

Louisiana

March 23, 2016

Capital

Freedom of Information Act/Privacy Act Section

Office of the General Counsel, Room 841

Federal Bureau of Prisons

320 First Street NW

Washington, D.C. 20534

Assistance

Center

Via First Class Mail

A Non-Profit Law Office

This is a Capital Habeas Case; Expedited Processing Requested

Dear Sir/Madam:

EXPEDITED REVIEW: Our office has been appointed to represent Edgar Garcia (Reg. No. 28132-177) in federal habeas proceedings. This request is made in connection with a criminal justice purpose.¹ This request is time sensitive because it relates to current pending federal court proceedings. I am requesting information for professional use on behalf of our client.

Pursuant to the Freedom of Information Act (5 U.S.C. § 552), I request access to, and copies of any and all documents constituting or referencing:

Reports of all Code 100 (Killing) and Code 100A, Code 101 (Assault with Serious Injury) and Code 101A, Code 104 (Possession of Weapon), Code 201 (Fighting), Code 224 (Assault) and Code 224A, Code 212 (Engaging in Group Demonstration) and Code 222 (Possession of Intoxicants) violations, **with personally identifiable information redacted**, at USP Beaumont from January 2001 to December 2008. In this request, "Reports" includes, without limitation, the incident reports, Form 583s reports for serious incidents, written reports prepared by a Unit Discipline Committee, Disciplinary Hearing Officer (DHO) reports, entries in SENTRY regarding any of these reports, and any email correspondence regarding these reports. This request includes, but is not limited to, reports from an incident on October 22, 2008 at USP Beaumont where five staff members were injured in a gang disturbance on the recreation yard and an inmate disturbance on January 25, 2008. The request also includes, but is not limited to, reports related to the large-scale disturbance involving over twenty inmates in a conflict between the DC car and the Gangsta Disciplines (GD) on the recreation yard at USP Beaumont in 2002 or

¹ Expedited processing of requested records is being sought pursuant to 5 U.S.C. §552(a)(6)(E)(v) ("that a failure to obtain requested records on an expedited basis under this paragraph could reasonably be expected to pose an imminent threat to the life or physical safety of an individual"). Because Mr. Garcia faces criminal prosecution and the death penalty, which very directly threatens his life and physical safety an exceptional and urgent need exists which justifies expedited processing for the records being sought. *Cleaver v. Kelley*, 427 F. Supp. 80, 81 (D.D.C. 1976) (court orders expedited processing of records for plaintiff facing multiple criminal charges carrying possible death penalty in state court).

EXHIBIT 14

2003 that resulted in a Use of Force or Special Operations Response Team (SORT) deployment of tear gas.

Any and all preserved surveillance footage for all Code 100 (Killing) and Code 100A, Code 101 (Assault with Serious Injury) and Code 101A, Code 104 (Possession of Weapon), Code 201 (Fighting), Code 224 (Assault) and Code 224A, Code 212 (Engaging in Group Demonstration) and Code 222 (Possession of Intoxicants) violations at USP Beaumont from January 2001 to December 2008.

Any and all SIA/SIS monthly reports and quarterly reports for USP Beaumont from August 2006 to December 2008.

Any and all SIA/SIS weekly intelligence briefings of the Warden at USP Beaumont from August 2006 to December 2008.

Any and all documents on the Lieutenants' monthly meetings at USP Beaumont from August 2006 to December 2008, including, without limitation, minutes of such meetings.

Any and all editions of the Admission and Orientation Inmate Handbooks produced and circulated by United States Penitentiary Beaumont from 2005 to 2015.

Any and all entries, reports, or documents confirming the number and cause of all lockdowns in the operational status of USP Beaumont from August 2006 to December 2008. This request includes, but is not limited to, reports from a lockdown for compound disturbance on April 30, 2007, an inmate disturbance on January 28, 2008, and an inmate disturbance for February 12, 2008.

