COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR 2010

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES

ALAN B. MOLLOHAN, West Virginia, *Chairman*

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NOTE: Under Committee Rules, Mr. Obey, as Chairman of the Full Committee, and Mr. Lewis, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

JOHN BLAZEY, DIXON BUTLER, ADRIENNE SIMONSON,
TRACEY LATURNER, DIANA SIMPSON, and DAREK NEWBY
Subcommittee Staff

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Justice Reinvestment	**481**

Printed for the use of the Committee on Appropriations

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COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS FOR 2010

TUESDAY, MARCH 10, 2009.

MAJOR CHALLENGES FACING FEDERAL PRISONS PART I

WITNESS

HARLEY G. LAPPIN, DIRECTOR, FEDERAL BUREAU OF PRISONS

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. The hearing is now in order. And we are going ahead with your opening statement.

Good morning. We are pleased to welcome Mr. Harley G. Lappin, the Director of the Federal Bureau of Prisons, who will be talking with us about some of the major challenges facing the Federal Bureau of Prisons.

This is the first in a series of hearings this week that will broadly focus on the central challenges we face in facilitating the successful reentry of offenders into our communities.

Last week, the Pew Center on the States released a report, One in Thirty-One, the Long Reach of American Corrections.

According to that report, one in thirty-one American adults or 3.2 percent of the population is now under some form of correctional control, whether in jail or under supervision in the community. That is a staggering statistic and it calls upon us to reassess the path we have been taking when it comes to reducing both crime as a whole and recidivism.

The thrust of the Pew Report is that we are not investing nearly enough in programs to help offenders avoid recidivism.

There are a number of goals associated with offender reentry, not the least of which is to help these individuals transition to full and productive lives.

We also have an obligation to protect our communities from threats posed by returning offenders, who are more likely to recidivate without support services.

But this is an Appropriations Subcommittee and so we are also concerned about the direct connection between recidivism and the growing strains on the resources of the Bureau of Prisons and State Correctional systems.

Mr. Lappin, you provided information in connection with last year's hearing indicating that 70 percent of those coming into the Federal Prison System have prior records of some kind.

To the extent that the federal government can help develop and support successful reentry programs for state and federal prisoners, we can reduce the number of individuals being incarcerated in our state and federal prison systems.

This morning's hearing will focus on the Bureau of Prisons reentry efforts, including the way they are affected by last year's enactment of "The Second Chance Act," which imposes new responsibilities on BOP to prepare offenders for reentry into communities.

In that context, we also will be discussing the broad range of challenges facing the prisons, including prison overcapacity and the adequacy of staffing, because they ultimately affect the ability of the Federal Prison System to focus resources on reentry.

Since we do not have a Minority member here at the moment and it is okay for us to proceed with their permission, your written statement will be made a part of the record and you can proceed with your oral testimony. And we welcome you to the hearing today.

Mr. LAPPIN. Chairman Mollohan, it is a pleasure to be here and I look forward to chatting with you and the other Subcommittee members about the Bureau of Prisons and our reentry efforts.

I appreciate the opportunity to appear before you today to discuss the challenges we face in the Bureau of Prisons in meeting the reentry needs of federal inmates.

Before I do so, I would like to thank you, Mr. Chairman, and if you would on my behalf thank the other Subcommittee members, for your assistance last year with the reprogramming and the supplemental funds that allowed our agency to avoid a deficiency and also the additional operating funds included in the fiscal year 2009 House passed Omnibus bill.

Preparing inmates for reentry into the community is a high priority for the Bureau of Prisons. We are constrained, however, in our ability to attend to this priority.

A combination of elevated crowding and reduced staffing has made it difficult to provide inmates with the programs they need to gain the skills and training necessary to prepare them for a successful reentry into the community.

And we know through rigorous analysis that both the inmate-to-staff ratio and the rate of crowding at an institution are important factors that affect not only program availability but also the rate of serious assaults on inmates.

As an example of the problems we are facing, for the last two fiscal years, we have been unable to meet our statutory mandate to provide residential drug abuse treatment for all eligible inmates. We would need to hire additional staff, to open new units in order to reach all the inmates who are in need of residential treatment.

Traditionally the Federal Bureau of Prisons has offered a wealth of inmate programs that provide work skills and impart essential life skills. We have found again through rigorous research that inmates who participate in Federal Prison Industries, vocational or occupational training, education programs, residential drug abuse treatment programs are significantly less likely to recidivate within three years after release.

This is important because a study by the Washington State Institute for Public Policy demonstrated significant cost savings to the

criminal justice system for residential drug abuse treatment programs, adult basic education, correctional industries, and vocational training programs.

We have implemented a number of changes to the BOP policies and practices now required by "The Second Chance Act."

For example, our Life Connections Program is a residential, multi-faith-based program that provides the opportunity for inmates to deepen their spiritual life and assist with their ability to successfully reenter the community upon release from prison.

"The Second Chance Act" requires that our Life Connections mentors be permitted to continue to mentor inmates after their release from custody.

The Inmate Skills Development Initiative is our targeted effort to unify our inmate programs and services into a comprehensive reentry strategy.

The three principles of the Inmate Skills Development Initiative are: one, inmate participation in programs must be linked to the development of relevant inmate reentry skills; two, inmates should acquire or improve a skill identified through a comprehensive assessment; and, three, resources are allocated to target inmates with high risk of reentry failure.

The Inmate Skills Development Initiative includes a comprehensive evaluation of strengths and deficiencies inmates have in nine skills areas related to reentry. We will update this information throughout incarceration to continually assess the skills inmates obtain and to guide them to participate in the programs they need.

Finally, one of our most important reentry programs, Federal Prison Industries, is dwindling rather than expanding. This program is essential to the BOP because it provides inmates with marketable skills and keeps substantial numbers of inmates at our higher security institutions productively occupied; and it does so without receiving appropriated funds.

Over the past six years, inmate participation in the Federal Prison Industries Program has dropped 30 percent due to various provisions in Department of Defense authorization bills and appropriations bills that have weakened FPI's standing in the federal procurement process. Absent any new authority for FPI to expand its product and service lines, we will need additional resources to create inmate work and training programs to prepare inmates for a successful reentry into the community.

Before closing, I would like to address one additional issue. I am aware that some correctional professionals and others are insisting that it is necessary to purchase certain equipment to enhance inmate supervision and reduce assaults. Let me assure you that I have no higher priority than the safety of staff and inmates. And while I desire to purchase equipment towards that end, I am absolutely confident that our limited resources are best used to increase staffing at our institutions.

The addition of line staff positions in BOP facilities will allow us to supervise and manage the inmate population more effectively and I believe it is our best use of resources to enhance safety and security both for staff and for inmates.

Chairman Mollohan, this concludes my formal statement, and I look forward to answering any questions you or other Subcommittee members may have.

[Written statement by Harley Lappin, Director, Federal Bureau of Prisons follows:]

Department of Justice

STATEMENT

OF

HARLEY G. LAPPIN
DIRECTOR
FEDERAL BUREAU OF PRISONS

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

PRESENTED ON

MARCH 10, 2009

Statement of
Harley G. Lappin, Director
Federal Bureau of Prisons
Before the Subcommittee on Commerce, Justice, Science
and Related Agencies
Committee on Appropriations
U.S. House of Representatives
on
Federal Prisoner Reentry and the Second Chance Act
March 10, 2009

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. Recently, we have not been able to build enough new facilities to keep up with the increase in the Federal inmate population. 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 lead 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).

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.

Mr. MOLLOHAN. Mr. Bonner, I understand you are substituting. Do you have any opening remarks?

MR. BONNER OPENING STATEMENT

Mr. BONNER. Mr. Chairman, I will be happy to take this opportunity and apologize for being late.

Director, thank you very much for being here. I on behalf of the Minority, we join the Chairman in thanking you for coming to present testimony to us today on the challenges facing the Federal Bureau of Prisons.

Each challenge that you face obviously has a budgetary aspect. However, we recognize that you are somewhat limited in terms of the answers that you can give as the details of the fiscal year 2010 budget requests have yet to be finalized.

Thanks to the statement that you have already provided, I know that the Committee, Majority and Minority, both appreciate having an opportunity to go forward with this discussion.

In fiscal year 2008, it took a significant infusion of funds to reprogramming and a supplemental appropriations just to continue to fulfill your mission and preserve safety for prisoners and staff.

And we appreciate your testimony.

And, Mr. Chairman, with that, I think we will go to questions.

Mr. MOLLOHAN. Thank you, Mr. Bonner.

PRISON FUNDING SHORTFALL

Mr. Lappin, as you know, the Bureau of Prisons had a shortfall of $287 million in fiscal year 2008 which was addressed through a reprogramming that Mr. Bonner referenced of $109 million and supplemental funding of $178 million. The shortfall was substantially attributed to higher than expected healthcare costs and growth in the inmate population.

Assuming the enactment of the Omnibus appropriation bill, do you anticipate a reprogramming for the current fiscal year?

Mr. LAPPIN. No, I do not.

Mr. MOLLOHAN. Have healthcare costs, inmate population growth, utility costs, and other variables adhered to your estimates?

Mr. LAPPIN. I believe they have. You are talking about fiscal year 2009, I am assuming?

Mr. MOLLOHAN. Yes, I am.

Mr. LAPPIN. Yes. We do not anticipate requesting a reprogramming if we receive the House mark which is in the Omnibus bill. And our estimates for inflation applicable to healthcare, to utilities, certainly the increased cost of staff are on track with what we had projected.

Mr. MOLLOHAN. Have you adhered to the estimates of healthcare costs, inmate population growth, utility costs, and any other variables that you track in your estimates?

Mr. LAPPIN. We have adhered to the areas that we normally track and monitor. There will without a doubt be challenges in getting through the fiscal year, but we believe we can do that without requesting a reprogramming.

So we are going to have to, as we have in the past, establish our priorities. As I mentioned, our highest priority with whatever additional funding we have is to hire additional people.

Mr. MOLLOHAN. Right.

Mr. LAPPIN. But even given that, we are going to have to make some choices as to purchasing of equipment, vehicles, the number of positions we can fill. We are going to have to watch very closely what programs, if any, we add.

One of which we do plan to add, I know will probably come up. We are going to add some additional drug treatment specialists based on funding that is in there, allocated for that, decrease our backlog.

But beyond that, for us to add anything, we have to look to eliminate something else. And so we will just go through our normal assessment of the Bureau's priorities and determine what are the highest priorities and fund those first. And what remains will either have to wait until 2010 or look for other resources.

Mr. MOLLOHAN. Okay. Well, what I am trying to get on the record is where you may have problems and where you anticipate challenges. As you look at your budget coming into the new year, you must have estimates in all those areas.

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. And you must be anticipating some challenges somewhere.

Mr. LAPPIN. We certainly do, without a doubt. The cost of healthcare continues to increase.

Mr. MOLLOHAN. Are you providing adequate healthcare to the inmates?

Mr. LAPPIN. Yes, I believe that we are. And, again, we will——

Mr. MOLLOHAN. By what standard do you measure that?

Mr. LAPPIN. Well, we look at the community standard on most issues. But there is a list that the medical staff have identified—those highest priorities of care we provide to inmates.

We cannot provide everything and there are some things that one would question we should provide given the fact that some of these folks come to us having had these conditions long in the past, long before they came to the Bureau of Prisons.

Mr. MOLLOHAN. Sure. Everybody comes with a certain health status.

Mr. LAPPIN. Absolutely. But certainly we are providing whatever immediate care is necessary and whatever preventative care we can provide.

Mr. MOLLOHAN. I think I read somewhere where dentistry was a real challenge in the Bureau of Prisons right now.

Mr. LAPPIN. When you look at staffing, there is staffing in general and without a doubt in general, one of our highest priorities is to continue to add correctional staff. And let me explain why that is a target and then I am going to talk specifically about medical and the huge challenge we have there.

We have taken three approaches. One, given the fact we have had to downsize in a number of other program areas and redirect that funding to correctional areas, correctional services, we have been able to hire a few more correctional staff. In lieu of—because what we were doing was taking people out of programs areas and

out of support areas temporarily and having them work in correctional posts. We do not want to do that long term because they are providing services and programs that we want to continue to provide.

Therefore, we have been trying to increase the number of correctional officers to reduce the amount of augmentation that we are having to do out of those program areas and administrative areas. And at most places, we have been successful in doing that.

We have had a special initiative on healthcare across the board, although it is somewhat geographic. We are only staffed probably at about 70 percent in medical, maybe a little higher than that. Now, I have to look to find the exact number, but between 70 and 75 percent.

Our biggest challenge is doctors, PAs, dentists, and nurses, somewhat more challenging at some locations than others. Without a doubt it is most challenging in our more rural communities where it is very difficult to attract these professional folks in addition to psychologists and chaplains.

So we have implemented a recruitment and retention initiative to offer recruitment bonuses and retention bonuses. It has to come out of our salary budget. So when we do that, we realize we are spending more than we normally would to attract and retain that professional, but it is absolutely necessary.

And so that is a special initiative. We have seen an increase in some areas with our ability to recruit and attract more of them.

We work with the Public Health Service to attract more staff out of the Public Health Service, which is a little more expensive for us, but they bring to us a great addition in the way of staff and experience. We have about 700 Public Health Service staff working for the Bureau of Prisons, the majority of whom are in medical.

But without a doubt, our biggest challenge is the recruitment and retention of medical staff, psychologists, chaplains across the board.

Mr. MOLLOHAN. Okay. I will follow-up.

Mr. Aderholt.

SECOND CHANCE ACT

Mr. ADERHOLT. Thank you, Mr. Chairman.

Thank you for taking the opportunity to come and testify before our Subcommittee today.

One thing I wanted to just ask you briefly about was on page three of your testimony, you had discussed "The Second Chance Act." And, of course, you indicate that you have been able to implement changes, a lot of the changes that are required by "The Second Chance Act."

And I just wanted you to talk a little bit more in detail about what aspects of that that you have not been able to implement and some of the things that maybe you are doing to resolve that.

Mr. LAPPIN. Well, there is funding, I believe, proposed in the 2010 budget for further implementation of "The Second Chance Act." However, I want to go back, I think, and give a lot of accolades to the folks who drafted this and they were working with the Bureau of Prisons and looking at what direction we were going,

what we were planning to do, and building that into "The Second Chance Act."

And I am going to speak specifically to Section 231A, B, C, D, E, F, G, which specifically deal with what we must do to prepare inmates for release.

And years and years ago, we realized that we were not doing as good a job as we should be doing in identifying what skills inmates lack and then leveraging them into programs that improve those skills.

I was a case manager—I started as a case manager back in 1985. I sat at team meetings and we kind of guessed when we talked to the inmate. You know, "what it is you think you need to do and here is what we have to offer." It really was not very scientific.

So, the staff who drafted this legislation listened to our staff. And we had a work group at the time that was comprised of not only Bureau of Prison staff but U.S. Probation officers, other care providers in the community, people who we were going to hand these folks off to, to continue supervision; to identify what skills they see inmates lacking, why are inmates failing once they transition from the Bureau to the community, and build that into our program.

And as a result, this group identified nine skill areas, daily living skills, I can provide a list with detail, mental health skills, wellness skills, interpersonal skills, academic skills, cognitive skills, vocational career skills, leisure skills, character skills.

And upon an inmate's arrival, they will take an assessment. They will take a little test which is going to measure their skill level in each of those nine areas.

Then when the inmate, within the first 30 days of incarceration, sits down with his unit team, they will have this assessment and we will be able to say to the inmate; "you know, you really have good scores on interpersonal skills, this, this, and this—what you lack is vocational training or, what you lack is an acceptable level of literacy."

We need to focus on those areas so that we are leveraging those inmates, those willing inmates into those programs that they most need. And then through the course of that, we are measuring their performance. Are they actually learning something here that is going to assist them upon release?

So although we have not been fully funded, we have been doing this type of work. We do look forward to that funding to allow us to fully implement this.

In addition to that, the big benefit here is what we gain in our relationship with the United States Probation Service and other care providers in the community, the residential reentry centers, that this information will just not stay with the Bureau.

Our objective is that this information would be passed on to those folks so that when they receive that person going to the halfway house or they receive that individual that they are going to supervise, they will be able to see as well what skills they performed well, what they did not perform well, what they volunteered to participate in, or what they resisted. Because that tells that probation officer a lot about that person they are going to supervise, if they have been resistant, if they have been unwilling to participate. It

gives them a better sense of how much risk this person may be compared to somebody who is a willing participant.

So, I think the other huge gain here is the transmission, the carryover of this information to halfway houses and to U.S. Probation staff as they continue to supervise this inmate.

Some will return without a doubt. Our recidivism rate is about 40 percent, although, for example, last year, we had 70,000 new admissions. Fourteen percent of them were prior federal offenders. So we saw about 14 percent come back that year. When they come back, we pick up where we left off and hopefully we can leverage that person into more programs.

Our downside obviously is within this inmate population of 202,000, you have got willing participants and you have got unwilling participants. I am confident the majority of them are willing, but you have got a percentage, 25, 30 percent, who continue to resist.

Mr. ADERHOLT. And are you talking about in this assessment program.

Mr. LAPPIN. Just in general.

Mr. ADERHOLT. Oh, just in general.

Mr. LAPPIN. When they come to prison, they are still unwilling to accept responsibility sometimes for their behavior and in doing so recognizing they need to change.

Mr. ADERHOLT. Yes.

Mr. LAPPIN. But I still think the vast majority are typically willing. Sometimes not early on. Sometimes that transition takes some time for them to begin to accept that responsibility.

But our objective is to try to, one, make sure we reach out and we address the needs of those willing participants and we keep leveraging those unwilling participants. Trying to get them to accept more responsibility into these programs that we know will be helpful to them. So in that case, we have started that work.

There is another program that we have started on which was the—I will not go into all the areas, but the enactment of the Elderly and Family Reunification for certain nonviolent offenders. These are the older folks who have been in custody for a certain number of years. We have initiated a pilot to identify those folks and consider giving them some time off their sentence if they meet the criteria established under the law.

And we have also started the change of regulations, applicable to allowing inmates who have a need, up to 12 months in a halfway house.

So, those are the areas that we have been focused on most aggressively.

Mr. ADERHOLT. Of course, my understanding, you all know this much better than I, but "The Second Chance Act" allows up to 12 months to go into the halfway houses for all inmates.

But the bottom line is, my information that I received, is that it is sometimes usually about six months. And I have actually had some constituents that have fallen in that category.

And right now currently who would be eligible for that 12 month and what percentage would you say that go to halfway houses go for that 12 month period as opposed to the six month period?

Mr. LAPPIN. Well, right now I think all the inmates are eligible for up to 12 months because when the law passed, it went into effect. We have had to change the regulation.

But all the inmates who are being considered for halfway house are being considered for up to 12 months. So they are being considered.

It really comes down to the needs of the inmate. That is what it has always been and continues to be. We assess how long they have been in prison. We assess their community ties. We assess their skill level and their ability in advance of acquiring a job, finding a place to live. And based on all those factors, we determine, you know, how much time does the individual, on an individual case-by-case basis, need in a halfway house.

We have found in the past that most inmates can do that in a six month period. Most inmates when they come out of there, unless it is a very unusual case, most of them can find a place to live and typically find a job.

Now, again, we are in very difficult economic times. These factors that we have no control over are going to impact offenders' abilities to get jobs. So, that changes over the course of time depending on economic conditions.

So, there are a lot of people looking for work now. And when these folks come out, they are going to find it more challenging to find jobs given the fact they are competing with more and more people who are out of work. Hopefully, as this turns around, it will be easier for folks as it has been in the past.

But typically we have been able to rely on about a six month stay. We are currently sending inmates for more than six months. So, there are some inmates who have these needs that we believe require more than six months. And we have been allowing that to occur.

I do not know the number. We can get the number for you. This is one of the priorities, though, I do not want to leave here misleading anyone. I mean, it costs us more money sometimes to house people in halfway houses than in our prisons. It is cheaper for us to keep an individual incarcerated in a low or a minimum security facility than to put them into a halfway house.

Now, that is in part our fault because we have, and I think for the right reasons, we have wanted more and more service provided in the halfway houses. We want mental healthcare. We want drug transition. We want job placement assistance.

So, we have asked the providers to build into their contracts those services. All of those things cost more money. We think it is money that is a good investment.

On the other hand, when you are limited on funding, you have got to look at how much money we can invest in community corrections. We have a budget for that.

And so, what we will try to do with the budget we have allocated for community corrections is address the needs of the inmates on a case-by-case basis, and within that budget have enough money to send those who need time in a halfway house of more than six months to the halfway houses, and those that do not to whatever time is recommended.

But if we were just to turn around and push all of them for 12 months, without a doubt, we would have to take money out of prison operations and put it over into community corrections to pay the difference. And right now we cannot afford to do that.

So, again, it is really on a case-by-case basis. Those that we believe have a need we will try to get in for a longer period of time. But, again, with our experience, we have used halfway houses for 15, 20 years, probably one of the biggest providers, 85 percent of our inmates who return to our communities in the United States transition out through a halfway house.

Many states, if you compare, are far less than that, because we believe this is critically important to transition to the community rather than just dumping that guy out on the street.

So, we want to get them all some time and we will get them all as much as we can.

Mr. ADERHOLT. Thank you.

Thank you, Mr. Chairman.

Mr. MOLLOHAN. Mr. Bonner.

CHANGES IN PRISON POPULATIONS

Mr. BONNER. Director, in looking over your biography, you have been with the Prison Service for 24 years roughly?

Mr. LAPPIN. Yes.

Mr. BONNER. Started out as a case manager——

Mr. LAPPIN. Yes.

Mr. BONNER [continuing]. Assistant warden, warden. If you were speaking, and you are effectively, to the American taxpayer today, tell us what you have learned in your 24 years. How has the prison population changed? How have the challenges changed?

And specifically you talked about it costing more at a halfway house than mainline incarceration. Give us some feel for how much money on average it costs because the debate that we have year in and year out in Washington and in State Capitols as well is if you put money, say, in education at the front end, then you may have to spend less money on the back end in prisons.

What does it cost to house an inmate on average today?

Mr. LAPPIN. Well, let me go back and just tell you what we have seen in the change of the inmate population since 1985 when I started at the Bureau.

One, a much larger group of offenders. Back in 1985, we probably had about 35,000 inmates. We just hit 202,000 inmates.

Without a doubt, the characteristics of those inmates have changed significantly. One, they are serving more time on average. Two, we see more violent, more aggressive, more gang oriented offenders coming into the Federal Prison System than in decades past given the fact that more laws, federal laws now are applied to drugs and firearms and sex offenders.

And as a result of that, we are seeing a significant increase in younger offenders, many of whom are more gang oriented, more aggressive, more willing to confront the status quo, which, without a doubt, has forced us to change how we have operated the Bureau.

Fortunately our classification system has kept up with those challenges. And I just want to speak to that for a second because

I want to share with you how critically important the classification is to running safe and secure prisons.

To identify inmates in advance of them coming into the Bureau, or soon after they are in the Bureau, that may lend themselves to be a threat to staff and inmates. And because of the evolution of that classification system, I think we have been able to manage this changing population quite well. And we continue to make adjustments to the classification system to address the changing characteristics of the inmates.

So given that, even though we have seen a surge in the amount of violence, our assault rates have remained—well, actually have come down over the last 20 years, and the last five years have been relatively stable with the exception of assault rates on inmates in high security institutions.

In the last few years, we have seen an uptick in assault rates on inmates by inmates. This concerns us, and I will give you an example of what we are doing to address that and then I will pick up with what it costs.

Without a doubt, within those 203,000, 202,000 inmates, a group has evolved that has decided not to listen to us, to defy our authority, to say no when we tell them to stop, to the point that unfortunately in the last year or two, we have had to use lethal force for the first time in most of our recollection to resolve a conflict between inmates. And that is just unacceptable in running a safe and secure prison.

So, we have done a couple of things. One, we have tightened down our high security institutions. I say our classification system works because most of this is occurring in pententiaries, which means our staff are identifying these inmates and, as they should, moving them up into more secure facilities, which is what we expect them to do. The problem is more of them now exist in our high security institutions.

So, therefore, we put additional controls in place at our high security institutions to control inmates in smaller groups, to have more oversight, to have more custodial staff wherever possible. We have added some posts, so on and so forth to try to address that.

I think most importantly is the next thing we are currently doing. That is, we are going to remove these two or three thousand inmates, that is my guess, two or three thousand inmates, who act this way and we are going to convert a penitentiary and two housing units at two other locations to special management units. And we are going to move those inmates out of these high security institutions, out of general populations into a more structured, controlled environment.

We will have to work through phases of behavior modification, of them complying to work their way back out into a regular institution.

We currently have modified those institutions to handle those inmates. We are working on increasing the staffing there. We are identifying the inmates. And we will shortly, probably this week, begin moving inmates into those facilities.

When those are filled, we will step back and reevaluate—have we reduced these incidents, are we having those types of conflicts, are inmates carrying weapons? And if they are, I guarantee you what

we are going to do. We are going to go take another institution until we remove this small element from these high security institutions who are misbehaving and are not complying.

Without a doubt, one of the biggest challenges to the whole thing are gangs and the increase in the percentage of gangs' members in our institutions, in particular the folks from Mexico and the Hispanic gangs. They are challenging folks, who play by different rules. And as a result, we are having to adjust what we do and how we will manage these types of offenders.

I am not implying that it is only the Hispanic gangs because believe you me, if you go to the Special Management Unit once it is up and running, you are going to find Caucasian inmates, you are going to find African American inmates, and you are going to find Hispanic inmates, and probably a few others from around the world.

But once this initiative is completed, I am hopeful we are going to see a decrease in those types of incidents.

The cost of housing inmates on average, thank you, Bill, is $25,895 per year on average. Now, realize when you cut across the security levels, that varies significantly because a minimum security inmate is going to be much cheaper than that high security inmate or that inmate at ADX Florence.

So this is the average $25,895 per year. And our cost, just to give you an idea of what it—let us see. That is——

Mr. BONNER. That is overall?

COST PER-PRISIONER

Mr. LAPPIN. Overall $70.75 a day. That includes every single penny that goes into running the Bureau of Prisons, training, administrative staff, movement of inmates. Everything goes into that.

Our cost of putting someone in a halfway house, I think I have that here, is about $65.20 per day. That is our average cost per day for inmates in halfway houses.

Mr. BONNER. Sixty-five?

Mr. LAPPIN. Sixty-five twenty-five. So, for example, an inmate at a minimum security institution, it is about $53.65 a day. So, you can see for us to put that person in a halfway house, it is 12, 13, $14.00 more per day.

So that is why you have got to adhere to a budget. You got to watch it. You have got to manage it. But I commit to you we are going to continue to put inmates in halfway houses for as much time as we can.

Mr. BONNER. Do you know how these amounts compare with inmates at private facilities or at state run facilities?

Mr. LAPPIN. Well, the state, it is a very difficult analysis because you can go into journals and you can look at the list of states in the Federal Bureau of Prisons. The problem is they all come to that conclusion with different numbers.

For example, in some states, healthcare is provided out of the health services budget. In some states, the education funds, it comes out of the education funds. In some states, they have no cost for hiring employees because it is a centralized system for the entire state and they do not put those costs applicable to their prison system into those numbers.

The State Directors of Corrections realize this and we actually have a committee that has been ongoing for about eight years to try to reconcile that so, that a more apples-to-apples comparison could occur. That is not possible right now.

But we have 13 private contract facilities. Now, understand these are all low security inmates, the less risky offenders. So, it would be unfair to compare what it costs for us to house them in that low with our average cost necessary. We are going to need to compare more with what it costs us to house inmates in the lows.

But our cost of private contracts is about $60.00 a day right now per inmate. Again, all low security inmates, less risky inmates, because that is all we contract are low security inmates. Most all of them are non-U.S. citizens. The contracts probably do not afford as much programming as we provide in our own institutions, so there is a little adjustment there as well. Our cost for a low security inmate is about $63.00 a day.

RECIDIVISM RATE

Mr. BONNER. Correct me if I'm wrong, one of the statistics we were given states that about two-thirds of all the released prisoners go on to commit another crime.

How does that percentage compare with those who have gone through your halfway houses?

Mr. LAPPIN. Our recidivism rates are 40 percent. That was our last assessment a few years ago. So, the two-thirds number is applicable to the average of the states. Ours fortunately, and in part because to be honest with you, as we reflect on what has changed in the Bureau, I have to tell you that from the 1980s, from the time I became aware, until 2002, the Bureau was cared for and funded well. And through the course of that time, we added a lot of inmates, but we added a lot of prisons.

In doing so, we added a lot of staff and we were able to provide a lot of programs, far more than what many states could afford. As well as the fact that we are structured a little differently than the states in that all of our staff are law enforcement staff.

So our program staff—we can hire more programs folks because when we need them to be correctional staff, they can assume that responsibility. But when we do not need them in that capacity, they can be teaching, providing vocational training, providing counseling, and many other programs where in many states, there are two different groups of people. So that has been very beneficial to us.

So we are seeing a recidivism rate of about 40 percent. And I do not know for sure, and I have asked Tom who handles our Research Department to reassess that we have been able to maintain that since 2002. In part because given the limited resources—and, again, I am not questioning that, I know there are many priorities, not only Department of Justice, but far beyond. But without a doubt, we have been unable to put as many people into those program areas and into the administrative areas which would support those types of functions. And, therefore, I kind of question that we are having quite as much success.

We do, I believe, Tom, research on inmates who go to halfway houses and we do see a lower recidivism rate for them. I am not sure I have that number with me. I do not, but I think we can——

Mr. KANE. We can provide it.

[The information follows:]

WHAT IS THE RECENT RECIDIVISM RATE FOR INMATES WHO GO TO HALFWAY HOUSES?

The research study conducted by the BOP in 1994, confirmed that inmates who were released through an RRC are less likely to recidivate than inmates who were released directly from a correctional institution. According to the 1994 study, 31.1 percent of inmates released through a halfway house recidivated, compared to 51.1 percent of inmates released directly to the streets. The study further demonstrated that pre-release placements in RRCs result in higher rates of employment, which is also correlated with reduced recidivism.

The BOP's Office of Research and Evaluation recently initiated a study to understand the effectiveness of residential reentry centers (halfway houses). The study is focused on evaluating post-release success, such as remaining crime free, and determining the length of time needed in a residential reentry center to improve the odds of successful outcomes. The Office of Research is combining the various data bases needed to perform the analyses and refining data definitions.

The BOP expects to complete the new RRC study by the end of next year.

Mr. LAPPIN. We can provide it. But certainly, every program we provide, whether it is GED, vocational training, Federal Prison Industries, residential drug treatment; we do recidivism research on that program.

If we see it is not having the intended outcome, we ask why are we doing this? Why are we investing money in this program if, in fact, at the end of the day it is not reducing recidivism? And if it is not, we should do away with those programs.

In fact, we did during our restructuring period. We found some programs that were not reducing recidivism. And I know one. I will give you an example. One that hit hard with some folks were the boot camps. We had known for ten years we were not seeing a reduction in recidivism. We were spending millions of dollars. And when money got tight, we said we should not continue to do this program above the protests of a lot of judges out there who believed it had to work, it just has to work. But for the targeted group, it was not working.

And we had some vocational training programs, as good as they were, were far too expensive. And we are now targeting skills that I think more inmates need today, business skills, computer skills, things that we can provide at a cheaper cost to more inmates in a shorter period of time.

So we have reorganized that to try to gear our vocational training to skills that we think inmates will need in the community, and also that we can get somebody through a class in six to nine months and get them a certificate. So that when they do go out to look for a job, they have got something to show someone rather than programs that took 18 months, two years, and sometimes people could not complete them before they were released.

Mr. BONNER. Thank you.

Mr. MOLLOHAN. Thank you, Mr. Bonner.

Well, I have got a couple of follow-up questions with all that good testimony.

Mr. LAPPIN. I figured you would.

PRIVATE VS. U.S. BUREAU OF PRISON

Mr. MOLLOHAN. First of all, to help you out a little bit on this one, I think the private versus U.S. Bureau of Prisons' average comparing low security level inmates to low security level inmates, I think that is the appropriate comparison——

Mr. LAPPIN. Yes.

Mr. MOLLOHAN [continuing]. As you point out in your testimony. Sixty dollars a day in the private prison, $63.00 a day in the average U.S. Bureau of Prison?

[The information follows:]

COST PER DAY OF BOP LOW SECURITY MALE INMATE VS. CONTRACT FACILITY

The daily cost to incarcerate a male low security inmate in a BOP facility was $62.41 in FY 2008, compared to $59.36 in a private contract facility. Please note that the BOP facilities offer a greater level of inmate programming and re-entry programs than private contract facilities.

Mr. LAPPIN. Actually, I will have to come back to you with a number because the $63.00 includes female inmates. And believe you me, female offenders cost us, at the low security level, cost us more money to care for than males.

So, what I would like to do is go back and get you a figure for the record of what it costs us to house a male low security inmate compared to a low security level male inmate in a private facility. I actually think it is going to be even closer because without a doubt, our female offenders, those institutions cost us more typically because of the additional healthcare and other needs.

Mr. MOLLOHAN. Okay. You do not have female offenders in private prisons period.

Mr. LAPPIN. We do not.

Mr. MOLLOHAN. Yes.

Mr. LAPPIN. We do not.

Mr. MOLLOHAN. Okay. So we need to compare obviously.

Mr. LAPPIN. We will do that.

Mr. MOLLOHAN. So that is one variable that is more expensive in the U.S. Bureau of Prisons side. The other variables are programmatic as well, is it not?

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. And the private facilities are shorter term, and have fewer programs. I mean, there are a lot of things not provided for on the private side that if you teased out would probably impact that comparison dramatically.

Mr. LAPPIN. I would agree with you. Okay, they do not provide as many programs nor do they, in our opinion, and I would say this if the private folks were here, I talk with them about this often——

Mr. MOLLOHAN. Well, of course you would.

Mr. LAPPIN. They are partners with us.

Mr. MOLLOHAN. Of course you would.

Mr. LAPPIN. Absolutely.

Mr. MOLLOHAN. Because it is correct.

Mr. LAPPIN. It is correct in that——

Mr. MOLLOHAN. We are not trying to offend anybody.

Mr. LAPPIN [continuing]. I think one of the, and I am going to tell you, people ask me this all the time, well, why are they strug-

gling a little bit. I think their biggest struggle is their turnover rate. Their turnover rate is between 30 and 40 percent.

Mr. MOLLOHAN. In private prisons?

Mr. LAPPIN. In private prisons.

Mr. MOLLOHAN. Okay. I do not want to get into this.

Mr. LAPPIN. That is fine.

Mr. MOLLOHAN. I just want to stick with my——

Mr. LAPPIN. But you are right. If you assess the programs and the quality of programs and the number of programs——

Mr. MOLLOHAN. Yeah.

Mr. LAPPIN [continuing]. Those are the softer issues that you would have to judge that we think——

Mr. MOLLOHAN. Well, it is a good question. Will you provide an——

Mr. LAPPIN. Yes.

Mr. MOLLOHAN [continuing]. Analysis for the record?

Mr. LAPPIN. Absolutely.

[The information follows:]

COMPARISON OF THE PROGRAMS PROVIDED IN BOP FACILITIES VS. THOSE PROVIDED IN PRIVATE PRISONS

All except one of the private prison contract facilities house sentenced criminal aliens. Therefore, these facilities do not provide Residential Drug Abuse Treatment (with the exception of one facility which houses D.C. Inmates). 59 BOP facilities provide Residential Drug Treatment Programming.

In addition, BOP facilities require inmates without a high school diploma or General Educational Development (GED) credential to enroll in a literacy program. Therefore, BOP facilities offer a greater level of Education programming than private facilities where criminal aliens are exempt from the same requirements. The contractor may provide voluntary education programs like English-as-a-Second Language.

Finally, the population at contract facilities (sentenced criminal aliens) are not released into U.S. communities. Therefore, release preparation programs and social education programs are not required by most of the contracts.

BOOTCAMPS

Mr. MOLLOHAN. You made an interesting comment about boot camps. I am a little taken back by the fact that boot camps did not work, do not work as well. And I am just wondering why they do not work because I think that, properly done, they would provide the structure. I am wondering, were there programmatics beyond the drill that went along with boot camp, like training, education, and psychological services?

Mr. LAPPIN. I think in part. One, we had great programs. No question over the quality of programs that were provided, but we were targeting the most successful inmates in the Bureau of Prisons in those boot camps.

So the inmates going in there typically were pretty successful because they were minimum security inmates.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. And the law, the way it is currently laid out, the regulations do not allow us to put violent offenders in those programs.

So if you want to target a riskier group for boot camps, we would have to go back and look at what laws apply to that and make some adjustments so that we could target a riskier group. And

given that, we may see more impact in reducing recidivism on that group of riskier offenders.

Mr. MOLLOHAN. Let me ask, Director Lappin, how did you measure effectiveness?

Mr. LAPPIN. Our recidivism research is pretty standard across the board.

Mr. MOLLOHAN. No. You said that boot camps did not work.

Mr. LAPPIN. They did not reduce recidivism.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. That was the key issue. We did not see reduction of recidivism of those inmates who participated in that program compared to a like group of inmates who did not participate in that program.

Mr. MOLLOHAN. Okay. All right.

Mr. LAPPIN. But we can provide you a little analysis of what we found.

[The information follows:]

PROVIDE ANALYSIS THAT SHOWED BOOT CAMPS DID NOT REDUCE RECIDIVISM WHEN COMPARED TO A LIKE GROUP OF INMATES WHO DID NOT PARTICIPATE

The attached summary of the Lewisburg Intensive Confinement Center (ICC) Evaluation dated November 15, 1996, indicates there was no significant difference in the recidivism rate between inmates who completed the ICC program as compared to similar inmates who did not participate in the program. Graduates of the ICC at Lewisburg who were transferred from a general prison population into the program were rearrested at a 13.0 percent rate during the first 2 years in the community. Graduates of the ICC who entered the program directly from the court were rearrested at a 13.9 percent rate. Rates for these two groups were not statistically different from the 13.8 percent rate for a group of similar inmates who did not participate in the ICC program.

INFORMATION PAPER FOR THE EXECUTIVE STAFF

DATE: November 15, 1996

SUBMITTED BY: Miles D. Harer and Jody Klein-Saffran
Research Analysts
Office of Research and Evaluation

THRU: Thomas R. Kane, Assistant Director
Information, Policy, and Public Affairs Division

SUBJECT: Lewisburg ICC Evaluation

Introduction: Attached is a report which provides post-release information on inmates involved in the Lewisburg ICC program and a control group of inmates eligible for the ICC program but who did not participate in the program.

Evaluation of Post-Release Success for the First 4 Classes
Graduating from the Lewisburg Intensive Confinement Center
November 15, 1996

■ Evaluation results for the first four classes graduating from the Lewisburg Intensive Confinement Center (ICC) demonstrate that placement in the ICC achieves the same post-release success rate as does placement in a conventional prison. Lewisburg ICC graduates who were transferred from the general prison population into the program were rearrested at a 13.0 percent rate during the first two years in the community (See Figure 1), while Lewisburg ICC graduates who entered the program directly from the court were rearrested at a 13.9 percent rate. Rates for these two groups are not statistically different from the 13.8 percent adjusted rate for a group of similar program eligible inmates, who did not participate in the ICC program and instead completed their full prison term.

■ As of May 1996, ICC graduates with a 30 month or less sentence are eligible for reduction in their prison sentence. Sentence reductions allowed range from a 3 month reduction for persons with a 12-16 month sentence to a 6 month reduction for persons with a sentence of 26-30 months. As shown in Table 2, the estimated incarceration cost saving for an ICC inmate with a one year and a day sentence is $ 2,519.66 when compared to a non-

ICC minimum security inmate with a one year and a day sentence. For an ICC inmate with a 30 month sentence, the incarceration cost saving is $ 9,330.58 when compared to a non-ICC minimum security inmate with a 30 month sentence.[2] Note, however, that inmates with sentences between 30 and 60 months and who constitute the bulk of transfers into the ICC program are not eligible for a sentence reduction.

■ In addition to possible cost savings associated with the shorter period of confinement for current ICC participants, the program also has the benefit of returning very low risk offenders sooner to their families and to their jobs, presumably reducing public assistance costs to inmates' families and allowing these former offenders to become taxpayers once more. Furthermore, earlier release contributes to inmate family stability, which criminological research shows to be a key element in reducing juvenile delinquency and crime among future generations.

■ Background measures used to assess differences in recidivism risk between the ICC participant groups and the Control Group were chosen from prior recidivism studies of Federal prisoners, conducted both by the BOP Office of Research and Evaluation and

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[2] Because of current unused minimum security bed space, the actual marginal daily cost per inmate for a minimum security bed may be substantially lower than the full cost used here of $42.22, and this could dramatically alter cost savings estimates.

by the United States Parole Commission. These risk measures, listed in Table 1, are: the United States Parole Commission's Salient Factor Score (see Attachment A. for the form used to calculate the Salient Factor Score); age at release to supervision; stable employment during at least six months in the two years prior to the current imprisonment; marital status; alcohol abuse (note in Attachment A, that heroin abuse is a component of the Salient Factor Score); prison misconduct; and planning, while still in prison, for employment upon release to a halfway house or to supervision in the community. Race (percent black) and ethnicity (percent Hispanic) are reported, in Table 1, for comparison purposes only.

■ Comparisons of background characteristics for the two ICC participant groups, ICC Dropouts (persons who entered the ICC program but for whatever reason did not complete it), and the Control Group show the following statistically significant differences (see Table 1): The ICC Prison Transfer Group had significantly higher Salient Factor Scores and were more likely to have made pre-release employment plans than the Control Group. Both of these differences suggest that the ICC Prison Transfer Group had lower risk of rearrest when compared to the control group.

The ICC Direct Court Admissions were significantly more likely to have stable pre-prison employment, less prison

misconduct, and to have made pre-release employment plans than the Control Group. All three differences suggest that the Direct Court Admission group was at a lower risk of rearrest than the control group.

ICC dropouts had significantly lower (i.e., poorer) Salient Factor Scores; were younger; were less likely to be married; were more involved in prison misconduct; and were less likely to have made pre-release employment plans than the control group. Therefore, based on these differences, the ICC dropouts were at a much greater risk of rearrest than the control group. Furthermore, from the risk profiles shown in Table 2, the ICC dropouts were also at higher risk of rearrest than the two other ICC participant groups.

■ Results from the complete (multivariate) analysis of recidivism during release to the community (not shown here, but reported in the full evaluation report) show that for inmates studied as part of this evaluation, those with high Salient Factor Scores, who were older, and who had made pre-release employment plans were significantly less likely to be rearrested than inmates with low Salient Factor Scores, who were younger, and who did not make pre-release employment plans.

■ As already noted, both the ICC prison transfer and ICC direct court commitment groups demonstrated a significantly

greater reliance on pre-release employment planning than did the control group. (See Table 1). That is, they were more likely to have arranged for employment prior to release to a halfway house than inmates in a conventional prison camp. Analysis shows that such planning had a significant and dramatic effect in reducing recidivism for both program participants and control group members, when compared to those in either group not making such plans. While differences between the control group and ICC groups in the percent making pre-release employment plans may be due at least in part to ICC program emphasis on such planning, the mean differences may also reflect a larger number of more effective social and community contacts and resources available to those referred to the ICC program compared to those who are not referred. These contacts and resources may reflect a family/community support network in place prior to incarceration that appreciably aids in post-release adjustment beyond that provided by obtaining and maintaining employment alone.

■ As noted above, background characteristics of the ICC Dropouts indicate that they will be rearrested at a higher rate than either the control group or the two groups of ICC graduates. The rearrest rate for ICC dropouts was 33.3 percent (See Figure 1), which is a substantially higher rearrest rate than for either program graduates or control group members. Since this is a group of inmates who did not complete the ICC program, this

finding suggests that, besides providing intensified or accelerated correctional programming, the ICC serves to screen eligible, but more recidivistic, inmates who are unable to benefit from the program and places them back into the general prison population to serve their full prison term. However, because of the small number of program dropouts in this study (N=27), any conclusive statement about a screening effect would be premature.

■ It should be noted that the 13 percent rearrest rate over 2 years for Lewisburg ICC graduates is substantially lower than that for graduates of similar programs run by many State correctional systems, as reported by Mackenzie and Souryal in their 1994, National Institute of Justice final report, "Multisite Evaluation of Shock Incarceration." For example, 37.3% of graduates from a Louisiana program were rearrested in the 2 years following release; 56.5 percent of Florida graduates were rearrested during the first year in the community; 49.5 percent of New York program graduates were rearrested during the first year in the community; 40.4 percent of South Carolina graduates were rearrested during the first year in the community; and 51.7 percent of Texas program graduates were rearrested during the first 2 years in the community. Differences in rearrest rates between graduates from these State run programs and graduates of the Lewisburg ICC are most likely due in large

part to the younger age of State program participants when compared to Lewisburg ICC participants.

■ While the evaluation of the Lewisburg ICC was able to assess the effect of the overall program on post-release outcome, it was not possible to assess the effectiveness of individual program components because they continued to be developed through 1995 (see attached chronology). In light of these changes, a work group was assembled by the Correctional Programs Division, including representatives of ICC staff, researchers, and Regional and Central Office administrators to review various program components. Now that ICC program components have matured and stabilized, this work group will develop a set of performance measures for monitoring the contribution each component makes to a set of outcomes including, but not limited to, post-release rearrest. For example, improvements in academic skills might be monitored by testing at admission, intermittently during participation, and at program completion.

■ Given the ICC's demonstrated success regarding low rearrest rates, consideration might be given to expanding opportunities for transferring eligible inmates from other facilities into the program, especially if referrals from court do not fully utilize the additional bed space capacity provided by the new ICC at Lompoc. Also, since inmates with a sentence of 60 months or

less, with no history of violence, and no serious prison misconduct are eligible for ICC placement within 24 months of release, case managers might consider informing potentially eligible inmates at time of admission to prison about the ICC program and the prospects of serving much of their sentence in a halfway house or on home confinement rather than in a prison facility. Such early notification might provide an incentive toward good behavior among this group of new admissions. Currently, inmates with sentences of greater than 30 months are not eligible for a sentence reduction if they successfully complete the ICC, but may be released to a halfway house earlier than comparable minimum security inmates who do not participate in the ICC. As of October 26, 1996 there were 3,095 male inmates (3,043 minimum security and 52 low security) who meet minimum eligibility requirements for placement into the ICC and an additional 368 male inmates (355 minimum security and 13 low security) who will become eligible as they move toward 24 months remaining to serve on their sentences, barring any prison misconduct. Among female inmates there were 751 (747 minimum security and 4 low security) who meet minimum eligibility requirements for placement into the ICC and an additional 32 female inmates (31 minimum security and 1 low security) who will become eligible as they move toward 24 months remaining to serve on their sentences, barring any prison misconduct. In sum, on October 26, there were 3,846 inmates minimally eligible for

immediate placement into the ICC and an additional 400 inmates who will be potentially eligible in the future, for a total of 4,246.

■ Both persons admitted to the ICC directly from the court and those transferred from the prison population pass through multiple review stages during which their appropriateness for the program and their recidivism risk, especially for violent offending, are assessed. For those entering the ICC directly from the court, these are: 1) the initial judicial review and recommendation; 2) the formal program eligibility requirements; 3) the informal review by the ICC staff and administrator prior to actual admission; 4) the rigors of the program itself (see the above discussion regarding program dropouts); 5) the period of observation during halfway house stay; 6) for some, the surveillance during home confinement; and 7) the final period of surveillance during supervised release. Persons transferred to the ICC from the general prison population are subject to the same review and assessment with the addition of a period in prison when their behavior and appropriateness for the program can be observed and assessed by Bureau of Prisons staff.

■ We should highlight the importance of screening ICC participants both for personal characteristics seen as benefiting from ICC programming and for likelihood of recidivating,

especially for crimes of violence. In this regard, both formal and informal eligibility requirements and conditions for remaining in the ICC program should be continually reviewed regarding their capability to predict positive returns from program participation and post-release success.

Table 1. Means or Percentages for Analysis Variables (Standard Deviations in Parentheses).

Variables	ICC Prison Transfer Group N=100	ICC Direct Court Admissions N=43	Control Group N=143	ICC Dropouts N=27
Salient Factor Score	8.630** (1.186)	8.477 (1.651)	8.098 (1.804)	7.259* (2.194)
Age at Release to Community+	29.200 (4.634)	28.907 (4.155)	28.391 (4.155)	26.704* (5.172)
Percent with Stable Pre-Prison Employment	84.000 (0.368)	95.349* (0.213)	87.413 (0.333)	77.777 (0.423)
Percent Married	22.000 (0.416)	30.233 (0.213)	23.776 (0.427)	7.407** (0.269)
Percent Who Abused Alcohol Prior to Prison	33.000 (0.473)	27.907 (0.454)	39.161 (0.490)	40.741 (0.501)
Percent Black	30.000 (0.461)	16.279 (0.373)	24.476 (0.431)	33.333 (0.480)
Percent Hispanic	24.000 (0.429)	9.302 (0.294)	25.175 (0.435)	11.111* (0.320)
Prison Misconduct+	0.310 (0.631)	0.070** (0.258)	0.224 (0.549)	0.888** (1.368)
Percent Making Pre-Release Employment Plans	79.000* (0.409)	83.721** (0.374)	69.231 (0.463)	40.741** (0.501)

* Significantly different from Control group at .10 level.
** Significantly different from Control group at .05 level
\+ Difference of means tests were conducted on the natural log of this variable.

Table 2: Incarceration Costs for an ICC Participant with a Sentence of One Year and One Day and a Participant with a Sentence of 30 Months Compared to Coventional Incarceration Costs for Inmates with Similar Sentences

Incarceration Length Calculation for One Year Plus One Day Sentence

	ICC Inmate 1 Year Plus 1 Day Sentence Days	**Non-ICC Inmate 1 Year Plus 1 Day Sentence Days**
Length of Sentence	366	366
ICC Reduction	-90	0
Good Time Reduction	-55	-55
Total Time To Serve	221	311

Estimate Imprisonment Cost for One Year Plus One Day Sentence

	ICC Inmate			**Non-ICC Inmate**		
	Days	Full Cost/Day	Total	Days	Full Cost/Day	Total
ICC	180	$47.39	$8,530.00			
Minimum Security Institution				221	$42.22	9,330.62
Community Corrections Center	30*	43.52	1,305.60	60*	43.52	2,611.20
Home Confinement	11*	21.76	239.36	30*	21.76	652.80
Total	221		$10,074.96	311		$12,594.62

Estimated total cost savings per ICC inmate using full cost/day = $2,519.66

*Estimate length of stay

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Table 2 continued: Incarceration Costs for an ICC Participant with a Sentence of One Year and One Day and a Participant with a Sentence of 30 Months Compared to Conventional Incarceration Costs for Inmates with Similar Sentences

Incarceration Length Calculation for a 30 Month Sentence

	ICC Inmate 30 Month Sentence Days	Non-ICC Inmate 30 Month Sentence Days
Length of Sentence	912	912
ICC Reduction	-180	0
Good Time Reduction	-135	-135
Total Time To Serve	597	777

Estimate Imprisonment Cost for a 30 Month Sentence

	ICC Inmate			Non-ICC Inmate		
	Days	Full Cost/Day	Total	Days	Full Cost/Day	Total
ICC	180	$47.39	$8,530.00			
Minimum Security Institution				539	$42.22	$22,756.58
Community Corrections Center	200*	43.52	8,704.00	154*	43.52	6,702.08
Home Confinement	217*	21.76	4,721.92	84*	21.76	1,827.84
Total	597		$21,955.92	777		$31,286.50

Estimated total cost savings per ICC inmate using full cost/day = $9,330.58

*All length of stays are medians.

Chronology for ICC 14

July 16,1990 - Proposal submitted to executive staff on operation of ICC, Lewisburg.

November 19,1990 - ICC activated began to accept participants.

November 20, 1990 - Operations Memorandum (174-90) established procedu of the implementation of the Federal Intensive Confinement Center (ICC the site of the former Federal Prison Camp at Lewisburg, Pennsylvania. Eligibility criteria established in this Ops Memo consist of the following requirements:

*serving a sentence of more than 12, but not more than 30 months.
*serving their first period of incarceration or have a minor history of prior incarcerations.
*minimum security
*35 years of age or less
*without medical restrictions
*volunteers

January 28,1991 - The first training cycle began consisting of 42 ICC inmates accepted to Team 1 (Alpha).

April 19,1991 - Operations Memorandum (80-91) this will serve to notify institutions that they may, until further notice, continue to refer eligible inmates to the ICC.

May-June, 1991 - Scheduling changes at the ICC went into effect. Even ng study for GED students was cut out.

July 1991 - Exit Interviews Team 1 (Alpha) Summary available.

August 1991 - Drug counselor Mr. Davis was in a contract position and his contract ended. His contract was unable to be renewed. Mr. Davis was liked by staff and well as by ICC inmates. His leaving the ICC initially caused a big change to the drug counselor/educator component of the ICC program.

Fitness Book provided to inmates as part of the fitness program.

Exit Interviews Team 2 (Bravo) Summary available.

September 1991 - Work day hours change to hours per day and programming in the evening. This left less time for educational programming.

October 1991 - Exit interviews Team 3 (Charlie) summary Available.

Greater emphasis on work component as opposed to educational and vocational opportunities. Many inmates found the ICC becoming too much of a work camp and the educational aspects of the program in particular were being neglected.

December 1991 - Operation Memorandum (285-91) establishes a procedural change in ICC inmates who are transferred from other institutions to the ICC. This change states that ICC referrals will be limited to a total sentence of 60 months or less. These inmates shall be transferred to the ICC not earlier than 24 months prior to a projected release date with the optimum time for placement at 18-20 months.

January 1992 - Exit Interviews Team 4 (Delta) Summary Available. Chaplain still a part time position.
Warden Patrick Koehane leaves USP, Lewisburg.

March-April 1992 - Many scheduling changes were taking place. No drug treatment specialist.

May 1992 - David Chapman Administrator of ICC announced he will be leaving the ICC. Assistant Administrator Willie Susino will be acting Administrator until the new administrator arrives.

June 1992 - Paul Horner newly appointed ICC Administrator arrives at the ICC.

September 1992 - Scheduling and programming changes. Programming will be during the day. Increased hours of programming. Interviews conducted with ICC inmates indicate that some of the content of the life skills course is too elementary and there needs to be more depth to the course. Inmates indicate that the problem may lie with shorter class periods.

November 1992 - Drug Treatment specialist added to staff compliment. Formal DAP program begins.

March 1993 - Added Community Outreach Program as part of Red Ribbon Campaign-Inmates and staff visit local schools and talk to students about drug and alcohol abuse.

May 1993 - Alcoholics Anonymous begins weekly at ICC. Inmates feel the need for more one-to-one counseling. They felt rushed in and out of the counselors office.

July 1993 - Narcotics Anonymous begins weekly at ICC.

January 1994 - Added "Employability" curriculum to education program. Inmates are assisted with resume writing, job searches and interview skills.

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June 1994 - Expanded "Release Readiness" program to include volunteers from local community.
Changes in wellness coordinator.

January 1995 - Added "Parenting Skills" program and incorporated program with local juvenile treatment center (approximately 15 inmates per term used as pilot program).

February 1995 - Begin admitting 100% direct court commitments and no transfer inmates.

June 1995 - ICC staffing reduced by 13 positions:

1-Case Manager
1-Wellness Fitness Coordinator
1-Assistant Food Services Administrator
1-Recreation Specialist
1-Teacher
2-Team Leaders
6-Correctional Officers

July 1995 - Begin Community Projects with ICC inmates (cleaning parks, setting up for parades, etc.)

July 1995 - Faith Lutze contract researcher completes her project.

August 1995 - ICC receives accreditation by ACA as first boot camp in BOP to be accredited and first facility to receive 100% compliance on both mandatory and non-mandatory standards.

September 1995 - Added "Victim Awareness" program to make inmates aware of the impact of crime and victimization.

October 1995 - ICC Chaplain transferred-position not filled.

January 1996 - Added "Welding Vocational Training" as part of the educational curriculum.

April 1996 - Constructed green house and expanded horticultural and farm operation.

May 1996 - Program Statement 5390.9 becomes effective. Allows for an additional 6 month sentence reduction in some cases.

August 1996 - Added "Masonry Vocational Training" as part of educational curriculum.

August 1996 - Parenting program expanded to include all ICC inmates.

Attachment A. Salient Factor Score Computation Form, From the RULES AND PROCEDURES MANUAL, United States Parole Commission, July 24, 1989, Page 61.

SALIENT FACTOR SCORE (SFS 81)

Item A: PRIOR CONVICTIONS/ADJUDICATIONS (ADULT OR JUVENILE)..... [ ]

None ..... = 3
One ..... = 2
Two or Three ... = 1
Four or More ... = 0

Item B: PRIOR COMMITMENT(S) OF MORE THAN THIRTY DAYS..... [ ]
(ADULT OR JUVENILE)

None ..... = 2
One or Two..... = 1
Three or More... = 0

Item C: AGE AT CURRENT OFFENSE/PRIOR COMMITMENTS..... [ ]

Age at commencement of current offense
26 years of age or more ..... = 2
20-25 years of age ..... = 1
19 years of age or less ..... = 0

***Exception: If five or more prior commitments of more than thirty days (adult or juvenile), place an "X" here _____ and score this item ..... = 0

Item D: RECENT COMMITMENT FREE PERIOD (THREE YEARS) ..... [ ]

No prior commitment of more than thirty days (adult or juvenile) or released to the community from last such commitment at least three years prior to the commencement of the current offense ..... = 1

Otherwise ..... = 0

Attachment A Continued. 16

Item E: PROBATION/PAROLE/CONFINEMENT/ESCAPE STATUS VIOLATOR..... [ ]
THIS TIME

Neither on probation, parole, confinement, or escape status at the time of the current offense; nor committed as a probation, parole, confinement, or escape status violator this time ..... = 1

Otherwise..... = 0

Item F: HEROIN/OPIATE DEPENDENCE..... [ ]

No history of heroin/opiate dependence... = 1
Otherwise..... = 0

TOTAL SCORE..... [ ]

Note: For purposes of the Salient Factor Score, an instance of criminal behavior resulting in a judicial determination of guilt or and admission of guilt before a judicial body shall be treated as a conviction, even if a conviction is formally entered.

