



The Federal Prison Oversight Act of 2022

Bill Summary: The Federal Prison Oversight Act would create an inspections regime within the Department of Justice’s Office of Inspector General (OIG) to conduct periodic, risk-based, comprehensive inspections of all Bureau of Prisons (BOP) facilities. The bill would also task the Attorney General with creating an Ombudsman within the Department of Justice to conduct targeted investigations of complaints regarding the wellbeing of incarcerated individuals and BOP staff and contractors.

Detailed Summary

1. **OIG Inspections of BOP facilities**

- a. The OIG shall conduct periodic inspections of BOP facilities. Inspections may be announced or unannounced and the OIG shall have access to any BOP facility including
 - i. Incarcerated people
 - ii. BOP staff and contractors
 - iii. Any bargaining unit representative
 - iv. Any documents or other information the OIG determines necessary.
- b. An OIG inspection of a BOP facility may include an assessment of the following:
 - i. All policies, procedures, and administrative guidance of the facility;
 - ii. The conditions of confinement;
 - iii. Working conditions for staff;
 - iv. The availability of evidence-based recidivism reduction programs and productive activities;
 - v. All policies and procedures relating to visitation;
 - vi. All policies and practices relating to the use of single-cell confinement, administrative segregation, and other forms of restrictive housing;
 - vii. All medical facilities and medical and mental health care, programs, procedures, and policies;
 - viii. Medical services and mental health resources for staff;
 - ix. Lockdowns at the facility;
 - x. Credible allegations of incidents involving excessive use of force, completed, attempted, or threatened violence, including sexual violence, or misconduct committed against incarcerated people;
 - xi. Credible allegations of incidents involving completed, attempted, or threatened violence, including sexual violence, committed against BOP staff;
 - xii. Adequacy of staffing at the covered facility, including the number and job assignments of staff, the ratio of staff to incarcerated individuals at the facility, the staff position vacancy rate at the facility, and the use of overtime, mandatory overtime, and augmentation;

- xiii. Deaths or serious injuries of incarcerated people or staff that occurred at the facility;
 - xiv. Existence of contraband that jeopardizes the health or safety of incarcerated people or staff, including incident reports, referrals for criminal prosecution, and confirmed prosecutions;
 - xv. Incarcerated people's access to counsel including confidential meetings and communications, to discovery and other case-related legal materials, and to the facility's law library;
 - xvi. Any aspect of the operation of the facility that the OIG determines to be necessary over the course of an inspection.
- c. Inspection schedules will be based on the combined risk score of each BOP facility with higher risk facilities receiving more frequent inspections. Within 18 months of the bill's enactment, the OIG shall establish methodology and protocols for determining a BOP facility's combined risk score. These scores may be based on:
- i. Frequency and duration of lockdowns;
 - ii. Availability of programming;
 - iii. Staffing levels;
 - iv. Access to adequate physical and mental health resources
 - v. Incidences of physical and sexual assault or neglect;
 - vi. Opportunity to maintain family ties through phone calls, video calls, mail, email, and visitation;
 - vii. Adequacy of the nutrition provided;
 - viii. Amount and/or frequency of staff discipline cases;
 - ix. Incarcerated people's access to counsel including confidential meetings and communications, to discovery and other case-related legal materials, and to the facility's law library;
 - x. Other factors as determined by the OIG.
- d. Upon a completion of an inspection or group of inspections covering similar issues at more than one facility, the OIG shall produce a report to be made available to the Attorney General, Congress, BOP employee representative organizations, and the public. In developing the recommendations, the OIG may consult with stakeholders. The BOP shall respond to the report within 60 days and shall include a corrective action plan. The OIG reports may address one or more of the following topics:
- i. A characterization of the conditions of confinement and working conditions, including a summary of the inspection criteria;
 - ii. Recommendation made to the BOP facility to improve safety and conditions within the facility including recommendations regarding staffing;
 - iii. A recommended timeline for the next inspection and assessment;
 - iv. Any other issues or matters identified during the inspection of the facility.

2. **Ombudsman Department**

- a. Within one year of enactment, the Attorney General shall establish an Ombudsman within the Department of Justice who may investigate complaints from an incarcerated person, a BOP employee, or others regarding issues that may

adversely affect the health, safety, welfare, and rights of incarcerated people or employees of the BOP, including:

- i. Abuse or neglect;
 - ii. Conditions of confinement;
 - iii. Working conditions of staff;
 - iv. Decisions, administrative actions, or guidance of the BOP, including those relating to prison staffing;
 - v. Inaction or omissions by the BOP, including failure to consider or respond to complaints or grievances by incarcerated people or staff promptly or appropriately;
 - vi. Policies, rules, or procedures of the BOP, including gross mismanagement;
 - vii. Alleged violations of non-criminal law by staff or incarcerated people that may adversely affect the health, safety, welfare, and rights of any person.
- b. The Ombudsman may not investigate:
- i. Any complaints relating to the underlying criminal conviction of an incarcerated person;
 - ii. A complaint from BOP staff that relates to the employment or contractual relationship of the employee or contractor with the BOP, unless the complaint is related to the health, safety, welfare, working conditions, gross mismanagement of a BOP facility, or rehabilitation of incarcerated people.
- c. At the conclusion of an investigation, the Ombudsman shall:
- i. Render a decision on the merits of each complaint;
 - ii. Communicate the decision to the complainant, if any, and to the BOP;
 - iii. State the recommendations and reasoning of the Ombudsman if the BOP or any employee should:
 1. Reconsider the matter further;
 2. Modify or cancel any action;
 3. Alter a rule, practice, or ruling;
 4. Explain in detail the administrative action in question; or,
 5. Rectify an omission.
 - iv. If the Ombudsman requests, the BOP shall respond to any inquiry or request for information from the Ombudsman and inform the Ombudsman about any action taken on the recommendations provided by the Ombudsman or the reasons for not complying with any request for information or recommendations.
 - v. If the Ombudsman believes that there has been or continues to be a significant health, safety, welfare, working conditions, or rehabilitation issue, the Ombudsman shall report the finding to the Attorney General and Congress.
 - vi. In the event that the BOP conducts an internal disciplinary investigation or review of 1 or more BOP staff as a result of an investigation, the Ombudsman may monitor the internal disciplinary action to ensure a fair and objective process.

- d. The Ombudsman shall create a secure online form and telephone hotline through which family members, friends, and representatives of incarcerated people can submit complaints.
- e. The BOP shall provide multiple internal ways for incarcerated individuals in BOP facilities to privately and confidentially submit complaints to the Ombudsman.

3. Access to BOP facilities and Confidentiality

- a. Both the OIG and the Ombudsman shall have access to all BOP facilities, with or without prior notice. Both entities shall have access to all areas that used by and accessible to incarcerated people and access to programs for incarcerated people at any time of day and the opportunity to conduct private and confidential interviews with any incarcerated person, staff, employee representation organization, and others. They shall also have the ability to communicate privately and confidentially with incarcerated people or staff by telephone, mail, email, and in person.
- b. Both the OIG and the Ombudsman shall have the right to access, inspect, and copy all relevant information, records, or documents in the possession or control of the BOP that are germane to an investigation or inspection.
- c. Correspondence and communication with both the OIG and the Ombudsman is confidential and shall be protected as privileged correspondence in the same manner as legal correspondence or communications.

4. Funding

- a. The bill affirms that it is the sense of Congress that spending on both the OIG inspection activities and the Ombudsman should equal an amount between 0.2 and 0.5 percent of the annual appropriation for the BOP.