



Department of Justice

**STATEMENT OF
CHARLES E. SAMUELS, JR.
DIRECTOR
FEDERAL BUREAU OF PRISONS
U.S. DEPARTMENT OF JUSTICE**

BEFORE THE

**COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE**

FOR A HEARING ENTITLED

**OVERSIGHT OF THE BUREAU OF PRISONS:
FIRST-HAND ACCOUNTS OF CHALLENGES FACING THE
FEDERAL PRISON SYSTEM**

PRESENTED

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Charles E. Samuels, Jr.
Director, Federal Bureau of Prisons
U.S. Department of Justice
Committee on Homeland Security and Governmental Affairs
United States Senate
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Good morning, Chairman Johnson, Ranking Member Carper, and Members of the Committee. I am pleased to appear before you today to discuss the mission and operation of the Federal Bureau of Prisons (Bureau), as well as to share with you the successes we have achieved and the challenges we face. I am also honored to speak on behalf of the nearly 39,000 Bureau staff – professionals who are "correctional workers first" and support the agency's mission and core values of respect, integrity, and correctional excellence.

OUR MISSION – A HISTORY OF PUBLIC SAFETY AND REENTRY

As our nation's largest correctional agency, the Bureau currently houses approximately 207,500 federal offenders in 122 federal prisons, 13 private prisons, and 178 community-based facilities nationwide. 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 offenders are actively participating in programs that will assist them in becoming law-abiding citizens when they return to our communities. This mission is not new, in fact it dates back to the Bureau's establishment in 1930, and we remain deeply committed to it.

The Bureau has had great success with respect to both parts of our mission as measured by key indicators such as low rates of escapes, disturbances, assaults, and homicide. Additionally, the Bureau continues to work to reduce rates of recidivism. Forty percent of offenders who are released from federal prison are re-arrested or have their supervision revoked within three years (only twenty percent return to federal prison within three years), as compared to almost 68% of offenders released from state prisons.¹ Those numbers are a testament to the hard work of our staff who provide positive reentry programming in an environment that promotes respect and self-improvement, and to the hard work of those offenders who apply the skills they learned in federal prison once they return to the community. But we can do better. The Bureau continues to enhance our inmate programs while seeking new and innovative ways to support offenders so they have the best possible chance for a successful transition to the community.

The Bureau has faced some significant challenges, most notably the decades of significant growth in the inmate population. At many points, this growth in population has mounted to crisis levels, the magnitude of which is largely out of our control because, as you

¹ *Bureau of Justice Statistics*, "Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010," by Alexia Cooper, Matthew Durose, and Howard Synder, April 22, 2014.

know, the Bureau does not control the number of offenders entering our system or the length of their incarceration. While we have recently seen the federal prison population start to decrease for the first time in decades, it remains unsustainably high.

OUR POPULATION - PAST AND PRESENT

Population Growth

Just as our nearly century-long dedication to offender reentry and rehabilitation is unique in corrections, so is our population. For the first five decades of the Bureau's existence, the number and type of offenders we housed remained fairly stable. Beginning in the 1980s, federal law enforcement efforts and new legislation dramatically altered sentencing in the federal criminal justice system, bringing about a significant increase in the number of persons incarcerated for federal offenses. The Sentencing Reform Act of 1984 established determinate sentencing, abolished parole, and reduced good time. Mandatory minimum sentencing provisions were enacted in 1986, 1988, and 1990. Largely as a result of these changes, from 1980 to 1989 the inmate population more than doubled from about 24,000 to almost 58,000. During the 1990s, the population more than doubled again, reaching approximately 136,000 at the end of 1999 as efforts to combat illegal drugs and illegal immigration contributed to significantly increased incarceration rates. The aftermath of September 11th brought offenders who presented their own very unique security concerns, as the nation's law enforcement efforts were targeted toward international terrorism. By 2013, the Bureau's population climbed to almost 220,000, its highest level ever.

