Negative: B.O.P. Oversight Boards

By “Coach Vance” Trefethen

***The United States Federal Government should significantly reform its policies regarding convicted prisoners under federal jurisdiction***

Case Summary: The AFF plan does…Watchdog Program Over BOP - a watchdog program that has three counselors appointed per prison under the BOP that essentially have direct oversight over the BOP officials and they have total authority. They (the counselors) report directly to the Attorney General and meet regularly

Negative: BOP Oversight Boards 3

TOPICALITY 3

1. Not prisoners 3

Link: Plan changes managers, not prisoners 3

Violation: This is “effects topicality” 3

Impact: Abuse justifies a NEG ballot 3

2. Not policies 3

Link: Definition of policy. Policy is a plan of what to do 3

Violation: Plan changes who does it, and who watches who does it, but not what they do 3

Impact: No Affirmative team in the debate 3

3. Not significant 4

Definition of significant 4

Link: 122 federal prisons + 4 privately owned 4

Link: 3 new employees per prison = 366 employees 4

Link: BOP has 36,739 employees 4

How significant is it? 366 new employees / 36,739 existing = 1% change 4

Violation: There’s nowhere that 1% change in something is substantial 4

Impact: Negative ballot 4

MINOR REPAIR 5

Don’t need a policy change or any new employees: Just follow the 3 recommendations of the House Subcommittee regarding better investigation of wrongdoing among BOP staff 5

HARMS / SIGNIFICANCE 5

1. No problems to solve 5

Federal prison system is meeting its goals 5

INHERENCY 5

1. Resignation of Carvajal 5

BOP Director Carvajal resigned recently, which will bring big reforms. Give it time to work 5

SOLVENCY 6

1. Can’t hire the staff for their plan. They can fiat a plan, they can’t fiat anyone accepts their offer to work there. 6

Link: BOP pay is too low to attract workers 6

Federal prison staff pay has stagnated and they can make more elsewhere. Some are so poor they qualify for welfare 6

2. Already tried & Failed. Numerous “watchdogs” and overseers have ordered federal prisons to reform, but it never works. Examples: 6

Even the Attorney General can’t get federal prisons to obey his directives 6

Nothing new: The Attorney General under Obama in 2013 couldn’t get them to do anything either 6

Inspector General doesn’t get any movement from his questions either 7

Watchdog reports don’t solve anything. It would have been solved back in 2013 if they did 7

Inspector General was “focused on the crisis” in 2013. So the problem should have been solved by now if inspections and reports fix anything 7

3. Conflict of interest dooms effectiveness 7

Submitting reports to the bureaucracy you are overseeing is a conflict of interest doomed to fail 7

4. Real solutions have been ignored for almost a decade 8

We’ve known since 2013 that the solution isn’t more reports. It’s 1) more money from Congress and 2) change the laws to stop putting so many people in prison 8

DISADVANTAGES 8

1. Masking disad. Every dollar spent or hour spent on their Plan harms us by taking us away from the real problems 8

The real problems are lack of staffing and Carvajal. Carvajal is gone, now we need staffing 8

Lack of medical staffing 8

2. Federal deficits 9

Link: Every dollar spent by the AFF on reports no one will read could have not been spent and reduced the federal deficit 9

Impact: Every increase in the deficit hurts the economy 9

Negative: BOP Oversight Boards

TOPICALITY

1. Not prisoners

Link: Plan changes managers, not prisoners

None of their mandates requires anything, gives anything, or changes anything about any prisoners under federal jurisdiction. The BOP management whose oversight is changed are not prisoners (we hope).

Violation: This is “effects topicality”

AFF is changing the management in hopes that the management will at some point affect the prisoners positively in some way. Their plan is trying to have an effect on something named in the Resolution, without changing the policies named in the Resolution.

This is “effects topicality” and it’s abusive because it opens up debate to an infinite number of cases and makes a mockery of the Resolution. There are millions of things that could be argued to have an effect, through a lengthy chain of events, cause and effect, on federal prisoners. Climate change could affect the need for air conditioning in federal prisons, so environmental policies now become topical. Medical research could affect treatments given to prisoners, so medical research funding becomes topical. Unemployment and poverty might affect whether people turn to crime, so interest rates, welfare policies and federal infrastructure programs now become topical.

