

# PERFORMANCE AUDIT

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## Pennsylvania Department of Corrections Violent Misconduct Reporting

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October 2016



Commonwealth of Pennsylvania  
Department of the Auditor General  
Eugene A. DePasquale • Auditor General

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**EUGENE A. DePASQUALE  
AUDITOR GENERAL**

October 19, 2016

The Honorable Tom Wolf  
Governor  
Commonwealth of Pennsylvania  
Harrisburg, PA 17120

Dear Governor Wolf:

This report contains the results of the Department of the Auditor General's performance audit of the Department of Corrections (DOC) pertaining to the reporting of violence-related activities. This audit covered the period January 1, 2015 through March 31, 2016, with updates through the report's release. This audit was conducted under the authority of Section 402 of The Fiscal Code, 72 P.S. § 402, and in accordance with applicable generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

Our performance audit had one objective, from which we report one finding and eight recommendations. Our objective was to determine whether all violence-related activities are reported by the State Correctional Institutions (SCI) and properly recorded in the DOC's tracking systems.

We found that although violent incidents that are reported appear to be recorded accurately, we could not verify that all violent incidents were reported. Specifically, we found that DOC does not account for or track all paper Misconduct Forms. We also found that DOC lacks a procedure to ensure that violent misconducts that are dismissed without prejudice by a hearing examiner are refiled or that a reason it was not refiled was documented and approved by management. We further found differences between the electronic data entered into the DOC's Misconduct Tracking System and the number of assaults and fights included on DOC's monthly Assaults-Fights Reports distributed to DOC's executive staff. Finally, we found a lack of supervisory oversight and contingency planning

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over misconduct reporting in DOC's Bureau of Planning, Research, and Statistics. The DOC indicated that it is in agreement with the finding and recommendations.

In closing, I would like to thank DOC management as well as management and staff at the seven SCIs that we visited (Forest, Greene, Houtzdale, Muncy, Retreat, Rockview, and Somerset) for their cooperation and assistance in the performance of this audit. We will follow up at the appropriate time to determine whether and to what extent all recommendations have been implemented.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene A. DePasquale". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eugene A. DePasquale  
Auditor General

Department of Corrections

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## Executive Summary

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The Pennsylvania Department of Corrections (DOC) is responsible for overseeing all adult offenders serving sentences of incarceration of two or more years. DOC houses these offenders in 26 State Correctional Institutions (SCIs). The Secretary of DOC requested that the Department of the Auditor General conduct a performance audit pertaining to DOC's reporting of violence-related activities occurring at SCIs.

DOC has established policy pertaining to what constitutes prohibited behavior within its SCIs (i.e., inmate misconducts)<sup>1</sup>. DOC policy also covers the process of issuing a misconduct to an inmate including providing notice to the inmate prior to charges being assessed against him or her. The DOC provides each offender assessed with charges a hearing conducted by an independent hearing examiner. The offender may receive penalties or sanctions for each charge depending on the verdict(s) issued by the hearing examiner.

Our performance audit objective was to determine whether all violence-related activities are reported by the SCIs and properly recorded in the DOC's tracking systems. Our audit focused on the violent misconducts recorded in the DOC's Misconduct Tracking System from January 1, 2015 through March 31, 2016.

Our audit contains one finding and eight recommendations. Overall, DOC agreed with the audit report's finding and recommendations, and stated that it will develop procedures to implement our recommendations.

***Finding 1: Although reported violent incidents appear to be recorded accurately, we could not verify that all violent incidents were reported.***

We reviewed DOC's violent misconduct reporting procedures at 7 of the 26 SCIs. Based on our testing of misconduct data and interviews with DOC central office/SCI staff, we found that violence-related activities that were reported on the Misconduct Forms tested were properly recorded in DOC's Misconduct Tracking System. Also, we found that staff at all seven SCIs complied with DOC's misconduct reporting policy. However, we could not verify that all violent incidents were reported by SCI staff.

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<sup>1</sup> Department of Correction's Policy DC-ADM 801, Inmate Discipline

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We found procedural weaknesses that need to be addressed to ensure that all violent incidents are being properly reported. Specifically, DOC does not account for all paper Misconduct Forms in circulation at the 26 individual SCIs. Additionally, DOC lacks procedures to ensure that misconducts that are dismissed without prejudice by the hearing examiner are refiled or that the reason each Misconduct Form is not rewritten is documented and approved by management. We also found differences between the assault - fight data entered and maintained in the Misconduct Tracking System and the assaults - fights statistics recorded in the DOC's monthly Assaults-Fights Reports prepared for DOC's executive staff. Finally, we found a lack of supervisory oversight and contingency planning over misconduct reporting in DOC's Bureau of Planning, Research, and Statistics.

**Department of Corrections****Introduction  
and  
Background**

The Department of the Auditor General (DAG) conducted this performance audit in order to provide an independent assessment of the Department of Correction's (DOC) data collection efforts related to violence reporting. DOC requested that we conduct this performance audit to help further its initiative to reduce violence within the State Correctional Institutions (SCIs).<sup>2</sup>

We conducted our work under the authority of Section 402 of The Fiscal Code<sup>3</sup> and in accordance with applicable *Government Auditing Standards* as issued by the Comptroller General of the United States.<sup>4</sup>

Our performance audit had one audit objective (see also Appendix A – *Objective, Scope, and Methodology* for more information), which was as follows:

- Determine whether all violence-related activities are reported by SCIs and properly recorded in the DOC's tracking systems.

In the sections that follow, we provide DOC's background information and an overview of DOC's misconduct reporting and processing for violence-related activities. Additional information about the DOC can be found at its website at <http://www.cor.pa.gov/>.

**DOC Background Information**

The Pennsylvania General Assembly created the Bureau of Corrections under the authority of the former Pennsylvania Department of Justice with the passage of Act 408 of 1953. In December 1980, responsibility moved from the Pennsylvania Department of Justice to the Office of the General Counsel under the Governor.<sup>5</sup> On December 30, 1984, the Governor signed Act

<sup>2</sup> <http://www.cor.pa.gov/General%20Information/Pages/Administrative-Segregation-and-Violence-Reduction-Initiative.aspx>

<sup>3</sup> 72 P.S. § 402.

<sup>4</sup> *Government Auditing Standards*, December 2011 revision, issued by the Comptroller General of the United States, United States Government Accountability Office, Washington D.C.

<sup>5</sup> 71 P.S. § 732-101 *et seq.* (known as the "Commonwealth Attorneys Act") (Act 164 of 1890).



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245 of 1984,<sup>6</sup> elevating the Bureau of Corrections to cabinet level status as the Department of Corrections (DOC).

The mission of the DOC is as follows:

Our mission is to reduce criminal behavior by providing individualized treatment and education to offenders, resulting in successful community reintegration through accountability and positive change.<sup>7</sup>

The DOC is responsible for all adult offenders serving sentences of two or more years. With an annual budget of \$2.2 billion, DOC is one of the largest state agencies.<sup>8</sup> As of August 2016, DOC oversees the following facilities:

- 25 state correctional institutions
- one motivational boot camp
- one training academy
- 14 community corrections centers, and has agreements with nearly 50 community contract facilities.

The DOC employs approximately 15,000 individuals and houses nearly 50,000 inmates.<sup>9</sup>

According to recent testimony in budget hearings, violence in its institutions has been rising.<sup>10</sup> According to the Secretary, inmate-on-staff assaults rose 10% and inmate-on-inmate assaults rose 14% between 2010 and 2015 across the system.

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<sup>6</sup> 71 P.S. § 310.1. By way of further background, the pre-existing powers and duties of the Bureau of Corrections under Act 408 of 1953 (P.L. 1428, July 29) were pursuant to Section 1 which added Section 911 to the Administrative Code of 1929. Act 245 of 1984 (P.L. 1299, December 30) expressly repealed Section 911 and transferred all the powers and duties of the Bureau of Corrections to the Department of Corrections by adding Section 901-B to the Administrative Code of 1929, codified at 71 P.S. § 310-1.

<sup>7</sup> <http://www.cor.pa.gov/About%20Us/Pages/Mission-Statement.aspx#.V9qhuebD-Uk> accessed September 15, 2016.

<sup>8</sup> <http://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget/Documents/2015-16%20Enacted%20Budget/2015-16%20Enacted%20Tracking%20Run%20Final.pdf> --2015-2016 Enacted Budget, pages 2 and 3.

<sup>9</sup> <http://www.cor.pa.gov/About%20Us/Pages/About%20Us.aspx> (viewed 8/16/2016).

<sup>10</sup> <http://www.cor.pa.gov/Documents/2016-2017%20DOC%20Appropriations%20Testimony.pdf> --pages 3 and 4.

