



Office of the Inspector General  
United States Department of Justice

Statement of Michael E. Horowitz  
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*before the*

U.S. Senate  
Committee on Homeland Security and Governmental Affairs  
Permanent Subcommittee on Investigations

*concerning*

"Sexual Abuse of Female Prisoners in the Custody of the Federal Bureau of Prisons"

December 13, 2022

Chairman Ossoff, Ranking Member Johnson, and Members of the Subcommittee:

Thank you for inviting me to testify at today's important hearing regarding sexual abuse of female inmates in the custody of the Federal Bureau of Prisons (BOP). The Department of Justice (Department or DOJ) Office of the Inspector General (OIG) investigates allegations of criminal and serious administrative misconduct by all Department employees, with the exception of certain misconduct by DOJ lawyers. The OIG's oversight authority includes wrongdoing by BOP personnel who are accused of sexually assaulting inmates. There is no clearer reminder of the importance of our work than the testimony we heard from Ms. Delarosa, Ms. Moore, and Ms. Richardson. My office will continue to prioritize sexual assault investigations to hold accountable any BOP official who abuses an inmate. Indeed, just last week, a jury in California convicted the former Warden at Federal Correctional Institution (FCI) Dublin on all 8 charges brought against him, including multiple sexual assault offenses. As I discuss later in my testimony, the former warden oversaw a toxic culture at FCI Dublin, which prompted my office, working with the FBI and the U.S. Attorney's Office for the Northern District of California (USAO), to conduct a widespread sexual misconduct investigation at the prison. To date, this investigation has resulted in criminal charges against 5 BOP personnel from Dublin and we continue to actively and aggressively investigate additional allegations.

Through these investigations, and our inspections, evaluations, audits, and reviews of BOP programs and operations, the OIG plays a critical role in helping the Department ensure that all BOP institutions are safe and secure for each of the approximately 159,000 inmates in federal custody. My office is committed to continuing to bring to justice anyone who violates the trust placed in them by the BOP and the American public by exploiting those in BOP custody and engaging in the horrific conduct described during the first panel.

The OIG recently had the opportunity to provide information about our past findings and concerns regarding the BOP's and DOJ's handling of sexual assault allegations to the working group created by the Deputy Attorney General to review the BOP's and DOJ's response to sexual misconduct by DOJ personnel. The OIG contributed to the efforts of the Working Group by meeting several times with its members and providing input on drafts of the recommendations. On November 2, 2022, the Working Group issued a Report and Recommendations, which the OIG supports and commends. Among the many important and positive recommendations from the working group was the implementation of a new chain of command for BOP's internal investigators, who will now report to the Office of Internal Affairs (OIA) instead of the warden at the facility they are investigating. Additionally, the working group recommended that Department prosecutors enhance their efforts to criminally pursue BOP sexual assault cases, which will have a positive impact on our investigative efforts and hopefully result in a higher number of OIG investigations resulting in criminal prosecution.

The experiences of Ms. Delarosa, Ms. Moore, Ms. Richardson, and all of the other victims of sexual assault and violence in BOP custody should deeply sadden all of us and redouble our efforts to prevent such heinous acts. There are three fundamental principles that guide our investigative work in this area: first, no inmate in federal custody should be subjected to sexual or physical assault while incarcerated. Second, Justice Department personnel, including those working in any capacity at federal prisons, have an obligation to uphold the law. Third, any DOJ personnel who violate their oath of office must be held fully accountable for their actions.

The Department is collectively responsible for both enforcing criminal laws and ensuring the care and protection of individuals in federal custody. In view of the Department's law enforcement mission, it is all the more abhorrent when its employees engage in criminal conduct at their workplace. I know nothing we say or do at this hearing can adequately address the harm Ms. Delarosa, Ms. Moore, and Ms. Richardson suffered, and I can only imagine the courage and strength it required for them to share their experiences again here today. I hope the investigations and prosecutions provided each of you with at least some sense of closure, and perhaps some sense of justice when those responsible for the crimes committed against you were held accountable in a federal court. I thank the subcommittee for giving me the opportunity to address this important topic and participate in this important hearing with these courageous victims.