Impact: Abuse justifies a NEG ballot

We need to teach Affirmatives not to abuse policy debate and abuse Negative teams. The best way to teach them that is to award a NEG ballot in this round. They’ll get the hint and stop running plans like this.

2. Not policies

Link: Definition of policy. Policy is a plan of what to do

Cambridge Dictionary copyright 2022. “Policy” <https://dictionary.cambridge.org/us/dictionary/english/policy> (accessed 26 Jan 2022)

“a set of [ideas](https://dictionary.cambridge.org/us/dictionary/english/idea) or a [plan](https://dictionary.cambridge.org/us/dictionary/english/plan) of what to do in [particular](https://dictionary.cambridge.org/us/dictionary/english/particular) [situations](https://dictionary.cambridge.org/us/dictionary/english/situation) that has been [agreed](https://dictionary.cambridge.org/us/dictionary/english/agreed) to [officially](https://dictionary.cambridge.org/us/dictionary/english/officially) by a [group](https://dictionary.cambridge.org/us/dictionary/english/group) of [people](https://dictionary.cambridge.org/us/dictionary/english/people), a [business](https://dictionary.cambridge.org/us/dictionary/english/business) [organization](https://dictionary.cambridge.org/us/dictionary/english/organization), a [government](https://dictionary.cambridge.org/us/dictionary/english/government), or a [political](https://dictionary.cambridge.org/us/dictionary/english/political) [party](https://dictionary.cambridge.org/us/dictionary/english/party)”

Violation: Plan changes who does it, and who watches who does it, but not what they do

Nothing in the AFF case changes what the BOP does. They change the “group of people” who implement policies. But the “plan of what to do” doesn’t change after their plan.

Impact: No Affirmative team in the debate

If no one affirms a change to any policies then there is effectively no Affirmative team in the round. No matter who wins, you should write Negative on the ballot.

3. Not significant

Definition of significant

Merriam-Webster Online Dictionary 2022. <https://www.merriam-webster.com/dictionary/significant> (accessed 27 Jan 2022)

“of a noticeably or measurably large amount”

Link: 122 federal prisons + 4 privately owned

Federal Bureau of Prisons 2022. Last updated 20 Jan 2022 <https://www.bop.gov/locations/> (accessed 27 Jan 2022)

We have many facilities located throughout the nation: 122 institutions, 6 regional offices, a headquarters, 2 staff training centers, and 22 residential reentry management offices. We also administer contracts with private corporations to operate 4 additional correctional institutions.

Link: 3 new employees per prison = 366 employees

That’s their plan

Link: BOP has 36,739 employees

Federal Bureau of Prisons 2022. Last updated 20 Jan 2022 <https://www.bop.gov/about/agency/> )(accessed 27 Jan 2022)

36,739 Employees - We ensure the security of federal prisons and provide inmates with programs and services that model mainstream values.

How significant is it? 366 new employees / 36,739 existing = 1% change

Their Plan adds 1% more employees to the BOP

Violation: There’s nowhere that 1% change in something is substantial

1% isn’t “noticeably large” – it’s microscopically tiny

Impact: Negative ballot

The Resolution has the word “significantly” for good reason in front of the size of the change. Don’t confuse the size of the change with the size of the benefits. We think their benefits are insignificant too, but for the purpose of topicality it doesn’t matter. The question this resolution asks is: Are we making a noticeably large sized reform? If the size of the change isn’t noticeably large, Affirmatives can run plans to change any tiny thing they can think of. That’s abusive because Negatives can only prepare for a limited number of reform ideas. We have to focus on the noticeably large ones and prepare to debate those. Circumventing the resolution is a cute trick to win ballots, but we need to teach Affirmatives not to do that by awarding a Negative ballot.

