



Department of Justice

STATEMENT OF

COLETTE S. PETERS

DIRECTOR

FEDERAL BUREAU OF PRISONS

BEFORE

**THE SUBCOMMITTEE ON CRIME AND FEDERAL GOVERNMENT
SURVEILLANCE**

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

AT A HEARING ENTITLED

“OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS”

PRESENTED

July 23, 2024

Statement of Colette S. Peters
Director, Federal Bureau of Prisons
Before the Subcommittee on Crime and Federal Government Surveillance
Committee on the Judiciary
United States House of Representatives
July 23, 2024

Good morning, Chairman Biggs, Representative McBath, and Members of the Subcommittee, I appreciate this opportunity to discuss the significant mission and the impactful work happening at the Federal Bureau of Prisons (FBOP or Bureau). I am honored to represent, before you today, the nearly 35,000 employees of the FBOP. As I have said to you before, I believe in good government, accountability, transparency, and the importance of oversight. I appreciate the opportunity to provide an update on the progress at the FBOP.

As the 12th Director of the FBOP, now having served in this role for almost two years, I remain extremely motivated to lead the exceptional corrections professionals of the largest corrections agency in the nation. While I continue to be inspired by their dedication, they are exhausted because of overtime and the demands of augmentation, and they are underpaid. Yet, they still remain laser-focused on our mission and core value of correctional excellence, dedicated to creating environments of normalcy and humanity with safety and security as our top priority. We continue our work to ensure our dedicated corrections professionals return home safely, our communities are safeguarded, and we prepare adults in custody (AICs) for successful reentry.

For the past two years, we have worked to stabilize this agency in crisis. We have created initiatives that focus on recruitment and retention, employee wellness, reducing our maintenance and repair backlog, and reducing the use of restrictive housing. We have also increased engagement with our stakeholders, including proactive outreach to our federal agency and state partners, members of Congress, and members of the media, advocacy organizations, and justice-involved individuals. We recognize that developing meaningful and lasting change is going to take time. I am pleased today to discuss some of our visible change while addressing the work that still lies ahead.

Top Accomplishments at FBOP

In the last two years, we have worked diligently to address several critical issues that directly affect the health, safety, and wellness of adults in custody and employees.

Recruitment, Retention, and Employee Wellness: These are our top priorities. We have made strides in onboarding new employees – upon my arrival in August 2022, FBOP had 986 new hires for the entire calendar year. As of June 2024, we have onboarded over 1,400 new hires, and the number of new hires continue to surpass the number of separations for each pay period since January 2024. In the last two years, we have taken several concrete actions to address our staffing crisis, including:

- Maximizing the use of retention and recruitment incentives within our budget.

- Securing nationwide direct hire authority for correctional officers, which makes it easier for us to bring qualified individuals on board quickly.
- Developing a request for special salary rates to increase pay for most employees in institutions, which if approved, will make us a more competitive employer.
- Creating an automated staffing tool to help us understand our staffing needs.

The wellness of correctional employees is a crisis in this country. The average life expectancy for a correctional employee is 59 years of age, and many suffer from PTSD and related health issues such as anxiety, depression, and suicide. We have begun to address this urgent need by:

- Establishing an employee wellness branch to address wellness, engagement, and our employee assistance program (EAP).
- Expanding employee wellness resources at facilities nationwide.

Employee misconduct: I recognize that we must address employee misconduct. While only a small fraction of FBOP employees engage in misconduct, those who do undermine the FBOP's mission and trust. During my tenure, BOP has:

- After troubling allegations of employee misconduct, removed AICs from FCI Thomson, retrained employees, held those who engaged in misconduct accountable, and changed Thomson to a low security facility.
- Temporarily closed FCI Dublin, a facility where several FBOP employees have been accused of and prosecuted for sexual misconduct, and transferred women to the community or facilities equipped to meet their needs.
- Restructured our Office of Internal Affairs (OIA) and increased total OIA employees from 27 to 146.
- Reduced the backlog of open investigations so that OIA currently has 770 fewer cases open despite the ongoing addition of new cases; reduced the number of matters pending for more than 18 months by 1,712 cases.
- Worked closely with the Department of Justice (DOJ or the Department) Office of Inspector General (OIG), U.S. Attorneys, and local district attorneys to assist in the prosecution of employee misconduct and increase potential consequences for those who engage in criminal misconduct.

