



Department of Justice

STATEMENT OF

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BEFORE THE

**COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS – PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
UNITED STATES SENATE**

FOR A HEARING ON

**“CORRUPTION, ABUSE, AND MISCONDUCT AT U.S. PENITENTIARY
ATLANTA”**

**PRESENTED
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Statement of Michael D. Carvajal
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Permanent Subcommittee on Investigations
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Good morning, Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee. You have asked me to come before you today to discuss the Bureau of Prisons' (Bureau's) response to concerns regarding operations at United States Penitentiary (USP) in Atlanta, GA, and I am pleased we reached an agreement for my voluntary appearance here today. It is a privilege to speak on behalf of the Bureau's approximately 36,000 staff—corrections professionals who support the agency's critical law enforcement mission. I am committed to ensuring that Bureau staff remain guided by the values of respect, integrity, courage, and correctional excellence, and that we carry out our mission with the highest levels of competency as we serve our stakeholders.

I am honored to work alongside some of the finest corrections professionals in the world. I have spent 30 years in the Bureau following my service in the military, starting as a Correctional Officer, moving up through the ranks of Correctional Services to become a Warden and then a Regional Director. I was then an Assistant Director for the Correctional Programs Division and became the Bureau's eleventh Director on February 25, 2020. Next week, on August 2, 2022, a new director will be sworn in: Colette S. Peters.

As an agency, and throughout the ranks of its dedicated staff, the Bureau continuously works to ensure the safety of staff, inmates, and surrounding communities. We recognize the gravity of the alleged misconduct at USP Atlanta. It is and was unacceptable—and must never happen again at that facility or any other. That is why we responded with strong steps in the summer of 2021 to address the problems at that institution. We believe it is essential that we continue improving the efficiency and effectiveness of our operations. We are specifically focused on several areas that relate to expressed concerns regarding operations at USP Atlanta and which also impact operations at all of our institutions:

- Increasing staffing throughout the agency to fill appropriated vacancies;
- Strengthening agency management and operations;
- Reducing the risk of suicide within our inmate population; and
- Investigating and reducing criminal activity within our agency.

**INCREASING STAFFING THROUGHOUT THE AGENCY TO FILL APPROPRIATED
VACANCIES**

One of our key priorities is fully staffing our institutions. Hiring and retention of staff remains a priority for the Bureau, as higher staffing levels afford the Bureau the flexibility and stability needed to carry out its mission, including the expansion of programs as required by the First Step Act.

In 2021, the Bureau made a successful push to hire new employees. By June, the Bureau had filled over 94% of its “Line” Correctional Officer (COs) positions, the highest level in recent years. In October, the Bureau focused hiring on maintaining some of its previous staffing gains, ending 2021 with over 92% of Line CO positions filled. The success of the Bureau’s hiring effort was due to its ability to run targeted recruitment campaigns for specific positions and regions. In 2019, the Bureau contracted with an outside consultant to develop a comprehensive recruitment campaign to fill vacancies. That contract involved: 1) creating a new agency branding campaign that is based on extensive research about public perceptions of the Bureau, its mission, and impediments to hiring; 2) improving the messaging and visual appeal of the Bureau’s job postings and website; 3) launching online recruitment events and targeted ad campaigns, including extensive use of social media; and 4) developing new data analytics capabilities to measure the effectiveness of these efforts. The Bureau now has a national recruitment office responsible for recruitment of positions across the agency.

Currently, the Bureau has an FTE level of 36,422. We understand that staffing shortages are a serious issue and we are dedicated to taking a strategic approach to address them. In early 2022, we analyzed Bureau staffing data to identify opportunities to make significant advances in staffing, particularly for Correctional Officers.