With the tightening federal budgets in the 2000s it became impossible to fund all of the capacity that was needed to house the increasing population and was increasingly challenging to provide the programming and supervision that contribute to successful reentry. The Bureau was required to provide care for more and more offenders – many who arrived with substantial and costly programming and health care needs. In response to these challenges, in 2005 the Bureau undertook a series of cost-savings initiatives to streamline operations without compromising public safety. We underwent re-engineering system-wide, which reduced management layers and eliminated positions. Re-engineering also resulted in the centralization and automation of several key service areas: inmate designations and sentence computation, human resource services, and the national pharmacy. We restructured our Health Services Division to create a medical classification system that significantly improved our health care delivery costs and efficiencies. We expanded the case loads of institution case managers to manage inmate population without adding additional staff, and we created a new staffing pattern strategy for our Correctional Officers to enhance staffing flexibilities. Additionally, we closed three intensive confinement centers – facilities that held very small numbers of offenders and were quite costly to operate. Finally, we closed four stand-alone camps: Federal Prison Camp (FPC) Allenwood, FPC Eglin, FPC Nellis, and FPC Seymour Johnson.

In the past decade, federal prisons housed as many as 40% more inmates than the prisons were designed to house system-wide.² Mass incarceration has resulted in crowding being a very real danger in prisons, causing frustration and anger for offenders whose access to basic necessities like toilets and showers becomes very limited and who face hours of idleness resulting from a limited availability of productive work and program opportunities. Crowding also strains facilities' infrastructure like water, sewage, and power systems, sometimes to the breaking point. Inmate frustration and anger, in turn, are catalysts for violence which poses real risks to the lives of staff and offenders. Of particular challenge was managing the over 40% of the population housed at higher security levels, where the more violence-prone offenders reside.

We continued to manage this high level of crowding by double and triple bunking offenders throughout the system, and housing them in space not originally designed for inmate housing, such as television rooms, open bays, and program space. We also improved the architectural design of our new facilities coming on line, took advantage of improved technologies in security measures such as perimeter security systems, surveillance cameras, and equipment to monitor communications. We enhanced population management and inmate supervision strategies such as improved classification and designation and the use of controlled movement.

We also began to rely upon private corrections to provide additional capacity to help maintain safety and security due to crowding concerns. In 1997, Congress required the Bureau to privatize one of our newly-built facilities; Taft Correctional Institution. As a result, we began being funded for additional private prison capacity, which we used primarily to house low-security criminal aliens. Following the mandate that the Bureau house the District of Columbia (DC) Superior Court offenders, we used private prison bedspace for many of these offenders, allowing them to remain close to the many reentry and social services available in DC. While we would prefer to house all federal offenders in Bureau-operated facilities, we have appreciated the support of the private prison industry to provide low-security capacity in the wake of our population growth.

These population increases also outpaced staffing resources. As the population and crowding increased, the inmate-to-staff ratio increased. To highlight this change, in fiscal year 2009, the five states with the highest prison populations had an average inmate-to-staff ratio of 3-to-1. The Bureau's ratio for that year was 59% higher, at almost 5-to-1. It remains high at 4.4-to-1 today. These high ratios negatively impact our ability to effectively supervise prisoners and provide inmate programs. The Bureau has long espoused a philosophy that every institution staff member, irrespective of his or her specific position and duties, is a "Correctional Worker" first. 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. This strategy is good correctional management, but it has become critical in the face of rising inmate to staff ratios. When insufficient Correctional Officers are available to cover an institution's security posts on any given day, we must use non-custody institution staff to make up the difference. As a result, these

² When the number of inmates in an institution exceeds the number of inmates the institution was designed to house, the Bureau typically refer to this as a 40% rate of crowding or 40% overcrowded (as an example here). The term "system-wide" refers to all of the Bureau's institutions collectively.

staff – teachers, psychologists, case managers, reentry coordinators, chaplains, etc., – are pulled away periodically from their duties of providing offenders with programs and services. Despite this and other challenges for program staff and inmate waiting lists for admission to programs, our reentry efforts continued and we provided necessary and appropriate treatment with all available resources.

