

November 14, 2023

The Honorable Tom Cole
Chairman
House Committee on Rules
2207 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Jim McGovern
Ranking Member
House Committee on Rules
370 Cannon House Office Building
Washington, D.C. 20515

Dear Chairman Cole and Ranking Member McGovern:

As you consider amendments to H.R. 5893, the Commerce, Justice, Science, and Related Agencies Appropriations Act, 2024, we write to urge you to consider that Amendment #124 be made in order.

This amendment would strike Section 219 of the above-named bill, which requires the Attorney General to issue an Environmental Impact Statement, Record of Decision, and all studies, statements, and other authorizations for the construction, operation, and maintenance of the proposed Federal Bureau of Prisons (BOP) facilities in Letcher County, KY, and states these actions shall not be subject to judicial review. Section 219 also exempts the Federal Bureau of Prisons from judicial review for operational matters, which may prohibit incarcerated people from seeking judicial remedies for civil and statutory civil rights violations that occur at this facility.

For several reasons, over 200 organizations from around the country have already signed on in opposition to Section 219. Their concerns are all addressed by Amendment #124.

Section 219 directs a final decision on the construction of Federal Correctional Institution (FCI) Letcher to be made within 30 days, effectively terminating the federally mandated environmental review process, pre-empting the required public comment periods and barring public input on the project. These processes provide essential checks on the prison's potential environmental impacts on endangered bat habitat, wetlands, and old-growth forest, as well as public health consequences of arsenic and radon exposure for incarcerated people, correctional staff, and families visiting their loved ones.

More specifically, in bypassing an updated environmental review, Section 219 would require the Bureau of Prisons to rely on an environmental study that is over six years old. The 2017 site study does not reflect scientific advancements in the understanding of climate change and environmental injustice. It also fails to account for extreme weather events like the devastating flood in Letcher County last year, which washed out roads and submerged the small bridge in Roxana, Kentucky where the prison is slated to be built. According to the *Wall Street Journal*, Letcher County has "the largest hidden flood risk in the U.S."

Furthermore, Section 219 attempts to strip federal courts of jurisdiction to hear legal challenges to the prison's construction or operation, including challenges brought under the essential environmental protection laws that, until recently, applied to every other federal construction

project in the country. Echoing the recent move to exempt the Mountain Valley Pipeline from judicial review, Section 219 creates a dangerous precedent for future carve-outs to exempt federal projects from environmental protection laws.

Section 219's bar on litigation responsive to the operation of FCI Letcher may also deprive incarcerated people of their constitutional and statutory rights. If Section 219 becomes law, incarcerated people would potentially have no redress for unlawful conditions of confinement, deprivations of medical care, First Amendment infringements, violations of the Rehabilitation Act, and more. Section 219 could leave people incarcerated at FCI Letcher – already isolated hundreds of miles from their families – uniquely vulnerable to maltreatment and abuse.

All communities that stand to be impacted by the construction of FCI Letcher should have the ability to exercise their right to comment on the proposed prison, but Section 219 forecloses those rights in accelerating the prison's construction. Letcher County community members and other stakeholders from across the country should have a say when it comes to such a significant change in the community, particularly given the price tag of over \$500 million taxpayer dollars and the false promises of prison-based economic development. Since the federal incarceration rate has dramatically decreased over the last decade, the Trump and Biden Administrations and the BOP have consistently asked the funding previously allocated to this project be rescinded. This amendment fast-tracks a project that much evidence points to as being a mismanagement of funds.

In addition to disregarding the voice of the local community, the construction of the prison has consequences that reach far beyond Letcher County. FCI Letcher would fall within the Bureau of Prison's Mid-Atlantic Region, housing individuals from within a 500 mile radius and leaving many incarcerated people disconnected from their local support systems.

If Section 219 were presented as an amendment, parliamentarian advice would counsel against this attempt to legislate in an appropriations bill. Amendment #124 corrects this deviation from the procedural norm and would preserve public input, environmental review, and judicial rights as required by relevant laws.