Any and all BP-9 (Administrative Remedy Request) forms submitted by inmates, with personally identifiable information redacted, to the Warden at USP Beaumont from 2006 to 2008, including but not limited to, a joint grievance BP-9 Request form filed by multiple inmates at the Special Housing Unit alleging that guards were putting seperatees in rival "cars" or gangs in the same recreation cage.

Any and all documented responses, with personally identifiable information redacted, from the Warden's Office to each inmate's BP-9 form filed at USP Beaumont from 2006 to 2008.

Any and all BP-10 forms submitted by inmates, with personally identifiable information redacted, at USP Beaumont sent to the Regional Director of the South Central Regional Office of the Bureau of Prisons from 2006 to 2008.

Any and all documented responses, with personally identifiable information redacted, from the South Central Regional Office of Bureau of Prisons to each USP Beaumont inmate's BP-10 form filed at USP Beaumont from 2006 to 2008.

Any and all BP-11 forms submitted by inmates, with personally identifiable information redacted, at USP Beaumont sent to the National Inmate Appeals Administrator, Office of General Counsel, from 2006 to 2008.

Any and all documented responses, with personally identifiable information redacted, from the National Inmate Appeals Administrator to each USP Beaumont inmate's BP-11 form filed at USP Beaumont from 2006 to 2008.

The total number of inmates per year transferred to USP Beaumont from August 2006 to December 2008 and the total number of inmates per year who voluntarily checked themselves into protective custody or the Special Housing Unit immediately at Receiving & Discharge (R&D) Intake.

Any and all memorandum on the SIA/SIS policy and procedures for classification and placement of inmates at Receiving & Discharge (R&D) Intake at USP Beaumont from August 2006 to December 2008.

Any and all transportation logs maintained by the Bureau of Prisons that note the dates and times of arrivals of newly transferred inmates, with personally identifiable information redacted, to USP Beaumont from August 2006 to December 2008.

Any and all alarm system maintenance logs that reflect the dates and times of alarm activation at USP Beaumont from August 2006 to December 2008.

Any and all sprinkler system maintenance logs that reflect the dates and times of sprinkler activation at USP Beaumont from August 2006 to December 2008.

Any and all logs that reflect the dates, times, and stated reasons for allowing emergency medical assistance helicopters to land on the premises of USP Beaumont from August 2006 to December 2008.

Any and all internal memorandum or institution supplements on the policy and procedure for emergency medical evacuations to private hospitals that was utilized or maintained at USP Beaumont from August 2006 to December 2008.

Any and all commercial shipments of munitions including, but not limited to, tear gas, flashbang grenades, rubber bullets, OC spray, and other tools for inmate control, to the facility at USP Beaumont from August 2006 to December 2008.

The line item in the budget at USP Beaumont for Fiscal Year 2006 – 2007 and Fiscal Year 2007-2008 allocated for purchase of munitions.

Any and all documents created or maintained regarding inventory and maintenance of institutional munitions, including but not limited to tear gas, flashbang grenades, rubber bullets, OC spray, and other tools for inmate control, at USP Beaumont from August 2006 to December 2008.

Any and all internal memorandum and institution supplements produced by the Warden's Office or the Captains at USP Beaumont in response to a food strike initiated by inmates in 2007.

Any and all staffing reports confirming the number of employees on payroll per month at USP Beaumont from 2006 and 2008 and any documents produced by the Warden's Office concerning understaffing and target operational staffing levels.

Any and all reports related to an inmate-led 'sanitation crew' tasked with cleaning up blood and other disorder after violent incidents at USP Beaumont between 2006 and 2009.

Any and all documents produced by the Warden's Office or the Captains concerning the expenditure for replacing lost metal equipment, including metal detectors, bunks, desks, lockers, food carts, and line buffet paneling in the cafeteria at USP Beaumont between 2006 and 2008.

Any and all documents produced by the Warden's Office concerning the planning, funding, and construction of a wall or fence on the recreation yard at USP Beaumont in 2002-2003.

