



FACT FINDING REPORT

Department of Corrections/Kelly

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BACKGROUND

I was retained by the DOJ on behalf of its client, the Oregon Department of Corrections (DOC) to review allegations made by two anonymous complainants and by [REDACTED] employee, [REDACTED], about the conduct of Brandon Kelly, Superintendent of the Oregon State Prison (OSP).

In the course of this process, I interviewed Kelly, [REDACTED] and [REDACTED]; [REDACTED] and [REDACTED]; security employees [REDACTED] and [REDACTED]; DOC Command staff [REDACTED]

[REDACTED] and [REDACTED]
[REDACTED] and [REDACTED]
[REDACTED] and [REDACTED]

All witnesses were admonished to keep our conversation confidential and were admonished that they were protected from retaliation for speaking to me in good faith on the subjects we discussed. I admonished Kelly to refrain from any activities, speech or behavior which could be interpreted as retaliatory including coordinating retaliation with associates or colleagues of his. I informed all witnesses I could not keep our conversation confidential as I needed to make a report.

ALLEGATIONS¹

1. Kelly and [REDACTED] employee [REDACTED] had or have a romantic relationship which has negatively impacted the workplace in the following ways:
 - a. Berating employees who do not immediately follow [REDACTED] directions or get along with her.
 - b. Retaliating against employees who mention or are aware of the affair.
 - c. Kelly makes operational decisions motivated by his romantic interest in [REDACTED]
 - d. Kelly abuses subordinates in [REDACTED] presence to amuse [REDACTED]
 - e. [REDACTED] was questionably [REDACTED] twice while they were involved; although Kelly is [REDACTED] he has influence over the process.
 - i. [REDACTED] did not get a [REDACTED] she applied for to [REDACTED]. Brandon Kelly attempted to influence that process in her favor.
 - ii. Kelly was upset that the [REDACTED] was selected, repeating to [REDACTED] and others, "He must have had the whole panel sucking his dick."
 - f. Kelly changed the cell phone policy to allow employees to have their personal cell phones with them so he and [REDACTED] could text and call on their private devices.
 - g. When [REDACTED] told Kelly she felt scared and isolated on the [REDACTED] Kelly upgraded the cameras so he could protect her and watch her.
 - h. [REDACTED] has received nepotistic benefits ranging from AC units [REDACTED], camera updates and office furniture.
 - i. A few staff who have spoken out against the nepotism displayed for [REDACTED] have been publicly ridiculed, professionally dismissed, quit or are no longer willing to dispute the nepotism.
 - j. Kelly attends meetings with [REDACTED] and sways those in the meeting to accept her ideas.

¹ There were some other issues alleged which are not within my scope; specifically, an allegedly inappropriate shoe program and COVID implementation improprieties.

- k. Staff at all levels are aware of the uncomfortable amount of sexualized tension when these two are present.
2. Kelly isolates OSP executive leadership by telling them that they cannot trust others in the chain of command, including [REDACTED], [REDACTED], [REDACTED], and anyone from the [REDACTED] specifically naming; [REDACTED], [REDACTED], and [REDACTED].
 - a. Kelly told OSP executive leadership that these leaders are “incompetent” and “lacking real leadership” and “just figureheads” that rely on him for decision making. Kelly told his staff that he was leading the agency from his office.
 - b. Kelly told his subordinates that they should only trust him, and he would take care of them if they “were worthy.”
 - c. Kelly has told his staff, “Never forget those who have wronged you, make sure they get what’s coming.”
3. Kelly verbally abuses and exercises control over his subordinates:
 - a. Kelly told [REDACTED] “You need to work out more. Just face it, your wife would rather fuck me than you.”
 - b. Kelly berates employees with personal derogatory insults such as fat, dumb, or otherwise incompetent.
 - c. Kelly’s executive team is so accustomed to the abuse by him they are unaware of their own coping mechanisms (which include shutting down, silently absorbing his behavior, supporting each other behind the scenes).
 - d. OSP executive staff are not empowered to make decisions but must ask Kelly if their decisions are acceptable to him. This causes trust to be lost because it is clear they have no real authority.
4. [REDACTED]
 - a. [REDACTED] has been berated threatened for speaking or showing emotion by Kelly.
 - b. Some of [REDACTED] duties as the [REDACTED] have been removed and assigned to [REDACTED], [REDACTED].
 - c. Kelly has said to [REDACTED] “Just put a [REDACTED] and [REDACTED].”
 - d. Kelly has also made comments about [REDACTED] including telling [REDACTED] to “wipe that [REDACTED] - the Director’s going to be here and for [REDACTED].”

FACTUAL FINDINGS

A. Background

The Oregon State Penitentiary (OSP) operates like a small town. It has medical services, food, laundry, housing, library, activities, physical plant and maintenance activities, counseling, legal

services and more. Brandon Kelly, the superintendent, is the head of all of these services with the exception of [REDACTED]. However, [REDACTED] operate within the OSP and so must coordinate and work with the superintendent and his staff.

Within OSP, there is a [REDACTED] and [REDACTED] for Adults in Custody (AICs) who have [REDACTED] issues and live separately from the general population. One of those [REDACTED] is [REDACTED], managed by [REDACTED]. [REDACTED] started out in OSP as a [REDACTED], reporting to [REDACTED], who reports to [REDACTED], who reports to the [REDACTED] chain of command.

Kelly has been the Superintendent for five years. He is a cross fit enthusiast and has built a gym at his home. Several employees of OSP work out with him at his home, including [REDACTED] and [REDACTED].

B. [REDACTED] Statement

1. Background

The Inspector General in the DOC received two anonymous complaints about Brandon Kelly in August 2021 (Exhibits 1 & 2). Around the same time, [REDACTED] spoke on condition of anonymity to [REDACTED] and also made a written complaint (Exhibit 3). [REDACTED] had worked with Kelly for years and [REDACTED] persuaded [REDACTED] to speak with me.

[REDACTED] was a [REDACTED] at OSP until [REDACTED]. [REDACTED] said he was one of “ [REDACTED]” meaning that he was mentored by Kelly and in Kelly’s [REDACTED]. However, over time, [REDACTED] told me he could no longer support what Kelly was doing and decided to [REDACTED]. [REDACTED] said he could no longer work in the situation after Kelly’s relationship with [REDACTED] began because Kelly, who already had a strong and dominant personality, began to act out in a retaliatory way with employees.

2. [REDACTED] and Kelly’s Connection in the Workplace

When Kelly began a relationship with [REDACTED], [REDACTED] said Kelly and [REDACTED] also began going to each other’s offices every day. [REDACTED] told Kelly he was getting too much attention from employees by going to [REDACTED] office every day. [REDACTED] also cautioned [REDACTED] not to go to Kelly for everything because Kelly would do what she wanted. According to [REDACTED] after that, [REDACTED] started going to Kelly for everything she didn’t think was done fast enough. [REDACTED] said she would contact Kelly and Kelly would aggressively address the issue with the leadership team.

[REDACTED] said Kelly gave [REDACTED] everything she asked for, including air conditioning, furniture and cameras. Once, [REDACTED] said he walked into Kelly’s office when Kelly was removing his computer and monitor from the sit/stand desk on his desk. According to [REDACTED] Kelly told him [REDACTED] boss wouldn’t order her a sit/stand desk, so he was giving her his and ordering another one for himself.

[REDACTED] said he and others tried to protect each other from [REDACTED] “wants.” [REDACTED] said whatever [REDACTED] wanted, if he didn’t get it to her fast enough, he would hear from Kelly about how he hadn’t gotten something done.

a. Cell Phone Policy

█████ believes Kelly changed the cell phone policy allowing employees to bring their own personal cell phones into the institution in 2020 so he and █████ could text each other on their personal devices. █████ said Kelly was on his work phone all the time, calling █████ texting her and emailing her. After the policy change, █████ said Kelly shifted to his personal phone.

b. Cameras in Kelly's office

█████ believes Kelly had cameras upgraded so he could watch █████ on the monitor in his office. █████ works in the █████ which is █████ for those with █████. █████ said when he was in Kelly's office, one of the cameras was focused on █████ office. Kelly also told █████ that █████ was afraid and told █████ to check on her (which █████ did not do).

c. Recruitment for █████

█████ said that when █████ was interviewed in the summer of 2020 for the job he now performs, █████ was on the interview panel. █████ believes Kelly wanted █████ on that panel to ensure █████ got the job. However, █████ struggled in the interview and was not selected. Afterward, █████ said Kelly said to him at least five times (referring to █████ "that guy must have had the whole panel sucking his dick."

d. Retaliation

█████ said after he did not ensure █████ got the █████ job, Kelly said to him, "You need to work out more. Just face it, your wife would rather fuck me than you" (Exhibit 1, page 3). █████ said Kelly began to attack him frequently after this because (█████ believes) it became clear to Kelly that █████ did not support █████

█████ said there were daily informal 7 am meetings in Kelly's office which typically only the leadership team attended. After Kelly and █████ commenced their relationship, █████ also began attending those meetings. At those meetings, in █████ presence, █████ said Kelly would speak derogatorily about █████ boss and █████ boss. █████ said Kelly would express opinions such as █████ and █████ and the █████ were idiots.

