

# Congress of the United States

Washington, DC 20515

August 21, 2017

Thomas R. Kane  
Acting Director  
Federal Bureau of Prisons  
320 First St., NW  
Washington, DC 20534

Dear Dr. Kane:

We write to you today with grave concern over reports of sexual assault at the Metropolitan Detention Center. Recently, the New York Times reported that three officers were arrested on charges of sexually assaulting at least six inmates. The article describes conditions in which inmates are preyed upon during late night cleaning shifts. Despite apparent protocols against it, these female inmates are routinely supervised by just one male officer. Indeed the report states that an entire female dormitory was sometimes supervised by only a single male correctional officer, who was in turn sometimes supervised by a male lieutenant. The article and court documents also suggest that officers may be exchanging food for sexual acts.

We are extraordinarily concerned with these reports. Inmates should not fear sexual assault either by other inmates or the correctional officers there to supervise them. Indeed, these officers wield extraordinary power over the fate of inmates. It is a federal crime for an officer to have sexual relations with an inmate because of this power imbalance and the inherent coercion it creates.

Perhaps most disturbing is the discrepancy between the charges by Brooklyn U.S. Attorneys and what the Bureau of Prisons (BOP) statistics report. MDC was audited for their compliance with the Prison Rape Elimination Act on June 6-8, 2017, one month after the indictments of the three officers for their alleged sexual misconduct. MDC passed this audit with flying colors, meeting all 42 applicable standards.

Additionally, a June report by the BOP stated that in 2016 there were only three substantiated cases of "staff-on-inmate" sexual misconduct across all its jails and prisons. At MDC, which houses only one percent of the bureau's inmates, officers have been charged with at least double that number of incidents in 2016. Moreover, according to the most recent data from the Bureau of Justice statistics, in 2011-2012 an estimated 4 percent of state and federal prison inmates and 3.2 percent of jail inmates reported experiencing one or more incidents of sexual victimization by another inmate or facility staff. This statistic suggests the rate of sexual assault is much higher than what BOP has reported. Given these discrepancies, we are extremely concerned that sexual misconduct may be underreported and undercounted in federal prisons. As such, please respond to the following questions by September 15, 2017.

1. How do you define "substantiated cases" of sexual misconduct? Does this standard require a conviction?

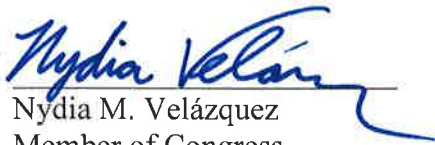
2. How are allegations of sexual misconduct handled? How do you follow up on reports by inmates? Is every allegation investigated and reported? Who conducts these investigations?
3. BOP has a stated zero tolerance policy regarding sexual misconduct. Yet, two of the officers at MDC charged had prior allegations of sexual misconduct. Could you please describe in detail the terms of your "zero tolerance" policy as well as protocols for the investigation of allegations? Is a criminal conviction required or are there internal investigations? Who conducts the investigations, whether criminal or otherwise?
4. How can inmates report instances of sexual assault? Who can they report it to? In the current charges, it was both corrections officers and lieutenants who were involved in the assaults. Do inmates have access to individuals outside of or higher up in the chain of command?
5. Do you have data on the number of reported instances of sexual misconduct in prisons? If so, please provide a detailed breakdown for the last five years showing the number of allegations and how the incident was concluded.
6. You stated that "the general practice of the Bureau of Prisons is to have at least one male and one female staff on each shift at correctional institutions housing both male and female inmates." Yet, this practice was clearly not adhered to at MDC. How did MDC meet all standards in the audit while clearly not following this guidance? What is COP doing to ensure MDC, and other prisons, adhere to this practice?
7. Clearly, MDC has a serious problem with sexual misconduct. What practices contributed to this problem? What changes are needed? What is MDC doing to ensure these incidents do not continue?
8. Are officers given training to identify sexual misconduct by other officers and do they have a confidential means of reporting it either within the prison or to BOP? What protections do staff that report have against retaliation?
9. We have heard anecdotal reports that, rather than facing criminal charges, correctional officers have instead simply been removed from their positions or forced into early retirement. To that end, how many correctional officers have been fired or encouraged to retire as a result of sexual contact with inmates in each of the past five years?
10. Have there been past allegations of sexual misconduct by either of the two lieutenants (Eugenio Perez and Carlos Richard Martinez) recently indicted? What were the years of those allegations? What were the allegations and what did the investigations yield?

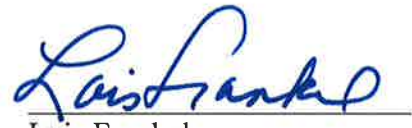
11. Have you learned of any instances of retaliation or threats against inmates for reporting sexual contact between them and a guard? What occurred in those instances? What policies do you have in place to prevent such retaliation?


Sexual violence has no place in our society, whether it is our military, schools, or prisons. In general, sexual assault incidents are underreported and poorly counted. Reasons victims give for not reporting include fear of retaliation and a lack of confidence that the police or criminal justice system would or could do anything to help. One can imagine that for inmates these fears could be even stronger.


Inmates deserve to fulfill their sentence in an environment free from sexual violence. Officers tasked with supervising inmates should help to ensure the safety of our prisons, not perpetrate criminal violence themselves. We are extremely concerned that actual incidents of sexual misconduct in federal prisons may be far greater than reported numbers. In order to ensure the safety of our prisons, it is critical that we shine a light on sexual misconduct and accurately count all incidents.

Sincerely,

  
Nydia M. Velázquez  
Member of Congress


  
Lois Frankel  
Member of Congress


  
Jerrold Nadler  
Member of Congress

  
Gregory W. Meeks  
Member of Congress

  
Brenda L. Lawrence  
Member of Congress

  
Hank Johnson  
Member of Congress

  
Adriano Espaillat  
Member of Congress

  
Robert C. "Bobby" Scott  
Member of Congress



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Dwight Evans  
Member of Congress



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Keith Ellison  
Member of Congress



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Yvette D. Clarke  
Member of Congress



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Grace Meng  
Member of Congress



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Eleanor Holmes-Norton  
Member of Congress