Mr. MOLLOHAN. In response to Mr. Bonner's question about how things have changed since you came into the Bureau, when did you come into the Bureau if I could ask?

Mr. LAPPIN. In 1985.

Mr. MOLLOHAN. You are just a young guy here yet.

Mr. LAPPIN. Thank you, sir.

GANG MEMBERS IN PRISON

Mr. MOLLOHAN. There are more gang members. They are more violent. They are more aggressive. Is that in absolute numbers? Of course. I mean, there is——

Mr. LAPPIN. We can give you the numbers.

Mr. MOLLOHAN. Let me ask the question. In absolute numbers or is it in percentages?

Mr. LAPPIN. Percentages.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. We have a larger percentage of gang members and security threat group members than we did in the past.

Mr. MOLLOHAN. So when you came in, how many member—how many——

Mr. LAPPIN. I would have to go back and look.

Mr. MOLLOHAN [continuing]. What was the population?

Mr. LAPPIN. Oh, the population of the Bureau of Prisons?

Mr. MOLLOHAN. Yeah. See, it always works when they get to the end of my question.

Mr. LAPPIN. About 35,000, I think.

Mr. MOLLOHAN. Okay. And what is it now?

Mr. LAPPIN. Two hundred and two thousand.

Mr. MOLLOHAN. So my question is, obviously there are more gang members. There are more violent people there.

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. And you are suggesting there are more violent people there. Is that on a percentage basis? In other words, if out of 35,000, ten percent were violent, then out of the 202,000, is it still ten percent violent? There are a whole lot more people, but have the percentages changed?

Mr. LAPPIN. The percentages have changed.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. And we can probably provide you a comparison of 1985 to today. I think—well, I will wait and get it for the record—I think it is like 27,000 gang members and security threat groups. But we will provide it to you in writing, so I make sure I got the numbers exactly. We will give the percentages as they compare to 1985.

[The information follows:]

PROVIDE THE NUMBER AND PERCENTAGE OF VIOLENT OFFENDERS IN THE POPULATION NOW COMPARED TO 1985 AND THE NUMBER AND PERCENTAGE IN GANGS AND SECURITY THREAT GROUPS NOW COMPARED TO 1985

In July 1986 (the earliest date for which data are available), there were 15,635 violent offenders in BOP's custody. This was 32.4 percent of the total population of 48,272 inmates. In March 2009, there were 104,642 violent offenders in BOP's custody, or 53.2 percent of the total population of 196,547 inmates for which data is available. This represents approximately six-fold increase in the number of violent offenders and a 64-percent increase in the proportion of violent offenders in the BOP over this time period.

Regarding security threat groups (which includes gangs) in February 1994 (the earliest date for which data are available), there were 3,323 inmates identified as affiliated with a security threat group. This was 4.2 percent of the BOP population. In February 2009, there were 26,966 inmates affiliated with a security threat group, which is 14.0 percent of the population.

THE SECOND CHANCE ACT

Mr. MOLLOHAN. Okay. Back to a budgeting question. Have you budgeted for "The Second Chance Act"?

Mr. LAPPIN. It is in the 2010 request.

Mr. MOLLOHAN. Did you budget for it in 2009?

Mr. LAPPIN. We began implementation, but I am not—was there money requested in the budget?

Mr. KAIN. It came out of our base.

Mr. LAPPIN. It came out of the base.

Mr. MOLLOHAN. I am sorry?

Mr. LAPPIN. It came out of the base.

Mr. MOLLOHAN. Came out of the base, so——

Mr. LAPPIN. What we have done so far, we——

Mr. MOLLOHAN. Go ahead. No, you go ahead.

Mr. LAPPIN. What we have done so far came out of our base. There was not specific funding set aside in there for "The Second Chance Act." So we kind of absorbed it.

Mr. MOLLOHAN. Yeah. Yeah. Darek tells me it was enacted last April, so you really did not have a chance.

But this year, are you budgeting? I mean, we do not have the budget detail and whatnot, but are you budgeting for "Second Chance"?

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. Are you selectively budgeting program by program? Are you just asking for a number? Are you waiting for us to fund some of the provisions in "The Second Chance Act"?

Say you are supposed to do something subject to an appropriation. Are you going to be requesting an appropriation for all of those programs or are you just going to be asking for a lump sum for implementation of the Act?

Mr. LAPPIN. Most of the time when there is a law passed, we ask for funding to provide staff or materials for that. So "Second Chance," although we have started it, we have asked for funding.

Drug treatment, we have asked for several years for an increase in that. We are fortunate that in 2009, we are going to get that increase. And because of that, we are going to add more resources.

So, if we see general increases in costs of programs, we try to build that in. Most of it comes through an addition of staffing. But on specific programs, we ask for a line item in the budget applicable to a law. Others——

Mr. MOLLOHAN. So what does that mean? Is that saying for the "Second Chance Act," you are going to ask for a lump sum——

Mr. LAPPIN. Correct. Correct.

Mr. MOLLOHAN [continuing]. For compliance with "The Second Chance Act"?

Mr. LAPPIN. Correct. And the same with drug treatment. We did the same with "The Adam Walsh Act." We did——

Mr. MOLLOHAN. Okay. I am just asking about "The Second Chance Act."

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. We are asking for a line amount, I believe.

Mr. MOLLOHAN. For complete compliance?

Mr. LAPPIN. For the Inmate Skills Development Program, which is "Second Chance."

Mr. MOLLOHAN. Okay. But there are other programs in that Act.

Mr. LAPPIN. There are, but I think it is a lump sum there that we have asked for.

OMNIBUS FUNDING

Mr. MOLLOHAN. Okay. Well, we will see. The appropriation, your appropriation in the Omnibus for S&E is $5.595 billion. What is your staffing level today?

Mr. LAPPIN. Our staffing level is about 88 percent of the authorized positions we have. We are spending at a rate of 91 percent of the positions because when you add the overtime in there, given that lower staffing level, we are probably spending at a rate of 90, 91 percent of the positions we have allocated.

HIRING AT THE BUREAU OF PRISONS

Mr. MOLLOHAN. How will that funding level impact the number of positions in the Bureau of Prisons?

Mr. LAPPIN. 2009?

Mr. MOLLOHAN. 2009.

Mr. LAPPIN. Very little.

Mr. MOLLOHAN. So based on the 2009 funding, we cannot expect very much hiring, if any?

Mr. LAPPIN. Not much. And, again, we are so far into this fiscal year, by the time we——

Mr. MOLLOHAN. I would think that would give you an opportunity, maybe, because you are so far in.

Mr. LAPPIN. Well, by the time we—if we go out and starting hiring now, it takes us three, four months to get somebody on board.

Mr. MOLLOHAN. I see.

Mr. LAPPIN. Actually in the institution working. Because the hiring process, plus the training process, we are four or five months down the road. But even with that, you will not see a huge increase. And if you see an increase, what you are going to see is a decline in overtime, because what we are going to target are officers at locations where we continue to use lots of overtime.

And we will offset some of that with the expectation they are going to lower overtime at those locations where we add correctional staff. So overall, you are still going to see 90, 91 percent for salaries.

Mr. MOLLOHAN. During last year's hearing, we had a discussion about the Bureau of Prisons inmate-to-staff ratio and what the target ratio should be. I want to revisit that issue and ask you the question in a different way.

You indicated last year that the Bureau of Prisons' inmate-to-staff ratio was 4.9 to one compared with 3.57 to one in 1997. When

I asked what the appropriate ratio should be, you seemed to hesitate to offer a definitive answer.

I would assume that the appropriate inmate-to-staffing ratio would vary according to the size and design of the facility, the security level or mix of the levels of the facility, population of the facility, and I am sure your other factors that you alluded to or mentioned earlier in your testimony about risk assessment or——

Mr. LAPPIN. Right.

Mr. MOLLOHAN. Is that the right term.

Mr. LAPPIN. Yes. Classification risk assessment.

Mr. MOLLOHAN. Classification. Given that, it would seem one could develop a facility-based staff allocation model that would identify a particular number of staff required for the safe operation of a particular facility.

Is that assumption correct that it would be good to do or do you do that on a facility-by-facility basis?

Mr. LAPPIN. We do not do that on a facility-by-facility basis, but it would be the appropriate way to do that because you are correct. Staffing, ratio of inmates to staff, varies by the types of people in there, which you mentioned, risk factors, as well as the design of the prison.

So, at our more newly designed prisons, we can watch more inmates with fewer staff, given the design and the technology that is built into those with cameras and electronic locks and better perimeter protection.

So you are right. It is very difficult across the board to do that.

Mr. MOLLOHAN. It is very difficult to generalize across the board?

Mr. LAPPIN. Right.

Mr. MOLLOHAN. Yes.

Mr. LAPPIN. It is very hard to do that. But we allocate positions by facility.

Mr. MOLLOHAN. Yes.

Mr. LAPPIN. So we try to look at that. I cannot say that we have sat down and said this is the perfect ratio for every prison.

Mr. MOLLOHAN. Yes.

AGING FACILITIES

Mr. LAPPIN. And I was hesitant last year on picking the ratio because I do not know exactly what it should be, given the fact we have such a mix of institutions that are as old as 114 years and institutions that are brand new.

Mr. MOLLOHAN. Yes.

Mr. LAPPIN. And varying characteristics on background. I am not shy about this. I think that 4.9 to one is far too high.

Mr. MOLLOHAN. What was it when you came into the Bureau of Prisons if you remember?

Mr. LAPPIN. Well, ten years ago, it was 3.5 to one. My guess is we were probably close to that back in 1985. But realize that in the 1990s, and you may recall in the early 1990s, when the growth was really rapid, the Administration and the Congress realized that we could not build prisons fast enough then. We had not learned how to build prisons fast enough. We are much better at it today.

As a result, they gave us about 4,500 positions to spread throughout the prisons that were in operation at the time with the

understanding that eventually those would have to help fund new institutions as they came on line. And that is what happened, in the 2000s, after the reorganization.

But when people ask me, again, staffing is the highest priority. I would like to see us move towards hiring 3,000 additional staff——

Mr. MOLLOHAN. Okay.

Mr. LAPPIN [continuing]. Over the course of two or three years.

Mr. MOLLOHAN. All right.

Mr. LAPPIN. Then we step back and reevaluate.

Mr. MOLLOHAN. Okay. You are getting ahead of me a little bit.

Mr. LAPPIN. I am sorry.

Mr. MOLLOHAN. That is all right. But backing up.

Mr. LAPPIN. Sure.

STAFF RATIO

Mr. MOLLOHAN. If you were to, and this is from our perspective, I think, to do a staff ratio on a prison-by-prison basis, it would seem to me to make your case more in relationship to the challenge that you have and I think perhaps make a better argument for those who are hesitant to provide the Bureau of Prisons with resources to begin with and even these obviously necessary staffing resources.

Would there be a problem with doing that?

Mr. LAPPIN. I do not have a problem giving that a try. And, in fact, you would find that we do not have to do every facility because we built many facilities that are almost exactly alike today, have like types of inmates, similar design.

Now, granted, you have got a number of them out there that are very unique. Some of them were never intended to be prisons. Some of them were colleges. Some of them were monasteries that we have taken——

Mr. MOLLOHAN. No.

Mr. LAPPIN. But you are right.

Mr. MOLLOHAN. I understand that. I am just saying would that be a chore to do?

Mr. LAPPIN. We could certainly look at how we go about doing that and report back to you what, if any, challenges we would see as problematic in doing that assessment.

[The information follows:]

REPORT ON THE FEASIBILITY OF DOING AN INMATE TO STAFF RATIO ASSIGNMENT BY PRISON OR BY CLASSIFICATION OR OTHER CATEGORY SO THAT A PROPER RATIO COULD BE DETERMINED

The BOP does calculate the inmate-to-staff ratio for a facility or a group of facilities (such as all institutions of a particular security level). The inmate-to-staff ratio varies by institution security level—institutions at higher security levels have lower inmate-to-staff ratios.

Institution staffing is very much related to the BOP's emphasis on inmate programs and the agency's "correctional worker first" philosophy. Regardless of the specific discipline in which a staff member works, all BOP employees are "correctional workers first," with responsibility for the security of the institution. All staff are expected to be vigilant and attentive to inmate accountability and security issues, to supervise the inmates working in their area or participating in their program, to respond to emergencies, and to maintain a proficiency in custodial and security matters, as well as in their particular job specialty. As a result, the BOP does not require the level of custody staff in program areas that exist in some correctional sys-

tems where non-custody staff are not responsible for security duties. In these other systems, classrooms, work areas, and recreation areas have a correctional officer assigned in addition to the teacher, work supervisor, or recreation specialist. Using the "correctional worker first" concept has allowed the BOP to operate with fewer correctional services staff as compared to other large correctional systems. This reduced custody staffing allows the BOP to maintain a substantial number of other staff who provide inmate programs, giving offenders the opportunity to gain the skills and training necessary for a successful reentry into the community.

Mr. MOLLOHAN. Are you ready? Mr. Fattah.

OVERCROWDING IN PRISON

Mr. FATTAH. Thank you, Mr. Chairman.

I was looking at your testimony relative to violent assault incidents within the prisons and your best analysis of the overcrowding and relationship thereto.

So you are saying that you have this crowding problem, but that it clearly is correlated probably one percent over the population. There is a significant rise in incidents.

Frank Wolf, Congressman Wolf and I and a number of other members over time have been concerned about incidents inside the prison, particularly prison rape and other things.

And I notice the efforts that you use to combat some of the violent assault challenges do not include technology on the list. I am assuming you do use technology and it is just not on the list, you know, in the rush to get the testimony.

But I want you to talk a little bit about the use of technology in present institutions and any ways we might as a Committee look at this going forward.

Mr. LAPPIN. Clearly in our newer facilities, technology is built in as we build the facilities. So, you have got a wealth of cameras. We do not overrun it with cameras because you have to do your best to watch those cameras and record them. So, we identify what cameras can assist the most, as one example, as well as electronic doors, as well as enhanced perimeter security.

So obviously in your newer facilities, as part of that contract to build that facility, we are building in those technologies that we believe are worth the investment. Not everything you see on the market is worth the investment.

So, we actually have a group of people whose job is to go out there and assess what is on the market and tell us what is worth the investment and what is not worth the investment, not only in the way of physical things like cameras, but also in things that we use to detect what an inmate has on them, using metal detectors, x-ray machines, scanning machines. So, we are looking at all those types of technology.

And certainly our newer facilities are better equipped than older facilities. It is on a case-by-case basis, because some of the technology like cameras are limited, given the design of the housing units, that you would have to have so many cameras and so many people to watch those that it would probably be unreasonable. Those are driven more by, you have got to have more staff, because of the older facilities, designs facilities that are not conducive to some of the new technologies that we see at our newer locations.

But without a doubt, wherever we can take advantage of technology, whether internally or on the perimeter, we are making an effort to better utilize our staff.

And, for example, we are currently putting in stun lethal fences in lieu of having as many staff on the perimeters because this is an enhancement that we are confident will maintain a safe community. It has been used for ten, fifteen years in the states.

We kind of resisted for a long time, but I would much prefer to have more officers inside the prison watching inmates than on the perimeter if, in fact, there is something I can do to the perimeter to reduce that need, and do it safely and do it securely.

So, there are a number of things that we are doing and will continue to do as new things come on the market.

Mr. FATTAH. Well, I just assumed it was left off the testimony. I am glad you have added to it.

I assume you also looked at technology. Some of the technology that has been used to keep track of people on probation and parole outside of an incarcerated setting could also be used inside the setting to keep track of where inmates happen to be at any given time.

Mr. LAPPIN. We have looked at that. It is not cheap. It is somewhat expensive. So we have been limited somewhat by our funding on certain issues, but we have piloted some of those technologies at some locations.

Another area that you are probably reading a lot about is the introduction of cell phones into institutions, which is a huge, huge security challenge for us.

There is technology out there to help detect cell phones. It is very expensive. The cell phone has got to be on. There is other equipment people say can block its use, but that is really illegal to block the cell phone transmission.

So there is a lot of controversy in that area not just for the Federal System but for the states as well. But we work closely with the states and others to try to identify what works and what we can do to enhance security.

EDUCATING, TRAINING AND DRUG REHABILITATION

Mr. FATTAH. Well, I served on the Homeland Security Committee and there are number of things that we were looking at and involved with in terms of technology that I think might have some application. And perhaps, you know, there is some processes in which various people could talk with each other about where there might be some applications that could be useful.

And I am also very interested in what we are doing about, and I know there is no big applause to be heard from the public, but in terms of education and training and drug rehabilitation among inmates because I think that is where the biggest bang for the buck could really be in terms of cutting recidivism rates and so on.

So if you would comment.

Mr. LAPPIN. Well, we could not agree with you more. We believe inmates, we know that inmates who participate in those programs are less likely to come back to prison.

For example, last year, we treated 17,523 inmates for drug and alcohol abuse in a residential type program. Unfortunately, we let

about 1,700 leave prison who had volunteered for treatment, but for whom we did not provide that treatment.

But on any given day, we have, oh, let us see here, education, I think like 52,000 inmates on any given day in GED or a vocational training program. Every general population, long-term facility, has an education program that includes GED, adult basic education, and in some places English as a second language.

At those locations with a large population of non-U.S. citizens, typically from Mexico, we actually offer the primary and secondary, which is the equivalent of the GED in Mexico. Also, we offer drug treatment at 56 locations. We have factories at about 100 facilities where we can provide a productive work environment for inmates.

I wish we could do more of that. But because of some of the issues I referenced in my oral testimony relative to FPI, we are actually seeing a decline in the number of inmates working in Prison Industries. But without a doubt has it always been part of our mission, not only providing a safe, secure environment, but also providing opportunities to improve inmate skills in anticipation that they are going to be more successful in the community. It has always been the mission of the Bureau of Prisons and an area that we try to continue to address with each and every offender who is willing to do that.

Mr. FATTAH. Thank you very much.

Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Fattah.

Mr. Bonner.

WEAPONS IN PRISON

Mr. BONNER. Mr. Chairman, I have got a couple questions that since our Ranking Member is not here I would like to get in on the record.

But before I do, let me admit I am the newest member of the Subcommittee, so this is going to sound very naive. But we all have town meetings in our districts and we go back and sometimes we will be asked a question from one of the taxpayers of this great country. It is a fair question and it is rare that I have a chance to ask it of someone who actually probably has a more informed answer than I have ever given.

You have got problems with cell phones in prisons. You have got problems with weapons in prisons. You have got problems with drugs in prisons. I believe what, 50 percent or more of the inmates are drug offenders at the time they come in.

I guess the question is, is that they get to a prison. How can weapons and cell phones and drugs make their way through the filtration system so that that creates added burden on you and your employees?

Mr. LAPPIN. It is a good question. Most of the weapons, let us define weapons, most of them are homemade weapons. And, unfortunately, inmates are pretty skillful, some of them, at figuring out what they can make a weapon out of.

Mr. BONNER. Make them at shop or take them——

Mr. LAPPIN. Or even, you know, down in an area where we are not closely monitoring or you have got equipment in there where they can grind. Believe it or not, inmates have figured out ways to

cut steel out of their bed frame with dental floss or with a little piece of a razor. It just takes them a long time. And unless staff are very attentive, they are able to do that.

And so what we have had to do is go in and reinforce. You know, what in the past has been adequate in the way of a steel bed pan is no longer adequate. And we have had to go in and reinforce that with heavier steel, especially in our higher security institutions.

So typically the weapons that are found are blunt, a lock in a sock. Okay? You hear those things referred to as weapons. You know, we have not had, fortunately guns, and knives of the type you buy in a store typically in our institutions. Mostly homemade, locks in socks, a broom handle, a sharpened instrument are typically the types of weapons. So most of those obviously come from within.

Regarding drugs, there are a variety of ways to get drugs into prisons. We continue to encourage inmates to visit with their families and we want contact visits. And that lends you to being more susceptible to the introduction of drugs into an institution. It is a negative consequence.

What we have done to limit that is to discipline inmates who get caught bringing drugs in, or using drugs, by not allowing them to have contact visits for a period of time. So that has had an impact.

We have limited the amount of packages; really no packages can come in anymore. You cannot send a package to an inmate because packages and books are another way that easily allows someone to hide drugs in something that we cannot find. On the back of a stamp, may be LSD, you know. And we have volumes of mail coming into our institutions that would lend itself to that.

Cell phones, believe you me, are a problem everywhere. I was talking with the Director of Corrections in South Carolina, and the folks on the outside actually had one of those potato guns. They were shooting cell phones over the fence from out in the forest. Now, that is a bit unusual.

So, again, sometimes they come in through visiting rooms. They come in through packages. But I would be foolish if I did not address that sometimes we have staff who misbehave. We have a small percentage of staff unfortunately. Overall, I have got a great workforce, 36,000 honest, hard-working, dedicated people who would never consider doing anything that would embarrass themselves, their families, or the agency.

But without denying, I have got a small group of folks who break the law and they unfortunately bring in cell phones and they bring in drugs sometimes. And today they bring in cigarettes, since we eliminated smoking in the Federal Prison System two years or so ago and sell them to inmates. And we have a pretty aggressive program to address that.

A year ago in January, we instituted a search of all staff, everyone coming into the prison. At one time, we did not search our staff. Now we search our staff. And my guess is we have deterred some. We are catching a few. Some are pretty smart characters, and they are still beating us.

So, it goes without saying that a small, a very small percentage of our staff bring some of these things in and sell them to inmates and that is how that occurs.

HIRING ADDITIONAL STAFF

Mr. FATTAH. The Ranking Member is here. But in order to give him a chance to get up to speed, let me—the Chairman focused a lot on manpower and staff-to-inmate ratio. And I think you indicated that your number one priority was hiring additional staff.

But it is our understanding that another area of concern is the chronic shortfall in the budget for the modernization and the repair of facilities.

The Federal Facilities Council recommends an M&R budget of about two percent of the replacement cost. Are you anywhere near that?

Mr. LAPPIN. No, sir, we are not. Again, prior to the more recent challenges this country has faced, we were probably funded at about two percent of replacement cost. And at that time, it was probably in the 100, 125 million dollar range.

I think today, over the last two or three years, we have probably gotten on average about 70 million for the M&R budget. We need closer to 250, 275 to really be two percent. Is that about right? I am sorry. Two percent is about 400 million.

So, that is to repair 115 federal prisons, 37 of which are 50 years of age or older and a large portion of those 37 are 75 years of age or older, the oldest being Leavenworth at 110, 112 years. So obviously the older they are, the more expensive they are.

And so, this is again, an area where we are struggling a little bit and certainly are looking at ways that we can improve on M&R for the repair and the maintenance of our existing facilities.

Mr. FATTAH. What is the relationship between inadequate funds for facilities and your ability to supervise inmates?

Mr. LAPPIN. You know, I think we would see more of a relationship over time because right now what we are doing is, with what money we have, we have identified the highest priorities. And the highest priorities have to do with safety and security. And those are the first priorities.

And so it is not split up equally because you have some—it used to be we would split it up equally across the six regions of the Bureau, but some regions have more older facilities, that have greater needs than others. So, now there is one system where we have a prioritization of the very highest priorities, safety and security being the highest priority. And we certainly try to address those needs first.

I would have to go back and do a little more assessment to tell you how we are doing on the highest priorities of that list. I know that we have like 200 and—we have got 100 major projects that total about 296 million. Which of those would fall into the safety and security category, my guess is many of them would, but that varies depending on the type of issues. But we can certainly give you a more detailed assessment of where we stand on that issue in writing.

[The information follows:]

DESCRIBE HOW THE BOP COMPILES THE HIGHEST SECURITY AND SAFETY ITEMS ON THE M&R WAITING LIST AND DETERMINES WHICH GET FUNDED

Each fiscal year, BOP institutions perform detailed annual inspections of all areas of their physical plant and provide a list of projects to their regional office for all

items in need of repair/modernization. The six regional offices individually consolidate major M&R project (typically those over $300,000) request lists from their institutions and forward the priority lists to the Central Office.

After the budget is enacted and the M&R fiscal year funding level is determined, the unfunded priority list is reviewed by Central Office and the regional offices to identify the highest priority projects in most dire need of repair and ready for contract action. Security and safety projects are identified first for funding, with infrastructure needs following in priority. The BOP then allocates funds, based on the priority list, for as many projects as practical.

Mr. FATTAH. Thank you, Mr. Chairman.

Mr. MOLLOHAN. Mr. Wolf.

PRISON INDUSTRIES

Mr. WOLF. Thank you, Mr. Chairman. I am sorry I was not here earlier for the whole hearing.

And we just announced the signing of a full funded agreement for a rail to Dulles which is a project I have been working on for 20 years. And we just had to be there. But I did want to be here and I have a lot of questions for you.

One, I want to thank you for the job you do and I want to thank your people.

I want to ask you and maybe you covered it. I was opposed to what the Congress did on Prison Industries. If you covered that, I will not, but just tell me how much of an impact and what did you think of the idea that I had whereby we would begin to have prisoners work on, because you cannot put a man away for 15 years and give him no work, to work on products that are no longer made in the United States.

We were trying to develop it so that you did not compete with American jobs. Tell me a little bit about Prison Industries, what the impact it has had on recidivism, et cetera, et cetera, the impact it has on your employees and just tell me a little bit about it.

Mr. LAPPIN. It is good to see you again, Congressman. Thanks for being here.

As you well know, inmates who work in Prison Industries over the years we have found are less likely to come back to prison and are more likely to get a job.

Mr. WOLF. And is it fair to say Congress has just made it hard because—I know you might want to say that, but the fact that the Congress has weakened Prison Industries, when in essence in my mind would tell me that means that it has been harder to have——

Mr. LAPPIN. I say, as I said in my opening statement, some things have been passed. There are two things occurring right now that are impacting Prison Industries. So let me try to clarify.

We have seen without a doubt we are having to reduce the number of inmates in Prison Industries because Prison Industries must make a profit. There are no appropriated funds. It is a business. Although it is a program, it is run as a business and we must, as you well know, must make a profit to continue to operate that in the manner that we do.

Currently we are employing about 17 percent of the eligible inmates in Prison Industries.

Mr. WOLF. What was it ten years ago?

Mr. LAPPIN. Well, I know that 1988 or so, we employed 50 percent of the eligible inmates.

Mr. WOLF. Fifty?

Mr. LAPPIN. Fifty percent.

Mr. WOLF. So we are down to 17?

Mr. LAPPIN. We are about 17 percent. We are employing about 21,000 inmates in Prison Industries each day.

Two issues going on right now, well, one. As you mentioned, some legislation has been passed that has impacted our competing with products of the privates in selling to the government. And, again, there were some changes that impacted its Mandatory Source, a number of those initiatives.

We really did not feel directly the impact of that as soon as it was passed because of the surge in the war. So what happened was those things were passed. We anticipated an impact. But because of the war surge, last year, Prison Industries grossed about 820 million. Four hundred million of that was with Department of Defense.

And so it compensated for what negative occurred because of the passage of some of those regulations. Now what is happening, the war effort is beginning to decline. We are seeing fewer, or we are going back to a more traditional level from the military. Now we are seeing the impact of some of these initiatives. We are going to——

Mr. WOLF. Do you think that will have an impact on the recidivism rate?

Mr. LAPPIN. Well, I believe that it will because we are going to have fewer inmates gaining the work skills they normally would acquire.

Mr. WOLF. Well, would you favor then if we could offer this as an amendment? Would you favor us setting up a Prison Industries Program that only manufactures products that are no longer made in the United States? Perhaps have the Trade rep or Commerce Department certify. I mean, we make no televisions here in the United States.

Mr. LAPPIN. We like your idea. In fact, we are doing some of that now where authorities allow us to do that. And I just want you to know we have—I am going out on a limb a little bit, but here is the bottom line. We do not want to affect people's jobs in this country.

Mr. WOLF. No. I understand. I do not either.

Mr. LAPPIN. So, we are not opposed to eliminating FPI Mandatory Source over a period of years if, in fact, we can gain the authorities for doing some of the things that you suggest to compensate for what we might lose in Mandatory Source. Because at the end of the day, we want factories and prisons that run safer because those inmates are productively occupied and, two, we know that those inmates who work for as little as six, eight months in prison are more likely to get a job and less likely to come back to prison. So that is a huge benefit to this country.

Mr. WOLF. Well, we are in favor. I will try to offer something that maybe we would have it certified by the Department of Commerce and the Trade Office that this product was no longer made in the United States. If we would be making, oversimplification, television sets, you cannot get a television made in the U.S.

That way, we would almost—we had called it Operation Condor. Remember the Condor bird was being extinct and we brought the Condor back. We could bring some of these jobs back.

I do not think you can put a man in prison for years and not give him work. I just do not think you can.

Mr. LAPPIN. We would love to work with you on that issue.

PRISON RAPE BILL

Mr. WOLF. Okay. I will try to offer something on that.

And I do not want to take too much time of the Committee, but I was the author with Senator Kennedy on the Prison Rape bill. Where are we on the prison rape issue and where are we on that now?

Mr. LAPPIN. Well, the Commission has not finished, specific to "The Prison Rape Elimination Act." The Commission has not yet finished its work and provided its recommendations to the Attorney General. However, last week, I met with Judge Walton on this very issue along with a number of Directors from the states.

So, I know that they are getting close to providing to the Attorney General their recommendation in the way of standards applicable to prison rape in our institutions.

But I want to reassure you, many, many years ago, the Bureau of Prisons, as well as many states, were addressing this issue. We changed policy.

Mr. WOLF. But I still see articles in the paper about it, though. You still see more at state and local prisons, but it is still——

Mr. LAPPIN. I think, though, that I will defer to our folks in BJA who have actually done the survey.

Mr. WOLF. Maybe for the record, you could list, give us how many——

Mr. LAPPIN. Sure.

Mr. WOLF [continuing]. Incidents have taken place this year, last year, and the year before, and maybe any information you have on both state and local.

Mr. LAPPIN. We can do that. And you are going to find a very low incidence.

PLEASE PROVIDE THE NUMBER OF PREA CASE INCIDENT THIS YEAR, LAST YEAR, AND THE YEAR BEFORE. ALSO, INFORMATION YOU HAVE ON STATE AND LOCALS

Attached are four pages from recent reports prepared by the Bureau of Justice Statistics (BJS) that provide data on cases of sexual assault in Federal and State facilities for 2005 and 2006. The BJS report containing data for 2007 is due to be published later this year.

For the BOP in 2007, there were a total of 28 reported inmate-on-inmate sexual acts: 19 were non-consensual (all 19 were unsubstantiated) and 9 were abusive sexual contacts (all 9 were unsubstantiated). In 2007, there were 182 allegations of staff-on-inmate sexual misconduct: 118 were unsubstantiated, 8 were substantiated, 2 were unfounded, and 54 continue under investigation. In 2007, there were 99 allegations of staff-on-inmate sexual harassment: 78 were unsubstantiated, 6 were substantiated, and 15 continue under investigation.

Reference USA ①

Appendix table 1a. Allegations of inmate-on-inmate sexual violence reported by State or Federal prison authorities, by type, 2005

Jurisdiction	Prisoners in custody, 6/30/2005[a]	Reported inmate-on-inmate nonconsensual sexual acts					Reported inmate-on-inmate abusive sexual contacts				
		Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing	Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing
Total	1,337,473	1,443	163	582	442	236	423	103	235	82	13
Federal[b]	156,643	25	5	/	/	/	40	30	/	/	/
State	1,180,830	1,418	158	582	442	236	383	73	235	82	13
Alabama	25,161	9	1	4	4	0	1	0	0	1	0
Alaska	3,248	1	1	0	0	0	/	/	/	/	/
Arizona	27,204	17	6	4	6	1	6	2	1	3	0
Arkansas	12,568	7	1	3	1	2	0	0	0	0	0
California	161,709	59	4	28	16	11	16	2	8	0	6
Colorado	16,997	27	15	8	4	0	11	8	3	0	0
Connecticut[c]	19,087	21	0	20	1	0	/	/	/	/	/
Delaware	6,916	2	0	0	2	0	1	0	0	1	0
Florida	79,478	124	0	101	14	9	19	0	14	5	0
Georgia[c]	43,057	37	0	0	4	33	/	/	/	/	/
Hawaii[c]	3,931	8	4	3	1	0	/	/	/	/	/
Idaho	8,136	15	3	5	7	0	11	5	6	0	0
Illinois	44,869	17	1	14	0	2	0	0	0	0	0
Indiana	22,304	27	3	12	11	1	3	0	1	2	0
Iowa	8,578	11	0	5	3	3	8	0	0	8	0
Kansas	9,068	25	1	7	16	1	17	1	14	1	1
Kentucky	11,366	3	0	2	1	0	10	4	4	2	0
Louisiana	18,667	10	1	6	1	2	1	0	0	1	0
Maine	2,063	4	3	0	1	0	0	0	0	0	0
Maryland	23,088	15	2	10	0	3	1	1	0	0	0
Massachusetts	10,159	10	2	2	5	1	21	9	2	10	0
Michigan[c]	48,535	48	19	29	0	0	/	/	/	/	/
Minnesota	7,996	12	1	2	9	0	1	1	0	0	0
Mississippi	11,643	1	0	1	0	0	0	0	0	0	0
Missouri	31,000	36	1	25	5	5	21	4	11	2	4
Montana	1,911	2	2	0	0	0	3	2	1	0	0
Nebraska[c]	4,308	10	0	0	10	0	/	/	/	/	/
Nevada[c]	11,155	14	0	7	2	5	/	/	/	/	/
New Hampshire[c,d,e]	2,456	18	18	/	/	/	/	/	/	/	/
New Jersey[c]	26,353	3	0	0	2	1	/	/	/	/	/
New Mexico	3,757	0	0	0	0	0	0	0	0	0	0
New York	63,234	28	1	14	0	13	1	1	0	0	0
North Carolina[c]	36,477	20	7	12	1	0	/	/	/	/	/
North Dakota	1,287	1	0	0	1	0	8	4	1	3	0
Ohio	42,346	71	11	10	50	0	27	12	6	9	0
Oklahoma[e]	17,196	23	3	10	10	0	2	1	1	0	0
Oregon	12,769	25	4	15	2	4	3	0	3	0	0
Pennsylvania[c]	40,649	16	6	10	0	0	/	/	/	/	/
Rhode Island	3,364	1	1	0	0	0	3	1	1	1	0
South Carolina[d]	23,057	0	0	0	0	0	0	0	0	0	0
South Dakota	3,385	6	1	3	2	0	7	2	3	2	0
Tennessee	14,303	25	3	12	7	3	7	2	2	1	2
Texas	141,247	511	10	145	225	131	143	5	131	7	0
Utah	4,775	14	3	8	3	0	7	3	2	2	0
Vermont[e]	1,601	19	1	17	1	0	20	1	18	1	0
Virginia[e]	29,445	7	1	0	4	2	0	0	0	0	0
Washington	18,128	25	7	12	5	1	0	0	0	0	0
West Virginia	3,966	3	2	0	0	1	1	1	0	0	0
Wisconsin[f]	21,850	24	6	13	4	1	/	/	/	/	/
Wyoming	1,187	6	2	3	1	0	3	1	2	0	0

/Not reported.

[a]Excludes inmates in private facilities. Counts were based on National Prisoners Statistics (NPS-1A), 2005.

[b]Allegations were reported for occurrences in 2005; findings may include cases from previous years.

[c] Allegations of abusive sexual contacts could not be counted separately from allegations of nonconsensual sexual acts.

[d]Allegations limited to substantiated occurrences only.

[e]Allegations limited to completed acts only.

[f]Reports of abusive sexual contacts were based on a broader category of inmate sexual misconduct.

Reference L5A

②

Appendix table 1b. Allegations of staff sexual misconduct with inmates reported by State or Federal prison authorities, by type, 2005

	Reported allegations of staff sexual misconduct with inmates					Reported allegations of staff sexual harassment of inmates				
Jurisdiction	Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing	Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing
Total	1,829	195	867	243	519	914	39	478	172	226
Federal[a,b]	203	6	80	5	107	/	/	/	/	/
State	1,626	189	787	238	412	914	39	478	172	226
Alabama	2	0	0	2	0	1	0	0	1	0
Alaska	1	1	0	0	0	0	0	0	0	0
Arizona	63	3	35	24	1	1	0	0	1	0
Arkansas	29	5	4	15	5	2	0	1	1	0
California	51	6	22	4	19	37	2	22	9	4
Colorado	21	9	2	4	6	8	0	1	5	2
Connecticut[a]	19	0	15	0	4	/	/	/	/	/
Delaware	2	0	0	2	0	1	1	0	0	0
Florida	264	5	232	15	12	77	0	67	1	9
Georgia	226	0	87	0	139	218	0	114	0	104
Hawaii	8	3	1	1	3	1	0	0	0	1
Idaho	10	3	2	3	2	4	0	0	4	0
Illinois	0	0	0	0	0	0	0	0	0	0
Indiana	35	15	9	10	1	13	2	8	3	0
Iowa	19	4	7	6	2	1	1	0	0	0
Kansas	48	5	25	8	10	12	0	12	0	0
Kentucky	13	5	5	3	0	0	0	0	0	0
Louisiana	73	8	44	7	14	48	0	33	8	7
Maine	2	1	0	1	0	7	3	2	1	1
Maryland	17	0	12	1	4	0	0	0	0	0
Massachusetts	70	4	12	21	33	6	0	2	1	3
Michigan	35	3	7	19	6	245	1	118	126	0
Minnesota	19	2	8	6	3	0	0	0	0	0
Mississippi	6	5	0	0	1	0	0	0	0	0
Missouri	54	2	41	4	7	42	3	31	0	9
Montana	0	0	0	0	0	0	0	0	0	0
Nebraska[a]	2	1	0	1	0	/	/	/	/	/
Nevada[a]	1	0	0	1	0	/	/	/	/	/
New Hampshire	6	4	2	0	0	5	1	2	2	0
New Jersey	9	2	5	1	1	3	1	2	0	0
New Mexico	0	0	0	0	0	0	0	0	0	0
New York	138	13	60	0	65	20	2	8	0	10
North Carolina[a,c]	14	13	0	1	0	/	/	/	/	/
North Dakota	4	1	0	3	0	0	0	0	0	0
Ohio	18	2	14	1	1	22	0	17	0	5
Oklahoma[a]	19	5	11	3	0	/	/	/	/	/
Oregon	35	13	0	14	8	3	0	0	3	0
Pennsylvania	39	7	24	0	8	8	0	5	0	3
Rhode Island	12	3	6	3	0	0	0	0	0	0
South Carolina[c]	1	1	0	0	0	0	0	0	0	0
South Dakota	4	1	1	2	0	0	0	0	0	0
Tennessee	20	8	7	2	3	4	1	1	0	2
Texas[a]	54	4	22	1	27	/	/	/	/	/
Utah	5	0	2	3	0	2	1	1	0	0
Vermont	15	4	4	7	0	115	16	29	6	64
Virginia	24	5	4	8	7	1	0	0	0	1
Washington	38	5	18	4	11	2	1	1	0	0
West Virginia	1	0	1	0	0	0	0	0	0	0
Wisconsin	77	7	35	27	8	4	2	1	0	1
Wyoming	3	1	1	0	1	1	1	0	0	0

/Not reported.

[a]Reports of staff sexual misconduct may include reports of staff sexual harassment.

[b]Excludes 5 cases disposed of administratively.

[c]Reports of staff sexual misconduct are based on substantiated allegations only.

[d]Reports of staff sexual harassment are not recorded in a central database.

Reference USA
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Appendix table 1a. Allegations of inmate-on-inmate sexual violence reported by State or Federal prison authorities, by type, 2006

Jurisdiction	Prisoners in custody, 6/30/2006[a]	Reported inmate-on-inmate nonconsensual sexual acts					Reported inmate-on-inmate abusive sexual contacts				
		Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing	Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing
Total	1,367,204	1,390	147	707	304	232	707	125	426	139	17
Federal	161,871	7	0	0	7	0	11	1	0	9	1
State	1,205,333	1,383	147	707	297	232	696	124	426	130	16
Alabama[b]	23,995	2	0	2	0	0	/	/	/	/	/
Alaska[b]	3,540	0	0	0	0	0	/	/	/	/	/
Arizona	30,391	35	0	20	12	3	4	0	2	2	0
Arkansas	12,643	10	4	0	6	0	5	0	0	5	0
California	169,561	76	5	41	17	13	8	3	5	0	0
Colorado	17,204	28	5	17	5	1	15	2	11	2	0
Connecticut	19,806	19	0	14	0	5	3	0	0	3	0
Delaware	7,090	6	2	2	2	0	0	0	0	0	0
Florida	82,223	145	1	140	1	3	22	0	22	0	0
Georgia[b]	46,359	53	2	14	1	36	/	/	/	/	/
Hawaii	3,898	1	0	0	0	1	0	0	0	0	0
Idaho	4,735	17	9	5	3	0	17	10	6	1	0
Illinois	45,440	38	4	30	0	4	0	0	0	0	0
Indiana	22,539	29	0	23	6	0	15	3	8	4	0
Iowa	8,659	20	2	10	8	0	34	13	14	7	0
Kansas	8,952	47	4	21	21	1	13	0	3	10	0
Kentucky	12,967	10	1	7	2	0	6	1	5	0	0
Louisiana	17,387	24	3	5	16	0	2	2	0	0	0
Maine	2,028	0	0	0	0	0	0	0	0	0	0
Maryland	22,860	15	2	6	1	6	1	0	0	1	0
Massachusetts	10,683	22	7	7	8	0	32	8	16	8	0
Michigan	50,701	33	10	23	0	0	18	18	0	0	0
Minnesota	8,017	22	0	4	17	1	5	1	2	2	0
Mississippi[b]	11,528	1	0	0	1	0	/	/	/	/	/
Missouri	30,149	49	2	28	18	1	15	2	7	6	0
Montana[c]	1,968	12	3	7	2	0	4	2	1	1	0
Nebraska	4,546	7	2	4	1	0	7	2	4	1	0
Nevada[b]	12,412	21	0	7	8	6	/	/	/	/	/
New Hampshire	2,522	8	7	0	1	0	1	1	0	0	0
New Jersey	23,987	2	0	2	0	0	1	0	1	0	0
New Mexico	3,876	0	0	0	0	0	0	0	0	0	0
New York	63,479	34	1	22	0	11	16	4	5	0	7
North Carolina[b]	37,277	22	4	16	2	0	/	/	/	/	/
North Dakota	1,370	2	1	1	0	0	5	3	2	0	0
Ohio	44,759	67	16	5	45	1	34	9	5	20	0
Oklahoma	17,149	17	2	7	8	0	0	0	0	0	0
Oregon	13,091	23	0	4	2	17	2	0	2	0	0
Pennsylvania	41,957	24	5	5	14	0	1	1	0	0	0
Rhode Island	3,645	9	3	4	2	0	3	1	1	1	0
South Carolina[d]	22,898	2	2	0	0	0	0	0	0	0	0
South Dakota	3,573	1	0	0	0	1	3	1	0	2	0
Tennessee	14,235	17	0	14	2	1	7	1	4	2	0
Texas	140,166	297	4	136	45	112	349	19	279	43	8
Utah	4,978	15	4	11	0	0	15	1	12	2	0
Vermont	1,678	12	6	3	1	2	18	9	5	3	1
Virginia[b]	29,539	16	1	2	8	5	/	/	/	/	/
Washington	15,289	26	4	19	3	0	7	3	3	1	0
West Virginia[d]	4,276	1	1	0	0	0	0	0	0	0	0
Wisconsin[b]	22,279	40	17	17	6	0	/	/	/	/	/
Wyoming	1,229	6	1	2	2	1	8	4	1	3	0

/Not reported

[a]Excludes inmates in private facilities. Counts were based on National Prisoners Statistics (NPS-1A), 2006.

[b]Allegations of abusive sexual contacts could not be counted separately from allegations of nonconsensual sexual acts.

[c]Includes consensual sexual acts between inmates.

[d]Allegations limited to substantiated occurrences only.

Reference 65 A

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Appendix table 1b. Allegations of staff-on-inmate sexual violence reported by State or Federal prison authorities, by type, 2006

Jurisdiction	Reported allegations of staff sexual misconduct with inmates					Reported allegations of staff sexual harassment of inmates				
	Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing	Allegations	Substantiated	Unsubstantiated	Unfounded	Investigation ongoing
Total	1,677	235	745	309	388	984	47	537	258	142
Federal	133	4	50	0	79	91	0	46	0	45
State	1,544	231	695	309	309	893	47	491	258	97
Alabama	4	1	3	0	0	3	0	3	0	0
Alaska	0	0	0	0	0	0	0	0	0	0
Arizona	26	8	10	6	2	8	0	4	3	1
Arkansas	7	4	0	3	0	19	0	4	15	0
California	52	11	15	14	12	30	2	11	6	11
Colorado	44	8	6	23	7	8	1	1	5	1
Connecticut	12	1	9	0	2	0	0	0	0	0
Delaware	2	0	2	0	0	2	0	2	0	0
Florida	152	0	131	10	11	144	0	133	4	7
Georgia	133	6	26	0	101	73	6	21	0	46
Hawaii	0	0	0	0	0	1	0	0	0	1
Idaho	14	7	5	2	0	3	1	2	0	0
Illinois	23	11	9	0	3	0	0	0	0	0
Indiana	32	7	16	9	0	8	2	4	2	0
Iowa	48	11	15	21	1	39	7	13	19	0
Kansas	41	4	30	7	0	4	1	3	0	0
Kentucky	7	5	1	1	0	0	0	0	0	0
Louisiana	71	9	42	18	2	68	0	31	29	6
Maine	2	0	1	1	0	2	1	0	1	0
Maryland	17	0	6	5	6	1	0	1	0	0
Massachusetts	61	7	6	17	31	11	1	5	4	1
Michigan	27	2	8	16	1	337	4	179	143	11
Minnesota	15	2	6	5	2	0	0	0	0	0
Mississippi	5	2	1	2	0	0	0	0	0	0
Missouri	73	7	24	40	2	21	2	15	4	0
Montana	2	1	0	1	0	2	2	0	0	0
Nebraska	13	2	2	9	0	2	1	1	0	0
Nevada[a]	11	1	6	1	3	/	/	/	/	/
New Hampshire	3	1	1	1	0	1	0	1	0	0
New Jersey[a]	2	0	0	0	2	/	/	/	/	/
New Mexico[a]	0	0	0	0	0	/	/	/	/	/
New York	209	19	119	0	71	34	2	25	0	7
North Carolina[a]	9	8	1	0	0	/	/	/	/	/
North Dakota	3	0	1	2	0	2	0	0	2	0
Ohio	89	4	78	6	1	21	0	19	0	2
Oklahoma	25	7	15	2	1	2	0	2	0	0
Oregon	14	3	4	2	5	8	1	1	6	0
Pennsylvania	24	7	5	12	0	6	0	0	6	0
Rhode Island[a]	2	0	0	2	0	/	/	/	/	/
South Carolina	0	0	0	0	0	0	0	0	0	0
South Dakota	3	2	0	0	1	2	0	0	2	0
Tennessee	14	8	4	0	2	7	2	4	1	0
Texas[b]	79	10	28	10	31	/	/	/	/	/
Utah	6	0	5	1	0	2	1	1	0	0
Vermont	20	10	5	5	0	8	4	0	2	2
Virginia	39	13	2	17	7	3	1	0	1	1
Washington	34	5	24	5	0	2	1	0	1	0
West Virginia	7	6	0	1	0	0	0	0	0	0
Wisconsin	53	6	20	27	0	9	2	5	2	0
Wyoming	15	5	3	5	2	2	2	0	0	0

/Not reported

[a]Reports of staff sexual misconduct may include reports of staff sexual harassment.

[b]Reports of staff sexual harassment are not recorded in a central database.

Mr. WOLF. Federal are you talking about or——

Mr. LAPPIN. Federal.

Mr. WOLF. Do you have any numbers on state and local?

Mr. KANE. BJS does.

Mr. LAPPIN. BJS does. We could probably gather——

Mr. WOLF. If you could get that. Maybe just get it to me so I can look at it and also——

Mr. LAPPIN. Sure.

Mr. WOLF [continuing]. To the Chairman.

Mr. LAPPIN. And I think you will be pleased with what they are finding. They are actually going out and surveying institutions as part of the PREA Commission, as you probably recall. They were getting the results from their interviews not only of staff but of inmates as part of that survey which gives some additional insight to the frequency. Again, I think you are going to find lower incidence.

Mr. WOLF. And when do you think that is going to come out?

Mr. LAPPIN. Well, actually, we have already got one year.

Mr. WOLF. Their final report——

Mr. LAPPIN [continuing]. Coming out.

Mr. WOLF. What?

Mr. LAPPIN. The one year statistic has already been published.

Mr. WOLF. When will they do their final report?

Mr. LAPPIN. Well, actually, this is an ongoing evaluation. Every single year——

Mr. WOLF. Every single year?

Mr. LAPPIN. Every single year, they will do this analysis.

Mr. WOLF. When are the recommendations?

Mr. LAPPIN. I do not know if they make recommendations.

Mr. WOLF. I said when will the recommendations.

Mr. LAPPIN. I am sorry. The PREA Commission's recommendations will be provided to the Attorney General by June.

Mr. WOLF. By June?

Mr. LAPPIN. And then the Attorney General has one year to make a decision on what would go forward in the way of standards.

PRISONER RELEASE

Mr. WOLF. Okay. I spoke to a young prisoner. He got out. I am trying to sum up the facts so you cannot find out who it is. He was released from a halfway house at about seven-thirty or eight o'clock on a Saturday night. Wow. To release somebody from a halfway house on a Saturday night at seven o'clock or eight o'clock, that is really, I mean——

Mr. LAPPIN. That is probably quite unusual.

Mr. WOLF. Yeah.

Mr. LAPPIN. If the guy was in a halfway house——

Mr. WOLF. He was in a halfway house.

Mr. LAPPIN. Again, on occasion, we get orders to release somebody and we really do not have a choice. But typically by the time an inmate is in a halfway house, that release is well planned.

Mr. WOLF. But you should never ever do it on a Saturday. Should you not do it on a Tuesday morning or a Monday morning or a——

Mr. LAPPIN. Well, again, if we get an order from a Judge, which is unusual but it happens, we get an order from a Judge reducing that sentence, immediately it is our job to release the inmate.

Mr. WOLF. Wow. I mean, I think to release somebody Saturday night——

Mr. LAPPIN. We do not like to do that. We try to work around that.

Mr. WOLF. Could you just look into that to see? Maybe you should have a——

Mr. LAPPIN. Do you have his name or——

Mr. WOLF. Well, I do not know that I want to give you his name. Maybe I could give it to you privately.

Mr. LAPPIN. Not today on the record, but we will talk——

Mr. WOLF. Okay. Good.

Mr. LAPPIN [continuing]. Because I will find out specifically what happened.

ISLAM IN PRISON

Mr. WOLF. Third thing, and I do not know how my time is, Mr. Chairman, and this person also told me that in the prison he was in, there was pretty aggressive recruitment with regard to the Nation of Islam and others. And I want to ask you a question.

There was a report in the Philadelphia Magazine, which I am going to give you, and then there was also a study. Let me read two things and you comment.

This is an article from the Philadelphia Magazine, The Radicals Among Us, and it said, and then as a matter of money, specifically Saudi money, according to the Philadelphia police, the complexities of Middle Eastern religious politics are many and vast, but it is clear to authorities that Saudi extremist groups, namely Wahabis, are aiding groups in prisons.

Is it true or false?

Mr. LAPPIN. We are not seeing that in our institutions.

Mr. WOLF. Would it be taking place in state and local prisons?

Mr. LAPPIN. I would have to defer to them. Without a doubt, it is going to be more of a challenge——

Mr. WOLF. But they are not together. Well, but you ought to look at this though. And also, let me discover, and I hope you will not duck this here, it says more recently, terrorism analysts at two schools, the University of Virginia, which is an accredited university, a pretty good one, and George Washington again, issued a broad report on prison radicalization in America.

Their conclusions, UVA and George Washington, their conclusion in essence is that prison inmates in America are converting to Islam of one version or another faster than the prison system can keep up and the lack of oversight from literature entering the prisons makes prisoners a tempting target for militant clerics.

So, I mean, it troubles me you do not know because you are at UVA and George Washington, so who would tell me for the state and local prisons?

Mr. LAPPIN. Well, we can go to the Association of State Correctional Administrators, but I would have to look at the report.

Mr. WOLF. We will give you a copy right after the hearing.

Mr. LAPPIN. That will be fine. But let me just tell you we have 11,244 Muslim inmates in the Bureau of Prisons, 5.9 percent. That has not changed in five years. But that does not mean that could not occur.

Mr. WOLF. But I did see at one time, and if you would tell us what, I think you have made some changes, we did see some books that were paid for by the Saudi government. Do you remember that?

Mr. LAPPIN. Yes, sir. Yes.

Mr. WOLF. And for the Saudis that funded radical Wahabiism, that funded the madrassas up on the Afghan border that led to 9/11, that is not very good. And so we are not talking about— people should convert to wherever they want to convert, but to have the Saudi government who really I do not think is a very— helped create the problem that we are facing.

So are all those books now out? There is no more support from Saudis coming into the federal prisons?

Mr. LAPPIN. We have done an inventory of all of our books and chapel libraries, the entire Bureau of Prisons, and we have removed those books that——

Mr. WOLF. Were there a lot of them?

Mr. LAPPIN. I will get you the numbers of what we removed and we will give you the names of what we removed.

PROVIDE THE NUMBER AND NAMES OF BOOKS REMOVED FROM THE BOP CHAPEL LIBRARIES

The BOP makes available to inmates a wide variety of religious materials, representing a broad spectrum of religions, through its chapel libraries. The agency is aware of the need to ensure such materials do not "seek to incite, promote, or otherwise suggest the commission of violence or criminal activity" as provided in the Second Chance Act.

A proposed rule to implement the provision in the Second Chance Act that addresses chapel libraries was published in the *Federal Register* on January 16, 2009. The BOP will consider all comments submitted on the proposed rule. Currently, the rule is in proposed form and is not yet effective or applicable. As a result, the BOP has not removed any resources from its chapel libraries other than the item mentioned below, which was removed before the Second Chance Act was enacted.

Several years ago, the BOP began to closely examine the holdings in its chapel libraries. The review identified some materials of concern. In this connection, the BOP removed from chapel libraries all copies of the Noble Quran published by Dar-Us-Salam Publications (1995). Other chapel library materials that have been identified as potentially problematic are currently under review. The agency will make a final determination on these materials after consideration of all comments received on the proposed rule and using the standard adopted at the time the BOP promulgates a final rule.

Mr. WOLF. Okay.

Mr. LAPPIN. There were not a lot given the size of those libraries. But here is what I will do for you, because I think since the last time we talked, we have put in place many, many, many more controls to not only monitor the inmates we have, but control over what comes into prisons. So I will send it in writing for the record those things we have done. I have no problem coming and giving you a personal briefing on these issues, some of which I may not want to put in writing because of the sensitivity——

Mr. WOLF. Sure. Okay.

Mr. LAPPIN [continuing]. But I assure you that I think we have addressed it. Is it impossible for it to happen between an inmate and another inmate in a cell? No. But we certainly, I think, have

put in place many controls and put many resources towards preventing this from happening.

Mr. WOLF. Okay. The last question I would have, and I beg the Chairman's time, what can we do, what can this Committee do to deal with the issue of recidivism? One, I think we can create jobs. What else can we do?

I think it is an embarrassment that the United States has the largest per capita prison system now in the world. The whole issue, and I will not get into it here, we are going to ask the Attorney General, the crack cocaine issue, the sentencing.

What can we really do? With your expertise, you probably have forgotten more than most people will ever know. What can we honestly do to reduce the recidivism and deal with this issue so that we are no longer a nation with such a large prison population? And what is the recidivism rate now? What percent?

Mr. LAPPIN. Forty percent for us.

Mr. WOLF. Forty percent. And what is it for other countries?

Mr. LAPPIN. Well, the states on average are about 65 percent.

Mr. WOLF. Has that number gotten better or worse over the years?

Mr. LAPPIN. Our number has actually come down from 44 percent in the last ten years. But as I was sharing with the other group, I cannot say that we are there today because we without a doubt are not providing as much accessability to the programs. And let me just address that.

One, staffing is an issue because we have got to have a safe and secure environment first. We cannot provide programs if prisons are not safe and secure. Once you have accomplished that, then the issue is, how do we leverage more people into these programs as willing participants, not us trying to force them in there because you all, from your experience, you know that if you try to force somebody to learn, it is an uphill battle.

I will go back, to let us look at the drug treatment initiative where inmates who are nonviolent can get some time off of their sentence if they successfully complete this program. I still argue that we should consider a program of that type for other nonviolent offenders in our custody who are not drug and alcohol addicted.

Mr. WOLF. Why don't we do that?

Mr. LAPPIN. You are asking what we can do? I think that is an option we should consider.

Mr. WOLF. Have a pilot program?

Mr. LAPPIN. We certainly could look at that. But I think anything that we can do to leverage more folks into getting a GED, to getting a vocational certificate, to working, having the opportunity to work, to address the nine skill areas that I mentioned earlier, I think we are going to see more success upon those folks' release from prison.

Mr. WOLF. Well, Mr. Chairman, could we try a pilot? Could we see if we could put the responsibility on the Bureau of Prisons to pick a group, a pilot group, and give them the authority and see if we could do that?

