



Department of Justice

STATEMENT

OF

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BEFORE THE

SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE
AND RELATED AGENCIES

COMMITTEE ON APPROPRIATIONS
U.S. HOUSE OF REPRESENTATIVES

CONCERNING

FEDERAL PRISONER REENTRY AND THE SECOND CHANCE ACT

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Statement of
Harley G. Lappin, Director
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Before the Subcommittee on Commerce, Justice, Science
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on
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Good morning Chairman Mollohan, Ranking Member Wolf, and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss the challenges we face in the Bureau of Prisons (BOP) in meeting the reentry needs of all inmates in our custody. Let me begin, however, by thanking you, Chairman Mollohan, Congressman Wolf, and Members of the Subcommittee, for your support of the BOP. I am particularly grateful for your assistance last year with the reprogramming and supplemental funds that allowed the BOP to continue our basic operations, programs, and services, and avoid a deficiency.

The mission of the Bureau of Prisons is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and to provide inmates with a range of work and other self-improvement programs that will help them adopt a crime-free lifestyle upon their return to the community. As our mission indicates, the post-release success of offenders is as important to public safety as inmates' secure incarceration.

The two parts of our mission are closely related -- prisons must be secure, orderly, and safe in order for our staff to be able to supervise work details, provide training, conduct classes, and run treatment sessions. Conversely, inmates who are productively occupied in appropriate correctional programs are less likely to engage in misconduct and violent or disruptive behavior.

Continuing increases in the inmate population pose substantial ongoing challenges for our agency. We have not been able to build enough new facilities to keep up with the increase in the Federal inmate population, although the use of contract beds has helped for low security inmates. Tight budgets have also meant that we have not been able to increase our staffing to the level necessary to keep pace with the population growth. This has led to a dramatic increase in the inmate-to-staff ratio in our institutions. Rigorous research has demonstrated that both increased crowding and an increase in the inmate-to-staff ratio result in an increase in serious assaults. I will address these issues in more detail later in my testimony.

The BOP is responsible for the incarceration of over 202,000 inmates. Approximately 82 percent of the inmate population is confined in Bureau-operated institutions, while 18 percent is under contract care, primarily in private sector prisons. Most of these inmates (53%) are serving sentences for drug trafficking offenses. The remainder of the population consists of inmates convicted of weapons offenses (15%), immigration law violations (10%), violent offenses (8%), fraud (5%), property crimes (4%), sex offenses (3%), and other miscellaneous offenses (2%).

The average sentence length for inmates in BOP custody is 9.9 years. Approximately 7 percent of inmates in the BOP are women, and approximately 26 percent are not U.S. citizens.

Our agency has no control over the number of inmates who come into Federal custody, the length of sentences they receive, or the skill deficits they bring with them. We do have control, however, over the programs in which inmates can participate while they are incarcerated; and we can thereby affect how inmates leave our custody and return to the community. Virtually all Federal inmates will be released back to the community at some point. Most need job skills, vocational training, education, counseling, and other assistance (such as drug abuse treatment, anger management, and parenting skills) if they are to successfully reenter society. Each year, approximately 45,000 Federal inmates return to our communities, a number that will continue to increase as the inmate population grows.

The Federal Inmate Population

The most significant net increases in the inmate population have occurred in the last 2 decades. While we are no longer experiencing the dramatic population increases of between 10,000 and 11,400 inmates per year that occurred from 1998 to 2001, the increases are still significant and include average annual net increases of approximately 5,800 inmates per year for the last 5 fiscal years (from 2003 to 2008). The net growth of the inmate population in FY 2008 was less than anticipated as a result of the retroactive change in crack cocaine sentencing. However, the net inmate population growth for FY 2009 is on target with the projections.

In 1930 (the year the Bureau was created), we operated 14 institutions for just over 13,000 inmates. By 1940, the Bureau had grown to 24 institutions and 24,360 inmates. The number of inmates did not change significantly for 40 years. In 1980, the total population was 24,640 inmates.

