

**OVERSIGHT OF THE  
FEDERAL BUREAU OF PRISONS**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON THE JUDICIARY**  
**UNITED STATES SENATE**  
ONE HUNDRED EIGHTEENTH CONGRESS  
FIRST SESSION

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## **OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS**

**WEDNESDAY, SEPTEMBER 13, 2023**

UNITED STATES SENATE,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:05 a.m., in Room 216, Hart Senate Office Building, Hon. Richard J. Durbin, Chair of the Committee, presiding.

Present: Senators Durbin [presiding], Whitehouse, Klobuchar, Hirono, Booker, Ossoff, Welch, Graham, Grassley, Lee, Cruz, Hawley, Cotton, Tillis, and Blackburn.

### **OPENING STATEMENT OF HON. RICHARD J. DURBIN, A U.S. SENATOR FROM THE STATE OF ILLINOIS**

Chair DURBIN. This hearing of the Senate Judiciary Committee will come to order. Today, the Committee has the annual hearing on “Oversight of the Federal Bureau of Prisons.”

Director Peters, you’ve now led the Bureau for a little over a year, and we’ve seen some significant changes.

In February, you dissolved the Special Management Unit, known as the SMU, at the United States Penitentiary, Thomson, located in my home State of Illinois.

When you abolished the SMU, you recognized that the program failed to meet the high standards that we should expect in our Federal prisons. I applaud your decisive action. But let it be clear, closing that unit should only be the beginning.

I was stunned to hear about the shackling of people in custody in ways that left permanent scars on their bodies. It became known within Thomson Penitentiary as the Thomson tattoo.

A former warden has reported that over 90 inmates were documented with these Thomson tattoos—scars from excessively tight and punitive use of restraints. And the Director, I understand, personally observed some of this in your visit to Thomson.

The former warden also advised us that Thomson was one of the most violent and abusive cultures he had seen at a prison in 30 years that he worked for the Bureau of Prisons.

This is stunning and it’s sickening, and I take it personally. I worked hard to open that prison. It sat idle for 10 years when the State built it and couldn’t afford to open it. We’ve made it part of the Federal system, and I wanted it to certainly be a showcase in terms of creative and thoughtful detention. Unfortunately, it has become notorious for other things.

Recurring accounts of rampant racist, verbal abuse, and extreme isolation at the facility are equally alarming. Unfortunately, my staff continues to receive reports about misconduct that are, to put it mildly, unacceptable.

Accountability at Thomson and across the Bureau is absolutely necessary and overdue. You have stated, and I quote, “Our job is not to make good inmates, it’s to make good neighbors.”

I know, and you do as well, that separation for safety is unavoidable in extreme cases. But we both know that locking someone in a cell for more than 22 hours per day will not make them a good neighbor.

And yet, since our oversight hearing last September, we have seen no decrease in the number of people in solitary confinement in Federal prisons.

In fact, the percentage of people in Bureau of Prisons restricted housing is higher than when I held my first hearing on solitary confinement more than 10 years ago.

I understand you have partnered with the National Institute of Justice to review and provide recommendations regarding your practice of using restrictive housing. I would recommend to you, and to anyone interested, a 2009 article in the New Yorker entitled, “Hellhole,” by Dr. Atul Gawande.

Dr. Gawande is now a part of this administration in the Department of State, but at the time, he wrote about the impact of solitary confinement and restrictive housing on the inmate’s mind.

We both know that the majority of women and men in incarceration today will be released at some point in the future.

If damage is done to them mentally or physically, they will carry those scars forward back into society, and the likelihood of their success and avoiding recidivism is diminished many times by the treatment that is accorded to these inmates while they’re in the prison.

I’ve said, and I don’t know if my colleagues all joined me in thinking along these same lines, but I believe every Member of Congress every 2 years should be required to take a trip to a foreign country and required to visit a Federal prison.

We talk casually about criminal sentencing here and what it means to America. We ought to see it firsthand and have the courage to face it—where it succeeds and where it fails.

I’m hoping that we remember statements that were made by our friend and colleague, Senator John McCain, who endured unspeakable torture and isolation as a prisoner of war. Two-and-a-half years in a 15-foot-by-15-foot cell. What he said, and I quote, “It crushes your spirit.”

The same thing is happening today in our Bureau of Prisons system with restrictive housing.

As I said, I know that in some cases it’s unavoidable for public safety. It has to happen. But we’ve got to take a hard look at this. I hope that you will consider this one of your priorities, and hope that you’ll work with us to leave a legacy that is much different than what we’ve seen over the last 10 years and before.

We shouldn’t delay implementation of the Department of Justice 2016 report and recommendations on restrictive housing. This issue has been studied long enough. It’s time for action.

Making good neighbors also requires full implementation of the bipartisan First Step Act. Senator Grassley visited here this morning to tell me he had a conflicting Budget hearing and couldn't be at this hearing. I'm sorry he can't. He and I both worked on the First Step Act, which was signed into law by President Trump.

That has resulted in dramatically lower recidivism rates for those who have been participants among the general BOP population. Let's try something that works. The First Step Act works. Programming to prepare people to successfully return to their communities is critical to First Step Act's goal of rehabilitation.

Unfortunately, there are significant wait lists for programming and over-reliance on staff augmentation that have made it more difficult for incarcerated people to access programming if they're going to be incarcerated.

And we know that giving them something positive to do and to improve themselves has a measurable impact on the positive side. We have got to invest more. I need your thoughts on how we do that.

My staff will be visiting BOP facilities this fall to see it in action. It is my hope that we have your full cooperation in these visits.

The Bureau's 140,000 employees have a great responsibility of safely caring for adults in custody, but they cannot perform their jobs if they're overworked and undertrained.

More than 2 years ago, Bureau of Prisons awarded a contract to an independent consultant to assist the Bureau in making informed staffing decisions. I want to hear about the results of that review and your plans to address chronic understaffing.

With your leadership, the Bureau of Prisons is moving toward a new course. You have shown you're adaptable to change and confronted some of the BOP's most pervasive and persistent issues. You've recognized there's much more to be done.

Our Federal Prison system must fulfill its fundamental purpose: Provide safe and humane conditions of confinement, and ensure the successful return of incarcerated individuals to their community.

I now turn to Ranking Member Graham for his opening remarks.

**OPENING STATEMENT OF HON. LINDSEY O. GRAHAM,  
A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA**

Senator GRAHAM. Thank you, Mr. Chairman. Yes, I'm—I'm sympathetic to the idea that the prison population needs to be treated humanely, consistent with our laws and our values, and try to come out of prison ready to integrate in society. Those are all worthy things to be talking about.

But preparing for this hearing, I am just astonished in how the Mexican drug cartels are integrated into our State and Federal prisons. That the El Paso FBI field director said that cartels are actually recruiting people in prison to help their networks.

In South Carolina, January of this year, you had 43 people prosecuted in a State prison that were linked to Mexican drug cartels, and this seems to be a very significant problem, particularly with the issue of fentanyl. We had a prisoner become positive for fentanyl in a Federal prison. Staff members were exposed to it and needed treatment.

So, I'm hoping Mr. Chairman, that we can—this won't be the last time we talk about how the prisons are being used by Mexican drug cartels to advance their cause.

And another topic that will be discussed today, but I hope we'll follow on through with, is the assignment of transgender prisoners. Biological males wishing to transition and being assigned to female prisons. I have a real concern with that policy change by the Biden administration and I'll look forward to talking about that.

But maybe this Committee can come up with a solution in a bipartisan way, what can we do to combat drug cartels' influence in Federal prisons?

Chair DURBIN. I will join you in that inquiry. I think it's very timely.

Let me lay out the mechanics. After I swear in Director Peters, she'll have 5 minutes to make an opening statement. We each have 5 minutes in rounds for each Senator. Director Peters, would you please stand to be sworn in?

[Witness is sworn in.]

Chair DURBIN. Let the record indicate that she answered in the affirmative, and I give you the floor. It's all yours.

**STATEMENT OF COLETTE S. PETERS, DIRECTOR,  
FEDERAL BUREAU OF PRISONS, WASHINGTON, DC**

Director PETERS. Good morning, Chairman Durbin, Ranking Member Graham, and Members of the Committee. I am honored to appear before you today to discuss the really impactful work happening at the Federal Bureau of Prisons.

In the past year, I have visited more than 20 of our correctional facilities, and those are my best days. It's a privilege to meet our dedicated corrections professionals while walking the halls of our institutions, many of whom have filled the room here today. They are my inspiration, and I am very grateful for their dedication.

With their important work in mind, in the last year, we engaged in strategic planning. We modernized our mission, vision, and core values. And we are now guided by the principles of normalcy and humanity and core values that emphasize accountability, integrity, respect, and compassion.

We engaged in proactive outreach to Members of Congress, members of the media, advocacy organizations, and justice-involved individuals, while maintaining a collaborative strong relationship with our national union. This strategic vision, along with clear expectations, has put us on a course for success.

As you know, the vast majority of our employees are hard-working, ethical corrections professionals who expect those who are engaging in misconduct to be held accountable.

We dedicated additional resources to our Office of Internal Affairs.

We've collaborated with our law enforcement partners to investigate criminal misconduct, and hold individuals accountable up to and including termination and prosecution. I have communicated clear expectations that misconduct and reprisal will not be tolerated.

As you mentioned, Mr. Chair, in our Special Management Unit at our Thomson, Illinois, facility, we uncovered abuse and mis-

conduct and swiftly shut the unit down. We are holding people accountable, rebuilding the culture, and changed the mission to a low security institution. Yet, as you mentioned, we need to do more as it relates to restrictive housing.

Despite our efforts to address restrictive housing numbers, we have seen them increase. We know restrictive housing, as you said, is not an effective deterrent and can increase an individual's future criminality.

So, we created a short-term plan and a long-term plan.

First, we formed a work group consistent of members of our executive team to review best practices from correctional systems across the country and around the globe.

Long-term, as you mentioned, we entered into a historic partnership with the National Institute of Justice to bring an external organization in to provide further recommendations.

As you well know, the work of corrections professionals is complex and challenging, often resulting in negative health outcomes for our employees.

So we are improving employee wellness, including better access to resources, increased training, and solving our retention and recruitment issues.

Compared to last year, we have a 60 percent increase in new hires and a 20 percent reduction in separations. Yet we are still not where we need to be, and until we solve this problem in whole, we must continue relying on augmentation and overtime.

Healthy facility structures are critical to our operations, yet we have a \$2 billion maintenance backlog, which only accounts for the most serious repairs. So, we are contracting with an external organization to assess the overall problem.

Then inside these structures, we are the de facto mental health hospital, the largest provider of alcohol and drug treatment, and we have nearly 160,000 patients, many of whom come to us with complex medical issues and chronic disease.

So, with these complexities, we must ensure that we are operating holistically as a healthcare organization. So, we are seeking an external entity to come in and provide recommendations on correctional health best practices, and implementing the principles of normalcy and humanity.

Mr. Chair, we remain committed to First Step Act implementation. More than 104,000 individuals have participated in FSA programs and activities, and more than 23,000 individuals have been released.

As I have said many times, I believe in accountability, oversight, and transparency, and I know we cannot do this work alone.

Chairman Durbin, Ranking Member Graham, and Members of the Committee, I am honored to speak with you today on behalf of our dedicated employees across the country. This concludes my opening statement, and I look forward to your questions.

[The prepared statement of Director Peters appears as a submission for the record.]

Chair DURBIN. Thank you very much, Director.

And so, the First Step Act was a brainchild of Jared Kushner and Members of this Committee. We came together and put together a bipartisan effort.

Among the Sponsors, over time, are myself, Senator Whitehouse, Senator Grassley, and others. The notion was that the prison experience should be more than punishment and separation. It should be perhaps a new look at life, a life-changing experience in a positive way.

And our measurement for that is quite simple: recidivism. How many people leave our prison system and commit another crime, another victim along the way. And that's very basic. And I think the record, as I've read, and I hope it's the same that you said, is pretty interesting.

We know that generally recidivism rate of the Bureau of Prisons population stands at 43 percent—43 percent commit another crime after release from prison in the Bureau of Prison system.

However, if they've been through this program in the First Step Act, only 12.4 percent recidivate and 87.6 percent don't.

That's dramatic. It means time well spent, resources well invested, not to have a recidivism situation like this. So tell me where we are in terms of providing the resources for more participation and whether or not we need to do more.

Director PETERS. Thank you, Mr. Chair. I think we always need to do more. As of the beginning of this month, we were offering over 110 structured activities. About half of those were evidence-based recidivism reduction programs, and the other half were those productive activities.

And you're right, the data is very clear. I think that we are at a great moment in time as we pivot out of the pandemic, and we have institutions that are now thinking very creatively about the programs that they can expand now that we don't have institutions under lockdown.

Furthermore, as we continue to tackle this recruitment and retention issue, you're going to see even more progress, because we'll have fewer people engaged in overtime and augmentation, freeing up individuals to engage in those programs and those activities.

Chair DURBIN. So, let me talk about Thomson for a minute, and I mentioned it in the opening statement.

How did Thomson reach that point—such a low point that you had to virtually close the mission of that institution? And what happened to the people who were in that institution? Are they gathering in another place? Were they sent to another place? How do you know we're not going to have the same problem wherever they're sent?

Director PETERS. Thank you, Senator. I don't know how an institution gets to that low, low point. As you said, the warden reported he hadn't seen anything like that in his career. I, too, hadn't seen anything like that in my 30-plus-year career in corrections and law enforcement.

And so those individuals who have engaged in that behavior have been referred for an investigation. Some have left the organization. Some are pending criminal investigation. Others pending administrative investigation.

For those that were moved out of the institution, we are paying attention to them and their behavior. We also have really increased training at that institution. When we were able to shut that institution down, we really went back to basics, went back to correc-

tions basics, and rebooted our training program there, so that we could change that culture. Culture change takes time.

I think changing that institution's mission to a low security mission will help in rebuilding that culture and making that change. And we will be keeping a very close eye on that facility.

Chair DURBIN. How much do you attribute this to understaffing and augmentation?

Director PETERS. Senator, I think that accountability is the most important thing. I don't believe that a lack of staffing and augmentation leads people to treat other human beings that poorly.

And so, for me, it was violations of policies, practices, violations of best correctional practices. And so, I wouldn't want overtime or augmentation to minimize the egregious choices that these employees made in taking care—or rather, not taking care of those in our care and custody.

Chair DURBIN. I'm glad you took this job. It is historic that you're in this capacity.

Certainly a first year, I felt, I don't know if others shared it—I think they might have—that you were entitled to the preliminary opportunity to assess the Bureau of Prisons and to talk about change and maybe even initiate some change in that first year. We expect much more in the second year. What can you tell us?

Director PETERS. So, I think we have great plans for the second year.

So, the first year we really did an assessment, developed our executive team, engaged in the strategic planning, as I talked about in my opening comments, which I think is really going to set us on course for some initiatives that are going to improve employee wellness, really focus on restrictive housing, and implementing these principles of normalcy and humanity throughout the institutions.

We've opened our doors to Members of Congress and others to come in and see what we are doing. We're collaborating very closely with the Office of the Inspector General and the GAO so that our doors are wide open to them in terms of oversight and accountability.

So, I think in this next year, you will see the advancements of our strategic planning, the change in our mission, and a true focus on our new core values.

Chair DURBIN. Thank you. Senator Graham.

Senator GRAHAM. Thank you very much. Ms. Peters, I appreciate your efforts on behalf of our country.

During preparation for this, my staff informed me that in 2022, a Federal prison facility in New Hampshire, Mexican cartel inmates used contraband cell phones to help coordinate large scale fentanyl deals in Connecticut. Is that accurate?

Director PETERS. Senator, I'm not familiar with the individual case that you're speaking to, but I can say that contraband is something that we fight—

Senator GRAHAM. Would you—

Director PETERS [continuing]. Day in and day out.

Senator GRAHAM. If I send it to you, would you look at it and get back with me?

Director PETERS. I'd be happy to, Senator.

Senator GRAHAM. How would you evaluate the effect of Mexican cartels or the relationship they have with inmates in our Federal prisons? Is that a problem?

Director PETERS. Our national gang unit and our intelligence officers across the country are combating gangs throughout the Federal Bureau of Prisons as it relates to contraband, drugs, cell phones, drones. Those are—are very difficult—

Senator GRAHAM. But—my concern is apparently, according to things that we found, the cartels are actually running operations out of prisons using prisoners to coordinate drug deals. And is that a concern? Is that real or is that just—

Director PETERS. That's absolutely a concern. And that's what our employees at the Federal Bureau of Prisons work to combat every day through our national gang unit—

Senator GRAHAM. So what's the biggest policy change—

Director PETERS [continuing]. Our intel officers—

Senator GRAHAM [continuing]. You've instituted to combat this problem?

Director PETERS. You know, we work every single day to—

Senator GRAHAM. No, no, no, no—

Director PETERS [continuing]. Leverage new technology, like—

Senator GRAHAM [continuing]. No, no, no, no, no. You say it's a problem. I agree with you. What's the plan to combat the problem? Do you have a plan called—entitled Mexican Cartel Influencing Prisons?

Director PETERS. No, Senator. I don't have a plan entitled that.

Senator GRAHAM. Could you come up with one?

Director PETERS. What I can tell you is our national gang unit and our intelligence officers across the country have a plan—

Senator GRAHAM. Well—

Director PETERS [continuing]. They combat this every single day.

Senator GRAHAM [continuing]. I mean, if you don't have a plan, you're in charge of the prisons. So, I just suggest that we come up with one. And if you could, in the coming weeks and months, tell me what the plan is, if there's a plan at all. Could you do that?

Director PETERS. Senator, and I'm happy to talk about it more, here today if you'd like, as well.

Senator GRAHAM. Yes, but I, you know, I want to—we can't talk about a plan that doesn't exist. So, let's like, do one, then we'll talk about it. Because I think we need a plan—to the American people, we need a plan to make sure that prisons are not used by Mexican drug cartels to poison America.

On the transgender issue, in 2018 during the Trump years, an inmate was assigned to a prison, male or female based on their biological sex at birth. Is that policy still in place?

Director PETERS. We have a policy at the Depart—at the Federal Bureau of Prisons to rely on a community standard of healthcare and make individualized decisions—

Senator GRAHAM. So, that policy has changed?

Director PETERS. So, we have—we treat individuals—

Senator GRAHAM. Well, here's my question—

Director PETERS [continuing]. Who present as transgender—

Senator GRAHAM. Well here's my question. In 2018, during the Trump years, the policy was to assign an inmate based on their bi-

ological sex at birth. Has that policy changed? Do you no longer do it that way?

Director PETERS. That's correct, Senator. We rely on a community standard of care to make individualized medical decisions based on what is appropriate for that individual on a case-by-case basis.

Senator GRAHAM. So how many biological males who have desired to transition are now in female prisons?

Director PETERS. I don't have that number top of mind, Senator, but we could get that for you.

Senator GRAHAM. Is it a growing request?

Director PETERS. It's a limited number of individuals.

Senator GRAHAM. Is it over a thousand? Under a thousand?

Director PETERS. Far under a thousand, Senator.

Senator GRAHAM. Okay. I mean, how far under? Is it 10 people, 100 people?

Director PETERS. Under a hundred people, but I wouldn't want to guess beyond that.

Senator GRAHAM. Okay. So, your testimony is, that under a hundred people have been assigned to female prisons that came into the system, or came into the world as biological males. Is that correct?

Director PETERS. Senator, again, I'd want to confirm that number—

Senator GRAHAM. Okay.

Director PETERS [continuing]. And get back to you.

Senator GRAHAM. Okay. When you go through the evaluation of what prison to put a person in, do you consider the safety of female prisoners?

Director PETERS. Senator, safety and security, when we make those housing assignments is—

Senator GRAHAM. Is that in the manual—

Director PETERS [continuing]. Top priority.

Senator GRAHAM. Is that in the manual of how you determine who goes where?

Director PETERS. It is, Senator.

Senator GRAHAM. Can you send that to me and show me what section of the prison manual talks about assignment of prisoners when it comes to the transgender issue, focuses on safety of female prisoners?

Director PETERS. We can.

Senator GRAHAM. That's in the manual?

Director PETERS. The safety of those in our care and custody—

Senator GRAHAM. No. It talks about the safety of the person being—requesting retransition. It doesn't talk about the safety of people in the jail where they will go. If I'm wrong, please correct me.

Director PETERS. Senator, I do—I do not have the language of the manual memorized in order to recite it—

Senator GRAHAM. I—I—

Director PETERS [continuing]. Back to you—

Senator GRAHAM [continuing]. I under—

Director PETERS [continuing]. Here today—

Senator GRAHAM. I understand that.

Director PETERS [continuing]. But what I can tell you—

Senator GRAHAM. You changed the policy. I just want to know how it works, and I want to know what the numbers are. Thank you.

Director PETERS. Thank you, Senator.

Chair DURBIN. Senator Hirono.

Senator HIRONO. Thank you, Mr. Chairman. Ms. Peters, this is not the first time that I will be mentioning the fact that Hawaii does not have a reentry halfway house.

So, in 2019, the only residential reentry facility in Hawaii, Mahoney Hale, closed its doors. And I don't need to tell you how important reentry programs are for successful reintegration into the community.

And in fact, a recent report by the National Institute of Justice talked about the importance of how, how—of these reentry programs, because having grown accustomed to the stringent protocols in a prison, reentry can often become overwhelming as a previously incarcerated person adjusts back to society. And this definitely has a connection to recidivism.

So, you know, since we're very focused on lowering recidivism, I think the importance of allowing a person to go through the reentry program becomes ever more important.

So, in 2019—and I have been contacted by persons who have pointed out the lack of a reentry program. And I just want to mention, in 2019, a Hawaii resident incarcerated at the women's Federal prison camp in Phoenix, Arizona, reached out to my office and she expressed dismay that Mahoney Hale was closing because it meant there would be nowhere for her to go when she was ready to transition back to society.

And she asked, "What is going to happen to all of us prisoners from Hawaii and Guam?" Four years later, we still do not have an answer for her. In 2020, my office was contacted by a woman whose husband was sentenced to a halfway house in Oregon because there was nowhere for him to go in Hawaii.

I know that the Bureau of Prisons has issued a request for proposals numerous times. And since you have not been getting any responses to that, have you determined what is the reason that you have not gotten any responses to your RFPs?

And could one of the reasons be that there's some sort of a requirement that the program that is—the people running the program have to own the facility? Is that a limiting—or is that a factor in why you have not gotten any responses to your numerous RFPs for a reentry facility in Hawaii?

Director PETERS. Thank you, Senator. Well, this is very important to me. I know that you mentioned this during the last hearing a year ago, and this is something that we have been working on.

In fact, I have a trip planned to visit your district to meet with local law enforcement, meet with the judges, and meet with the community, and your staff, in order to better understand this issue.

We have received notice that the day reporting center, it looks like that is going to be under contract. And so, we're hoping that that is going to be a small step in the right direction. But we need a residential reentry center on the island.

And so our hope is that we are going to be able to work together to solve this problem. Your comments are spot on. Having that local residential reentry center for the citizens of Hawaii is incredibly important.

Senator HIRONO. Yes. At this point—Director Peters, it has been 4 years. And so, at this point I'd like to get to what is it that is resulting in a lack of a facility in Hawaii?

And I'm not blaming the Bureau of Prisons. Perhaps we need to work with the State of Hawaii because the previous people who were running the facility had leased the space from the State.

And maybe we need to work with the State of Hawaii to provide a—the property, something, some kind of a resolution to this situation so that we can have a bit of response for the people who have been contacting me.

I just want to also mention that regarding the treatment of transgender prisoners, you do have a statutory mandate to provide for the safekeeping and provide for the protection of all people in BOP's custody.

And that also means that you do need to take into consideration a transgender prisoner's views on his or her own safety. And that weighs in the decision of how to provide for the safety of that person. Is that not so?

Director PETERS. That is absolutely correct, Senator. We take into account their views as well as everyone's views on where they think that they can be better served from a safety security perspective or a programming and treatment perspective. And we take safety and security of the assignment of those individuals very seriously.

Senator HIRONO. Thank you. Thank you, Mr. Chairman.

Chair DURBIN. Senator Grassley.

Senator GRASSLEY. Thank you and welcome to the Committee. On December 2022 hearing on sexual abuse of inmates in Federal prisons, you testified that, "Contraband is beginning of sexual assault." Those few words are a quote from you.

Inspector General Horowitz agreed and asked for increased penalties for contraband smuggling. Do you agree with Inspector General Horowitz's request for increased penalties?

Director PETERS. He and I have discussed that. I think that every tool needs to be considered in order to combat this significant issue of contraband, and I think this would be an additional tool in our toolbox.

Senator GRASSLEY. Okay. In your professional opinion, could giving design drawings for U.S.-based correctional facilities to foreign officials who work for cartels threaten American security?

Director PETERS. Senator, we would want those floor plans very secured. A release of anything like that would be a serious security concern at the Federal Bureau of Prisons.

Senator GRASSLEY. Okay. Last week I released a 76-page report on foreign operations in Mexico, disclosing the Colorado Department of Corrections in coordination with the State Department, agreed to share drawings from Colorado State Penitentiary 1 facilities with Mexico's Secretary of Public Security.

We know now that certain Secretary of Public Security leadership was working with the Sinaloa Cartel.

I'm asking if you could investigate what information the United States gave the Mexican government about U.S.-based correctional facilities and assess the impact on Bureau of Prison Security?

Director PETERS. Senator, I don't know that I would be the appropriate component or entity to investigate what information was exchanged. What I can tell you, as the Director of the Federal Bureau of Prisons, we would be very careful of whom we shared our blueprints and designs with as it relates to safety and security.

Senator GRASSLEY. I like the last half of your question. In regard to the first half, you said you couldn't go to the State Department and get that information?

Director PETERS. I'm not saying I can't. I'm not sure I'm the right entity to investigate that situation in Colorado.

Senator GRASSLEY. Well, I think—I think you'd want to know if our own Government would be involved in sharing information on prisons, generally because they might be doing it for prisons under your leadership.

Director PETERS. I can certainly look into it, Senator, and get back to you.

Senator GRASSLEY. Okay. Well, if you look into it, I'd like to know what you find out, and if you get the information that I've been trying to get, I'd sure like to have it. So I hope you'll share that with us.

But tell us one way or the other if you can get that information, and if you can't get it, tell me why you can't get it. Because I think it's very important that you know whether our Government is sharing information on our prison layouts with a foreign country.

According to the Department of Justice's Inspector General Report from this year, it found that inmate-on-staff's sexual misconduct is widespread across the Bureau of Prison facilities and primarily affects female employees.

The report also found that in 2021, there were 2,047 sustained allegations of inmate-on-staff sexual assaults based on five categories of offenses.

Yet the Bureau of Prison only used two categories of offenses in its First Step Act report and identified seven sustained allegations. There is a significant difference.

So, Madam Director, please explain why the Bureau of Prisons didn't use the same category of offenses as the Inspector General, and what steps has the Bureau of Prison taken to ensure its data is full and complete so that future First Step Act reports offer Congress a full picture.

Director PETERS. Thank you, Senator. I'll have to look at the coding and get back to you on that discrepancy.

But what I can tell you is, sexual misconduct by the individuals in our custody against our employees will not be tolerated.

Not only are we working to hold them accountable, the Deputy Attorney General and I have met with all of the U.S. Attorneys on multiple occasions to ask for criminal prosecution of these individuals in order to send a clear message that not only are we going to hold them accountable administratively through our Federal Bureau of Prison sanctions, but we want them held accountable criminally, as well.

Senator GRASSLEY. Okay. Thank you, Mr. Chairman.

Chair DURBIN. Thank you. Senator Welch.

Senator WELCH. Thank you. Director Peters, thank you. And I appreciated your visit that we had some months ago.

I wanted to talk about reentry centers. They're incredibly important.

You know, most people who go to prison ultimately get out of prison and it's—as my colleague from Hawaii was mentioning, these—the reentry centers are extraordinarily helpful for folks to not be repeat offenders.

We don't have one in Vermont. My understanding is that we've been told that the Bureau has conducted a market study, and, in fact, that study indicates Vermont needs a reentry center. But nothing is available.

I certainly think we do need a reentry center. Do you support establishing a reentry center in Vermont?

Director PETERS. Thank you, Senator. And I, too, appreciated our conversation in your office. So, thank you. And I do support it.

And just, as of yesterday, hot off the press, I have good news to report. We have issued an RFP for Burlington, Vermont, to try and get a residential reentry center in your State.

Senator WELCH. Well, thank you for that news. So, tell me what that means specifically.

Director PETERS. That means that we're asking for individuals to come forward and respond to that request for proposal and engage in a contract with us.

So, it's my hope that even discussing it today will encourage people who are listening to apply for that RFP and be willing to run a residential reentry center in Vermont.

Senator WELCH. Okay. Thank you for that news.

The other point I want to focus on is the programming to help reduce recidivism. And there's been many studies, as you know, that show programs that offer the largest reduction in recidivism are for secondary and post-secondary education.

It's hard, but it's helpful. And studies have shown also that these are very cost effective. If you have less recidivism, then that's less of a burden on the Bureau of Prisons.

And as part of the First Step Act, as you know, again, the Bureau of Prisons is required to introduce evidence-based recidivism reductions for Federal inmates. My question is, what percentage of programming has reopened since the height of the COVID pandemic?

Director PETERS. Thank you, Senator. I don't know the percentage that has reopened post-COVID, but I can tell you as of September 1st, we had over 110 evidence-based recidivism reduction programs and productive activities.

And I know that when I visit our institutions, they're reporting additional expansions and additional ideas. So, I know that number will continue to grow.

Senator WELCH. So, could you describe the steps that the Bureau is taking to integrate GED, secondary, and post-secondary education into the evidence-based recidivism reduction program?

Director PETERS. So, we're very proud of our GED program at the Federal Bureau of Prisons. And as it relates to secondary edu-

cation, we're very excited for the expansion of Pell Grants, which Congress approved and became effective in July.

So, we have been working with our local community correction—excuse me, not community corrections—community colleges to apply for that Pell Grant status so that they can assist us in expanding our post-secondary efforts under the new expanded Pell Grants.

Senator WELCH. So, can you just explain how the process works for an inmate? I'm an inmate and I am now in one of your facilities. How is it that I get into or I'm encouraged to get into an education program?

Director PETERS. You know, their unit manager and their counselor would work on their case plan, and what they're capable of, and what their goals are.

And then they would hold their hand and walk them through the application process and getting them involved in that GED program or that secondary education program.