How many people in America, federal, state, and local, are in prisons?

Mr. LAPPIN. Two point three million.

Mr. MOLLOHAN. Well, we can and that is what these hearings are all about really to get to that, to what we can do in the appropriation bill in all these different areas. And that is precisely what we are actually looking at the end of——

Mr. LAPPIN. Since he opened the door, can I say one other thing?

Mr. MOLLOHAN. Sure. Please.

THE COMPREHENSIVE CRIME CONTROL ACT

Mr. LAPPIN. In 1998, the country passed "The Comprehensive Crime Control Act." And I do not think everyone had the foresight at the time to realize the impact of eliminating good time and then vesting it, because on the other hand, what we have now is less leverage with inmates who are misbehaving.

So, when an inmate misbehaves today, unfortunately, we are seeing them placed in isolation more than in the past. So our Segregation Units are filed to capacity if not beyond. That is not a good thing.

Where, in fact, in the past, when we had the latitude to take more good time, it was better leverage to take good time away from that inmate than to put him in segregation.

But because of the change, it is making it more difficult. So we would like to come back and discuss ways to reevaluate that aspect, as well as, I mean, the possibility of good time for folks who get into programs.

Mr. MOLLOHAN. Yes, the authorizers are looking at this very thing right now.

Mr. WOLF. Well, let me just say—thank you, Mr. Chairman—the authorizers, though, with all due respect have looked at this stuff for years and we have watched the prison system go up. We have tried to offer different things with regard to prison systems and the authorizers of some of the authorizing committees have taken away jobs from prisoners. And so maybe——

Mr. MOLLOHAN. The justice bill, "The Second Chance Act," is really a pretty progressive piece of legislation. But we will certainly look at all that and that is what this series of hearings will take a look at.

Mr. WOLF. This Congress for the last 15 years has not allowed one additional prisoner to have work.

Mr. MOLLOHAN. Yes. I know. Thank you, Mr. Wolf.

Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman.

I apologize to you and Mr. Wolf and my colleagues for my tardiness. I had, as you know, three hearings at the same time or whatever, but I did not want to miss being with you for a while.

Thank you, Mr. Director, for your testimony today.

Mr. LAPPIN. Good to see you again.

PEW RESEARCH STUDY

Mr. SERRANO. A recent Pew Research Center report found that one-third of all federal prisoners are now Latino and that 48 percent of Latino prisoners are in federal prison because of an immigration violation.

I am concerned that this is not a wise use of our resources and I am particularly concerned that our federal law enforcement seems to be overly focused on Latinos in that particular area.

Does this change in prison population have an effect on how you have to run the system and do you believe the imprisonment for immigration violations is overcrowding the federal system?

Mr. LAPPIN. Well, it is really not for me to say, you know, what——

Mr. SERRANO. Incidentally, just one clarification. The report does show, of course, I had this question myself and I just found it in the Pew Report, that it is mostly for overstaying, in other words for being undocumented or some people call them illegal aliens and you end up in federal prison for that.

Mr. LAPPIN. It is not for me to say what prosecutorial direction the Department pursues. We have little control over who comes to prison and how long they stay. But without a doubt, these two variables, how many inmates and how long they stay, both drive population. And without a doubt, in the last 25 years, we have seen very substantial growth.

Part of that has been an increase in non-U.S. citizens, probably the majority of whom are Hispanic. Today we have got 64,352 Hispanic inmates in the Federal Bureau of Prisons. Some of them could be U.S. citizens. I think we have got, yes, 52,000 are non-U.S. citizens.

So, any of these initiatives, whether it is the war on drugs, the war on weapons, or the war on immigration violations, will drive our population given the fact that those are federal statutes.

But the consequences, whether it is driven by drugs or weapons or immigration, are pretty much standard. It is more inmates, so we need to provide more programs, need more staff, so on and so forth.

One challenge certainly is the communication, our ability to communicate effectively with some folks who do not speak English very well. Without a doubt, that is one area that continues to be a challenge for us, especially in rural areas, is bringing on staff who can talk directly to those inmates, rather than through an interpreter. So, without a doubt, those are challenges.

Another challenge that I mentioned earlier was the increase in the gang members, especially from Hispanic groups, Paisa, Surenos, you know, whatever group. We are seeing——

MARIEL CUBANS

Mr. SERRANO. Say Surenos, not Serranos.

Mr. LAPPIN. Surenos. Thank you, sir. Absolutely.

Mr. SERRANO. I quickly wanted to clarify that.

Mr. LAPPIN. That is correct. And I could name some others, but you understand, they continue to present some challenges for us given their violent nature as well as their willingness to confront our staff and our inmates.

So, there are challenges. But, again, most of these folks in our custody have committed a federal crime, probably in addition to an immigration violation. So some of these are strictly immigration violators who have been convicted of that and only that, but many of them are a combination of a couple of crimes.

The number of those that are held beyond their sentence continues to be reduced. So at, one time, we held a lot of detainees, when we had the Mariel Cubans and so on and so forth. But today that number is getting smaller.

We have 571 or so non-U.S. citizens who are now purely detainees because they have finished their federal sentence, but ICE has opted to leave them in our custody. So we continue to work with them on those issues.

Mr. SERRANO. That is interesting you mention the Mariel. There are still some being held, right? I mean, this is what, 30, 20 years.

Mr. LAPPIN. I know. The number is so small, they do not even put it on my little cheat sheet. But my guess is it is very small, if any, correct, Tom?

Mr. KANE. Yes, it is.

Mr. LAPPIN. Yes. We can find the number for you. But you are right. It is a long, long time ago, about 20 years.

[The information follows:]

PROVIDE THE NUMBER OF MARIEL CUBANS STILL IN BOP CUSTODY

The number of Mariel Cubans still in BOP custody is 12. Eleven are detained by order of ICE. One is held at USP Marion and has been certified as a sexually dangerous person.

Mr. SERRANO. Some of those folks are what, 10, 15 years past the sentence they were supposed to serve and they are still detained?

Mr. LAPPIN. But I can tell you that a lot of those, towards the end, were very ill, had mental illnesses, or had other physical ailments, and some had a very violent background.

Mr. SERRANO. Right.

Mr. LAPPIN. So probably towards the end they fell into one of those three categories, serious mental illness, you know, physical illnesses, and those others that it was very difficult for us to get released.

Mr. SERRANO. Very briefly on the challenges you meet on the language issue, you said especially in rural areas. First of all, do you have the resources to hire these folks? It is not about the idea of whether the population is what it is or not to have folks who speak more than one language. Do you have the resources or is it a recruitment problem, finding the folks?

Mr. LAPPIN. Well, it is a problem. I cannot say it is not, because I go to our institutions. Even though we can run safe and secure institutions, without having a staff that looks like the inmate population, it takes a lot of work because we have to train our staff about the differences amongst these different cultures and races as well as make adjustments for their ability to effectively communicate with them. So sometimes, in some locations, we have to use other inmates as translators. Again, not the best of environments.

We are fortunate, though, that we have institutions in locations where we have a lot of Hispanics applying for jobs. Our staff at the more rural areas sometimes will go to those locations to try to encourage those folks that really want to come to work for the Bureau of Prisons to consider coming to the more rural locations, in areas where they did not previously consider living.

We have had some success with that. But recruitment continues to be a challenge. We have talked earlier about our challenges in

the way of staffing in general. This just kind of complicates that a little bit, because we really cannot set aside additional money for those recruitment efforts given the fact we have been somewhat constrained on our ability to hire up in some of those areas.

Mr. SERRANO. One last comment, Mr. Chairman. Perhaps the Committee can be helpful in helping the Bureau meet with some of the folks that are concerned with recruitment.

For instance, this morning, the Congressional Hispanic Caucus held a meeting with, oh, my God, 75 nationally known Hispanic community organizations. The number one issue obviously for them was some sort of comprehensive immigration reform which in many ways would affect you and your population.

Two, which affects this Committee, is better census count for the whole country so that Hispanics get counted properly and, therefore, add federal dollars to those areas where they live and the states should like that.

And, third, but the one that most people mention, third was the small number of Latinos working in the federal workforce.

And so we certainly can have at the minimum, Mr. Chairman, the Hispanic Caucus put you in touch with those organizations that push for the workforce to grow because this is especially an area where we have to do it.

Mr. LAPPIN. Well, I would look forward to that. We have a good relationship with LULAC. We go to their training yearly. They certainly have been of great assistance to us.

Mr. LeBlanc here behind me is over our Human Resource Department and would enjoy meeting with anyone who can help us bring on more staff who are bilingual and can assist us in that capacity.

Mr. SERRANO. Thank you.

Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Serrano.

Mr. Director, I want to go through some questions here and I will be as brief in my questions as I would invite you to be with your answers.

Mr. LAPPIN. Okay.

INCREASE IN STAFFING

Mr. MOLLOHAN. I just want to get some things on the record and we do not have a whole lot of time.

We talked about staffing and what was needed or not needed to increase it. The Omnibus bill included an increase of 4.7 percent for salaries and expenses. And you have indicated that you probably will not be able to increase hiring in 2009.

Why doesn't that 4.7 percent increase in the Omnibus translate into additional staffing?

Mr. LAPPIN. Again, you have got a pay raise. Part of that increase covers the pay raise, and adjusts for the inflation in other areas. Let us just take, for example, when a pay raise is not fully covered by the raise. Let us say it is a 3.9 percent raise and we get 2.9 percent funded. That means we have got to make up one percent. That is $40 million that has to come out of our base resources—

Mr. MOLLOHAN. And what is your——

Mr. LAPPIN [continuing]. To do that.

Mr. MOLLOHAN. What is your goal for increasing staffing next year? I think in earlier testimony, you alluded to—you wanted to hire 3,000 additional employees in 2009 or with the 2010 budget?

Mr. LAPPIN. I think over the next two or three years, and, again, it varies on how long it would take us to do that, I would advocate that we add 3,000 employees to the base.

That means in addition to new activations. That does not count those staff. New activations, that means new employees coming on to activate those new facilities. The 3,000 would bring our ratio of staff to inmates down to about one to 4.5.

Mr. MOLLOHAN. I am sorry. Say that again. It does not include what? It does include employment for activation?

Mr. LAPPIN. That is correct.

Mr. MOLLOHAN. You are talking about——

Mr. LAPPIN. In addition.

Mr. MOLLOHAN [continuing]. In addition to that——

Mr. LAPPIN. That is correct.

Mr. MOLLOHAN [continuing]. You would like to increase by——

Mr. LAPPIN. Three thousand.

Mr. MOLLOHAN [continuing]. 3,000? And you want to do that in what time frame?

Mr. LAPPIN. Two or three years.

Mr. MOLLOHAN. Well, that is a long time——

Mr. LAPPIN. It is.

Mr. MOLLOHAN [continuing]. Given at least some of the concerns we are hearing.

The 2010 request, will it allow you to increase staffing levels?

Mr. LAPPIN. We do not know for sure yet because we only have the overall number. We do not know specifically how that is split up. So, I think it is a little early for me to——

Mr. MOLLOHAN. I guess the question is, you hope so?

Mr. LAPPIN. We hope so, yes, sir.

Mr. MOLLOHAN. Okay. So you cannot speak to whether the 2010 budget will allow you to ensure that all mission critical posts are filled for the same reason?

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. I am not answering your question. Is that correct?

Mr. LAPPIN. Until we get a better sense of what exactly is included in our——

Mr. MOLLOHAN. You do not know whether——

Mr. LAPPIN [continuing]. Six billion, we do not know what all that includes.

Mr. MOLLOHAN. All right. Unless I can get back to these activation questions a little later, I will submit them for the record.

Prison violence, that is of great concern to everybody. Directed at both prisoners and staff, it continues to be a serious problem at the Bureau of Prisons that is directly related to staffing levels and overcrowding, and the BOP has done an evaluation to make that clear.

What statistics can you provide on the incidence of prisoner-on-prisoner assaults and prisoner-on-staff assaults over the last several fiscal years and to date for fiscal year 2009?

Mr. LAPPIN. I do not have them with me, but we can provide you——

Mr. MOLLOHAN. Would you provide those for the record, please?

Mr. LAPPIN [continuing]. The rate of assaults on staff and inmates.

[The information follows:]

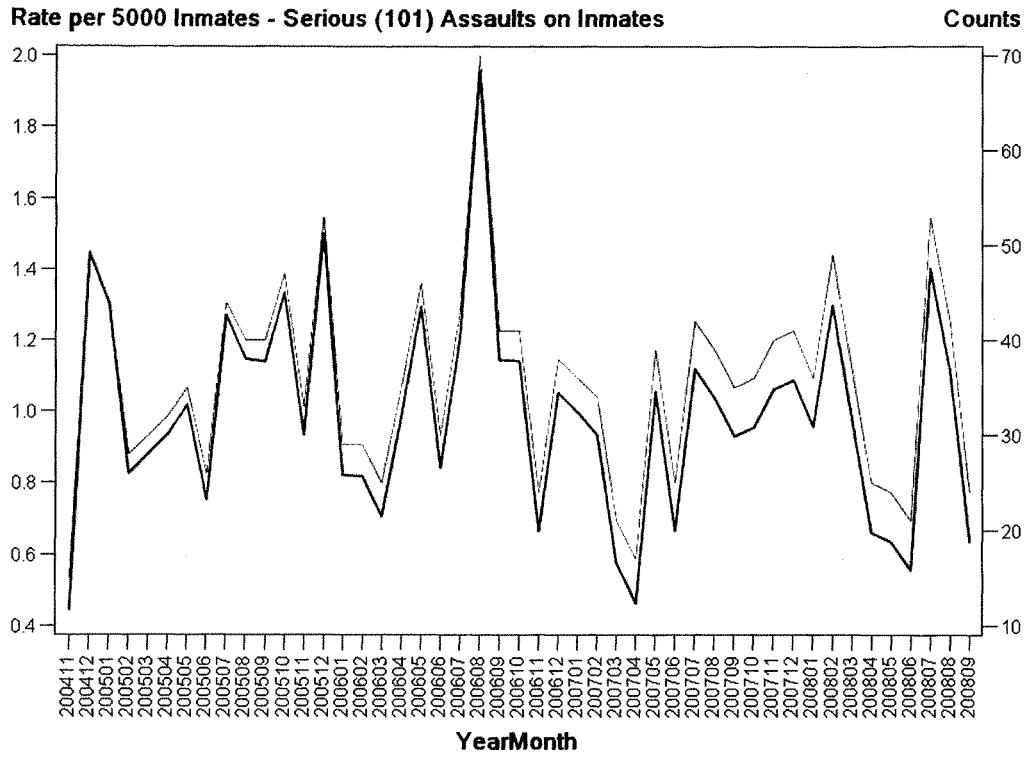
PROVIDE STATISTICS THAT SHOW THE INCIDENCE OF PRISONER-ON-PRISONER AND PRISONER-ON-STAFF ASSAULTS OVER THE LAST SEVERAL FISCAL YEARS TO DATE. ARE THERE INCREASES? IF SO, IN WHAT AREAS?

The BOP has been able to prevent notable increases in the rate of serious assaults through many resource-intensive interventions, such as paying overtime to increase the number of custody staff available to perform security duties, 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 assess the relative safety of BOP institutions today as compared to earlier points in time (when there were fewer inmates), it is most useful to evaluate the adjudicated rate of assaults per 5,000 inmates (which controls for the increase in the population). The attached graphs depict the rate of serious assaults by inmates on other inmates and on staff over approximately the last 4 years. The data shows a relatively even ebb and flow of inmate assaults and no indication of an increase in the rates.

Adjudicated Assaults recorded in Sentry Chronological Disciplinary Records

Security Level=BOP All



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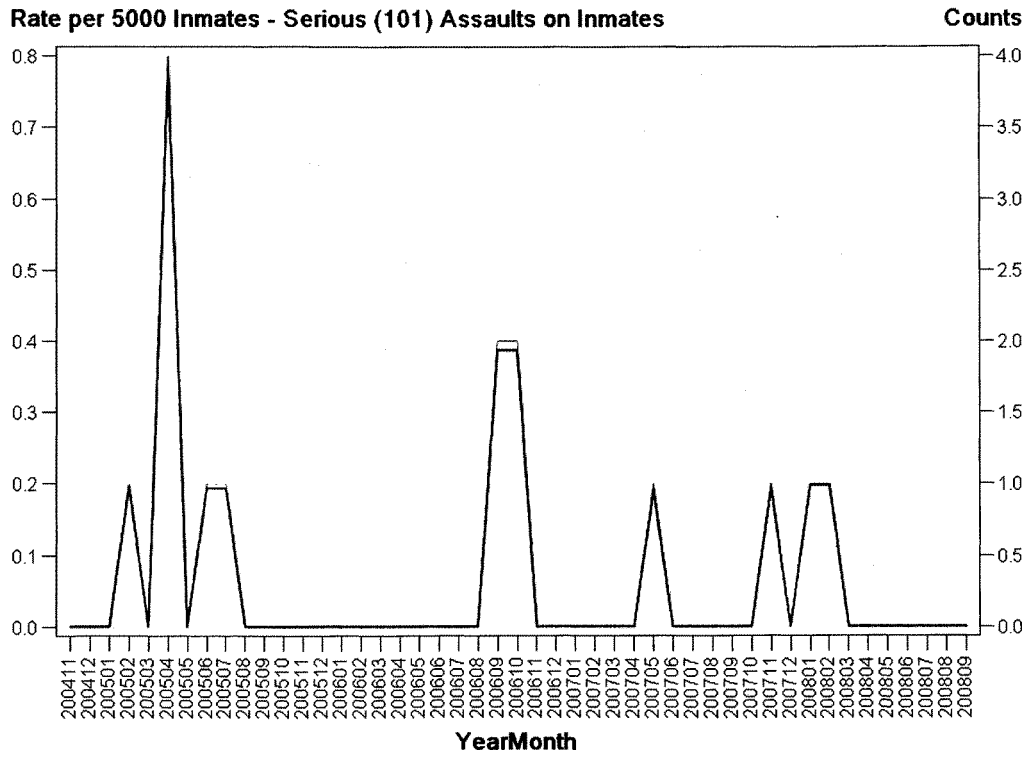

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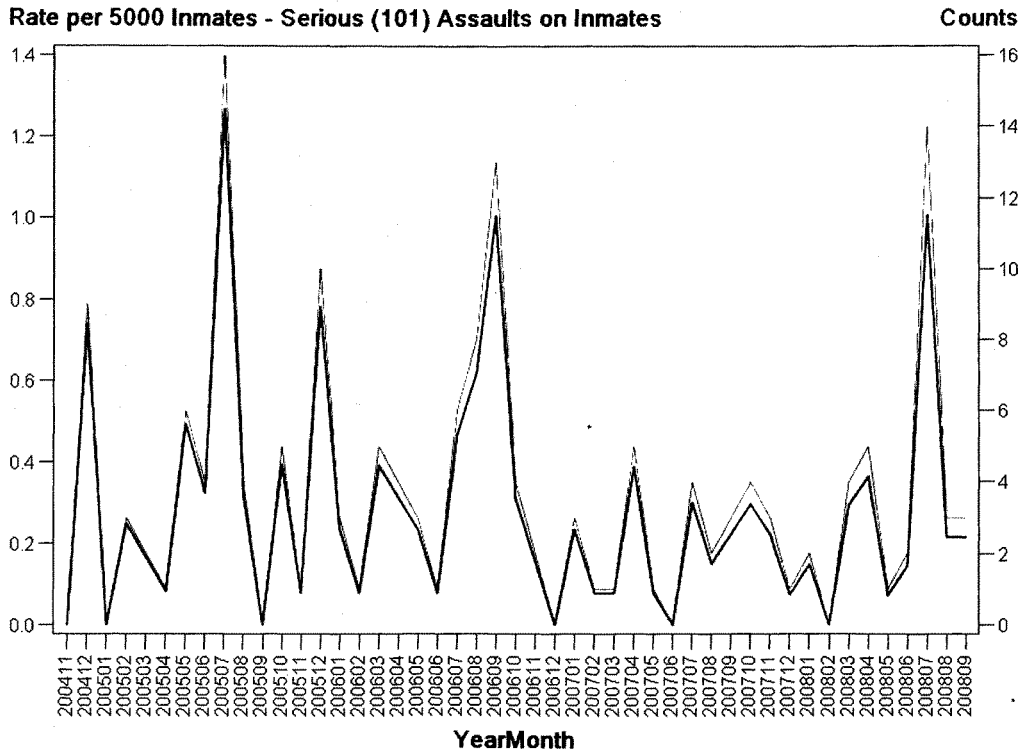

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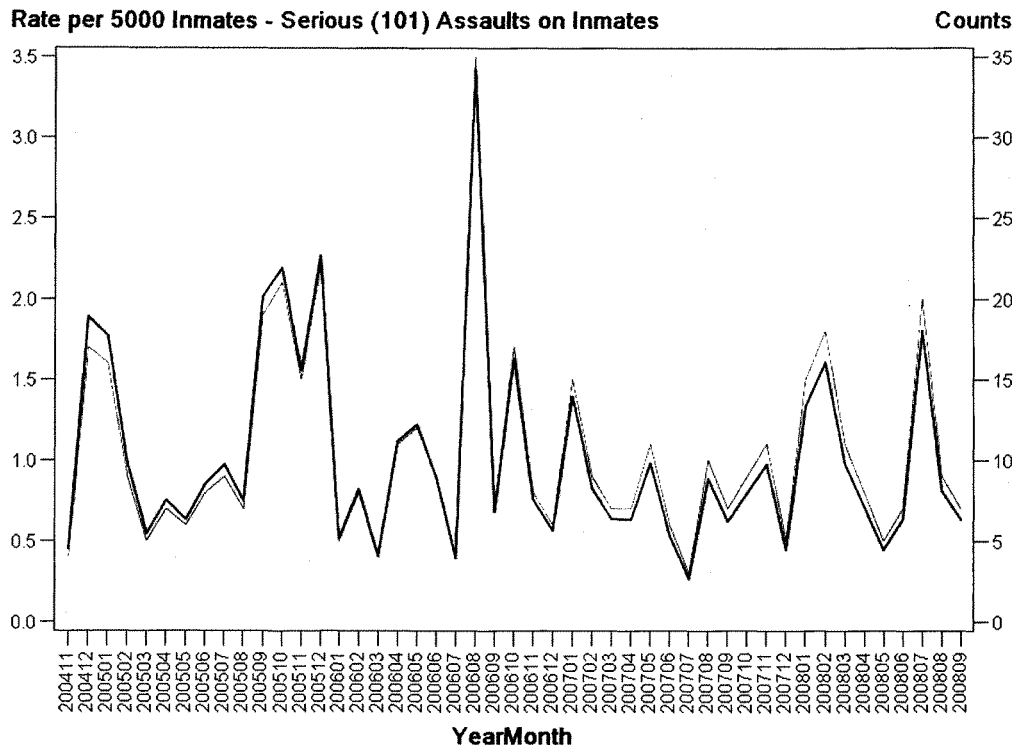

Adjudicated Assaults recorded in Sentry Chronological Disciplinary Records

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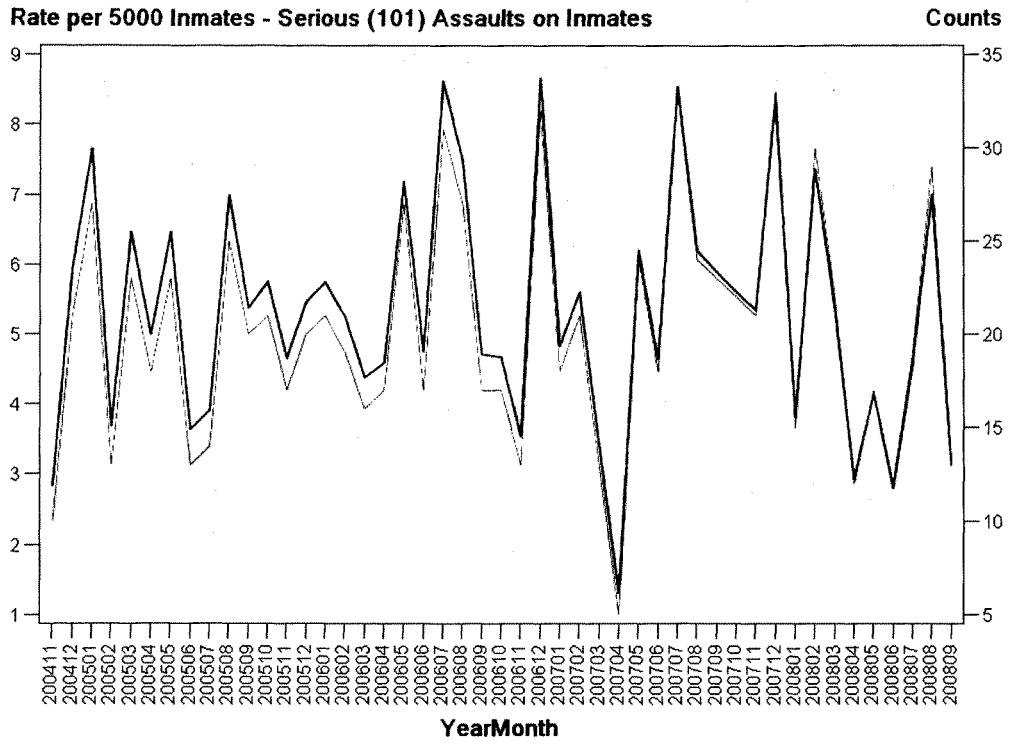

Adjudicated Assaults recorded in Sentry Chronological Disciplinary Records

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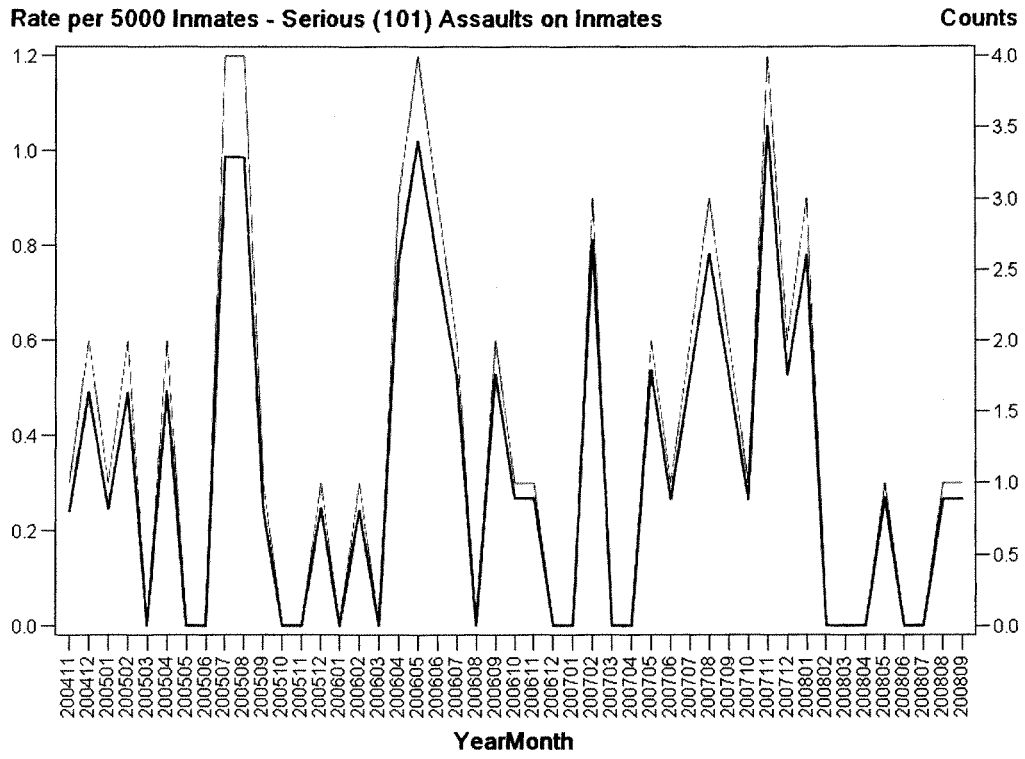

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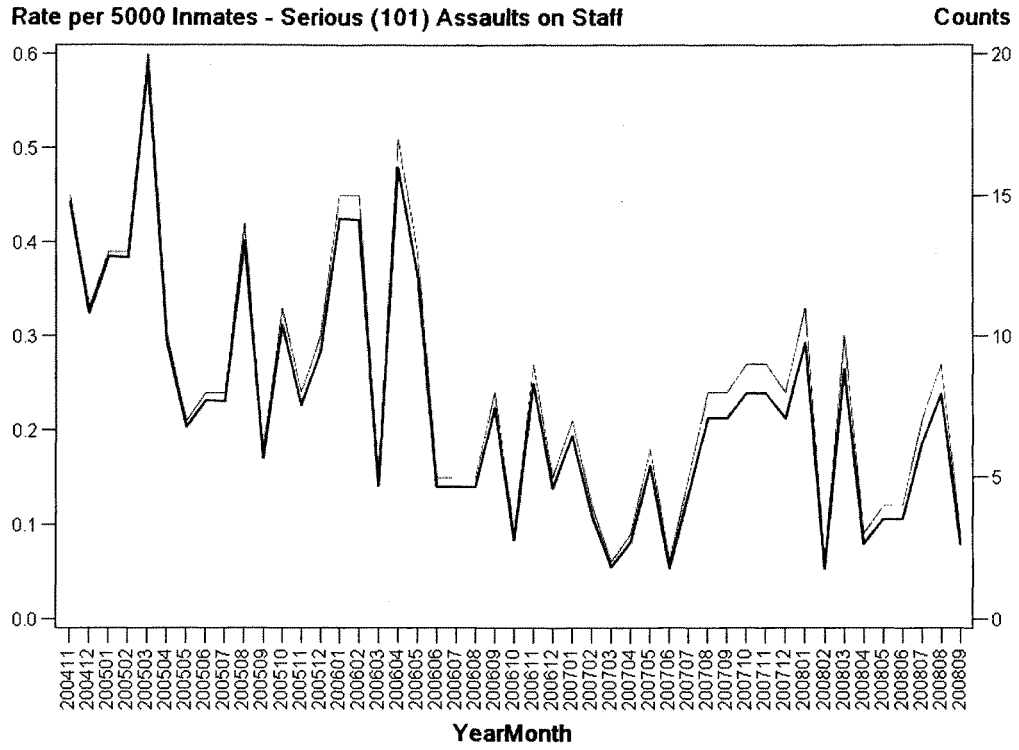
Adjudicated Assaults recorded in Sentry Chronological Disciplinary Records

Security Level=BOP All



Adjudicated Assaults recorded in Sentry Chronological Disciplinary Records

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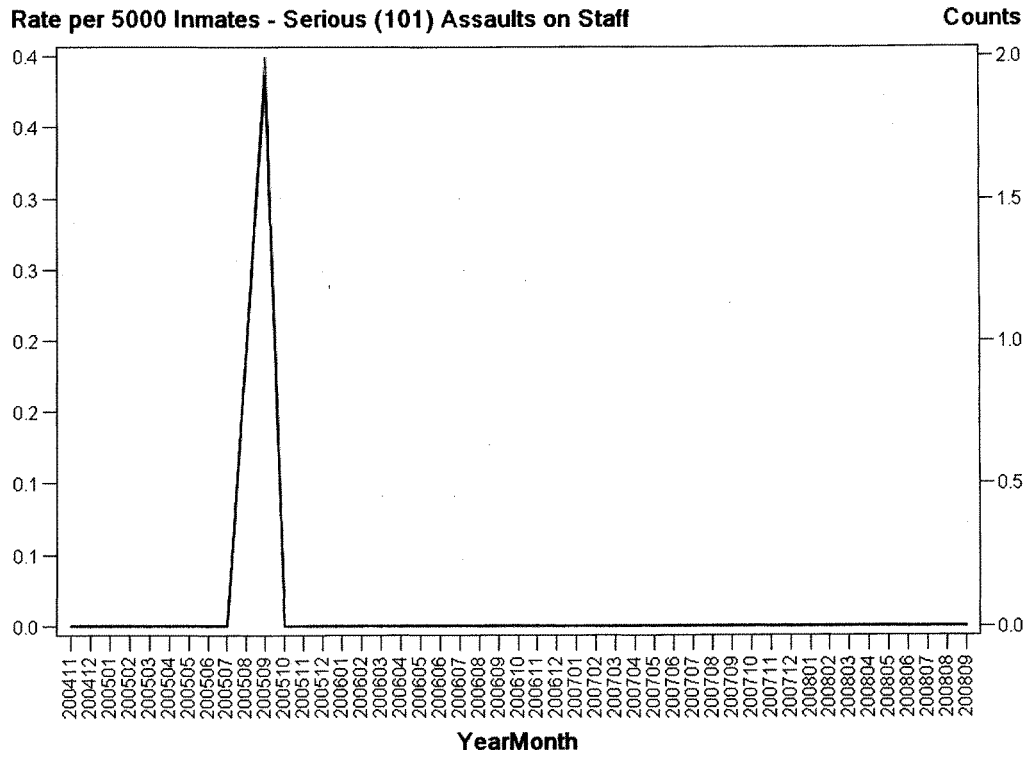

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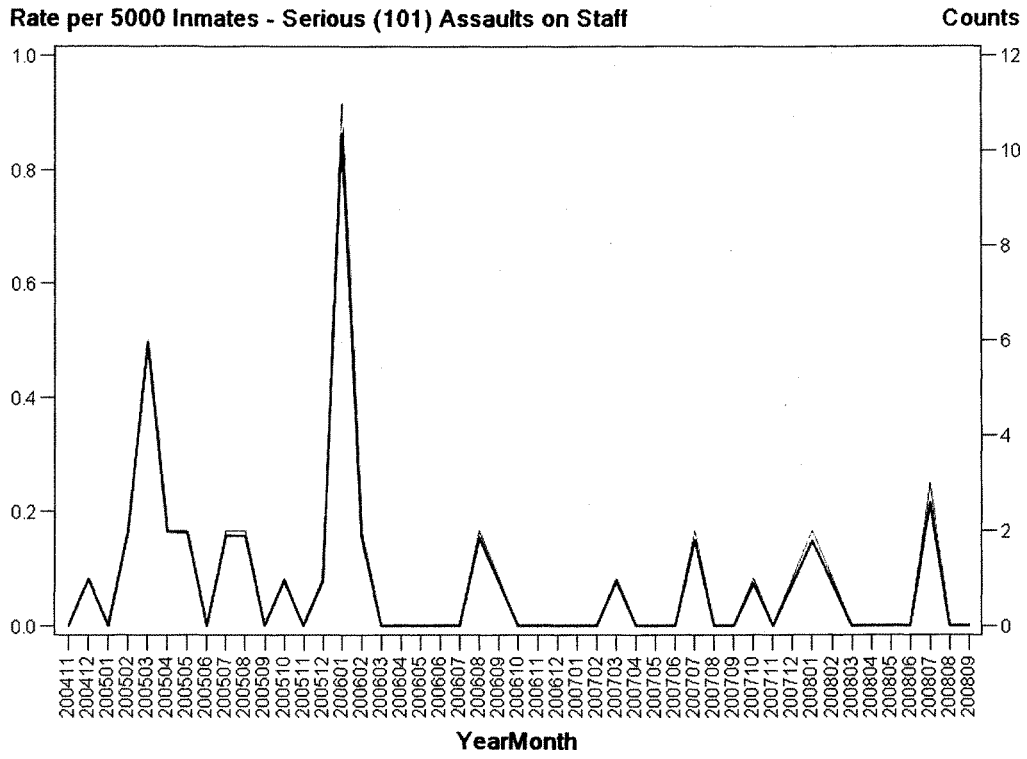

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Adjudicated Assaults recorded in Sentry Chronological Disciplinary Records

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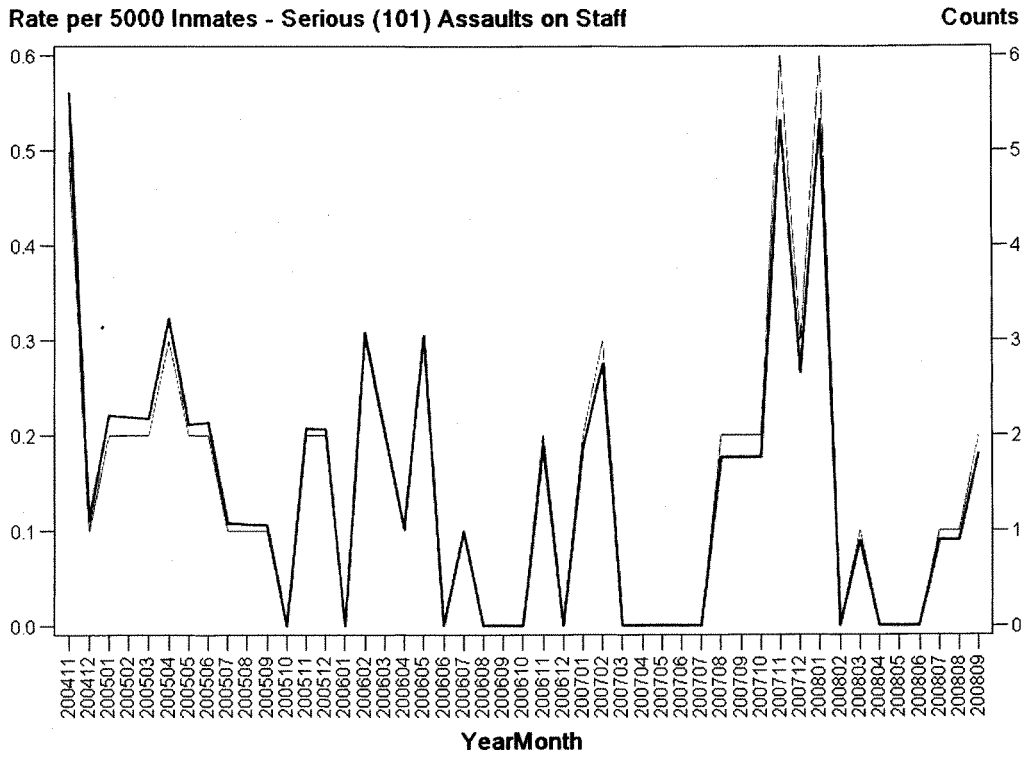

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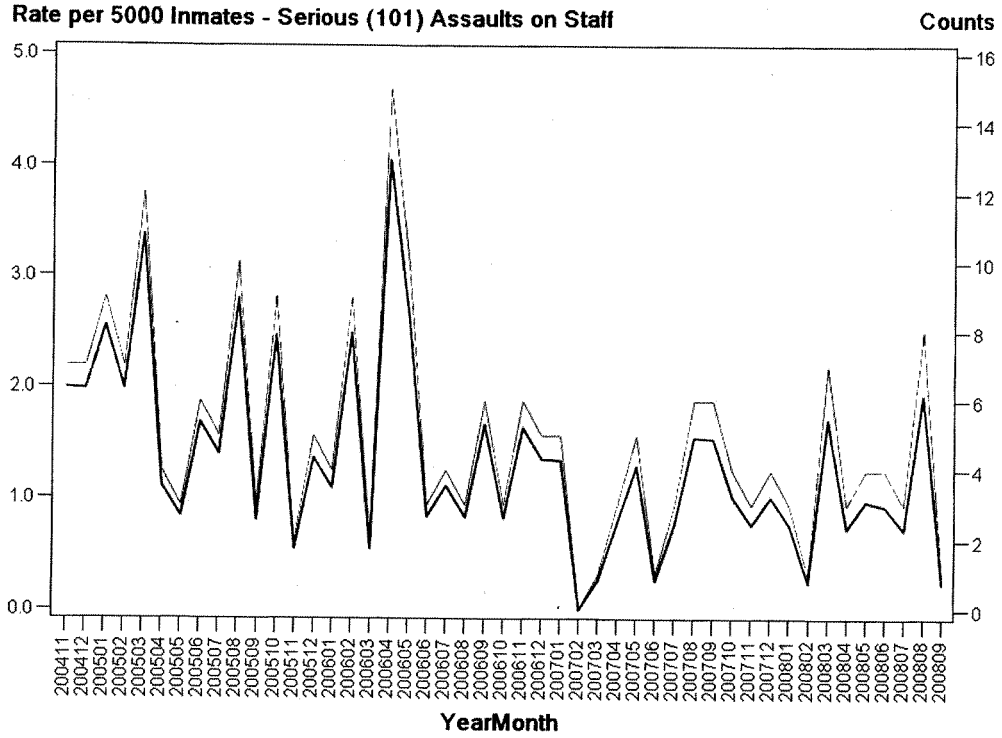

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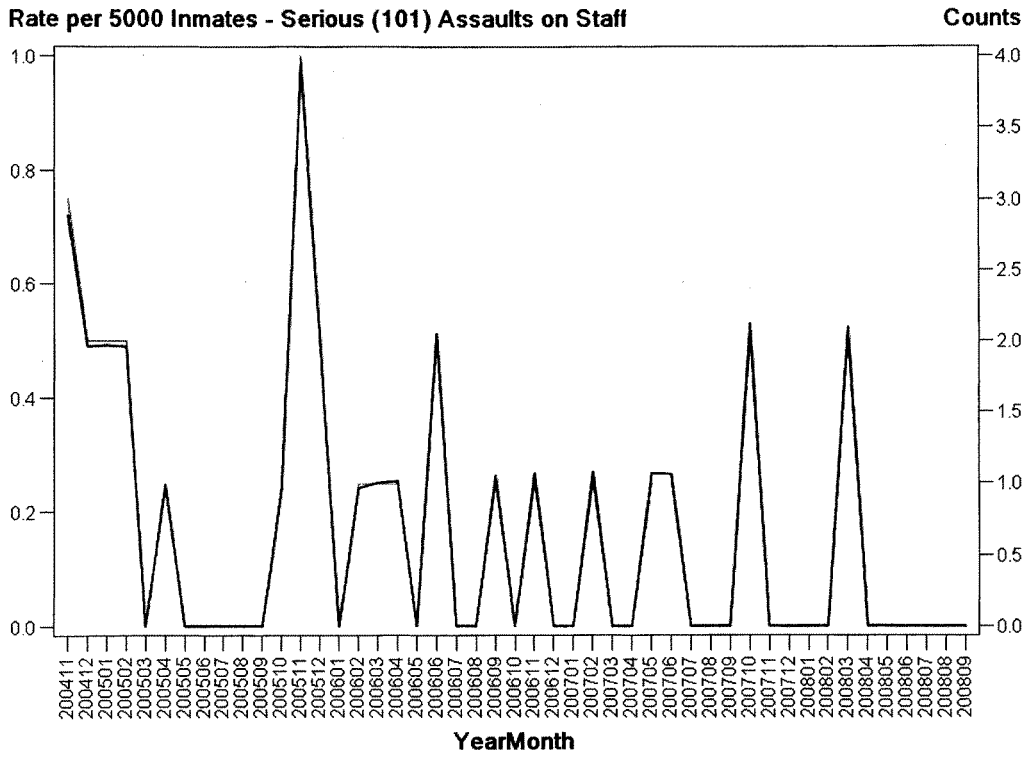

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. And any indication of increases and what areas.

CORRECTIONAL OFFICER DEATH

Mr. MOLLOHAN. If you submit that for the record, I would appreciate it.

Last June, as you know, a correctional officer was murdered by two prisoners at the U.S. Penitentiary at Atwater in California. The officer who was murdered, Jose Rivera, was working alone at the time as he was stabbed by two inmates.

After such an incident, was an evaluation conducted to determine whether staffing policies needed to be revised?

Mr. LAPPIN. We did. And we did add some posts at penitentiaries.

Mr. MOLLOHAN. You did what?

Mr. LAPPIN. We did do an assessment.

Mr. MOLLOHAN. Yes.

Mr. LAPPIN. Not only because of that, but because of some other incidents that were occurring, especially in our high security institutions.

Mr. MOLLOHAN. Did you have a specific revision of policies as a result of that?

Mr. LAPPIN. We added some posts at all the penitentiaries. We can provide you what we added. Was it enough? I personally do not think it is enough. I mean, but realize if you just add an employee to every housing unit in the Bureau of Prisons, that is a huge increase when you consider how many housing units there are. So——

[The information follows:]

NUMBER OF ADDITIONAL POSTS ADDED AT BOP HIGH SECURITY INSTITUTIONS OVER THE PAST YEAR

High security institutions were authorized two additional staff (or use of existing resources where appropriate) for evening watch (daily) and day watch shifts on weekends and federal holidays. The staff working these posts will function as rovers to provide assistance to housing unit staff. Therefore, two additional evening positions were incorporated into the roster as well as two positions on the weekends and holidays.

Additionally, an extra Special Housing Unit Lieutenant was authorized at high security facilities, and one Special Investigative Supervisor (SIS) technician at all secure facilities, if appropriate.

Mr. MOLLOHAN. How many housing units are there?

Mr. LAPPIN. I would have to add them up for you.

Mr. MOLLOHAN. Well, just an——

Mr. LAPPIN. We are talking hundreds of millions of dollars just to put another officer in every housing unit and——

Mr. MOLLOHAN. Is that necessary in order to——

Mr. LAPPIN. Not at all security levels.

Mr. MOLLOHAN. Would that be necessary to be responsive to the conclusions of your evaluation after this stabbing?

Mr. LAPPIN. You know, I would love to have another officer, especially in the housing units. However, let us be realistic here. Most of those housing units have 150 to 200 inmates. For staffing, there are two people in there. If some inmates wants to do something and they can plan the time, the place, and the method, all it takes

is two diversions, or one diversion, and now you have one or two staff focused on something over here and something else is occurring in that same housing unit elsewhere.

So let us be realistic here. I mean, inmates outnumber us significantly.

Mr. MOLLOHAN. Okay. Your testimony is you would like to have additional staffing?

Mr. LAPPIN. Sure.

Mr. MOLLOHAN. And hopefully we are getting that in your request and——

Mr. LAPPIN. But I think we could address some of that with that 3,000 increase. That is what I would recommend, sir, is if we would take that course of action, then if we look at the indicators. Let us then look at assault rates; let us look at serious incidents; let us look at lockdowns; let us look at the number of homicides; let us look at the number of how long our waiting lists are——

Mr. MOLLOHAN. Well, let us look at it——

Mr. LAPPIN [continuing]. All types of issues.

Mr. MOLLOHAN. Let us look at it more generally. What policies have you instituted as a result of these incidents of violence to minimize the chances of such assaults?

Mr. LAPPIN. At our high security institutions, we have increased the number of posts in all the penitentiaries. We have asked wardens consistently across the board to manage those inmates in small groups. Do not put all of them in the recreation yard at once. Do not put them all in food service at the same time, or large numbers of them. So we are doing a better job of controlling how many inmates are in a given area at a time.

We have asked them to put in place more restrictive controlled movement. These high security institutions all operate on controlled movement. That is, when you say they can move, certain inmates can move to certain locations while others stay in place. That way, there are not as many inmates out in a common area at one time. So, we have asked them to make adjustments of that nature.

I think one of the major issues is the one I mentioned earlier about the creation of these special management units (SMU). We are going to remove more violent offenders from other institutions and then manage them in an even more controlled, structured environment.

Once that happens, I think we are really going to be able to see the effect, of both what we have done at those institutions in the way of management, as well as the removal of more aggressive, violent inmates from those general populations to SMU facilities in the hopes that we will see a decline or leveling off of assaults in those facilities.

STAFFING ISSUES

Mr. MOLLOHAN. Well, give us a general statement. Are these incidents of violence increasing as you have testified against staff? Is there an increase of violence against staff?

Mr. LAPPIN. When you get our rates, I think you are going to find that you are not going to see a huge increase against staff. The increase we are seeing is inmate on inmate. But what we are seeing

are more serious types of attacks too. I mean, we have seen an increase in the number of homicides.

Mr. MOLLOHAN. So what is the primary cause? Give us some sort of an idea of why this is happening and what do you think should be done to curtail it.

Mr. LAPPIN. I think a big part has to do with the inmates, the types of offenders and their willingness not to comply, which is unusual in comparison to years past. Typically in years past——

Mr. MOLLOHAN. Okay. But you have to be responsive to that.

Mr. LAPPIN. Absolutely.

Mr. MOLLOHAN. So what is not allowing you to be responsive to that?

Mr. LAPPIN. Well, I am not sure.

Mr. MOLLOHAN. Staffing levels, not enough staff.

Mr. LAPPIN. Certainly. More staff to address——

Mr. MOLLOHAN. Doing away with Prison Industries.

Mr. LAPPIN. More staff to address those issues more quickly would be helpful, to respond faster to those incidents, to identify those inmates before they begin acting in that manner. All of those things are related to the number of staff you have assessing and managing those types of situations.

Mr. MOLLOHAN. What about the programmatics? For example, Mr. Wolf's questioning about Prison Industries or education or training opportunities. How do all the programmatics of the institution affect this violence?

Mr. LAPPIN. Well, crowding in general affects all of those issues because the more inmates you have in a facility above what it was intended to house complicates your ability to provide work, education, or vocational training.

As simply as I can put it, this formula is not a formula for success. More inmates and inmates with a more violent, aggressive history, and less to do, and fewer staff does not equal success. So, all of those variables. You know, we have got more inmates who are more challenging, and fewer staff.

PRISONS COMING ON LINE

Mr. MOLLOHAN. How are we addressing that in the Bureau of Prisons? You have a number of prisons coming on line here, three or four between now and——

Mr. LAPPIN. We are opening one right now, Pollock.

Mr. MOLLOHAN [continuing]. Between now and 2010 or 2013, in that period. Don't you have three facilities coming on line?

Mr. LAPPIN. Let us see. It's four. Pollock we are opening now, also Mendota, California, McDowell County, West Virginia, and Berlin, New Hampshire. So——

Mr. MOLLOHAN. How do you think those prisons will impact your overcrowding issue?

Mr. LAPPIN. We can provide you what I think are, depending on how many inmates we have, our growth——

Mr. MOLLOHAN. Provide us that analysis for the record.

Mr. LAPPIN. Yes. We anticipate adding about 4,500 inmates a year each of the next three years.

Mr. MOLLOHAN. And what we would like to know for the record is, what shape does that put you in after those prisons are completed and then what is the housing need subsequent.

Mr. LAPPIN. We will provide that to you. But I can tell you now, if we are adding 4,500 inmates a year and we are only adding 6,000 beds, my guess is you are going to see a crowding increase of——

[The information follows:]

CROWDING FY 2009—FY 2013

Projected crowding is as follows:

FY 2009		FY 2010		FY 2011		FY 2012		FY 2013	
Males		Males		Males		Males		Males	
High	54%	High	58%	Males	51%	Males	55%	High	58%
Medium	55%	Medium	51%	Medium	53%	Medium	54%	Medium	53%
Secure		Secure		Secure		Secure		Secure	
Females	44%	Females	47%	Females	50%	Females	10%	Females	13%
BOP System wide	37%	BOP System wide	38%	BOP System wide	38%	BOP System wide	38%	BOP System wide	39%

The BPO continues to need additional capacity at the rate equivalent to two medium security and two high security facilities annually or approximately 4,300 beds in order to reduce crowding to a more manageable level by the end of FY 2018.

Mr. MOLLOHAN. Even with the addition of these prisons?

Mr. LAPPIN. I believe it will remain the same or go up a little bit——

Mr. MOLLOHAN. Okay.

Mr. LAPPIN [continuing]. Because, we are adding over 12,000 inmates and we are only adding under 6,000 beds. So, we are going to squeeze another 6,000 inmates into the existing beds. So, we will provide our projection to you in writing.

Mr. MOLLOHAN. Mr. Fattah.

Mr. FATTAH. The three new prisons that are coming along, the average cost per cell?

Mr. LAPPIN. Average cost per cell? I think I have that here. If not, I think it is about $150,000.

Mr. FATTAH. And the average cost per year per inmate across systemwide?

Mr. LAPPIN. Average cost per year is $25,000 to $26,000 a year for cost of incarceration on average.

Mr. FATTAH. The increase in the number of female women prisoners——

Mr. LAPPIN. We currently have——

Mr. FATTAH [continuing]. Over the last couple fiscal years?

Mr. LAPPIN. I do not have the prior fiscal years. We have seen an increase. Today we have 6.6 percent of our inmates, or 13,393 that are female. And we have seen an increase in the percentage of females over the last three or four years. We will get that and provide it to you.

Mr. FATTAH. I mean, is it a significant increase? Is it——

Mr. KANE. It is the same as now.

Mr. LAPPIN. Which is what, Tom?

Mr. KANE. The rate of increase for women is about the same as now.

Mr. LAPPIN. About the same rate. I do not know how many that is a year.

Mr. KANE. About three percent.

Mr. LAPPIN. An increase of about three percent, but we will put it in writing so you will get an accurate figure.

[The information follows:]

PROVIDE STATISTICS ON THE INCREASE IN FEMALE INMATES OVER THE LAST THREE OR FOUR YEARS

FY 2006 increase of 196 inmates.
FY 2007 increase of 558 inmates.
FY 2008 decrease of 97 inmates.
FY 2009 decrease of 286 through February 28, 2009.

Mr. FATTAH. And you have 200 plus thousand inmates?

Mr. LAPPIN. Two hundred and two thousand.

Mr. FATTAH. And not to be overcrowded, you would have to have 160,000 or so, right, to deal with the Chairman's last question?

CAPACITY RATE

Mr. LAPPIN. Let me help you with that one, because this is the confusing part and I do not want to confuse folks.

There is a rated capacity and that is kind of "how many can you actually hold and do it realistically." Our target, our goal is to be 15 percent to 17 percent over our—I am sorry—15 percent over our rated capacity.

Mr. FATTAH. Your rated capacity is?

Mr. LAPPIN. Our rated capacity is probably about 130,000 inmates.

Mr. FATTAH. Hundred and thirty thousand.

Mr. LAPPIN. But we believe we can safely run these prisons, successfully run these prisons at about 15 percent over that rated capacity. I am going to tell you what that means.

That means that every cell in the Bureau of Prisons is double bunked with the exception of about maybe a thousand cells, at the high security level, which would be single bunked. And given the nature of those inmates, we believe it is wise to have cells at that level to use for single bunking inmates.

So, we are currently at about 35 percent over rated capacity.

Mr. FATTAH. Okay. So you would have to be adding new facilities at a significant rate to get to where you want to get to?

Mr. LAPPIN. Or the other option is to reevaluate—"Do all those folks need to be in here?"

Mr. FATTAH. Decide differently about who needs to be in jail.

Mr. LAPPIN. And for how long? That is another question to consider.

Mr. FATTAH. My last question. What percentage of these inmates across systemwide are violent versus nonviolent offenders?

Mr. LAPPIN. It varies depending on how you define violent.

Mr. FATTAH. How the system defines it.

Mr. LAPPIN. Yes. I will get the number for you. We will get it to you so we make sure we have the right number. I will get it for the record.

[The information follows:]

WHAT PERCENTAGE OF INMATES SYSTEM-WIDE ARE VIOLENT VERSUS NON-VIOLENT?

In March 2009, there were 104,642 violent offenders in BOP custody, or 53.2 percent of the total population of 196,547 inmates for which data is available.

Mr. FATTAH. Thank you very much.

Thank you, Mr. Chairman.

Mr. LAPPIN. You are welcome.

Mr. MOLLOHAN. Mr. Wolf.

FAITH-BASED PROGRAMS

Mr. WOLF. Thank you, Mr. Chairman.

Can you tell me a little bit about the faith-based program? I spoke to a person that was in Petersburg and they asked about the faith-based program. They never heard that there was one. And I understand that is a place where there used to be one or is one. Can you tell us how successful they are and what the status of them?

Mr. LAPPIN. Yes, I can.

Mr. WOLF. And how many people participate.

Mr. LAPPIN. Let me find my notes here.

We currently have five of what we call Life Connections programs, which is a residential-based program. They live together in a housing unit. It is staffed with a variety of staff of varying backgrounds, in addition to contractors who provide not only faith-based programming but other skills building initiatives.

Mr. WOLF. And how many people participate?

Mr. LAPPIN. We have had 994 people graduate.

Mr. WOLF. And what is the recidivism rate of people that are out? Are you finding a difference?

Mr. LAPPIN. It is a little too early to tell. It is kind of like——

Mr. WOLF. What does the earliest things tell you though?

Mr. LAPPIN. It takes a little time to——

Mr. WOLF. Well, if it takes the earliest different, but what are you finding out? What are you——

Mr. LAPPIN. Well, this we know for sure——

Mr. WOLF. What does your gut tell you?

Mr. LAPPIN [continuing]. They are better behaved in prison. So when they are in this program in prison, we see less disruption, less violence from those folks. It will be a few years before we get real recidivism results on this group.

We have had 72 returned to incarceration of the 509 who have been released. Four hundred and seventy-one are still in our custody. We have had 72 return so far. But that is not yet a reflection on recidivism since it is too early to tell because we have not had the program long enough. But let me tell you we are encouraged by it.

We have a number of residential programs that are skills based, that are cognitive behavior based. This one is faith based. We tend to find that inmates who participate in these programs, because along with faith-based initiatives, they are getting GEDs, they are getting vocational certificates, they are working on other skills that they lack, we see them being more successful.

So, our assumption is, even though we do not have the research to support it, is we are going to see success here. But it will be a couple of years more before we can say this is the actual recidivism

rate like we can for other programs. It is just a little too early for us to be able to do that.

Mr. WOLF. Is there one at Petersburg?

Mr. LAPPIN. There is one at Petersburg.

Mr. WOLF. This fellow could not even find it at Petersburg.

Mr. LAPPIN. I do not know who you asked.

Mr. WOLF. Well, you know, I do not know how it is down there.

Mr. LAPPIN. There are two facilities at Petersburg.

Mr. WOLF. Yeah.

Mr. LAPPIN. So some employees may work at the facility where this program does not exist, may not——

Mr. WOLF. What is the backlog waiting to come in throughout the system?