From 1980 to 1989, the inmate population more than doubled, from just over 24,000 to almost 58,000. This resulted from enhanced law enforcement efforts along with legislative reform of the Federal criminal justice system and the creation of a number of mandatory minimum penalties. During the 1990s, the population more than doubled again, reaching approximately 134,000 at the end of fiscal year 1999 as the BOP experienced the effect of efforts to combat illegal drugs, firearms violations, and illegal immigration. As a result of the National Capital Revitalization and Self-Government Improvement Act of 1997, the BOP became responsible for the District of Columbia's sentenced felon inmate population. Immediately after passage of the Act, we began gradually transferring sentenced felons from the District of Columbia into BOP custody and began accepting custodial responsibility of newly-sentenced D.C. felon inmates.

We expect increases of approximately 4,500 inmates per year over the next several years. Our current population of more than 202,000 inmates is expected to increase to over 215,000 by the end of fiscal year 2011.

Institution Crowding

BOP facilities had a total rated capacity of 122,366 beds at the end of FY 2008, and confined approximately 166,000 inmates. Systemwide, the BOP was operating at 36 percent over its total rated capacity. Crowding is of special concern at high-security penitentiaries (operating at 46 percent over capacity) and medium-security institutions (operating at 45 percent over capacity) because these facilities confine a disproportionate number of inmates who are prone to violence. We manage crowding by double bunking throughout the system -- 95 percent of all high-security cells and 100 percent of all medium-security cells are double-bunked. In addition, approximately 15 percent of all medium-security cells are triple-bunked or inmates are being housed in space that was not designed for inmate housing.

Preparing inmates for reentry into the community, including incorporating the changes made by the Second Chance Act into our programs, is a high priority for the BOP. We are constrained, however, in our ability to attend to this priority due to the high level of crowding and lower level of staffing in our institutions. A comparison of the BOP with a number of large State prison systems reveals that BOP's inmate-to-staff ratio is 4.9 to 1 versus a figure of 3.3 to 1 in the State systems. The combination of elevated crowding and reduced staffing has decreased our ability to provide all inmates with the necessary range of programs that provide the job skills and life skills necessary to prepare them fully for a successful reentry into the community.

Crowding also affects inmates' access to important services (such as medical care and food services), an institution's infrastructure (the physical plant and security systems), and inmates' basic necessities (access to toilets, showers, telephones, and recreation equipment). Correctional administrators agree that crowded prisons result in greater tension, frustration, and anger among the inmate population, which leads to conflicts and violence.

In the past, we have been able to take a variety of steps to mitigate the effects of crowding in our facilities. For example, we have improved the architectural design of our newer facilities and have taken advantage of improved technologies in security measures such as perimeter security systems, surveillance cameras, and equipment to monitor communications. These technologies support BOP employees' ability to provide inmates the supervision they need in order to maintain security and safety in our institutions. We have also enhanced population management and inmate supervision strategies in areas such as classification and designation, intelligence gathering, gang management, use of preemptive lockdowns, and controlled movement. We have, however, reached a threshold with regard to our efforts, and are facing a serious problem with inmate crowding.

In 2005, we performed a rigorous analysis of the effects of crowding and staffing on inmate rates of violence. We used data from all low-security, medium-security, and high-security BOP facilities for male inmates for the period July 1996 through December 2004. We accounted for a variety of factors known to influence the rate of violence and, in this way, were able to isolate and review the impact that crowding and the inmate-to-staff ratio had on serious assaults. We

found that both the inmate-to-staff ratio and the rate of crowding at an institution (the number of inmates relative to the institution's rated capacity) are important factors that affect the rate of serious inmate assaults.

Our analysis revealed that a one percentage point increase in a facility's inmate population over its rated capacity corresponds with an increase in the prison's annual serious assault rate by 4.09 per 5,000 inmates; and an increase of one inmate in an institution's inmate-to-custody-staff ratio increases the prison's annual serious assault rate by approximately 4.5 per 5,000 inmates. The results demonstrate through sound empirical research that there is a direct relationship between resources (bed space and staffing) and institution safety.

The BOP employs many resource-intensive interventions to prevent and suppress inmate violence. These interventions include: paying overtime to increase the number of custody staff available to perform security duties, utilizing staff from program areas, locking down an institution after a serious incident and performing intensive interviews to identify perpetrators and causal factors, and performing comprehensive searches to eliminate weapons and other dangerous contraband.

