

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 25, 2025

The Honorable Pam Bondi
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Bondi:

We write to object to the recent decision to use Federal Bureau of Prisons facilities to detain immigrants swept up in the Trump Administration's mass deportation efforts and urge you to reconsider this plan.

During the previous Trump Administration, detained immigrants described alleged mistreatment and unconstitutional detention conditions in federal prisons.¹ The detainees, many of whom were seeking asylum, lacked access to legal counsel, religious rights, phone calls, educational or other programming, and even clean clothing.² Despite this troubling history, the current Trump Administration is apparently relying on the same poorly conceived detention scheme.

On February 7, the Bureau's Correctional Programs Branch issued a memo stating that, "[e]ffective immediately, Federal Bureau of Prisons (BOP) employees will accept and process all new Department of Homeland Security (DHS) detainees," while failing to provide meaningful guidance and direction to staff on the serious questions raised by these instructions.³ These questions include how to manage interactions between civil immigration detainees and the existing criminally incarcerated population; how the Department of Justice (DOJ) and DHS will ensure BOP staff receive adequate training and resources to meet the needs of the civil immigrant detainee population; and whether BOP facilities would even be able to meet basic immigration detention standards. Due to BOP already suffering from years of understaffing, inadequate resources, and crumbling infrastructure, the Administration's decision to revive immigration detention in BOP facilities seriously threatens the safety and well-being of BOP staff, incarcerated individuals, and immigrant detainees.

With 122 institutions nationwide,⁴ BOP is responsible for the well-being and rehabilitation of over 155,000 federal inmates, nearly 143,000 of whom are in BOP custody.⁵ The Bureau has long-faced significant staffing and infrastructure challenges. At the end of 2024, BOP announced

¹ *Immigrants Held in US Prison Sue Over Harsh Conditions*, AP (Aug. 1, 2018, 6:41 P.M.), <https://apnews.com/general-news-5979b5f486224851bda71caddf32b582>.

² *Id.*

³ Memorandum from Melissa Arnold, Administrator, Correctional Programs Branch, U.S. Dep't of Justice, Federal Bureau of Prisons, to Correctional Program Administrators (Feb. 7, 2025) (on file with Committee).

⁴ *Our Locations*, Fed. Bureau of Prisons (last accessed Feb. 10, 2025), <https://www.bop.gov/locations/#:~:text=Federal%20Bureau%20of%20Prisons&text=We%20have%20many%20facilities%20located,22%20residential%20reentry%20management%20offices>.

⁵ *Statistics*, Fed. Bureau of Prisons (last updated Jan. 31, 2025), https://www.bop.gov/about/statistics/population_statistics.jsp.

plans to permanently close one prison and idle six additional facilities due to “significant challenges, including a critical staffing shortage, crumbling infrastructure and limited budgetary resources.”⁶ BOP already grapples with considerable resource deficiencies in discharging its primary mandate, and simply does not have adequate resources to take on the additional challenge of safely and humanely accommodating immigration detainees.

The Bureau’s chronic understaffing challenges are well-documented. President Trump’s order to freeze hiring of all federal civilian employees as of January 22, 2017⁷ exacerbated the situation. BOP reportedly eliminated 6,000 positions as a result, a 14 percent staffing decrease from 2016 levels.⁸ Though the hiring freeze was rescinded later in the Trump Administration, the Bureau has continued to struggle with underfunding, resulting in decreased competitiveness in the employment market; staffing levels have still not rebounded. As set forth in a February 2024 letter to then-President Biden from the President of the Council of Prison Locals 33, American Federation of Government Employees AFL-CIO, the Bureau has lost “almost 9,000 staff since 2016,” bringing the federal prison workforce down to a “critical level.”⁹ As of December 2024, BOP is authorized for 14,900 full time correctional officer positions and reported 12,662 officers in pay status.¹⁰ BOP is additionally authorized for 27,498 “other” positions, of which the Bureau reports 23,949 are in pay status.¹¹

As several recent Senate Judiciary Committee hearings have highlighted,¹² understaffed prisons already face immense challenges in keeping current populations and staff safe, let alone accommodating an influx of immigration detainees. BOP currently institutes inadequate workarounds to address dangerous staff shortages. A February 2024 DOJ Office of the Inspector General (OIG) report on inmate deaths detailed BOP’s overreliance on augmentation, the practice of assigning noncustodial staff such as teachers, case managers, and medical staff to perform routine correctional officer duties for a period of time to help offset correctional staff shortages.¹³ BOP also mandates overtime to compensate for staffing shortages, with officers “often covering six to seven days per week with shifts extending up to 16 hours,” according to the correctional officers union.¹⁴ The OIG report “found that both practices burdened existing

⁶ Michael R. Sisak & Michael Balsamo, *The US Government is Closing a Women’s Prison and Other Facilities After Years of Abuse and Decay*, AP (Dec. 5, 2024, 11:32 P.M.).