We request your Committee's favorable view of Amendment #124, which would strike Section 219, and we further urge that the amendment be made in order. Thank you again for the opportunity to submit comments and for your consideration.

Sincerely,

National

Voiceless Behind Bars (Vestavia Hills, AL)

Center for Biological Diversity (Tucson, AZ)

Critical Resistance (Oakland, CA)

Dream.org (Oakland, CA)

Equal Justice USA (San Francisco, CA)

Presente.org (Oakland, CA)

Prison Law Office (Berkeley, CA)

Prison Radio/The Redwood Justice Fund (San Francisco, CA)

UCLA Behind Bars Data Project (Los Angeles, CA)
Advancement Project (Washington, DC)
American Civil Liberties Union (ACLU) National (Washington, DC)
CURE (Citizens United for Rehabilitation of Errants) - National (Washington, DC)
CURE (Citizens United for Rehabilitation of Errants) - National (Washington, DC)
Forward Midwifery (Washington, DC)
NETWORK Lobby for Catholic Social Justice (Washington, DC)
Public Justice (Washington, DC)
Showing Up for Racial Justice (SURJ) (Washington, DC)
The Law Office of Deborah M. Golden (Washington, DC)
The Sentencing Project (Washington, DC)
Vera Institute of Justice (Washington, DC)
Washington Lawyers' Committee for Civil Rights and Urban Affairs (Washington, DC)
Leonard Peltier Official Ad Hoc Comm (Gainesville, FL)
Mutual Aid Disaster Relief (Tampa, FL)
National Lawyers Guild, Mass Incarceration Committee (Miami, FL)
Project South (Atlanta, GA)
Southern Center for Human Rights (Atlanta, GA)
Spirit of Mandela Coalition (Atlanta, GA)
Women on the Rise (Atlanta, GA)
Black Alliance for Peace-Chicago (Aurora, IL)
Shriver Center on Poverty Law (Chicago, IL)
Muslims for Just Futures (Chicago, IL)
Incarcerated Workers Organizing Committee (Kansas City, KS)
Farm Transition Academy (Lexington, KY)
The Campaign to Fight Toxic Prisons (Lexington, KY)
VISIONS Inc. (Louisville, KY)
National Police Accountability Project (New Orleans, LA)
Operation Restoration (New Orleans, LA)
Voice of the Experienced (New Orleans, LA)
Institute to End Mass Incarceration (Cambridge, MA)
Prison Policy Initiative (Easthampton, MA)
MXGM (Detroit, MI)
Sugar Law Center for Economic and Social Justice (Detroit, MI)
The Abolition Collective (Holland, MI)
Forward Justice (Durham, NC)
Jailhouse Lawyers Speak (Charlotte, NC)
People Over Plastic (Raleigh, NC)
Forward Justice Action Network (Durham, NC)
Center for Constitutional Rights (New York, NY)
Hampton Institute (Albany, NY)
Justice Strategies (Brooklyn, NY)
National Lawyers Guild, International Committee (New York, NY)
Natural Resources Defense Council (NRDC) (New York, NY)

Release Aging People in Prison (RAPP) (New York, NY)
Safiya Bukhari-Nuh Washington Foundation (Bronx, NY)
VOCAL (Queens Village, NY)
Civil Liberties Defense Center (Eugene, OR)
1Hood Power (Pittsburgh, PA)
Abolitionist Law Center (Philadelphia, PA)
American Friends Service Committee (Philadelphia, PA)
Human Rights Coalition (Philadelphia, PA)
Rocs House (Mercer, PA)
Straight Ahead Organization (Philadelphia, PA)
Malcolm X Center for Self Determination (Greenville, SC)
Black and Pink National (Dallas, TX)
HEARD (Austin, TX)
National Jericho Movement (Richmond, VA)
Veterans Service Corps (Charlottesville, VA)
Rural Youth Catalyst (Westford, VT)
350.org (Vancouver, WA)
SURJ - Showing Up for Racial Justice (Vashon, WA)

