

**EMBARGOED UNTIL DECEMBER 13, 2022 5 A.M. ET**

*United States Senate*  
**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**  
*Committee on Homeland Security and Governmental Affairs*

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*Jon Ossoff, Chair*  
*Ron Johnson, Ranking Member*

**Sexual Abuse of Female Inmates in Federal Prisons**

**STAFF REPORT**

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS**

**UNITED STATES SENATE**



**RELEASED IN CONJUNCTION WITH THE  
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS  
DECEMBER 13, 2022 HEARING**

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Chair

**SENATOR RON JOHNSON**  
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**Sexual Abuse of Female Inmates in Federal Prisons**

**EXECUTIVE SUMMARY**

In April 2022, the Permanent Subcommittee on Investigations (“PSI” or “the Subcommittee”) launched a bipartisan investigation into sexual abuse of female prisoners in custody of the Federal Bureau of Prisons (“BOP”).

The Subcommittee reviewed non-public BOP and whistleblower documents, and it conducted more than two dozen interviews with senior BOP leaders, whistleblowers, and survivors of sexual abuse. The Subcommittee found:

- BOP employees sexually abused female prisoners in at least two-thirds (19 of 29 facilities) of federal prisons that have held women over the past decade.<sup>1</sup>
- BOP has failed to successfully implement the Prison Rape Elimination Act (“PREA”). It failed to prevent, detect, and stop recurring sexual abuse in at least four federal prisons, including abuse by senior prison officials. At FCI Dublin, for example, the former Warden and Chaplain both sexually abused female prisoners.
- BOP management failures enabled continued sexual abuse of female prisoners by BOP’s own employees.
- BOP Office of Internal Affairs’ (“BOP OIA” or “OIA”) investigative practices are seriously flawed. There is currently a backlog of 8,000 internal affairs cases, including at least hundreds of sexual abuse cases.<sup>2</sup>

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<sup>1</sup> There are currently 27 female facilities where BOP holds women. Since 2012, there have been two BOP facilities that were used to hold women but no longer do: FCC Coleman and MCC New York. Thus, since 2012, there were 29 BOP facilities in total that have held women. *See* Exhibit 1; Bureau of Prisons, *Our Locations* (<https://www.bop.gov/locations/list.jsp>); Email from Congressional Research Service to PSI (Dec. 9, 2022) (on file with PSI) (confirming 29 total facilities between 2012 and 2022 held female prisoners). The Subcommittee reviewed public criminal convictions and data produced by BOP concerning substantiated sexual abuse cases of prisoners by BOP employees. *See* Exhibit 1; Staff-on-Inmate Cases by Facility (2012-2021), Production from DOJ to PSI (Nov. 4, 2022) (PSI-BOPOIA-Prod4-0001-0049). The Subcommittee found sexual abuse of female prisoners by BOP employees in 19 of 29 federal facilities that held women since 2012. Because BOP did not disclose the gender of the victim of abuse in the data that it produced to the Subcommittee, the Subcommittee did not include BOP OIA substantiated sexual abuse cases in the remaining 10 of 29 facilities holding both men and women where there was no public criminal conviction. For this reason, there were abuse cases in *at least* 19 of 29 facilities, or, two-thirds.

<sup>2</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); *Lawsuit settled in which 15 women alleged sexual abuse at Florida prison*, Tampa Bay Times (May 5, 2022) (<https://www.tampabay.com/news/florida/2021/05/05/lawsuit-settled-in-which-15-women-alleged-sexual-abuse-at-florida-prison/>).

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In 2003, Congress passed PREA “to eradicate prisoner rape in all types of correctional facilities in this country” by requiring federal prisons to adopt certain policies and practices designed to mitigate the risk of sexual abuse, track allegations of sexual abuse, and protect potential victims.<sup>3</sup> Yet according to the Subcommittee’s review of court filings and non-public BOP data dating back to 2012, BOP employees have sexually abused women in their custody in at least 19 of 29—or two-thirds—of facilities where BOP incarcerates women.<sup>4</sup>

In at least four BOP facilities, multiple women endured ongoing sexual abuse for months or years.<sup>5</sup> Beginning in June 2021, the Department of Justice (“DOJ”) indicted five BOP employees at California’s Federal Correctional Institution (“FCI”) Dublin—including the Warden and the Chaplain—for repeated sexual abuse of at least eight female prisoners under their supervision.<sup>6</sup> The horrific abuse at FCI Dublin was not unique among BOP’s prisons. BOP failed to detect and prevent repeated sexual abuse in at least three other facilities before FCI Dublin.

- Starting in approximately 2012, at least two officers repeatedly sexually abused at least eight female prisoners at the Metropolitan Correctional Center (“MCC”) New York over the course of several years.<sup>7</sup>
- Starting in approximately 2016, at least two male lieutenants and one officer sexually abused at least nine female prisoners at the Metropolitan Detention Center (“MDC”) Brooklyn in New York.<sup>8</sup>

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<sup>3</sup> Bureau of Justice Assistance, *Prison Rape Elimination Act (PREA): Overview* (<https://bja.ojp.gov/program/prison-rape-elimination-act-prea/overview>).

<sup>4</sup> See footnote 1. “BOP employees” in this report includes bargaining staff, mid-level managers, and supervisors.

<sup>5</sup> See, e.g., U.S. Attorney’s Office, Southern District of New York: *Correctional Officer At Metropolitan Correctional Center Sentenced To 40 Months In Prison For Engaging In Abusive Sexual Contact With Inmates* (Dec. 8, 2020) (<https://www.justice.gov/usao-sdny/pr/correctional-officer-metropolitan-correctional-center-sentenced-40-months-prison>); Office of Public Affairs, Department of Justice: *Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates* (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>); U.S. Attorney’s Office, Eastern District of New York: *Former Federal Bureau of Prisons Lieutenant Sentenced to 25 Years in Prison for Sexual Abuse and Violation of Civil Rights Convictions* (July 31, 2019) (<https://www.justice.gov/usao-edny/pr/former-federal-bureau-prisons-lieutenant-sentenced-25-years-prison-sexual-abuse-and>); Affidavit of Keith Vann, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0135-0144).

<sup>6</sup> Lisa Fernandez, *5th officer at Dublin prison charged in widening sex abuse scandal*, KTVU FOX 2 (Mar. 24, 2022) (<https://www.ktvu.com/news/5th-guard-at-dublin-prison-charged-in-widening-sex-abuse-scandal>). *United States v. Highhouse*, No. 22-cr-000016-HSG (N.D. Cal. 2022); *United States v. Klinger*, No. 4:22-CR-00031-JSW (N.D. Cal., June 25, 2021); *United States v. Bellhouse*, No. 4:21-MJ-71905-MRGD (N.D. Cal., Nov. 30, 2021); *United States v. Chavez*, No. 4:22-CR-00104-JSW (N.D. Cal., Mar. 10, 2022); *United States v. Garcia*, No. 4:21-CR-429 (N.D. Cal. 2022).

<sup>7</sup> Benjamin Weiser, *U.S. Pays \$4.2 Million to Victims of Jail Guard’s Long-Running Sex Abuse*, New York Times (July 18, 2022) (<https://www.nytimes.com/2022/07/18/nyregion/mcc-officer-sex-abuse-victims-payout.html>); *Herrera v. United States*, 20-cv-10206 (PKC) (S.D.N.Y. Mar. 27, 2022); U.S. Attorney’s Office, Eastern District of New York: *Former Federal Correctional Officer Sentenced to Seven Years for Sexually Abusing an Inmate* (May 4, 2022) (<https://oig.justice.gov/press/2016/2016-05-04.pdf>).

<sup>8</sup> Joseph Goldstein, *Brooklyn Prison Supervisors Charged With Sexually Assaulting Inmates*, New York Times (May 25, 2017) (<https://www.nytimes.com/2017/05/25/nyregion/prison-supervisors-sex-abuse-prevention-rape->

- Starting in approximately 2012 through 2020, there were at least six male BOP employees who sexually abused at least ten female prisoners at the Federal Correctional Complex (“FCC”) Coleman in Florida.<sup>9</sup> The Subcommittee obtained copies of non-public sworn, compelled statements from officers at FCC Coleman, wherein the officers admitted to sexual abuse of female detainees in graphic detail.<sup>10</sup> DOJ’s Office of the Inspector General (“OIG”) declined to investigate these FCC Coleman officers for sexual abuse and they were never prosecuted.<sup>11</sup>

The Subcommittee found that the mechanisms that BOP employs to identify and prevent sexual abuse of female prisoners by BOP employees are ineffective. Audits intended to assess sexual abuse in prisons (known as “PREA audits”) found that FCC Coleman and FCI Dublin were compliant with every PREA standard during the time when senior BOP officials admitted to the Subcommittee that there was a “culture of abuse.”<sup>12</sup> Further, BOP failed to systematically analyze PREA data, missing a key opportunity to identify problematic facilities or employees.<sup>13</sup>

BOP OIA, the component of BOP responsible for investigating staff misconduct, has failed to timely investigate and resolve allegations of employee misconduct concerning both sexual abuse of female prisoners and other matters. The Subcommittee’s investigation uncovered that as of November 2022, BOP OIA had a backlog of approximately 8,000 cases.<sup>14</sup> Some cases have been pending for more than five years.<sup>15</sup> BOP OIA’s failures impeded BOP’s ability to hold wrongdoers accountable.

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charges.html); *United States v. Eugenio Perez*, 1:17-cr-00280-KAM (E.D.N.Y. 2018); *United States v. Martinez*, 1:17-cr-00281-ERK (E.D.N.Y. 2019); *United States v. Armando Moronta*, 17-CR-281 (E.D.N.Y. 2017).

<sup>9</sup> See Answer at ¶ 26-29, *Beaubrun v. United States*, 5:19-CV-0615-TJC (M.D. Fl. 2020) [hereinafter *Beaubrun Answer*].

<sup>10</sup> 2019 Affidavit of Christopher Palomares, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0101-0111) [hereinafter 2019 Palomares Aff.]; 2018 Affidavit of Christopher Palomares, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0112-0123) [hereinafter 2018 Palomares Aff.]; Affidavit of Daniel Kuilan, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0188-0196) [hereinafter Kuilan Aff.]; Affidavit of Keith Vann, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0135-0144) [hereinafter Vann Aff.]; Affidavit of Tracy Laudenslager, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0093-0100) [hereinafter Laudenslager Aff.]; Affidavit of Timothy Phillips, Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0124-0134) [hereinafter Phillips Aff.]; Affidavit of Scott Campbell Production from DOJ to PSI (Oct. 18, 2022) (PSI-BOPOIA-Prod2-0086-0092) [hereinafter Campbell Aff.].