Senator WELCH. Can you just describe what some of the impediments are? Some may be because of the inmates, some may be because of the resources, but what are the impediments to participation in the program?

Director PETERS. Readiness for the adults in custody to be academically ready to get through the GED, and then academically ready for secondary, post-secondary education.

The other impediments are having local resources available, the community colleges to provide that secondary education. But I believe that the expansion of the Pell Grants is going to help us get over that hurdle, as well.

Senator WELCH. Okay. Thank you very much. I yield back.

Chair DURBIN. Thank you, Senator Welch. Senator Cotton.

Senator COTTON. Ms. Peters, it came to my attention that Members of this Committee submitted written questions the last time you appeared, and I don't think we've gotten responses back. Are you aware of that?

Director PETERS. I am, Senator.

Senator COTTON. Can we count on getting responses to those questions soon?

Director PETERS. We are working diligently to get those responses back to you.

Senator COTTON. What's been the long delay?

Director PETERS. You know, it's been a long process. We always want to get these answers right. And there's a review process going back and forth between the Federal Bureau of Prisons and the Department to ensure that our answers are consistent with—

Senator COTTON. Can—

Director PETERS [continuing]. The Department's policies impact.

Senator COTTON [continuing]. Can we get a date certain, like maybe a month from today, October 13th?

Director PETERS. Senator, I would love a date certain. Unfortunately, I cannot provide that to you.

Senator COTTON. So, no. And I assume you won't provide a date certain to any new questions we have then either. Right?

Director PETERS. That's correct, Senator.

Senator COTTON. All right. You mentioned in your opening statement you talked to stakeholders in something called justice-involved individuals. What's a justice-involved individual?

Director PETERS. Someone who has been involved in the criminal justice system.

Senator COTTON. So, criminal?

Director PETERS. Criminal or victims. We had a listening session—

Senator COTTON. Okay.

Director PETERS [continuing]. Where victims also discussed the impact of the criminal system—

Senator COTTON. Is there a reason we don't just call them criminals and victims?

Director PETERS. Pardon me?

Senator COTTON. Is there a reason why we don't just use plain English and call them criminals and victims?

Director PETERS. Justice-involved individuals is a term that I use regularly.

Senator COTTON. Okay. You said that you'd been to 20 prisons in the last 12 months. That's about once every two and a half weeks. On average, how many hours do you spend in a correctional facility when you visit it?

Director PETERS. Probably six or more hours when I'm visiting.

Senator COTTON. Okay. So, close to a full working day when you're there?

Director PETERS. Yes.

Senator COTTON. How many of those hours do you spend on average with your correctional officers?

Director PETERS. Well, when I am there, I spend about an hour with my executive team that's on the ground locally, and then the rest of it is walking the halls of the institution. And I try to stop and talk to every correctional officer that I—

Senator COTTON. Any organized sit-downs with correctional officers?

Director PETERS. We had an organized sit-down with our national union, but it's more walking and talking—

Senator COTTON. Okay.

Director PETERS [continuing]. And meeting with them one-on-one at their post. I prefer that, over pulling them off their post to have a conversation.

Senator COTTON. Got it. Have you visited the Forrest City, Arkansas, Institution?

Director PETERS. No, I have not.

Senator COTTON. Would you like to join me on a visit there?

Director PETERS. I'd be happy to join you on a visit.

Senator COTTON. Okay. Because you know the incoming union chief who's taking over from Shane Fausey—Brandy White is an officer at Forrest City.

Director PETERS. We are—

Senator COTTON. I wish we would've had a second panel today with them. We had one last year, but I guess the Chairman didn't want to have a second panel with the union members today.

I want to touch this augmentee issue. Last year we passed a law that required your employees to spend 90 percent of their time on their primary responsibility.

If you're a correctional officer, 90 percent on corrections.

If you're an HVAC technician, 90 percent on HVAC.

What is the status today of the 90 percent requirement? Are you meeting that requirement?

Director PETERS. We are working hard to meet that requirement—

Senator COTTON. That sounds like a no.

Director PETERS [continuing]. And so we are continuing to battle our recruitment and retention issues—

Senator COTTON. Eighty percent?

Director PETERS. I don't have—

Senator COTTON. Seventy percent?

Director PETERS. Yes, I don't have an overall number for you, Senator.

Senator COTTON. How can you not have an overall number of what your core officers are doing? Not research associates, not administrative assistants, but these—like this, they perform the mission of your organization and you don't know how much time they're spending?

Director PETERS. Senator, it changes every day and is different at every single institution.

Senator COTTON. There's got to be an average, though.

Director PETERS. I don't have an average, Senator.

Senator COTTON. I mean, hitters go over .400 in a day, but they can still hit .350 in a season. There's got to be an average. Right?

I'm disappointed you don't have an average.

This is not—it's not like some political hot potato. I'm not asking you about men who claim to be women to go into women's prisons. This is like a core responsibility of your organization.

Let's turn to why you're not meeting that staffing numbers. You said in your written testimony that you're at 88 percent funded positions. How many correctional officer positions did the President request, and Congress authorize and fund, for 2023?

Director PETERS. Senator, I don't have that number in front of me, but we can certainly get back to you.

Senator COTTON. Twenty thousand, four hundred forty-six. Do you know what it was last year?

Director PETERS. No, Senator.

Senator COTTON. Twenty thousand, four hundred forty-six. How many correctional officers are currently employed?

Director PETERS. We, like you just mentioned, we—the percentage is 88 percent of the funded—

Senator COTTON. No—correctional officers, not total slots. Correctional officers—

Director PETERS. I don't have that—

Senator COTTON [continuing]. How many do you have?

Director PETERS [continuing]. I don't have that number in front of me, but I can get it and get back to you, Senator.

Senator COTTON. Ms. Peters, again, these are your primary employees. These are the meat eaters, not the leaf eaters that do all the other jobs. And you don't know how many you have employed?

Do you think it's—if you have 20,446 authorized, do you think it's 18,000?

Director PETERS. Senator, I know that the number is 88 percent of those funded positions.

Senator COTTON. No, no, that's your total positions.

Director PETERS. Yes.

Senator COTTON. Do you think you have—do you think it's closer to 8,000 or 18,000 correctional officers?

Director PETERS. I think it's closer to 18,000, but we—

Senator COTTON. That's—

Director PETERS [continuing]. Can get that number and get back to you, sir.

Senator COTTON [continuing]. Kind of right in the middle, maybe a little on the—verging toward 8,000. It's 12,731, which say 60 percent that you had authorized for last year and this year. Yet you're boasting of an 88 percent total employment rate.

And then you're complaining that you don't have enough officers to meet the 90 percent requirement that we mandated—that President Biden signed into law.

It sounds to me like you need to spend a lot more time and money focused on hiring the people who are performing your organization's chief responsibility and less support personnel.

Why is your organization at 88 percent total, but your core job only at 60 percent?

Director PETERS. So, Senator, I don't know what that number is, so I'm not going to say on the record that it's 60 percent, but we'll get that number and get back to you.

But I will tell you, all of—the majority of our recruitment efforts over the last year has been for those correctional officers.

Senator COTTON. But—but you're not meeting it. You're at 88 percent for overall employees, which includes all those leaf eaters I mentioned. You're at barely 60 percent for your meat eaters, the people who are doing the main mission of your job.

It seems—my time's up here—but it seems to me like the BOP needs to do a much better job recruiting and hiring corrections officers since that is what you actually do is corrections, and much less time hiring all these other support personnel and headquarters personnel.

I look forward to seeing you in Forrest City.

Chair DURBIN. Senator Ossoff.

Senator OSSOFF. Thank you, Mr. Chairman. And Director Peters, good to see you, again.

Director PETERS. Thank you, Senator. Good to see you.

Senator OSSOFF. You entered this post with a reputation as a reformer. When you took this job, you expressed to this Committee, to the Permanent Subcommittee of Investigations, and to the public, your commitment to reform. And I said to you, at that time, that the question is whether or not you would deliver.

You've now been in the post for about a year, and Congress expects results.

I want to begin by talking about the sexual assault of female inmates in BOP custody. Investigation I led at the Permanent Subcommittee of Investigations last year found that in two thirds of

BOP institutions that housed female inmates, female inmates had been sexually assaulted by members of staff.

What specific steps have you taken in the last year to end the sexual assault of BOP inmates?

Director PETERS. A whole host of things, Senator. So, we have engaged in cultural assessments at all of our female facilities. We've brought in external consultants to help us engage in trauma-informed care and gender responsiveness.

The most important thing that we've done is work to hold those who have engaged in that abuse accountable.

The Deputy Attorney General herself has visited our facilities and launched a SAFER teams review of our female facilities across this country, and brought forth recommendations that we are also implementing.

We continue to work with law enforcement and U.S. Attorneys to hold those individuals accountable, and continue to increase our training so that when we hire the right people on the front end, they are then trained to do their job.

Senator OSSOFF. Okay. Let's talk about two specific deficiencies that we had identified in the PSI report.

One, the efficacy of PREA audits. At institutions that had passed their PREA audits, there was nevertheless widespread sexual assault.

At one institution that had passed its PREA audit, the warden and the chaplain were later found to have raped inmates. What steps have you taken to ensure that the PREA audits identify indicators of sexual assault in prisons?

Director PETERS. So, the PREA audit is based on the standards put forth across the country for all correctional facilities. And they did great things. They did things like ensure that reporting structures were in place. That oversight was in place. That individuals were given information around their right to be safe.

Unfortunately, PREA doesn't predict future behavior. And so our—our work is in hiring the right people, training the right people. And when they do act in this egregious criminal way, to hold them accountable.

Senator OSSOFF. Have any changes been made to the process by which BOP contracts for these PREA audits reviews these PREA audits?

Director PETERS. No, Senator.

Senator OSSOFF. Okay. Are you personally reviewing incident reports from BOP facilities?

Director PETERS. So, I sit down with the head of the Office of Internal Affairs and HR every month and go through the list of allegations across the country, and they highlight the most egregious ones. They highlight the numbers. We talk about length of stay as it relates to the investigation.

Senator OSSOFF. Are you personally reviewing fatality reports?

Director PETERS. I am. I am reviewing the Suicide Reconstruction Reports.

Senator OSSOFF. Are you reading Suicide Reconstruction Reports in full?

Director PETERS. I am.

Senator OSSOFF. In addition to the shortcomings of the PREA audits—and I don't think it's fair to say that they were doing great things when at institutions where leadership was engaged in sexual assault, the audits came back clean.

But putting that aside—putting that aside, another key issue that we identified were the shortcomings in the Office of Internal Affairs, and, in particular, the multi-thousand case backlog of investigations.

What steps have been taken to clear that backlog and how much progress has been made?

Director PETERS. And if I might, just for a second, PREA did—

Senator OSSOFF. Well, my time is very limited.

Director PETERS. PREA did great things 20 years ago. That was the point I was trying to make.

Senator OSSOFF. Okay.

Director PETERS. As it relates to the Office of Internal Affairs, that backlog was something that has been there for a while. We added more than 50 positions to the Office of Internal Affairs. They have now been hired and trained, and we will start seeing that backlog and the timeliness of investigations improve.

Senator OSSOFF. What is the state of the backlog today?

Director PETERS. I don't have those numbers in front of me, but I can get those for you sent.

Senator OSSOFF. Okay. Yes. By the end of the week, could you please send the Committee the total number of backlog cases and your targets for its improvement over the next year?

Director PETERS. I can't guarantee you that it'll be by the end of the week, but we will work diligently to get that response back to you.

Senator OSSOFF. Okay. Well, we'll hope for it quickly. Mr. Chairman, with your indulgence, I know there are a couple of Members waiting, but I want to ask you about U.S. Penitentiary, Atlanta.

And Senator Cotton was discussing the staffing issues, the difficulty meeting the presidentially requested and congressionally authorized staffing number.

More than 20,000 correctional officers who are meant to be employed by BOP—under 13,000 who are currently on staff, significant issues with the use of augmentation, the inability of personnel to engage in augmentation, for example, over weekends leading to lockdowns, deficiencies, and conditions and service for inmates, staff being put at risk.

What specific steps are you taking to ensure that correctional officers can be recruited and hired at competitive salaries and retained?

Director PETERS. So, we have rolled out retention and incentive—recruitment incentives across the country at certain facilities that are really struggling.

We've really worked hard to work with an outside consultant to change how we're branding ourselves and marketing ourselves so that we get that solid corrections professional to come into the front door. And we have—that—this has been a top priority for us over the last year.

Senator OSSOFF. Thank you, Mr. Chairman.

Chair DURBIN. Senator Tillis.

Senator TILLIS: Thank you, Mr. Chairman. Director Peters, thank you for being here, and thank you for the time that we shared in my office getting an update.

Going back to some of Chair Durbin's opening statements. We talked about the work that you're doing in reform, but we have to understand we all play a role in that.

I mean, there are \$2 billion in maintenance backlog. That's just actually trying to get facilities like Butner to a point to where the employees have a safe working facility. That doesn't get to any kind of transformational reform. That just basically gets us to where we should have been to begin with.

So, we need to make sure, as we start asking for reform, what role we're going to play to actually bring it about versus having it discussed every year, and really not a lot of progress.

I do have to do a little bit of case work. You and I talked about Butner. I've had 50 complaints from my office, from employees at Butner. We all know the conditions—the roof, the other—the other challenges that we have there.

I just need to get an update and see positive trending there. You gave me some hope. But I know that which is not measured seldom gets achieved, and we've got to start tracking this pretty closely.

So I just want to make sure I've got your commitment.

When I have these constituent inquiries, 50 of them, I can share with you the nature of the complaints—there's about four or five key areas—that I have to get a timely response for the purposes, not of your employees, but my constituents. They're playing a dual role there. Do I have your commitment to make sure that you can do that in an expeditious manner?

Director PETERS. Senator, we're happy to respond to those requests.

Senator TILLIS. I also think that we need to solve what we know, and I could even see by the reaction in this audience. We've got different people here viewing—particularly noted, Senator Cotton's questions, which I tend to agree with.

But we've got a disconnect between management and the people in the facility. We have to see people getting to a table and resolving that disconnect.

Do I have your commitment to be one of the people that's going to be moving toward having the right discussion with the executive staff at Butner, the union officials, employees, and other stakeholders to make progress on this challenge?

Director PETERS. Senator, we continue our conversations with our national union. I do rely on the local warden and the re—and the—our regional director to have those conversations locally.

But with the incoming president, we plan and have already discussed to continue the same conversations we had with Shane Fausey on his—

Senator TILLIS. Well, it's sort of like Congress. If you're not talking, you're not making progress. And we need to make sure that there are good faith discussions going on to make progress.

I also want to thank everybody that works in the facility at Butner and across the system, particularly the corrections officers for the work you're doing. That's why I wore the flag today. You're a part of the blue, and I "Back the Blue."

I also want to talk about something that relates to Senator Graham's questions and I think loosely that Senator Cotton's, and it has to do on the biological gender versus a gender that requires you to make a decision.

I think it's very important to get the information that Senator Graham asked for—just how many, I want to know. And I want to know, in either direction—whether it's a biological male who is being considered transferred to a female facility or any biological female who's requested being transferred to a male facility.

I also wanted to know if that—you said the community standard of care. Is that something that is overseen by the BOP Transgender Executive Council?

Director PETERS. That would be part of their deliberations, that community standard of care, as they determine what is medically necessary.

Senator TILLIS. Okay. So, I'm curious about, I think it was the first of its kind. If it's not, correct me, but I think it was inmate Langan—a neo-Nazi who helped found the Aryan Republican Army, convicted of bank robbery in 1997—in September 2021, I think, sought approval and in January of 2023 received gender reassignment medical procedure.

And I guess has subsequently dropped the case because he felt like the BOP—she felt like the BOP did not properly execute facial hair removal.

Has that been—has that been resolved? Is that the only case of its kind or are there other cases like this in the BOP?

Director PETERS. Senator, I'm not familiar with this individual patient, but we would be happy to look into it and get back to you.

Senator TILLIS. Yes, well, I, I'm just curious if it's a first of a kind or if it's something—it made me think to ask this question because we were also—we're trying to get the data from, that Senator Graham asked, but is this something that we're going to see more of? Has it become systematized and could we potentially see more of it?

And, you know, quite honestly, you're going to be hard pressed for me to find someone who is convicted of a serious crime to then receive taxpayer dollars to allow this transition when we've heard about all the limited resources for the hardworking people in the Bureau of Prisons.

So, I'd like to know whether or not we actually have people in Bureau of Prisons who think that prioritizing the expenditure of dollars for convicted felons should take priority in a world of scarce resources over all the things we're dealing with at Butner and across the system.

I'll follow up with questions for the record. Thank you, again, for your time.

Director PETERS. Thank you, Senator.

Chair DURBIN. Thank you, Senator Tillis.

And I might say to the Director, why don't we—I'd like to complete the list of things related to this topic, particularly which medical services are being provided pursuant to court order. I believe that is a fact, and the situation.

And it also—the incidents of abuse against those who are transgender women who remain in male prisons. We want safety for all, and that would include them, as well.

Director PETERS. Thank you, Senator.

Chair DURBIN. Thank you.

Director PETERS. Thank you.

Chair DURBIN. Senator Klobuchar.

Senator KLOBUCHAR. Thank you, thank you, Chairman.

Director, last year we talked about my bipartisan bill, Senator Cornyn and I put forward, to ensure that women in custody receive access to the prenatal and postpartum care that they need.

The bill would establish care standards for how Federal facilities treat pregnant and postpartum women in custody while ensuring they have access to critical healthcare and nutritional services.

Could you—did you have a chance to look at that and do you agree that we should ensure that pregnant women in custody receive healthcare? Could you just give me a status report on what's happening there?

Director PETERS. I can, Senator. So, yes, I did read the bill following the last hearing and read it again in prep for this one. So, thank you.

In February of 2022, the Federal Bureau of Prisons issued the management of pregnant and postpartum offenders with technical guidance in there that I think speaks parallel to your bill.

Some of the things I'll just mention is, we are careful not to restrain pregnant or postpartum women. Women have the opportunity to bond with their children. We offer them what we call the MINT Program—the Mothers and Infants Together Program—at 5 community-based facilities.

In the event that the women can't leave the Federal Bureau of Prisons and bond with their child in that community setting, we do have an inter-government agreement with the State of Washington, who does have a residential parenting program.

And then we also offer women who remain in the institution an opportunity to engage in prenatal and postpartum parenting, programming to assist them in raising those children from inside.

Senator KLOBUCHAR. Okay. I know one of the things in the bill is requiring BOP to transfer inmates experiencing high-risk pregnancies to a facility that can provide them adequate care. Is that part of the standards that you have?

Director PETERS. It is Senator, yes. We have a facility specifically for women who are at high risk.

Senator KLOBUCHAR. Okay. I have heard from constituents about staffing shortages at—and I'm sure you've seen this around the country, various other industries and entities are, as well, but specifically at Bureau of Prisons facilities in Minnesota.

These reports have been corroborated by an OIG report released this May that found significant staffing shortages at the Federal Correctional Institution in Waseca, Minnesota. These staffing shortages have resulted in officers working large amounts of overtime and non-correctional officer employees, including cooks, and teachers, and nurses being forced to fill in under that process, I believe, called augmentation.

And, you know, I'm a big believer in doing a lot more on workforce outside of the prisons, and it's everything from workforce training to doing more on work permits and immigration reform. But could you talk about what steps you are doing to ensure that augmentation is used appropriately?

Director PETERS. Thank you. So, you know, our employees, and many of them are in the room, could speak to this, we were exhausted before the pandemic, and then the labor market got worse and views of law enforcement changed. And so recruitment and retention has been an issue. It's been a top priority of ours.

We consulted with two external organizations to help us understand our staffing issue and change how we market and brand ourselves to bring additional people in.

We've seen improvement. We had a 60 percent increase in those that applied to the organization in the last year, and a 20 percent decrease in separations. So we are not where we need to be to end augmentation and overtime, but we are making progress.

Senator KLOBUCHAR. What steps can Congress take to help States that want to address the issue of understaffing at BOP facilities?

Director PETERS. You know, I believe that there are two categories. One, help us sell who we are and what we're about. And that the Federal Bureau of Prisons is an amazing place to work, because I believe it is.

There are heroes behind me who do amazing work every single day. And any help with the labor market, I mean, that is, as you mentioned, everyone is struggling right now—

Senator KLOBUCHAR. Mm-hmm.

Director PETERS [continuing]. And it's just compounded in law enforcement and correction.

Senator KLOBUCHAR. Yes, I actually visited this facility once that I referred to, and I left with that feeling in terms of the work the employees were doing.

But also the inmates, the skills they were learning and just the energy in terms of what they could do with those skills when they got out, which we have to be thinking about, as well, in terms of our workforce—that, obviously with exception of very violent offenders and people who are in for life, as they should be.

There are a number of people that are going to get out that are in there for different kinds of offenses that we want to make sure are learning, learning these skills.

One last question. What is the Bureau of Prisons doing to mitigate the negative effects that some of this understaffing has on the mental health of BOP employees?

Director PETERS. Yes, these are very complex and difficult jobs, and then when you're engaged in overtime and augmentation, that mental health and that physical struggle gets even greater.

So, in the last year, we've changed and modified some of our employee wellness policies to increase resources to our employees, to ensure that our crisis teams have more availability and access to our employees, and assist them at following an incident.

We've also changed our practice so that retirees can access these resources, and that's just the beginning. We will continue to work on employee wellness, both physical and mental health.

Senator KLOBUCHAR. Thank you.  
 Director PETERS. Thank you, Senator.  
 Chair DURBIN. Senator Blackburn.

Senator BLACKBURN. Thank you, Mr. Chairman, and Director, thank you so much for being here with us today.

Director PETERS. Thank you

Senator BLACKBURN. I do appreciate it.

As you would expect, I want to talk about Memphis and our concerns we have there. There are so many structural problems. And yesterday the Memphis staff met with my team and we heard about the facility there.

You and I have discussed this previously, the leaking roof, and I know you have said you're going to have a trip to Memphis in October. But I would hope following our meeting and following the way the employees at Memphis have highlighted with you these problems, that you've got a timeline for addressing these problems, and that that has not lingered.

And I would be hopeful that you are not waiting on the trip to Memphis to decide to address these. And we've got the Memphis employees here with us today, and I'm pleased that they are here. So, talk to me about a timeline for addressing these issues.

And we also found out that the SHU, the special housing unit, yesterday is basically a condemned building. So, what is your timeline for addressing that? What's the plan of action that these employees can return to Memphis and say, "Help is on the way"?

Director PETERS. Senator, thank you. And we've talked about this in your office. I don't have the timeline in front of me, but I know we discussed it in your office, and I know they're making progress. I know, and I know the employees that are here, I'm sure they're convinced progress is not fast enough.

We are constantly reprioritizing which structures need to be fixed, but I know that we have plans in place at Memphis. I assure you, we are not waiting to fix the facility structure for my visit. Those plans will continue on the cadence that they are supposed to be on—

Senator BLACKBURN. Okay.

Director PETERS [continuing]. And I look forward to visiting the facility.

Senator BLACKBURN. Could you get in writing that timeline to me so that these employees know when that help is going to be arriving—they know when to expect it, and that they know that you all are indeed going to follow through on this?

Director PETERS. Yes, Senator.

Senator BLACKBURN. Okay. If I could get that within the week, that would be very helpful.

Director PETERS. Senator, we'll work diligently to get that to you.

Senator BLACKBURN. Great. Let's also talk about the drones, because I know Memphis is understaffed. You and I had discussed the drones and you said there was one drone that had been apprehended. I think that when we talk about drugs in our facilities, and there's been conversation in the questions here today about that, this creates a problem for the staff.

And if these drones are flying in at night and we are understaffed at night, but we know it—that it is—they're bringing in il-

licit drugs, what is your plan specifically on handling, addressing the drones?

Director PETERS. Thank you, Senator. So, we are working on—we are utilizing managed access systems, which capture all cellular signals within the confines of a prison. We are utilizing micro jamming systems to jam all cellular signals. We are deploying and looking at cellular communications as defined by a geospatial area.

So, that's a lot of technical language to say we're leveraging the latest technology to ensure that we can handle what you described, very accurately, as a very serious situation with the drones. And it's—there's—the technology is constantly changing, and we're just trying to stay ahead of that changing technology.

Senator BLACKBURN. It's a hard thing to do.

Director PETERS. Mm-hmm.

Senator BLACKBURN. I also want to ask you about home confinement and those that—Federal prisoners that were put into home confinement during the CARES Act. And, of course, the COVID pandemic is over, but you decided to go ahead and leave these individuals in home confinement rather than have them returned to the facilities.

These are convicted criminals. They are serving their sentence. So, where did you get the authority to decide to leave them on home confinement? And why did you choose not to return these? What was your decision matrix on that?

Director PETERS. So, I used data to make that decision in collaboration with the Department. So, we released over 13,000 individuals under the CARES Act, with less than half of a percent of them returning to prison.

And so they were successful in the community, and so we made the decision to keep what I think today's date are about 3,300 individuals in the community, hoping that they would be better served in that situation than returning to prison.

Senator BLACKBURN. Well, I find it interesting that DOJ thought they had the authority to give you the authority to do that and to make that decision to allow them, even though the emergency has ended. It is over. And it seems that these prisoners should go back to prison to serve the balance of that sentence. Thank you, Mr. Chairman.

Chair DURBIN. Thank you, Senator. Senator Whitehouse.

Senator WHITEHOUSE. Thanks for being here, Director Peters, and thanks for the meeting that we had. I appreciate that.

Director PETERS. Thank you, Senator.

Senator WHITEHOUSE. As you know, I was very involved in establishing the time credits under the First Step Act to help people prepare for successful release into the community by participating in programs that create that good effect prior to their release, including programs like addiction treatment, and job training, and family reconciliation.

You have moved from manually calculating those credits, which was kind of a mess, to an automatic system. How's the transition from manual to automatic going? Can we put those issues behind us, or do you still have concerns about the automatic system?

Director PETERS. Thank you, Senator. So, it didn't roll out as smoothly as we had hoped. We had some technical glitches as we

rolled it out. We also intend to front load the earned time credits so that those in our custody understand if they continue to engage in programming and treatment, kind of, what the carrot is out there for them.

And we found recently that we're having technical difficulties with the front loading of those earned time credits, as well. So, it has gotten better. It's not smooth and it's not perfect yet, but we'll get there.

Senator WHITEHOUSE. Okay. If you could expand on that a bit in a written answer to me, just to fill in some additional details, I'd appreciate that.

It appears that the program has been generally successful. I think the latest data that is available to us is as of January—the end of January of this year that 13,500 individuals had been released from residential reentry centers, home confinement, and secure facilities with First Step Act earned time credits.

And that, compared to a 43 percent recidivation rate for the overall BOP population, they had that recidivation rate for the First Step population was only 12.4 percent.

That suggests that the program is generally successful, but as you know, the First Step Act contemplates a multiplicity of potential programs. Are there preliminary results or are you looking at which programs seem to be producing the best results within the suite of eligible programs? And what can you tell us about where the most successful areas are?

Director PETERS. Thank you, Senator. So, from January to August of this year, we had almost 23,000 individuals leave through FSA, so that number's a little bit bigger because we were able to capture that August data, and the recidivism numbers that you present are accurate.

So, we do know this works. We have over 110 evidence-based reduction programs and productive activities, and we are going to continue to grow that number.

And our research department is looking at studying which ones are more effective than others. We'd—I don't have that data in front of me today, but we certainly can get back to you.

Senator WHITEHOUSE. Yes, I'd appreciate that. I think, you know, there's a certain amount of time that it makes sense to take, to make sure you have a sufficiently robust data pool—

Director PETERS. That's right.

Senator WHITEHOUSE [continuing]. So that you can draw those correct conclusions. But I really would appreciate it if you would keep in touch with me on that process. And I guess the best way to do that is to get an update as to where you feel we are right now as a question for the record in this hearing. So, thank you.

Director PETERS. Thank you, Senator.

Chair DURBIN. Thank you, Senator Whitehouse. Senator Lee.

Senator LEE. Thank you, Mr. Chairman. Thank you, Ms. Peters for being here and for your service.

Director PETERS. Thank you, Senator.

Senator LEE. Nearly 1 year ago, we held a hearing, I think we're 2 weeks shy of being 1 year from that hearing.

Immediately following that hearing, I submitted a short list of questions to you and have not yet received a response. It was dur-

ing that hearing that a couple of my colleagues asked you about timely responses to questions from this Committee, and you acknowledged that it was important to do that.

Can you tell me why you haven't responded to my questions yet? These are not difficult questions, and most of our nominees respond within a week or so of getting them.

Director PETERS. Thank you, Senator. So, I, too, am disappointed that those questions for the record have not yet been answered.

We have been working on them diligently over the last year. It has been a lot of back and forth with the Department. I was hoping that they would be cleared this week. They're not yet.

That being said, we have done other things. We've increased the number of employees in our legislative affairs, so the individual requests that we have received—

Senator LEE. Two—

Director PETERS [continuing]. Over the last year, have been more timely—

Senator LEE. Can you tell me when I can receive a response to those questions?

Director PETERS. I don't—I don't have a specific date—

Senator LEE. Okay—

Director PETERS [continuing]. For you, Senator, but I know we're working on them.

Senator LEE. Okay. I'd appreciate it if you could get back to me by the end of this month. That would be 1 year from the date of the hearing, and I don't think that's too much to ask.

One of the reasons I'm asking about this, and I hate to pester you on that, it's just, we do need answers to those questions. They're important.

Among the questions that have been asked of you relate to how we separate out male and female prisoners. We do this for good reasons, reasons that relate to human biology, differences between the sexes. And there are a lot of questions that we have about how we do this.

It's quite concerning that the number of female inmates who have become pregnant during the course of their confinement in BOP custody is not zero.

And it's even more concerning that a substantial number of those pregnancies are the result of the BOP forcing female prisoners to share their facilities with biologically male prisoners. It's really concerning.

Now, in January of 2022, the Bureau of Prisons adopted definitions that have an impact in the area that I'm asking about. Definitions for words like "gender," "gender nonconforming," "gender-affirming," and "cisgender."

For example, the Bureau of Prisons must now look at gender as, quote, "a construct used to classify a person as male, female, both, or neither. Gender encompasses aspects of social identity, psychological identity, and human behavior," closed quote.

Now, I understand there are lots of feelings, lots of different beliefs about those things. What I find most alarming about this is that, notably absent from that list are things that you might expect to see. That you might think should at least be taken into account. Things like biological sex, like reproductive organs, the presence of

a Y chromosome, or something as simple as a 5 o'clock shadow or an Adam's apple.