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### DOC Organizational Structure

The Secretary of the DOC serves as the administrative head of the Department. Under the Secretary's direct command are the Executive Deputy Secretary, Deputy Secretary for Administration, the Bureau of Planning, Research, and Statistics, the Bureau of Human Resources, and several offices including the Mental Health Advocate Office, the Inmate Grievance and Appeals Office, the Staff Development and Training Office, and the Special Investigations and Intelligence Office.<sup>11</sup>

The Executive Deputy Secretary oversees field operations including the SCIs, state owned and private residential facilities for parolees released from SCIs, inmate education, inmate treatment and inmate psychology services.<sup>12</sup>

Field operations are further divided into three regions (Eastern, Central, and Western). A deputy secretary heads each region and reports to the Executive Deputy Secretary. SCIs are assigned to DOC regions as follows:<sup>13</sup>

### DOC Regions and SCIs

Eastern	Central	Western
Chester	Benner	Albion
Coal Township	Camp Hill	Cambridge Springs
Dallas	Houtzdale	Fayette
Frackville	Huntingdon	Forest
Graterford	Muncy	Greene
Mahanoy	Pine Grove	Laurel Highlands
Retreat	Rockview	Mercer
Waymart	Smithfield	Pittsburgh
	Quehanna Boot Camp <sup>14</sup>	Somerset

*Source: Developed by Department of the Auditor General staff from information obtained by DOC.*

<sup>11</sup> <http://www.oa.pa.gov/Policies/Documents/Corrections.pdf> - Department of Corrections Organization Chart dated June 9, 2016.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> In April 2002, Quehanna Boot Camp was initially accredited as an adult boot camp. In October 2009, Quehanna Boot Camp was accredited as an adult correctional institution and reaccredited in October 2012.

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Within each SCI, a superintendent serves as the head of the institution, with two deputy superintendents providing administrative and operational support. Specifically, one deputy is responsible for facilities management, including security operations, while the other deputy oversees centralized services, such as education and health.<sup>15</sup>

### Bureau of Planning, Research, and Statistics

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DOC's Bureau of Planning, Research, and Statistics (Bureau) is responsible for directing the ongoing planning, research, and grant activities of the department. This office compiles, analyzes, and evaluates DOC program data to evaluate the programs' effectiveness in meeting department goals. The office has a role in determining if funds spent on programs are producing the expected results. Examples of recent DOC goals include, but are not limited to, reducing operational costs, reducing recidivism rates, and reducing violence within SCIs. Other important goals include seeking increased substance abuse treatment for inmates.

As it relates to this audit, the Division of Data Analysis and Management Support (Division) within the Bureau compiles and analyzes misconduct data from each of the 26<sup>16</sup> institutions. Misconduct data includes, but is not limited to, information on the inmate(s) involved, date of the incident, location, staff member(s) involved, and the outcome of the incident.

### Bureau Databases

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The Bureau maintains two DOC databases for tracking misconduct data. One is the Misconduct Tracking System, and the other is the Web-enabled Temporal Analysis System (WebTAS). The Misconduct Tracking System contains information about all misconducts, while WebTAS contains additional information about only certain violence-related misconducts and other incidents that require documentation, such as fire alarms, staff injuries, drills, etc.

Using data obtained from these systems, the Division prepares monthly reports for distribution to DOC executive management.

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<sup>15</sup> <http://www.cor.pa.gov/Facilities/StatePrisons/Pages/Houtzdale.aspx> Example SCI Houtzdale

<sup>16</sup> For purposes of this audit, the Quehanna Boot Camp is considered an SCI, bringing the total to 26, not 25.

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To that end, the misconduct data evaluated for this audit was provided from this Bureau.<sup>17</sup>

**Overview of DOC's Violent Misconduct Reporting and Processing**

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DOC records violence-related misconducts that occur at SCIs on standard Misconduct Forms identified as DC-141, Part 1, Misconduct Report forms (Misconduct Forms). In addition, Extraordinary Occurrence Reports (EOR) are submitted for certain types of violent misconducts that result in use of force by institutional staff, injuries, or injuries that require treatment outside of the institution. Our audit focused on the violent misconducts reported by the 26 SCIs from January 1, 2015, through March 31, 2016.

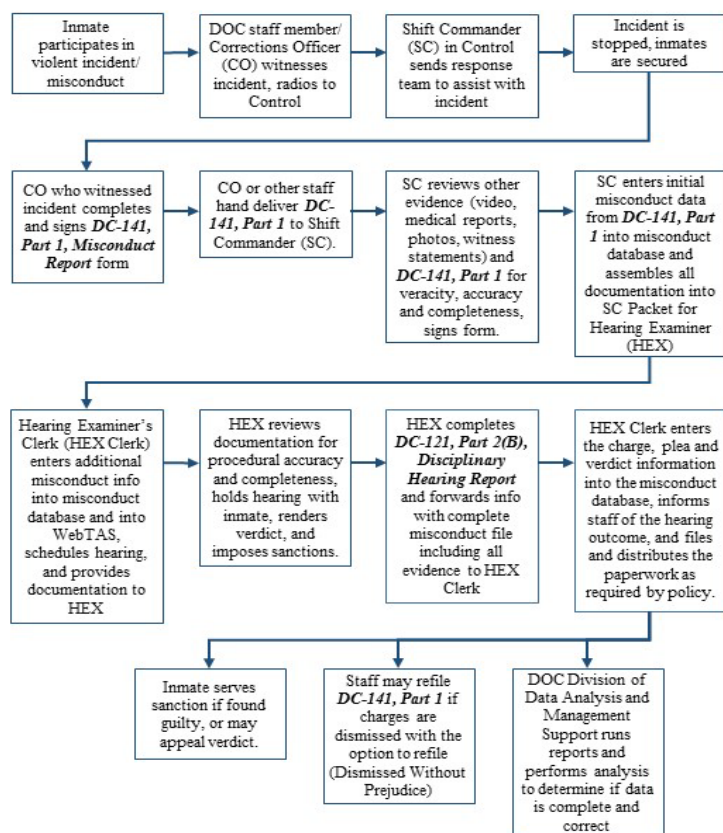
The exhibit that follows highlights the general process for reporting violent misconducts.

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<sup>17</sup> Refer to Appendix A for a discussion on the steps we took to determine the reliability of data provided to us.

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## The Violent Misconduct Reporting Process



Source: Developed by Department of the Auditor General staff with information obtained from DOC.

According to DOC's policies and procedures, when a misconduct<sup>18</sup> event occurs at an SCI, the event is processed either informally or formally. An informal process is used when inmates commit relatively minor infractions such as refusing to obey an order, violations of visiting rules, lying to an employee, or being in an unauthorized area. Under the informal process, Unit Managers<sup>19</sup> can issue reprimands and warnings or give the offender sanctions such as cell restrictions or loss of privileges for up to 14 days.<sup>20</sup>

<sup>18</sup> "Every inmate under the jurisdiction of the DOC is expected to follow Department rules and regulations. If an inmate violates Department rules and regulations, the violation shall be reported..." Department of Correction Policy DC-ADM 801, Inmate Discipline, p 1-1. These rule violations are reported on Misconduct Forms and are referred to as misconducts.

<sup>19</sup> DOC inmates reside in self-contained housing units within the SCIs. DOC staff handle the daily operations of the housing units and the management of the inmates residing therein. Each housing unit is assigned a DOC Unit Manager that supervises the DOC housing unit staff, facilitates communication between staff and inmates, and allows direct supervision and monitoring of inmates.

<sup>20</sup> Department of Correction's Policy DC-ADM 801, Inmate Discipline, pp 2-1 – 2-3.

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Misconduct events that require a formal process include violent misconducts, such as fighting, assault, aggravated assault, riot, rape, etc. These incidents require an administrative hearing before a DOC hearing examiner. Under the formal process, hearing examiners can impose sanctions such as remanding the offender to disciplinary custody<sup>21</sup> and loss of employment.<sup>22</sup>

For purposes of this audit, we limited our analysis to solely the formal process involving only violent misconducts. Based on our interviews with DOC staff, walk-throughs of the misconduct process with staff at the seven SCI's selected for review, and review of DOC policies, we obtained the following understanding of the misconduct process.

### **I. Initial incident report and submission**

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When a serious or violent incident occurs, such as an assault or a fight, the staff member who first witnessed the incident must fill out a Misconduct Form. These four-part carbonless forms are located throughout an SCI, so that the forms are easily accessible to staff that regularly report misconducts. Once the incident has been resolved (e.g., fight broken up, or inmates properly cleared and secured), the staff member who witnessed the incident hand-writes on the form capturing details of the incident including the following:

- who was involved
- what time it happened
- where it happened
- what the staff member observed
- what specific violations the inmate is being charged

The Misconduct Form serves as the primary means of documenting the misconduct event. Once this form is completed, it is forwarded to the shift commander.<sup>23</sup>

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<sup>21</sup> Ibid., pp 6-1 – 6-2. Inmates in disciplinary custody are housed in a cell separate from general population inmates and do not have the same privileges as other inmates regarding use of television, phone calls, commissary and visitation among other things.