Certain facilities are chronically difficult to staff for a variety of reasons, including competition from state and local organizations that pay a higher salary as well as the rural location of some facilities. In summer 2021, the Bureau secured approval from the Office of Personnel Management (OPM) to offer an increased group retention incentive at USP Thomson in an effort to correct significant staffing shortages. Within a few months of implementing that incentive at Thomson, the CO fill rate increased from 56% to 78%. In an effort to build on that success, the Bureau worked closely with the Department and OPM to obtain approval for the use of three new flexibilities at FCC Beaumont, FCI Berlin, FCC Florence, FCI Herlong, FCI Mendota, USP Thomson, and FCC Yazoo City. In late-May 2022, OPM approved our request for accelerated promotions, Direct Hire Authority, and a 25% retention incentive for Correctional Officers. We are now implementing those incentives at all seven facilities. In addition to the use of incentives, the Bureau is providing direct assistance to USP Thomson, FCC Florence, and FCC Yazoo City by assigning National Recruitment Specialist positions to focus on hiring at each of those facilities.

It is important to note that increased hiring and the use of incentives requires additional funding. For example, in the last quarter of FY21, the Bureau budgeted \$2.3M for the new 25% group retention incentive at USP Thomson. The use of the new incentives at six facilities is similarly costly.

We are also pursuing additional strategies to modernize our hiring across the Bureau to give us the flexibility and stability we need to carry out our mission successfully. Our hiring strategies are designed to reduce overreliance on overtime and augmentation, *i.e.*, when fellow staff with equivalent law enforcement training provide necessary coverage for correctional officer positions. To identify and analyze these challenges, the agency has solicited and awarded a contract to a consulting firm to assess institutional staffing levels, and use of overtime and augmentation. The contractor delivered the first iteration of an automated staffing tool prototype to the Bureau in June and, together with subject matter experts, is piloting this tool in the Mid-Atlantic region. The contractor also delivered an analysis of current overtime, augmentation, and

incentive payments, along with recommendations to standardize the Bureau's overtime reporting processes across regions to make it more efficient and actionable. Shortly, the contractor will also begin to develop ways to identify employee groups at high-risk of separation. The resulting data will ultimately be used, along with input from the high-risk groups themselves, to inform the options of incentives that Wardens are able to offer individual employees.

The Bureau is currently using several national recruitment flexibilities to assist in hiring highly qualified candidates. In an effort to retain experienced staff and help maintain our staffing levels, a 5% retention incentive was offered to all staff eligible to retire in 2019 to remain with the agency past their retirement eligibility date. Additionally, to address our medical staffing challenges, the Bureau recently expanded the coverage of its existing Title 38 special pay authority to include not only psychiatrists, but all employed physicians and dentists. Using this authority, the Bureau now pays psychiatrists', physicians', and dentists' salaries that are competitive with other federal agencies and, in certain locations, the private sector.

We believe these efforts will have a significant, positive impact on the safety, security, and programming opportunities at our facilities. In particular, staffing is a key component to successful implementation of the First Step Act (FSA). While the Bureau has sufficient types of programs to meet individual needs, the only way to increase capacity is by hiring additional qualified professionals to deliver these programs. The Bureau is using staff positions allotted under the FSA to expand capacity in female programs, mental health and drug treatment, and career and technical training. We are committed to maximizing the use of FSA funds for position allotments, as authorized, to ensure all interested and eligible inmates are able to benefit from our many programs. The Bureau is committed to maintaining appropriate staffing levels as doing so is critical to the safety and security of federal prisons.

USP Atlanta is authorized for 517 staff positions and is currently staffed at nearly 90%, while the current offender population is approximately 42%. Recruitment and retention efforts are ongoing to maintain institution staffing at a safe and appropriate level. Multiple staff briefings have been conducted with USP Atlanta staff to keep them informed of institution operations, clarify staff expectations, and increase morale and motivation. USP Atlanta has also developed a succession plan in which each staff member will be interviewed to determine their career goals and develop a plan for them to reach their goals. Plans will be tailored to individual staff goals, to increase staff engagement.