Kentucky

Concerned Letcher Countians, LLC (Blackey, KY)
Abolish Slavery KY (Berea, KY)
American Civil Liberties Union (ACLU) of Kentucky (Louisville, KY)
BBPLS (Louisville, KY)
Big Sandy LGBT Safe Zone, Inc. (Pikeville, KY)
Black Lives Matter Louisville (Louisville, KY)
Clean4changeKY (Louisville, KY)
Collective Liberation Network (Louisville, KY)
Cornbread and Collards LLC (Guston, KY)
Evergreen (Lexington, KY)
Green Streets (Louisville, KY)
Kentuckians For The Commonwealth (Berea, KY)
Kentucky Center for Economic Policy (Berea, KY)
Kentucky Heartwood (Berea, KY)
Kentucky Resources Council, Inc. (Frankfort, KY)
Kentucky Student Environmental Coalition (KSEC) (Louisville, KY)
KY Tenants (Lexington, KY)
Lexington Pride Center (Lexington, KY)
Pulaski County Community Coalition (Somerset, KY)
Sierra Club Kentucky (Louisville, KY)
Square Dance Farms (Blackey, KY)
The Alliance for Appalachia (London, KY)
The Berry Center (Port Royal, KY)
The Local Good Mini Market (Scottsville, KY)

The Revolution KY (Campbellsburg , KY)

Alabama

Alabama Justice Initiative (Birmingham, AL)

Arkansas

Arkansas Community Organizations (Little Rock, AR)

Arizona

Death Penalty Alternatives for Arizona (Phoenix, AZ)

Duncan Trade Works (Tucson, AZ)

California

Carceral Ecologies, UCLA (Los Angeles, CA)

CURE (Citizens United for Rehabilitation of Errants) - California (Long Beach, CA)

Empowering Women Impacted by Incarceration (Rancho Cucamonga, CA)

End Solitary Santa Cruz County (Santa Cruz, CA)

Metta Center for Nonviolence (Tomales, CA)

National Lawyers Guild, SF Bay Area chapter (San Francisco, CA)

Oakland Jericho Movement (Berkeley, CA)

SIREN Action (Oakland, CA)

Sunrise Movement Sacramento (Sacramento, CA)

Colorado

Colorado Criminal Justice Reform Coalition (Denver, CO)

Connecticut

National Organization for Rights Protection and Advocacy (West Hartford, CT)

Rad Little Library (Willimantic, CT)

Washington DC

Free Minds Book Club & Writing Workshop (Washington, DC)

Free Words Prison (Washington, DC)

Grassroots DC (Washington, DC)

Students Against Mass Incarceration @ Gallaudet University (Washington, DC)

The Community Garden at American University (Washington, DC)

Voices For A Second Chance (Washington, DC)

Deleware

Methodist Action Program (Wilmington, DE)

Florida

Mass Incarceration Must End Inc. (Lake Worth, FL)

Raise Up (Gainesville, FL)

Restorative Justice Coalition (Tampa, FL)

Iowa

Iowa Citizens for Community Improvement (Des Moines, IA)

Illinois

Illinois Alliance for Reentry & Justice (Chicago, IL)

Loyola University Chicago School of Law NLG chapter (Chicago, IL)

National Lawyer Guild Chicago (Chicago, IL)

Uptown People's Law Center (Chicago, IL)

Indiana

Restore the Meadow (Chelsea, IN)

Louisiana

American Civil Liberties Union (ACLU) of Louisiana (New Orleans, LA)

Emily Posner Attorney at Law LLC (New Orleans, LA)

Formerly Incarcerated Transitions (FIT) Clinic Initiative (New Orleans, LA)

Grow Dat Youth Farm (New Orleans, LA)

Harvest LLC (New Orleans, LA)

Imagine Water Works (New Orleans, LA)

kindred investigations (New Orleans, LA)

Louisiana Center for Children's Rights (New Orleans, LA)

Loyola University New Orleans NLG Chapter (New Orleans, LA)

NOLA Investigates, LLC (New Orleans, LA)

Power Coalition for Equity and Justice (Baton Rouge, LA)

Promise of Justice Initiative (New Orleans, LA)

Schmelly's (New Orleans, LA)

SPROUT (New Orleans, LA)

