is -- that is true.

23 **Q.** Okay. Now, you testified that any kind of allegation
24 involving touching, that will lead to an employee being put on
25 administrative leave; is that correct?

1 **A.** Physical -- a PREA allegation involving physical touching
2 will result in a staff member being placed on administrative
3 leave.

4 **Q.** Okay. Is that a reported allegation or a substantiated
5 allegation?

6 **A.** Reported.

7 **Q.** Okay. So just to be clear, any report of a -- in your
8 view, any report of a unlawful touching under PREA, allegation
9 of it will result in the person being put on administrative
10 leave? That's how it should work?

11 **A.** That's how it has been working.

12 **Q.** That's how it should work moving forward?

13 **A.** That is how it has been working.

14 **Q.** Okay. Now, you talked just a minute ago about, you know,
15 there's always, quote, a risk of sexual victimization, unquote.
16 Do you recall that, sir?

17 **A.** I do.

18 **Q.** You'd agree as a PREA compliance manager that since 2003,
19 the policy under zero -- under PREA has been zero tolerance for
20 sexual abuse or harassment; right?

21 **A.** That is accurate.

22 **Q.** Okay. So even a risk of any -- above zero is inconsistent
23 with what PREA requires; right?

24 **A.** Two different things, sir. You're talking about zero
25 tolerance for -- for PREA, but still the risk that a PREA

1 allegation or sexual abuse could occur. So you can't -- we
2 can't determine what someone's -- what someone's mindset is or
3 what their intentions are. And unfortunately in every -- every
4 entity of life, we have bad apples.

5 **Q.** Do you agree in your role as PREA compliance manager that
6 you would want to eliminate any material risk of sexual
7 harassment or abuse or retaliation among the inmate community?
8 That should be the goal?

9 **A.** That is the ultimate goal.

10 **Q.** Okay. Would you agree that in order to fix the culture
11 level problems that we've been talking about, you need to have
12 a full accounting of all the misconduct and other serious
13 issues that are underlying the problem? Would you agree with
14 that statement?

15 **A.** In what regard as far as full -- can you explain what full
16 accounting is?

17 **Q.** Sure. You want to know the full degree of the problems at
18 the facility, right, in order to address fixing the problem?

19 **A.** No. We can address the problems at hand. As far as
20 accountability for PREA, that's not -- that's not up for me to
21 determine. When we refer an investigation or we refer
22 something to OIA, OIG, it's their responsibility and it's their
23 obligation to do that investigation and let us know what --
24 what the outcome of that is.

25 **Q.** You mean OIA and OIG?

1 **A.** Office of -- of Internal Affairs and Office of Inspector
2 General.

3 **Q.** But surely you're not saying you don't play a role in
4 making sure that the full extent of the nature of problems is
5 understood at the facility?

6 **A.** Educating our inmate population, educating our staff is my
7 responsibility.

8 **Q.** Okay. And in addition to educating, as acting warden,
9 associate warden, you would agree with me you want to have an
10 accurate, complete as possible, full understanding of the
11 degree of problems like sexual abuse, retaliation, and
12 harassment; right?

13 **A.** Through -- through, at minimal, annual training.

14 **Q.** Okay. Well, annual training was required prior to 2020;
15 right?

16 **A.** Yes.

17 **Q.** Okay. Prior to Warden Garcia's tenure?

18 **A.** Yes.

19 **Q.** So it was -- okay.

20 **A.** Annual training occurs annually. PREA training occurs
21 annually at minimal. Female offender training is -- is
22 conducted annually.

23 But the question is why do we -- why do we conduct it
24 annually, why do we conduct PREA training annually, and my
25 response to anyone that I train is because it still occurs.

1 Not just at Dublin, not just in the Bureau of Prisons. In
2 corrections, in a correctional setting, that those things still
3 occur so we --

4 **Q.** Have you ever discussed -- I'm sorry. Go ahead.

5 Did you ever discuss the possibility of perhaps increasing
6 the training for beyond just once a year?

7 **A.** Can you rephrase the question?

8 **Q.** Sure. Did you ever have a conversation with your
9 colleagues or BOP or DOJ about possibly increasing the number
10 of trainings from once a year given the degree of issues at FCI
11 Dublin?

12 **A.** We're -- we're constantly training staff. We're
13 constantly sending out reminders to the inmate population. So
14 at minimum, mandatory training is conducted annually.

15 **Q.** Yeah. I just -- I'm sorry to press this, but I just want
16 the -- I'm asking a specific question.

17 Was there ever a time when you sat down with your
18 colleagues, the other associate warden, the acting warden,
19 maybe someone from BOP, anyone, and discussed let's have more
20 than one training a year?

21 **A.** In regard to PREA or in general? It's something that
22 you -- we could discuss. I can't recall whether I -- I've had
23 a specific conversation about that. It's something that we are
24 always thinking about.

25 **Q.** You were asked some questions --

1 **MR. CHA-KIM:** And, Your Honor, at this moment I would
2 renew my request to have a look at the Moss-related documents
3 prior to continuing.

4 **THE COURT:** Well, I don't know that I'm going to --
5 well, the answer to that is no. Let's see how far you get.
6 We've got an hour left.

7 **MR. CHA-KIM:** Understood.

8 **THE COURT:** You didn't know that it was going to come
9 up, so I suspect you've got some questions.

10 **MR. CHA-KIM:** Yes, ma'am. Thank you.

11 **Q.** The Moss report that you discussed with Ms. Mattioli, I
12 take it, it was commissioned to improve agency operations?

13 **A.** It was to identify -- it was a cultural assessment
14 specific to Dublin.

15 **Q.** Okay. And who was it commissioned by? DOJ, BOP, Dublin?

16 **A.** The director's office commissioned the contract for
17 that -- that assessment.

18 **Q.** And where is the director located?

19 **A.** In Washington, D.C.

20 **Q.** Okay. So it was commissioned by folks in Washington, D.C.
21 for it to occur at Dublin?

22 **A.** That is accurate.

23 **Q.** Aside from that purpose we talked about, any other reason
24 that you're aware of that the Moss report was commissioned?

25 **A.** For a previous sexual abuse at the institution, and

1 considering the climate, no, I'm not aware of any -- any other
2 reason.

3 **Q.** Okay. So in your answers to Ms. Mattioli about this
4 report, you mentioned that it -- one of the things that it
5 recommended -- I'm not sure exactly the wording it uses -- was
6 additional oversight. Do you recall that?

7 **A.** Additional oversight.

8 **Q.** Okay. Give me some specifics. What specific things did
9 the Moss report recommend specifically and only pertaining to
10 additional oversight?

11 **A.** So that would go back to my original testimony of
12 additional oversight on off-shift hours. So when you need
13 management or supervisors to have additional oversight on
14 off-shift hours, that was the recommendation.

15 So it -- it -- it works in line of what was -- what was
16 recommended in the task force findings from central office.

17 **Q.** Okay. And just help me understand what that means,
18 additional oversight. Like more supervisors on the floor? Is
19 that what you mean by additional oversight?

20 **A.** Additional staff, additional supervisors.

21 **Q.** Okay.

22 **A.** Management.

23 **Q.** Did it get any more specific than that in terms of what
24 time of day, what part of the facility, things like that?

25 **A.** The institution is -- is a 6:00 a.m. to 2:00 p.m.

1 institution. So you have most staff on the 6:00 to 2:00 day
2 watch post or shift. So anything outside of that, 2:00 p.m. to
3 10:00 p.m. is the evening watch shift. 10:00 p.m. to 6:00 a.m.
4 is the morning watch shift.

5 So in cases of morning watch, you have less staff at the
6 institution which would -- would recommend an increased
7 oversight or additional staff.

8 **Q.** Okay. And did the prison take action on that regard?

9 **A.** Yes.

10 **Q.** In terms of additional oversight, was there any other
11 specific recommendation related to reducing the risk of serious
12 harm to inmates from sexual abuse or retaliation?

13 **A.** There were no concerns as far as additional -- additional
14 oversight. It goes back to restoring the trust, educating
15 staff, educating the inmate population, and getting the word
16 out.

17 When you're talking about a culture, you have a culture
18 of -- of not -- of not feeling your voice is being heard, of
19 feeling like if you report something, no one's going to -- no
20 one is going to hear you. You have to be able to restore that.

21 **Q.** I'm going to ask you about that in just a minute, but just
22 keeping us on track to the issue of additional oversight
23 specifically. So you mentioned additional staffing of
24 supervisors.