█████ said Kelly was retaliatory towards Correctional Employees █████ and █████. █████ believed Kelly did not like █████ because he was a friend of █████. Around the time Kelly and █████ moved into an apartment together, Kelly told █████ "fuck that guy, he's a punk" (referring to █████). █████ tried to mediate this, but said Kelly was only listening to █████ and would not leave █████ alone.

█████ said █████ came under scrutiny because Kelly believed he was gossiping about Kelly and █████ recalls Kelly was angry because he thought █████ either did not shut down gossip or was gossiping himself. █████ said Kelly decided to put █████ on █████ until █████ because of this.

█████ was assigned an investigation of one of █████ employees. █████ said Kelly made it clear to him that he was to substantiate the claim against the employee. █████ said █████ didn't like this employee and behaved like a "mean girl" towards her. █████ did not substantiate the claim because

the evidence showed it was unfounded. ██████ said Kelly made it clear to him that he was “done” with him after this.

According to ██████ ██████ saw an employee of OCE in the institution, ██████, who had ██████ and ██████. ██████ said ██████ went to Kelly and Kelly had him removed from the institution.²

████████ said he believes Kelly retaliated against former ██████ by not ██████ to the ██████ because ██████ occasionally openly disagrees with him.

████████ said Kelly makes it seem to his employees that he is very powerful within DOC and talks about how he has the ear of those above him and that he runs the agency, and everyone comes to him for decisions.

████████ said Correctional employee ██████ reported Kelly years ago for what she believed was unethical conduct while he was ██████. ██████ said Kelly continued to speak negatively about ██████ to his inner circle over the years, including ██████. When Kelly was berating ██████ about getting along with ██████ ██████ said Kelly told him, “████████ has no clue I hate her,” apparently a direction to hide his personal feelings about ██████ and get along with her.

C. Credibility

Unfortunately, in this case I believe multiple witnesses were not credible, especially Kelly and ██████ and ██████. In addition, I have concerns about several others. This lack of credibility added complexity and time to the fact-finding process.

████████ told me ██████, ██████³ and ██████ commiserated over Kelly’s focus on ██████ and talked about how to protect Kelly from his own mistakes. ██████ and ██████ denied this conversation occurred and denied they had any knowledge of a relationship or the impact of the relationship at work. Because so many credible witnesses made it clear that there was a significant impact at work because of this relationship, I am concerned that ██████ and ██████⁴ may not have been honest.

████████, who was an ██████ at OSP when the relationship between ██████ and Kelly began until August of 2020, denied knowing anything about the relationship or that ██████ seemed to go to Kelly quite a bit or that Kelly would become upset with members of the executive team if they didn’t meet her needs. ██████ also denied knowing Kelly and ██████ were living together or knowing that ██████ and ██████ had conflict. As this report will make clear, as the ██████ and ██████ direct supervisor, these denials are inconsistent with the statements of credible witnesses. As a result, I am concerned that ██████ was

² According to ██████ ██████ was not removed from the institution but rather his coming and going was shared with Kelly because there were employees (including ██████ who ██████ had ██████

³ ██████ was ██████ to ██████ the job ██████ had been ██████, in August 2021.

⁴ ██████ is one of the employees who worked out with Kelly at his home gym. I note that ██████ was ██████ to ██████ during the time he was working out with Kelly.

not honest about his knowledge of the relationship between Kelly and [REDACTED] and its impact on the working environment.

Although [REDACTED] admitted some facts, including that her relationship with Kelly was physical and romantic, there were other areas where I have concerns about her credibility. One of the things I asked her was whether she knew Kelly remonstrated directly with [REDACTED] when she complained about [REDACTED] to Kelly. [REDACTED] denied knowing that Kelly said anything to [REDACTED] when [REDACTED] went to Kelly about [REDACTED]. However, multiple witnesses in the [REDACTED] heard Kelly berating [REDACTED] and then calling [REDACTED] to tell her what he said to [REDACTED]. Furthermore, the email traffic between [REDACTED] and [REDACTED] make it clear she was aware that Kelly acted against [REDACTED] for having conflict with [REDACTED]. I am concerned that [REDACTED] was not fully honest with me.

[REDACTED] would not directly answer my questions on multiple occasions and I had to remind him to speak the truth at least once in our first interview. For the second interview, I asked [REDACTED] to be present and admonish [REDACTED] to tell me the truth. Even with [REDACTED] there, [REDACTED] persisted in answering different questions than those I asked. For example, when I asked him if there was a special relationship between [REDACTED] and Kelly, [REDACTED] talked for over five minutes about other things entirely, and then concluded by saying:

“Well, he was clearly invested in [REDACTED] future. Now, whether that was from purely business reasons, or pers...I don't, I don't tend to try to judge because at the end of the day, it gets in the way of my ability, ultimately, to navigate the situation, which is, here's a person that he's invested in, here's person, I also see a future in. I'm not gonna waste my time getting trying [sic] to figure out out...they can do whatever they want to do or not do. That's between him and his wife and her and her husband or not. And then I just go on. And I can tell you that Brandon never asked me to do anything inappropriate or unethical or illegal, as it comes down to [REDACTED]. And I never witnessed him asking anybody to do anything that I would have considered illegal or unethical (Exhibit 4, 16:54-22:50).

[REDACTED] continued to obfuscate and talk about other things aside from the questions I asked and argued with me when I tried to focus him on answering the questions I asked, until [REDACTED] intervened and told him to answer the questions (Exhibit 4 at 34:10). I asked him if there was a point at which [REDACTED] was in conflict with Kelly over [REDACTED] and it took [REDACTED] almost 15 minutes to answer the question (Exhibit 4, 25:13-39:44). Finally, [REDACTED] admitted that [REDACTED] might have been concerned about [REDACTED] appealing operational decisions to Kelly, who then overturned them (Exhibit 4, at 38:53).

[REDACTED] said his experience of [REDACTED] and Kelly's relationship mirrored what they told him which was that there was no special relationship (Exhibit 4 at 29:15). The credible witness statements make it clear that this is not true. For example, [REDACTED] told me she overheard [REDACTED] telling [REDACTED] she had to “play nice” with [REDACTED].

[REDACTED] unlike [REDACTED] admitted that Kelly and [REDACTED] were dating, but denied he knew they were living together. As Kelly's [REDACTED], I do not credit that he would not know this, especially as Kelly told me he told [REDACTED] he was living with [REDACTED].

[REDACTED] denied that there was any impact at work from this relationship or that Kelly and [REDACTED] texted and called each other a great deal. [REDACTED] denied that [REDACTED] jumped the chain of command and went straight to Kelly to get her needs met. [REDACTED] also claimed [REDACTED] had been in Kelly's

office multiple times before their relationship when no other witness saw that. Rather, the statements of the witnesses were that Kelly and ██████ didn't really have a personal working relationship prior to January 2020 (and this is supported by the email traffic between Kelly and ██████).

██████ denied that Kelly and he tried to interfere with ██████ hiring but I found in this report that they did. ██████ and Kelly looked ██████ up on the internet and found that he had a ██████ and told others in the institution about it including ██████ who reports to ██████ (see pages 19-20).

I found both ██████ and ██████ inserted themselves in the recruitment of the ██████ at Kelly's direction to prevent ██████ from being hired. ██████ was not honest with me about it. ██████ was asked point blank if he knew Kelly tried to insert himself into matters relating to ██████ and ██████ did not bring this up.

D. Specific Findings

1. *Kelly and ██████ have had or have a romantic relationship outside of work about which Kelly was dishonest with his chain of command and in his interview with me.*

a. ██████ admitted she and Kelly had a romantic relationship in the Spring of 2020.

██████ was ██████ for some period ██████ and ██████. Once I interviewed ██████ she told me she and Kelly had a relationship outside of work. ██████ reported this to ██████ in May 2020 (Exhibit 5). According to ██████ ██████ told Kelly (who told ██████ they didn't have to report the relationship but if it made them feel better, they could).