<sup>11</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>12</sup> 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022); 2022 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0262-0381); 2018 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0635-0726); 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearen, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>13</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>14</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>15</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

## **Key Findings**

- 1. Over the past decade, female inmates in at least two-thirds (19 of 29) of federal prisons that held women were sexually abused by male BOP employees, including senior prison officials.** Multiple BOP employees sexually abused multiple female prisoners at MCC New York, MDC Brooklyn, FCC Coleman, and FCI Dublin.<sup>16</sup> Between 2012 and 2020, BOP has opened 5,415 internal affairs cases alleging sexual abuse of male or female prisoners by BOP employees.<sup>17</sup> There were at least 134 instances across 19 female facilities where BOP employees were either prosecuted for sexual abuse of female prisoners or where BOP OIA substantiated allegations that BOP employees sexually abused female prisoners.<sup>18</sup>
- 2. BOP failed to detect, prevent, and respond to sexual abuse of female prisoners in its custody.** BOP failed to systematically analyze PREA complaint data and relied on flawed PREA audits that missed sexual abuse of female prisoners by male BOP employees at FCC Coleman and FCI Dublin.<sup>19</sup> At FCC Coleman, BOP transferred all female prisoners out of the prison two days before the auditor's on-site inspection at a time when multiple women were being abused.<sup>20</sup> At FCI Dublin, the former PREA compliance officer, responsible for training supervisors on the PREA requirements and coordinating the PREA audit, was convicted of sexually abusing female prisoners on December 8, 2022.<sup>21</sup>
- 3. BOP failed to hold employees accountable for misconduct.** BOP has a backlog of approximately 8,000 internal affairs cases alleging employee misconduct, some of which have been pending for more than five years.<sup>22</sup> OIA's failure to clear pending cases impedes BOP's ability to hold employees accountable.
- 4. BOP failed to take agency-wide action to address sexual abuse of female inmates by male BOP employees.** In interviews with the Subcommittee, BOP could not identify any agency-wide actions it had undertaken in response to sexual abuse of

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<sup>16</sup> See Exhibit 1.

<sup>17</sup> Staff-on-Inmate Cases by Facility (2012-2021), Production from DOJ to PSI (Nov. 4, 2022) (PSI-BOPOIA-Prod4-0001-0049).

<sup>18</sup> See footnote 1; Exhibit 1.

<sup>19</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022); Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022); Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022); 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI); 2022 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0262-0381); 2018 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0635-0726); 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261).

<sup>20</sup> See FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261) at PSI-BOPOIA-Prod1-000136.

<sup>21</sup> Office of Public Affairs, Department of Justice: *Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates* (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>); 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI).

<sup>22</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

numerous female inmates by multiple BOP employees at MCC New York, MDC Brooklyn, and FCC Coleman. It was only after the abuse at FCI Dublin came to light that BOP began to institute agency-wide changes.<sup>23</sup>

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<sup>23</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearen, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022); Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022); Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).



## **I. Introduction**

BOP “is responsible for the custody and care of federal inmates.”<sup>24</sup> As of November 2022, BOP held approximately 160,000 prisoners across its 122 facilities.<sup>25</sup> Approximately 11,000 were female and incarcerated in BOP’s 27 “female facilities.”<sup>26</sup> Six of the 27 female facilities hold women exclusively, and 21 hold both men and women.<sup>27</sup> Since 2012, there were two additional federal prisons that held women but no longer do: FCC Coleman and MCC New York.<sup>28</sup>

### **a. Female Prisoners Are Disproportionately Vulnerable to Sexual Abuse**

Women entering prison are more likely to have experienced physical and/or sexual abuse as children and adults, as compared to men in prison.<sup>29</sup> According to a February 2020 report by the U.S. Commission on Civil Rights, research suggests that at least 50 percent of women entering prison report that they experienced physical and/or sexual abuse before their incarceration.<sup>30</sup> They are also significantly more likely to be sexually harassed and abused while incarcerated.<sup>31</sup> According to *the National Standards to Prevent, Detect, and Respond to Prison Rape: Final Rule*, women with histories of sexual abuse—including women in prisons and jails—are particularly traumatized by subsequent abuse.<sup>32</sup>

### **b. Sexual Contact Between BOP Employees and Prisoners is a Federal Crime and Also Prohibited by BOP Policy**

Sexual abuse of prisoners in BOP custody by employees is both a federal crime and subject to BOP administrative sanctions.

18 U.S.C. § 2243(b) makes it a felony—punishable by up to 15 years of imprisonment—for a BOP employee to “knowingly [engage] in a sexual act with another person who is—(1) in official detention; and (2) under the custodial, supervisory, or disciplinary authority of the [BOP

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<sup>24</sup> Bureau of Prisons, *About Our Agency* (<https://www.bop.gov/about/agency/>).

<sup>25</sup> Bureau of Prisons, *Statistics* ([https://www.bop.gov/about/statistics/population\\_statistics.jsp](https://www.bop.gov/about/statistics/population_statistics.jsp)); Bureau of Prisons, *Locations* (<https://www.bop.gov/locations/>).

<sup>26</sup> Bureau of Prisons, *Statistics* ([https://www.bop.gov/about/statistics/statistics\\_inmate\\_gender.jsp](https://www.bop.gov/about/statistics/statistics_inmate_gender.jsp)).

<sup>27</sup> Bureau of Prisons, *Our Locations* (<https://www.bop.gov/locations/list.jsp>).

<sup>28</sup> See Email from Congressional Research Service to PSI (Dec. 9, 2022) (on file with PSI); Bureau of Prisons, *Our Locations* (<https://www.bop.gov/locations/list.jsp>).

<sup>29</sup> U.S. Commission on Civil Rights, *Women in Prison: Seeking Justice Behind Bars* (February 2020) (<https://www.usccr.gov/files/pubs/2020/02-26-Women-in-Prison.pdf>).

<sup>30</sup> U.S. Commission on Civil Rights, *Women in Prison: Seeking Justice Behind Bars* (February 2020), (<https://www.usccr.gov/files/pubs/2020/02-26-Women-in-Prison.pdf>) (citing Nancy Wolff, Jing Shi, and Jane Siegel, *Patterns of Victimization Among Male and Female Offenders and Evidence of an Enduring Legacy*, Violence Victimization, Vol. 24, No. 4 (2009) at 469-84) (<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3793850>).

<sup>31</sup> U.S. Commission on Civil Rights, *Women in Prison: Seeking Justice Behind Bars* (February 2020), <https://www.usccr.gov/files/pubs/2020/02-26-Women-in-Prison.pdf>.

<sup>32</sup> See Department of Justice, *National Standards to Prevent, Detect, and Respond to Prison Rape: Final Rule*, 77 Fed. Reg. 37,106, 37,132 (June 20, 2012) (the “2012 DOJ PREA Standards Final Notice”) (<https://www.govinfo.gov/content/pkg/FR-2012-06-20/html/2012-12427.htm>) (citing BJS, unpublished data, 2004 Survey of Inmates in State and Federal Correctional Facilities and 2002 Survey of Inmates in Local Jails).

employee] so engaging.” BOP “staff sexual relations with inmates is always illegal” as there is no “consent” defense to a violation of 18 U.S.C. § 2243(b).<sup>33</sup> As OIG explained in a 2005 report, this is because the “inherently unequal” relationship between BOP employees and prisoners precludes prisoners from having “the same ability as staff members to consent to a sexual relationship.”<sup>34</sup>

BOP policy has “zero tolerance toward all forms of sexual activity, including sexual abuse and sexual harassment.”<sup>35</sup> Per the policy, “Termination shall be the presumptive disciplinary sanction for staff who have engaged in sexual abuse.”<sup>36</sup>

### **c. The Process for Investigating Allegations of Sexual Abuse by BOP Employees**

As part of PREA’s standards, BOP is required to establish reporting mechanisms for inmates to raise complaints about sexual abuse.<sup>37</sup> Those standards also require prevention planning, response planning, training and education, screening for risk of sexual victimization and abusiveness, reporting, official response following an inmate report, investigation, discipline, medical and mental healthcare, data collection and review, and prison audits.<sup>38</sup>

Complaints of sexual abuse of female prisoners by BOP employees can be investigated by either BOP itself, through OIA, or by OIG.<sup>39</sup> BOP OIA refers all complaints of sexual abuse or harassment by employees to OIG. OIG—an independent entity with the authority to investigate criminal misconduct by DOJ employees—evaluates those complaints and decides whether to investigate or send them back to BOP, which can take two forms.<sup>40</sup> First, OIG can make a “management referral” for BOP to investigate at its discretion.<sup>41</sup> Second, OIG can make a “monitored referral,” whereby BOP continues the investigation and reports its determination to OIG once the investigation has concluded.<sup>42</sup>

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<sup>33</sup> Department of Justice, Office of Inspector General, *Deterring Staff Sexual Abuse of Federal Inmates* (Apr. 2005) ([oig.justice.gov/sites/default/files/archive/special/0504/index.htm](http://oig.justice.gov/sites/default/files/archive/special/0504/index.htm)). See also, e.g., *United States v. Martinez*, 388 F. Supp. 3d 225, 236 (E.D.N.Y. 2019) (“consent is not relevant” for “sexual abuse of a ward” violations under 18 U.S.C. § 2243(b)).

<sup>34</sup> Department of Justice, Office of Inspector General, *Deterring Staff Sexual Abuse of Federal Inmates* (Apr. 2005) ([oig.justice.gov/sites/default/files/archive/special/0504/index.htm](http://oig.justice.gov/sites/default/files/archive/special/0504/index.htm)).

<sup>35</sup> BOP Program Statement 5324.06 (preamble).

<sup>36</sup> BOP Program Statement 5324.06 § 115.76(b).

<sup>37</sup> See 28 C.F.R § 115.

<sup>38</sup> See 28 C.F.R § 115.

<sup>39</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>40</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>41</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>42</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

BOP OIA does not investigate allegations of criminal misconduct referred to OIG before OIG has decided whether to retain the case.<sup>43</sup> If OIG declines to pursue a criminal or administrative investigation, BOP will pursue an administrative investigation.<sup>44</sup> BOP OIA has the ability to compel BOP employees, as a condition of employment, to sit for interviews about the allegations against them.<sup>45</sup> BOP OIA closes cases in one of three ways: substantiation of allegations, no substantiation of allegations, or closure for administrative reasons without reaching the merits of the allegations.<sup>46</sup>

## **II. The Subcommittee's Investigation**

In April 2022, the Subcommittee launched an eight-month bipartisan investigation of sexual abuse of female inmates in federal prisons. Specifically, the Subcommittee evaluated whether female prisoners in the custody of BOP were safe from sexual abuse by BOP employees. The Subcommittee did the following:

- Reviewed non-public documents and data provided by BOP, BOP whistleblowers, and OIG.
- Interviewed more than two dozen witnesses, including:
  - Four current senior officials within the BOP: Chief of BOP OIA, Beth Reese; Acting Assistant Director of Reentry Services Division, Alix McLearn, PhD; Regional Director for the Western Region with oversight of FCI Dublin, Melissa Rios; and Warden of FCI Dublin from October 2017 to November 2020, Wiley Jenkins.<sup>47</sup>
  - Twelve survivors of sexual abuse in BOP custody. These women were abused by male BOP employees in eight different BOP facilities.<sup>48</sup>

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<sup>43</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022). DOJ OIG, as with all federal Inspector General Offices, has a right of first refusal among law enforcement agencies to investigate allegations of misconduct by employees of the agency overseen by the Inspector General's Office.