<sup>22</sup> Ibid., pp 4-2, 4-4.

<sup>23</sup> Ibid., p 1-2

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**II. Supervisory review, approval, and data entry**

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When the Misconduct Form reaches the shift commander, the shift commander will review the form and compare it to available evidence (such as video, medical forms or photographs) to verify the form contains accurate and complete information. The shift commander also checks that the narrative of the incident supports the charges filed against the inmate.<sup>24</sup>

If the shift commander finds that the description of the incident or the evidence does not support the charges listed, any of the information on the form is incorrect, the information is untrue, illegible, grammatically incorrect, misspelled, or otherwise unacceptable, then he/she can reject the Misconduct Form and require that the staff member submitting the misconduct rewrite it. In these cases, the Misconduct Form is discarded and the corrections officer submits a new form.

Once the Misconduct Form is completed to the satisfaction of the shift commander, the form is approved and signed. The shift commander then enters basic information regarding the misconduct into the DOC's Misconduct Tracking System.<sup>25</sup> The Misconduct Form is then sent to the Hearing Examiner's Office to schedule a hearing before a hearing examiner, who is independent of the SCI. Hearing examiners are under the DOC Office of Chief Counsel.

**III. Hearing examiner review and adjudication**

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Hearing examiners conduct administrative hearings to obtain evidence provided by institutional staff regarding DOC misconducts. Their main responsibilities are to determine the guilt or innocence of the inmate for each formal charge and to issue any appropriate sanctions against the guilty offenders. Typical penalties for inmates found to be guilty of violent misconducts include assignment to disciplinary custody for a period not to exceed 90 days per misconduct charge.<sup>26</sup>

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<sup>24</sup> Department of Correction's Policy DC-ADM 801, Inmate Discipline, pp 1-2.

<sup>25</sup> Data inputted includes, but is not limited to the following: incident date and time, report date, confinement date, reporting staff and reviewing staff, if incident is drug-related.

<sup>26</sup> DC-ADM 801 Inmate Discipline, May 20, 2015, pp 4-1 – 4-3.

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The hearing examiner's clerk receives the Misconduct Form and other available evidence and enters this information and any additional information into the Misconduct Tracking System. Based on DAG interviews at the SCIs, the hearing examiner's clerk enters the incident location, any other inmates or staff involved, the category of charges, any requests for witnesses or an inmate's version of the incident, the date and time the inmate was served notice of the hearing, and the earliest time that a hearing can be scheduled. The clerk also enters the specific misconduct charges and number of counts of each misconduct charge. The clerk then schedules the hearing and enters the date into the Misconduct Tracking System.

The assigned hearing examiner receives the Misconduct Forms and any statements (including any relevant statements written as part of the EOR reporting process), medical reports and any other available evidence, such as video of the incident prior to the hearing. The hearing examiner reviews the Misconduct Form for procedural errors and to ensure that the charges are related to the narrative of the Misconduct Form. During the hearing, the hearing examiner allows the inmate to respond to the charges which could include accepting a plea and to ask any questions before rendering a verdict. The hearing examiner writes his/her verdict on a *DC-141 Misconduct Form, Part 2(B), Disciplinary Hearing Report* (Hearing Report) that includes the facts relied upon to reach the decision and the reasons supporting the decision.

### **IV. Dissemination of verdict information, data entry, and filing**

The hearing examiner's clerk receives and records the plea and verdict information for each charge in the Misconduct Tracking System. The Misconduct Form and a copy of the Hearing Report is placed in the inmate's correctional file (DC-15), and a copy of the hearing record, including the misconduct, the Hearing Report, and all of the evidence is filed in the hearing examiner's office, where it is required to be maintained for two years.

### **V. Verdicts**

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Hearing examiners have discretion in how they rule on the charges and may even rule differently on charges within a single misconduct incident. For example, if a misconduct contains charges of assault and refusing to obey an order, the hearing examiner can find the inmate guilty of assault, but dismiss the



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charge of refusing to obey an order. The possible verdict rulings are as follow<sup>27</sup>:

- **Guilty.** If an inmate is found guilty, then sanctions are imposed which vary and may be prescribed depending upon the particular infraction.
- **Dismissed without prejudice (DWOP).** According to DOC, a misconduct may be dismissed without determination of guilt or innocence so that the charges can be refiled, if appropriate. Charges can be DWOP for many reasons, including the following: procedural errors (such as not being filed in a timely manner); the description of the incident does not support charges; or there is not enough evidence to support the charges.
- **Dismissed with prejudice.** According to DOC, when a misconduct charge is dismissed with prejudice, the charge cannot be refiled. Hearing examiners will dismiss charges with prejudice for egregious procedural errors. For example, if they do not believe the content of the misconduct narrative, or if the narrative does not support the charges (they have the discretion to dismiss with or without prejudice depending upon the situation), etc.
- **Not guilty.** The inmate is not guilty of charges.
- **Charges reduced.** The original charge was reduced to a lesser charge. Hearing examiners cannot reduce certain more serious charges.<sup>28</sup>

## DOC Statistical Information

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The Bureau prepares an internal monthly report on assaults and fights. DOC statistics on inmate population and assaults and fights are shown on the following table:

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<sup>27</sup> DC-ADM 801 Inmate Discipline, May 20, 2015, pp 4-1 – 4-2

<sup>28</sup> DC-ADM 801 Inmate Discipline, May 20, 2015. p 4-4. The charges that cannot be reduced include: Assault, Murder, Rape, Arson, Riot, Escape, Robbery, Burglary, Kidnapping, Unlawful restraint, Aggravated assault, Voluntary manslaughter, Extortion by threat of violence, Involuntary deviate sexual intercourse, Threatening an employee or their family with bodily harm.

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Number of Assaults and Fights<sup>29</sup>

January 1, 2015 through March 31, 2016

Institution	Inmate Pop. as of 3/31/16	Aggravated Assaults	Staff Assaults	Attempted Assaults on Staff	Inmate Assaults	Attempted Inmate Assaults	Inmate Fights	Total
Albion	2,232	2	43	5	36	2	70	158
Benner	2,105	0	65	7	25	0	89	186
Cambridge Springs	1,195	0	10	0	28	0	64	102
Camp Hill	3,482	3	62	29	47	4	116	261
Chester	1,264	0	10	2	33	0	80	125
Coal Twp	2,319	0	56	7	35	2	92	192
Dallas	2,138	1	33	7	35	2	68	146
Fayette	2,060	2	32	6	37	1	92	170
Forest	2,310	1	84	12	62	1	97	257
Frackville	1,189	0	31	17	15	3	70	136
Graterford	3,241	0	44	10	35	4	91	184
Greene	1,727	3	34	15	21	3	69	145
Houtzdale	2,521	1	67	1	54	0	114	237
Huntingdon	2,147	4	33	9	77	3	125	251
Laurel Highlands	1,605	0	15	1	14	0	34	64
Mahanoy	2,406	1	46	13	50	5	110	225
Mercer	1,444	0	2	0	10	0	34	46
Muncy	1,386	1	81	26	81	4	90	283
Pine Grove	860	0	30	2	25	2	119	178
Pittsburgh	1,831	0	30	7	27	0	27	91
Quehanna	450	0	0	0	2	0	4	6
Retreat	1,110	0	27	3	28	1	65	124
Rockview	2,391	0	58	5	39	0	75	177
Smithfield	1,308	1	46	13	27	1	97	185
Somerset	2,384	3	22	0	41	0	115	181
Waymart	1,392	0	18	9	25	2	34	88
<b>TOTAL</b>	<b>48,497</b>	<b>23</b>	<b>979</b>	<b>206</b>	<b>909</b>	<b>40</b>	<b>2,041</b>	<b>4,198</b>

Source: Developed by Department of the Auditor General staff from the DOC Misconduct Tracking System (or the WebTAS system, as applicable). As noted in the methodology section of this report, we determined the data to be sufficiently reliable with one limitation, i.e., we are not assured that the data included a complete population of incidents that occurred. However, we found the data to accurately represent the incidents that were recorded.

<sup>29</sup> According to DOC, a fight is an incident in which two or more individuals participate actively in the altercation. An assault is an incident in which one individual acts in a violent or aggressive manner and the other does not retaliate in any way.