The first part of my testimony today will discuss several of our completed criminal investigations of BOP personnel, and the recurring issues we have observed in those cases. The second part of my testimony will discuss areas my office has identified that need to be improved so the OIG and the Department are better positioned to address the challenge of preventing sexual assault in federal prisons. I also will discuss several internal reforms and proactive measures my office has taken, or is in the process of taking, as well as recommendations for the Department and Congress to consider. This includes a candid discussion of the resource constraints that severely limit the number of BOP investigations that my office can initiate.

## **I. OIG Sexual Assault and Misconduct Investigations**

I want to start by commending the investigative work done each year by our criminal special agents, who hold accountable the BOP staff who assault those entrusted to their care and supervision. Over the last seven years, our agents have substantiated hundreds of misconduct allegations against BOP personnel, including 53 cases of sexual assault and related misconduct. Forty of those 53 cases were accepted for prosecution, including the cases that led to the criminal convictions of the 3 BOP officers who assaulted Ms. Delarosa, Ms. Moore, and Ms. Richardson. These 53 cases do not include many dozens of additional substantiated cases involving contraband introduction and bribery, which are often connected to instances of sexual abuse as corrupt BOP staff use contraband to groom inmates for sex. Each year, our BOP investigative work in all misconduct matters, which

also includes physical abuse of inmates, results in approximately 100 criminal convictions and administrative actions of BOP staff. I would like to highlight some of our cases that resulted in prosecution to show several of the patterns that emerged from our investigative work.

*Leadership Failures at an Institution May Result in Multiple Instances of Sexual Assault at the Same Facility*

Too often, we have seen clusters of sexual assault and abuse cases arise at the same facility, occurring at the same time, carried out by multiple individuals, with far too many victims. Most notably, as I referenced in my introduction, the OIG, in partnership with the FBI and the USAO, has an ongoing investigation of alleged widespread sexual assaults between 2018 and 2021 by numerous BOP officials against inmates at FCI Dublin, an all-female prison in California. To date, our ongoing investigation has resulted in 5 employees at FCI Dublin being charged criminally, including the former warden who just last week was convicted by a jury on 8 separate charges, including multiple counts of sexual abuse, illegal sexual contact with inmates, and lying to investigators. In addition, the former Dublin prison chaplain received an 84 month prison sentence after pleading guilty to repeatedly sexually abusing an incarcerated female and then lying to OIG agents about his misconduct. Further, two Dublin correctional officers have pled guilty and are awaiting sentencing, and another Dublin correctional officer has been indicted and is awaiting trial. We continue to aggressively pursue numerous additional allegations from victim-inmates about sexual assault at the prison, and we are working diligently with the FBI and USAO to ensure that all wrongdoers are brought to justice.

This is not the first time the OIG has seen a group of cases arise from one facility. For example, between 2017 and 2020, the OIG investigated multiple criminal sexual abuse cases at Metropolitan Detention Center (MDC) Brooklyn, resulting in the convictions of 2 lieutenants and one correctional officer. The common theme in the MDC Brooklyn prosecutions was the brazen nature of the assaults, which in some cases were carried out in common spaces where the assaults could be witnessed by others at the institution. Yet, because of threats made to the victims and other acts of intimidation, it took far too long for these allegations to reach the OIG and for the violators to be held accountable.

The role of senior BOP supervisors and officials in these horrific crimes, including the warden and chaplain at FCI Dublin, and two lieutenants at MDC Brooklyn, in addition to the public nature of the crimes at that facility, raise serious questions about the ability of the BOP to identify problematic institutions before they reach such a critical state. Indeed, as you heard from Ms. Moore, her assailant was a captain, a high-ranking officer at the Federal Prison Camp at Alderson, who was sentenced to 10 years in prison for sexually assaulting multiple female inmates, including Ms. Moore.

