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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

August 1, 2022

**VIA ELECTRONIC TRANSMISSION**

Colette S. Peters  
Director  
Federal Bureau of Prisons  
U.S. Department of Justice

Dear Director Peters:

Congratulations on your appointment as Director of the Federal Bureau of Prisons (BOP). Stepping into this role you are well aware the BOP faces many significant challenges and I hope we can work together to address them. Chairman Durbin, other members of the Senate Judiciary Committee, and myself have written to the BOP regarding the administration of accounts maintained by the BOP on behalf of federal prisoners. In a June 29, 2021, letter we raised several concerns including that “BOP reportedly does not always require inmates to satisfy debts from the money they hold in these accounts, which appear to be inconsistently monitored by BOP, unregulated by the U.S. Treasury, and not subject to the federal Bank Secrecy Act.”<sup>1</sup> While I still have concerns over how BOP administers those accounts and ensures that federal prisoners are compliant with financial obligations such as victim restitution and child support, this letter is regarding a different BOP program that I believe may impact how the BOP administers the prisoner accounts.

Federal prisons are allowed to maintain “commissaries” which support and are supported by the “Commissary Fund,” or “trust fund,” the purpose of which is “To provide inmates the privilege of obtaining merchandise and services either not provided by the Bureau or of a different quality than that provided by the Bureau.”<sup>2</sup> Though it can be increased during holidays, “the Bureau has implemented a spending limitation of \$360 per month.”<sup>3</sup> I would like to note that for the Inmate Financial Responsibility Program, by which the BOP encourages inmates to

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<sup>1</sup> Letter from Richard J. Durbin and Charles E. Grassley, June 29, 2021, available at <https://www.judiciary.senate.gov/press/dem/releases/durbin-grassley-judiciary-committee-members-press-bop-for-answers-on-inmate-trust-accounts>.

<sup>2</sup> U.S. Department of Justice, Federal Bureau of Prisons, Trust Fund/Deposit Fund Manual, March 14, 2018, available at <https://www.bop.gov/policy/progstat/4500.12.pdf>.

<sup>3</sup> Id.

meet their financial obligations, “Ordinarily, the minimum payment for ... inmates will be \$25.00 per quarter.”<sup>4</sup> Goods that are made available at prison commissaries are often sold at a substantial markup. Though certain items such as postage and self-improvement textbooks are exempt from a mark-up, standard items are subject to a mark-up of 30-40%.<sup>5</sup>

The operations of the prison commissaries generate significant revenue, which in turn strengthens the trust fund. Trust fund resources appear to be utilized for many purposes, including “Salaries and benefits for Trust Fund employees” and “Commissary resale merchandise,” and Trust Fund Profits may “be used for the benefit or the opportunity to benefit all inmates.”<sup>6</sup> I am interested in examining in more detail how BOP uses the trust fund to fund BOP personnel especially in light of information that has been obtained through a Freedom of Information Act Request by the Federal Managers Association.

More specifically, the Federal Managers Association requested information on “the number of employees whose salaries were funded from trust funds in each of FY 2019, 2020, and 2021, and cumulative total amount paid from trust fund revenue paid for the same three fiscal years, broken down by salaries and expenses/benefits.”<sup>7</sup> The response from BOP included the information below:

- FY19-673, Salaries-\$47,305,243.80/Benefits-\$28,302,565.04
- FY20-668, Salaries-\$49,483,846.71/Benefits-\$31,540,512.81
- FY21-652, Salaries-\$49,514,506.01/Benefits-\$32,522,034.41

In each of the past three fiscal years the trust fund has funded more than 650 positions at around \$80 million in salary and benefits. These numbers appear fairly consistent, and even more so when you compare them to the amounts BOP has earned in interest from the trust fund. According to the information provided to the Federal Managers Association, interest paid in FY 2019 was more than \$1 million, in FY 2020 was around \$474,000, and in FY 2021 was below \$30,000.<sup>8</sup> This precipitous drop in interest doesn’t appear to have impacted the personnel funded by the trust fund.

In light of my previously expressed concerns and questions regarding how diligently BOP ensures inmates satisfy their outstanding financial obligations, I am worried that the operation of prison commissaries and dependence of hundreds of BOP staff on the associated trust fund may present a conflict of interest. If prisoners have more money in their prisoner accounts, they are able to purchase more items—at a substantial markup—at the commissary, which in turn helps support the trust fund that funds the salaries of hundreds of BOP staff. In light of these concerns, I have several questions I would appreciate your response to by August 24, 2022.

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<sup>4</sup> U.S. Department of Justice, Federal Bureau of Prisons, Program Statement, Financial Responsibility Program, Inmate, available at [https://www.bop.gov/policy/progstat/5380\\_008.pdf](https://www.bop.gov/policy/progstat/5380_008.pdf).

<sup>5</sup> U.S. Department of Justice, Federal Bureau of Prisons, Trust Fund/Deposit Fund Manual, March 14, 2018, available at <https://www.bop.gov/policy/progstat/4500.12.pdf>.

<sup>6</sup> Id.

<sup>7</sup> U.S. Department of Justice, Federal Bureau of Prisons, to Federal Managers Association, July 18, 2022.

