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September 3, 2020

Anthony J. Annucci, Esq.
Acting Commissioner
New York State Department of Corrections
and Community Supervision
The Harriman State Office Campus
1220 Washington Avenue
Albany, New York 12226

Re: NYS IG 3198-316-2018 and
3482-316-2018

Dear Acting Commissioner Annucci:

On September 20, 2018, the New York State Department of Corrections and Community Supervision (DOCCS) referred a series of complaints to the Office of the New York State Inspector General from Special Operations Canine Unit [REDACTED] [REDACTED] alleging unprofessional and improper conduct by members of DOCCS's Office of Special Investigations (OSI) Canine Unit. In one complaint, [REDACTED] alleged that OSI's Canine Unit used its dogs to conduct searches of people for contraband although OSI's officer-dog teams are not certified to search people. In another, [REDACTED] alleged that in April 2018, an OSI Canine Unit handler, later discovered to be [REDACTED], while conducting a search for narcotics and acting alone, isolated a female correctional facility visitor in a bathroom, closed the door, and remained there with the woman for an extended period.

While investigating these allegations, the Inspector General received multiple allegations that Special Operations Canine Unit members were allowing visitors suspected of possessing contraband to enter secure areas of correctional facilities (i.e., pass through a facility's magnetometer) solely for the purpose of then charging the visitors with promoting prison contraband.¹ The complainants claimed that this tactic was being employed because OSI did not pursue charges against visitors found to possess contraband at any point before they passed through a prison's magnetometer.

Contrary to ██████ complaint, the investigation found the OSI's Canine Unit is trained to search people for contraband.² As you know, DOCCS has two canine units: the OSI Canine Unit and the Special Operations Canine Unit. The OSI Canine Unit has six officer-dog teams, with dogs trained by Shallow Creek Kennels, a privately-owned facility in Sharpville, Pennsylvania. OSI's dogs are trained to give a "passive" response (i.e., sit, freeze) when detecting controlled substances and are therefore permitted to search people. The Special Operations Canine Unit consists of seven officer-dog teams trained and certified by the New York State Police's Division Canine Unit in Cooperstown, New York. Its dogs give "aggressive" alerts (i.e., scratch, growl) when detecting controlled substances and are therefore only allowed to search locations and objects, not people.

Additionally, the investigation found no evidence that Special Operation's Canine Unit allowed visitors suspected of possessing contraband to enter secure areas of correctional facilities solely to charge them with promoting prison contraband once inside the facility.³

However, the Inspector General's investigation found that ██████ acted in violation of OSI policy and DOCCS Directive 4403 in his search of female visitors within correctional facilities. In addition, the investigation found a lack of communication and coordination between the two canine units, which continues to hinder their ability to provide complimentary services in furtherance of their drug interdiction duties. The investigation also found that DOCCS neglected to implement 2018 directives created to mitigate conflict between the two canine units. Finally, the investigation found the OSI Canine Unit and Special Operations Canine Unit lack comprehensive training on drug interdiction, evidence handling, and proper reporting procedures.

Findings Regarding OSI Canine Unit ██████ ██████

On March 5, 2020, the Inspector General advised DOCCS by letter of the investigation's preliminary findings with respect to ██████ and recommended immediate corrective action be taken to ensure its staff was aware of and abides by search policies, including those mandating that visitor searches in specified situations are conducted by personnel of the same sex as the visitor.

¹ New York Penal Law §§ 205.20, 205.25.

² Of note, an OSI investigation found that on February 9, 2018, Special Operations canine teams run by ██████ and Canine Officer ██████ conducted improper searches of visitors to Sing Sing Correctional Facility. OSI's investigation found that ██████ and ██████ used their dogs to search seven visitors to the facility in violation of the officers' training. As a consequence, ██████ was formally counseled. ██████ retired during the pendency of OSI's investigation.

³ *Supra*, see footnote 1.

OSI Canine Unit policy requires that when its dogs detect contraband, the individual under scrutiny must be asked to consent to “a more intrusive search.” DOCCS Directive 4403 requires that an officer of the same sex conduct a limited visual search of a visitor in an isolated area when “the visitor is unable to reveal or remove the detected object due to its personal nature.” However, the investigation found that on multiple occasions, ██████ secured suspected contraband—which had been secreted in intimate and personal areas—from female visitors to DOCCS correctional facilities.

Specifically, the investigation found that on April 20, 2018, ██████ and his dog approached a female visitor as she entered the lobby of Attica Correctional Facility. Video footage reveals that after three separate searches of the woman, the dog detected controlled substances. ██████ then directed the woman to enter a men’s bathroom located in the lobby and, once inside with his dog, closed the door. The three remained alone in the bathroom for over one minute before exiting. No contraband was found and the woman was permitted to visit an inmate. Although the visitor stated that nothing inappropriate occurred while they were in the bathroom, ██████ actions are in clear violation of DOCCS Directive 4403.

██████ testified to the Inspector General and was shown video footage of the incident. Even after being shown the video footage, ██████ testified he did not recall the incident. Despite his lack of recollection, ██████ asserted that his actions were appropriate while in the bathroom. Moreover, ██████ testified he could not recall DOCCS’s protocol for actions to be taken after a dog detects contraband on a visitor or whether a female officer was required for certain searches of female visitors. After being shown OSI’s policy requiring that a visitor’s consent be obtained for a more intrusive search, ██████ testified that he did not recall ever seeing the policy and questioned the policy’s clarity. ██████ lack of recollection of DOCCS’s basic search policies and procedures calls into question his qualifications to effectively serve as a supervisor in this unit.

