

Written Testimony of Eric O. Young, AFGE Council of Prison Locals President

Charles Colson Task Force on Federal Corrections

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Chairman Watts, Vice Chairman Mollohan, and Members of the Task Force, thank you for the opportunity to testify today. As President of the American Federation of Government Employees Council of Prison Locals, I represent more than 39,000 employees at 121 Bureau of Prisons (BOP) facilities across the country.

It goes without saying that serving as a correctional officer is an extraordinarily difficult task. Our men and women go into these facilities each day with some of the most dangerous, most hardened, criminals in the country and the world. Each day they put their lives and safety on the line to protect their communities across America and keep these offenders locked away – a task which has become increasingly more difficult over the last thirty years.

Since 1980 the inmate population within the federal prison system has grown eightfold. Today there are approximately 210,000 inmates occupying beds in BOP facilities, in privately operated prisons under contract with the BOP, and in community based facilities, up from 25,000 in 1980. This explosion in the federal prison inmate population is the direct result of Congressionally created strict drug laws with mandatory minimum sentences as well as vigorous prosecution policies by the Department of Justice targeting drug, weapons, and immigration offenders. Specifically with the passage of the Comprehensive Crime Control Act of 1984, the Anti-Drug Abuse Act of 1986, and the Omnibus Anti-Drug Abuse Act of 1988, Congressional intent to be “tough on crime” has resulted in drastically overcrowded prison facilities.

Unfortunately, funding for Bureau of Prisons operations has not kept pace with the increased inmate population. Today the BOP system is staffed at an 86% level, as contrasted with the 95% staffing percentage levels in the mid-1990s. This 86% staffing level is below the 90% staffing level that BOP believes to be the minimum staffing level for maintaining the safety and security of BOP prisons. In addition, the current BOP inmate-to-staff ratio is 4.82 inmates to 1 staff member, as contrasted with the 1997 inmate-to-staff ratio of 3.7 to 1.

Prison overcrowding is a serious problem at BOP institutions despite the activation of several new prisons over the past few years and despite recent declines in the population this past year. The BOP system today is overcrowded by 30%. Inmate overcrowding is of special concern at higher security institutions—with 52% overcrowding at high security prisons and 39% at medium security institutions.

Rigorous research has shown that both the inmate-to-worker ratio and the rate of overcrowding at an institution are directly related to increases in the rate of serious inmate assaults on correctional workers inside and outside our prisons. Illustrations of this painful reality include: (1) the savage murder of Correctional Officer Jose Rivera on June 20, 2008, by

two inmates at the United States Penitentiary in Atwater, CA; (2) the lethal stabbing of Correctional Officer Eric Williams on February 25, 2013 by an inmate at the United States Penitentiary in Canaan, PA and (3) the murder of Lieutenant Osvaldo Albarati on February 26, 2013 while driving home from the Metropolitan Detention Center in Guaynabo, Puerto Rico.

As a correctional worker I know these issues firsthand. Crowding means more of the same – cramming three inmates into a cell made for two in areas of the prison not suitable for inmate housing. Crowding means fights or disturbances over phones, showers, televisions and basketball courts. The number of simple assaults by inmates on one another has increased steadily as the population has grown, in large measure due to the frustrations they experience. Crowding has also resulted in increased inmate on inmate homicides, especially inside our high security facilities. The infrastructure at older prisons has suffered as the demand for water, heat and power continued to exceed the expected capacity. Congress simply has not provided for upkeep, as it should. The funds for repairs and maintenance have dropped drastically in past years. Our staff spend countless hours in these facilities right alongside the inmates and we suffer just as they do.

Over the past couple of decades as crowding levels approached 40% systemwide, our staff were stretched and the agency was unable to provide required programs. In 2007 and 2008 the agency could not meet the statutory mandate to provide residential substance abuse treatment of all eligible inmates. Other programs also fell short of meeting the needs of the inmate population. This was due in part because of the staff shortages that occurred daily at federal prisons around the country. Professional treatment staff (e.g., psychologists, medical professionals, teachers, etc.) were frequently called upon to work correctional jobs due to a lack of available correctional staff. This practice, known as augmentation, was a technique employed by management to operate prisons with insufficient numbers of personnel.

