



Department of Justice

STATEMENT OF

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DIRECTOR
FEDERAL BUREAU OF PRISONS

BEFORE THE

COMMITTEE ON THE JUDICIARY
U.S. SENATE

FOR A HEARING ON THE

OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS

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Good morning, Chairmen Leahy and, Whitehouse, Ranking Members Grassley and Graham, and Members of Committee. I am pleased to appear before you today to discuss the operations, achievements, and challenges of the Federal Bureau of Prisons (Bureau). While I was appointed Director in December 2011, I have been with the Bureau for nearly 25 years, having started as a correctional officer and then holding many positions including Warden and Assistant Director.

I cannot begin without acknowledging that this past February the Bureau suffered tragic losses with the murders of two of our staff. On February 25th, Officer Eric Williams, a Correctional Officer at the United States Penitentiary in Canaan, Pennsylvania, was working in a housing unit when he was stabbed to death by an inmate. The death of Officer Williams reminds all of us that our work on behalf of the American people is dangerous. Every day when our staff walk into our institutions they willingly put their lives on the line to protect society, one another, and inmates in their care. On February 26th, Lieutenant Osvaldo Albarati was shot and killed while driving home from the Metropolitan Detention Center in Guaynabo, Puerto Rico. This incident is still under investigation. We will always honor the memories of Officer Williams and Lt. Albarati, and their losses further underscore the challenges the dedicated men and women working for the Bureau face daily. While there are many facets to our operations, the foundation for it all is the safe, secure, and orderly operation of institutions, and each and every staff member in the Bureau is critical to this mission.

The mission of the Bureau is two-fold: to protect society by confining offenders in prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and to ensure that inmates are actively participating in reentry programming that will assist them in becoming law-abiding citizens when they return to our communities. I am deeply committed to both parts of the mission. Yet continuing increases in the inmate population pose ongoing challenges for our agency. As the nation's largest correctional agency, the Bureau is responsible for the incarceration of over 219,000 inmates. System-wide, the Bureau is operating at 36 percent over rated capacity and crowding is of special concern at higher security facilities, with 51 percent crowding at high security facilities and 45 percent at medium security facilities. We are grateful for the support Congress recently provided to activate new facilities in Berlin, New Hampshire; Hazelton, West Virginia; Yazoo, Mississippi; and Aliceville, Alabama. When fully activated, these facilities will assist us somewhat with reducing crowding for our inmates; however, even with these institutions coming online, decreasing our crowding remains a critical challenge.

The safety of staff is always a top priority, and we use all available resources to secure our institutions. We continue to take a variety of steps to mitigate the effects of crowding in our facilities, and are confident the policy changes the Attorney General recently announced to recalibrate America's federal criminal justice system will provide us even more assistance. These changes, part of the Department of Justice's (Department) "Smart on Crime" initiative, will help ensure that federal resources are used more efficiently by focusing on top law enforcement priorities.

Institution Crowding

The large majority of federal inmates, (177,000 of 219,000) are housed in facilities operated by the Bureau, which have a total rated capacity of just under 130,000 beds. The remaining approximately 42,000 inmates are housed in privately operated prisons and residential reentry centers. Most federal inmates (50 percent) are serving sentences for drug trafficking offenses. The remainder of the population includes inmates convicted of weapons offenses (15 percent), immigration offenses (11 percent), violent offenses (5 percent), fraud and other property offenses (7 percent), and sex offenses (10 percent). The average sentence length for inmates in BOP custody is 9 ½ years. Approximately 26 percent of the federal inmate population is comprised of non-U.S. citizens.

It is particularly challenging to manage the 46 percent of the federal prisoner population housed at higher security levels, and crowding is of special concern at these facilities. For example, at the medium security level approximately 75 percent of the inmates have a history of violence, 41 percent have been sanctioned for violating prison rules, and half of the inmates in this population have sentences in excess of 8 years. At the high security level, more than 42 percent of the inmates are weapons offenders or robbers, almost 10 percent have been convicted of murder, aggravated assault, or kidnapping, and half of the inmates in this population have sentences in excess of 10 years. Moreover, 71 percent of high security inmates have been sanctioned for violating prison rules, and more than 90 percent of high security inmates have a history of violence. One out of every four inmates at high security institutions is affiliated with a gang.

There is a much higher incidence of serious assaults by inmates on staff at medium and high security institutions than at the lower security level facilities. In FY 2012, 85 percent of serious assaults against staff occurred at medium and high security institutions. Incidents at high security facilities made up 63 percent of serious assaults on staff, and 22 percent occurred at medium security facilities. Fewer assaults occur at low and minimum security institutions that house inmates who are less prone to violence.

