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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
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Chairman Wolf, Ranking Member Fattah, and Members of the Subcommittee –

My name is Gary Mills. I am the National Legislative Coordinator of the Council of Prison Locals, American Federation of Government Employees, AFL-CIO. On behalf of the over 36,000 federal correctional workers who work at the 117 Federal Bureau of Prisons (BOP) correctional institutions, I strongly urge the House Appropriations Subcommittee on Commerce-Justice-Science (CJS) to:

- 1. Provide \$7,007,272,000 in FY 2014 funding for the BOP Salaries & Expenses account to allow BOP to hire enough additional correctional workers to achieve a 95% staffing level at existing BOP-operated institutions. This \$7,007,272,000 assumes a FY 2013 funding level of \$6,820,217,000 and then a \$187,055,000 increase in FY 2014.**
- 2. Exempt the BOP Salaries & Expenses account in from the sequestration provisions of the *2011 Budget Control Act* because BOP expenses are effectively mandatory, not discretionary.**
- 3. Direct BOP to expand the pepper spray pilot project to include correctional workers who work in highly dangerous areas of *all* BOP prisons – allowing them to routinely carry pepper spray in case situations arise where they must defend themselves if physically attacked by dangerously violent inmates.**

DISCUSSION

The AFGE Council of Prison Locals strongly urges the House CJS Subcommittee to:

- 1. Provide \$7,007,272,000 in FY 2014 funding for the BOP Salaries & Expenses account to allow BOP to hire sufficient additional correctional workers to achieve a 95% staffing level at existing BOP-operated institutions. This \$7,007,272,000 assumes a FY 2013 funding level of \$6,820,217,000 and then a \$187,055,000 increase in FY 2014.**

Nearly 218,000 prison inmates are incarcerated in BOP correctional institutions today, up from 25,000 in FY1980, 58,000 in FY1990, and 145,000 in FY 2000. About 81% - or 176,050 - of the inmate population are confined in BOP-operated institutions while 19% - or 41,697 - are managed in residential reentry centers and private prisons. By the end

of FY 2014, it is expected there will be 229,268 prison inmate incarcerated in BOP correctional institutions.

This explosion in the federal prison inmate population is the direct result of Congress approving stricter anti-drug enforcement laws involving mandatory minimum sentences in the 1980s, as documented in the *History of Mandatory Minimums*, a study produced by the Families Against Mandatory Minimums (FAMM).

The number of federal correctional workers who work in BOP-operated prisons, however, is failing to keep pace with this tremendous growth in the prison inmate populations. As of December 31, 2011, the BOP-operated institutions were staffed at an 88% level (36,172 of 41,104 authorized positions filled), as contrasted with the 95% staffing levels in the mid-1990s. This 88% staffing level is *below* the 90% staffing level that BOP believes to be the minimum level for maintaining the safety and security of BOP prisons.

In addition, while the number of prison inmates in the 117 BOP-operated institutions has grown from 125,560 in FY 2000 to 176,005 prison inmates now, the number of BOP correctional workers has only increased from 30,382 in FY 2000 to 36,172 now. As a result, the BOP inmate-to-worker ratio has increased from 4.13 to 1 in FY 2000 to 4.96 to 1 now. This significant increase in the inmate-to-worker ratio adversely impacts BOP's ability to effectively supervise prison inmates and provide inmate programs.

At the same time, prison inmate overcrowding is an increasing problem at BOP institutions despite the activation of new prisons over the past few years. BOP-operated institutions at the end of FY 2011 were operating at 39% above rated capacity, with 55% overcrowding at high security prisons and 51% at medium security prisons. By the end of FY 2013, it is estimated the BOP system will be overcrowded by 43%.

These serious correctional worker understaffing and prison inmate overcrowding problems are resulting in significant increases in prison inmate assaults against correctional workers. Hundreds of inmate-on-worker assaults have occurred at various BOP prisons over the past several years. The brutal stabbing murder of Correctional Officer Eric Williams on February 25, 2013, by a prison inmate at USP Canaan (PA) illustrates that painful reality.

Assumption: \$6,820,217,000 in FY 2013 CJS Appropriations for BOP Salaries & Expenses account to hire 1,667 additional correctional workers, thereby attaining a 90.3% staff level

Despite the fact that Congress has yet to finalize the FY 2013 CJS appropriations bill, it is reasonable to assume that the final FY 2013 funding level will be \$6,820,217,000 for the BOP Salaries & Expenses account – a \$268,936,000 increase above FY 2012. This

assumption is based on the fact that \$268,936,000 was proposed by the Obama Administration FY 2013 Budget; provided in H.R. 5326, the House-passed FY 2013 CJS appropriations bill; and recommended by the Senate Appropriations Committee in both S.2323, the Senate FY 2013 CJS appropriations bill, and the Senate version of H.R. 933, The Continuing Appropriations Act of FY 2013.

According to the Department of Justice's FY 2013 Congressional Budget Submission, the President proposed the \$268,936,000 increase to help fund 37,839 correctional workers and 41,904 authorized positions – an increase of 1,667 correctional workers and 800 authorized positions – for a 90.3% staffing level. (As noted above, BOP considers this to be the staffing level minimum for maintaining the safety and security of BOP institutions.)

Request: \$7,007,272,000 in FY 2014 CJS Appropriations for BOP Salaries & Expenses account to hire 1,969 additional correctional workers, thereby attaining a 95% staffing level at existing BOP-operated institutions.

The AFGE Council of Prison Locals is hopeful that the President and Congress will agree to provide \$6,820,217,000 in FY 2013 funding so that BOP can achieve the minimum staffing level – or 90% - to help foster the safety and security of BOP-operated institutions. However, years of chronic underfunding of the Salaries and Expenses account has forced BOP to rely excessively on correctional officer overtime and the diversion of program staff instead of hiring sufficient additional correctional officers – leaving the workforce spread dangerously thin and compromising BOP's ability to operate in a safe and efficient manner.

