



Department of Justice

STATEMENT OF
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PRESENTED

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Good morning Chairman Scott, Ranking Member Gohmert, and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss a variety of issues that present significant challenges for the Federal Bureau of Prisons.

The mission of the Bureau of Prisons (BOP) 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 and has led to an increase in the inmate-to-staff ratio in our institutions from 3.6-to-1 in 1997 to 4.9-to-1 in 2009. In recent years, growth in the inmate population has far outpaced increases in BOP bedspace, capacity, and staffing.

The BOP is responsible for the incarceration of more than 207,000 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 Federal inmates (53%) are serving sentences for drug offenses. The remaining inmates are 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 direct 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. BOP also has authorities to award good time credit. 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); and thus far this year, we have already added another 5,227 inmates.

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 many mandatory minimum statutes. 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.

Institution Crowding

As of July 2, 2009, BOP facilities had a total rated capacity of 124,979 beds and confined approximately 170,700 inmates. Systemwide, the BOP was operating at 37 percent over its total rated capacity. Crowding is of special concern at high-security penitentiaries (operating at 50 percent over capacity) and medium-security institutions (operating at 47 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 20 percent of all medium-security cells are triple-bunked, and in many institutions inmates are being housed in space that was not designed for inmate housing.

Preparing inmates for reentry into the community is a high priority for the BOP. Unfortunately, higher levels of crowding and reduced staffing limit our ability to attend to this priority. We are hoping for an additional 3,000 more staff above the Fiscal Year 2010 budget request in the near term. The combination of elevated crowding and reduced staffing has decreased our ability to provide all inmates with the breadth of programs they need to gain the skills and training necessary to prepare them for a successful reentry into the community. We are experiencing the consequences of increased inmate idleness and the challenges in managing prisons that are becoming increasingly crowded with inmates who are more prone to violence and disruptive activity and more defiant of authority.

Crowding also affects an institution's physical plant and management's optimal use of security systems and security procedures; it affects the amount of time inmates have access to

important services, such as food services and recreation services; and crowding affects inmates' access to basic necessities, such as showers and telephones. 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, statistically significant 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 to perform security functions, 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) construct additional institutions (and fund the necessary positions and other operating costs for these facilities); (2) expand inmate housing at existing facilities; (3) contract with private prisons for additional bedspace for low-security criminal aliens; or (4) reduce the number of inmates or the length of time inmates spend in prison. With regard to the last point, BOP is committed to using

all of the tools at its disposal to ensure that inmates earn as much good time as is allowed under the law.

Inmate Health Care

Before I review our major inmate programs and address inmate reentry in more detail, I would like to discuss some important matters regarding inmate health care. We provide quality, medically indicated health services to all inmates in accordance with proven standards of care without compromising public safety. However, not all medical services that inmates desire are deemed medically necessary. In order to provide consistency and maximize cost effectiveness, elective health care services are provided to inmates on a case-by-case basis using federally recognized criteria with Regional and Central Office oversight.

The rising cost of health care is a serious issue facing the BOP. Despite our efforts to contain costs, BOP's health care expenditures continue to grow in a manner comparable to what is occurring in the private sector. We have seen the cost increase from \$9.16 per inmate per day in Fiscal Year (FY) 2001 to \$12.84 per inmate per day in FY 2008. Health care is the most expensive service we provide to inmates. Outside medical care and pharmaceutical costs account for a substantial portion of our medical expenditures. The escalating cost of medications highlights the need for legislation that would grant the BOP eligibility for what is called "Big Four Pricing," the reduced pricing that is already available to four Federal entities (the Department of Defense, the Department of Veterans Affairs, the U.S. Public Health Service, and the U.S. Coast Guard).

Providing health care within a correctional environment presents unique challenges, and lack of pay parity with the private sector makes it difficult for the BOP to recruit and retain clinicians. Shortages of staff result in increased dependence on contractors and outside medical resources to address issues that could otherwise be accommodated using internal resources.

In order to provide comprehensive, consistent, and cost-effective health care throughout the BOP, we have instituted Clinical Practice Guidelines for clinicians and a standardized national drug formulary. These guidelines rely on evidence-based medicine and provide guidance to staff in such areas as management of diabetes, hypertension, hepatitis, and HIV.