<sup>44</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>45</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>46</sup> See Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>47</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022); Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022); Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>48</sup> W.P., Interview with PSI (Sept. 8, 2022); C.R., Interview with PSI (Aug. 30, 2022); C.D., Interview with PSI (Oct. 14, 2022); K.D., Interview with PSI (Apr. 28, 2022); L.D., Interview with PSI (May 12, 2022); L.R., Interview with PSI (June 17, 2022); S.M.R., Interview with PSI (Sept. 7, 2022); B.M., Interview with PSI (Aug. 4, 2022); A.P., Interview with PSI (June 2, 2022); R.L., Interview with PSI (Oct. 12, 2022); R.D., Interview with PSI (July 5, 2022); V.M., Interview with PSI (June 14, 2022).

- Eight BOP whistleblowers who came forward to report misconduct or BOP’s deficient management practices.<sup>49</sup>
- Brenda V. Smith, Esq., a law professor who studies sexual abuse in custodial settings.<sup>50</sup>
- Received briefings from:
  - The OIG Assistant Inspector General for Investigations and two OIG Senior Counsels to the Inspector General (collectively, “OIG”) concerning OIG’s investigations into allegations of sexual abuse at FCC Coleman, and the processes by which it coordinates investigative work with BOP and decides which cases to investigate itself.<sup>51</sup>
  - DOJ’s Office of the Deputy Attorney General concerning a November 2, 2022 report issued by a Working Group convened at the direction of the Deputy Attorney General Lisa Monaco to develop recommendations for reducing sexual abuse of prisoners by BOP employees.<sup>52</sup>

### **III. There Were At Least Four BOP Facilities Between 2012 and 2022 with Recurring Sexual Abuse of Female Prisoners by Male BOP Employees**

The Subcommittee identified four BOP facilities over the past decade where multiple male BOP employees sexually abused multiple female prisoners under their supervision. In many instances, the women at these four facilities were abused multiple times over a period of months or years. The facilities were MCC New York, MDC Brooklyn, FCC Coleman, and FCI Dublin.<sup>53</sup> For each of them, the Subcommittee reviewed court filings, media reports, and OIA investigative materials to better understand the extent of the sexual abuse. We discuss each facility below.

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<sup>49</sup> J.R., Interview with PSI (May 24, 2022); A.M., Interview with PSI (June 7, 2022); T.K., Interview with PSI (Aug. 31, 2022); F.M., Interview with PSI (Oct. 4, 2022); S.M., Interview with PSI (Aug. 11, 2022); E.C., S.C., J.L., Interview with PSI (July 28, 2022).

<sup>50</sup> Brenda V. Smith, Professor of Law, American University Washington College of Law, Interview with PSI (June 10, 2022).

<sup>51</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>52</sup> Office of the Deputy Attorney General, Department of Justice, Briefing to PSI (Nov. 21, 2022). Bipartisan staff from the Senate Judiciary Committee also attended this briefing. Working Group of DOJ Components, *Report and Recommendations Concerning the Department of Justice’s Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons* (Nov. 2, 2022).

<sup>53</sup> See, e.g., U.S. Attorney’s Office, Southern District of New York: *Correctional Officer At Metropolitan Correctional Center Sentenced To 40 Months In Prison For Engaging In Abusive Sexual Contact With Inmates* (Dec. 8, 2020) (<https://www.justice.gov/usao-sdny/pr/correctional-officer-metropolitan-correctional-center-sentenced-40-months-prison>); Office of Public Affairs, Department of Justice: *Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates* (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>); U.S. Attorney’s Office, Eastern District of New York: *Former Federal Bureau of Prisons Lieutenant Sentenced to 25 Years in Prison for Sexual Abuse and Violation of Civil Rights Convictions* (July 31, 2019) (<https://www.justice.gov/usao-edny/pr/former-federal-bureau-prisons-lieutenant-sentenced-25-years-prison-sexual-abuse-and>); Vann Aff.

**a. MCC New York**

MCC New York, opened in 1975, was an administrative security facility primarily used to hold male and female detainees awaiting trial in the federal courthouses in the Southern District of New York.<sup>54</sup> On August 26, 2021, BOP announced it would shut down this facility to address unsanitary conditions, decrepit facilities, and chronic staff shortages.<sup>55</sup> Today, MCC New York is undergoing repairs and is not in use.<sup>56</sup> Prior to its closure, MCC New York housed approximately 750 prisoners, both male and female.<sup>57</sup>

Between approximately 2012 and 2018, then-MCC New York officer Colin Akparanta sexually abused at least seven female prisoners under his supervision.<sup>58</sup> On December 8, 2022, Akparanta was sentenced to 40 months imprisonment.<sup>59</sup>

In a civil suit filed in 2020, three of Akparanta's victims alleged that BOP staff at MCC New York "ignored warning signs [and] inmates' sex abuse allegations against [] Akparanta."<sup>60</sup> Warnings included a "town hall meeting" in 2017 where a BOP supervisor "told the assembled [female prisoners], in substance or effect, 'I don't want to hear nothing about my officers touching you.'"<sup>61</sup> The lawsuit further alleged that a BOP officer at MCC New York "ignored [] pleas for help" from a group of female prisoners about Akparanta's sexual advances and "quipped that [] Akparanta will 'eventually get caught.'"<sup>62</sup> Between 2021 and 2022, BOP made multiple payments totaling \$4.2 million to victims of sex abuse at MCC New York.<sup>63</sup> BOP has temporarily shut down MCC New York.<sup>64</sup>

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<sup>54</sup> State Courts, *New York County Jail and Prison System* (<https://www.statecourts.org/inmate-search/new-york/new-york-county/new-york-mcc/>).

<sup>55</sup> Benjamin Weiser, *Justice Dept. to Close Troubled Jail Where Jeffrey Epstein Died*, New York Times (Aug. 26, 2021) (<https://www.nytimes.com/2021/08/26/nyregion/MCC-epstein-jail-closed.html>).

<sup>56</sup> See Federal Bureau of Prisons, *MCC New York* (<https://www.bop.gov/locations/institutions/nym/>); Benjamin Weiser, *Justice Dept. to Close Troubled Jail Where Jeffrey Epstein Died*, New York Times (Aug. 26, 2021) (<https://www.nytimes.com/2021/08/26/nyregion/MCC-epstein-jail-closed.html>).

<sup>57</sup> State Courts, *New York County Jail and Prison System* (<https://www.statecourts.org/inmate-search/new-york/new-york-county/new-york-mcc/>).

<sup>58</sup> U.S. Attorney's Office, Southern District of New York: *Correctional Officer At Metropolitan Correctional Center Sentenced To 40 Months In Prison For Engaging In Abusive Sexual Contact With Inmates* (Dec. 8, 2020) (<https://www.justice.gov/usao-sdny/pr/correctional-officer-metropolitan-correctional-center-sentenced-40-months-prison>); *United States v. Colin Akparanta*, 19-CR-363 (S.D.N.Y.).

<sup>59</sup> U.S. Attorney's Office, Southern District of New York: *Correctional Officer At Metropolitan Correctional Center Sentenced To 40 Months In Prison For Engaging In Abusive Sexual Contact With Inmates* (Dec. 8, 2020) (<https://www.justice.gov/usao-sdny/pr/correctional-officer-metropolitan-correctional-center-sentenced-40-months-prison>); *United States v. Colin Akparanta*, 19-CR-363 (S.D.N.Y.).

<sup>60</sup> See Complaint, Dkt. 1 ¶ 4, *Herrera v. United States*, 20 Civ. 10206 (PKC) (S.D.N.Y. 2020).

<sup>61</sup> See Complaint, Dkt. 1 ¶ 100, *Herrera v. United States*, 20 Civ. 10206 (PKC) (S.D.N.Y. 2020).

<sup>62</sup> See Complaint, Dkt. 1 ¶ 107, *Herrera v. United States*, 20 Civ. 10206 (PKC) (S.D.N.Y. 2020).

<sup>63</sup> Benjamin Weiser, *U.S. Pays \$4.2 Million to Victims of Jail Guard's Long-Running Sex Abuse*, New York Times (July 18, 2022) (<https://www.nytimes.com/2022/07/18/nyregion/mcc-officer-sex-abuse-victims-payout.html>).

<sup>64</sup> Jonathan Dienst, *MCC, Lower Manhattan Jail Where Jeffrey Epstein Died, Transfers Out All Inmates*, NBC New York (Oct. 19, 2021) (<https://www.nbcnewyork.com/news/local/mcc-lower-manhattan-jail-were-jeffrey-epstein-died-transfers-out-all-inmates/3331966/>).

Separately, DNA evidence confirmed that on February 14, 2015, then-MCC New York officer Rudell Mullings assaulted a female prisoner in one of the prison corridors.<sup>65</sup> On May 4, 2016, he was sentenced to seven years imprisonment.<sup>66</sup>

### **b. MDC Brooklyn**

MDC Brooklyn is an administrative security metropolitan detention center located in Brooklyn, New York, which houses over 1,500 inmates, including men and women.<sup>67</sup>

In 2017, DOJ indicted two lieutenants (Carlos Martinez and Eugenio Perez) and one officer (Armando Moronta) at MDC Brooklyn for repeated sexual abuse of nine female prisoners during the night shift.<sup>68</sup> Martinez was convicted after a two-week jury trial, where prosecutors introduced evidence that he had brought a Plan B pill into the prison for the woman he raped.<sup>69</sup> Perez was convicted after a two-week jury trial and sentenced to 25 years imprisonment for sexually abusing five women held at MDC Brooklyn.<sup>70</sup> Moronta pleaded guilty and was sentenced to 10 years imprisonment for abusing three women held at MDC Brooklyn and smuggling narcotics into the prison.<sup>71</sup> *The New York Times* described these events as “one of the largest sexual assault investigations to confront [BOP] in at least a decade.”<sup>72</sup>

### **c. FCC Coleman**

FCC Coleman is currently an all-male facility with four different components: a low security federal correctional institution with an adjacent minimum-security satellite camp (FCI Coleman Low); a medium security federal correctional institution (FCI Coleman Medium); a high security penitentiary (USP Coleman I); and another high security penitentiary (USP

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<sup>65</sup> U.S. Attorney’s Office, Eastern District of New York: *Former Federal Correctional Officer Sentenced To Seven Years For Sexually Abusing An Inmate* (May 4, 2016) (<https://www.justice.gov/usao-edny/pr/former-federal-correctional-officer-sentenced-seven-years-sexually-abusing-inmate>); See *United States v. Rudell Mullings*, 15-CR-538 (E.D.N.Y.); *United States v. Colin Akparanta*, 19-CR-363 (S.D.N.Y.).