STRENGTHENING AGENCY MANAGEMENT AND OPERATIONS

Auditing of Operations

It is essential that the Bureau continually improve operational insight through a combination of internal auditing practices and external accrediting. In accordance with agency policy, Program Statement 1210.23, Management Control and Program Review Manual, the agency utilizes multiple levels of internal controls to evaluate and improve operations. The policy is found at https://www.bop.gov/policy/progstat/1210_023.pdf.

The Bureau's management control program includes assessment activities at all levels of the agency, including both informal review and feedback, along with formalized assessments. The assessments are conducted by internal staff and external stakeholders. While the COVID

pandemic has required adjustments to a number of standard procedures, the Program Review Division generally conducts a review of all program areas at each location at least every three years. External contractors also generally conduct ACA and PREA audits at each site on a rotating three-year schedule. Institutions conduct Operational Reviews of program areas at each location every 10 to 14 months between Program Reviews. Recently, we have been able to reduce the number of COVID-related delays and resume these reviews on a regular basis.

Management control of institution operations also includes reviewing activities at the regional and agency (national) level. In addition to examining institution operational review documentation, regional administration conduct staff technical assistance visits and institutional character profile visits.

In response to concerns identified in previous reviews, the Southeast Regional Office conducted a Security Assessment at USP Atlanta in July 2022, with particular emphasis on reassessing deficiencies and vulnerabilities identified during the 2020 Security Assessment. The 2022 assessment verified corrective actions implemented have improved USP Atlanta's security measures and internal controls, including security enhancements, increased staff training, internal auditing, and inmate accountability. A variety of daily, weekly, and monthly tracking measures have been implemented to ensure compliance with previously identified deficiencies.

Infrastructure Improvements

Maintaining and improving aging infrastructure remains a significant concern for the Bureau. Of the 122 institutions operated by the agency, almost one-third are more than 50 years old, and about one-half are more than 30 years old. Infrastructure within many of these facilities is rapidly deteriorating and in need of extensive work and repairs to maintain safe, secure, and functioning correctional institutions. The current backlog of priority Modernization & Repair (M&R) major projects is approximately \$2 billion. Faced with \$2 billion in major projects, the Bureau received an average appropriation of \$95 million each year over the last 10 years to maintain its M&R program, which must cover major repairs, security, equipment, and telecommunication replacement projects, salaries, travel, training, A&E services, and additional funding for emergencies such as disaster-related projects. The most common M&R projects for systems needing replacement or upgrades throughout the agency include Water/Sewer Distribution, Electrical Distribution, Roof Replacement, Boiler Replacement, Fire Detection, and Fence Replacement.

USP Atlanta was established in 1902. A Federal Prison Camp for minimum security offenders was added in 1984 and a Federal Detention Center for detainees awaiting trial, sentencing, or institution designation was added in 1993. Due to the age of the facility, several critical infrastructure needs have been identified, including corrective measures identified in a 2020 security assessment. In 2021, a project was created and funded to perform repairs and upgrades to inmate housing units. To date, repairs to three housing units have been completed, and these units are once again housing offenders. In addition to housing units, renovations are ongoing or scheduled for multiple areas of the institution.

REDUCING THE RISK OF SUICIDE WITHIN OUR INMATE POPULATION

It is the responsibility of all Bureau staff to prevent suicide by individuals in their custody. Formal agency guidance is provided through Program Statement 5324.08, Suicide Prevention Program. The policy is found at https://www.bop.gov/policy/progstat/5324_008.pdf. The Bureau's suicide prevention program seeks to reduce the risk of suicide for individuals in its custody via universal precautions throughout agency operations. Some elements of these strategies include mandatory suicide prevention training for all agency staff at least annually, housing and operational precautions, inmate education, provision of medical treatment, robust mental health screening and treatment services, and offender crisis intervention.