⁷ *Presidential Memorandum Regarding the Hiring Freeze*, The White House (Jan. 23, 2017), <https://trumpwhitehouse.archives.gov/presidential-actions/presidential-memorandum-regarding-hiring-freeze/>.

⁸ *Id.*

⁹ Letter from Council of Prison Locals National President Brandy Moore-White to President Joe Biden (Feb. 2024), <https://www.afge.org/globalassets/documents/generalreports/2024/whitehouse-letter---staffing-and-pay-issues.pdf>.

¹⁰ *Federal Bureau of Prisons Fact Sheet*, Fed. Bureau of Prisons (Dec. 10, 2024), https://www.bop.gov/about/statistics/docs/fbop_fact_sheet.pdf.

¹¹ *Id.*

¹² Senate Judiciary Committee Hearing “Oversight of the Federal Bureau of Prisons” September 13, 2023; Senate Judiciary Committee Hearing “Examining and Preventing Deaths of Incarcerated Individuals in Federal Prisons” February 28, 2024; Senate Judiciary Subcommittee on Criminal Justice and Counterterrorism Hearing “The Nation’s Correctional Staffing Crisis: Assessing the Toll on Correctional Officers and Incarcerated Persons” February 28, 2024.

¹³ *Evaluation of Issues Surrounding Inmate Deaths in Federal Bureau of Prison Institutions*, U.S. Dep’t of Justice, Office of the Inspector General at 64 (Feb. 2024), <https://oig.justice.gov/sites/default/files/reports/24-041.pdf> (hereinafter *OIG 2024 Report*).

¹⁴ Press Release, *Union Local Representing Federal Correctional Officers Launches Initiative to Combat Officer Suicide*, Am. Fed. of Gov’t Employees (Dec. 23, 2024), <https://www.afge.org/publication/union-local-representing->

staff and potentially contributed to staff fatigue, sleep deprivation, decreased vigilance, and inattentiveness to duty,” outcomes negatively affecting staff morale and performance.¹⁵

The significant stress on BOP staff caused by chronic understaffing predictably impacts the Bureau’s ability to care for those in its custody. For example, staff shortages in health and psychology positions “can negatively affect the availability and quality of treatment, programming, and general medical and mental healthcare” for incarcerated individuals, including “treatment and programs designed to treat substance abuse disorders and mental illnesses.”¹⁶ NPR found that some incarcerated individuals have been forced to wait months or years for necessary medical treatment.¹⁷ Similarly, understaffing in educational and programming positions hinders successful implementation of rehabilitative programs designed to reduce recidivism—including programming mandated by the First Step Act, the bipartisan criminal justice reform legislation that President Trump signed into law in 2018.¹⁸

Most alarmingly, safety and security cannot be ensured without minimum levels of staffing. For example, in 2022, a fight left two incarcerated individuals dead in United States Penitentiary Beaumont.¹⁹ The correctional officers’ union condemned the incident and noted that “chronic understaffing of our prisons is jeopardizing the lives of both workers and inmates.”²⁰ Indeed, according to the OIG’s February 2024 report, “[t]he BOP specifically identified insufficient staffing as an issue in at least 30 of the inmate deaths” that the report examined.²¹

Understaffing is just one symptom of chronic underinvestment in the Bureau. For example, a May 2023 DOJ OIG report noted that “BOP has limited resources to address its extensive and growing maintenance needs, and in many cases, necessary repairs cannot be completed in a timely manner due to a lack of funding.”²² Examples of the Bureau’s “aging and failing infrastructure” include buckling concrete, water leaks, poor ventilation, and energy inefficiencies.²³ BOP Executive Staff have described the inability to address this issue as a “foundational, enterprise-wide challenge.”²⁴ In February 2024, then- BOP Director Colette Peters

[federal-correctional-officers-launches-initiative-to-combat-officer-suicide/](#).

¹⁵ OIG 2024 Report, *supra* n.13 at 64, 67.

¹⁶ *Id.* at 66.