In the mid 1990s the BOP began relying on privately operated prisons to house tens of thousands of federal inmates, nearly all of whom were low security criminal aliens. In fact, the BOP has not built any new low security prisons since the mid 1990s and was forced to expand its use of private prisons to accommodate the huge growth in the population. Presently the Bureau has nearly 26,000 inmates in these facilities. If you are wondering about the success of this strategy, I strongly encourage you to review the recent events at the Willacy County Correctional Center in Texas over the past couple of weeks. A serious disturbance occurred among the 2800 inmates housed at that facility, which is similar to what occurred in Adams County and at the Reeves County Detention Center some time back. In Adams County, a staff member lost his life. Nevertheless, in all three cases all the inmates had to be removed from each prison after hundreds of federal, state and local law enforcement officers helped to restore order and protect the public from potential harm. Most of the prisoners were reabsorbed back into BOP facilities.

Our Council firmly believes that federal inmates belong in federal prisons where they can be properly supervised and cared for by trained professional correctional workers. As the federal inmate population declines it is our hope that Bureau would never consider closing even a single federal prison so long as inmates are being farmed out to private prisons. If and when our

crowding levels fall to a rate that would allow the agency to consider closing a prison, a contract with a private facility should be cancelled and the inmates transferred to a vacant federal prison.

In the long run, the only way to make our prisons safer it to reduce the population or increase staff and capacity. The Council strongly urges congressional appropriators to increase funding for the BOP Salaries and Expenses account so that the Bureau can hire additional staff to return to the 95% staffing levels of the mid-1990s. We also believe that a vital component to making prisons safer is to provide the necessary funding to not only open new facilities, but to renovate existing ones to reduce inmate overcrowding, particularly at high and medium security institutions.

With that said, our Council does not harbor any illusions that increasing funding will make the problem go away. We also believe that Congress must address the systemic causes of prison population growth, through sentencing reform. To make a sustained and meaningful impact on prison overcrowding Congress must act on legislation like S. 502/H.R. 920, the Smarter Sentencing Act of 2015. This legislation would modestly expand the existing federal “safety valve” with regard to mandatory minimum sentences for non-violent drug offenders.

By reducing the minimum mandatory minimum sentences for non-violent drug offenses, this legislation would allow a federal judge more discretion than he or she has now to decide the appropriate sentence in individual cases.

In addition to sentencing reform, another key component that must be addressed is the safety of our workers while on the job. This is where I believe some states have it right: issuing staff the means of protection to ensure they make it out at the end of their work day. Right now, most correctional workers in BOP are only allowed to carry two items with them while on duty: keys and a radio body alarm. Each day our men and women enter hostile environments at a drastic disadvantage – especially when they are forced to face an inmate with a homemade weapon. In order to protect workers while on the job, Congress should pass S. 238/H.R. 472, the Eric Williams Correctional Officer Protection Act. This legislation would allow correctional workers to routinely carry pepper spray to protect themselves while on the job.

BOP policy does not allow correctional workers (both officers and employees) to routinely carry pepper spray in any BOP prisons. Instead, prison wardens must authorize pepper spray use before correctional workers can use it to quell an emergency situation. Pepper spray is stored in specific locations throughout a prison, such as in secure control rooms, watchtowers in the prison yards, or prison armories outside the secure perimeter. The problem, however, is that in emergency situations where aggressive inmates - who often have homemade lethal weapons – physically attack correctional workers, there is little or no time for prison wardens to authorize the use of pepper spray and then get it to the endangered workers so they can protect themselves.

