

**Testimony before the Committee on the Judiciary
Subcommittee on Crime and Federal Government Surveillance and Subcommittee on
Oversight
U.S. House of Representatives**

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“Federal Corrections in Focus: Oversight of the Bureau of Prisons.”

Mr. Chairmen, Ranking Members, and distinguished Members of Congress:

Thank you for the opportunity to speak to you today about the challenges and opportunities facing the federal Bureau of Prisons. I appreciate your convening this hearing.

My name is Patrick Purtill. I am the Executive Vice President & General Counsel of Unify.US, a newly established nonprofit organization that brings together faith-driven and economic conservatives to find common-sense solutions to some of today’s most pressing problems. Our work focuses on three broad issue sets: economic opportunity, families & communities, and freedom & justice. And our work covers federal as well as state level policies. In addition to my work at Unify.US, I am the Charles Evans Hughes Lecturer in Policial Science at Colgate University.

The views I express in this testimony are my own and should not be construed as representing any official position of either institution.

I have spent a good deal of my career working in the field of criminal justice policy. As Special Assistant to the Deputy Attorney General at the U.S. Justice Department, I served on the Attorney General’s Prisoner Reentry Working Group, President Bush’s Prisoner Reentry Initiative Group, and the Strategic Management Council’s Subcommittee on Violent Crime and Gangs. I have also served in the office of United States Attorney for the District of South Carolina, as a clerk to a federal judge, and as an advocate for policies that increase public safety.

I want to begin by noting that President Trump made an excellent choice when he selected William Marshall to serve as Director of the Bureau of Prisons (BOP). He has a big job ahead of him. But his extensive and varied experience in law enforcement and corrections gives me great hope he will succeed where others have struggled. The most immediate challenges he faces are

staff recruitment and retention, the degraded condition of BOP facilities, and the increasing financial cost of incarceration.

Challenges Facing BOP

Staffing: Understaffed prisons with overburdened employees create security and safety issues for staff and inmates alike. Over the past ten years, BOP's staffing has dropped significantly. In 2014, BOP employed 19,238 corrections officers. Today, BOP has 15,992 corrections officers. Last year, BOP had its best hiring year in a decade; adding nearly 4,000 new hires that, when coupled with roughly 2,800 separations, left BOP with a net gain of nearly 1,200 new employees. However, recruitment and retention of staff remains a pressing and perennial issue for the agency.ⁱ

According to the Department of Justice's Office of the Inspector General (OIG), BOP's staffing shortages have a cascading effect on institution operations, often requiring substantial use of overtime, including mandatory overtime, and the temporary reassignment of non-Correctional Officer (CO) staff to work in CO posts (a practice known as augmentation). This use of augmentation affects the ability of these non-COs to conduct their routine duties, which include performing maintenance, providing healthcare, and teaching inmate programs, including First Step Act programming to reduce recidivism. Moreover, the routine use of overtime, whether voluntary or mandatory, can have a negative impact on staff morale and attentiveness. This, in turn, undermines institution safety and security and degrades employee retention rates.ⁱⁱ

Deferred Maintenance: according to the DOJ OIG and recent testimony by Kathleen Toomey, Associate Deputy Director, Federal Bureau of Prisons, the BOP faces \$3 billion in deferred maintenance and major repairs needed across its facilities.ⁱⁱⁱ An OIG audit similarly found maintenance problem across its inventory of prisons. According to the Inspector General Report, three of the facilities were in such poor condition that they had to be partially or fully closed.^{iv}

Increased BOP Population and Incarceration Costs: Finally, the number of prisoners in BOP facilities and the cost to incarcerate them have risen dramatically. In 1980, the federal prison population was 24,640. Over the next thirty years it rose to a peak of 219,298 in 2013 and has since declined to 156,254.^v A significant portion of this decline is due to accelerated use of home confinement in response to the COVID-19 pandemic. The average cost of incarceration per Federal inmate in Fiscal Year 2013 was \$29,291.25 (\$80.25 per day) and the average annual cost to confine an inmate in a Residential Re-entry Center was \$26,612.15 (\$72.91 per day).^{vi} Based on FY 2023 data (the most recent available), the average annual cost for a Federal inmate housed in a Bureau or non-Bureau facility was \$44,090 (\$120.80 per day) and the average annual cost for a Federal inmate housed in a Residential Reentry Center was \$41,437 (\$113.53 per day).^{vii}

With Congress' current efforts to reduce unsustainable levels of government spending, it is likely safe to assume there is little to no room in the Federal budget for significantly increasing BOP's funding level. Therefore, I will limit my remarks to recommendations to address staffing, facilities, and incarceration costs that can be implemented under current law using current funding levels.