██████ said the relationship included emotionally supporting each other as they went through a difficult time, but it was also romantic and physical. ██████ confirmed she and Kelly dated from March 2020 for two months.⁵ ██████ and her husband traded time with the children by having one of them at home while the other was away. ██████ said Kelly had an apartment when he moved out from his home with his wife, and she stayed with Kelly when her husband was with their children.

b. Kelly denied to me in October 2021 that he ever had a romantic relationship with ██████ and denied the same thing to ██████ ██████ and ██████ in 2020.

Despite the numerous employees who told me Kelly and ██████ came to work together and left work together (e.g., ██████ ██████ ██████ and the employees who heard directly from Kelly that he was in a romantic relationship with ██████), ██████ Kelly denied to me that he had a romantic relationship with ██████. He told me they were just friends and had supported each other when they were separated from their spouses and there was "no romantic relationship" (Exhibit 6, at 08:21-08:48).

Kelly said he informed ██████ ██████ and ██████ that he had a personal but not romantic relationship with ██████. According to Kelly, ██████ and ██████ told him that it was none of their

⁵ If this is correct, ██████ wrote the email to ██████ about the relationship right around the time it ended. Based on their communications in email, it likely lasted longer.

business, they did not need to know, and he did not need to disclose it to them (Exhibit 6, at 08:58-10:00).⁶

Kelly told me he spoke to █████ who mentioned hearing rumors about Kelly and █████ Kelly told █████ that the rumors were not correct and █████ told Kelly to speak with former █████ (Exhibit 6, 9:18-10:25).

Kelly said he spoke with █████ to disclose the personal (but not romantic) relationship (Exhibit 6, at 9:18-10:25). According to Kelly, █████ told him there was no ethical violation or conflict of interest because █████ was not in Kelly's chain of command and Kelly had no oversight of her. According to Kelly, █████ only told him that if he ever had cause to make a decision that would impact her pay, discipline or other material terms of employment, he had to disclose the relationship and recuse himself from involvement (Exhibit 6, 10:06-10:25).

Kelly claimed that whether there was a requirement to report relationships was unclear. He told me that at the time (early 2020), the leadership team were having "a lot of discussions about relationships, and what were those parameters, and * * * there was a lot ambiguity * * *. And it was not very clear * * * the agency really didn't have clear guidelines of what we were supposed to do except notify HR and what we could or could not be involved in" (Exhibit 6, 13:33).

Kelly also mentioned more than once that he didn't wish to talk about his off-work relationships. I told Kelly that the issue was not about whether he had an outside relationship but rather there was an issue of veracity involved, and he agreed with me that veracity is an issue people in the corrections field take very seriously (Exhibit 6, 14:22-15:02; 16:49-17:14). The second time I reminded him that veracity is important in his profession, he asked me to clarify what I meant by the word "romantic."

Despite being non-romantic partners, according to Kelly, he said that █████ spent "a few nights" in his apartment (Exhibit 6, 15:22). However, when I revealed to him that I was aware that she had stayed with him during her nights away from her family home in March and April 2020, Kelly admitted to me that he and █████ lived together half of the time during March and April 2020. Kelly continued to deny that he and █████ ever dated or were romantically involved (Exhibit 6, 17:14-17:24).

Kelly said he never told anyone on his executive team that he and █████ were dating, but said there were rumors going around about them, so he told his team that he and █████ were spending time together (Exhibit 6, 18:30). Kelly also said he and █████ "kept our personal life personal and professional life professional" (Exhibit 6, 19:59-20:17).

Because Kelly continued to be ambiguous about his relationship with █████ and talked about how others interpreted their relationship, I asked him what he thought the relationship with █████ was. Kelly replied:

"We were not in a romantic relationship. We were both assisting each other through a difficult time is what I thought. And I believe, you know, that's, and our discussion was what

⁶ A little later in the interview, Kelly told me that █████ and █████ also told him to speak with █████ (Exhibit 6, 13:33).

I mean, I guess in hindsight, what we're trying to do is not let that come into the workplace because it wasn't anybody's business ***" (Exhibit 6, 19:28-19:48)

However, Kelly said he did tell his Executive Team that [REDACTED] was staying at his apartment a number of days per week, specifically [REDACTED], [REDACTED], [REDACTED] and [REDACTED] (Exhibit 6, 20:20-21:19). Kelly also told [REDACTED] that [REDACTED] was living with him part time (Exhibit 6, 22:43-22:53). However, Kelly never disclosed to [REDACTED], [REDACTED] or [REDACTED] that he was living part time with [REDACTED] (Exhibit 6, 23:19-23:40).

c. Kelly denied to his chain of command that he had a romantic relationship with [REDACTED]

[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] and [REDACTED] all said they had spoken to Kelly and heard from him that there was no truth to the rumors about Kelly and [REDACTED] being in a romantic relationship, and all believed he had a duty to inform them if the relationship changed.

[REDACTED] said Kelly told him that there were rumors about him and [REDACTED] but that it “wasn’t a relationship, he said they were just hanging out.” [REDACTED] said he and [REDACTED] told Kelly that if the status of that relationship changed, he had to let them know. [REDACTED] recalled that Kelly was “adamant” that it was a friendship only, and that they were supporting each other through their divorces.

[REDACTED] said [REDACTED] and Kelly were close and talked all the time and if [REDACTED] had said to them that Kelly was in a romantic relationship, they would have spoken to Kelly about it. [REDACTED] explained that even if [REDACTED] is not in Kelly’s direct chain of command she is in his “house” (meaning the prison) and there would be an effect in the working environment because Kelly controls the working environment as superintendent and has influence over [REDACTED]. [REDACTED] said the perception of the superintendent dating an employee in the penitentiary would be “terrible.”

[REDACTED] recollection was similar: Kelly reported to [REDACTED] and [REDACTED] that he was separating from his wife and that he was friends with [REDACTED] but there was no sexual relationship. [REDACTED] said there is an expectation to inform them if the situation changed.

[REDACTED] told me she also had a conversation with Kelly with respect to the rumors about him and [REDACTED] and he told her he and his wife separated and that the rumors about [REDACTED] were just rumors and their relationship was purely platonic. [REDACTED] recalled telling Kelly to make good choices and he said that he would.

2. Kelly’s Report to [REDACTED]

[REDACTED] currently works for the [REDACTED] but was the [REDACTED] for DOC until [REDACTED]. [REDACTED] told me Kelly called him at some point before he left and told [REDACTED] that Kelly had separated from his wife and he was in a relationship with someone at work. [REDACTED] could not recall the name of the person, but he did recall that she was a

⁷ [REDACTED] in June 2020 and [REDACTED] was promoted to the [REDACTED] and [REDACTED] was hired as the [REDACTED] (replacing [REDACTED])

██████████ or in the ██████████ field. ██████████ presumed Kelly was reporting a romantic relationship because Kelly told him he'd left his wife and was in a relationship with someone at work.

██████████ told me he was "almost positive" that he sent some sort of email to someone about this issue. He suggested the ██████████ might have an email from him. However, I asked the current HR administrator to search for any communication from ██████████ to ██████████ and there was no email from ██████████ alerting ██████████ about the Kelly-██████████ relationship. ██████████ did not recall receiving an email from ██████████. As Exhibit 5 shows, ██████████ is also mistaken about this.

██████████ said there is no clear rule on reporting a relationship; however, when he was with the DOC, he advised employees to "err on the side of caution and report it". ██████████ said there was no personal relationship policy, but there is a code of conduct. ██████████ said there is no question that reporting a romantic relationship is an unwritten expectation.

██████████ said he thanked Kelly for the information and told him that he didn't believe the relationship presented a conflict because his romantic partner wasn't in Kelly's direct chain of command. If she had been, ██████████ said he would have taken further action.

After our interview, ██████████ sent me an email and told me that he had been thinking about our conversation and he believed he did inform ██████████ (Exhibit 7). However, as noted, ██████████ and ██████████ denied being apprised by ██████████ about the relationship nor did they receive email from ██████████ (Exhibit 5). I believe it is more likely than not that ██████████ did not believe the relationship presented a conflict and so did nothing with the information.