In order to reduce crowding, one or more of the following must occur: (1) reduce the number of inmates or the length of time inmates spend in prison ; (2) expand inmate housing at existing facilities; (3) contract with private prisons for additional bed space for low-security criminal aliens; (4) increase the amount of time that inmates spend in pre-release halfway houses (which would require additional funding for more halfway house contracts); or (5) construct additional institutions (and, of course, fund the necessary positions for these facilities).

Inmate Reentry

Every Federal prison offers a plethora of inmate programs, including work, education, vocational training, substance abuse treatment, observance of faith and religion, psychological services and counseling, Release Preparation, and other programs that impart essential life skills. We also provide other structured activities designed to teach inmates productive ways to use their time.

Rigorous research has found that inmates who participate in Federal Prison Industries are 24 percent less likely to recidivate; inmates who participate in vocational or occupational training are 33 percent less likely to recidivate; inmates who participate in education programs are 16 percent less likely to recidivate; and inmates who complete the residential drug abuse treatment program are 16 percent less likely to recidivate and 15 percent less likely to relapse to drug use within 3 years after release. Each of these studies compared inmates who completed the program with similarly situated inmates who did not complete the program in order to obtain the percent reduction in recidivism.

In 2001, the Washington State Institute for Public Policy evaluated the costs and benefits of a variety of correctional, skills-building programs. The study examined program costs; the benefit

of reducing recidivism by lowering costs for arrest, conviction, incarceration, and supervision; and the benefit by avoiding crime victimization.

The study was based only on valid evaluations of crime prevention programs, including the BOP's assessment of our industrial work and vocational training programs (the Post Release Employment Project study) and our evaluation of the Residential Drug Abuse Treatment program (the TRIAD study). The "benefit" is the dollar value of criminal justice system and victim costs avoided by reducing recidivism and the "cost" is the funding required to operate the correctional program. The benefit-to-cost ratio of residential drug abuse treatment is as much as \$2.69 for each dollar invested in the program; for adult basic education, the benefit is as much as \$5.65; for correctional industries, the benefit is as much as \$6.23; and for vocational training, the benefit is as much as \$7.13. Thus, these inmate programs result in significant cost savings through reduced recidivism, and their expansion is important to public safety.

Inmate Work Programs

Prison work programs teach inmates occupational skills and instill in offenders sound and lasting work habits and a work ethic. All sentenced inmates in Federal correctional institutions are required to work (with the exception of those who for security, educational, or medical reasons are unable to do so). Most inmates are assigned to an institution job such as food service worker, orderly, painter, warehouse worker, or groundskeeper.

Federal Prisons Industries (FPI) is the BOP's most important correctional program because it has been proven to substantially reduce recidivism and is self-sustaining. FPI provides inmates the opportunity to gain marketable work skills and a general work ethic -- both of which can lead to viable, sustained employment upon release. It also keeps them productively occupied; inmates who participate in FPI are substantially less likely to engage in misconduct.

At present, FPI reaches only 13 percent of the BOP inmate population; this is a 30-percent decrease from just 6 years ago. This decrease is attributable to various provisions in Department of Defense authorization bills and appropriations bills that have weakened FPI's standing in the Federal procurement process. In order to increase inmate opportunities to work in FPI new authorities are required to expand product and service lines. Absent any expansion of FPI, the BOP would need additional resources to create inmate work and training programs to prepare inmates for a successful reentry into the community.

Education, Vocational Training, and Occupational Training

The BOP offers a variety of programs for inmates to enhance their education and to acquire skills to help them obtain employment after release. All institutions offer literacy classes, English as a Second Language, adult continuing education, parenting classes, recreation activities, wellness education, and library services.

With a few exceptions, inmates who do not have a high school diploma or a General

Educational Development (GED) certificate must participate in the literacy program for a minimum of 240 hours or until they obtain the GED. The English as a Second Language program enables inmates with limited proficiency in English to improve their English language skills. We also facilitate vocational training and occupationally-oriented higher education programs. Many institutions offer inmates the opportunity to enroll in and pay for more traditional college courses that could lead to a bachelor's degree.

Occupational and vocational training programs are based on the needs of the specific institution's inmate population, general labor market conditions, and institution labor force needs. On-the-job training is afforded to inmates through formal apprenticeship programs, institution job assignments, and work in the FPI program.