25 Any other specific recommendation that you can recall from

1 this Moss report specific to the issue of preventing the risk
2 of sexual abuse?

3 **MS. MATTIOLI:** Your Honor, I'm going to object. The
4 question has been asked and answered.

5 **THE COURT:** Overruled.

6 **THE WITNESS:** Can you repeat the question?

7 **BY MR. CHA-KIM:**

8 **Q.** Yes. And I'll just read it back to you, if that's okay.

9 Keeping us on track to the issue of additional oversight
10 specifically, you mentioned additional staffing of supervisors.
11 Any other specific recommendation that you can recall from the
12 Moss report specific to the issue of preventing -- it should be
13 serious risk of sexual abuse?

14 **A.** Serious risk of sexual abuse when you have oversight on
15 off-shift hours, it minimizes that risk.

16 **Q.** Okay. So just to get a clean record, there was nothing
17 else aside from the additional staffing?

18 **A.** In regard to -- to sexual abuse? Not that I'm aware of
19 off the top of my head.

20 **Q.** Okay. Now, you -- the other thing you mentioned about
21 this Moss report is that it specified additional training. Is
22 that right?

23 **A.** Yes.

24 **Q.** And that's specific to the issue of, like, annual PREA
25 trainings, things of that nature?

1 **A.** So trauma informed care, gender specific education or
2 training, increased female offender training, all things that
3 we are actively working on.

4 **Q.** Okay. And PREA training, I take it, was also included in
5 the additional training that should be implemented?

6 **A.** PREA training has always been implemented. There is no
7 additional training to PREA. The annual training is
8 sufficient. But at Dublin, having additional conversations and
9 recommendations, it's not -- not something that I would be
10 concerned about.

11 **Q.** And that would be the 30-minute, 6:00 a.m. annual training
12 in January and February of 2023, the annual PREA training?

13 **A.** Thirty minute -- can you elaborate?

14 **Q.** Yeah. So the annual training that you're talking about
15 for PREA that I believe you helped organize occurred in
16 January or February-- or and February of 2023. Does that sound
17 right to you?

18 **A.** I don't have the -- the numbers or the schedule in front
19 of me.

20 **Q.** Okay. So if the government submitted the schedule, you
21 have no reason to doubt that that reflects the schedule that
22 you followed?

23 **A.** Was I the trainer for those -- for those trainings?

24 **Q.** I believe your name was listed there, if you recall or
25 not?

1 **A.** If I could -- if you could provide me the -- the sign-up
2 sheet, I could probably give you more information on that.

3 **Q.** Okay. I don't think we have the sign-up sheet. I can
4 show you the schedule if you want to look at it.

5 **A.** I do know what the schedule looks like.

6 **Q.** Okay.

7 **A.** I do know what PREA training is involved with. So when
8 you're talking about a 30-minute PREA training, off the top of
9 my head, I don't have a recollection of that. I do PREA
10 trainings for volunteers and contractors. Whether I conducted
11 those specific ones, I'd have to look at the sign-up sheets.

12 **Q.** Okay. So you'd have to rely on the documentation that BOP
13 kept with regards to that training in order to refresh your
14 recollection?

15 **A.** Yes.

16 **Q.** Okay. Let's move on.

17 So the Moss report was issued when?

18 **A.** Off the top of my head, I'm not -- I'm not sure when the
19 Moss report was exactly issued.

20 **Q.** Okay. Did the folks that were involved in the Moss report
21 ever come back for a status update?

22 **A.** They came back at least once, and they will be back this
23 month.

24 **Q.** Okay. And do they memorialize the findings from the
25 return visit?

1 **A.** From the return visit? Have they memorialized it?

2 **Q.** Yes.

3 **A.** Not that I'm aware of.

4 **Q.** Okay. What, if any, documentation is generated by your
5 facility in response to the aftermath of the Moss report?

6 **A.** As far as training? Can you be more specific?

7 **Q.** Sure. Let's start with most general. The Moss report
8 made several recommendations, adding supervisors and having
9 more training, it sounds like, maybe some other things.

10 Is there any documentation that you or your colleagues
11 generated at FCI Dublin to, let's say, track progress
12 specifically on meeting the goals as set forth by the Moss
13 report?

14 **A.** The Moss Group working plan is something that we've -- we
15 track.

16 **Q.** Okay. That's not quite my question. Any documents that
17 you -- your facility generated, like status report under a Moss
18 plan, something of that nature, do you generate things like
19 that?

20 **A.** Yes.

21 **Q.** Okay. What do you generate to track compliance with the
22 Moss report?

23 **A.** The working plan.

24 **Q.** What is the working plan?

25 **A.** It's The Moss Group working plan to give us -- it's a

1 phase of how -- where we've completed the recommendations and
2 where we're at as far as the progress in those recommendations.

3 **Q.** Now, that document is just as readily available as the
4 Moss report itself, in your view, from your records?

5 **A.** Readily available to whom?

6 **Q.** Like you can pull it from your records just like you
7 pulled the Moss report?

8 **A.** I could.

9 **Q.** Okay. So would you -- would it be fair to say that you
10 would agree the Moss working plan that you're talking about
11 would be a contemporary reflection of the Dublin facility
12 keeping track of how it's doing to meet the goals in that
13 report?

14 **A.** That's accurate.

15 **Q.** Okay. So would it be helpful, do you think -- would it be
16 a document then that that would show exactly the steps that you
17 would take or have taken?

18 **A.** It would show progress.

19 **Q.** Okay. Is that a document you can share with the Judge?

20 **A.** Yes.

21 **Q.** Okay. Can you pull it in the next few days? Is that
22 possible?

23 **MS. MATTIOLI:** I'm going to object to the witness
24 agreeing to do things without involving the lawyer.

25 **THE COURT:** Let me get the report.

1 **MS. MATTIOLI:** Okay. I can do that.

2 **THE COURT:** Thank you. Or the follow-up tracking of
3 the working plan.

4 **BY MR. CHA-KIM:**

5 **Q.** Have there been any follow-up visits by the DOJ task force
6 since they came by in 2022?

7 **A.** Nothing specific.

8 **Q.** Did the task force, after its visit in 2022, did it issue
9 any kind of written documentation of its findings or
10 recommendations specific to Dublin?

11 **A.** Yes.

12 **Q.** Is that a document that you can provide the Judge?

13 **THE COURT:** I'll take that one, too.

14 **MS. MATTIOLI:** We will find out. That is a sensitive
15 document. If we can provide it for in camera, we will.

16 **BY MR. CHA-KIM:**

17 **Q.** Now, that document presumably set forth certain steps that
18 Dublin could take in response to its visit?

19 **A.** Yes.

20 **Q.** Is that fair to say?

21 Is there any document akin to the working plan we just
22 talked about that tracks progress made or not made by your
23 facility in response to the tasks force's visit?

24 **A.** Not in response to the task force visit.

25 **Q.** Okay. Mr. Deveney, I think you would agree that turning

1 around the culture at FCI Dublin is a pretty momentous task as
2 I think you've alluded to. At any point since you came on at
3 Dublin or to your knowledge before you came on, after the
4 investigations, the arrest of warden, all of that, was any kind
5 of action plan, other document, emails, anything generated to
6 your -- well, let's stick with a document, an action plan,
7 these are the things we are going to do to change the culture
8 as you've been talking about. Was anything like that ever
9 generated?

10 **A.** That's what we've been discussing.

11 **Q.** Just the Moss -- the working plan and the task force?

12 **A.** It's a cultural assessment so it's a plan, it's a
13 document, and there's findings.

14 **Q.** So aside from the documents that were created or started
15 in response to either the task force or the Moss report, Dublin
16 itself did not create its own separate document or action plan
17 or anything of that nature?

18 **A.** There really isn't a need for repetitive nature in that
19 regard. You -- if we have a plan and we're working towards
20 that, it would be redundant to create an additional plan.

21 **Q.** Okay.

22 Do you have -- when is the last time you met with anyone
23 from your staff or at Dublin specifically on the issue of PREA
24 compliance and conditions at Dublin?

25 **A.** PREA compliance, we may meet on almost a daily basis.

1 Whether it would be over the phone, via email, in person.

2 We -- I could say I receive a number of PREA allegations on a
3 weekly basis. And determining whether we're going into full
4 PREA protocols, we -- we -- we review those on almost a daily
5 basis.