Is biology now a verboten subject when you determine which prison you're going to send a prisoner to be incarcerated in? Is that—is that now off limits?

Director PETERS. No, Senator. In fact, I would present to you today that the majority of those in our care and custody are housed in facilities based on their chromosomal distinctions.

Senator LEE. The majority of them, as we've always done, and as any sane prison system always would. The majority of them, it's good to know. But why not all of them? Why would you ever subject female inmates, in particular, who face a series of biological disadvantages relative to male prisoners—face a number of vulnerabilities that male prisoners don't face. Why would you ever subject female inmates to being incarcerated against their will with biologically male prisoners? Can you tell me one that's ever justified?

Director PETERS. So, we also recognize, as do many experts, that a person may identify as a different gender than their biological one. And we recognize that at the Federal Bureau of Prisons.

Senator LEE. Okay. But a prisoner, as I understand it, need only convince a single Bureau of Prison's psychologist to sign a form to have their identity considered for a transfer. Just one person. And the request then has to be approved, but that's really all that has to happen. It's almost a turnkey situation. They convince one psychologist and the whole process is set in motion.

And yet it's my understanding that BOP doesn't publish statistics on the number of inmates who are assigned to a prison that doesn't conform with their biological sex. Why is that?

Director PETERS. So, Senator, while that frontline counselor starts the process, the process is very complex. It's a multidisciplinary team that includes experts from psychology and health services, and corrections that make that final determination around—

Senator LEE. So why doesn't it publish the statistics?

Director PETERS. Senator, I don't know why we don't publish the statistics, but I can look into that and get back to you.

Senator LEE. Okay. That that'd be great. If you would publish that, I would appreciate it.

Now, some have estimated that the number is around 1,300 as of January 2022. To the extent that that estimate was even in the ballpark, it's undoubtedly higher now, the longer that this stays intact.

That is not an insubstantial number, especially when you consider the fact that most prisoners in America are not in BOP custody. That is, most prisoners are serving as sentence issued by a State court for an offense under State law, not Federal. It's a really large number.

And it's very concerning considering the number of pregnancies that take place, the number of heinous circumstances that can result from this, and in fact have resulted from them.

I see my time has expired. I've got other questions to ask you on this and other topics, including implementation of the First Step Act. I will submit those in writing. Thank you.

Director PETERS. Thank you, Senator.  
Chair DURBIN. Senator Cruz.

Senator CRUZ. Thank you, Mr. Chairman. Ms. Peters, one of President Biden's first acts after taking office was to issue Executive Order 14006, mandating the contracts with privately owned detention facilities not be renewed.

The order is intended, quote, "To decrease incarceration levels by reducing profit-based incentives to incarcerate by phasing out the Federal Government's reliance on privately operated criminal detention facilities."

This order has created many unintended consequences, including the closing of the Willacy County Regional Detention Facility in Raymondville, Texas. The decision has had tremendous negative consequences with little to no obvious upside: forcing inmates to travel hundreds of miles round trip for court appearances, impacting the accessibility of legal counsel, and making family visits significantly more difficult.

It has also caused administration issues for the prison system and harmed the local economy by eliminating these jobs. Literally, every stakeholder that has a role to play in these cases is opposed to this Biden policy. That includes the Defense bar, the Federal Public Defender, the U.S. Attorney, even the Federal bench, all have publicly asked for this policy to be rescinded.

Unfortunately, as with the open borders under Joe Biden, the Biden administration doesn't give a damn about how their woke policies actually affect South Texas or the lives of regular people.

Ms. Peters, how has Executive Order 14006 impacted the Bureau of Prison's ability to house inmates and has it been a negative impact or a positive impact?

Director PETERS. Thank you, Senator. So, we were able to come into compliance with the Executive order last—the end of last November, and bring in those individuals from those facilities that were closed and we were able to safely absorb them into our current population.

Senator CRUZ. Okay, that, that—you didn't answer my question. How has it impacted the BOP and has it been positive or negative?

Director PETERS. I—Senator, I don't know that I can put it in a positive or negative category. What I can—

Senator CRUZ. So is—

Director PETERS [continuing]. Say is—

Senator CRUZ [continuing]. Is the Defense bar—

Director PETERS [continuing]. We have safely absorbed—

Senator CRUZ [continuing]. And the U.S. Attorney, and the Federal bench, are they all wrong?

Director PETERS. I'm not familiar with their opinions and their reasons for opposing—

Senator CRUZ. Okay. Unfortunately, you're illustrating that the Biden administration doesn't care about South Texas if you don't even know the impact it's having on all the stakeholders.

All right, let's shift to the topic Senator Lee was just asking you about. Because I have to say, I found your answers to him thoroughly unacceptable.

The 2022 Transgender Offender Manual, issued by the Bureau of Prisons through your predecessors, reverted back to the Obama Ad-

ministration's initial designation and housing programming assignments. Notably, biological sex at birth is no longer the controlling determinant.

Right now today, how many biological males are housed in female prisons under BOP?

Director PETERS. Senator, I don't have those numbers in front of me today, but—

Senator CRUZ. Why don't you?

Director PETERS. We could look at them and get back to you.

Senator CRUZ. Why don't you? Did you—

Director PETERS. I just don't have them top of mind.

Senator CRUZ. Did you know you were going to be asked that today?

Director PETERS. No, Senator.

Senator CRUZ. You didn't? Have you been asked that before?

Director PETERS. On the record, Senator?

Senator CRUZ. Yes.

Director PETERS. I don't recall.

Senator CRUZ. You were asked a year ago in writing and you failed to answer it in writing. You knew damn well you were going to be asked it today, but you don't want to answer it.

Senator Lee asked, "Why don't you report the numbers?" You don't report the numbers, because you don't want people to know the numbers. So, the fact that you sit there and say, "I don't know"—he said 1,300. Is that number in the ballpark?

Director PETERS. Thirteen hundred as it relates to which category Senator?

Senator CRUZ. Biological males housed in female prisons?

Director PETERS. No, that would be a much larger number.

Senator CRUZ. Which is a larger number?

Director PETERS. So, the number of individuals who even identify as transgender at the Federal Bureau of Prisons is around 1,700. And the number of individuals that are housed in institutions not conforming with their biological sex are very low.

Senator CRUZ. Very low. Are we talking 100? Are we talking 10? Are we—

Director PETERS. I think—we will look at the numbers. We're talking less than 10.

Senator CRUZ. So, your testimony here—I just want to understand. Your testimony here today, is there are fewer than 10 biological males, human beings that were born male who are housed in female prisons. Is that your testimony?

Director PETERS. That is my understanding. And I will confirm that and get back to you.

Senator CRUZ. Okay. Of the 1700 prisoners you referenced, how many of them are convicted sex offenders?

Director PETERS. I do not know the answer to that, Senator.

Senator CRUZ. Are you aware that Great Britain's numbers according to a January 2022 report, is the proportion of male born transgender offenders who are sex offenders in the UK prison system, is roughly 60 percent? Significantly higher than the 18 percent of the general population.

Are those numbers consistent with the American numbers?

Director PETERS. I haven't—I'm not familiar with Great Britain's numbers.

Senator CRUZ. So, let me ask you this. How many female inmates have been sexually assaulted by biological males who BOP has housed in female prisons?

Director PETERS. Senator, I would have to look into that and get back to you.

Senator CRUZ. Do you have an obligation to protect those female prisoners?

Director PETERS. Absolutely.

Senator CRUZ. And so, have you examined how many women have been sexually assaulted by biological males that BOP has placed in the prison with those women?

Director PETERS. I have not, Senator, but I will tell you that safety and security in the placement of every individual in our custody is top of mind and the most important.

Senator CRUZ. So, if it's top of mind, why haven't you examined how many have been sexually assaulted? This is an obvious question.

If you put a man with male genitals with a male body in a female prison who's a convicted sex offender, it's not rocket science that there's a real risk those women are going to be victims of sexual assault.

How is it possible that you haven't even asked the question, "How many women are getting sexually assaulted because of the policies of the Biden administration?"

Director PETERS. Senator, I assure you that safety and security of these individuals are top of mind. And if there—

Senator CRUZ. So, you haven't asked the question?

Director PETERS [continuing]. If there was misconduct, those individuals would be held accountable.

Chair DURBIN. Thank you, Senator Cruz.

As you probably have noted, this is the Senate Judiciary Committee with a subspecialty in transgender politics. It seems that every time we have a hearing, we are talking about transgender.

I know it's a topic of great concern to my colleagues and they're welcome to ask their questions.

We estimate that one half of 1 percent of the population of the United States is transgender. You would think it were a lot larger, in light of some of the attention being paid to the issue.

But having said that, I want to go back to the point that was made by Senator Graham. We're talking about the safety of all prisoners—all prisoners, regardless of their cisgender or their—whether they're going through transition or any other circumstances.

We also understand that we are dealing with the possibility of those who identify as transgender being victimized. I'd like to ask the Director, has that been an issue?

Director PETERS. Senator, it has not been an issue that has risen to my level.

Chair DURBIN. Well, what we have been told is that transgender women held in male facilities are uniquely vulnerable. And according to the Justice Department, are abused at higher rates than other population.

Pursuant to PREA, U.S. prisons already housed many women who are transgender in women's facilities where they are safest. Safety of the prisoners is the highest priority regardless of their—I see you nodding in agreement. You have said that earlier.

Director PETERS. I agree.

Chair DURBIN. So, if you would clarify some of the questions that were asked earlier, I would appreciate that very much.

I want to address a couple other issues that came up here. One of the Senators suggested we needed a second panel this year. I tried that last year and I won't name names, but some of the Senators did not return for the second panel.

I am meeting with the national union this afternoon, and I keep in touch with them on a regular basis, and will continue to.

I also note that we seem to have bipartisan agreement, which I want to make sure is headlined, that the BOP needs significantly more funding for staffing, building maintenance and repairs, and other critical needs. Let's see if that translates into a bipartisan request for appropriations to match with that.

You have an important job. You've been told a lot of different things today.

I would tell you that Senators really take it personally when you don't answer their questions. It's more than almost any other thing.

And I would recommend that you make that a high priority. It will lead to more comfortable circumstances in our next meeting if you can do that. And I thank you for your service.

And with no further questions to come before the Committee, we stand adjourned.

Director PETERS. Thank you, sir.

[Whereupon, at 11:36 a.m., the hearing was adjourned.]

[Additional material submitted for the record follows.]

## **A P P E N D I X**

**Submitted by Chair Durbin:**

Citizens for Responsibility and Ethics in Washington (CREW), statement 116



# Department of Justice

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STATEMENT OF  
COLETTE S. PETERS  
DIRECTOR  
FEDERAL BUREAU OF PRISONS

BEFORE  
THE COMMITTEE ON THE JUDICIARY  
UNITED STATES SENATE  
FOR A HEARING ON  
“OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS”

PRESENTED  
SEPTEMBER 13, 2023

**Statement of Colette S. Peters**  
**Director, Federal Bureau of Prisons**  
**Before the Committee on the Judiciary**  
**United States Senate**  
**September 13, 2023**

Good morning, Chairman Durbin, Ranking Member Graham, and Members of the Committee, I appreciate this opportunity to discuss the significant mission and the impactful work happening at the Federal Bureau of Prisons (FBOP or Bureau). I am honored to represent, before you today, the nearly 35,000 employees of the FBOP. I believe in good government, accountability, transparency, and the importance of oversight. In coming to this work openly and in the spirit of cooperation, I believe we can achieve greater success and excellence together.

With a dedicated career spanning over 30 years in public safety and corrections, I have been shaped by various roles: research associate, counselor in a juvenile correctional facility, victims' advocate and crisis mediator for the Denver Police Department, Inspector General of Oregon, and Director of Juvenile and Adult Corrections for more than 14 years.

As the 12th Director of the FBOP, it is motivating to lead exceptional corrections professionals of the largest corrections agency in the nation. Every day, I am inspired by the dedication of our employees. These diligent corrections professionals share a collective vision of correctional excellence that extends beyond the mere confines of institutional walls. We remain dedicated to creating and maintaining humane, safe, and secure environments for the individuals under our care while equipping them for successful reentry into our communities. Our employees drive this effort every day, changing lives and safeguarding the public. We must continue our work to ensure our dedicated corrections professionals return home safely, our communities are safeguarded, and we prepare those in our care for successful return to their communities as responsible neighbors.

Since assuming my role as the Director a little over a year ago, I am proud to be a part of a team that is working on impactful initiatives revitalizing our operations, working hard to improve our employees' wellness, and enriching the lives of those in our care. We are building on our achievements thus far and finding new ways for continuous improvement. Part of this process has included increased engagement with our stakeholders, including proactive outreach to our federal agency and state partners, members of Congress, including, of course, Members of this Committee, members of the media, advocacy organizations, and formerly incarcerated individuals. We have also held several listening sessions with the public, and continue to maintain a close, collaborative relationship with our National Union through open communication. We certainly appreciate, and I would like to acknowledge publicly, the work we have accomplished in partnership with outgoing National President Shane Fausey and the Union's Executive Board under him. We are looking forward to continuing that relationship and dialogue with incoming President Brandy Moore White.

I am proud that as result of careful discussion and thought over the past year, we have modernized our mission, vision, core values, and strategic framework to formalize our

commitment to transformative change. Our focus is clear, we must strike the right balance of ensuring security, fostering compassion, safeguarding the public, and providing proven opportunities to aid in successful community reintegration. As we navigate this path, our diverse and adept workforce champions a modern approach to corrections, where safety, humane environments, and effective reintegration are paramount.

As a law enforcement agency, our core values guide our daily endeavors. Part of our strategic planning this past year included updating our core values to better align with the work we do to achieve our challenging law enforcement mission. These values emphasize accountability, integrity, respect, compassion, and correctional excellence throughout the agency. As dedicated corrections professionals, we are driven by a commitment to ethical practices, continuous improvement, and respect for all while shaping a culture of individual accountability and collective responsibility.

We have also worked diligently to root out employee misconduct. The vast majority of our employees are hard-working, ethical, diligent corrections professionals, and we want those who are engaging in misconduct held accountable. In that vein, we have delivered clear expectations. We are working to create and foster a culture where every employee and person in our custody knows that they can come forward without fear of retaliation. If retaliation does occur, we hold those individuals accountable as well. We have worked diligently to ensure collaboration with the Inspector General's Office; the Federal Bureau of Investigations (FBI); the Drug Enforcement Administration (DEA); the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF); local law enforcement, U.S. Attorneys' Offices, and others to ensure access to our institutions and information to improve timely investigations as we work to hold people accountable.

Developing meaningful change throughout the agency is not something that happens in a moment. Change requires focus, effort, and persistence over time. I believe our efforts over the last year have generated visible change, and our work continues. Among key areas for our continued focus on change are recruitment, retention, training, and employee wellness; eliminating employee misconduct; facilities maintenance and repair; First Step Act (FSA) implementation; compassionate release and home confinement; health care, suicide prevention, and gender-responsive care; and reducing our use of restrictive housing.

#### **Recruitment, Retention, Training, and Employee Wellness**

Ensuring the well-being and safety of our employees and those in their care is an essential part of our mission and my work as Director. Many of our dedicated employees feel overworked and exhausted. Yet, these corrections professionals continue to carry out the Bureau's mission day after day in the face of challenges such as recruitment and retention concerns, which result in overtime and augmentation and the need for additional training.

**Recruitment and Retention.** Maintaining appropriately filled positions throughout our organization is a top priority for the well-being of our dedicated employees and the safety of those in our care. Even before the pandemic, our workforce faced increasing demands and challenges, underscoring the need for support. The pandemic, along with a changing economy

and the public's changing perception of law enforcement, have made these challenges even more pronounced.

As of September 2023, around 88% of our funded positions are filled. We clearly have more work to do, and we are actively working to increase this percentage even further. Our hiring strategy includes collaboration with external recruitment experts, resulting in a comprehensive, data-driven recruitment campaign. This campaign focuses on enhancing the Bureau's image, hosting online recruitment events, launching targeted ad campaigns, and utilizing data analytics to gauge effectiveness. Additionally, we have leveraged recruitment strategies aimed at increasing recruitment and retention, particularly for Correctional Officers and Health Services Employees. Notable examples include recruitment incentives and other flexible pay options, a referral incentive program for employees who refer new hires and an increase to the full performance level of the Correctional Officer position from GL-07 to GL-08. To help retain staff already on board, we use retention incentives and have obtained approval from Office of Personnel Management (OPM) and the Department of Justice (Department) to authorize retention incentives above the normal payment limits for Correctional Officers and employees in certain other occupations at a number of Bureau facilities.

Our teams are collaborating to expand incentives for healthcare professionals, an area of high need. To that end, our Human Resources Division and Health Services Division are working together to increase the training, recruitment, and retention of clinical professionals. We're employing human resource flexibilities such as setting pay for new employees above the step one rate of their grade based on their superior qualifications or a special need for their services, authorizing student loan repayments, providing service credit to new employees for annual leave accrual for non-Federal work experience or otherwise noncreditable experience in the uniformed service, and providing other financial recruitment and retention incentives.

In May 2023, OPM reinstated the approval of the Accelerated Training and Promotion Program for Nurses and Advanced Practice Nurses, with a five-year agreement expiring on May 17, 2028. We have also implemented title 38 market pay for Psychiatrists since July 20, 2015, and extended it to all other Physicians and Dentists since November 29, 2019. We utilize special rate tables to pay salaries above applicable locality rates for other hard-to-fill professional positions across our agency locations, including Nurses, Physician's Assistants, Nurse Practitioners, Pharmacists, Psychologists, and Medical Technologists.

Our National Recruitment Office prioritizes medical recruitment through targeted outreach to potential applicants and community partnerships. We engage with organizations such as the National Commission of Correctional Healthcare, the American Psychiatric Association, the American Board of Physician Specialties, Pri-Med, the National Health Service Corps (NHSC), the United States Public Health Services Commissioned Corps (one of the eight uniformed services), and the Harris County Medical Society. During this calendar year, our national recruitment office team sought out numerous personal contacts with healthcare professionals for positions, including Dentists, Pharmacists, Nurse Practitioners, Registered Nurses, Physician Assistants, Medical Officers, Psychiatrists, and Clinical Directors.

**Augmentation and Overtime.** We place high importance on effectively managing crises while upholding the safety and security of our institutions. Due to our law enforcement mission and the 24-hour nature of operations in a correctional environment, there will always be a need for tools like augmentation and overtime to maintain safety and security in our facilities. Augmentation involves temporarily reassigning law enforcement employees within our institutions to maintain safety and security by covering Correctional Officer assignments. This strategy addresses filling posts that, if left empty, could compromise facility operations, safety, and security. Augmentation is made possible because the majority of our employees undergo the same federal law enforcement training as Correctional Officers, ensuring consistent knowledge of best practices with annual updates. Yet, while a valuable tool, it is a tool that should be reserved for emergencies, not the long-term management of a recruitment and retention problem.

**Training.** We are dedicated to implementing training enhancements and increasing the quantity and quality of employee training across their careers. We are working to change the status quo, as current new employee training duration is substantially less than the national average for law enforcement academies.<sup>1</sup> Elevating training programs and standards for our employees is an essential step in fostering excellence and positive change within the Bureau. As part of these efforts, the Bureau needs and we are planning for a dedicated training center, offering continuous development opportunities from an employee's start date to their retirement. We aim to provide high-quality training while optimizing cost-effectiveness by utilizing dedicated training facilities tailored to the correctional environment and innovations such as distance learning and computer-based training. Currently, law enforcement training for our new employees consists of an initial three-week training at their work location followed by mandatory three-week introduction course at the Staff Training Academy (STA) at the Federal Law Enforcement Training Center in Glynco, GA, which we refer to as ICT phase II.

**Employee Wellness.** A resilient and thriving workforce forms the foundation of a secure and rehabilitative correctional environment. To meet our mission, the Bureau must cultivate a safe and supportive work environment for every employee. We aim to nurture and encourage a caring culture prioritizing physical and mental well-being.

This April, in support of employee wellness and the President's Executive Order 14074, we were proud to announce three policies that directly relate to and impact our employees' health and well-being. These include updates to our Employee Assistance Program (EAP), Correctional Support Team (CST) policies, as well as the creation of a new Employee Wellness policy that has increased awareness of holistic wellness strategies to respond to the challenges faced by our employees. These wellness concepts will now be integrated into training provided throughout an employee's career including those at the highest levels of agency leadership.

The EAP policy was updated to require EAP counselors providing services to Bureau employees to be licensed. It also ensures employees can use administrative leave to attend EAP

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<sup>1</sup> Reaves, B. (2016) Bureau of Justice Statistics Bulletin, NCJ 249784, State and Local Law Enforcement Training Academies, 2013. Retrieved from <https://bjs.ojp.gov/content/pub/pdf/slleta13.pdf>.

sessions and allows employees to use these services in retirement. Our new CST policy expanded the mission of CSTs to include engaging all employees in wellness and resilience activities.

Our new Employee Wellness policy describes a three-tiered model of leadership and support that is 1) leadership driven, 2) focuses on resources and training, and 3) reinforces connection and self-care programs. Within this model, Bureau leaders are responsible for modeling and encouraging a supportive, caring, and help-seeking culture. It requires employees involved in the disciplinary process to be referred to EAP for support during a challenging time in their careers. Additionally, it allows for activities to facilitate an employee's healing following a major traumatic incident, such as encouraging wardens to approve administrative leave days for employees following said incidents.

#### **Employee Misconduct**

We are actively working to prevent employee misconduct, identify it quickly when it occurs, and hold those who engage in misconduct accountable. The vast majority of our employees are hard-working, ethical, and diligent corrections professionals, who steadfastly agree that we must hold those who engage in misconduct accountable. We have provided clear expectations to all Bureau employees and are working to create and maintain an agency culture that is reflected at all our facilities. It is critical that every employee and person in our custody knows that they can come forward without fear of retaliation, and if retaliation does occur, we hold those individuals accountable as well. We have worked diligently with our fellow law enforcement entities, and others to ensure a meaningful investigatory and disciplinary process.

As Director, I have addressed the FBOP employees on our shared responsibilities to both report and prevent employee misconduct as correctional professionals. The FBOP strongly condemns all forms of sexual misconduct by those in our custody and our employees. We take seriously our duty to protect the individuals entrusted to our care as well as maintain the safety of correctional employee and the community. We have a zero-tolerance policy for sexually abusive behavior of any kind; every person has the right to be safe from sexual abuse or sexual harassment.

Additionally, we have reorganized our Office of Internal Affairs and moved oversight of our Special Investigative Agents (SIAs) directly under Headquarters. We have increased the number of agents and employment attorneys to ensure timely investigations and accountability. We are monitoring cases, caseloads, and the time it takes to close cases all the way up to myself to increase efficiency in investigations and accountability. The Inspector General and I meet regularly, and we review the status of our cases that are under review and our open cases.

#### **Facilities Maintenance and Repair**

The Bureau has over 46,000 acres with almost 300 structures dispersed across over 120 institutions. The Bureau's estimated backlog for significant maintenance and repair (M&R) is over \$2 billion. By comparison, over the last ten years the Bureau has received an average of

approximately \$100 million per year in appropriations for necessary repairs and alterations. As a result, the current infrastructure needs are significant.

The Bureau recently awarded a contract to develop a strategic framework to address these challenges. The Contractor will assist the Bureau in developing an infrastructure strategy to increase the overall effectiveness of facilities management in the Bureau. The strategy will align infrastructure decisions with the Bureau's mission, including one or more methodologies for allocating resources, including short, medium, and long-range planning goals. Through working with this small business partner, the Bureau expects to develop a portfolio-based repair model for its M&R backlog, a retention or disposal decision model, and a business case analysis for new construction.

The Bureau and the contractor conducted an in-depth and in-person kickoff meeting on the 21st of August.

#### **First Step Act Implementation**

We remain committed to supporting full implementation of the FSA legislation by ensuring those in our care can access programming opportunities and that eligible individuals receive appropriate FSA incentives. Since January 2020, more than 104,000 incarcerated individuals have actively participated in approximately 110 evidence-based recidivism-reducing (EBRR) programs and productive activities (PAs) within the Bureau. In that same timeframe, those individuals have completed more than 370,000 EBRRs and PAs.

In 2019, we adopted the new Good Conduct Time calculation required by the FSA and implemented FSA time credit provisions. Initially, implementing the FSA time credit provisions meant interim procedures with manual calculation of credits from the time the language of the final rule was approved until an automated system could be developed and tested. Then, in 2022, we transitioned from manual to automated FSA time credit calculations, streamlining and accelerating the process. In November 2022, we published the policy on FSA time credits to formalize implementation of the earned time credits rule, with subsequent revisions in February and March of 2023. This new policy was designed to streamline the calculation of credits and maximize an individual's ability to earn and apply these credits when engaging in programming. We have also implemented revisions to our time credit calculation procedures in response to concerns of Congress and stakeholders and applied those changes for eligible individuals. From that valuable input, one of the major updates we made to our calculations is the "Warden's Override" function, which provides an extra layer of scrutiny.

Additionally, we fine-tuned our PATTERN recidivism reduction tool worksheet by including program completion factors and sanitizing sensitive information, such as Walsh Act criteria. We made functional and technical improvements, including improving auditing capabilities and error reduction by implementing distinct ineligibility codes. We made these important changes to ensure that those in our care who are earning credits get their credits. From January 2022 through August 31, 2023, we released approximately 22,940 individuals through FSA, and approximately 16,125 were released from Residential Reentry Centers.

We support the Department's development of the PATTERN tool (through the National Institute of Justice), including its evolution to address concerns around racial and ethnic disparities in the tool. In March 2023, the Department conducted its second annual revalidation of the PATTERN risk assessment tool. Following this, the Bureau began utilizing PATTERN version 1.3 with revised risk level categorizations. This addressed previous racial and ethnic disparities in the tool and increased opportunities for eligible individuals to apply earned time credits.

### **Compassionate Release and Home Confinement**

**Compassionate Release.** The Bureau continues in its efforts to support compassionate release, wherein the sentencing court is able to reduce a sentence due to extraordinary and compelling reasons or for certain individuals. The FSA went into effect on December 21, 2018, and since that time, we have released a total of around 4,606 individuals who were under our care through compassionate release. Of that group of individuals, 129 were released through compassionate release on a motion initiated by the Bureau, and 4,477 received compassionate release after a defense motion. So far in the calendar year 2023 (CY23), approximately 216 individuals under our care have been released through compassionate release. Of those, we initiated the motions for compassionate release for 9 of those individuals, while 207 received a compassionate release after a defense motion. Requests for compassionate release receive close and individualized review based on extraordinary and compelling circumstances.

As part of the compassionate release review process, we collaborate closely with U.S. Attorneys' Offices to determine if petitioning the sentencing court for compassionate release on behalf of an individual is warranted. While we work to review and handle compassionate release requests accurately and efficiently, ultimately, compassionate release decisions rest with the sentencing courts. We have considered and will be prepared to comply with the U.S. Sentencing Commission's proposed amendments to compassionate release as they relate to individuals who are victims of sexual assault while in our custody, which will take effect in November 2023.

**Home Confinement.** To ensure public safety and effective reentry with the home confinement provision authorized under the FSA, we rely on our Residential Reentry Centers. Those contractors work diligently to create a personalized reentry process, including individual-specific employment guidance, financial management advice, and more. This approach equips individuals with tools for a responsible and successful transition back into their communities.

During the COVID-19 pandemic, the Coronavirus Aid, Relief, and Economic Security (CARES) Act enabled many individuals in Bureau facilities to be placed in home confinement for health and safety. We tracked the individuals under our care whom we moved into home confinement. From March 2020 through June 24, 2023, we transferred approximately 13,666 individuals into home confinement through the CARES Act, with the vast majority of those individuals completing their sentence in home confinement without returning to an institution. Although the specific authority for new CARES Act home confinement placements has ended, those already placed remain in their placements. As of August 31, 2023, approximately 3,374 individuals remain in home confinement in accordance with applicable rules. The vast majority

of those placed on home confinement have complied with program rules, and less than 0.05% have been returned to custody for committing new crimes.

#### **Health Care, Suicide Prevention, and Gender-Responsive Care**

As corrections professionals, we have known for decades that we are a health care organization. If individuals are going to be able to successfully program inside our institutions and re-enter our communities successfully, we must ensure healthy bodies and healthy minds by providing effective, timely, and evidence-based care. We have 157,000 patients who are the equivalent of ten years older biologically than their chronological age because of their lack of preventative care and other health disparities. While demographic differences and data limitations can complicate accurate comparisons, generally, the individuals under our care usually have more chronic diseases than the U.S. general population and a higher percentage of mental health and substance use conditions. For instance, of those under our care 27.6% experience mental health conditions compared to 22.8% of the U.S. general population. Additionally, we have found that the rate of individuals in our care meeting the clinical criteria for one or more substance use disorders is significantly higher in the FBOP population, at 31.8%, when compared to 16.5% in the general U.S. population.

The pandemic allowed, for the first time, the community at-large understand the importance of high-quality health care within our facilities, and as we pivot out of the pandemic, we want to leverage that knowledge going forward. To that end, we are in the process of procuring a contract that will allow us to review the quality of health care services within the FBOP system, review our policies and procedures to ensure we are operating through the lens of physical and mental health in all that we do, and then help us expand our work on reinforcing a culture of humanity and normalcy in our environments for both our employees and those who are in our custody. We look forward to seeing the results of that review and sharing those recommendations with you.

As we manage these complex issues and patients with complex care needs, our healthcare professionals utilize a treatment team approach and individualized care plans to ensure timely access to care and comprehensive management of medical, mental health, and substance abuse needs.

Opioid Use Disorder (OUD), in particular, affects approximately 2.7 million Americans and thus presents a significant challenge within our facilities. From a security perspective, dangerous substances like illicitly made fentanyl can pose a health risk to FBOP employees and those in our custody that may come into contact with the substance. From a substance use and mental health perspective, we have incorporated evidence-based treatments like Medications for Opioid Use Disorder (MOUD) and substance use disorder treatment programming. These programs tackle various facets of the issue, preparing individuals to reenter their communities successfully. MOUD is available across all Bureau facilities and collaborations with agencies such as the DEA and Substance Abuse and Mental Health Administration ensure consistent accessibility and success.