In August 2012, pursuant to a partnership initiative with our Council, the Bureau implemented a one-year pilot evaluation of pepper spray. Since that time, BOP has gradually expanded its pepper spray pilot evaluations. As recently as February 27, 2015, the Bureau again modified the pilot so pepper spray is now authorized for all staff at all high and medium security

prisons as well as at all medical centers, detention centers and jail units. The staff of the BOP will be safer as a result.

Our Council remains committed to our workers safety, and we want the security of knowing that this pilot program will not suddenly come to an end with the change of an administration. Passing the Eric Williams Correctional Officer Protection Act would eliminate this uncertainty and let all correctional workers know that Congress takes their safety seriously just like the soldiers in war. We need to be given the tools to keep us safe so that we can return home to our families at the end of each workday.

In addition to pepper spray, our Council supports S. 368, the Lieutenant Osvaldo Albarati Correctional Officer Self-Protection Act. This bill would require the warden of each BOP-operated institution to provide a secure storage area located outside of the secure perimeter of that BOP-operated institution for personal firearms carried to and from work by BOP correctional workers. Currently, BOP correctional workers (officers and staff) are unable to carry their personal firearms to and from BOP institutions because BOP management refuses to provide a place to secure those personal firearms. But many correctional workers, particularly those who work in or near large cities, want to carry their personal firearms to and from work because they have legitimate concerns that former prison inmates and others may attempt to harm them – just like Lieutenant Albarati who was gunned down after leaving work as a result of his work at the prison for busting a cell phone smuggling ring.

BOP already has a secure location to store firearms at all facilities. The FDC Guaynabo in Puerto Rico has an on-site armory where officers can secure their personal firearms. In addition, when county and local law enforcement officers transport offenders to BOP institutions, those BOP institutions provide a safe place for those non-federal law enforcement officials to secure their firearms. According to a GAO report released recently, many states do it, so why not BOP?

Another important component to making safe prisons safer is Federal Prisons Industries (FPI), an inmate work program that keep 12,468 prison inmates productively occupied, reducing inmate idleness and the violence associated with that idleness. It also provides strong incentives to encourage good inmate behavior, as those who want to work in FPI factories must maintain a record of good behavior and must have completed high school or be making steady progress toward a General Education Degree (GED).

In addition, FPI is an important rehabilitation tool that provides federal inmates an opportunity to develop marketable job skills and values that will allow them to reenter—and remain in—our communities as productive, law-abiding citizens. A multi-year study of FPI found that inmates who participated in the FPI work program were 24% less likely to recidivate than those who had not participated in the FPI work program; inmates with FPI experience were more likely to be employed as well. Unfortunately, over the past five years, FPI has experienced a 56% decline in sales revenues. As a result the number of inmate participants has declined as well: 18,972 inmates worked in FPI in FY 2009, and today only 12,468 inmates are in the program, a decline of 6,504 inmates or 34% over five years.

These significant declines are the result of the various limitations imposed by Congress and the FPI Board of Directors. The Council of Prisons was pleased in FY 2011 that Congress authorized FPI to participate in the Prison Industry Enhancement (PIE) inmate employment program designed to place inmates in a realistic work environment, pay them the prevailing local wage for similar work, and enable them to acquire marketable skills to increase their potential for successful rehabilitation and meaningful employment upon release. Congress also authorized FPI to carry out pilot “off-shore repatriation” projects to produce items not currently produced in the United States.

In conclusion, I want you to know that our correctional workers endure long, hard hours and suffer greatly keeping their communities safe. They go to work every day asking the same question other first responders ask: will I get to come home tonight? Correctional workers don't go to work to come home to their spouses, parents or their children in a bloody mess. Not only do they deserve better treatment, they have earned better treatment. They have earned it with their blood, sweat and tears –in some cases with their lives. No family should have to endure what the Rivera, Williams and Albarati families and others like them have endured. **We need commonsense reform that will keep our workers safe while they are putting it all on the line for the America people.**

I thank you again for giving me the opportunity to share our story with you today, and I hope you will join with us to make every facility across the great country a safer place to work. Thank you.