And so, AFGE strongly urges the House CJS Appropriations Subcommittee to provide an \$187,055,000 increase in FY 2014 funding above the assumed \$6,820,217,000, the FY 2013 funding level for the BOP Salaries and Expenses account to allow BOP to hire an additional 1,969 correctional workers in FY 2013, thereby achieving a 95% base staffing level at existing BOP-operated institutions

2. Exempt the BOP Salaries & Expenses account in both FY 2013 and FY 2014 CJS Appropriations measures from the sequestration provisions of the 2011 Budget Control Act because BOP expenses are effectively mandatory, not discretionary.

The sequestration cuts will adversely affect funding for the BOP Salaries & Expenses account in both FY 2013 and FY 2014.

For example, in FY 2013 Section 1305 of the House-passed *Full-Year Continuing Appropriations Act for FY 2013 (H.R. 933)* provides \$6,689,481,000 for the BOP Salaries & Expenses account, an "anomaly" increase of \$138,200,000 above the

enacted FY 2012 funding level. The House Appropriations Committee summary of H.R. 933 explains that this increase is necessary “to ensure the safe and secure operations of Federal Prisons.”

However, House CJS subcommittee staffers have informed us that this anomaly – despite its obvious necessity – is not exempt from the FY 2013 sequestration. The February 13, 2013 “Report on Sequestration” by the House Appropriations Committee Democrats states that: “The Federal Bureau of Prisons would be cut by \$335 million, necessitating an average furlough of 12 days for all its personnel. This would be equivalent to the loss of five percent of BOP’s staff, including 1,300 correctional officers.” (Please note: The sequestration cut would be slightly higher - \$341 million – if one makes the reasonable assumption that \$6,820,217,000 would be the final FY 2013 funding level.)

And in FY 2014, the sequestration will cut – albeit somewhat differently - the \$7,007,272,000 for the BOP Salaries & Expenses account. The *Budget Control Act* requires that the sequestration of discretionary programs be implemented up front through reductions in the defense and non-defense in the defense and non-defense discretionary caps themselves.

The AFGE Council of Prison Locals believes the BOP Salaries & Expenses account should be exempt from the both the FY 2013 and FY 2014 sequestrations because BOP expenses are effectively mandatory, not discretionary. As the Senate Appropriations Committee report on FY 2013 CJS appropriations (Senate Report 112-158) explains:

“By law, the BOP must accept and provide for all Federal inmates, including but not limited to inmate care, custodial staff, contract beds, food and medical costs. The BOP cannot control the number of inmates sentenced to prison, and, unlike other Federal agencies, cannot limit assigned workloads and thereby control operating costs. In effect, the BOP’s expenses are mandatory, which leaves the Bureau with extremely limited flexibility.”

3. Direct BOP to expand the pepper spray pilot project to include correctional workers who work in highly dangerous areas of all BOP prisons – allowing them to routinely carry pepper spray in case situations arise where they must defend themselves if physically attacked by dangerously violent inmates.

On June 5, 2012, BOP announced that the agency had decided to conduct a one-year pilot program at seven U.S. penitentiaries (USP Coleman I (FL), USP Coleman II (FL), USP Florence (CO), USP Lee County (VA), USP Lewisburg (PA), USP Pollock (LA), and USP Atwater (CA)) to determine if allowing correctional staff to routinely carry

oleoresin capsicum spray – commonly known as “pepper spray” – while on duty will improve the safety of correctional staff, prison inmates, and others.

On February 28, 2013 - three days after the savage murder of Correctional Officer Eric Williams by a prison inmate at USP Canaan (PA) – BOP announced that as a part of a Partnership Council Initiative with the AFGE Council of Prison Locals, the agency is expanding this pilot to include all high security institutions. The implementation of this expanded pilot will occur in two phases. Phase one will include USP Allenwood (PA), USP Big Sandy (KY), USP Canaan (PA), ADX Florence (CO), USP Hazelton (WV), and USP McCreary (KY), and phase two will include USP Beaumont (TX), USP Terre Haute (IN), USP Tucson (AZ), and USP Victorville (CA).

The AFGE Council of Prison Locals is pleased that BOP decided to conduct – and then expand – this pepper spray pilot program. But we believe that the pilot project should be expanded even more to include correctional staff who work in highly dangerous areas *in all BOP prisons* – allowing them to routinely carry pepper spray in case situations arise where they must protect themselves if physically attacked by violent prison inmates.

For several years, AFGE has been urging BOP to institute a new pepper spray policy that would allow federal correctional officers who work in highly dangerous housing units and other high security areas of all BOP prisons to routinely carry pepper spray in case situations arise where they must defend themselves if physically attacked by dangerously violent inmates.

Under current BOP policy, federal correctional officers are not allowed to routinely carry pepper spray in BOP prisons. Instead, prison wardens (or designated officials) must authorize pepper spray utilization before correctional officers can use it to quell an emergency situation. Pepper spray is stored in specific locations throughout the prisons, such as in secure control rooms, watchtowers in the prisons’ yards, or in the prisons’ armories outside the secure perimeter.

The problem, however, is that in situations where aggressively dangerous inmates, who often have home-made lethal weapons, are physically attacking correctional officers, there is little or no time for the warden to authorize the use of pepper spray and get it to the endangered officers so they can protect themselves. The correctional officers are left to defend themselves with the two things they are authorized to carry: keys and a walkie-talkie radio.

This concludes my statement. I thank you for your attention and will be happy to answer any of your questions.