

September 28, 2022

Ms. Colette Peters  
Director  
Federal Bureau of Prisons  
320 First Street N.W.  
Washington, DC 20534

Dear Director Peters:

We write to urge you to take immediate action to significantly reduce the frequency and length of restrictive housing, colloquially known as “solitary confinement,” within Bureau of Prisons (BOP) facilities.

On May 25, 2022, the President issued an Executive Order stating that people in prison must be “free from prolonged segregation” and that isolation must be “used rarely, applied fairly, and subject to reasonable constraints.”<sup>1</sup> Despite these proclamations, to our knowledge BOP has not yet taken actions to reduce the frequency and length of restrictive housing in its facilities. Currently, more than 10,000 people – representing nearly eight percent of the total federal prison population – are in some form of solitary confinement in BOP facilities on any given day.<sup>2</sup> This is a substantially higher percentage than the national average among state prison systems, and even higher than in BOP facilities a decade ago.<sup>3</sup> At the time of the Senate Judiciary Committee’s 2012 Subcommittee on the Constitution, Civil Rights, and Human Rights hearing<sup>4</sup> on the adverse consequences of solitary confinement, 7.7 percent of individuals incarcerated in BOP were being held in some form of restrictive housing. Following that hearing, BOP took affirmative steps to reduce that number, which decreased to 6.5 percent by the time of the Subcommittee’s second hearing in 2014.<sup>5</sup> Use of restrictive housing continued its decline following President Obama’s commitment to banning solitary confinement for juveniles in the federal system and his acceptance of DOJ’s recommendations for reform in its 2016 report.<sup>6</sup> However, the use of restrictive housing returned to its 2012 levels under the Trump

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<sup>1</sup> Executive Order 14074, “Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety” (2022).

<sup>2</sup> “Inmate Statistics – Restricted Housing.” Federal Bureau of Prisons (September 2022).  
[https://www.bop.gov/about/statistics/statistics\\_inmate\\_shu.jsp](https://www.bop.gov/about/statistics/statistics_inmate_shu.jsp)

<sup>3</sup> “Time-In-Cell: A 2021 Snapshot of Restrictive Housing based on a Nationwide Survey of U.S. Prison Systems,” The Correctional Leaders Association & The Arthur Liman Center for Public Interest Law at Yale Law School (August 2022).  
<https://law.yale.edu/centers-workshops/arthur-liman-center-public-interest-law/liman-center-publications/time-cell-2019>

<sup>4</sup> “REASSESSING SOLITARY CONFINEMENT: THE HUMAN RIGHTS, FISCAL, AND PUBLIC SAFETY CONSEQUENCES,” 112<sup>th</sup> Cong. Serial No. J–112–80 (June 19, 2012).

<sup>5</sup> REASSESSING SOLITARY CONFINEMENT II: THE HUMAN RIGHTS, FISCAL, AND PUBLIC SAFETY CONSEQUENCES, 113<sup>th</sup> Cong. Serial No. J–113–50 (February 25, 2014).

<sup>6</sup> “U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing,” U.S. Department of Justice (January 2016).

Administration, and use of the practice as a means of medical isolation throughout the COVID-19 pandemic has only exacerbated the problem.

Solitary confinement is an outdated and debilitating practice. According to the United Nations Standard Minimum Rules for the Treatment of Prisoners (i.e., the Nelson Mandela Rules), prolonged solitary confinement and indefinite solitary confinement are cruel, inhuman, or degrading treatments or punishments that should be prohibited.<sup>7</sup> The forced idleness and isolation of solitary confinement cause lasting mental and physical deterioration and make people more likely to engage in difficult or disruptive behavior. Research shows that just one or two days in solitary leads to significantly heightened risk of death by suicide,<sup>8</sup> accident, violence, overdose, or other causes.<sup>9</sup> Solitary confinement also has little-to-no effect on maintaining safety in jails and prisons. A 2016 report from the DOJ’s National Institute of Justice (NIJ) found that “[t]here is little evidence that administrative segregation has had effects on overall levels of violence within individual institutions nor across corrections systems.”<sup>10</sup> Furthermore, in states that have dramatically reduced the number of people in solitary confinement, including Colorado and North Dakota, corrections directors report that there have been no increases in violent incidents against corrections staff.<sup>11</sup>