Any and all internal memorandum produced and circulated by the Warden's Office concerning new policy and procedures related to the new wall and fence constructed on the recreation yard at USP Beaumont in 2002-2003.

The total number of incidents classified as Use of Force or Use of Force/Applications of Restraints at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Any and all incident reports and Form 583 Reports for Use of Force or Use of Force/Applications of Restraints incidents, with personally identifiable information redacted, at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Any and all documents created or maintained after each activation or deployment of the Special Operations Response Team (SORT) or any Use of Force deployment of tear gas by correctional staff, with personally identifiable information redacted, at the Special Housing Unit of USP Beaumont from August 2006 to December 2008.

The response time to each incident that required the deployment of the Special Operations Response Team (SORT) at the Special Housing Unit of USP Beaumont from August 2006 to December 2008.

Any and all incident reports and Form 583 Reports for incidents involving inmates slipping handcuffs, with personally identifiable information redacted, in the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Any and all incident reports and Form 583 Reports marked "Security Threat Group Conflict" in the "Cause of Incident" section of the report, with personally identifiable information redacted, for inmates in the Special Housing Unit of USP Beaumont from 2006 to 2008.

Any and all SENTRY and TRUINTEL entries for no-contact or separatee designations in the Bureau of Prison database, with personally identifiable information redacted, between inmates at the Special Housing Unit from 2006 to 2008, including but not limited to a “KAF” or “Keep Away From” list.

Any and all documents or reports produced by the Security Threat Group team or Warden’s Office to manage or respond to conflict between different cars, gangs, or Security Threat Groups in the Special Housing Unit at USP Beaumont from 2006 to 2008.

The total number of shakedowns performed by correctional officials and total number of weapons and contraband items found per shakedown in the Special Housing Unit of USP Beaumont from August 2006 to December 2008.

The total number of shakedowns performed by correctional officials and total number of weapons and contraband items found per shakedown in the facilities outside of the Special Housing Unit, including the behavioral modification unit and general population dorms, at USP Beaumont from August 2006 to December 2008.

Any and all shakedown logs, with personally identifiable information redacted, maintained by correctional officials in the D-Range of the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Any and all incident reports and Form 583 Reports for Destruction of Government Property, with personally identifiable information redacted, including government-issued sheets, clothing, boots, washing machines, lawnmowers, deep fryers, boiling pots, water fountains, bed frames, bunk beds, shelving and other property items at USP Beaumont from August 2006 to December 2008.

Any and all policy and procedure manuals utilized or maintained by correctional officers at USP Beaumont regarding shakedown procedures from 2006 to 2008.

Any and all documents referencing the concept of an inmate “torpedo,” or any inmate who enters protective custody, administrative segregation, or the Special Housing Unit at USP Beaumont for the purpose of assaulting or killing one or more other inmates who are located in such areas of the facility.

Any and all reports of disciplinary action taken against correctional officials at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Any and all reports of disciplinary action taken against correctional officials at all sections of the facility at USP Beaumont from August 2006 to December 2008.

The total number of suicides and suicide attempts at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

The total number of instances per year when an inmate was put on temporary suicide watch at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Reports of all suicide and suicide attempts, with personally identifiable information redacted, at the Special Housing Unit at USP Beaumont from August 2006 to December 2008. In this request, "Reports" includes, without limitation, the incident reports, Form 583s reports for serious incidents, written reports prepared by a Unit Discipline Committee, Disciplinary Hearing Officer (DHO) reports, entries in SENTRY regarding any of these reports, and any email correspondence regarding these reports. This request does not include related medical records.

The total number of reports of self-mutilation at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

Reports of all incidents of self-mutilation, with personally identifiable information redacted, at the Special Housing Unit at USP Beaumont from August 2006 to December 2008. In this request, "Reports" includes, without limitation, the incident reports, Form 583s reports for serious incidents, written reports prepared by a Unit Discipline Committee, Disciplinary Hearing Officer (DHO) reports, entries in SENTRY regarding any of these reports, and any email correspondence regarding these reports. This request does not include related medical records.