During the course of the investigation, the Inspector General learned of other complaints lodged against ██████ for isolating female visitors in enclosed spaces with only his dog present. In one instance, on April 6, 2018, ██████ isolated a female visitor to Auburn Correctional Facility in the watch commander’s office. The female visitor complained that ██████ required her to expose herself while she removed contraband from her private area. A female correction officer entered the room shortly after to watch the visitor while ██████ processed the evidence. According to ██████ if a female visitor could remove drugs from her body without exposing herself to him, he would request that they do so.

The OSI Canine Unit and Special Operations Canine Unit Fail to Communicate and Coordinate Activities

The investigation found the two canine units do not consistently communicate and coordinate their activities. This is evident in their dissimilar protocols when charging visitors to correctional facilities with promoting prison contraband. Special Operations protocol is to charge visitors found possessing contraband anywhere on State prison property (including parking lots) with promoting prison contraband. Alternatively, OSI will only charge a visitor with promoting prison contraband if the visitor is found to be in

possession of contraband after they have passed through a correctional facility's magnetometer. These differing protocols have sparked disagreements and allegations that Special Operations Canine Unit officers were "inviting" visitors into correctional facilities solely to increase the likelihood that these visitors would be criminally charged with promoting prison contraband.

One such incident was alleged to have occurred at Five Points Correctional. In that January 9, 2018 incident, Special Operations Canine Officer [REDACTED] dog detected a controlled substance on a visitor's vehicle at the facility. Special Operations Canine Officer [REDACTED] then intercepted the visitor in the facility's lobby prior to the visitor passing through the magnetometer. There, the visitor admitted to having marijuana, which she turned over to a female correction officer. [REDACTED] processed the drugs, reported the incident to his chain of command, and notified the State Police for the visitor's arrest. While handcuffed in the lobby, the visitor vomited three broken condoms, which she advised [REDACTED] had contained razor blades. [REDACTED] instructed facility staff to alert a medical unit and the visitor was transported by ambulance to a hospital. [REDACTED] advised the Inspector General that he believed a State Police officer, who had arrived at the facility prior to the visitor's transport, would take custody of the visitor at the conclusion of the medical emergency.

Shortly after the visitor left the facility for the hospital, [REDACTED] was contacted by then OSI Deputy Chief [REDACTED]. According to [REDACTED] [REDACTED] inquired whether the visitor had been intercepted before or after the facility's magnetometer. Subsequently, [REDACTED] notified the State Police that [REDACTED] had intercepted the visitor before she passed through the magnetometer and that DOCCS would not pursue charges against the visitor. As a result, the case was never prosecuted by the Seneca County District Attorney.

Notably, the investigation found no evidence to substantiate the allegation that [REDACTED] or any other Special Operations Canine Unit officer allowed a visitor they knew to possess contraband to enter a state prison. Although the investigation found that OSI generally believed that the Seneca County District Attorney would probably not charge a visitor with promoting prison contraband if that visitor was intercepted before passing through a facility's magnetometer, no information was found that OSI was working in concert with Special Operations or even informed Special Operations of the district attorney's charging decisions.

DOCCS Neglected to Meaningfully Implement New Canine Unit Directives

On July 13, 2018, DOCCS promulgated new directives for both the OSI Canine Unit and Special Operations Canine Unit. The Special Operations Canine Unit was directed to "revert to their original mission of conducting area searches inside of facilities to include package rooms" and the OSI Canine Unit was directed to "focus on conducting searches of people (visitors/staff/inmates) and other narcotics related investigations." In addition, both entities were directed to enhance communication to avoid conflicting efforts. Joint training for the units was also to be conducted.

However, the investigation found these directives were not meaningfully implemented. Deputy Commissioner [REDACTED], who oversees Special Operations, did not direct the Special Operations Canine Unit to isolate its searches to

locations inside facilities. He testified that he interpreted the directive to allow the Special Operations Canine Unit to operate in facility parking lots, as has been the prior practice. Further, communication between the two units was limited to a proposed schedule posted in the hallway between their respective offices. This method was not effective in deconflicting the two units, and the schedule often changed without notice. Additionally, DOCCS presented no evidence that joint training had been conducted.

The OSI Canine Unit and Special Operations Canine Unit Lack Essential Training

Throughout the course of the investigation, it was found that members of both the OSI Canine Unit and the Special Operations Canine Unit lacked comprehensive training on drug interdiction, evidence handling, and proper reporting. Multiple members of each unit testified that the only training in these subjects that they received was during onboarding, and that most of their training was “on the job.” I therefore recommend that DOCCS jointly train both canine units in drug interdiction, evidence handling, and report writing.

Given the above findings, I recommend that DOCCS appoint a liaison between the two canine units to enforce the directives, foster communication, coordinate schedules, arbitrate inter-unit complaints, and facilitate joint training. Additionally, as prosecutors’ interpretation of laws effecting charging decisions vary across the State, a liaison could communicate with prosecutors statewide and create jurisdictional action plans applicable to both units.

In my prior letter, I strongly advised that DOCCS immediately ensure that its staff is aware of and abides by provisions contained in Directive 4403, particularly those addressing search procedures for correctional facility visitors and mandating that same-sex personnel conduct visitor searches in specified situations. I now further recommend that DOCCS review the actions of [REDACTED] and take appropriate action with respect to [REDACTED] and ensure staff are complying with Directive 4403 and OSI Canine Unit policy requiring visitors’ consent to search. I also recommend that DOCCS ensure that all OSI Canine Unit supervisors and officers have been issued and read the OSI policy.

Please advise me of any action taken by DOCCS in response to these recommendations within 45 days of the date of this letter. If you require further information, please contact Deputy Inspector General James R. Davis at 518.474.1010.

Sincerely,



Letizia Tagliafierro
Inspector General

Cc: Cathy Sheehan, Esq.
Acting Counsel and Deputy Commissioner