6 **Q.** Is there a standing meeting every week, every two weeks,
7 every month on folks' calendar, including yours specifically,
8 on the topic of PREA to discuss these issues?

9 **A.** On -- during our SHU review, concluding that, we do have a
10 PREA -- a PREA review as well.

11 **Q.** Are you saying you have a separate PREA review after the
12 SHU reviews, or are you talking about the PREA components of
13 the SHU review?

14 **A.** Separate.

15 **Q.** And are agendas generated for these PREA reviews?

16 **A.** If you are talking about PREA and PREA allegations or
17 whether there's -- there's -- there's verified or unverified
18 victims at the institution, there's a number of things that we
19 can track at the local level.

20 If there's a history -- if there's -- if we have inmates
21 that have a history of abusiveness or a history of
22 victimization in regard to PREA, we -- we do -- we do monitor
23 those to make sure that they're not being housed together.

24 **Q.** So I'm asking about something a little bit different.

25 So you were talking about these PREA-specific meetings

1 that you say occur weekly after the SHU meetings. Are
2 agendas -- agenda. We're going to talk about one, two, three,
3 four, five. Are those ever generated for those meetings?

4 **A.** No.

5 **Q.** Are the minutes of those meetings ever written down?

6 **A.** No.

7 **Q.** Are the decisions you've made about possible things you
8 might change or not change, are those kind of things ever
9 written down?

10 **A.** In regard to PREA allegations themselves?

11 **Q.** In regards to whatever was discussed at the supposed
12 meeting.

13 **A.** So if you have a PREA allegation that is sustained --
14 Your Honor, sustained or unsustained, we do an executive staff
15 review or incident executive staff review upon conclusion of
16 that investigation. That's obviously or typically an
17 inmate-on-inmate case. And, yes, there are findings and/or
18 could be recommendations for changing.

19 **Q.** I'm talking specifically about these weekly meetings. So
20 one of the things -- about these weekly meetings.

21 So you spoke a lot about accountability, right, during
22 your testimony. Right?

23 **A.** Yes.

24 **Q.** Okay. And one of the things about accountability is you
25 write down exactly what you have to do and whether you're

1 meeting those goals. Wouldn't you agree that that's one aspect
2 of accountability?

3 **A.** We're talking about monitoring. Monitoring our inmate
4 population. Monitoring for a safe and humane environment.

5 **Q.** What about monitoring for your own staff's misconduct
6 sometimes? That does happen. What about that?

7 **A.** Staff misconduct is completely separate. That information
8 is sensitive.

9 **Q.** It's separate from the issue of PREA?

10 **A.** No. You're talking about staff misconduct in an open
11 meeting with other staff? That wouldn't be appropriate.

12 **Q.** With executive staff --

13 **THE COURT:** You need to --

14 **BY MR. CHA-KIM:**

15 **Q.** With executive staff, you can't discuss potential
16 misconduct by your staff of PREA violations?

17 **A.** That is privy to the warden and the PREA compliance
18 manager and the Special Investigative Agent. Those are very
19 sensitive subjects.

20 **Q.** Okay. Well, you're the compliance manager, right, for
21 PREA?

22 **A.** I am.

23 **Q.** Okay. So as part of these weekly meetings for which no
24 documents are ever generated, do you ever have the kind of
25 conversation with only the people who are privy to that

1 information like the warden that you just described? Do you
2 ever have those?

3 **A.** The goal in these meetings is to ensure a safe and humane
4 environment for the individuals in our custody and care.

5 **THE COURT:** So let me cut through this.

6 It appears to me that the weekly PREA meetings that you're
7 talking about do not involve staff.

8 **THE WITNESS:** No, ma'am.

9 **THE COURT:** I'm correct?

10 **THE WITNESS:** You are correct.

11 **THE COURT:** Okay. So are there separate meetings with
12 respect to allegations and/or pending investigations of staff
13 misconduct that would fall under PREA between SIA, the warden,
14 and perhaps an associate warden.

15 **THE WITNESS:** Thank you for the clarification,
16 Your Honor.

17 When it deals with staff cases, once they're referred to
18 OIA and OIG, we no longer -- it's out of our hands. So, no, we
19 do not meet about those.

20 **BY MR. CHA-KIM:**

21 **Q.** So once it goes to OIA, you don't meet about them?

22 **A.** That would be accurate.

23 **Q.** Okay.

24 **A.** And just to clarify, if it's a staff case, it goes to OIG.

25 **Q.** Okay. And I think you're aware that under the response

1 protocol that you were talking about, as soon as there's an
2 allegation, you report it to OIA; right?

3 **A.** If it's a staff allegation?

4 **Q.** Yeah.

5 **A.** It would be reported up.

6 **Q.** And once you report to OIA, then it's out of your hands,
7 you just said, right?

8 **A.** Yes.

9 **Q.** Okay. So you don't have meetings once it's in OIA?

10 **A.** No. There is PREA. And when you're talking about
11 providing a safe and humane environment for our inmate
12 population, then we do discuss those.

13 **Q.** I'm talking about specific cases of possible -- I'm sorry.
14 I'm talking about specific cases of staff misconduct that
15 we were just talking about. You said that -- tell me if I'm
16 wrong. You told the Judge that once it gets sent to OIA, it's
17 out of your hands, you don't talk about it in these meetings.
18 Is that what you said?

19 **A.** That's accurate.

20 **Q.** Okay. And you also agree that under the response
21 protocol, once there is an allegation, it comes to you, you
22 send it to OIA right away. You're supposed to, right?

23 **A.** That's accurate.

24 **Q.** Okay. So until OIA comes back one way or the other, it's
25 out of your hands?

1 **A.** I don't have any control of it at that point.

2 **Q.** Okay. Do you have regular meetings with OIA?

3 **A.** I do not. And again, that would -- having regular
4 meetings with them and status updates could be a disruption to
5 an open investigation.

6 **Q.** I want to ask you about the creation or bringing back the
7 executive assistant role that you were talking about. When did
8 that occur?

9 **A.** During the task force findings, it was the recommendation
10 to bring in the -- or it was abolished to reestablish that camp
11 administrator executive assistant position. So Ms. Agostini
12 started in July of 2022.

13 **Q.** Okay. And I think you described it as somewhat of an
14 experimental sort of move as part of the change? Or how did
15 you describe it exactly?

16 **A.** That's not accurate.

17 **Q.** Okay.

18 **A.** It's not experimental at all. When you have findings that
19 you have a lack of oversight at the camp or the satellite
20 operations and you need increased oversight, it is required to
21 have that -- that position. So it's not experimental. It's a
22 permanent position.

23 **Q.** I'm sorry. I didn't mean to suggest it was temporary. So
24 when you brought it back, it was something that had been
25 abolished in the past and you brought it back, and it's been

1 about -- specifically in response to concerns about sexual
2 abuse and retaliation, and it's been back now for about a year
3 and a half. Is that --

4 **A.** Eighteen months.

5 **Q.** Right. And has there ever been any type of evaluation
6 process to see how the impact of that position is faring at FCI
7 Dublin for its -- in respect to its stated goals?

8 **A.** Those are all part of the findings from the task force and
9 from the cultural assessment that we have. And we provide
10 progress on that.

11 **Q.** So it's included in the reports you were talking about
12 earlier?

13 **A.** Yes.

14 **Q.** Okay. I'm sure the Judge wants to see those too,
15 hopefully.

16 As part of the evaluation of that process -- so the
17 executive assistant interacts quite a bit with incarcerated
18 persons at the prison; right?

19 **A.** That's accurate.

20 **Q.** Okay. As part of the evaluation of whether that role is
21 succeeding, have you taken any kind of input through surveys or
22 interviews or whatnot in a systemic way from incarcerated
23 persons at Dublin?

24 **A.** Not survey-related, no.

25 **Q.** Okay. If not survey-related, then what?

1 **A.** Well, it's something that we are in the progress of
2 conducting. But again when you're dealing with an institution
3 that has had the number of issues that we've had, some things
4 you do have to prioritize. Building trust, understanding that
5 a survey is important is something that we're actively working
6 on.

7 **Q.** All right. So you haven't to date, but you're working on
8 it. Is that the testimony?

9 **A.** That would be accurate.

10 **Q.** Okay. I mean, you say building trust. One key part of
11 building trust is making people feel heard. I think you would
12 agree; right?

13 **A.** That would be accurate.

