



Statement of Kevin Ring, President, FAMM
Senate Permanent Subcommittee on Investigations, Hearing on
“Sexual Abuse of Female Inmates in Federal Prisons”
December 13, 2022

On behalf of the board, staff, and members of FAMM (formerly known as Families Against Mandatory Minimums), I am grateful to the leadership of this subcommittee for holding a hearing on one of the most pressing issues facing the federal Bureau of Prisons (BOP). Exposing the horrifying truth of sexual abuse against incarcerated people is the necessary first step to ending such conduct and mitigating the harm it has inflicted. Much attention has been paid to prosecuting abusers but too little to making whole the survivors. We write with some ways to address that failure: securing release for victims of abuse and implementing independent oversight of federal prisons to prevent others from being abused.

Founded in 1991, FAMM’s mission is to create a more fair and effective justice system that respects our American values of individual accountability and dignity while keeping our communities safe. We work with incarcerated persons and their families to educate policymakers and the public about the harm caused by counterproductive sentencing laws and prison policies. We are in touch with 43,000 people in federal prison weekly. We are acutely aware of the challenges they face. We believe sexual abuse should not be one of them.

The Department of Justice (DOJ) is holding certain BOP personnel accountable by bringing criminal prosecutions against the culpable Dublin staff. The Department has secured four convictions so far, and additional indictments, including that of Dublin’s former warden, Ray Garcia, whose jury trial ended last week. It also responded to the galling accounts of abuse at FCI Dublin by creating a task force to examine the situation there and in other facilities. While we commend these measures, we have urged the DOJ to do more.¹ Many of the women who have survived abuse remained incarcerated, surrounded by the colleagues of their abusers, with little to no opportunity to truly heal.

None of the survivors were sentenced to endure the sexual abuse and violence. The government has failed to protect these women who were in their care and custody. These women should be sent home to heal, so long as they do not present a threat to public safety. The

¹ FAMM has sent two letters to the Deputy Attorney General, urging the (DOJ) to use the tools at its disposal, including compassionate release, Rule 35 motions, and U Visas, to provide relief to women who have been abused while under the care and custody of the United States government.



Department of Justice can move for their release in one of two ways: (1) compassionate release or (2) Federal Rule of Criminal Procedure, Rule 35.

The BOP can refer compassionate release motions to the U.S. Attorney for filing when it finds extraordinary and compelling reasons warrant a reduction in sentence.² The Sentencing Commission policy statement on compassionate release describes certain grounds, such as terminal or serious illness, that constitute such extraordinary and compelling reasons.³ The program statement also affords the BOP the authority to identify “other reasons,” beyond those, that alone or in combination with described criteria merit compassionate release.⁴ It is hard to imagine a circumstance more extraordinary and compelling than the abuse of an incarcerated individual by people charged to protect her and control her movements. Holding perpetrators accountable and removing survivors from immediate danger are important, but not sufficient. Forcing women to remain incarcerated means they revisit their trauma daily.

The BOP should recognize that known survivors have extraordinary and compelling reasons for release. But, to date, the BOP has not referred a single case for compassionate release to the U.S. Attorney based on sexual violence.

Many survivors of sexual abuse at Dublin and elsewhere have bravely cooperated with U.S. Attorney offices to help DOJ hold their abusers accountable. These prosecutions are a priority of DOJ leadership. The information and testimony provided by survivors has been essential to the successful prosecutions of BOP personnel who broke the law. And yet, the women whose testimony was chief evidence in DOJ’s criminal investigation and prosecution, remain behind bars in a setting that only exacerbates their trauma. Make no doubt, contributing to a criminal prosecution as a victim of sexual abuse comes at great expense; many survivors have reported retaliation from prison officials for assisting the government in the investigation, prosecution, and sentencing in the cases of BOP officials. One survivor who testified in the Garcia trial explained the consequences:

It's a death sentence to report (on an officer) . . . I have been tormented there. I live in fear every single day because of this. People are telling me all this is my fault. Getting sentenced to 15 years is nothing compared to his. Nobody in this room could understand the fear unless you've worn these clothes. These guards, they play God with your life.⁵

² 18 U.S.C. § 3582(c)(1)(A)(i).