<sup>8</sup> Id.

1. Is there any overlap between BOP staff who monitor inmate financial accounts and BOP staff who are funded by the trust fund? Do staff work exclusively in these roles during their entire BOP career, or could they change responsibilities over time?
2. Is there any effort made by BOP to ensure that staff who monitor inmate accounts are separate from the influence of personnel working in positions funded by the trust fund?
3. Do staff working in positions funded by the trust fund exclusively perform trust fund work, or do they perform other duties not authorized to be funded by the trust fund? If so, does BOP ensure that the trust fund only compensates appropriate work, and how so?
4. For each of the past 5 years, please provide the number of BOP staff funded by the trust fund, and confirm that each role was appropriate for compensation from the trust fund by describing its responsibilities.
5. In the past 10 years has BOP been required to lay-off any personnel due to a fluctuating balance in the trust fund? If not, how has BOP compensated those employees if the trust fund was not able to do so?
6. BOP allows inmates to spend \$360 monthly on their commissary accounts, but requires those same prisoners to only contribute \$25 quarterly to victim restitution funds. Why does BOP allow this gross disparity between what these inmates can spend on themselves verses what they should be repaying their victims?
7. Over the past 5 years, please provide a breakdown of trust fund balances and spending, showing how much funding went to each category of spending, such as "Salaries and benefits for Trust Fund employees," and "Commissary resale merchandise," for example.
8. For each of the past 5 years, please provide a breakdown of "trust fund profits" if any, and catalog how those funds were spent.

Thank you for your attention to this important matter.

Sincerely,



Chuck Grassley

Enclosure: U.S. Department of Justice, Federal Bureau of Prisons, to Federal Managers Association, July 18, 2022.



**U.S. Department of Justice  
Federal Bureau of Prisons**

*Central Office  
320 First St., NW  
Washington, DC 20534*

July 18, 2022

[REDACTED]  
Federal Managers Association  
[REDACTED]

Request Number: 2022-04342

Dear [REDACTED]

This is in response to the above referenced Freedom of Information Act (FOIA) request in which you asked several questions regarding the Federal Bureau of Prisons (BOP) Trust Fund. A copy of your request is attached.

The FOIA was not designed to provide answers to specific questions. Rather, a request must reasonably describe the actual agency records sought. See 5 U.S.C. § 552(a)(3)(A). That notwithstanding, our office has compiled the following information in response to your request.

1. Is there an opportunity to provide a copy of the spending authority document(s) the OIG relied upon?

These documents are not maintained by the BOP Trust Fund Office. You may wish to contact the OIG directly.

2. Is there an opportunity to provide interest paid to BOP on invested funds from 1995 through 2021? Generally, what is/was the interest funds spent on?

Due to BOP records retention policy, amounts are only available for the following years.

- FY16-\$107,788.46
- FY17-\$326,748.59
- FY18-\$771,794.30
- FY19-\$1,375,835.90
- FY20-\$474,524.25
- FY21-\$29,526.44

The interest received on these securities is captured in the Trust Fund and is used to

defray its general operating expenses.

3. Is there an opportunity to tell us if BOP employee salaries are paid from trust fund proceeds and a part of "continued operations and programs"? If so, the number of employees whose salaries were funded from trust funds in each of FY 2019, 2020, and 2021, and cumulative total amount paid from trust fund revenue paid for the same three fiscal years, broken down by salaries and expenses/benefits? Please provide the spending authority to pay BOP employee salaries from trust fund proceeds.

BOP Program Statement 4500.12, Trust Fund/Deposit Fund Manual (March 14, 2018), Chapter 2, Section 2.3(a) states the following: "**Trust Fund Operating Funds.** The Trust Fund uses financial resources for: ■ Salaries and benefits for Trust Fund Employees." This BOP policy is publicly available online at [BOP: Policy & Forms](#).

Additionally, please see the below information regarding salaries for staff positions based on PP01.

- FY19-673, Salaries-\$47,305,243.80/Benefits-\$28,302,565.04
- FY20-668, Salaries-\$49,483,846.71/Benefits-\$31,540,512.81
- FY21-652, Salaries-\$49,514,506.01/Benefits-\$32,522,034.41

We also refer you to the following: Circular 2244, Rules Governing the Control of Prisoners Funds at Several Penal and Correctional Institutions (January 1, 1932); and Section 108 of the Department of Justice, General Provisions in the Fiscal Year 1999 and thereafter Omnibus Bill and Conference Report Language, Public Law 105-277 (October 21, 1998). Monies accruing to these funds are appropriated and disbursed in compliance with the terms of the trust

If you have questions about this response, please feel free to contact the undersigned, this office, or the BOP's FOIA Public Liaison, [REDACTED], 320 First Street NW, Suite 936, Washington DC 20534, or [BOP-OGC-EFOIA-S@bop.gov](mailto:BOP-OGC-EFOIA-S@bop.gov).

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; e-mail at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, 441 G Street, NW, 6th Floor, Washington, D.C. 20530, or you may submit an appeal through OIP's FOIA STAR portal by creating an account following the instructions on OIP's website: <https://www.justice.gov/oip/submit-and-track-request>.

[or-appeal](#). Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A black rectangular redaction box covering the signature area.