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## Finding

## 1

**Although reported violent incidents appear to be recorded accurately, we could not verify that all violent incidents were reported.**

**Finding Summary**

In order to provide a safe environment for employees, contractors, and inmates within each state correctional institution (SCI), the Department of Corrections (DOC) tracks incidents occurring inside all SCIs. Types of incidents that are tracked include inmate-on-staff or inmate-on-inmate violent incidents, like fights or assaults.<sup>30</sup> When these incidents occur, DOC staff document the occurrence on paper forms and later input the information into DOC databases. A DOC analyst then uses this data to calculate various statistics about the incidents occurring in SCIs. In turn, these statistics are used to identify certain behavioral trends that may be taking place within an SCI, which then allows DOC to take appropriate action to positively influence or counteract those behaviors.

Because the data is relied upon heavily as a means to monitor inmate behavior, it is critical for DOC to have accurate and complete data as it conducts its analysis. Without attention to detail and constant monitoring of reporting accuracy, data anomalies and institutional trends could go unnoticed and could lead to staff or inmate safety issues going undetected. Equally concerning is that if the data is inaccurate or incomplete, DOC could end up directing resources to problems that do not exist. Ultimately, undetected incidents or trends could lead to a major incident occurring at an SCI, which could significantly threaten the safety of employees, contractors, or inmates.

We reviewed DOC's violent incident reporting procedures, and we tested these procedures at 7 of the 26 SCIs. We tested the incident data to ensure completeness and accuracy. Based on the results of our testing and interviews at the seven SCIs, we found that the violence-related activities that were reported at those seven SCIs were properly recorded in DOC's Misconduct Tracking System.

<sup>30</sup> According to DOC, a fight is an incident in which one or more individuals participate actively in the altercation. An assault is an incident in which one individual acts in a violent or aggressive manner and the other does not retaliate in any way.

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Moreover, we found that staff at all seven SCIs complied with the DOC's misconduct reporting policy.<sup>31</sup>

However, due to some procedural weaknesses, there is a potential risk that not all violent incidents are being reported. Specifically, we found that DOC does not account for and track all paper Misconduct Forms. Additionally, we found that DOC lacks a procedure to ensure that violent misconducts that are dismissed without prejudice by a hearing examiner are refiled or that a reason it was not refiled is documented and approved by management. Finally, we found a lack of supervisory oversight and contingency planning over misconduct analysis and executive reporting. Resolving these weaknesses would strengthen DOC's controls and processes and reduce the risk that any violent incidents are not being recorded or properly recorded.

### DOC's Process of Reporting and Recording Violent Misconducts

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When a violent incident occurs, such as an assault or a fight, the staff member<sup>32</sup> who witnessed the incident must fill out a *DC-141, Part 1, Misconduct Report Form*.<sup>33</sup> (Misconduct Form) Once the incident has been resolved (e.g., fight broken up, or inmates properly cleared and secured), the staff member handwrites the form capturing details of the incident. Once these reports are completed, the paperwork is forwarded to the shift commander. The shift commander, using available evidence (such as video, medical forms or photographs) reviews the information provided on the Misconduct Form for accuracy and completeness, and checks that the narrative of the incident supports the charges filed against the inmate.

Once the Misconduct Form is completed to the satisfaction of the shift commander, it is approved and signed. The shift commander then enters basic information about the misconduct into the DOC's

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<sup>31</sup> DC-ADM 801 Inmate Discipline, May 20, 2015, Sections 1 and 3.

<sup>32</sup> A Misconduct Form can be filed by any staff member, and must be filed by a person with personal knowledge of the incident. DC-ADM 801 – Inmate Discipline Policy, May 15, 2016, Section 1B2, Page 1-1.

<sup>33</sup> DC-141 used in the audit report always refers to the *DC-141, Part 1, Misconduct Report* paper form.

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Misconduct Tracking System<sup>34</sup> and sends the form along with any evidence to the Hearing Examiner's Office. There, the hearing examiner's clerk finishes entering data<sup>35</sup> about the charges into the Misconduct Tracking System and enters information into WebTAS about the misconducts as required, and schedules a hearing before a hearing examiner. The assigned hearing examiner receives the Misconduct Form and any statements, medical reports and any other evidence prior to the hearing. The hearing examiner reviews the misconduct report for procedural errors and to ensure that the charges agree with the narrative of the incident written on the Misconduct Form.

During the administrative hearing, a hearing examiner, who might hear up to 40 cases per day, listens to the inmate's statement, asks any questions, and then renders a verdict. The hearing examiner writes his/her verdict on a *DC-141, Part 2(B), Disciplinary Hearing Report* (Hearing Report) that includes the facts relied upon to reach the decision and the reasons for the decision. The hearing examiner's clerk receives the verdict, and the clerk records the plea and verdict information for each charge in the Misconduct Tracking System. The Misconduct Form and a copy of the Hearing Report are placed in the inmate's correctional file (DC-15) and in the hearing examiner's office.

In addition, Extraordinary Occurrence Reports (EOR) are submitted for certain types of violent misconducts that result in use of force, injuries, or injuries that require treatment outside of the institution. If an EOR is required, all staff involved in the incident in any way will also complete the paperwork required for the EOR. The shift commander enters the description of the incident into WebTAS. All documentation of the incident including staff statements, video of the incident, and medical reports are sent to the deputies and superintendent for review. Once the superintendent and deputies' review is complete, the EOR package is sent to DOC Central Office for review.<sup>36</sup>

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<sup>34</sup> Data inputted includes, but is not limited to the following: incident date and time, report date, confinement date, reporting staff and reviewing staff, if incident is drug-related.

<sup>35</sup> Data input includes, but is not limited to the following: incident location, any other inmates or staff involved, the category of charges, any requests for witnesses or an inmate's written version of the incident, the date and time the inmate was served notice of the hearing and the earliest time that a hearing can be scheduled.

<sup>36</sup> DOC Policy 6.3.1 Facility Security Manual, Section 17 – Reporting of Extraordinary Occurrences.

**Department of Corrections****Testing Results of DOC Misconduct Forms and Data**

Through discussions with DOC officials and our preliminary evaluations of misconduct data reported from the 26 SCIs, we judgmentally selected 7 SCIs for testing. We selected 5 SCIs from a list provided by DOC containing 10 suggested SCIs for review. We also selected an additional SCI based on an ongoing violence reduction pilot program<sup>37</sup> in progress and another SCI based on the number of misconducts reported and the inmate population.<sup>38</sup> Our procedures included conducting interviews with institution staff about the misconduct reporting process and conducting a detailed review of the documentation surrounding a selection of actual misconduct reports.

Using data provided by DOC representing misconducts that occurred during the period January 1, 2015, through March 31, 2016, we identified items for further review.<sup>39</sup> In order to determine the accuracy and completeness of DOC data, we performed several tests as follows:

- We selected violent misconduct information from the electronic data and traced the information back to the Misconduct Form in part to verify accuracy of the data and to ensure that the misconduct was properly classified as violent. We also ensured an EOR was accurately completed and was consistent with the misconduct form if an EOR was required.
- We selected non-violent misconduct information from the electronic data and traced the information back to the Misconduct Form to verify accuracy of the data and to

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<sup>37</sup> According to DOC, in November 2015, DOC established a Violence Reduction Committee consisting of two subcommittees: solitary confinement reduction and violence reduction. The committee was given nine months to develop plans to reduce violence. As of August 2016, pilot programs are being developed. SCI Somerset piloted a program called Swift, Certain & Fair intended to enact quicker, consistent consequences and reduce violence by alleviating the uncertainty and anxiety of how and when the consequence will be imposed. DOC has announced that they are expanding the program to nine additional institutions. <http://www.cor.pa.gov/General%20Information/Pages/Administrative-Segregation-and-Violence-Reduction-Initiative.aspx#.V9qvWObD-Uk>.

<sup>38</sup> Because of the method of selection, the results of our procedures should not be projected to the entire population of 26 SCIs.

<sup>39</sup> Refer to Appendix A - *Objective, Scope, and Methodology* for more information regarding our assessment of the reliability of data provided to us.

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ensure that violent misconducts were not being incorrectly categorized as non-violent when recorded in the Misconduct Tracking System.

- We selected violent and non-violent Misconduct Forms from the SCIs’ files and traced the information to the electronic data to verify completeness and accuracy. We also ensured an EOR was accurately completed and was consistent with the misconduct form if an EOR was required for a violent misconduct.
- For all misconducts tested, we verified that all forms were signed by a shift commander.

The following table shows the number of items selected for review at each SCI by source:

Source	SCI							Total
	Forest	Greene	Houtzdale	Muncy	Retreat	Rockview	Somerset	
Violent Misconduct Electronic Data	30	30	30	30	30	30	30	210
Non-Violent Misconduct Electronic Data	20	20	20	20	20	20	20	140
Paper misconducts (from SCI files)*	10	10	10	10	10	10	10	70
<b>Total</b>	60	60	60	60	60	60	60	420

\*Selected 7 violent and 3 non-violent at each SCI to test for accuracy.

Source: Developed by Department of the Auditor General staff.

