



U.S. OFFICE OF SPECIAL COUNSEL
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The Special Counsel

July 29, 2025

The President
The White House
Washington, D.C. 20500

Re: OSC File No. DI-24-001615

Dear Mr. President:

I am forwarding to you a report transmitted to the Office of Special Counsel (OSC) by the Department of Justice (DOJ) in response to the Special Counsel's referral of a disclosure of wrongdoing at the Federal Bureau of Prisons (BOP), Federal Correctional Institution Beckley (FCI Beckley), Beckley, West Virginia. OSC has reviewed the disclosure, the agency report, and the whistleblower comments, and, in accordance with 5 U.S.C. § 1213(e), I have determined that the findings appear reasonable.¹ As summarized below, the agency did not substantiate the allegations.

The Allegations

The whistleblower, ██████████, Correctional Counselor, who consented to the release of his name, alleged that FCI Beckley officials are violating the Federal Prison Oversight Act of 2024 (the Act) by assigning non-custody officers to correctional officer posts for more hours than permitted each week under the Act. ██████████ explained that due to chronic understaffing of correctional officers, FCI Beckley officials assign him and other non-custody officers² to mission critical correctional officer positions on a routine basis, which is a common BOP practice known as augmentation. ██████████ explained that excessive augmentation at FCI Beckley results in non-custody officers spending less than 90 percent of their work weeks in their primary positions in violation of the Act. ██████████ further asserts that FCI Beckley's use of augmentation prevents non-custody officers from performing their normal duties, which include implementing BOP programs, such as those required by the First Step Act.³ ██████████ stated

¹ This matter was referred to then-Attorney General Merrick B. Garland for investigation pursuant to 5 U.S.C. § 1213(c) and (d). The BOP Senior Counsel from the Office of the Director investigated the allegation. Then-Attorney General Garland delegated the authority to review and sign the report to then-Associate Deputy Attorney General Bradley Weinsheimer.

² Non-custody officers include employee positions such as chaplains, electricians, teachers, nurses, and psychologists.

³ First Step Act of 2018, Pub. L. 115-391, 132 Stat. 5194 (2018).

these programs are mission critical because they are designed to ensure that inmates have the skills necessary to successfully re-enter society upon release.

DOJ's Report

DOJ did not substantiate the allegations. On July 25, 2024, Congress passed the Act, which requires that, upon or after the Act's effective date, the BOP implement a directive limiting augmentation.⁴ The directive, which is found in the joint explanatory statement following the Consolidated Appropriations Act passed on December 29, 2022, requires the BOP to limit augmentation by "ensur[ing] that non-custody correctional employees spend 90 percent of their work week in their primary positions."⁵ However, although enacted, the effective date for the Act is contingent upon specific appropriations from Congress, which have not yet been made. As a result, the DOJ determined that the BOP's current practices and procedures concerning augmentation do not violate any laws, rules, or regulations. Further, the DOJ determined that augmentation is necessary to fill mission critical correctional posts needed to ensure safety and security at all BOP correctional institutions.

The DOJ also noted its efforts to recruit and retain qualified BOP employees, including: offering recruitment and retention incentives; receiving approval for direct hiring authority for correctional officers; and seeking a special salary rate for correctional officers.

The Whistleblower's Comments

██████████ questioned the agency's determination that Congress has not provided appropriations to implement the augmentation restrictions within the Act because the agency has increased its hiring and recruiting efforts. Also, ██████████ disagreed that the joint explanatory statement for Public Law 117-328 does not have the same force and effect as statutory text within the December 2022 appropriations act and noted that other BOP institutions adhere to the augmentation restrictions.

The Special Counsel's Findings

I thank ██████████ for bringing his allegations and concerns regarding augmentation to OSC. It is well-recognized, including in the DOJ report, that the BOP is in the midst of a chronic staffing shortage.⁶ Although augmentation is permitted to provide some relief for the agency, it

⁴ Federal Prisons Oversight Act, Pub. L. No. 118-71, §2(c), 138 Stat. 1501-1502 (2014) (stating, "[o]n and after the effective date of this Act, the Bureau of Prisons shall implement the directive in the second sentence on the topic 'Augmentation' in the matter under the heading 'SALARIES AND EXPENSES' under the heading 'FEDERAL PRISON SYSTEM' in the joint explanatory statement accompanying Public Law 117-328.>").

⁵ See Staff of H.R. Comm. on Appropriations on H.R. 2617/Pub. L. 117-328, 117th Cong., Legislative Text and Explanatory Statement 296-297 (Comm. Print 2023).

⁶ Sen. Comm. on the Judiciary Hearing "Oversight of Federal Bureau of Prisons" (Sept. 13, 2023); Sen. Comm. on the Judiciary Hearing "Examining and Preventing Deaths of Incarcerated Individuals in Federal Prisons" (Feb. 28,

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brings with it significant shortcomings and conflict; it is both a necessary recourse to maintain appropriate staffing and a detrimental remedy that leaves BOP employees exhausted and substantially burdened by its demands.⁷ Moreover, augmentation hinders the ability of BOP employees to implement rehabilitation programs that are needed to aid inmates in successful reentry to society.⁸

I commend the agency's prioritization of retention and recruitment and note that it has led to increased hiring. Hopefully, these heightened efforts and other appropriate steps will enable the BOP to cure the persistent low-staffing and reliance on augmentation as well as mandatory overtime, but, as DOJ Office of the Inspector General previously recognized, "much work remains to be done."⁹

As required by 5 U.S.C. § 1213(e)(3), I have sent copies of this letter, the agency report, and the whistleblower comments to the Chairmen and Ranking Members of the Senate and House Committees on the Judiciary. OSC has also filed redacted copies of these documents and the letter referring the matter to the Attorney General in our public file, which is available online at www.osc.gov. This matter is now closed.

Respectfully,



Charles N. Baldis

Senior Counsel and Designee

of Acting Special Counsel Jamieson Greer

Enclosures

2024); Sen. Comm. on the Judiciary, Subcomm. on Criminal Justice and Counterterrorism Hearing "The Nation's Correctional Staffing Crisis: Assessing the Toll on Correctional Officers and Incarcerated Persons" (Feb. 28, 2024). See also U.S. Department of Justice (DOJ), Office of the Inspector General (OIG), Evaluation of Issues Surrounding Inmate Deaths in Federal Bureau of Prisons Institutions, Report No. 24-041, 67-71, available at <https://oig.justice.gov/sites/default/files/reports/24-041.pdf>.

⁷ *Id.*

⁸ *Id.*

⁹ DOJ OIG evaluated BOP's efforts in its 2024 year-end report: "While BOP has become much more effective at recruiting, hiring, and retaining its staff, much work remains to be done. BOP offers some of the lowest salaries of any law enforcement entity – often dramatically lower than its state-level counterparts. For example, the New York City Department of Corrections advertised that an NYC corrections officer earned an average of \$130,000 after three years. That same officer with the same tenure at BOP would earn only \$114,000, and only after receiving a 35% retention incentive. With similar salary gaps throughout its system, it is obvious why BOP has struggled to address its staffing shortages." DOJ OIG, Top Management and Performance Challenges Report – 2024, 44, available at <https://oig.justice.gov/sites/default/files/2024-11/TMPC-2024.pdf>.