We are encouraged that during your tenure as Director of the Oregon Department of Corrections, you made significant progress towards reducing the use of restrictive housing across the state’s facilities, acknowledging that “living in special housing for an extended period of time is counterproductive in our effort to prepare these individuals for reentry into our communities.”<sup>12</sup> As you begin your new position, you have the opportunity to make much needed reforms to our federal prison system and to fulfill President Biden’s commitment to reducing the frequency and length of restrictive housing in federal facilities, including by building on and expanding the reforms adopted by former President Obama in 2016.<sup>13</sup> In particular, we urge you to (1) limit the use of restrictive housing to the least restrictive conditions for the briefest amount of time, and only in emergency circumstances for the purpose of de-escalation; (2) improve access to mental health treatment services for individuals in restrictive housing; (3) limit the use of restrictive housing for vulnerable populations and as a means of protective custody; (4) provide correctional

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<sup>7</sup> “The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules),” United Nations Office on Drugs and Crime (2015). [https://www.unodc.org/documents/justice-and-prison-reform/Nelson\\_Mandela\\_Rules-E-book.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Nelson_Mandela_Rules-E-book.pdf)

<sup>8</sup> #HALTsolitary Campaign, *The Walls are Closing in on Me: Suicide and Self-Harm in New York State’s Solitary Confinement Units, 2015–2019* (New York: New York Campaign for Alternatives to Isolated Confinement, 2020), 13, <https://perma.cc/64TD-9KW5>.

<sup>9</sup> Lauren Brinkley-Rubinstein, Josie Sivaraman, David L. Rosen et al., “Association of Restrictive Housing During Incarceration with Mortality After Release,” *JAMA Network Open* 2, no. 10 (2019), <https://perma.cc/PT2Q-T7XK>.

<sup>10</sup> Natasha A. Frost & Carlos E. Monteiro, “Administrative Segregation in U.S. Prisons Executive Summary.” National Institute of Justice and Northeastern University (March 2016). <https://www.ncjrs.gov/pdffiles1/nij/249750.pdf>

<sup>11</sup> “Reforming Restrictive Housing: The 2018 ASCA-Liman Nationwide Survey of Time-in-Cell,” The Association of State Correctional Administrators The Liman Center for Public Interest Law at Yale Law School (October 2018). [https://law.yale.edu/system/files/documents/pdf/Liman/asca\\_liman\\_2018\\_restrictive\\_housing\\_revised\\_sept\\_25\\_2018\\_-\\_embargoed\\_unt.pdf](https://law.yale.edu/system/files/documents/pdf/Liman/asca_liman_2018_restrictive_housing_revised_sept_25_2018_-_embargoed_unt.pdf)

<sup>12</sup> “Oregon prisons cut use of solitary confinement,” KTVZ News (May 25, 2018). <https://ktvz.com/news/2018/05/25/oregon-prisons-cut-use-of-solitary-confinement/>

<sup>13</sup> U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing.

staff with training on the psychological effects of restrictive housing; (5) ensure individuals in long-term restrictive housing receive meaningful reviews at least once every 30 days that they remain segregated; and (6) establish a transitional process, including re-socialization and counseling services, for individuals being released from long periods of segregation.

We stand ready to assist BOP in implementing policies to reduce the frequency and length of restrictive housing and to use proven alternative interventions.

Sincerely,



David J. Trone  
Member of Congress



Richard J. Durbin  
United States Senator



Eleanor Holmes Norton  
Member of Congress



David Scott  
Member of Congress



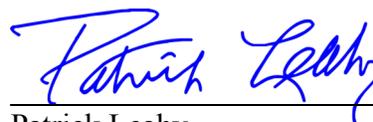
Cory A. Booker  
United States Senator



Bonnie Watson Coleman  
Member of Congress



Christopher S. Murphy  
United States Senator



Patrick Leahy  
United States Senator



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Elizabeth Warren  
United States Senator



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Troy Carter  
Member of Congress



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Chris Coons  
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Brian Schatz  
United States Senator