Based on our testing, we found the following:

- Of the 210 violent misconducts selected, 209 violent Misconduct Forms were provided. The charges and verdicts from the paper misconducts were accurately entered into the Misconduct Tracking System. The Misconduct Forms were signed by the shift commanders, misconducts were entered into WebTAS as required, the charges agreed with the narrative of the report, and an

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EOR<sup>40</sup> was completed, if required. SCI Retreat was unable to locate one Misconduct Form out of our request for 30.

- Of the 140 non-violent Misconduct Forms provided, 139 had the related charges and verdicts accurately entered into the Misconduct Tracking System. The one exception was from SCI Houtzdale where a verdict was incorrectly entered. It was recorded as dismissed without prejudice and should have been recorded as dismissed. We found that all of the non-violent Misconduct Forms appropriately listed non-violent charges, indicating that SCIs were not incorrectly categorizing violent misconducts as non-violent.
- Of the 70 violent Misconduct Forms provided, we reviewed 49 violent and 21 non-violent incidents. All 70 had misconduct charges and verdicts accurately entered into the Misconduct Tracking System. We also verified that the charges recorded on the Misconduct Forms agreed with the description of the incident also recorded on the form, the forms were properly completed by staff and approved by the shift commander, violent misconducts were also entered into the WebTAS system. Finally, if the misconduct report required that an EOR be completed, we verified whether one was prepared and the contents agreed with the information contained on the Misconduct Form.

In addition to testing data from the seven selected institutions, we also evaluated the monthly Assaults-Fights report prepared by the DOC's Bureau of Planning, Research, and Statistics.

### **DOC monthly guilty Assaults-Fights Reports**

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As part of our audit, we also wanted to verify that misconduct data on assaults and fights are recorded accurately in the DOC's monthly reports which are reviewed by DOC executive staff and management. Specifically, according to information received through interviews with DOC staff, Regional Deputy Directors use the data to identify trends in violence throughout DOC, in individual regions, and at individual SCIs. Assault and fight data is tracked in the Misconduct Tracking System and WebTAS. The following table shows the number of assaults and fights by

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<sup>40</sup> Extraordinary Occurrence Reports (EOR) are submitted for certain types of violent misconducts that result in use of force or injuries that require medical treatment inside or outside of the institution for either staff or inmates. These reports are sent to DOC Central Office staff for review.



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category for the seven SCIs we tested as presented in DOC's monthly Assaults-Fights reports for the period of January 1, 2015, through March 31, 2016.

### Misconducts Reported on DOC's Assaults-Fights Reports <sup>41</sup> January 1, 2015, through March 31, 2016

Category	Forest	Greene	Houtzdale	Muncy	Retreat	Rockview	Somerset	Total
Aggravated Assault	1	3	1	1	0	0	3	9
Staff Assault	84	34	67	81	27	58	22	373
Attempted Staff Assault	12	15	1	26	3	5	0	62
Inmate Assault	62	21	54	81	28	39	41	326
Attempted Inmate Assault	1	3	0	4	1	0	0	9
Inmate Fight	97	69	114	90	65	75	115	625
<b>Total</b>	<b>257</b>	<b>145</b>	<b>237</b>	<b>283</b>	<b>124</b>	<b>177</b>	<b>181</b>	<b>1,404</b>

Source: Developed by Department of the Auditor General staff from the DOC Misconduct Tracking System (or the WebTAS system, as applicable). As noted in the methodology section of this report, we determined the data to be sufficiently reliable with one limitation, i.e., we are not assured that the data included a complete population of incidents that occurred. However, we found the data to accurately represent the incidents that were recorded.

Using the data provided by DOC from the Misconduct Tracking System, we compared the assaults and fights where the inmates involved in the incidents were adjudicated to be guilty for these seven SCIs with assaults and fights recorded in the DOC's Monthly Assaults-Fights reports. We found that the data in the tracking system supported the Assaults-Fights reports 99 percent of the time. Our data identified 1,423 guilty assaults and fights as opposed to the 1,404 listed on the monthly guilty Assaults-Fights report. Based on our inquiries, DOC provided some reasons for the 19 assaults and fights that did not make it on the monthly Assaults-Fights reports, as follows:

<sup>41</sup> This report only includes incidents where the inmate was found guilty of the charges.

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**Reasons Misconducts Missing From DOC Assaults-Fights Reports  
at Audited Institutions**

<b>Number Of Misconducts</b>	<b>Reasons</b>
<b>7</b>	The investigation of the incident led to a late submittal of the report, or the restrictions placed on inmates in certain housing units led to a delayed hearing being conducted, and subsequent entry of data weeks after the actual misconduct had occurred.
<b>5</b>	Situations such as the disturbance in the yard at Houtzdale in April 2015 lead to a lengthy investigation period followed by the transfer of inmates involved which lengthens the hearing and data input process since the video evidence must be sent to and reviewed by the hearing examiner, leading to later data entry into the Misconduct Tracking System.
<b>4</b>	A clerk entered incorrect information into a Misconduct Tracking System that led to the misconduct not being identified by the analyst for the monthly Assaults-Fights report.
<b>1</b>	Verdict was entered incorrectly.
<b>2</b>	Misconducts unable to be resolved. DOC did not know why they were in the database but not in the Assaults-Fights Report.

*Source: Developed by Department of the Auditor General staff from information provided by DOC staff*

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The DOC Analyst who prepares the monthly Assaults-Fights reports indicated that the report does not capture incidents where the verdict is entered in the Misconduct Tracking System by institutional staff more than two months past the incident date. The analyst's review only includes capturing incidents with guilty verdicts entered up to two months after his initial review. There is no DOC or institution procedure in place where institutional personnel are required to alert the analyst when a guilty verdict is input into the system more than two months after the incident date. While we found that the report was 99 percent accurate, meaning that the numbers of the reports matched the reports in the Misconduct Tracking System, adding such a procedure will further increase accuracy in reporting.

Additionally, the analyst stated that in June of 2016 he began searching for guilty misconducts in a different way that would

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allow him to identify verdicts entered incorrectly by the facilities such as the four we brought to his attention in the table above<sup>42</sup>.

**Procedural Weaknesses Need To Be Rectified To Ensure All Violent Incidents Are Being Properly Reported.**

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**Accountability over paper misconduct forms is lacking.**

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Through our review of misconducts at the seven SCIs we audited, we found that DOC does not account for every misconduct form.

DOC pre-numbers its paper misconduct forms and uses this number as the misconduct number in the Misconduct Tracking System. Our review of this data revealed that there was no consistency in using the forms among the SCIs audited. We identified gaps in the sequential numbering of the Misconduct Forms. Through interviews, we found that DOC provides each SCI a set number of forms to maintain and complete when necessary. DOC, however, does not require SCIs to track all pre-numbered forms used.

SCIs also do not track the use of the Misconduct Forms in circulation. Consequently, the institution was unable to verify whether the forms remained in inventory, were filed, or were disposed of for various reasons. Further, SCIs do not maintain any copies or records of voided or discarded Misconduct Forms. Therefore, we were unable to determine the number of forms discarded at each of the seven institutions, the reasons for discarding the Misconduct Forms, and who made the decision to discard them.

Maintaining accountability over the Misconduct Forms is essential to ensuring that Misconduct Forms completed by institutional staff are not intentionally or unintentionally disposed of by institutional staff prior to being input into the tracking system, and therefore not recorded.

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<sup>42</sup> Guilty incidents are entered into the Misconduct Tracking System by entering a “1” in the appropriate field. The clerk at one SCI mistakenly entered a “3” on four occasions. The analyst only searched for a “1” when running his query. He indicated his search now includes looking for any number that is “1 or greater”.

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**DOC lacks procedures to ensure that violent misconducts dismissed without prejudice are refiled or that such are documented and approved by management if not refiled.**

During our testing at SCIs we found that procedures are lacking to ensure that violent misconducts that are dismissed without prejudice (DWOP) by the hearing examiner are being rewritten by staff or that the reason they are not rewritten is documented and approved by management.

Failure to rewrite violence misconducts could result in assaults and fights occurring within institutions not being adjudicated. Also, if the inmate population believes that violent acts can be committed without consequences, inmates and staff are at risk for injury. Additionally, the Assaults-Fights report will not be accurate because only guilty assaults and fights are tracked.

As we previously discussed, the hearing examiner determines whether the inmate is guilty of the misconduct charge based on the preponderance of evidence which includes staff reports, inmate statements, and any other evidence collected. The hearing examiner may also dismiss any misconduct charge without prejudice if the hearing examiner determines that there is something wrong with the how the misconduct report is written, but may permit staff to rewrite the misconduct.