In 2011, the Bureau published a rigorous analysis of the effects of crowding and staffing on inmate rates of violence.¹ Data was used from all security levels of 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. This study found the rate of serious inmate assaults was associated with increases in both the rate of crowding at an institution (the number of inmates relative to the institution's rated capacity) and inmate-to-staff ratios. The analysis revealed that 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. This sound empirical research underscores that there is a direct relationship between crowding, staffing, and institution safety.

The Bureau manages overcrowding by double and triple bunking inmates throughout the system, and housing them in space not originally designed for inmate housing, such as television rooms, open bays, and program space. To mitigate risks associated with crowding, we have made changes to our strategies for classification and designation, intelligence gathering, gang management, use of preemptive lockdowns, and controlled movement. We review available and emerging technologies to look for ways to address crowding in our facilities. However, the challenges remain as the inmate population continues to increase.

The Inmate Reentry Strategy

As I stated earlier in my testimony, I am committed to both parts of the Bureau's mission – security and reentry. The Attorney General has also made clear his strong commitment to reentry as a critical component of public safety. For 30 years, the Bureau has assessed offenders' risk of institution misconduct, which is highly correlated with recidivism, and we thoroughly review the underlying causes of criminal behavior including substance abuse, education, and mental health. Understanding the underlying causes of criminal behavior has allowed us to make great strides in enhancing our treatment efforts to ensure offenders are prepared to succeed.

Significant advances have been made in research related to effective reentry programs. Most experts agree with the concept of identifying factors that put inmates at risk of failing to successfully reintegrate into society, and they also agree with several general principles regarding how best to lower such risks. It is critical that offenders are triaged based on risk of failure prior to formulating a treatment plan. Offenders who are more likely to successfully reenter society do not require intensive programming, though the Bureau will provide them any

¹The Effects of Crowding and Staffing Levels in Federal Prisons On Inmate Violence and Administrative Remedies Granted, Federal Bureau of Prisons Office of Research and Evaluation, July 20, 2011.

services we identify, as needed, to ease their transition and occupy their time in prison—for example, resume preparation/job search, securing identification, applying for benefits. High risk offenders, on the other hand, require a more thorough assessment to identify their individual risk factors and programming needs. They must be our first priority for appropriate treatment.

As a direct result of these advances, we are now modifying our reentry model to ensure that we provide effective, evidence based, cost-efficient treatment plans for each inmate. By developing an understanding of each inmate’s strengths, weaknesses, and programming goals, staff can work holistically to increase the likelihood of each inmate making a successful transition back to the community. We will continue to evaluate newly designated inmates with our validated classification tool to determine inmate risk for misconduct and appropriate security level placement, and will re-assess inmates over time to determine any changes in risk that warrant a decrease (or increase) in security level. We will also continue our comprehensive evaluation of inmate programming needs and are enhancing the tools we use to construct an appropriate treatment plan, and better track progress over time.

Inmate Reentry Programming

Each year, over 45,000 federal inmates return to our communities, a number that will continue to increase as the inmate population grows. Most need job skills, vocational training, education, counseling, and other assistance such as treatment for substance use disorders, anger management, parenting skills, and linkage to community resources for continuity of care if they are to successfully reenter society.

In the Bureau, reentry begins on the first day of incarceration and continues throughout an inmate’s time with us. As such, federal prisons offer a variety of programs to assist inmates in returning to our communities as law-abiding citizens, 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.

Many of our programs have been demonstrated to reduce recidivism (i.e., Federal Prison Industries (FPI), Education, Occupational/Vocational Training, and Residential Drug Abuse Treatment Program (RDAP)). Specifically, empirical research has shown that inmates who participate in the FPI program are 24 percent less likely to recidivate than similar non-participating inmates; 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 RDAP are 16 percent less likely to recidivate, and 15 percent less likely to have a relapse in their substance use disorder use within 3 years after release. Also, research indicates inmates who participate in work programs and

vocational training are less likely to engage in institutional misconduct, thereby enhancing the safety of staff and other inmates.

