

**Statement of the Honorable Jerrold Nadler, Chairman,  
Committee on the Judiciary, for the “Oversight Hearing on  
the Bureau of Prisons and Implementation of the First Step  
Act” before the Subcommittee on Crime, Terrorism, and  
Homeland Security**

**Thursday, October 17, 2019, at 2:00 p.m.  
2141 Rayburn House Office Building**

I thank our Crime Subcommittee Chair, the Gentlelady from California, Ms. Bass, for holding this hearing today to carry out our oversight responsibilities over the Bureau of Prisons and implementation of the First Step Act.

Passage of the First Step Act, thanks to the leadership of Ranking Member Collins, along with the Gentleman from New York, Mr. Jeffries, and many others, was an important bipartisan achievement. It has been almost one year since the First Step Act was enacted and, while there have been some positive developments, many questions remain about its implementation.

We must ensure that any changes we put in place in the Bureau of Prisons, as a result of the First Step Act, are carried through in a transparent fashion and in a way that alleviates—not exacerbates—the disparities that already exist in the criminal justice system. I am concerned that the risk assessment tool established by the Department of Justice pursuant to the First Step Act fails this test. I, therefore, look forward to today’s hearing and a full discussion of these issues.

I am especially glad that Dr. Kathleen Hawk Sawyer, Director of the Bureau of Prisons, is here because I remain concerned about an incident that took place earlier this year at the Metropolitan Detention Center (MDC) in Brooklyn—in my district. In late January and early February 2019, a severe cold wave caused by a weakened jet stream around the Arctic polar vortex hit Canada and the northeastern United States. The temperature in New York, on January 31<sup>st</sup>, reached 2 degrees Fahrenheit, with a windchill of negative 17 degrees.

On the coldest week of the year, there was a fire at MDC and something went very wrong. Inmates—many of whom only had short-sleeved shirts to wear—had no heat, they had no electricity, and they had no way to contact their loved ones. Inmates who needed medication, had none. Inmates who needed CPAP machines to sleep safely could not use them because there was no power. Everyone was freezing—and many were terrified.

Along with Congresswoman Nydia Velazquez, I went to MDC in the middle of all this. I could not believe what I saw. Not only was there no plan in place to assure inmate safety in case of a power outage, there appeared to be no sense of urgency to address this life threatening problem.

Congresswoman Velazquez and I insisted that the Office of the Inspector General of the Department of Justice investigate. Last month, OIG issued a report, which contains alarming findings that are consistent with what we had heard and seen.

According to the report, there have been long-standing temperature regulation issues at MDC, which have gone unaddressed. This is unacceptable. Moreover, BOP leadership and staff failed to manage effectively critical aspects of the jail operation during the emergency. This, too, is unacceptable. BOP *must* do better.

I am also concerned that BOP has been plagued by staffing shortages for years. To make up for these shortages, staff are often called upon to work overtime, and often many times in the same week. BOP also relies on a practice called “augmentation” through which staff who are not correctional officers—including secretaries, teachers, nurses, and cooks—perform the duties of corrections officers, including supervising inmates in housing units and elsewhere.

These staff are ill-equipped to replace experienced correctional officers who know the inmates and the responsibilities of their assigned posts. Augmentation also reduces access to programming, recreation, and education initiatives, which are key to maintaining safe facilities and reducing recidivism—one of the major goals of the First Step Act.

From press accounts and from what we have been told by corrections union representatives, it appears that these staffing issues may have contributed to the failure of BOP to adequately supervise Jeffrey Epstein, who should have been under greater and more skilled supervision before he killed himself this summer.

These are just some of the important issues that we must examine today. I look forward to hearing from our two panels of distinguished witnesses, and I yield back the balance of my time.