These investigations, in addition to our pending investigative work at the Metropolitan Correctional Center (MCC) New York and U.S. Penitentiary (USP) Atlanta, which has been informed by the Subcommittee's own outstanding investigative efforts, prompted us to examine the process by which the BOP identifies critical challenges at its institutions, and the process by which BOP leadership addresses such challenges. We are nearing completion of our work and we look forward to briefing the Subcommittee in the coming months on what I anticipate will be important findings and recommendations.

*BOP Staff in Positions of Trust Have Exploited those Positions to Sexually Assault and Abuse Incarcerated Persons*

I previously noted the recent sentencing of the prison chaplain at FCI Dublin. According to court documents, the chaplain exploited his position at Dublin by using Biblical parables and his victim's religious beliefs to manipulate her and coerce her into submitting to him. The chaplain committed sexual assault in the chapel office, and also told the victim that no one would believe her if she reported his abuse because she was an inmate and he was a chaplain. Unfortunately, this is not the first prison chaplain that the OIG has investigated and ultimately been found to have engaged in criminal activity. For example, in 2019, the former prison chaplain at FCI Berlin, in New Hampshire, was sentenced to 40 months for smuggling drugs into the prison and accepting bribes, although his crimes were not connected to any sexual assaults or abuse of female inmates.

Separately, we have seen prison staff in other positions of trust exploit them while working with female inmates. Recently, a drug treatment specialist at Federal Medical Center (FMC) Lexington was sentenced to 80 months in prison for sexually assaulting four women, each of whom was enrolled in his drug treatment classes. These victims were particularly vulnerable, on account of their need for drug treatment, and like the Dublin chaplain, the counselor exploited his position to abuse his victims. In its ongoing assessments of staffing needs within its institutions, the BOP must consider how to assess the risks associated with these unique positions of trust so that pastoral, educational, counseling, and treatment, as well as other positions of trust between BOP staff and inmates are not abused.

*Sexual Assault Crimes are Often Connected to other Criminal Activity, Such as Contraband Introduction and Bribery*

To address the chronic problem of sexual abuse of inmates in BOP facilities, a focus must be on curbing staff's ability to introduce contraband into these facilities. Too frequently, our investigations have identified BOP staff using contraband, including cell phones, cigarettes, and drugs to groom and develop relationships with inmates and subsequently assault them. In one of the MDC Brooklyn investigations we conducted, at sentencing, the Court noted that the defendant, who was sentenced to 120 months in prison after being convicted of sexual assault, contraband smuggling, and bribery, "hit the trifecta of corruption at the MDC." The Court further noted that the defendant "chose to abuse the

trust that had been placed in him as a correctional officer at the Bureau of Prisons in every way he possibly could. He did it to satisfy his greed by accepting thousands of dollars to smuggle in drugs, not just one drug but four different types of drugs, and he abused his trust to satisfy his own sexual desires.” Similarly, in the case of the drug treatment specialist at FMC Lexington I previously mentioned, although the plea agreement addressed only his sexual assault of victims in his drug clinic, the employee was also indicted for providing contraband, including suboxone, alcohol, and cigarettes, to inmates at FMC Lexington.

In a 2016 report, the OIG found significant issues with the BOP’s contraband interdiction efforts, including deficiencies in the BOP’s staff search policy and the need for an upgraded security camera system. The OIG’s four recommendations to strengthen the BOP’s staff search policy to more effectively deter the introduction of contraband remain open and unimplemented. For nearly 20 years, we have repeatedly informed the BOP and the Department that it is imperative that the BOP strengthen and finalize this policy. Finalizing a revised staff search policy will not only make BOP institutions more secure, it will also help to prevent sexual assault that is connected to contraband introduction.

