



FEDERAL LAW ENFORCEMENT OFFICERS ASSOCIATION

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October 16, 2019

The Honorable Karen Bass
Chair, Subcommittee on Crime,
Terrorism and Homeland Security
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable John Ratcliffe
Ranking Member, Subcommittee on Crime
Crime, Terrorism and Homeland Security
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chair Bass and Representative Ratcliffe:

I am writing on behalf of the more than 27,000 members of the Federal Law Enforcement Officers, and the U.S. Probation Officers we represent, to provide our views for Thursday's oversight hearing on "the Federal Bureau of Prisons (BOP) and Implementation of the First Step Act." I respectfully request that this letter be made part of the formal hearing record.

When Congress passed and the President signed into law the First Step Act in 2018, it represented a major change to criminal justice and sentencing policy. In the nearly ten months since its enactment, we have seen the results of many of the Act's provisions in the application of "good time credit" and early release for thousands of federal inmates. We recently learned that an additional 3,383 inmates will be eligible for early release as the BOP begins applying the Act's good time credits to participants in the Residential Drug Abuse Program (RDAP). But what has never been fully contemplated—either during consideration of the First Step Act in Congress or since its enactment—is to ensure that federal Probation Officers are properly resourced, compensated, protected, and have the manpower necessary to adequately supervise all of these new releasees.

Make no mistake: once BOP's work is done and inmates leave federal custody, it becomes the job of the brave men and women of the U.S. Probation and Pretrial Services Division to ensure that the policy objectives espoused by Members of Congress in passing the law are achieved. Unfortunately, to date we have seen no evidence of any recognition of the important and often hazardous work they undertake. The First Step Act authorized funding for BOP to implement the Act, yet it is our understanding that no additional resources have been allocated to Probation, which is the entity responsible for supervising individuals once they are released back into the community. As a result, over the course of the past ten months, Probation Officers have seen their workloads expand exponentially and there is growing concern among rank-and-file officers whether they will be able to maintain their efforts when being consistently asked to do more with less.

At present, BOP is releasing elderly inmates and, through "compassionate release," those individuals who have either terminal illnesses or other circumstances that can lead to their immediate release. Many of these individuals have medical issues and social services needs such as housing, public assistance, and Medicare/Medicaid. They lack community ties and family support. As a result, officers now must focus on assisting these individuals in obtaining these services and less on the inherent risks they may pose to the community. Officers no longer have the ability to conduct pre-release investigations to ensure that the addresses provided for the releasees exist, or to assess the risks from these individuals being released and the risks they may pose for the officers that will supervise them. We have heard from our members that they are

learning of an individual's release only after the fact when they show up at a Probation office, or when a call from BOP is received that an individual is scheduled for release within a few days.

Probation Officers are also concerned with the immediate impact that understaffing at District offices is having on workload and the significant loss of veteran staff due to early retirements. Officers are leaving specifically because caseloads are too high and they are unable to keep up with a lot of the demands of these high caseloads. Officers are working non-traditional hours but receive no additional compensation for their efforts. In some Districts they may earn comp-time, but that is not a uniform policy across all District offices. Districts are also unable to hire officers at a sufficient rate to replace veteran officers that were responsible for 60 cases or more. When a veteran officer leaves, their caseload does not evaporate; but rather it is spread out among those who remain on the job. On top of these concerns is the fact that for this fiscal year many District budgets have been reduced substantially, which further impacts new officer training and resources. In addition, fewer resources also impacts an officer's ability to effectively refer an individual for services such as substance abuse counseling, mental health treatment, and employment and vocational training. This places officers in an untenable and unwinnable situation, and it also harms releasees.

It is for these reasons that we hope Thursday's hearing is itself a "First Step" towards a larger conversation about how to ensure that our Probation Officers have the tools, resources, training, and protection they need to properly carry out their important work. To that end, we would make two recommendations to the Subcommittee. First, this Subcommittee should examine the resource and staffing needs of the agency in light of Probation Officers' current caseload, and consider additional measures to improve the recruitment and retention of qualified officers. Second, this Subcommittee should take up and pass H.R. 1866, the "Probation Officer Protection Act." As the volume of approved searches they must conduct has markedly increased over the past year, the absence of any authority to restrain or direct the movements of third parties places Probation Officers at a greater and unnecessary risk of physical harm. Similarly, because little is known of these immediate releasees, officers often have no information on third parties the individual will be residing with, what their background is, or if they have any prior records themselves. The "Probation Officer Protection Act"—which was approved by the full Committee and passed by the House in 2017—would authorize Probation Officers to arrest a third party if the Officer has probable cause to believe that the individual has forcibly assaulted, resisted, opposed, impeded, intimidated, or interfered with the Officer while engaged in the performance of their official duties. This legislation will enhance officer safety while also protecting probationers and third parties, and we urge the Subcommittee to expeditiously approve the bill.

Thank you in advance for your consideration of our concerns in this matter. FLEOA stands ready to work with you to ensure that U.S. Probation Officers have the tools and support they need to carry out their duties. Please do not hesitate to contact me if I can provide any additional information or assistance.

Sincerely,

Larry Cosme

Larry Cosme
National President

CC: Members, House Subcommittee on Crime, Terrorism, and Homeland Security