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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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July 12, 2018

Mr. Hugh J. Hurwitz
Acting Director
Federal Bureau of Prisons
320 First Street N.W.
Washington, D.C. 20534

Dear Acting Director Hurwitz:

I write concerning whistleblower allegations of wide-ranging, systemic problems within the Bureau of Prisons (BOP).¹ These allegations are grounds for serious concern. I appreciate your immediate attention to these important issues.

- ***Unsafe and unhealthy prison conditions:*** At the Metropolitan Detention Center in Guaynabo, Puerto Rico, an inmate alleges that inmates sleep on the floor due to overcrowding; that inmates receive food that is expired and covered in mold and fungus; that inmates—including some with chronic conditions—do not receive required medications; and that prison officials abuse inmates.² These allegations appear to comport with public reports and court filings about unsafe and unhealthy conditions following Hurricane Maria—such as limited drinking water, a lack of showers, overflowing toilets, and physical violence.³
- ***Denial of hygiene products and unsafe conditions for female inmates:*** Inmates at the BOP's largest all-female facility, Federal Corrections Institution (FCI) Aliceville in Alabama, allege that prison medical personnel ignored the symptoms of an inmate later found to have Stage IV breast cancer after her release;⁴ that inmates received limited amounts of toilet paper and feminine care products and were directed to reduce their

¹ The whistleblowers have consented to the disclosure of the information contained in this letter. For the protection of the whistleblowers, this letter will not use their names. The Committee has not verified the accuracy of any of the allegations; however, we recount them here to allow BOP to address them expeditiously.

² Letter from inmate, ██████████ to Ron Johnson, U.S. Senator (Apr. 16, 2018) (on file with S. HSGAC Staff).

³ E.g., Nick Chrastil, *A Puerto Rican federal inmate's horrifying account of what the prison did after Hurricane Maria: Milton Pinilla describes a horrific week of violence, humiliation, and fear*, THINKPROGRESS (Apr. 26, 2018), <https://thinkprogress.org/puerto-rico-federal-detention-center-allegedly-abused-inmates-hurricane-maria-494c2a8306e8/>; Affidavit for Defendant at 1, Doc. 235-2, filed Mar. 4, 2018, *United States v. Quintero*, Crim. No. 16-463-05 (P.R. D.Ct. 2018).

⁴ Letter from inmate No.1, FCI Aliceville (on file with S. HSGAC Staff).

restroom use;⁵ and that inmates were housed in a flooded, roofless building with exposed wiring following a tornado in 2016.⁶

- **Sexual harassment without disciplinary actions:** Whistleblowers have made numerous allegations of sexual harassment within BOP facilities. Some examples include the following:
 - Whistleblowers allege that BOP executives who are accused of sexual harassment are promoted and transferred instead of punished.⁷ One executive at FCC Coleman, allegedly allowed inmates to sexually harass and threaten staff with physical violence and was later promoted to a position at another BOP facility.⁸ This same individual is alleged to have continued a pattern of sexual violence at three additional BOP facilities following sexual misconduct at FCC Coleman.⁹
 - These allegations follow a court determination in 2017 that a class of over 500 current and former female employees of FCC Coleman had their sexual harassment complaints habitually ignored by facility executives.¹⁰ The settlement was one of the largest in the past decade.¹¹
 - A whistleblower alleges that a captain at FCI Milan in Michigan sent inappropriate pictures to a probationary staff member.¹² Rather than facing discipline, the captain was reportedly transferred to another department.¹³
 - Additionally, an arbitrator ruled that the administration at FCI Miami took part in a “grand cover up” of sexual harassment.¹⁴ The arbitrator decided that the victim’s complaints fell on “deaf ears”¹⁵ and that the FCI Miami administration “provided little or no opportunities for the [victim] to avoid harm.”¹⁶
- **Prison security vulnerabilities:** Whistleblowers report weaknesses in the BOP’s facility security, including unidentified drones hovering above the prison yard potentially used to smuggle contraband;¹⁷ hidden compartments containing contraband in inmate cells.¹⁸

⁵ Letter from inmate No. 2, FCI Aliceville (on file with S. HSGAC Staff).

⁶ Jennifer Edwards, *Inmates open up about tornado that ripped through Aliceville prison*, ABC3340 (Feb. 10, 2016), <http://abc3340.com/news/local/inmates-open-up-about-tornado-that-ripped-through-aliceville-prison>.

⁷ E-mail from whistleblower to HSGAC Staff (Jan. 18, 2018) (on file with S. HSGAC Staff).

⁸ *Id.*

⁹ *Id.*

¹⁰ *White, et al. v. Lynch*, Order on Motion for Preliminary Approval of Settlement, EEOC Case No. 510-2012-00077X, 2-3 (Jan. 17, 2017), available at <https://www.colemansexualharassment.com/documents>.

¹¹ *Id.* (Explaining that the settlement includes \$20 million in compensatory damages and numerous mandated programmatic changes. If at least 350 viable claims are made from the class of 524 victims, then the per-person settlement would be the largest Title VII gender discrimination class action case over the past decade.).

¹² E-mail from whistleblower (Jan. 12, 2018)(on file with S. HSGAC Staff).

¹³ *Id.*

¹⁴ *American Federation of Government Employees v. Department of Justice*, FMCS No. 13-57265-3 (May 27, 2015) (Paci, Arb.) (on file with S. HSGAC Staff).

¹⁵ *Id.* at 24.

¹⁶ *Id.* at 27, 29.

