

United States Senate

WASHINGTON, DC 20510

May 18, 2017

The Honorable Richard Shelby
Chairman
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Senate Committee on Appropriations
142 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Jeanne Shaheen
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
U.S. Senate Committee on Appropriations
125 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Shelby and Ranking Member Shaheen:

As you consider appropriations for the fiscal year (FY) 2018, we are writing to respectfully request you include report language regarding the Bureau of Prison's (BOP) compassionate release program.

Compassionate release allows federal inmates to petition BOP for early release if they meet certain criteria set by the U.S. Sentencing Commission (USSC). For example: age, severe disability, or terminal illness are qualifying criteria. This program has a negligible effect on public safety, a point supported by the re-arrest rate dropping dramatically as people in prison age. Incarcerated individuals 50 years and older have a 15% re-arrest rate, compared to the 41% re-arrest rate of the general federal prison population. In addition, people released under compassionate release have a 3.5% recidivism rate, the lowest rate among all formerly incarcerated people.

Compassionate release also saves taxpayer dollars. Elderly people are the fastest growing population in federal prison, expected to represent 28% of the total population by 2019. Incarceration costs for elderly and terminally ill people in prisons are substantially greater than the general population. In FY 2015, BOP spent \$1.1 billion on inmate medical care, an increase of nearly 30% in 5 years. This figure is staggering when considering funding for BOP represents nearly 30% of the Department of Justice's (DOJ) overall budget.

Under federal law, BOP has existing authority to approve the petitions for compassionate release made by people who qualify under the USSC's criteria. However, a 2013 DOJ Office of the Inspector General (OIG) report found that BOP did not have clear standards or a formal timeline standard when making their compassionate release decisions. The OIG report made recommendations and BOP issued new policy guidance in August 2013. However, at a 2016 hearing before the USSC, the OIG found that in the 13 months since BOP's change, "93 elderly inmates applied under the non-medical provision, resulting in 2 releases, while none of the 203 elderly inmates who applied under the medical provision had been approved for release."

Considering these factors, we ask that you include the following report language:

The Committee is concerned that the Bureau of Prisons (BOP) is not using its authority to recommend compassionate release. The Committee recommends that BOP use its discretion consistent with the updated policy issued by the United States Sentencing Commission so that eligible applications are reviewed by a trial judge.

Thank you very much for your consideration of our request.

Sincerely,



BRIAN SCHATZ
United States Senator



JEFF MERKLEY
United States Senator



EDWARD J. MARKEY
United States Senator