<sup>66</sup> U.S. Attorney’s Office, Eastern District of New York: *Former Federal Correctional Officer Sentenced To Seven Years For Sexually Abusing An Inmate* (May 4, 2016) (<https://www.justice.gov/usao-edny/pr/former-federal-correctional-officer-sentenced-seven-years-sexually-abusing-inmate>); See *United States v. Rudell Mullings*, 15-CR-538 (E.D.N.Y.).

<sup>67</sup> Federal Bureau of Prisons, *MDC Brooklyn* (<https://www.bop.gov/locations/institutions/bro/>).

<sup>68</sup> U.S. Attorney’s Office, Eastern District of New York: *Three Federal Correctional Officers Charged with Sexually Abusing Inmates* (May 25, 2017) (<https://oig.justice.gov/press/2017/2017-05-25.pdf>).

<sup>69</sup> Alan Feuer, *Former Lieutenant at Brooklyn Federal Jail Convicted of Raping Female Inmate*, *New York Times* (Jan. 19, 2018) (<https://www.nytimes.com/2018/01/19/nyregion/jail-guard-convicted-rape.html>).

<sup>70</sup> U.S. Attorney’s Office, Eastern District of New York: *Former Federal Bureau of Prisons Lieutenant Sentenced to 25 Years in Prison for Sexual Abuse and Violation of Civil Rights Convictions* (July 31, 2019) (<https://www.justice.gov/usao-edny/pr/former-federal-bureau-prisons-lieutenant-sentenced-25-years-prison-sexual-abuse-and>).

<sup>71</sup> U.S. Attorney’s Office, Eastern District of New York: *Former Federal Correctional Officer Sentenced to 10 Years in Prison for Sexual Abuse, Bribery and Narcotics Charges* (Oct. 24, 2018) (<https://www.justice.gov/usao-edny/pr/former-federal-correctional-officer-sentenced-10-years-prison-sexual-abuse-bribery-and>).

<sup>72</sup> Joseph Goldstein, *Federal Jail in Brooklyn Faces a String of Sexual Assault Cases*, *New York Times* (Aug. 1, 2017) (<https://www.nytimes.com/2017/08/01/nyregion/federal-jail-in-brooklyn-faces-a-string-of-sexual-assault-cases.html>).

Coleman II).<sup>73</sup> There are currently over 6,000 inmates housed across the complex.<sup>74</sup> Prior to April 2021, FCC Coleman housed both male and female prisoners.<sup>75</sup> In April 2021, BOP transferred all female prisoners out of FCC Coleman, coinciding with public allegations of sexual abuse.<sup>76</sup>

On May 5, 2021, the United States Government paid at least \$1.25 million to settle a civil lawsuit brought by 15 women currently and formerly incarcerated at FCC Coleman who accused eight BOP employees at that facility of years of sexual abuse.<sup>77</sup> During the course of the lawsuit, the United States Government, a defendant, admitted in a court filing that six of those employees had in fact engaged in sexual conduct with at least ten of the plaintiffs.<sup>78</sup> Sexual contact between BOP employees and prisoners is a federal crime and violates BOP policy.<sup>79</sup> In interviews compelled by BOP OIA during administrative investigations, prior to the United States Government's court filing, all six officers had already had admitted to sexually abusing female prisoners under their supervision.<sup>80</sup> None of these six officers was ever prosecuted.<sup>81</sup>

The Subcommittee investigated how BOP officers who admitted to crimes in sworn statements were never prosecuted.<sup>82</sup> As discussed above in Section I.C., once OIG declines to pursue a criminal or administrative investigation, BOP will conduct its own administrative investigation, either through OIA or the Special Investigative Services at the facility.<sup>83</sup> One of BOP OIA's investigative tools is requiring employees to answer questions under oath during what is known as a *Garrity* interview.<sup>84</sup>

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<sup>73</sup> Federal Bureau of Prisons, *USP Coleman II* (<https://www.bop.gov/locations/institutions/clp/>).

<sup>74</sup> Federal Bureau of Prisons, *FCI Coleman Low*, (<https://www.bop.gov/locations/institutions/col/>) ; Federal Bureau of Prisons, *FCI Coleman Medium*, (<https://www.bop.gov/locations/institutions/com/>) (accessed Dec. 6, 2022); Federal Bureau of Prisons, *USP Coleman I*, (<https://www.bop.gov/locations/institutions/cop/>); Federal Bureau of Prisons, *USP Coleman II* (<https://www.bop.gov/locations/institutions/clp/>).

<sup>75</sup> 2021 Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261).

<sup>76</sup> Carl Hiassen, *Female inmates feared reprisals from prison guards who raped them*, Miami Herald (Sept. 25, 2020) (<https://www.miamiherald.com/opinion/opn-columns-blogs/carl-hiaasen/article245829215.html>); 2021 Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261) at PSI-BOPOIA-Prod1-000136.

<sup>77</sup> Romy Ellenbogen, *Lawsuit settled in which 15 women alleged sexual abuse at Florida prison*, Tampa Bay Times (May 5, 2022) (<https://www.tampabay.com/news/florida/2021/05/05/lawsuit-settled-in-which-15-women-alleged-sexual-abuse-at-florida-prison/>). The settlement amount is likely much greater as eleven women did not disclose the amount of their recovery.

<sup>78</sup> See *Beaubrun Answer* at 6-8. See also 18 U.S.C. § 2243(b).

<sup>79</sup> 18 U.S.C. § 2243(b); Department of Justice, Office of Inspector General, *Deterring Staff Sexual Abuse of Federal Inmates* (Apr. 2005) (<http://oig.justice.gov/sites/default/files/archive/special/0504/index.htm>).

<sup>80</sup> 2018 Palomares Aff.; 2019 Palomares Aff.; Kuilan Aff; Vann Aff.; Laudenslager Aff.; Phillips Aff.; Campbell Aff.

<sup>81</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022); OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>82</sup> The Subcommittee asked BOP OIA Chief Reese this question during an interview. She said, "I do not know." Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>83</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>84</sup> *Garrity v. New Jersey*, 385 U.S. 493 (1967).

In 1967, the United States Supreme Court held in *Garrity v. New Jersey* that when a government employer forces an employee to answer questions under oath as a condition of employment, that interview is considered “compelled,” and any inculpatory statements made by the employee during that interview cannot be used against him in a subsequent criminal prosecution.<sup>85</sup> In other words, if a BOP employee admits to sexual misconduct in a compelled interview, statements made during that interview cannot be used against him in a criminal prosecution by OIG or any other law enforcement entity.

To the extent that OIG were to pursue criminal charges after the BOP employee admitted to a crime in the BOP OIA-compelled interview, OIG would have to show that it had reasons to pursue criminal charges independent from anything disclosed in the *Garrity* interview and that none of the evidence used in the prosecution was derived from the *Garrity* interview.<sup>86</sup> These are difficult thresholds to clear in most cases.<sup>87</sup> The practical effect is that “if [the BOP employee] can be compelled, it’s a get out of jail free card” under certain circumstances, OIG told the Subcommittee.<sup>88</sup>

In the case of FCC Coleman, BOP OIA received female prisoners’ complaints of sexual misconduct by at least six officers.<sup>89</sup> BOP OIA sent the complaints to OIG.<sup>90</sup> OIG declined to investigate and referred the cases back to BOP OIA.<sup>91</sup> BOP OIA compelled each of these officers to sit for interviews.<sup>92</sup> In those interviews, the officers made sweeping admissions to misconduct, making subsequent criminal prosecution difficult.<sup>93</sup>

The following contains excerpts of affidavits that memorialize admissions from former BOP employees at FCC Coleman following BOP OIA-compelled interviews.

In an affidavit dated October 2, 2019, former BOP correctional officer, Keith Vann, admitted in his BOP OIA-compelled interview:<sup>94</sup>

I had sexual intercourse and oral sex with inmate [REDACTED] on multiple occasions while I was a staff member she an inmate at FCC Coleman. I don't know the exact number of times but it occurred on more than one occasion. *KV*

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<sup>85</sup> *Garrity v. New Jersey*, 385 U.S. 493 (1967).

<sup>86</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>87</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>88</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>89</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>90</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>91</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>92</sup> OIG Briefing to PSI (Nov. 9, 2022); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>93</sup> OIG Briefing to PSI (Nov. 9, 2022). *See also* Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>94</sup> Vann Aff.



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I was aware at the time that engaging in any type of sexual encounter with a federal inmate was a criminal act and was not lawful. I was aware at the time I could have been held criminally liable. *LM*

In an affidavit dated June 28, 2019, former BOP correctional officer Christopher Palomares admitted in his BOP OIA-compelled interview:<sup>95</sup>

I have had a large number of sexual encounters with inmates when I was an officer at FCC Coleman. I would say there is over a 70% chance I received oral sex (blow job) from [REDACTED] in the visiting room. I have received oral sex from a number of inmates and number of times.

[REDACTED]

*CP*

In an affidavit dated June 28, 2019, former BOP correctional officer Scott Campbell admitted in his BOP OIA-compelled interview:<sup>96</sup>

In December 2017, during the evening watch shift, I was making rounds at the Camp in the female living quarters. I approached [REDACTED] in her living area and no one else was around. I asked [REDACTED] if I could touch her "boob." I put my hand on her breast and squeezed it in a sexual manner for 3 seconds. Since that incident, when I worked at the Camp and made rounds I would touch and sexually squeeze [REDACTED] breasts regularly. I have sexually squeezed [REDACTED] breasts at least 8 times from December 2017, to March of 2018, when it stopped.

On Sunday, March 11, 2018, I asked [REDACTED] to come with me to the F Unit Upper storage area and I locked me and [REDACTED] in the closet. [REDACTED] was aware we were going to have a sexual encounter prior to us going to the storage area.

In an affidavit dated October 3, 2019, former BOP correctional officer Timothy Phillips admitted in his BOP OIA-compelled interview:<sup>97</sup>

Inmates [REDACTED] and [REDACTED] both worked for me on the landscape detail at FCC Coleman in 2017. I have had two sexual intercourse encounters with [REDACTED] and [REDACTED] together. The three of us had sex together while they were FCC Coleman inmates and I was a Coleman staff member. *TP*

After reviewing affidavits in these cases in response to the Subcommittee's request, OIG told the Subcommittee in a briefing:

<sup>95</sup> 2019 Palomares Aff.

<sup>96</sup> Campbell Aff.

<sup>97</sup> Phillips Aff.

There is no world in which we can say this is a good outcome. These individuals knew they have been compelled and could retire and resign and spill to [BOP] OIA and basically have immunity in some cases for engaging in sexual activity with multiple inmates. It is a terrible outcome.<sup>98</sup>

OIG has recently reformed its complaint screening practices to mitigate the risk of overlooking widespread sexual abuse in a BOP facility by employees again. Although OIA provided the FCC Coleman allegations to OIG on multiple occasions, OIG is also considering a written memorandum with OIA to memorialize BOP OIA's current practice, such that BOP OIA would have an affirmative, written responsibility to inform OIG of new evidence uncovered during OIA's administrative investigation, prior to *Garrity* interviews, that could support a criminal investigation.<sup>99</sup>

#### **d. FCI Dublin**

FCI Dublin is an all-female facility with two components: a low security federal correctional institution and an adjacent minimum-security satellite camp.<sup>100</sup> There are currently 477 female offenders housed across the prison.<sup>101</sup>

In the past eighteen months, DOJ has indicted five BOP employees for sexual abuse of at least eight female detainees at FCI Dublin.