Mr. LAPPIN. I think we have got about 150 inmates awaiting placement.

Mr. WOLF. And does each prisoner that comes in the prison system know that there is a faith-based program?

Mr. LAPPIN. During the A&O Program, during admissions and orientation, they are informed of all the programs we have, one of which is Life Connections.

Mr. WOLF. Okay. Well, just to make a comment, you know, I think it is great the Chairman is having these hearings. Maybe we ought to have a couple prisoners to testify also. I think it would be helpful to have a prisoner that is in the faith-based program and some other prisoners to kind of tell us.

I find that the longer we go on, nothing really changes. We put a man away. The prisons are becoming training grounds for learning more crime, even the federal prisons. We do not give a man work. We do not meet their faith concerns.

I met with a group of prisoners as I left a hearing yesterday that last week you had. They were a group that came in to see me from Chicago to tell me that is the only thing that made a difference in their life and then we expect these guys to come out and go straight. I just do not think it is possible.

And I am going to offer this to see if we can—work is dignity. Without work, you just cannot make it. The labor unions will probably oppose this. Other groups will probably oppose this, but I think it is cruel and inhumane to put a man away for 15 years and not give him something to get up in the morning and go to and work whereby they can, one, put some money aside, whereby you could pay a minimum wage, whereby they can have some money when they leave; two, some form of restitution that they can pay back; and, three, send their family something. That is dignity.

And so, you know, I think if we do not change these things, the next Bureau of Prisons Director will be testifying here in ten years, it will be a different set of players, and the conditions will be the same. And the only thing will be your numbers will have increased. So thank you.

Mr. LAPPIN. Just so you know, there are jobs beyond Prison Industries. And most inmates do have a job. But, again, impacted by the number of inmates in each facility. So, the more inmates you have above what it can normally house, the more difficult it is for us to find those productive work assignments.

Mr. WOLF. But I have been in where they tell me their jobs are ridiculous. They say they are picking up butts or they are just walking or they are doing nothing.

Mr. LAPPIN. We are keeping them busy.

Mr. WOLF. Thank you.

Mr. MOLLOHAN. Thank you.

Mr. Serrano.

IMMIGRATION ISSUES

Mr. SERRANO. Mr. Chairman, let me just add something to Mr. Wolf's comments.

Mr. Wolf has a reputation, as you well know, for being very, very strong on the issue of human rights throughout the world. And he is known as a conservative in the House but one with a real belief in respecting people.

And his comments just now are just right on the mark and they bring an additional thought, which we brought up before. Because we have so many people that are being detained or incarcerated for immigration violations, we have now a situation, in addition to the immigration issue we have at hand that we have not resolved, where, in fact, we are putting people in prison who on the outside were "illegally working in a restaurant," but now are in prison learning nothing. Nothing compared to what they were doing when they were working in the restaurant without proper documentation. And so, since we do not seem to resolve this immigration problem we are going to run now into yet another generation of people who were incarcerated and learned bad things while they were in prison, who when they were out here allegedly breaking the law for being in the country illegally were not creating a problem for society. But when they come out of there you do not know what kind of problem they will create for society.

All that to say that at the top of our agenda has to be that we have got to determine what to do with this immigration issue. And then immediately after that talk to some countries on both borders to see how we can help people stay home. You know, deal with the ones that are here, and then people stay home.

Now talking about people in homes, and this is not, I just thought of this. My next question is this whole issue that I have been dealing with for years as to how the census within the prison population is taken in terms of where they live and where they are now. And this has been a big issue for a while. In fact, some years ago through the good graces of the Chairman we asked for, we put language in the bill asking the Census Bureau to tell us why they could not count folks with their home address when they were incarcerated. And they said it was too expensive to do that. Of all the issues I deal with I find this one to be a difficult one to me to understand why that cannot be done. Why, when a person comes to you, you do not know that they came from Waukegan, Illinois, or from the Bronx, New York. And, you know I always pick on Waukegan, Illinois. I do not know why. Jack Benny was born there, I guess that is the reason. But I am from the Bronx, New York.

So, you know, we do not seem to know that. We do not know it at the state level, although we are dealing here with federal prison, we do not know it at the federal prison. And what happens is, here

is the issue. When the allocating of monies go to communities, as you know, some prison communities, for just having the building there, are getting extra dollars. However, eventually that incarcerated person will go back to a community that did not get any dollars because he was missing from that point. Yet in all other parts of society you have different situations. You have people in the military, those that do pay certain taxes that are not exempt, paying taxes back home to their state. You have members of Congress spending five days a week here, sometimes, still paying state tax back home. Yet the prison population is handled totally different.

Mr. LAPPIN. I do not know the answer to that. I can tell you, we know where most inmates live. So if anybody is telling you we do not know where they live, that is not the case. I mean, for most inmates we know where they live. It is documented on their presentencing report (PSR). Now, that may not be—they may not say that is where they are going to return. That gets a little more complicated.

Mr. SERRANO. Right.

Mr. LAPPIN. Because they may have been arrested in one location. And it may say that their home is this. But they may tell you, "But when I leave prison, here is where I want to go." That gets a little complicated. But without a doubt, if somebody says, "What is your last known residence?" We know that on most inmates. It is documented right in their PSR. We have a PSR on probably 100 percent of the people that we have in federal prison. So the next step is, well, how does that comport with where you intend to go? Because sometimes that can change. But for most inmates we can identify where they are from. And for many of those inmates, they are going to return to the same community they came from. So, I am not sure how to solve the other issue.

Mr. SERRANO. Well, the Census Bureau claimed that they would have such a difficult time finding out where these people are from. I am not asking you to knock the Census Bureau.

Mr. LAPPIN. I will not. I would not do that.

Mr. SERRANO. We do not allow people to knock agencies in the same Committee.

Mr. LAPPIN. No. They do a great job.

Mr. SERRANO. But I guess, if you know where they are from——

Mr. LAPPIN. We would be more than happy to work with them and see what we could do to assist them if that is what needs to be done.

Mr. SERRANO. Well, that is a great statement. Because that is a big issue, Mr. Chairman. And I thank you.

Mr. MOLLOHAN. Thank you, Mr. Serrano. Mr. Director, implementation of The Second Chance Act. I take it from your testimony up to this point that you are really just starting to get into it?

Mr. LAPPIN. We are really starting to get into the part that costs money. Because the lead up to this was a lot of assessment, creation of the assessment forms, and a system, an electronic system that would allow us to gather that information and then share that information.

Mr. MOLLOHAN. Mm-hmm.

Mr. LAPPIN. So there has been a lot of work that has led up to this. But now, the implementation part, where we bring the in-

mates in and we actually do the work, we are just getting starting on that.

Mr. MOLLOHAN. Do you feel prepared for that, if you get the funding?

Mr. LAPPIN. Yes, I do.

Mr. MOLLOHAN. What about staffing levels? What are your needs with regard to staffing levels, from A to Z, and to fully implement The Second Chance Act.

Mr. LAPPIN. We will have to add some staff at some locations. And my guess is, I do not know exactly what the——

Mr. MOLLOHAN. I would think you would have to add a lot of staff at a lot of locations.

Mr. LAPPIN. And I am sure a portion of this 3,000 would address some of those issues.

Mr. MOLLOHAN. Will you for the record give us an assessment of that?

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. Total implementation.

Mr. LAPPIN. Okay.

Mr. MOLLOHAN. Your budget justification for 2009 indicated that the Bureau of Prisons was changing its reentry model to better prepare inmates for release back into their communities, independent of The Second Chance Act, arguably. Last year Congress passed a Second Chance Act that imposed a number of new requirements on the Bureau of Prisons related to prisoner reentry activities. How do the Second Chance Act requirements fit into what you are already doing for prisoner reentry, including your vocational training, your education, your drug treatment programs, and anything else?

Mr. LAPPIN. In many ways it is going to marry up quite nicely. Again, a lot of credit to the folks who wrote it and worked with our staff who were doing that.

Mr. MOLLOHAN. Right. Let us get to how are you——

Mr. LAPPIN. But there are some program areas where we do not have a lot of experience. I mean, we have not had a lot of—let us take wellness initiatives. I know this sounds, some people will be critical of this, but leisure time activities. Now, the reason that is in the assessment is, a structured way of doing that, is because probation staff said, "Here is our dilemma. Oftentimes we get them out there. We can find them a place to live and they can get a job." Let us assume that. Their failure, more often than not, is because they do not know how to manage their leisure time. They have never been taught what you do constructively with leisure time.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. Whether it is go to church? So, there are some of these areas where we are going to have to add programs. We will build that into our estimate.

Mr. MOLLOHAN. Well, let me tell you. This Subcommittee is going to be very interested in working with you with regard to implementation of The Second Chance Act. I think that that is a very good starting point for reentry and hopefully dealing in a positive, progressive way with these recidivism issues. And so we want to work with you. We hope that your 2010 budget request addresses the resource needs for full implementation of The Second Chance Act.

And we are really looking forward, with anticipation, to that budget request.

Mr. LAPPIN. I look forward to that. Let me mention one other area that is a challenge for us, and I am not sure we can solve this. But it is an issue. We have too many communities around this country that say, "No, I do not want the offender back." To the point they will not let us put community corrections centers, halfway houses, in those communities. So, I can give you any number of locations where the inmate is going to X location but we have to put him in a halfway house 120, 150, 200 miles away. And this is a struggle for us.

In fact, the contractors sometimes have to take them to court to force the zoning to allow that. We have a problem right here in Northern Virginia.

Mr. MOLLOHAN. Well, I am sure you are going to have a lot of challenges.

Mr. LAPPIN. So, that is an area that is critical to reentry that I just want to make you all aware of in case there is something that we can think of to help encourage communities to take responsibility for inmates who are coming back.

Mr. MOLLOHAN. We are going to have some witnesses that are actually engaged in that activity later on in the week.

Mr. LAPPIN. Good.

SECOND CHANCE ACT

Mr. MOLLOHAN. So we will look forward to addressing that issue with them. But obviously you are just going to have to work that as best you can. I mean, I am very familiar with that challenge.

Indeed, will The Second Chance Act significantly change the way the Bureau of Prisons does prisoner reentry?

Mr. LAPPIN. Not significantly. Because, again, they adopted in this law many of the things we were doing before. There are going to be some adjustments, there are going to be some changes, and there will be some enhancements.

Mr. MOLLOHAN. A lot of your recommendations were included in The Second Chance Act?

Mr. LAPPIN. They were.

Mr. MOLLOHAN. So your biggest challenge is going to be the resources?

Mr. LAPPIN. That is correct.

Mr. MOLLOHAN. Okay. Well, our biggest challenge is going to be funding it to get you those resources. And what is really helpful for us will be if that request includes Second Chance Act implementation funding. So we are going to, in the first instance, rely on you to advocate really aggressively for that to be included in the budget request, and then you can rely on us to do our best to try and fund it. And we will try to do our best to the extent it is not included in the budget request.

Mr. LAPPIN. Thank you.

Mr. MOLLOHAN. What level of resources would it take to enable you to fully implement the Bureau of Prisons sections of the Second Chance Law?

Mr. LAPPIN. Again, I will have to go back and do a calculation to be specific.

Mr. MOLLOHAN. Okay. Will you——

Mr. LAPPIN. I will get that to you.

[The information follows:]

RESOURCES NEEDED TO IMPLEMENT BOP'S SECTION OF THE SECOND CHANCE ACT

Approximately $80 million is needed to implement the BOP's responsibilities under the Second Chance Act (of this amount $14 million is included in FY 2010 budget request to fund the inmate skills development initiative). The total required funding of $80 million is for residential reentry centers and other inmate programs like inmate skills development, sex offender management, and the life connections program.

Mr. MOLLOHAN. Will you give us that for the record? And then when we see you next time we will talk a little bit about how you struggled with the OMB in order to get your request and recommendations approved? We hope you are successful with that.

I have a question about the relationship between staffing requirements, which we are impressed is a struggle for you, and the realistic chances of successful implementation of the Second Chance Act. What is that relationship? And between your staffing needs and shortfalls, and a realistic chance of successfully implementing the Second Chance Act's requirements?

Mr. LAPPIN. We are going to have a challenge at the current staffing levels. Because currently we are not providing every inmate the programming and treatment that they need. I am talking about just the willing inmates. I mean, that is reflected in our inability to get everybody through drug treatment.

Mr. MOLLOHAN. And you have testified that you want 3,000 additional staff in the next year.

Mr. LAPPIN. In a perfect world that is what I would like to have. I have a lot of wishes out there.

Mr. MOLLOHAN. Are you including staff that would be needed to successfully implement Second Chance in that 3,000?

Mr. LAPPIN. I believe so. There would be some of those staff that would work, again——

Mr. MOLLOHAN. No, no. I am saying, are those 3,000, do they include the Second Chance Act implementation personnel?

Mr. LAPPIN. I do not know.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. I will check.

Mr. MOLLOHAN. Would you submit that for the record, please?

Mr. LAPPIN. Yes.

[The information follows:]

DO THE 3,000 POSITIONS TARGETED TO FILL OVER THE NEXT TWO TO THREE YEARS INCLUDE STAFFING FOR THE "SECOND CHANCE ACT"

The additional 3,000 positions that we have targeted to fill are primarily to address continued inmate crowding and to ensure continued safety and security at all BOP facilities (primarily the hiring of additional correctional services staff to maintain adequate inmate to staff ratios), with some increases in services and programming staff (food service, facilities, psychology, education, etc.).

Additional positions will be included in the 2010 BOP Budget Request to expand the BOP Inmate Skills Development Program as it relates to the Second Chance Act.

Mr. MOLLOHAN. Thank you, Director. Community confinement. The Second Chance Act clarified that the Bureau of Prisons could place a prisoner in community confinement, including a residential

reentry center, an RRC. It has also directed the Bureau of Prisons to issue regulations to ensure that preparation for their release is of sufficient duration to provide the greatest likelihood of successful reintegration into the community. And you have published interim rules or proposed rules with regard to fulfilling that requirement?

Mr. LAPPIN. I think they are proposed rules. We will have to, I will find out. I know rules have been published. I believe, we are—they are still in the interim. So, we will give you an assessment of where we are on the publishing of those rules applicable to that aspect of The Second Chance Act. But I know——

[The information follows:]

WHAT IS THE STATUS OF THE RULES PUBLISHING CONCERNING THE "SECOND CHANCE ACT?" ARE THEY PROPOSED, PUBLISHED, INTERIM OR IN EFFECT?

The BOP published an Interim Rule entitled "Pre-Release Community Confinement" in the Federal Register on October 21, 2008. A large number of comments were received during the public comment period, which ended on December 22, 2008. The Interim Rule was made effective and was applicable as of the date of publication, October 21, 2008.

The BOP published a Proposed Rule entitled "Religious Beliefs and Practices: Chapel Library Material" in the Federal Register on January 16, 2009. A number of public comments were received during the comment period, which ended on March 17, 2009. The BOP will consider those comments received during the comment period before developing a Final Rule document. Currently, the rule is in proposed form only and is not yet effective or applicable.

Mr. MOLLOHAN. Are they, even though they are interim, if that is the right characterization, does that mean that they are in effect?

Mr. LAPPIN. Well, we are considering inmates for more than six months. So in a word, yes. We are considering inmates for up to twelve months even though the rules are not finalized.

Mr. MOLLOHAN. Okay.

Mr. LAPPIN. We are currently doing that.

Mr. MOLLOHAN. Are they defining how you are using the residential reentry centers right now? If you do not know the answer to that then you can submit it for the record.

Mr. LAPPIN. Yes, I would have to check to see exactly what is in there. But it is not going to be a lot different than how we have applied it in the past. It just gives us the authority to go up to twelve months. So beyond that, how one qualifies, what criteria we look at, pretty much stays the same. It is just that we can put people in an RRC for more than six months.

[The information follows:]

ARE THE RULES FOR "SECOND CHANCE" DEFINING HOW YOU ARE USING RRC'S?

Yes. 28 C.F.R. 570.20 defines community confinement (i.e., residence in a halfway house, participation in employment or employment seeking activities, etc.). 28 C.F.R. 570.21 provides that inmates may be designated to pre-release community confinement "during the final months of the inmate's term of imprisonment, not to exceed twelve months." 28 C.F.R. 570.22 provides that in considering inmates for such placement, staff shall consider 1) the resources of the facility being considered (i.e., a Residential Reentry Center); 2) the nature and circumstances of the inmate's offense; 3) the history and characteristics of the prisoner; 4) any statements or recommendation by the sentencing court; and 5) any pertinent policies issued by the U.S. Sentencing Commission. The regulation provides that all such decisions are to be made on an individualized basis; i.e., there are no categorical limitations. Finally, the regulation provides that all such decisions are to be made to provide the greatest likelihood of successful reintegration into the community.

Mr. MOLLOHAN. Okay. I have a series of questions here that relate to that, and I think probably the better thing to do would be to submit them for the record. Let me try one.

Mr. LAPPIN. Okay.

Mr. MOLLOHAN. In terms of reducing recidivism, what is the ideal amount of time a reentered offender should spend in an RRC?

Mr. LAPPIN. It will vary by offender, by how long they have been in prison, what their background is, what type of resources they have. So, it is hard to say what specific number is right for every inmate. We have an average. We can provide that. But it is really done on a case by case basis, applicable to each offender with their unique background, their characteristics, their resources. Obviously, an inmate who has only served six, eight months in prison is not going to have the resource needs of somebody that has been in prison ten, fifteen years. And so all those things are taken into consideration. So, I cannot say there is a specific number. It is going to vary by offender.

[The information follows:]

IDEAL AMOUNT OF TIME ON AVERAGE A RE-ENTERED OFFENDER SHOULD SPEND IN AN RESIDENTIAL RE-ENTRY CENTER (RRC)

In terms of reducing recidivism, we are unaware of any research that attempts to define an "ideal" amount of time an inmate should spend in an RRC. We do know that in-prison programs such as education, vocational training, and cognitive behavior treatment programs reduce recidivism. Therefore, we believe the amount of time an inmate spends in an RRC should be based on an individualized assessment that considers many factors, including the inmate's level of risk, reentry needs, in-prison conduct and programming, and BOP's resources.

DRUG ADDICTION

Mr. MOLLOHAN. How does drug addiction factor into your preparation for release? And the conditions of the release during a period of probation or oversight?

Mr. LAPPIN. Overcoming the challenges of addiction is a huge, huge challenge for folks, in general, let alone offenders. That is why we have built into our contracts an expectation that all of our halfway houses have transition services for drug and alcohol addicted individuals. So, as part of the plan, if they have gone through the residential drug treatment program, the residential program, there is going to be a transition plan for those folks. Now, some inmates have issues with drug and alcohol but may not fall into the addicted category. There are still services available for those folks in those halfway houses if they desire to have them.

So, the plan is for transition to occur from prison into the community, and then hand it off to probation. That is the beauty, I think, of what we have put together in the Inmate Skills Development Program, in that the probation officer will have all of that information now, unlike previously, which is going to be a huge advantage to them. But the issue is addressing those day to day needs, you know. Inmates, they are going to slip. People slip when they are trying to recover. And we——

Mr. MOLLOHAN. Indeed they will. Let me ask you, in incarceration, what is your program for addiction?

Mr. LAPPIN. It is a cognitive behavior based program.

Mr. MOLLOHAN. A twelve-step program?

Mr. LAPPIN. It is similar to that, that deals a lot with relapse prevention, making good decisions. So, it is a lot of prosocial value issues that are addressed, both in decision making, taking responsibility——

Mr. MOLLOHAN. For how long a duration is that program?

Mr. LAPPIN. Nine months.

Mr. MOLLOHAN. Can any inmate who wants to get into that program readily do so?

Mr. LAPPIN. You must meet certain criteria. We just do not put anybody in because they say, "Well, I am addicted." There has got to be some basis for that.

Mr. MOLLOHAN. Mm-hmm.

Mr. LAPPIN. Unfortunately, we have had waiting lists that exceed our capacity. So, we have had in the last two years inmates who have volunteered, who we agree are having addiction issues, who have not been able to get through. That had not been the case until the past two years.

Mr. MOLLOHAN. What is your waiting list to get into that program?

Mr. LAPPIN. The waiting list I think is probably around 7,000.

Mr. MOLLOHAN. How long does an inmate have to, if an inmate wants to sign up for such a program, how long does that inmate have to wait in order to get into the program on a typical——

Mr. LAPPIN. It varies. Typically, we try to put them in the program in the later portion of their sentence. I mean if we had the, I would love to do it earlier because they continue to have those problems during that incarceration. But what it has come down to, because of the waiting list, you get moved up on the waiting list above other people because you are getting close to release, given the limited resources. So, it is happening towards the end of that offender's sentence. So, there is enough time allowed for them to get through the nine-month program and then X number of months in a halfway house——

Mr. MOLLOHAN. Yes.

Mr. LAPPIN [continuing]. X number of weeks or days on community confinement, and then release.

Mr. MOLLOHAN. What incentives are in place in order to induce an inmate to participate in that program?

Mr. LAPPIN. Well, nonviolent offenders can get up to twelve months off their sentence. Violent offenders——

Mr. MOLLOHAN. That is quite an inducement.

Mr. LAPPIN. It is. It is. But realize, of the 17,500 that we had in treatment last year, 40 percent were violent offenders and they still volunteered for the program. I think that is what is significant about this; 92 percent of the folks who we believe should receive drug treatment are volunteering for treatment.

Mr. MOLLOHAN. So assuming a prisoner does not have access to the substance of choice while they are in prison, you are dealing with addicted people who are, still have cravings.

Mr. LAPPIN. We are. And there are, besides the residential program there is a nonresidential program. There is also counseling available. So beyond this——

Mr. MOLLOHAN. I am talking about the incarcerated.

Mr. LAPPIN. Incarcerated.

Mr. MOLLOHAN. So what is a nonresidential program for the incarcerated?

Mr. LAPPIN. There is the residential program where you are housed together in a housing unit. It is, it is kind of a therapeutic community.

Mr. MOLLOHAN. Right.

Mr. LAPPIN. Well then we have other folks who do not meet the qualifications, or say, "You know what? I have had some issues with alcohol." There is a nonresidential program that our drug treatment staff provide to that group of inmates. There is——

Mr. MOLLOHAN. I am sorry. I just do not understand "nonresidential."

Mr. LAPPIN. That means they are not together in a special housing unit for the treatment. They live in the other housing and they just go somewhere to get those services.

Mr. MOLLOHAN. Oh.

Mr. LAPPIN. That is, in the institution. They will go down to the psychology section, or to a different area. They do not live in a therapeutic community.

Mr. MOLLOHAN. Oh. So——

Mr. LAPPIN. They are just living in housing units with everybody else.

Mr. MOLLOHAN. So people who are in this program, or in a recovery program, a formal program, they live in a recovering community?

Mr. LAPPIN. They live in a therapeutic community.

Mr. MOLLOHAN. Okay. Well, let me ask you this. We are going to have some testimony during this week about the use of medication——

Mr. LAPPIN. Yes.

Mr. MOLLOHAN [continuing]. To treat——

Mr. LAPPIN. Yes.

Mr. MOLLOHAN [continuing]. The craving aspect of addicted prisoners. Do you have a comment on that? Is that a policy that exists in the Bureau of Prisons? Is it a treatment that is being looked at for an incarcerated, prereleased inmate?

Mr. LAPPIN. We are not using it right now but we are exploring those options. We think there could be some use for that for us. And we want to look at the research, we want to look at what is available. And so, it is something that we would consider.

Mr. MOLLOHAN. Who is looking at that?

Mr. LAPPIN. Our medical staff and our drug treatment staff. So I have a medical staff, and public health service doctors and other medical staff, and our drug treatment folks are looking at that together.

Mr. MOLLOHAN. Do you have a research division in the Bureau of Prisons?

Mr. LAPPIN. A great one.

Mr. MOLLOHAN. Of course it is. And are your research folks looking at this specific issue?

Mr. LAPPIN. They looked, I do not know if you all have looked at the use of medication on this.

Mr. KANE. No. I mean, the way we would work it is if we maybe would decide to pilot that. For example, if our medical and our

drug treatment staff were to decide and recommended a pilot Program and the pilot began.

Mr. MOLLOHAN. Could you identify your name for the record? And excuse me for interrupting. I should have let you finish before I asked that.

Mr. KANE. Then the research team would look at the extent to which that particular treatment affects the outcome for those individuals.

Mr. MOLLOHAN. Okay. Well, I would like to follow up with you after this hearing. Would you please identify the——

Mr. LAPPIN. His name is Tom Kane. He is Assistant Director of Information Policy and Public Affairs.

Mr. MOLLOHAN. Thank you, Mr. Kane. You say that this is being looked at, though, at the Bureau of Prisons.

Mr. LAPPIN. It is being looked at, yes.

Mr. MOLLOHAN. Do you know what product you are looking at?

Mr. LAPPIN. I do not know for sure but I can find out.

DRUGS TO CONTROL CRAVINGS

BOP inmates are detoxed upon entering a mainline institution per the BOP Detoxification Guidelines. Only pregnant women are maintained on pharmacological drugs such as methadone.

The drugs which have been previously reviewed during the National BOP Formulary Meeting for inmates for drug abuse treatment include Naltrexone and Buprenorphine. Also, Acamprosate (brand name Campral) is another drug that the BOP is exploring for possible addition to the formulary.

Mr. MOLLOHAN. Okay. Well, we will follow up with regard to that. Do you know if any of the halfway house or the after release programs are using medication in the after release programs——

Mr. LAPPIN. I am not sure.

Mr. MOLLOHAN [continuing]. For the craving aspect of the addiction?

Mr. LAPPIN. And my guess is we probably are not at this point, given the fact that they are authorized under our contracts. But I will check to see if in fact they are. Hopefully, we have done a good enough job preparing them for release that that craving by this time has come down. But, again, we will check for the record.

Mr. MOLLOHAN. You are a real optimist.

Mr. LAPPIN. I am an optimist.

Mr. MOLLOHAN. Well, that is too optimistic. Do you know if The Second Chance Act authorizes the use of medication in that way?

Mr. LAPPIN. I do not know.

Mr. MOLLOHAN. I do.

Mr. LAPPIN. We would have to look.

Mr. MOLLOHAN. Yes.

Mr. LAPPIN. It does?

Mr. MOLLOHAN. Yes. Do you want to look at that?

Mr. LAPPIN. Okay, I will certainly look at that.

Mr. MOLLOHAN. Mr. Wolf.

EMPLOYMENT SERVICES IN BUREAU OF PRISONS

Mr. WOLF. Thank you. Just two questions. Is there an employment service in the Bureau of Prisons for prisoners that are leaving, whereby if you are getting out there is an aggressive operation to help them find jobs? Not just, yeah, but a real one.

Mr. LAPPIN. We actually have as part of the, built in as part of the Second Chance Act, and we have worked on this for years, a job placement initiative. And what is difficult for us, Congressman, as you can imagine, these inmates live oftentimes a long distance from where they are incarcerated. That is what makes it difficult in the federal system. Unlike in many states, especially the size of many states, they could be very close to home. Whereas our inmates are oftentimes much further from home which makes it much more difficult.

But we have job placement responsibilities and staff assist inmates in job searching. They will gather information off the internet, without the inmate having access to the internet, so the inmate can begin to see what jobs are being advertised. They go through resume writing, they go through application processing. We do mock job fairs where we will bring in business officials from the local community and the inmate will write a resume as if they were going to go to work for them, and then they do an interview. So, every facility does mock job fairs.

Mr. WOLF. Once they get out, what is their opportunity? Have you ever contracted with private employment services?

Mr. LAPPIN. Well, the halfway houses, have that as part of their job.

Mr. WOLF. Their job.

Mr. LAPPIN. Is to assist that person in finding work. So, we hire that contractor, we make it part of that contract. Now again, as I go back to my other statement, because we have many locations where we cannot get the inmate close enough. So, it does not work as well when you cannot get the inmate in close enough proximity that they can actually go interview and pursue a job. That is why we would like to have halfway houses in more locations.

Mr. WOLF. My last question. I had an inmate tell me that everything that is available on the street is available in the prison. Is that accurate?

Mr. LAPPIN. In the way of what?

Mr. WOLF. Everything.

Mr. LAPPIN. Well, drugs?

Mr. WOLF. Yes.

Mr. LAPPIN. Are there drugs available in the institutions? Unfortunately, yes. I mean, obviously with our testing program we find a variety of drug use. But, let me give you an example. We tested, we did 109,000 random tests last year, where there were 498 positives. That is a .45 percent rate. We did 16,000 additional suspect tests that is we suspected somebody had used drugs. There were 603 hits on that 16,000 for a rate of 3.67.

Mr. WOLF. Okay.

Mr. LAPPIN. So of the 188,000 tests in all categories we had about 1,100 positives. And our system is much better today because of the technology. You can now do a urinalysis check. You do not have to wait to send the test off. You actually can do a urinalysis test where it will give us an indication if a person has used something they should not have used. Then you do the laboratory test to confirm that. So, it is much more immediate. It works much better for us. All those types of things help us reduce the chances of that happening.

Mr. WOLF. Okay. Thank you, Mr. Chairman. I have no other questions.

Mr. MOLLOHAN. Mr. Serrano.

Mr. SERRANO. I have no further questions.

DRUG TREATMENT IN PRISON

Mr. MOLLOHAN. Just a couple of follow up questions, Mr. Director. Going back to the number and percentage of prisoners that you are able to serve in your drug treatment program, your prerelease drug treatment program, what percentage of eligible inmates were you able to treat in 2008?

Mr. LAPPIN. I have to find my numbers again. Just a second. I am going to, I will confirm for the record. But real quickly, we treated 17,523 in 2008. I believe we released about 1,700 who should have received treatment. So, we got a very high percentage of those who we thought needed treatment and requested treatment.

[The information follows:]

DRUG TREATMENT IN FY 2008

In FY 2008, 93% of inmates who were eligible and who volunteered for treatment completed the Residential Drug Abuse Program before their release from custody.

Mr. MOLLOHAN. You released 1,700 who wanted treatment but did not get it?

Mr. LAPPIN. Who wanted it and did not get it. So that must have been close to, what, 19,000 total. We treated 17,523.

Mr. MOLLOHAN. So that means those 1,700 did not get early release? Did not get a year off of their sentence?

Mr. LAPPIN. I will have to go back and look. Because it may be that, it moves them up higher in the list if they are eligible for time off. So, it may have been those were violent offenders, I do not know, who would not qualify. But I cannot say that for sure. Because sometimes, Congressman, judges do not sentence people to long enough periods of time to allow for treatment.

[The information follows:]

INMATES RELEASED BEFORE COMPLETION OF THE RESIDENTIAL DRUG ABUSE TREATMENT PROGRAM (RDAP)

To earn an early release, a "non-violent' inmate must complete each component of the RDAP. As a result, those who were unable to complete the treatment were unable to earn a sentence reduction.

Mr. MOLLOHAN. No, I understand that, unless they get in right away.

Mr. LAPPIN. Right.

Mr. MOLLOHAN. They have to be sentenced for a year or so. I guess they go through, a year and a half——

Mr. LAPPIN. Yes, they get at least two years on a sentence, to get that.

Mr. MOLLOHAN. What do you anticipate will be the percentage in 2009, assuming the enactment of the omnibus appropriation bill? Why do you not submit that for the record?

Mr. LAPPIN. Okay.

DRUG TREATMENT IN FY 2009

In FY 2009, the BOP anticipates that 100 percent of inmates who are eligible and who volunteer for the Residential Drug Abuse Treatment Program will receive treatment prior to their release.

VOCATIONAL TRAINING AND EDUCATIONAL PROGRAMS

Mr. MOLLOHAN. Because I sense you probably will not be able to answer that. Vocational training and educational programs, and other services related to reentry. We have a program in West Virginia that is an educational program. It is actually a pilot program. It is taught at a college. It is being monitored. It is going to be judged and I am going to look and see if it meets the rigorous criteria that is necessary. But they have some really good people designing and following it. So I am kind of optimistic about that. But just anecdotally, they have had, I believe, to a couple of prisoners who had requested a transfer so they would be closer to home who said, "No, please let me stay here to finish my education." And that is college education. Or, it is either two years, certification, two years or four-year college education.

Mr. LAPPIN. Yes.

Mr. MOLLOHAN. They have one prisoner there who will never get out of prison——

Mr. LAPPIN. Yes.

Mr. MOLLOHAN [continuing]. And is taking that program. And he said, "I know I will never be able to use this on the outside. But it is simply a self-esteem issue. I want to learn. I want to get a college education." Work training is obviously a self-esteem issue, of being able to get out and have a job. If your attitude is at all lined up and going in the right direction you obviously want to be able to train and get a job. But there are an awful lot of smart people. And I am wondering, have there been any studies about the relationship between education, and it would probably have to be education coming in, and success after release, and the impact on recidivism? In other words, is there some correlation between educational levels coming in and success in staying out of prison once they are released?

Mr. LAPPIN. I do not know. We could get our great research department to look to see. And our statistics are relative to education in general. So, if you go to the 114 Federal prisons you are going to find at some locations we provide all those programs that we are legally allowed to provide. Whereas at other locations, we have partnerships with community colleges so we can provide those programs, two-year, not many four-year opportunities, and not violate the whole Pell Grant thing so, because they are getting credit for students. It does not matter if those students are in their classroom at the college or in our classroom in the institution.

IS THERE SOME CORRELATION BETWEEN THE EDUCATIONAL LEVEL OF THOSE COMING INTO THE PRISON SYSTEM AND SUCCESS IN STAYING OUT OF PRISON ONCE RELEASED?

The higher the educational attainment of offenders entering the BOP, the lower their recidivism rate upon release from prison. This has been shown for both a 1987 Federal prison release cohort (see Table 4 on page 21 of the report titled "Prison Education Program Participation and Recidivism") and for a 1992 cohort of sentenced inmates (see Exhibit 10 on page 29 in the United State Sentencing Commission report titled "Measuring Recidivism: The Criminal History Computation of the

Federal Sentencing Guidelines"). Links to the reports are below: *http://www.bop.gov/news/research*_projects/published_reports/recidivism/orepredprg.pdf http://www.ussc.gov/publicat/Recidivism_General.pdf

So, it varies from location to location. But I think our statistics are more generally based on education across the board. But I am not sure if there are specific studies, I do not think we have done any, that would reflect the example you have laid out. But we will certainly look to see if there are any.

Mr. KANE. I am just going to, I think the Director already knows this, but we actually have a recidivism——

Mr. LAPPIN. Yes. What we see is for inmates getting a vocational certificate is a 33 percent reduction in recidivism. So that means, with the average about 40 percent, it is 33 percent less than that. So, you are down in the 20 percent range.

Mr. MOLLOHAN. Out of that subgroup?

Mr. LAPPIN. Out of that group. Out of that subgroup.

Mr. MOLLOHAN. For people who have a GED?

Mr. LAPPIN. A vocational training certificate.

Mr. MOLLOHAN. I am sorry, a vocational——

Mr. LAPPIN. For GED it is 16 percent. We are seeing a reduction of about 16 percent. So, inmates that get a vocational certificate and a GED, you know, it's even more positive.

Mr. MOLLOHAN. Well, training and education seems, based on that testimony, to be a powerful driver in this.

Mr. LAPPIN. It is. We unfortunately do not leverage it enough. We get a lot of inmates in the GED program. In fact, I had here, we had 5,878 inmates get GEDs last year. We are not getting as many inmates in vocational training programs as we would like.

Mr. MOLLOHAN. Is that a function of desire on the inmates' part or of the resources of the Bureau of Prisons?

Mr. LAPPIN. I think more resources in this case, because without a doubt we sometimes let inmates go who do not get through the GED process. I think on the other side, their resistance to going into a vocational training program, is in part because they do not get paid for it. So what happens is, they get into an institution, they get some job, they are making a little bit of money. And if they go to vocational training that is time they are losing from getting paid. So, we are looking at ways we could do that to encourage more folks in there.

But to give you an idea, we had about, let us see here, where is vocational training? Oh, about 7 percent of the inmate population in the last three years were involved in vocational training. I would like to see that number go up significantly.

Mr. MOLLOHAN. Okay. Well, if you would for the record, in the context of The Second Chance Act, analyze what are the educational opportunities that it authorizes. And then beyond that, if you have any statistics or analysis of different levels of education and how it impacts recidivism. There are lots of things going on here. I mean, it is not just education for the sake of education. I am not sure anybody is ever educated just for the sake of education. It always has an impact. And so if there is any insight that you can give the Committee with regard to that?

We heard testimony on education—having nothing to do with the Bureau of Prisons except as education positively impacts that from

happening, last week in which two witnesses in different ways made the point that you have to address the education issue from beginning to end. And you have to do everything at once. Because if you do not deal with craving somewhere along the line it is not going to work. And so I would like to see, and maybe have follow up discussions in my office, about what is the everything all at once. And then perhaps we can design prototype programs, perhaps in the context of The Second Chance Act, which provides for different kinds of prototype programs. But I would like to look very carefully at what those possibilities are and do it with the insight to be gained by the good people you have in the Bureau of Prisons generally, and of course, your excellent research department.

Mr. LAPPIN. Well, I look forward to that discussion. And it comes down to little things like, the fact——

[The information follows:]

IN THE CONTEXT OF THE SECOND CHANCE ACT, ANALYZE THE EDUCATIONAL OPPORTUNITIES IT AUTHORIZES

Language Pertaining to Educational Opportunities:

Section 231(a)(1)A: assess each prisoner's skill level (including academic, vocational, health, cognitive, interpersonal, daily living, and related reentry skills) at the beginning of the term of imprisonment of that prisoner to identify any areas in need of improvement prior to reentry.

Section 231(a)(1)B: generate a skill development plan for each prisoner to monitor skills enhancement and reentry readiness throughout incarceration.

Section 231(a)(1)C: determining program assignments for prisoners based on the areas of need identified through the assessment.

Section 231(d)(1)(E): establish reentry planning procedures that include providing Federal prisoners with information in the following areas: health and nutrition, employment, literacy and education, personal finance and consumer skills, community resources, personal growth and development, and release requirements and procedures.

Section 231(h)(3)(B) The Federal Remote Satellite Tracking and Reentry Training Program may be established to promote the effective reentry into the community of high risk individuals. The authorized program includes: Substance abuse treatment, and aftercare related to such treatment, mental and medical health treatment and aftercare related to such treatment, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, and other programs to promote effective reentry into the community as appropriate.

PROVIDE ANY STATISTIC OR ANALYSIS YOU HAVE CONCERNING DIFFERENT LEVELS OF EDUCATION AND HOW IT IMPACTS RECIDIVISM

This information and the analyses are included in the reports titled "Prison Education Program Participation and Recidivism" and "Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines." Links to the reports are below: *http://www.bop.gov/news/research*__projects/published__reports/recidivism/orepredprg.pdf http://www.ussc.gov/publicat/Recidivism__General.pdf

Mr. MOLLOHAN. We are going to do it.

Mr. LAPPIN. Yes, well, good, one example, because you hit it right on the head in part, is these folks have struggled educationally for decades. And so, now you have got a forty, fifty-year-old man that you want to put in GED class.

Mr. MOLLOHAN. Yeah.

Mr. LAPPIN. And because of the wisdom of some of our educators they realize that, one, they have to overcome that embarrassment. So some of them have actually set up computer classrooms so some of those folks can work at their own pace, not be confronted by what they do not know in front of a group of other folks that may know more than they do. And so those types of strategies, to lever-

age more of those folks into those classrooms, I think will only help.

But some of that is resource driven, because we may not have those types of scenarios at every location. But without a doubt our educators have identified some of those hurdles that might be there. We are not unique, we have kids in high schools that have the same struggle. But you have got to meet those needs or they are going to continue to struggle in an educational environment.

Mr. MOLLOHAN. Okay. And we have some specific funding for specific programs in the 2009 omnibus, if the Senate ever——

Mr. LAPPIN. No comment.

Mr. MOLLOHAN. No, I am the one that says no comment. I am the one——

Mr. SERRANO. I am really sorry about that for holding that up.

Mr. MOLLOHAN. I know. Mr. Serrano.

Mr. SERRANO. No, I have no further questions, Mr. Chairman. But I am sorry for holding that bill up in the Senate.

Mr. MOLLOHAN. All right. Actually, he is holding it up in the Senate. You have to deal with Mr. Serrano's genuine and legitimate concerns about our foreign policy with regard to Cuba for many years to successfully navigate these pieces of legislation.

Well, Director Lappin, thank you very much. You covered a lot of material here and with a lot of insight, and obviously expertise. We appreciate the job that you do, the good job you do and the time of all these professionals that you brought here today. We look forward to working with you in getting the resources that you need to do all the things that you have to do to be successful. Thank you for your testimony today.

Mr. LAPPIN. Thank you for having us.

Mr. MOLLOHAN. Thank you.

Mr. LAPPIN. It is a pleasure working with you.

Mr. MOLLOHAN. Yes, sir. It is a pleasure working with you.

Commerce, Justice, Science, And Related Agencies

Appropriations for 2010

Major Challenges Facing Federal Prisons (BOP) Part I

Tuesday, March 10, 2009

QUESTIONS SUBMITTED BY MR. MOLLOHAN

FUNDING INCREASE FOR FY 2009

QUESTION: Please provide information detailing the use of Salaries and Expenses funding for fiscal year 2009 by major category, including descriptions of any major outlay categories that have been or are anticipated to be higher than estimated in the President's FY 2009 budget request. For personnel expenses please provide the costs associated with each major category of personnel.

ANSWER

Below is a Summary Table which outlines the current BOP Financial Plan, based on the enacted amounts contained in the FY 2009 Omnibus Appropriations Act that was signed into law on March 11, 2009 (P.L. 111-8). The additional $160 million BOP received above the President's request will be used towards the unfunded annualization of the FY 2008 pay raise, the unfunded portion of the 2009 pay raise, to increase staffing for Food Service, Medical, Drug Treatment and Education Programs.

It is important to note that while BOP did receive $160 million above the President's Request Level ($5,435,754,000), the FY 2008 appropriation along with the reprogramming and Supplemental funding required to maintain "current existing" BOP operations and avoid a deficiency totaled $5,346,740,000 (and required operating with significant operational constraints and no increased staffing or expansion of programs). In FY 2009, the increased funding will basically allow BOP to cover the annual pay related increases, as well as the award of 2000 contract beds (for ½ a year). BOP's goal for a minimum required staffing level of 35,519 will not be able to be met due to existing funding constraints, although staffing/hiring at Correctional Institutions continues to remain BOP's highest priority in an effort to maintain adequate Inmate to Staff Ratios as the Inmate Population continues to grow.

BOP's anticipates being able to maintain the current status of existing operations within funds availability, barring any significant unforeseen events such as hurricanes, major flooding, fires, tornados, and major institution disturbances, etc.

FY 2009 Bureau of Prisons Initial Operating Plan
By Major Program Area

STAFF SALARIES	AMOUNT

Institution Staffing	
Correctional Services	$1,330,305,900
All Other Staff	$1,953,795,100
Sub-Total	$3,284,101,000
Central & Regional Offices and Training Ctrs.	$169,318,000
Total Estimated Staff Salaries	**$3,453,419,000**
OPERATIONS (not including salaries)	
Inmate Care & Programs	
Food Service	$190,138,800
Medical	$462,602,300
Inmate Svcs/Laundry	$41,865,900
Unit Management/Inmate Systems Mgt	$11,905,700
Drug Treatment	$23,306,400
Education & Law Library	$27,624,100
Religious Services	$5,570,600
Psychology	$2,347,700
Sub-Total	**$765,361,500**
Security & Administration	
Correctional Services	$33,715,100
Institution Administration	$88,313,400
PCS Relocation	$35,760,000
Staff Training	$23,909,000
Facilities Maintenance & Utilities (Includes Vehicle & Bus Maintenance)	$329,000,000
Sub-Total	**$510,697,500**
Management & Administration	
Headquarters & Regional Operations/Rent	**$54,510,900**
Contract Confinement	
Contract Sate & Local	$72,019,000
Regional Reentry Centers/Home Confinement	$250,614,300
Private Prisons	$483,131,800
National Institute of Corrections	$6,000,000
Sub-Total	**$811,765,100**
TOTAL (Salaries & Operations)	$5,595,754,000

SECOND CHANCE ACT IMPLEMENTATION

QUESTION: What percentage of inmates undergoes a skills assessment within the first 30 days of incarceration to identify skill deficits and establish goals to address those deficits? Does BOP reassess inmates prior to their exit from a BOP prison facility? If so, what percentage of inmates successfully meets their skill-based goals? How does BOP coordinate with residential reentry centers and probation officers to ensure that offenders continue to receive services to help them meet their skill-based goals? Does BOP require a skill-based assessment prior to release from custody? If so, what percentage of those released meets their goals?

ANSWER

The goal is for all inmates to have a skills assessment conducted within the first 30 days and for this to be reviewed and updated throughout their incarceration as part of their on-going case management. As of March 2009, the assessment system is being implemented into the flow of ongoing case management activities, and the Bureau has processed approximately 33% of the population.

Inmate assessments are reviewed at each team meeting (every 6 months if an inmate has over a year remaining on their sentence or every 3 months if the inmate is within a year of release) and updated as needed.

The system has not yet been fully implemented into the current case management system and it is too soon to measure what percentage has met their goals.

In preparation for an inmates release, an Inmate Skills Development Plan - Progress Report is prepared that summarizes his or her progress in addressing deficit areas and indicates what skill areas need further development and or resources.

SECOND CHANCE ACT IMPLEMENTATION

QUESTION: Who at BOP is responsible for ensuring overall BoP compliance with the requirements of the *Second Chance Act,* and how does BOP plan to evaluate such compliance? Has BOP established overall recidivism reduction goals for its prisoner re-entry efforts, or does it plan to establish such goals? Has BOP established, or does it plan to establish, performance incentives for wardens related to meeting prisoner re-entry goals? If so, please describe those incentives.

ANSWER
The requirements of the Second Chance Act are many and cover a variety of different disciplines. Compliance will be overseen by the subject matter experts. The Act requires the Bureau of prisons to establish recidivism goals after the first annual report is submitted--the first report is in the final draft stages. Once completed we will undertake this task of establishing the goals. The BOP has not established incentive awards related to meeting the reentry goals established by the Second Chance Act. Due to constrained funding, the BOP continues to maintain the strict limits on incentive awards that have been in place for the last several years.

RESIDENTIAL REENTRY CENTERS

QUESTION: Of the inmates expected to be released to a residential reentry center (RRC) in FY 2009, what percentage will spend at least six months in an RRC? What percentage will spend at least nine months in an RRC? What percentage will spend 12 months in an RRC? What percentage of inmates released to an RRC in each of FY 2005, FY 2006, FY 2007, and FY 2008 spent at least six months in an RRC?

ANSWER

As of February 2009, 11,837 inmates have transferred to a Residential Reentry Center (RRC). Of that amount, 41.3 percent of the inmates had an expected stay of six months or more, 0.6 percent had an expected stay of nine months or more and 0.7 percent had an expected stay of 12 months or more.

See below for the inmates released to RRCs in prior years that had a length of stay of six months or more.

Inmates released to RRC for FY 2005 thru FY 2008 that had a length of stay of six months.

Fiscal Year	Number of Inmates Transferred to RRC	Six Month Length of Stay	Percent with Six Month Length of Stay
2005	23,798	7,838	32.94%
2006	25,313	8,719	34.44%
2007	26,751	9,159	34.24%
2008	29,697	10,180	34.28%

RESIDENTIAL REENTRY CENTERS

QUESTION: Please provide a detailed description of the average cost per offender in RRCs, including a breakdown of all costs related to facilities, services, administration, and other relevant categories, less subsistence fees paid by residents.

ANSWER

The Fiscal Year Average Cost of Residential Reentry Centers (RRC)/Home Confinement was $65.25 per day per inmate. A breakout of the rate is listed below.

Contract Cost (Provider): $ 60.13*

Contract Monitoring Staff (Oversight) and Medical Costs $5.12

Total $ 65.25**

Services provided by RRCs include employment assistance, case management, residents development, referral for mental health and/or medical treatment, and other supportive transitional services designed to facilitate reentry.

*Please note the RRC Payment and cost data is "net" of subsistence; in other words, it is the net cost to BOP after subsistence is collected monthly by the contractor. This information is verified and reflected as a credit on the payment invoices and only the net payment amount is actually recorded in the official accounting system.

**This rate also DOES NOT include Transitional Drug Treatment Costs which are paid outside of the per diem rate (typically provided by another contractor and captured under BOP Drug Treatment Cost Data). The BOP does not have a total cost breakdown of all RRC costs. The contracts are awarded and paid based on a daily rate.

RESIDENTIAL REENTRY CENTERS

QUESTION: Please provide a detailed description of the overall, average per-inmate cost of incarcerating an inmate in BOP-operated prison facilities, including a breakdown of all costs related to facilities, services, administration, prison modernization and repair, new prison construction and other relevant categories. In addition, please provide the same detailed description of the average, per-inmate incarceration costs for minimum, low, medium and high security BOP-operated prison facilities.

ANSWER

Please see below the breakout of the Inmate Daily Per Capita Cost (operations budget only) - the FY 2008 "overall average" of all Security Levels

FY 2008 Bureau of Prisons
Breakout of Inmate Daily Per Capita By Major Program Area

	"Overall" Average (average of all security levels) Amount
STAFF SALARIES	
Institution Staffing	
Correctional Services	$17.04
All Other Staff	$23.84
Sub-Total	$40.88
Central & Regional Offices and Training Ctrs. (prorated share applied to each facility)	$1.91
Contract Confinement Oversight Staff	$0.31
Total Staff Salaries	**$43.10**
OPERATIONS	
Inmate Care & Programs	
Food Service	2.48
Medical	5.68
Inmate Svcs/Laundry	0.52
Unit Mgt/Inmate Systems Mgt/Drug Treatment	0.42
Education & Law Library	0.25
Religious Services	0.05
Psychology	0.02
Sub-Total	**9.42**
Security & Administration	
Correctional Services	0.47
Institution Administration	1.95
Staff Training	0.23
Facilities Maintenance & Utilities (Includes Vehicle & Bus Maintenance)	4.31
Sub-Total	**6.96**
Management & Administration	
Headquarters & Regional Operations/Rent	**0.55**
Contract Confinement	
Contract State & Local/RRC's/HC/Private Prisons	**10.72**
Total Operations	**27.65**

Please see below the breakout of the BOP FY 2008 Inmate Daily Per Capita Cost (operations budget only) for the High, Medium, Low and Minimum Security Levels

All Other Staff				
Total	**$51.79**	**$45.19**	**$42.35**	**$33.4**
OPERATIONS				
Inmate Care & Programs				
Food Service	$3.09	$3.05	$2.82	$2.8
Medical	$4.88	$3.67	$4.93	$5.8
Inmate Svcs/Laundry	$0.75	$0.58	$0.61	$0.7
Unit Mgt/Inmate Systems Mgt/Drug Treatment	$0.18	$0.22	$0.23	$0.3
Education & Law Library	$0.19	$0.24	$0.28	$0.5
Religious Services	$0.04	$0.05	$0.07	$0.0
Psychology	$0.02	$0.01	$0.02	$0.0
Sub-Total	**$9.15**	**$7.82**	**$8.96**	**$10.3**
Security & Administration				
Correctional Services	$0.49	$0.28	$0.26	$0.1
Institution Administration	$0.57	$0.60	$0.63	$0.5
Staff Training	$0.22	$0.15	$0.14	$0.1
Facilities Maintenance & Utilities (Includes Vehicle & Bus Maintenance)	$6.24	$4.96	$5.00	$3.5
Sub-Total	**$7.52**	**$5.99**	**$6.03**	**$4.**
Support Cost	**$7.84**	**$6.75**	**$6.52**	**$5.**
Headquarters & Regional Operations/Rent (pro-rata share applied to each institution Institution Bills paid from Hqtrs				
TOTAL (Salary & Operation Amounts)	**$76.30**	**$65.75**	**$63.86** (includes female facilities)	**$53.**

RESIDENTIAL REENTRY CENTERS

QUESTION: Has BOP's research division conducted any research to determine whether longer stays in RRCs correlate with reduced recidivism? If so, what were the conclusions of that research?

ANSWER
Two research studies conducted by the Bureau of Prisons (1976 and 1994) confirm that inmates who release through an RRC are less likely to recidivate than inmates who release directly from a correctional institution. Both studies further demonstrated that pre-release placements in RRCs result in higher rates of employment, which is also correlated with reduced recidivism. The BOP is currently designing a study to assess the effect of length of stay in an RRC on recidivism.

RESIDENTIAL REENTRY CENTERS

QUESTION: Does BOP impose requirements on RRCs for meeting inmate reentry goals? If so, how does BOP hold RRCs accountable for meeting such goals?

ANSWER

BOP's Statement of Work for RRCs does require contractors to assess the risks and individual needs of each offender. Contractors complete an individualized reentry plan based on the results of the assessment during an offender's first two weeks in an RRC. Contractors must identify in the reentry plan how they will prioritize and assist offenders in meeting the identified needs, including specific program activities and a timetable for achievement of these goals.

The contractor's performance is monitored during scheduled and unscheduled site visits. Any deficiencies are noted in monitoring reports, and the contractor is asked to provide corrective action to address the noted weaknesses. "Programs" is one of the factors BOP evaluates to determine a contractor's annual performance rating. The other factors are Accountability, Community Relations, Site Validity and Suitability, Personnel, and Communication/Responsiveness.

PRIVATE CONTRACT FACILITIES

QUESTION: Using available data, what is the average, per-inmate cost of incarcerating an inmate in a privately-contracted low security facility versus a BOP-operated low security facility, discounting the cost of any services provided in BOP-operated facilities that are not also provided in privately-contracted facilities?

ANSWER

Listed below is the BOP FY 2008 Inmate Daily Costs for housing male inmates in a BOP Low Security Prison vs. a Private Prison. Additionally, the majority of inmates housed in Private Prisons are Low Security Male Criminal Aliens, with the exception of the Rivers Correctional Institution in Winton, NC which houses primarily DC Low Security Male Offenders. While there are a number of differences between how each Private Contract Facility is run and how they manage their operations, when compared to a BOP Low Security Male Facility, the major difference is the programming that is provided to inmates at BOP facilities which is not provided in Private Facilities. This is primarily related to Residential Drug Treatment and Education and Vocational Training Programs (with the exception of the CI Rivers Private Prison which has Drug Treatment and Vo-Tech Programs); each of which requires increased staffing and operational costs at BOP facilities.

BOP Low Security **Male** Inmate Daily Rate: **$62.41**

Breakout of Costs (includes staff salaries and operating cost)	
Food Service	$5.42
Medical	8.55
Inmate Svcs/Laundry	0.87
Unit Mgt/ISM Drug Treatment	6.89
Education & Law Library	1.85
Recreation	1.07
Religious Services	0.56
Psychology	0.61
Correctional Services	16.84
Institution Administration	4.29
Staff Training	0.14
Facilities Maintenance & Utilities	8.91
Inst Bills Paid at Hqtrs/Oversight	6.41
Total	$62.41

BOP Private Prison Inmate Daily Rate: $59.36

Contractor Cost (no breakout available to BOP)	$58.28
BOP on-site Contract Staff & Oversight	1.08
Total	$59.36

Note: The Bureau does not collect facilities data from private providers because private providers have service contracts with a firm fixed rate. When private providers submit proposals, the rate includes all the costs to operate the facility. The contracts BOP has in place were awarded after full and open competitions were conducted.

PRIVATE CONTRACT FACILITIES

QUESTION: An October 2007 GAO report found that insufficient data was available for fully comparing the costs of alternatives for acquiring additional low and minimum security prison capacity. Also, according to the report, OMB staff expressed a desire for better cost information on alternatives for such facilities. GAO recommended that BOP collect more data from companies that currently operate low and minimum security facilities under contract with BOP. What is the estimated cost of imposing additional data reporting requirements on private contractors to enable a full comparison of alternatives for acquiring additional low and minimum security capacity?

ANSWER

Over the course of the GAO review, the BOP provided GAO with a considerable amount of detailed cost comparison data including the full costs of the private provider contracts. It was our understanding that if GAO needed additional data from the private sector they would seek to obtain it. GAO was unable to get the information they needed from the private providers and recommended that "...the Attorney General direct the Director of the BOP to develop a cost-effective way to collect comparative data..." As explained in the next paragraph, the BOP already has the full costs to the government for the use of private provider beds through the use of firm fixed contracts.

The BOP does not collect facility data or other comparable data from private providers because the private providers have service contracts with a firm fixed rate. The private providers operate the correctional facilities, and when proposals are submitted, the rate includes all the costs to operate the facility. In addition, the BOP is able to determine what is fair and reasonable with regards to pricing through the use of open competition. The firm fixed price represents the full cost to the government for the beds, and we are uncertain of the cost to require additional information.

USE OF MEDICATION FOR DRUG ABUSE TREATMENT

QUESTION: Is BOP considering the use of medication for its drug abuse treatment programs? If so, what types of medication are being considered?

ANSWER
At present, inmates participating in the Residential Drug Abuse Treatment Program may receive psychotropic medications to treat commonly co occurring mental health conditions, such as major depression or bipolar affective disorder. The Bureau is also exploring the possibility of utilizing medications to reduce cravings as inmates transition to the community through Residential Reentry Centers. While in Residential Reentry Centers, inmates complete Transitional Drug Abuse Treatment, the final phase of the Residential Drug Abuse Program. The medications under consideration for use in this setting include Naltrexone and Buprenorphine.

STAFFING

QUESTION: A GAO report released in February 2009 found that BOP has not systematically assessed how its prisons are using temporary assignments to address

staffing shortages. Specifically, GAO found that BOP failed to follow up on a plan to gather data on using temporary assignments to fill mission-critical posts, and GAO recommended that BOP collect such data. The report indicates that BOP agreed with that recommendation. How does BOP plan to comply with the recommendation and when does BOP anticipate completing its data collection?