¹⁷ Meg Anderson, *1 in 4 Inmate Deaths Happens in the Same Federal Prison. Why?*, NPR (Sept. 23, 2023, 6:00 A.M.), <https://www.npr.org/2023/09/23/1200626103/federal-prison-deaths-butner-medical-center-sick-inmates>.

¹⁸ See, e.g., Erik Ortiz, *Staffing Shortages and Deficient Training Leave First Step Act Floundering, Federal Prison Employees Say*, NBC News (July 28, 2022, 6:46 P.M.), <https://www.nbcnews.com/news/us-news/staffing-shortages-deficient-training-leave-first-step-act-floundering-rcna40210>.

¹⁹ Angel San Juan, *Prison Pay: Low Pay Rates for Correctional Officers Is Creating a Staffing Crisis*, CBS6 KFDM (May 19, 2023, 2:32 P.M.), <https://kfdm.com/news/local/prison-pay-low-pay-rates-for-correctional-officers-is-creating-a-staffing-crisis>.

²⁰ *Id.*

²¹ OIG 2024 Report, *supra* n.13.

²² *Audit of the Federal Bureau of Prisons’ Efforts to Maintain and Construct Institutions*, U.S. Dep’t of Justice, Office of the Inspector General at 26 (May 2023), https://oig.justice.gov/sites/default/files/reports/23-064_1.pdf.

²³ *Id.* at 5.

²⁴ *Limited-Scope Review of the Federal Bureau of Prisons’ Strategies to Identify, Communicate, and Remedy Operational Issues*, U.S. Dep’t of Justice, Office of the Inspector General at 23 (May 2023), <https://oig.justice.gov/sites/default/files/reports/23-065.pdf>.

testified to the Senate Judiciary Committee that the Bureau has a maintenance and repair backlog of about \$3 billion.²⁵

Immigration detention facilities with which DHS contracts must comply with U.S. Immigration and Customs Enforcement (ICE) immigration detention standards, including providing access to medical and mental health care, access to counsel, language access, access to religious opportunities, a process for reporting and responding to complaints, and limitations on solitary confinement.²⁶ Troubling reports indicate that BOP is not observing ICE detention standards,²⁷ which reflect the appropriate conditions for the unique nature of civil immigration detainees. Indeed, given the staffing, infrastructure, and resource challenges that BOP faces, BOP facilities cannot be expected to rapidly adapt to meet such standards—and as a result they will likely again face challenges regarding unconstitutional conditions of confinement.

Until serious funding and staffing challenges outlined above are addressed, federal prisons simply cannot safely and humanely meet the needs of its current inmate population, much less the needs of civil immigration detainees. Immigration detainees in federal prisons will face substandard conditions and care and their detention will only exacerbate significant institutional problems facing the Bureau.²⁸ We therefore urge you to reconsider this plan and instead work with us to address BOP's existing challenges.

We look forward to your prompt response.

Sincerely,



Richard J. Durbin
United States Senator



Adam B. Schiff
United States Senator

²⁵ Senate Judiciary Committee Hearing “Examining and Preventing Deaths of Incarcerated Individuals in Federal Prisons” February 28, 2024, at 00:30:45.

²⁶ U.S. Immigration and Customs Enforcement, Detention Standards, <https://www.ice.gov/factsheets/ice-detention-standards> (last updated August 8, 2023).

²⁷ See Eric Katz, *Federal prisons to house ICE detainees as Trump furthers immigration crackdown*, Government Executive (Feb. 7, 2025), <https://www.govexec.com/management/2025/02/federal-prisons-house-ice-detainees-trump-furthers-immigration-crackdown/402850/> (Bureau employees report they are receiving no additional training related to detaining immigrants and it remains unclear whether BOP policies would apply and what rights detainees have).

²⁸ Michael R. Sisak, *Federal Prisons Being Used to Detain People Arrested in Trump's Immigration Crackdown*, AP (Feb. 5, 2025), <https://apnews.com/article/immigration-federal-prisons-trump-25d676a6ebbf139ae04a75cd91be7e8>.



Sheldon Whitehouse
United States Senator



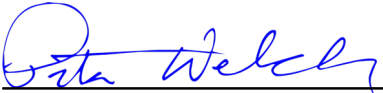
Mazie K. Hirono
United States Senator



Cory A. Booker
United States Senator



Alex Padilla
United States Senator



Peter Welch
United States Senator

cc: The Honorable Charles E. Grassley
Chairman, Senate Committee on the Judiciary