Modernization and repair (M&R): FBOP has estimated \$3 billion in M&R backlog of needs that impact life and safety. However, over the last 10 years, our average annual M&R appropriation is approximately \$100 million. While we work daily to prioritize and reprioritize our funding, our M&R appropriation is simply insufficient to address these needs.

We have developed a five-year capital improvement plan focused on our most pressing M&R needs to guide our annual M&R budget requests and as requested by the Congress. It is our hope that this plan will explain the extensive scope and severity of our M&R needs and demonstrate that FBOP will be able to take a strategic approach to addressing those needs.

First Step Act (FSA): Continued focus on FSA implementation is critical to improving outcomes for AICs. We continue to implement the First Step Act by:

- Creating a dedicated FSA Office to enhance Bureau-wide collaboration and maximize resource allocation and use.
- Expanding FSA programming and automating FSA time credit calculations.

Restrictive Housing: Restrictive housing is an effective tool in corrections, and yet we know that the overuse of restrictive housing can be damaging to AICs both from a physical and mental health perspective. To reduce overuse and optimize the use of restrictive housing, we have:

- Reissued our restrictive housing policy to include recommended reforms like limiting use of single-cell confinement.
- Created Reintegration Units and GROW units to help people transfer from restrictive housing to the general population.
- Created transitional units for those who otherwise would be in protective custody.
- Proposed an updated inmate discipline regulation, which will limit the use of restrictive housing dramatically by reducing the penalty for a 100-level offense from 365 days to 60 days in restrictive housing for a first offence (an 84 percent reduction).
- Closed the Special Management Unit at FCI Thomson.

These accomplishments are described in further detail below.

Recruitment, Retention, and Employee Wellness

Appropriately filling positions throughout our organization is a top priority for the well-being of our dedicated employees and the safety of those in our care. In FY 2024, we have seen an approximate 14 percent increase in new hires and a 19 percent decrease in separations. These improvements were accomplished, in part, through use of recruitment and retention incentives, by modernizing our recruitment strategies, and by increasing employee training. In May 2024, we received approval for nationwide direct hire authority for corrections officers (COs). Direct hire authority offers a streamlined approach to federal hiring, and we are optimistic it will further increase our CO levels.

Ultimately, the ability to pay higher salaries likely would attract more qualified applicants and allow us to better compete with other federal, state, and local law enforcement agencies that can pay significantly more. As examples, at a federal prison about an hour outside of Boston, a correctional officer recently quit his job for a better offer with better pay: working at the local grocery store. On the law enforcement side, an advertisement running in the New York City subway states that city correctional officers can make around \$130,000 per year after several years on the job. That same officer with similar tenure at FBOP would earn around \$114,000 after several years, even after we include a 35 percent retention incentive under a waiver approved by the Office of Personnel Management (OPM). The story is the same throughout the country.

We are working closely with the Department and the OPM to offer more competitive salaries – i.e, a special salary rate (SSR) – for a potential wide number of FBOP’s General Schedule employees in corrections facilities.

Incentives and overtime are temporary patches to boost our pay; they are not a cost-effective, long-term strategy for running an agency. In FY 2023, FBOP paid out more than \$128 million in incentives and more than \$345 million in overtime to its employees. Since our FY 2024 budget is flat and requires us to absorb over \$400 million in new costs, we paused consideration of all new pay incentives in April 2024. We are carefully considering all new costs so that we can continue to prioritize hiring. Consequently, we have cut employee training, all non-essential travel, and many important new initiatives and projects needed to address open audit recommendations, implement our strategic vision, and normalize and humanize our institutions.

Hiring and retention of healthcare professionals remains a significant challenge. We are employing a range of human resource flexibilities to increase compensation and make FBOP attractive to qualified applicants who can obtain higher-pay and greater flexibility with other employers. For example, we have implemented Title 38 market pay, which allows us to pay physicians, psychiatrists, and dentists up to \$300,000 per year. Specific positions and specialties are eligible for salaries up to \$400,000. Currently, the average salary for a physician at FBOP is \$298,758. Even with this increased pay authority, it is difficult to compete with other healthcare systems.

Finally, we are nearing the full application of our automated staffing tool to all employee disciplines, which will calculate staffing levels for every kind of staff member at each institution based on its unique mission and our staffing guidelines. While this tool will not solve our staffing crisis and our inability to fill existing positions, we will use data from the tool to inform future recruitment and retention efforts and in preparing future budget requests. We are on track to complete the tool in October 2024.

