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United States Senate

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The Honorable Colette S. Peters
Director, Federal Bureau of Prisons
U.S. Department of Justice
320 First Street, NW, Suite 654
Washington, D.C. 20534

Dear Director Peters:

I am writing to express my great concern with the working conditions of the staff at the United States Penitentiary (U.S.P.), Thomson. The amount of sexual misconduct by the prisoners towards staff is at an all-time high and continues to escalate. The measures taken by U.S.P. Thomson and Federal Bureau of Prisons (BOP) leadership to address these incidents have been inconsistent, and as the number of incidents indicate, are not fixing the problem. As a result, I am requesting written information about the BOP's plans to address the sexual misconduct by federal inmates directed towards your corrections staff. Not only does this sexual misconduct create a hostile workplace, it is also exacerbating BOP's staffing crisis.

As you are aware, U.S.P. Thomson is a high-security Federal Prison and Special Management Unit located just over the Iowa border, in Illinois. The facility is authorized to employ 603 staff, including 364 custody staff. Much like other BOP facilities, and as I've written to you about previously, U.S.P. Thomson is experiencing extreme staffing shortages, low retention, and failure to recruit. As of August 31, 2022, the prison only has 492 hired employees, including 286 custody staff. Furthermore, U.S.P. Thomson reports 125 staff have left in 2022. Some have reported their departures are a direct result of the sexual misconduct endured by the staff, particularly female staff, at the facility.

The sexual misconduct at issue is defined in the BOP's Inmate Discipline Program as Code 114, Code 205, and Code 206.¹ Specifically, Code 114 refers to sexual assault of any person involving non-consensual touching by force or threat of force. Codes 205 and 206 refer to engaging in sexual acts and making sexual proposals or threats to another. In 2022, there have been 300 reports of Code 205 sexual misconduct towards U.S.P. Thomson staff. Furthermore, from December 1 to December 15, there were 30 incidents of sexual misconduct directed at corrections staff. This is wholly unacceptable, and must be stopped.

Over the last few months, my staff had three calls with the BOP Office of Legislative Affairs (OLA) to discuss the sexual misconduct from inmates towards corrections staff occurring at Thomson. During the most recent call, my staff was told of a recent U.S.P. Thomson policy update. Despite repeated requests to receive a copy of this policy, one has not been received by my office. While I understand that many of the policy changes are predicated upon the need to balance inmate safety with staff safety, that balance appears to still be uneven, as indicated by the sheer number of Code 205 violations this month. Further, Thomson employees have relayed that many of the policy changes and commitments made by BOP OLA to my staff have not consistently been implemented. In particular, door tags/placards on the cells of inmates who have committed sexual misconduct are not being used consistently, and a member of the U.S.P. Thomson Union is not being alerted or consistently

¹ https://www.bop.gov/policy/progstat/5270_009.pdf.

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invited to multi-disciplinary committee proceedings used to evaluate the consequences an inmate may face for a Code 114, Code 205, or Code 206 violation.

At the same time, the new policy detailed to my staff appears to be incomplete in its effort to address the sexual misconduct. First, prior to the enactment of this policy, inmates who engaged in sexual misconduct were placed in one specific range, allowing staff to avoid further-repeat incidents of sexual misconduct. My staff has heard this is no longer the case and inmates are scattered throughout the housing units. Second, inmates with prior sexual misconduct were placed at the back of a range, helping to obstruct their view of approaching staff. Again, there are reports this is no longer occurring and instead, these inmates are being placed at the front of the range and afforded a full view of approaching staff. Finally, window coverings were previously placed on the cells of inmates with incidents of sexual misconduct. According to U.S.P. Thomson staff, these coverings prevent inmates from tracking staff members as they approach or pass by a cell. My office has received reports that the window coverings are either no longer being used, or used in an ineffective manner. For example, while the window coverings may be closed during staff rounds, they are left open at all other times—leaving staff working on the range exposed. These issues must be promptly remedied.

Therefore, I ask seek answers to the following questions and requests:

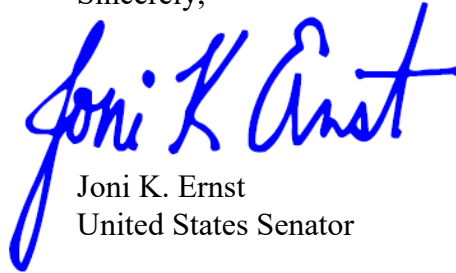
1. Please provide the current guidance/plan for incidents of inmate sexual misconduct at U.S.P. Thomson, including a copy of the policy for window coverings on inmate cells.
2. What is BOP/U.S.P. Thomson's plan and timeline to house inmates who engage in Code 114, Code 205, or Code 206 violations on the same range or at the front of a range, as requested by U.S.P. Thomson staff? If there is no plan, please provide a detailed response as to why these concerns are not being addressed.
3. It is my understanding that any Code 114, Code 205, or Code 206 violation will now result in a multi-disciplinary committee proceeding to evaluate the consequences an inmate may face.
 - a. Can you confirm that a member of the U.S.P. Thomson Union will be notified, allowed to attend, and involved in any multi-disciplinary committee proceedings that results from a Code 114, Code 205, or Code 206 violation?
 - b. What criteria is the committee using to evaluate the disciplinary action an inmate may face for one of these code violations? Please provide a list of the exact points and questions used in the evaluation process.
 - c. Will the committee evaluation process result in a written report, and if not, why?
 - d. In addition to the use of a window covering, what are the other disciplinary actions an inmate may face for one of these code violations?
4. What is BOP's protocol for addressing repeat offenders of Code 114, Code 205, and Code 206 violations?
5. U.S.P. Thomson recently implemented a policy change that decreased the number of days permitted for window coverings from 90 days to 3 days.
 - a. Why did BOP implement such a drastic decrease in days?
 - b. Please provide any data used in considering this decrease.
 - c. Please provide the exact criteria and questions the multi-disciplinary committee plans to use to reevaluate the use of a window covering after 3 days?
 - d. Will the reevaluation process result in a written report, and if not, why?
6. When does a Code 114, Code 205, or Code 206 violation rise to a prosecutorial punishment? Please provide a breakdown of the code violation and the number of prosecutorial referrals made by U.S.P. Thomson in 2022.
7. Please provide a comprehensive list, broken down by facility, for all incidents for Code 114, Code 205, and Code 206 violations for all BOP facilities in 2022.

8. Beginning in January 2023, please provide a monthly report on incidents of Code 114, Code 205, and Code 206 violations at U.S.P. Thomson, along with the recommended consequence for each action and the result of the 3-day window covering evaluation process, if applicable.

The sexual misconduct endured by Thomson staff on a daily basis is a disgrace. There is bipartisan support to address this pervasive misconduct. The staff at U.S.P. Thomson cannot continue to be neglected by penitentiary management or BOP. I understand the need to protect inmates, but I also ask that BOP balance the care for inmates with the safety of its own staff. Simply relocating inmates to a different facility so the number of incidents decreases is also unacceptable. The Bureau needs a concrete plan, with a timeline, to solve the problem and reduce the number of incidents.

I look forward to seeing that plan and receiving a response by January 20, 2023.

Sincerely,



Joni K. Ernst
United States Senator