ANSWER
The Bureau is conducting a systematic assessment of Correctional Services "mission critical posts" used at its field locations. Utilization of resources (staffing, overtime, etc.) and the issue of vacating posts will be examined. This assessment will cover a one-year period from January 1 through December 31, 2009. After this initial assessment, Correctional Services Program Review Guidelines will be modified as appropriate, based on the findings. Subsequently, regularly-scheduled reviews of institutions will continue to address whether the Bureau is meeting its mission critical post initiative and effectively and efficiently using resources via the guidelines.

FACILITIES MODERNIZATION AND REPAIR

QUESTION: BOP bases its estimates for routine modernization and repair (M&R) needs on a 1996 recommendation from the Federal Facilities Council, which suggested that the annual M&R costs for a facility should be in the range of 2 to 4 percent of the aggregate current replacement value of that facility. Does BOP also evaluate each facility individually to determine a more specific estimate of annual M&R costs?

ANSWER
Yes, in addition to the Federal Facilities Council recommendation used by the BOP to develop budget requests, the BOP uses the Asset Management Plan's (AMP) Facility Condition Index (FCI), and the Annual Buildings and Grounds Reports. The AMP's Facility Condition Index is a basic tool used to identify which facilities are most in need of repairs. The BOP uses the FCI as a model to monitor deteriorating conditions and track delayed modernization and repair needs. Each year, BOP Facilities' staff (at institutions) routinely inspect and assess the physical condition of the facility. This information is recorded in the Buildings and Grounds Report which is used by the institution Work Programming Committee to determine the repair and/or replacement needs of the facility.

FACILITIES MODERNIZATION AND REPAIR

QUESTION: What is the current replacement value of each BOP facility?

ANSWER

The BOP's replacement value costs are calculated using an average replacement cost per bed by security level.

Security Level	Cost per	Number of	Total Cost to	Replacmt. Cost-Less Site &

	Bed	Beds	Replace	Planning
Minimum	$84K	22,212	$1.8B	$1.6B
Low	167K	35,721	5.9B	5.3B
Medium	223K	39,680	8.8B	7.9B
High	276K	12,452	3.4B	3.0B
Administrative*	276K	14,079	3.8B	3.4B

*This includes BOP Federal Medical Centers, Metropolitan/Federal Detention Centers, Metropolitan Correctional Centers, Federal Transportation Center, and the Administrative Maximum Penitentiary.

FACILITIES MODERNIZATION AND REPAIR

QUESTION: What is the estimated cost of addressing the backlog of M&R projects anticipated by the end of fiscal year 2009? Please list each backlogged M&R project and the estimated cost of addressing it.

ANSWER
The estimated cost of the identified backlog of major M&R projects anticipated by the end of Fiscal Year 2009 is $242 million. Attached is the current list of each backlogged major M&R project by region and the estimated cost.

[See Attachment with email]

FACILITIES MODERNIZATION AND REPAIR

QUESTION: Given that M&R resources have consistently not met M&R needs, how does BOP prioritize which facilities will receive funding?

ANSWER
Each fiscal year, BOP institutions perform detailed annual inspections of all areas within their physical plant and provide a repair/modernization list of projects to their regional office. Each regional office consolidates major M&R project request lists from their institutions and forward their priority lists to the Central Office for consideration.

Once the annual appropriation is enacted, the M&R priority list is reviewed by the Central Office and regional offices to identify only the highest priority projects that are ready for contract action. Security and safety projects are identified first for funding, with infrastructure needs following. The BOP then allocates funds, based on the priority list, for as many projects as practical.

CONSTRUCTION AND ACTIVATION OF NEW BOP FACILITIES

QUESTION: Will the construction appropriation in the FY 2009 Omnibus Appropriations Act, an increase of 55 percent, allow BOP to maintain its schedule for all of the planned activations between FY 2010 and FY 2013? Will it allow BOP to expedite their activation or to move forward the activation of other facilities? Please provide the most current construction and activation schedule for new BOP facilities.

ANSWER

New construction funding of $440 million, provided in the FY 2009 Omnibus Appropriations Act will allow the BOP to fully fund and complete the construction of the following two prison projects; Federal Correctional Institution (FCI) Hazelton, WV and U.S. Penitentiary (USP) Yazoo City, MS. It also provides additional funding ($12 million) for site, planning and environmental work for the partially funded FCI Leavenworth project. FCI Hazelton and USP Yazoo City are estimated to be completed in FY 2013.

Upon the completion of the two projects, Salaries and Expenses funding will be required to begin the activation process of the facilities.

Below is a list of new construction projects which are under development and planned for activation between FY 2011 and 2013.

Project Name	Estimated Construction Completion (FY)	Estimated Initial Activation Funding (FY)
FCI McDowell, WV (under construction)	2010	2011
FCI Mendota, CA (under construction)	2010	2011
FCI Berlin, NH (under construction)	2010	2011
FCI Alliceville, AL (under construction)	2011	2011
USP Yazoo City, MS	2013	2013
FCI Hazelton, WV	2013	2013

We very much appreciate the Committee's continued support of the BOP and the additional Buildings and Facilities appropriation funds provided in the FY 2009 Enacted Bill, as it will allow construction completion of two new prison projects.

The construction funds received in FY 2009 will not allow the BOP to maintain the previous schedule for partially funded projects and future activations between FY 2010 and FY 2013, or move forward the activation of other facilities.

STUN-LETHAL FENCES

QUESTION: What percentage of high security BOP facilities currently use stun-lethal fencing, and what are BOP's goals for installing this kind of fencing in the future? Does BOP plan to completely replace staffing at perimeter towers with this fencing?

ANSWER
The BOP plans to install stun lethal fencing at 15 of 16 high security penitentiaries and plans to incorporate these fences into the construction of future penitentiaries. Currently, 47% (7 out of 15) of high security facilities have stun-lethal fencing.

Once fully implemented at each location, the rear gate and central towers where officers supervise inmate activity will continue to be staffed, but other perimeter towers will not.

STUN-LETHAL FENCES

QUESTION: Are there risks associated with using this technology in lieu of correctional officers in towers or other perimeter sites? If so, what are they?

ANSWER
We believe overall institution security will be enhanced with stun-lethal fencing. Risks will be minimized with the continued staffing of rear gates and central towers where officers supervise inmate activity. Also, safe harbors will still be available for staff in all U.S. Penitentiaries.

POTENTIAL TRANSFER OF GUANTANAMO BAY DETAINEES

QUESTION: Has BOP conducted any analyses of the impact of the potential transfer of current Guantanamo Bay detainees to BOP facilities, including detention requirements before, during and after possible criminal trials for such detainees?

ANSWER
BOP is part of the discussions regarding detainee and detention policies directed by Executive Orders of President Obama on January 22, 2009. DOJ will inform the Subcommittee about the analyses and estimated financial impacts upon the conclusion of the detainee and detention reviews and final decisions by the Attorney General.

POTENTIAL TRANSFER OF GUANTANAMO BAY DETAINEES

QUESTION: If so, what is the potential number of such detainees that could be so transferred?

ANSWER

It is too soon to project.

POTENTIAL TRANSFER OF GUANTANAMO BAY DETAINEES

QUESTION: Could current BOP facilities accommodate such transfers, both in terms of security, staffing, and space requirements? If not, how quickly could BOP alter its facility construction or M&R activities to accommodate the Guantanamo Bay detainees?

ANSWER
Our September 2007 assessment includes the security and staffing issues the BOP would face if required to confine the Guantanamo Bay detainees. Because we consider the individuals confined in the Guantanamo Bay facility to be either high security or maximum security, they would need to be incarcerated in high-security or maximum-security institutions. Our high-security institutions are operating at 46 percent above capacity; and there is no expectation that crowding will decrease in the next several years. Our one maximum-security institution (the Administrative Maximum United States Penitentiary in Florence, Colorado) has one bed available. Regarding the number of detainees the BOP might be called upon to confine, we will need to see what the Administration decides based on the review process outlined in the President's Executive Order to close the Guantanamo Bay facility. We currently require all the monies in the FY 2009 appropriations for current services and in the FY 2010 request to construct facilities and undertake modernization and repair projects to meet the needs of the existing and future Federal inmate population.

POTENTIAL TRANSFER OF GUANTANAMO BAY DETAINEES

QUESTION: What is BOP's estimate of its annual costs, including security, staffing, and space requirement costs, associated with detainees transferred from Guantanamo Bay?

ANSWER
The President's Executive Order to close the Guantanamo Bay facility outlines several options for the detainees. We can estimate the space requirements and annual costs of confining these detainees once we know how many of these individuals we might be called upon to incarcerate. Our September 2007 assessment includes the security and staffing issues the BOP would face if required to confine the Guantanamo Bay detainees.

INCARCERATION OF CRIMINAL ALIENS
QUESTION: The statement accompanying the FY 2009 Omnibus Appropriations Act directs the Attorney General to work with the Department of Homeland Security to either transfer ICE detainees out of BOP facilities or to secure reimbursement from ICE

for housing them. What is the status of BOP's efforts to negotiate such an agreement? What would be the annual cost to ICE if it were to reimburse BOP for housing these detainees?

ANSWER

At the present time the BOP does not have a reimbursable agreement with ICE for the housing of detainees that are ICE's responsibility. BOP continues its pursuit of a reimbursable agreement with ICE, but the BOP has encountered some difficulty in getting this accomplished.

The annual cost to ICE for reimbursement of their detainees would be approximately $24 million per year. Listed below is a history of written correspondence/meetings in which BOP attempted to get a reimbursable agreement (RA) in place.

February 24, 2009

BOP has listed a reimbursable agreement with ICE as a top priority for the AG to address with the DHS Secretary regarding the coordination of activities between the two departments. A written response was prepared and submitted by BOP (at the request of the DAG).

June 3, 2008

As a result of the communications with House Appropriations Staffers, BOP worked with the DOJ Appropriations Liaison in crafting proposed Bill Language that would require ICE to reimburse BOP for the housing of ICE detainees.

May 30, 2008

BOP staff spoke to House CJS Appropriations Staff and provided background information (copies of BOP correspondence) and the current estimated costs for housing ICE detainees. House CJS Appropriations Staff, via teleconference, had BOP Administration staff provide some background and explain the history of the issue to DHS House Appropriations Staff in a further attempt to get the problem resolved.

April 13, 2007

A meeting between the BOP Director, BOP Administration Division Staff, and Julie Meyers, then Secretary of DHS was conducted regarding this issue.

April 3, 2007

A formal letter from BOP Director Harley Lappin to Julie Meyers, Secretary, DHS was sent outlining the issue in preparation for the April 13, 2007, scheduled meeting. The letter included an attachment containing the proposed RA between BOP and ICE for the reimbursement of ICE detainees based on current cost data.

May 11, 2005

A formal letter to Michael Garcia, then Assistant Secretary, Immigration and Customs Enforcement was sent from Bruce K. Sasser, then Assistant Director of Administration, BOP, regarding a billing dispute on an exiting RA related to the use of bed space at an existing BOP contract. The letter expressed BOP's desire to follow-up regarding the proposed RA for the housing of ICE detainees in BOP facilities (an earlier letter was sent on May 20, 2004).

May 20, 2004

A formal letter was issued from the BOP Director Harley Lappin to Asa Hutchinson, then Under Secretary for Border Patrol and Transportation Security Department of Homeland Security. In this letter, the BOP Director indicated that he was providing a letter to Assistant Secretary Garcia regarding the need for reimbursement of ICE detainees housed in Bureau of Prisons facilities (see reference below).

May 20, 2004

A formal letter was sent from the BOP Director to Michael J. Garcia, then Assistant Secretary, Immigration and Customs Enforcement, requesting that an interagency agreement be established for the reimbursement of ICE detainees being housed in BOP facilities.

RECIDIVISM

QUESTION: The Pew Center on the States released a report last week suggesting that, when it comes to prison sentences as a deterrent to crime, there is a diminishing rate of return on non-violent offenders convicted of relatively less serious offenses. In other words, longer prison sentences don't really reduce recidivism for such prisoners. The implication is that, instead of imposing long sentences on such offenders at a high cost to the taxpayer, we should be imposing shorter sentences or alternatives to incarceration combined with community support services. Has BOP's research division done work in this area and, if so, what has it concluded?

ANSWER

The results of an extensive BOP assessment of recidivism in 1994 confirm the suggestion made in the Pew Report that the length of a prison term does not affect recidivism. Our agency is also aware of a number of studies of non-Federal inmates that confirm this same finding, such as

SPECIAL MANAGEMENT UNITS

QUESTION: What percentage of inmates are currently housed in special management units (SMU), and at which BOP institutions are SMUs located? How does BOP determine if a particular inmate should be assigned to an SMU and, once that determination is made, how long does it take to transition an inmate to an SMU? What is the prisoner-to-staff ratio for SMUs compared to that of the general population? Is

BOP's conversion of regular housing units to SMUs keeping pace with the need to place inmates in SMUs?

ANSWER

Currently, three facilities meet the agency's need to house inmates in a Special Management Unit (SMU)– USP Lewisburg, FCC Oakdale and FCI Talladega. SMUs are designed for any sentenced inmate whose interaction requires greater management to ensure the safety, security, or orderly operation of Bureau facilities, or protection of the public, because the inmate meets any of the following criteria:

· Participated in disruptive geographical group/gang-related activity.

· Had a leadership role in disruptive geographical group/gang-related activity.

· Has a history of serious and/or disruptive disciplinary infractions.

· Committed any 100-level prohibited act, according to 28 CFR part 541, after being classified as a member of a Disruptive Group pursuant to 28 CFR part 524.

· Participated in, organized, or facilitated any group misconduct that adversely affected the orderly operation of a correctional facility.

· Otherwise participated in or was associated with activity such that greater management of the inmate's interaction with other persons is necessary to ensure the safety, security, or orderly operation of Bureau facilities, or protection of the public.

Upon receipt of the initial referral and the determination that sufficient evidence exists to convene a hearing, the Regional Director appoints a Hearing Administrator to conduct a hearing into whether the inmate meets the criteria for SMU designation. The hearing will be conducted by a Hearing Administrator who is a trained and certified Discipline Hearing Officer and impartial decision-maker who has not been personally involved as a witness or victim in any relevant disciplinary action involving that inmate. If the inmate meets the criteria and the transfer referral is approved, he/she will be designated to a facility commensurate with his/her custody and security needs. Ordinarily the transition process from hearing to SMU is approximately 30 days.

The BOP is in the initial stages of implementing the SMUs. As of March 2009, 275 inmates have been designated as SMU inmates, and numerous referrals are still going through the hearing process described above. Therefore, until the backlogs of referrals are processed, an inmate to staff ratio compared to the general population is not available.

Commerce, Justice, Science, And Related Agencies

Appropriations for 2010

Major Challenges Facing Federal Prisons (BOP) Part I

Tuesday, March 10, 2009

Questions Submitted by Mr. Wolf

COUNTERTERRORISM UNIT FUNDING IN FY 2010

QUESTION: Congress provided $26 million over the last two years in supplemental bills for a Counterterrorism Unit to coordinate procedures and information related to your growing terrorist prisoner population. Does your FY 2010 budget include funding to continue this effort?

ANSWER: The Counterterrorism Unit is funded with supplemental funds provided by Congress in FY 2007 and FY 2008. Details about the FY 2010 budget request for the Counter Terrorism Unit will be included in the Federal Prison System congressional justification.

COUNTERTERRORISM UNIT FUNDING IN FY 2010

QUESTION: Can you describe the functions and accomplishments of this Unit? How does the Unit work with the FBI and other agencies, and what more you would like to be able to do in FY 2010?

ANSWER: Functions: In October 2006, the Federal Bureau of Prisons' Counter Terrorism Unit (CTU) was activated in Martinsburg, West Virginia. The CTU serves as an extension of the Bureau's Intelligence Branch, employing standardized and specialized analysis of issues relating to heightened correctional management and monitoring of inmates classified as international and domestic terrorist offenders. The CTU consolidates all intelligence gathering on terrorist offenders into one centralized office. This office also houses law enforcement officers and intelligence analysts from fellow Department of Justice (DOJ) components. The mission of the CTU is to identify and validate the terrorist offenders in Federal custody; monitor and analyze the terrorist offenders' communications; provide translation and transcription services; produce intelligence products which enable executive staff to make informed decisions; develop and provide relevant counter terrorism training; and coordinate and liaise with the correctional, law enforcement, and intelligence communities.

Accomplishments: Since October 2006, CTU staff have provided instruction and participated in fourteen Bureau Intelligence and Investigations Training courses; one Bureau National Captains' Training course; one training session provided to the National Security Agency; five joint Bureau and Federal Bureau of Investigation (FBI) Analytical Investigative Techniques courses; two FBI Crypt Analysis courses; two training sessions provided for the National Joint Terrorism Task Force Correctional Intelligence Initiative; one training session provided for the Intelligence Officer program of the Executive Office of United States Attorneys; one training session provided for the FBI Baltimore Field Office's Joint Terrorism Task Force conference; one training session provided for the National Institute of Corrections; and one training session provided during the Winter American Correctional Association conference. All of these training sessions provide Bureau staff, federal and local law enforcement, and intelligence staff with up to date information on the management of terrorist inmate offenders and communications management. On May 8, 2008, former Assistant Attorney General Alice S. Fisher issued new guidelines concerning inmate communications acquired or collected by the BOP, stating that disclosure to the FBI for purposes of national security investigations, the collection of foreign intelligence information, or any other matter related to domestic or international terrorism is mandated. As such, the BOP is now required to provide content of inmate communications to the FBI without a court order or other legal process. The Bureau designated the CTU to be the central repository to collect, manage, and disseminate the inmate communications to the FBI.

BOP Intelligence Analysts assigned to the CTU have identified a vast amount of information which has been culled from inmate communications. This information is analyzed and processed into an intelligence product and CTU staff have produced 88 Intelligence Reports and ten Intelligence Bulletins. These reports are disseminated to the FBI's National Joint Terrorism Task Force, local Joint Terrorism Task Forces, and specific investigative and analytical units within the FBI. These reports are also distributed to members of the intelligence community and state and local law enforcement agencies, based on their demonstrated need to receive this intelligence. In addition, the intelligence products are disseminated to the Executive Office for United States Attorneys, which distribute information to all United States Attorneys Offices. Several years ago, the BOP recognized the difficulty in managing terrorist offenders communications, and an agency wide plan was developed and approved to more effectively manage and monitor this segment of the inmate population. The plan called for the creation of the Communications Management Units (CMU), which are located at FCI Terre Haute and USP Marion. The CMUs enable the CTU staff to direct their intelligence gathering and analysis specifically to those offenders who require enhanced monitoring of their communications.

Recommendations for inmate transfers to a CMU are forwarded to CTU staff for initial review and consideration. CTU staff collect the relevant material referencing the inmate, i.e., Pre Sentence Reports, Judgment and Commitment Files, etc., and prepare a memorandum regarding the inmate's referral for transfer to CMU. Upon final approval for transfer of the inmate to a CMU, CTU staff coordinate the authorization to designate and transfer identified inmate(s). In July 2007, the BOP established a nation wide foreign language translation contract providing translation services for all BOP institutions. The CTU was designated by the BOP as the office to manage this program. Currently, CTU staff process an average of 5,000 pieces of inmate communication monthly, in over 40 languages and dialects. All BOP staff assigned to the CTU have a Top Secret security clearance with Sensitive Compartmented Information (SCI) access.

Access to classified information and classified computer systems has increased to the level where it requires more secure office space, and the BOP has committed to a new 10,000 SF office. This new office will also house a Sensitive Compartmented Information Facility (SCIF), which will enable the BOP to liaise with other law enforcement and intelligence agencies and significantly enhance information sharing.

Work with the FBI & other agencies: The CTU has developed enhanced operational procedures relating to the monitoring and translation of inmate communications, i.e., telephone calls and correspondence, implementation of link analysis for efficient use of all informational systems and heightened integration with the FBI and other appropriate members of the Intelligence Community for comprehensive analysis and dissemination of pertinent information. The CTU currently has one FBI Intelligence Analyst assigned to the unit, and the FBI has committed to providing four additional Intelligence Analysts in the future, based on their staffing requirements. Two CTU staff are alternate members of the National Joint Terrorism Task Force. It is also anticipated that non Bureau staff (ATF, DEA, USMS, US Attorney's Office) will co locate at the CTU to support its mission. FY2010: In FY2010, we anticipate that resources will be devoted to identifying, interdicting, and combating terrorist acts. Currently, over 500 BOP inmates are affiliated with international and domestic terrorism. The role of the CTU requires staff with specific skill sets that are not ordinarily developed with traditional Bureau training programs, and so training opportunities must be identified through outside sources.

CLOSING GUANTANAMO

QUESTION: President Obama has set a timetable for closing Guantanamo. Are you making contingency plans to possibly absorb some of those detainees in your system? And if so, what are the resource and other requirements for doing so?

ANSWER: It is too early to describe the BOP's role in absorbing any of the detainees at the Guantanamo Bay detention facility into our system. The Administration is reviewing the status of every detainee, as directed by the President's Executive Order. If Federal prosecution is pursued for any of these individuals, the BOP may be called upon to confine them in one of our detention centers while the detainee is going to Federal court. If the detainee is eventually convicted of a Federal crime, the BOP would, in all likelihood, incarcerate that individual in a BOP facility. The type of institution would depend upon the individual's offense of conviction, sentence length, history of violence, and other factors, and the BOP is looking at options for housing.

PRISON RAPE PREVENTION

QUESTION: The BOP and the National Institute of Corrections are responsible for assisting State and local systems on prison rape prevention, investigation and punishment. How would you assess the progress that has been made so far in understanding and

quantifying the problem, and what should be the next steps as we to work toward the goal of elimination?

ANSWER: The National Institute of Corrections (NIC) has provided assistance to corrections agencies addressing staff sexual misconduct with offenders since the mid-1990's. The Prison Rape Elimination Act (PREA) was signed into law in September of 2003 and expanded the scope of this work. PREA speaks to the issue of inmate on inmate sexual abuse, as well as staff sexual misconduct. The law mandates multiple Department of Justice agencies, including NIC, the Bureau of Justice Statistics (BJS), the Bureau of Justice Assistance, and the National Institute of Justice to complete several major objectives. In addition, it established two time-limited entities. The National Prison Rape Elimination Commission is charged with gathering information on the issue of prison rape and developing a report of its findings, along with issuing national standards aimed at its elimination. The National Prison Rape Review Panel was established to review data collected by BJS and hold hearings to review the practices of the institutions with the highest and lowest reported incidents of sexual abuse.

In developing numerous products and services to aid federal, state and local officials, the work of the named federal agencies has served to bring the long hidden issue into the light, heighten awareness, and better address sexual abuse of offenders. Information and assistance has reached prison systems and jails throughout the country. Agencies have addressed the issue in the following ways: policies and practices have been reviewed and revised; new staff training programs have been designed and delivered; and inmate orientation and classification processes have been implemented. Some agencies have focused on ensuring inmate victims receive medical and mental health treatment. Others are working to improve investigations and refer appropriate cases for prosecution. Still others have implemented such things as "hotlines" to report sexual abuse and vulnerability assessment to aid with prevention.

A list of the most significant training and services provided over the past year by the NIC is highlighted as follows:

- A Training Overview Responding to Inmate on Inmate Sexual Violence was conducted July 13-18, 2008. Twenty-one individuals representing seven jurisdictions participated in training and discussions about the Prison Rape Elimination Act, human sexuality, sexual behavior in institutional settings, the PREA standards and the applicability, institutional culture, state laws and their impact on inmate-inmate sexual violence, policy issues, staff training and inmate orientation, victimization and mental health care, preventing inmate on inmate sexual violence, investigating inmate on inmate sexual violence, medical health care, prosecuting inmate on inmate sexual violence, and legal liability for prison sexual violence.
- This was followed by a workshop on Investigating Allegations of Staff Sexual Misconduct with Offenders, July 20-25, 2008. It was attended by twenty-four individuals representing six jurisdictions. Participants discussed the PREA, state laws and investigations, agency culture, the applicability of the PREA standards, training for investigators in a correctional setting, investigative policy, operational practices, investigative techniques, DNA and medical health care, victimization and mental health

care, media, the role of prosecutors in staff sexual misconduct cases, human resources issues in cases of staff sexual misconduct, and legal liability and investigations.

- PREA Training Workshops were presented at four national conferences held by major professional correctional organizations. Leaders and managers from all types of correctional organizations were introduced to PREA generally, various concepts and strategies in addressing the issue of sexual assault and misconduct in correctional settings, and the most recent resources. These workshops were all well attended with an average of 50 to 75 participants.
- Technical Assistance Overview--NIC provided technical assistance to 11 requesting agencies during the reporting period (March 2008 through March 2009.) This assistance was configured in several ways and ranged from the delivery of information and training about PREA to assisting agencies with policy development and planning system wide approaches to prevent, investigate and punish sexual assault and misconduct. Resources and Products Several strategies and resources were continued or introduced during the reporting period. These include real-time web-chats, an interactive, e-learning course for first responders, a correctional officer's handbook for addressing staff sexual misconduct, informational bulletins offering staff perspectives on investigating incidents of sexual violence in prisons and jails, and the issue of sexual violence in women's facilities, and an informational PREA brochure for community corrections practitioners.
- Information Services Overview Through its Information Center--NIC responded to more than 1,000 requests for information. The requesters were provided video tapes and DVD, plus written materials on such topics as agency policy and procedure, incident investigation processes, risk assessment, staff training, and other issues related to staff sexual misconduct and offender-on-offender sexual assault.
- The NIC web-site contains information on several topics related to PREA. Approximately 41,500 visitors to the site sought information about the PREA law, the National Prison Rape Elimination Commission and current research and the various activities of agencies awarded funds under the PREA grant program administered by the Bureau of Justice Assistance.

A report titled *Report On Rape In Jails In The U.S.*, published December 29, 2008, by the Review Panel on Prison Rape, documented that there are common characteristics of victims and perpetrators of sexual victimization. There are also common characteristics of jail systems with high or low prevalence of sexual assault. With this information, the report identified best practices that would work towards elimination of rape in the U.S. jails. These practices include training of staff and inmates, proper classification of inmates, surveillance, reporting, investigation, prosecution and establishing relevant policies and practices at all levels.

There is still work to be done. PREA was written to reach agencies at all levels of government, nationwide. Although much work has been done, there are still those who need to be reached and the work of the NIC must continue to provide training materials and education.

FEDERAL PRISON INDUSTRIES

QUESTION: A critical program, not only for successful prisoner reentry, but also for keeping prisoners productively occupied while in prison, is Federal Prison Industries. How many of your prisoners are active in this program, and how does that compare with past levels?

ANSWER: Congress has enacted legislation over the past few years that has severely eroded FPI's mandatory source, thereby adversely impacting FPI's sales, earnings, and inmate employment.

Section 811/819 of the 2002/2003 Defense Authorization bills, which took effect in December of 2001 and December of 2002, respectively, allows the DoD to bypass FPI's mandatory source unless it determines that products available from FPI are comparable to those available from the private sector in terms of price, time of delivery, and quality.

Section 637 of the FY 2004 and 2005 Consolidated (Omnibus) Appropriations bill extended the same requirement as Sections 811/819 to all civilian agencies as well.

Most recently, Section 827 of the FY 2008 National Defense Authorization Bill was passed last year.

Due to these administrative and legislative changes, FPI's inmate employment levels and earnings have dropped precipitously. As of December 31, 2008, there were 21,593 inmates participating in the FPI program. This represents a decrease of more than 1,500 inmates working in FPI over the last five quarters. As of 12/31/08, FPI provided job skills training and work experience to17% of the Bureau'swork-eligible inmate population (or 13% of the total population). As recently as 2001, approximately 25% of the Bureau's work-eligible inmates were working in the FPI program.

FEDERAL PRISON INDUSTRIES RESTRICTIONS

QUESTION: What has been the impact of FPI restrictions on the ability of Federal prisoners to successfully reenter their communities, and on security and safety within prisons?

ANSWER: Since 2002, Congress has passed several pieces of legislation restricting how federal departments and agencies can purchase products and services from the FPI program. This has had a negative impact on FPI's sales and earnings. By law, FPI operates in a self-sustaining manner. It receives no appropriated funding and operates at no cost to the taxpayers. Thus, to limit its financial losses, FPI has had to eliminate many inmate jobs. While FPI is reducing its inmate employment, the BOP's inmate population continues to grow. In 2001, the FPI program employed 25% of the BOP's work-eligible population. Today, only 17% of the BOP's work-

eligible inmates work in FPI (13% of the total inmate population). This is very troubling, not just because it increases inmate idleness, which is a potential cause of violence, but also because it negatively impacts efforts to reduce recidivism. Research has shown that inmates in the FPI program are 24% less likely to recidivate than similar inmates without FPI experience. Each time the BOP must reduce the number of inmates in the FPI program, it has a negative impact on recidivism.

LIFE CONNECTIONS

QUESTION: You have a multi-faith residential program called Life Connections. How does this program work, how many have graduated, and what conclusions have you been able to draw about recidivism and program success?

ANSWER:

Life Connections Program

The mission of the Life Connections Program (LCP), which was established in 2002, is to contribute to an inmate's personal transformation and to reduce recidivism. The LCP is an 18-month residential multi-faith-based, reentry program designed for inmates at various security levels. Participants address critical areas of their life in the context of their personal faith or value system. The LCP is currently underway at FCI Petersburg, VA; USP Leavenworth, KS; FCI Milan, MI; USP Terre Haute, IN; and FMC Carswell in Fort Worth, TX. The program is open to inmates of all religions and inmates with no religious leanings.

Program details:

- In compliance with the Second Chance Act of 2007, the LCP addresses many of the life skills areas identified as critical to successful reentry by the Bureau's Inmate Skills Initiative.
- Inmates participate in victim awareness programs to help them understand the consequences of their crimes.
- Participants live together in the same housing unit and program for half of each day and work for half a day. There is also evening and weekend programming.
- Participants must complete a series of interactive journals in specific life skills areas and demonstrate proficiency before graduating from the program.
- Inmates are connected with mentors at the institution and with a faith-based or community organization at their release destination in order to enhance community re-integration. This is in compliance with The Second Chance Act of 2007.
- Each participant must complete 500 hours of work in a community service project.
- Inmates participate in specific goal setting exercises to assist them in release preparation.
- Throughout the LCP, inmates develop a reentry plan to assist them in gathering necessary resources critical to successful return to society.

Research of the Residential Pilot

The Bureau's Office of Research and Evaluation is compiling data on the Life Connections Program. Its findings include:

- Participants scored higher than average on the motivation to change scale, had higher rates of attendance at religious services since incarceration, and were more active in reading sacred scripture.
- In the study of program completion, the results demonstrated reading sacred scripture, positive self worth, and a desire for community integration upon release were important factors in participants completing the program.
- The study of prison adjustment demonstrated that participation in the LCP significantly lowered the probability of engaging in serious forms of institution misconduct.
- The impact of the LCP program on lowering recidivism is too early for analysis.

LCP Graduates and Released Participants:

(As of 11/29/08)

LCP graduates	948
Released	509
Never been released	439
Returned to incarceration	72

14% recidivism rate (preliminary statistic)

Current Life Connections Program:

LCP Participants in Active Program Cohort	453
LCP Designees at Program Site Awaiting Start-up	207
LCP Designees in Pipeline (not at program site)	39
Current Applications for LCP Program	156

LCP Staff, Contractors, Volunteers and Mentors

- LCP sites are staffed with one Chaplain Program Manager and one Program Assistant. Chaplains supervise the Program Assistant and oversee all personnel (contract and volunteer) and programming components.
- Contract Spiritual Guides (Muslim, Catholic, Native American, Jewish and Values Based) and contract Program Facilitators assist in the day to day operations.
- A Community Liaison recruits and trains a broad spectrum of religious and civic organizations to serve as reentry mentors. This complies with mandates set forth in the Second Chance Act of 2007.

- The relationships between these reentry mentors and the inmate participants begin early in the incarceration phase of the program and continue after their release back to the community.

Incarceration Phase Mentors	152
Incarceration Phase Volunteers	62
Incarceration Phase Contractors	33
Mentor Organizations at release sites	857

THRESHOLD PROGRAM MODEL

QUESTION: Besides Life Connections, I understand that you have developed another, shorter-term program for inmates who are closer to release. Could you describe the Threshold program model and how that program will assist in prisoner reentry?

ANSWER: The Threshold Program (Threshold) is a condensed version of the Bureau of Prisons' (Bureau) Faith based and Community Initiative Reentry program, Life Connections. The program is comprised of three phases: Orientation, Personal Growth and Development, and Relationships. It is an institution based, six to eight month non-residential experience for inmates preparing for reentry. Program participants meet weekly for 1 1/2 to 2 hour sessions.

- Twenty three Bureau institutions offer the Threshold Program. Approximately 360 inmates have completed the program. An estimated additional 700 inmates will participate in the Threshold Program in FY 2009.
- The program is led by the institution chaplain and incorporates the weekly assistance of community mentors as highlighted by the Second Chance Act of 2007.
- In accordance with the Second Chance Act of 2007, Threshold provides strong support of the Bureau's Inmate Skill Development Initiative through its integration of a curriculum that focuses on 9 Life Skill Areas. These life skill areas have been established by the agency as benchmarks to positive reentry.
- The nine life skill areas encompass: managing mental and emotional health; daily living; decision making; wellness; personal relationships; continued educational growth; positive use of leisure time; accepting personal responsibility; and character.
- Threshold participants explore and evaluate these nine core areas with the chaplain, mentors and from the perspective of their religious tradition or personal value system by using personal interactive journaling, goal setting and group assignments. Participants are also tasked with completing a reentry plan during the course of the program.
- The program incorporates outcome measures to monitor inmate development in each of the 9 skill sets.
- Building upon the leadership of the institution chaplain and its use of community mentors, the Threshold Program is a cost effective reentry initiative that could be effectively replicated throughout the Bureau if funds are available.

FY 2010 FAITH-BASED FUNDING

QUESTION: Does your FY10 budget request include funds to continue or expand these faith-based programs?

ANSWER: Details about the FY 2010 budget request for our faith-based programs will be included in the Federal Prison System congressional justification.

M&R SHORTFALL

QUESTION: An area of chronic shortfall in your budget is modernization and repair of facilities. The Federal Facilities Council recommends an M&R budget of 2% of the replacement cost. What percentage of replacement cost does your current M&R budget represent?

ANSWER: The BOP's FY 2009 funding level of $110.627 million for the M&R program is at 0.5 percent of the replacement value.

M&R AND RECIDIVISM LINK

QUESTION: How does the adequacy of your M&R budget relate to your ability to supervise, and provide programs for, inmates? Is there a link to recidivism and successful reentry?

ANSWER: Some M&R projects are accomplished with the assistance of inmate crews, under staff supervision. This reduces inmate idleness as well as provides the inmates a chance to learn a skill that can improve inmate self-control, provide educational opportunities to facilitate re-entry and transition, and establish healthy relationships between staff and inmates by dividing the large institution population into smaller, more manageable groups. Thus, an adequate M&R funding level protects taxpayers' capital assets and would provide additional instructional work for inmates and labor for the work to be performed. It is more effective for staff to supervise and monitor inmates when they are busy working on a project than if they are idle. Similar programs, such as vocational training have been shown to significantly decrease recidivism rates. Failure to adequately maintain structures and utility systems erodes capital investment and multiplies the costs in future years for accomplishing the required maintenance and repairs. Most important, failure to maintain structures can cause direct and/or indirect security problems.

NEW CRACK SENTENCING GUIDELINES

QUESTION: Last year I understand that you testified to the Committee that about 19,500 prisoners may be eligible for a reduced sentence under the new crack sentencing guidelines, and that 12,000 of those could be released over the next 5 years. What has been the experience so far? Are there any special programs that are focused on reducing recidivism among this population?

ANSWER: Our experience has been very consistent with the United States Sentencing Commission (USSC) projections. All together, the BOP has processed more than 15,000 sentence reduction orders as a result of the retroactive change to the guidelines. Approximately 3,700 inmates were released in fiscal year 2008 pursuant to such orders; 1,300 of these inmates would otherwise have been released during that year. So far in FY 2009 (February, 2009), 43 crack offenders have been released pursuant to the guideline change. These numbers indicate that the greatest impact of the sentencing guideline change has already occurred, and that in this and future fiscal years we will see a negligible impact on the BOP's projected inmate population. This is also consistent with the USSC estimates published prior to the change in the guidelines. There were no special programs in place specifically for crack cocaine offenders. However, there are a variety of inmate programs available to all inmates, many of which have been proven to reduce recidivism. These include residential drug abuse treatment programs. Rigorous research has found that 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. Other programs are Federal Prison Industries, vocational training, and education programs. Research has demonstrated 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; and inmates who participate in education programs are 16 percent less likely to recidivate than similarly-situated inmates who did not participate in these programs.

Commerce, Justice, Science, And Related Agencies

Appropriations for 2010

Major Challenges Facing Federal Prisons (BOP) Part I

Tuesday, March 10, 2009

Questions Submitted by Congressman John Culberson

BOP POPULATION PROJECTION
QUESTION: Has the BOP prepared inmate population projections for FY 2010, 2011, and 2012? Are those projections broken down by demographics, such as age, sex, security level, length of sentence, and whether the inmate is a criminal alien? Will you share with my staff BOP's inmate population projects for FY 2010, 2011, 2012?

ANSWER: End of year, Inmate population projections are as follows: FY 2010 – 210,662 inmates FY 2011 – 215,159 inmates FY 2012 – 219,652 inmates. The current demographics of the inmate population are as follows, which will continue in future: The average inmate age is 38. Of the total population, males are 93.4% and females are 6.6%. Inmates by security level: High 11%, Medium 29%, Low 37%, Minimum 13%, and Administrative 10%. The mean (average) sentence length is 113 months. 25.9% of BOP inmates are criminal aliens.

PRIVATE PRISON CONTRACTS
QUESTION: In an effort to overcome anticipated overcrowding in BOP operated facilities during FY 2009 and FY 2010, would the BOP consider using contract bed space to house minimum and low security inmate population in addition to criminal aliens? In other words, are there any inmate populations, other than criminal aliens, which BOP can house in contract facilities?

ANSWER: Since the mid-1980s, the Bureau of Prisons (BOP) has contracted for the confinement of sentenced offenders in secure facilities. This gives the BOP the needed flexibility to manage a rapidly growing inmate population and to help control crowding. As of March 12, 2009, 18 percent (36,534 inmates) of the total BOP inmate population is in a contract facility. This includes a government owned and privately managed facility, privately operated secure facilities, facilities managed by state and local governments, residential reentry centers, and home confinement. The percentage of inmates in contract care is up from 1.5 percent in 1980, to 10.7 percent in 1990, to 18 percent currently. The BOP has found that contract confinement is particularly suited to low and minimum security offenders. The great majority of inmates in BOP contract facilities are male low security, short-term, sentenced criminal aliens who do not require extensive reentry programs. Therefore, contracts could be awarded at a more reasonable cost to

the taxpayers. Currently, there are over 15,000 Low Security male criminal aliens housed in BOP facilities, and this group of inmates could be contracted out if the funding is made available.

CONSTRUCTION OF NEW BOP FACILITIES

QUESTION: In the mark for BOP's FY 2009 Appropriations, House Report 110-919, this Subcommittee recommended $135.8 million for the construction, modernization, maintenance, and repair of BOP prison and detention facilities. During FY 2009, does the BOP anticipate the award of any new contracts for the construction of BOP operated prisons? During this same time period, does the BOP anticipate issuing RFPs for the construction of new BOP operated prisons? What security level inmate will be housed in these newly constructed BOP operated facilities? Does the BOP have an activation schedule for new BOP operated facilities for FY 2009; 2010; and 2011? Will you provide my staff with the most current activation schedule for BOP operated facilities for FY 2009, 2010, and 2011?

ANSWER: The BOP plans to award design-build construction contracts for two projects, U.S. Penitentiary (USP) Yazoo City, Mississippi and Federal Correctional Institution (FCI) Hazelton, West Virginia. These procurements are already underway and during the remainder of FY 2009, the BOP will issue Requests For Proposals (RFPs) as part of the process to complete procurements of the major design-build contracts for USP Yazoo City and FCI Hazelton. Nearly all construction for these projects will be included in the design-build contracts. All other planned projects are not yet fully funded. Therefore, the BOP does not plan to issue any other RFPs for construction of new federal prisons during FY 2009. USP Yazoo City will house high security inmates and FCI Hazelton will house medium security offenders. In FY 2009, the BOP will continue the activation process for FCI Pollock, LA. In FY 2010, the following facilities will be completed: FCI McDowell, WV; FCI Mendota, CA; and FCI Berlin, NH. The BOP could start the activation process of these prisons if funding is made available, while continuing to focus on improving staffing at existing institutions. For FY 2011, the secure female facility in Aliceville, AL will be completed, and the BOP can start the activation process if the funding is made available.

Commerce, Justice, Science, And Related Agencies

Appropriations for 2010

Major Challenges Facing Federal Prisons (BOP) Part I

Tuesday, March 10, 2009

Questions Submitted by Mr. Wolf

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QUESTION: Can you describe the functions and accomplishments of this Unit? How does the Unit work with the FBI and other agencies, and what more you would like to be able to do in FY 2010?

ANSWER: Functions: In October 2006, the Federal Bureau of Prisons' Counter Terrorism Unit (CTU) was activated in Martinsburg, West Virginia. The CTU serves as an extension of the Bureau's Intelligence Branch, employing standardized and specialized analysis of issues relating to heightened correctional management and monitoring of inmates classified as international and domestic terrorist offenders. The CTU consolidates all intelligence gathering on terrorist offenders into one centralized office. This office also houses law enforcement officers and intelligence analysts from fellow Department of Justice (DOJ) components. The mission of the CTU is to identify and validate the terrorist offenders in Federal custody; monitor and analyze the terrorist offenders' communications; provide translation and transcription services; produce intelligence products which enable executive staff to make informed decisions; develop and provide relevant counter terrorism training; and coordinate and liaise with the correctional, law enforcement, and intelligence communities.

Accomplishments: Since October 2006, CTU staff have provided instruction and participated in fourteen Bureau Intelligence and Investigations Training courses; one Bureau National Captains' Training course; one training session provided to the National Security Agency; five joint Bureau and Federal Bureau of Investigation (FBI) Analytical Investigative Techniques courses; two FBI Crypt Analysis courses; two training sessions provided for the National Joint Terrorism Task Force Correctional Intelligence Initiative; one training session provided for the Intelligence Officer program of the Executive Office of United States Attorneys; one training session provided for the FBI Baltimore Field Office's Joint Terrorism Task Force conference; one training session provided for the National Institute of Corrections; and one training session provided during the Winter American Correctional Association conference. All of these training sessions provide Bureau staff, federal and local law enforcement, and intelligence staff with up to date information on the management of terrorist inmate offenders and communications management. On May 8, 2008, former Assistant Attorney General Alice S. Fisher issued new guidelines concerning inmate communications acquired or collected by the BOP, stating that disclosure to the FBI for purposes of national security investigations, the collection of foreign intelligence information, or any other matter related to domestic or international terrorism is mandated. As such, the BOP is now required to provide content of inmate communications to the FBI without a court order or other legal process. The Bureau designated the CTU to be the central repository to collect, manage, and disseminate the inmate communications to the FBI.

BOP Intelligence Analysts assigned to the CTU have identified a vast amount of information which has been culled from inmate communications. This information is analyzed and processed into an intelligence product and CTU staff have produced 88 Intelligence Reports and ten Intelligence Bulletins. These reports are disseminated to the FBI's National Joint Terrorism Task Force, local Joint Terrorism Task Forces, and specific investigative and analytical units within the FBI. These reports are also distributed to members of the intelligence community and state and local law enforcement agencies, based on their demonstrated need to receive this intelligence. In addition, the intelligence products are disseminated to the Executive Office for United States Attorneys, which distribute information to all United States Attorneys Offices. Several years ago, the BOP recognized the difficulty in managing terrorist offenders communications, and an agency wide plan was developed and approved to more effectively manage and monitor this segment of the inmate population. The plan called for the creation of the Communications Management Units (CMU), which are located at FCI Terre Haute and USP Marion. The CMUs enable the CTU staff to direct their intelligence gathering and analysis specifically to those offenders who require enhanced monitoring of their communications.

Recommendations for inmate transfers to a CMU are forwarded to CTU staff for initial review and consideration. CTU staff collect the relevant material referencing the inmate, i.e., Pre Sentence Reports, Judgment and Commitment Files, etc., and prepare a memorandum regarding the inmate's referral for transfer to CMU. Upon final approval for transfer of the inmate to a CMU, CTU staff coordinate the authorization to designate and transfer identified inmate(s). In July 2007, the BOP established a nation wide foreign language translation contract providing translation services for all BOP institutions. The CTU was designated by the BOP as the office to manage this program. Currently, CTU staff process an average of 5,000 pieces of inmate communication monthly, in over 40 languages and dialects. All BOP staff assigned to the CTU have a Top Secret security clearance with Sensitive Compartmented Information (SCI) access.

Access to classified information and classified computer systems has increased to the level where it requires more secure office space, and the BOP has committed to a new 10,000 SF office. This new office will also house a Sensitive Compartmented Information Facility (SCIF), which will enable the BOP to liaise with other law enforcement and intelligence agencies and significantly enhance information sharing.

Work with the FBI & other agencies: The CTU has developed enhanced operational procedures relating to the monitoring and translation of inmate communications, i.e., telephone calls and correspondence, implementation of link analysis for efficient use of all informational systems and heightened integration with the FBI and other appropriate members of the Intelligence Community for comprehensive analysis and dissemination of pertinent information. The CTU currently has one FBI Intelligence Analyst assigned to the unit, and the FBI has committed to providing four additional Intelligence Analysts in the future, based on their staffing requirements. Two CTU staff are alternate members of the National Joint Terrorism Task Force. It is also anticipated that non Bureau staff (ATF, DEA, USMS, US Attorney's Office) will co locate at the CTU to support its mission. FY2010: In FY2010, we anticipate that resources will be devoted to identifying, interdicting, and combating terrorist acts. Currently, over 500 BOP inmates are affiliated with international and domestic terrorism. The role of the CTU requires staff with specific skill sets that are not ordinarily developed with traditional Bureau training programs, and so training opportunities must be identified through outside sources.

CLOSING GUANTANAMO

QUESTION: President Obama has set a timetable for closing Guantanamo. Are you making contingency plans to possibly absorb some of those detainees in your system? And if so, what are the resource and other requirements for doing so?

ANSWER: It is too early to describe the BOP's role in absorbing any of the detainees at the Guantanamo Bay detention facility into our system. The Administration is reviewing the status of every detainee, as directed by the President's Executive Order. If Federal prosecution is pursued for any of these individuals, the BOP may be called upon to confine them in one of our detention centers while the detainee is going to Federal court. If the detainee is eventually convicted of a Federal crime, the BOP would, in all likelihood, incarcerate that individual in a BOP facility. The type of institution would depend upon the individual's offense of conviction, sentence length, history of violence, and other factors, and the BOP is looking at options for housing.

PRISON RAPE PREVENTION

QUESTION: The BOP and the National Institute of Corrections are responsible for assisting State and local systems on prison rape prevention, investigation and punishment. How would you assess the progress that has been made so far in understanding and

quantifying the problem, and what should be the next steps as we to work toward the goal of elimination?

ANSWER: The National Institute of Corrections (NIC) has provided assistance to corrections agencies addressing staff sexual misconduct with offenders since the mid-1990's. The Prison Rape Elimination Act (PREA) was signed into law in September of 2003 and expanded the scope of this work. PREA speaks to the issue of inmate on inmate sexual abuse, as well as staff sexual misconduct. The law mandates multiple Department of Justice agencies, including NIC, the Bureau of Justice Statistics (BJS), the Bureau of Justice Assistance, and the National Institute of Justice to complete several major objectives. In addition, it established two time-limited entities. The National Prison Rape Elimination Commission is charged with gathering information on the issue of prison rape and developing a report of its findings, along with issuing national standards aimed at its elimination. The National Prison Rape Review Panel was established to review data collected by BJS and hold hearings to review the practices of the institutions with the highest and lowest reported incidents of sexual abuse.

In developing numerous products and services to aid federal, state and local officials, the work of the named federal agencies has served to bring the long hidden issue into the light, heighten awareness, and better address sexual abuse of offenders. Information and assistance has reached prison systems and jails throughout the country. Agencies have addressed the issue in the following ways: policies and practices have been reviewed and revised; new staff training programs have been designed and delivered; and inmate orientation and classification processes have been implemented. Some agencies have focused on ensuring inmate victims receive medical and mental health treatment. Others are working to improve investigations and refer appropriate cases for prosecution. Still others have implemented such things as "hotlines" to report sexual abuse and vulnerability assessment to aid with prevention.

A list of the most significant training and services provided over the past year by the NIC is highlighted as follows:

- A Training Overview Responding to Inmate on Inmate Sexual Violence was conducted July 13-18, 2008. Twenty-one individuals representing seven jurisdictions participated in training and discussions about the Prison Rape Elimination Act, human sexuality, sexual behavior in institutional settings, the PREA standards and the applicability, institutional culture, state laws and their impact on inmate-inmate sexual violence, policy issues, staff training and inmate orientation, victimization and mental health care, preventing inmate on inmate sexual violence, investigating inmate on inmate sexual violence, medical health care, prosecuting inmate on inmate sexual violence, and legal liability for prison sexual violence.
- This was followed by a workshop on Investigating Allegations of Staff Sexual Misconduct with Offenders, July 20-25, 2008. It was attended by twenty-four individuals representing six jurisdictions. Participants discussed the PREA, state laws and investigations, agency culture, the applicability of the PREA standards, training for investigators in a correctional setting, investigative policy, operational practices, investigative techniques, DNA and medical health care, victimization and mental health

care, media, the role of prosecutors in staff sexual misconduct cases, human resources issues in cases of staff sexual misconduct, and legal liability and investigations.

- PREA Training Workshops were presented at four national conferences held by major professional correctional organizations. Leaders and managers from all types of correctional organizations were introduced to PREA generally, various concepts and strategies in addressing the issue of sexual assault and misconduct in correctional settings, and the most recent resources. These workshops were all well attended with an average of 50 to 75 participants.
- Technical Assistance Overview--NIC provided technical assistance to 11 requesting agencies during the reporting period (March 2008 through March 2009.) This assistance was configured in several ways and ranged from the delivery of information and training about PREA to assisting agencies with policy development and planning system wide approaches to prevent, investigate and punish sexual assault and misconduct. Resources and Products Several strategies and resources were continued or introduced during the reporting period. These include real-time web-chats, an interactive, e-learning course for first responders, a correctional officer's handbook for addressing staff sexual misconduct, informational bulletins offering staff perspectives on investigating incidents of sexual violence in prisons and jails, and the issue of sexual violence in women's facilities, and an informational PREA brochure for community corrections practitioners.
- Information Services Overview Through its Information Center--NIC responded to more than 1,000 requests for information. The requesters were provided video tapes and DVD, plus written materials on such topics as agency policy and procedure, incident investigation processes, risk assessment, staff training, and other issues related to staff sexual misconduct and offender-on-offender sexual assault.
- The NIC web-site contains information on several topics related to PREA. Approximately 41,500 visitors to the site sought information about the PREA law, the National Prison Rape Elimination Commission and current research and the various activities of agencies awarded funds under the PREA grant program administered by the Bureau of Justice Assistance.

A report titled *Report On Rape In Jails In The U.S.*, published December 29, 2008, by the Review Panel on Prison Rape, documented that there are common characteristics of victims and perpetrators of sexual victimization. There are also common characteristics of jail systems with high or low prevalence of sexual assault. With this information, the report identified best practices that would work towards elimination of rape in the U.S. jails. These practices include training of staff and inmates, proper classification of inmates, surveillance, reporting, investigation, prosecution and establishing relevant policies and practices at all levels.

There is still work to be done. PREA was written to reach agencies at all levels of government, nationwide. Although much work has been done, there are still those who need to be reached and the work of the NIC must continue to provide training materials and education.

FEDERAL PRISON INDUSTRIES

QUESTION: A critical program, not only for successful prisoner reentry, but also for keeping prisoners productively occupied while in prison, is Federal Prison Industries. How many of your prisoners are active in this program, and how does that compare with past levels?

ANSWER: Congress has enacted legislation over the past few years that has severely eroded FPI's mandatory source, thereby adversely impacting FPI's sales, earnings, and inmate employment.

Section 811/819 of the 2002/2003 Defense Authorization bills, which took effect in December of 2001 and December of 2002, respectively, allows the DoD to bypass FPI's mandatory source unless it determines that products available from FPI are comparable to those available from the private sector in terms of price, time of delivery, and quality.

Section 637 of the FY 2004 and 2005 Consolidated (Omnibus) Appropriations bill extended the same requirement as Sections 811/819 to all civilian agencies as well.

Most recently, Section 827 of the FY 2008 National Defense Authorization Bill was passed last year.

Due to these administrative and legislative changes, FPI's inmate employment levels and earnings have dropped precipitously. As of December 31, 2008, there were 21,593 inmates participating in the FPI program. This represents a decrease of more than 1,500 inmates working in FPI over the last five quarters. As of 12/31/08, FPI provided job skills training and work experience to17% of the Bureau'swork-eligible inmate population (or 13% of the total population). As recently as 2001, approximately 25% of the Bureau's work-eligible inmates were working in the FPI program.

FEDERAL PRISON INDUSTRIES RESTRICTIONS

QUESTION: What has been the impact of FPI restrictions on the ability of Federal prisoners to successfully reenter their communities, and on security and safety within prisons?

ANSWER: Since 2002, Congress has passed several pieces of legislation restricting how federal departments and agencies can purchase products and services from the FPI program. This has had a negative impact on FPI's sales and earnings. By law, FPI operates in a self-sustaining manner. It receives no appropriated funding and operates at no cost to the taxpayers. Thus, to limit its financial losses, FPI has had to eliminate many inmate jobs. While FPI is reducing its inmate employment, the BOP's inmate population continues to grow. In 2001, the FPI program employed 25% of the BOP's work-eligible population. Today, only 17% of the BOP's work-

eligible inmates work in FPI (13% of the total inmate population). This is very troubling, not just because it increases inmate idleness, which is a potential cause of violence, but also because it negatively impacts efforts to reduce recidivism. Research has shown that inmates in the FPI program are 24% less likely to recidivate than similar inmates without FPI experience. Each time the BOP must reduce the number of inmates in the FPI program, it has a negative impact on recidivism.

LIFE CONNECTIONS

QUESTION: You have a multi-faith residential program called Life Connections. How does this program work, how many have graduated, and what conclusions have you been able to draw about recidivism and program success?

ANSWER:

Life Connections Program

The mission of the Life Connections Program (LCP), which was established in 2002, is to contribute to an inmate's personal transformation and to reduce recidivism. The LCP is an 18-month residential multi-faith-based, reentry program designed for inmates at various security levels. Participants address critical areas of their life in the context of their personal faith or value system. The LCP is currently underway at FCI Petersburg, VA; USP Leavenworth, KS; FCI Milan, MI; USP Terre Haute, IN; and FMC Carswell in Fort Worth, TX. The program is open to inmates of all religions and inmates with no religious leanings.

Program details:

- In compliance with the Second Chance Act of 2007, the LCP addresses many of the life skills areas identified as critical to successful reentry by the Bureau's Inmate Skills Initiative.
- Inmates participate in victim awareness programs to help them understand the consequences of their crimes.
- Participants live together in the same housing unit and program for half of each day and work for half a day. There is also evening and weekend programming.
- Participants must complete a series of interactive journals in specific life skills areas and demonstrate proficiency before graduating from the program.
- Inmates are connected with mentors at the institution and with a faith-based or community organization at their release destination in order to enhance community re-integration. This is in compliance with The Second Chance Act of 2007.
- Each participant must complete 500 hours of work in a community service project.
- Inmates participate in specific goal setting exercises to assist them in release preparation.
- Throughout the LCP, inmates develop a reentry plan to assist them in gathering necessary resources critical to successful return to society.

Research of the Residential Pilot

The Bureau's Office of Research and Evaluation is compiling data on the Life Connections Program. Its findings include:

- Participants scored higher than average on the motivation to change scale, had higher rates of attendance at religious services since incarceration, and were more active in reading sacred scripture.
- In the study of program completion, the results demonstrated reading sacred scripture, positive self worth, and a desire for community integration upon release were important factors in participants completing the program.
- The study of prison adjustment demonstrated that participation in the LCP significantly lowered the probability of engaging in serious forms of institution misconduct.
- The impact of the LCP program on lowering recidivism is too early for analysis.

LCP Graduates and Released Participants:

(As of 11/29/08)

LCP graduates	948
Released	509
Never been released	439
Returned to incarceration	72

14% recidivism rate (preliminary statistic)

Current Life Connections Program:

LCP Participants in Active Program Cohort	453
LCP Designees at Program Site Awaiting Start-up	207
LCP Designees in Pipeline (not at program site)	39
Current Applications for LCP Program	156

LCP Staff, Contractors, Volunteers and Mentors

- LCP sites are staffed with one Chaplain Program Manager and one Program Assistant. Chaplains supervise the Program Assistant and oversee all personnel (contract and volunteer) and programming components.
- Contract Spiritual Guides (Muslim, Catholic, Native American, Jewish and Values Based) and contract Program Facilitators assist in the day to day operations.
- A Community Liaison recruits and trains a broad spectrum of religious and civic organizations to serve as reentry mentors. This complies with mandates set forth in the Second Chance Act of 2007.

- The relationships between these reentry mentors and the inmate participants begin early in the incarceration phase of the program and continue after their release back to the community.