14 **Q.** Okay. Now you talked about --

15 **A.** But by doing a survey would just be -- would be one
16 example of that.

17 **Q.** What else?

18 **A.** But also being responsive to their emails to me, being
19 visible, being present, doing rounds in the housing units,
20 being available, those things are more important having that
21 in-person contact than providing a survey that is impersonable
22 and may not exactly reach the goals that you're intended to --

23 **Q.** What are your working --

24 **A.** -- reach.

25 **Q.** -- on the facility?

1 I apologize.

2 What are your working hours at the facility?

3 **A.** My working hours are 6:00 to 2:00. And I work a lot of
4 extra hours on top of that.

5 **Q.** Okay.

6 **A.** So like I've testified before, I have worked weekends,
7 I've worked late nights, and I do my rounds.

8 **Q.** DOJ employee, I totally get that. But when you're not on
9 the rounds or not on the facility, the inmates don't have
10 access to you, right, by definition?

11 **A.** They do have access to me.

12 **Q.** By email?

13 **A.** By email.

14 **Q.** Can they access their email overnight?

15 **A.** They can access their email anytime during -- before 9:00
16 count, all day long, on the weekends. But 24 hours would not
17 be an accurate statement because they do sleep at night.

18 **Q.** Have you thought about ways you can redress the gap there?
19 You say you want to have consistent availability, but there are
20 definitely hours where people don't have access. Have you
21 given thought to anything you could do to improve that?

22 **A.** I would testify that my availability is -- is -- is pretty
23 efficient. If I wasn't addressing a lot of other issues
24 outside of trying to run a prison, that may be -- I may be able
25 to address a lot more of it, but when I'm addressing class

1 actions and other things, that's does take away from my time
2 with the inmate population.

3 **Q.** What steps have you taken towards the survey you were
4 talking about earlier to get feedback on how the executive
5 assistant role has played out?

6 **A.** Can you rephrase that question?

7 **Q.** Sure. We were talking about evaluating how the executive
8 assistant role, which has a lot of contact with inmates, we
9 were talking about how you said you were working on a survey to
10 get incarcerated person feedback on how that's going.

11 I just want to know -- I'm sure the Judge wants to know --
12 what steps you've taken to get that survey in motion. You said
13 you were starting to; right?

14 **A.** Well, you're talking about a survey. What's more
15 important is actually having in-person contact with the -- with
16 our population.

17 **THE COURT:** No. He is asking you about your testimony
18 that you were taking steps, some kind of steps with respect to
19 surveys. So you either are or you're not. If you are, what
20 have you done?

21 **THE WITNESS:** Yeah, we set a target date of trying to
22 complete the survey. Now, there's times where you can't meet
23 that target date and you have to push it.

24 **THE COURT:** What's the target date?

25 **THE WITNESS:** The -- the target date that we last had,

1 I believe, was November of '23.

2 **THE COURT:** And you did not make that?

3 **THE WITNESS:** Not that I can recall.

4 **THE COURT:** Did you do any draft? Is anybody tasked
5 with trying to come up with what a survey would look like?

6 **THE WITNESS:** No, Your Honor.

7 **BY MR. CHA-KIM:**

8 **Q.** Is that something you could do?

9 **A.** I think with the -- with collaboration with central office
10 and the regional office, that's something that we can work on.

11 **Q.** You mentioned during your testimony people with, quote,
12 ulterior motives, unquote. Who are you referring to?

13 **A.** The bad actors. The individuals that have, for the lack
14 of a better term -- have -- aren't following the proper
15 procedures, aren't following law, could be abusing inmates.
16 There's a number of implications there.

17 **Q.** Okay. And until the investigations that you said are
18 still ongoing are resolved, you can't be fully sure, can you,
19 that certain -- those types of people are still employed at FCI
20 Dublin?

21 **A.** Can you repeat the question?

22 **Q.** Sure. You acknowledge that there are investigations still
23 ongoing. There are cases still ongoing. People are on
24 administrative leave. They may come back. OIG has cases.
25 Things are still in motion. So wouldn't you agree with me --

1 you haven't prejudged the outcome of those investigations,
2 right, I take it?

3 **A.** No.

4 **Q.** Okay. And it's possible that those investigations may be,
5 particularly in light of the past problems, it's possible that
6 some or many of those investigations could lead to further
7 findings of misconduct; right?

8 **A.** There's a possibility.

9 **Q.** Yeah. So wouldn't you agree that until those
10 investigations play out, you can't rule out one way or the
11 other since you haven't prejudged the outcome, as you say,
12 that, you know, the tide has changed or, you know, it's better
13 now?

14 **A.** But you're talking about a different -- a different
15 administration, a different time. You're talking about a time
16 frame that was prior to July of 2020 -- 2022 and you're trying
17 to incorporate it into our current administration, which
18 wouldn't be accurate.

19 **Q.** But many of the people or some of the people who worked
20 back then are still on staff; right?

21 **A.** That would be suggesting that they are some way complicit
22 to illegal activities.

23 **Q.** I don't mean to suggest that. I'm just saying as a
24 factual matter, people who were around then and worked there
25 then are still around are in fact a bit more senior now, given

1 the amount of time that's passed. Factually that's correct,
2 right? They're still on -- some of them are still on staff?

3 **A.** Still of them are still on staff.

4 **Q.** Okay. Mr. Deveney, you would agree with me that if
5 systemic sexual assault and serious risk of harm were still
6 taking -- were still in place at Dublin, you'd want to discover
7 it and put an end to it; right?

8 **A.** I -- I would.

9 **Q.** Okay. And you'd agree with me that all PREA reports
10 should be taken seriously and rigorously investigated?

11 **A.** All PREA reports are taken seriously.

12 **Q.** And if there are instances in which persons are alleging
13 that that's not the case, that would concern you; right?

14 **A.** That would not be the case at Dublin. As long -- if there
15 is a PREA allegation, they are investigated and they are --
16 they are referred immediately.

17 **Q.** My question is a very simple one which I think, you know,
18 is if there were an allegation, that would concern you; right?
19 Given your role?

20 **A.** I still receive allegations today. A concern, when you're
21 talking about a part of a cultural assessment, Your Honor, and
22 the changing of the culture, a part of that assessment is --
23 with the understanding that PREA allegations will increase.
24 That is coming from expertise, opinions, and prior knowledge.

25 In their 200 assessments of correctional settings that

1 have dealt with sex abuse scandals, PREA allegations have
2 increased every single time.

3 So for me to have a concern because PREA allegations would
4 increase would not give me -- would not lead me to believe that
5 actual sex abuse is occurring at the institution. It leads me
6 to believe that a culture is starting to -- to evolve to
7 building trust to actually report it to our staff. That's
8 what -- that's what I would take out of that.

9 **THE COURT:** Somebody has a phone on. You better get
10 it out of this courtroom.

11 **BY MR. CHA-KIM:**

12 **Q.** Let me ask you this. If a current incarcerated person at
13 the facility made a report outlining the fact that they had
14 been -- or alleging that they had been threatened with
15 retaliation in the SHU for making a report, and they named the
16 person involved and they named where it occurred and they named
17 the date and they named in sum and substance the things that
18 person said and how they felt threatened by that, that would be
19 something concerning to you; right? I mean, it's not a trick
20 question.

21 **A.** I would review it just consistently with every other
22 allegation that I received.

23 **Q.** And if all those things were placed in the complaint or
24 email that you check and that you get, would you agree that
25 that's something that -- that -- particularly if they allege a

1 fear of imminent harm, that's something that demands immediate
2 attention? Would you agree with that?

3 **A.** That would -- you would have to -- you would have to
4 conduct a fact finding to understand what the actual
5 allegation -- what the actual allegation occurred.

6 There is a number of times where an individual may say
7 that they -- they are at risk of immediate harm. Does that
8 mean that they're at risk -- is their safety in jeopardy? And
9 there's certain questions that I would have to ask, Your Honor,
10 in order to determine whether -- that there's -- there's
11 factual evidence there, there's -- there's anything -- any
12 reason for me to believe that we need to warrant further
13 investigation.

14 When things are reported to me, I make sure that they are
15 reviewed effectively -- efficiently and that we follow through
16 on all PREA protocols.

17 **Q.** You would agree that if the response to the complaint is a
18 form legal letter, 30, 45 days later and nothing else happens
19 after that, that that would be an insufficient response then
20 per what you just said?