3. Knowledge of those close to Kelly

Kelly told me he informed ██████████ ██████████ ██████████ ██████████ and ██████████ that he was living part time with ██████████.

a. ██████████

██████████ an ██████████ who works closely with Kelly, said he was unaware there was any relationship other than platonic friendship. ██████████ told me Kelly and ██████████ both told him they do not see each other outside of work, they do not have a romantic relationship and their only relationship is that ██████████ sees Kelly as a mentor; and Kelly wants to mentor the next generation of leaders (Exhibit 4 at 27:47). ██████████ said his own observations of their relationship mirrored what they told him. ██████████ denied knowing ██████████ and Kelly lived together.

b. ██████████

██████████ an ██████████ who works closely with Kelly, said he was aware there was a dating relationship and but denied he knew ██████████ was living with Kelly. I note that both ██████████ and Kelly told me they were ██████████.

c. ██████████

██████████ is the ██████████ and ██████████. ██████████ believed there was a romantic relationship and was aware Kelly and ██████████ were living together and said Kelly mentioned that to her.

d. [REDACTED]

[REDACTED] was an [REDACTED] at OSP until [REDACTED]. [REDACTED] denied knowing Kelly and [REDACTED] were romantically involved or living together. [REDACTED] denied knowing [REDACTED] went to Kelly for operational favors and issues and denied knowing [REDACTED] and [REDACTED] had conflict or that Kelly and [REDACTED] had conflict over [REDACTED]. As [REDACTED], [REDACTED] was [REDACTED] direct supervisor.

e. [REDACTED]

[REDACTED] worked as [REDACTED] for months during [REDACTED]. [REDACTED] said Kelly never admitted their relationship was sexual, but he did tell [REDACTED] he had met [REDACTED] children and that he was excited about the prospect of getting to raise children again. Kelly talked to [REDACTED] about living in [REDACTED] house in [REDACTED]. [REDACTED] was aware that Kelly and [REDACTED] were sharing an apartment.

f. [REDACTED]

[REDACTED] was also aware Kelly and [REDACTED] shared an apartment.

4. *Impact of this relationship at work*

Kelly told me his relationship with [REDACTED] was the same as anyone else at work. According to Kelly, he is approachable and has an open door policy. He said [REDACTED] just felt more comfortable coming to him than others. He also said that she and he worked together on concerns [REDACTED] [REDACTED] were raising in the [REDACTED]. Kelly said he mentored others in addition to [REDACTED] including [REDACTED], [REDACTED] and [REDACTED].

I asked for and received an export of Kelly's IMs from January 2019 to September 2021. There were no individual IMs between [REDACTED] and Kelly, [REDACTED] and Kelly, [REDACTED] and Kelly or [REDACTED] and Kelly and only a few between [REDACTED] and Kelly. Furthermore, a review of his instant messages (preserved as a .pst file) showed that his instant messages with his executive team focused primarily on work issues, and there wasn't very much chatter. However, Kelly's instant messages with [REDACTED] were very chatty and sometimes flirtatious and there were many of them. Compare, for example, an IM between [REDACTED] and Kelly (Exhibit 8) and an IM between Kelly and [REDACTED] (Exhibit 9).

[REDACTED] and [REDACTED] denied that the relationship had an impact on work, although [REDACTED] said he talked to both [REDACTED] and Kelly sometime in the beginning of 2021 about how others perceived the relationship and noted [REDACTED] was getting or already had a reputation for going to Kelly for everything. Other credible witnesses who worked closely with Kelly were very clear that Kelly and [REDACTED] relationship had an impact on the working environment. Specifically, [REDACTED], [REDACTED], [REDACTED] and [REDACTED] all noticed an impact on their working environment because of the relationship between Kelly and [REDACTED].

I asked for and received an export of Kelly's emails with [REDACTED] from January 2019 to September 2021. According to the emails between Kelly and [REDACTED] there were no emails solely between them prior to January 9, 2020 which is when they were in [REDACTED] (Exhibit 10, page 1).

There were clear indications that Kelly and [REDACTED] were more careful in their email communication because they were aware that it was a public record. For example, [REDACTED] specifically told Kelly she would not communicate something to him about [REDACTED] in email (Exhibit 10, page 66).

Furthermore, the witnesses generally agreed (except [REDACTED] and [REDACTED] that Kelly and [REDACTED] were constantly texting and calling each other on their personal devices which is likely where most of their communication occurred. Despite this, the emails between them show a clear impact on the workplace. Some of the emails are just bantering and joking, but many of them show that Kelly undermined others with [REDACTED] shared information with her inappropriately and that he empowered her to go around the security chain of command.

I note that the emails captured in Exhibit 10 are in no way comprehensive. They are simply examples. There were many more emails between [REDACTED] and Kelly that are not captured in Exhibit 10.

a. Employees reported that Kelly was unusually preoccupied with [REDACTED] once their relationship began

According to several employees, Kelly [REDACTED] [REDACTED] and [REDACTED] their working relationship visibly changed.

For example, [REDACTED] who is the [REDACTED] and [REDACTED] said Kelly was constantly on the phone with [REDACTED] texting her including during meetings and keeping an eye on her with the cameras in his office. [REDACTED] who also works in the area said Kelly had a camera focused on [REDACTED] in his office.

[REDACTED] noticed Kelly on the phone constantly with [REDACTED] texting her constantly and [REDACTED] visiting Kelly in his office frequently. [REDACTED] noticed that they went out for coffee in one vehicle and frequently arrived together at work in the same vehicle.

[REDACTED] said Kelly visited [REDACTED] constantly in [REDACTED], and then when she was promoted to [REDACTED], he visited her on the [REDACTED]. [REDACTED] said it is "well known" that anytime [REDACTED] wants something or is upset with someone, she goes to Kelly who gives her what she wants or "yells at" the people [REDACTED] is upset with.

[REDACTED] worked in [REDACTED] from about 2018 through June 2020. According to [REDACTED] at some point, Kelly began to visit [REDACTED] at her office. [REDACTED] was aware of this because whenever Kelly came to [REDACTED], it was announced on the radio that "Mr. Kelly is in [REDACTED]" [REDACTED] said she worked in the [REDACTED] but was support for the [REDACTED] so she was often in the [REDACTED]. [REDACTED] said the first few times this happened, she took her radio and went into the [REDACTED] because she thought something was happening because Kelly being in [REDACTED] had been such a rare occurrence up to this point. When she did this, [REDACTED] would see [REDACTED] and Kelly together in [REDACTED] office in the [REDACTED].

[REDACTED] moved to [REDACTED] in July 2020 and said at that time, she saw Kelly coming to [REDACTED] office two to three times per day. [REDACTED] the stairs and would see Kelly going towards [REDACTED] office. [REDACTED] he used, and [REDACTED] personally saw Kelly go into [REDACTED] office a few times but said that every time she saw him pass he was headed in the direction of [REDACTED] office.

[REDACTED] worked in various areas of the institution including [REDACTED] and the [REDACTED] and noticed Kelly visiting [REDACTED] on a daily basis when [REDACTED] was in [REDACTED] or saw them coming and leaving together.

b. Cell phone policy change

According to [REDACTED], who [REDACTED] the [REDACTED], the cell phone policy had been discussed well before the spring of 2020, and other institutions are also adopting it. Kelly was not solely in control of this process.

c. Kelly empowered [REDACTED] to bypass the chain of command and to bypass employees whose job it was to do the things she was asking Kelly for

[REDACTED] said if [REDACTED] wanted something, Kelly made sure she got it. For example, once [REDACTED] asked her [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] did not approve this request. Approximately an hour later, Kelly came out of his office and directed [REDACTED] to [REDACTED].

[REDACTED] said as the relationship between Kelly and [REDACTED] progressed, [REDACTED] no longer called [REDACTED] but rather by passed her completely, asking Kelly for what she wanted, who would then direct [REDACTED] to do what [REDACTED] wanted.

[REDACTED] said she can see the [REDACTED]. According to [REDACTED] [REDACTED] called Kelly "a lot." [REDACTED] said Kelly would talk to [REDACTED] then call someone on the phone and yell at them ([REDACTED] believed [REDACTED] was reporting security employees to Kelly for one thing or another). [REDACTED] said Kelly and [REDACTED] still called and texted "all day long" up to the time Kelly was put on leave.

[REDACTED] is an [REDACTED] employee in [REDACTED] and she also the [REDACTED] [REDACTED] experience of [REDACTED] and Kelly's relationship in the workplace is that [REDACTED] has "special access" to Kelly when it does not make sense for [REDACTED] to go to Kelly because [REDACTED] is in the [REDACTED] chain of command whereas Kelly is in the Operations chain of command.

[REDACTED] said [REDACTED] goes to Kelly "for every little thing" including staff conflicts. [REDACTED] said Kelly does have an open door policy for everyone, but [REDACTED] takes advantage of it and goes to him more than others do. [REDACTED] said this access started after January 2020 after they [REDACTED].

