

May 8, 2009

Eric H. Holder, Jr.
Attorney General of the United States
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Holder:

I would like to take this opportunity to underscore the urgent need for immediate action with respect to the Federal Bureau of Prisons, and, in particular, for the removal of Bureau of Prisons Director Harley G. Lappin. Late last month, Director Lappin's unjustified and dangerous insistence on taking an adversarial approach to the provision of stab-resistant vests to federal correctional officers resulted in another federal correctional officer receiving serious stab wounds after being attacked by an inmate.

As you are likely aware, a correctional officer at the high security United States Penitentiary located in the Terre Haute, Indiana, Federal Correctional Complex was stabbed by an inmate on April 23, 2009. This stabbing comes less than a year after 22-year old correctional officer Jose Rivera was stabbed to death by an inmate at the high security United States Penitentiary located in Atwater, California. Although, thankfully, the Terre Haute officer was not killed, he suffered lacerations to his head and eye along with puncture wounds to his back. Importantly, neither officer was wearing a stab-resistant vest when he was attacked. It seems self-evident to me that had either officer been wearing a stab-resistant vest his injuries might have been considerably diminished, and, in fact, Officer Rivera might still be alive today.

But, rather than adopt a functional risk based approach to the provision of stab-resistant vests, Director Lappin has opted for an adversarial strategy of delay and a stab-resistant vest policy that makes little sense. On the one hand, he would make the decision to wear a stab-resistant vest an entirely voluntary decision on the part of individual correctional officers. On the other hand, if an individual correctional officer chooses to wear a vest, the Director mandates that the officer must wear the vest at all times, and that a failure to wear the (voluntarily selected) vest may be cause for discipline. I believe that on its face this policy is completely arbitrary, and fails to serve the best interests of the Bureau's correctional officers. For example, Director Lappin's policy lacks any analysis of whether the wearing of a vest is warranted based on an individual officer's posting or duties or even based on the officer's proximity or access to inmates; factors that AFGE believes to be crucial to the successful deployment of stab-resistant vests

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within the Bureau of Prisons. Obviously, Director Lappin's policy that any officer who chooses to wear a vest must wear the vest at all times, in all areas of all facilities, and in all weather conditions, is simply irrational unless it is punitive and intended to discourage the use of vests.

In this regard, I have enclosed with this letter copies of two earlier letters concerning the Bureau's provision of stab-resistant vests. The first letter is a November 2008 letter from AFGE's General Counsel, Mark D. Roth, to Director Lappin concerning the implementation of the proposed vest policy, and the need for an immediate modification of the policy to grant individual wardens the discretion to determine the appropriate stab-resistant vest policy for their respective facilities. The second, what I believe to be boilerplate, letter is the response that AFGE received from the Bureau's Assistant Director/General Counsel Kathleen M. Kenney more than four months later, in which the Bureau indicates that it will not modify the policy until collective bargaining on the policy is concluded and any necessary third party review is completed.

On behalf of AFGE, the AFGE Council of Prisons Locals and all of the federal correctional officers that we represent, I believe that Director Lappin's intractability and apparent refusal to adopt a rational approach to the provision of stab-resistant vests in favor of what appears to be a knee-jerk bargain-to-the-death strategy is irresponsible. Indeed, in light of last month's inmate stabbing of the Terre Haute correctional officer and the fatal inmate stabbing of Officer Rivera last June, Director Lappin's conduct rises to the level of malfeasance.

Moreover, as if Director Lappin's arbitrary and counterproductive vest policy were not enough, Director Lappin has further diminished the safety of the Bureau's correctional officers by failing to correct the critical staffing shortage currently faced by the Bureau. Since 1997, the Bureau's inmate to staff ratio has risen from 3.7 inmates to 1 officer to 4.9 inmates to 1 officer. This rise in the inmate to staff ratio has had a negative impact on officer safety. In real world terms, for example, this rise means that instead of supervising 100 inmates, a single officer (operating without backup) may now be responsible for supervising as many as 180 inmates. I strongly believe that the safety implications of a single officer being responsible for the supervision of 180 federal felony offenders are clear; after all, no officer can possibly have eyes in the back of his head.

In recognition of the Bureau's staffing shortage and its negative impact on officer safety, Congress provided a funding increase of 545 million dollars to the Bureau's Salaries and Expenses account for the 2009 fiscal year. Congress intended that the bulk of this increase go to the hiring of new correctional officers. Yet, flying in the face of Congress' intent, Director Lappin has decided that none of the 545 million dollar increase will be used to hire new correctional officers. This decision does absolutely nothing to address the Bureau's staffing shortage, and again leaves officers at risk. Consequently,

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based on all of the above, AFGE asks that you immediately remove Director Lappin for his malfeasance before another correctional officer is needlessly injured or killed.

In closing, AFGE certainly understands that even in the best labor-management relationship there will be legitimate disagreements that must be bargained and, if necessary, resolved through a neutral third-party process. But, for issues such as the ones here, where lives are literally on the line, AFGE believes that ordinary labor-management disagreements must take a back seat to officer safety.

Thank you again for your consideration, and I look forward to your response.

Sincerely,

John Gage
National President

cc: Aaron McCree Lewis, Counsel to the Attorney General
Harley Lappin, Director, U.S. Federal Bureau of Prisons
Bryan Lowry, President, AFGE Council of Prison Locals
Mark D. Roth, AFGE General Counsel