21 **A.** It depends on what the request or what the complaint says.

22 **Q.** Okay. Tell me, what does it depend on?

23 **A.** It depends on the factual evidence. So if I'm receiving
24 an allegation, I'm going to look into that allegation. If
25 I'm -- if I -- if we're talking about historical evidence here

1 or historical documentation, I can receive an allegation that
2 may -- that may say that there is a date and time.

3 At that point, Your Honor, I can look at a camera footage.
4 And 386 cameras, I can look at a camera footage to see if that
5 actually occurred.

6 If I can't -- if I can't determine that it's substantiated
7 or unsubstantiated, or in other words if -- if it's factually
8 true, then we move forward with the PREA protocols, if that's
9 what you're -- if that's what you're asking.

10 **Q.** Well, I'm confused. I thought you said allegations are
11 sufficient to launch an investigation, not substantiation.
12 Which is it?

13 **A.** Allegations? You're talking about if you receive an
14 allegation, you can receive a false allegation. Those things
15 do occur. You have to understand where that's coming from.

16 If I can determine that there -- the individual wasn't in
17 a time and a place that was alleging to occur, at that point,
18 that could be -- that could appear retaliatory on the inmate's
19 behalf towards staff.

20 So I do have to look into things. Does that mean I'm not
21 going to refer it? Absolutely not. But if I can determine
22 something is unfounded, then that would not -- that would not
23 determine something to be referred.

24 **Q.** But I thought you said you were out of it once it got
25 referred to OIA?

1 **A.** You're talking about if we receive a PREA allegation that
2 deals with physical touching and I don't have any camera
3 footage to suggest otherwise, then it will be referred to OIA,
4 OIG.

5 **Q.** Okay. So it's if you do get one for touching and you
6 refer it to OIA, and you're out of it --

7 **THE COURT:** OIG. OIG.

8 **MR. CHA-KIM:** OIG. I apologize.

9 **Q.** Do you look at the video camera once you've sent it to
10 OIA -- G?

11 **A.** No. We would look at the video camera first to determine
12 that it is factual.

13 **Q.** I thought you said you would refer it when it was an
14 allegation. So you do do some investigating before you
15 determine --

16 **A.** Fact-finding. There would be fact-finding to determine
17 whether it could be a substantiated case, whether it's an
18 actual -- it's a factual allegation. I can tell you on a
19 number of occasions that we do receive false -- false reports.

20 **Q.** Okay. So as I understand it now, it's not just the
21 allegation. There is some level of determination made by
22 someone at Dublin or some people at Dublin as to whether
23 it's -- I forget -- it could be -- it could be a substantiated
24 case, and in that event, you send it to OIA; is that right?

25 **A.** If full PREA protocols are warranted, it would be referred

1 to OIG.

2 So, in other words, if I have a PREA allegation,
3 Your Honor, and it deals with physical touching, let's say an
4 individual says that they were groped, they were groped, their
5 breasts were groped in a pat search, something along those
6 lines, if I can determine that that's not factual based on
7 camera footage, I would not refer it to OIG at that point. If
8 it's within the scope of employment. There is a scope of
9 employment that we have to -- we have to determine here.

10 **Q.** So that there are -- so at bottom, there are some PREA
11 allegations made by residents that's not sent to OIA --
12 sorry -- OIG?

13 **A.** If there is a PREA allegation against staff that we can
14 determine is not a factual PREA allegation, it would not be
15 referred.

16 **Q.** Okay. Someone determines whether that is factually
17 satisfied to send it to OIA -- or OIG; is that right?

18 **A.** That would be consistent.

19 **Q.** Okay. And so tell me about how that determination is
20 made? Who is involved?

21 **A.** The PREA compliance manager.

22 **Q.** That's you?

23 **A.** The -- the SIA, and working on the camera footage. Now we
24 can also do -- the chief psychologist could be involved, and we
25 could do a sex abuse intervention encounter.

1 And in certain cases, if it's a third-party report,
2 there's been times where we receive an allegation that an
3 individual was groped by a -- it would be a third-party report
4 that somebody else was -- was groped by a staff member. We
5 could -- we could interview that alleged victim. And if they
6 absolutely declined that that incident occurred, at that point,
7 we would still refer it to OIA/OIG to make sure that there's an
8 appropriate investigation, but that doesn't mean that we would
9 need to be -- we would need to continue moving forward.

10 **Q.** Okay. A few things here. This is important which is why
11 I'm asking these questions.

12 You would still send it to OIA/OIG. So even -- you're
13 saying even if you found that there wasn't that factual basis,
14 now you're saying you would send it to OIA/OIG?

15 **A.** If that was abundance of caution that's necessary, then we
16 would send it to OIG.

17 **Q.** Is the protocol for this written down anywhere?

18 **A.** It goes above and beyond the policy.

19 **Q.** Which policy?

20 **A.** Staff misconduct.

21 **Q.** The -- the main Bureau of Prisons Federal Regs, that
22 policy?

23 **A.** Yes. And 5324.12.

24 **Q.** Is there any institutional-level document, I forget what
25 they were called earlier, but institutional-level policy or

1 practice document that outlines the steps you're talking about?

2 **A.** No, there is not.

3 **Q.** Okay. You think maybe it's a good idea to have one so you
4 ensure that everyone is following the same steps each time?

5 **A.** Well, who would you be -- who would you say would need to
6 be -- would need that document?

7 **Q.** The people you just mentioned. So it sounded like, and
8 correct me if I'm wrong, you said a whole number of people,
9 yourself, the psychologist, and that psychologist is married to
10 one of the correctional officers, right? Mulcahy, the SIA, and
11 others are involved in this deliberation to determine whether
12 or not to send factual allegations to OIG, which the government
13 touts as a big advance, or OIA.

14 So my question to you is given all that deliberation
15 that's going on, let me ask you the question, what paper trail
16 is generated in each of those cases that you deliberate about
17 whether someone's allegations are going to get sent to be
18 investigated? What paper trail?

19 **A.** You have a sex abuse intervention encounter. You would
20 have documents from the supervisor investigative agent. You
21 could have email trails. But you would -- you would
22 determine -- you -- as a -- as a team, you would determine
23 whether that warrants full PREA protocols.

24 **Q.** Is a memo written?

25 **A.** In the case of something being sent to OIG?

1 Q. No. A decision one way or the other. We met and we
2 discussed this, this, and this, and we determined that for
3 these reasons this is not being sent to OIG or OIA, or for
4 these reasons it is being sent to OIA/OIG. These are the
5 people involved, this is what was discussed. Is a memo,
6 anything, email generated --

7 A. An email.

8 Q. -- to -- an email generated for that. Okay.

9 How many times have you had this deliberation process in
10 the past six months, let's say?

11 A. I don't have the numbers off the top of my head.

12 Q. Was it less than five?

13 A. I would have to -- I would have to check.

14 Q. You don't have a rough sense of this very important
15 decision about whether to send someone's allegations to OIG.
16 You don't have any idea in the past six months how many?

17 THE COURT: Counsel, you are going to have to slow
18 down or you're done.

19 MR. CHA-KIM: I'm sorry, ma'am. I apologize.

20 THE COURT: Try again.

21 BY MR. CHA-KIM:

22 Q. This very important meeting, your deliberation to decide
23 whether allegations are sent to be investigated by a different
24 agency, you don't have a sense, ballpark sense, of how many
25 times you went through the process you just testified to at

1 length and said there were memos for in the past six months?

2 A. I would have to check.

3 Q. Where would you go to check?

4 A. Check emails.

5 Q. Anywhere else?

6 A. As -- as alluded to, I could check sex abuse intervention
7 encounters or general admission encounters through psychology.

8 Q. Okay. Would you be able -- not even the documents
9 themselves, just the number of times that this has been
10 convened and discussed in the past six months; is that
11 something you can ascertain in the next few days?

12 A. I could look into it, but I can't -- I can't make any
13 promises.

14 Q. Do you know how many of those were in fact referred to OIA
15 or OIG?

16 A. How many of those in regard to...?

17 Q. The process we were just talking about. I know you don't
18 know the number, but of those do you have a sense of what
19 percentage were sent to OIA or OIG?

20 A. I would have to check.

21 Q. Is there any process for the determination in that process
22 to be reviewed by a lawyer?

23 A. There is not.

24 Q. By anybody else once it's been determined?

25 A. Depending on the allegation, I may notify -- if I'm the

1 acting warden, I may notify the regional director.