The Washington State Institute for Public Policy has also conducted several evaluations of the costs and benefits of a variety of correctional skills-building programs. The Institute examined program costs; the benefit of reducing recidivism by lowering costs for arrest, conviction, incarceration, and supervision; and the benefit of avoiding crime victimization. Their work is based on validated evaluations of crime prevention programs, including the Bureau's assessment of our industrial work and vocational training programs (the Post Release Employment Project study) and our evaluation of RDAP (the TRIAD study). The benefit is the dollar value of total estimated 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 substance use disorder treatment is as much as \$3.38 for each dollar invested in the program; for adult basic education, the benefit is as much as \$19.00; for correctional industries, the benefit is as much as \$4.97; and for vocational training, the benefit is as much as \$13.01. This body of research clearly indicates these inmate programs result in significant cost savings through reduced recidivism, and their expansion is important to public safety.²

Based on these proven-effective programs, we have implemented additional programs for the inmate population. These include Challenge for high security inmates, Resolve for females with trauma-related mental illness, BRAVE for younger, newly-designated offenders, Skills for cognitively-impaired offenders, Sex Offender Treatment, and STAGES for inmates with Axis II disorders.

But we have also experienced programming challenges, most notably with respect to FPI, one of the Bureau's most important correctional programs proven to substantially reduce recidivism. 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. This is particularly noteworthy for reentry given the barriers to post-release employment many offenders face. It also keeps inmates productively occupied; inmates who participate in FPI are substantially less likely to engage in misconduct. At present, FPI reaches only 8 percent of the inmate population housed in Bureau facilities; this is a significant decrease from previous years. For example, in 1988, FPI employed 33 percent of the inmate population. This decrease is primarily attributable to various provisions in Department of Defense authorization bills and

² Aos, Steve, Phipps, P., Barnoski, R. and Lieb, R. (2001) The Comparative Costs and Benefits of Programs to Reduce Crime. Washington State Institute for Public Policy, as updated April 2012, <http://www.wsipp.wa.gov/pub.asp?docid=01-05-1201>.

appropriations bills that have weakened FPI's standing in the Federal procurement process by requiring FPI to compete for the work of Federal agencies in many instances where it was previously treated as a mandatory source of supply.

We are grateful for the additional authorities Congress provided in the FY2012 appropriation to provide opportunities to expand FPI programming, and are working on the new programs. FPI has moved expeditiously to secure new business opportunities that are currently or would have otherwise been manufactured outside of the United States. FPI's Board of Directors has approved 17 pilot proposals to date. In addition to the approved pilots, more than 17 potential opportunities are being evaluated for Board approval. FPI is continuing to actively seek new business opportunities and is focusing on business development and to address the unique challenges of operating the FPI program.

Recent Innovations and Achievements

The safety of staff, inmates, and the public are our highest priorities. I have undertaken several recent changes to Bureau operations that I believe will help us enhance safety and security.

In May 2012, the Bureau began an evaluation to assess the effectiveness of oleoresin capsicum (pepper) spray for use in emergency situations. The assessment involves designated staff being authorized to carry pepper spray for use in situations where there is a serious threat to the safety of staff, inmates, or others. All staff authorized to carry pepper spray underwent an initial four-hour training, and subsequently underwent quarterly re-familiarization training. Preliminary results of the assessment suggested that pepper spray was improving safety, and this year I decided to expand the evaluation to all high security prisons and to our detention centers and jails. I am confident that the outcome of the assessment will support the use of this tool to assist our staff in maintaining institution safety and security.

I have implemented a plan to increase our Correctional Officer complement at high security institutions. The Bureau operates using a "Correctional Worker first" philosophy. This means that every institution staff member, irrespective of their professional duties, is expected to assist with security. Institution staff are visible on the compound, assist with inmate cell and pat searches, and respond to emergencies. As you can imagine, this philosophy is important at all institutions, but most critical at the high security institutions. During evenings and weekends when high security inmates are moving about the compound, however, the institution is staffed primarily by Correctional Officers. Therefore, using existing resources, we are adding an additional Correctional Officer to each high security housing unit during these shifts.

Next, we are in the midst of making significant changes to our Special Housing Unit (SHU) policies and procedures. These changes will allow us to improve the efficiency of our SHU operations without compromising safety. Specifically, in the past year we have decreased the number of inmates housed in SHU by 25 percent, primarily by focusing on alternative management strategies and alternative sanctions for inmates. Emphasis has been placed on timelier processing of disciplinary reports, thereby reducing the amount of time inmates spend in administrative segregation awaiting sanctions. We have also created a new automated system that allows us to better track inmates housed in SHU, and Bureau leadership now receive a quarterly report that monitors SHU trends nationwide. We monitor average disciplinary sanction time given by disciplinary hearing officers to ensure relative parity among sanctions nationwide. I have focused significant resources on the mental health of inmates who are placed in SHUs to ensure we are doing everything we can to work with these inmates. The National Institute of Corrections recently awarded a cooperative agreement for independent consultants to conduct a comprehensive review of our restrictive housing operations and to provide recommendations for best practices. We look forward to the outcome of the evaluation as a source of even greater improvements to our operations.