[REDACTED] [REDACTED] said that Kelly and the executive team usually had informal meetings in Kelly's office at 7 am. [REDACTED] was the [REDACTED] on the [REDACTED] [REDACTED] [REDACTED] also heard [REDACTED] make a comment to [REDACTED] once about "playing nice" with [REDACTED].

[REDACTED] said [REDACTED] used her connection with Kelly to get her things she could easily get for herself, such as having Kelly ask [REDACTED] for [REDACTED] that she wanted for her staff.

[REDACTED] who works with [REDACTED] observed Kelly allowing [REDACTED] to have [REDACTED] [REDACTED]

Kelly denied that [REDACTED] was treated differently or that she was able to bypass the chain of command. [REDACTED] also denied this as did [REDACTED] who was the [REDACTED] from [REDACTED] [REDACTED] on and should have been in a position to know. [REDACTED] initially told me that he did not believe [REDACTED] was given any special favors, but then he said that Kelly had a tendency to meet her needs whenever she asked. [REDACTED] said that Kelly would do that for anyone, but [REDACTED] tended to go to him much more freely. [REDACTED] gave them both feedback that the situation was unhealthy:

“So, I don’t think the way he operates with █████ is out of the ordinary for the way that he operates. What the difference is, is that █████ would go to him more freely than others. At some point in time along the continuum I called both of them out on it. And I pointed out to him that he was setting her up with false expectations on how she should navigate. And I called her out on the fact that she was going to develop, or had already developed, this reputation of being somebody who was just going to run to Brandon any time she wanted something and that was not in her best interest. And I will tell you that I have actively intervened in that, not that he was treating her any differently than anybody else that was going to him about a problem, but if he was going to mentor her she would need to learn the right way to navigate the politics. My belief and my perception is, they both took that feedback to heart * * *” (Exhibit 4 at 32:35-33:41).

█████ acknowledged that █████ had developed or was developing a reputation as someone who was just “going to run to Brandon any time she wanted something.” █████ believed he had this conversation with █████ and Kelly approximately six to nine months prior to our interview, between January and April 2021 (Exhibit 4, at 35:15).

According to Exhibit 10, Kelly appears to have intervened on █████ behalf in various operational matters, including:

- Getting internet ports set up in her office (Exhibit 10, page 8);
 - Including █████ in on operational issues for her feedback and opinion (Exhibit 10, pages 13-23)
 - Asking for her input on use of video equipment (Exhibit 10, page 7);
 - Seeking █████ opinion on security questions forwarded by █████ (Exhibit 10, page 86);
 - Telling her he was requiring his subordinates to keep █████ apprised of certain issues (Exhibit 10, page 101);
 - Working directly with █████ to facilitate an AIC’s family member visit (Exhibit 10, page 113);
 - Suggesting to █████ that the reason there were fights in █████ was due to a lack of leadership (Exhibit 10, page 117); and
 - Telling █████ he would have a “discussion” with █████ when █████ registered frustration with █████ (Exhibit 10, page 122).
- d. The relationship between Kelly and █████ was so well known and understood that staff began to take direction from █████ knowing they would be reversed if they didn’t. AICs were also aware of this relationship between Kelly and █████

i. Employees

█████ is a █████ who works in the █████ and before that, he worked in █████. █████ told me employees in security in █████ feel uncomfortable about safety but feel constrained to speak up because of the relationship between █████ and Kelly.

As an example, [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

[REDACTED] told me he was speaking with [REDACTED] about space during an outbreak of COVID. He
[REDACTED]
[REDACTED]

[REDACTED] said he hardly ever saw Kelly in the [REDACTED], until Kelly began appearing there regularly hang out in [REDACTED] office. [REDACTED] said Kelly would [REDACTED] to meetings and to his knowledge, Kelly never came to others' offices to walk with them to meetings. Kelly also escorted [REDACTED] back according to [REDACTED]

[REDACTED] said there were many times when staff discussed an AIC in [REDACTED] and [REDACTED] was against an idea [REDACTED] had. They would say no; then a message would come through their chain of command to "make it happen." [REDACTED] never personally received a phone call from Kelly but he assumed this countermand came from Kelly.

[REDACTED] is a [REDACTED] [REDACTED] works in [REDACTED] with [REDACTED] [REDACTED] had a general impression that if [REDACTED] wanted something, she got it, even if what she wanted disrupted current plans. [REDACTED] said this became so normal that he and others just went with what [REDACTED] wanted because they knew she would get her way.

As an example, [REDACTED] told me that when [REDACTED] from [REDACTED] to a [REDACTED] [REDACTED] wasn't quite ready, but it was done anyway. [REDACTED] had some concerns about [REDACTED] were positioned with the AICs. [REDACTED] explained that the AICs have [REDACTED] and that [REDACTED] is a problem. [REDACTED] said that all but a couple of the [REDACTED] were accessible to the AICs. [REDACTED] went to speak with [REDACTED] to express these concerns.

[REDACTED] said when he expressed this concern to [REDACTED] both [REDACTED] and another employee named [REDACTED] were there. [REDACTED] said everyone went silent and no one said anything. Then [REDACTED] said [REDACTED] looked at [REDACTED] then looked at [REDACTED] and said, "what is your point." [REDACTED] repeated that he was worried about [REDACTED] and that he thought the [REDACTED]. [REDACTED] emphasized how [REDACTED]

██████████ finally said to ██████████ that if that was what ██████████ wanted ██████████ to do, he would.

According to ██████████ ██████████ is well aware of the security issues and for him to say “what’s your point” meant that ██████████ inferred it wasn’t up to ██████████ ██████████ said ██████████ is well aware that AICs with ██████████ try to ██████████ themselves and ██████████ ██████████.

██████████ had some conflict with ██████████ because she wanted to ██████████ ██████████ ██████████ said ██████████ wanted to use ██████████ with their ██████████ ██████████ said he offered several other solutions to accommodate her need, but ██████████ would not consider them. Ultimately he told her ██████████. Shortly after that, he said ██████████ told him to give her ██████████. ██████████ impression was that ██████████ had been ordered to do this by his chain of command.

██████████ is a ██████████ who was a ██████████ of ██████████ ██████████ said he is no longer her ██████████. ██████████ experience with ██████████ at work is that if she doesn’t get an answer she likes from him, she goes to someone above him in his chain of command, and he is reversed. Although ██████████ does not appreciate ██████████ style, he said he believed she wishes to do well for her AICs.

ii. AICs

██████████ works in the ██████████ as a ██████████ ██████████ (where ██████████ works) is on the same floor as the ██████████ where ██████████ works. According to ██████████ she often noticed Kelly visiting ██████████ in ██████████. ██████████ explained that people passing into ██████████ have to walk past the ██████████ from the stairwell to get to that area. ██████████ estimated Kelly visited ██████████ once or twice a day until about three months prior to our interview. Sometimes Kelly brought ██████████ coffee. In the last three months, ██████████ estimated Kelly visited ██████████ once or twice a week.

██████████ said AICs who visited the ██████████ often waited in the corridor because they were also aware that Kelly would pass on his way to ██████████ office and waited for him so they could hand him “kites” (a communication form AICs use to communicate with personnel). AICs told ██████████ they were waiting to Kelly to pass on his way to visit ██████████ or to return, because they knew he was down the hall visiting ██████████.

iii. ██████████ explanation of her relationship with Kelly at work

██████████ said she did not jump the chain of command and go to Kelly for special favors. She said they both kept their personal relationship outside of work. ██████████ explained that there were times when there was staff conflict and she sought Kelly’s advice on how to handle the conflict with people in his chain of command. ██████████ said the purpose was to ask him what she was not seeing from a security point of view.

██████████ said she went to Kelly instead of ██████████ or ██████████ because it can be “scary” to express concerns and she was often uncomfortable talking to people directly if she didn’t already know them. ██████████ said she has been comfortable going to ██████████ since January 2020. ██████████ agreed ██████████ has cautioned her about going to Kelly instead of working things out with people in the chain of command.

████ said she could understand why some people feel she goes straight to Kelly but said that they don't understand that Kelly is encouraging her to go to the correct person in charge of the issue which helps push her out of her comfort zone. █████ explained, for example, that she wanted to sit on some interview panels and Kelly told her to talk to █████. She hadn't originally gone to █████ because she did not already know him and was uncomfortable talking to him about it directly.

████ could remember only one example of Kelly disagreeing with her on her requests, which was when she asked him to limit Security █████ to AICs.

- e. █████ and █████ attempted to interfere in a recruitment in █████, likely to benefit █████ and likely at Kelly's direction.