These challenges also affect institution safety. The Bureau performed a rigorous analysis of the effects of crowding and staffing on inmate rates of violence, and this sound empirical research underscored the direct relationship between crowding, staffing, and institution safety. Specifically, the study found that the rate of serious inmate assaults was associated with increases in both the rate of crowding at an institution (the number of offenders relative to the institution's rated capacity) and inmate-to-staff ratios.³

These population pressures have abated slightly, of late. In fiscal year 2014 after then Attorney General Eric Holder announced the Smart on Crime Initiative in August 2013, we saw the first decline in the inmate population in more than 34 years. We ended the year with 5,149 fewer offenders than when we started. And the decline has continued this fiscal year; we now have over 6,300 fewer offenders than we did on September 30, 2014. We project declines to continue for the next couple of years, particularly as a result of the retroactive sentencing guidelines change. But in the near term, crowding levels are at 26% above rated capacity, and crowding remains a problem. Crowding at high security institutions is 51%, while crowding at medium and low security facilities is 35% and 25% respectively.

Population Characteristics

The sentencing changes in the 1980s and 1990s not only dramatically affected the number of offenders we housed, but also the type of offenders who began coming into our system. For nearly five decades, the federal offenders the Bureau housed were largely bank robbers and white collar offenders. But with changes in interdiction and sentencing came changes in our population. Currently, almost half of our population is serving sentences for drug offenses. The remainder includes offenders convicted of weapons offenses, immigration offenses, and sex offenses.

Offenders at our higher security level present additional challenges. For example, at the medium security level, approximately 75 percent of the offenders have a history of violence, 41 percent have been sanctioned for violating prison rules, and half of the offenders in this population have sentences in excess of 8 years. At the high security level, more than 42 percent of the offenders are weapons offenders, or robbers, almost 10 percent have been convicted of murder, aggravated assault, or kidnapping, and half of the offenders in this population have sentences in excess of 10 years. Moreover, 71 percent of high security offenders have been sanctioned for violating prison rules, and more than 90 percent of high security offenders have a history of violence. One out of every four offenders at high security institutions is gang affiliated.

³ A study was undertaken at the request of the Office of Management and Budget to assess the impact of crowding on safety in Bureau institutions. This report found 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 offenders.

OUR PROGRAMS – REENTRY BEGINS ON DAY ONE

We have a saying in the Bureau that reentry begins on the first day of incarceration. We are committed to this philosophy. Simply said, we understand that reentry is a critical component of public safety. To further enhance the Bureau's focus and efforts on reentry, we recently created a Reentry Services Division within headquarters. This new division provides national oversight of our institution programs and will also work closely with other federal agencies and stakeholders to develop partnerships and leverage resources to aid in offender reentry.

The Bureau assesses offenders' risk by thoroughly reviewing the underlying causes of criminal behavior including substance use, education, and mental health. The Bureau screens all inmates to determine their mental health needs, and then assigns them a "care level." Mental health care levels range from 1-4. The majority of inmates are assigned "Care Level 1," meaning they have no significant mental health needs. The remaining inmates in Care Levels 2 (moderate mental illness), 3 (serious mental illness), and 4 (acute mental illness requiring inpatient hospitalization), make up less than 5% of our population. Understanding the underlying causes of criminal behavior has allowed us to make great strides in enhancing our treatment efforts, and to ensure we are providing offenders the best opportunities for success once back in the community.

Each year, over 45,000 federal offenders return to our communities. Most need job skills, vocational training, education, counseling, health care, 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.

As such, federal prisons offer a variety of inmate programs to assist offenders in returning to our communities as law-abiding citizens, including work, education and literacy, vocational training, treatment for substance use disorders, 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 offenders productive ways to use their time. The Bureau also works closely with the Department of Veterans Affairs to establish benefits eligibility and assist with the activation of benefits upon release for the veterans within our system. The Reentry Affairs Coordinators in each of our institutions also work to identify resources available to these offenders upon release to assist them in their reintegration to the community. Federal Prison Industries (FPI) also gives priority consideration to hiring veteran offenders for its program. We look forward to enhancing opportunities for inmates to pursue educational programs through the recently created Pell grant program extending federal student aid to state and federal inmates.