To reduce the risk of death by overdose, either through use or accidental exposure, we continuously work to combat this and all contraband entering our institutions. We have heightened screening of mail and publications. We are exploring innovative methods and have introduced electronic tablets in select facilities where individuals in our custody can maintain communication with friends and family, intending to reduce physical correspondence entering our facilities. Concurrently, we are examining advanced screening tools, like field test kits and hyper-spectral scanners, to safeguard our institutions further and maintain essential communication methods.

To save lives, we have also made opioid reversal agents like naloxone available in all of our institutions. Trained first responders within the facility can administer life-saving doses of naloxone, 24 hours a day, to anyone suspected of experiencing an opioid overdose. By incorporating our approach to OUD within primary healthcare, mental health treatment, and first responders, we emphasize careful planning, consistent care, training for our clinicians and responders, and risk reduction.

Our approach to OUD treatment does not end at our walls. We recognize the importance of post-release care. The Bureau coordinates with transitional care teams and community treatment professionals, ensuring treatment benefits and access to services persist after release.

**Suicide Prevention.** We are taking steps to enhance our suicide prevention efforts. One suicide on our watch is one too many. The well-being of those under our care is our mission; hence, we have long prioritized suicide prevention. Each institution has a Clinical Psychologist designated as a Suicide Prevention Program Coordinator. These coordinators monitor at-risk individuals and guarantee adherence to the Bureau's assessment and intervention protocols. All of our employees receive regular training, equipping them with the necessary skills to identify and effectively care for those who are at risk of suicide.

Any time a risk of suicide is suspected, psychologists swiftly conduct Suicide Risk Assessments. When we have identified an individual at possible risk for self-harm, they are immediately safeguarded, and the individual assessments then prompt short-term and long-term plans for the individual's mental health.

We work to continuously monitor and track research and best practices as it relates to suicide prevention. Towards that end, this summer, our Deputy Director launched a Warden's Advisory Group to review our current policies and practices related to suicide prevention. The work is underway, and we look forward to hearing and sharing their recommended changes with you.

**Supporting Incarcerated Women.** Recognizing that incarcerated women, including those in the LGBTQ community, require different resources and supports than men, we recognize that we must create environments that respond to the realities of women's lives and address the issues specific to their lived experiences. Women experience higher rates of trauma, are often primary caregivers for minor children, have lower rates of education, and typically earn less than their male counterparts. In supporting the incarcerated woman, we must also include screening appropriate candidates to work at our women's facilities and provide trauma-informed

care and therapeutic interventions that address abuse, violence, poor family relationships, substance abuse, and comorbid disorders. This approach to supporting incarcerated women focuses on self-efficacy, treatment, and skills-building.

#### **Evolving Approaches to Restrictive Housing**

We are working to comply with the provisions of the President's Executive Order 14074 on restrictive housing and align with best practices as it relates to restrictive housing. Restrictive housing is an effective tool for maintaining safety and security and protecting lives; however, research has also shown that restrictive housing can harm a person's mental, emotional, and physical well-being. Research supported by the National Institute of Justice (NIJ) suggests that it is not an effective deterrent, does not reduce institutional-level misconduct or violence, and increases an individual's likelihood of reoffending after release.

We are working on short-term and long-term plans that will continue to advance our long-standing efforts to improve behavior modification and utilize the tool of restrictive housing in line with research and best practices. In the short term, we have activated an internal working group to review our current practices alongside current research and a review of state corrections best practices. That group is working on recommendations for the executive team to consider, and we look forward to sharing those outcomes. In the long term, we and NIJ have partnered to invest in research that will inform how federal correctional institutions can effectively reduce the use of restrictive housing. The research will explore policies and discern whether and how we can further reduce our reliance on restrictive housing. We will use those findings to explore alternatives, implement effective policies, and ensure compliance within our correctional institutions while maintaining safety and security.

#### **Conclusion**

Chairman Durbin, Ranking Member Graham, and Members of the Committee, I am honored to speak on behalf of the Bureau and its dedicated employees throughout the country regarding the good work we are doing and our efforts at continuous improvement. I believe in the importance of transparency, oversight, and coming to this work with arms wide open. The Bureau's mission is extremely challenging but critical to the safety and security of the public, our employees, and individuals housed within our facilities.

With your support, we will remain a forward-thinking leader in corrections, fostering wellness in our dedicated law enforcement professionals who risk their own safety daily to ensure the safety of others while helping those in our care to rejoin their communities as responsible neighbors. I thank you for the opportunity to speak with you today, for the support we have seen from Members of this Committee, and for your continued support as we move forward.

## QUESTIONS FOR THE RECORD

Senate Judiciary Committee Hearing: Oversight of the Federal Bureau of Prisons  
September 13, 2023  
Questions for BOP Director Colette Peters

**Submitted by Senator Cory Booker**

1. The Washington Lawyers' Committee for Civil Rights and Urban Affairs published a report in July 2023 regarding the Special Management Unit at FPI Thomson. The report found that there was rampant racism amongst BOP employees and "that people were subjected to unnecessary restraints and forced to cells with other individual who were known to be dangerous" The report also indicated that five men died by suspected homicide in this single unit, which the subsequently closed.
  - From your perspective, what were the failures in the accountability systems that allowed for such significant violations to occur? Are there plans to improve BOP's Office of Internal Affairs and its investigations?

Response: First, we understand restrictive housing does not serve as an effective deterrent and can even increase an individual's propensity for future criminality. Consequently, BOP has both short-term and long-term strategies to enhance accountability and prevent similar violations. To start, we closed the Special Management Unit (SMU) at the Thomson facility after we became aware of allegations of abuse and misconduct. BOP is holding accountable those responsible for misconduct, is overhauling the culture, and has transitioned the mission of the Thomson facility to that of a low-security institution. Additionally, we have initiated a workgroup composed of our executive team members to enhance accountability, and we are drawing insights from global corrections agencies to adopt best practices. For the long term, we have partnered with the National Institute of Justice, inviting an external entity to deliver an in-depth analysis and offer recommendations.

Regarding improvements to the Office of Internal Affairs (OIA), we previously had a team of 29 special agents (SAs) and supervisory special agents (SSAs). We have moved 64 special investigative agents (SIAs) who were previously under an institutional warden's supervision, such that they now exclusively report to OIA. The SIAs also were handling various types of investigations but now focus solely on employee misconduct. We also added 53 new SIAs and SSAs dedicated to investigating employee misconduct, bringing our total to 146 SAs, SSAs, and SIAs. The Special Investigative Service (SIS) remains at their disposal 24/7. In addition, every female facility has an onsite SIA. Furthermore, we ensure all OIA employees receive trauma-informed training and gender-responsive training.

The FBOP also provides Diversity, Equity, Inclusion, and Accessibility (DEIA) training to all employees, including new on-boarding employees. Additionally, in accordance with 29 CFR Part 1614, FBOP conducts Affirmative Employment

Program Committee monthly meetings attended by institution executive staff, its Union, and employees for the purpose of advising management on the status of the EEO program and training opportunities. FCI Thomson provided the annual DEIA training to all facility employees and conducted monthly Affirmative Employment Program Committees as noted above, which included hosting a Diversity Day in July 2024. All trainings were in compliance with federal regulations and Executive Orders related to diversity training mandates under the law.

- Have you identified similar problems at any of BOP's other facilities? Does BOP plan to investigate whether similar misconduct has or is occurring beyond FPI Thomson?

Response: We have not encountered issues as severe or widespread as those at the Thomson facility, and we constantly strive to identify misconduct among employees and address it in an expeditious manner within regulation and policy. We have communicated to employees across BOP that it is our sworn duty to protect the individuals entrusted to our custody. Together, we will foster an environment where everyone feels safe coming forward without fear of retaliation. When brought to our attention, we will hold accountable any employees who engage in inappropriate, egregious, or criminal behavior.

- What did you and your team learn from the mistreatment of individuals incarcerated at FPI Thomson and how you plan to implement what you learned throughout the country?

Response: As a result of the allegations of misconduct reported at the Thomson facility, BOP is strengthening and reconfiguring its OIA to ensure investigations are timely, thorough, and unbiased. On August 1, 2023, we revised the OIA policy; now, our Central Office provides supervision over all SIAs. The policy also clarifies reporting details, provides clarity on the investigative process with its timelines, and emphasizes a victim-centric approach by, for example, eliminating the need for sexual assault victims to submit affidavits for credibility. Now, we assess the credibility of alleged victims, suspects, or witnesses on an individual basis, without bias due to their status as adults in custody (AICs) or employees. OIA directly oversees local SIAs, ensuring greater consistency. We also have expanded the OIA division to ensure complete but swifter investigations.

In August 2023, all SIAs and SAs attended an in-service training that addressed policy changes and trauma-informed interview tactics. Additionally, BOP provides continuous support for inquiries from the Office of Inspector General (OIG), the Federal Bureau of Investigation (FBI), and prosecutors, including evidence collection and procedural expertise, as needed. If OIG declines a case, BOP's OIA investigators manage administrative misconduct investigations, and BOP's Human Resource Management Division (HRMD) takes administrative disciplinary actions when warranted.

Monthly meetings between the Director, the Deputy Director, HRMD, and OIA focus on reviewing open cases and expediting their conclusion. The Director meets with the Inspector General on a quarterly basis for the same purpose. Furthermore, our many new SIA and SA hires help ensure investigations are thorough and completed promptly. The changes being implemented within OIA, including adding positions, realigning existing positions, and clarifying duties to assist with investigations and disciplinary proceedings, are projected to have a national impact.

BOP collaborates with agencies such as OIG, the FBI, United States Attorney's Offices (USAOs), and other federal and local law enforcement entities to guarantee appropriate case management and transparency. We monitor misconduct investigations for timeliness, quality, and resolution.

2. A May 2023 report from the Department of Justice's Office of Inspector General identified several ongoing operational issues within BOP. One of the issues identified was a delay in investigating, adjudicating, and enforcing the results of the employee discipline process. As of November 2023, BOP had not yet imposed discipline in 2,826 cases in which an investigation had sustained an allegation of misconduct.
  - How have you worked to make the discipline process more efficient so that complaints can be evaluated and investigation results enforced in a way that preserves the safety and wellbeing of the complainant and of the general population of incarcerated people?

Response: As of September 2023, we had 8,126 open cases – 2,211 under six months old and 5,915 older than six months. When we first spot potential criminal behavior, we refer it to OIG for review. OIG then refers the matter to the local USAO for prosecution if a referred matter meets its criteria. When OIG or FBI, and USAOs, are on a case, BOP offers support, such as by gathering evidence.

BOP employees must report any misconduct to OIA or OIG within 24 hours or risk disciplinary action. If OIG decides not to take on a case, OIA or local SIAs step in.

BOP does not prosecute criminal cases independently. Instead, with regard to potential crimes committed at BOP facilities, including those involving employees, we collaborate with OIG, the FBI, and USAOs. OIA ensures all employee misconduct, criminal or otherwise, is reported to OIG. Any criminal tip about an employee is first referred to OIG or the FBI. They assess if a crime potentially occurred and consult with the USAO. If they decide to pursue the case criminally, BOP assists by providing evidence and facilitating court testimony. If OIG declines the case, BOP conducts its own internal administrative investigation.

We are bolstering and reorganizing investigative employees to better equip OIA to conduct timely, thorough, and unbiased investigations. We previously had a team of 29 SAs and SSAs. We have moved 64 SIAs who were previously under an institutional warden's supervision, such that they now exclusively report to OIA. These employees also were handling various types of investigations, but now focus solely on employee misconduct. We also added 53 new SIAs and SSAs dedicated to investigating employee misconduct, bringing our total to 146 SAs, SSAs, and SIAs. Almost all of these positions have been filled, and training is ongoing.

3. Augmentation continues to compromise the safety of incarcerated people and BOP staff. It has also removed medical and education staff from their intended duties to instead serve as correctional officers, which has resulted in a reduction of educational programming that BOP is required to provide under the First Step Act.

- What steps are you taking to reduce BOP's reliance on augmentation?

Response: BOP is committed to reducing its reliance on augmentation by increasing staffing levels across the agency. In FY2024, FBOP hired over 3,596 new employees, marking a 37% increase in new hires from FY2023. Further, in FY2024, FBOP saw a decrease of 11.4% in separations compared with FY2023.

Hiring and retention are among BOP's top priorities. As explained in the attached FY 2023 hiring and retention fact sheet, we are dedicating significant resources to recruitment and hiring. We are using a nationwide, data-driven marketing campaign to hire correctional officers (COs) and other critical employees. In addition, we are using direct hire authority, recruitment and retention incentives, special salary rates, and other available authorities to attract and retain qualified employees. We will continue to use these tools until we are able to fully staff all our institutions.

- Do you have a plan for increasing hiring in order to achieve appropriate staffing levels?

Response: Yes. We will continue our hiring and retention efforts until we are able to fully staff all our institutions. For additional information about our hiring and retention campaign, please see the attached fact sheet.

4. The First Step Act allowed individuals who participate in programming to earn credits towards early release. The Bureau has struggled to find a way project the release dates for individuals while they continue to earn credits to reduce their sentence.

- How does the auto-calculation application address the issue of accurately calculating a released date for individuals who are currently participating in

programming and earning credits?

Response: The Conditional Release Calculator calculates the date an individual with a low or minimum risk of recidivism will earn 365 days of First Step Act time credits, presuming the individual successfully participates in programming recommended based on their risk and needs assessment and does not engage in misconduct resulting in an increase in their risk level or new criminal conduct which might result in a change in their statutory eligibility to earn FSA time credits. This Conditional Release Calculator also recalculates on a monthly basis to capture any such changes.

5. In June 2023, I issued a policy brief on the successes of the CARES Act Home Confinement Program. The program has been tremendously successful. Individuals had to meet very stringent requirements to be allowed to serve the remainder of their sentence in home confinement, and these criteria appear to have been well designed – of the 13,204 individuals serving their sentence on home confinement since March 2020, only 22 individuals (0.17 percent) have been rearrested for a new offense, and most of those new offenses were for drug-related or other minor crimes.

- Could BOP permanently adopt this policy to identify individuals with a low risk of recidivating to finish serving their sentences at home?

Response: BOP's ability to place individuals on home confinement is limited by 18 U.S.C. § 3624(c)(2), which restricts home confinement placement to the shorter of 10 percent of the term of imprisonment of that individual, or 6 months. Only individuals applying earned FSA time credits are exempted from this restriction. Although the CARES Act allowed BOP to place individuals on home confinement for periods of time longer than those provided by § 3624(c)(2), the CARES Act authority expired at the conclusion of the COVID-19 national emergency. BOP would need new statutory authorization to exceed the time limits on home confinement imposed by § 3624(c)(2).

- Would releasing people who meet these stringent criteria ease the staffing demands BOP is facing and thus improve safety conditions for staff and incarcerated individuals?

Response: Yes, it could ease staffing demands in two ways. If sufficient numbers of AICs were released, BOP could close some housing units. BOP could reallocate employees to other units or facilities, which would help ease staffing demands. Staffing levels are based on many factors aside from the number of AICs. For example, an institution's security level and physical layout are among the factors that determine its appropriate staffing levels.

6. Today, the average hourly wage of an incarcerated worker in most prison jobs is between 13 and 52 cents.

- If incarcerated workers were paid the federal minimum wage of \$7.25 per hour,

how would that impact the wellbeing of the incarcerated workers, first while in prison to assist with other financial obligations and needs, and second once released from prison?

Response: A change to incarcerated individuals' pay would require legislative action. Were AICs who have a work assignment paid the federal minimum wage of \$7.25 per hour, it would most likely have a positive impact on AIC morale. An increase in pay also would facilitate AICs' making payments toward their financial obligations such as restitution and saving money toward release. At the same time, an increase in pay from the current AIC pay grades to the federal minimum wage would require significant additional resources.

7. In 2021, Department of Justice (DOJ) Inspector General Michael Horowitz released a report indicating that BOP had not conducted any formal policy negotiations with its national union, the Council of Prison Locals, over the previous 20 months. I am aware that negotiations have commenced and on some items are now complete. However, the delays caused huge issues in applying earned time credits authorized under the First Step Act, in some cases literally keeping people in prison against Congress's intent in passing the First Step Act.

- What is the current status of negotiations with the union, and do you have an estimate for when the negotiated policies will be fully implemented?

Response: BOP began applying earned FSA time credits in January 2022 following publication in the *Federal Register* of the regulations but before finalizing the policy. BOP finalized the policy in November 2022 and updated the policy with change notices posted in February and March 2023.

BOP's program statements on Visiting Regulations, Religious Beliefs and Practices, and Chaplains' Employment, Responsibilities and Endorsement were policies requiring updates based on the FSA. These policies have been negotiated and published.

BOP's program statements on Release Preparation Program (Release Orientation Program), Literacy Program (GED Standard), English-as-a-Second Language, Recreation Programs, and Life Connections and Threshold Programs are all awaiting union negotiations. We actively negotiate with the union on various other policies.

**Submitted by Senator Chris Coons**

1. I appreciate President Biden’s directive in Executive Order 14,074 (May 25, 2022) to “ensure that restrictive housing is used rarely, applied fairly, and subject to reasonable constraints” and to ensure the Department of Justice’s [DOJ’s] “full implementation” of the “recommendations of the DOJ’s 2016 Report and Recommendations Concerning the Use of Restrictive Housing.” I further appreciate the Attorney General’s February 2023 report that outlined the status of the efforts to comply with the President’s directive.
  - a. How has the number of individuals in restrictive housing (in absolute terms and as a percentage of the total number of individuals in Bureau of Prisons [BOP] custody) changed since President Biden’s 2022 executive order? Please enumerate the factors that explain those changes.

Response: As of May 31, 2022, the population of our Special Housing Units (SHU) was 10,076 (6.4% out of an average historical monthly population of 157,110). As of October 21, 2023, the population was 10,983 (6.95% out of an average historical monthly population of 157,987). Note that the population in restrictive housing (RH) is determined in accordance with and affected by operational needs, including the occurrence of security incidents within BOP facilities. Due to the increasing number of attempts to introduce, and successful introductions of, contraband, including dangerous substances such as fentanyl, BOP has seen an increasing number of assaults between adults in custody (AICs), fights between AICs assigned to “security threat groups,” and assaults on employees by AICs.

Notwithstanding this increase in utilization of RH overall, BOP has successfully reduced its use of certain types of RH, including a decrease in the number of individuals housed at the Administrative Maximum Facility (ADX) in Florence, Colorado, by over 20 percent since 2017. We also shut down our Special Management Unit at the Thomson facility.

Bureau leadership is actively investigating causes of the increase in our RH use to determine the most effective ways to reduce that population. We tasked our executive team to come up with recommendations, including travel to other jurisdictions to learn best practices from corrections agencies from around the globe. We have entered into an historic partnership with the National Institute of Justice to solicit analysis and recommendations from an external organization.

- b. What is the status of BOP’s “full implementation” of the 2016 DOJ recommendations?

Response: Following the Department of Justice’s 2016 report and internal BOP evaluations, BOP has taken several measures to reduce its use of RH. We have

introduced the Secure Mental Health Units for intensive treatment of incarcerated individuals with mental illness, reducing the need for SHU placements. We are amending the Discipline Program policy to limit RH usage and duration for disciplinary violations. The number of individuals in the ADX has declined by more than 20% since 2017, a significant decrease in BOP's use of RH. BOP also updated its SHU policy to discourage the use of RH. BOP has decreased the length of certain RH placements and created Reintegration Units to ensure individuals are not released directly from RH to the community.

Thanks to these and other initiatives, BOP has successfully reduced its use of certain types of RH. However, BOP's number of SHU placements admittedly has increased since 2016. BOP leadership has been, and continues to be, concerned about the increased SHU population. We are actively investigating causes of the increase to determine the most effective ways to reduce that population.

- c. To the extent that the 2016 DOJ report recommended changes to BOP policies and procedures, what has BOP done to assess whether those changes to policies and procedures are actually followed in practice?

Response: BOP is establishing a more robust internal auditing process to address and effectively resolve identified issues. This includes an assessment of BOP's use of RH across all institutions. This effort also includes incorporating new practices that align with DOJ Office of Inspector General (OIG) and Government Accountability Office (GAO) recommendations, embracing a risk management model to help BOP address emerging issues, and utilizing expanded data sources to inform site evaluations and drive decision-making processes.

- d. What is BOP's assessment as to which revisions to policies and procedures are most effectively being implemented in practice today?

Response: BOP continues to implement a more robust internal auditing process as described in subsection c above. That has had some early positive returns, and we hope that positive trajectory continues. A few of the policies and procedures that have been effective include the expansion of mental health programming to address treatment needs of incarcerated individuals. In addition, BOP has implemented 15 new Resolve Programs at male facilities and 4 additional programs at female facilities to address trauma needs. BOP has also activated Female Integrated Treatment (FIT) residential mental health programs to address trauma and substance use treatment needs for females at three facilities. BOP activated the Transitional Care Unit (TCU) to address the transitional needs of individuals who have serious mental illness and have spent extended periods of time in secure treatment programs or restrictive housing settings. In an attempt to reduce the amount of time individuals seeking

protective custody spend in restrictive housing, BOP has activated five Reintegration Units (RUs), and we hope to activate more in the future.

- e. What is BOP's assessment as to which revisions to policies and procedures are farther from full implementation in practice? What challenges or obstacles stand in the way of full implementation in these areas?

Response: National negotiations of the SHU policy took place in June of 2023. The new policy was finalized March 5, 2024. BOP is working to fully implement the policy and looks forward to assessing its effectiveness.

Within the next two years, BOP plans to activate Secure Skills at the Federal Correctional Complex (FCC) in Allenwood, Pennsylvania. COVID-19 protocols delayed the process of initiating facilities updates and construction. However, since BOP has returned to normal operations, we have made progress on this project, and construction on the Secure Skills unit began in January 2024.

- f. What is BOP doing (and on what timeframe) to address any such deficiencies?

Response: BOP's Correctional Services Branch and Labor Relations Office continue to work with the union through policy negotiations to publish policy revisions that are responsive to recommendations not yet implemented or not yet fully implemented. The new SHU policy was finalized March 5, 2024.

As mentioned in part (e) of this response, construction of Secure Skills at FCC Allenwood began in January 2024. Implementing this program requires special construction in the unit where the program will be housed. The project was put out for bids and the contract was awarded in September 2023 to initiate construction. Staffing positions (mental health and custodial) for this unit will also need to be addressed via continued hiring/recruitment efforts.

2. Please explain the process BOP follows in the transition of an individual from BOP custody to U.S. Probation and Pretrial Services personnel, including providing relevant policies and procedures that govern this process. In addition, please address the following:
- a. What is the notification process from BOP to U.S. Probation and Pretrial Services?
  - b. How far in advance of a release is such notice provided?
  - c. What information is conveyed about the releasee to U.S. Probation and Pretrial Services?
  - d. Who is responsible for ensuring that releasees have access to adequate housing, mental health resources, medical care, and other needs?
  - e. What information does BOP provide to an individual prior to release about available services, such as housing, medical care, and counseling?

- f. Does BOP provide U.S. Probation and Pretrial Services with information about an individual's housing, mental health counseling, substance abuse, and other needs prior to release?

Response: BOP procedures, with regard to communicating release/transitional needs to U.S. Probation and Pretrial Services, are a longstanding practice which dates back decades. AICs with supervision to follow are required to release to their sentencing district unless another district has approved their relocation. For individuals who request relocation, the assigned case manager prepares a "request for relocation" which includes a Supervision Release Plan, a Progress Report, and copies of the Presentence Investigation Report and Judgment in a Criminal Case. In cases not involving relocation, ordinarily the case manager sends the U.S. Probation Office for the sentencing district (USPO) a Supervision Release Plan and Progress Report 90 days in advance of the individual's release. In cases where the release date is advanced and the individual is within 90 days of release, ordinarily the case manager forwards the Supervision Release Plan and Progress Report when the release date changes.

Whether releasing to the sentencing district or an approved relocation district, the information included in the release documents forwarded to U.S. Probation is the same. The Supervision Release Plan includes the individual's planned release residence and, if known, their planned employment. The Progress Report provides information regarding the individual's activities and accomplishments while incarcerated including education programming, job detail assignments, disciplinary history, and treatment programs, just to name a few. The individual's current medical and mental health status and release plan information (including whether they are to participate in prerelease, community-based placement) is also provided.

Regarding community treatment services, BOP provides a treatment termination report to U.S. Probation during the last month of custody. BOP also gives Probation the relevant treatment documents from institution clinicians and any additional information upon request. Reentry Services Division employees are responsible for the housing, medical care, and counseling services for those who transition to U.S. Probation through community placement. BOP's Residential Reentry Centers (RRCs) are contractually required to have written procedures in place for establishing a formal release plan for residents. The plan includes, at minimum, the resident's verified residence; employment or enrollment in a training or education program; medication needs; family/other supportive relationships; and follow-up appointments as needed for medical, mental health, or substance use treatment. If the resident has a supervised release term, the RRC will submit a release plan to the USPO at least six weeks before the release date.

3. To what extent has BOP assessed the compliance of BOP facilities with the policies and procedures described in Question 2?

Response: BOP conducts Program Reviews (inspections by agency-level teams), during which it assesses whether completion of final Progress Reports and Supervision Release Plans is timely. BOP also reviews completion and timeliness of these documents during the Annual Operational Review, which is similar to a Program Review but conducted internally by a local institution-level team.

- a. What is BOP's assessment as to which of these policies and procedures, in which circumstances, present the greatest compliance concerns? What challenges or obstacles stand in the way of full compliance?

Response: The two primary policies which address these documents and communication with U.S. Probation are the Progress Report program statement and the Unit Management Manual. The Unit Management Manual underwent a major update, and the final draft is being reviewed by the Correctional Programs Branch (CPB) and through the Joint Policy Committee (JPC) process and working its way toward completion and publication. The Progress Report policy is currently routing and will provide greater detail on the kind of information and level of specificity necessary in a Progress Report. Additionally, BOP has a resource guide for case management employees which provides instructions in the use of the Electronic Progress Report Preparation application. The greatest challenges stem from backlogs in training that were caused by the COVID-19 pandemic, when in-person training for new Unit Management and Case Management employees could not be conducted regularly. Another challenge continues to be employee shortages, both within Unit Management and Case Management specialties and generally within the correctional officer ranks.

- b. What efforts, if any, has BOP made or is BOP making to address any such concerns?

Response: Since the resumption of in-person learning, CPB has been aggressively working through the new Unit Management and Case Management employee training backlog. CPB has also enhanced the new Case Management Coordinator training program, placing emphasis on the delivery of local in-person training. Finally, CPB has established a liaison with the Probation Administrator of the Executive Office of the U.S. Courts to enhance communication, more quickly resolve issues as they arise, and, most importantly, gain a better understanding of the types of information probation officers need so the end result is a significantly improved product.

**Submitted by Senator Ted Cruz**

1. How many biological males are housed in female federal prisons?

Response: As of October 2, 2024, 19 transgender women were housed in female institutions.

2. How many biological females are housed in male federal prisons?

Response: As of October 2, 2024, one transgender man was housed at a male facility.

3. In deciding whether to assign a transgender inmate to a male or female facility, your agency relies upon 28 C.F.R. § 115.42, which provides, “the agency shall consider on a case-by-case basis whether a placement would ensure the inmate’s health and safety, and whether the placement would present management or security problems.”

- a. What management problems do you consider when deciding to place a transgender inmate?

Response: BOP considers factors including, but not limited to, an adult in custody’s (AIC) security level, criminal and behavioral/disciplinary histories, current gender expression, programming needs, medical and mental health needs, vulnerability to sexual victimization, and likelihood of perpetrating abuse.

4. What percentage of transgender female prisoners in BOP custody—that is, prisoners born as male but identifying as women—have a prior sex offense conviction?

Response: Approximately 50 percent of transgender women in BOP custody have a current or prior conviction for a sex offense. When making housing designations, FBOP employs a case-by-case approach, prioritizing individualized safety and security while fostering an understanding of the complexities of transgender housing. FBOP upholds the values of dignity and respect by tailoring support for and maintaining the safety of all adults in FBOP custody, including transgender adults in custody.

5. How many of those inmates have been disciplined or charged for sexual offenses during their time in the prison system?

Response: FBOP is not aware of recorded instances of sexual predation by transgender individuals after they have received gender-affirming housing designations. As of October 2, 2024, there were zero cases of reported sexual predatory activity by any of these individuals while incarcerated.

6. Do you think it fair to house biological women with transgender women, particularly those who have committed sexual offenses against women?

Response: When making determinations related to housing placements for individuals in custody who identify as transgender, BOP's Transgender Executive Council (TEC) considers a number of factors.

BOP considers on a case-by-case basis whether a placement would ensure the individual's health and safety, and whether the placement would present management or security problems. The TEC considers factors including, but not limited to, an individual's security level, criminal and behavioral/disciplinary histories, current gender expression, programming, medical and mental health needs/information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. The TEC may also consider facility-specific factors such as population size, staffing pattern, and physical layout (e.g., types of showers available). The TEC considers the wellbeing of all individuals incarcerated in a facility while exploring appropriate options available to assist with mitigating risk to the transgender individual. Factors examined include cell and unit assignments, application of management variables, programming missions of the facility, and the security of the institution.

- a. Are these biological men placed in the same cells as women?

Response: BOP has an obligation to ensure all individuals in our custody are safe. We make housing unit and programming assignments on a case-by-case basis while giving serious consideration to an individual's well-being and the safety of all individuals in our custody. Additionally, we consider input from those in our custody who are transgender and women with whom they may be housed.

- b. Do they shower together?

Response: Transgender women housed in female facilities use the same shower areas as cisgender women; however, all bathrooms are individual, conform to Prison Rape Elimination Act (PREA) protocols, and are designed and intended for use by one individual at a time.

- c. Use the same bathrooms?

Response: Transgender women housed in female facilities use the same bathroom areas as cisgender women; however, all bathrooms are individual, conform to PREA protocols, and are designed and intended for use by one individual at a time.

7. What do you say to those who say you are putting women at risk in order to cater to the far left's radical gender identity agenda?

Response: BOP relies on subject-matter experts across diverse fields and makes housing determinations with the goal of ensuring the safety and security of all concerned. BOP employees are trained to understand the complexities of housing individuals who are transgender inside facilities and are required to remain observant and responsive to prevent any sort of sexual misconduct.

As noted above, BOP considers on a case-by-case basis whether a placement would ensure the individual's health and safety, and whether the placement would present management or security problems. The TEC considers factors including, but not limited to, an individual's security level, criminal and behavioral/disciplinary histories, current gender expression, programming, medical and mental health needs/information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. The TEC may also consider facility-specific factors such as population size, staffing pattern, and physical layout (e.g., types of showers available). The TEC considers the wellbeing of all individuals incarcerated in a facility while exploring appropriate options available to assist with mitigating risk to the individual, such as cell and unit assignments, application of management variables, programming missions of the facility, and the security of the institution.