Substance Abuse Treatment

The BOP is mandated by statute (the Violent Crime Control and Law Enforcement Act of 1994) to provide drug abuse treatment to inmates. Our substance abuse treatment program includes drug education, non-residential drug abuse treatment, residential drug abuse treatment, and community transition treatment.

Drug abuse education is available in all BOP facilities. Drug abuse education provides inmates with information on the relationship between drugs and crime and the impact of drug use on the individual, his or her family, and the community. Drug abuse education is designed to motivate appropriate offenders to participate in nonresidential or residential drug abuse treatment, as needed.

Non-residential drug abuse treatment is also available in every BOP institution. Specific offenders whom we target for non-residential treatment services include:

- inmates with a relatively minor or low-level substance abuse impairment;
- inmates with a more serious drug use disorder whose sentence does not allow sufficient time to complete the residential drug abuse treatment program;
- inmates with longer sentences who are in need of and are awaiting placement in the residential drug abuse treatment program;
- inmates identified with a drug use history who did not participate in residential drug abuse treatment and are preparing for community transition; and
- inmates who completed the unit-based component of the residential drug abuse treatment program and are required to continue treatment until placement in a residential reentry center, where they will receive transitional drug abuse treatment.

Nonresidential drug abuse treatment is based on the cognitive behavioral therapy model and focuses on criminal and drug-using risk factors such as antisocial and pro-criminal attitudes, values, beliefs, and behaviors and replacing them with pro-social alternatives.

Under our statutory mandate, the BOP is required to provide residential drug abuse treatment to all inmates who volunteer and are eligible for the program. Since fiscal year 2007, however,

the BOP has been unable to meet the requirement for residential drug abuse treatment of all eligible inmates due to a lack of funding for expansion of the program. Since 2003, the waiting list for residential drug abuse treatment has grown at an average of approximately 700 inmates per year. Currently, the waiting list is in excess of 7,000 inmates.

To estimate the demand and determine the number of beds required for the residential drug abuse treatment program each year, we analyzed a portion of data that were collected as part of a study of the prevalence of mental health conditions in the inmate population. These data characterize samples of inmates from admissions cohorts during fiscal years 2002 and 2003. We reviewed over 2,500 presentence investigation reports to ascertain the frequency of inmates with a drug use disorder (based on either a reference to a medical diagnosis of a drug use disorder or an inmate's self report of drug use that met the criteria for a drug use disorder). The findings extrapolated from these data indicate that approximately 40 percent of inmates entering BOP custody during these years met the criteria for a substance use disorder.

The foundation for residential drug abuse treatment is the cognitive behavior therapy treatment model, which targets offenders' major criminal and drug-using risk factors. The program is geared toward reducing anti-social peer associations; promoting positive relationships; increasing self-control, self-management, and problem solving skills; ending drug use; and replacing lying and aggression with pro-social alternatives.

Participants in the residential drug abuse treatment program live together in a unit reserved for drug abuse treatment in order to minimize any negative effects of interaction with the general inmate population. The residential drug abuse treatment program is a minimum of 500 hours over a course of 9 to 12 months. Residential drug abuse treatment is provided toward the end of the sentence in order to maximize its positive impact on soon-to-be-released inmates. The residential drug abuse treatment program is available in 59 BOP institutions and one contract facility.

Drug abuse treatment in the BOP includes a community transition treatment component to help ensure a seamless transition from the institution to the community. The BOP provides a treatment summary to the residential reentry center where the inmate will reside, to the community-based treatment provider who will treat the inmate, and to the U.S. Probation Office before the inmate's arrival at the residential reentry center. Participants in community transition drug abuse treatment typically continue treatment during their period of supervised release after they leave BOP custody.

Specific Pro-Social Values Programs

Based on the proven success of the residential substance abuse treatment program, we have implemented a number of other programs to address the needs of other segments of the inmate population (including younger offenders and high-security inmates). These programs focus on inmates' emotional and behavioral responses to difficult situations and emphasize life skills and the development of pro-social values, respect for self and others, responsibility for personal

actions, and tolerance. Many of these programs have already been found to significantly reduce inmates' involvement in institution misconduct.

The positive relationship between institution conduct and post-release success makes us hopeful about the ability of these programs to reduce recidivism.