Many of our programs have been proven through research to reduce recidivism. Specifically, empirical research has shown that offenders who participate in FPI are 24 percent less likely to recidivate than similar non-participating offenders. Offenders who participate in vocational or occupational training are 33 percent less likely to recidivate, while offenders who participate in education programs are 16 percent less likely to recidivate. Those who complete the Residential Drug Abuse Treatment Program (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 offenders who participate in work programs and vocational training are less likely to engage in institutional misconduct, thereby enhancing the safety of staff and other offenders.

Based on these proven-effective programs, the Bureau has implemented additional programs for the inmate population. The Life Connections Program is a multi-faith residential program that allows offenders to deepen their spiritual life and integrate their faith into their lives. The Challenge Program treats high security offenders with a history of substance abuse and/or mental illness. The Resolve Program, originally designed for females but now expanded to include males as well, treats offenders with trauma-related mental illnesses. At FPC Bryan, we are piloting a new ten-week program called Foundation. This program is a cognitive behavioral, psychoeducational ten-week course that is designed to meet the unique reentry needs of female offenders and is offered within the first six months of their designation. Foundation helps facilitate women's self-examination across a variety of domains, including physical and mental health, employment, and interpersonal relationships. Upon completion of the program, women develop their own personal improvement plan to enhance their ability to engage the reentry process (we are continuing to review the needs of female offenders, including considering changes to our classification system as it pertains to women). The BRAVE Program addresses anti-social attitudes and behavior of younger, newly-designated offenders. The Skills Program targets issues with adapting to prison and the community for cognitively-impaired offenders. Mental Health Step Down Units provide treatment for offenders with serious mental illnesses. The Sex Offender Treatment Program is for offenders with a sex offense history. The STAGES Program treats offenders with severe personality disorders who have a history of behavioral problems and/or self-harm. As resources have allowed, the Bureau has expanded these programs to address the significant demand for these services.

The Bureau has experienced programming challenges as well. FPI, a proven recidivism-reducing program, provides offenders 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 offenders productively occupied while they are incarcerated; offenders who participate in FPI are substantially less likely to engage in misconduct.

FPI is a wholly-owned government corporation that operates without direct annual Congressional appropriations. The Bureau does not provide funding for FPI appropriations. However, presently FPI reaches only 7 percent of the inmate population housed in Bureau facilities; down from 33 percent in 1988. This is due both to the increased federal inmate population as well as a decrease in prison industries work opportunities. Congress responded to this challenge by providing FPI with additional authorities in the fiscal year 2012 appropriation to provide opportunities to expand FPI programming, and we have moved expeditiously to secure new business opportunities that are currently or would have otherwise involved the manufacture of goods outside of the United States. These new authorities alone, while both helpful and promising, have not been sufficient to offset the erosion of FPI work opportunities given the downturn in Federal spending levels following sequestration. As a result, FPI has had to continue to reduce its factory capacity by consolidating and mothballing several of its

factories. We hope to work with Congress and others to increase the availability of this proven program.

OUR GOAL – EFFECTIVE TRANSITION TO THE COMMUNITY

As offenders near the final portion of their term of imprisonment, it is important to provide them opportunities to gradually re-adapt to their community environment. As such, the Bureau places the vast majority of offenders in Residential Reentry Centers (RRCs; also known as halfway houses), and home confinement for the final portion of their sentence. RRCs provide a structured, supervised environment that supports the offender in finding suitable employment and housing, completing necessary programming (e.g., transitional substance use disorder treatment), participating in counseling, and strengthening ties to family and friends.

RRC placement decisions are individualized and based on each inmate's need for reentry services. For example, offenders serving long sentences and having limited employment skills, little family support, no established home to which they can return, and limited financial resources have a much greater need for RRC placement than do offenders serving short sentences, and having positive family support, a home, and job skills.

RRC bed space is limited, so we must be judicious with our use of this resource. It is critical to balance the available capacity with the RRC needs of releasing offenders so that each inmate in need of this transitional service has the opportunity to participate in the program. Maximizing the length of RRC placement, as some have recommended, is not only costly, but also would quickly absorb RRC capacity, thereby preventing subsequent releasing offenders from having access to some period of pre-release transition through this program. Despite our continued efforts to seek additional RRC capacity in new and existing locations, there remains strong community resistance to RRCs and very few vendors compete for such solicitations. RRC bed space can also be costly, exceeding the costs for prison bed space in some locations. The nationwide annualized average cost is \$26,612.