The BOP has undertaken several initiatives that allow us to continue to provide quality health care in the face of rising costs. We have instituted a Medical Classification System that identifies inmates' medical needs and assigns them to facilities with appropriate in-house and community health care resources. Through this system, we are ensuring the most efficient use of our scarce health care resources. The BOP is realigning staff to mirror our institutions' health care and security needs using staffing guidelines that emphasize the use of appropriate, yet cost-conscious staffing.

The BOP is making use of technologies to expand our ability to provide access to particular health care services throughout our institutions. The deployment of a web-based electronic medical and pharmacy record in all BOP facilities has greatly enhanced our ability to

provide continuity of health services to inmates as they transfer from one institution to another. We have also expanded our telehealth capabilities to provide sub-specialty care, such as psychiatric services, to BOP locations where these services are unavailable or difficult to obtain. As required by law and to mirror community practice, the BOP charges a copayment fee for health care services provided in conjunction with a health care visit requested by the inmate. The current copay fee is \$2.00. Preventive health care, emergency services, prenatal care, diagnosis and treatment of chronic infectious diseases, mental health care, and substance abuse treatment are exempt from the fee. No inmate is refused medical treatment for lack of ability to pay the copayment, and treatment decisions are based on the inmate's medical condition, not on his or her ability to pay. Implementation of the copayment has resulted in decreased reliance by inmates on "sick call" for unnecessary visits and has allowed clinicians to focus on preventive health measures and treatment of chronic conditions.

Through these various initiatives, we have been able to control in-house health care costs to a significant degree. However, we rely heavily on contractual medical services, and it is the rising cost of health care in the community that is driving up our overall health care costs. The BOP is subject to the same inflationary costs experienced by consumers of health care in the community.

Many Federal offenders come to prison having led unhealthy lives. Many offenders have histories of drug and/or alcohol abuse and have long-standing medical and dental concerns which they have neglected. As a result, inmates typically have greater health care needs than the average citizen. Still, we have been able to provide health care at an average cost of \$4,700 per inmate per year in fiscal year 2008, as compared to \$7,804 per person per year in the community (the projection for 2008 by the Centers for Medicare and Medicaid Services National Health Expenditure Data).

Health care in the BOP is subject to external and internal oversight. External reviews are conducted regularly by the Joint Commission on Accreditation of Healthcare Organizations, the nation's predominant standards setting and accrediting body in health care, and by the American Correctional Association (ACA). All BOP institutions are accredited by the ACA, which includes accreditation of health services programs. Internal reviews are conducted on an on-going basis through: program and policy compliance reviews, peer reviews of physicians, psychiatrists, and dentists, patient service surveys, and inmate Administrative Remedies.

Inmate Reentry

Our institutions offer a wealth of inmate programs, including work in prison industries and other institution jobs, education, vocational training, substance abuse treatment, observance of faith and religion, psychological services, 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. We are in the midst of implementing the Inmate Skills Development Initiative that will unify our inmate programs and services into a comprehensive reentry strategy.

Rigorous research has found that inmates who participate in Federal Prison Industries are 24 percent less likely to recidivate for as long as 12 years after release, as compared to similar inmates who did not participate in the program. Similar findings exist for other programs: inmates who participate in vocational or occupational training are 33 percent less likely to recidivate 3 years after release; 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.

In 2001, the Washington State Institute for Public Policy evaluated the costs and benefits of a variety of correctional, skills-building programs, including those offered by the BOP. 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. We want to have inmates involved in meaningful work programs; but unfortunately, we have a limited number of these jobs. Increased crowding has made it very difficult to keep all inmates working in full-day job assignments. The waiting lists for other inmate programs continue to grow as our staffing levels remain lower than necessary to maintain adequate program opportunities for inmates.

Federal Prisons Industries (FPI) is among the BOP's most important correctional program because it has been proven to substantially reduce recidivism and does not require appropriated funds. We operate FPI factories primarily at our medium-security and high-security institutions, where we confine the most violent and criminally-sophisticated offenders. 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 inmates productively occupied; those who participate in FPI are substantially less likely to engage in misconduct.

