

United States Senate

WASHINGTON, DC 20510

April 2, 2019

The Honorable Gene L. Dodaro
Comptroller General of the United States
United States Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Dear Mr. Dodaro:

We write to request that the Government Accountability Office (GAO) conduct a follow-up study on the use of restricted housing within the Federal Bureau of Prisons (BOP).

In 2013, GAO issued a study titled “Improvements Needed in Bureau of Prisons’ Monitoring and Evaluation of Impact of Segregated Housing.” The report examined (1) trends in BOP’s segregated housing unit population and the number of cells between 2008 and 2013; (2) the extent of BOP’s central monitoring of how individual facilities document and apply policies guiding segregated housing units; (3) the extent to which BOP assessed the costs to operate segregated housing units and a comparison of the costs between segregated housing units and general inmate population housing units; and (4) the extent to which BOP assessed the impact of segregated housing on institutional safety and the impacts of long-term segregation on inmates.

The study provided important insights into BOP’s policies on restricted housing, and there have been significant changes since the study that warrant further examination.

Following a June 2012 hearing on the human rights, fiscal, and public safety consequences of solitary confinement in the Senate Judiciary Subcommittee on the Constitution, Civil Rights, and Human Rights, BOP took steps to reduce the population of inmates in restricted housing. At the time of the hearing, 7.8 percent of Federal inmates—13,600 out of a total population of 175,000 in Bureau of Prisons (BOP) facilities—were held in some form of restricted housing. By the time of a second subcommittee hearing in 2014, approximately 6.5 percent of Federal inmates were held in restricted housing.

In early 2015, BOP released an independent assessment that Senator Durbin requested following the 2012 hearing. The report found that overall, BOP’s restricted housing policies were largely used in a manner consistent with appropriate regulations and standards and that the number of individuals held in solitary confinement—both in actual terms and as a percentage of the total prison population—had steadily declined in recent years. However, the report also identified several areas where operational and policy improvements were needed, including mental health care for individuals in restricted housing; protective custody policies; time parameters for restricted housing placements; and the need for programming for individuals in restricted housing. The report also included several additional findings and recommendations regarding the

extent of segregation, conditions of confinement, and due process concerns. Along with the report, BOP released a response providing additional background and addressing some of these recommendations.

In early 2016, the Department of Justice (DOJ) released a report that provided an overview of the use of solitary confinement in our Federal prison system and recommendations for reform. President Obama announced that he would ban the use of solitary confinement for juveniles in the Federal system and accept DOJ's other recommendations to ensure that the practice would "be used rarely, applied fairly, and subjected to reasonable constraints."

BOP's responses to the 2013 GAO report, 2015 independent assessment, and 2016 DOJ report were encouraging, and the numbers generally continued to decline as they implemented reforms. Unfortunately, instead of a continued reduction in the restricted housing population, the once-encouraging trend has reversed over the last several months. As of today, 7.97 percent of the inmates in BOP custody are housed in restricted housing—including 10,758 inmates in special housing units, 872 inmates in special management units, and 394 inmates in the ADX supermax facility in Florence, Colorado.

We are deeply troubled by this development and concerned over the apparent failure to continue implementing the reforms identified in the 2015 independent assessment and 2016 DOJ report.

We ask that you undertake a study evaluating BOP's current practices related to restricted housing and whether these practices reflect the need for reforms identified in the 2013 GAO report, the 2015 independent assessment, and the 2016 DOJ report. We ask, at a minimum, that you address the following questions:

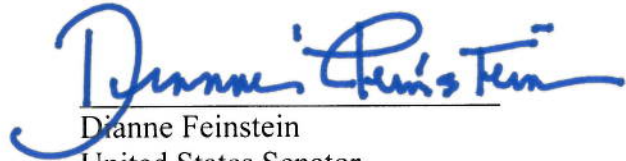
- 1) What steps has BOP taken to implement the reforms recommended in the 2013 GAO report, the 2015 independent assessment, and the 2016 DOJ report? Has BOP reversed course on any of the initial reform efforts that the agency undertook?
- 2) How have BOP facilities, including facilities with segregated housing units, facilities with special management units, and the ADX supermax facility, implemented these reforms? To what extent does the use of restricted housing vary among BOP facilities?
- 3) What factors do BOP officials report as contributing to the recent increased use of restricted housing and what role, if any, do staffing challenges play?
- 4) What recent practices have selected states found to be effective with respect to restricted housing in their prisons and what factors would BOP officials consider in determining the applicability of these practices at the federal level?

Thank you for your prompt attention to this request. The study we are requesting will provide lawmakers with better information about how BOP has responded to previous evaluations of its restricted housing practices and what further reform efforts are necessary.

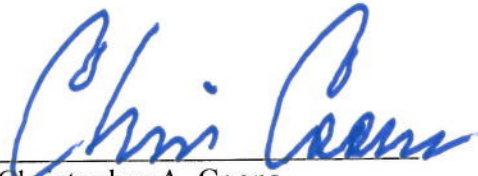
Sincerely,



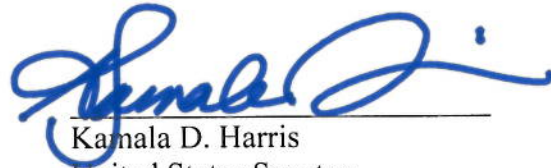
Richard J. Durbin
United States Senator



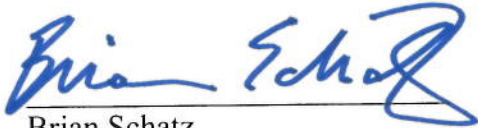
Dianne Feinstein
United States Senator



Christopher A. Coons
United States Senator



Kamala D. Harris
United States Senator



Brian Schatz
United States Senator