



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Richard J. Durbin
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This letter, which supplements the information provided in our March 9, 2022, letter, responds to your letter to the Attorney General and the Deputy Attorney General dated February 23, 2022, regarding operations at the Federal Bureau of Prisons (Bureau). We are sending an identical response to the other Senators who joined in your letter.

The Department of Justice (Department) takes allegations of sexual misconduct extremely seriously. As the Deputy Attorney General has publicly stated, “[a]bove all else, the Bureau of Prisons is charged with providing safe and humane treatment of all who are in their custody,” and as its recent prosecutions make clear, “the Department of Justice is committed to holding BOP 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.”

Bureau policy requires that every allegation of staff sexual misconduct be referred to its Office of Internal Affairs (OIA), and OIA refers every case to the Department’s Office of the Inspector General (OIG) for its review. Program Statement 1210.24, Office of Internal Affairs, Attachment A(1), pgs. 2–18. Some referrals are handled by the Federal Bureau of Investigation (FBI). Those reporting allegations of staff sexual misconduct may also go directly to OIG or to the FBI, and ultimately, criminal misconduct is referred to the appropriate prosecuting authorities. Attachment A provides Bureau policies that address reporting avenues for allegations of abuse and the protections from reprisal for making such reports.

In addition to its efforts to deter and prosecute individual misconduct, the Department is committed to aggressively correcting problems when they arise. Last fall, after a visit by the Deputy Attorney General, the Department shut down the Metropolitan Correctional Center (MCC) in New York due to ongoing concerns with the facility. Likewise, the Department’s March 9, 2022, letter identified some of the immediate actions the Bureau took in response to

serious allegations of misconduct at Federal Correctional Institution (FCI) Dublin. The Attorney General also recently spoke about the efforts undertaken by the Department to address allegations of sexual misconduct at FCI Dublin during April 26, 2022, hearing before the Senate Appropriations Committee's Commerce, Justice, Science, and Related Agencies Subcommittee. These include; (1) prosecuting individuals responsible for misconduct, (2) appointing new leadership at FCI Dublin, (3) launching a task force to address issues at the institution and (4) referring the matter to the Office of the Inspector General for internal investigation. As examples of these steps, in addition to appointing a new Warden at FCI Dublin on February 28, 2022, and since our March 9, 2022 letter to you, the Department has appointed three new Associate Wardens, an Executive Assistant/Camp Administrator, Captain, and Deputy Captain at FCI Dublin. The Bureau also provided retraining for all FCI Dublin staff in March, including specialized training developed by its Women & Special Population branch.

In addition to these immediate actions, the Department recognizes that there is more work to do. The Department is undertaking a thorough review and assessment of BOP's employee misconduct and disciplinary policies and processes, and it is working with BOP to implement appropriate reforms. Those efforts remain ongoing, and we will keep you apprised as appropriate as that review continues. Below, we have endeavored to explain the Bureau's existing policies in response to the questions identified in your letter. Additionally, with this letter, we are providing over 600 pages containing relevant information on sexual misconduct cases at the Bureau. *See* Attachments A, B, C, and D.

Hiring Process

The Bureau takes seriously its obligation to identify staff who have a likelihood of performing well in a correctional environment and to train that staff to perform in accordance with the law and Bureau policy throughout their careers. Bureau policy provides guidance on addressing allegations of staff members failing to meet conduct standards. The Bureau's application and hiring processes are described on its public website (application process *available at* https://www.bop.gov/jobs/application_process.jsp; hiring process *available at* https://www.bop.gov/jobs/hiring_process.jsp). The website also provides information regarding the first year of employment, the probationary period, and the period after the first year of employment.

In general, once the Bureau receives an application for employment, the application is assessed and applicants who are found qualified for the requested position are placed on a "Certificate of Eligible" list for hiring consideration. The local institution's Human Resource office contacts each applicant to inquire about their availability and schedules an interview. Applicants who express interest in the position undergo a lengthy interview process to determine their suitability for the position.