2 **Q.** Is OIA or OIG or anyone at BOP or DOJ informed of the
3 number of allegations that you in fact deliberate about in this
4 fashion but don't send to OIA and OIG?

5 **A.** No. But they are also aware of other reporting
6 mechanisms, too. So if I receive an allegation and if you're
7 alluding to some type of mistrust or -- or me making a mistake
8 as a human or us as a group making mistakes, there are still
9 other avenues that they can report these allegations.

10 **Q.** To be clear, sir, I'm not accusing you of anything. I'm
11 just trying to help the Court get to the factual basis for
12 understanding the extent of what you agree is a problem at the
13 facility. That's all I'm trying to do. So we are trying to
14 find out how the Court can assure itself that you are, you
15 know, checking yourselves and doing things right.

16 So I'm not impugning not -- I'm not, you know, impugning
17 you and I want you to understand that. Okay.

18 So you said, well, there are other reporting mechanisms.
19 But by definition if it's in this point, the person has already
20 reported; right?

21 **A.** I'm -- I'm not really understanding your question.

22 **Q.** Let's move on.

23 PREA can be violated without physical touching; right?

24 **A.** Can you repeat that question?

25 **Q.** It can be a violation of PREA to have, you know,

1 interactions that fall short of physical touching; is that
2 correct?

3 **A.** Yes.

4 **Q.** And what happens to -- and you get allegations of that
5 nature at the prison, right?

6 **A.** Are you talking about sexual harassment?

7 **Q.** No. Just any kind of PREA allegation where there is no
8 physical touching involved. Do you get that type of
9 allegation?

10 **A.** Yes.

11 **Q.** What happens to those allegations?

12 **A.** There's a fact finding -- well, the psychologist may --
13 depending if it's a staff case or inmate-on-inmate case, there
14 could be a sex abuse intervention note. There will be an
15 encounter by psychology. And we would move forward in that
16 direction.

17 **Q.** And is that -- the substance and outcome of those
18 deliberations, are those written down anywhere?

19 **A.** In policy.

20 **Q.** I'm talking about specific instances of these allegations
21 that allege PREA violations but don't have physical touching,
22 and you just said that you consult with a number of people to
23 make the weighty decision of whether or not to follow up on
24 this. Is what you discussed and what you determined
25 memorialized anywhere in writing?

1 **A.** Yes.

2 **Q.** Where?

3 **A.** Same as before. Whether it would be an encounter through
4 psychology, a document through the SIA if it deals with staff.
5 If it's inmate on inmate, it could be through SIS.

6 **Q.** I'm talking about the deliberation of your staff that you
7 were just talking about, just like we were talking for the
8 instances of physical touching, not physical touching. Is
9 there a memo, just like the memo you said exists for the first
10 category, is there a memo that is generated for this category
11 where it's PREA allegation but no physical touching?

12 **A.** There is not a memo generated.

13 **Q.** How do you keep track of the number of complaints that are
14 happening in that category?

15 **A.** There's a PREA tracking log for PREA allegations. But
16 there's also a file shared with SIS or the SIA regarding other
17 allegations as well.

18 **Q.** So, you know, you spoke at length about things like,
19 quote, increased communication, unquote, quote, line of
20 communication, unquote, open them up, quote, let them know
21 we're here, unquote. And we've seen your very nice photo
22 posted up.

23 Can you tell us specific things that, if you can recall,
24 going back to Warden Garcia leaving the facility -- specific
25 things -- specific things that -- actions, meetings, whatever,

1 things like your poster, that FCI Dublin administrators did in
2 order to do those things, try to increase communication with
3 inmates?

4 **A.** Town halls, which is -- I don't -- to make the Court
5 familiar, town halls are essentially meetings with the entire
6 housing unit where a staff member could -- could conduct a town
7 hall to notify them of -- of any type of procedure or protocol
8 or information, give them guidance. There's a standing main
9 line, just being available to the inmate population.

10 **Q.** Anything else?

11 **A.** Not that I can recall off the top of my head.

12 **Q.** You would agree in order to effectuate communication,
13 inmates would have to be allowed to speak at the town hall;
14 right?

15 **A.** Depending on the information that you're providing, there
16 is -- there is an open format for them to speak.

17 **Q.** Right. So my question is to effectuate this communication
18 goal you've been talking about through a town hall, one
19 necessary element is the inmates have to be allowed to speak to
20 you; right?

21 **A.** They have avenues to -- to communicate with us. In regard
22 to town halls specifically, depending on what you're
23 communicating them -- communicating with them on depends on
24 whether you warrant any feedback from them at the current time.

25 **Q.** Do you think PREA policies and changes deserve feedback

1 from inmates at FCI Dublin?

2 **A.** That would suggest that there's something broken within
3 PREA protocols or PREA policies.

4 **Q.** Your answer is no?

5 **A.** I'm saying that would suggest that something would be
6 broken. If you're following full PREA protocols and you're
7 following policies and the law, you're covering -- you're
8 covered by the law.

9 To suggest that the law isn't -- isn't sufficient, I don't
10 know if that -- if that -- if I'm an expert to talk about that.

11 **Q.** Simpler question. I mean you talk about communication and
12 I think you're a good communicator. And so you want to have
13 communication with -- with inmates.

14 My simple question is, for that goal of yours of effective
15 communication about a subject as weighty as PREA violations in
16 the history at Dublin, that's a subject where you would want to
17 hear actually from the inmates, right, at the town hall?

18 **A.** I don't know if I would do a town hall regarding PREA
19 specifically. There is a lot of sensitive information
20 regarding PREA. I understand that there's still verified
21 victims at the institution. I don't want to retraumatize them.
22 So that's something that is more of a sensitive subject.

23 I wouldn't put them out on -- on -- on full view amongst
24 their peers in a housing unit. I don't think that would be
25 warranted. I don't think that that would be a healthy

1 environment for other individuals to provide suggestions about
2 PREA.

3 **Q.** Yeah, and the only reason I'm asking about town halls is
4 because you said it's the one thing that you've been doing to
5 build the communication about this subject. But you're
6 saying -- so my question is, I guess, all right, that's town
7 halls. Is there anything else that you have taken any kind of
8 concrete step towards doing in order to hear feedback from
9 inmates?

10 **A.** That's not the only thing. Town halls is one, one
11 example. You can -- as we were providing information regarding
12 the pilot phone program, you can provide information on
13 TRULINCS which is extremely helpful. That is historical
14 documentation.

15 You can provide feedback in emails through the mailboxes
16 that I monitor. There -- like I said, there's other avenues
17 you can address these -- these concerns in or aspects that
18 you're discussing.

19 **Q.** Okay. How about a survey? You said that you were looking
20 into and actually taking steps towards a survey to evaluate the
21 executive assistant position and how that's working out. You
22 could in theory do the same to get general feedback on
23 PREA-related changes or lack of changes; right?

24 **A.** To clarify, we wouldn't do a survey to -- to suggest
25 the -- the accuracy of a camp administrator executive assistant

1 role. It would be to provide feedback from the inmate
2 population and what their needs are, not specific to a current
3 position. That position has been identified as a needed and
4 required position.

5 **Q.** Okay. So can you take steps to create a survey, just like
6 you already did to try to do in November this year, apparently,
7 to get feedback from -- just like the same way? Can you do it
8 to get feedback on PREA-related issues?

9 **A.** I believe we can.

10 **Q.** Is there any structural or penological reason why you
11 couldn't?

12 **A.** Outside of time and resources, I would have to consult
13 with the regional office and central office to make sure that
14 they concur with it. If it goes outside of policy or the law.
15 There's a number of things that I would have to consider in
16 making sure that we have full concurrence and support from --
17 from the regional office and central office.

18 **Q.** Okay. Aside from that concurrence, is there any other
19 reason why it couldn't happen?

20 **A.** Not that I can recall.

21 **Q.** You've read the declarations from the -- that have been
22 filed in this lawsuit, either with the complaint or the motion
23 for preliminary injunction?

24 **A.** I'm familiar with them.

25 **Q.** How are you familiar with them?

1 **A.** I've -- I've glanced at them. I've reviewed them. I
2 don't know them by heart, but I am familiar with them.

3 **Q.** Okay.