Remember Corrections Officers are First Responders^{viii}

COs are law enforcement professionals responsible for maintaining order and security within correctional facilities, and their role is integral to the broader law enforcement community. Corrections officers perform many of the same functions as police officers, including maintaining order, preventing disturbances, and ensuring the safety of everyone within the facility. But equally important, they are critical to the rehabilitation process and have a direct impact on recidivism. Since every case of re-offending means another victim, another court case, and another prison cell, ensuring we have a well-trained and motivated corrections officer corps is a key part of any effective public safety strategy.

COs should be included more in the corrections process and their experience and insights should inform public policy. BOP should incentivize and empower COs to have a stake in the prisoner's rehabilitation as well as in the security of the facility. No one has more insight into an inmate's likelihood of successfully reintegrating into society than the COs who interact with them daily. Reminding ourselves and the public of COs broader role in the corrections system could help improve BOP's ongoing recruitment and retention issues as well as advance the rehabilitative element of BOP's mandate to promote public safety by reducing criminal recidivism.

Expanded Use of Home Confinement to Free Funds

To address its staffing and facilities issues in an environment of limited budgets, BOP must reduce its current costs and reallocate any savings to address its most pressing needs. To do this, BOP must reduce its per-inmate average cost of incarceration while not harming public safety. Recent experience demonstrates this can be done within certain parameters.

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act), passed on March 25, 2020, allowed individuals in federal prisons to serve a portion of their sentence in home confinement. Former United States Attorney General William Barr set the criteria for home confinement eligibility^{ix} under the CARES Act. AG Barr required the following criteria for eligibility: being in low or minimum security; having a clean misconduct record; no history of violence, sex, or terrorism offenses; a viable re-entry plan; a minimum or low risk score on the PATTERN risk assessment tool; and serving a substantial portion of their sentence (at least 50% or 25% with 18 months or less remaining).

These criteria allowed a substantial number of prisoners to be moved to home confinement while maintaining BOP's public safety mandate. After release from home confinement, those with a CARES assignment had a 3.6% recidivism rate over one year whereas those without a CARES assignment had a 13.0% recidivism rate.^x

In effect, like telemedicine, the CARES Act was a natural experiment that worked and could serve as a model to free up BOP resources to focus its limited bed space on those convicted of serious crimes and who have a higher risk of recidivating. According to a December 2024 BOP report, about 54% of the 143,291 persons in federal prison who had been assessed with the Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN) as of December 31, 2023, were classified as minimum or low risk for recidivism.^{xi} While not all of these persons

would meet the CARES Act criteria for home confinement, the large number of persons deemed as minimum or low risk to recidivate coupled with the demonstrated success of those released under the CARES Act suggests that BOP could expand the use of home confinement without jeopardizing public safety.

BRAC Process for Outdated and Dilapidated BOP Facilities

President Ronald Reagan's Grace Commission was a "Private Sector Survey" on cost control that concluded that "savings could be made in the military base structure" and recommended establishing an independent commission to study the issue. Public Law 100–526 endorsed the review and authorized the "special commission to recommend base realignments and closures" to the Secretary of Defense.

In light of the budgetary, maintenance, and human resource pressures facing BOP, it is clear BOP needs to review its physical footprint. Using current authorities under the First Step Act and other legislation, BOP could move low risk prisoners to home confinement by applying the Barr CARES Act standards. Doing so would permit BOP to better utilize its corrections officers to supervise higher risk inmates and maintain institutional security.

Modernizing any federal operation often runs up against political pressures. As such, we would recommend forming a commission patterned after the DoD Base Realignment and Closure Commission to review BOP's requirements and "right size" the Bureau of Prisons after accounting for its staffing and budgetary needs.

Non-partisan recommendations to the Attorney-General to close specific BOP facilities that are no longer cost effective to maintain would free up revenues for maintenance and modernization of BOP's inventory of facilities. Reinvesting those funds into better BOP facilities would improve the conditions for the incarcerated and BOP staff, without the need for increased appropriated funding.

Beyond cost savings, there is also some evidence that this would increase public safety by reducing recidivism. Evidence from Colombian prison construction suggests that prisoners quasi-randomly assigned to newer (and generally better) prisons were up to 36% less likely to recidivate.^{xii} Charles Fain Lehman of the Manhattan Institute notes that "[W]hile the applicability of this finding to the U.S. is limited, and its mechanisms ambiguous, it suggests that improving prison conditions may benefit society in the long run, too."^{xiii}

Continued Implementation of the First Step Act and the Second Chance Act

During President Trump's first administration, he emphasized supporting successful reentry and supporting law enforcement with passage of the First Step Act (FSA). This law promotes successful reentry by creating additional incentives to participate in recidivism reduction programming. Through its oversight function, Congress should continue to ensure BOP expands programming opportunities and that eligible individuals receive appropriate FSA incentives. BOP should especially focus on increasing access to evidence-based recidivism reduction (EBRR) programs.

