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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

May 28, 2024

Colette S. Peters  
Director  
Federal Bureau of Prisons  
320 First Street, NW  
Washington, DC 2-534

Dear Director Peters:

We write to 1) request an update on the findings of the Federal Bureau of Prisons' (BOP) contract with NTT Data Services to study BOP staffing levels; and 2) urge BOP to request a special pay rate for critical employees to help address severe staffing shortages in BOP facilities.

Recent Senate Judiciary Committee oversight hearings have highlighted the fact that understaffed prisons cannot ensure the safety of, or necessary services for, those in their care, including critical medical and mental health care.<sup>1</sup> The practice of augmentation, where non-custody prison staff, like teachers, case managers, and medical staff, have to perform routine correctional officer duties, hinders the successful implementation of the First Step Act (FSA) and access to programming that is crucial for individuals' rehabilitation and successful re-entry into society.<sup>2</sup>

Even more alarming, the recent report issued by the Department of Justice's Inspector General (IG), entitled "Evaluation of Issues Surrounding Inmate Deaths in Federal Bureau of Prisons Institutions," identified insufficient staffing as an issue in at least 30 of the deaths of incarcerated adults in the report's scope.<sup>3</sup> The IG found about one-fifth of adults in custody who died by suicide had issues with their Mental Health Care Level (MHCL), including not being classified at all or being classified as MCHL 1, meaning that BOP deemed the individual to not require any regular mental health services or a treatment plan. This raises questions about the adequacy of mental health services in federal prisons.<sup>4</sup> The IG's report also noted that mandated overtime and augmentation negatively affect staff morale and performance, posing risks to institutional safety

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<sup>1</sup> Senate Judiciary Committee Hearing "Oversight of the Federal Bureau of Prisons" September 13, 2023; Senate Judiciary Committee Hearing "Examining and Preventing Deaths of Incarcerated Individuals in Federal Prisons" February 28, 2024; Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism Hearing "The Nation's Correctional Staffing Crisis: Assessing the Toll on Correctional Officers and Incarcerated Persons" February 28, 2024.

<sup>2</sup> Cecilia Vega, [Inside the Bureau of Prisons, a federal agency plagued by understaffing, abuse, disrepair](#), 60 Minutes, January 28, 2024.

<sup>3</sup> [Evaluation of Issues Surrounding Inmate Deaths in Federal Bureau of Prison Institutions](#), U.S. Department of Justice, Office of the Inspector General, February 2024 (hereinafter IG 2024 Report).

<sup>4</sup> [IG 2024 Report](#) at 17-18

and security.<sup>5</sup> Correctional officers interviewed relayed that overworked staff were less vigilant and conducted fewer rounds.<sup>6</sup> Staff also suffer detrimental physical and mental health impacts from significantly increased stressors unique to the correctional environment.

Media reports have further emphasized the effects of this ongoing prison staffing crisis.<sup>7</sup> A local Fox affiliate in Texas published a story after a fight at USP Beaumont resulted in the deaths of two incarcerated adults. As the article noted, the American Federation of Government Employees issued a statement condemning the incident and noting that it has long warned that chronic understaffing is jeopardizing the lives of both workers and adults in custody.<sup>8</sup> Nationally, *NPR* reported that adults in BOP custody, including those with serious illnesses, have waited months for medical treatment, and some have died from otherwise treatable conditions.<sup>9</sup> In a January *60 Minutes* piece, incarcerated women at FCI Aliceville in Alabama discussed the effect staffing has on life in prison, with one noting that “[t]here’s times where you don’t know if you’re gonna be able to go outside because somebody didn’t come to work.”<sup>10</sup> In the same piece, the former National Council of Prison Locals President noted: “The less supervision you have, the more bad things happen. Misconduct increases. Violence increases...It results in one of us losing our lives.”<sup>11</sup>

BOP has experienced staffing shortages over the last several decades.<sup>12</sup> BOP currently houses over 141,000 incarcerated adults.<sup>13</sup> BOP is authorized for 14,899 full time correctional officer positions and reports that 12,193 active correctional officers are in pay status.<sup>14</sup> BOP is authorized for 24,686 “other” positions and reports that 23,141 employees are in active pay status in those positions.<sup>15</sup> According to the National Council of Prison Locals, since 2016, BOP has lost approximately 9,000 staff positions and the current staffing shortages are at “critical level.”<sup>16</sup>

On November 3, 2021, Senator Durbin and Senator Ossoff wrote a letter to BOP seeking information to better understand the scope and nature of the staffing situation.<sup>17</sup> They asked BOP

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<sup>5</sup> [IG 2024 Report](#) at 67

<sup>6</sup> [IG 2024 Report](#) at 68

<sup>7</sup> Joshua Ceballos and Alex DeLuca, [Employees at Understaffed Miami Prison Say Inmates, Guards, and Public are at Risk](#), Miami New Times, May 24, 2022; Glenn Thrush, [Short on Staff, Prisons Enlist Teachers and Case Managers as Guards](#), The New York Times, May 1, 2023; Luke Barr, [Bureau of Prisons union leader asks Biden ‘to prioritize and address’ staffing](#), ABC News, February 2, 2024.

<sup>8</sup> Angel San Juan, [Prison Pay: low pay rates for correctional officers is creating a staffing crisis](#), Fox 4 Beaumont, May 19, 2023.