Incarceration Phase Mentors	152
Incarceration Phase Volunteers	62
Incarceration Phase Contractors	33
Mentor Organizations at release sites	857

THRESHOLD PROGRAM MODEL

QUESTION: Besides Life Connections, I understand that you have developed another, shorter-term program for inmates who are closer to release. Could you describe the Threshold program model and how that program will assist in prisoner reentry?

ANSWER: The Threshold Program (Threshold) is a condensed version of the Bureau of Prisons' (Bureau) Faith based and Community Initiative Reentry program, Life Connections. The program is comprised of three phases: Orientation, Personal Growth and Development, and Relationships. It is an institution based, six to eight month non-residential experience for inmates preparing for reentry. Program participants meet weekly for 1 1/2 to 2 hour sessions.

- Twenty three Bureau institutions offer the Threshold Program. Approximately 360 inmates have completed the program. An estimated additional 700 inmates will participate in the Threshold Program in FY 2009.
- The program is led by the institution chaplain and incorporates the weekly assistance of community mentors as highlighted by the Second Chance Act of 2007.
- In accordance with the Second Chance Act of 2007, Threshold provides strong support of the Bureau's Inmate Skill Development Initiative through its integration of a curriculum that focuses on 9 Life Skill Areas. These life skill areas have been established by the agency as benchmarks to positive reentry.
- The nine life skill areas encompass: managing mental and emotional health; daily living; decision making; wellness; personal relationships; continued educational growth; positive use of leisure time; accepting personal responsibility; and character.
- Threshold participants explore and evaluate these nine core areas with the chaplain, mentors and from the perspective of their religious tradition or personal value system by using personal interactive journaling, goal setting and group assignments. Participants are also tasked with completing a reentry plan during the course of the program.
- The program incorporates outcome measures to monitor inmate development in each of the 9 skill sets.
- Building upon the leadership of the institution chaplain and its use of community mentors, the Threshold Program is a cost effective reentry initiative that could be effectively replicated throughout the Bureau if funds are available.

FY 2010 FAITH-BASED FUNDING

QUESTION: Does your FY10 budget request include funds to continue or expand these faith-based programs?

ANSWER: Details about the FY 2010 budget request for our faith-based programs will be included in the Federal Prison System congressional justification.

M&R SHORTFALL

QUESTION: An area of chronic shortfall in your budget is modernization and repair of facilities. The Federal Facilities Council recommends an M&R budget of 2% of the replacement cost. What percentage of replacement cost does your current M&R budget represent?

ANSWER: The BOP's FY 2009 funding level of $110.627 million for the M&R program is at 0.5 percent of the replacement value.

M&R AND RECIDIVISM LINK

QUESTION: How does the adequacy of your M&R budget relate to your ability to supervise, and provide programs for, inmates? Is there a link to recidivism and successful reentry?

ANSWER: Some M&R projects are accomplished with the assistance of inmate crews, under staff supervision. This reduces inmate idleness as well as provides the inmates a chance to learn a skill that can improve inmate self-control, provide educational opportunities to facilitate re-entry and transition, and establish healthy relationships between staff and inmates by dividing the large institution population into smaller, more manageable groups. Thus, an adequate M&R funding level protects taxpayers' capital assets and would provide additional instructional work for inmates and labor for the work to be performed. It is more effective for staff to supervise and monitor inmates when they are busy working on a project than if they are idle. Similar programs, such as vocational training have been shown to significantly decrease recidivism rates. Failure to adequately maintain structures and utility systems erodes capital investment and multiplies the costs in future years for accomplishing the required maintenance and repairs. Most important, failure to maintain structures can cause direct and/or indirect security problems.

NEW CRACK SENTENCING GUIDELINES

QUESTION: Last year I understand that you testified to the Committee that about 19,500 prisoners may be eligible for a reduced sentence under the new crack sentencing guidelines, and that 12,000 of those could be released over the next 5 years. What has been the experience so far? Are there any special programs that are focused on reducing recidivism among this population?

ANSWER: Our experience has been very consistent with the United States Sentencing Commission (USSC) projections. All together, the BOP has processed more than 15,000 sentence reduction orders as a result of the retroactive change to the guidelines. Approximately 3,700 inmates were released in fiscal year 2008 pursuant to such orders; 1,300 of these inmates would otherwise have been released during that year. So far in FY 2009 (February, 2009), 43 crack offenders have been released pursuant to the guideline change. These numbers indicate that the greatest impact of the sentencing guideline change has already occurred, and that in this and future fiscal years we will see a negligible impact on the BOP's projected inmate population. This is also consistent with the USSC estimates published prior to the change in the guidelines. There were no special programs in place specifically for crack cocaine offenders. However, there are a variety of inmate programs available to all inmates, many of which have been proven to reduce recidivism. These include residential drug abuse treatment programs. Rigorous research has found that 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. Other programs are Federal Prison Industries, vocational training, and education programs. Research has demonstrated 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; and inmates who participate in education programs are 16 percent less likely to recidivate than similarly-situated inmates who did not participate in these programs.

TUESDAY, MARCH 10, 2009.

MAJOR CHALLENGES FACING FEDERAL PRISONS, PART II

WITNESSES

PHIL GLOVER, NATIONAL LEGISLATIVE DIRECTOR, AFGE COUNCIL OF PRISON LOCALS

BRYAN LOWRY, PRESIDENT, AFGE COUNCIL OF PRISON LOCALS

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. The hearing will come to order. I would like to welcome our witnesses for our second hearing today. Bryan Lowry, the President of AFGE's Council of Prison Locals, and Phil Glover, the National Legislative Director for the Council of Prison Locals. Gentlemen, welcome. We appreciate your taking time to be here, we look forward to your testimony, and we appreciate the good work you do for your membership. Thank you for being here. Mr. Lowry will be offering his testimony this afternoon, and both gentlemen will respond to questions from the Subcommittee.

Because AFGE members are the correctional offices on the front lines and supervising offenders in our federal prisons, it is critical that we hear from them about the challenges they face every day. Those challenges are centered on the overcrowding and understaffing issues we discussed during this morning's hearing, but are also related to the overall prisoner reentry focus of this week's hearings.

Managing our prison population is a matter of adequate resources, but it also depends on how we prepare offenders to reenter their home communities so that they do not return to prison in the future. Correctional officers play an important role in ensuring that those reentry efforts are successful. In a moment, I will ask Mr. Glover to briefly summarize his written testimony. But first I would like to recognize Mr. Wolf for any introductory comments that he would like to make. Mr. Wolf.

Mr. WOLF. Welcome.

Mr. MOLLOHAN. All right. Mr. Lowry.

MR. LOWRY OPENING STATEMENT

Mr. LOWRY. Yes, sir.

Mr. MOLLOHAN. You are going to make——

Mr. LOWRY. I will make the opening.

Mr. MOLLOHAN. You are going to make the opening?

Mr. LOWRY. Yes, sir.

Mr. MOLLOHAN. I am sorry, I misspoke.

Mr. LOWRY. That is okay.

Mr. MOLLOHAN. Mr. Lowry, your written statement will be made a part of the record and you can proceed as you wish. Thank you.

Mr. LOWRY. Mr. Mollohan, Chairman Mollohan, Ranking Member Wolf, and members of the Subcommittee. My name is Bryan Lowry, president of the American Federation of Government Employees Council of Prison Locals and with me is our National Legislative Coordinator, Phil Glover. On behalf of all of the Federal Bureau of Prisons bargaining unit staff who work in our nation's federal prisons, we want to thank the Committee for asking us to testify today on the challenges facing the Federal Bureau of Prisons. We also want to thank the Committee members for their effort to increase funding to the Bureau of Prisons that would make a difference to the health and safety of our staff who work in the nation's federal prisons.

Last year our Council through the Legislative Coordinator Phil Glover testified on the difficult funding problems the Bureau of Prisons was facing. He discussed the alarming assault and disturbance trends occurring in the federal prison system. Not long after his testimony on June 20, 2008, I received one of the most horrendous phone calls I have ever received. We had an officer down. Not just injured this time, but murdered. A young, new officer who had only worked for the Federal Bureau of Prisons for ten months. His name was Jose Rivera. He was an Iraq War veteran and was only twenty-two years of age. Because of staffing issues mainly associated with budgetary cuts in the last few years and changes to Bureau policy associated with funding problems, he was working in a high security housing unit alone. He was murdered by two inmates and had no equipment to stop them. It is tragic and we in our Council think about his death everyday, and the officers who face the same dangers in our federal prison system daily. We are hoping to come to Congress and change the circumstances we face daily working in the federal prison system, to go back to a time when our staffing ratios were sufficiently higher to accomplish our mission.

As you know, we are short almost 15 percent in the amount of staff working in our nation's prisons. Budgets always seem to be tight while other law enforcement agencies, such as the FBI, Border Patrol, ICE, and others have grown. Funding for the Bureau of Prisons has stayed relatively flat in the amount of staff to handle the increasing number of inmates. While it may be difficult, it must be done. We need full funding. We need to go back to reasonable staffing levels. We need two officers in high security housing units and at least one officer in every housing unit, on every shift, in every medium and low security prison. These are just examples of our mission needs. We need the equipment necessary to handle aggressive inmates in life and death situations which are becoming more and more common.

Because the Bureau of Prisons will not change its policies or change what they call the culture, we need your help to do it. The administration of the Bureau of Prisons has in the last several years coined the cliche "isolated incident" to include violent acts by inmates in almost every situation which now occurs. When the same institution has assault after assault, and lock down after lock down, something is not working and changes have to be made. Our

prison system used to function very well. Many of you have been on this Committee for some time. You hardly heard from us and/or the Council of Prison Locals we represent. However, our people are crying out for change to our dysfunctional and understaffed agency which has placed staff and the inmates they are charged with protecting in a very vulnerable position. On behalf of all the employees of the Bureau of Prisons we are asking for the necessary funding increase that will provide more staff and the reasonable policy requirements to manage today's increasing, more aggressive inmate population. In our testimony as well as the written summary overview which we have supplied contains a great deal of information on our appropriations, on our crowding levels, and our safety. We are hopeful you will move energetically to add staff and much needed safety equipment while also providing much needed oversight to the BOP's spending.

In our written testimony we discuss private prisons and their costs. We talk about the two 2007 GAO Report that shows BOP does not even monitor the private companies in the right areas to compare public and private costs. We believe funds can be found in this area which can be transferred back to BOP operational funding.

We think you should look at the revolving door of BOP management to the private sector when you look at costs. We are becoming similar to the Department of Defense revolving door.

When you look at the laws you are passing, The Second Chance Act, The Prison Rape Elimination Act, and The Adam Walsh Act, these are very important issues. However, the programs do not receive any additional funding mechanisms regarding implementations which forces the agency to absorb these costs when staffing and training requirements are necessary for compliance. When they are not funding, or do not comply in essence, who suffers? The people that expect the Acts to work.

Again, we thank you for having us here today and hope we can answer your questions on operations in the Bureau of Prisons and its major challenges. Thank you.

[The written statement of Mr. Bryan Lowry and Mr. Phil Glover follows:]

American Federation of Government Employees,
AFL-CIO
80 F Street, NW
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STATEMENT OF

BRYAN LOWRY
PRESIDENT

AND

PHIL GLOVER
LEGISLATIVE COORDINATOR

OF THE

COUNCIL OF PRISON LOCALS
AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES
AFL-CIO

BEFORE THE

SUBCOMMITTEE ON COMMERCE, JUSTICE, and SCIENCE

HOUSE COMMITTEE ON APPROPRIATIONS

ON

FEDERAL BUREAU OF PRISONS

MARCH 10. 2009

Mr. Chairman and Members of the Subcommittee -

My name is Bryan Lowry. I am the President of the Council of Prison Locals, American Federation of Government Employees (AFGE). Here with me today is Phil Glover, who is the Legislative Coordinator for the Council of Prison Locals, AFGE. On behalf of the more than 34,000 federal correctional officers and staff who work at Bureau of Prisons (BOP) correctional institutions, we want to thank you for the opportunity to testify today on various BOP issues that are critically important to the safety and security of federal correctional officers and staff, federal prison inmates, and the local communities surrounding federal prisons.

Summary

BOP prisons have become increasingly dangerous places to work primarily because of serious correctional officer understaffing and prison inmate overcrowding problems. The brutal stabbing murder of Correctional Officer Jose Rivera on June 20, 2008, by two prison inmates at the United States Penitentiary in Atwater, CA, as well as the increasing inmate-on-staff and inmate-on-inmate assault rates, illustrate that painful reality.

In addition, BOP correctional officers and staff have become increasingly demoralized because of: (1) the failure of the Bush administration and previous Congresses to provide the necessary financial and programmatic tools to improve the safety and security of BOP prisons, and (2) the adoption by BOP management of unsound operational policies and practices.

AFGE strongly urges the House Appropriations Subcommittee on Commerce-Justice-Science (CJS) to:

1. Increase federal funding of BOP to remedy the serious correctional officer understaffing and prison inmate overcrowding problems that are plaguing BOP prisons.

2. Direct BOP to adopt needed management policy changes for improving the safety and security of BOP correctional institutions.

3. Support the Federal Prison Industries (FPI) prison inmate work program.

4. Recognize the need for additional BOP staffing and staff training when considering new ways to foster the fair treatment of prison inmates and to improve the outcomes for inmates reentering our communities.

5. Continue the existing prohibition against the use of federal funding for public-private competition under OMB Circular A-76 for work performed by federal employees of BOP and FPI.

6. Prevent BOP from meeting additional bed space needs by incarcerating prison inmates in private prisons.

7. Oppose any effort to statutorily redefine the term "law enforcement officer" for pay and retirement purposes to exclude BOP prison staff.

8. Exempt federal law enforcement officers, including BOP correctional officers and staff, who separate from federal government service after age 50 from the present law's 10% additional tax penalty for early withdrawals from the Thrift Savings Plan (the third component of the Federal Employees Retirement System or FERS).

Discussion

1. Increase federal funding of BOP to remedy the serious correctional officer understaffing and prison inmate overcrowding problems that are plaguing BOP prisons.

More than 202,900 prison inmates are confined in the 114 BOP correctional institutions today, up from 25,000 in 1980, 58,000 in 1990, and 145,000 in 2000. By 2010, it is expected there will be 215,000 inmates incarcerated in BOP institutions nationwide.

This explosion in the federal prison inmate population is the direct result of Congress approving stricter anti-drug enforcement laws involving mandatory minimum sentences in the 1980s, as documented in the *History of Mandatory Minimums*, a study produced by the Families Against Mandatory Minimums Foundation (FAMM).

- The Comprehensive Crime Control Act of 1984 created a mandatory 5-year sentence for using or carrying a gun during a crime of violence or a drug crime (on top of the sentence for the violence itself), and a mandatory 15-year sentence for simple possession of a firearm by a person with three previous state or federal convictions for burglary or robbery.
- The 1986 Anti-Drug Abuse Act established the bulk of drug-related mandatory minimums, including the five- and 10-year mandatory minimums for drug distribution or importation, tied to the quantity of any "mixture or substance" containing a "detectable amount" of the prohibited drugs most frequently used today.
- The Omnibus Anti-Drug Abuse Act of 1988 created more mandatory minimums that were targeted at different drug offences. At one end of the drug distribution chain, Congress created a mandatory minimum of five years for simple possession of more than five grams of "crack" cocaine. (Simple possession of any amount of other drugs – including powder cocaine and heroin – remained a misdemeanor with a

mandatory 15-day sentence required only for a second offense.) At the other end, Congress doubled the existing 10-year mandatory minimum for anyone who engages in a continuing criminal enterprise, requiring a minimum 20-year sentence in such cases.

The number of federal correctional officers who work in BOP prisons, however, is failing to keep pace with this tremendous growth in the prison inmate population. The BOP system is currently staffed at an 86.6% level, as contrasted with the 95% staffing levels in the mid-1990s. This 86.6% staffing level is *below* the 90% staffing level that BOP believes to be the minimum staffing level for maintaining the safety and security of BOP prisons. In addition, the current BOP inmate-to-staff ratio is 4.9 inmates to 1 staff member, as contrasted with the 1997 inmate-to-staff ratio of 3.7 to 1.

At the same time, prison inmate overcrowding is an increasing problem at BOP institutions despite the activation of new prisons over the past few years. The BOP prison system today is overcrowded today by about 37%, up from 31.7% as of January 1, 2000.

These serious correctional officer understaffing and prison inmate overcrowding problems are resulting in significant increases in prison inmate assaults against correctional officers and staff, and against other prison inmates. In December 2006, the BOP Intelligence Section of the U.S. Department of Justice issued a report documenting that: (1) inmate-on-inmate assaults (armed and unarmed) in FY 2006 had increased 15.5% over the previous fiscal year, and (2) inmate-on-staff assaults (armed and unarmed) in FY 2006 had increased 6.0% over the previous fiscal year.

AFGE has long been concerned about the safety and security of the correctional officers and staff who work at BOP institutions. But the brutal stabbing murder of Correctional Officer Jose Rivera on June 20, 2008 by two prison inmates in a housing unit at the United States Penitentiary (USP) in Atwater, CA, has greatly intensified our concern about – and desire to solve – the correctional officer understaffing and prison inmate overcrowding problems.

Therefore, AFGE strongly urges the CJS appropriations subcommittee to:

- Increase federal funding of the BOP Salaries and Expenses account so BOP can hire additional correctional staff to return to the 95% staffing levels of the mid-1990s.
- Increase federal funding of BOP Buildings and Facilities account so BOP can build new correctional institutions and renovate existing ones to reduce inmate overcrowding to at least the 31.7% level of the late-1990s.

2. Direct BOP to adopt needed management policy changes for improving the safety and security of BOP prisons.

A few days after the June 20, 2008 stabbing murder of Correctional Officer Jose Rivera at USP Atwater, John Gage, AFGE National President, and Bryan Lowry, President of the AFGE National Council of Prison Locals, met with BOP Director Harley Lappin to strongly urge that BOP adopt various policy changes for improving the safety and security of BOP institutions. Among other changes, they urged that:

(a) High security penitentiaries place two correctional officers in each housing unit, particularly during the evening watch shift (3:00 p.m. to 11:00 p.m.), and medium and low security institutions place at least one correctional officer in each housing unit on all shifts.

High security penitentiaries currently assign only one correctional officer to each housing unit. This unsound correctional practice is particularly dangerous during the evening watch shift when only one officer is available to secure the cells for the 4:00 p.m.inmate count and the 11:00 p.m. inmate lockup. (Correctional Officer Jose Rivera was murdered while locking inmates into the cells for the 4:00 p.m. inmate count alone.)

Medium and low security institutions since 2005 are no longer required to assign one correctional officer in each housing unit. This policy change has resulted in an unsound correctional practice being implemented in which only one officer is assigned to supervise two – and in some cases three – housing units during the various shifts. This practice leaves housing units unsupervised for long periods of time, thereby providing violent inmates the time to make homemade weapons, to organize and plan gang activity, to carry out assaults on other inmates, and to move contraband undetected throughout the institution.

On July 15, 2008 BOP issued a directive that authorized two additional officers per high security penitentiary for evening watch (daily) and for day watch on the weekends and federal holidays. The officers working these posts are intended to function as "rovers" to provide assistance to housing unit staff. (The decision will be made locally, at each facility, regarding how best to staff these positions, that is, whether the sick and annual roster can be used, overtime authorized, or whether new staff must be hired.) The July 15, 2008 directive was silent with regard to medium and low security institutions.

AFGE believes the July 15, 2008 BOP directive is totally inadequate. The safety of correctional officers and prison inmates, at the very least, requires two correctional officers in each housing unit on the evening watch shift in high security penitentiaries, and at least one officer per housing unit on all shifts in medium and low security institutions.

Indeed, AFGE strongly urges the CJS appropriations subcommittee to direct BOP to reinstitute the staffing practice of the 1990s and early 2000s: authorizing two correctional officers per housing unit *plus* three or four additional officers to function as "rovers" that provide assistance to the housing unit staff.

This staffing practice was standard until 2005 when BOP management instituted the Mission Critical Post policy, a cost reduction strategy under which certain correctional staff posts were deemed critical for the safe and secure operations of BOP institutions and were to be vacated only in rare circumstances. The Mission Critical Post initiative was intended (a) to eliminate the necessity for filling "non-mission critical" BOP posts, and (b) to reduce BOP institutions' reliance on overtime and non-correctional staff, who had typically been used for temporary correctional post assignments.

Interestingly, a recent U.S. Government Accountability Office (GAO) report has found that BOP has never conducted a systematic evaluation of the Mission Critical Post initiative, despite an internal directive from the Assistant Director of Correctional Programs and the requirements of the *Standards for Internal Control in the Federal Government*. As a result, GAO has concluded that:

> "Without assessing its mission critical post initiative and data on temporary assignments, BOP does not know whether it is efficiently and effectively using staff for temporary assignments or achieving the desired cost savings. Also, without reviewing the effect of leaving mission critical posts unassigned, BOP cannot assess the effect, if any, of unassigned posts on the safety and security of its facilities." (*Bureau of Prisons: Written Policies on Lateral Transfers and Assessment of Temporary Assignments Needed,* GAO-09-141, February 2009.)

The GAO report recommends that BOP "systematically assess temporary assignments to ensure that BOP is meeting the objectives of the mission critical post initiative and effectively and efficiently using resources." BOP, in response, has agreed with and plans to take action on this recommendation. But given the fact BOP officials could not explain to GAO why the original systematic evaluation was not conducted, AFGE strongly urges the CJS appropriations subcommittee to exert its oversight powers to ensure that BOP actually conducts this necessary evaluation.

(b) All correctional officers be issued protective vests that are stab-resistant and light-weight, and can be worn comfortably under a uniform.

In its July 15, 2008 directive, BOP announced that it will begin making protective vests available to staff – first at high-security penitentiaries, and then at all institutions. However, BOP has been markedly slow in providing these protective vests. Disputes also have arisen over the quality of these protective vests, with

BOP correctional officers contending they should have vests that offer better protection.

In addition, BOP has adopted a somewhat overbroad implementation policy with regard to these protective vests. If a staff member orders a protective vest, he/she must wear that vest in *all* locations of the federal prison property – even those where it is obviously unnecessary. We even have some wardens ordering correctional staff to wear a stab resistant vest to annual refresher training at facilities that are sometimes a half mile away from the secure prison institution. This unreasonable policy is having the unfortunate effect of correctional staff returning their vests and not wearing them while in a housing unit, special housing unit, or compound officer post.

AFGE strongly urges the CJS appropriations subcommittee to direct BOP to continue making protective vests available to correctional staff, and to adopt a more reasonable implementation policy.

(c) Correctional officers working in housing units, compound posts, and high security areas of BOP prisons be equipped with and trained in the use of non-lethal weaponry, such as batons, pepper spray, and/or TASER guns. Training should include the appropriate use of such non-lethal weaponry so they are not used as a "first strike" response before other protective tactics are considered or attempted.

Unfortunately, BOP opposed – and continues to oppose - providing correctional officers with batons, pepper spray, and/or TASER guns. BOP argues that it would send the wrong message to prison inmates, namely that such non-lethal weaponry is necessary because conditions at BOP institutions have significantly worsened.

But AFGE believes Officer Rivera's brutal murder and the increasing number of inmate assaults on officers are sending a strong message to BOP management: conditions at penitentiaries and other institutions *have* worsened. They are more violent than a few years ago because of serious correctional officer understaffing and prison inmate overcrowding – and because correctional officers are being forced to control more aggressively dangerous offenders, including more gang-affiliated inmates.

AFGE strongly urges the CJS appropriations subcommittee to direct BOP to institute a new non-lethal weaponry policy under which correctional officers in potentially dangerous situations are provided batons, pepper spray and/or TASER guns. Such non-lethal weapons are vitally necessary to help prevent further serious inmate-on-officer assaults.

3. Support the Federal Prison Industries (FPI) prison inmate work program.

The increasingly violent and dangerous environment in which BOP correctional officers and staff work is the primary reason why AFGE strongly supports the FPI prison inmate work program.

The FPI prison inmate work program is an important management tool that federal correctional officers and staff use to deal with the huge increase in the BOP prison inmate population. It helps keep 23,152 prison inmates – or about 18% of the eligible inmate population – productively occupied in labor-intensive activities, thereby reducing inmate idleness and the violence associated with that idleness. It also provides strong incentives to encourage good inmate behavior, as those who want to work in FPI factories must maintain a record of good behavior and must have completed high school or be making steady progress toward a General Education Degree (GED).

In addition, the FPI prison inmate work program is an important rehabilitation tool that provides federal inmates an opportunity to develop job skills and values that will allow them to reenter – and remain in – our communities as productive, law-abiding citizens. The Post-Release Employment Project (PREP), a multi-year study of the FPI prison inmate work program carried out and reported upon in 1996 by William Saylor and Gerald Gaes, found that the FPI prison inmate work program had a strongly positive effect on post-release employment and recidivism. Specifically, the study results demonstrated that:

- In the short run (i.e., one year after release from a BOP institution), federal prison inmates who had participated in the FPI work program (and related vocational training programs) were: (1) 35% *less likely* to recidivate than those who had not participated, and (2) 14% *more likely* to be employed than those who had not participated.
- In the long run (i.e., up to 12 years after release from a BOP institution), federal prison inmates who participated in the FPI work program were 24% *less likely* to recidivate than those who had not participated in the FPI work program. (*PREP: Training Inmates Through Industrial Work Participation, and Vocational and Apprenticeship Instruction,* by William Saylor and Gerald Gaes, Office of Research and Evaluation, Federal Bureau of Prisons, September 24, 1996.)

Later in 1999, Saylor and Gaes published a follow-up paper to report further analyses of the PREP data which focused on the differential effect of the FPI prison inmate work program on the post-release recidivism of four groups: (1) non-Hispanic whites, (2) non-Hispanic blacks, (3) Hispanic whites, and (4) Hispanic blacks. Their analyses revealed that the FPI prison inmate work program provides even greater benefit to the three minority groups that are at the

greatest risk for recidivism (non-Hispanic blacks, Hispanic whites, and Hispanic blacks) than it does for the non-Hispanic white group. In general, the recidivism improvement rates for minority inmates who participated in the FPI work program compared to those minority inmates who did not participate were between 37% and 147% higher than the recidivism improvement rates for non-Hispanic white inmates who participated in the FPI work program compared to those non-Hispanic white inmates who did not participate. As Saylor and Gaes concluded:

> "Regardless of whether a minority was defined on the basis of race or ethnicity, and despite their being at a higher risk of recidivism, minority groups benefited more from [FPI work program] participation than their lower risk non-minority counterparts. While the absolute differences may not appear that large, the relative improvements [in recidivism rates] indicate a much larger program effect for minority program participants who are otherwise more likely to be recommitted to prison." *(The Differential Effect of Industries Vocational Training on Post-Release Outcome for Ethnic and Racial Groups,* William Saylor and Gerald Gaes, Office of Research and Evaluation, Federal Bureau of Prisons, September 6, 1999.)

Unfortunately, over the past eight years the FPI prison inmate work program has experienced a significant decline in the percentage of eligible BOP inmates employed as a result of limitations imposed by Congress and the FPI Board of Directors on FPI's mandatory source authority relating to Department of Defense and federal civilian agencies' purchases from FPI. While the FPI program employed 25% of the eligible BOP inmate population in FY 2000, it is currently employing only 18% of that population. Indeed, 32,155 prison inmates would be employed now – not 23,152 – if the FPI program were currently employing 25% of the eligible BOP inmate population.

To make matters worse, Section 827 in the National Defense Authorization Act for FY 2008 (P.L. 110-181) will create another substantial impediment to the FPI program's ability to keep BOP inmates productively occupied in labor-intenstive work activities. Specifically, Section 827 will reduce the applicability of the FPI mandatory source authority with regard to Department of Defense purchases of FPI-made products. While the FPI Board of Directors in 2003 administratively ended the application of mandatory source authority for those products where FPI's share of the Federal market exceeded 20%, Section 827 will end the application of the mandatory source authority with regard to Department of Defense purchases of FPI-made products for those products where FPI's share of the Department of Defense market is only 5%. Initial analyses of the effect of this significant reduction from 20% to 5% estimated that it will result in a potential loss of up to $241 million in FPI sales revenues and 6,500 FPI prison inmate jobs.

AFGE has long opposed any legislative attempt to eliminate the mandatory source preference for FPI-produced goods because we believe it would result in the loss of countless numbers of FPI prison inmate jobs. This loss of inmate jobs, in turn, would seriously endanger the safety of our members – the correctional officers and staff who work inside BOP institutions.

However, in the past couple of years of negotiations with the Anti-FPI Coalition and with Rep. Pete Hoekstra's (R-MI) staff, we have come to accept the idea of eliminating the FPI mandatory source if – and only if – a strong work-based training program is developed to supplement the FPI program. This strong work-based training program must create a sufficient number of new federal prison inmate jobs to replace the prison inmate job positions that would be lost if the FPI mandatory source preference is eliminated.

A reform proposal that AFGE thinks has merit – and which we recommend the CJS appropriations subcommittee seriously consider - was included in the May 11, 2006 discussion draft of Rep. Hoekstra's H.R. 2965. This discussion draft established a strong work-based training program for federal inmates based on two authorities:

(1) The first authority would authorize a private business to train participating federal prison inmates by producing a product or performing a service, if such product or service is not produced or performed within the United States by non-inmate workers. However, this authority probably would not create enough new prison inmate jobs to replace those lost FPI inmate jobs, given the harsh restriction of "not produced or performed within the United State by non-inmate workers." Thus, the need for the second authority below.

(2) The second authority would authorize a private business to train participating federal prison inmates by producing a product or performing a service, if such product or service: (a) is being currently produced or performed outside the United States by or for the private business and (b) has been so produced or performed for a period of 36 months prior to the date such private business initially submits a proposal to FPI.

This second authority, which would probably create more federal prison inmate jobs than the first, would be intended to provide employment for the greatest number of federal prison inmates as long as (a) no single private industry is forced to bear an undue burden of competition from the products or services of federal prison factories or workshops; and (b) competition with private industry or private labor is reduced to a minimum.

4. Recognize the need for additional BOP staffing and staff training when considering new ways to foster the fair treatment of prison inmates and to improve the outcomes for inmates reentering our communities.

AFGE and its members who work at BOP institutions strongly believe in the fair treatment of prison inmates. We also believe that inmates should be better prepared to reenter – and remain in – our communities. Congress has passed laws in the past few years to help accomplish these tasks, such as the Prison Rape Elimination Act of 2003 (P.L. 108-79) and the Second Chance Act of 2008 (P.L. 110-199).

However, what continues to be left out of the picture are the additional staff positions and staff training that are necessary to accomplish these tasks. When one correctional officer (or non-correctional staff member) is required to supervise two or three housing areas at a time, it is virtually impossible to properly implement the Prison Rape Elimination Act of 2003. In addition, training is needed to fully explain to correctional employees how to implement this law – and currently this is not being done. While a cursory half hour to one hour per year is spent to highlight the Prison Rape Elimination Act of 2003 during annual refresher training, many of the procedural items in the law are not covered.

In the case of the Second Chance Act of 2008, Congress's intent is clear. But when teachers, vocational-technical instructors, mechanical services employees, case managers, and counselors are pulled repeatedly to work correctional officers posts because of funding shortfalls, then who will be responsible for the duties clearly outlined in the law? Correctional officers and staff take their jobs very seriously in federal prisons. But they simply can't accomplish two tasks at the same time.

AFGE, therefore, strongly urges the CJS appropriations subcommittee to recognize the need for additional BOP staffing and staff training when considering new ways to foster the fair treatment of prison inmates and to improve the outcomes for inmates reentering our communities. New laws would be additional workloads on BOP staff who are already handling more work with less staff than eight years ago.

5. Continue the existing prohibition against the use of federal funding for public-private competition under OMB Circular A-76 for work performed by federal employees of BOP and FPI.

The FY 2009 Omnibus Appropriations Act (H.R. 1105), which the House approved, 245-178, on February 25, 2009, includes a general provision (Section 212) to prohibit the use of FY 2009 funding for public-private competitions under OMB Circular A-76 for work performed by federal employees of the BOP and FPI. This Section 212 language is the same as Section 214 in the prior year's FY 2008 Consolidated Appropriations Act.

AFGE strongly urges the CJS appropriations subcommittee to include this Section 212 language in the FY 2010 CJS appropriations bill because:

(a) Competing these BOP and FPI employee positions would not promote the best interests or efficiency of the federal government with regard to ensuring the safety and security of federal BOP prisons. Federal correctional officers and other federal employees who work for BOP and FPI are performing at superior levels. It therefore would be ill-advised to compete their positions merely to meet the numerical quotas of the Bush administration's privatization plan.

(b) Various studies comparing the costs of federally operated BOP prisons with those of privately operated prisons have concluded – using OMB Circular A-76 cost methodology – that the federally operated BOP prisons are more cost effective than their private counterparts. For example, a study comparing the contract costs of services provided by Wackenhut Corrections Corporation (now The Geo Group) at the Taft Correctional Institution in California with the cost of services provided in-house by federal employees at three comparable BOP prisons (Forrest City, AR; Yazoo City, MS; and and Elkton, OH) found that "the expected cost of the current Wackenhut contract *exceeds* the expected cost of operating a Federal facility comparable to Taft...." (*Taft Prison Facility: Cost Scenarios*, Julianne Nelson, Ph.D, National Institute of Corrections, U.S. Department of Justice.)

6. Prohibit BOP from meeting additional bed space needs by incarcerating federal prison inmates in private prisons.

In recent years, the federal government and some state and local governments have experimented with prison privatization as a way to solve the overcrowding of our nation's prisons – a crisis precipitated by increased incarceration rates and politicians' reluctance to provide more prison funding. But results of these experiments have demonstrated little evidence that prison privatization is a cost-effective or high-quality alternative to government-run prisons.

Private Prisons Are Not More Cost Effective

Proponents of prison privatization claim that private contractors can operate prisons less expensively than federal and state correctional agencies. Promises of 20 percent savings are commonly offered. However, existing research fails to make a conclusive case that private prisons are substantially more cost effective than public prisons.

For example, in 1996, the U.S. General Accounting Office reviewed five academic studies of prison privatization deemed to have the strongest designs and methods among those published between 1991 and mid-1996. The GAO concluded that "because these studies reported little cost differences and/or mixed results in comparing private and public facilities, we could not conclude

whether privatization saved money." (*Private and Public Prisons: Studies Comparing Operational Costs and/or Quality of Service,* GGD-96-158 August 16, 1996.)

Similarly, in 1998, the U.S. Department of Justice entered into a cooperative agreement with Abt Associates, Inc. to conduct a comparative analysis of the cost effectiveness of private and public sector operations of prisons. The report, which was released in July 1998, concluded that while proponents argue that evidence exists of substantial savings as a result of privatization, "our analysis of the existing data does not support such an optimistic view." Instead, "our conclusion regarding costs and savings is that.....available data do not provide strong evidence of any general pattern. Drawing conclusions about the inherent [cost-effective] superiority of [private prisons] is premature." (*Private Prisons in the United States: An Assessment of Current Practice,* Abt Associates, Inc., July 16, 1998.)

Finally, a 2001 study commissioned by the U.S. Department of Justice concluded that "rather than the projected 20 percent savings, the average saving from privatization was only about one percent, and most of that was achieved through lower labor costs." (*Emerging Issues on Privatized Prisons*, by James Austin, Ph.D. and Garry Coventry, Ph.D., February 2001.)

Private Prisons Do Not Provide Higher Quality, Safer Services

Proponents of prison privatization contend that private market pressures will necessarily produce higher quality, safer correctional services. They argue that private prison managers will develop and implement innovative correctional practices to enhance performance. However, emerging evidence suggests these managers are responding to market pressures not by innovating, but by slashing operating costs. In addition to cutting various prisoner programs, they are lowering employee wages, reducing employee benefits, and routinely operating with low, risky staff-to-prisoner ratios.

The impact of such reductions on the quality of prison operations has been obvious. Inferior wages and benefits contribute to a "degraded" workforce, with higher levels of turnover producing a less experienced, less trained prison staff. The existence of such under-qualified employees, when coupled with insufficient staffing levels, adversely impacts correctional service quality and prison safety.

Numerous newspaper accounts have documented alleged abuses, escapes and riots at prisons run by the Correctional Corporation of America (CCA), the nation's largest private prison company. In the last several years, a significant number of public safety lapses involving CCA have been reported by the media. The record of Wackenhut Corporation (now The Geo Group), the nation's second largest private prison company, is no better, with numerous lapses reported since 1999.

And these private prison problems are not isolated events, confined to a handful of "under performing" prisons. Available evidence suggests the problems are structural and widespread. For example, an industry-wide survey conducted in 1997 by James Austin, a professor at George Washington University, found 49 percent more inmate-on-staff assaults and 65 percent more inmate-on-inmate assaults in medium- and minimum-security private prisons than in medium- and minimum-security government prisons. (referenced in "Bailing Out Private Jails," by Judith Greene, in *The American Prospect*, September 10, 2001.)

Despite the academic studies' negative results, BOP has continued to expand its efforts to meet additional bed space needs by incarcerating federal prison inmates in private prisons. Over a 10 year period, the costs to confine federal BOP inmates in non-BOP facilities nearly tripled from about $250 million in FY 1996 to about $700 million in FY 2006. To determine the cost-effectiveness of this expanded use of private prisons, Congress directed the U.S. Government Accountability Office (GAO) in the conference report accompanying the FY 2006 Science, State, Justice and Commerce Appropriations Act (P.L. 109-108) to compare the costs of confining federal prison inmates in the low and minimum security facilities of BOP and private contractors.

However, GAO determined in its October 2007 report that a methodologically sound cost comparison analysis of BOP and private low and medium security facilities was not feasible because BOP does not gather data from private facilities that are comparable to the data collected on BOP facilities. As a result, the GAO concluded that:

> "Without comparable data, BOP is not able to evaluate and justify whether confining inmates in private facilities is more cost-effective than other confinement alternatives such as building new BOP facilities." (*Cost of Prisons: Bureau of Prisons Needs Better Data to Assess Alternatives for Acquiring Low and Minimum Security Facilities,* GAO-08-6, October 2007)

BOP officials told GAO that there are two reasons why they do not require such data from private contractors. First, federal regulations do not require these data as means of selecting among competing contractors. Second, BOP believes collecting such data could increase the cost of the private contracts, but BOP officials did not provide support to substantiate this concern.

BOP Director Harley Lappin gave two somewhat similar reasons when disagreeing with GAO's recommendation that the Attorney General direct the BOP Director to develop a cost-effective way to collect comparable data across BOP and private low and minimum security facilities:

- "The Bureau does not own or operate facilities to house solely criminal aliens and will not be receiving funding [from Congress] to construct

such low security facilities. Accordingly, there is no value in developing data collection methods in an attempt to determine the costs of housing this particular group of inmates in a Bureau facility."

- "The Bureau has been able to determine what it actually costs to contract out this particular population to private contractors via open competition. [And so] we do not see the value of requiring existing private contractors to provide specific comparable data to aid in a cost comparison. This requirement would have the potential to increase current contract costs at a time when the Bureau is facing serious budget constraints."

AFGE, therefore, strongly urges the CJS appropriations subcommittee to prohibit BOP from meeting additional bed space needs by incarcerating federal prison inmates in private prisons. Prison privatization is not the panacea that its proponents would have us believe. Private prisons are not more cost effective than public prisons, nor do they provide higher quality, safer correctional services. In addition, without comparable data, BOP is not able to evaluate or justify whether confining inmates in private facilities is more cost-effective than building new BOP facilities.

7. Oppose any effort to statutorily redefine the term "law enforcement officer" for pay and retirement purposes to exclude federal prison staff.

Under current law, the definition of "law enforcement officer" for pay and retirement purposes includes federal prison support staff, in addition to those individuals who fill federal correctional officer positions. However, in October 2005, the Republican staff of the House and Senate federal workforce subcommittees released a 25-page "Concept Paper for a Federal Law Enforcement Personnel System" that proposed to redefine "law enforcement officer" for pay and retirement purposes to exclude federal prison support staff.

AFGE strongly urges the CJS appropriations subcommittee to oppose any legislative effort to institute such a redefinition. The reason federal prison support staff receive law enforcement officer pay and retirement benefits is because their jobs include performing law enforcement security functions in federal prisons. These men and women, on a daily basis, help supervise and control prison inmates at all security levels inside the walls and fences of federal prisons. They are called upon, on a daily basis, to provide searches of inmates, to search housing areas of federal prisons for contraband, and to escort inmates to local hospitals or other outside facilities.

In addition, federal prison support staff – like federal correctional officers – are required to successfully undergo training to perform these law enforcement security operations in federal prisons. These men and women are required to go

to law enforcement training in Glynco, GA, and are required to pass firearms training every year.

Why do the jobs of federal prison support staff include performing law enforcement security operations at federal prisons? Unlike state or county correctional facilities, federal prisons do not have sufficiently large numbers of correctional officers to deal with security-related issues. Because of this shortage of correctional officers, the federal BOP must train and use prison support staff to help maintain safety and security at federal prisons.

8. Exempt federal law enforcement officers, including BOP correctional officers and staff, who separate from government service after age 50 from the present law's 10% additional tax for early distributions from the Thrift Savings Plan (the third component of the Federal Employees Retirement System or FERS).

Under present law, a federal employee who receives a distribution from a qualified retirement plan such as the Thrift Savings Plan (TSP) prior to age 59½ is subject to a 10% early withdrawal tax on that distribution, unless an exception to the tax applies. Among other exceptions, the early withdrawal tax does not apply to TSP distributions made to a federal employee who separates from government service after age 55.

Present law also provides that BOP correctional officers and staff, as well as other federal law enforcement officers, who complete 20 years of service in a "hazardous duty" law enforcement position are eligible to retire at age 50. This special treatment of BOP correctional officers and staff is intended to help the federal government recruit and retain a young, physically strong work force to work in BOP correctional institutions.

As a result, BOP correctional officers and staff who retire at 50 years of age/20 years of service cannot – under present law - withdraw their TSP funds without incurring the 10% early withdrawal tax penalty. These retirees must wait until age 55 to withdraw their TSP monies if they want to avoid incurring this penalty.

This is grossly unfair to the BOP correctional officers and staff who keep the most dangerous felons behind bars, as well as to the other federal law enforcement officers who patrol our nation's borders and secure our federal buildings' safety.

Until two years ago, police and firefighters who worked for State and local governments experienced a similar problem. Those who retired after age 50 but before age 55 were unable to withdraw money from their defined benefit plans with incurring the 10% additional tax penalty. However, section 828 of the Pension Protection Act of 2006 (P.L. 109-280) resolved the problem for these State and local public safety employees. This section amended section 72(t) of

the Internal Revenue Code of 1986 (which exempts certain individuals from the 10% early withdrawal penalty) by adding the following new paragraph:

"(10) Distributions to qualified public safety employees in governmental plans.

(A) In general
In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414 (d)) which is a defined benefit plan, paragraph (2)(A)(v) shall be applied by substituting "age 50" for "age 55".

(B) Qualified public safety employee
For purposes of this paragraph, the term "qualified public safety employee" means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision."

AFGE strongly urges the CJS appropriations subcommittee to support legislation that would modify the section 72(t)(10) language to benefit those federal law enforcement officers who want to retire at age 50 and withdraw their TSP monies without incurring the 10% additional tax penalty. This legislation would:

- Strike the language "which is a defined benefit plan" from subparagraph (A). Thus, federal law enforcement officers who participate in a defined contribution plan like the TSP would also be granted relief from the 10% early withdrawal penalty.
- Amend subparagraph (B) to include federal law enforcement officers. Subparagraph (B) as now written does not apply to the TSP because federal (not State and local) police, firefighters, and EMS personnel participate in the TSP.

This concludes our statement. We thank you for your attention and will be happy to answer any of your questions.

Mr. MOLLOHAN. Thank you, Mr. Lowry. Mr. Glover.

MR. GLOVER STATEMENT

Mr. GLOVER. Mr. Chairman, I do not have a written statement for the record. However, I would like to say that we have appreciated the fact that the Committee has fought to put $545 million into salaries and expenses in the last fiscal year. $203 million more into the B and F funding. We still think the M and R funding needs to come up more than $110 million because we have thirty-seven facilities that are over fifty years of age. And places are falling apart.

When you have research facilities and other places being funded for building and facility funding we really believe that prisons should get a priority. We have to house these inmates. We have to house them securely and humanely. And when the ceilings are coming down and the pipes are not working, plumbing is not working, it causes stress inside the entire system. So we are hoping that eventually we can get to a correct M and R number as well.

A couple of things that Mr. Lowry touched on. We have about eighteen penitentiaries in the system. They have between six to eight housing units each. For us to have a two to ten officer, 2:00 p.m. to 10:00 p.m. at night while the evening watch is going on at the high security prisons would take about eighty-four evening watch positions. That is about $7.8 million if you look at an average of $93,000 per staff member, which I think is the number we have gotten. We have asked in talking points papers, and of course we were on the Hill just a few weeks ago and we were asking for 3,000 staff to staff it up for this fiscal year. That would be a total of about $279 million additional dollars. We think that is not a lot, a huge amount of money compared to what is being spent in the federal budget in order to bring us in line. That does not bring us in line with the 1990s but it would at least be a down payment.

The Adam Walsh Act, I talked to a case manager the other day who said that due to the victim witness requirements she had one inmate move and she was required to do 200 warning letters out to different groups who associate with that inmate. I think when the act was written I do not think anybody anticipated some of those types of numbers. And so, if you do not add case managers to the field, and you do not add counselors to the field to handle those types of notifications, then they are just swamped with more and more work. And we have a concern with that.

The Second Chance Act has a big role for teachers, vocational trainers, mechanical services personnel, those personnel that train inmates. However, those people are being used as correctional officers throughout the system. And not on just a, you know, a one day every three months basis. We are talking, I have correctional rosters here that show the use of non-correctional officers on a daily basis. And so they are not doing their jobs. They do not have time to do their jobs.

The Prison Rape Elimination Act that was passed. Very supportive of that Act. However, when you have three units handled by one officer to walk around three separate pods, there is no way they can keep an eye on what is going on in all of those inmate areas. And we have a real concern about that, and about the role

that the correctional officers have to play in the reduction of that Act.

The Gang Prevention Intervention and Suppression Act, which is on the agenda for the Judiciary Committee, does not mention federal prisons one time, except how many inmates are going to be arrested. They do not talk about what is going to happen at the end of the food chain, when all of these people get apprehended for RICO-type gang related crime. They are not talking about how many inmates that means coming into the federal system, once you federalize gang activity.

So those are things that we think the Committee, we hope the Committee will focus on. And that is, that would be my opening, Mr. Chairman. Thank you.

Mr. MOLLOHAN. Well, it is a good one.

Mr. GLOVER. Thank you.

STAFFING AND OVERCROWDING

Mr. MOLLOHAN. I think we hear you loud and clear about staffing. In addition to that, I want to give you a chance to elaborate on the biggest concerns you see facing the federal prison system, staffing and otherwise.

Mr. LOWRY. I think one of the biggest things that we see these days is overcrowding. It was touched on earlier when Director Lappin had spoke about creating these new units called special management units. There have been four institutions identified, one to have a full special management unit, it is going to be encompassing the whole institution. And then you have three other locations that will have, like, housing units with these type of units.

But the trend that we are seeing is in many locations throughout the country to have a cost savings of money the Bureau of Prisons has started creating what they call a transitional unit inside of regular housing units, taking disruptive, combative, aggressive inmates who normally would go into the jail inside the prison, which is called a special housing unit. And now since it is overrated capacity they have inmates living in day room areas inside of the special housing unit. They have them now in the medical area, in isolation cells. They have them in receiving and discharge areas, another location in the prison. Inmates all over the place because there is no place to house them. And these inmates are going straight into these units and they are only staffing them with one officer as opposed to five on day watch which would be normal, three or four on evening watch, and one or two on morning watch. And it is putting the staff and inmates in grave danger. There have been incidents, more than one, probably close to five, that have occurred recently in these transitional units. Bad management policies. Irresponsible decision making placing our staff in harm's way because we have too many inmates now to control this population that are aggressive. The Director testified earlier about how the population he believes has become more combative, more aggressive, more gang oriented. It has. Our staff see it on a daily basis. That is one of my biggest concerns, there, is the overcrowding.

And number two, not having the equipment necessary to defend ourselves. As correctional officers, no matter what security level you work in, the only thing you really have to protect yourself is

a body alarm or radio that has a red button on top. And should you get assaulted or attacked by inmates you can push that and it is going to send a signal to main control for staff response. You can be alone as long as thirty seconds to five minutes by yourself with inmates twice your size who lift weights, do other things, are a lot bigger and stronger, that could attack you. And you have nobody there to help you for a few minutes. Or a set of handcuffs. If you are lucky enough to get them, one, two or three inmates that attack you, you got one set of handcuffs to handcuff one of them.

We think it is time for the Bureau to move in a proactive area like some of the states do and provide our staff some nonlethal means of equipment, whether it be pepper spray canisters, which is nonlethal, which only will stun the inmate in the beginning and give you the ability to respond or get away until help arrives. Or something like a Taser, which is used in some state and county and local systems. Or a baton that is used in one of our institutions, the ADX. So something that gives staff the means, because the inmate population has got aggressive. We are working more alone than we ever did before. We are just asking for that to be considered since our Director does not want to implement this. Phil?

TRANSITIONAL UNITS

Mr. MOLLOHAN. Let me ask you, before you pass it on. Transitional unit, that is a category of necessity because there is not a special housing unit available? Is that what you are referencing there?

Mr. LOWRY. There is. And most of them will hold, depending on location, about 120 to possibly 225 inmates, depending on where it is. They are overcrowded. There is no more bed space in these places.

Mr. MOLLOHAN. What is a transitional unit?

Mr. LOWRY. That is a coined term the Agency created recently. When I tried to call them down to get information on this one of the Assistant Directors actually called it a modified transitional. And I wanted to know, is this a special management unit? Is it a special housing unit? We never got an answer other than it is a modified regular housing unit. And what it is is the same inmates, if I was to attack Mr. Glover and I was an inmate, or attacked another inmate, I would go to the special housing unit. Now when it is overcrowded they will take that inmate and throw him in a transitional unit, aggressive, assaultive, combative, and there is only one officer as opposed to at most times during rec and others you have five, six officers.

Mr. MOLLOHAN. Transition suggests that it is a transition to someplace. Where would one go after being in a transitional unit?

Mr. LOWRY. In our opinion, it was only created to try to reduce the overcrowding and to come up with a solution to keep aggressive inmates off of the general compound.

Mr. MOLLOHAN. Segregated, okay.

Mr. LOWRY. But they are not staffing it appropriately.

Mr. MOLLOHAN. Okay.

Mr. GLOVER. Some of the other challenges, obviously, Mr. Chairman, with Federal Prison Industries under extreme attack from some folks we have seen the numbers go down from almost 23,000

inmates down to about, I think we are down to between 19,000, somewhere in there working in our Federal Prison Industries programs. This has become an issue.

Obviously with the economy, people do not want to hear about inmates working, inmates holding jobs and being productive. However, to us it is more of a life and death issue. If you do not have these inmates occupied and working in a productive setting what happens is they get very agitated. They have a lot more time on their hands, idle, to cause difficulties within the system. At our facility where I work, Federal Prison Industries at Loretto, Pennsylvania, for instance, we laid off about, we are in the process of laying off about 200 inmates right now. We had about 500 working. These were doing nonmandatory source military work on cables. As the draw down to the military has occurred we of course have gotten less orders and the contracting rules from the Department of Defense are now starting to kick in. And so what is happening is, we are having to lay those inmates into normal housing units because there is not enough work in the Prison Industries Program.

Now, what that did is we had a number of inmates get into fistfights in the housing units because one decided he should not have been laid off and the other one should have been laid off. And so now we are starting to see a competition for those jobs in a much more, to us, in a much more unfavorable way. Prior to that, of course, we had waiting lists for inmates who had applied to work in the Industries Program. And that list has just now exploded. And so we really hope that the Congress can find a way to give us some form of repatriation, of work, that is clearly defined. That allows, that gives us the ability to bring back work that is no longer made here in the United States. I believe there was a bill quite some time ago that the Ranking Member wrote and filed on this same issue. And in there there would be a certification from Commerce Department or from the DOL to assure that we were not taking jobs from here in the United States. And so as a safety matter for us, the Prison Industries Program is very important.

The other concern I guess that we have that is happening is the, obviously, the assault rates. We feel they are up. I cannot remember a time, I do not know how the statistics are being looked at or how they are being presented. All I know is this. When I was in his seat as the Council of Prison Locals President I did not get a call everyday about somebody getting punched in the face, or getting drug out of the institution, or getting stabbed. I did not. And that was in 2005. So I cannot imagine. I do not work at a high security facility, but we are already, we have more fights in the last two months than we have had, I do not know, probably in two years. And obviously your home, in your district, Hazelton has just been a mess. Every time they open the thing back up there is an assault. They have to lock it down again. And something has got to be done to control the population in those facilities that do not want to function under the rules.

We are not talking about the majority of inmates here. And I do not think the union is saying that we want to go back to some sort of Attica-type system. That is not what we are talking about here. But there has to be some protections for staff that are built in. There has to be the appropriate funding.

Obviously, through the last eight years we have taken, although the numbers have increased, every year the numbers increase, the Bureau of Prisons, OMB tell us you still do not have any money to hire. Now, we added just this fiscal year $545 million to S and E. From fiscal year 2008's enacted amount to 2009, what hopefully will pass in the Senate today or tomorrow. And we have not been able to add, basically, to the staffing needs at the facilities.

In the early 1990's, the late 1980's, we had disturbances at Talladega and Oakdale. Right after those disturbances there was a commission, or there was a group of people that got together and looked at what was going on. And they decided that we needed to hire 6,000 correctional staff. And we did. And it was between the end of 1988 and the beginning of 1990, because I was hired during that time. And that is something that we think has to be done. We know that, you know, budgets are tight. We hear it all the time. And I do not want to offend anybody, but when we see something like a building at the National Science Foundation gets $400 million to be retooled, our officers call us and say, "Hey, why can we not come up with $400 million to staff prisons?" I mean, that is a legitimate, we think a legitimate question.

And so that is why we have been up here more and more. I mean, obviously you guys have heard from us more than probably ever. And we are very hopeful with the way the Committee is moving. The budget for the Obama budget started out at $6 billion. We believe that probably was before the appropriators here put forward the $6.1 billion in the House and Senate bills for the final 2009 package. And so we are hopeful that they will recognize that and make some adjustments.

EDUCATION PROGRAMS IN PRISONS

Mr. MOLLOHAN. Okay. Thank you. Mr. Wolf.

Mr. WOLF. Thank you, Mr. Chairman. And welcome to the Committee. On page ten you make the case for basically the bill that we had. And it later was in the discussion draft. Can you really both expect the prisons to get any safer? Or can you expect there to be legitimate rehabilitation without work?

Mr. GLOVER. Absolutely not. If we do not have productive, number one education programs, and number two, the Prison Industries Program, or some form of it, we cannot possibly ensure that inmates learn how to work. The biggest thing with an inmate working inside the prison system, as I am sure you are aware, is that many of them come to us without holding jobs. And so what they learn in the Industries Program is to come to work everyday, work for a supervisor, take directions, look at plans, how to build something, how to put something together. And that is where we gain a lot. And those inmates generally do not cause you any issues inside the facility. We have actually had riots go on and the Prison Industry inmates will actually cordon themselves off because they do not want to lose their positions in the Industries Program. We have had that happen. And so, no, you have to have some sort of viable program that will work.

Mr. WOLF. Well, I hope AFGE, which I have been always very supportive over the years, I would hope you would come up here and help us. There are no lobbyists for prisoners. There just are

not. But I think with the economy being what it is, I think we may see an increase in crime with the whole aspect of dignity to the individual from almost a biblical point of view, work, and to be involved in something. I am going to ask my staff to contact the Department of Commerce and the Library of Congress to put together a list of industries that we used to be very dominant in, where we are no longer. So that when I offer this amendment we are able to show, whether it be, and I do not want to just give men work where they are breaking concrete, or something like that. We want to give it to where there is dignity, so when they get out, if it is wiring a television set they can then learn to wire something else. Or if it is doing something that can be transferred in. But I think that can really, really make a big difference.

So what we are going to do is, we will be in touch with both of you, if we can. Tom Culligan will be working on it for me. We will try to draft the amendment and then we will have some industries. So if you have any ideas of different areas. The only other question I would have to ask you is, what do most other prisons do in foreign countries? Are there any examples of where country X or Y has a very aggressive work program, and their recidivism rate is down? Or is there any model that you know around the world that is working very, very well with regard to work?

OVERSEAS PRISONS

Mr. GLOVER. I do not have any information on what they do overseas.

Mr. LOWRY. I have talked to some of the guys in Canada who work for their prisons there. And they believe they do have an industry. So I do not have enough information to provide, but I believe they do have one there.

Mr. WOLF. And you, lastly, you think by doing this, and you have said, but for the record, it would make your employees, the prison employees, the guards and the administrative staff safer by having people to work?

Mr. GLOVER. I think the more the inmates are not idle will make us always safer.

Mr. WOLF. And if you were, if we were really, let us say we created a television manufacturing industry, that money could, and you were selling whatever you were making, which you would have to have a market, the prison system could certainly use that money that came from that.

Mr. GLOVER. The way it functions currently it would have to, I guess there would have to be some changes made. Because currently, it is a nonappropriated fund effort in Prison Industries. And so generally they do some welfare type, I guess they are allowed to spend some of that money back into the system. But they cannot use it to fund the S and E side of the system. So that would have to be looked at, how you are explaining.

Mr. WOLF. What is it used for?

Mr. GLOVER. Well, I mean, the inmate recreation programs. I think the Unicorp, Prison Industries can donate so much to those. They can have special programming. I think they can use some of the money for that kind of thing. But generally, they cannot get into the S and E side and, like, reimburse the Bureau's S and E

side. Although I am not an expert on that part of it. But I have been around the system quite a while.