8. How many inmates have undergone hormone treatment while serving their sentence in BOP facilities?

Response: Between 2008 and October 2023, 1,414 patients received hormone therapy while in BOP care. As of July 23, 2024, 623 patients were receiving hormone therapy. The majority of the patients receiving said care have done so for gender-affirming purposes, but there are some cases where hormone treatment was provided for some other medical condition.

9. How many inmates have undergone gender reassignment surgery while serving their sentence in BOP facilities?

Response: As of July 23, 2024, there had been two gender-affirming surgeries within BOP.

10. What is the total dollar amount of U.S. taxpayer dollars spent on providing inmates with free hormone therapy and gender reassignment surgery?

Response: BOP endeavors to provide appropriate medical treatment to AICs. As Director Peters testified in November 2023, BOP has provided two gender-affirming surgeries.

11. In the 2021 Omnibus, the BOP was directed to return staffing numbers to January 2016 levels.

- a. Has the BOPs staffing compliment [sic] changed to reflect the January 2016 levels?

Response: No. BOP continues to operate with the positions authorized and funded by Congress.

b. If no, why not?

Response: BOP lacks authority to increase its authorized position numbers without Executive and Congressional allocations.

c. When will the staffing levels be changed to the January 2016 levels?

Response: We will continue to make requests to increase our authorized and funded positions to seek to achieve the appropriate positions for BOP.

12. Your FY24 funding request revealed that between fiscal years 2021 through 2023 your funding level requests slightly increased, and in the same period BOP’s personnel requests were the same each year—38,983 overall personnel and 20,446 correctional officers. Documents obtained by staff and quoted during the hearing indicate that you are currently operating with less than 13,000 correctional officers—seven thousand officers short.

a. Why is your funding increasing but your personnel requests stagnating when you are clearly in need of more personnel? Where is the taxpayer’s money going?

Response: From FY 2021 to FY 2023, BOP’s Salaries & Expenses positions increased by 701 and Full Time Employees (FTEs) increased by over 2,800. As shown below, as of October 2024, BOP had 35,112 employees onboard, a fill rate of 92.4% of its funded positions.

<b>S&amp;E Authorized and Funded Positions (includes PHS)</b>	Authorized	Funded	Filled as of PP19 (% of Funded)
All	39,585	38,012	35,112 (92.4%)
Correctional Services <sup>[1]</sup>	20,446	Variable by institution	15,723 (76.9%)
Correctional Officers <sup>[2]</sup>	14,900	Variable by institution	12,520 (84.0%)

<sup>[1]</sup> Correctional Services includes non-supervisory correctional officers (COs) who work in housing units, lieutenants who supervise COs, Correctional Systems officers who work in Receiving and Discharge, and correctional counselors who work directly with adults in custody.

<sup>[2]</sup> This data is a subset of the Correctional Services data, above.

We are using our additional funding to increase recruitment and retention of staff, and we are making progress despite difficulties we face in filling our positions.

Please see above chart.

Specific examples of how BOP is using additional funding to increase recruitment and retention of employees include:

- All institutions pay a CO recruitment bonus of \$10,000 or 25% of the salary, whichever is higher (for new hires only). This has resulted in over 1,578 new hires since March 2023.
- We have increased the top pay for a CO by approximately \$2,000/year (from \$45,426 to \$47,349). An additional example of pay adjustments occurred at the Federal Detention Center (FDC) in Houston, Texas, which has increased locality pay (34.47%) due to the high cost of living in the area.
- We have retention bonuses at dozens of our institutions. For example, the Federal Correctional Institution (FCI) in Bennettsville, South Carolina, offers a 10% retention incentive for COs, and the FCI in Memphis, Tennessee, and the Federal Prison Camp in Millington, Tennessee, offer a 10% retention incentive for all staff.

For additional details about our hiring and retention initiatives, please see the attached fact sheet.

13. In past appropriation bills, the BOP was directed to ensure second officers were on shift in all High Security housing units. In the 2021 Omnibus, the BOP was directed to ensure that second officers were also being utilized in Administrative as well as Federal Detention Centers.
  - a. Why has the BOP not created these essential positions at these facilities and when will this be done?

Response: BOP added a second housing unit officer to high-security units in 2016, following the Consolidated Appropriations Act of 2016; this included all penitentiaries and the ADX.

In 2021, BOP's Correctional Programs Division finalized an updated version of BOP's Correctional Services Guidelines; although it has yet to be fully implemented, it outlines staffing in these units (FDCs and administrative) throughout. The updated guidelines include second housing unit officers in these units. BOP regularly reports on staffing needs for FDCs, administrative facilities, and medium-security facilities.

As of January 8, 2024, all high-security units had a second housing unit officer on duty. Two facilities (the ADX and USP Hazelton) have a second housing unit officer on duty at the times when open movement is available. The Federal Medical Center in Butner, North Carolina, and the United States Medical Center for Federal Prisoners in Springfield, Missouri, currently have second housing unit officers on duty in some but not all housing units, as both institutions have varying security levels separated by units. BOP's FDCs do not currently have a second housing unit officer on duty in the housing units. BOP continues to endure staffing challenges which impede its ability to assign a

second housing unit officer to FDCs. BOP is actively recruiting to fill staff vacancies so second housing unit officer posts can be assigned to FDCs.

**Submitted by Senator Dianne Feinstein**

1. More than a hundred women at FCI-Dublin have reported instances of sexual abuse by BOP employees at the facility. At least thirty-five women involved in reporting this abuse are immigrants who are now facing deportation. Many of these women are eligible for “U-Visas,” visas available to crime victims—like the women who were sexually abused at FCI-Dublin—if they assist with criminal investigations.

**a. Have “U-Visas” been made available to the women who reported sexual abuse at FCI-Dublin?**

Response: The U.S. Citizenship and Immigration Services (USCIS) is the only agency that can *approve* U Visa applications. The U.S. Attorney’s Office for the Northern District of California has, however, *certified* U Visas for a total of seven AICs who were victims of sexual abuse at FCI Dublin. This law enforcement certification is a necessary component of the U Visa application. Once the victim receives the certification, she then includes it in her U Visa application, which is submitted to USCIS. USCIS makes the ultimate determination about whether to approve the application.

**b. What role does BOP play in providing “U-Visas” for sexual assault survivors in its facilities?**

Response: FBOP traditionally has played an information-sharing role in the U visa process. The applicable regulation (8 CFR § 214.14(a)(2)) defines “certifying agency” as “a Federal, State, or local law enforcement agency, prosecutor, judge, or other authority, that has responsibility for the investigation or prosecution of a qualifying crime or criminal activity.” Depending on the circumstances, “certifying agencies” typically include the Department of Justice Office of Inspector General, the Federal Bureau of Investigation, United States Attorney’s Offices, and local law enforcement. The role of the law enforcement agency in the U visa process is to certify that the U visa applicant has been, is being, or is likely to be helpful in the detection, investigation, or prosecution of one of the enumerated criminal activities (which include abusive sexual contact, sexual assault, and sexual exploitation), and has complied with all reasonable requests for assistance. To the extent an individual in FBOP custody is seeking certification of a U visa from an investigating or prosecuting law enforcement agency and that agency seeks information from FBOP,

FBOP works with that agency to provide relevant information.

2. Inmates who experience “extraordinary circumstances” while in prison are allowed to petition a court to seek compassionate release. Earlier this year, the U.S. Sentencing Commission determined that people who are sexually abused while in prison may in some cases be eligible for compassionate release.

At the FCI-Dublin, eight employees were arrested related to a pervasive pattern of sexual abuse at the facility that harmed more than one hundred women. I understand some of these sexual abuse survivors have sought compassionate release from the courts.

**a. How many people have sought and received compassionate release this year because they were sexually assaulted by BOP employees?**

Response: As of July 23, 2024, FBOP’s director had supported compassionate release for six adults in custody on the basis of confirmed sexual abuse, as allowed under the amended sentencing guidelines. This number does not include individuals who sought compassionate release directly from the court.

**b. How many people have sought and received compassionate release because they were sexually assaulted at the FCI-Dublin facility?**

Response: As of July 23, 2024, FBOP’s director had supported compassionate release for three adults in custody on the basis of confirmed sexual abuse that occurred at FCI Dublin. This number does not include individuals who sought compassionate release directly from the court.

3. According to a report published in March, twenty-one percent of the approximately twenty thousand corrections officer positions funded by Congress were vacant. That means more than four thousand correctional officer positions at facilities across the country are currently vacant.

These vacancies have led to the use of augmentation practices, where non-correctional staff like psychologists, teachers, unit managers, and medical personnel are assigned to correctional duties, including shower monitoring and inmate escorts.

At FCI-Mendota in California, these augmentation practices have sparked staff protests because of concerns that having civilian staff fill in as correctional officers poses significant safety risks for both staff and inmates.

**a. What factors have contributed to these ongoing staffing shortages at FCI-Mendota and other BOP facilities?**

Response: As shown on the attached fact sheet, as of October 2024, BOP has filled 92.4% of all positions and just over 83% of non-supervisory correctional officer (CO) positions. Non-supervisory COs work in housing units and supervise AICs.

The question references a report that appears to have overstated the number of CO positions. BOP is funded for 20,446 Correctional Services positions. This number includes 14,900 funded CO positions, as well as about 6,000 positions for lieutenants, correctional counselors, and other non-CO positions. Ongoing employee shortages at FCI Mendota can be attributed to its geographical location. The city of Mendota is in an agricultural setting with very little surrounding community. As the largest city is approximately an hour away, attracting employees has become very difficult. FCI Mendota is offering a 14% retention bonus and a 17% recruitment incentive.

**b. What specific steps has BOP taken to address these staffing shortages at FCI-Mendota?**

Response: BOP has added several incentives such as recruitment incentives, hiring above the minimum rate, relocation incentives (internal selections), student loan repayment (for eligible positions), and retention incentives (currently at 14% institution wide). For additional information about BOP's hiring and retention initiatives, please see the attached fact sheet.

**c. What steps has the BOP taken to ensure that augmented staff members are properly trained to safely perform the roles they are being asked to fill?**

Response: All institution employees are corrections professionals who are issued the same equipment (i.e., radio and keys) to carry out our mission. Employees who work in institutions must successfully complete Institutional Correctional Training both at their home institution and at the Federal Law Enforcement Training Center in Brunswick, Georgia, to fulfill the requirements of their position description as correctional workers. Employees also attend annual training which covers and reinforces the basics of correctional techniques required to work in a correctional setting. Regardless of position, employees working in our institutions provide supervision to those in our care in all settings, not just housing units. For example, a teacher is providing supervision of their classroom, a cook supervisor is keeping watch over the food service workers and the kitchen, and a recreation specialist is responsible for keeping the gym and yard safe and secure. In addition to their duties in those roles, they are a correctional professional first. Additionally, a shift lieutenant is available to provide instruction to those being augmented.

**d. What can Congress do to help prevent future staffing shortages in BOP facilities?**

Response: Across the United States, law enforcement agencies struggle to hire officers as well as health care providers who are exhausted from the COVID-19 pandemic. BOP faces these same challenges when hiring correctional officers and

medical professionals. We have committed significant resources to our recruitment and hiring efforts.

Increasing base pay would significantly help our hiring and retention efforts because low pay for correctional officers has been an impediment to hiring and retaining employees. Therefore, BOP appreciates Congress's support to fully fund our budget which allows us to pay incentives to assist with hiring and retention. BOP competes with other government agencies for qualified applicants, particularly medical professionals. Congressional action that strengthens BOP's ability to pay competitive salaries will be important to resolving our staffing crisis.

**Submitted by Senator Lindsey Graham**

1. Director, there have been several reports over the years about the involvement of Mexican drug cartels and affiliated gang activity in our federal prisons. As I asked you during our September 13 hearing, are you willing to commit to developing a strategy for dealing with cartel activity in federal prisons?

Response: BOP has an existing strategy to handle potential cartel activity in federal prisons. Our National Gang Unit (NGU) focuses on intelligence related to gangs and cartels in institutions and communities. The NGU supports operations and investigations in partnership with other federal, state, and local law enforcement agencies. The NGU works closely with the National Gang Intelligence Center and other task forces that bring law numerous enforcement entities together to proactively address gang and cartel activities. The NGU especially focuses on drug trafficking organizations and drug cartels connected to members housed in federal prisons.

- a. If not, why not?
- b. If yes, when can we expect this strategy to be developed and put in place?

Response: BOP's strategy for addressing gang/cartel activity has been in place for many years. BOP works closely with federal, state, and local entities to address gang/cartel activity in its institutions and throughout the country.

- c. Will you provide my staff with, both classified and unclassified as appropriate, on your intelligence operations with regard to countering Mexican drug cartel influence in federal prisons?

Response: Active criminal investigations cannot be discussed in this setting, and BOP does not have authority to serve as criminal investigators. We provide intelligence and referrals to law enforcement agencies such as the FBI, the Drug Enforcement Administration (DEA), and OIG to facilitate the investigation of Mexican drug cartel influence within prisons. However, with regard to the case mentioned at the hearing before the Senate Judiciary Committee on September 13, 2023, the NGU can confirm DEA investigated the matter and BOP coordinated with outside law enforcement in support of the DEA investigation.

2. How do you plan to counter the prevalence of contraband cellphones in federal prisons?

Response: BOP is addressing the issue of contraband cell phones. BOP uses the latest technology to detect, jam, and stop the introduction of phones into BOP facilities.

Plans for a rollout of Micro Jamming Systems (MJS), which stop all cell signals in specific areas, are in place for several facilities, including USP Atlanta, ADX Florence, and FCC Coleman. BOP's MJS are pending final approval from the National Telecommunications and Information Administration (NTIA) and the Federal Aviation Administration (FAA).

BOP has also conducted mobile cellular assessments at 25 institutions where the greatest number of contraband phones have been found. BOP has used technology to identify these phones and disable them through the U.S. wireless industry's (CTIA) stolen phone database.

Cell phones are often introduced into BOP facilities by Unmanned Aircraft Systems (UAS) that drop payloads on or around institution grounds. BOP works with partners such as the FAA to help fight these introductions. BOP utilizes Counter UAS (CUAS) technology to help with this effort. As of October 11, 2024, active CUAS detection is currently operational at 62 institutions identified as being at high risk for drone activity. Additionally, BOP worked with DOJ and the FAA to restrict airspace (UAS flyover protection) for 109 of our 121 institutions, which allows us to investigate and work with fellow law enforcement entities to address sightings of UAS on BOP property. BOP has allocated funding for CUAS technology and has requested more funding for the next fiscal year to strengthen interdiction efforts.

- a. Are you willing to support the use of cellphone jamming technologies as well as any necessary Congressional authorizations to allow the use of such technologies?

Response: Yes.

- i. If not, why not?

- b. Do you support the use of Stingray devices in federal prisons to monitor illicit communications?

Response: The term 'Stingray' typically refers to a device used to simulate cellular tower signals to help law enforcement to locate cellular devices. Cell-site simulators used by the Department of Justice must be configured as pen registers, and may not be used to collect the contents of any communication. BOP is committed to safety within its facilities, in accordance with all laws and policies governing the use of such devices.

- i. If not, why not?

- c. Do you agree that enhancing penalties for cellphone contraband would be useful in preventing the widespread dispersion and use of cellphone contraband in federal prisons?

Response: Yes.

- 3. Is there any plan or have there been any discussions within the Bureau of Prisons regarding the transfer of inmates being held on death row at FCI Terre Haute to another facility?

Response: As of January 2025, FBOP is reviewing the designations of individuals whose federal death sentences were recently commuted by the president. FBOP also is reviewing its use of restrictive housing system wide. This includes a review of best practices from other jurisdictions and a partnership with the National Institute of Justice (NIJ). Part of this work will include reviewing FBOP practices regarding the Special Confinement Unit (SCU), which houses individuals with a federally imposed death sentence.

- a. Has there been any plan or discussions regarding placing federal death row inmates into a “step down” program or any similar type of program?

Response: As of January 2025, FBOP is reviewing the designations of individuals whose federal death sentences were recently commuted by the president, and is assessing its use of restrictive housing system wide and in the SCU.

- b. Has there been any plan or discussions regarding placing federal death row inmates into a general population prison setting?

Response: As of January 2025, FBOP is reviewing the designations of individuals whose federal death sentences were recently commuted by the president, and is assessing its use of restrictive housing system wide and in the SCU.

- c. Please provide details about the specifics of any plan to transfer or modify the situation of federal death row inmates, including any timeline, justifications, movements, and so forth.

Response: As of January 2025, FBOP is reviewing the designations of individuals whose federal death sentences were recently commuted by the president, and is assessing its use of restrictive housing system wide and in the SCU. While FBOP cannot provide estimated redesignation dates as of January

2025, FBOP will make any designation decisions in accordance with FBOP policies.

4. Do you or the Bureau of Prisons plan to remove, restrict, or otherwise limit the use of Special Housing Units (SHUs) at federal prisons now or in the future?

Response: Similar to the need for a jail in the community, SHUs are necessary due to the nature of a correctional environment. BOP aims to house individuals in the least restrictive setting necessary to ensure their own safety, as well as the safety of other AICs, employees, and the public. As such, our employees are trained to utilize the SHU per applicable policies, and only after using alternative measures (e.g., effective communication/de-escalation tactics).

BOP is working to comply with the President's May 2022 Executive Order, which required restrictive housing to be ". . . used rarely, applied fairly, and subject to reasonable constraints; to ensure that individuals in DOJ custody are housed in the least restrictive setting necessary for their safety and the safety of staff, other prisoners and detainees, and the public . . ." As part of this effort, we are reviewing our use of restrictive housing system wide. In the short term, this includes a review by a workgroup made up of members of our executive team, who are researching best practices from other jurisdictions. In the long term, we have partnered with NIJ to invest in research that will inform how federal correctional institutions can effectively reduce the use of restrictive housing. The research will explore policies and discern whether and how we can further reduce our reliance on restrictive housing. Part of that work will include reviewing our practices in and use of SHUs.

- a. If so, what is your plan for preventing gang violence that could otherwise be prevented or limited through the use of SHUs?

Response: BOP uses a proactive approach when feasible to prevent and limit gang violence. With respect to this specific population, often SHUs are necessary for the safety of employees, AICs, and the public. BOP also may house at the ADX individuals who regularly engage in gang violence and activities at our facilities.

- b. If so, how do you intend to protect inmates who request to be placed in a SHU for protection from other inmates who might harm them?

Response: BOP uses a proactive approach when feasible to prevent and limit gang violence. With respect to this specific population, often SHUs are necessary for the safety of employees, AICs, and the public. BOP considers

each request individually and makes housing determinations based on best practices and policy.

5. How many self-identified transgender individuals are currently in the custody of the Bureau of Prisons?

Response: As of October 10, 2024, approximately 2,200 individuals in BOP custody self-identified as transgender.

- a. From that number, how many are biological females who are transitioning or have transitioned to male?

Response: As of October 10, 2024, there were approximately 740 transgender men in BOP custody.

- b. From that number, how many are biological males who are transitioning or have transitioned to female?

Response: As of October 10, 2024, there were approximately 1,400 transgender women in BOP custody.

- c. How many federal inmates are currently in facilities that do not reflect their biological sex at birth?

Response: As of October 10, 2024, 19 individuals had gender-affirming placements in BOP facilities.

6. The National Institute of Corrections (NIC) has been without a permanent director since 2017. What steps has the Bureau of Prisons taken to install a permanent director at NIC, and what progress has been made to that effect?

Response: FBOP recognizes the importance of and supports having an appointed director of NIC. As per NIC's legislative framework, FBOP's Director serves as an Ex-Officio member of the NIC Advisory Board but lacks authority to designate a permanent director of the NIC. Rather, that power rests with the Attorney General after consulting with the NIC Advisory Board. Since 2017, possible candidates have been reviewed. In November 2023, FBOP posted an announcement to USAJobs.gov seeking candidates for the NIC Director position who, if qualified, could be considered for appointment. We are pleased to report a permanent NIC Director has been appointed and came on board in October 2024.

- a. The mission of federal prisons and local county jails are vastly different and they have distinct differences in their operations and expected outcomes.

County jails rely heavily on the technical assistance that the National Institute of Corrections provides and with jails facing many difficulties between crumbling infrastructure, mental health crises, and staffing vacancies, the need to make sure NIC is adequately supported and funded is greater than ever. Should the Bureau of Prisons continue to oversee NIC and its operations or should it be moved to another area within the Department of Justice better equipped to serve county jails?

Response: FBOP is proud to have NIC within its ranks and has the resources to support NIC. In fact, over the past year, NIC's budget and staffing have grown, and FBOP hopes to continue to support NIC. FBOP is proud of the excellent support NIC provides to local county sheriffs and jails and is committed to NIC continuing to provide that essential support.

7. My staff has received reports regarding the Bureau of Prisons limiting faith-based organizations from implementing educational and anti-recidivism programs under the First Step Act—particularly evidenced-based recidivism reduction programs (EBRRs) and productive activities (PAs). Senator Lankford sent you a [letter](#) about this matter on July 24, 2023. Federal law has made clear that faith-based organizations may not be excluded from First Step Act programs.

- a. What, if any, policies or practices are in place that would limit access by faith-based organizations to implementation of programs under the First Step Act?

Response: There are no policies that preclude faith-based organizations from implementing programs in accordance with the First Step Act (FSA). BOP values the partnerships we have developed with faith-based organizations over the years. We continue to explore ways to expand these partnerships and welcome continued collaborative relationships with faith-based organizations, as well as with individual volunteers and contractors.

- i. If there are no such policies or practices, then how do you explain the dearth of public-private partnerships for both EBRRs and PAs between the Bureau of Prisons and any faith-based organizations?

Response: As required by the FSA, both program evaluations and the review of new program submissions are conducted using the same criteria for empirical evidence of recidivism reduction, regardless of whether the program is or would be provided by an internal or external party—and regardless of whether the program is faith-based. As of November 28, 2023, BOP had received 10 applications for external faith-based programs. Three of the applications were approved, six were denied, and one is pending review.

- b. Are you willing to commit to ensuring that faith-based organizations are able to provide First Step Act programming to inmates within the Bureau of Prisons?

Response: BOP is committed to the FSA and to providing programming by faith-based organizations. BOP is mindful of this commitment as it continues to expand FSA-approved programs while also considering the safety and security, as well as the needs, of the AICs, volunteers, and employees.

- i. If not, why not?
- ii. If so, what steps do you plan to take to that effect?

Response: Please see responses to the questions above.

**Submitted by Senator Charles Grassley**

In February 2023, the DOJ OIG released a report finding that inmate on staff sexual misconduct occurs across BOP institutions and it particularly affects female employees.<sup>1</sup> The IG found BOP lacked adequate data accounting for inmate-on-staff sexual harassment offenses and, as a result, BOP has not fully addressed the problem. The report also found that in 2021 there were 2,047 sustained allegations of inmate on staff sexual assaults based on five categories of offenses.<sup>2</sup> However, in the Federal Prisoner Statistics Collected under the First Step Act report for 2021, the Bureau of Prisons only used two categories of offenses and identified 7 sustained allegations, none of which were prosecuted.<sup>3</sup>

In your testimony, you stated that you and the Deputy Attorney General “have met with all of the US Attorneys on multiple occasions to ask for a criminal prosecution” of inmates who commit sexual misconduct against staff.

- a. Please explain why the Bureau of Prisons didn’t use the same categories of offenses as the Inspector General. What steps has the Bureau of Prisons taken to ensure its data is full and complete so that future First Step Act reports offer Congress and the public the full picture?

Response: The First Step Act requires BOP to report the number of assaults on employees by AICs and the number of criminal prosecutions of AICs for assaulting BOP employees. The scope of OIG’s report covered sexual harassment directed toward BOP employees by AICs, including engaging in sexual acts, stalking, and making sexual proposals. As these three categories are not considered sexual assaults, BOP does not include them in the FSA reporting.

- b. For each of the 5 categories of offenses used by the Inspector General, for each BOP facility for the last 5 years, provide the incident code of the offense committed against BOP staff, the description and circumstances of the offense, the disciplinary action taken and if none, why not, and whether the offense was referred for prosecution and if not, why not.

Response: BOP systems maintain this data in a manner that contains a significant amount of personally identifiable information. However, this data is available in an aggregated format in the OIG report cited in footnote 1.

<sup>1</sup> U.S. Department of Justice Office of the Inspector General, *Evaluation of the Federal Bureau of Prisons’ Efforts to Address Sexual Harassment and Sexual Assault Committed by Inmates Toward Staff*, (February 23, 2023) <https://oig.justice.gov/reports/evaluation-federal-bureau-prisons-efforts-address-sexual-harassment-and-sexual-assault>.

<sup>2</sup> *Id.* at 14.

<sup>3</sup> Bureau of Justice Statistics, *Federal Prisoner Statistics Collected under the First Step Act, 2022*, (Dec. 2022) at 10 <https://bjs.ojp.gov/sites/g/files/xyckuh236/files/media/document/fpscfsa22.pdf>.

- c. What actions is the Department taking to ensure that BOP institutions across the nation are addressing inmate-on-staff sexual harassment allegations and punishing inmates who engage in this misconduct?

Response: BOP has a robust Discipline Program for AICs which ensures AICs are held accountable for their actions. BOP also recently established a taskforce to identify additional measures for AIC accountability, employee awareness, and training.

- d. Is the widespread sexual misconduct by inmates on staff having a negative effect on the Bureau of Prison's ability to recruit and retain staff?

Response: We do not have any data that suggests our ability to recruit or retain employees has been negatively impacted by the risk of potential or actual sexual misconduct by AICs against staff.

- e. The working group established by Deputy Attorney General Lisa Monaco determined that the Bureau of Prisons should ensure that meaningful discipline is imposed on inmates to prevent future attacks on staff. Please explain the steps you've taken to follow through on that recommendation and, if none have been taken, explain why that's the case.<sup>4</sup>

Response: BOP has a robust Discipline Program for AICs which ensures AICs are held accountable for their actions. BOP also recently established a taskforce to identify additional measures for AIC accountability, employee awareness, and training.

- f. What specific dates did you meet with the U.S. Attorneys to ask for criminal prosecutions of inmates who commit sexual misconduct against staff? Which U.S. Attorneys did you meet with?

Response: On September 14, 2022, I met with the Deputy Attorney General and with the Attorney General Advisory Committee (AGAC) which is made up of about 10 United States Attorneys (USAs) and virtually with all other USAs to discuss this issue. On November 1, 2022, I met in person with all USAs while they were in town for their annual meeting. On September 1, 2022, I met with the USA for the Northern District of Illinois on this topic. Additionally, I have discussed this topic with a member of the AGAC on a regular basis. Lastly, my General Counsel meets regularly with Criminal Chiefs from United States Attorney's Offices and discusses this issue on my behalf.

- g. Since becoming the BOP Director, how many inmates have been prosecuted for committing sexual misconduct against staff?

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<sup>4</sup> Principal Associate Deputy Attorney General Working Group, *Report and Recommendations Concerning the Department of Justice's Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons*, U.S. Department of Justice, (November 2, 2022) <https://www.justice.gov/dag/page/file/1549051/download>.

Response: BOP does not have an automatic tracking mechanism that gathers and maintains this data. Ascertaining this number would require manual inspection of each individual referral in an alleged sexual misconduct incident at each of our facilities to determine if a referral for prosecution was made.

#### Inmate Financial Accounts

I have sent letters to the BOP concerning financial accounts that are maintained by the BOP on behalf of federal prisoners. The amounts held in these accounts were estimated by The Washington Post in 2021 to total more than \$100 million and that it increased because some prisoners received COVID relief payments.<sup>5</sup> Several news accounts reported that even high-profile prisoners such as Larry Nassar and the Boston Bomber were holding large sums of money in these accounts while owing victim restitution.<sup>6</sup>

On January 10, 2023, BOP published a proposed rule to increase the minimum amount of money an inmate would have to pay through the Inmate Financial Responsibility Program (IFRP) to satisfy their financial obligations. However, this program is voluntary and inmates may choose not to participate in this program.

According to the BOP website, “With the exception of direct restitution payments to victims, most funds collected by the IFRP are deposited in the Crime Victims Fund and are subsequently distributed to the states for victim assistance and compensation programs.”<sup>7</sup>

- a. What is the status of the proposed rule? Has BOP begun implementing this policy?

Response: It is an essential part of our mission to prepare AICs for reentry into society. That includes ensuring they make payments toward restitution owed to the victims of their crimes. BOP is diligently working toward making revisions to the Financial Responsibility Program (FRP) regulations which are designed to make the program more effective. In January 2023, we published a proposed rule that, among other things, sought to garner 75% of deposits made to an AIC’s trust account in order to apply that money toward the AIC’s financial obligations, which have a priority of payment order set by federal law and regulation (federal special assessments, then restitution, then fines, court costs, state obligations, and other obligations). During the 60-day comment period, we received comments on the proposed rule from those in our care, advocacy groups, and other stakeholders, the overwhelming majority of which took issue with this percentage

<sup>5</sup> Devlin Barrett, *Federal prisoners hold \$100 million in government-run accounts, shielded from some criminal scrutiny and debt collection*, THE WASHINGTON POST (June 9, 2021), [https://www.washingtonpost.com/national-security/bureau-of-prisons-bank-system/2021/06/08/2af9766-c3d1-11eb-8c18-fd53a628b992\\_story.html](https://www.washingtonpost.com/national-security/bureau-of-prisons-bank-system/2021/06/08/2af9766-c3d1-11eb-8c18-fd53a628b992_story.html).

<sup>6</sup> Devlin Barrett, *Prosecutors seek money from Boston Marathon bomber’s prison bank account*, THE WASHINGTON POST (January 5, 2022), [https://www.washingtonpost.com/national-security/boston-bomber-tsarnaev-prison-money/2022/01/05/06963ee-166d-11ec-b976-f4a43b740aeb\\_story.html](https://www.washingtonpost.com/national-security/boston-bomber-tsarnaev-prison-money/2022/01/05/06963ee-166d-11ec-b976-f4a43b740aeb_story.html).

<sup>7</sup> BOP, Inmate Payments, [https://www.bop.gov/resources/victim\\_resources.jsp](https://www.bop.gov/resources/victim_resources.jsp).

threshold. We carefully considered those comments and, in December 2024, published a supplemental proposed rule whose own 60-day comment period closes in February 2025. We acknowledge the need for reforms, and we are taking feedback seriously.