FPI's inmate worker levels and earnings have dropped significantly in fiscal years 2008 and 2009 due to various provisions in Department of Defense authorization bills and appropriations bills that have weakened FPI's standing in the Federal procurement process, along with administrative changes taken by FPI's Board of Directors. These changes, coupled with the downturn in the economy and the significant reduction of products needed to support the war effort has had a serious negative impact on FPI.

In fiscal year 2008, FPI generated sales of \$854 million, with earnings of only \$3 million. FY 2008 earnings were significantly less than in fiscal years 2004 to 2007 (at \$63.5 million, \$64.4 million, \$17.2 million, and \$45.7 million, respectively). FPI is projecting a loss of \$18 million for fiscal year 2009. This projected loss is significantly greater than anticipated.

Thus far, FPI has drawn \$25 million from its capital equipment fund to supplement operational expenses. At the current rate of draw, the capital equipment fund will decrease by \$50 million in FY 2009. The capital equipment fund is used to purchase replacement equipment and machinery and to fund building repairs and the start up costs of new factories. FPI has not used the capital equipment fund to supplement operational expenses since 2001.

To address these losses, FPI has begun reorganizing its operations to reduce overhead expenses. Last week FPI began the process of closing or downsizing 19 factories, resulting in the loss of approximately 1,700 inmate jobs—nearly 10 percent of the FPI inmate workforce. Additionally, FPI has reduced the number of work hours for many of the inmates, a practice that began several months ago to further reduce costs. FPI is considering other options including reducing inmate worker levels even further, delaying activations of FPI factories at new BOP facilities, and further consolidating operations and closing existing factories.

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 (GED), 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.

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 (18 U.S.C. § 3621(b)) 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 drug abuse 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 identified and referred by the drug abuse treatment staff.

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 of treatment 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.

The BOP is required to provide residential drug abuse treatment to all inmates who are eligible for the program. For the last 2 fiscal years, the BOP has been unable to meet this requirement due to a lack of funding for expansion of the program. Currently, the waiting list is approximately 6,200 inmates. A study of a sample of inmates admitted to the BOP during fiscal years 2002 and 2003 indicate that approximately 40 percent of inmates entering BOP custody meet 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 drug abuse 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 often continue treatment with the same treatment provider 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 their mental health; emphasize life skills, the development of pro-social values, and respect for self and others; and the acquisition of responsibility for personal actions. 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.

In fiscal year 2008, we initiated a non-residential faith-based reentry program known as Threshold. This program embraces the same principles as the Life Connections Program and targets inmates who have less than 2 years of time remaining on their sentence. Threshold currently operates in 27 institutions.

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 reentry skill needs identified through a comprehensive assessment; (2) inmates should acquire or improve a skill measured through demonstration, 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 and the development of individualized plans to address the identified skill deficits through targeted programs. This critical information is updated throughout an inmate's incarceration and is provided to residential reentry centers, supervision agencies, and appropriate community organizations prior to the offender's release to assist in community reentry planning. As part of this initiative, the National Offender Workforce Development Partnership was established as a way for national agencies and organizations to collaborate and facilitate the transition of returning offenders.

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, find suitable post-release employment, and in many cases find suitable housing. These centers provide a structured, supervised environment and support in job placement, counseling, and other reentry services.

As part of their community-based programming, some inmates are placed on home

detention, typically after a transition period in an RRC. Inmates on home detention are subject to strict schedules, curfews, in-person check-ins, telephonic monitoring, and sometimes electronic monitoring.

The use of residential reentry centers is a topic of significant interest, especially with the enactment of the Second Chance Act. We understand the interest in placing inmates in halfway houses for periods of time longer than the current average of 4 months. We are limited, however,

- by the number of existing halfway house contracts and the number of beds available in these centers;
- the reticence in the public to allow halfway houses in many communities; and
- the concern that inmates will abide by the restrictions of a reentry center for a long period of time after their immediate reentry needs have been met.

Closing

Chairman Scott, this concludes my formal statement. I would be pleased to answer any questions you or other Members of the Subcommittee may have.