- In June 2021, the U.S. Attorney's Office for the Northern District of California filed a criminal complaint against Ross Klinger, a former BOP correctional officer and recycling technician, with sexual abuse of a ward.<sup>102</sup> He pleaded guilty to three counts of sexual abuse of a ward.<sup>103</sup> The criminal complaint cites sexual abuse of two female prisoners.<sup>104</sup>
- In November 2021, the U.S. Attorney's Office for the Northern District of California indicted Ray J. Garcia, the former Warden of FCI Dublin, on two counts of sexual abuse of a ward.<sup>105</sup> According to the criminal complaint, Garcia

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<sup>98</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>99</sup> Email from OIG to PSI (Dec. 11, 2022) (on file with PSI).

<sup>100</sup> Federal Bureau of Prisons, *FCI Dublin* (<https://www.bop.gov/locations/institutions/dub/>).

<sup>101</sup> Federal Bureau of Prisons, *FCI Dublin* (<https://www.bop.gov/locations/institutions/dub/>).

<sup>102</sup> Michael R. Sisak and Michael Balsamo, *Worker pleads guilty to abusing inmates at US women's prison*, AP News (Feb. 11, 2022) (<https://apnews.com/article/coronavirus-pandemic-health-california-oakland-prisons-5085536a92b12afa46bbfcf00cba46d9>).

<sup>103</sup> U.S. Attorney's Office Northern District of California: *Bureau Of Prisons Correctional Officer Charged With Sexual Abuse Of A Ward* (June 30, 2021) ([www.justice.gov/usao-ndca/pr/bureau-prisons-correctional-officer-charged-sexual-abuse-ward](http://www.justice.gov/usao-ndca/pr/bureau-prisons-correctional-officer-charged-sexual-abuse-ward)).

<sup>104</sup> *United States v. Klinger*, No. 4:22-CR-00031-JSW (N.D. Cal., June 25, 2021).

<sup>105</sup> U.S. Attorney's Office, Northern District of California: *Warden Of Federal Corrections Institute In Dublin Charged With Sexual Abuse Of A Ward* (Sept. 29, 2021) (<https://www.justice.gov/usao-ndca/pr/warden-federal->

knowingly had sexual contact with at least one female prisoner, asked at least two inmates to strip naked for him during rounds and took photos, and stored a “large volume of sexually graphic photographs” on his BOP issued cellphone.<sup>106</sup> In the two years prior to his arrest, Garcia was the PREA compliance officer at FCI Dublin, responsible for ensuring that the facility was adhering to PREA policies and training other employees, including new supervisors.<sup>107</sup> On December 8, 2022, Garcia was convicted by a jury of sexually abusing female prisoners.<sup>108</sup>

- On November 30, 2021, the United States Attorney’s Office for the Northern District of California filed a criminal complaint against John Bellhouse for sexual abuse of a prison ward.<sup>109</sup> Bellhouse served as a correctional officer and safety administrator at FCI Dublin before being placed on administrative leave in March 2021.<sup>110</sup> In June 2020, a prisoner identified that Bellhouse and another BOP employee were engaging in sexual interactions with several prisoners, and also providing prisoners with contraband, money and personal cellphone use.<sup>111</sup> Bellhouse pleaded not guilty and is currently awaiting trial, which is scheduled for the summer of 2023.<sup>112</sup>
- In January 2022, the Criminal Section of the Civil Rights Division of DOJ filed an information against James Highhouse, a former Chaplain at FCI Dublin, on charges of sexual abuse of a ward, abusive sexual contact, and making false

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corrections-institute-dublin-charged-sexual-abuse-ward). For the criminal complaint filed against Warden Garcia, see <https://www.documentcloud.org/documents/21408685-warden-ray-j-garcia>.

<sup>106</sup> U.S. Attorney’s Office, Northern District of California: *Warden Of Federal Corrections Institute In Dublin Charged With Sexual Abuse Of A Ward* (Sept. 29, 2021) (<https://www.justice.gov/usao-ndca/pr/warden-federal-corrections-institute-dublin-charged-sexual-abuse-ward>). For the criminal complaint filed against Warden Garcia, see <https://www.documentcloud.org/documents/21408685-warden-ray-j-garcia>.

<sup>107</sup> Michael R. Sisak and Michael Balsamo, *Abuse-clouded prison gets attention, but will things change?*, AP News (May 5, 2022) (<https://apnews.com/article/business-prisons-california-sexual-abuse-only-on-ap-3a4db9ab478bfd545ef3c7e08cd273b>); Office of Public Affairs, Department of Justice: *Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates* (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>); 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI).

<sup>108</sup> Office of Public Affairs, Department of Justice: *Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates* (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>).

<sup>109</sup> U.S. Attorney’s Office, Northern District of California: *Federal Correctional Officer Charged With Sexual Abuse Of An Inmate* (Dec. 3, 2021) (<https://www.justice.gov/usao-ndca/pr/federal-correctional-officer-charged-sexual-abuse-inmate>). The U.S. Attorney’s Office filed a superseding indictment with additional charges against Bellhouse on September 29, 2022. See Department of Justice, *FCI Dublin Officer Faces Abuse Charges Against Two Additional Incarcerated Victims* (Sept. 29, 2022) (<https://www.justice.gov/opa/pr/fci-dublin-correctional-officer-faces-abuse-charges-against-two-additional-incarcerated>).

<sup>110</sup> U.S. Attorney’s Office, Northern District of California: *Federal Correctional Officer Charged With Sexual Abuse Of An Inmate* (Dec. 3, 2021) (<https://www.justice.gov/usao-ndca/pr/federal-correctional-officer-charged-sexual-abuse-inmate>).

<sup>111</sup> See Complaint at ¶ 114, *United States v. Bellhouse*, 4:21-mj-71905-MRGD (N.D. Cal. 2021).

<sup>112</sup> *Dublin prison guard faces more charges of sexual abuse of female inmates*, Bay City News Service (Oct. 2, 2022) (<https://www.danvillesanramon.com/news/2022/10/02/dublin-prison-guard-faces-more-charges-of-sexual-abuse-of-female-inmates>).

statements to investigators.<sup>113</sup> In February 2022, Highhouse pleaded guilty to five felonies for sexually abusing a female inmate and lying to investigators about the misconduct.<sup>114</sup> In August 2022, Highhouse was sentenced to 84 months in prison followed by five years of supervised released.<sup>115</sup>

- On March 10, 2022, Enrique Chavez, a food service foreman at FCI Dublin was indicted on two counts of abusive sexual contact with a prison inmate.<sup>116</sup> According to the indictment, Chavez touched the woman's breasts, buttocks and genitals on two separate occasions in October 2020.<sup>117</sup> Chavez pleaded guilty on October 27, 2022, to abusive sexual contact with a female prison inmate while he was employed at FCI Dublin.<sup>118</sup> The count carries a maximum statutory sentence of two years imprisonment and a \$250,000 fine, with a minimum period of supervision following release from prison of five years and a maximum of a lifetime of supervision.<sup>119</sup> Sentencing is scheduled for February 2, 2023.<sup>120</sup>

As of May 2022, OIG and/or BOP were investigating at least 17 additional current or former employees at FCI Dublin for sexual misconduct.<sup>121</sup>

The most recent indictments are not the only examples of repeated sexual abuse of female prisoners at FCI Dublin. Since the 1990s, there have been at least three additional high-profile cases of sexual abuse of female prisoners involving male BOP employees.

- In 1996, three women were brought to a male housing unit at an adjacent facility where BOP officers opened their cell doors allowing male inmates to rape them.

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<sup>113</sup> *United States v. James Highhouse*, 4:22-CR-16 (N.D. Cal. 2022).

<sup>114</sup> Department of Justice, *Former Bureau of Prisons Chaplain Pleads Guilty to Sexual Assault and Lying to Federal Agents* (Feb. 23, 2022) (<https://www.justice.gov/opa/pr/former-bureau-prisons-chaplain-pleads-guilty-sexual-assault-and-lying-federal-agents>).

<sup>115</sup> Department of Justice, *Federal Prison Chaplain Sentenced for Sexual Assault and Lying to Federal Agents* (Aug. 31, 2022) (<https://www.justice.gov/opa/pr/federal-prison-chaplain-sentenced-sexual-assault-and-lying-federal-agents>).

<sup>116</sup> Department of Justice, *Correctional Officer at FCI Dublin Charged for Abusive Sexual Contact with Female Inmate* (Mar. 23, 2022) (<https://www.justice.gov/opa/pr/correctional-officer-fci-dublin-charged-abusive-sexual-contact-female-inmate>).

<sup>117</sup> *United States v. Chavez*, 4:22cr104 (N.D. Cal. 2021) (indictment filed on Mar. 10, 2022).

<sup>118</sup> U.S. Attorney's Office Northern District of California: *Former Correctional Officer Admits To Abusive Sexual Contact With Inmate* (Oct. 27, 2022) (<https://www.justice.gov/usao-ndca/pr/former-correctional-officer-admits-abusive-sexual-contact-inmate>).

<sup>119</sup> U.S. Attorney's Office Northern District of California: *Former Correctional Officer Admits To Abusive Sexual Contact With Inmate* (Oct. 27, 2022) (<https://www.justice.gov/usao-ndca/pr/former-correctional-officer-admits-abusive-sexual-contact-inmate>).

<sup>120</sup> U.S. Attorney's Office Northern District of California: *Former Correctional Officer Admits To Abusive Sexual Contact With Inmate* (Oct. 27, 2022) (<https://www.justice.gov/usao-ndca/pr/former-correctional-officer-admits-abusive-sexual-contact-inmate>).

<sup>121</sup> Lisa Fernandez, *25 Dublin prison employees under investigation for sex, drug, lying abuses*, KTVU FOX 2 (May 5, 2022) (<https://www.ktvu.com/news/25-dublin-prison-employees-under-investigation-for-sex-drug-lying-abuses>). For the full list of investigations, see <https://www.documentcloud.org/documents/21882894-dublin-prison-open-investigations>.