Mr. WOLF. Okay. Well, thank you both. If you could be in touch with my office and we can see how we can push this. Thank you very much.

Mr. GLOVER. Absolutely.

Mr. MOLLOHAN. Thank you, Mr. Wolf. Mr. Ruppersberger.

MR. RUPPERSBERGER QUESTIONS

Mr. RUPPERSBERGER. Well, first, you made a comment you do not want to offend anybody. I think you have a right to be as mad as hell that we cannot provide security for our prison guards. And that has to be a priority. It is unfortunate that when you are talking prisons you are probably at the bottom of the list because nobody really wants to deal with it, whether it is federal, state, or local.

I noticed that in the budget from a security point of view that you had intelligence officers and the ability to gain intelligence, and that was cut from the budget. What impact have you seen with that cutting? And what do you think the intelligence group, how it helped you in security in your prison or generally prisons everywhere?

Mr. GLOVER. Well, as we were gearing up to monitor more phone calls of inmates and to check more letters, do things of that nature, they set up intelligence officers as a merit promoted position. That was, you applied for it as a correctional officer. You stayed in it permanently. You got trained. There were a whole range of things that you did. We had two at our facility at one time. We also had two other staff that worked in what we call an SIS Shop, a Special Investigative Supervisor Shop, that does investigations on inmates and staff and other things.

The intelligence officers generally did only inmate products, basically looking at gangs, looking at terrorist groups, those kind of things that we had within the system. They were taken off of our, what they called a mission critical roster plan that the Agency did in 2005. They had to save about 2,300 positions at that time. And so they moved forward to eliminate those off of the correctional roster. What happens is the last, the other two SIS people in that shop, ended up with those duties. They did not add anything. We have a phone monitor position that is supposed to monitor inmate phone calls, either live or prerecorded, and that position gets pulled——

Mr. RUPPERSBERGER. Well, let me say this. I do not know of any law enforcement agencies or military that does not do well unless you have intelligence. There is not a lot of money, so if you do not have the money sometimes you have to do things smarter or maybe use technology. You know, intelligence is not just about gathering intelligence. It is analyzing intelligence. And I think that maybe we should focus on trying to get more intelligence, and good intelligence. Which would include, could include, technology, monitoring, developing sources within the system.

And one of the ideas I have, and I know that Chairman Mollohan is working very closely with me, and it all started with Congressman Wolf who had a serious gang problem in Virginia. And then

he left the Committee, and he kind of showed me where to go. And the Chairman and I were able to put together a task force from Philadelphia to North Carolina, including West Virginia, Virginia, all these different states, to add real time technology, to really know who is where, and who is in the leadership.

And, you know, we might be able to find a way to fund, get you more money through that gang task force. Because one of the major issues, I mean we have to deal with gangs outside. But we have a serious problems, as you know, with gangs within the prison. And they are communicating with outside gangs. So Mr. Chairman, I think maybe we can work with our staff here to see what we can do to take that task force that you and I kept putting in, and really Congressman Wolf helped start, and see what we can do, and take it to another level with the prisons. So we might want to do that.

Any, do you have any, do you feel your management would be open to that type of plan or system, as far as getting better intelligence? Even though intelligence officers are cut, they might not have been doing what they need to do to begin with. Because you need sophistication in that area.

Mr. GLOVER. I would think they would be supportive of something like that. I am sure the Chairman can get with the Director on it.

Mr. RUPPERSBERGER. Okay.

Mr. GLOVER. I cannot, obviously cannot speak for him, Congressman.

Mr. RUPPERSBERGER. But, I mean, you observe, right? You represent the guards.

Mr. GLOVER. Absolutely.

Mr. MOLLOHAN. Thank you, Mr. Ruppersberger. Mr. Bonner?

MR. BONNER QUESTION

Mr. BONNER. Thank you, Mr. Chairman. I meant to ask this question of the Director earlier, but I would like to take advantage of your collective years of experience. By my math you have got about thirty-eight years in the service. One, I think, worked for state prison system at one time. Prior to that you both were in military service, serving your country in the Army and the Air Force. So you all have a lot of experience that we can draw from. And so the question I did not get to ask Director Lappin, but I will pose to you is, given the fact that he and you both have mentioned the intense problem with overcrowding, and I guess my question is, on behalf of the employees that you represent, some 34,000 men and women, do you think there should be some room for reconsideration of the maximum sentence guidelines that have been imposed? For instance on crack cocaine offenses, with regard to mandatory federal sentence guidelines?

Let me give you an example. We had in my district a first time offender who was sentenced in the early 1990's to life in prison without parole because he illegally conspired to sell crack cocaine with a codefendant. In the sixteen years that he has been incarcerated there have been no incident reports. He has completed several programs, from drug rehab, to financial responsibility. He has taken college correspondence courses. And by all accounts, includ-

ing the warden at his prison, he has been a model citizens. He is classified as medium security and has had exemplary behavior. And yet, under the current laws as they are written, there is no opportunity to move him out of the system, relieving the overcrowding problem.

I do not know if this is an isolated case or if this is widespread. But do either of you have a personal opinion about whether this would help with regard to the overcrowding issue?

Mr. LOWRY. I think proactively, I think things need to be looked into for the prison system. Number one, you either are going to have to come up with something creative like The Second Chance Act, getting it implemented in all phases instead of mandatory sentencing. If you are not going to have parole then you have to look at maybe was this guy when he was locked up, was it an assaultive crime? Was it a sexual crime? If it was not, a nonviolent criminal that is locked up in prison for a drug related crime, then something has to be looked at or you are going to have to continue funding the construction of new prisons.

I think somewhere, we are kind of at that head right now as to where the bow is breaking one way or another. Either we are going to continue, you know, bringing in somewhere between 4,500 and 7,000 inmates, additional inmates, into our system a year, and we are going to have to build prisons, or we are going to use all these tools that have been created like Second Chance Act, you know, you have drug rehabilitation to inmates with the DAP Program, and other things. I think Congress has to come up with something creative where, you know, we lower the sentencing. Or we are going to have to continue building prisons. That is my take on it. Phil?

DRUG PROBLEM IN PRISONS

Mr. GLOVER. The crack and powder problem has been an issue since 1995 when massive, we had riots in I think about 50 percent of facilities when they did not equalize crack and powder. And so we had a big problem there. You have a guy serving with powder cocaine for five years, where you have the same amount of crack twenty years. It is a disparity and it ought to be cleaned up. I mean, that is my own personal opinion.

We had parole up until I think 1987. They started to phase it out from 1987 to 1990. And frankly, parole at least gave the corrections system, it is a complicated process. It is difficult. It requires a lot of man hours. But it at least gave inmates the ability to get better and come to the staff. And if the staff thought they were they could recommend them for parole. And the only ones we do that with now I think are the D.C. sentenced offenders. Because they are under that system but we are housing them. So we do have, I think, some aspects of parole left.

Yes. We think there should be, first time drug offenders, nonviolent, we think should be something that you could look at to transfer them, like the states are starting to have to do because they cannot afford this. So they are moving them into treatment, into the drug courts, those kind of things. And hopefully keeping some of the crowding down in the system. But, yeah. We think that that kind of stuff should be, all that should be looked at.

Mr. BONNER. Shifting subjects. Given that the Director indicated earlier, and I think you would, trust you would confirm with our knowledge, that there is a growing rate of non-U.S. citizen inmates in our prison systems. How, what special challenges does that statistic present to the members of your union?

Mr. LOWRY. As a whole I think one of, probably the major challenge is, is that a lot of these inmates that come in, not being U.S. citizens for the most part, not speaking English. Of course, they do have educational programs and sooner or later most of them pick it up. But not speaking it right away, we have had to try to over the years have a cultural type change to get our staff acclimated. There has been a big move because the population, Hispanic population in our prison system has grown at such a huge rate probably over the last ten years. At one time, most of the Hispanic inmates mainly were in prisons in California, Arizona, Texas, Louisiana. And now we see that trending up more to the Midwest and the northern prisons. As the population grows where you really did not see that many Hispanic inmates before now you have them. And in these higher security level prisons, where you have taken pretty large numbers and moved them in, the inmates that have been there who feel like, you know, they are going to run the contraband, drug, gambling rings inside the prison, it has caused some disturbance situations.

One place that has experienced that is in the Chairman's district, Hazelton. And there are other penitentiaries that are facing that same thing with combining the inmate gangs together. Because as the Director testified earlier, some of these Hispanic gangs are now some of our most violent gangs in the prison system. And he named some of them off, being the Surenos, they are some of the most violent.

Mr. GLOVER. Language has been the most difficult part, although we do some immersion training for staff to try to get them trained up a little bit to speak some Spanish. That is the major one. We do have some Chinese gangs that we received from New York. And that is a very difficult language for staff to pick up and to understand. So monitoring them is difficult. The same with telephone monitoring, letters, it is a very difficult thing. And what we have to do is basically record that and send it out to other translation, like the FBI or somebody, to translate those letters and those things to make sure that the prison system is safe. So that is probably the hardest thing, is the language barrier.

Mr. BONNER. I guess the last question I would have is, I posed the question to the Director earlier because many times we have an opportunity to go home and do town meetings with our constituents and they ask us question that sometimes are better than the ones we come up with. I asked the Director a question about how do the prisons actually have so many problems with gangs and with drugs, and weapons, and things of that kind? Because many people, in the minds of many American taxpayers they would think if there was one place where you could keep drugs or weapons out of possession it would be in a prison. To this point, do you, do you believe that we are being as innovative as we could be with our rehab programs? So that when a prisoner, for instance, that has come in with a drug conviction, that, are we going to the lengths

that we need to go to to make sure that when they go out, back into society, that we have given them every opportunity to leave the bad behavior of the past behind them. So that they can become a model of what not to do as opposed to going back to an old bad habit?

Mr. LOWRY. I think the law is there in some of these cases, as far as, like, DAP Programs, other programs to get inmates involved. I think the policies are there behind that to do that. But I do not think, and it can go with a lot of areas, that the funding has been there to fund these things. You take staff who are currently in place who are performing other functions, and then you create these new functions, procedures, processes, that are going to put more inmates on a caseload, or that there are additional procedures and work that staff have to be performed. And although our staff are professionals, and follow policy, and do the best they can with the numbers they have, it is, if you continue to add things and you do not continue to staff them, in other words what would encompass a full time job or additional full time positions, and you keep putting things on your current staff. Then sooner or later things are not done the way they should be to give enough emphasis or time on that program. And that has happened in the Bureau of Prisons because we have not increased in, probably, in staff. We decreased the number of positions that we had probably about five years ago. There was about 2,300 paid positions that were eliminated. And at that point, other than maybe additional, not very many additional staff have been put in place.

The Bureau of Prisons constantly uses cost savings initiatives, such as holding positions open for six months, not filling this, not filling that. There is a priority to bring correctional officers on, but it is usually between 85 and 92 percent depending on the location, depending on what type of security level it is. But there are so many positions that are vacant, or that are not filled, outside of the correctional services department. Correctional officers make up a third of the staffing at any given institution and the rest are correctional workers, we consider them as. They are law enforcement but they are like your DAP coordinators for drugs, your case managers, and these people continuously get things put upon them. And there is no additional positions for that. They are not getting hired behind. So, I mean, they are performing all the work. And I think the things are there. The law is there. The procedures are there. We just need the budget so that we can have the staff to put there to make it more effective.

Mr. BONNER. Thank you, Chairman.

Mr. MOLLOHAN. Thank you, Mr. Bonner. Mr. Kennedy.

SELF-HELP GROUPS IN PRISONS

Mr. KENNEDY. Thank you. To follow up on that question, how frequently do many of these federal prisons allow self-help groups to come in on the drug and alcohol self-help groups? As you just acknowledged, basically you do not have enough funding to have these case coordinators have these programs funded and the like. How accessible do you make the prisons to outside AA groups, NA groups and the like, to come in and, you know, fellowship with

prisoners who have drug and alcohol problems, or things of that sort?

Mr. GLOVER. Through our chaplain services, Congressman, we have a number of volunteer groups that come in and work. Generally, it is on weekends. But we have a chaplain group that comes in, all of the, probably six or eight people that they get from the local community churches. And they come in and work with some of the inmates. It is certainly probably not enough. I am not sure that we have an AA chapter that comes up and works with any of the inmates. We have a paid drug treatment that runs programming for that. It is a difficult mix. Because anybody that we bring in has to go through a background check. And so, if they are going to come in and work with inmates, if they have had past experiences with, if they have had issues in their past, then they may not even be able to be screened to come in and work with inmates.

Mr. KENNEDY. Right.

Mr. GLOVER. And so that is a, that is a concern. Whether they reoffend, whether connections that they might make. So we have to be very careful, obviously, on who comes in to work with them. But I know our chaplain service works a lot to bring outside groups in. And our recreation departments try to bring people in to work with inmates. And provide some quality programming, too. I am not sure if that answers——

Mr. KENNEDY. Okay, that is good. Maybe if you could get us a sampling of various prisons or some of the work that they are doing. As you mentioned, I think it is anemic. But it would be really good to be trying to send a charge out to management to do more. And I think there is an interest on the community's part to do more if they are given the right direction. I know that there are a lot of activist groups that want to be participating if they are given those chances to sign up and the like.

Let me ask you, with respect to the turnover between public correction officers and the private sector, the staff turnover per your 16 percent for public corrections facilities versus the private sector, which is 53 percent. So in less than two years the entire security force in a private prison turns over. What concerns do you have regarding the turnover and experience rate of staff of private vendors?

PRIVATE SECTOR PRISONS

Mr. GLOVER. Just real quickly, we would like you to do away with private sector prisons, frankly, Congressman. We have been arguing about this for, since 1996, when Taft was put in as a private prison that was built by the United States government, and handed over to a private contractor to run because they said they could run it cheaper and better.

It is clear from most studies that there is no real cost savings. There is less oversight. And now we have run into a real interesting situation, where we have Reeves County, Texas, that went up into a riot, 2,400 inmates. And we sent bargaining unit, Bureau of Prisons law enforcement staff down there, about fifty of them, to help the private prison. They want to run it on their own, they want to run it better and cheaper, then they can find their staff from their private prison somewhere else to come down and help.

We would like it to be defunded, to allow us, bargaining unit employees, to be sent to help private contractors, who are basically trying to take our jobs. It does not make a lot of sense to us.

A 2007 GAO Report, I believe it was, says that we do not even keep the statistics anymore to make a comparable cost analysis of a low security prison run by the Bureau and a low security prison run by the private sector. Now that is what the GAO says. I saw the rebuttal to it. And that is fine. But we do not believe, number one, for the oversight purposes, programming, all of those types of things, that this Committee should even fund them.

Mr. KENNEDY. Well, it is certainly clear that it is, the turnover in staff has got to be a real issue here with respect to safety.

Mr. GLOVER. We have a line of people. We have a private prison in Clearfield, Pennsylvania. We have had a line of people from Clearfield, Pennsylvania applying at Loretto, Pennsylvania and Allenwood, Pennsylvania trying to get out of that private prison. Now, I do not know why. I mean, I do not work there. But obviously, there is some reason that those staff want to get out. Now, I will say this——

Mr. KENNEDY. Do we have some of the profit margins that some of those for profit prisons are garnering?

Mr. GLOVER. Well, I know what they are paying some of their executive staff, if that will help.

Mr. KENNEDY. Okay. If you could submit that for the Committee that would be helpful.

Mr. GLOVER. Absolutely.

Mr. KENNEDY. And give us some examples if you have some of them.

Mr. GLOVER. Well, here is a former BOP warden who now made, according to the Forbes.com, total compensation $771,000 was reported for him. A former Director of the Bureau who now works for private sector contracts, $854,000.

Mr. KENNEDY. As a manager of one of our prisons?

Mr. GLOVER. Well, these are over GO Group and Corrections Corporation of America, which are contracting——

Mr. KENNEDY. Contracting for the prisons?

Mr. GLOVER. Correct. Here is another former Deputy, or Assistant Director in the Bureau, whose reported total compensation was $1,400,000 working for Corrections Corp. Of America.

Mr. KENNEDY. Let me just ask you, is there not also some disparity in sentencing? Was there not a great deal of lobbying by Corrections Corporation of America for stiffer drug penalties and the like in order to raise the amount of sentencing. It is good business for them, obviously.

Mr. GLOVER. We have a report from last year that they spend approximately in a two-year period $2.5 million on lobbying activities. We certainly do not know what they, what their message is. Except if you go to their websites. But that definitely is, they have spent a lot of money on lobbying.

Mr. KENNEDY. Well, Mr. Chairman, I would just say, I think it is worth this Committee's time to look at what they are spending that lobbying money on. And particularly, whether this whole issue of them advocating for, you know, harsher sentencing on drug laws

is one of the those things that they have been spending money on in the years past.

There is a terrible situation in Pennsylvania recently where a couple of judges, juvenile court judges, have been sentenced for kick backs in a private contract, for a private contract prison in Pennsylvania to a private prison for sentencing kids to a prison in exchange for bribes. This is an unfortunate situation that is happening because of the profit nature in prisons, and that I think is not part of the correctional nature that we should be engaging in in terms of our government playing profit with the prison. And it also makes no sense in terms of security, which should be our paramount issue here. So I thank both of you for being here.

Mr. MOLLOHAN. Thank you, Mr. Kennedy. Gentlemen, there will be some questions for the record, I am sure, that members will want to submit. But I wanted to give you an opportunity to sum up. If there is anything that you would like to say that you did not cover in your opening statements, or was not covered in questioning, I want to give you an opportunity to get that on the record now. And, of course your written statement is made a part of the record. And if you want to submit anything subsequent to the hearing we welcome you to do that as well.

We have requested, or if we did not we are going to, request some of the comparisons between private prisons and those operated by the Federal Bureau of Prisons. We had a bit of a discussion about that, as you know, this morning. And to the extent we do not feel like we have enough information on the record we will ask the Bureau of Prisons to submit that.

So if you have anything else to add before we close this panel, I invite you to come forward now.

MR. LOWRY SUMMARY

Mr. LOWRY. Okay, I will make this real brief. I appreciate the opportunity to be here today to be able to speak to this Committee. It is really an honor for me. In just a closing brief here, all I would say is our agency has spiraled out of control. Our staff that work in these prisons everyday are being put in grave danger, here, because of the understaffing.

I will sum it up by saying that we are no longer a proactive agency. We are reactive to what goes on. You have to have bodies out there supervising these inmates. If we cannot prevent the manufacture of weapons we cannot control or contain them from being made inside of our prisons and used against each other. Last year, there were eighteen inmate homicides inside of our federal prisons, the highest in any year that I know of. There were only twelve in 2007, seven in 2006, six in 2005, and three in 2004 and 2003. That number alone shows the severity of the increase of violence inside the prisons. And there has been many staff also that have weapons used against them.

Of course, I mentioned that one of our officers lost his life who was brutally attacked by two inmates. It could have been prevented by many things that occurred, too many to say today. But many things could have prevented that loss of life as well.

But I would like to say something has to be done. To look at our agency, how our administrators are conducting their business. The

policies that they are putting out are not sound anymore, because we do not have the staff to operate or to keep these prisons as safe as we should. Not only for our staff, but we are charged with ensuring the safety and humane the treatment of inmates as well. That is our jobs. And we have to have the staff out there to supervise to keep these inmates from making this contraband and then using it against one another.

And we are only going to do that. Cameras do not do that. Cameras are oversight at the end of the day. If you ask honestly of our Director or anybody that worked in our prison system, the majority of the cameras are only viewed if there is an incident that occurs. But nobody is sitting there watching. It plays twenty-four hours all over the place, but for the most part there is nobody watching that camera. It is the staff members and the inmates. If something occurs, it is nice to have it, and go back and review and see why it happened or how it happened. But we have to have the staffing to keep our prisons safe. Staff and inmate alike.

Mr. MOLLOHAN. Before we go to Mr. Glover, an issue has come to my attention here recently, and I meant to ask you about it. It was manning towers versus relying upon cameras perhaps, but also electrified——

STUN FENCES

Mr. GLOVER. Stun fences?

Mr. MOLLOHAN [continuing]. Electrified fences, stun fences, which I understand stuns a person in the first instance, but then if they go at it again it electrocutes.

Mr. GLOVER. Correct.

Mr. MOLLOHAN. Would you talk about that issue a little bit?

Mr. GLOVER. We have spent $200 million on towers. I can speak for Canaan, Pennsylvania in particular, but I know Hazelton is the same way. We spent about $200 million to build a tower. Now we are not manning the towers because we do not have the staff to man them, and we need to find places to put those staff. They are working in units and other places.

So they came up with this idea of a stun fence. Now, apparently some states had played around with this idea. I have been told from staff at Hazelton, for instance, and from Canaan that the stun fence goes down in adverse weather, or can go down in adverse weather.

Now, I am sure that the Lieutenant who is on duty probably sends a staff member and puts him in a vehicle with a firearm, and then makes him drive around in circles if that stun fence goes down. Because you have to have some sort of last resort.

But the towers were not just for inmate escapes. The towers are to observe the recreation yards, to observe back into the yard as much as possible. And if something happens that is where a staff member would run, to the base of the tower, to be protected. If a staff member is out on the yard with 800 inmates and they start to riot, you would run to the underside of the tower so that the tower officer can put a firearm or a nonlethal weapon. The first thing they try is nonlethal from the tower. If that does not work they may have to change to lethal at some point if they cannot get a handle on the disturbance.

But we are opposed to these stun fences. We think the Congress should review them. We believe the towers are the way to go with staff working in them, not empty ones. But again, I know that some of these decisions are made because of the funding levels. And so when you are, you know, trying to determine build this housing unit or fill this tower, well let us find a way not to fill the tower if we can.

Mr. MOLLOHAN. Did you have any other comments, then? I think Mr. Wolf has a question.

Mr. GLOVER. My only other comment, Mr. Chairman, was that we appreciated the A–76 language that was put in last year and that is put in this year. We believe that we should be inherently governmental. The Justice Department in 2002 changed us from inherently governmental to I think governmental function, but not to be contracted. We would like that determination to be reversed.

There are a number of things, obviously we just got into the private prison issue a very small amount. But I do not understand how it takes $700 million for a ten-year contract to California City for low security, criminal alien inmates that do not require programming. $700 million was what that contract was. And it makes no sense to us. We do not, I do not know of a prison in the system that runs at that rate per year. I do not know of one. I mean, the Supermax may, maybe some of the pens.

Mr. MOLLOHAN. We will look at it. We will look at it.

Mr. GLOVER. That would be my only thing. Bryan covered everything else on the health and safety issues.

Mr. MOLLOHAN. Okay. Mr. Wolf.

MR. WOLF QUESTIONS

Mr. WOLF. Thanks, Mr. Chairman.

Just quickly two questions. And without going into detail on the first, are there a lot of things that go on in prisons that the Congress and the public just don't really know about?

Mr. LOWRY. On a daily basis. There are many things that occur on a daily basis. And I hate to frame it this way, but we have as a union tried to get some of these things out to our Congressmen, to our Senators, to the media on a daily basis things that just occur.

That is like these stun-lethal fence that was brought up a second ago. This project has been in place for several years now. And in the meantime of bringing this project up, they unmanned the towers at a penitentiary in Terre Haute, Indiana at a high-security prison and just put extra perimeter zone patrol.

Like Phil testified a second ago, these are safe harbors for not only staff but inmates. If a riot or disturbance occurs on the yard, the first reactionary thing is a dispersion round to try to get inmates to separate and lay down. If they don't, three times last year our staff member had to take the lives of inmates from there to prevent further serious bodily injury or loss of life.

And so those kind of things are occurring. I mean, there is many things that happen that we try to get all this out. It is just there is a lot of things that occur.

Mr. WOLF. And I never knew what a stun fence was until the Chairman mentioned it. I had never heard of it. Would it make

sense to put together a high-level panel task force to take a year to do an in-depth study of the prison system in the country and report back to the Congress?

Mr. LOWRY. We absolutely believe so. As a matter of fact, Phil, I think has asked or tried to request hearings. And I don't know who you requested them through. But we have requested hearings on some of these issues through Congress. And I think he has mainly done that through his Pennsylvania delegation.

Mr. GLOVER. We would certainly welcome any kind of study on the system.

Mr. WOLF. Thank you very much.

JUVENILE JUSTICE

Mr. KENNEDY. Excuse me, Phil, since you are from Pennsylvania, do you know that story about the juvenile justice? Could you just fill us in briefly on that?

Mr. GLOVER. There were two judges that were apparently—I think they pled guilty to 60-month sentences each I believe and were disbarred. They had been taking juvenile offenders and instead of giving them probation or giving them some sort of treatment if they were—if they had anger issues, things like that, and this was in all the papers—I mean, this was in a lot of papers in Pennsylvania, they were sentencing them to the harshest penalty and sending them to a private juvenile contractor for incarceration. And they were getting money back from the contractor.

Now it said in the papers and in some of the other stories that came out that they haven't identified—I guess they haven't identified who in the contractor companies that they are going to go after. But apparently there is going to be some further investigations on that.

And now I can get the articles and send them in for the record if you would like.

Mr. KENNEDY. I would appreciate that. Thank you.

Mr. MOLLOHAN. Okay. Thank you, gentlemen, very much for your appearance here today, for your hard work on behalf of your membership and the Bureau of Prisons, and for protecting society generally. It has been excellent testimony. We would appreciate maybe following up in certain areas, but thank you.

Mr. GLOVER. Thank you for having us.

Mr. LOWRY. Thank you.

TUESDAY, MARCH 10, 2009.

OFFENDER DRUG ABUSE TREATMENT APPROACHES

WITNESS

FAYE TAXMAN, PH.D., PROFESSOR, ADMINISTRATION OF JUSTICE DEPARTMENT, GEORGE MASON UNIVERSITY

OPENING REMARKS

Mr. MOLLOHAN. The hearing will come to order. For our last hearing of the day, we welcome Dr. Faye Taxman, Professor in the Administration of Justice Department at George Mason University.

Dr. Taxman, welcome to the hearing today. We appreciate your really working your schedule to accommodate us. We particularly wanted to get your testimony in. It is a bit unlike any other testimony. And I think it was really important in a way only you could offer the kind of insights that I think we are looking for. And we so much appreciate your making yourself available. And I know you did it at some considerable effort.

Dr. Taxman has expertise in the broad range of prisoner reentry issues we will be discussing between today and Thursday. But we have asked her to focus here this afternoon on what is perhaps the most critical challenge facing many offenders who reenter our communities, substance abuse.

Forty percent of inmates entering federal prisons have a drug use disorder and require residential drug abuse treatment, because they have a residual craving for the drug.

Over the last several decades, our society's approach to dealing with criminal offenders has been in flux. Beginning in the 1970s, the criminal justice system at the federal and state levels began to focus more on punishment than rehabilitation, due in large part to a rising crime rate and research showing that rehabilitation programs were having little effect on recidivism, accurate or not.

In the late 1980s, states began imposing mandatory minimum sentences and three-strike laws that increased the period of time an offender is likely to serve. The population of state and federal prisons has increased significantly.

Between 1995 and 2005, the number of people in prison in the United States grew by approximately three percent per year, compared to an overall population growth of one percent. Add to that the fact that the cost of incarcerating an adult is approaching $29,000 per year, which is greater than the cost of almost any treatment program or any other prison alternative. As a result, many states and the federal government have been implementing new prisoner rehabilitation initiatives as a tool for reducing recidivism.

Last year's enactment of the Second Chance Act was testament to that change in thinking. We have begun to understand that offenders are much more successful in reentering their communities from prison if they have comprehensive, coordinated support and services, and that society is better off in terms of reduced crime and costs when that happens.

What prevents many offenders from successfully reentering their communities is drug addiction. Addiction is a powerful need. And addicts are unlikely to be able to make the right choices unless we help them deal with that addiction through drug treatment programs, counseling, and other supports.

Dr. Taxman, in a moment I will ask you to briefly summarize your written testimony. But first I want to turn to our Ranking Member, Mr. Wolf, for his comments.

MR. WOLF OPENING REMARKS

Mr. WOLF. Welcome. It is good to have you here from George Mason University.

Ms. TAXMAN. Thank you.

Mr. MOLLOHAN. Thank you, Dr. Taxman. As I indicated, your written statement will be made a part of the record. And proceed as you will. Thank you.

FAY TAXMAN OPENING REMARKS

Ms. TAXMAN. Well, thank you very much for accommodating my schedule. I really appreciate that. And I was flattered, Chairman Mollohan, that you asked for me to testify. It is a pleasure really to be here today and to share with you the issue about drug treatment services. I actually did my dissertation on this topic many years ago. So I really appreciate this opportunity. I appreciate the interest in sort of thinking about how we really address this severe problem in our society.

How we address the severe problem of illicit drugs in our society, but also how we change the culture of the criminal justice system to respond to drug users. And I am using that term very broadly to include corrections, prosecutors, defenders, defense attorneys, prisons to really be able to offer effective drug treatment services. And I think that is one of the challenges.

So I want to really thank you all for all of your effort with the Second Chance Act. That is an extremely important piece of legislation for us to begin to rethink how to better provide services within the criminal justice system. Since we have had this 30–year history of being a punishment-oriented system, it is not easy to change the face of the criminal justice system overnight. It is not easy to offer effective services. Although it is heartwarming to listen to the gentlemen who were here before me, that they are very supportive of expanding drug treatment services for offenders.

I know from my own work that delivering drug treatment services behind the walls, in community corrections settings, in jails is not an easy endeavor. And there are lots of changes in the culture within those criminal justice organizations that will need to occur for us to be effective at reducing recycling and recidivism rates.

We are at an important crossroads now. And an act like the Second Chance Act and other related legislation can really help us do this. We have a body of knowledge about effective treatment services.

And I want to stress that, because in the 1970s when Robert Martinson, who was the father of the "nothing works" mantra, much to his demise actually. But he basically was looking at a very narrow set of work during this period of time.

We actually have 30 years of experimental research that has been done in cross disciplines in psychology, sociology, criminology, biology that points us all in the same direction, which we know some of the treatments that work. Our bigger challenge is putting these treatments and services in place. And we really need to begin to think of ourselves not as separate systems—prisons, probation, parole—but really an offender management system, so that we can try and mitigate the risk of offender populations.

We tried actually to do this in the early 1990s, when we experimented with the concept of intermediate sanctions. It was a very brief period of time. And to be honest, it didn't work very well. And there are important lessons in that era that we should really be

thoughtful about in trying to build capacity now, to think about how to more safely manage offenders in the community.

I put together testimony which, I am not going to read. But there are five points that I would like to make. First of all, substance abuse treatment works. We know that it is effective, if it is delivered appropriately.

We also know that it is cost effective. For every dollar that you spend in substance abuse treatment, you can reduce seven dollars in other costs within the criminal justice system. And if you included victims issues it would actually be more than seven dollars.

We also know that the most effective treatment are those that target behavioral therapies augmented by new medications. And this is going to be a challenge for the Criminal Justice field. There are a series of medications now available that can really help people recover and get into recovery mode in a quicker fashion.

This is important, because when you have a 30-year-old person, which the average offender is around 32 years old, and they have been using drugs for 15 or 20 years, to think that we are going to change someone's life in a six-month program is really not wise. But there are medications that can help accelerate recovery. There are behavioral tools. And there are support services like Mr. Kennedy talked about, such as self-help groups that are really important to bring together into this field.

Our biggest challenge is that we have such low capacity right now to provide treatment services. We recently completed a survey funded by the National Institute on Drug Abuse and our estimate is that on any given day across the federal system, state and local systems, less than ten percent of the offender population can participate in substance abuse treatment services.

I am a quantitative analyst. We examine system impacts. You can't have an impact on a system when you have one out of ten people in care. You can't change the culture of that organization. You can't get the staff to respond differently, because they are dealing with other efforts such as controlling behavior or monitoring offenders.

We know that drug treatment works. We also know that our problem is not about substance abuse just alone. That there are other criminogenic needs that offenders have. And we have not invested in the proper therapies to be able to deliver these other services. And in fact to be perfectly honest, no "one" owns that problem area to believe those services.

The issue I am referring to is criminogenic value systems. No one provides those services. We often think that substance abuse agencies are responsible for those services. And so we really need to begin to think about how we offer a broader array of correctional treatments for this population. Using that average 32-year-old person who has been using, they have gotten into a subculture and a lifestyle that is really difficult to untangle unless we not only deal with their substance use but also the criminal subcultural values that they have learned and subscribe to.

That being said, what are some of the things we could do? Well, I believe one of the biggest steps forward that we can do is actually be much more interested in developing a community correction system that prevents incarceration. And you all have noted the sen-

tencing challenges before us. But part of the reasons that, I believe and others in my discipline believe that we have left ourselves to basically relying on incarceration, is that we don't have a community punishment system. And most people think probation is basically a slap on the wrists. And so, therefore, you box in prosecutors and judges, because they really don't have a lot of options.

And yet we can learn from our colleagues overseas. Have a much broader array of punishments. For example, in Germany if you are arrested on drunk driving, a first-time offender is fined with a $5,000.00 fine. In the United States, we fine people about $250.00–$300.00. In Germany a chronic drunk driver, three-time offender, gets fined $25,000.00. And they can take away some of their property like their cars. In the United States, a third-time offender may go to jail, may not. And they still get fined about $300.00 or so.

We haven't been as creative in terms of thinking about how we encourage people to address their substance use disorders.

The second point is is that we have already noted that we need a culture shift in order to accommodate treating the offender population towards the goals of reducing the risk of recidivism. The current model that the Office of Justice Programs tends to use to be able to provide assistance to state, local, and federal agencies, from my perspective, is broken. And it does not really develop what we have learned in the healthcare industry about organizational change.

There is models of technology transfer centers that I would highly encourage you as, a Subcommittee to really explore to help the U.S. Department of Justice, change their methodology about how they provide technical assistance and grow the skill sets of the correctional officers, the probation officers, the drug treatment counselors, prosecutors, and defenders that work with this population.

And in my testimony I have given you an example of the addiction technology transfer centers that is funded under the SAMHSA, the Center for Substance Abuse Treatment, where they for almost 15 years have put in place across this country just mechanisms to be able to help move—train professionals, augment what is available within state systems, to really give them the skills to work with the offender—addicted population differently. And I think it is a model that really should be considered to advance practices.

And finally, I would be remiss as a researcher not to note that the National Institute of Justice, lacks appropriate funding to advance our knowledge. And, the biggest funder is actually the National Institute on Drug Abuse. But NIDA's interests are a little bit narrower than what is needed given the organizational issue and providing comprehensive treatment services for the offender population. So in my testimony I cover these five points.

I also, if you don't mind, is you had asked the gentlemen before me about work in prisons in other countries. And I actually happen to be on some international panels. In other countries, there are very different prison systems. First of all, people are there for shorter periods of time, significantly smaller number of people in facilities.

In England, the average prisoner is there for about nine months. So, you know, you have totally different issues. The prisons are smaller. We have prisons that are 1,200 people or small cities like,

and there were several prisons that were probably 10,000 people. That is like a small town.

In Europe, they also—they have work and they have far more treatment options for offender populations. And those treatment options take up most of the day of the people that are incarcerated.

European prisons have a very different climate. The size creates unsafeness. And it also causes tremendous stress for the correctional officers.

In Europe the focus is really on preparing people to come out. And they actually certify programs that are offered in the prison systems. In the U.S. we don't have a certification process here. They actually have a very well designed—it is actually a model that Canada uses too, most of the European countries—to really make sure that whatever programming occurs in prisons, from education to therapies, are designed on behavior change models. The certification proves that the programs are well-designed.

So with that—you know, I am sorry to digress a little. I thought you were interested in looking at other countries.

[Faye Taxman written statement follows:]

Drug Treatment for Offenders:
Evidence-Based Criminal Justice and Treatment Practices

Testimony:

Subcommittee on Commerce, Justice, Science, and Related Agencies
Alan Mollohan (WV), Chair

March 10, 2009

Given by:

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Drug Treatment for Offenders: Evidence-Based Criminal Justice and Treatment Practices

I am grateful for the opportunity to present the current state of drug treatment services for offenders to the Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies. I am a professor in the Administration of Justice Department at George Mason University, with expertise in health services for offender populations. In this time of rethinking our current policies and strategies to improve public safety and public health, evidence-based practices and treatments are a good place to start. . We can identify the components of effective programs and services for offenders, as well as how criminal justice agencies can facilitate a commitment to recovery and helping offenders become law-abiding citizens.

Our largest challenge is to provide sufficient capacity for quality programs and services in the *community* and to improve the skills of the workforce in both the addiction treatment and correctional fields. Reentry discussions have generally focused on the smallest pool of offenders—those leaving prison, a pool of nearly 800,000 offenders a year. Our public policy has neglected the greater portion of offender populations—those offenders "reentering" from jails (about 12 million if one includes pretrial offenders) and offenders in the community on probation supervision (around 5 million). This neglect has limited our prevention efforts, and increased the demand for prison space. An emphasis on the front end of pretrial and probation would improve our efforts to reduce the churning through the criminal justice system. Since an average of 40 percent of new intakes to prison are failures on community supervision (Glaze & Bonczar, 2007), the expansion of quality supervision and substance abuse treatment programs would be an effective strategy to reduce the prison population.

It is now time to turn our attention to a broader agenda to ensure that the next decade equips correctional and treatment agencies to use evidence-based practices in daily interactions with offenders that will reduce recidivism. To that end, I will focus on five major themes:

1. Substance abuse treatment works, and is cost-effective. Expanding the use of targeted behavioral therapies, coupled with the use of new medications, to a larger percentage of offenders will reduce recidivism. Currently only about 10 percent of offenders can participate in substance abuse services. This capacity needs to increase to have a substantial system impact.
2. While nearly half of the offenders would benefit from some type of substance abuse treatment service, other offenders need clinical therapies that address criminal thinking and values. A systematic and specific funding stream is not in place to provide other services to reduce criminogenic needs. Together, correctional agencies need to have set mechanisms to fund substance abuse treatment programs and educational, vocational and employment training services for offenders.
3. A national initiative is needed on community corrections—pretrial, probation, and parole—with the emphasis on recidivism reduction strategies. This includes the provision of evidence-based practices and treatments, and building an infrastructure to manage the offender safely in the community.
4. A national network of technology transfer centers focused on disseminating evidence-based practices is needed for judges, correctional agencies, public health, mental health and substance abuse treatment agencies, medical providers, educators, and others that work with the offender population. These centers would augment policy work by focusing on the translation of evidence-based practices into field settings.
5. More research and evaluation is needed to continue the development of knowledge about effective practices and treatments, to understand models for implementing science into practice, and to improve the quality of control and treatment related services to manage the offender in the community.

The emphasis on reentry over the last decade has raised our awareness of the paucity of effective programs and services that exist, while serving to solidify stakeholder commitment to addressing the needs of the offender population. It has also allowed the field to begin to consider how best to provide treatment services for offenders in an era when "rehabilitation" was not allowed to be part of the public dialogue. Good quality drug treatment programs are effective in reducing drug use and criminal behavior, and using such programs is a cost effective crime control strategy. The operations of the prison, probation office, jail, drug court, and diversion programs directly affect the ability of the drug treatment program to deliver the expected results. Drug treatment is an underutilized tool in the effort to control crime; our recent national survey of criminal justice treatment practices illustrates this gap, showing less than 10 percent of the offender population capable of accessing treatment

services on any given day (Taxman, Perdoni, & Harrison, 2007). Without adequate drug treatment services that address addiction disorders and criminal behavior, people will continue to recycle through the justice system, unable to deal with myriad health-related issues that may influence criminal behavior and continue other destructive behavior.

The Need

Offenders are probably one of the unhealthiest subpopulations in our society. According to the National Household Survey on Drug Use and Health (NHSDUH), individuals on probation and parole are four times more likely to have substance abuse disorders than the general population (SAMHSA, 2008). They are also more likely to have mental health disorders (Abram & Teplin, 1991; SAMHSA, 2008). Offenders have more somatic health disorders than the general population (Taxman, Cropsey, Gallagher, under review). These physical health disorders affect success in substance abuse treatment and correctional programs that are designed to reduce criminal behavior. Health disorders include asthma, cardiac disorders, and infectious diseases such as tuberculosis, sexually transmitted infections, HIV, and HEP C. Juvenile offenders are less likely to be immunized than youth overall, and are at higher risk for suicide (Gallagher & Dobbin, 2006). In total, the offender population has a number of unmet medical needs. Constitutional mandates ensure that offenders in prison and jail receive basic medical services while offenders in the community do not have that protection. One study in North Carolina found that offenders returning to the community from prison placed the community at risk for increased sexually transmitted diseases and teenage pregnancies (Thomas & Torrone, 2006); a recent study of youth involved in the juvenile justice system found that they were twice as likely to have sexually transmitted diseases, but unlikely to receive health care due to the high cost of treatment for sexually transmitted diseases at public health clinics. The unmet medical and psychological needs of the adult and juvenile offender populations negatively affect the community, and increase the costs to society. For the most part, less than half of the offenders have completed high school or received a GED (Harlowe, 2003).

In a recent study, we estimated the size of the correctional population that is in need of substance abuse treatment services to be 5.4 million adults and 254,000 youth (Taxman, Cropsey, & Gallagher, under review). The majority of these offenders are in the community, many with prior experiences in prison and/or jail. If we limit our attention to only those reentering the community from prison, we are losing tremendous opportunities to prevent incarceration. The Second Chance Act needs to focus on expanding services for all offenders, with an emphasis on using evidence-based programs.

Facts about Effective Substance Abuse Addiction Treatment Programs

Drug treatment and correctional programs are one of the most effective crime control strategies. This simple fact is based on nearly three decades of research into the effectiveness of drug treatment programs in reducing crime and drug use. A recent article in the *Journal of the American Medical Association* summarizes this large body of knowledge about the efficacy of addiction treatment (Chandler et al., 2009). More specifically, the science around service delivery systems and treatment programs are also known based on clinical trials and the consensus of experts in the field. This is summarized in numerous places, including a booklet by NIDA on *Principles of Drug Abuse Treatment for Criminal Justice Offenders* (NIDA, 2006). Keep in mind that effective treatment services should address the following five principles:

1. Behavioral treatments are effective, and some therapies are more effective than others. For offenders, cognitive behavioral therapies or therapeutic communities are more frequently studied and have been found to be more effective than other interventions, including drug and alcohol education (see Prendergast, Podus, Chang, & Urada, 2002; Taxman & Bouffard, 2003; Wormith et al., 2007).
2. Treatment programs need to be of sufficient duration to affect behavior. Although researchers often assert that treatment should be no less than 90 days, the chronic behavior of offenders argues for longer durations of care (with varying intensity and types of services), ranging from 6 to 9 months (see Fletcher & Chandler, 2006; Taxman, 1999).

3. Treatment programs should be multidimensional, addressing addiction disorders, criminal lifestyle and values, antisocial behaviors, and other factors that influence continued criminality (Wilson, Bouffard, & MacKenzie, 2005).
4. For some addiction disorders (e.g. alcohol, opiates), medications such as methadone, buprenorphine, naltrexone, antabuse, campral and topiramate augment the behavioral therapies. Use of these medications improves the outcomes of offenders considerably, both in terms of reduced drug use as well as reduced criminal behaviors. The medications are important to the recovery process (Cropsey, Villalobos, & St Clair, 2005; Volkow & Li, 2005).
5. Self-help groups should be used to augment behavioral therapies. By themselves, self-help groups are not considered clinical interventions but they provide important support mechanisms.

For drug-addicted individuals involved with the criminal justice system, improving the quality of treatment is just one issue. An often neglected area of discussion is the role of the criminal justice system in improving treatment outcomes. Drug treatment courts, along with other models to integrate treatment into criminal justice processes, have demonstrated that public safety and health goals can be jointly achieved. The drug court concept advanced our understanding of effective components to reinforce the importance of treatment and the need to use criminal justice processes to support recovery and to help offenders learn recovery management skills. To that end, improvements are needed to accommodate effective clinical services by addressing both programmatic and structural issues. The programmatic components identify that:

1. Drug testing is important to monitor the progress in treatment; treatment should be adjusted based on the offender's progress and drug test results;
2. Status hearings (drug courts) or monitoring visits should be focused on clear behavioral objectives, with responses given for swift and certain efforts;
3. Treatment programming should address not only substance abuse but also other criminogenic factors; and,
4. Rewards should be used to shape offender behavior (contingency management).

The structural components to ensure that offenders are placed in programs and services that are focused on their public safety risk and need factors are:

1. Use of standardized risk and need screening tools to identify high risk offenders with priority given for placing such offenders in evidence-based programs and services;
2. Use of treatment engagement strategies that increase the motivation of the offender to engage in treatment. These strategies should be used by criminal justice actors (i.e. judges, probation officers, case managers, etc.) as well as treatment counselors;
3. Emphasis on procedural justice where the rules are clear, recognized, and available to all; procedural justice components have been shown to increase compliance and improve outcomes (Tyler, 2006);
4. Emphasis on recovery management approaches instead of chronic care where treatment is part of a continuum of services designed to address the psycho-social needs of the offender; and,
5. Treatment processes, including medication, should be begin in prison/jail and continue in the community (continuum of care). Recent studies have illustrated that beginning methadone prior to release, increases attendance at community treatment and reduces drug use (Gordon, Kinlock, Schwartz, & O'Grady, 2008; Kinlock et al., 2007; Schwartz, McKenzie & Rich, 2007). Other studies have found that the provision of medications can accelerate recovery, and continued treatment in the community (O'Malley, 2007) and can improve the person's overall health functioning (Pettinati, et al., 2008). The same is true for therapeutic communities and behavioral therapies—therapy should begin in prison but it is critical to continue treatment in the community afterwards to achieve optimal results. The community component is critical to sustained results.

The Gap in Services

Too Few Services Available.

As previously stated, we currently have an insufficient allocation of substance abuse treatment services for offenders, and many of the available services are inconsistent with the multidimensional problems that offenders present. We recently conducted the National Criminal Justice Treatment Practices Survey, funded by the National Institute on Drug Abuse, to understand the landscape of correctional programming and use of evidence-based practices (see Taxman, et al, 2007). As shown in Table 1, the survey reveals that while many correctional agencies offer treatment programs (indicated by '% offer' below), the median percentage of offenders that can access these services is low. This reflects the overall low capacity of the correctional system to provide care for offenders. The programs and services included in the survey were those that were offered either by a correctional agency itself, through a contract, or through an arrangement with another agency (either in-kind, referral based, etc.). One major challenge is the dearth of services available, particularly in the community.

Table 1: Distribution of Services Available

	Prisons		Jails		Community Corrections	
	% Offer	Median % Offenders Access	% Offer	Median % Offenders Access	% Offer	Median % Offenders Access
Physical/Mental Health Services						
HIV testing	89.1	68.7	73.4	22.0	42.0	12.1
HIV/AIDS counseling	80.5	50.1	80.3	27.6	45.2	12.9
Hepatitis C testing	98.2	709.6	74.1	23.3	39.0	11.5
Mental health assessment	99.8	86.5	94.6	39.8	63.6	19.7
Mental health counseling	96.3	58.9	94.5	31.1	63.9	18.6
Pharmacological Therapies						
Methadone	8.9	<1%	54.5	1.7	1.7	<1.0
Medication for Substance Abuse	12.4	N/A	36.8	N/A	2.4	N/A
Medication for Mental Health	80.3	N/A	85.4	N/A	7.8	N/A
SA Treatment						
Detoxification	12.2	<1%	26	1.5	3.2	<1
Alcohol/Drug Education	74.1	8.3	61.3	4.5	53.1	8.8
Outpatient (<4 hours /week)	54.6	3.4	59.8	7.4	47.1	10.0
Intensive Outpatient (5+ hours)	47.1	2.7	22.5	10.8	21.6	8.8
Therapeutic Community (Segregated or non-segregated)	26.9	6.6	26.3	3.0	5.7	11.1

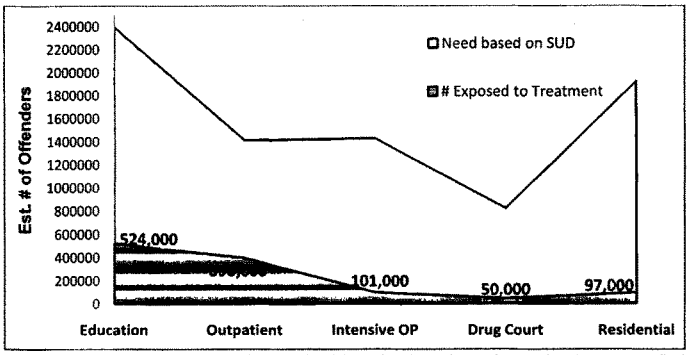
Source: Chandler, Fletcher, & Volkov, 2009; Taxman & Perdoni, 2008

An Imbalance between Offender Need and Services Available.

As discussed briefly above, the offender population is more chronically affected by substance abuse. Based on estimates using the BJS prisoner survey, the estimated need is that 30% do not have a substance abuse disorder, 19% are recreational users, 20% are abusers and 31% have dependent disorders (Belenko & Peugh, 2005). Two points: 1) This distribution would suggest that our services be geared toward treating the complex disorders of offenders; and 2) Many offenders (most likely the recreational user and maybe some of the abusers) would benefit from other types of treatment interventions that address other criminogenic needs. Very few states routinely provide treatment services for other criminogenic needs. As shown above, the majority of services

provided to offenders are more appropriate for individuals with recreational use patterns, such as alcohol education and weekly outpatient counseling programs. Yet, over 51% of the offenders have more serious disorders that by clinical standards would indicate the need for intensive outpatient and residential services, including drug treatment courts. (Note: some adjustments should be made for special populations such as female offenders that require more intensive services (often with mental health services) than males, 18-25 year olds, youth that could benefit from the cadre of family-based therapies, and offenders that are engaged in the entrepreneurship side of the drug business). One critical factor to include is that the public safety risks of an individual should be included in the equation on the nature of services provided to offenders; this would argue for more intensive services for a larger percentage of the offender population. Offenders often have other drivers of criminal behaviors such as criminal value systems, negative peer associations, antisocial personality, and so on that affect the type of treatment services to be offered (see Gornik, 2002 and Taxman, Shepherdson, & Byrne, 2004 for a discussion). Figure 1 compares the need for different modalities of care and the current distribution of services based on annual participation rates (from the National Survey on Criminal Justice Treatment Practices) (see Taxman et al., 2007). We have similar data for juveniles, where the same discrepancy exists between need and available services (see Henderson et al., 2007). Another critical factor in the current service delivery is that offenders in the community are less likely to be able to access services, and when the services are offered, they are inadequate to address their substance use disorder.

Figure 1: Comparison of Substance Abuse Disorder (SUD) Need and Annual Number of Adult Offenders that Can Participate in the Service



Note: The majority of services fall into the alcohol and drug education and outpatient services (group counseling) category. Under a risk management model, offenders with substance abuse disorders would be allocated to higher levels of care. Offenders with use behaviors would be provided interventions for other criminogenic needs or punished appropriately. More emphasis would be placed on providing treatment services geared to the offenders need level.

What is our Current Practice?

One goal of the National Criminal Justice Treatment Services survey was to understand how well the evidence-based practices information has been integrated into the daily operational practice in correctional agencies across the United States. The adoption of scientific information is a major area of study in the field, and an analysis of the patterns of adoption of key practices assists us in better understanding the steps to improve service delivery geared to better offender outcomes (see Taxman, Perdoni, & Harrison, 2007; Young, Dembo,& Henderson, 2007 for an overview of these findings). A few key practices are presented:

- Less than a third of correctional agencies use a standardized risk assessment tool;

- About half of the correctional agencies use some type of standardized substance abuse screening tool with the most frequent tool used being the Addiction Severity Index (ASI);
- Less than 20 percent of agencies report using cognitive behavioral therapies in their clinical programming for offenders, and even fewer use a manualized treatment curriculum (which is recommended to improve the quality of care);
- Around 30 percent of substance abuse treatment programs are 90 days or more in duration;
- The majority of correctional agencies use passive referral strategies to assist offenders in getting access to care upon reentry or while on probation, but the preferred pattern of referrals is active, where appointments are made or treatment and correctional agencies engage in joint placement practices; and,
- Medications for substance abuse disorders are infrequently used for correctional populations.

Current practices do not necessarily equate with evidence-based practices, and a major effort should be developed to assist jurisdictions in moving along this pathway. The above facts illustrate how important it is to provide the necessary assistance to assist correctional and addiction treatment agencies to implement evidence-based practices as a means of advancing correctional outcomes.

In summation, communities and organizations need assistance in improving the quality of care. The most critical step in improving care systems is to convert many of the alcohol and drug education programs and outpatient counseling programs into more intensive services and to assist programs in using the readily-available manualized treatment programs that have been developed by clinicians and researchers and that have been examined for their impact on offender behaviors. The National Registry of Evidence-based Programs and Practices (NREPP), a service of the Substance Abuse and Mental Health Services Administration (SAMHSA), is one excellent starting point to identify the clinical treatments that have sufficient evidence to warrant implementation. But, more development is needed for interventions for the 18-25 year old population and for interventions that address criminogenic factors such as thinking errors, antisocial values, and other efforts.

A National Initiative on Improving Community Corrections (Pretrial, Probation, & Parole Services)

For the past three decades, reforms have focused on specialized, often boutique programs such as drug treatment courts, RSAT, or reentry. These efforts **did not** address the basic infrastructure for correctional services—pretrial and probation services. Even though the majority of offenders are on probation supervision, there has been no national initiative to reengineer supervision to be a viable practice to manage offenders in the community through evidence based risk management techniques. Reentry efforts thus far have focused more on the services coupled with supervision such as substance abuse treatment, workforce development, family case management, and some mental health services. While the provision of these services is needed, the overall literature informs us that without attention to supervision practices that reinforce the importance of the offender taking responsibility for behavior change, technical violations will increase as well as other failures. *A major lesson from the intermediate sanction movement in the early 1990's was that the failure to pay attention to normal supervision practices actually increased negative offender outcomes.* Supervision agencies have a key role to play in improving offender outcomes, and we should maximize these opportunities (Taxman, 2002; Taxman, 2008; Solomon, et al., 2008).

The recent Pew Report 1:31 outlines the problem—the average daily cost of probation is $3.52 to $4.00, parole is $7.47, and prison is $78.95 (Pew Report, 2009). The average offender on supervision costs around $2,200 a year, with outpatient treatment services costing approximately $1,500. Needless to say, we are not investing sufficiently in assisting offenders to become drug-or crime-free. If you consider that improving substance abuse treatment services (including the use of medications such as Vivitrol or Burprenorphone) might increase the cost of substance abuse treatment services by an additional $5,000 to $10,000 a year, this is still half the cost of a year in prison. The underinvestment in community corrections is a challenge before us—it is difficult to alter the course of correctional policy when the infrastructure is not in place to safely and effectively manage the offender population in the community. While the Serious and Violent Offender Initiative (SVORI) and other drug treatment court initiatives over the last two decades have shown that offenders can be more

effectively managed in the community, insufficient capacity in pretrial, probation and parole supervision leaves a void that must be filled. States that are improving their reentry efforts are focused on enhanced supervision as a tool to reduce technical violations and rearrest rates.

For the last 18 years I have had a partnership with the Maryland Department of Public Safety and Correctional Services where we studied an evidence-based supervision model (Proactive Community Supervision). The essence of PCS was to engage the offender in the supervision process, and then to have the offender take ownership for their recovery, access and retention in services (if needed). Supervision staff had a behavioral management role. The same principles derived from systemic evidence based treatments apply: use of risk and need screening tool, target treatment services to offender needs, and manage compliance to improve adherence to a drug- and crime-free lifestyle. Additionally, we recognized early on that attention must be paid to another clinical concept—working alliance—or the development of trust and procedural justice between the offender and supervision staff. Meta-analyses confirm the importance of improving the correctional environment to allow offenders to change as they go through recovery and habituation to assume a citizenship role (Skeem, Eno Louden, Polasheck, & Cap, 2007; Taxman, 2002). Our study found that evidence-based supervision reduced the odds of technical violations by 20 percent and rearrest by 42 percent. These were not low risk offenders, but consisted of offenders that had an average of 6.5 prior arrests (Taxman, 2008).

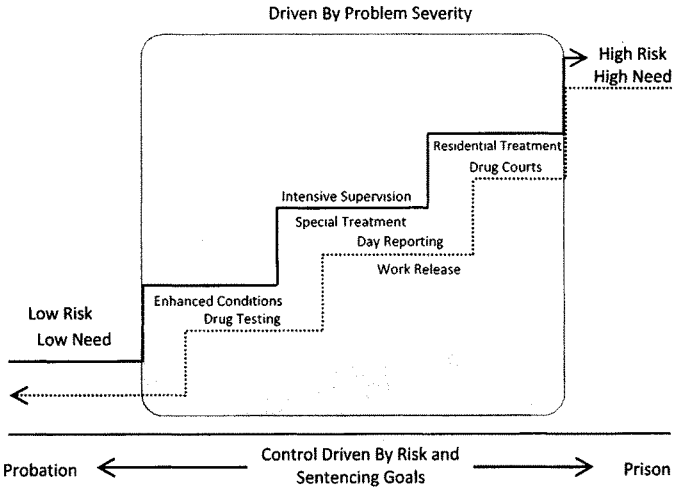
Effective reentry practices—whether it is from prison or jail—and effective supervision practices require attention to the role of the pretrial, probation or parole officer. Current practice is to have the officer be an "enforcer" with an eye toward violation. But science has assisted in identifying roles that maximize motivation to change, and that focus on managing offender behavior. Similar to the drug treatment court, the officer guides the offender through the behavioral change process and adjusts the treatment and control services based on the offender's performance. Advanced drug treatment courts are also adopting many of these principles of effective behavioral management including the use of risk assessment tools to ensure that the drug treatment court targets high risk offenders. If we have a system of offender management, then we could integrate the use of drug treatment courts and boutique programs into the formula for care such as shown below. Drug treatment courts would be reserved for the high risk offender who is not showing responsibility for his/her own behavior.