MINOR REPAIR

Don’t need a policy change or any new employees: Just follow the 3 recommendations of the House Subcommittee regarding better investigation of wrongdoing among BOP staff

Majority Staff of the House Subcommittee on National Security 2019. ( ) Independent Investigations and Employee Discipline at the Bureau of Prisons 2 Jan 2019 <https://republicans-oversight.house.gov/wp-content/uploads/2019/01/Memo-to-Chairman-Russell-re-BOP.pdf> (accessed 26 Jan 2022)

The Committee reviewed cases where some individuals deemed responsible for misconduct were shuffled around, commended, awarded, promoted, or even allowed to retire with a clean record and full benefits before any disciplinary action could apply. Documents and testimony also showed disciplinary action was delayed in some cases to allow senior leaders to retire unscathed. A lack of autonomy on the part of local internal affairs investigators may be largely to blame. Despite headquarters officials’ strong claims of independence, local management officials exercise significant influence over facility disciplinary process, providing ample opportunity for misconduct to be glossed over and retaliation and intimidation to prevail. Additionally, discipline and accountability is not equitably applied. For high ranking officers, bad behavior is ignored or covered up on a regular basis, and certain officials who should be investigated can avoid discipline. To address these findings, staff make three recommendations to improve independence and accountability in the investigative and disciplinary phases of misconduct reporting:
1. Exclude senior prison officials from the investigative process until a charge has been sustained.
2. The Office of General Counsel should be the deciding entity for any disciplinary action, to include a substantive review of the warden or regional director’s recommendation.
3. Inform complainants of the status and outcome of investigations.

HARMS / SIGNIFICANCE

1. No problems to solve

Federal prison system is meeting its goals

Mark S. Inch 2018. (Director, Federal Bureau of Prisons) U.S. Department of Justice Committee on the Judiciary Subcommittee on Crime, Terrorism, Homeland Security, and Investigations U.S. House of Representatives March 16, 2018 <https://docs.house.gov/meetings/JU/JU08/20180417/108008/HHRG-115-JU08-Wstate-InchM-20180417.pdf> (accessed 27 Jan 2022)

The Bureau has had great success with respect to both parts of our mission: we have low rates of assaults, disturbances, and escapes, and our three-year recidivism rate is nearly half the States’ average. These results are a testament to the hard work of our dedicated professional staff who support public safety and promote reentry.

INHERENCY

1. Resignation of Carvajal

BOP Director Carvajal resigned recently, which will bring big reforms. Give it time to work

WASHINGTON POST 2022. (journalists Bryan Pietsch and Matt Zapotosky) 6 Jan 2022 “Bureau of Prisons director to resign after scandal-plagued tenure during pandemic” <https://www.washingtonpost.com/national-security/2022/01/06/michael-carvajal-bureau-prisons-resigns/> (accessed 26 Jan 2022) (brackets added)

Michael Carvajal, the director of the U.S. Bureau of Prisons whose tenure at the agency was marred by scandals and pandemic-induced struggles, will resign after nearly two years in the top position, the Justice Department said Wednesday.
**END QUOTE. THEY GO ON LATER IN THE ARTICLE TO WRITE QUOTE**:
[Illinois Sen. Richard] Durbin said in a [tweet](https://twitter.com/SenatorDurbin/status/1478918552929320960?s=20)Wednesday evening that Carvajal’s resignation was “an opportunity for new, reform-minded leadership” at the agency, where he said Carvajal had “failed to address the mounting crises in our nation’s federal prison system.”

SOLVENCY

1. Can’t hire the staff for their plan. They can fiat a plan, they can’t fiat anyone accepts their offer to work there.

Link: BOP pay is too low to attract workers

 FEDAgent 2021. (News group for federal law enforcement employees) “Lawmakers Request BOP Director Provide Insight on Augmenting Personnel, Staff Shortages” 11 Nov 2021 <https://www.fedagent.com/news/lawmakers-request-bop-director-provide-insight-on-personnel-augmentation-staff-shortages> (accessed 3 Jan 2022)

GAO found that although BOP budgeted for 20,446 full-time correctional officer positions in 2020, the agency reported that it currently employs 13,762 officers. Despite efforts to attract recruits with 25 percent bonuses, there has been little progress. While there are promises of making $62,615 as a recruitment incentive, the starting salary is just under $43,500. The highest end of this salary scale is still much lower than what other federal agencies offer, especially compared with the competition from police departments, state prisons, oil refineries, and warehouses.