The United States settled in 1998 and BOP promised “to adopt and implement certain policies and procedures designed to reduce the risk to female prisoners of sexual assaults.”<sup>122</sup>

- In the late 1990s and early 2000s, four male BOP employees at FCI Dublin were convicted or pleaded guilty to sexual abuse of female inmates at that facility.<sup>123</sup>
- In the early 2010s, according to media reports, approximately “a dozen Dublin employees were removed for sexually abusing inmates,” including one who videotaped himself having sex with inmates and stored those tapes in a prison locker. None were arrested.<sup>124</sup>

#### **e. Sexual Abuse Across Other BOP Facilities that Hold Female Prisoners**

In an attempt to understand the breadth of sexual abuse of female prisoners by male BOP employees, the Subcommittee analyzed court filings in criminal cases, civil cases, and BOP records concerning the number of substantiated allegations of sexual abuse by BOP employees. Through those efforts, PSI was able to identify that over the past decade BOP opened 5,415 cases of sexual abuse from male and female inmates by BOP employees.<sup>125</sup> Of those cases, 586 were substantiated.<sup>126</sup> There were at least 134 cases for which a BOP employee was convicted of sexually abusing a female prisoner or where BOP OIA substantiated allegations that a female prisoner was sexually abused by a BOP employee.<sup>127</sup> BOP employees sexually abused women in their custody in at least two-thirds (19 of the 29) of the facilities where BOP has held incarcerated women this past decade.<sup>128</sup>

### **IV. BOP Does Not Systematically Analyze Key Indicators of Sexual Abuse in its Facilities**

The Subcommittee asked BOP for the information it relies upon to monitor compliance with PREA, including the risk of BOP employees sexually abusing female prisoners. BOP

<sup>122</sup> *Lucas v. White*, 96-cv-2905-TEH (N.D. Cal. 1997) (settlement agreement on file with PSI).

<sup>123</sup> *United States v. Accursi*, 4:97-cr-40101 (N.D. Cal.); *United States v. Hyson*, 4:99-cr-40031 (N.D. Cal.); *United States v. Hawthorne*, 4:99-cr-40051 (N.D. Cal.); *United States v. Donaldson*, 4:02-cr-40153 (N.D. Cal.); *United States v. Rodarte*, 4:02-cr-40153 (N.D. Cal.). See also Josh Richman, *Lawyer: Abuse of inmates rampant; Guard's indictment latest problem to surface at Dublin's Federal Correctional Institution*, Tri Valley Herald (Aug. 21, 2002) (on file with PSI); Josh Richman, *Ex-Dublin guard agrees to deal, admits to abuse; Plea bargain calls for 10-16 months in prison*, The Daily Review (May 17, 2003) (on file with PSI).

<sup>124</sup> Michael R. Sisak and Michael Balsamo, *Abuse-clouded prison gets attention, but will things change?*, AP News (May 5, 2022) (<https://apnews.com/article/business-prisons-california-sexual-abuse-only-on-ap-3a4db9ab478bfd545ef3c7e08cd273b>).

<sup>125</sup> Staff-on-Inmate Cases by Facility (2012-2021), Production from DOJ to PSI (Nov. 4, 2022) (PSI-BOPOIA-Prod4-0001-0049).

<sup>126</sup> Staff-on-Inmate Cases by Facility (2012-2021), Production from DOJ to PSI (Nov. 4, 2022) (PSI-BOPOIA-Prod4-0001-0049). The Subcommittee calculated the total number of substantiated cases by tabulating data produced by DOJ.

<sup>127</sup> See Exhibit 1. The Subcommittee arrived at this number by reviewing court filings and cases where BOP OIA substantiated allegations sexual abuse of female prisoners by BOP employees at the six female-only facilities.

<sup>128</sup> See footnote 1; Exhibit 1.

witnesses, including OIA Chief Reese, Acting Assistant Director for Reentry Services Alix McLearn, PhD, Western Regional Director Rios, and former FCI Dublin Warden Wiley Jenkins identified three categories of information used to assess risk and monitor compliance: (1) PREA audits; (2) complaints filed by inmates concerning staff-initiated sexual abuse; and (3) disposition of those complaints.<sup>129</sup>

The Subcommittee determined that PREA audits of FCC Coleman and FCI Dublin failed to detect the culture of BOP employees sexually abusing female detainees at those facilities before, during, and after abuse occurred. The Subcommittee also found that BOP does not systematically analyze complaint data to detect potentially problematic employees or institutions. Finally, BOP has accrued a backlog of approximately 8,000 cases and does not report case closure rates in a way that would indicate its progress in clearing the backlog.

**a. Flawed PREA Audits Failed to Detect the Culture of Sexual Abuse of Female Prisoners by Employees at FCC Coleman and FCI Dublin**

PREA “is intended to make confinement facilities free from sexual abuse and its threat.”<sup>130</sup> When Congress passed PREA in 2003, it established a National Prison Rape Elimination Commission (the “NPRE Commission”) to “carry out a comprehensive legal and factual study of the penological, physical, mental, medical, social, and economic impacts of prison rape” and to issue a report with “recommended national standards for reducing prison rape[.]”<sup>131</sup> The recommendations, adopted by DOJ and binding on BOP, require periodic PREA audits of all federal correctional facilities to ensure compliance with the standards put forth in the regulations.<sup>132</sup> According to DOJ, PREA auditors “are responsible for conducting high quality, reliable, objective, and comprehensive audits that hold agencies and facilities accountable for keeping individuals in their custody and care safe from sexual abuse and sexual harassment.”<sup>133</sup>

PREA audits assess whether an institution is compliant with the 45 PREA standards by reviewing policies and practices within the institution, interviewing employees and prisoners, and reviewing documentation from the audit period, such as prisoner complaints of sexual abuse or harassment.<sup>134</sup> PREA audits are one of the key tools that BOP relies upon to assess whether its facilities have implemented the standards designed to mitigate the risk of sexual abuse of prisoners.<sup>135</sup> When the Subcommittee asked the BOP Regional Director for the Western Region,

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<sup>129</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022); Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022); Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>130</sup> Bureau of Justice Assistance, *Prison Rape Elimination Act Auditors: Information and Resources* (Nov. 2021) (<https://www.prearesourcecenter.org/sites/default/files/PREA-Auditors-FS.pdf>).

<sup>131</sup> Pub. L. 108-79, § 7, codified at 34 U.S.C. § 30306.

<sup>132</sup> See 28 C.F.R. § 115.

<sup>133</sup> Bureau of Justice Assistance, *Prison Rape Elimination Act Auditors: Information and Resources* (Nov. 2021) (<https://www.prearesourcecenter.org/sites/default/files/PREA-Auditors-FS.pdf>).

<sup>134</sup> See, e.g., 2021 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI).

<sup>135</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>135</sup> 28 C.F.R. § 115 (citing BJS report); Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022).

Melissa Rios, the BOP official responsible for oversight of FCI Dublin among other facilities, how the regional office monitored potential sex abuse in its facilities, she explained that she relies on PREA policies to mitigate the risk of sexual assault, and PREA audits to assess compliance with the PREA policies.<sup>136</sup>

The Subcommittee reviewed PREA audits of FCC Coleman and FCI Dublin—where there were, per BOP OIA Chief Reese, “cultural issues” concerning sexual misconduct by employees—to evaluate whether the audits detected that there was a sexual abuse problem.<sup>137</sup> In other words, did the PREA audits predating and during the period of multiple BOP employees abusing multiple women find that the prison was not compliant with some or all of the PREA standards? Did the audits covering the periods of significant sexual abuse detect the cultural issues at that prison?

The Subcommittee found that BOP failed to accomplish either outcome with its PREA audits. PREA audits during all of the relevant periods for these facilities came back clean: these audits found that FCC Coleman and FCI Dublin were compliant with all PREA standards before, during, and after the multiple, documented instances of sexual abuse.<sup>138</sup> Table 1 shows the results of these audits.

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<sup>136</sup> Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022). *See also* Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>136</sup> Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022).

<sup>137</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>138</sup> *Compare* 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI); 2022 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0262-0381); 2018 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0635-0726); and 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261) *with* Section III.C., *supra*. *See also* Exhibit 1.

**Table 1: PREA Audits of FCC Coleman and FCI Dublin<sup>139</sup>**

<b>Facility</b>	<b>PREA Audit Date</b>	<b>Results (Standards)</b>
<b>FCC Coleman</b>	March 22, 2015	Exceeded: 4 Met: 38 Not Met: 0 Not Applicable: 1
	April 19, 2018	Exceeded: 2 Met: 43 Not Met: 0
	September 7, 2021	Exceeded: 1 Met: 44 Not Met: 0
<b>FCI Dublin</b>	May 16, 2014	Exceeded: 2 Met: 40 Not Met: 0 Not Applicable: 1
	June 14, 2017	Exceeded: 0 Met: 41 Not Met: 0 Not Applicable: 2
	March 12, 2022	Exceeded: 0 Met: 45 Not Met: 0

When asked in an interview with the Subcommittee whether PREA audits can help detect a culture of abuse at a facility, BOP’s Acting Director of Reentry Services said, “it is clear the PREA audit did not do that at Coleman.”<sup>140</sup>

The Subcommittee has concerns about PREA audits of FCC Coleman and FCI Dublin. PREA auditors seek to interview a representative sample of prisoners incarcerated at a facility.<sup>141</sup> For the FCC Coleman PREA audit of 2021, BOP transferred all female prisoners out of the prison two days before the auditor arrived for on-site interviews.<sup>142</sup> The auditor did not interview any female prisoners.<sup>143</sup>

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<sup>139</sup> 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI); 2022 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0262-0381); 2018 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0635-0726); 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261).

<sup>140</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>141</sup> See 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261).

<sup>142</sup> See 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261).

<sup>143</sup> See 2021 FCC Coleman PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (PSI-BOPOIA-Prod1-0125-0261).



The PREA audit of FCI Dublin from 2017 identifies the then-Associate Warden, Ray J. Garcia, as the facility’s PREA compliance officer—the individual responsible for ensuring that the facility was compliant with the PREA standards, training new supervisors on PREA procedures and policies, and coordinating the PREA audit.<sup>144</sup> After Garcia was promoted to Warden, he was indicted for sexually abusing multiple female prisoners under his supervision for a period of years, and convicted by a jury on December 8, 2022.<sup>145</sup>

**b. BOP Does Not Systematically Analyze PREA Complaint Data**

In 2009, the National Prison Rape Elimination Commission (the “NPRE Commission”)—a bipartisan Commission that Congress created through PREA to study policies and practices related to the prevention, detection, response, and monitoring of sexual abuse in correction and detention facilities in the United States—issued a report underscoring the importance of analyzing data trends to identify and prevent prison rape and sexual abuse.<sup>146</sup> The NPRE’s 2009 report noted that “data are especially useful in documenting patterns and trends and in measuring performance within facilities and throughout entire correctional systems.”<sup>147</sup> Based on recommendations in NPRE Commission’s 2009 report, DOJ finalized the National Standards to Prevent, Detect, and Respond to Prison Rape (the “National PREA Standards”) in 2012.<sup>148</sup> In relevant parts, the National PREA Standards promulgated by DOJ require BOP to “collect accurate, uniform data for every allegation of sexual abuse” and “review[the] data collected ... [to] identify[] problem areas [and] tak[e] corrective action on an ongoing basis.”<sup>149</sup>

Complaint data, which is collected and stored by BOP OIA, is one of the primary indicators that BOP could use to detect sexual abuse in a specific facility or by a specific staff member.<sup>150</sup> During an interview with the Subcommittee, BOP OIA Chief Reese explained that

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<sup>144</sup> See 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI); Michael R. Sisak and Michael Balsamo, *Abuse-clouded prison gets attention, but will things change?*, AP News (May 5, 2022) ([apnews.com/article/government-and-politics-prisons-california-bf66f02f8d21137461497d26c38c6ac5](https://apnews.com/article/government-and-politics-prisons-california-bf66f02f8d21137461497d26c38c6ac5)).