FBOP, OIG, Congress, and countless other stakeholders share the goals of the recently passed Federal Prison Oversight Act. We all want more accountability, more transparency, and less reliance on stopgaps like augmentation. Given the size and scope of the challenge, however, we know there is no easy fix. We will continue to work with the Administration and Congress to seek resources needed to be responsive to the targets set by this Act.

In recognizing that the wellness of our employees is critical to our overall ability to fulfill our mission, FBOP must cultivate a safe and supportive work environment for every employee. We are creating an Employee Wellness Branch dedicated to a nationwide approach to enhancing the wellbeing of our corrections professionals. This new office will focus on employee wellness, employee engagement, and the EAP to support our employees and increase overall employee satisfaction and retention. Our employees also can now avail themselves of trauma leave and expanded employee wellness resources like the EAP, the Battle Buddy program for military veterans, and participate in employee wellness events at facilities nationwide.

Employee Misconduct

We are committed to preventing employee misconduct, identifying it quickly when it occurs, and holding accountable those who engage in misconduct. As Director, I have addressed FBOP employees on our shared responsibilities to report and prevent employee misconduct. FBOP strongly condemns all forms of sexual misconduct by those in our custody and our employees. We have a zero-tolerance policy for sexually abusive behavior of any kind; every person has the right to be safe from sexual abuse and sexual harassment.

We remain steadfast in our mission to eradicate sexual abuse and harassment at the Bureau. FBOP is working closely with the Department to implement the recommendations of the Department's Sexual Misconduct Working Group and to continue enforcing the requirements of the Prison Rape Elimination Act of 2003 (PREA).¹ Following a 2023 decision by the U.S. Sentencing Commission to expand the applicability of compassionate release for certain individuals who are the victim of sexual misconduct perpetrated by FBOP employees, FBOP have supported six compassionate release requests on behalf of victims.

To address high backlogs and lengthy processing times for investigations of alleged employee misconduct, we reorganized our OIA and moved oversight of our Special Investigative Agents (SIAs) from reporting locally to the Wardens, to reporting centrally to FBOP Headquarters.² We have expanded OIA by 119 positions, including 32 new SIA positions, 12 new Special Agent (SA) positions, 8 new Supervisory Special Agents (SSA), and 1 Senior Investigative Support Specialist (ISS). In March 2024, FBOP held a training on the new investigation policies and trauma-informed investigative practices for newly hired investigators. In addition, our Office of General Counsel has added 14 new positions, including 9 attorneys, to handle disciplinary recommendations once OIA completes its investigations.

The increase in staffing at OIA has helped reduce backlogs and resolve pending investigations. Between August 1, 2022, and July 1, 2024, OIA has:

- Closed over 9,500 open matters, and another 2,000 investigations have been completed and are now in the pending discipline status.
- Reduced the number of currently open investigations, which was 8,060 matters and has come down to 7,290 matters. This reduction was achieved even with the opening of thousands of additional matters during that period.
- Reduced matters open for more than 18 months by 1,712, from 3,918.

As OIA works through the processing and investigative backlog, investigation timelines improve, which reinforces accountability for misconduct – to the benefit of both employees and AICs. Referrals that present serious administrative or criminal misconduct allegations are sent

¹ Report and Recommendations Concerning the Department of Justice's Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons (Nov. 2, 2022), *available at* https://www.justice.gov/d9/pages/attachments/2022/11/03/2022.11.02_bop_sexual_misconduct_working_group_report.pdf.

² It is important to note that the current backlog does not prevent FBOP from taking appropriate action in response to serious allegations, including removing employees accused of misconduct from a facility when deemed necessary – employees can be placed on administrative separation while their investigation is pending.

first to DOJ OIG for review and referral. That process can take days to months, and this review is required before FBOP is authorized to move forward with any administrative investigation. FBOP actively collaborates with OIG, federal prosecutors, and state and local prosecutors when prosecutions are brought for employee or AIC misconduct.