Federal prison staff pay has stagnated and they can make more elsewhere. Some are so poor they qualify for welfare

Tracy Harmon 2021 (journalist) PUEBLO CHIEFTAN “Here's why morale is reportedly 'horrific' at the federal prison complex near Florence“ 30 Sept 2021 <https://www.chieftain.com/story/news/2021/09/30/federal-prison-workers-protest-staffing-shortage-safety-issues/5921824001/> (accessed 2 Jan 2022) (brackets added)

To add to the frustration, [acting union president John] Butkovich said he fears some correctional officers will quit when COVID-19 vaccinations become mandatory by Nov. 22. He also said the staff has faced stagnant wages for years.  “You can go to work for the state (Colorado Department of Corrections) eight miles up the road from here and make $14,000 more a year. With entry-level at $44,000 that the Federal Bureau of Prisons pays, if you have a family of four and make $44,000 a year you are eligible for welfare — that is embarrassing,” [union vice president John] Holbrooks said.

2. Already tried & Failed. Numerous “watchdogs” and overseers have ordered federal prisons to reform, but it never works. Examples:

Even the Attorney General can’t get federal prisons to obey his directives

Associated Press 2020. “Watchdog finds flawed coronavirus response at California prison” 23 July 2020 <https://www.desertsun.com/story/news/health/2020/07/23/watchdog-finds-flawed-cornavirus-response-california-prison/5494278002/> (accessed 27 Jan 2022)

In addition, though Attorney General William Barr directed the federal prison system to reduce the prison population by making more liberal use of home confinement and to expand the criteria for such transfers, Lompoc officials did so sparingly. “Despite this admonition, the data does not reflect that the BOP took immediate action at Lompoc," the report said.

Nothing new: The Attorney General under Obama in 2013 couldn’t get them to do anything either

Andrew Cohen 2013. (journalist) “Government Watchdog: We Have a Growing Federal Prison 'Crisis'” <https://www.theatlantic.com/national/archive/2013/12/government-watchdog-we-have-a-growing-federal-prison-crisis/282341/> (accessed 27 Jan 2022)

Finally, the OIG criticized the pace of one of the other "reforms" that Attorney General Holder touted so loudly this summer. The "compassionate release" program, in which inmates who clearly don't pose a security threat are permitted to leave prison, should be a no-brainer. And it has bipartisan support. And yet the OIG reveals that the Justice Department has failed or refused for a number of years to adequately implement the program, revising its policies on the same day that the OIG issued a report critical of those very policies.

Inspector General doesn’t get any movement from his questions either

Associated Press 2020. “Watchdog finds flawed coronavirus response at California prison” 23 July 2020 <https://www.desertsun.com/story/news/health/2020/07/23/watchdog-finds-flawed-cornavirus-response-california-prison/5494278002/> (accessed 27 Jan 2022)

When the inspector general's office asked why only 34 inmates had been moved out of the complex as of mid-May, the acting warden said the institution would not transfer inmates until a halfway house could confirm that it was available to assume responsibility for them. The inspector general also released its review of the federal prison complex in Tucson, Arizona, which it said had successfully implemented social distancing measures and repurposed empty housing units into quarantine and medical isolation areas. Inspector General Michael Horowitz said the reports released Thursday didn't include recommendations.