████ is the █████ and supervises █████.⁸ In the Summer of 2020 when █████ applied for the █████ position, █████ said she experienced the leadership team being overly involved in that process and attempting to discourage her from hiring █████ for the position █████ was competing for.

████ explained that she was hiring both the █████ and the █████. █████ applied as did █████. █████ had 20 years supervision experience and █████ had ten years supervision experience. █████ applied for the █████ position but had only been supervising since █████. █████ said █████ simply wasn't qualified and wasn't chosen. Instead, █████ hired █████ for the █████ position and █████ for the █████ position, resulting in █████ reporting to █████.

████ said someone on the leadership team – probably █████ or Kelly or █████ – googled █████ and found he had a █████ from a long time ago despite █████ having been █████. █████ said one of them told █████ about this as well. █████ said she knew about this because after they found █████, █████ and █████ to a lesser extent began to “share concerns” with her about hiring someone with a █████ in that kind of job.

████ is the liaison between Kelly and █████. █████ said she recalled █████ talking to her in person and becoming heated about hiring █████. █████ recalled █████ telling her it would be too hard for █████ people would be digging things up on him and that if she was trying to make a “poster child,” █████ was not the right person. █████ said █████ repeated that “the exec team had concerns” which █████ understood that to mean that Kelly had concerns. █████ said she had a clear sense that █████ was involved in this dynamic. █████ felt it was inappropriate for the executive team to tell █████ that her future supervisor had █████.

After the interviews for these two jobs, █████ asked for some feedback on her application and interview from █████. █████ met with █████ and told her she had been competing against people who have more experience in █████, one with twenty years of experience. █████ said █████ approached her thereafter and told █████ he believed █████ was not honest on his application because he did not have twenty years of supervision experience. █████ had been

⁸ █████ was █████ to █████ when █████ and Kelly state █████ was living part time with Kelly. █████ who was the hiring manager, did not interact with Kelly about █████ and said to her knowledge, Kelly did not involve himself.

referring to ██████ in her conversation with ██████ not ██████ but ██████ believed ██████ had assumed it was ██████ ██████ had been referring to and had involved the executive team on her behalf.

██████████ said the majority of ████████████████████ have not had a good working relationship with Kelly and ██████ was no different until they went to a ████████████████████. After that ████████████████████, ██████ noticed a difference in their relationship. After that, Kelly invited ██████ to go ████████████████████ and it was planned without asking ██████ if ██████ could go, representing ██████. ██████ explained that if Kelly needed a ██████ employee to present, ██████ would have preferred Kelly to consult with her because ██████ is not the only one.

██████████ told me ██████ told her about a situation with ██████ in which he was meeting with her one on one and told her about something which was to happen with his ████████████████████. According to ████████████████████ ██████ had told ██████ that ██████ told ████████████████████ “that is not supposed to happen” and then she sent a text (while sitting in supervision with ████████████████████. According to ████████████████████ ██████ told ██████ he then received a phone call from Kelly telling him that what he wanted to do with his ████████████████████ would not happen.⁹

██████████ pointed out that ██████ has been able to get more things done ████████████████████ because of her relationship with Kelly. ██████ observation is that what ██████ has done has been ████████████████████. However, ██████ has also noticed that since Kelly has been on leave, ██████ has had a harder time getting ████████████████████ needs met and is having the same experience as the ████████████████████. ██████ said ████████████████████. Often, according to ████████████████████ ████████████████████ ████████████████████ ████████████████████ ████████████████████ ut ██████ said they had less success with that process.

██████████ told me she felt the ████████████████████ (in which ██████ was selected) hiring process was unfair but said she couldn’t recall whether she told anyone on the executive team that ████████████████████ had told her ██████ had twenty years’ experience. ██████ said she did share with Kelly, ██████ ████████████████████ and ██████ that she felt the hiring process was not fair.

██████████ agreed that Kelly was “very animated that ██████ did not get a fair shake in that process” (Exhibit 11, 49:15-49:30). ██████ did not disclose that he had talked to ██████ or tried to persuade her not to hire ██████ or become heated with ██████ about it.

██████████ was unclear and vague and contradicted himself about ████████████████████ hire and the executive team’s involvement. According to ████████████████████ he and Kelly researched ████████████████████ on the internet (resulting in finding his ████████████████████) because he believed ██████ should have gotten the job (Exhibit 12 at 32:15). In his first interview, ██████ told me:

“Goldsmith: Were you on the interview panel?

“██████████ I’m trying to remember if I was or not, I can’t remember.

⁹ ██████ told me he did not recall this happening. I have no reason to discount ██████ statement.

“Goldsmith: If you weren’t on the interview panel, and I know that Brandon was not, how would the two of you have a copy of his resume?”

“██████████ I don’t think we ever had a copy of his resume.

“Goldsmith: So, then how come you were talking about his resume not meeting up to his experience?”

“██████████ Well, I think it was when he was talking about the stuff he was doing and then...to look [sic] online to verify and fact check some stuff.

“Goldsmith: When did you have a conversation with ██████████ about the stuff he was doing?”

“██████████ When...did I have a conversation with ██████████ about the stuff he was doing?”

“Goldsmith: You just said that his experience didn’t meet up with what he said. * * *.

“██████████ He did like a meet and greet and came in and was talking to us about the things that he had done and was you know part of this and we were trying to figure out exactly how that translated to...

“Goldsmith: So, he came in and did a meet and greet and then you and Brandon started looking him up on-line to determine whether or not he was what he said he was?”

“██████████ Yeah. We did look on-line. For sure. Yeah.

“Goldsmith: Did you do that for any other candidates?”

“██████████ Um...if there was something that didn’t make sense, that he was going to be, you know, a manager here at the penitentiary.

“Goldsmith: But you don’t remember Brandon saying anything about how ██████████ should have gotten that job or he felt that the process was not correct. Or that ██████████ shouldn’t have gotten it.

“██████████ I don’t remember that specifically no.

“Goldsmith: Do you remember generally whether or not he expressed disappointment that ██████████ didn’t get the job?”

“██████████ I would say generally...I don’t know how many candidates interviewed,

“Goldsmith: That’s not my question, let me try again. Do you remember him generally expressing disappointment that she didn’t get that job?”

“██████████ I would say generally, yes.

“Goldsmith: What did he say that you recall?”

“██████████ I don’t. If I was going to pick between you know somebody you had concerns about their background and stuff and somebody who has been working with the department that um...you know, and I don’t know exactly what ██████████ qualifications are either but...

“Goldsmith: He had concerns about ██████████ background based on his internet search, is that what you’re saying?”

“██████████ There were concerns about his qualifications, talking about what he’d done, and everything about working with this portion of it. And, yeah, there were some concerns. So, we did some looking into it. So I don’t know...

“Goldsmith: What were the concerns specifically? You said maybe what he said didn’t match up with what he’d done. What specifically do you remember?”

“██████████ Well, I think he was ██████████ for something prior um...and then the times that he was supposed to be working and involved with this program didn’t match the time frames he was giving for his work skills and experience.

“Goldsmith: OK. The times he was available for working in a program didn’t match his skills background and experience?”

“██████████ So, trying to look on his resume. I guess I’m getting a little frustrated now. So, with his resume saying like I worked from 2002 to 2003 with this program doing this. I worked from June to July doing this. That it didn’t match up with what he was saying, what he was talking about.

“Goldsmith: I thought you said you didn’t look at his resume. He was that specific in a meet and greet?”

“██████████ I never seen a copy of his resume. I didn’t have it, but ...

“Goldsmith: Did Brandon have it?”

“██████████ I don’t know. I don’t know if he got a packet from the hiring process. I don’t know” (Exhibit 13, 29:55 - 34:30).

I find ██████████ statement as contradictory and incredible.

Kelly told me that he and his team had questions about the decision to hire ██████████ as the ██████████. Kelly said he and ██████████ were concerned about ██████████ because he never asked a single question on his tour of the facility. Kelly denied saying that the interview panel “must have been sucking his dick.” Kelly denied doing an internet search on ██████████ but said he was aware ██████████ had been ██████████; Kelly said they only watched ██████████ ██████████ Kelly denied that he suspected ██████████ of dishonesty.