An additional component of the Bureau's suicide prevention program is to conduct psychological reconstructions after any individual in its custody dies as a result of suicide. During the psychological reconstruction process, Central Office psychologists lead a multidisciplinary team that is deployed to the facility for a comprehensive review of the death and surrounding circumstances, including staff interviews, inmate interviews, documentation review, and video review. Additional risk factors identified through the psychological reconstruction process result in refined suicide prevention guidance, not only at the institution where the incident occurred but throughout the Bureau.

From January 2012 through December 2021, 13 individuals at USP Atlanta died by suicide. Following each of these tragic deaths, the Bureau followed its standard process for creating psychological reconstructions. These psychological reconstructions underscored many of the significant issues at USP Atlanta and also identified critical recommendations for corrective actions to address these risk factors. The Bureau has taken meaningful steps to reduce the likelihood of inmate suicides at USP Atlanta including, among other actions, providing supplemental suicide prevention training for the USP Atlanta Psychology Services department; offering annual training to all agency psychologists regarding recent trends in inmate suicides; creating a Single Celling Taskforce with actionable recommendations to reduce the use of single cells; enhancing Reconstruction Follow-up procedures; and the development of a new Suicide Prevention policy, which is pending negotiation with the Union. There have been no reported suicides at USP Atlanta in 2022.

INVESTIGATING AND REDUCING CRIMINAL ACTIVITY WITHIN OUR AGENCY

The Bureau is committed to eradicating all criminal activity and unethical behavior in the agency. With regard to illegal activities, Bureau policy is clear: all staff are subject to discipline, up to and including removal, for failing to follow operational policy guidance and the ethical guidance provided in the Standards of Employee Conduct (Standards or Standards of Conduct). The policy is found at: https://www.bop.gov/policy/progstat/3420_011.pdf. The Standards of Employee Conduct provide that employees must obey not only the letter, but the spirit, of the law when engaged in personal or official activities. The Standards explicitly state that "it does not and cannot specify every incident that would violate the Standards of Conduct. In general, the Bureau expects its employees to conduct themselves in such a manner that their activities both on and off duty do not discredit the agency." Among the specific prohibitions

provided are: illegal drugs; inappropriate use of alcohol; emotional, physical, sexual, or financial involvement with inmates; providing an inmate or inmate's associate anything not authorized in the performance of staff duties; the use of force beyond that reasonably necessary to subdue an inmate; and any behavior that would be demeaning to inmates, fellow employees, or others. The Program Statement also discusses prohibitions on the introduction of contraband, the requirement to participate fully in an authorized investigation, and a general prohibition of illegal activities, among other matters.

All allegations of misconduct are referred for investigation, pursuant to policy. (*See* https://www.bop.gov/policy/progstat/1210_024.pdf). The Office of Internal Affairs (OIA) reports allegations of violations of staff misconduct, including allegations of criminal conduct, to the U.S. Department of Justice, Office of the Inspector General (OIG).

Reporting Misconduct

Pursuant to the Standards of Employee Conduct, staff members are required to report allegations of misconduct. Failure to report allegations of misconduct is itself misconduct. Misconduct allegations are also received from other sources including the Union, inmates, the public, OIG, and other law enforcement agencies, and if uncovered during review processes described above. There is no limitation to who may submit allegations. Because allegations can and do come from varied sources, many allegations are reported more than once. The vast majority of investigations conducted by DOJ OIG of Bureau staff misconduct result from referrals from the Bureau.

The nature and complexity of the allegations, among other factors, will determine which office will investigate an allegation, but criminal allegations are investigated by the OIG, and sometimes the FBI. In some criminal cases, OIG will work with the local U.S. Attorney's Office for criminal prosecution, or refer the case back to the Bureau for administrative action. Employees who are prosecuted may also be subject to agency disciplinary action. Administrative investigations, including those involving Wardens, are investigated by the Bureau's Office of Internal Affairs (OIA). In some instances, a Warden may determine that a matter may be better addressed as performance issues in the first instance (e.g., when the matter addressed could be resolved through additional training).