We are moving forward to expand RDAP programming throughout the agency. As noted earlier in my testimony, RDAP has been proven effective at reducing recidivism and relapse, while also decreasing institution misconduct. For non-violent offenders, successful completion of RDAP, to include transitional treatment while in a Residential Reentry Center (halfway house), includes an early release incentive of up to one year off the term of incarceration. Thus, RDAP not only helps return inmates to their communities as law-abiding citizens, but also helps somewhat with institution crowding. However, due to limited capacity, inmates completing RDAP who are eligible for a 12 month sentence reduction are currently receiving an average of 9.9 months. With the addition of new programs in FYs 13 and 14, we will bring our total to 89 programs, and the increased drug treatment capacity will move us closer to reaching our goal of providing a 12 month sentence reduction to all eligible inmates.

Finally, in late April we made changes to our Compassionate Release program (Title 18 U.S.C. § 3582(c)). This program allows the Bureau to petition the court for a reduction in sentence for inmates facing extraordinary and compelling circumstances. We expanded the medical criteria for inmates seeking release, and this summer the Attorney General announced additional revisions to the criteria to include other categories of inmates such as elderly inmates and certain inmates who are the only possible caregiver for dependents. For these cases, the Bureau would generally consider inmates who did not commit violent crimes and have served a significant portion of their sentence. The sentencing judge ultimately decides whether to reduce an inmate's sentence.

Initiatives Moving Forward

There is more good news on the horizon. The Attorney General recently announced the Department's "Smart on Crime" initiative. This initiative, based upon a comprehensive review of the criminal justice system, has yielded a number of areas for reform. Two provisions in particular should have a direct, positive impact upon the Bureau's population while still deterring crime and protecting the public. I noted above the Attorney General's recent announcement about changes to Compassionate Release. These changes will provide for, upon order by the sentencing judge, the release of some non-violent offenders, although we estimate the impact will be modest. The Department is also urging prosecutors in appropriate circumstances involving non-violent offenses to consider alternatives to incarceration, such as drug courts, other specialty courts, or other diversion programs. The Department also modified its charging policies so that certain low-level, non-violent drug offenders who have no ties to large-scale organizations, gangs, or cartels will be charged with offenses for which the accompanying sentences are appropriate to their individual conduct rather than excessive prison terms more appropriate for violent criminals or drug kingpins. These initiatives will help stem the tide of offenders entering the Bureau and lead to lower average sentences, where appropriate, and thus should decrease our population somewhat over the long term.

The Administration has also supported two legislative proposals that would have a direct impact on the Bureau's crowding through incentivizing positive institution behavior and effective reentry programming. Both initiatives were included in 112th Congress' Second Chance Reauthorization Act, and we are hopeful the 113th Congress will consider them as well. The first expands inmate Good Conduct Time (GCT) to provide inmates up to the full 54 days per year stated in statute, rather than the current net maximum of 47 days per year. It does so by awarding GCT based upon the sentence imposed rather than the time served (Title 18 U.S.C. § 3624(b)). This provision would not only provide some crowding relief and cost-savings, but also aids prison and public safety by providing a strong incentive for inmates to maintain good conduct.

The second proposal would provide inmates with an incentive to earn sentence credits annually for successfully participating in programs that are effective at reducing recidivism. This initiative is modeled in part on the sentence reduction incentive already in statute for RDAP, and caps the total amount of sentence credits earned from all sources at one-third of an inmate's total sentence. This provision, too, would assist with controlling crowding, costs, and enhancing public safety. Incentivizing reentry programming encourages more inmates at all security levels to participate and build skills. This keeps prisons safer and helps released offenders return to our communities as law-abiding citizens.

Conclusion

Chairmen Leahy and Whitehouse, this concludes my formal statement. Again, I thank you, Mr. Grassley and Mr. Graham, and Members of the Committee for your continued support. As I have indicated in my testimony, the Bureau faces a number of challenges. For many years now, we have stretched resources, streamlined operations, and constrained costs to operate as efficiently and effectively as possible. I look forward to working with you and the Committee on meaningful reform to enhance offender reentry while reducing our overburdened prisons, and would be happy to answer any questions.