

United States Senate

WASHINGTON, DC 20510

April 4, 2023

The Honorable Jeanne Shaheen
Chair
Subcommittee on Commerce,
Justice, Science, and Related
Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

The Honorable Jerry Moran
Ranking Member
Subcommittee on Commerce,
Justice, Science, and Related
Agencies
Senate Committee on Appropriations
Washington, D.C. 20510

Dear Chair Shaheen and Ranking Member Moran:

We write to respectfully request that you include sufficient funding for the Bureau of Prisons (BOP) in the Fiscal Year 2024 Commerce, Justice, Science, and Related Agencies (CJS) appropriations bill so that BOP will be able to safely manage and maintain the prisons it oversees, increase hiring, reduce the use of augmentation.

To ensure that BOP is safely and effectively managing and maintaining the 122 Federal prisons it oversees across the country, we urge you to (1) direct BOP to significantly increase hiring and reduce the use of augmentation and forced overtime, and (2) authorize appropriate funding for both the Salaries and Expenses and Buildings and Facilities accounts.

The Federal prison population grew by more than 700 percent between 1980 and 2013, and while the population has somewhat declined from its highest levels since then, BOP remains responsible for the custody and care of approximately 159,000 Federal incarcerated persons. Correctional staff help ensure the safety and security of incarcerated persons, as well as the safety and security of their fellow staff members and the general public. Unfortunately, BOP correctional staff continue to face staffing shortages that jeopardize their ability to fulfill their duties in an already difficult and sometimes dangerous setting.

Staffing shortages were greatly exacerbated by the Justice Department's (DOJ) decision to extend the January 2017 Federal government hiring freeze for BOP during the last administration, preventing BOP from increasing staffing above the level that existed on January 22, 2017. While the freeze was finally lifted in 2019, the agency has been slow to fill vacant positions. According to the National Council of Prison Locals, there are currently 7,735 vacant correctional officer positions across BOP, a shocking vacancy rate of more than 37 percent. Recent implementation of recruitment incentives at hard-to-fill locations and retention incentives for retirement-eligible employees are a step in the right direction, but insufficient to fully address the issue. BOP requires sufficient appropriations to increase correctional officer pay to levels that are competitive with federal, state, and local law enforcement agencies to attract qualified candidates. It is thus imperative that Congress provide sufficient funding to allow BOP to fill all vacant positions and return at least to January 2017 staffing levels so that BOP both meets its programmatic goals and protects the safety of its staff and incarcerated persons.

Staffing shortages among correctional officers compel many institutions to rely on excessive use of mandatory overtime, as well as the problematic practice of “augmentation” in order to ensure that enough correctional officers are present throughout their institutions.

Augmentation forces non-security staff, such as secretaries, nurses, teachers, and other employees, to work as correctional officers for a number of hours each week—despite the fact that these employees lack the extensive experience and training of correctional officers and must abandon their normal job responsibilities. This practice places staff at risk and also reduces access to programming, recreation, and education initiatives, which are key to maintaining safe facilities and reducing recidivism.

A report released in February 2021 by the Government Accountability Office found that BOP’s use of augmentation increased 47 percent, and its use of overtime increased 102 percent, between Fiscal Years 2015 and 2019, although BOP had not assessed the risks associated with these increases.

These staffing shortages are particularly troubling at a time when BOP is responsible for implementing the *First Step Act* (FSA), which requires BOP to provide significant levels of programming and activities for incarcerated persons. This programming is essential to the success of FSA, which is improving public safety, as demonstrated by the significantly lower recidivism rate of those released under the law. Successful implementation of the law is at risk if BOP continues to rely heavily on augmentation and require teachers and counselors to work as correctional officers, instead of fulfilling their programming duties.

In addition to staffing shortages among correctional officers, many facilities also are facing staffing shortages among programming staff, further imperiling the successful implementation of the FSA. BOP must work expeditiously to fill all programming vacancies, including Drug Treatment, Challenge Programs, Life Connections, Psychology, Recreation, Religious Services, Vocational, and Education positions. Additionally, BOP should ensure that each of its 122 prisons has at least one Special Education Teacher on staff, including a Special Education Teacher at each facility within Federal Prison Complexes.

We also note a persistent problem of late payments by BOP to Residential Reentry Center (RRC) contractors, thereby jeopardizing the important services they provide helping individuals rebuild their ties to the community and reducing recidivism by assisting with employment, housing, substance abuse treatment, and medical and mental health care. The risk is especially concerning in light of the growing demand for robust reentry services created by the FSA as adults in custody apply their earned time credits toward early transfer to prerelease custody. Some progress appears to have been made on this issue, but it is imperative that BOP have the funding and staffing necessary to achieve orderly processing of its accounts payable so that RRCs are able to provide critical support to citizens returning to the community.

Finally, staff and incarcerated persons also are facing safety issues related to the age and disrepair of several BOP facilities. In 2019, staff and incarcerated persons at MDC Brooklyn were forced to work and live in a facility with limited heat and electricity during frigid winter weather. BOP recently issued a report required under the recently enacted *Prison Camera*

Reform Act, informing Congress that much of BOP's communications and technological infrastructure is so outdated that it will require additional funding and resources to fully implement this important legislation. The Council of Prison Locals reports that BOP continues to have a significant backlog of maintenance and repair projects at many of BOP's 122 institutions. We urge you to provide adequate funds for BOP to begin addressing this backlog and ensure that facilities are appropriately modernized and repaired.

We appreciate the hard work and leadership that you have shown on these issues. Thank you for your consideration of this request.

Sincerely,



Richard J. Durbin
United States Senator




Mike Braun
United States Senator



Sheldon Whitehouse
United States Senator



Amy Klobuchar
United States Senator



Richard Blumenthal
United States Senator



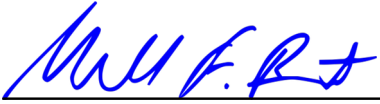
Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator



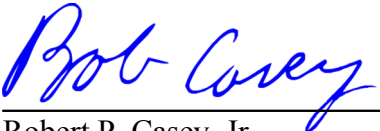
Tammy Baldwin
United States Senator



Michael F. Bennet
United States Senator



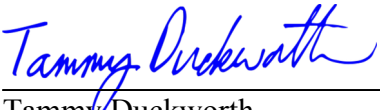
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United States Senator




Robert P. Casey, Jr.
United States Senator



Catherine Cortez Masto
United States Senator



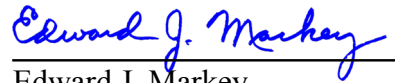
Tammy Duckworth
United States Senator



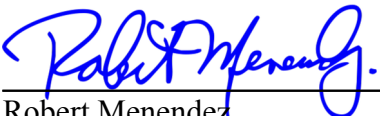
John Fetterman
United States Senator



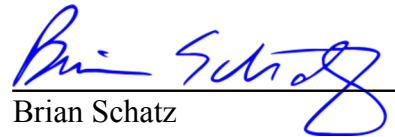
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Edward J. Markey
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Robert Menendez
United States Senator



Brian Schatz
United States Senator



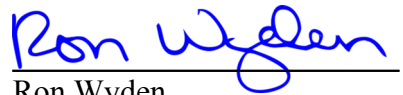
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United States Senator



Mark R. Warner
United States Senator



Elizabeth Warren
United States Senator



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United States Senator