



The Bureau of Prisons and the challenges going into 2024

By Alan Ellis and Walt Pavlo

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In 2023, the Bureau of Prisons completed its first full year under the leadership of Director Colette Peters. Peters, who is the sixth director in as many years, replaced controversial director [Michael Carvajal](#), who took over leadership of the BOP just as COVID-19 ripped across the country and brutally attacked prison populations across the country. Peters, who promised a more humane approach to prisoner care, has routinely used the phrase, "Our job is not to make good inmates. It's to make good neighbors." With that promise, challenges remain.

The BOP has huge responsibilities in the care and feeding of over 150,000 prisoners in its care and over 36,000 staff. It has an \$8.7 billion annual budget and houses some of the most infamous criminals in the United States. It also houses nearly 50,000 inmates who are low and minimum-security prisoners, many of whom are eligible for earlier release due to the First Step Act, a 2018 law that can decrease a sentence term by up to a year and potentially increase the amount of time the prisoner spends in community confinement.

Attorney General [Merrick Garland](#) noted Director Peters' goals of "... leading the BOP through agency-wide reform, with an emphasis on accountability, integrity, respect, compassion and correctional excellence." Director Peters met a number of those goals during 2023 but many challenges remain for the upcoming year.

The most success the BOP has had in any single program in its history was the implementation of the CARES Act, which sent nearly 50,000 prisoners, many minimum-security with health issues, to home confinement during the pandemic. The pandemic ushered in an era of adjusting many aspects of our lives. We worked from home, we ordered more from on-line retailers and Zoom took the place of many meetings that would normally have required travel. In corrections, we realized that our prisons were too crowded and that many prisoners could serve their sentences outside of expensive institutions. Of the nearly 50,000 prisoners released, 99% completed their sentence on home confinement with no violations. The BOP should be commended for the many people it identified as candidates for home confinement. The CARES Act came to an end in April 2023 but studies of the successes of the program at the BOP will surely be a guide for alternative forms of incarceration.

The First Step Act was more fully implemented under Peters during 2023. Since the Federal Register issued its final

rule in January 2022, the BOP had several missteps in allowing prisoners to take full advantage of the programs and its incentives. The First Step Act allowed mostly minimum and low security prisoners the ability to earn up to 15 days per month off their sentence (capped at 365 days) by participating in certain programs and productive activities. Prisoners can also earn credits after that, which are applied to home confinement. As the years go by, particularly for those with longer sentences, it will be common for prisoners to spend years on home confinement as a result of the credits they earned.

During 2022 and 2023, some prisoners received too many credits and some none. The errors occurred due to the BOP's early interpretation of the law and computer challenges to programming the sentence computations of thousands. While the BOP's calculations have improved and many prisoners now have a better idea of when they will be allowed to rejoin society, there are many who are being left in prison who could be home sooner. The most pressing issue is a shortage of halfway house space, which is needed to house the many prisoners who have earned credits toward home confinement. While many attorneys know of the First Step Act, many do not know the exact calculations that gets prisoners home sooner.

Director Peters held listening sessions throughout her first full year on the job. Those sessions included having the wardens of all facilities listen to formerly incarcerated people, victims of crimes, fellow corrections workers and stakeholders who push for change in prisons. This was done as an effort to change a culture that is experiencing the lowest job satisfaction of all government agencies, record retirements and challenges in filling positions in both medical and corrections workers. It will take another year to judge the new direction Peters wants to take the agency, but expect her to double down on her message of a more humane federal prison system.

The challenges that remain for the BOP are many. First among them is the toxic environment that exists between management and labor. While Director Peters charts a new course for the BOP, she must rely on front line staff to implement her vision. The Council of Prison Locals C-33 is the most organized council within the American Federation of Government Employees, representing more than 30,000 bargaining unit employees in the United States, including its territory of Puerto Rico. The AFGE union leadership is quite

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outspoken on issues related to staffing shortages, staff safety (use of drugs by prisoners and attacks on staff), mandated overtime, augmentation (staff filling in positions due to shortages) and pay. While Peters is noted for visiting many of the facilities around the country, she must do more to bring civility to management-labor relations.

The BOP's facilities are, for lack of a better term, falling apart. As of May 2022, the BOP's estimated cost for needed, major repairs approached \$2 billion. However, an Office of Inspector General audit found that the BOP's budget requests have been far below its own estimates of resource needs: For example, BOP sought less than \$200 million for its infrastructure needs from Congress in FY 2022, and Congress appropriated \$59 million. One of the reasons cited for the BOP not receiving more funding was its lack of a strategic plan on how to effectively spend funds it may be given.

The staffing shortages are a challenge in an environment where management and labor are so far apart. However, a strong economy and the enticement of the benefit to work at home create challenges to recruit new workers to replace the growing number of those leaving the BOP (retirement and leaving for other opportunities). One way to counter the shortage is to have fewer prisoners, something the First Step Act was supposed to remedy. However, prisoner population in the BOP is now higher than it was prior to the beginning of 2022 just before COVID-19 began.

There are 79,000 prisoners, roughly 50% of the total BOP population, that are either minimum or low security prisoners. This population represents a large percentage of those who should be receiving the full benefits of two important laws meant to reduce prison populations. The Second Chance Act, implemented under President George W. Bush, allows prisoners to spend the final 10% of their prison term, up to a maximum of six months, on home confinement. It also allows them to spend another six months in a halfway house setting, so up to one year in a non-institutional environment. Housing prisoners outside of a prison saves taxpayers money and that was clearly one of the factors weighed in passing the legislation. Informing prisoners and defendants approaching sentencing with knowledge of what rights and privileges they

have will help them speak with their case managers. Working in conjunction with firms like that of Alan Ellis, consulting firms like Prisonology provide detailed reports that spells out the law, the BOP policy and the credits that can be earned toward freedom.

Lastly, as prison populations age, the BOP now lacks an effective tool to manage older prisoners' time in prison outside of a carceral setting. The Elderly Offender Pilot Program expired in the fall of 2023 and there is no replacement for it. The program allowed prisoners over the age of 60 to spend the last third of their sentence on home confinement. Now, the oldest inmates, many of whom are too old to participate in halfway house placement, must stay in prisons until their term ends.

The BOP will see more push for congressional oversight. Sen. Chuck Grassley (R-Iowa) recently pushed to make the director of the Bureau of Prisons a Senate-confirmed position, adding that he has "... inquired about reports of rife abuse in the past and continue to push for transparency in the federal prison system." Director Peters has enjoyed a long honeymoon with lawmakers, but they will be looking for results in 2024 — and so will many prisoners and BOP staff members.



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