Remediation of FCI Dublin

FCI Dublin has a long and troubled history, and FBOP has long considered closing it due to several factors, including problems with infrastructure, access to community medical care, and difficulty hiring and maintaining adequate staff. In 2022 and 2023, in light of serious and troubling instances of sexual abuse by FBOP employees at Dublin, FBOP invested significant effort and resources to reform Dublin and improve its culture. In February 2022, FBOP replaced the Dublin leadership team. Additionally, FBOP created a multidisciplinary task force to inspect, monitor, and make recommendations regarding the prison's handling of alleged sexual abuse. Despite these efforts, concerns persisted over misconduct and retaliation against AICs. As a result, by late 2023, we reconsidered whether closure was the only way to address the issues at the institution. The necessity of closure became apparent when, in addition to earlier concerns of infrastructure, culture, reputation, healthcare access, and staffing, FBOP placed most of the executive leadership at Dublin on administrative leave in early March 2024.

Facility closure is a complicated process that requires significant planning. Given safety considerations, FBOP cannot announce plans to temporarily close a facility until that action is in progress. An exception was required in this case, given ongoing litigation about conditions at FCI Dublin and court orders requiring advance notice of prisoner transfers. Accordingly, about one month prior to the closure, FBOP provided advanced notice to the court about planning for a closure and later, on the Friday prior to the operation, FBOP provided advanced notice to that court about the forthcoming movement of AICs.

On April 15, 2024, after weeks of planning, FBOP began moving all AICs out of FCI Dublin and its Camp. This complex, multifaceted operation relied heavily on FBOP employees, and 80 additional FBOP employees were sent to the facility to ensure the care and safe movement of AICs. The temporary employees included several medical and mental health professionals to help ensure those being transferred had care and support they needed. In addition, there were transfer and property support specialists present, as well as subject matter experts in custody classifications, halfway house placements, and compassionate release requests.

FBOP transferred 518 AICs from FCI Dublin to 12 other facilities via bus or airlift, depending on the destination. The FCI Dublin Interim Warden worked closely with the court-appointed special master to manage and oversee the transfer process, including a joint review of each AIC's case file and joint medical clearance. As with all FBOP transfers, the adults in custody at FCI Dublin underwent a thorough assessment to determine the best placement for them, with FBOP designation specialists trying to prioritize keeping everyone as close as possible to their expected release locations. FBOP employees also assessed every individual for eligibility for community placements, in hopes of avoiding transfers to other facilities. As a result of this review, 27 AICs at FCI Dublin were transferred into community placements rather

than other facilities. During the transfer process, FBOP personnel inventoried and packed AIC's personal property and provided meals, water, and when needed, medical and mental health care.

My expectations have been clear: The needs of the AICs from FCI Dublin are to be addressed with compassion and respect. We are committed to helping each individual adjust to their new environment with the necessary care and support. Upon arrival at their newly assigned FBOP facility, each individual was interviewed and screened by employees from the case management, medical, and mental health teams to make sure they have access to appropriate services and support consistent with their needs. FBOP employees are to ensure that all AICs continue to receive their programming needs (e.g., substance abuse treatment, educational/vocational training, individual and/or group counseling, medical/mental health treatment) when that treatment is available.

To maintain oversight and ensure transparency, FBOP employees are conducting daily rounds to ensure that individuals who would like to report misconduct or concerns can report the misconduct directly to an OIA employee or any other FBOP employee on site. I have made clear that any allegations from AICs will be taken seriously and referred to OIA for a thorough investigation. AICs who make allegations are provided additional support that includes access to medical and mental health care and access to outside victim advocacy services for emotional support services related to sexual abuse. We have also assigned FBOP Central Office staff to track the individuals who were housed at FCI Dublin as they continue in custody in their receiving institutions. This is intended to provide an additional layer of monitoring and assurance that these individuals will have needed support and are being treated to our expectations.

FBOP will not re-open FCI Dublin as a women's facility. We are assessing the facility for potential future uses in line with that commitment.

Facilities Modernization and Repair

The Bureau has over 46,000 acres of land with more than 3,600 buildings that make up its over 120 institutions. The Bureau's estimated backlog for significant M&R of those facilities is approximately \$3 billion. To help address the backlog, FBOP developed a comprehensive Five-Year Capital Investment Plan for its major M&R projects. This plan is structured to ensure that all critical needs are systematically addressed. The plan is categorized into several key repair categories, each focusing on specific aspects of infrastructure and facility maintenance. By breaking down the repair needs into these specific categories, the FBOP's Five-Year Capital Investment Plan aims to methodically tackle each area, ensuring that all necessary repairs and upgrades are completed in a timely and efficient manner. This structured approach not only addresses immediate repair needs but also helps in planning for future maintenance, thereby promoting the long-term sustainability and functionality of the facilities.