The Bureau has a robust infrastructure to educate and train staff as to prohibited actions and to advise all persons (staff, inmates and the public) as to how to report misconduct. All Bureau staff receive formal training in this area at least annually. The agency emphasizes accountability and cooperation with the DOJ OIG.

The Bureau is committed to cooperating with all OIG investigations and any subsequent criminal prosecutions. We believe that investigation and prosecution are key elements of our goal of rooting out criminal activity within the Bureau. As the Deputy Attorney General has made clear, "the Department of Justice is committed to holding Bureau personnel accountable, including through criminal charges, when they fail to uphold their responsibility. Staff misconduct, at any level, will not be tolerated, and [the Department's] efforts to root it out are far from over."

Inmate Misconduct – Contraband Interdiction

The Bureau, like most correctional systems, continues to combat the threat of contraband introduction into our prisons, including drugs, weapons, and unauthorized communication devices. As parties continue to develop new methods to introduce contraband into facilities, the Bureau is consistently using emerging practices and technologies to protect our inmates, staff, and communities from threats posed by contraband introduction.

One recent method of contraband introduction is via use of Unmanned Aircraft Systems (UAS). In calendar year 2021, there were 106 documented UAS sightings and 8 UAS recovered by Bureau staff. Thus far in 2022, there have been 83 documented UAS sightings and 10 drones recovered. The security threat of UAS to Federal prisons remains high and expanding. Some of the most recent UAS security breaches introduced dangerous contraband including large amounts of drugs, cellphones, and, in one instance, escape paraphernalia. The Bureau has leveraged available mitigation strategies to address this threat. In Fall 2020, the Bureau conducted a comprehensive test of UAS detection and Counter-Unmanned Aircraft Systems (CUAS) technology in collaboration with several DOJ components, other federal law enforcement partners, and elements of the Department of Defense and the intelligence community. The Bureau plans to deploy UAS detection technology based on the results of those tests and appreciates the continued support of Congress to protect federal prisons.

Among primary practices to address contraband introduction are the use of physical barriers and entrance screening procedures for all inmates, visitors, volunteers, contractors, and staff. Examples of physical barriers include fences, walls, and perimeter security staff. For entrance procedures, examples include background checks, x-ray/body imaging scans, and searches. The Bureau is currently utilizing next generation full body scanners at 10 institutions, with plans to add 10 more next generation body scanners this year.

We continue to take steps to reduce unauthorized cell phones in Bureau institutions. The Bureau is conducting assessments to determine the extent of contraband cell phone use at more than 20 facilities across the agency. Managed Access Systems that disrupt contraband cell phone calls are being installed at FCI Miami, FCI Edgefield, and USP Coleman 1. Micro-jamming systems that block phone signals are being installed at USP Atlanta, USP Coleman 2, FCI Coleman, LSCI Coleman, and ADX Florence.

We have taken several actions to address the issue of contraband at USP Atlanta. As mentioned, we have installed cell phone micro-jamming. We have taken other steps, including security upgrades to institution infrastructure, supplemental staff training, and both formal and informal assessments to identify areas for potential improvement. USP Atlanta is currently upgrading the security system, has increased placement of x-ray machines within the institution, implemented security updates to the front entrance screening area, and upgraded the perimeter fence alarm system, in addition to the aforementioned infrastructure repairs. The Bureau has provided and continues to provide additional training to USP Atlanta staff, with a focus on security awareness and inmate accountability. Training has occurred both formally and through more informal daily training sessions by Correctional Services supervisors.

CONCLUSION

Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee, I am honored to speak on behalf of the Bureau, its staff in our institutions, and our administrative offices nationwide. Our mission is extremely challenging, but critical to the security of our facilities, as well as the safety of the public, our staff, and the inmates in our custody. I thank you for the opportunity to speak with you today and to expand on our efforts to root out criminal activity at USP Atlanta and beyond, as well as for your support as the agency continues to move forward.