For lower-risk offenders with lesser reentry needs, the Bureau has been increasing the use of direct placement in home confinement during the final months of a term of incarceration. Offenders who transfer to RRC programs are also expected to transition into the home confinement component as soon as adequately prepared and statutorily eligible. These offenders reside in their homes but are subject to strict schedules, curfews, in-person check-ins, telephonic monitoring, and sometimes electronic monitoring. The Bureau shares information with authorities responsible for supervising offenders in the community. The majority of federal offenders' sentences include a term of supervised release. The Bureau provides information to the United States Probation Office to assist with their supervision efforts. For District of Columbia Code offenders, information is provided to Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) that has oversight over that population.

NEW INITIATIVES - MOVING FORWARD

The Bureau is continuing to work closely with the Department of Justice and United States Probation to implement Amendment 782, the United States Sentencing Commission's

decision to make the drugs guideline reduction retroactive. We expect approximately 6,800 offenders may be released on October 30, 2015, based on this amendment. A lot of planning and work has been done in preparation to release these individuals to their communities. Also, we are working with our federal partners to ensure affected offenders will have opportunities to complete needed reentry programs, including placement in community-based programs as appropriate, to assist with their transition to the community.

In 2013, Attorney General Holder announced DOJ's "Smart on Crime" initiative which has yielded a number of reforms. Attorney General Holder directed 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 would 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 have already helped stem the tide of offenders entering the Bureau and have lowered average sentences, where appropriate.

With respect to older inmates, the evidence is clear that likelihood of recidivism decreases with age. "Smart on Crime" also included changes to our Compassionate Release Program. These changes continue to positively impact the number of compassionate releases, or reduction in sentences, approved by the Bureau and recommended to the sentencing judge for consideration. There were 101 Reduction in Sentence approvals in calendar year 2014, and we continue our commitment to take these requests seriously.

OPPORTUNITIES AND CHALLENGES

The number of offenders in the Bureau's population is largely out of our control. We have no role in determining which offenders are prosecuted, which offenders are convicted, which offenders are sentenced to prison. Moreover, the Bureau has no role in assigning penalties associated with federal crimes, or the length of sentence imposed in a particular case. Our role is limited to ensure that the term of imprisonment is served in facilities that are safe, secure, and humane, and that offenders are provided ample opportunities for self-improvement and reentry programming.

Enhanced reentry programs, if properly designed and implemented, enhance the prospects that federal prisoners will successfully return to their communities. We were honored to have the President of the United States visit the Federal Correctional Institution (FCI) in El Reno, Oklahoma, last month to see and learn about the work of our dedicated employees helping offenders prepare to reenter society. This marked the first time a sitting President visited a federal prison in our Nation's history.

The Department has supported several legislative initiatives that would have a direct impact on the Bureau's crowding, including those that do so through incentivizing positive institution behavior and effective reentry programming. One such proposal involves expanding inmate Good Conduct Time (GCT) to provide offenders up to 54 days per year of sentence credit

provided they comply with institutional rules for each year of the sentence imposed. Currently, the statute allows for credit based on time served rather than the sentence imposed. The difference in any one inmate's sentence would not be large (for example, someone serving a 10-year sentence would earn up to an additional 60 days of sentence credit). However, such a change would lead to the immediate release of approximately 4,000 offenders and save the Department approximately \$400 million over ten years. The additional available GCT would also provide incentives for inmates to comply with institutional rules.

A second legislative initiative would provide offenders 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 the statute for RDAP, and caps the total amount of sentence credits earned from all sources at one-third of an inmate's total sentence. We look forward to working with the Committee on reforms and proposals such as these.

CONCLUSION

Chairman Johnson, Ranking Member Carper, and Members of the Committee, this concludes my formal statement. I appreciate the opportunity to provide the Committee with my formal statement. As I have indicated, 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 the Committee on meaningful reform to enhance offender reentry while reducing our overburdened prisons, and would be happy to answer any questions.