First Step Act Implementation

We remain committed to the FSA mission of improving criminal justice outcomes and reducing the size of the federal prison population while maintaining public safety. We are working to ensure those in our care can access programming opportunities and that eligible individuals receive appropriate FSA incentives. We currently have 113 standardized evidence-based recidivism reduction (EBRR) programs and productive activities (PAs) within the Bureau. Between January 2020 and July 2024, approximately 177,000 incarcerated individuals completed 565,000 of these programs. This year we will implement an FSA Dashboard which will allow institutions to easily monitor and manage all aspects of risk assessments, needs assessments, programming, and incentives (including FSA time credits).

We are also establishing a dedicated FSA office responsible for Bureau-wide FSA strategic planning, reporting requirements, inter- and intra-agency, and stakeholder coordination on FSA efforts, and tracking of FSA spending. The office will directly support the goals of improving criminal justice outcomes and reducing recidivism while maintaining public safety. Further, it will support program offices and centralize the coordination and monitoring of all FSA implementation efforts to ensure continuity and consistency across all institutions. With support from the FSA office, we will continue to make significant investments in FSA implementation. This includes funding for Medication-Assisted Treatment for Opioid Use Disorder, continued investment in EBRR programs and PAs, expansion of Residential Reentry Centers, and the necessary maintenance and repair for FSA programming space.

Evolving Approaches to Restrictive Housing

As of June 30, 2024, 10,701 individuals were housed in Special Housing Units (SHU) in Bureau facilities. This number represents roughly a 1.3 percent decrease in the percentage of individuals in our custody who were housed in SHU since the same time last year.

We are implementing several new initiatives to ensure that individuals are housed in the most appropriate setting for their specific situation. For example, we have activated five Reintegration Units (RUs) for medium- and high-security incarcerated individuals who have been in restrictive housing due to protective custody requests. RUs allow AICs to improve their ability to adjust to less restrictive environments and eventually reintegrate into the general population when doing so does not pose a risk to their safety or others. As of July 1, 2024, these RUs can house approximately 875 individuals. In addition, for individuals seeking protective custody, we use routine transfers to allow those individuals to enter the general population at another facility where there is no foreseeable threat.

In response to studies of FBOP's use of restrictive housing by the Department, the OIG, and the Government Accountability Office, as well as our own studies, we have taken several near-term steps to reduce the use of restrictive housing, including:

- Issuing a new SHU policy in March 2024, which directs employees to place AICs in SHU with a cellmate absent unique circumstances; mandates quarterly training for employees assigned to SHU; requires additional staffing in SHU in certain

circumstances; and includes various mental health interventions to better assess the well-being of those in SHU.

- Developing and implementing Secure Mental Health units, which are designed to house and provide intensive treatment to incarcerated individuals with mental illness who would otherwise need to be placed in restrictive housing.
- Initiating the process of amending the Disciplinary Program policy to limit the usage and duration of restrictive housing for disciplinary violations and discontinue its use for punishing those who engage in self-harm.
- Decreasing the number of individuals housed at the Administrative Maximum Facility in Florence, Colorado, by over 20 percent since 2017.
- Creating a specialized post in restrictive housing to help AICs transition from restrictive housing to the general population.
- Eliminating the use of the Special Management Units.

In the long term, FBOP and the National Institute of Justice have partnered to explore policies and discern whether and how FBOP can further reduce its reliance on restrictive housing. We will use those findings to explore alternatives, implement effective policies, and ensure compliance within our correctional institutions while maintaining safety and security.

Conclusion

Chairman Biggs, Representative McBath, and Members of the Subcommittee, I am honored to speak on behalf of the Bureau and its dedicated employees throughout the country regarding the good work we are doing and our efforts at continuous improvement. I believe in the importance of transparency, oversight, and coming to this work with arms wide open. The Bureau's mission is extremely challenging but critical to the safety and security of the public, our employees, and individuals housed within our facilities.

We are improving on many fronts, and with your support and with additional resources to address our staffing and M&R needs, we will remain a forward-thinking leader in corrections that enhances the wellness of our dedicated law enforcement professionals risking their own safety to ensure the safety of others, while helping those in our care to rejoin their communities as responsible neighbors. I thank you for the opportunity to speak with you today, for the support we have seen from members of this Committee, and for your continued support as we move forward.