Given the frequency with which we see a connection between contraband introduction and sexual assault in prisons, we believe Congress should consider making all cases of contraband smuggling by a BOP employee a felony. While it is currently a felony to smuggle a weapon and certain controlled substances into a federal prison, it is only a misdemeanor to smuggle a cell phone, tobacco, cash, alcohol, and many other items used to facilitate other criminal activity into federal prisons. In my view, Congress should revisit those misdemeanor penalties in Section 1791 of Title 18, particularly when the offense is committed by a BOP employee. In addition to the Deputy Attorney General’s instruction to prosecutors to prioritize BOP sexual assault cases, this change could encourage more prosecutions in cases in which the OIG substantiates contraband smuggling, particularly where it is related to other suspected wrongdoing, but because the current penalty is a misdemeanor, they may not meet a prosecutor’s threshold for bringing criminal charges. Further, it is my understanding that a misdemeanor conviction, including for contraband smuggling, does not automatically disqualify a BOP employee from retaining their BOP employment. I would be pleased to work with the Subcommittee on potential legislation to address this problem.

*BOP Assaults Frequently Occur in Areas of Facilities where BOP Staff Know Cameras Are Not Present*

The OIG has consistently informed the BOP and the Department of the critical importance of addressing the inadequate and outdated camera coverage in BOP facilities, including in the same 2016 contraband report mentioned above and in a Management Advisory Memorandum issued in 2021. Follow-through by the BOP on this issue is needed to prevent corrupt correctional officers or other BOP personnel from taking advantage of

blind spots in camera coverage to sexually and physically assault inmates. I thank Chairman Ossoff for securing Senate passage of S. 2899, the bipartisan Prison Camera Reform Act of 2021, which was co-sponsored by Senators Durbin and Grassley. That proposed legislation brought greater visibility and urgency to the need for the BOP to transition all of its facilities from outdated analog cameras to an updated, fully digital video surveillance camera system with improved video quality, coverage, and other functionality. Although the BOP is making some progress in this area, it and the Department have not fully addressed the strategic challenges of its camera deficiencies. Action by the BOP on its camera deficiencies is absolutely critical to the BOP's ability to ensure the safety and security of its institutions for inmates as well as its employees.

In one recent case, which was described in painful detail by Ms. Delarosa, the BOP correctional officer who assaulted her and others at FCI Lexington admitted to grabbing a victim as she attempted to exit an office space and placing himself between her and the door so he could monitor the hallway through a window. The correctional officer proceeded to sexually assault the victim, knowing there were no cameras in the vicinity. Similarly, the correctional officer who sexually assaulted Ms. Richardson and others at MCC New York selected the locations for the sexual assaults based on his knowledge of the lack of video surveillance coverage in those areas.

Although these correctional officers received significant sentences for their crimes, it is possible that these tragic offenses and many other crimes committed in BOP facilities could have been avoided or deterred if the BOP prioritized updating its camera coverage at all facilities. And, although our investigations resulted in plea agreements and significant sentences in these cases, in large part due to the bravery of Ms. Delarosa, Ms. Richardson, and the other victims who aided our investigations, there have been many others where the lack of camera coverage prevented the OIG from substantiating sexual assault allegations or resulted in the Department not pursuing criminal charges. For example, as we noted in our 2021 Management Advisory Memorandum, a correctional officer was criminally charged following the OIG's investigation of allegations that the correctional officer sexually assaulted an inmate on two separate occasions. While there was some video footage that was helpful at trial, there were no cameras in the areas where the alleged assaults occurred. The correctional officer was convicted of making false statements but acquitted of four criminal charges—deprivation of rights under color of law, aggravated sexual abuse, and two counts of sexual abuse of a ward.

We continue to press these concerns with the BOP and the Department, and as our Memorandum concluded, an effective security camera system is essential for deterring misconduct at BOP facilities, including sexual assault.

## **II. Internal and External Reforms to Better Position the OIG and the Department to Address the Chronic Challenge of Sexual Assault in Federal Prisons**

As we continue to investigate dozens of BOP sexual assault and misconduct cases annually, and learn from the issues that arise in these investigations, we know that we can do more to proactively identify problematic institutions and staff, and ensure consistency in our review of all incoming complaints of sexual assault. As we implement internal changes to improve our efforts to investigate and prevent sexual assaults in the BOP, it is also important to acknowledge the obstacles, primarily resource related, that prevent us from doing even more.