- b. Does the BOP plan to modernize or reform how it monitors balances, deposits, and withdrawals of prisoner accounts whether or not the inmate participates in the IFRP? If not, why not?

Response: Our Intelligence and Counter Terrorism Branch works with our law enforcement partners to monitor possible illegal activity connected to AIC trust accounts with questionable deposits or larger account balances. BOP's efforts provide important information to law enforcement partners and often lead to collection efforts from United States Attorney's Offices.

- c. Does the BOP believe that inmates who decline to participate in the IFRP and have past-due debts should be able to count on the BOP to shield their money from those obligations?

Response: BOP processes FRP payments on federal court obligations or state/local obligations with a court order, and federal law and regulations govern the priority of payment order for AIC obligations.

FRP remains a voluntary program. We are currently exploring options for reforming our approach to restitution payments, including through changes to the FRP.

- d. Is it appropriate for the BOP to continue to hold large sums of money, or any money at all, for inmates who choose not to participate in the IFRP?

Response: Not all AICs owe restitution. Additionally, large trust accounts are extraordinarily rare in BOP. Over ninety percent of individuals in BOP custody have less than \$2,500 in their accounts and only a fraction of those with accounts over \$2,500 owe restitution. Less than two percent of those who have accounts with more than \$2,500 owe restitution. The overwhelming majority of AICs have very little in their trust account. They rely on these nominal funds for basic necessities like commissary items, access to the telephone and to the Trust Fund Limited Inmate Computer System (email), and postage. Moreover, many of these individuals arrive in our care without outside bank accounts or any history of financial planning. Accordingly, with this population we endeavor to encourage sound financial management and regular restitution payments, while at the same time ensuring they can maintain sufficient funds to cover basic necessities and ultimately prepare for successful reentry into their communities.

Employees assist the individual in developing a financial plan for meeting obligations at initial classification and subsequent program review meetings. In developing a financial plan, employees consider the individual's total deposits during the past six months and

payments made through FRP in the past six months, and make an allowance for an individual's use of the telephone system.

- e. Please provide a breakdown of inmates in the custody of the BOP and note the total amounts of financial obligations owed by inmates towards special assessments, victim restitution, fines and court costs, state or local court obligations, child support, and any other federal obligations. Please note which amounts are covered by participation in the IFRP.

Response: As of October 11, 2024, FBOP systems were limited in their ability to provide an accurate breakdown of financial obligations by type of obligation, due to the method by which financial obligations are maintained in FBOP's electronic record keeping system. As of October 23, 2023, the Executive Office for U.S. Attorneys (USAEO) reported to FBOP that the outstanding restitution debts owed by people with release dates prior to that date amounted to approximately \$35.8 billion.

- f. For the past 10 years, provide how much money was collected through the IFRP and of what was collected, how much was deposited into the Crime Victims Fund and the respective states.

Response: FBOP's public website provides the collection amounts from FRP accounts. See [https://www.bop.gov/resources/victim\\_resources.jsp](https://www.bop.gov/resources/victim_resources.jsp). The amounts paid from recent years are below.

FY2011 - \$8,263,246.61  
 FY2012 - \$8,594,822.76  
 FY2013 - \$8,261,061.23  
 FY2014 - \$7,878,759.27  
 FY2015 - \$7,837,597.54  
 FY2016 - \$7,494,301.71  
 FY2017 - \$6,996,828.39  
 FY2018 - \$6,723,651.64  
 FY2019 - \$6,620,621.78  
 FY2020 - \$5,993,712.34  
 FY2021 - \$6,034,623.03  
 FY2022 - \$8,434,330.91  
 FY2023 - \$9,251,694.13

FCC Hazelton Employee Misconduct

On September 12, 2023, I, along with Chairman Durbin, and Senators Capito and Manchin wrote you about whistleblower allegations of serious misconduct occurring at FCC Hazelton, located in Bruceton Mills, West Virginia. Whistleblowers have alleged that staff had sought to cover up their release of a wrong inmate and a group of inmates escaping, staff abusing inmates, supervisory staff falsifying documents and encouraging staff to abuse inmates, and other serious claims of wrongdoing. Some of the claims made by these whistleblowers have also been substantiated through public reports.<sup>8</sup> Since the release of the letter, news reports have released video footage of allegedly two escaped inmates from FCC Hazelton being held in custody by a homeowner until law enforcement authorities could arrive.<sup>9</sup> If these allegations are true and accurate, they reflect a rampant culture of abuse and misconduct at FCC Hazelton.

- a. Will you conduct a full and independent investigation into the alleged misconduct occurring at FCC Hazelton? If not, why not?

Response: Yes.

- b. Do you commit that no taxpayer money will be used to identify, expose the identity of, or retaliate against any whistleblowers and that the anonymity of all individuals interviewed is maintained, regardless of whether or not they corroborate any allegations of misconduct? If not, why not?

Response: Yes, to the fullest extent under the law, regulations, and policy.

- c. Provide copies of all charging documents, plea agreements, staff transfer orders, and judgment and commitment orders for any current or former BOP employee charged with a crime that occurred at FCC Hazelton.

Response: BOP is not the primary custodian of charging documents, plea agreements, or judgment and commitment orders. However, BOP maintains documentation reflecting employee reassignments.

- d. How many misconduct investigations involving current or former FCC Hazelton employees are pending? In your answer include the type of misconduct that is being investigated.

<sup>8</sup> Pam Bailey, *FCC Hazelton: Called 'Misery Mountain' for a Reason*, More Than Our Crimes (Sep. 5, 2022) <https://morethanourcrimes.org/voices/fcc-hazelton-cauldron-of-misery/>; Pam Bailey, *Staffing Shortage or Toxic Culture? Prisoners say Hazelton has Both*, More Than Our Crimes (Feb.25, 2023) <https://morethanourcrimes.org/voices/staffing-shortage-or-toxic-culture-prisoners-say-hazelton-has-both/>.

<sup>9</sup> 5 WDTV News, *Security camera footage shows two escaped inmates from FCC Hazelton being held at gunpoint*, (Sep. 13, 2023) <https://www.wdtv.com/video/2023/09/13/security-camera-footage-shows-two-escaped-inmates-fcc-hazelton-being-held-gunpoint/>.

Response: As of February 27, 2024, there were 19 open investigations at FCC Hazelton. The misconduct being investigated ranges from policy violations to criminal behavior.

- e. How many FCC Hazelton employees who, while under investigation for abuse of inmates, continued to perform employment duties requiring contact with or supervision of inmates from 2013 to present?

Response: In cases that present serious allegations that negatively impact BOP's confidence in an employee, or the security and orderly operations of an institution, the warden has the discretion to temporarily reassign the employee within the institution. Administrative leave, on the other hand, is reserved for situations where the employee's presence presents a serious threat to the operations of the institution, and reassignment within the facility does not alleviate the threat. When the allegations are such that administrative leave may be appropriate, the concurrence of the Department's Justice Management Division is required. Many factors are weighed in considering reassignment and administrative leave, including the nature of the allegations, the stage of the investigation, and whether the investigation is known to the subject. Preserving the integrity of the investigation is of critical importance.

- f. How many FCC Hazelton staff members who, while under a pending investigation for abuse of inmates, have been promoted or transferred to another institution? Please list the highest-ranking title or grade the staff member held in the case of a promotion or the receiving institution in the case of a transfer.

Response: Whenever there is an allegation of misconduct, BOP initiates an investigation process. In addition, BOP has a vetting process for all hires, transfers, and promotions. However, not all allegations of misconduct result in a sustained disciplinary case, and BOP does not prohibit transfers or promotions based on allegations alone. At FCC Hazelton, 29 employees were promoted within the institution while under a pending investigation for abuse of adults in custody (AICs). Please note this number does not include career promotions (i.e., it only includes jobs to which individuals applied and for which they were selected under competitive procedures). "Career promotions" are the normal grade progression through which employees advance to the highest grade of their current position without having to apply for and compete with other employees. Career promotions are non-competitive promotion actions. Additionally, 14 employees transferred to other institutions while under investigation for abuse of AICs. (This number includes promotions, reassignments, and changes to lower grade.) The highest-ranking grade and title of these employees is a GS-13 executive assistant/satellite operations administrator.

- g. Please provide list of all sustained allegations of abuse of inmates at FCC Hazelton that have occurred since 2013 and the corrective actions taken to address each incident.

Response: There have been no sustained allegations of physical abuse of AICs at FCC Hazelton since 2013. However, there have been eight cases since 2013 that resulted in sustained allegations of excessive force, and the penalties in those cases ranged from reprimand to suspension.

**Submitted by Senator Mike Lee**

1. You appeared before the Senate Judiciary Committee on September 29, 2022. One week after that hearing, on October 6th, 2022, I submitted twenty questions to you for your immediate review. This is a routine practice and answers are generally returned within a week of their receipt. It has been nearly one year since you received those questions, and you have failed to respond. Will you commit to responding to the October 6, 2022 questions as soon as possible, ideally before the one-year anniversary of their submission?

Response: The Director was disappointed at the delay in response as well. BOP's responses to the September 2022 hearing questions for the record (QFRs) were sent to members of the Senate Judiciary Committee in December 2023. BOP works diligently to respond to QFRs. The Executive Branch has an established clearance process for responses, within which BOP operates. However, we have worked to improve our internal process to make it as efficient as possible. Specifically, we have added new staff to our Office of Legislative Affairs, and we have seen significant improvement in our correspondence process.

2. In the hearing on September 12, 2023, you told Senator Cotton that you are "working diligently" to respond to his questions from last year. Your written testimony includes your assertion that you believe in "good governance, accountability, transparency, and the importance of oversight." Does the significant delay in submitting answers to my questions and the questions of my colleagues reflect other issues in your duties as Director of the Bureau of Prisons?

Response: The Director was disappointed at the delay in response as well. BOP's responses to the September 2022 hearing questions for the record (QFRs) were sent to members of the Senate Judiciary Committee in December 2023. BOP works diligently to respond to QFRs. The Executive Branch has an established clearance process for responses, within which BOP operates. However, we have worked to improve our internal process to make it as efficient as possible. Specifically, we have added new staff to our Office of Legislative Affairs, and we have seen significant improvement in our correspondence process.

3. On January 26, 2021, President Biden signed an executive order to "Eliminate the use of Privately Operated Criminal Detention Facilities." How many BOP facilities were under contract with private operators on the date of this executive order?

Response: As of January 26, 2021, BOP's Privatization Management Branch (PMB) managed eight facilities including the Reeves County Detention Center, the Giles W Dalby Correctional Facility, Reeves County Detention 1&2 (two facilities), the D. Ray James Correctional Facility, the Great Plains Correctional Facility, Moshannon Valley Correctional Center, and the Rivers Correctional Facility.

4. What percentage of the overall inmate population was housed in privately contracted facilities compared to the overall inmate population housed in BOP facilities?

Response: As of January 28, 2021, the population was comprised of:

- a. 14,122 (9%) individuals housed in privately managed correctional institutions.
  - b. 14,747 (10%) individuals housed in contractor-operated residential reentry centers (RRCs, commonly known as “halfway houses”), home confinement, jails or short-term detention, or long-term contract boarders. This number also includes 10 juveniles confined in privately operated contract facilities.
  - c. 123,202 (81%) individuals housed in correctional facilities managed by BOP.
5. The BOP relied heavily on private operators providing prisoner beds prior to the executive order. Reliance by the BOP on private facilities increased by 79% from 2000 to the date of the executive order. How many contracts with private contractors, if any, were terminated for contractual nonperformance between 2000 and the date of the executive order?

Response: Two.

6. If any contract terminations occurred, where were the inmates in the privately operated facility transferred to?

Response: In most cases, the AICs were transferred to a BOP facility. Some individuals who were nearing the end of their sentence were transferred to another contract facility. This allowed BOP to maximize available bed space and utilize the beds at the remaining private facilities until the contracts expired.

7. Why did the BOP increase its reliance on private contractors during the period between 2000 and 2021, especially if contract terminations occurred?

Response: BOP increased its reliance on private contractors during that period to meet the needs of the increased prison population. Initially, the management of private facilities was mandated by Congress through the National Capital Revitalization and Self-Government Improvement Act of 1997.

8. Between 2000 and 2021, did the BOP identify actions by private contractors that resulted in extended sentences for the inmates that improperly resulted in increased payments to that contractor?

Response: BOP has not identified actions by private contractors that resulted in extended sentences for AICs or that improperly resulted in increased payments to that contractor.

9. Did the BOP receive any requests from private operators to change the policies on prisoner conduct that would give that operator authority to increase the length of the sentence of inmates under their control?

Response: No.

10. Is the BOP aware of any complaints or reports of a private operator making any unjustified disciplinary decisions that resulted in extending an inmate's sentence? If so, how were such complaints adjudicated?

Response: We are not aware of any such complaints.

11. Between 2000 and 2021 were any requests made to the Department of Justice to ban contracting with private operators?

Response: Yes.

12. How long does it take for a BOP facility to absorb prisoners from one of these newly closed private facilities?

Response: Once the contract ends with a privately operated prison, BOP develops a plan to transfer the individuals housed there to appropriate BOP locations. Although there are many variables, this process normally takes several months through a coordinated scheduling of outgoing buses and flights.

13. Has President Biden's "Executive Order on Reforming Our Incarceration System to Eliminate the Use of Privately Operated Criminal Detention Facilities" impeded implementation of the First Step Act?

Response: No.

14. The First Step Act contains significant recidivism reduction programs for inmates. What specific programs and initiatives established under the First Step act have you implemented for prisoner development and rehabilitation?

Response: As part of the First Step Act (FSA), BOP offers over 110 evidence-based recidivism reduction programs and structured productive activities. These programs and activities are detailed in the agency's "First Step Act Approved Programs Guide." The latest guide is available on the Bureau's public website at <https://www.bop.gov/inmates/fsa/programs.jsp>.

Structured programming is designed to be gender responsive and trauma informed. Specific examples of innovative programs BOP has developed include a formalized peer support training program and accompanying apprenticeship; and a Life Skills Laboratory where individuals will learn hands-on life skills in a home-like environment that teaches life skills such as grocery shopping, cooking, and laundry, among others. Other examples

include standardized career and technical education programs; new transgender programming including support groups and reentry programs; and family programming tailored to individuals in custody and their family members to support reentry.

15. Adequate staffing is essential to providing the significant programming under the First Step Act and reducing recidivism. What are you doing to address chronic staffing shortages and the lack of staff training in federal prisons?

Response: Hiring and retention are among BOP's top priorities. As explained on the attached FY 2023 Hiring and Retention fact sheet, we are dedicating significant resources to recruitment and hiring. We are using a nationwide, data-driven marketing campaign to hire correctional officers (COs) and other critical employees. In addition, we are using direct hire authority, recruitment and retention incentives, special salary rates, and other available authorities to attract and retain qualified employees. We will continue to use these tools until we are able to fully staff all our institutions.

Training was hampered during the pandemic, as we were unable to conduct many in-person trainings. However, we have since fully reimplemented all required training to ensure all our employees receive the training to perform their jobs.

16. In July of last year, NBC news released a report in which a federal corrections employee stated that "[implementation of the First Step Act] is not going at all. . . I'm the education department, and we're never open, and if we are, it's rarely." What have you done since this report was released to remedy this problem and ensure that the First Step Act is being properly implemented?

Response: Hiring and retention are among BOP's top priorities. As explained on the attached FY 2023 Hiring and Retention fact sheet, we are dedicating significant resources to recruitment and hiring. We are using a nationwide, data-driven marketing campaign to hire COs and other critical employees. In addition, we are using direct hire authority, recruitment and retention incentives, special salary rates, and other available authorities to attract and retain qualified employees. We will continue to use these tools until we are able to fully staff all our institutions.

As of October 2024, BOP had filled 669 (63%) of 1,030 funded FSA positions. Tentative offers or entry-on-duty dates were given to an additional 75 individuals representing another 7% percent of the 1,030 funded FSA positions.

17. What internal measures do you take to ensure the BOP is in compliance with the First Step Act mandate that non-custodial employees spend at least 90 percent of their time in their primary positions? What percentage of noncustodial employee time is currently expended augmenting custodial roles?

Response: We believe this question is referring to the Joint Explanatory Statement (JES) attached to the FY2023 appropriations bill, which required a cap on augmentation. We are striving to meet the overall goals of the JES without compromising the safety and security of our institutions. Furthermore, every employee that is augmented is a trained

law enforcement official who not only is trained in correctional practices but also engages in those practices every day in their primary assignment. This includes providing supervision, care, and correctional treatment.

18. What are you doing to update federal prison infrastructure to expand access to vocational training, virtual programming for inmates, mental health treatment, or other recidivism-reducing programs?

Response: FSA funds and dedicated employee positions have been used for a large expansion of mental health services including additional residential treatment programs, enhanced inpatient environments and services, and new outpatient programs. These treatment services have focused on individuals with the most serious forms of mental illness, those with trauma disorders, and those in high-security settings. BOP has used FSA funding to enhance vocational, occupational, and apprenticeship program needs for related trade instruction materials, supplies/equipment, and training certifications.

BOP works with the Department of Education, colleges, and universities to expand the opportunity for adults in custody to earn college degrees. BOP is actively working with institutions to identify local colleges and universities to offer the Prison Education Programs (Pell Grant Programs). As a result, our in-person, instructor-led college programs have expanded to 23 sites.

BOP annually evaluates its Advanced Occupational Education (AOE) programs for effectiveness and assesses where expansions can be made. All institutions are encouraged to submit applications which allow them to offer contracted trade certification programs with local colleges. Through targeted efforts, 20 new programs were requested.

BOP is working to add additional occupations to the BOP / Department of Labor (DOL) Apprenticeship initiative. BOP is meeting with DOL to revise the Standards of Apprenticeships agreement and add apprenticeship options in an effort to increase enrollments and completions. BOP recently began researching a new Barista Apprenticeship for possible proposal to DOL.

BOP is engaged with DOL in an FSA grantee project. Through this project collaboration, BOP will begin providing reentry employment preparation services to individuals while housed in the BOP institution. In addition, BOP will continue providing these services as the individual transitions to a Residential Reentry Center and supervised release as an avenue to assist with securing employment.

19. The First Step Act also reauthorized the Elderly Home Confinement Program, which allows qualifying terminally ill or elderly inmates to be released to home confinement. How many inmates have qualified and been released to home confinement under this program since it was amended and reauthorized in 2018?

Response: As of January 2, 2024, BOP had approved 1,247 individuals for Elderly Offender Home Confinement, with 55 percent of those on home confinement at that time.

20. It does not appear that BOP has released a study on the results of the Elderly Home Confinement program. Will you commit to either conduct a study on the results of the program (including the age of qualifying inmates, the length of their sentences, and the types of crimes for which they were/are serving time) or send a copy of an existing study to my staff?

Response: While our data does not delineate recidivism rates for individuals in the Elderly Offender Home Confinement Program (EOHCP), the Attorney General's First Step Act Annual Report includes a discussion of the recidivism rates of individuals impacted by the FSA. This includes individuals participating in the EOHCP. The latest report can be found on BOP's website at: <https://www.bop.gov/inmates/fsa/reports.jsp>. As noted in that report, the overall rates of recidivism for FSA participants are very low. Of the total 29,946 FSA participants tracked, 3,722 (12.4%) recidivated.

21. In January of 2022, the BOP released the "Transgender Offender Manual." Section 2 of this manual contains a list of definitions, including this definition of gender: "a construct used to classify a person as male, female, both, or neither. Gender encompasses aspects of social identity, psychological identity, and human behavior." The manual also defines "gender identity" as "a person's sense of their own gender." Is the BOP housing any inmates based on these newly adopted definitions of gender and gender identity, instead of the inmate's biological sex?

Response: Yes. BOP relies on subject-matter experts across diverse fields and makes housing determinations with the goal of ensuring the safety and security of all concerned. BOP employees are trained to understand the complexities of housing individuals who are transgender inside facilities and are required to remain observant and responsive to prevent any sort of sexual misconduct.

BOP considers on a case-by-case basis whether a placement would ensure the individual's health and safety, and whether the placement would present management or security problems. Our Transgender Executive Council (TEC) considers factors including, but not limited to, an individual's security level, criminal and behavioral/disciplinary histories, current gender expression, programming, medical and mental health needs/information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. The TEC may also consider facility-specific factors, including population size, staffing pattern, and physical layout (e.g., types of showers available). The TEC considers the wellbeing of all individuals incarcerated in a facility while exploring appropriate options available to assist with mitigating risk to the individual identifying as transgender, such as cell and unit assignments, application of management variables, and programming missions of the facility.

22. If the answer to the previous question is yes, what is the exact number of transgender inmates housed by BOP in units that do not align with that inmate's biological sex?

Response: As of October 2, 2024, 20 transgender individuals had gender-affirming housing placements.

23. The BOP maintains statistics on its prison population, including the number of male and female inmates. Will the BOP commit to publish statistics on the number of transgender inmates housed in units that do not reflect the biological sex of the inmates?

Response: While this information is available upon request and provided elsewhere in this report (20 individuals), it is not routinely published.

24. Section 6 of the Transgender Offender Manual, “Housing and Programming Assignments,” states “a transgender or intersex inmate’s own views with respect to his/her own safety must be given serious consideration.” Female inmates face a serious—and presently observed—risk of attack when they are forced to share their housing with biological males. Many women in state facilities have come forward in recent years to report this exact type of abuse. Women face unique vulnerabilities that men do not. Are the views of non-transgender inmates, regarding their own safety, given equally serious consideration as the housing preferences of the transgender inmates?

Response: BOP must ensure we are placing AICs in appropriate housing locations that protect the safety of all AICs, employees, and the public. Our employees are trained to consider the complexities surrounding the individual’s placement and make an appropriate determination on all housing placements. BOP employees are correctional experts, and the ultimate obligation is to ensure we are placing AICs on units where all individuals living in a housing unit are safe. BOP may consider input from all AICs, including transgender individuals, when determining individuals’ housing placement. Every day our employees respond to multiple requests, including those for transfer and housing. AICs may also use the administrative remedy process if they disagree with a decision. Transgender individuals may also contact the TEC directly to voice concerns through an email box to which all AICs have access.

25. Does the BOP record instances of transgender inmates assaulting prisoners after they have been moved to units for the opposite sex? Where are those statistics published?

Response: BOP is not aware of recorded instances of sexual predation by transgender individuals after they have been placed in gender-affirming facilities. As of July 23, 2024, there were zero cases of reported sexual predation by these individuals while incarcerated. These statistics are not published.

**Submitted by Senator Jon Ossoff**

1. During the Judiciary Committee's September 13 hearing, you testified about the steps the Federal Bureau of Prisons (BOP) has taken to address sexual abuse of incarcerated women by BOP employees since your appearance before the Permanent Subcommittee on Investigations (PSI) in December 2022.
  - a. You testified that BOP has "engaged in cultural assessments at all of our female facilities[.]" Please explain what these assessments entail and detail any specific findings made in these assessments regarding the instance of sexual abuse of incarcerated women.

Response: In early 2022 BOP launched an initiative to assess culture at women's facilities to ensure gender-responsive, trauma-informed practices are being followed.

As a proactive measure to prevent future situations like the one at FCI Dublin, BOP instituted the Women's Institution Cultural (WIC) Assessment for women's facilities. The WIC Assessment is a framework that provides analysis of operations, programming, and service gaps to identify institution needs specific to managing the female population. It covers content areas of particular importance in gender-responsive practices and is performed by a team with deep knowledge of and experience in agency practice who also have the ability to effectuate immediate change when needed. The WIC Assessment includes conversation and interaction with both employees and AICs and observation of operations, services, and communication within the facility.

The goal of the WIC Assessment is to provide a "snapshot" of the facility's culture and operations overall. A recognized best practice in performing assessments is to use an onsite team of evaluators who do not work at the facility to provide a baseline of how onsite practices align with research. Therefore, the WIC Assessment is conducted by a multidisciplinary team who is onsite over a two-day period. It is intended to be something that can be scheduled with little notice and completed quickly. The process is overseen by BOP's Reentry Services Division and co-led by the Women and Special Populations Branch and the Office of Internal Affairs (OIA). The incarcerated population is surveyed prior to the onsite assessment to determine if additional focus areas are needed. While onsite, the team observes operations and programming, reviews pertinent documents, and engages in conversations with employees and adults in custody (AICs). Upon completing the WIC Assessment, a baseline is established of strengths, challenges, and opportunities, which serves as a foundation for developing an action plan for facility improvement.

Once the assessment is completed the assessment team compiles a report outlining the findings and recommendations to improve operations. This report is provided to the Regional Director and Warden. The facility and Region draft a response to the

recommendations including corrective action plan which is submitted to RSD within 60 days for review and approval or denial. Once all responses are approved the institution implements them locally with the assistance of RSD and under the oversight of the Regional Office. WICs are then routinely completed within a two-year period to monitor compliance. Additionally, RSD is in contact with the facilities during the period between WIC Assessments to ensure progress toward and compliance in meeting recommendations.

WIC Assessments are not intended to investigate specific cases of sexual misconduct. Rather, one of the purposes of having a representative from OIA on the WIC Assessment teams is to address any reports of or matters related to allegations of sexual misconduct if they arise. WIC Assessments have resulted in investigations being initiated by OIA related to potential Prison Rape Elimination Act (PREA) violations by both employees and women in custody. However, the assessments have determined that women overwhelmingly feel safe in BOP facilities as evidenced by questionnaire responses and feedback from employees and incarcerated women at the facilities. There is not a pervasive sexualized culture within the agency. These assessments have also revealed that women are participating in FSA program offerings at a high rate and are appreciative of recent enhancements to these FSA offerings.

- b. You testified that the Deputy Attorney General “launched a safer teams review of our female facilities across the country and brought forth recommendations that we are also implementing.” Please explain what this review entailed and share the recommendations developed, as well as any steps taken to implement them.

Response: On April 25, 2023, the Deputy Attorney General (DAG) launched the Sexual Assault Facility Enhancement and Review (SAFER) team project to visit women’s facilities in each of BOP’s six regions and engage with leadership, staff, and women in custody at those facilities. During the summer of 2023, the SAFER teams visited female institutions in each of our six regions. These teams were a collaboration between leaders in the DAG’s office, officials from BOP, and other components in the Department of Justice (DOJ), including local United States Attorney’s Offices. The purpose of these visits was to measure progress in implementing the more than 50 recommendations issued in November 2022 by a working group of senior Department officials reviewing the issue of sexual abuse at BOP facilities. Please see the following readout, which also provides links to related resources: <https://www.justice.gov/opa/pr/readout-justice-departments-sexual-abuse-facility-enhancement-and-review>. The working group’s report titled “Report and Recommendations Concerning the Department of Justice’s Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons” can be found on the Department’s public website at: [https://www.justice.gov/d9/pages/attachments/2022/11/03/2022.11.02\\_bop\\_sexual\\_misconduct\\_working\\_group\\_report.pdf](https://www.justice.gov/d9/pages/attachments/2022/11/03/2022.11.02_bop_sexual_misconduct_working_group_report.pdf). In addition to following up on the report

recommendations, the SAFER teams reviewed each facility's conditions, medical and mental health services, reentry programming, and Special Housing Unit. The teams also spoke directly with women in custody and external organizations that provide services and resources to survivors of sexual abuse, whether victimized prior to their incarceration or while in BOP custody. Following the visits, the DAG asked the SAFER teams to identify corrective actions and prepare recommendations as part of the Department's ongoing efforts to root out sexual misconduct within the BOP.

BOP and DOJ have taken multiple steps to implement recommendations from the working group and the SAFER teams. Representatives from the Office of the Deputy Attorney General, BOP, and other DOJ entities work together to track and assess progress toward implementing these recommendations.

2. This PSI investigation further revealed that audits conducted under the Prison Rape Elimination Act (PREA) failed to identify a culture of sexual abuse of inmates at facilities including FCC Coleman and FCI Dublin.
  - a. It emerged in PSI's investigation that, two days prior to a PREA audit at FCC Coleman, every female inmate had been removed from the facility, with the effect of preventing auditors from conducting inmate interviews. What steps have you taken since December 2022 to ensure that audits are properly conducted and include inmate interviews, as required?

Response: In accordance with federal law, BOP outsources PREA audits to an external entity to ensure non-bias. BOP's current contract is with Corrections Consulting Services (formerly known as PREA Auditors of America), who employs DOJ-certified auditors to ensure confidence in audit findings, as well as to monitor and certify their work. The PREA auditor selects all employees and AICs, at random and targeted, to be interviewed as part of the review. Employees within BOP's Program Review Division serve as liaisons between the external auditor and the institution to ensure unfettered access to all employees, AICs, and documentation requested by the PREA auditor as they deem relevant to the audit. While AICs were moved as part of a preexisting planned mission change for the prison camp, the external PREA auditor was made aware of this movement and had the option of selecting individuals to interview who were previously housed at FCC Coleman within the audit period.

- b. What other steps has the BOP taken to ensure that PREA audits accurately assess whether a facility meets that Act's standards?

Response: Maintaining full and continued compliance with PREA in all institutions remains a top priority for BOP. PREA audits focus on whether proper procedures are followed at BOP facilities for the prevention, education, and response to a PREA allegation. In accordance with PREA, BOP contracts with a DOJ-certified external

auditor to ensure non-bias and continues to facilitate unfettered access to employees, AICs, documents, and facilities for PREA audits. In addition to annual training for employees and AICs on PREA, dedicated employees within BOP's Program Review Division ensure documentation, data requests, and interviews are available as requested by the external auditors.

- c. You stated in your testimony that no changes have been made to the process by which BOP contracts for or reviews PREA audits. Please explain why BOP has declined to change these processes.

Response: The contract process for PREA audits has not changed as BOP is operating under the terms of the current contract with the outside auditor, Corrections Consulting Services.

- d. The PSI investigation further revealed that BOP failed to systematically analyze PREA complaint data. What steps has BOP taken to remedy this problem and ensure PREA data is used effectively?

Response: Plans to increase staffing in each region to further assist the National PREA Coordinator in monitoring PREA complaints data and trends are underway. Moreover, data capturing and future means to better analyze PREA data are also underway.

- e. What other steps has BOP taken in response to your commitment, at the December 2022 PSI hearing, to proactively monitoring sexual assault complaint data at a facility level?

Response: As noted, plans to increase staffing in each region to further assist the National PREA Coordinator in monitoring PREA complaint data and trends are underway. Moreover, data capturing and future means to better analyze PREA data are also underway.