Conclusion

While it may appear that the challenges facing the new BOP Director are so significant that they cannot all be addressed at once, the contrary is true. By improving facilities, improving respect for and the resources available to COs, and safely transitioning inmates least likely to commit new crimes back to society with the tools to be successful, BOP, Congress and the Trump administration can work hand in hand to solve our corrections crisis while promoting public safety.

ⁱ U.S. House Appropriations Committee Oversight Hearing – Federal Bureau of Prisons, February 26, 2025, The Honorable Kathleen Toomey, Associate Deputy Director, Federal Bureau of Prisons. <https://appropriations.house.gov/schedule/hearings/oversight-hearing-federal-bureau-prisons>.

ⁱⁱ U.S. Department of Justice Office of the Inspector General, *Top Management and Performance Challenges Facing the Department of Justice–2024*. <https://oig.justice.gov/reports/top-management-and-performance-challenges-facing-department-justice-2024>.

ⁱⁱⁱ U.S. House Appropriations Committee Oversight Hearing – Federal Bureau of Prisons, February 26, 2025, The Honorable Kathleen Toomey, Associate Deputy Director, Federal Bureau of Prisons. <https://appropriations.house.gov/schedule/hearings/oversight-hearing-federal-bureau-prisons>.

^{iv} U.S. Department of Justice Office of the Inspector General, *Top Management and Performance Challenges Facing the Department of Justice–2024*. <https://oig.justice.gov/reports/top-management-and-performance-challenges-facing-department-justice-2024>.

^v Federal Bureau of Prisons, Total Prison Inmates, May 1, 2025. https://www.bop.gov/about/statistics/population_statistics.jsp#pop_report_cont.

^{vi} Annual Determination of Average Cost of Incarceration, Federal Register, 79 FR 26996, p. 26996, 05/12/2014. [https://www.federalregister.gov/documents/2014/05/12/2014-10859/annual-determination-of-average-cost-of-incarceration#:~:text=The%20fee%20to%20cover%20the%20average%20cost,Fiscal%20Year%202013%20was%20\\$26612.15%20\(\\$72.91%20per](https://www.federalregister.gov/documents/2014/05/12/2014-10859/annual-determination-of-average-cost-of-incarceration#:~:text=The%20fee%20to%20cover%20the%20average%20cost,Fiscal%20Year%202013%20was%20$26612.15%20($72.91%20per).

^{vii} Annual Determination of Average Cost of Incarceration Fee (COIF), Federal Register, 89 FR 97072, p. 97072, 12/06/2024. [https://www.federalregister.gov/documents/2024/12/06/2024-28743/annual-determination-of-average-cost-of-incarceration-fee-coif#:~:text=Based%20on%20FY%202023%20data,\\$41%2C437%20\(\\$113.53%20per%20day\)](https://www.federalregister.gov/documents/2024/12/06/2024-28743/annual-determination-of-average-cost-of-incarceration-fee-coif#:~:text=Based%20on%20FY%202023%20data,$41%2C437%20($113.53%20per%20day)).

^{viii} See, United States Department of Labor, Wage and Hour Division, *Fact Sheet #17J: First Responders and the Part 541 Exemptions Under the Fair Labor Standards Act (FLSA)*, revised September 2019, which lists first responders as “police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees” for purposes of the Fair Labor Standards Act. <https://www.dol.gov/agencies/whd/fact-sheets/17j-overtime-first-responders#:~:text=%C2%A7%20541.3%20provides%20that%20police,personnel%2C%20rescue%20workers%2C%20hazardous%20materials>. See also, 29 C.F.R. § 541.3.

^{ix} William Barr, *Memorandum from the Attorney General: Increasing Use of Home Confinement at Institutions Most Affected by COVID-19*, April 3, 2020, found at: <https://www.politico.com/f/?id=00000171-4255-d6b1-a3f1-c6d51b810000>.

^x Jason Gwinn, PhD, *Cares Act: Analysis of Recidivism*, March 2024, U.S Department of Justice, Federal Bureau of Prisons, Information Technology & Data Division, Office of Research & Evaluation (www2.fed.bop.gov/202403-cares-act-white-paper).

^{xi} U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, December 2024, NCJ 309537, *Federal Prisoner Statistics Collected Under the First Step Act, 2024*.

^{xii} Santiago Tobón, “Do Better Prisons Reduce Recidivism? Evidence from a Prison Construction Program,” *Review of Economics and Statistics* 104, no. 6 (Nov. 14, 2022): 1256–72.

^{xiii} Charles Fain Lehman, *Modernize the Criminal Justice System: An Agenda for the New Congress*, The Manhattan Institute, April 2023. <https://manhattan.institute/article/modernize-the-criminal-justice-system-an-agenda-for-the-new-congress>