The interview process has multiple steps, including a Core Values Assessment, a Pre-employment Interview Questionnaire, a writing sample, a panel interview, a urinalysis test, a physical/audiogram evaluation, and a background investigation. The Core Value Assessment was approved by the Office of Personnel Management (OPM) and is a timed assessment that gauges an applicant's responses to 30 different law enforcement scenarios. The Pre-employment

Interview Questionnaire is conducted in conjunction with an applicant's credit report and law enforcement checks and covers various questions concerning an applicant's history in areas such as employment, military service, finances, dishonest conduct, excessive use of force, integrity, criminal activity, driving record, and family. Applicants also complete a writing sample after watching a video involving an inmate interaction, and their writing abilities are assessed by a panel. During the panel interview, applicants are asked a series of questions to assess their knowledge, skills, and abilities for the position, and their responses are rated as Excellent, Acceptable, or Unacceptable. Applicants also may be subject to reference checks through their previous employers and are screened by medical professionals to ensure they can work in a demanding environment. Applicants start the background investigation paperwork process and receive preliminary background screening prior to the Bureau scheduling a background investigation. Finally, with some qualified applicants over the age of 37, the process for obtaining an age waiver may begin at this time as well.

Applicants who pass the above screening requirements are offered the position and provided a date to begin employment. The Guidelines of Acceptability are a part of the Bureau's pre-employment screening process. These Guidelines determine an applicant's suitability to work at the Bureau, but they are not used to make permanent staffing decisions. Rather, these decisions are made after each new hire's probationary period (described in more detail below). While the Bureau has a robust screening process, no system or process can predict exactly how a person will act when working in a prison on a daily basis. For that reason, the Bureau provides regular and continuous training and guidance to staff to reinforce the agency's core values and policies.

Once hired, new employees serve a one-year probationary period. The probationary period is an extension of the examination and selection process and provides an opportunity for management to perform an on-the-job suitability assessment. Probationary Correctional Officers are rotated through various shifts and posts during their first year of employment, which allows the Bureau to evaluate their work in different situations and environments. Probationary employees receive formal performance progress reviews following the third, sixth, and ninth months of employment. Additionally, probationary employees receive performance logs, which are recorded descriptions of performance to ensure the rating given is an accurate and fair appraisal of the employee's performance during the entire rating period. Failure to meet the standards of performance and/or satisfactorily complete training is a basis for disqualifying an employee during their probationary period.

Training

The Bureau provides comprehensive training to its employees, both at the beginning of and throughout their careers, and it is continuing to revise and adjust those training materials as part of its ongoing review of its policies and practices. Within their first 120 hours of entry into duty, Bureau staff receive training at their duty location on many of the policies, procedures, and laws related to their employment. Staff also receive a three-week training course within their first 120 days of entry into duty at the Federal Law Enforcement Training Center (FLETC) at Glynco, GA. Additional refresher training is provided for all staff every year during Annual

Training (AT). Among other topics covered during the training, Bureau staff are trained on Program Statement 1210.24, Office of Internal Affairs and the Prison Rape Elimination Act (PREA), and they continue to receive training on these topics on at least an annual basis.

Additionally, supervisors, managers, and other select positions may receive these trainings more frequently. For instance, Wardens, Associate Wardens, Lieutenants, special investigative staff, and OIA staff receive additional training on the OIA policy at national training specific to their areas of expertise.

Similarly, along with AT, certain staff receive additional PREA training, depending on their areas of expertise. For example, Associate Wardens receive PREA training at Associate Warden's Familiarization Training, even if they have received PREA training at AT or in other settings. Associate Wardens also receive specialized training from the Bureau's National PREA Coordinator since they typically act as the PREA Compliance Managers at their institutions. Health Services and Psychological Services staff also receive specialized training in this area and Special Investigative Agents are provided specialized training on conducting investigations of sexual abuse in prison. Additionally, upon request, the National PREA Coordinator conducts training for Bureau field staff on proper PREA procedures.

The Bureau also seeks to ensure inmates are aware of their rights. Inmates receive PREA training from the institution PREA Compliance Manager or their designee through the Admission and Orientation process when they enter a facility. The Bureau makes inmates aware of the avenues of reporting available to them, including by posting notices in its institutions informing inmates how to report sexual misconduct. The Bureau also provides inmates a Sexually Abusive Behavior Prevention and Intervention booklet during the Admissions and Orientation process explaining the Bureau's policies on sexual misconduct and providing information on reporting allegations. These avenues include the Administrative Remedy Process; telling staff members, writing to OIG, or emailing OIG via TRULINCS. If the inmate chooses the email option, emails are untraceable at the local institution, are forwarded directly to OIG, will not be saved in the inmate's email 'Sent' list, do not allow for a reply from OIG, and can be used to request anonymity. The Bureau has revised the notice which is posted in its institutions and the booklet provided to inmates, and it expects to roll out the revised material, as well as additional new training materials, to all Bureau institutions this summer.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Peter S. Hyun
Acting Assistant Attorney General

Enclosure