The total number of inmate requests for mental health or counseling services at the Special Housing Unit at USP Beaumont from August 2006 to December 2008.

The daily logs of each inmate on D-Range in the Special Housing Unit, with personally identifiable information and cell numbers redacted, at USP Beaumont from August 2006 to November 2007 including, but not limited to, the documented instances of refusal of recreation time.

Any and all photographs, surveillance images, or written documents produced in response to defacement of a wall in the Special Housing Unit at USP Beaumont with the words 'Thunderdome' from 2000 to 2010.

Any and all photographs, surveillance images, or written documents produced or posted reading, in whole or in part, "Shortcuts get you hurt" in the SHU at USP Beaumont from 2000 to 2010.

The count number of inmates on each tier of the Special Housing Unit at USP Beaumont per year from 2006 to 2008.

The total number of cells on each tier of the Special Housing Unit at USP Beaumont per year from 2006 to 2008.

The total number of government-issued beds for cells on each tier of the Special Housing Unit per year from 2006 to 2008.

The average size and maximum occupancy standard for cells in the Special Housing Unit at USP Beaumont from 2006 to 2008.

Any and all documents detailing commercial shipments of additional government-issued beds to the facility at USP Beaumont from 2006 to 2008.

Any and all documents reflecting policies and protocols for total recreation time and total shower time allowed for inmates per day and per week at the Special Housing Unit at USP Beaumont from 2006 to 2008.

Any and all documents related to the policies and procedures of welding a third bed to the government-issued bunk beds in the cells of the Special Housing Unit at USP Beaumont from 2005 to 2010.

Any and all reports or documents produced by the Warden or Warden's Office related to the temporary conversion of unit F-1 to a Special Housing Unit at USP Beaumont in 2002 to 2003.

As provided by law, please respond to my request within 20 working days. If my request is denied in whole or in part, please provide a detailed justification for withholding the records. Lastly, I request any segregable portions that are not exempt to be disclosed.

I additionally request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) ("Documents shall be furnished without any charge . . . if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."). The public interest requires confidence in the judicial system that operates in the public's name and on its behalf. *Cleaver v. Kelley*, 427 F. Supp. 80 (D.C. Dist. 1976) ("The public interest lies in assuring a complete and thorough adjudication of criminal matters. Such an interest outweighs that of those seeking material in the pursuit of less fundamental rights.") Mr. Garcia is currently facing the death penalty. To ensure public confidence in the disposition of Mr. Garcia's case and of the judicial process as a whole, it is necessary to examine all aspects of Mr. Garcia's history. Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress's legislative intent in amending FOIA. See *Judicial Watch*, 326 F.3d at 1312 ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers for noncommercial requesters.'"). Because we are a non-profit office that serves indigent clients at the rate set by the courts and/or the Louisiana Board of Public Defenders, charges for reproduction of records are usually waived or reduced in accordance with the public interest. If you rule otherwise and the fees exceed \$50, please contact me of the charge before you fulfill this request.

Please forward the records to my attention to 636 Baronne Street, New Orleans, LA 70113. **If feasible, our office would prefer an electronic copy of the records in pdf or tiff format on a CD/DVD.** If this format is not available please forward the records by regular U.S. Mail delivery or by "Express Saver" for which we can provide our Fed Ex account number. If you have any questions regarding my request please do not hesitate to contact me directly at (504) 558-9867 extension 553 or by e-mail at arose@thejusticecenter.org.

Thank you for your kind assistance in this request and I look forward to hearing from your office.

Sincerely,

A handwritten signature in black ink, appearing to read "Aubrey Rose". The signature is fluid and cursive, with the first name "Aubrey" written in a larger, more prominent script than the last name "Rose".

Aubrey A. Rose
Staff Investigator