Watchdog reports don’t solve anything. It would have been solved back in 2013 if they did

Andrew Cohen 2013. (journalist) “Government Watchdog: We Have a Growing Federal Prison 'Crisis'” <https://www.theatlantic.com/national/archive/2013/12/government-watchdog-we-have-a-growing-federal-prison-crisis/282341/> (accessed 27 Jan 2022)

The Justice Department's Office of the Inspector General published Friday its annual report titled "Top Management and Performance Challenges Facing the Justice Department." The memo, which is 15 pages long, [can be found online here](http://www.justice.gov/oig/challenges/2013.htm) and is worth reading. Not because it is particularly candid or revealing— these are lawyers writing about other lawyers, after all—but rather because we see in both the light and in the shadows of this document so much of what has animated this busy year at the intersection of law and politics. nterspersed here are quotes from an interview I conducted by telephone Friday with the inspector general himself, Michael Horowitz, who offered to explain as best he can the memo he vetted, signed and delivered up to the world. I'll offer these in the order in which they appear in the memo, although I suspect that "Growing Crisis in the Federal Prison System," which is the title of the first section of the memo, won't get nearly as much attention as will subsequent sections about civil liberties and federal mismanagement.

Inspector General was “focused on the crisis” in 2013. So the problem should have been solved by now if inspections and reports fix anything

Andrew Cohen 2013. (journalist) “Government Watchdog: We Have a Growing Federal Prison 'Crisis'” <https://www.theatlantic.com/national/archive/2013/12/government-watchdog-we-have-a-growing-federal-prison-crisis/282341/> (accessed 27 Jan 2022)

It is a very good thing indeed that the OIG now is focused upon the "growing crisis" in our federal prisons. We've been [chronicling that crisis for years](https://www.theatlantic.com/personal/archive/2012/06/an-american-gulag-0151-the-mentally-ill-at-supermax/258818/), often in heartbreaking terms, here at The Atlantic. Maybe one day, when enough powerful people focus upon it, Washington will actually fix the problem. As Horowitz told me, this year-end memo has been produced for many years but the topic of prisons didn't make the list until last year. This year, it's in the first spot (though, he added, the items are not necessarily ranked by priority).

3. Conflict of interest dooms effectiveness

Submitting reports to the bureaucracy you are overseeing is a conflict of interest doomed to fail

Andrew Cohen 2013. (journalist) “Government Watchdog: We Have a Growing Federal Prison 'Crisis'” <https://www.theatlantic.com/national/archive/2013/12/government-watchdog-we-have-a-growing-federal-prison-crisis/282341/> (accessed 27 Jan 2022) (brackets added)

The OIG [Office of the Inspector General] knows a great deal about the nation's surveillance efforts, and the ways in which the Justice Department is or is not complying with applicable rules and regulations governing such surveillance, but if it were to tell us given classification procedures currently in place it would have to shoot us. But, still, the OIG nevertheless wants us to know that it is dutifully submitting classified oversight reports to Congress, and to Justice Department officials, the very same officials it is permitted by law to be exercising oversight over.

4. Real solutions have been ignored for almost a decade

We’ve known since 2013 that the solution isn’t more reports. It’s 1) more money from Congress and 2) change the laws to stop putting so many people in prison

Andrew Cohen 2013. (journalist) “Government Watchdog: We Have a Growing Federal Prison 'Crisis'” <https://www.theatlantic.com/national/archive/2013/12/government-watchdog-we-have-a-growing-federal-prison-crisis/282341/> (accessed 27 Jan 2022) (brackets added)

Listening to [Justice Dept. Inspector General, Michael] Horowitz explain the OIG's [Office of the Inspector General] emphasis on federal prisons, it's clear that he's trying, as diplomatically as possible, to raise the alarm about the lack of progress the Justice Department—and specifically the BOP—has shown in reacting to the changing dynamics of the inmate population. "Even though the Department since 2006 has been identifying prison overcrowding and prison capacity as a material performance weakness," he told me, "over that seven year period, the numbers haven't improved, they've gotten arguably worse, and are on the path... to continue to get worse in the years ahead." Something's gotta give. One solution, Horowitz says, is for Congress to simply appropriate more money for prisons. Another is that "the Department and Congress can agree on legislation that can alter various statutes." (And, indeed, [that is happening](http://www.leahy.senate.gov/press/bipartisan-legislation-to-give-judges-more-flexibility-for-federal-sentences-introduced)). The memo, however, is designed to focus the executive branch's attention to  "what exists today. The Department does have some ability to have an impact on this current situation," he says, whether it's at the charging stage in a criminal case, the sentencing stage of such a case, or upon inmates who already are in the system.