Interviews we conducted with five hearing examiners, as well as a hearing examiner supervisor, indicated the main reason a misconduct charge will be DWOP is because what is written in the body of the Misconduct Form does not support the charge. For example, an inmate may receive a misconduct with a fighting charge but the narrative of the misconduct indicated that the inmate was punched by another inmate. The narrative never indicates the inmate fought back or swung at the other inmate. Another example given was that the narrative just states two inmates were fighting. The narrative needs to be descriptive and indicate what the staff person saw, such as both inmates were swinging closed fist punches at each other.

Misconducts may also be dismissed without prejudice for procedural errors such as the misconduct was not written on the day of the incident and there is no explanation for the delay or the wrong inmate name or number is on the Misconduct Form. The

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hearing examiner has the option to DWOP the misconduct to allow the staff member to rewrite it.

As part of our review, using the data we received from DOC from the DOC Misconduct Tracking System, we obtained a list of the assaults and fights that were DWOP from January 1, 2015, to March 31, 2016 for the seven SCIs selected for testing. We reviewed these misconducts to determine if the staff member actually rewrote the misconduct. If they did not rewrite the misconduct, we attempted to determine why the misconduct was not rewritten by asking appropriate responsible staff at the institution for explanations. Our results are shown in the table that follows:

### Violent DWOP Misconduct Incidents January 1, 2015, through March 31, 2016

Institution	Number of assault/fight reports filed	Number of assault/fights DWOP	Number of DWOP <u>not</u> rewritten	Percentage of DWOP not rewritten.
Forest	339	36	21	58.3
Greene	188	33	22	66.7
Houtzdale	289	23	11	47.8
Muncy	356	21	9	42.9
Retreat	166	17	10	58.8
Rockview	227	9	2	22.2
Somerset	225	14	10	71.4
<b>Total</b>	<b>1,790</b>	<b>153</b>	<b>85</b>	<b>55.6</b>

*Source: Developed by Department of the Auditor General staff from the DOC Misconduct Tracking System (or the WebTAS system, as applicable). As noted in the methodology section of this report, we determined the data to be sufficiently reliable with one limitation, i.e., we are not assured that the data included a complete population of incidents that occurred. However, we found the data to accurately represent the incidents that were recorded.*

As shown above, approximately 55 percent (85/153) of the assault/fight misconduct forms were not rewritten after being dismissed without prejudice. The institutions provided the following reasons for not rewriting and refileing the misconduct reports as shown in the table below:

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### Reasons Provided by DOC Explaining Why Violent Misconducts Were Not Rewritten

Reasons violent misconducts were not rewritten:	Responses
There was not enough evidence to rewrite.	34
The institutions could not provide an explanation.	26
Rewriting the misconduct was at the discretion of the staff member that originally wrote the misconduct.	10
Staff did not agree with the hearing examiner's decision to DWOP the misconduct so they did not want to rewrite it.	6
The inmate was convicted of another charge on the misconduct and the staff member was satisfied.	5
Officers indicated they were not aware the report was DWOP.	2
Staff member forgot about the misconduct with days off and when reminded to rewrite it would have been untimely.	1
Inmate maxed out his sentence prior to the hearing.	1
<b>Total</b>	<b>85</b>

Source: Developed by Department of the Auditor General staff from responses provided by SCI management.

At SCI-Forest we found that a process was in place where the hearing examiner's clerk sends a form back to the shift commander along with the misconduct that was DWOP. The shift commander then sends the form and misconduct back to the staff member who wrote the misconduct. The staff member indicates on the form if he/she intends to rewrite the misconduct on the form. However, the form does not include the signature of the staff member or the reason the misconduct was not rewritten. Additionally, the form was not always maintained if the staff member did not rewrite the misconduct.

We also found that at SCI-Somerset a process was in place where the hearing examiner's clerk and the Major of the Guard determine if the DWOP should be rewritten and then send a request along with the DWOP misconduct to the officer. The hearing examiner's clerk keeps a copy of the DWOP misconduct in a file and follows up with the officer until she receives the rewritten misconduct. If the Major requires that the misconduct be rewritten, the officer does not have an option to not rewrite. However, there is no documentation of DWOP misconducts that are not required to be rewritten.

For the other five institutions we reviewed, the hearing examiner's clerk either sent the DWOP misconduct back to the shift

## Department of Corrections

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commander who either notified the staff member or the staff member was given the DWOP misconduct directly.

The responses provided by SCI management show that management is not always aware why violent misconducts are not rewritten or that the decision to rewrite the misconduct is left solely to the originating staff member that wrote the misconduct. Additionally, staff at two institutions indicated that six misconducts were not rewritten because the staff members did not agree with the hearing examiner's decision to DWOP the misconducts and therefore did not rewrite them. It is important that institution management be part of the process to determine if a misconduct should be rewritten.

Therefore, a formal procedure is needed to ensure violent DWOP misconducts are either rewritten or, if staff determines the misconduct will not be rewritten, an explanation is provided and approved by institution management.

### **Lack of supervisory oversight and contingency planning over misconduct reporting.**

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Through interviews with DOC staff we found that DOC assigned the responsibilities for tracking and ensuring the accuracy of misconduct reporting to one analyst located in the DOC's Bureau of Planning, Research, and Statistics, Division of Data Analysis and Management Support.

The analyst's responsibilities include the development of standard and ad-hoc reports for senior management, which includes population projection and institution capacity analysis, security data analysis, and development of "what if" models to determine the impact of changes in policy or procedure. This analyst also performs a monthly analysis of violent misconducts at the 26 institutions. This data is relied upon heavily by regional deputy secretaries to diagnose problems and identify and correct operational weaknesses.

Based on interviews, we found that the analyst has performed his assigned duties and the databases have been maintained relative to violence-related misconducts independent of technical oversight by his supervisor. As a result, the underlying data used in the reports he produces, which are used by key decision makers, has not undergone detailed review. Further, due to a hiring freeze and

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positions in the division going unfilled, the DOC has not assigned an employee to fill the back-up or support role for the analyst in his responsibilities related to the compilation and analysis of misconduct data. This analysis involves two software applications<sup>43</sup> and two database systems. By not having another employee knowledgeable in the data collection and reconciliation process that the analyst routinely performs, and also not having written procedures in place for guidance on the process in the event this analyst is unable to perform his duties, the DOC leaves itself vulnerable to not being able to continue monitoring violent misconducts occurring within these institutions.

We also found that there were no written standard operating procedures on how the analyst is to perform his duties, including analyzing the misconduct data. These written procedures would assist with an efficient transition of assigned responsibilities in the event of a change in staffing or if the analyst were unable to perform his duties. Based on response to our inquiries, the DOC analyst provided us with written procedures on August 19, 2016.

## Recommendations

We recommend that the DOC:

1. Develop procedures to ensure all pre-numbered Misconduct Forms are tracked and accounted for including forms that may be discarded due to errors.
2. Reconsider giving staff the discretion to refile or not refile a Violent Misconduct Form when it was dismissed without prejudice.
3. Develop procedures to ensure that all violent misconducts that are dismissed without prejudice are returned to the employee that wrote the misconduct. The procedures should also ensure that a reason is provided if the misconduct will not be rewritten and that the reason is approved by SCI management.
4. Hire and assign an employee for the Division of Data Analysis and Management Support and train or cross-train the employee to serve as the back-up for the analyst. Ideally, this employee

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<sup>43</sup> Microsoft Excel® and Microsoft Access®.



**Department of Corrections**

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would report to the analyst and work would be subject to review by the analyst.

5. Develop procedures that direct SCI clerks to e-mail the analyst if a misconduct is entered into the Misconduct Tracking System more than two months after the misconduct date to alert him that a change to the historical data has occurred.
6. Annually reconcile the data in the Misconduct Tracking System to the data published in the monthly Assaults-Fights reports to ensure all assaults and fights have been reported.
7. Ensure that all Misconducts Forms are properly filed and retained as required.
8. Ensure that all misconducts are accurately entered into the Misconduct Tracking System.

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**Agency's Response and Auditors' Conclusions**

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We provided draft copies of our audit finding and related recommendations to DOC for its review. On the pages that follow, we have included DOC's response in its entirety. Following the agency's response, our auditors' conclusions are set forth.

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## Department of Corrections

**Audit Response from DOC**

September 29, 2016

The Honorable Eugene DePasquale  
Auditor General  
Office of the Auditor General  
Harrisburg, PA 17120-0018

Dear Auditor General DePasquale:

This correspondence will serve as the written response from the Department of Corrections ("Department") to the Department of the Auditor General's ("AG") draft finding and recommendations report ("Report") related to its performance audit of the DOC's violence reporting activities. Accurate violence reporting is of the utmost importance to our prison system. I tremendously appreciate the time and work that you and your staff expended in this review. Thank you for your efforts in this regard.

An audit committee, appointed in accordance with Management Directive 325.10, reviewed and evaluated the Report. The review committee included the Department's Chief Hearing Examiner and Director of Planning, Research and Statistics. The following are the Department's responses to the finding and recommendations outlined in the Report:

**Audit Finding #1:** Although violent incidents appear to be recorded accurately, we could not verify that all violent incidents were reported.