4 Since the declarations were filed -- and I understand
5 fully your legal position that, you know, you're not liable and
6 no relief is necessary. Just the factual allegations that have
7 been raised in those declarations filed, I think, back in
8 April -- sorry -- August or later, what concrete steps, if any,
9 has the prison taken to investigate?

10 **A.** You'd have to be more specific.

11 **MS. MATTIOLI:** I'm also going to object. This is
12 outside the scope of the direct. I didn't ask about the
13 declarations.

14 **THE COURT:** The second objection is overruled. I
15 believe he was on their witness list as well. And I don't know
16 that we're going to call him back. So broad leeway.
17 Overruled.

18 Have you taken any steps?

19 **THE WITNESS:** I'm sorry, Your Honor. Can you repeat
20 the question?

21 **THE COURT:** You read the declarations -- you glanced
22 at the declarations. Did you do anything in response to your
23 glancing at the declarations and seeing some of the information
24 in there?

25 **THE WITNESS:** Your Honor, I would need more specific

1 information to really --

2 **THE COURT:** Did you do anything? Period? If you did
3 nothing, then there's no specific information to give you.

4 **THE WITNESS:** Well, Your Honor, it all depends because
5 it depends on the allegations and what it -- what it stems
6 from. There are a number of things that we've done and
7 we've -- we've made steps --

8 **THE COURT:** I'm just asking if you did something
9 specific as a direct result of glancing at those declarations?

10 **THE WITNESS:** Nothing specific, Your Honor.

11 **BY MR. CHA-KIM:**

12 **Q.** If the surveys that we're talking about happen and you get
13 responses back, you would agree that if -- that they're worth
14 more than just a glance?

15 **A.** Absolutely.

16 **Q.** Okay. And you're prepared to take -- if the surveys so
17 indicate -- and I know you disagree with a lot of the
18 allegations -- but would there be any reason why you couldn't
19 take actions in response to the surveys?

20 **A.** Well, first --

21 **THE COURT:** That's a pretty ambiguous question.

22 **THE WITNESS:** Yeah.

23 **THE COURT:** He can't answer that. Next question.

24 **BY MR. CHA-KIM:**

25 **Q.** So as a PREA compliance person who has worked in this area

1 a long time, you're aware of sort of the underlying
2 vulnerabilities that can lead to PREA violations?

3 **A.** Can you be more specific?

4 **Q.** Sure. So let's say, for instance, it's true that the
5 commissary at Dublin, inmates have to go to the commissary and
6 they have to buy certain goods there, right? It's true, isn't
7 it, that at Dublin even basic life goods like soap and things
8 like that need to be purchased at the commissary?

9 **A.** Basic hygiene items are provided to the inmate population.

10 **Q.** Okay. What's provided to the inmate population?

11 **A.** Tampons, toilet paper, certain hygiene -- shampoo or a
12 three in one shampoo type hygiene item.

13 **Q.** Is laundry detergent?

14 **A.** I don't recall off the top of my head, but I can look into
15 that.

16 **Q.** Okay. Are you aware of what a thing of laundry detergent
17 costs at the commissary in your prison?

18 **A.** Not off the top of my head.

19 **Q.** Are you aware what the average wage is for an inmate at
20 your -- hourly wage is for an inmate at your prison?

21 **A.** I'm aware of the hourly wages, but I don't know the
22 specific numbers off the top of my head.

23 **Q.** What's a general sense of the average wage?

24 **A.** It depends on the grade.

25 **Q.** You would agree with the premise as a PREA specialist,

1 right, that economic vulnerability makes people -- certain
2 economic vulnerabilities can make them an easier target for
3 sexual abuse; would you agree with that?

4 **MS. MATTIOLI:** Your Honor, I'm just going to make the
5 same objection. He's not on their witness list and this is
6 outside the scope.

7 **THE COURT:** Interesting. It's 3:55.

8 I don't know how probative this is, given your actual
9 motion. Sustained.

10 **MR. CHA-KIM:** I'll move on, Your Honor.

11 And just so I know, are we finishing at 4:00, Your Honor?

12 **THE COURT:** Yep.

13 **BY MR. CHA-KIM:**

14 **Q.** So we talked a little bit earlier about the PREA response
15 protocol. To your knowledge, what other types of protocols,
16 written documents, does PREA require you to have at a facility?

17 **A.** Well, I would have to check the policy, but PREA
18 protocols, again, with redundancy, you typically have one PREA
19 protocol. You -- you have an investigation. You can do fact
20 finding, determine if it's a factual allegation. You can
21 proceed with an investigation.

22 Depending if it's a staff case, refer it to OIA, OIG. You
23 conduct a sex abuse intervention encounter with psychology and
24 a medical injury assessment with -- with health services.

25 If it's an inmate-on-inmate case, you're going to initiate

1 a 583 or an investigative case internally to then determine
2 whether it's a substantiated or unsubstantiated case. And you
3 continue in that manner.

4 But you're also continuing to monitor and -- for
5 retaliation, for alleged victims that you're tracking.

6 You're talking about finding or educating staff on
7 protocols of how to report PREA.

8 It doesn't take much. If you receive a PREA allegation,
9 we have zero tolerance, you're going to report it to the
10 operations lieutenant, and then we can continue with the PREA
11 protocols at that point.

12 It's not very elaborate. It's just a matter of having
13 the -- the training and the confidence in knowing that those
14 reports are going to go to the right people and they're going
15 to be investigated.

16 **Q.** Well, so and the protocol itself, everything you described
17 in a sense, that needs to be written down somewhere; right?

18 **A.** Yes.

19 **Q.** And where is that written down at the facility?

20 **A.** It would be in policy, in 5324.12 or a one source policy
21 for PREA protocols.

22 **Q.** Nowhere else specific to the facility?

23 **A.** Are you talking about for staff?

24 **Q.** Yeah. For the facility.

25 **A.** It would be in a share file. It would be in annual

1 training document.

2 Q. But no separate written plan?

3 A. A separate plan? Again, I think it would be redundant.

4 MR. CHA-KIM: Can we put up really quickly plaintiffs'
5 exhibit -- or PI Exhibit 209 and go to page 40, please.

6 Or I'm sorry.

7 Q. Do you have a binder in front of you, or no?

8 A. No, I do not.

9 Q. So there will be a screen coming up in front of you.

10 You're familiar, sir, with the PREA regulations or the
11 sexually abusive behavior prevention and intervention program?

12 A. That looks like the statement for 5324.12.

13 Q. Okay. I'm going to direct your attention to the bottom of
14 the page, section 115.65.

15 MR. CHA-KIM: If we blow up -- yeah, thank you.

16 Q. And follow along with me. It says, "The facility shall
17 develop a written institutional plan to coordinate actions
18 taken in response to an incident of sexual abuse among staff
19 first responders, medical and mental health practitioners,
20 investigators, and facility leadership."

21 Did I read that correctly?

22 A. Yes.

23 Q. You just said that you don't have a plan like that?

24 A. Well, if I -- I would have to familiarize myself a little
25 bit more, but I believe you're talking about the incident, the

1 executive staff incident review.

2 Q. I'm talking about the written institutional plan that in
3 bold blue says the facility shall develop. Do you have that?

4 A. I don't -- I don't see where it says it needs to be
5 written down anywhere.

6 Q. "A written institutional plan."

7 A. Oh.

8 I do not recall.

9 Q. Okay. If you don't have one, is that something you think
10 you should maybe put together for the facility?

11 A. That's something we can work on.

12 Q. Okay. This might be a good time to stop, Your Honor. It
13 is 4:00.

14 THE COURT: How much more do you have?

15 MR. CHA-KIM: A bit more, Your Honor. Meaning not
16 quite 15 minutes or 20 minutes, but a little bit longer, is my
17 best guess. Half an hour.

18 THE COURT: That tells me nothing. One of the
19 problems with not putting attorneys on time restrictions is
20 that you don't then be efficient with your time. I have not
21 done that and perhaps I should have. We have gone one full day
22 and I've heard from two witnesses.

23 MR. CHA-KIM: We do not anticipate the sort of
24 fullness of the topics, for instance, that Captain Quezada
25 would focus on. We thought that they would be -- we surmised

1 that they would be raised on a more organizational level by
2 either Ms. Agostini or the warden. But that said, we responded
3 to it.

4 I can tell the Court we will note the comment which we
5 agree with, and we want to move forward quickly as well. I
6 think key with be prepared tomorrow to be much more efficient
7 now that we've had a sense of how this is going.