<sup>9</sup> Meg Anderson, [1 in 4 inmate deaths happen in the same federal prison. Why?](#), NPR, September 23, 2023.

<sup>10</sup> Cecilia Vega, [Inside the Bureau of Prisons. a federal agency plagued by understaffing. abuse. disrepair](#), 60 minutes, January 28, 2024.

<sup>11</sup> Cecilia Vega, [Inside the Bureau of Prisons. a federal agency plagued by understaffing. abuse. disrepair](#), 60 Minutes, January 28, 2024.

<sup>12</sup> Meg Anderson, [1 in 4 inmate deaths happen in the same federal prison. Why?](#), NPR, September 23, 2023.

<sup>13</sup> [Federal Bureau of Prisons Fact Sheet](#) February 10, 2024.

<sup>14</sup> [Federal Bureau of Prisons Fact Sheet](#) February 10, 2024.

<sup>15</sup> [Federal Bureau of Prisons Fact Sheet](#) February 10, 2024.

<sup>16</sup> Luke Barr, [Bureau of Prisons union leader asks Biden ‘to prioritize and address’ staffing](#), ABC News, February 2, 2024

<sup>17</sup> Luke Barr, [Bureau of Prisons union leader asks Biden ‘to prioritize and address’ staffing](#), ABC News, February 2, 2024.; Press Release, [Sens. Ossoff, Durbin Press Bureau of Prisons Director for Answers on Staffing Shortages in](#)

to provide the staffing guidelines for each of BOP's 122 federal facilities so they could compare the current number of employees at each facility to the number of employees needed for safe operation of that facility. In response, BOP stated, "the Bureau does not have a written program statement that specifically addresses this issue."

In June 2021, BOP contracted with NTT Data Services, an independent organization, to assess the risks associated with its staffing levels, including overtime and augmentation, and to develop an automated staffing tool for correctional services.<sup>18</sup> The implementation of the first phase of the automated staffing tool was scheduled to be complete in July 2023.<sup>19</sup> To date, however, no information regarding the tool's implementation has been publicly released.

Therefore, we request that you provide us with any information regarding the implementation of this staffing tool and any findings, including the data, reports, or tools relevant to this contract. Additionally, we ask that you commit to briefing the Senate Judiciary Committee on the contractor's findings or making the contractor's findings public.

At a recent Senate Judiciary Committee hearing, you acknowledged that BOP's pay rates, including recruitment and retention pay incentives, have not made BOP staff salaries competitive with state correctional institutions or the private sector and are therefore a barrier to addressing the BOP staffing crisis.<sup>20</sup> At another hearing later that day, Brandy Moore White, President of the National Council of Prison Locals, the union representing a majority of BOP employees, called the pay issue the most important one that correctional officers face on a day-to-day basis.<sup>21</sup>

To address barriers to BOP's recruitment and retention of critical employees and improve safety and security at BOP facilities, we urgently recommend that BOP send a special pay rate request to the Office of Personnel Management (OPM). Additionally, to address the staffing shortages contributing to deficient medical care and recidivism reduction programming, we recommend that you request that this special pay rate apply not only to correctional officers, but also to all non-supervisory staff, including nurses, teachers, doctors, and psychologists. A special pay rate will provide an additional tool for BOP to immediately address its staffing shortage within its current budget, while Congress works on long-term solutions to this crisis.

OPM has the authority to set special pay rates, which are "higher rates of basic pay," for agencies experiencing a "significant handicap in recruiting or retaining employees."<sup>22</sup> OPM's criteria for special pay rates are based on whether the staffing shortages are caused by "significantly higher non-Federal pay rates . . . , the remoteness of the area . . . , the undesirability of the work conditions or nature of the work involved, or any other circumstances OPM considers appropriate."<sup>23</sup> BOP clearly meets this criteria.

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[Federal Prisons](#), November 3, 2021.

<sup>18</sup> [First Step Act Annual Report](#), U.S. Department of Justice, Office of the Attorney General, April 2023 at 37

<sup>19</sup> [First Step Act Annual Report](#), U.S. Department of Justice, Office of the Attorney General, April 2023 at 37.

<sup>20</sup> Senate Judiciary Committee Hearing "Examining and Preventing Deaths of Incarcerated Individuals in Federal Prisons" February 28, 2024.

<sup>21</sup> Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism Hearing "The Nation's Correctional Staffing Crisis: Assessing the Toll on Correctional Officers and Incarcerated Persons" February 28, 2024.

<sup>22</sup> OPM.gov Main > Policy > Special Rates, [Special Rates: Special Rate Requests](#), March 27, 2024.

<sup>23</sup> OPM.gov Main > Policy > Special Rates, [Special Rates: Special Rate Requests](#), March 27, 2024.

We ask that you provide the information and a response to the requests above no later than June 18, 2024. We strongly support special pay rates for critical BOP employees, and we look forward to our continued collaboration in addressing BOP's staffing shortages.

Sincerely,



Richard J. Durbin  
United States Senator



Cory A. Booker  
United States Senator



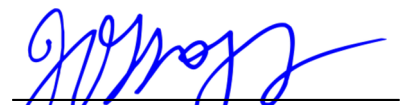
Christopher A. Coons  
United States Senator



Mazie K. Hirono  
United States Senator



Alex Padilla  
United States Senator



Jon Ossoff  
United States Senator



Peter Welch  
United States Senator



Laphonza Butler  
United States Senator