3. Recent disclosures revealed that BOP has only 34 psychiatric provider positions (including psychiatrists and physicians' assistants) authorized to provide mental health treatment for the nearly 160,000 individuals housed across the BOP system, and that only 22 of those positions are currently filled. What steps has BOP taken to ensure these roles are fully staffed and that individuals in BOP custody—in particular victims of employee sexual abuse—have access to mental health care?

Response: BOP recognizes the paramount need to provide mental health treatment to those in its custody. To do so, it employs more than 2,800 medical and mental health professionals. We have steadily increased authorized psychiatric provider positions to over 40 positions, over 20 of which are currently filled. BOP has over 750 psychologists, nearly 70 social workers, and approximately 2,000 treatment specialist positions authorized to provide mental

health treatment to those in our custody. In total, these positions are 87% filled. BOP continues to seek to fill psychiatrist positions. We utilize Title 38, a hybrid pay system, to seek to offer competitive compensation to psychiatrists above salaries permitted by the General Schedule salary tables authorized by the Office of Personnel Management. BOP also utilizes various recruitment and retention incentives and Student Loan Repayment Program options for hard-to-fill critical positions. In addition, our National Recruitment Office (NRO) engages with the American Psychiatric Association to attract applicants to the BOP.

In terms of access to mental health care, employees in BOP's Psychology Services departments provide a wide variety of assessment and treatment services designed to address mental health concerns and self-improvement within all BOP institutions that house female offenders. Upon arrival, female AICs are screened for mental health problems, suicidal thoughts, history of abuse or trauma, risk for potential abusiveness or victimization, substance abuse history, and other risk factors. At intake, they are advised on how to obtain mental health services, counseling, and care during their incarceration. In addition, there are several avenues of communication established within BOP institutions to inform the population of available mental health services, evidence-based programming, and groups, as well as ways to contact staff in the Psychology Services department.

Adults in custody who have been the victim of employee sexual abuse have the same treatment opportunities available to all incarcerated adults. In addition, they may request to participate in trauma-specific treatment and request support services from community advocacy organizations to address sexual trauma.

4. As of December 2022, BOP's Office of Internal Affairs (OIA), which is responsible for investigating staff misconduct, had a backlog of 7,893 cases. According to numbers we have received from your office, this backlog has grown to 8,090 cases.

- a. What explains this increase in the investigatory backlog?

Response: BOP recognizes the need to address the backlog in OIA cases and has taken significant steps to improve the process. We are closely tracking the status, timeliness, and quality of misconduct investigations to ensure the expected improvements to this process occur over time. The Director and Deputy Director meet monthly with the Human Resource Management Division and with OIA to review open cases and to work toward timely closures. Additionally, the Inspector General and the Director meet quarterly to review outstanding cases.

The process of investigating cases can be time consuming due to the many steps involved. Employees must report misconduct promptly, within 24 hours (not including weekends and holidays), to their supervisor, OIA, or the Office of the Inspector General (OIG). Failure to report misconduct allegations is also considered misconduct and can lead to disciplinary actions, including removal. Anyone can submit allegations of employee misconduct, and all referrals receive thorough review. Reports or referrals that

present serious administrative or criminal misconduct are sent first to OIG for review. OIG has the right of first refusal on all employee misconduct matters, and we refrain from conducting our investigations if OIG, the FBI, or criminal prosecutors are already involved because we rely on those partners to investigate and prosecute criminal matters. After the referral is sent to OIG, it can either choose to take the case or defer it to BOP for administrative investigation. That process can take days to months, and this review is required before BOP is authorized to move forward with any administrative investigation. If OIG defers a case to BOP, OIA special agents handle the more serious cases directly, while local investigators handle the rest.

To help improve that process, we recognized OIA needed more resources. Over the last year, we have increased the total number of investigators in OIA by 500%. Previously, 29 special agents (SAs) and supervisory special agents (SSAs) reported to the chief of OIA. We moved 64 special investigative agents (SIAs) who had been reporting to wardens at individual institutions to report directly to the chief of OIA and focus solely on employee misconduct. We also added 53 new SIAs and SSAs dedicated to investigating employee misconduct. With these changes, the Special Investigative Service (SIS) remains available 24/7 and every female institution has an onsite SIA.

OIA has updated its policies to improve oversight, reporting, and investigative processes. The updated policy is available on our public website at: <https://www.bop.gov/policy/progstat/1210.25.pdf>. We also ensure all OIA employees receive training to help them do their jobs effectively. This training includes trauma-informed and gender-responsive training.

- b. At the hearing, you described BOP's efforts to hire and train additional OIA staff. Given that the backlog has continued to grow even as BOP hires additional staff, what other steps has BOP taken, and will it take, to address this backlog?

Response: Please see the response to question 4(a) above.

- c. What portion of the outstanding cases involve allegations of sexual abuse of inmates?

Response: Sexual abuse allegations are prioritized, but the investigations must be handled carefully and methodically by trained investigators. Currently, less than 6% of open cases involve allegations of sexual abuse.

- d. In the December 2022 PSI hearing, you stated that it would take two years to clear the backlog. Is BOP on track to meet this December 2024 target? If not, when will this backlog be cleared?

Response: All efforts are being made to meet this goal. The new positions that were added to OIA's complement took until the end of Fiscal Year 2023 to fill with trained employees, and some are still being filled. It is expected that these additional

employees, who have been equipped with more robust training, will begin to have a substantial impact on the backlog in the coming months. We are now starting to see an impact and intend to have the backlog cleared by the end of Fiscal Year 2025.

- e. Please provide interim targets for reduction of this backlog between now and the date by which BOP anticipates clearing the backlog. In particular, please identify a target for reduction of the backlog over the next year.

Response: We are expeditiously working through the backlog and, now that we are close to fully staffed in OIA, we expect to make significant progress in reducing it. We expect to meet the two-year time frame. Over the next year, we intend to clear the backlog.

- 5. According to an Office of the Inspector General report released in May 2023, BOP also has an extensive backlog of concluded cases pending disciplinary action. As of September 2022, there were 2,279 cases still pending disciplinary action. According to your office, the disciplinary action backlog now stands at 2,408 cases pending disciplinary action.

- a. What explains this increase in the backlog in disciplinary action?

Response: The backlog in the Employment Law Branch (ELB) has been significantly reduced. ELB's current backlog is under 200 letters. We have improved our overall review process. Additionally, we added five dedicated employee relations specialists (i.e., letter reviewers) who have made a substantial impact on how ELB reviews and processes letters. In most cases, new letters are being reviewed well within the indicated timeframes (45 days for proposals and 15 days for decisions).

- b. What steps have you taken to clear this backlog in disciplinary action?

Response: In June 2023, the Director implemented an agencywide initiative that provides the regional Human Resources staff with the final review authority in cases when a suspension would be ten days or less. This does not include sustained charges of sexual abuse, which still require review by both the regional office and ELB in Central Office. In addition, in late 2022, the Director approved eleven additional positions for ELB (six attorneys, one paralegal, and four employee relations specialists) to, in part, decrease the review time of disciplinary letters.

- c. What portion of the cases pending disciplinary action involve findings of sexual abuse of inmates?

Response: Of the cases in the OIA database listed as pending discipline, seven involve sustained allegations of sexual abuse of inmates.

- d. When does BOP anticipate clearing its backlog in disciplinary action?

Response: ELB is actively working to clear its backlog. Nearly 75% of open backlog letters have been completed and are being closed. Fewer than 200 backlog letters remain open, and ELB plans to resolve those letters as expeditiously as possible. New letters are currently being assigned to the five employee relations specialists who are dedicated to reviewing disciplinary letters. ELB anticipates resolving its portion of the backlog over the course of the next year.

- e. Please provide interim targets for reduction of this backlog between now and that date. In particular, please identify a target for reduction of the backlog over the next year.

Response: Please see answer to (d) above.

- f. What is BOP's process for ensuring disciplinary action is taken following the closure of a case? Are more serious offenses handled more quickly?

Response: Upon a sustained finding of misconduct, the Human Resource Servicing Offices have general timeframes to generate and ensure the timely issuance of disciplinary letters included in their Program Review Guidelines. Specifically, proposal letters are to be forwarded to the regional office for review within 75 calendar days of the date the investigation was received by the Human Resource Department and decision letters are to be issued to the employee within 20 calendar days of the date ELB approves the letter.

6. A July 2022 PSI hearing on USP Atlanta revealed a pattern of misconduct and dysfunction at that facility, including hazardous physical conditions for inmates and pretrial detainees and inexcusable barriers preventing inmate access to legal counsel. Please provide a report on steps BOP has taken in the past year to address each of the following issues affecting inmates and pretrial detainees, as documented in PSI's investigation:
- a. Sanitation issues, including infestations of rodents and pests;
  - b. Poor nutrition and emaciation;
  - c. Lack of access to hygienic products and changes of clothing;
  - d. Lack of access to mail; and
  - e. Blockage of written communications with counsel.

Response: USP Atlanta has been active in ensuring the facility, specifically the Detention Center Unit (DCU) I and DCU II, are treated monthly to prevent recurrence of rodents and pests. In addition, cell inspections are conducted weekly, and cleaning supplies are provided to the unit to ensure sanitation is maintained at the highest level.

In addition to ensuring three meals a day are served, USP Atlanta's adults in custody (AICs) are provided the opportunity to purchase multiple food items from the

commissary. There have not been any cases of emaciation at the detention center in the past 18 months.

Hygiene kits are provided during the intake screening process upon arrival. These kits include Meridian all-in-one shave, shower, and shampoo packets, along with a Dawn Mist deodorant stick, toothpaste, and a toothbrush. Hygiene products are also issued every Sunday by employees in the DCU. Additional products can be purchased through the commissary each week.

AICs are given the opportunity to exchange institution clothing three times per week. They are also able to purchase additional clothing items through the commissary. Detainees are given the opportunity to send their purchased clothing for laundering twice a week.

Detainees are issued incoming mail, upon receipt by the institution mail room, daily. Outgoing mail is also collected daily by the unit officer to be routed through the institution mail room. The mail is then taken to the United States Post Office each day.

USP Atlanta is not aware of any blockage of written communication with counsel. AICs have access to the Trust Fund Limited Inmate Computer System (email) and are afforded the opportunity for legal mail, as well as unmonitored legal calls. There is a direct line for communication with the federal public defender's office in the detention center.

7. In addition to the above, this PSI investigation uncovered severe deficiencies in the BOP's ability to manage and prevent the flow of contraband, including drugs and weapons, into USP Atlanta.
  - a. Has BOP modified its policies or procedures or taken other steps to better prevent, detect, and interdict contraband since July 2022?

Response: BOP has a process in place to prevent, detect, and stop the flow of contraband. We have boosted physical security with barriers and increased surveillance to keep contraband out of our institutions. Our National Gang Unit (NGU) works with law enforcement partners to disrupt criminal activities, and our institutions have intensified internal checks and advanced scanning technologies.

For drone threats, BOP deployed Counter Unmanned Aircraft Systems (CUAS) at 46 high-risk institutions, and BOP worked with DOJ and the Federal Aviation Administration (FAA) to restrict the airspace over all secure facilities. BOP employees recovered drones and interdicted contraband they carried.

Following drone detection and interdictions, BOP works closely with other federal and state, local, tribal, and territorial law enforcement located around BOP facilities to investigate and prosecute drone contraband deliveries. For example, in November 2022, a man pleaded guilty in U.S. District Court for the Eastern District of Texas to owning or operating an unregistered drone earlier that year, which he intended to use to drop contraband, including tobacco, cell phones, cell phone chargers, various tools, vape pens, and other items into Federal Correctional Complex Beaumont. As another example, on April 6, 2023, the U.S. District Court for the Northern District of Texas sentenced a man to 41 months of incarceration, having previously pleaded guilty in October 2022 to attempting to provide contraband, including methamphetamine, cell phones, MP3 players, pressed THC, and tobacco into the Federal Medical Center Fort Worth. Finally, in April 2023 the U.S. Attorney's Office for the District of Kansas announced charges against six people for allegedly conspiring to smuggle contraband, including cellular phones, drugs, and tobacco into Federal Correctional Institution Leavenworth. These are just three examples of how BOP has continued to stop the sources and flow of contraband into BOP facilities.

With regard to the problem of contraband cell phones, FBOP has utilized technologies such as Managed Access Systems, which block unauthorized signals, and Micro Jamming Systems.

Additionally, BOP conducted mobile cellular assessments at 25 institutions to disable contraband devices. Our dedicated mailroom employees use scanning technology to detect contraband that has been attempted to be introduced through the mail, and they are successful in reducing drug introduction through this channel.

BOP allocated funding to continue improving interdiction efforts. BOP works with law enforcement partners that ensure offenders are prosecuted or held accountable through the disciplinary processes.

At USP Atlanta, there are additional security measures in place, including adding more x-ray machines in the corridor and the addition of a drone detection system. USP Atlanta has also increased the use of mass shakedowns and police dogs trained in the detection of narcotics. BOP provided additional training to employees to cover basic corrections, including how to properly conduct cell and visual searches.

- b. Beyond updating its camera systems, does BOP plan to introduce any additional safeguards, policies, procedures, or technologies to prevent, detect, or interdict the flow of contraband into federal prisons?

Response: Yes. Such safeguards include background checks of visitors/contractors/volunteers; metal detection, x-ray, drone detection, deployment of mobile cellular assessments at 25 sites with the highest number of seized contraband cell phones, and whole-body imaging devices; drug screening (ion spectrometry) machines; physical searches of incoming packages and vehicles; and pat and visual searches of employees and visitors.

BOP has 109 sites covered by a national defense airspace temporary flight restriction (TFR) imposed by the FAA Administrator under Title 14 of the Code of Federal Regulations, section 99.7; it is a misdemeanor criminal offense for a person to fly an unmanned aircraft system ("drone") in the restricted area above BOP's 109 sites. BOP was allocated additional funding for CUAS mitigation technology acquisition. In CY 2022, BOP recovered 18 drones and had 211 documented drone sightings. In CY 2023, BOP recovered 23 drones and had 324 documented drone sightings. BOP also worked with DOJ to designate two facilities as high-risk locations and covered facilities or assets under 124N during CY 2023. BOP worked with FAA to expand the temporary flight restrictions from the building perimeters to the BOP property lines at its facilities. CUAS drone detection systems are operational at 46 of its secure facilities, including all high-security facilities.

8. The Prison Camera Reform Act, signed into law last December, required BOP to provide a plan to ensure all facilities have the security camera, land-mobile radio, and public address systems necessary to ensure staff and inmate safety and document any misconduct. The plan provided early this year stated that BOP was conducting a bureau-wide review to assess its prison camera coverage and identify blind spots. This review was supposed to be completed by summer 2023.
- a. Has this review been completed, as committed?

Response: Yes, the review was completed as committed on June 1, 2023.

- b. What were its results?

Response: Institutions identified blind spots, the number of additional cameras needed, and the associated costs to adequately address the identified blind spots. Additional resources would be needed to cover various costs related to finishing

installations and upgrades system wide including blind spots assessments, supporting equipment, and camera installation.

- c. Please provide a date certain by which BOP will have addressed the blind spots identified in this review by installing and upgrading camera systems, as necessary.

Response: BOP has obligated approximately \$150M to date for camera systems (digital cameras, installation of single mode fire network, system mainframe components, and video management systems). To fully address the recently identified blind spots, additional resources would be needed.

9. For the past several years, the President's budget for the BOP has requested funding for 20,446 correctional officers. In fiscal years 2020, 2021, 2022, and 2023, the omnibus was funded at the level requested by the President. Yet, as of August 23, 2023, the BOP has 12,440 correctional officers—a deficit of 8,006 officers.

- a. Why hasn't the BOP filled correctional officer positions at the level called for by the president's budget and funded in the omnibus?

Response: The question overestimates the number of BOP correctional officer positions. BOP is funded for 20,446 individuals in Correctional Services. This number includes 14,900 funded correctional officer (CO) positions, as well as about 6,000 positions for lieutenants, correctional counselors, and other non-CO positions. Across the United States, law enforcement agencies struggle to hire officers as well as health care providers who are exhausted from the COVID-19 pandemic. BOP faces these same challenges when hiring COs and medical professionals.

Hiring and retention are among BOP's top priorities. As explained on the attached FY 2023 Hiring and Retention fact sheet, we are dedicating significant resources to recruitment and hiring. We are using a nationwide, data-driven marketing campaign to hire COs and other critical employees. In addition, we are using direct hire authority, recruitment and retention incentives, special salary rates, and other available authorities to attract and retain qualified employees. We will continue to use these tools until we are able to fully staff all our institutions.

- b. How often, and to what degree, do you specifically review reports or data on staffing at the BOP?

Response: The Associate Deputy Director briefs me regularly about staffing issues. The Associate Deputy Director meets weekly with the Assistant Director for the Human Resource Management Division (HRMD) to discuss staffing issues, review data, and identify successful approaches to increasing hiring and retention. Periodically, I meet with both the Associate Deputy Director and the Assistant Director to discuss data reports and overall BOP staffing. Additionally, the Associate

Deputy Director and Assistant Director, along with the other members of BOP's executive team, meet with me on at least a quarterly basis to discuss BOP concerns and initiatives, such as staffing.

- c. In your testimony, you noted that BOP has provided retention and recruitment incentives to BOP employees in order to address hiring issues. Beyond any one-time bonuses, has BOP taken steps to improve correctional officer salaries and retirement incentives in the long term?

Response: In order to improve correctional officer hiring over the long term, BOP needs the ability to pay more. That will require congressional action to increase BOP's budget and possibly provide it with new tools to increase CO salaries. In the short term, BOP has increased the top pay for a CO by approximately \$2,000 per year. The attached fact sheet provides details on incentives and other steps BOP has taken to address its staffing crisis. BOP used its base funding to make each of these changes. BOP does not have the ability to change retirement benefits, which are administered by the Office of Personnel Management.

- d. What steps has BOP taken to address employee shortages at USP Atlanta, in particular?

Response: USP Atlanta has participated in and hosted 11 recruitment events in the past year. In addition to the \$10K or 25% recruitment incentive for correctional officers and the 10% retention incentive for lieutenants, USP Atlanta has been approved to provide a 10% relocation incentive on all merit promotion positions for internal BOP announcements.

- e. Does BOP track and analyze data related to incidents involving non-correctional officer employees assigned temporarily to correctional officer posts? If so, please describe the types of data collected and the analyses conducted to better understand how "augmentation" functions at BOP facilities.

Response: FBOP does not track or analyze data on whether an employee was augmented at the time of an incident, whether that incident involved alleged staff misconduct, an assault on staff, or other incidents. HRMD tracks augmentation usage and BOP provides the results each quarter as part of a congressional report. During FY 2024 quarter four, BOP augmented employees at 92 institutions for a total of 141,539 hours.

**Submitted by Senator Thom Tillis**

Director Peters, last year I was made aware of severe structural issues and damages at Federal Correctional Complex, Butner (FCC Butner).

Following the oversight hearing last September, I submitted various questions for the record (QFRs) to get clarification on how BOP was handling the structural damages.

Furthermore, my staff visited FCC Butner in April 2023 and saw the structural damages firsthand. Notable areas of concern included:

- The education and faith wing have roof damages and no panel
- Recreation (including basketball court) do not have ceiling panels as well
- The cafeteria is closed completely and all meals have to be done offsite
- The laundry facility is also subject to roof leaks and washers/dryers have been damaged

1. Director Peters, can you please provide a status update on the repairs to the roof in FCI Butner II? Specifically:

a. Has a contract been entered to complete roof replacement? If so, when?

Response: The phase one contract was awarded December 2022, and phase two was awarded August 2023. The anticipated completion date is November 2025.

b. What is the current timeline and expected date of completion for replacing the roof? Please provide dates for specific phases.

Response: The following roof replacements at FCI II have already been completed, as of October 11, 2024: Powerhouse, Rear Gate, Health Services, Visiting Room, Education, and Chapel. The Food Service building is at 95 percent completion with an anticipated completion in the middle of October 2024. Total completion, which includes UNICOR, Recreation, the Special Housing Unit, and Facilities, is anticipated in September 2025.

c. What is the expected cost to replace the roof in FCI Butner II?

Response: The estimated cost to replace the following roofs in Recreation, Special Housing Unit, Staff Assembly, Visiting, Correctional Services, Maintenance Shops, Guard Houses, Commissary, Laundry, and Food Service is approximately \$6.6 million.

d. Have funds been obligated by the facility, or are funds still waiting to be distributed either to the agency or to the facility?

Response: Funds for both phase one and phase two have been obligated.

- e. Are there any barriers impeding this process? What barriers are preventing the start or completion of construction?

Response: No barriers are currently preventing the start or completion of the construction. The only anticipated delays would result from weather or material availability.

- 2. How often is BOP conducting testing for mold at FCC Butner? Can you please provide a record of the last test conducted?

Response: There are no BOP policies or federal regulations establishing guidelines for when indoor climate mold testing is required or should be conducted. This is due, in part, to the absences of any Environmental Protection Agency, Occupational Safety and Health Administration, or Centers for Disease Control and Prevention established federal regulations or threshold limit values (TLV) determining acceptable mold spore levels and exposure limits. Mold spore testing is generally not necessary because various species of mold at vastly different levels may affect individuals differently. When signs of growth are observed the affected areas should be remediated and sanitation levels increased.

When testing is preferred, it is commonly used comparatively between an indoor sample and an outdoor sample as confirmation of the effectiveness and thoroughness of cleaning efforts, post-remediation.

In 2022, a Heating, Ventilation, and Air Conditioning (HVAC) building automated system failure caused rising air temperatures and humidity levels to be outside of our preferred preset range in the FCI-1 Education building. Because of prolonged wait times for repair parts, a licensed contractor was asked to conduct indoor mold testing in September 2022 and November 2022, at the FCI-1 Education building. Based upon the findings in the contractor's assessment, airborne mold spore sampling results indicated mold growth was impacting indoor air quality in the tested areas. The contractor provided recommendations which were completed as directed.

There has not been recent testing in the FCI-2. The Safety department has only observed small spots of mildew/mold, which were quickly removed and cleaned using approved fungicides. No testing has been conducted due to having removed the ceilings in most areas until the roofs can be replaced.

- 3. As you know, Hurricane Idalia made landfall in North Carolina, which brought heavy rain to the state. During this time, staff at Butner highlighted water accumulation concerns throughout the Butner Complex, including areas with roofing damage.

- a. What preparation does BOP conduct before major weather events to prevent dangerous working conditions for staff?

Response: BOP policy requires institutions to maintain contingency plans to address adverse weather conditions. Each institution tailors its plans locally to address potential adverse weather which may be encountered within the unique geographical region.

- b. Does BOP conduct a review following major storms?

Response: The local Facilities department assesses damage after a major storm to determine damage sustained from the storm, costs of the damage, and necessary plans for the repairs.

4. Has the Occupational Safety and Health Administration (OSHA) conducted any reviews at FCC Butner since you were appointed as director? If yes, what action has BOP taken to address any OSHA violations?

Response: As of October 11, 2024, OSHA has communicated with FBOP/FCC Butner on 24 complaints they have received since August 11, 2022. OSHA has since closed 22 of these complaints based on the information they received from FBOP/FCC Butner. One of the open complaints is related to roof repairs, and it will remain open until both the Phase I and Phase II roof projects are completed. Regarding FBOP action taken to address any OSHA violations, the institution's Occupational Safety and Health employees completed training directly related to water/mold inspections in 2024. These trainings are as follows: Institute of Inspection, Cleaning, and Restoration Certification (IICRC) course for Water Damage Restoration Technician Certification (completed April 2024); and the IICRC Applied Microbial Remediation Technician certification course (completed in May 2024 and September 2024). Both training courses are the equivalency of a technician who inspects and remediates a house or building damaged by water in an event such as a hurricane, pipe burst, or where mold has taken over and needs to be remediated.

Response: To date OSHA has communicated with BOP/FCC Butner on 24 complaints they have received since August 11, 2022. OSHA closed 12 of these complaints based on the information they received from BOP/FCC Butner with two Petitions to Modify (PTM) in effect related to roof repairs.

5. Are you aware of any OSHA violations at FCC Butner that were raised prior to your appointment? If yes, what action has been taken to address the violations?

Response: A Notice of Violation at Butner was issued on April 8, 2022, secondary to the presence of water in lighting units at the FCI II. OSHA required roof repairs as part of the corrective action and a Petition to Modify (PTM) the abatement date was granted by OSHA with required stipulations (inspections after rainwater events, bi-monthly updates

on status of roof replacement/repair process). Roof work is ongoing and Phase I is 95 percent complete, as of October 11, 2024.

**BOP Staff Inquiries and Safety**

As of August 31, 2023, my office has received over 50 complaints from staff at FCC Butner with concerns, which include lack of medical equipment, unsafe protective equipment, augmentation, mandated related matters (**see appendix**). Your team has been copied in a majority if not all of these emails.

1. What is your assessment of the concerns raised by staff, and what actions have been taken by the Bureau to mediate concerns?

Response: The complex warden takes very seriously the safety of employees and AICs. When a concern is brought to him, he immediately investigates it. The complex warden and the rest of the complex executive leadership has a standing weekly meeting with the union to discuss any items or concerns the union may have. Some items or concerns may require more thorough review if information is not available or on hand. Once additional information is available executive staff relay it to the union at a later time or revisit the item at the following meeting.

Regarding employee concerns related to medical equipment, neither the complex Health Services Administrator (HSA) nor the Acting Safety Administrator is aware of any issues or concerns that have not already been discussed with the union on several occasions. The HSA keeps a Medical Equipment Justification (MEJ) list that tracks medical equipment needed and the list is based on a necessity priority. Requests are submitted for funding and once funding is received the equipment is ordered based on priority. BOP supports the medical mission at FCC Butner. Money is needed to purchase equipment, which is why the HSA tracks these needs through the MEJ list and, as soon as funding is allotted or granted, orders what is on the list.

The FCC Butner Safety department checked their logs for any items related to employee concerns of unsafe protective equipment and they have not received any substantial complaints or anything that would lead to an OSHA violation level.

Lastly, regarding employee concerns with augmentation and mandates, FCC Butner continues to recruit. FCC Butner experienced significant difficulties in hiring during the COVID-19 pandemic, which have had an impact on its current staffing complement. That said, FCC Butner is constantly working to recruit and retain employees. Recruitment efforts include area schools, colleges, universities, military bases, local job/career fairs, and institution-held hiring events. FCC Butner executive team and Human Resources employees plan and monitor each department with a focus on staffing levels. The warden, the executive staff, and Human Resources focus on recruitment and thinking outside the

box to make FCC Butner a desirable place to work. In addition, they continue to offer incentives and retention bonuses for the hard-to-fill positions.

2. Is the Bureau conducting oversight of operations at FCI Butner, and if so, what is the status of any resulting oversight action?

Response: The complex warden has oversight of the four institutions on the complex and helps the individual institution wardens resolve any concerns or issues at their institution when needed. He also stays involved in funding requests for time-sensitive or essential procurements. The mid-Atlantic regional director also has oversight of FCC Butner and he and employees from the regional office visit the complex on a regular basis. The regional director relays any time-sensitive or urgent information regarding the complex to the Director. The current oversight process is effective and urgent matters are being addressed.

The complex warden is very involved in the day-to-day operations of every institution at this complex. He holds weekly meetings with all the other wardens, associate wardens, and captains every Monday after the weekly meetings with the local union, and he also holds biweekly staffing & budget meetings with the executive staff (wardens, associate wardens, captains), Financial Management, and Human Resource employees to closely track spending and staffing efforts and to address all budget issues.

3. Do you believe an individualized review or assessment of FCI Butner is necessary?

Response: The complex warden is transparent with any issues or concerns brought to his attention or topics that need to be addressed. In August of 2023, FCC Butner was reaccredited as part of the cyclical American Correctional Association (ACA) audit. This reaccreditation process followed the on-site ACA/Prison Rape Elimination Act (PREA) audit and BOP's Program review during the week of December 13, 2022. While an individual review or assessment of FCC Butner is not necessary, BOP welcomes any official visitor or OIG inspection to visit the institution for themselves. In recent months, FCC Butner has hosted visits and tours for several members of Congress, congressional staffers, the U.S. Attorney for the Eastern District of North Carolina, and OSHA, among others.

4. How does BOP tracking concern [sic] raised by BOP staff across all federal facilities?

Response: BOP employees have many avenues, both formally and informally, to raise concerns, including by using the union grievance, EEO, or dispute resolution process; speaking to a supervisor or a warden or other chief executive officer; reporting to the Office of Internal Affairs; or reporting to the Office of Inspector General. Many of these reports are tracked by the office handling the disputes. For instance, EEO tracks complaints in the informal and formal processes and reports on them every year. Similar tracking systems are used for OIA and other processes.

5. Preventing contraband from entering a federal prison should be a top priority to ensure BOP staff and inmates are safe. What measures does BOP have in place to prevent contraband like weapons, phones, and drugs from entering facilities?

Response: On a daily basis, BOP employees disrupt criminal introduction efforts by detecting, intercepting, and seizing potential incoming contraband. BOP is consistently assessing emerging technologies and practices to support this ongoing effort. BOP deploys some of the most advanced security products available to prevent the introduction of contraband.

BOP has a system in place to detect and prevent contraband from entering our institutions. We use strong perimeter security, including barriers and surveillance and, inside our facilities, we use metal detectors, drug screening, and body scanners. Our National Gang Unit (NGU) works with law enforcement partners to disrupt organized crime and stop the sources and flow of contraband.

At BOP's request, the Administrator of the FAA has restricted the airspace over BOP's secure facilities. BOP has deployed drone detection technology to detect the presence of an unlawful drone flight, indicative of possible contraband delivery or surveillance activity. BOP employees recover drones and contraband payloads, thereby preventing contraband introduction into BOP institutions. BOP also works closely with other federal and state, local, Tribal, and territorial law enforcement to investigate and prosecute contraband smuggled into BOP facilities using drones. For example, in November 2022, a man pleaded guilty in U.S. District Court for the Eastern District of Texas to owning or operating an unregistered drone which he intended to use to drop contraband, including tobacco, cell phones, cell phone chargers, various tools, vape pens, and other items, into Federal Correctional Complex Beaumont. As another example, on April 6, 2023, the U.S. District Court for the Northern District of Texas sentenced a man to 41 months of incarceration, having previously pleaded guilty in October 2022 to attempting to provide contraband, including methamphetamine and other drugs, cell phones, MP3 players, and tobacco, into the Federal Medical Center Fort Worth. Finally, in April 2023 the U.S. Attorney's Office for the District of Kansas announced charges against six people for allegedly conspiring to smuggle contraband, including cellular phones, drugs, and tobacco, into Federal Correctional Institution Leavenworth. These are just three examples of how BOP has continued to stop the sources and flow of contraband into BOP facilities.