8 And I apologize for, well, both talking too fast and going
9 too long.

10 **MS. MATTIOLI:** If I could --

11 **THE COURT:** What do you have left --

12 **MS. MATTIOLI:** If I could, Your Honor, I would prefer
13 to finish today with this witness so that he can go to work
14 tomorrow.

15 **THE COURT:** I'm going to have you step down, and we
16 are going to move on. I'm not going to release you yet. There
17 are more documents that I need from you.

18 **MS. MATTIOLI:** Yes.

19 **THE COURT:** And I want to hear from some other people.
20 So you're not released. And you may be -- today is Wednesday.
21 I may have you come back on Friday. I may have you come back
22 on Monday. I'm not exactly sure.

23 You are ordered that you cannot talk to lawyers, you
24 cannot talk to anybody about your testimony. Do you
25 understand?

1 **THE WITNESS:** Yes, Your Honor.

2 **MS. MATTIOLI:** Your Honor, can we discuss with him the
3 specific documents that you've requested and how to collect
4 them?

5 **THE COURT:** That, you can discuss with him.

6 **MS. MATTIOLI:** Thank you.

7 **THE COURT:** Because I want those documents. But I
8 also want to have an opportunity to take a quick look at them.

9 I have a question on your 418 which is your notice.

10 It says the pilot phones are not available anytime the
11 unit is not open. What does that mean?

12 **THE WITNESS:** If the unit -- if we have to modify an
13 operation or if you're --

14 **THE COURT:** Let me ask a different question because I
15 don't -- I haven't memorized things for how it works in Dublin.

16 You have an evening count.

17 **THE WITNESS:** Yes, Your Honor.

18 **THE COURT:** And what time is that count?

19 **THE WITNESS:** 9:00.

20 **THE COURT:** After you do your evening count, are
21 people relegated to their rooms, or can they go anywhere in the
22 unit?

23 **THE WITNESS:** I'm aware they can go anywhere in the
24 unit.

25 **THE COURT:** So they could have a call after 9:00 if

1 they so choose?

2 **THE WITNESS:** I believe so, Your Honor.

3 **THE COURT:** So when you say the unit isn't open, here
4 it says, for example, if you're required to stand for a count,
5 which I understand, or when the unit is closed in the evening.
6 I don't understand that.

7 **THE WITNESS:** When lights out. So, Your Honor, I'm
8 not -- can't remember off the top of my head what the lights
9 out time frame is off the annual handbook that the inmate
10 population is aware of, but that's when they all have to return
11 to their rooms to go to bed. And then when the lights turn
12 back on, then the unit is open.

13 **THE COURT:** Okay. All right. Thank you.

14 All right. You can stand down. You're still on recall
15 status.

16 Who am I going to hear from tomorrow?

17 **MS. MATTIOLI:** Your Honor, we will have our four
18 inmate witnesses transferred first thing in the morning so they
19 don't need to wait around. We'll take care of them and move
20 on.

21 **THE COURT:** And after those four inmates, then who?

22 **MS. MATTIOLI:** Morgan Agostini, Amberly Newman,
23 Stephen Putnam, Beth Reese, Monte Wilson, and Alison Mulcahy.
24 And we can tighten those up.

25 **THE COURT:** Yes. That's a lot of people.

1 **MS. MATTIOLI:** It is.

2 **THE COURT:** And then who do the plaintiffs plan on
3 calling?

4 **MR. CHA-KIM:** In general, Your Honor, or tomorrow?

5 **THE COURT:** I've just heard four, five, six, seven,
6 eight, nine individuals. I would say that the likelihood that
7 we get through nine individuals tomorrow is low.

8 **MR. CHA-KIM:** So the plan, as you know, in advance was
9 to discuss with the marshals service --

10 **THE COURT:** I cannot hear you.

11 **MR. CHA-KIM:** The plan in advance was to transport
12 certain people by the marshals service, and tomorrow we had
13 four to five people requested.

14 **THE COURT:** Well, someone needs to let the marshals
15 service know that those four to five people will not be coming
16 tomorrow.

17 **MS. MATTIOLI:** Your Honor, if I could clarify as well.
18 The process for the marshals to transport inmates has to go
19 through our office. They are being released on my signature
20 with my supervisor. The marshals can't transport them without
21 that.

22 We had arranged with plaintiffs' counsel last week to have
23 certain inmates on their witness list transferred tomorrow.
24 Last night they emailed me, copying the deputy marshal,
25 requesting five different inmates to be transferred tomorrow.

1 That's not possible. They have not communicated directly with
2 me when I am required to --

3 **THE COURT:** There's a little bit of a problem with the
4 adversary managing the opposite side.

5 **MS. MATTIOLI:** I agree. They asked me to fill out the
6 forms because that's the process. And I agreed to do it. And
7 it was very collegial at one point.

8 **MR. GALVAN:** If I may, Your Honor, they're not five
9 different inmates. They're the -- the list is -- it's the same
10 list except there are a couple of changes, which when you
11 consider how late we got to talk to witnesses is natural.

12 And we're happy to communicate with the marshal directly.
13 We don't need an intermediary.

14 **MS. MATTIOLI:** You do. The prison will not release
15 them to you.

16 **THE COURT:** You will not be talking to him --

17 **MS. MATTIOLI:** Sorry.

18 **THE COURT:** -- in my courtroom. You know better.

19 **MS. MATTIOLI:** I apologize, Your Honor.

20 There is a lot of misconception about the process. I'm
21 trying to provide clarity. I apologize for communicating that
22 to him.

23 **THE COURT:** In any event, I'm not going to have them
24 sitting in the holding tank.

25 **MS. MATTIOLI:** I understand. And I'm happy to submit

1 new forms. I'm bringing the issue to the Court's awareness
2 because those inmates, pursuant to the agreement that we had,
3 are different inmates than the ones that they emailed me about
4 last night, and they are set to be transferred tomorrow. The
5 call-outs have been sent. Those inmates think that they are
6 coming here tomorrow, and they're not.

7 **THE COURT:** Who are the -- once the -- once the --
8 once the defense gets through their nine, what is the
9 plaintiffs' plan?

10 **MR. GALVAN:** The plaintiffs' plan, Your Honor, was to
11 immediately call five incarcerated people whose names I have
12 here: Claudia A, Roberta B, Kendra D, Jacqueline M --

13 **THE COURT:** You know what? I don't need them on the
14 record.

15 So five inmates. Then what?

16 **MR. GALVAN:** Then -- I'm sorry, Your Honor.

17 I had conferred with counsel for the United States and I
18 had been led to believe that the government would be wrapped up
19 tomorrow around 2:00 p.m. And then we were going to put on
20 between 2:00 and 4:00 these five incarcerated people. And then
21 on Friday, we were going to call a number of other incarcerated
22 people and use the whole day Friday.

23 **THE COURT:** Who? How many?

24 **MR. GALVAN:** The group for Friday would number around
25 10, Your Honor.

1 **THE COURT:** And after that?

2 **MR. GALVAN:** After that, I believe we -- well, we have
3 other people, but I think we, as a team, need to go back and
4 revisit whether we need to put on that many witnesses. But we
5 are prepared to put on up to 20 witnesses.

6 **THE COURT:** So you mean -- you're prepared -- are you
7 prepared to put on anyone other than inmates?

8 **MR. GALVAN:** No, Your Honor.

9 **MS. MATTIOLI:** I will note, Your Honor, this is a
10 recurring theme and an issue. We need the number of inmates
11 and their names by noon tomorrow or they will not be here
12 Friday. And we were promised a final list of witnesses for
13 this Friday last week.

14 **THE COURT:** Okay. What I'm going to do to is relieve
15 my court reporter because I have pushed her, and we are going
16 to go off the record as soon as I do the following.

17 We are going to stay here and you are going to write down
18 that list. And I am going to get it and counsel for the
19 defense is going to get it, and that is the final list.

20 Whether or not you are done tomorrow, those inmates come
21 in on Friday first thing.

22 **MS. MATTIOLI:** Understood.

23 **THE COURT:** Even if the others have to come in on
24 Monday.

25 **MS. MATTIOLI:** Understood.

1 **THE COURT:** All right. We're adjourned for today.

2 Thank you.

3 (Proceedings adjourned at 4:11 p.m.)

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CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Wednesday, January 3, 2024

Pamela Batalo Hebel

Pamela Batalo Hebel, CSR No. 3593, RMR, FCRR
U.S. Court Reporter