³ USSG § 1B1.13.

⁴ USSG § 1B1.13, comment (n.1 (D)).

⁵ Lisa Fernandez & Cristina Rendon, KTVU FOX, *Ex-FCI Dublin prison warden went from ‘sweet to pornographic,’ victim says at sex abuse trial*, (Nov. 28, 2022), <https://www.ktvu.com/news/ex-fci-dublin-prison-warden-went-from-sweet-to-pornographic-victim-says-at-sex-abuse-trial>.

Only the DOJ can bring a motion for a reduction of sentence for substantial assistance on behalf of survivors of sexual abuse whose cooperation has assisted the government's effort to prosecute perpetrators. Bringing forward such a motion would recognize the brave contribution of cooperating survivors and perhaps encourage other similarly situated individuals to reach out.

To date, we are not aware of any Rule 35 motions filed by the government on behalf of survivors of sexual violence, even though four Dublin BOP officials have been criminally convicted in the past few months.⁶ Legal action by the Department of Justice on behalf of these women is the best opportunity to secure their emotional and physical safety. We hope that this hearing today, the testimony and evidence that has been gathered, and the questions that have been asked of government officials, will embolden the Department of Justice to use the tools at its disposal to grant relief to the survivors of abuse perpetrated by BOP staff and officials responsible for caring for and protecting them.

While the DOJ has a responsibility to help those who have been abused in its custody to heal, it also should do everything in its power to prevent anyone else from being abused. Passing independent prison oversight, such as has been proposed by Chairman Ossoff and Senator Braun in their Federal Prison Oversight Act, would help.

Oversight can help change the BOP's culture of concealment and shed light on the problems to be solved. The Federal Prison Oversight Act would give the DOJ's Office of the Inspector General the power to do routine inspections of prison facilities, recommend improvements and re-inspect to see if changes were made. These inspections can be unannounced, which means the BOP won't have time to clean up and hide problems before the inspectors arrive.

The bill also creates an ombudsman that can investigate complaints received from staff, incarcerated people, or their loved ones. The ombudsman gets full access to the BOP's records and facilities and can have confidential conversations with both incarcerated people and prison staff. The ombudsman can recommend actions for the BOP to take and follow up to see if the BOP has acted.

Notably, the Federal Prison Oversight Act has the support of the Council of Prison Locals, the union for correctional officers. Staff members trying to do the right thing also need a place to go when, for whatever reason, their complaints go unheeded by BOP administrators. Consider the case of Dublin. One must believe that there were good officers who were aware of

⁶ See, e.g., Justice Department, Office of Public Affairs, *Federal Prison Chaplain Sentences for Sexual Assault and Lying to Federal Agents*, Press Release (Aug. 31, 2022), https://oig.justice.gov/sites/default/files/2022-09/08-31-2022_0.pdf; Justice Department, United States Attorney's Office N.D. Cal, *Warden of Federal Corrections Institute in Dublin Charged with Sexual Abuse of a Ward*, Press Release (Sept. 29, 2021).

what was happening – the “rape club” was an open secret – but felt they had nowhere to turn and feared retaliation if they reported any of their colleagues. Testimony from this subcommittee’s hearing on corruption and abuse at U.S. Penitentiary Atlanta underscored the lack of reporting mechanisms for BOP staff and the need for independent oversight. We know that incarcerated people and their families also fear retaliation for speaking out.

A recent FAMM poll found that 82% of Americans believe there should be a system of independent oversight of our federal prisons. Support was high across all political parties. Not surprisingly, the Federal Prison Oversight Act also enjoys support from criminal justice advocacy groups from across the political spectrum.

The stories and statistics we expect to hear at today’s hearing will be shocking, enraging, and heartbreaking. But we should not succumb to despair when there are actions that the Department of Justice and Congress can take to reduce, if not eliminate, sexual abuse of women – and all people – in our federal prisons.

Thank you for considering our views.