¹⁷ E-mail from whistleblower to [REDACTED] BOP (Mar. 10, 2018) (on file with S. HSGAC Staff).

¹⁸ U.S. Dep’t of Justice Incident Rep. (Oct. 08, 2016) (on file with S. HSGAC Staff).

inmates throwing and receiving contraband over prison fences;¹⁹ and dangerous inmates being released back into the general population.²⁰

- **Hazardous working conditions:** Whistleblowers allege that BOP employees were forced to work in hazardous conditions, including in the presence of toxic black mold inside FCI Mendota in California.²¹ According to the whistleblower, BOP refused to test the mold and, when tests confirmed the mold's existence, refused to fix the problem.²² Others have reported similar hazardous working conditions—such as flooded housing units²³ and standing water creating a slip-and-fall hazard—at both FCI Miami and FCC Coleman.²⁴ Another whistleblower disclosed that a broken radio system prevented an immediate response to an inmate's assault on an officer at FCI Miami.²⁵
- **Assaults on and threats against law enforcement officers:** BOP employees report that law enforcement officers have been victims of assaults orchestrated by inmates at FCI Miami and FCI Victorville—including 15 assaults at FCI Miami,²⁶ and an ambush targeted at off-duty officers at a local restaurant in Victorville.²⁷
- **Staffing Shortages:** There have been reports of numerous staffing issues within BOP facilities. Whistleblowers allege that employees are appointed to positions they were not trained to do,²⁸ and that BOP administrators did not implement Occupational Safety and Health Administration-suggested staffing levels and instead decreased Special Investigative Service staff.²⁹ A public report suggests that BOP facilities practice a staffing strategy called “augmentation” to avoid paying overtime to prison staff by assigning cooks or secretaries to be temporary corrections officers.³⁰

¹⁹ OSHA Complaint No. 3090822 (Aug. 20, 2017) (on file with S. HSGAC Staff). This incident is alleged to have gone uninvestigated and inappropriately handled by prison administration. *Id.*

²⁰ E-mail from whistleblower to [REDACTED] BOP (Dec. 3, 2017) (on file with S. HSGAC Staff).

²¹ E-mail from whistleblower to HSGAC Staff (May 14, 2018) (on file with S. HSGAC Staff).

²² Northwest Hazmat Inc. Rep. FCI Mendota, Speck, A. (May 21, 2018) (on file with S. HSGAC Staff).

²³ E-mail from [REDACTED] (Aug. 31, 2017) (on file with S. HSGAC Staff).

²⁴ Letter from [REDACTED] to whistleblower (Mar. 7, 2017) (on file with S. HSGAC Staff).

²⁵ OSHA Complaint No. 31126992 (on file with S. HSGAC Staff).

²⁶ E-mail from whistleblower to [REDACTED] (Mar. 17, 2018) (on file with S. HSGAC Staff).

²⁷ Forwarded email from whistleblower and COA/Union 506 to HSGAC staff (Aug. 4, 2015) (on file with S. HSGAC Staff).

²⁸ E-mail from whistleblower to [REDACTED] BOP (May 13 – Aug. 26, 2017) (on file with S. HSGAC Staff).

²⁹ E-mail from whistleblower to [REDACTED] (Aug. 22, 2017) (on file with S. HSGAC Staff).

³⁰ Charles Clark, *Bureau of Prisons Conference Spending Sparks Outrage During Budget Cuts, Staff Shortage*, (Jan. 10, 2018), <http://www.govexec.com/management/2018/01/bureau-prisons-conference-spending-sparks-outrage-during-budget-cuts-staff-shortage/145109/>.

- **Whistleblower retaliation:** A whistleblower at FCI Miami alleges that BOP's Office of Internal Affairs does not conduct impartial investigations when a whistleblower is involved,³¹ and that BOP suspended an employee because of his whistleblower actions.³²

I respectfully request that BOP work with the Justice Department Inspector General to thoroughly examine these allegations. As a part of this process, I ask that you communicate to all BOP employees their rights under federal whistleblower laws.³³ Please brief Committee staff about the BOP's examination of these allegations and steps to mitigate any problems identified before September 1, 2018.

The Committee on Homeland Security and Governmental Affairs is authorized by Rule XXV of the Standing Rules of the Senate to investigate "the efficiency, economy, and effectiveness of all agencies and departments of the Government."³⁴ Additionally, S. Res. 62 (115th Congress) authorizes the Committee to examine "the efficiency and economy of operations of all branches and functions of Government with particular references to (i) the effectiveness of present national security methods, staffing, and processes"³⁵

If you have any questions related to this request, please ask your staff to contact Katie Bailey or David Brewer of Committee staff at (202) 224-4751. Thank you for your prompt attention to these serious matters.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

The Honorable Michael E. Horowitz
Inspector General
Department of Justice

³¹ E-mail from whistleblower to [REDACTED] (Dec. 22, 2018) (on file with S. HSGAC Staff).

³² E-mail from whistleblower to [REDACTED] (date unknown) (on file with HSGAC Staff).

³³ Whistleblower Protection Act of 1989, Pub. L. No. 101-12 (1989); *See also* Whistleblower Protection Enhancement Act of 2012, Pub. L. No. 112-199 (2012); Dr. Chris Kirkpatrick Whistleblower Protection Act of 2017, Pub. L. No. 115-73, 131 Stat. 1235 (2017).

³⁴ S. Rule XXV(k); *see also* S. Res. 445, 108th Cong. (2004).

³⁵ S. Res. 62 § 12. 115th Cong. (2017).