<sup>145</sup> Office of Public Affairs, Department of Justice: *Jury Convicts Former Federal Prison Warden for Sexual Abuse of Three Female Inmates* (Dec. 8, 2022) (<https://www.justice.gov/opa/pr/jury-convicts-former-federal-prison-warden-sexual-abuse-three-female-inmates>); 2017 FCI Dublin PREA Audit, Production from DOJ to PSI (Oct. 4, 2022) (on file with PSI).

<sup>146</sup> National Prison Rape Elimination Commission, *National Rape Elimination Commission Report* at 85 (June 2009). The value of analyzing data trends was made clear to BOP two decades prior. In 1999, the Government Accountability Office (“GAO”) issued a report that examined BOP’s policies, practices, and systems for preventing and addressing BOP employee-initiated sexual abuse of female prisoners. See Government Accountability Office, *Women in Prison: Sexual Misconduct by Correctional Staff*, GAO-GGD-99-104 (1999) (<https://www.gao.gov/products/ggd-99-104>). GAO identified deficiencies with BOP OIA’s informational systems for “tracking . . . allegations of staff-on-inmate sexual misconduct in federal prisons” since “information on all allegations were not readily available from [that] system.” Based on that finding, GAO issued a recommendation to the BOP Director to “develop systems and procedures to monitor and analyze allegations of staff sexual misconduct in federal prisons and periodically report results to [DOJ OIG] and to appropriate BOP officials (e.g., senior managers and wardens).”

<sup>147</sup> National Prison Rape Elimination Commission, *National Rape Elimination Commission Report* at 85 (June 2009).

<sup>148</sup> See Department of Justice, *2012 DOJ PREA Standards Final Notice*, 77 Fed. Reg. 37,106 (2021).

<sup>149</sup> 28 C.F.R. § 115.88.

<sup>150</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

OIA is the entity within BOP that has primary responsibility for tracking and overseeing employee misconduct.<sup>151</sup> OIA maintains a database that contains information about all of the complaints it receives, including type of misconduct, facility, identity of employee, date, and other related information.<sup>152</sup>

In the Subcommittee's interviews of Chief Reese, Dr. McLearen, and Regional Director Rios, these witnesses described how complaints of sexual abuse against BOP employees can suggest whether a region, group of facilities, individual facility, or employee merits additional scrutiny.<sup>153</sup> The absence of complaints can also be probative: if female prisoners do not feel safe filing a complaint, the number of complaints at a particular institution may be artificially suppressed, meriting further scrutiny.<sup>154</sup>

Yet while BOP is required by law to collect and analyze complaint data, it does not systematically use it to prevent and/or detect sexual abuse of female prisoners by employees.<sup>155</sup> In other words, it does not have a practice of analyzing this data to identify facilities with an outlier number of complaints or broader system-wide issues.<sup>156</sup> Although BOP may be aware of multiple complaints against individual employees, it does not appear that BOP analyzes this data to specifically identify BOP employees accused of abusing multiple women who merit additional scrutiny.<sup>157</sup> BOP OIA does not, in the ordinary course of business, report any complaint data to BOP leadership in the Central Office in Washington, D.C., the Regional Offices, or Wardens.<sup>158</sup> Indeed, as DOJ acknowledged to the Subcommittee, "the system used [by BOP] to track staff-initiated incidents was designed primarily for individual case tracking and not for trend analysis of data across matters."<sup>159</sup> Therefore, save for an *ad hoc* review, BOP does not ascertain whether the number of sexual abuse allegations at a specific facility or region is trending or part of a larger pattern.<sup>160</sup>

### **c. The Office of Internal Affairs Annual Reporting Is Confusing, Omits Relevant Information, and Obscures BOP's Internal Affairs Case Backlog**

BOP OIA generates an annual report for each fiscal year, intended to provide "information concerning the types and frequency of misconduct that occurs within [BOP]. The report is intended for managers and supervisors to address any trends and to identify any need for training to prevent misconduct from occurring."<sup>161</sup>

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<sup>151</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>152</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>153</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearen, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022); Melissa Rios, Western Regional Director, BOP, Interview with PSI (Nov. 10, 2022).

<sup>154</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>155</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>156</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>157</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>158</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>159</sup> See Email from DOJ to PSI (Oct. 18, 2022) (on file with PSI).

<sup>160</sup> See Email from DOJ to PSI (Oct. 18, 2022) (on file with PSI).

<sup>161</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

The report identifies how many cases BOP OIA closed by category of alleged misconduct.<sup>162</sup> However, BOP OIA does not report out critical categories of information, such as the facilities where misconduct was alleged, the type of facility where misconduct was alleged (*i.e.*, whether it was a female facility), the gender of the complainant in sexual abuse cases (except for the most recent report, in FY 2020), the identity of the BOP employee accused of abuse, and whether the employee was named in other complaints over time.<sup>163</sup>

Additionally, its presentation of case closure data is confusing, obscuring how long cases have been pending and the total case backlog.<sup>164</sup> Each year, OIA reports the total number of cases it closed according to the year that the case was opened. In other words, cases that were opened in one fiscal year but closed in another fiscal year are reported under the fiscal year they were originally opened. This method of presenting data obscures how long cases have been pending and the extent of the case backlog.<sup>165</sup> Further, the report does not disclose what portion of the backlog is comprised of sexual abuse or any other category of case.<sup>166</sup>

## **V. BOP Fails to Hold Employees Accountable for Misconduct**

*“Obviously there [was] a cultural issue and a sense of permissiveness with staff having too much time with inmates [at FCC Coleman]. There [was] also a belief that staff [would] engage in this behavior without repercussions.”*

-BOP OIA Chief Reese<sup>167</sup>

### **a. BOP Internal Affairs Has a Backlog of Approximately 8,000 Misconduct Cases**

Per BOP guidelines, OIA should resolve complaints of employee misconduct within 180 days.<sup>168</sup> Local investigators at each institution should resolve complaints within 120 days.<sup>169</sup> The Subcommittee found that BOP’s past and current practices violate these guidelines.<sup>170</sup>

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<sup>162</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>163</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>164</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>165</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Office of Internal Affairs BOP, *Report for Fiscal Year 2020*; Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>166</sup> See Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Office of Internal Affairs BOP, *Report for Fiscal Year 2020*.

<sup>167</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>168</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>169</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>170</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022). Chief Reese told the Subcommittee that the Warden involved in the incident she recalled was later investigated for failure to report.

During FY 2020, the latest data that BOP OIA has analyzed and reported, BOP OIA opened 5,270 cases of allegations of employee misconduct—not limited to sexual misconduct—involving 6,593 of BOP’s 37,000 employees.<sup>171</sup> More than 1,100 of these cases alleged violations of Classification 1 offenses, the most serious misconduct, including sexual abuse or sexual harassment of female detainees.<sup>172</sup> Yet as of March 17, 2021, BOP OIA had only closed 1,663 cases, or 31.6%.<sup>173</sup> Of cases opened in FY 2020, 3,607 cases, or 68.4%, remained open.<sup>174</sup>

For FY 2020, there were 554 allegations of BOP employees and contractors sexually abusing prisoners reported to BOP OIA or detected during an open BOP OIA investigation.<sup>175</sup> As of March 17, 2021, BOP substantiated five allegations of sexual abuse reported that year, which involved two BOP employees, two contract/residential reentry employees, and one employee working in a privatized facility.<sup>176</sup> BOP did not sustain 215 allegations, and 304 were still pending.<sup>177</sup>

Failure to timely clear cases adds up. During the course of its investigation, the Subcommittee uncovered that as of October 28, 2022, OIA had a backlog of approximately 8,000 cases, with some cases pending for more than five years.<sup>178</sup> During an interview with the Subcommittee, BOP OIA Chief Reese said that BOP does not expect to be able to clear the backlog for another two years, at the earliest.<sup>179</sup>

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<sup>171</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 8 ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>172</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 8 ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)); Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022). Classification 1 cases are defined as allegations, which, if substantiated, would constitute a prosecutable offense (other than offenses such as misdemeanor arrests). Classification 1 cases, which include sex abuse, bribery, trafficking of contraband, and inappropriate use of a firearm, must be reported to OIA immediately and referred to OIG immediately. Bureau of Prisons, *Program Statement* (May 20, 2003) ([https://www.bop.gov/policy/progstat/1210\\_024.pdf](https://www.bop.gov/policy/progstat/1210_024.pdf)).

<sup>173</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 11 (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>174</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 11 (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>175</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 32 (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>176</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 12 (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)).

<sup>177</sup> Office of Internal Affairs, BOP, *Report for Fiscal Year 2020* at 32 (Jan. 6, 2021) ([https://www.bop.gov/foia/docs/FY\\_2020\\_Annual\\_OIA\\_Report.pdf](https://www.bop.gov/foia/docs/FY_2020_Annual_OIA_Report.pdf)). The Subcommittee took these figures directly from BOP OIA’s FY 2020 annual report. The Subcommittee notes that they do not add up. BOP OIA reports that there were 554 allegations of BOP employees sexually abusing prisoners, and that it sustained 5, did not sustain 215, and had 304 pending—a total of 524. The report does not expressly account for 30 of these allegations (554 minus 524). This is another example of BOP OIA’s confusing presentation of data.

<sup>178</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>179</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

**b. BOP’s Inability to Timely Investigate and Close Internal Affairs Complaints Has Failed to Hold Wrongdoers Accountable**

There are significant consequences to BOP OIA’s failure to timely investigate and resolve allegations of staff misconduct. First, as BOP OIA Chief Reese explained to the Subcommittee in an interview, the longer cases drag on, the harder it can be to sustain allegations of misconduct.<sup>180</sup> “[E]vidence can go missing and memories are not as clear,” she said.<sup>181</sup> Second, Chief Reese said that BOP OIA’s inability to close cases “could create a perception that staff is not being held accountable.”<sup>182</sup>

The lack of accountability has significant consequences across the culture of BOP facilities nationwide. As a preliminary concern, it makes prisons less safe. As Chief Reese explained, when inmates feel that prison employees can break the rules with impunity, inmates may feel less safe, increasing the likelihood that they will break the rules themselves.<sup>183</sup>

In an interview with the Subcommittee, Wiley Jenkins, current Warden at the Metropolitan Detention Center Los Angeles (California) and former Warden at FCI Dublin who left his post there just prior to DOJ’s indictments of five BOP employees there for sexual abuse of female prisoners, told the Subcommittee that in his view, the BOP OIA investigative process takes too long, even for sex abuse cases that can be more complicated.<sup>184</sup> In his recollection, it has been this way for the entirety of his 20-plus year career with BOP.<sup>185</sup> He described the consequences of lengthy delays in resolving internal affairs cases as preventing managers from holding staff accountable, staff perceiving that their concerns are not addressed, and administrative investigations are not just.<sup>186</sup> “[P]eople [can] lose faith in the process,” he said.<sup>187</sup>

Loss of faith in the internal disciplinary process is exacerbated by vulnerabilities in the design of the internal affairs system. For example, when complaints of BOP employees’ sexual abuse are submitted to the Warden, he is obligated to refer them onto BOP OIA. However, if the Warden does not do so, there is no way for BOP OIA to know that he had received the complaints at all. BOP OIA has no record of complaints that do not leave the Warden’s office.<sup>188</sup> Indeed, in an interview with the Subcommittee, the BOP OIA Chief Reese recalled at least one instance where she learned that this had happened and noted that “there may be more.”<sup>189</sup>

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<sup>180</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>181</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>182</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>183</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>184</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>185</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>186</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>187</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>188</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>189</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022). Reese noted that the warden in the one instance she could recall was investigated for his failure to report.

