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**STATEMENT OF
SHANE FAUSEY
NATIONAL PRESIDENT
COUNCIL OF PRISON LOCALS**

BEFORE THE

**COMMITTEE ON JUDICIARY
UNITED STATES SENATE**

“Oversight of the Federal Bureau of Prisons”

**PRESENTED:
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**Statement of
Shane Fausey
National President
Council of Prison Locals
Committee on Judiciary
United States Senate**

Good morning, Chairman Durbin, Ranking Member Grassley, and Members of the Committee. I am pleased to offer the following statement related to the Council of Prison Locals, the Federal Bureau of Prisons, and the staffing crisis we currently face within our agency.

I am honored to represent and speak on behalf of the nearly 30,000 bargaining unit Bureau of Prisons (BOP) employees – professionals who go to work in America’s penitentiaries and prisons every day. In the face of adversity and some of the most violent ‘cities’ in the country, they keep us all safe from some of the world’s most dangerous human beings. Throughout this pandemic, the dedicated Federal Law Enforcement personnel have continued to work to provide institutions that are safe for the inmates, staff, and most importantly the communities surrounding these Federal Prisons.

STAFFING ISSUES EXACERBATED BY COVID-19

It was our concern, at the beginning of this pandemic, that the Bureau of Prisons would not be prepared and most importantly be proactive when dealing with what could happen to the inmates, the staff, and communities associated with Federal Facilities.

The Federal Bureau of Prisons has been in the midst of a staffing crisis that did not just begin with the hiring freeze of January 2017. It began with the ‘mission critical’ cuts in 2005, which eliminated more than 10% of all Correctional Officer posts. For almost two decades we have warned of the ominous results of underfunding and staffing reductions. The initial mission critical cuts eliminated the second officer in most housing units across the agency. This elimination directly resulted in the isolation of both Officers Jose Rivera (2008 USP Atwater, Ca) and Eric Williams (2013 USP Canaan, Pa) in some of America’s most dangerous penitentiaries. This isolation and ‘budget’ cuts resulted in the murder of both Jose and Eric. The hiring freeze of January 2017 saw the elimination of more than 6,100 additional positions agency wide, plummeting most Correctional Services compliments below 80% of the authorized positions at the time. In January 2016, authorized positions were 43,369. These archaic cuts eliminated whichever positions were vacant at the time. There was no thought analysis or prioritization of which positions were to be eliminated. In just three short months, the 80% became the new 100%. In essence, the new 100% is approximately 75% of the ‘mission critical’ levels the agency testified to be the minimum level of Officers to keep the Bureau of Prisons safe. As of March 25, 2021, there are 37,219 positions filled. All of the parties were well aware of the unpreparedness of the Bureau of Prisons even absent any ‘major’ occurrences.

The staffing crisis exacerbated this pandemic and limited the agency’s possible responses. The pre-pandemic hiring efforts by the agency were outpaced by our attrition rate and then stifled by the pandemic’s restrictions. The limited employees available, coupled with the critical shortage of Correctional Officers nationwide, has led to the misery of COVID-19. The dependence of augmentation just to function has evolved into TDY (Temporary Duty Assignments) in which a ‘National Augmentation’ became necessary in institutions wracked by COVID-19. Understaffed facilities sent TDY employees to rapidly deteriorating facilities to put fingers in the cracking

dam. In the February 2021 GAO Report titled *Bureau of Prisons Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs*, it was stated that, “In addition, we found that BOP’s use of augmentation across all BOP institutions has increased 47 percent from fiscal years 2015 through 2019.” “BOP has not assessed risks associated with its Growing Use of Overtime and Augmentation. Bureau of Prisons BOP’s six regions had an increase in augmentation usage during this same period and two of the six regions had an increase exceeding 100 percent.” This GAO report ended in 2019. If the data would be examined for 2020 during this Pandemic, the numbers would have increased at an alarming level.

Also, another alarming trend over the past several years, but even more specifically during the COVID-19 Pandemic is the dramatic increase of Overtime use within the BOP. Specifically, the abusive and punitive amount of mandatory overtime used. Mandatory overtime is where correctional officers are forced to work double shifts to cover for shortages of correctional officers. In some of our Federal Prisons, officers arrive to work their scheduled eight (8) hour shift, but are told at some point within their shift that they will be working sixteen (16) hours or more. It is routine and not uncommon for officers to work double shifts 2 to 5 times per week. Correctional officers are working up to 80 hours or more in a week instead of the 40 they are scheduled. The abuse of over time creates a dangerous situation on several levels. Correctional officers are suffering from exhaustion, which can cause safety issues when dealing with the inmate population and for the communities around the federal facilities. Also, for officers that have any commuting distance, lack of rest can lead to dangerous commutes. . In the February 2021 GAO Report titled *Bureau of Prisons Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs*, it was stated that, “BOP has practices for addressing staffing challenges, such as using overtime, but has not assessed associated risks to staff and inmate safety, such as officer fatigue and decreased observation skills. Overtime expenditures, without adjusting for inflation, have increased 102 percent from 2015 through 2019.” “Despite the year-over-year increase in its use of each practice, (Augmentation and Overtime) BOP has not conducted a risk assessment to determine the impacts on staff and inmates, especially with regard to the safety of its institutions. For example, BOP has not analyzed whether there is correlation between incidents of violence or other misconduct in the prison, including whether staff working those shifts may have been working longer than normal hours, or may have been augmented from the roles in which they most typically serve. Relatedly, BOP has also not established accepted risk tolerance levels, even though officials stated that augmentation and overtime are necessary but not ideal.” “A researcher we spoke with, who has studied the mental health effects of working in corrections, told us that working overtime often causes officer sleep deprivation, making the officer more irritable and aloof, and may even cause physical health problems as well.”

CONCLUSION

Chairman Durbin, Ranking Member Grassley, and Members of the Committee, this concludes my formal statement. I appreciate the opportunity to provide the Committee with our concerns.

As I have indicated, the staffing crisis in the Bureau of Prisons not only creates a clear and present danger to every employee, inmate, and the community at large, but it has made the response to the COVID-19 pandemic nearly impossible. The Bureau of Prisons' continual refusal to restore staffing numbers to the 2016 level, their reactive response, coupled with the ineffective oversight of OSHA and the inconsistent and ambiguous guidance of the CDC, has led to an infection rate of our employees and incarcerated individuals only second to the pandemic's ravaged effects on our nursing homes and elder care facilities. The dedicated and loyal employees of the Federal Bureau of Prisons have long prided themselves at accomplishing the missions given to them. Throughout this pandemic, they have been pushed beyond the breaking point and deserve much needed relief. They will continue to protect the American people as they always have done honorably. The BOP must be given the continued staffing resources, the budgetary support, and proper policies in place to safely protect the American public from the incarcerated individuals within the Federal Bureau of Prisons. I implore you to quickly intervene by ensuring that the Federal Bureau of Prisons comply with these directives and they immediately elevate the staffing levels across the Bureau of Prisons to the January 2016 level.