I find ██████████ ██████████ and Kelly incredible on this issue (and others). The most likely explanation for the executive team’s attempt to insert themselves into the hiring process was because Kelly wanted ██████████ to get the job.

f. Undermining employees and undermining the chain of command

It is quite possible that some of the outcomes █████ wanted or even all of them were beneficial for AICs. █████ certainly expressed that opinion. However, I find that the outcomes were achieved at the expense of individuals in the chain of command, thereby undermining them in their capacity to perform their roles. In addition, Kelly and █████ clearly spoke pejoratively about various people within and outside of the institution. In Kelly's position as superintendent, expressing negative opinions about others carries weight and he did that, often, with █████. For example:

- There were many emails between █████ and Kelly about █████. █████ went to Kelly about her disagreements with █████ and Kelly intervened on her behalf.
 - o █████ prepared communications to █████ and had Kelly review them in advance of sending them to █████ (Exhibit 10, page 58).
 - o █████ told Kelly she would let █████ know that Kelly was in support of something she wanted to do (thereby creating pressure on █████ to go along with her idea) (Exhibit 8, page 5).
 - o Kelly and █████ emailed about █████ disagreeing with █████ and how Kelly couldn't wait to hear █████ response when he questioned █████ about the matter (Exhibit 10, page 28).
 - o Kelly promised █████ he would be addressing an issue she raised with █████ (Exhibit 10, page 34).
 - o Kelly forwarded one on one emails between himself and █████ to █████ and then they discussed them (Exhibit 10, page 36).
 - o Kelly told █████ he'd talked to █████ about an AIC and she should ask him for context later (Exhibit 10, page 27).
- Kelly and █████ exchanged emails appearing to cast a negative light on █████ and █████ bosses (Exhibit 10, pages 31, 115, 129, 137).
- █████ and Kelly implied criticism in their emails about others, including █████ (Exhibit 10, page 64; █████ (Exhibit 10, page 76); █████ (Exhibit 10, page 140); and █████ (Exhibit 10, page 143).

g. Inappropriately disclosing protected or private information to █████

Kelly shared positive COVID test information of staff with █████ (Exhibit 10, page 7). He also forwarded information about █████ duty station at home (Exhibit 10, page 130) and █████ discretionary leave memo (Exhibit 10, page 89). Kelly also emailed █████ with information about █████ COVID testing information (Exhibit 10, page 66).

5. Kelly verbally abuses employees

a. █████

According to █████ there was more than one occasion on which he realized that disagreeing with █████ would not be tolerated by Kelly. In one situation, which █████ disagreed with █████ at a

meeting during which they were discussing an AIC. Kelly must have heard from [REDACTED] about this because [REDACTED] said Kelly accidentally texted [REDACTED] a message that was meant for [REDACTED] that [REDACTED] was stupid and didn't know anything.

On another occasion, [REDACTED] said [REDACTED] demanded to know why [REDACTED] didn't like her. He told her he didn't trust her. Shortly after this, he and [REDACTED] disagreed about what to do with an AIC who was asking [REDACTED]. Within ten minutes to an hour, [REDACTED] said Kelly called him into Kelly's office while Kelly was eating lunch and began yelling at [REDACTED] saying things like, "why are you such a hard ass?" and "you take any chance to disagree with her, why the fuck are you doing that" and "this is bullshit, get over yourself." [REDACTED] said Kelly was also yelling at [REDACTED] "What the fuck is wrong with you; use her, we can use her to get info from [REDACTED]. Let her be our snitch so we can bury [REDACTED]. According to [REDACTED] Kelly was yelling while he was eating and food was flying out of his mouth.

One of the issues was that this particular AIC had been allowed to [REDACTED]. [REDACTED] said when he tried to explain this to Kelly, Kelly accused him of lying. [REDACTED] said he felt compelled to apologize and say he would make it work.

[REDACTED] denied that Kelly reprimanded people in his chain of command because she complained about them. [REDACTED] said she had a difficult relationship with [REDACTED] and recalled one occasion when they talked and [REDACTED] accused her of unethical behavior and made her cry.

[REDACTED] said she talked to Kelly about the interaction with [REDACTED]. [REDACTED] said she told Kelly what [REDACTED] said to her and asked Kelly if she came across that way. [REDACTED] said she was asking for guidance and insight because Kelly knows [REDACTED] well. [REDACTED] said she did not know if Kelly did anything about this but said [REDACTED] came back the next day and apologized to her and said he was in the wrong.

[REDACTED] heard Kelly call [REDACTED] an "asshole" and berate him several times. [REDACTED] told me it was clear to her that Kelly expected [REDACTED] to be "on board with working with [REDACTED]. According to [REDACTED] if [REDACTED] did something [REDACTED] didn't like Kelly called [REDACTED] into his office to yell at him, then he would call [REDACTED] and tell [REDACTED] everything he just said to [REDACTED].

[REDACTED] said [REDACTED] ran interference for [REDACTED] with Kelly and should be aware of this dynamic. [REDACTED] said Kelly would tell [REDACTED] to do things which [REDACTED] did not feel were right; then [REDACTED] would report [REDACTED] to Kelly, who would call [REDACTED] into his office and yell at him. [REDACTED] recalled Kelly yelling at [REDACTED] "you can't stand it that I can separate personal and professional and you think I still have a relationship with her." [REDACTED] said she and [REDACTED] both heard this.

[REDACTED] and [REDACTED] all overheard Kelly loudly scolding or yelling at [REDACTED] one or more times and then call [REDACTED] and telling [REDACTED] what he had just said to [REDACTED].

Kelly denied he did this and [REDACTED] denied that she was aware this was happening. I do not credit either of their denials. According to the email traffic between them, [REDACTED] was very focused on [REDACTED] and used her relationship with Kelly to achieve her ends, which ultimately was having him [REDACTED].

For example, [REDACTED] and Kelly discuss [REDACTED] several times in Exhibit 10, at pages 13, 28, 34, 36, 39, 55, 58, 59 and 75. Two of these discussions give some insight into the relationship between Kelly and [REDACTED].

On June 8, 2020, [REDACTED] forwarded a communication from [REDACTED] to Kelly.¹⁰ They had a discussion about it, and then Kelly said, “Can’t wait to see his response when I ask about it today” (Exhibit 10, page 28).

On July 7, 2020, the following exchange took place (Exhibit 10, pages 59-60):

First, [REDACTED] send an email announcing changes in responsibilities for the [REDACTED], including that [REDACTED] was [REDACTED] to [REDACTED] and that [REDACTED] was [REDACTED] to [REDACTED] where [REDACTED] works.

[REDACTED] forwarded the email to Kelly and wrote: “Insert eye roll.”

Kelly responded: “Nicely done right?”

[REDACTED] responded: “Very nice, hence my eye roll.”

Kelly responded: “No. He has no idea. Put it off on security tasking.”

In my view this is a clear example of [REDACTED] being moved away from [REDACTED] to suit [REDACTED]. I note that [REDACTED] was the person who accomplished this, which again raises the question of how unaware [REDACTED] really was about the [REDACTED] conflict or the reasons for it.

b. [REDACTED]

[REDACTED] experiences being dismissed in meetings and not listened to. She has had numerous [REDACTED]

[REDACTED] said Kelly refers to females as “bitch” and has talked about wanting to “slap” women on the correctional staff who don’t give him what he thinks is proper acknowledgement. [REDACTED] said Kelly has told her she had a [REDACTED] in connection with a planned visit from [REDACTED]. This was shortly after the [REDACTED] for [REDACTED] for which [REDACTED] was [REDACTED] (after [REDACTED]). [REDACTED] said Kelly told her to “you had that [REDACTED]” and to “ [REDACTED] so others would not know she was [REDACTED] for the [REDACTED]

On another occasion, there was meeting in which they were talking about the canteen, and she had some information to share, so she shared it. After the meeting, Kelly accused her of snapping at him and said, “if you were [REDACTED] I would have smacked you.”

¹⁰ At this time, [REDACTED] was the [REDACTED] and should have been aware of this dynamic.

c. General Abuse

██████ said Kelly regularly “lit up” members of the executive team, ridiculing them for the way they looked or because he disagreed with them or because they did not satisfy ██████ as quickly as he would have liked.

██████ agreed that Kelly yells at someone on the executive team during executive team meetings at least once or twice a week, and said it was usually ██████

██████ had difficulty answering the direct question about whether he had been berated publicly, but finally agreed it had happened after I reminded him he needed to tell the truth (Exhibit 4, 41:00-43:53)

██████ said Kelly described people by reference to their bodies and body size. For example, ██████ recalled Kelly talking about an employee who was pregnant, describing her as “fat as fuck” and said “being pregnant is no excuse to get fat.” ██████ also recalled Kelly saying this. ██████ said Kelly also referred to a heavy set male employee this way. He asked ██████ if she is working out. He has called people “fat fuckers” and “fat as fuck.” ██████ said Kelly has told ██████ “you are gaining weight.”