DISADVANTAGES

1. Masking disad. Every dollar spent or hour spent on their Plan harms us by taking us away from the real problems

The real problems are lack of staffing and Carvajal. Carvajal is gone, now we need staffing

Walter Pavlo 2021 (founded Prisonology, an expert network firm of retired Bureau of Prisons professionals, to work with defendants and criminal defense lawyers on federal prison issues ) 10 Dec 2021 “Union Says Staffing Shortages Within Federal Bureau Of Prisons Leading To More Violence” FORBES <https://www.forbes.com/sites/walterpavlo/2021/12/10/union-says-staffing-shortages-within-federal-bureau-of-prisons-leading-to-more-violence/?sh=e14726d37a0e> (accessed 26 Jan 2022)

Tensions inside of federal prison are high and corrections staff are growing more concerned over the lack of staffing. According to an Associated Press article, over the past four weeks, there have been [3 deaths](https://apnews.com/article/prisons-violence-colorado-congress-prison-violence-0f7aedcbceca20ca5fedc465c252ac0b) as a result of inmate-on-inmate violence in high security federal prisons. Senator Dick Durbin, the chairman of the Senate Judiciary Committee, has called on Attorney General Merrick Garland to [fire Bureau of Prisons Director Michael Carvajal](https://apnews.com/article/coronavirus-pandemic-crime-prisons-health-judiciary-b6d9ca267dbc52aa34ef11f47b29bfc2), saying he has failed to adequately address the myriad crises plaguing the agency.

Lack of medical staffing

Walter Pavlo 2021 (founded Prisonology, an expert network firm of retired Bureau of Prisons professionals, to work with defendants and criminal defense lawyers on federal prison issues) 10 Dec 2021 “Union Says Staffing Shortages Within Federal Bureau Of Prisons Leading To More Violence” FORBES <https://www.forbes.com/sites/walterpavlo/2021/12/10/union-says-staffing-shortages-within-federal-bureau-of-prisons-leading-to-more-violence/?sh=e14726d37a0e> (accessed 26 Jan 2022)

This crisis has brought to light a problem that has plagued the BOP for many years; lack of medical staff. Lompoc’s Health Services Administrator told the OIG that prior to the Covid-19 outbreak the institution’s medical staffing was at only 62 percent, a problem the BOP admitted has been a [national challenge](https://www.justice.gov/jmd/page/file/1034421/download). April 30, the BOP had designated 9 temporary duty (TDY) medical staff to FCC Lompoc and had increased the institution’s medical staffing from approximately 24 to 33.

2. Federal deficits

Link: Every dollar spent by the AFF on reports no one will read could have not been spent and reduced the federal deficit

Impact: Every increase in the deficit hurts the economy

Dr William Gale and Benjamin Harris 2010. (Gale - PhD in economics, Stanford Univ.; senior fellow at the Brookings Institution and co-director of the Urban-Brookings Tax Policy Center; former assistant professor of Economics at UCLA, and a senior economist for the Council of Economic Advisers under President George H.W. Bush; Harris - master’s degree in economics from Cornell Univ and master’s degree in quantitative methods from Columbia University; senior research associate with the Economics Studies Program at the Brookings Institution) “A VAT for the United States: Part of the Solution” (notes about the date: This article is one of several in the overall publication at this source. The publication date was 2011, but this article was written in 2010) <https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/1001418-A-Value-Added-Tax-for-the-United-States-Part-of-the-Solution.PDF> (accessed 26 Jan 2022)

But even in the absence of a crisis, sustained deficits have deleterious effects, as they translate into lower national savings, higher interest rates, and increased indebtedness to foreign investors, all of which serve to reduce future national income. Gale and Orszag (2004a) estimate that a 1 percent of GDP increase in the deficit will raise interest rates by 25 to 35 basis points and reduce national saving by 0.5 to 0.8 percentage points of GDP.