For cell phones, BOP has utilized Managed Access Systems to block unauthorized signals, and BOP plans to roll out an effort to use Micro Jamming Systems to disable signals.

Our mailroom staff scans mail to cut down on drug and other contraband introduction through the mail. BOP has also run mobile cellular assessments at 25 institutions to identify and disable contraband phones. BOP has allocated funds to invest in advanced technology to enhance our interception capabilities, and we have requested additional funding to expand our efforts. These measures aim to keep weapons, phones, and drugs out of BOP facilities to maintain a safe and secure environment for employees and AICs. Criminal conduct, including contraband introduction, is investigated, with offenders prosecuted or administratively disciplined.

6. As you know, fentanyl is flooding all of our communities. What measures does BOP have in place to prevent this deadly drug or others from entering federal facilities? If not, what tools does BOP need?

Response: BOP has scanning systems in place at all front lobbies and rear entrances, including warehouses. Scanning systems in front lobbies are configured to alert us to weapons; drug detection systems contain current libraries of illicit substances. BOP field sites have drug detection scanning systems in the mailroom. Mailroom employees receive training in United States Postal Service and BOP mail procedures. They are often senior officer specialists promoted to a correctional systems/mailroom role. With their experience as officers, BOP mailroom employees understand the challenges facing institutional correctional employees. They have dealt with contraband by working housing units, compounds, and perimeter roles, and they understand contraband risks; they work hard to detect and stop contraband from coming in through the mail to keep AICs and employees safe.

BOP also piloted mail scanning at FCI Beckley, West Virginia, and USP Canaan, Pennsylvania. The pilot successfully concluded on June 30, 2021. As part of the pilot, postal mail was scanned off-site, converted into an electronic mail file, and sent to the addressee. Files could be reviewed electronically for approval or rejection by employees. Legal mail was excluded from the pilot project. Expansion of the pilot to all 121 active BOP facilities would cost approximately \$45 million.

With regard to wireless interdiction technology for contraband cellphones, BOP has used two technology approaches: Managed Access Systems (MAS) and Micro Jamming Systems (MJS). MAS capture all cellular signals within the confines of a prison, and unauthorized cellular signals are disabled. In accordance with applicable laws and policies, it can be configured to provide intelligence for internal prison security and is favored by the wireless industry.

BOP also has conducted mobile cellular assessments (MCS). MCS deployments occurred in FY23 at 25 BOP sites with the highest number of seized contraband cell phones. During these assessments, contraband devices were identified by the mobile MCS technology and were later disabled via submission to the U.S. wireless industry's (CTIA) stolen phone database.

MJS jam all cellular signals within the confines of a prison but do not provide intelligence for internal prison security. The objective of MJS is to render cellular communication useless within a defined geospatial area. Installation of MJS requires approval from Department of Commerce – National Telecommunications and Information Administration (NTIA). MJS projects have experienced delays due to supply chain issues for the needed microchips. BOP's biggest hurdle is obtaining NTIA approval for MJS. Historically, even when approval is received, it is of limited duration (e.g., 30 days). BOP is planning for deployment of MJS at five BOP sites.

BOP also has 109 sites covered in accordance with 14 CFR Section 99.7; this authority from FAA is referred to as a TFR (Temporary Flight Restriction), meaning from ground level up to 400 feet is restricted airspace from Unmanned Aircraft Systems (“drones”) incursion. BOP was allocated additional funding for counter-Unmanned Aircraft System (CUAS) mitigation technology acquisition. In CY 2022, BOP recovered 18 drones and had 211 drone sightings. In CY 2023, BOP recovered 23 drones and had 324 documented drone sightings. BOP also worked with DOJ to designate two facilities as high-risk locations and covered facilities or assets under 124N during CY 2023. BOP worked with FAA to expand the temporary flight restrictions from the building perimeters to the BOP property boundary lines at its facilities. As of October 11, 2024, CUAS drone detection systems are operational at 62 of its secure facilities, including all high-security facilities.

7. What screening mechanism does BOP have in place to prevent contraband from entering through the mail? Has BOP taken a position about moving to scanning and providing digital mail?

Response: BOP field sites have drug detection scanning systems in the mailroom. Mailroom employees receive training in United States Postal Service and BOP mail procedures. They are often senior officer specialists promoted to a correctional systems/mailroom role. With their experience as officers, BOP mailroom employees understand the challenges facing institutional correctional employees. They have dealt with contraband by working housing units, compounds, and perimeter roles, and they understand contraband risks; they work hard to detect and stop contraband from coming in through the mail to keep AICs and employees.

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8. Director Peters, recently National Institute of Justice (NIJ) and BOP announced that a study will be conducted on the use and impact of restrictive housing in federal correctional facilities. Are your plans to eliminate restrictive housing across all federal facilities?

Response: While restrictive housing is an effective tool for maintaining safety and security and protecting lives, BOP knows restrictive housing is not an effective deterrent and can increase an individual's future criminality. BOP is working to comply with the President's Executive Order regarding restrictive housing. We have a short-term plan and a long-term plan to evaluate current practices and align with best correctional practices.

In the short term, this plan includes a review by a workgroup made up of members of our executive team, who are researching best practices from other jurisdictions. In the long term, we have partnered with NIJ to invest in research that will inform how BOP facilities can effectively reduce the use of restrictive housing. The research will explore policies and discern whether and how we can further reduce our reliance on restrictive housing.

9. If restrictive housing is terminated, what is BOP's plan to house arduous and disruptive inmates?

Response: BOP has not made the determination to end restrictive housing. Restrictive housing takes many forms, including protective custody. In fact, most AICs in restrictive housing are there either for a pending investigation for a disciplinary violation or awaiting transfer to another facility. While restrictive housing is an effective tool for maintaining safety and security and protecting lives, we have a short-term plan and a long-term plan to evaluate current practices and align with best correctional practices. In the short term, this includes a review by a workgroup made up of members of our executive team, who are researching best practices from other jurisdictions. In the long term, we have partnered with NIJ to invest in research that will inform how BOP facilities can effectively reduce the use of restrictive housing. The research will explore policies and discern whether and how we can further reduce our reliance on restrictive housing.

10. Do you believe that the elimination of restrictive housing will lead to new challenges for staff?

Response: Please see the response to question 9 above.

11. Has BOP taken a position on the Cellphone Jamming Reform Act?

Response: BOP defers to the Department of Justice for official positions on legislation.

12. Are there any concerns with implementing cellphone jamming technology within federal facilities?

Response: We have limited concerns. The concerns with the use of such technology arise from NTIA, which is responsible for managing the federal wireless spectrum. NTIA has previously expressed concern about “bleedover” to the community (i.e., that jamming by BOP would impact civilian cellphone traffic nearby, including that related to emergencies). BOP tests extensively to ensure this will not occur. Additionally, MJS are useful in jamming cell phone signals, but they do not provide intelligence for internal prison security.

### Staffing Shortages

1. What is the current state of staff shortages at FCC Butner?

Response: As of November 2024, see breakdown below.

- Complex-wide vacancies: 213.

- a. Specifically, how many nurses and how many correctional officer positions are vacant?

Response: As of November 2024, see breakdown below.

- Nurse vacancies: 4
- Public Health Service nurse vacancies: 3
- Correctional officer vacancies: 116

2. What steps has BOP taken to alleviate the staff shortage at a national level?

Response: Hiring and retention are among BOP’s top priorities. As explained on the attached FY 2023 Hiring and Retention fact sheet, we are dedicating significant resources to recruitment and hiring. We are using a nationwide, data-driven marketing campaign to hire correctional officers and other critical employees. In addition, we are using direct hire authority, recruitment and retention incentives, special salary rates, and other available authorities to attract and retain qualified employees. We will continue to use these tools until we are able to fully staff all our institutions.

3. What hiring authorities have been requested by FCC Butner? Which of those have been granted and which have not?

Response: FCC Butner holds on-site direct hire recruitment events every Thursday for nursing. In addition, FCC Butner staff recruiters, Human Resources employees, and executive staff have attended at least 40 off-site recruitment events in the last 12 months. Human Resources also has direct hire authority at off-site recruitment events.

4. How many staff have been mandated at FCC Butner in the past 12 months, and what is the total number of staff hours that have been required during the past 12 months?

Response: The total number of correctional officer mandate occurrences at FCC Butner from October 1, 2022, through October 1, 2023, was 9,334. Augmentation mandate occurrences range from a mandate of 15 minutes to 8 hours. The majority of these augmentation mandates were for eight-hour shifts.

The total number of nursing mandates at FCC Butner from June 21 – current has been approximately 740 nurse mandates. The mandate occurrences range from a mandate of 15 minutes to 4 hours. The majority of these mandates were for four hours or less. Nurses assigned to the Nursing Department are not augmented; however, nurses who work in other departments, such as Quality Management, Operating Room, and Oncology, are occasionally reassigned to work a nursing post within the Nursing Department. This is due to staff being on Sick Leave, Annual Leave, TJMs, LLDs and those who have work restrictions, such as specific time constraints, all of which have caused and continue to cause significant staffing issues.

5. How many staff at have been impacted by augmentation in the past 12 months? What are the total number of hours Butner staff have been required to work in an augmented role instead of their primary role?

Response: Non-custody staff except for nurses help fill vacant correctional officer posts to prevent or reduce the number of mandates. See breakdown below:

- Augmentation occurrences: 1,059
- Total augmentation hours: 11,420

Nurses assigned to the Nursing department are not augmented for correctional posts. However, nurses assigned to other medical departments outside of the Nursing department have assisted with staffing needs. Approximately ten nurses from other medical departments have helped with staffing needs within the Nursing department.

6. Do you believe that augmentation plays a factor in job hiring and retention?

Response: Current data from exit surveys that are voluntarily provided to employees who leave BOP does not indicate that augmentation is a factor in separating from BOP.

7. Has BOP provided additional resources to FCC Butner to help ease staff concerns?

Response: In addition to recruitment and hiring events to help with the employee shortages specifically with correctional officers and nurses, we have provided additional resources to employees to assist with managing their workloads and reduce mandates by

having temporary duty (TDY) employees from other institutions come to FCC Butner and fill gaps in our rosters in those departments. This has been done several times for both correctional officers and nurses. In addition to TDY employees, medical employees who are credentialed to facilitate nursing posts were asked to do so. Pharmacists have assisted with medication administration lines as well. In addition to TDY employees for correctional officers, non-custody staff and department heads have the option to work overtime to fill gaps on the roster (including for hospital posts) to reduce or eliminate mandates.

8. How many vacancies are there across all federal facilities?

Response: As of October 2024, there were about 2,900 vacancies of funded positions in BOP.

9. What legislative action can Congress take to assist address vacancies?

Response: BOP competes with other government agencies for qualified applicants, particularly medical professionals. Congressional action that strengthens BOP's ability to pay competitive salaries will be important to resolving our staffing crisis. BOP welcomes the continued support of Congress to fund our authorized positions, as well as funding for our ongoing incentives to allow us to offer compensation to attract and retain applicants and employees.

10. Are you considering the use of direct hire authority at local institutions? If so, when do you expect to provide direct hire authority to local institutions? If not, please explain why you have not allowed for the use of direct hire authority.

Response: Currently, BOP utilizes direct hire authority for correctional officers at six priority institutions with chronic staffing challenges. We also utilize government-wide authority at several locations for nurses and physicians. We believe direct hire authority could be most helpful if it were readily available to agencies that could benefit from it.

11. What actions have you taken to shorten the hiring process and get additional staff into these critical roles?

Response: We have reviewed all steps in the hiring process, to identify where delays can be reduced or eliminated. This year, we instructed all selecting officials to make selections on an announcement within 60 days versus 80 days from external certificates. In FY 2023, we were able to reduce time to hire correctional officers to 75 days, beating the OPM standard of 80 days. The use of direct hire authority, where permitted, also shortens the hiring process.

**Submitted by Senator Sheldon Whitehouse**

1. In March 2023, the Government Accountability Office published a report assessing the Bureau of Prisons' implementation of the First Step Act's provisions relating to recidivism-reduction.<sup>10</sup> GAO offered eight recommendations for the Bureau to improve its implementation of the Act, including improving the Bureau's evaluation of evidence-based recidivism reduction programs and productive activities offered by the Bureau.

- a. What progress has the Bureau made in adopting the GAO's recommendations?

Response: The First Step Act directs "ongoing research and data analysis" be conducted on evidence-based recidivism reduction (EBRR) programs relating to the use of prisoner risk and needs assessment tools; the most effective and efficient uses of such programs; and which EBRR programs are the most effective at reducing recidivism, and the type, amount, and intensity of programming that most effectively reduces the risk of recidivism.

BOP has developed a priority plan to conduct evaluations of EBRR programs. EBRR programs are evaluated by BOP researchers in the Office of Research and Evaluation and the Reentry Services Division, as well by as independent experts engaged via the federal contracting process.

Broadly, the goals of outcome research are to examine the effectiveness of interventions in relieving distressing psychological symptoms, increasing knowledge and skill sets, improving institutional adjustment, and reducing criminal behaviors. Specific research questions for each project are developed in collaboration with the researchers. Program evaluation studies can take many years to complete; thus, programs will be evaluated using both short- and long-term outcome measures. While long-term outcomes will primarily focus on recidivism, short-term outcomes will vary by program and may include variables such as disciplinary infractions, symptom reduction, and experiences indicative of adjustment. The first results are expected by the end of FY 2024 and will continue through FY 2026.

- b. Based on evidence currently available to the Bureau, which evidence-based recidivism reduction programs and productive activities do the Bureau consider to be most effective at reducing recidivism?

Response: All the research projects are ongoing or have not yet been awarded. As a result, there are no outcomes to report as of July 23, 2024. The first results are expected by the end of FY 2024. Our evaluation schedule plans have clear milestones spanning FY 2026.

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<sup>10</sup> U.S. GOV'T ACCOUNTABILITY OFF., GAO-23-105139, Bureau of Prisons Should Improve Efforts to Implement its Risk and Needs Assessment System (2023).

ADDENDUM TO QUESTIONS FOR THE RECORD  
 Senate Judiciary Committee Hearing: Oversight of the Federal Bureau of Prisons  
 September 13, 2023  
 Questions for BOP Director Colette Peters

**Federal Bureau of Prisons 2023 Hiring and Retention**

Hiring and retention of employees are among BOP’s top priorities. We are investing considerable resources in recruitment and hiring. Our National Recruitment Office (NRO) has approximately 20 recruiters who are dedicated full-time to recruiting and hiring. The NRO supports hiring and retention efforts at local institutions, each of which has a dedicated Human Resources team that also works on hiring and retention. In addition, BOP is working with the Department of Justice (DOJ) and the Office of Personnel Management (OPM) to maximize the use of incentives, special salary rates, and other authorities to hire and retain qualified employees.

**Current Staffing Levels**

S&E (includes PHS) (PP26)	Authorized	Funded	Filled as of PP23 (% of Funded)
All	39,585	38,012	34,189 (90%) <sup>[1]</sup>
Correctional Services <sup>[2]</sup>	20,446	20,446	15,419 (75%)
Correctional Officers <sup>[3]</sup>	14,886	n/a	12,306 (83%)

**HIGHLIGHTS**

**We ended calendar year (CY) 2023 with 90% of positions filled.** That is an increase from a fill rate of about 87% at the end of 2022.

**In CY 23, we increased hires and reduced separations.** As of December 2023 (PP 26), BOP hired over 2,866 new employees. Compared to the same pay period in 2022, we experienced a 40% increase in new hires (1,964 v. 2,866) and a 19% decrease in separations (3,441 v. 2,777).

**In CY 23, retirements decreased significantly across BOP.** In CY 2023, there were a total of 1,216 retirements (voluntary, mandatory, and disability). This is a net decrease of 400 from 1,616 total retirements in CY 22.

**RECRUITMENT AND HIRING**

**Our NRO led a targeted advertising and recruitment campaign that resulted in:**

- 165 recruitment events, up from 125 events in 2022.
- 37,709 conversations with potential applicants.
- 25 million views of our recruitment ads that drove 550,000 referrals to USAJobs.gov, an increase of 78% from FY 2022.

- An increase of eligible correctional officer (CO) applicants from 80% to 83%.
- An increase in the hiring rate for eligible CO applicants to eleven percent. The FY 2022 rate was 8%. Due to the rigorous requirements for CO hiring (i.e., bachelor's degree, three years of relevant experience, physical exam, fitness test, drug test, and background investigation), many applicants do not receive an offer. Specifically, many applicants are unable to pass the drug test or the background investigation, particularly the financial suitability portion.
- Corrections1, a trade publication, recognizing BOP's for the best 2023 recruitment video -- [Corrections1 reveals the top corrections recruitment videos of 2023](#).
- Military Makeover producing an episode titled "Veterans in Demand," whose primary goal is to assist veterans in their transition to civilian careers post military (<https://www.bop.gov/resources/news/20231108-military-makeover.jsp>).

**We launched a social media recruitment campaign on LinkedIn, Facebook, YouTube, and others aimed at rebranding BOP as a potential employer.** The campaign focuses on nursing and CO positions.

**We used recruitment incentives to hire qualified employees.** This includes offering a nationwide CO recruitment bonus of **\$10,000 or 25% of the salary**, whichever is greater. We also offer a **\$1,000** bonus to employees who refer CO applicants that are hired by BOP. Since March 2023, the employee recruitment bonus resulted in nearly **1,600** new hires. We also offer student loan repayment for certain positions.

**We received OPM approval to expand use of direct hire authority nationwide, an increase from six institutions for COs to make it easier for wardens to hire directly from their local communities.** In FY24, we have hired 642 COs, a 227.6% increase from FY23. We also used direct hire authority to fill clinician positions at our medical centers across the country.

**We also use other special hiring authorities, including Veterans Recruitment Authority, Schedule A, and Title 38.** Title 38 allows us to pay increased salaries for certain medical positions, including physicians and dentists.

**Many institutions offer Above the Minimum Rate and Annual Leave Credit to attract qualified candidates.** These authorities enable BOP to offer increased salaries and credit for prior work experience toward an applicant's annual leave accrual rate.

**We expanded our applicant pool for COs, resulting in more hires.** We raised the maximum entry age for COs from 37 to 39 years. Since we implemented this change in September 2023, we have approved several waivers for new COs between the ages of 37 and 39.

**We use intern programs (psychology and nursing) to recruit and hire psychologists and nurses.** These programs enable us to recruit students before they graduate and then hire them once they have their degree.

**We reduced the time to hire for COs.** It takes an average of 75 days from when a hiring manager requests to hire through when a new CO enters on duty date. The OPM standard is 80 days.

**RETENTION**

**We used retention incentives to keep staff at qualifying institutions.** Approximately 45% of our employees currently receive retention incentives. We pay retention incentives of between 10% and 25% at 36 institutions.

**We use accelerated promotions to retain nurses,** many of whom can earn much more in the private sector.

**When COs leave their position, about 66% move to other jobs within BOP.** This data shows most COs see a career path at BOP and are dedicated to staying with the agency.

**INCREASING SALARY TO BOOST RECRUITMENT AND RETENTION**

**We raised the top officer pay by around \$2,000 annually.** The starting pay for COs is between \$47,000 to \$58,000, depending on the geographic location of the job. The low salary for COs makes it difficult to attract and retain qualified employees. In order to address this issue, BOP increased the full performance level for COs from GL-7 to GL-8.

<sup>[1]</sup> Includes 517 Public Health Service employees who are paid from BOP's S&E appropriation.

<sup>[2]</sup> Correctional Services includes non-supervisory COs who work in housing units, lieutenants who supervise COs, correctional systems officers who work in Receiving and Discharge, and correctional counselors who work directly with adults in custody.

<sup>[3]</sup> This data is a subset of the Correctional Services data, above.

Testimony Submitted for the Record  
Senate Committee on the Judiciary  
Hearing on Oversight of the Federal Bureau of Prisons  
September 13, 2023

Debra Perlin, Policy Director, Citizens for Responsibility and Ethics in Washington (CREW)

Chairman Durbin, Ranking Member Graham, and members of the Senate Judiciary Committee, thank you for the opportunity to submit testimony regarding oversight of the Bureau of Prisons (BOP).

Citizens for Responsibility and Ethics in Washington (CREW) is a non-profit, non-partisan organization committed to promoting ethical, transparent and accountable governance. We firmly believe that Congress must fulfill its oversight duties in order to ensure the integrity of government institutions and sustain our democracy. This hearing marks a crucial stride towards enhancing the oversight of the BOP, an agency that is in urgent need of comprehensive reform to address its persistent operational challenges. According to its stated mission, the Bureau is “committed to providing a safe environment for both staff and inmates.” In recent years however, reporting and investigations have revealed that BOP has fallen short of this mission by failing to address or even willfully turning a blind eye to staff misconduct and dangerous conditions. We hope that this hearing will spur legislative action to address the urgent need for transparency, accountability and oversight within the BOP.

***BOP’s internal operations have created a culture of widespread employee misconduct, the true scale of which is hidden from public view because of inadequate transparency measures.***

This year, the Department of Justice’s Office of the Inspector General conducted an internal review of the BOP and identified significant concerns, including insufficient staffing, weaknesses in the internal audit functions and unsafe conditions due to poorly maintained infrastructure.<sup>1</sup> The report was issued in response to alarming conditions at two BOP facilities in 2021; first, at the U.S. Penitentiary in Atlanta where the BOP substantially reduced its activities due to concerns surrounding operational security, including the inability of staff to prevent drugs and other contraband from entering the institution, and at the Metropolitan Correctional Center in New York, where the BOP ceased operations due to deteriorating physical infrastructure and operational security challenges stemming from deficiencies in staff oversight.<sup>2</sup>

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<sup>1</sup> *Limited-Scope Review of the Federal Bureau of Prisons’ Strategies to Identify, Communicate, and Remedy Operational Issues*, Dep’t of Justice Office of the Inspector General (May 2023), <https://oig.justice.gov/reports/limited-scope-review-federal-bureau-prisons-strategies-identify-communicate-and-remedy>.

<sup>2</sup> *Id.*

In addition to the unsafe physical conditions of the facilities, the findings in the DOJ report revealed that BOP is not effectively addressing employee misconduct cases, in part due to inadequate staffing levels and lack of transparent reporting. As of September 2022, the BOP had 60 Special Investigative Agents (SIAs) available to handle 7,893 pending employee misconduct cases requiring further investigation. Moreover, according to the report, the BOP had yet to institute disciplinary actions in 2,279 additional cases where investigations had substantiated allegations of misconduct and recommended disciplinary action.<sup>3</sup> These statistics are staggering, particularly because BOP's case management system for investigating employee misconduct has significant limitations that impede its ability to provide accurate data regarding the average time required to conclude its investigations and impose disciplinary action.<sup>4</sup>

Sexual misconduct is one area where there have been significant complaints of employee misconduct. According to a bipartisan report issued last year by the Senate Permanent Subcommittee on Investigations, the BOP has failed to hold employees accountable for widespread sexual misconduct involving female inmates at federal prisons.<sup>5</sup> The report details that long delays in investigating complaints have led to a backlog of approximately 8,000 cases of misconduct including at least hundreds of sexual abuse cases as of November 2022, and the BOP has failed to respond to this abuse or implement agency-wide reforms.<sup>6</sup> Recent investigations have documented numerous allegations, from a culture of sexual abuse and cover up at a Tallahassee federal women's prison,<sup>7</sup> to the indictment of a warden at a federal women's prison in Dublin, California on charges of inmate sexual abuse.<sup>8</sup> In another instance, the DOJ opened an investigation into five juvenile facilities in Texas following allegations of physical and sexual abuse of juvenile detainees by staff, as well as excessive use of chemical restraints and isolation on juveniles.<sup>9</sup>

It is important to remember that this misconduct has a disproportionate effect on Black and brown Americans. Black Americans make up 38.6% of BOP inmates, despite being just 13.6%

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Staff of S. Permanent Subcomm. on Investigations and Comm. on Homeland Sec. and Gov't Affairs, 117th Cong., Rep. on Sexual Abuse of Female Inmates in Federal Prisons (Comm. Print 2022), <https://www.hsgac.senate.gov/wp-content/uploads/imo/media/doc/2022-12-13%20PSI%20Staff%20Report%20-%20Sexual%20Abuse%20of%20Female%20Inmates%20in%20Federal%20Prisons.pdf>.

<sup>6</sup> *Id.*

<sup>7</sup> Silja J.A. Talvi, *Sexual Abuse of Women at Florida Prison Draws Attention Amid Ghislaine Maxwell Trial*, *The Appeal* (Apr. 25, 2023), <https://theappeal.org/fci-tallahassee-sexual-abuse-women-prison-ghislaine-maxwell/>.

<sup>8</sup> *Prisons Fail to Stop Sexual Abuse of California Female Inmates*, Associated Press (Sept. 30, 2021, 1:56 AM), <https://apnews.com/article/prisons-california-san-francisco-sexual-abuse-e9b0b3c8bf508bafc66399c95c02a1df>.

<sup>9</sup> U.S. Dep't of Justice, *Press Release: Justice Department Announces Investigation Into Conditions at Five Juvenile Facilities in Texas*, Office of Public Affairs (Oct. 13, 2021), <https://www.justice.gov/opa/pr/justice-department-announces-investigation-conditions-five-juvenile-facilities-texas>.

of the national population.<sup>10</sup> In Illinois, there are nearly eight times as many Black inmates as white inmates.<sup>11</sup> The Washington Lawyers' Committee for Civil Rights & Urban Affairs recently published an investigation which included testimonies from over 120 individuals incarcerated at a BOP facility in Illinois who alleged deeply troubling criminal and civil rights violations including sexual assault, racist verbal mistreatment and interference with inmates' access to legal counsel and the grievance process.<sup>12</sup> Although we commend this committee's efforts to address this issue in its recent letter urging the BOP to investigate these allegations, we remain deeply concerned by the racism laced into the reports of misconduct that the Washington Lawyers' Committee's investigation unearthed.<sup>13</sup>

***Increased Congressional oversight of BOP and legislative reform is critical amidst continued allegations of abuse and corruption***

Government oversight is an essential congressional duty. Effective oversight of BOP is of paramount importance given the inherent challenges in receiving reports of misconduct directly from incarcerated individuals. The nature of incarceration hinders open communication, and even when such reports do arise, individuals risk facing potential retribution from BOP staff in whose custody they find themselves. This underscores the vital role of independent oversight mechanisms in ensuring transparency and accountability across BOP facilities. This committee and the Senate Permanent Subcommittee on Investigations have done critical work to bring some of the issues to light, but further oversight work and legislative action is needed.

Congress has a menu of options it could choose from to exercise more robust oversight and, in the process, help rebuild some measure of public trust which BOP Director Colette Peters agrees has eroded given recent scandals.<sup>14</sup> As a starting point, it is well within Congress' powers to allocate resources and personnel to strengthen oversight mechanisms within the BOP including prioritizing transparent reporting, independent audits and the implementation of accountability measures to prevent widespread mistreatment of

<sup>10</sup> *Inmate Race*, Federal Bureau of Prisons (Sept. 2, 2023), [https://www.bop.gov/about/statistics/statistics\\_inmate\\_race.jsp](https://www.bop.gov/about/statistics/statistics_inmate_race.jsp); *Census QuickFacts United States*, U.S. Census Bureau, <https://www.census.gov/quickfacts/fact/table/US/RHI225222>.

<sup>11</sup> *Detailed Data Tool*, The Sentencing Project, <https://www.sentencingproject.org/research/detailed-state-data-tool/>.

<sup>12</sup> The Washington Lawyers' Committee for Civil Rights and Urban Affairs et al., *Cruel and Usual: An Investigation into Prison Abuse at USP Thomson*, Washington Lawyers' Committee for Civil Rights and Urban Affairs (July 12, 2023), <https://www.washlaw.org/wp-content/uploads/2023/07/Cruel-and-Usual-An-Investigation-Into-Prison-Abuse-at-USP-Thomson.pdf>.

<sup>13</sup> *Durbin, Grassley, Duckworth, Sorensen Press BOP to Investigate Allegations of Abuse at USP Thomson*, U.S. Senate Committee on the Judiciary (Sept. 6, 2023), <https://www.judiciary.senate.gov/press/releases/durbin-grassley-duckworth-sorensen-press-bop-to-investigate-allegations-of-abuse-at-usp-thomson>.

<sup>14</sup> Michael R. Sisak & Michael Balsamo, *New federal prisons chief vows to fix troubles, regain trust*, Associated Press (Sept. 29, 2022), <https://apnews.com/article/health-crime-prisons-covid-judiciary-233404fbc44b5c39b658c2b86a1958f5>.

inmates. The bipartisan bicameral Federal Prison Oversight Act (S. 1401 and H.R.3019) provides a framework to do just that.

The Federal Prison Oversight Act would require the Department of Justice's Office of Inspector General to conduct periodic, risk-based investigations of all BOP facilities and tasks the Attorney General with creating an Ombudsman within the Department of Justice to conduct targeted investigations of complaints regarding the wellbeing of incarcerated individuals and BOP staff.<sup>15</sup> Further, the bill would create a telephone hotline and online form for incarcerated people to report misconduct to an accountability office, mandate federal watchdog inspections and create congressional reporting requirements and response plans from the BOP.<sup>16</sup> These measures are designed to help avert the dangerous conditions we have seen in the past several years in places like the U.S. Penitentiary in Atlanta and the Metropolitan Correctional Center in New York. Additionally, they would help ensure that instances of employee misconduct and dangerous conditions do not go unnoticed by providing the Senate and House Judiciary Committees with inspection reports, thereby giving the legislature the essential information concerning BOP facilities that it needs to conduct effective oversight.

#### **Conclusion**

There is an urgent need for enhanced oversight, accountability and transparency throughout the BOP. Where the BOP has failed in this regard, Congress must step in. We urge this committee to commit to increased oversight of the BOP and work across the aisle to markup and vote out of committee the Federal Prison Oversight Act. We stand ready to work with you toward a more accountable and transparent BOP.

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<sup>15</sup> Federal Prison Oversight Act, S. 1401, 118th Cong. (2023), <https://www.congress.gov/bill/118th-congress/senate-bill/1401>.

<sup>16</sup> *Id.* § 6(a).