Per Chief Reese, BOP OIA is aware of the risk that senior managers within an institution could pressure investigators to close a case prematurely.<sup>190</sup> She told PSI that there are vulnerabilities in any human system, and that part of the ongoing conversation at BOP OIA is making sure that no one is working on anything where they have a personal connection.<sup>191</sup>

**c. OIG Lacks Resources to Pursue Criminal Investigations of Most BOP Employees Accused of Crimes**

OIG has the primary responsibility for criminal investigations into allegations of misconduct by current BOP employees. Due to capacity constraints, OIG is only able to pursue a fraction of the allegations of criminal misconduct, including sexual abuse of female prisoners by employees.

For the past decade, OIG's staff of approximately 80 non-supervisory criminal special agents reviewed approximately 700 cases per year that could implicate sexual abuse or harassment, and thousands more per year of various other employee misconduct.<sup>192</sup> Last year, the OIG Special Agent in Charge ("SAC") of the Miami office reviewed 2,000 BOP complaints alone, and the SAC of the Dallas Office reviewed 2,300 complaints.<sup>193</sup> Because OIG is only able to fully investigate a fraction of allegations of misconduct by BOP employees, it sends the vast majority of cases back to BOP OIA as a management referral for BOP to investigate or as a "monitored referral" by which BOP OIA conducts the investigation and then sends a report of its findings back to OIG.

The referral process triages investigations, but can reduce the deterrent of criminal sanctions, cause delay, and preclude fully independent investigations of allegations of misconduct from outside the agency. It can also lead to perverse outcomes like the one uncovered by the Subcommittee's investigation with respect to sex abuse at FCC Coleman. There, BOP OIA investigated allegations of sexual abuse and compelled the subjects of the investigation to sit for interviews under oath; then, the subjects of the investigation admitted to crimes and were effectively immunized from criminal prosecution under the *Garrity* standard.

In the past year, OIG has taken steps to institute reforms to address the potential difficulties in investigating sexual abuse of female prisoners. OIG has prioritized investigations of sexual misconduct cases, sought additional resources to be able to investigate a higher percentage of sexual misconduct allegations it receives, required its SACs to specifically note whether they had determined if the subject of an incoming complaint had previously been accused of misconduct, and is proactively analyzing case information in its database to identify "hot spots" by individual and institution.<sup>194</sup>

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<sup>190</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>191</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>192</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>193</sup> OIG Briefing to PSI (Nov. 9, 2022).

<sup>194</sup> OIG Briefing to PSI (Nov. 9, 2022).

## **VI. BOP's Deficient Response to Sexual Abuse**

BOP failed to take agency-wide action to address sexual abuse of female inmates by male BOP employees. While BOP's and DOJ's recent focus on sexual abuse prevention and deterrence represents progress, it comes years after significant incidents of abuse came to light.

During interviews with the Subcommittee, BOP articulated two opposing views concerning how it viewed BOP employees' sexual abuse of prisoners at these four facilities. On the one hand, BOP OIA Chief Reese and Acting Assistant Director for Reentry Services, Alix McLearn, PhD, described abuse, at least with respect to FCC Coleman and FCI Dublin, as partially attributable to the culture of those institutions at the time.<sup>195</sup>

But Regional Director Rios and Warden Jenkins viewed abuse at these four facilities as individual misconduct, even when there were multiple employees abusing multiple female prisoners in the same facility over the same period of time.<sup>196</sup> When asked in an interview with the Subcommittee whether there was a culture of abuse at FCI Dublin evidenced by the five criminal prosecutions of BOP employees there, all within a two-year period, Warden Jenkins replied, "no."<sup>197</sup> In his view, sex abuse by BOP employees at FCI Dublin did not reflect broader issues at the prison.<sup>198</sup> His remedy for BOP employee sexual abuse of female prisoners at the scale of FCI Dublin would be the same as his remedy to a one-off cases of sexual abuse.<sup>199</sup> "It goes back to individual choices of people making poor decisions," he said.<sup>200</sup>

On November 4, 2022, the Subcommittee interviewed Dr. McLearn appearing on behalf of BOP to address the actions that BOP has taken in response to sexual abuse cases at MCC New York, MDC Brooklyn, FCC Coleman, and FCI Dublin. In response to the abuse at MCC New York, MDC Brooklyn, and FCC Coleman, it does not appear that BOP took any agency-wide actions to prevent abuse from occurring at other facilities in the future. BOP informed the Subcommittee that in response to sexual abuse by BOP employees at these three facilities, it conducted additional oversight of those facilities and changed leadership.<sup>201</sup> For example, following revelations of abuse at MDC Brooklyn, BOP removed the Warden and implemented additional PREA compliance training at that facility.<sup>202</sup> However, BOP appears to have made no changes to its policies or practices across its network of 122 prisons.<sup>203</sup>

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<sup>195</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022); Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>196</sup> Melissa Rios, Regional Director for the Western Region, BOP, Interview with PSI (Nov. 10, 2022); Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>197</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>198</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>199</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>200</sup> Wiley Jenkins, Former Warden at FCI Dublin, BOP, Interview with PSI (Nov. 16, 2022).

<sup>201</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>202</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>203</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

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It appears BOP only reevaluated the way that it responded to BOP employee sexual abuse of female prisoners last year, following sexual abuse at FCI Dublin.<sup>204</sup> Last year, BOP did the following:

- Updated language in its employee handbook pertaining to sexual abuse prevention for clarity.<sup>205</sup>
- Updated language in the standardized PREA poster hung in all BOP institutions that provides resources for prisoners concerning sexual abuse or harassment for clarity.<sup>206</sup>
- Updated and standardized the script of the orientation training for inmates upon arrival to a new facility concerning how to report sexual abuse. BOP also created an informational video to be played at orientation where employees explained in “short, clear, and direct statements” that there is zero tolerance for sexual abuse.”<sup>207</sup>
- Retained a contractor to train OIA investigators on how to interview inmate victims of sexual abuse.<sup>208</sup>

In addition to BOP implementing reforms, DOJ and BOP leadership have taken steps—coinciding with the Subcommittee’s investigation—to address the issue of sexual abuse of female prisoners by male employees.

In October 2022, BOP informed the Subcommittee that it planned to reorganize the chain of command for internal affairs investigators so that those stationed to work in individual facilities report up to the OIA Chief in the Central Office in Washington D.C. instead of the facility’s Warden.<sup>209</sup> BOP also informed the Subcommittee that it will hire additional OIA investigators and BOP will conduct Women’s Institution Cultural Assessment for facilities holding women, which include on-site inspections and interviews with detainees designed to increase BOP’s awareness of conditions at those facilities.<sup>210</sup>

A July 14, 2022 memorandum from the Deputy Attorney General called on DOJ to convene a group of senior DOJ officials (the “Working Group”) to “review the Department’s approach to rooting out and preventing sexual misconduct by BOP employees.”<sup>211</sup> On

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<sup>204</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>205</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>206</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>207</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>208</sup> Alix McLearn, PhD, Acting Director of Reentry Services, BOP, Interview with PSI (Nov. 4, 2022).

<sup>209</sup> Beth Reese, Chief of the Office of Internal Affairs, BOP, Interview with PSI (Oct. 28, 2022).

<sup>210</sup> Alix McLearn, PhD, Acting Director Beth Reese, Chief of Reentry Services the Office of Internal Affairs, BOP, Interview with PSI (Nov. 4 Oct. 28, 2022).

<sup>211</sup> Working Group of DOJ Components, *Report and Recommendations Concerning the Department of Justice’s Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons* (Nov. 2, 2022).



November 2, 2022, the Working Group issued its report of recommendations for both BOP and DOJ.<sup>212</sup>

The Working Group recommended that BOP improve reporting mechanisms for BOP employees who commit sexual misconduct; DOJ prioritize investigations of BOP employees accused of misconduct; and BOP enhance the use of administrative actions and discipline of BOP employees who are found to have committed sexual misconduct.<sup>213</sup> The Subcommittee notes that it is difficult to evaluate the Working Group's recommendations because the Working Group did not establish the basis for them. It did not discuss the scope of sexual abuse in BOP facilities, whether it viewed the problem as specific to particular institutions or systemic across BOP facilities, or how long these issues may have persisted. The Working Group did not posit the cause of these problems or include a comprehensive analysis of historical data that it had obtained from DOJ and BOP that might identify relevant trends or patterns.<sup>214</sup>

## **VII. Conclusion**

BOP failed to detect or prevent sexual abuse of incarcerated women by male BOP employees. The agency's poor implementation of the audit program and reporting mechanisms required by PREA allowed serious, repeated sexual abuse in at least four facilities to go undetected. BOP's internal affairs practices have failed to hold employees accountable, and multiple admitted sexual abusers were not criminally prosecuted as a result. Further, for a decade, BOP failed to respond to this abuse or implement agency-wide reforms. Moving forward, BOP should consider the Subcommittee's findings as it works to implement changes to how it handles sexual abuse of female prisoners by male BOP employees.

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<sup>212</sup> Working Group of DOJ Components, *Report and Recommendations Concerning the Department of Justice's Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons* (Nov. 2, 2022).

<sup>213</sup> Working Group of DOJ Components, *Report and Recommendations Concerning the Department of Justice's Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons* (Nov. 2, 2022); Office of the Deputy Attorney General, Department of Justice, Briefing to PSI (Nov. 21, 2022).

<sup>214</sup> Working Group of DOJ Components, *Report and Recommendations Concerning the Department of Justice's Response to Sexual Misconduct by Employees of the Federal Bureau of Prisons* (Nov. 2, 2022); Office of the Deputy Attorney General, Department of Justice, Briefing to PSI (Nov. 21, 2022). Such data analysis, required by the PREA standards, could inform BOP's own surveillance systems. The Working Group planned for this work to happen in the future, recommending that BOP create a standing Advisory Group to oversee BOP data collection and analysis.