Life Connections

The Life Connections Program is a residential multi-faith-based program that provides the opportunity for inmates to deepen their spiritual life and assist in their ability to successfully reintegrate following release from prison.

Life Connections programs are currently underway at FCI Petersburg, USP Leavenworth, FCI Milan, USP Terre Haute, and FMC Carswell. Our Office of Research and Evaluation has completed several analyses of the program and found a reduction in serious institution misconduct among program participants. The Office of Research will next assess the effect of the program on recidivism, once a sufficient number of graduates have been released for at least 3 years.

Inmate Skills Development Initiative

The Inmate Skills Development initiative refers to the BOP's targeted efforts to unify our inmate programs and services into a comprehensive reentry strategy. The three principles of the Inmate Skills Development initiative are: (1) inmate participation in programs must be linked to the development of relevant inmate reentry skills; (2) inmates should acquire or improve a skill identified through a comprehensive assessment, rather than simply completing a program; and (3) resources are allocated to target inmates with a high risk for reentry failure. The initiative includes a comprehensive assessment of inmates' strengths and deficiencies in nine core areas. This critical information is updated throughout an inmate's incarceration and is provided to probation officers as inmates get close to their release from prison so as to assist in the community reentry plan. As part of this initiative, program managers have been collaborating and developing partnerships with a number of governmental and private sector agencies to assist with inmate reentry.

Specific Release Preparation Efforts

In addition to the wide array of inmate programs described above, the BOP provides a Release Preparation Program in which inmates become involved toward the end of their sentence. The program includes classes in resume writing, job seeking, and job retention skills. The program also includes presentations by officials from community-based organizations that help ex-inmates find employment and training opportunities after release from prison.

Release preparation includes a number of inmate transition services provided at our institutions, such as mock job fairs where inmates learn job interview techniques and community

recruiters learn of the skills available among inmates. At mock job fairs, qualified inmates are afforded the opportunity to apply for jobs with companies that have job openings. Our facilities also help inmates prepare release portfolios, including a resume, education and training certificates, diplomas, education transcripts, and other significant documents needed for a successful job interview.

We have established employment resource centers at all Federal prisons to assist inmates with creating release folders to use in job searches; soliciting job leads from companies that have participated in mock job fairs; identifying other potential job openings; and identifying points of contact for information on employment references, job training, and educational programs.

We use residential reentry centers (RRCs) -- also known as community corrections centers or halfway houses -- to place inmates in the community prior to their release from custody in order to help them adjust to life in the community and find suitable post-release employment. These centers provide a structured, supervised environment and support in job placement, counseling, and other services. Some inmates are placed in home confinement for a brief period at the end of their stay at the RRC: they are at home under strict schedules, telephonic monitoring, and sometimes electronic monitoring. Research has shown that inmates who release through halfway houses are less likely to recidivate than those who release directly to the street. Recently, contracts with RRCs have been modified to enhance reentry services.

The Second Chance Act

The Second Chance Act of 2007 makes a number of changes to BOP policies and practices. We have implemented, or are in the process of implementing, required changes as funding permits. For example, we have implemented the Elderly and Family Reunification for Certain Nonviolent Offenders Pilot Program (which we are calling the Elderly Offender Home Detention Pilot Program) and are currently reviewing six cases for this home detention program.

We have published the required interim rule regarding extending our authority to place inmates in RRCs for 12 months. Shortly after enactment of the Act we provided agency personnel with guidance on expansion of this program.

We are working with the Department of Justice on the report that evaluates the use of restraints on pregnant inmates by all components of the Department, and we will prepare the reports regarding utilization of community correctional facilities and our response to the reentry needs and deficits of inmates as required next year.

Closing

Chairman Mollohan, this concludes my formal statement. Again, I thank you, and Mr. Wolf, and the Subcommittee for your support of our agency. As we work to manage growing inmate populations, I look forward to working with you and the Subcommittee to address the ongoing operational challenges we face. We desire to expand inmate programs that have been

demonstrated to reduce recidivism as expressed through our mission and bolstered by the theme and the specifics of the Second Chance Act. We can provide more inmates with the opportunity to avail themselves of beneficial correctional programs by reducing our crowding and adequately staffing our facilities as funding permits. I would be pleased to answer any questions you or other Members of the Subcommittee may have.