Voters Organized to Educate (New Orleans, LA)

Massachusetts

The Harriet Tubman Project (Dorchester, MA)

Ug2msg (Brighton, MA)

Maryland

Helping Ourselves to Transform (Laurel, MD)

Jamaat al-Muslimeen DC (Ellicott City, MD)

March On Maryland (Annapolis, MD)

Maryland Communities United (Baltimore, MD)

Prince George's County Food Equity Council (Largo, MD)

Maine

After the Fall Farm (Montville, ME)

Lynn Tree Care llc (Monroe, ME)
Maine Inside Out (Brunswick, ME)
Maine Prisoner Advocacy Coalition (Lisbon Falls, ME)

Michigan

Detroit Jericho Movement (Detroit, MI)
Detroit Justice Center (Detroit, MI)
Feedom Freedom Growers (Detroit, MI)
Goodman Hurwitz & James PC (Detroit, MI)
James and Grace Lee Boggs Center (Detroit, MI)
National Lawyers Guild, Detroit & Michigan Chapters (Detroit, MI)
Russell Woods Sullivan Area Association (Detroit, MI)
The Returning Citizen (Detroit, MI)

Missouri

Sierra Club Missouri Chapter (St. Louis, MO)

Mississippi

Cooperation Jackson (Jackson, MS)

New Hampshire

NHPANTHERS (Campton, NH)

New Mexico

Millions for Prisoners New Mexico (Albuquerque, NM)

New York

Mobilization4 Mumia (Ozone Park, NY)
NEW ABOLITIONIST MOVEMENT (Brooklyn, NY)
New York City Jericho Movement (Bronx, NY)
Yoga For Peace, Justice, Harmony With the Planet - Amazing Amy: Eccentric Yoga Entertainer (New York, NY)

Ohio

borealis Biological (Athens, OH)
Bowling Green Student Rights Union (Worthington, OH)
InterReligious Task Force on Central America (Cleveland, OH)
Jail Coalition to Stop Inhumanity in Cuyahoga County (Cleveland, OH)
No New Jails Cleveland (Cleveland, OH)

Oregon

CURE (Citizens United for Rehabilitation of Errants) - Oregon (Keizer, OR)
Willamette Valley Abolition Project (Eugene, OR)

Pennsylvania

American Civil Liberties Union (ACLU) of Pennsylvania (Philadelphia, PA)
The Liberation Foundation (Philadelphia, PA)

Rhode Island

Farmacy (Providence, RI)

South Carolina

MILPA Collective (Bennettsville, SC)
SCPJN/Prisonsouth (Florence, SC)

Tennessee

Knoxville's Black Mama Bailout Action (Knoxville, TN)
Southerners on New Ground Nashville Chapter (Nashville, TN)

Texas

Be Frank 4 Justice (San Antonio, TX)
Charles Roundtree Bloom Project (San Antonio, TX)
Green Goddess Revival (Denton, TX)
Hays County Jail Advocates (San Marcos, TX)
Maria Hinds Design Studio (San Antonio, TX)
Queers Bash Back DFW (Fort Worth, TX)
Texas Jail Project (Cypress, TX)
TX Death Penalty abolition Movement (Houston, TX)
United Fort Worth (Fort Worth, TX)

Virginia

American Civil Liberties Union (ACLU) of Virginia (Richmond, VA)
Friends of Buckingham (Buckingham, VA)
Justice Forward Virginia (Earlysville, VA)
Preserve Montgomery County VA (Blacksburg, VA)
Protect Our Water, Heritage, Rights (POWHR) (Newport, VA)
Roanoke Group, Sierra Club (Roanoke, VA)
Southern Appalachian Mountain Stewards (Big Stone Gap, VA)
The Clinch Coalition (Wise, VA)
The Humanization Project (Christiansburg, VA)
The STAY Project (Big Stone Gap, VA)
Virginia Community Rights Network (Buckingham, VA)
Virginia Justice Alliance (New Holland, VA)

West Virginia

Coal River Mountain Watch (Naoma, WV)
Mountain State Justice (Charleston, WV)