*We Have Modified our Internal Processes and Training to Improve our Initial Assessment of Sexual Assault Allegations*

First and foremost, we need to ensure that every allegation of sexual assault that is brought to the OIG receives full and careful consideration. To this end, I have repeatedly emphasized the importance of BOP sexual assault cases to our Investigations Division, as has our Assistant Inspector General for Investigations. In the Spring of 2022, our Investigations Division modified its process for assessing BOP sexual assault and harassment complaints by requiring OIG Field Office Special Agents in Charge (SACs) to specifically note in our case management system whether they had reviewed an incoming complaint and determined whether there had been any other complaints involving the same subject. Multiple complaints involving sexual assault perpetrated by the same subject is often an indication of a problem. And, although checking a subject's complaint history was typically done by our Field Office personnel prior to Spring 2022, this added level of accountability is the type of reform that we recommend routinely to Department components to ensure consistency and to avoid human error. Additionally, since the end of 2021, all of our criminal Special Agents have been required to take the "Investigating and Prosecuting Law Enforcement Sex Crimes" 3-part training series conducted by the Department's Civil Rights Division.

The Subcommittee flagged a series of sexual assault allegations from FCI Coleman that were reported to our office, beginning in 2011, which we referred back to the BOP for internal investigations. After discussing these cases with the Subcommittee, my senior staff and I carefully reviewed the allegations. Had we received these allegations today, because of the proactive steps we have taken and our increased prioritization of sexual assault allegations, I believe we would have opened criminal investigations in many of the cases. Because of staff turnover, we cannot reconstruct the specific reasons that these cases were referred back to the BOP rather than opened for criminal investigation by the OIG. However, there are many factors that impact our decision regarding whether to open an investigation, and resource considerations are always a factor, which I will discuss in more detail. Nevertheless, on account of the changes that we have made to our internal processes, our prioritization of BOP sexual assault cases, and the trend analysis that I describe directly below, I am confident that our review process will ensure that we accept for investigation, subject to our resource and evidentiary limitations, allegations of serial abuse by individual employees and by multiple employees at a particular institution.



*We Are in the Process of Developing a Data Analytics Tool to Help us Identify Patterns of Misconduct that May Otherwise Go Undetected*

In addition to emphasizing the importance of sexual assault cases to our Field Offices and making changes to ensure consistency in how sexual abuse allegations are assessed, we need to be able to better analyze available data to allow us to identify patterns of misconduct that may otherwise go undetected. This process is underway. I have asked our Investigations Division to work with our Office of Data Analytics to improve our database queries to identify spikes in misconduct cases at institutions and multiple allegations against the same staff member. I am confident based on my initial review of data that this tool will help our office more timely identify problems at particular institutions or with particular individuals, including the type of activity that took place at FCI Coleman. I look forward to updating the Subcommittee as we gain experience with this initiative.

In addition to our use of data analytics to identify patterns of misconduct, earlier this year, our Evaluation and Inspections Division developed new protocols, methodologies, and a site selection tool to conduct risk-based inspections of BOP facilities. Subject to the availability of additional funding, our Evaluation and Inspections Division is prepared to launch a dedicated inspections program for routine, in-person, unannounced inspections of BOP facilities to supplement our BOP investigations, evaluations, audits, and other oversight. Open staff discipline cases and misconduct complaints, in addition to Prison Rape Elimination Act compliance, will be some of the factors used to identify institutions that are most in need of inspection. As we look to move forward with this program in the next fiscal year, subject to the availability of resources, we support S. 4988, the bipartisan Federal Prison Oversight Act, introduced by Chairs Ossoff and Durbin, and Senator Braun, as well as an identical bipartisan bill introduced in the House of Representatives, H.R. 9009, which would require the OIG to establish a risk-based inspection program, and authorize appropriations for this initiative.