Kelly denied that he does this, other than saying “lazy fucks” which is a holdover from his Marine Corps days. In the follow up interview, Kelly seemed to admit he might have described a pregnant employee as “fat as fuck.”¹¹

██████ has also heard Kelly regularly describe others by reference to their body size or weight. She has heard Kelly refer to employees as “lazy fucks,” “fat fucks” and “that big old fat lady” or “fat guy.” ██████ said Kelly also calls people “idiots.”

██████ said when Kelly was displeased with ██████ he was complaining about her having a “fucking attitude and being in a “fucking mood today.”

Both ██████ and ██████ confirmed they had heard Kelly use the term “fat fuck” to describe employees.

██████ told me Kelly made fun of him in a gathering by telling him he was getting so fat, ██████ wife “would rather fuck me than you.”

6. Retaliation

Generally, Kelly denied that he retaliated against employees and insisted that he kept his personal life and professional life separate.

a. ██████

██████ told me there was an incident in the Spring of 2020 when he was doing rounds in the ██████. ██████ said he checked in with ██████ and then went to talk to another ██████. On his return, ██████ said ██████ asked him to come into her office. ██████ said she was very upset and accused him of spreading rumors about her and Kelly. ██████ called Kelly and had

¹¹ Kelly said he did not recall what he called the pregnant employee, but he would not call ██████ a liar if she said he did refer to the employee as “fat as fuck.”

him on the speaker phone where the accusation was repeated. [REDACTED] denied what they were accusing him of. After this, [REDACTED] said he was [REDACTED] and [REDACTED], he believes because of [REDACTED] accusation.

[REDACTED] confirmed that he was also assigned to the [REDACTED] since then, but he was not sure how soon after this incident.

[REDACTED] recalled that Kelly became irate at [REDACTED] and moved him to [REDACTED]. [REDACTED] knew Kelly made this decision because of a text [REDACTED] had seen from Kelly to [REDACTED]. [REDACTED] recalled that Kelly was very upset with [REDACTED] because [REDACTED] told him [REDACTED] talked about their affair. According to [REDACTED] Kelly decided to put [REDACTED] on [REDACTED].

b. [REDACTED]

[REDACTED] explained that he is a [REDACTED] of [REDACTED]. [REDACTED] perceived that once Kelly began his affair with [REDACTED] (which [REDACTED] is aware of because of his [REDACTED] with [REDACTED]), Kelly would no longer speak to him or even look at him. [REDACTED] said Kelly passes him with his head down and no acknowledgement. [REDACTED] said Kelly used to say hello and make eye contact.

[REDACTED] is a [REDACTED] of [REDACTED]. Kelly asked [REDACTED] on multiple occasions if [REDACTED] had told [REDACTED] about his relationship with [REDACTED]. [REDACTED] told Kelly that she only told [REDACTED] that Kelly and [REDACTED] were "hanging out." [REDACTED] said Kelly referred to [REDACTED] as "your little friend [REDACTED]" and complained that [REDACTED] did not acknowledge him. [REDACTED] said Kelly formed a negative opinion of [REDACTED] over this and made that clear to her. [REDACTED] believes Kelly retaliated against [REDACTED] because of [REDACTED] relationship with [REDACTED]. [REDACTED] mentioned multiple promotional opportunities [REDACTED] did not receive while Kelly was involved in the process, but that he was promoted once Kelly was not involved in the process.

[REDACTED] also talked to Kelly about [REDACTED]. According to [REDACTED] once Kelly started his affair with [REDACTED] he began to say "fuck that guy, he's a punk" (referring to [REDACTED] because of his connection to [REDACTED]). [REDACTED] tried to intervene but said he didn't have a close enough relationship at that point and Kelly was only listening to [REDACTED].

7. *Telling employees he runs the agency*

According to [REDACTED] Kelly conveys the impression to his employees that he is important within the agency and that others above him in the chain of command seek his advice and opinions. [REDACTED] said this had the effect of causing employees to believe they could not disagree with him. [REDACTED] explained it this way:

"OSP executive leadership has been told on numerous occasions by Brandon Kelly not to trust [REDACTED], [REDACTED], [REDACTED] and anyone from the [REDACTED] specifically naming; [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. Brandon Kelly regularly says that these people are incompetent and lacked real leadership. His representation of who these people are, "just figureheads" that rely on him for decision making. Brandon Kelly would share with his executive team how important he was in influencing the agency that he would often say that he was leading the agency from his office. Brandon Kelly made it very clear that they should only trust him, and he would take care of us if we were worthy" (Exhibit 3, page 4).

According to ██████████ Kelly has said he is the only one who can run the agency and “they can’t live without him.” He has said that no one else could run the penitentiary and that leadership is out of touch with what we are doing. ██████████ has heard Kelly express the opinion that ██████████ doesn’t do anything and won’t make a decision, and state that he does not respect ██████████ Kelly has told ██████████ that he was going to call Director Peters and tell her “everyone is fucked up except for us.”

I note that Kelly told ██████████ “we” means the “Administration which means Brandon Kelly” (Exhibit 10, page 73).

CONCLUSIONS

I find the following allegations substantiated by a preponderance of the evidence:

1. Kelly and ██████████ employee ██████████ had or have a romantic relationship which has negatively impacted the workplace in the following ways:
 - a. Berating employees who do not immediately follow ██████████ directions or get along with her.
 - b. Retaliating against employees who mention or are aware of the affair.
 - c. Making operational decisions motivated by his romantic interest in ██████████ and retaliating against ██████████ for raising concerns about Kelly’s decisions.
 - d. Bypassing the background approval security system to ██████████ to those who were not yet ██████████ because ██████████ asked him to.
 - e. Kelly attempted to influence the recruitment process in ██████████ favor when she applied for to ██████████ by undermining ██████████ I specifically find ██████████ is credible and is correct that Kelly said, “He [██████████] must have had the whole panel sucking his dick.”
 - f. ██████████ left the institution because of the way Kelly treated him over ██████████
2. Kelly has conveyed to the OSP executive team that he is powerful in the Department of Corrections by telling them that they cannot trust others in the chain of command, that other leaders are “incompetent” and “lacking real leadership” and “just figureheads” that rely on him for decision making.
3. Kelly has undermined his staff and the chain of command with ██████████ and empowered ██████████ to ignore the chain of command.
4. Kelly verbally abuses his subordinates:
 - a. Kelly told ██████████ “You need to work out more. Just face it, your wife would rather fuck me than you.”
 - b. Kelly berates employees with personal derogatory insults such as fat, dumb, or otherwise incompetent.
5. ██████████
 - a. Kelly has said to ██████████ “Just put a ██████████ and ██████████

- b. Kelly has also made comments about [REDACTED] including telling [REDACTED] to “wipe that [REDACTED] the Directors going to be here and for [REDACTED].”

I find the following allegations are not substantiated by a preponderance of the evidence:

1. Abusing subordinates in [REDACTED] presence to amuse [REDACTED] prove his power. I found no employees who stated this occurred to them.
2. [REDACTED] was not questionably promoted to [REDACTED]. According to [REDACTED] to her knowledge, Kelly had no influence in [REDACTED] promotion process.
3. Kelly did not change the cell phone policy to allow employees to have their personal cell phones with them so he and [REDACTED] could text and call on their private devices. That change occurred independently of Kelly.
4. I have no information to either support or not support whether cameras were installed to protect [REDACTED]
5. While it does appear [REDACTED] was able to use her relationship with Kelly to receive AC units [REDACTED] [REDACTED] or other such things, there was no evidence to support that these changes were inappropriate. It is possible Kelly caused them to happen faster, but that is different from receiving benefits one is not entitled to.
6. [REDACTED] believed Kelly attended meetings with [REDACTED] to sway those in the meeting to accept her ideas but no one else brought this up as a concern. It is entirely possible it occurred, I just have little evidence that it did.
7. Witnesses did not report they were aware of any sexualized tension when Kelly and [REDACTED] are together.
8. While it is entirely possible that the executive team coped with his abuse by shutting down, silently absorbing his behavior and supporting each other behind the scenes, the executive team did not mention this and thus I have little evidence that it occurred other than a few stray comments by [REDACTED] and [REDACTED] statement.
9. It does appear that Kelly viewed himself as “Administration” instead of allowing the executive team to function, but there is insufficient evidence to make a finding on this.
10. [REDACTED] did not tell me that any of her duties were removed and [REDACTED]
11. Kelly did not have [REDACTED] removed from the institution.