**Response:** The Report confirms that violence-related activities that were reported at the audited SCIs were properly recorded in the Department's Misconduct Tracking System. The Report also demonstrates that staff at the audited SCIs complied with the Department's misconduct reporting policy. The Report cautioned that due to some procedural weaknesses, there is a potential risk that not all violent incidents are being properly recorded.

Violence reporting is vital to the effective administration of any prison system. The Report verifies that the Department is appropriately tracking violent misconduct reports and staff is complying with the existing policy. This aspect of the AG's draft finding is encouraging and is a testament to the hard work of the Department's staff.

The Report aptly identifies specific procedural weaknesses within the misconduct reporting system that might be improved to enhance the existing policy and further eliminate potential risks. The Department strives to improve its policies and to identify means to better assure the safety of staff and inmates.

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## Audit Response from DOC

Accordingly, the Department concurs with AG's finding and the recommendations and responds to each recommendation as follows:

***Recommendation #1 – Develop procedures to ensure all pre-numbered Misconduct Forms are tracked and accounted for including forms that may be discarded due to errors.***

Under the current, paper-based reporting system, there is a potential risk that not all violent incidents are being properly recorded if all forms are not tracked. The Department is developing a policy-driven solution to address this concern. The Department notes that in the long-term, it plans to implement an automated misconduct tracking system that would eliminate this concern. However, the Department will review an interim-policy based solution until such time as the electronic system would become viable.

***Recommendation #2 – Reconsider giving staff the discretion to refile or not refile a Violent Misconduct Form when it was dismissed without prejudice.***

Under the current procedures, a misconduct that has been dismissed without prejudice is to be returned to the hearing recorder who next informs the Shift Commander/designee. The Shift Commander/designee then notifies the author of the misconduct that it has been dismissed without prejudice, the misconduct form is returned to the author, and that staff member is given discretion to refile or not file. The Department is developing a solution to ensure a higher level of supervisory oversight in relation to the author's decision to rewrite a violence-related misconduct.

***Recommendation #3 – Develop procedures to ensure that all violent misconducts that are dismissed without prejudice are returned to the employee that wrote the misconduct. The procedures would also ensure that a reason is provided if the misconduct will not be rewritten and that the reason is approved by SCI management.***

Under the current system, the misconducts that are dismissed without prejudice are returned to the author (See response to Recommendation # 2). The Department is developing a solution to ensure a higher level of supervisory oversight in relation to the author's decision to rewrite a violence-related misconduct.

***Recommendation #4 – Hire and assign an employee for the Division of Data Analysis and Management Support and train or cross-train the employee to serve as the back-up for the analyst. Ideally this employee would report to the analyst and work would be subject to review by the analyst.***

The Department is developing a plan and timeline to fill a position with an employee in the Division of Data Analysis and Management who will be

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## Audit Response from DOC

thoroughly cross-trained on data/reporting in this area and will serve as the back-up for the division chief who is currently managing this data. The long-term goal is to automate these reports so that they are not dependent on any one (or two) individual analysts, and so that the Department can work more efficiently in terms of allocating analyst time to more in-depth analysis of the data, rather than simply collecting and compiling the data. During the course of the audit, the current analyst began to develop "standard operating procedures" documentation. This documentation is currently under review and will be an important step for both training the back-up analyst once hired, and for eventually documenting procedures for automation.

**Recommendation #5 – Develop procedures that direct SCI clerks to email the analyst if a misconduct is entered into the Misconduct Tracking System more than two months after the misconduct date to alert him that a change to the historical data has occurred.**

The Department will develop procedures instructing the hearing recorder (SCI clerk) to notify the analyst. Additionally, the analyst in charge of the reporting will further address this issue by going back monthly, up to six months, to ensure that there have been no changes in the historical data and make any necessary updates to the report. Prior to this audit, the analyst went back only two months.

**Recommendation #6 – Annually reconcile the data in the Misconduct Tracking System to the data published in the monthly Assaults-Fights reports to ensure all assaults and fights have been reported.**

The Department has been performing this task since implementation of the WebTAS system in 2009. This ensures accurate assault numbers are reported to the General Assembly and to the public. Additionally, as noted in the Report, in June of 2016, the analyst altered his search terms while running his queries, which has enabled him to better identify dispositions entered incorrectly by the facilities.

**Recommendation #7 – Ensure that all Misconduct Forms are properly filed and retained as required.**

The Department will continue to ensure and direct that misconduct forms are maintained by hearing recorders and hearing examiners for a two year period.

**Recommendation #8 – Ensure that all misconducts are accurately entered into the Misconduct Tracking System.**

The Department will take steps to remind all users, via email, of the classifications of assaults and ensure that data is being entered correctly in both the mainframe and WebTAS. The recent software updates to the WebTAS system will assist the Department in meeting the reporting

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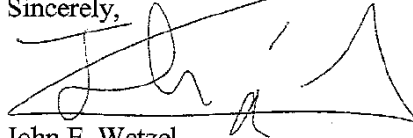
## Audit Response from DOC

requirements outlined in this report. Upon the hiring of another employee, the analyst will work closely with the institutions to ensure that the data is entered accurately and in a timely manner.

The Department will also address this recommendation (as well as other recommendations above) by developing structured initial, and ongoing training for appropriate Corrections staff on report writing. Training is a crucial step for achieving these recommendations, and for further assuring the quality of the data so that reporting can be eventually automated without manual adjustments/corrections. The Department plans to conduct a review of its current training for staff for report writing, and to revise/augment that training where necessary.

Please do not hesitate to contact my office if you have any questions or concerns with regard to this response. Again, thank you for the effort that your office put into this audit report.

Sincerely,



John E. Wetzel  
Secretary of Corrections

cc: Shirley R. Moore-Smeal, Executive Deputy Secretary  
Audit Review Committee  
File

**Department of Corrections**

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**Auditors' Conclusions to DOC's Response**

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Overall, DOC concurs with the finding and recommendations, and we are pleased that it has already started to implement many of our recommendations. We will follow up during the next audit to determine to what extent all recommendations have been implemented.

**Department of Corrections****Appendix A****Objective, Scope, and Methodology**

The Department of the Auditor General conducted this performance audit in order to provide an independent assessment of the Department of Corrections (DOC).

We conducted this audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our finding and conclusions based on our audit objective.

**Objective**

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Our audit objective was as follows:

Determine whether all violence-related activities are reported by the State Correctional Institutions (SCIs) and properly recorded in DOC's tracking systems.

**Scope**

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Our audit covered the period January 1, 2015 through March 31, 2016, with updates through the report's release.

DOC's management is responsible for establishing and maintaining effective internal controls to provide reasonable assurance that its SCIs are in compliance with applicable laws, regulations, contracts, grant agreements, and administrative policies and procedures.

In conducting our audit, we obtained an understanding of relevant internal controls, including any information systems controls that we considered to be significant within the context of our audit objectives.

For those internal controls that we deemed determined to be significant within the context of our audit objective, we also assessed the effectiveness of the design and implementation of those controls as discussed in the Methodology section that



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follows. Any deficiencies in internal controls that were identified during the conduct of our audit—and determined to be significant within the context of our audit objectives—are included in this report.

### **Methodology**

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To address our audit objective, we performed the following:

We obtained and reviewed the following:

- DC-ADM-801, Inmate Discipline, Effective July 2, 2015
- DOC 6.3.1 Facility Security Manual, Section 17 – Reporting of Extraordinary Occurrences
- DOC Prison Rape Elimination Act and Assault Tracking System, Web Enabled Temporal Analysis System User Guide.
- DOC assault classification definitions

We interviewed and corresponded with the Department of Corrections management staff to assess controls and gain an understanding of DOC's process for reporting violence. These individuals include the following:

- DOC Director of the Bureau of Planning, Research, and Statistics
- DOC Chief of DATA Analysis
- DOC Chief Hearing Examiner
- DOC Hearing Examiner Supervisor
- DOC Deputy Secretary for Western Region

We selected a total of 7 of the 26 SCIs to conduct detailed testing. To make our selection, we considered a list of 10 SCIs provided by DOC that it wanted us to review. According to DOC, it selected SCIs that had a high number of assault charges and the SCIs that made either the most or the least amount of mistakes when inputting the data into the mainframe over the past two years. Based on that information as well as our review of the misconduct data provided to us, we selected the following five institutions from that list provided by the DOC: Forest, Greene, Houtzdale, Muncy, and Rockview. We also selected SCI Somerset because it was piloting a violence

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reduction program. Finally, we selected SCI Retreat based on the number of inmate misconducts and population.