*Resource Considerations*

The OIG is working with our appropriators to secure additional resources to enable the OIG to devote an even greater percentage of our resources to BOP sexual assault and misconduct investigations. The OIG oversees the Department's roughly \$32 billion budget and 115,000 employees with our 500 person staff and our \$110 million budget. The BOP is the Department's largest employer, with nearly 35,000 employees, and has the second largest budget, which was \$7.8 billion in fiscal year 2021. It currently houses nearly 160,000 inmates at 122 BOP-managed federal prisons (institutions) and in contracted Residential Reentry Centers and home confinement.

The OIG already commits nearly 50% of our investigative resources to BOP oversight – even though BOP employees make up about 30% of DOJ personnel. We typically have

approximately 550 open misconduct cases at any given time across the entire Department, about half of which involve BOP misconduct. In addition to cases for which we opened an investigation, we processed and vetted over 12,500 non-frivolous complaints in fiscal year 2022, almost 9,000 of which were related to the BOP.

Currently, our Investigations Division has approximately 113 supervisory and non-supervisory criminal special agents. That means that we have the equivalent of 56 OIG agents to cover our BOP case load from the 122 BOP prisons, and 56 OIG agents to handle cases involving all other components of the Department, including the FBI, ATF, DEA, and USMS. Yet, despite this already considerable dedication of OIG resources to BOP work, we know that the BOP needs more independent investigative oversight. However, dedicating additional existing OIG resources to BOP matters would necessarily mean less OIG oversight of the FBI, ATF, DEA, USMS, and all the other DOJ components. Given the significance and importance of our non-BOP investigative work, I simply am not in a position to reduce our efforts in those areas.

To add some perspective to the OIG's capacity and the need for additional investigative resources, our Miami field office, which has FCI Coleman under its area of responsibility, covers Florida, Alabama, Georgia, Mississippi, South Carolina, Tennessee, Puerto Rico, and the U.S. Virgin Islands. This region includes 24 BOP facilities, with a total of 29,080 inmates. Our Miami Field Office has approximately 14 supervisory and non-supervisory agents to work on all of our DOJ misconduct cases in the region, and they currently have approximately 60 open BOP cases. In fiscal year 2022, the SAC in our Miami Field Office was responsible for vetting 2,000 complaints (BOP and non-BOP) that are under that office's area of responsibility. Similarly, our Dallas field office, which covers Texas, Arkansas, Louisiana, New Mexico, and Oklahoma, and includes 22 BOP facilities with a total of 27,844 inmates in its area of responsibility, has approximately 14 supervisory and non-supervisory agents to work on all of our DOJ misconduct cases in the region. The SAC of this office was responsible for vetting 2,300 complaints (BOP and non-BOP) that are under that office's area of responsibility in fiscal year 2022.

We have learned that one way to be able to meet our growing responsibility without commensurate additional resources is to leverage data analytics. As I noted earlier in my testimony, we are utilizing our analytical capabilities to identify problematic institutions and individuals to help aid our investigative efforts and our complaint processing and triage. Notwithstanding these and other efforts to be more efficient with available resources, we have requested from our appropriators an additional 16 staff to create an interdisciplinary BOP oversight team, which would increase both our capacity to conduct more BOP misconduct investigations and the effectiveness and quality of all of our BOP oversight efforts. If fully funded this year, our interdisciplinary team would enhance the OIG's existing BOP oversight by:

- increasing the number of BOP misconduct complaints, including sexual assault, that we can accept for investigation on an annual basis;
- increasing our capacity to respond to requests and inquiries from various stakeholders, including Members of Congress and Department leadership;
- allowing us to establish a proactive BOP inspection program informed by ongoing investigations, audits, risk assessments, and other related work; and
- hiring a victim-witness advocate, who would not only provide needed support to victims but would enhance our investigators' ability to work with victims and effectively conduct their investigations.

We are grateful for, and have been extremely encouraged by, the support our appropriators have given to our office over the years, and for this initiative. We also understand that the appropriations process and Congress itself is subject to important competing priorities and resource considerations that may preclude full funding of our request. With or without these additional resources, we will continue to conduct aggressive oversight of the BOP to address these significant problems.

This concludes my prepared statement, and I am pleased to answer any questions the Committee may have.