

**Statement of the Honorable Sheila Jackson Lee, Ranking Member,
Committee on the Judiciary, for “Oversight of the Federal Bureau
of Prisons” before the Subcommittee on Crime and Federal
Government Surveillance**

Tuesday, November 7, 2023, at 10:00 a.m.

- In the past year, Director Peters has taken significant steps to address critical issues within the Federal Bureau of Prisons (BOP) – from tackling staff shortages, addressing employee misconduct, and ensuring transparency to repairing facilities, combating abuse and neglect of inmates, and furthering the implementation of the *First Step Act*.
- But let’s be clear. BOP’s problems existed long before Director Peters joined the agency.
- Under her leadership, measures have been adopted to actively recruit and train new staff members to fill vacancies to address one of the most difficult challenges facing BOP today — staff shortages, which has plagued the agency for many years. Prioritizing recruitment ensures the safety and security of both staff and inmates. Director Peters' emphasis on staff welfare is vital, as adequately staffed facilities promote a healthier and safer environment for everyone involved.

- In addition to addressing staffing vacancies, Director Peters has been proactive in tackling employee misconduct and holding bad actors accountable. It is my hope that the stricter guidelines and standards recently implemented at BOP will foster a culture of responsibility and professionalism while lifting morale and promoting trust and integrity among the agency's employees.
- Over the years, transparency has been significantly lacking in BOP. However, recent efforts have been made to promote openness and accountability. Publishing reports on misconduct investigations, clarifying policies, and communicating openly with stakeholders demonstrate a renewed commitment to transparency within BOP.
- This leads me to a critical aspect of this Committee's oversight of BOP – addressing the abuse and neglect of inmates. By implementing safeguards and rigorous monitoring systems within BOP's facilities, Director Peters aims to prevent and eliminate instances of inmate mistreatment. Ensuring that inmates are treated with dignity and respect is not only ethically imperative but also promotes the principles of rehabilitation and successful reintegration among the inmate population.
- Despite the effort to improve the overall treatment of inmates, we have seen no decrease in the number of people in solitary confinement in federal prisons.

- Instead, the percentage of inmates placed in restricted housing now is higher than when this Committee held its first hearing on solitary confinement more than a decade ago. BOP has often used solitary confinement to address safety and security concerns not resulting from the conduct of inmates.
- Although separation for safety is unavoidable in extreme cases, BOP should not rely on solitary confinement as a permanent solution for staffing deficits. Whether we call this practice restricted housing or solitary confinement, human beings are being confined in isolation for 22 hours a day. And we are well aware of the strain such treatment can place on mental stability. I hope Director Peters will provide us with a clear plan today to reduce the use of solitary confinement within the agency.
- Most importantly, guided by our commitment to criminal justice reform and to ensure that BOP fulfills its mission, this Committee continues to push for full, robust implementation of the First Step Act.
- We know this legislation works. For instance, the recidivism rate is nearly 40% lower for inmates who have been able to take advantage of the law than for inmates who have not.

- That is why we must make certain that all eligible inmates have the opportunity to participate in effective rehabilitation programs *and* earn time credits so that they ultimately reintegrate into society as productive citizens.
- BOP should also fully implement *the Stop Infant Mortality and Recidivism Reduction Act* (or SIMARRA) that requires BOP to establish a pilot program that allows incarcerated women and their children who are born during incarceration to reside together while the inmate serves a term of imprisonment.
- I championed this program for many years, and I was pleased to see it become law last year as part of the Violence Against Women Act – which was included in the Consolidated Appropriations Act – and should have been established by now according to the 270-day requirement in the statute.
- When mothers participate in these programs, there are many benefits to be had while behind bars, for both them and their child. As a result of the work put in while serving out their sentence, many of the mothers have been shown to have a reduced recidivism rate once they are released. According to one study of such programs, the recidivism rate within three years of women exiting prison nursery programs was found to be a mere 4.3% for a new offense and 9.4% for a parole violation.

- Lastly, we cannot perform meaningful BOP oversight without also considering BOP's crumbling infrastructure. This is a persistent issue that threatens the safety and health of inmates as well as staff. The agency is comprised of 122 facilities and each of them are in need of repair.
- The magnitude of this problem became very clear during a brutal cold spell in the northeast in 2019. As the temperature neared zero, inmates at MDC Brooklyn had no heat and no electricity. And while BOP officials had no plan in place to maintain the safety of inmates during a power outage nor any sense of urgency to address the problem, guards responded to inmate protests about their treatment with pepper spray.
- Then, in 2021, inmates at the jail, described by one judge as an "ongoing disgrace," again faced inhumane conditions — no water, spotty electricity, no hot food, and staff levels so low that one inmate was reportedly told to figure out how to take his own psychiatric medication.
- Also in 2021, and despite these conditions, MDC Brooklyn became the new temporary home to hundreds of inmates once detained at MCC Manhattan because BOP closed that facility until issues there can be resolved.