Obtained misconduct data contained in the DOC mainframe and WebTAS from January 1, 2015, to March 31, 2016, and determined the reliability of the data.

Interviewed management and staff at each of the seven selected SCIs to gain an understanding of their violent misconduct reporting processes. These interviews included six superintendents, seven deputy superintendents for facility management, four deputy superintendents for centralized services, seven majors, seven captains (shift commanders), four security captains, two security lieutenants, six lieutenants, eleven sergeants, fourteen correction officers, five hearing examiners, four unit managers, three health care administrators, and one labor foreman. The above also included the union president at each of the seven SCIs.

Performed walk-throughs of the misconduct reporting process at each of the seven SCIs selected for review.

We randomly selected 210 (30 from each SCI) of the 1,790 violence-related Misconduct Form numbers from the misconduct data for the period January 1, 2015 to March 31, 2016. We asked the SCIs to provide us with the Misconduct Forms for the selected numbers. Additionally, we haphazardly selected 70 (10 from each facility) Misconduct Forms for the same time period from the hearing examiner's files. The Misconduct Forms were reviewed to determine whether violence-related misconducts were recorded and recorded accurately in the Misconduct Tracking System as well as whether the Misconduct Forms were properly approved.

We randomly selected 140 non-violent Misconduct Form numbers (20 from each SCI) of the 15,138 total misconducts from the misconduct data for the period January 1, 2015 to March 31, 2016 to ensure that violent misconducts were not being reported as non-violent misconducts. We determined whether non-violent misconducts were recorded accurately and properly approved.

Obtained and reviewed all 153 assault or fight Misconduct Forms for the period January 1, 2015 to March 31, 2016 from the seven selected SCIs that were dismissed without prejudice

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and determined if the Misconduct Form was rewritten or inquired as to why they were not rewritten.

Obtained DOC's monthly Assaults-Fights Reports for the seven tested SCIs for the period January 1, 2015 to March 31, 2016, and compared the reports to the misconduct data to determine accuracy.

### **Data Reliability**

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In performing this audit, we obtained several data files extracted from information systems maintained by DOC. *Government Auditing Standards* requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. The assessment of the sufficiency and appropriateness of computer-processed information includes considerations regarding the completeness and accuracy of the data for the intended purposes.

Electronic data that we obtained from DOC, and which was evaluated and tested in this audit report, included data pertaining to all misconducts recorded in the Misconduct Tracking System and the Web-enabled Temporal Analysis System (WebTAS)<sup>44</sup> from January 1, 2015, to March 31, 2016.

We used this data to select misconducts for detailed review and in making conclusions about DOC's misconduct reporting and recording process. It is important to note that any statistics presented in our findings are based on the best information (data) available at the time of our audit procedures.

In response to our requests, DOC provided us with data files in an electronic spreadsheet format. Records in these spreadsheet files originated from DOC's Misconduct Tracking System, which serves as the repository for information on all misconducts in all 26 SCIs. (This includes information related to hearings, verdicts, and sanctions). The Misconduct Tracking System resides on the DOC mainframe system along with other databases used by DOC, such as those used for tracking threat group activity and membership, and the Inmate Records System. The electronic spreadsheets also contained records from WebTAS, which contains information similar to that in

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<sup>44</sup> WebTAS was developed by the Air Force Research Laboratory (AFRL). It is a report data visualization and analysis suite. It has been adapted for use by DOC and is maintained by Intelligent Software Solutions, an IT Vendor contracted by DOC.

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the Misconduct Tracking System about misconduct incidents plus additional information about violent misconducts, such as those where injuries occur that require medical treatment, medical treatment at outside facilities and a more detailed description of the incident. WebTAS also contains information about Extraordinary Occurrence Reports (EOR) that are filed for violent incidents with certain circumstances as well as for other incidents not related to misconducts that would require that DOC officials be informed, such as fires, staff emergencies, lock downs, power failures, etc.

The data that we received was recorded in three Excel files split into seven tables, with two tables coming from WebTAS (one with data about misconduct incidents and one with data about EORs), and five tables from the Misconduct Tracking System, all containing information about misconducts only. The five tables each had data specific to one aspect of the misconducts; misconduct table (basic information), charge table, assault table (additional data specific to assault charges), hearing table, sanction table. We combined relevant data from the different tables into one spreadsheet for each audit site to complete the testing for this audit.

To assess the completeness and accuracy of data provided to us, we conducted additional audit procedures as follows:

- We selected violent misconduct report information from the electronic data provided to us in the spreadsheets from the Misconduct Tracking System and traced the information back to the Misconduct Forms in part to verify the accuracy of the data and to ensure that the misconduct was properly classified as violent.
- We selected non-violent misconduct report information from the electronic data contained in the tables generated from the Misconduct Tracking System and traced the information back to the Misconduct Forms in part to verify the accuracy of the data and to ensure that violent misconducts were not being incorrectly categorized as non-violent when recorded in the Misconduct Tracking System.
- We selected violent and non-violent Misconduct Forms from the SCIs' files and traced the information to the electronic data in the Misconduct Tracking System to verify completeness and accuracy of the data.

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- Although not a strictly independent source, we verified record counts by comparing data from the electronic data received with the DOC Assaults-Fights reports that were prepared by a DOC analyst with data extracted from the same database at a different point in time. This is the best available source for an independent verification, and combined with all other procedures could contribute to our overall reliability conclusion.
- We interviewed DOC officials and staff responsible for inputting, compiling, and evaluating the data, and specifically the processes used for data entry and/or input.
- We obtained an understanding of DOC information technology environment, which included a general overview of selected information technology controls.
- For any data provided to us, we obtained relevant field descriptions and record control totals.
- We obtained a “management representation letter” from DOC confirming that all electronic data provided to us met the following conditions:
  - There were no alterations or falsification of electronic-data records.
  - No electronic records were removed or discarded.
  - The electronic data was accurate and complete and is a duplicate of the data from which it was extracted.

While the data itself is sufficiently reliable in terms of recorded misconducts, due to process weaknesses, we are unable to say with certainty that all misconducts occurring at the 26 SCIs are being recorded.

We found that Misconduct Forms are pre-numbered and the numbered forms packaged sequentially. DOC uses the number on the form as the misconduct number in the Misconduct Tracking System. These standard forms are maintained by

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each SCI and are completed manually by the staff of the SCI when necessary. We identified however, gaps in the sequential numbering of the misconducts. Through interviews, we found that DOC provides each SCI a set number of forms to maintain and complete when necessary, but does not require SCIs to account for and track all pre-numbered forms used.

SCIs also do not track the number of Misconduct Forms in circulation. Consequently, the SCIs were unable to verify whether the forms remained available for use or were disposed of for various reasons. Further, SCIs do not maintain any copies or records of voided or discarded Misconduct Forms. Therefore, we were unable to determine the number of forms discarded at each of the seven SCIs, the reasons for discarding the Misconduct Forms, and who made the decision to discard them. We noted this weakness in the finding of the report and made several recommendations to correct the operational practices.

Therefore, we found one limitation with the data provided by DOC. We are unable to conclude with certainty that all misconducts occurring at the 26 SCIs are being recorded, which has been reported in Finding One. However, based on our tests of the data that was received, we found the data that was provided was accurate and could be used for our intended purposes. In accordance with Government Auditing Standards, we concluded that DOC's computer-processed data was sufficiently reliable for the purposes of this engagement, with one limitation regarding completeness.

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**Appendix B**

**Audit Distribution List**

Upon its release, this report was distributed to the following Commonwealth officials:

**The Honorable Tom Wolf**  
Governor

**The Honorable John E. Wetzel**  
Secretary  
Pennsylvania Department of Corrections

**The Honorable Stewart J. Greenleaf**  
Majority Chair  
Senate Judiciary Committee

**Ms. Shirley R. Moore-Smeal**  
Executive Deputy Secretary  
Pennsylvania Department of Corrections

**The Honorable Daylin Leach**  
Democratic Chair  
Senate Judiciary Committee

**Mr. K. Bret Bucklen**  
Director  
Bureau of Planning, Research, and  
Statistics  
Pennsylvania Department of Corrections

**The Honorable Joseph A. Petrarca**  
Democratic Chair  
House Judiciary Committee

**The Honorable Randy Albright**  
Secretary of the Budget  
Office of the Budget

**The Honorable Ronald S. Marsico**  
Majority Chair  
House Judiciary Committee

**The Honorable Timothy A. Reese**  
State Treasurer  
House Judiciary Committee

**Mr. Brian Lyman, CPA**  
Director  
Bureau of Audits  
Office of Comptroller Operations

**The Honorable Bruce R. Beemer**  
Attorney General  
Office of the Attorney General

**Ms. Mary Spila**  
Collections/Cataloging  
State Library of Pennsylvania

**The Honorable Sharon P. Minnich**  
Secretary of Administration  
Office of Administration

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