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**STATEMENT OF
SHANE FAUSEY
NATIONAL PRESIDENT
COUNCIL OF PRISON LOCALS**

BEFORE THE

**COMMITTEE ON JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES**

**FOR A HEARING ENTITLED:
“OVERSIGHT OF THE DEPARTMENT OF JUSTICE”**

**PRESENTED:
July 28, 2020**

**Statement of
Shane Fausey
National President
Council of Prison Locals
Committee on Judiciary
United States House of Representatives**

Good morning, Chairman Nadler, Ranking Member Jordan, and Members of the Committee. I am pleased to offer the following statement related to the Council of Prison Locals, the Federal Bureau of Prisons, and the staffing crisis and handling of the COVID-19 pandemic.

I am honored to represent and speak on behalf of the nearly 30,000 bargaining unit Bureau of Prisons (BOP) employees – professionals who go to work in America’s penitentiaries and prisons every day. In the face of adversity and some of the most violent ‘cities’ in the country, they keep us all safe from some of the world’s most dangerous human beings. Throughout this pandemic, the dedicated Federal Law Enforcement personnel have continued to work to provide institutions that are safe for the inmates, staff, and most importantly the communities surrounding these Federal Prisons.

UPDATE COVID-19 IN THE FEDERAL PRISON SYSTEM

It was our concern, at the beginning of this pandemic, that the Bureau of Prisons would not be prepared and most importantly be proactive when dealing with what could happen to the inmates, the staff, and communities associated with Federal Facilities.

The Federal Bureau of Prisons has been in the midst of a staffing crisis that did not just begin with the hiring freeze of January 2017. It began with the ‘mission critical’ cuts in 2005, which eliminated more than 10% of all Correctional Officer posts. For almost two decades we have warned of the ominous results of underfunding and staffing reductions. The initial mission critical cuts eliminated the second officer in most housing units across the agency. This elimination directly resulted in the isolation of both Officers Jose Rivera (2008 USP Atwater, Ca) and Eric Williams (2013 USP Canaan, Pa) in some of America’s most dangerous penitentiaries. This isolation and ‘budget’ cuts resulted in the murder of both Jose and Eric. The hiring freeze of January 2017 saw the elimination of more than 4,400 additional positions agency-wide, plummeting most Correctional Services compliments below 80% of the authorized positions at the time. In January 2016, authorized positions were 43,369. These arbitrary cuts eliminated whichever positions were vacant at the time. There was no thought analysis or prioritization of which positions were to be eliminated. In just three short months, the 80% became the new 100%. In essence, the new 100% is approximately 75% of the ‘mission critical’ levels the agency testified to be the minimum level of Officers to keep the Bureau of Prisons safe. As of August of 2019, there are 35,516 positions filled. Agency leadership were well aware of the unpreparedness of the Bureau of Prisons even absent any ‘major’ occurrences.

The staffing crisis worsened the severity of this pandemic in our federal prisons and severely limited the agency’s possible responses¹. The pre-pandemic hiring efforts by the agency were outpaced by our attrition rate and then stifled by the pandemic’s restrictions. The limited

¹ DOJ OIG Press Release dated July 23, 2020, <https://oig.justice.gov/reports/remote-inspection-federal-correctional-complex-tucson> ; <https://oig.justice.gov/reports/remote-inspection-federal-correctional-complex-lompoc>. It is pertinent to note this is the first of a series of investigations.

employees available, coupled with the critical shortage of Correctional Officers nationwide, has exacerbated the misery of COVID-19. The dependence on augmentation just to function has evolved into TDY (Temporary Duty Assignments) in which a 'National Augmentation' became necessary in institutions ravaged by COVID-19. Understaffed facilities sent TDY employees to rapidly deteriorating facilities to put fingers in the cracking dam. A snapshot of the critical nature of our shortage was apparent in a recent visit to the Administrative United States Penitentiary at Thomson, Illinois. One of the highest security facilities in the world reflects 161 Officer vacancies, 149 incidents of overtime (30 days), and an alarming 47 mandatory overtime double shifts. Even though the facility is not at full capacity, basic human needs such as showers and out-of-cell recreation necessitate the augmentation of other departments to accomplish. The exemplary and dedicated employees at Thomson are doing the impossible, but they need immediate assistance to avoid a tragedy. Albeit the worst example, this crisis is not unique to A USP Thomson.

As of this time, the Bureau of Prisons has publicly acknowledged 98 inmates are dead due to COVID-19. The Bureau of Prisons has recognized only one employee has died due to COVID-19 and continues to deny the death of another staff member as COVID-19-related. On April 14, 2020, Robin Grubbs, 39, a veteran and a Case Manager at USP Atlanta was found dead in her home. She posthumously tested positive for COVID-19. She was screened on April 10, 2020 and was determined to be asymptomatic. Ms. Grubbs had an office located in the unit being used to house sick inmates or inmates who had been exposed to COVID-19. Staff working with Ms. Grubbs at USP Atlanta are among many who have stated they were not issued personal protective equipment to stay safe while working around COVID-19 areas. Even with specific guidance from the Department of Labor clarifying the presumptive causal connection of COVID-19 and a correctional worker / first responder, the BOP still denies Ms. Grubbs' death as being COVID-19-related.

I fear the loss of human life is being viewed as an acceptable cost of budget restrictions and working in a prison.

CONCLUSION

Chairman Nadler, Ranking Member Jordan, and Members of the Committee, I appreciate the opportunity to provide the Committee with our concerns.

As I have indicated, the staffing crisis in the Bureau of Prisons not only creates a clear and present danger to every employee, inmate, and the community at large, but it has made the response to the COVID-19 pandemic nearly impossible. The Bureau of Prisons' reactive response, coupled with the ineffective oversight of OSHA and the inconsistent and ambiguous guidance of the CDC, has led to an infection rate of our employees and incarcerated individuals only second to the pandemic's devastating effects on our nursing homes and elder care facilities. The dedicated and loyal employees of the Federal Bureau of Prisons have long prided themselves on accomplishing the missions given to them. Throughout this pandemic, they have been pushed beyond the breaking point and deserve much-needed relief. They will continue to protect the American people as they always have done honorably. They only need the staffing

resources, the budgetary support, and proper policies in place to safely protect the American public from the incarcerated individuals within the Federal Bureau of Prisons. I implore you to immediately intervene by expanding incentives and elevate the staffing levels across the Bureau of Prisons to a safe level. Short term fixes to slow the attrition rate (or retention problem as acknowledged by OPM² in their response to 47 United States Senators) can be as simple as offering the statutorily-limited 25% retention incentive to all employees in the agency that are eligible to retire. Couple that with the no-additional-cost option to ‘carry-over’ accrued annual leave an additional year as an incentive to stay with the agency. The loss of experience will have lasting effects into the distant future. Maximizing incentives to statutory ceilings (25%) at difficult and/or hard to fill locations, such as AUSA Thomson, should be done immediately. The focus on safety requires an immediate, focused, and unprecedented effort to hire Correctional Officers.

Thank you.