- Based on the investigation led by Senator Jon Ossoff and media coverage of other facilities in the country, we know that these problems are not unique to New York. Director Peters has advocated for increased funding specifically for facility maintenance and renovations. By focusing on these crucial repairs, we can be sure that BOP is capable of providing safer and more humane living conditions for incarcerated persons while also generating a safer working environment for staff.
- It is our responsibility to see that BOP has the funding necessary to make these repairs.
- From addressing the continued staffing shortages, employee misconduct, facilities in need of repair, and promoting transparency to combating abuse and neglect of inmates and implementing the First Step Act, the agency *is* making progress – towards the safer and more transparent administration of its duties while providing critical rehabilitative programming to fully satisfy its mission.
- While I am encouraged by recent efforts to improve BOP over the past year, there remains much work to be done.
- Thank you, Director Peters, for your presence here and I look forward to our conversation.

QUESTIONS FOR BOP DIRECTOR PETERS

1. A September 2018 OIG Report found that although BOP requires all staff in its female institutions to take training on the management of female inmates, BOP does not require the same training for its Executive Staff and, as a result, “National Executive Staff officials may develop policy and make decisions that affect female inmates without awareness of their needs.”¹ (OIG Report at p. i).

Q: Does each member of BOP’s executive leadership team who has responsibility over BOP’s women’s population have direct experience with BOP’s women’s population prior to joining the executive leadership team?

Q: Has each member of your current executive leadership team received training on BOP’s women’s population?

2. You’ve made several changes to the BOP executive leadership team who have had responsibility over BOP’s women’s population.

Q: Were any members of the executive leadership team with responsibility for women prisoners terminated? Transferred to different positions?

Q: If so, were any of those terminations or transfers based on unsatisfactory job performance?

Q: If not, what were the transfers based on?

*Q: If any transfers were made because you were taking leadership in a new direction, are the transferred employees *currently* in roles with comparable salaries, authority, and job responsibilities?*

3. BOP staff at FCI Dublin reportedly had been thwarted in their attempts to bring rampant staff sexual abuse of women prisoners to the attention of the Western Regional Director, and to leadership in Washington, D.C.

You have a documented history during your tenure at the Oregon Department of Corrections (ODOC) of inappropriately firing or retaliating against employees who flag unethical or potentially illegal behavior, and who push back or question you in response to potentially unethical or even illegal actions you may be considering or that you have

¹ <https://oig.justice.gov/reports/2018/e1805.pdf#page=1>

undertaken.² You have fired or severely limited the employment of agency and facility leaders in ODOC by demoting employees, including decreasing employees' ability to engage in challenging assignments that matched their level of experience with the agency.³ A jury rejected your attempt to justify these actions as "taking the division's leadership 'in a new direction.'"⁴

Your problematic history has cost ODOC over \$3 million in one jury trial alone this year alone. ("A Marion County jury awarded the two employees \$2.4 million total in April. Last week [August 2023], a judge approved their attorneys' request that the agency also pay nearly \$740,000 in the employees' attorney and legal costs. That pushes the entire bill up to more than \$3 million."⁵)

Engaging in similar retaliatory and abusive behavior as the Director of BOP would allow staff sexual abuse of incarcerated people and other problematic behavior to flourish and would further hamper BOP employees' willingness to report potentially problematic behavior, and it also expose the BOP to significant financial liability.

Q: What assurances can you provide that you have not and will not engage in similar behavior as the Director of the Bureau of Prisons?

² <https://www.opb.org/article/2022/08/25/fired-doc-employee-claims-retaliatory-actions-and-discrimination-by-administrators/>; <https://oregoncapitalchronicle.com/2023/08/11/oregon-department-of-corrections-tab-for-lawsuit-tops-3-million/>

³ <https://oregoncapitalchronicle.com/2023/08/11/oregon-department-of-corrections-tab-for-lawsuit-tops-3-million/>

⁴ <https://www.opb.org/article/2022/08/25/fired-doc-employee-claims-retaliatory-actions-and-discrimination-by-administrators/>

⁵ <https://oregoncapitalchronicle.com/2023/08/11/oregon-department-of-corrections-tab-for-lawsuit-tops-3-million/>