The next generation of system reform efforts should focus on the development of a system of offender management, including an expansion in the capacity of community correctional programs. As shown in Figure 2 below, risk and need assessment tools can augment sentencing to determine the level and type of services and controls to safety manage the offender in the community. Effective drug treatment services, other therapies designed to address criminogenic needs, and controls should be targeted to higher risk and need offenders to maximize results. Current reentry efforts, and drug treatment courts, can be used to build this offender management system. An evidence-based approach would include:

- adoption of risk and need assessment instruments;
- development of classification procedures that tie risk-needs to appropriate controls and treatments
- use of evidence-based treatments to address substance abuse disorders including use of manualized treatments; and,
- use of contingency management protocols (rewards) and effective graduated sanction policies to manage offender behavior in the community

Integrated into this model would be a different service delivery system where services and community corrections are intertwined to reinforce the goals of recovery and a crime-free lifestyle. Promising strategies of medications to assist recovery and manage behaviors, clinical therapies for criminogenic behaviors, and stabilization services (i.e. housing, employment, etc.) can be integrated into an offender management model. This formula is being used in various states and /or local jurisdictions that are currently advancing their community supervision practices. A national initiative focused on community corrections should reinforce offender management as a strategy to improve outcomes in the community. The use of recidivism reduction strategies that reduce the use of incarceration could be included in an expanded Second Chance Act that specifies offender management systems based on evidence-based practices and treatments.

Figure 2: Managing Offenders in a System of Care



The focus on enhancing the integration of supervision and services will serve to create a seamless system of care with attention to care management. This is what the Hawaii Hope program has accomplished, as it is integrated with probation for those offenders that are not doing well under supervision, and it provides the compliance management approaches by modifying services (including jail) to meet the performance of the offender. Prior research has demonstrated that fragmented services negatively affect offender outcomes, including the lack of access to and retention in appropriate services (see Taxman & Bouffard, 2000). More efforts within the Second Chance Act should be on integrated services where substance abuse, vocational education, mental health, housing, and other services are integrated into a behavioral contract based on the needs of offenders. And, effective motivation strategies should be used to have the offender develop their own plan to reduce recidivism through a series of targeted services. For example, several research studies have shown that some substance abusers respond to housing vouchers even though they are not mandated (Padgett, Henwood, Stefancie, & Stonhope, 2009). Adjusting services based on need, offender interest, and risk management premised on compliance and outcomes is a behavioral management strategy worth pursuing in a refined justice system.

Technology Transfer Model: Create Correctional Technology Transfer Centers

A major impediment to the advancement of treatment within the criminal justice system, and refined supervision and other criminal justice policies, is the lack of standardized mechanisms to promote the adoption and implementation of science into practice. The Office of Justice Programs (through the Bureau of Justice Assistance, Office of Juvenile Justice and Delinquency Prevention, and the National Institute on Justice), the National Institute of Corrections (through the Bureau of Prisons), and the Office of National Drug Control Policy do not have systemic processes for improving practice in the field. OJP tends to award a technical assistance contract(s) for specialized programs such as drug courts, RSAT, and reentry, but these contracts vary in scope and

services. In the addiction treatment field, the Center for Substance Abuse Treatment (CSAT) established a network of Addiction Technology Transfer Center (ATTC) in 1993. The ATTC model is to "1) Raise awareness of evidence-based and promising treatment and recovery practices; 2) Build skills to prepare the workforce to deliver state-of-the-art addictions treatment and recovery services, and 3) Change practice by incorporating these new skills into everyday use for the purpose of improving addictions treatment and recovery outcomes" (see http://www.attcnetwork.org). The model consists of 14 regional centers and a national office that serves all states and territories. This model has provided a consistent method for translating science to practice, disseminating knowledge and skills, working with the field, and strengthening policy and practice. While the ATTCs work on a limited number of addiction treatments for offenders, they do not address the broader issues of correctional practice or non-addiction treatments. The focus on workforce development is critical because the criminal justice organizations could benefit from a broader range of technology transfer activities geared to the development and implementation of sound policy and practice. The practice improvement collaboratives, which are more predominate in the health care field, are a model worth considering to support correctional agencies, nongovernmental organizations, and other stakeholder groups that are involved in the delivery of services and work directly with offender populations. This model provides a needed infrastructure to work with practitioners and professionals on the diffusion of evidence-based practices, building skills and competence of the field in sound correctional practices, and developing the wide array of professions involved in service delivery such as judges, prosecutors, public defenders, correctional professionals, treatment specialists, workforce development professionals, and so on. To advance practice involves providing the needed infrastructure to disseminate and diffuse evidence-based knowledge into operational settings.

More Research and Development at NIDA and NIJ

As I have discussed, the issues facing our country regarding reentry are issues about techniques to manage the offender population in the community. This requires a mix of policies and procedures along with sound science on effective control and service strategies for offenders with complex problems. The largest funder of quality research is the National Institute on Drug Abuse; the National Institute on Justice or the Office of Justice Programs rarely fund more than a few studies a year, and very few of them are in the area of theoretically driven interventions. The available funding is generally limited to a narrow set of research questions. As we advance policy and pilot new initiatives to improve offender outcomes, research is needed to assess efficacy and effectiveness. For example, the new medications for addiction disorders offer tremendous potential but very few have been studied to examine how best to offer them to offenders with complex issues. We do not know for example whether naltrexone or vivitrol should be offered for three or six months to offender populations or whether some offenders would do better using this medication or another. We also need information on the adaptation of behavioral therapies to address the use of medications (especially for offenders with co-occurring disorders). The available behavioral interventions have not been tested in various settings such as prison, jails or probation offices, and with offenders of varying needs. More research funding is needed to ensure that the next generation of evidence-based practices is based on quality studies on interventions and practices that reduce the risk of recidivism.

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Mr. MOLLOHAN. Very interesting. Please don't apologize. That was really insightful. And there are a lot of differences there that you noted in a very short statement. One of them is the size of the institution. And it may be the quality of the issues they are dealing with as well.

I can't tell you how exciting one part of your—all of your testimony is——

Ms. TAXMAN. Thank you.

Mr. MOLLOHAN [continuing]. Exciting. But there is one part here that I want to follow up on. I have for a long time appreciated the problems associated with dealing with drugs and crime in the criminal system. And I wanted to make this statement and see what you think about it and how you relate to it.

Today if somebody's precursor problem is addiction, and if in order to satisfy that craving that they wake up with, and go to bed with, and figure out how they are going to feed it 24 hours of the day, it results in criminal activity. And you can only deal with that craving with some sort of incarceration. You can only deal with it after they get in the criminal system. I mean, if you are really dealing with the craving. And then finally, maybe, if you are lucky, you may get into some sort of a sympathetic and progressive program that will allow the addicted person to be separated from the drug. And over a certain period of time, either naturally the body will get away from the craving or there will be intensive therapy programs, counseling, or 12-step, or chemical, or whatever the program is to get the person well.

But my point is this, in order to get the person in a situation where you can fix them and deal with the craving issue, you really have to get into the criminal justice system. So when I first started practicing law, we had civil commitment hearings for people with mental issues.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. How the person got before the judge, I don't know. Probably a number of different ways. But there was a determination whether that person was certifiable and should be committed. And I have often thought that if we could have a civil remedy for getting the person who is addicted into the situation where you could deal with the addiction, deal with the cravings, that that would be a far better remedy than having to rely upon the criminal system in order to get them in an incarcerated situation. At that point, you have to deal with a whole lot of different issues. First of all, they are a criminal. And it is an imperfect system, because, in the United States, you do not have the kind of treatment programs that allow you to really get to the—to get to the underlying issues. We are going to try to work toward that in the Second Chance Act. It is a good start.

But you referred to a community punishment system, although I don't know what you mean by that. But some of the statements you made leading up to that led me to believe that perhaps this civil incarceration option might be what you were referring to.

Ms. TAXMAN. Well I wasn't really referring to a civil commitment sort of process. We actually had a experiment with civil commitments in the late 1950s, middle 1960s. Some states still have them on the books.

But what happened there is that, we basically found that people's due process rights were not protected. And there was a tremendous infringement of their rights. And it caused a number of abuses that actually caused states and the federal government to move away from civil commitments. The federal government actually enacted—I think it was towards the end of the 1950s the Civil Commitment Act that was never really put in place.

Mr. MOLLOHAN. For drug addiction?

Ms. TAXMAN. Yes, right. And I can send you—I actually wrote an article about this a couple of years ago. There are lessons to be learned. And it was also during that same period of time to be honest, that there was an anti-methadone movement that the Drug Enforcement Administration that precluded the development. It was the Federal Bureau of Narcotics. The emphesis in that era stopped us from pursuing different policies, because the methodology for treating people was basically a cold turkey methodology. And, in fact, you know, for some people that works, but for other people it does not work.

But times are a little bit different in terms of what we know. We don't have enough medical doctors who know about addiction disorders. Although there has been some—you know, with some of the brief interventions that have actually occurred and trying to bring it into primary care, we have made some movements over the years.

What I was referring to though in a community corrections system is really much more of a system. And I gave you a picture of such a system on page eight of my testimony.

Mr. MOLLOHAN. That is why we have you here. We wanted the academic things.

Ms. TAXMAN. Where you would have a system that if someone gets arrested and they could assess the person for whether they have a substance use disorder at arrest. You assess could do this at a police station. You know, the police officer could actually make a decision not even to arrest but to divert to good quality treatment. And put in place the proper types of controls so that if a person doesn't go to treatment or, if they do not take their medications, then the systems can make other decisions.

There was an experiment actually in Ohio about five years ago called Ohio Reclaim in which they did a diversion program where they agreed to expunge the record of the defendant if they completed treatment and stayed drug free for a year past.

Mr. MOLLOHAN. But is that not pie in the sky? I mean, to think that a police officer could divert someone whom the police officer identified as an addicted person to some——

Ms. TAXMAN. No.

Mr. MOLLOHAN [continuing]. Voluntary program.

Ms. TAXMAN. I know there is a big debate about diversion programs. But how we have done diversion programs in this country have been very poorly done. And so if we had a much more integrated system where the person understood what the rules were and you actually had mechanisms to help people into treatment programs that was on demand.

Mr. MOLLOHAN. But what would the rules be?

Ms. TAXMAN. The rules would be——

Mr. MOLLOHAN. It wouldn't be criminal rules in your——

Ms. TAXMAN. You motivate people. You know, part of the issue about dealing with addiction is helping people to motivate themselves to care about themselves. And there is methodologies available in the treatment in clinical called motivational enhancement therapies. Some of these techniques can be used by police officers, probation officers. They don't have to be confined to just a clinical setting.

What we find with the mentally ill, a lot of police officers are actually doing a lot of treatment if you want to talk about it.

Mr. MOLLOHAN. Well, I look forward to following up with you.

Ms. TAXMAN. Okay.

REHABILITATION IN PRISON

Mr. Wolf.

Mr. WOLF. Thank you, Mr. Chairman.

One, is work important to this to this effort in prison and when somebody is going through rehabilitation?

Ms. TAXMAN. Work is always important for two reasons. One is it fills a person's sense of self efficacy and gives a person skills so that they can be productive on the outside. And two, idle time is, largely why people continue to use and if they don't really have things to keep themselves occupied.

Mr. WOLF. What about faith-based programs?

Ms. TAXMAN. You know, the literature is out——

Mr. WOLF. The Colson's group, Prison Fellowship for instance.

Ms. TAXMAN. The Prison Fellowship does is give people options. I wouldn't say that we don't know enough about the recidivism rates of those programs. There hasn't been sufficient studies.

Mr. WOLF. I have read that the recidivism rate—they operate a couple of prisons, one down in Texas. They have one of the lowest recidivism record. I think we will get that for the record and submit it at this time.

Ms. TAXMAN.

Mr. WOLF. And then we will also—John, are you there—try to get you a copy, so we can let you see it. But they have a very good record with regard to recidivism.

Ms. TAXMAN. The thing you have to watch is really whether that person had a severe addiction disorder or whether or not they are treating lower risk offenders with less serious disorders. This is our problem sometimes with comparing studies. A lot of the programs in prison, like the prison-based fellowship programs are very good at connecting people. And that is an important part of the recovery process. To me it is not the location of where people get the treatment. It is actually what occurs, and whether the person themselves makes a commitment.

So, you know, I think where we are at now we need a broad array depending on how serious the person's addiction disorder is.

Mr. WOLF. What countries by name do the best?

Ms. TAXMAN. For dealing with substance abusers? Italy, France, Israel. They all provide medication and pharmacies for people. They provide longer-term treatment. In Israel for example——

Mr. WOLF. How long do they treat?

Ms. TAXMAN. They are about 12 to 18 months.

Mr. WOLF. And what is our length of time here in the United States?

Ms. TAXMAN. Our average time is about 60 days.

Mr. WOLF. Sixty days.

Ms. TAXMAN. It is a big difference. They also use skilled clinicians. Their social workers generally have masters in social work. Whereas we often use bachelor level or people who do not have degrees.

This is a big issue in our country in terms of qualified staff to really deliver these services. And, both in the community and prisons, we often don't pay enough salaries to really attract people with masters levels.

Mr. WOLF. Thank you, Mr. Chairman.

Mr. MOLLOHAN. Mr. Kennedy.

Mr. KENNEDY. Thank you. Could you just go back to that federal civil commitment for drugs? Could you explain that?

Ms. TAXMAN. Sure. As I understand, the federal and civil commitment was usually initiated either by the Criminal Justice Agency or by a loved one of the individual. And they would approach the court and ask for a civil commitment, just like you if you would for mental health when we used to have that. There used to be a court process involved. There was a lot of concern over that time about whether or not people had appropriate representation. There was also concern about the length of time that people were committed. And it——

Mr. KENNEDY. But do you think there is a way that we can amend that so that those concerns get remedied?

Ms. TAXMAN. I think through our medical treatment system——

Mr. KENNEDY. So we now bring——

Ms. TAXMAN [continuing]. We could do that.

Mr. KENNEDY [continuing]. Medical treatment providers doing assessments.

Ms. TAXMAN. Right.

Mr. KENNEDY. So it is not the personal, like family members getting into a feud over mom——

Ms. TAXMAN. Right. I am not dismissive of that as an option. I think, you know, where we are today, I think looking for civil remedies or non-criminal justice remedies is probably the smartest thing we can do.

I think our challenge is not to be attentive to those fallacies that occurred before and that caused people not to use that mechanism.

Mr. KENNEDY. Well, obviously, it is just a very costly process to go through the courts. So we need to find out a mechanism where we have family courts in this country be able to have a process—where the bar isn't set so high that to trip it——

Ms. TAXMAN. Right.

Mr. KENNEDY [continuing]. You have to have a crisis situation already have occurred——

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. For it to trip it. And then it is near impossible to stay on top of it.

And you have had problems now with Alzheimer's and dementia and a whole host of other issues now. This is a endemic problem for a much broader section of the populace it seems to me. We are

going to have to address, not only on this specific issue but across the country.

Ms. TAXMAN. Yes.

Mr. KENNEDY. So your input on this will be very helpful to the Committee.

Ms. TAXMAN. Well, you know, from my perspective, anything where we can get the medical community involved in the care of these individuals can begin to bring change to the system.

Right now we don't have a system where medical doctors or nurses can, participate in the care. Bringing in the community health centers where they are starting to work with offender populations on the reentry phase. But there is no reason why you couldn't have people who have substance use disorders who are known in those communities, go to those centers for assessment. Given therapies, we are trying to get people to start in the recovery process that way.

I mean those aren't mechanisms that exist now. And that is, I think, what you are suggesting.

Mr. KENNEDY. And then in terms of the medications, getting them turned on right away, right after a prisoner leaves the prison, is crucial if they are Medicare eligible, because if they don't, obviously they are going to self medicate right when they leave.

Can you describe the importance of working our bureaucracy so that when a prisoner is about to be let go——

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. We coordinate to make sure that we don't have the lapse in their coverage on medications per se, if Campral or whatever, Naltrexone, the medications that can be helpful to them in assuaging their addiction. That stuff or maybe some medication for a psychological disorder, that that medication gets to them so that they are less likely to go out and try to self-medicate to feed their brain chemistry and balance that will then cause them to reenter the system. Could you just talk about that issue?

Ms. TAXMAN. First of all, there is actually several studies that have come out within the last two years that have shown the benefits of really starting some of those medications before people leave prison. The person is preparing to leave prison and therefore they start the medications. The medication serves as a blocker.

Mr. KENNEDY. Right.

Ms. TAXMAN. So there is good rationale for really doing more studies about starting medication beforehand. The issue you raised had to do with——

Mr. KENNEDY. You got us that obviously. I am presupposing——

Ms. TAXMAN. Right.

Mr. KENNEDY [continuing]. That we should be doing that.

Ms. TAXMAN. Well, that is——

Mr. KENNEDY. But the idea is that there is going to be—we have got so many battles on our hands. And that is going to be a big one, too.

Ms. TAXMAN. Right.

Mr. KENNEDY. But I think that everybody would agree with the fact that if we want to stop recidivism, it sure doesn't pay to have someone coming out of prison who has got a chemical imbalance

and a huge addiction, not to get medications that are going to help address that.

Ms. TAXMAN. Right.

Mr. KENNEDY. And think that we are going to stop recidivism.

Ms. TAXMAN. Yeah.

Mr. KENNEDY. So could you talk about that?

Ms. TAXMAN. A lot of states now have tried to, if their state allows, for Medicaid assistance, to sign people up ahead of time before release. I think there is only half the states that actually provide that kind of care in terms of Medicaid assistance for substance use disorders.

Other states like Maryland has a different process in place. They have an indigent care that includes a pharmacy system that offenders can access. I think you have to actually in that system be in the community.

The best method is both Medicaid, people getting their driver's license and identification is to do that in that prerelease window. This should be 60–90 days before someone leaves prison. And also to give people 60–90 days of medication on their way out so that that lapse of time when they are getting readjusted. This provides tools to be successful.

Mr. KENNEDY. If you could provide us the studies that show that that is——

Ms. TAXMAN. Okay.

Mr. KENNEDY [continuing]. Really efficacious. And why that policy you think is advantageous for us to be, supporting financially——

Ms. TAXMAN. Okay.

Mr. KENNEDY [continuing]. Through the budget and encouraging through the Department of Justice. That would be very useful.

Ms. TAXMAN. Okay. I would be happy to.

Mr. KENNEDY. What policies we need to be encouraging states and ONDCP and greater coordination as you talked about in terms of the continuity in the cultural system.

Ms. TAXMAN. Yes.

Mr. KENNEDY. That seems to be a big part of it. Thank you.

Ms. TAXMAN. Okay, great.

Mr. MOLLOHAN. Mr. Honda.

MR. HONDA QUESTIONS

Mr. HONDA. Thank you, Mr. Chairman. I appreciate having this hearing on drug treatment for offenders in the prison system. I think that is subject matter that probably needs more public attention than it has received in the past, not only for its social value but also for the economic efficiency that we might be able to obtain.

I am a big supporter of drug courts. And believe that model has worked for some populations. It works with strong accountability, and rigorous treatment, and improved treatment outcomes for dependents.

I was just wondering—how would you triage the population that would most benefit from it, and is there a difference in the terminology of addiction and habituation? And what are the differences? Is that something that we should be aware of? And then I think

you said when in your testimony that the treatment for these folks should be multi-dimensional——

Ms. TAXMAN. Yes.

Mr. HONDA [continuing]. Which probably makes a lot of sense. Where in that many dimensions does language and understanding of ethnicity and background play in that whole approach?

The question was multi-dimensional.

Ms. TAXMAN. I think multi-dimensional is fine. I think part of your question is definitions of key terms. In the clinical view, substance use ranges from recreation use to dependent use. And, you know, there is a large group that are just abusers.

I think one of our challenges with drug courts, which, you know, to be honest, drug courts are probably the best example, besides the residential substance abuse treatment that behind the walls that continues in the communities of effective care. And part of it is because for the most part, they are longer term. Most drug courts on average are about 12 months. You gauge people in this change process in enough time that they can actually begin to regroup and stabilize themselves in the community.

The one thing about drug courts, and I know the National Association of Drug Court Professionals is working on this, is try to get drug courts to basically work with the more serious substance use dependent person. As in most new innovations, people up front want to take a lower risk clientele, so that you don't have, you know, the "Willie Horton" problems of the late 1980s.

The challenge is to use drug courts so that we are focusing our attention on dependent people for who are most public safety risk.

The second part of your question has to do with what kind of therapies or interventions should we work with, and do they work as well with different ethnic groups. And, you know, we know a little bit about cultural competency for different treatment programs. Obviously, not every person is the same. We can only hope that our treatment providers really can screen people in terms of those factors.

We know, for example, that Hispanics respond differently. That family issues are very important within that culture. And, therefore, we need to pay attention to that and some of the treatment programs. You know, with African-Americans, particularly young men, that there are different programs and services that would work better with them.

Our treatment system needs to improve to be able to be that flexible. And part of that is sort of having more expansive services out there.

Mr. HONDA. It seems to me that we try to devise intervention programs based upon the current infrastructure that we have. And that could be a structural problem. If you were able to reformat how we address drug addiction and offenders and I guess maybe even mental health issues, do you separate them? How are they the same? And how would you really structure the intervention programs institutionally? And what would that look like?

Ms. TAXMAN. Well, if the question is about the best method to deliver services, that I would take a behavioral health approach. Instead of having separate organizations for substance abuse and mental health, they could be delivered concurrently. Historically

that was created because substance abuse treatment programs were not getting enough attention within mental health agencies. That was a few decades ago. There is a movement in a lot of states to offer behavioral health services that addresses the substance abuse and mental health care. And that means having staff that can deal with people who have both substance use and mental health issues.

What we know about the substance abusers is that a good 50 to 70 percent have some sort of co-occuring mental health disorder, and mental health patients tend to self-medicate. It makes sense in a kind of, you know, to have a delivery system where a person can handle the multi-dimensional aspects of addiction disorders and mental health issues.

To do this requires us to begin to really think about how we fund substance abuse mental health, or behavioral health, organizations provide for people who have addiction disorders. And that is our major challenge. Right now they tend to be more community health organizations. Addiction treatment organizations are smaller in scope, although that is changing within the last ten years. More companies that are buying small treatment organizations and there are more private non-profit organizations.

My own view is we need more behavioral health organizations that include the array of physicians and nurses that can help people manage their medications and deal with their medical condition, which we know are important to the recovery process.

Mr. HONDA. So the assignment of offenders usually go to prison first. And then you try to figure out whether they need any help if they have a history. And I was just wondering whether—if you had an ability to change the institutional choices that we have out there and give judges a bit more flexibility of where they can send some folks, what would that look like? You know, would it be outpatient. Would it depend upon their offense?

Ms. TAXMAN. Well, actually most people spend several times on probation before they ever go to prison. We lose opportunities due to the ineffective probation system that we have in this country.

I think the question you are asking, Congressman, is whether if we had a probation system where judges and probation officials had the resources to put people into appropriate treatment and correctional programs, then we could avoid sending people to prison. And that would be the optimum situation. That gets to the civil commitment concept where we have community capacity, half the orders right now on probation actually include some sort of drug treatment order. It is just people cannot get treatment in the community, because there are insufficient resources. And the available treatment is for just a short period of time. People cannot recover in 90 days.

Our challenge is to offer treatment service that can make a difference. We need to maximize the amount that can be done within the community to prevent incarceration. Discipline people believe that we could prevent incarceration for about half the people that we currently send to prison.

Mr. HONDA. Cheaper.

Ms. TAXMAN. And a lot cheaper. The Pew Report basically compared the different costs of probation, parole and prisons. Right

now, the average state, like the state of Virginia, spends about $1,500.00 a year to supervise people on probation. If you added a comprehensive drug treatment component that we will say $5,000.00–$7,000.00 a year. This is about half the coat of incarceration or the $25,000.00 a year we spend for prison. Community sanctions cost less and this is the potential of what we need to build. Community corrections can build the infracstructure to allow people to be committed and attached to their communities. You don't disrupt the community, their families as much as incarceration—incarceration practices have to many negative consequences.

We need a national initiative to improve community corrections. We have gone this route with prisons because we do not have enough good community correction systems in this country.

MR. MOLLOHAN QUESTIONS

Mr. MOLLOHAN. Let me follow up with regard to using medication. Right now I understand that Naltrexone is approved for——

Ms. TAXMAN. Alcohol.

Mr. MOLLOHAN [continuing]. Alcohol.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. And that it is approved in the form of an injection that can last 30 days——

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. And that it is very effective in taking away craving or satisfaction for alcoholic drinking. Is that correct?

Ms. TAXMAN. Yeah.

Mr. MOLLOHAN. Are you familiar with that?

Ms. TAXMAN. Yes. So Naltrexone, the Vivitol version of Naltrexone, is a once-a-month injection. It costs about $700.00 a month according to the company Alkermes. The studies that have been done on alcohol abuse have shown that it reduces the number of heavy drinking days significantly. It increases the period of time that people are sober. But we lack long-term studies on the impact of these medications. If you don't get short-term results, you can't get long-term results. We need more studies to understand the medications impact over the long term.

Mr. MOLLOHAN. What is your reaction to its short term, observation of it?

Ms. TAXMAN. These medications have promise. We are all human beings. It is very difficult to change behavior. So if you give some sort of medication that basically can stabilize someone, reduce some cravings, reduce biochemical reactions, it changes the person—this has the potential to be able to stabilize a person.

Mr. MOLLOHAN. So this is more than promising?

Ms. TAXMAN. Yes. We need more scientific studies.

Mr. MOLLOHAN. More than promising?

Ms. TAXMAN. I believe it is more than promising. There is a clinical trial right now going on with Naltrexone for opiate addicts that Chuck O'Brien of the University of Pennsylvania is spearheading. It is funded by the National Institute on Drug Abuse.

Mr. MOLLOHAN. Naltrexone?

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. The Vivitrol version of Naltrexone?

Ms. TAXMAN. No. It is another. It is the Depot Naltrexone. It is also an injection.

Mr. MOLLOHAN. There is a study going on in Russia isn't there with——

Ms. TAXMAN. I believe so.

Mr. MOLLOHAN [continuing]. Naltrexone used for narcotics?

Ms. TAXMAN. Yes, right. But we have one. The National Institute on Drug Abuse is funding Chuck O'Brien and about five other research centers across the United States to test out Naltrexone within probation studies.

Mr. MOLLOHAN. For what substance?

Ms. TAXMAN. Opiate.

Mr. MOLLOHAN. For cocaine.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. What about heroin?

Ms. TAXMAN. Yes, for heroin we also have methadone. And methadone is an effective medication. There is buprenorphoine.

Mr. MOLLOHAN. But Naltrexone is used off label, is it not, to treat heroin?

Ms. TAXMAN. Yes, it is off label.

Mr. MOLLOHAN. Successfully?

Ms. TAXMAN. We have studies underway. But it is not FDA approved.

Mr. MOLLOHAN. Yeah. But are there actually studies using Naltrexone off label for heroin addiction?

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. These Naltrexone studies that you are talking about, were they for cocaine?

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. What were those studies?

Ms. TAXMAN. There is one trial underway. As I said, it is underway in—you know, that is being led by the University of Pennsylvania.

Mr. MOLLOHAN. And that is the Chuck O'Brien study?

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. Is that using the injectable form?

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. So it has to be Vivitrol; is that right? Or is there another brand?

Ms. TAXMAN. No, I do not believe he is making that version.

Mr. MOLLOHAN. So there are other injectable——

Ms. TAXMAN. Yes.

Mr. MOLLOHAN [continuing]. Forms made by other manufacturers.

Ms. TAXMAN. Yes.

There is great promise in these medications. I think our challenge is is getting the criminal justice system to use them and to provide the proper medical care that is needed when offenders are on medication.

Mr. MOLLOHAN. You know that the Second Chance Act authorizes this?

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. Let me ask you this. If we wanted to fund a trial using these medications, and you may not be able to answer this

right now. But if you would be kind enough to consider submitting to us for the record two things.

Number one, a comprehensive program, from treatment during incarceration to post-incarceration for drug addicts, of best practices to have the best results in reducing recidivism. What would that look like using medication and not using medication?

Ms. TAXMAN. Yes. Are you interested in jail or just prison.

Mr. MOLLOHAN. We fund the U.S. Bureau of Prisons.

Ms. TAXMAN. Right.

Mr. MOLLOHAN. So that really is where we have a funding opportunity.

Ms. TAXMAN. Ok.

Mr. MOLLOHAN. Although there certainly are grant programs that we have—and the U.S. Bureau of Prisons could do something in partnership. Let us just see what you come up with. And we will be interactive about it if that is okay.

Ms. TAXMAN. That is fine. But would you be interested in some ideas for the U.S. Administrative Office of the Courts which deals with probationers. You also fund this agency.

Mr. MOLLOHAN. You have got a blank sheet there.

Ms. TAXMAN. Great.

Mr. MOLLOHAN. You are the expert.

Ms. TAXMAN. Thank you. We have done so little with the probation population and this where our problems begin. There is over five million people on probation. If we can prevent that group from going to prison, you can reduce the intakes to prison by about 20 to 25 percent just dealing with failures on community supervision.

Mr. MOLLOHAN. Well, that is a very insightful observation. I would make the other observation that if you could do it in a civil proceeding, you would——

Ms. TAXMAN. Then you avoid all these costs.

Mr. MOLLOHAN [continuing]. Totally avoid the——

Ms. TAXMAN. That is correct.

Mr. MOLLOHAN [continuing]. Stigma to begin with and the costs associated with——

Ms. TAXMAN. Yes.

Mr. MOLLOHAN [continuing]. Processing in the criminal system.

Mr. Kennedy.

MR. KENNEDY QUESTIONS

Mr. KENNEDY. Thank you. Thank you, Mr. Chairman. I thank you for your passion for this, and your dedication, and just the past questions, and coming up with this hearing, and this review of these issues. I really appreciate it.

You know, obviously, they say the greatest determiner about whether you are going into prison is if you have been to prison.

Ms. TAXMAN. Yes.

Mr. KENNEDY. And, of course, there is 70 percent recidivism in the state prisons. But the rate I guess of those going into prison from the foster care system is 42 percent.

Ms. TAXMAN. I think higher than that actually.

Mr. KENNEDY. Even higher I know. I think it is even higher than that.

Ms. TAXMAN. Yes.

Mr. KENNEDY. But that is pretty amazing.

Ms. TAXMAN. It is pretty sad, right?

Mr. KENNEDY. It is very sad.

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. Considering these are our kids that are in our custody as a country. And half of them graduate not to college or from college. Actually less than two percent actually ever graduate from college.

Ms. TAXMAN. Yes.

Mr. KENNEDY. They graduate to prison. So it seems to me if we are focusing on reducing prison rates, and——

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. You have got to be thinking about early intervention with foster care. Somehow there has got to be something that we aren't paying attention to. So I don't know what your ideas are on that. But I know that it is going into a different realm.

Ms. TAXMAN. We have more that could be done to improve the juvenile justice systems.

Mr. KENNEDY. It is called children and families——

Ms. TAXMAN. I have a few studies in the juvenile justice system. I actually have a clinical trial right now. I am trying to——

Mr. KENNEDY. I am sure a lot of those foster care kids are children of inmates.

Ms. TAXMAN. Right.

Mr. KENNEDY. So the question is what are we doing in regards to family approaches for families of inmates to make sure that that cycle doesn't repeat itself is what I am saying?

And one more point. I was just at my juvenile corrections about a three weeks ago. And I asked the kids there how many of them have parents in prison currently and three quarters of them raised their hands.

Ms. TAXMAN. Yes.

Mr. KENNEDY. Many imitate the surroundings that they grow up with. So if we are really going to break it, this has got to be a central concern of ours.

Ms. TAXMAN. I agree this is a tremendous challenge. Part of it is is we probably need to be moving away from the way we do silo treatment of people to really begin to think about more family case management models. You know, Carol Shapiro who works with—who founded this group called the Family Justice Institute has a nice family case management model that she has—is demonstrating places. And so, you know, unfortunately we fund agencies in a very narrow way. And probation department is funded to deal with an individual. But if they know their kid is in foster—a child is in foster care, if they know they have addiction in the family, you know, they are limited in what they can do.

You know, I think we should move towards some of these other models called Neighborhood Justice Models where you are really dealing with people. I mean, you can map in many jurisdictions where we have concentrated problems. And we know, you know, now where some of those communities are and who those families are. And, you know, I think our creative energies should be in fix—you know, in dealing with families and not just dealing with an in-

dividual. And, you know, encouraging people to move across sort of their organizational boundary lines.

That is why I really believe that we need to look at new technology transfer models for the criminal justice, social welfare, you know, addiction treatment fields, because the way right now we do the technology transfer from the federal These are complex and multi-disciplinary problems.

Mr. KENNEDY. If you could tell us what that should look like——

Ms. TAXMAN. Be happy to do so.

Mr. KENNEDY [continuing]. In the multi-disciplinary family, holistic approach, to dealing with not only just the individual but in the context of the family.

Ms. TAXMAN. Yes.

Mr. KENNEDY. And the context of a multi-institutional approach.

Ms. TAXMAN. Alright.

Mr. KENNEDY. So, the social welfare agency is talking to the criminal justice agency is talking to the education system is talking to the parole system.

Ms. TAXMAN. That makes sense.

Mr. KENNEDY. So it would be helpful if you could——

Ms. TAXMAN. Yes. This is where Chairman Mollohan's idea about trying to look at civil processes well advised. We need to reduce the use of the criminal justice system.

But the issue is really trying to address the problems of people instead of making problems worse in many ways.

Mr. KENNEDY. Thank you.

Ms. TAXMAN. Thank you.

Mr. MOLLOHAN. Thank you, Mr. Kennedy.

Mr. Honda.

MR. HONDA QUESTIONS

Mr. HONDA. Thank you, Mr. Chairman. In response to other questions that was asked about other countries' efforts in dealing with offenders, drug offenders, you mentioned that Italy, France, Israel place a stronger focus on rehabilitation and treatment.

Ms. TAXMAN. Yes.

Mr. HONDA. I was wondering if there are any promising case studies in those countries that are applicable to us, given some culture differences? But whether there is anything there that has some applications to us? And what are some of those things that the other countries do that are different from us that create the success that they have, or I am assuming that they are successful? I was just wondering whether you had any——

Ms. TAXMAN. Congressman, other countries have a different healthcare systems than we have. Addicts/uers with addiction disorders can get healthcare through, you know, their, you through then national health insurance to a large extent. That also means——

Mr. HONDA. Prior to entering the criminal justice system.

Ms. TAXMAN. Yes, regardless of what her are in the criminal justice system.

Mr. HONDA. I see.

Ms. TAXMAN. One of our challenges is when people come out of prison if they aren't employed, they usually don't have access to

healthcare. And the community health clinics are not always receptive. So that is one issue.

The second issue is is that their standards of care of effective treatment is much broader than ours. They have fewer alcohol and drug education programs, and more congnitive behavioral therapies and therapeutic communities in other countries. They have day reporting programs where people go for six-eight hours a day. In these programs, they address employment issues. Offenders get therapy.

The orientation is more of a health services. Much of the services are provided through their healthcare and social welfare agencies.

You know, I can pull together some examples from England, you know, or some of these other countries for you if you would like.

Mr. HONDA. If there is a discussion on, you know, the difference in costs, that would be helpful.

Ms. TAXMAN. Okay. I will gather cost issues.

Mr. HONDA. And currently is there anything, any models that we have in this country that appear to be the same, or that come close to, or that are successful in addressing this?

Ms. TAXMAN. This is not to say that we don't have good creative policies. It is just we are hamstrung in terms of how much we actually provide care for. For example in Arizona they have enacted some new legislation over the last couple of years to both expand treatment services as well as to improve the quality of the probation services.

In Arizona, they cap the number of probationers to an officer to around 65 or 70, while the national average is about 200. In terms of addiction treatment, we have Delancey Street in San Francisco which has an excellent track record.

Mr. HONDA. So it sounds like Delancey does treat communities and they also offer ways to become more economically——

Ms. TAXMAN. They have a restaurant business. They have several businesses.

Mr. HONDA. So what I hear you saying is that there has to be a very good national policy and an infrastructure set up so that it takes care of those who are abusers but not necessarily criminalized yet.

Ms. TAXMAN. Yes, that is.

Mr. HONDA. Those that are criminalized but not heavy into that area, that there are some avenues to address it through that national healthcare system. I think I also heard you say that the folks who are on probation, that is probably that population, if we can avoid them becoming incarcerated on long term or heavy sentences that that might also be helpful. And I guess in the other countries the probation system, is that similar to ours or is that a population that is lower because they are being treated and being triaged until they are helped along?

Ms. TAXMAN. In other countries, most probation officers are social workers. So were a model of probation that we abandoned in the 1970s. That is one big difference, because the orientation that those social workers have is very different. They have different skills to work with offenders in a model to enhance behavior change.

The other big difference is that other countries they have a larger community network for treatment programs. People can access care in the community.

That is part of our issues in the U.S. in that we do not have enough treatment programs in the community for offender populations for offenders can get access to treatment programs.

The question you raised about is the legalization question, this a question that we discuss in class. Our challenge is really an issue about how to send a message that there are unhealthy behaviors that are not useful in society. I certainly wouldn't want to encourage anyone to use because the consequences are far greater.

A decriminalization model might be useful with regulation to provide addicts with need behavioral therapy and, if necessary, medications. That is part of our challenge.

Mr. HONDA. I will look forward to that information.

Ms. TAXMAN. Okay.

MR. MOLLOHAN QUESTIONS

Mr. MOLLOHAN. Thank you, Mr. Honda.

I want to give you an opportunity—one of the things I would like for your testimony to get on the record is to lay a foundation for this Committee to think about and justify funding some sort of a program, I have asked you to come——

Ms. TAXMAN. Yes.

MEDICAL TREATMENT

Mr. MOLLOHAN [continuing]. Forward with suggestions. Should we be thinking about or know about any other medical treatment, either medications or protocols, that would be useful in this area?

Ms. TAXMAN. Well, if you were just limiting yourself to substance abusers or are you talking about—for a large part most of, a good half of the offender population has not done well in school. And their higher incidence of ADHD among that population. What we know about medications is that some of the ADHD medications can help people function better through improved executive function. That way, people can pay attention on the job longer and learn and do better in treatment programs. The model should include these issues.

Mr. MOLLOHAN. Have you worked with any of the attention deficit hyperactive medications in regard to criminology in general?

Ms. TAXMAN. I have a daughter who had some learning disabilities. And it turned out she had ADHD. And when we put her on some very low dosage of medication, her school performance, improved, As a mother, we learn that the medications are useful to improve her performance.

So, you know, I don't want you——

Mr. MOLLOHAN. I was really thinking——

Ms. TAXMAN [continuing]. To take away that medications are the cure all, because they are not.

Mr. MOLLOHAN. No.

Ms. TAXMAN. They are part of a system of helping people to stabilize to learn to manage their lives. This is important.

Mr. MOLLOHAN. Naltrexone is a very powerful assistance, because it deals with that craving and the blocking of satisfaction issues.

Ms. TAXMAN. I agree it is one tool.

Mr. MOLLOHAN. But I do take that away from here, I can tell you that. And I don't think it is the end all——

Ms. TAXMAN. Medications are not a silver bullet.

Mr. MOLLOHAN. Well, it is not a silver bullet. But you have to control the craving. To me it is the starting point.

Ms. TAXMAN. I agree.

Mr. MOLLOHAN. Because if you don't control the craving——

Ms. TAXMAN. Yes but control comes both from both intense and extrinsic motivation.

Mr. MOLLOHAN. I mean, people are animals. And that they crave. It is a chemical thing. So if you can't control that, you can't get to the other things.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. So it may not be the silver bullet. But it is the thing that must be controlled for you to get to the other things that are complementary in the treatment process.

Ms. TAXMAN. Well, I think that is what is encouraging about the scientific evidence is that we have learned that some people can control their cravings and moderate their own behaviors. And another group of people can't. And these medications are useful far those that need it as you said, Chairman. The studies show that behavioral therapies help people learn to manage their disorders in daily life. And that is part of the behavior change process. It is also learning how to respond differently to triggers or to situations that used to result in people using drugs.

Mr. MOLLOHAN. Let me ask you. A person once was describing to me the incidence of addiction, and was suggesting that there had been tests run where, for example, a hundred rats would be put in a run. And at one end would be food and water and at the other end heroin.

Ms. TAXMAN. O.K.

Mr. MOLLOHAN. Over time, a fairly defined range percentage of the rats would consistently become addicted and would begin consuming the heroin to an extent that they would neglect the food and water. The brain is telling them that their well-being was associated with the heroin and not the food and water, and they would end up, I guess, not dying from the heroin so much as dying from the deterioration of the body. And that percentage was around 20 percent. Have you ever heard that?

Ms. TAXMAN. Yes. But I do not know the percent. The issue is the receptivity of the pleasure zone.

Mr. MOLLOHAN. It was told to me as an explanation for why some people become addicted and some people don't become addicted. And the point was extrapolating those numbers to the human population from rats. And I don't understand all that. But I'll let you all do that one. But this person did that, suggesting approximately 20 percent of the population is genetically, chemically predisposed or has a greater susceptibility to being addicted if exposed to an addictive substance. If the other 80 percent of the rats had a little bit of the heroin, you know, they liked the food and

water, thank you, just fine and wouldn't go. But this genetically predisposed group would do that, so that there is in our population.

The point to all that, as I understood it, was that there is in our population a percentage that is highly susceptible to addiction if ever exposed to an addictive substance. If they never take a drink of beer——

Ms. TAXMAN. I am not sure.

Mr. MOLLOHAN [continuing]. Great, never smoke a cigarette, great——

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. You won't become addicted even if you have this predisposition. But if you do, and you have this predisposition, there is a very high chance of your becoming addicted. Does that resonate with you?

Ms. TAXMAN. Some of the scientific data examines the genetic predisposition, and environmental stimuli. I am not as familiar with the rates. We do know that people with certain types of genetic bactines have higher rates of abuse.

Mr. MOLLOHAN. Yes.

Ms. TAXMAN. That is the question. We have environmental stimuli that can, you know, increase use.

Mr. MOLLOHAN. Yes.

Ms. TAXMAN. But, you know, these are the things that we are trying to really understand in our scientific discovery.

Mr. MOLLOHAN. Yes. It makes sense to me. You were responding, perhaps to Mr. Kennedy, about treating the whole family.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. There are in the Second Chance Act authorized family substance abuse treatment alternatives to incarceration grants. They weren't funded in 2009. But the authorization does exist. I just thought I would let you know that.

Ms. TAXMAN. Okay, thank you.

Mr. MOLLOHAN. Well, we have asked you to come forward with approaches——

Ms. TAXMAN. I am happy to do so.

Mr. MOLLOHAN [continuing]. And we look forward to working with you on that. I am going to ask Mr. Kennedy if he has any more questions. But I am sure that there are members of the Committee who might have follow-up questions that they would submit to you in writing again.

Ms. TAXMAN. I would be more than happy to.

Mr. MOLLOHAN. You are not working for an agency.

Ms. TAXMAN. I work for George Mason University. I am a researcher, you know.

Mr. MOLLOHAN. Yes.

Ms. TAXMAN. We are more than happy to always provide you with any information we can on, you know, the types of programs and services, you know, whatever the Committee needs.

And I will be happy to put together. I have a list of about six or seven questions you have requested.

Mr. MOLLOHAN. Well, we may have some follow-up questions.

Mr. Kennedy.

MR. KENNEDY QUESTIONS

Mr. KENNEDY. Do you think that there is adequate judicial continuing education to educate our sentencing judges as to this as a disease so that they are not making moral judgements on the individuals that they are seeing as opposed to based upon fact and law as far as that is concerned? And so what I am saying is, we have a tough enough time in this country having doctors and medical professionals treat addiction and substance abuse and alcoholism as a disease. I just can't imagine that we have probably gone far enough to get attorneys, prosecutors, and judges probably up to speed enough as we need them to be to know that the people they are dealing with are often victims——

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. Of a public health epidemic as much as anything else. And that they need to have some sensitivity to that. Should we try to employ that into continuing education requirements or classes or what would your recommendations be? Could you submit some things for us?

EDUCATING JUDGES

Ms. TAXMAN. Sure. You know, I don't think we've educated the cadre of criminal justice professionals, judges, prosecutors, public defenders, defense attorneys, probation officers, you know, correctional officers, prisons on these issues enough.

And, in fact, if you look at the way that sentencing is done in our country, judges have very little information for most felony offenses, hardly any for misdemeanor offenses. And, you know, one of the system improvements that the judiciaries is really looking at, is trying to do risk and needs assessment prior to sentencing, which could help with all of these issues if we got those organizations to do that.

And, you know, there is now new technology even where, you know, there is—you know, there is technology that people can do, self assessments. And they actually include some motivational interviewing. They have had good efficacy in terms of, you know, these self assessments as compared to an individual-driven assessment. So there is technology improvements that could be done to sort of deal with the bottleneck of the criminal justice system to really enhance our information.

So, you know, I would be happy to submit. But, you know, I think it is a broader issue.

Mr. KENNEDY. Would you submit that——

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. Specifically, because obviously giving our judges more tools to properly have that evidence base, so to speak, by which——

Ms. TAXMAN. Yes.

Mr. KENNEDY [continuing]. Upon which to base their decisions on sentencing would be very useful. Thank you.

Ms. TAXMAN. And for your information, the U.S. Administrative Office of the Courts is actually developing a risk needs tool that should be useful in the federal system. They had hoped to employ at the pretrial stage, too. So, I know you are interested in improv-

ing the federal system. That could be very useful in the future. They are piloting this summer. This could be a national model to begin to really rethink how we do sentencing, and provide sentences.

MR. MOLLOHAN QUESTIONS

Mr. MOLLOHAN. Just a follow-up question on the injectable approach.

Ms. TAXMAN. Right.

ANTI-ADDICITON MEDICATION

Mr. MOLLOHAN. There are a variety of anti-addiction medications available.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. You referenced a number of them. Each of which may be more or less helpful to an individual depending on the nature of their addiction. Is the use of extended release injections something that is likely to be adapted to most or all of these medications?

Ms. TAXMAN. In terms of the delivery system?

Mr. MOLLOHAN. Yes.

Ms. TAXMAN. I don't know the answer to that. But I can find out the answer to that to be honest. I know that there are different mechanisms for a whole range of extended release sort of medications overall, the value is in improving compliance. The less frequently a person has to take a medication, the greater the compliance.

That compliance is an important factor. But I can find out for you.

Mr. MOLLOHAN. And you said it, and I probably haven't emphasized as much as I want to or asked you to emphasize as much as I think it would benefit the record, the compliance aspect. How does the extended release injection impact compliance?

Ms. TAXMAN. In the studies that have been done on injections like Naltrexone, for example, there is far greater compliance than other forms of medication. Once-a-month injection as compared to a daily dosage.

Mr. MOLLOHAN. But Naltrexone could be taken in a daily dose, right?

Ms. TAXMAN. Yes, there are versions.

Mr. MOLLOHAN. But——

Ms. TAXMAN. There are two comparative studies that I am aware of. I don't remember the percentage. There was a statistically significant difference between those who had the injection versus those who are on daily dosage.

Mr. MOLLOHAN. So the point is, if I can summarize it, and tell me if you agree with this. Whether you are talking about Naltrexone or some other——

Ms. TAXMAN. Yes.

Mr. MOLLOHAN [continuing]. Medication, the point is that if it is taken once a day, you have a greater compliance problem than if you have a dosage that would last for 30 days.

Ms. TAXMAN. Correct.

Mr. MOLLOHAN. Say an injectionable——

Ms. TAXMAN. Injection.

Mr. MOLLOHAN [continuing]. Version of it.

Ms. TAXMAN. Yes.

Mr. MOLLOHAN. And so it improves compliance?

Ms. TAXMAN. We are actually doing a survey right now in the field to look at how criminal justice and addiction treatment agencies are thinking about using different medications; we have completed 20 interviews thus far.

The systems are very sensitive to this compliance issue, because that is the hardest part of human behavior is to get people to comply. Just from a common sense notion, something that is once a month is obviously easier. But, people need behavioral therapies to really help them learn to make those lifelong changes.

ALCOHOL AND DRUG PROGRAMS IN PRISONS

Mr. KENNEDY. Could I ask you about that whole AA and the prisons?

Ms. TAXMAN. Yes.

Mr. KENNEDY. My experience at the home that it is not easy to get into the—but I just wanted to say that there are a lot of people that make really good efforts and do a very good job——

Ms. TAXMAN. Right.

Mr. KENNEDY [continuing]. Of getting into the ACI. And we do better than most I think. We have got a very progressive corrections crowd up there.

Ms. TAXMAN. Yes.

Mr. KENNEDY. They are very helpful. But I just know they are probably not the norm. And even while they do their job and do it well, that even that is not made as easy as I think it probably should be in terms of getting the self health groups in there.

What did you make of the answers from the previous panel in terms of that they have to be screened and so forth? And it is therefore too difficult to maybe provide them with secure rooms and all that stuff.

Ms. TAXMAN. This is the culture of corrections that I was referencing at the beginning of my testimony. If we really want an effective correctional system, we are going to have to open the doors to allow communities to work with the population when they are in prison to ease their, transition and reintegration back into the community.

My experience is is that most prisons don't offer enough self-help groups. And we have a difficult time in our studies to have research interviewers enter the prisons even though one of my interviewers has been clean for over 20 years. It is a constant battle. There is movement in the field to try to open the door to offer more services.

I think the federal system from what I understand is more rigid than some state systems. One of the changes for prisons is to really do much more outreach.

Mr. KENNEDY. Your proposals as to what we can do to encourage the Federal Bureau of Prisons to open up to more self-help groups and just do it, because—we are not doing ourselves any good by not

allowing groups that are willing to go in there and help make a difference.

Ms. TAXMAN. Yes.

Mr. KENNEDY. And these self-help groups are the ones that are out there in the communities that we have got to get people tied up to if they are going to go back out there. And so far the only thing out there that has been demonstrated to be of any effectiveness whatsoever. And I think that there is a spirituality to it and to fellowship notions that I think is going to be critical to the recovery process for anybody who is in prison.

Ms. TAXMAN. Yes.

Mr. KENNEDY. And I don't think there is any excuse for us not to try to provide every opportunity for them to have a——

Ms. TAXMAN. I agree.

Mr. KENNEDY [continuing]. Place at the table in these prisons under, you know, obviously guided and supervised monitoring. But I think it could be done.

Ms. TAXMAN. Yes.

Mr. KENNEDY. It has to be made possible to be done. So if you could help us reemphasize the importance of this, that would be very helpful.

Ms. TAXMAN. I will add that to my list, which I am more than happy to.

Mr. MOLLOHAN. Well, Dr. Taxman, thank you again for appearing here today.

Ms. TAXMAN. Okay.

Mr. MOLLOHAN. We appreciate the efforts you went to and the excellence of your testimony.

Ms. TAXMAN. Thank you very much.

Mr. MOLLOHAN. It certainly will help us as we move forward. Thanks so much.

Ms. TAXMAN. Thank you for the opportunity.

WEDNESDAY, MARCH 11, 2009.

ASSESSMENT OF THE SERIOUS AND VIOLENT OFFENDER REENTRY INITIATIVE

WITNESSES

CHRISTY VISHER, PH.D., PROFESSOR, UNIVERSITY OF DELAWARE AND THE URBAN INSTITUTE

PAMELA LATTIMORE, PH.D., PRINCIPAL SCIENTIST, RTI INTERNATIONAL

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. The hearing will come order. Good morning.

We are continuing with this week's focus on prisoner reentry. And for our first hearing today, we welcome Dr. Pamela Lattimore, a Principal Scientist in RTI International's Crime Justice Policy and Behavior Program, and Dr. Christy Visher, who is a Professor of Sociology and Criminal Justice at the University of Delaware and a Principal Research Associate with the Urban Institute.

Dr. Lattimore, I understand, will be summarizing written testimony on behalf of you both, although both witnesses will be responding to questions from the Subcommittee.

We have asked you to join us here this morning because you are conducting what is perhaps the most ambitious assessment to date of offender reentry from state prisons.

The Serious and Violent Offender Reentry Initiative was a $100 million grant program involving Departments of Justice, Education, Housing and Urban Development, Labor, and Health and Human Services.

Sixty-nine grantees representing every state plus the District of Columbia and the U.S. Virgin Islands received three year funding in 2003 to implement comprehensive reentry programs combining a full range of reentry supports and services.

You have been working on the assessment of this program under a cooperative agreement with the National Institute of Justice, and I understand that you are getting very close to completing your work. Although you may not have final peer reviewed results and analysis to present to us today, I urge you to give us as much detail as possible on what you are finding.

We understand that your responses related to the assessment are preliminary, and I ask that you provide us with updated information later in the year when the assessment is complete.

In a moment, I will ask you to proceed with your oral testimony, and your written statements will be made a part of the record.

And, Dr. Visher, if you want to make an opening statement, you may do so also, but first I would like to call on our Ranking Member, Mr. Wolf.

Mr. WOLF. Welcome to the Committee. I have no opening statement.

Mr. MOLLOHAN. Okay. The witnesses will proceed.

MS. LATTIMORE OPENING STATEMENT

Ms. LATTIMORE. Mr. Chairman, members of the Subcommittee, we are pleased to appear before you today to provide you with information regarding the evaluation of the Serious and Violent Offender Reentry Initiative, a National Institute of Justice funded study that is being conducted by researchers at RTI International and the Urban Institute.

I am Dr. Pamela Lattimore, a Principal Scientist at RTI International. Seated next to me is Dr. Christy Visher, Principal Research Associate at the Urban Institute and Professor at the University of Delaware. We are co-principal investigators of the evaluation.

Dr. Visher and I have been studying criminal behavior and the effectiveness of correctional programs for more than 20 years. These issues have taken on increasing importance over that time as the number of people under criminal justice system supervision doubled from 1988 to more than 7.3 million in 2007. And the number of people in state and federal prisons grew from about 600,000 in 1988 to nearly 1.6 million in 2007.

These increases have had a growing price tag. In 2006, the government spent $69 billion on corrections and total criminal justice and law enforcement costs grew to $215 billion.

For nearly six years, we have been evaluating the Serious and Violent Offender Reentry Initiative, SVORI. SVORI was, as you noted, a more than $100 million federal investment that provided correctional and juvenile justice agencies with grants. These grants were used to implement prisoner reentry programs that began in prison and continued following release.

The SVORI programs had four objectives for released prisoners, improve employment, housing and family and community involvement, improve help by addressing substance use and physical and mental health problems, reduce criminality, and promote systems change through collaboration and management strategies.

Although the grantees shared these objectives, each grant crafted a unique program and approach that reflected their local needs and resources.

The impact of this unprecedented investment is the focus of the SVORI multi-site evaluation, the most extensive evaluation ever funded by the National Institute of Justice.

For the evaluation, we conducted three surveys of the SVORI Program Directors. We also conducted interviews with SVORI Program participants and comparison subjects from 12 adult programs and four juvenile programs in 14 states. In total, we interviewed nearly 2,500 men, women, and boys between July 2004 and April 2007.

During this past year, we have also received administrative recidivism data that we will use to determine official reincarceration and rearrest rates.

The evaluation is not yet complete, but we are able to share with you some of the important conclusions of our work so far.

The successful integration of individuals exiting prison is a complex issue that requires a comprehensive approach.

When we looked at our respondents, only about 60 percent of the adults had completed twelfth grade or had a GED. Less than two-thirds of the men and only about half of the women had worked in the six months prior to their incarceration.

Almost all, and we are talking 90 to 95 percent, of the men, women, and boys, admitted having used illegal drugs. This number is kind of frightening. Nearly 80 percent of the women but also 55 percent of the men and 50 percent of the boys had been in treatment for mental health or substance abuse problems prior to their incarceration.

The SVORI Program participants also had serious criminal histories. Eighty percent of the adults had been in prison before. The men reported an average of thirteen prior arrests, the women about eleven, and the boys about seven.

Secondly, we found that SVORI funding was significant in the development and continuation of reentry programming in these states. Most Program Directors said their agencies were continuing programs or activities begun with SVORI grant funds and were also implementing other reentry components. Many suggested that the SVORI funds were instrumental in starting or improving their states efforts to develop reentry programming.

Third, SVORI funds increased collaboration among state and local agencies and organizations. Nearly all of the Directors of the 16 impact programs reported improved relationships between their agency and the community supervision agency as a direct result of the SVORI grant.

Further, most reported increased collaborations with community and faith-based organizations—again as a direct result of the SVORI grant. Importantly, most reported these new and improved collaborations had continued.

Fourth, SVORI funds resulted in an increase in services for program participants. Overall, participation in SVORI programs greatly increased the likelihood of receiving services such as reentry planning, assistance obtaining documents, mentoring, substance abuse and mental health treatment, and education and employment services.

While most SVORI participants reported receiving at least one of six different types of employment, education, or skill services, only 37 percent, however, of the men and 52 percent of the women reported receiving employment specific services. So they received other skill-based services, but things like resume preparation and so forth was less likely.

But on the other hand, twice as many of the people who were in SVORI programs as the comparison subjects reported receiving these types of services. So SVORI greatly increased the likelihood of participating in services, receiving services, but the levels were often far less than 100 percent for the SVORI Program participants.

Fifth, we found that more services were delivered prior to release than after release. For example, on average, about half of the men in SVORI programs received substance abuse treatment while they

were in prison, a percentage that dropped to less than 20 percent in the months following release.

So what was the impact of SVORI on outcomes? As we noted, our results to date are preliminary, but our preliminary findings do show that in most cases, SVORI participants had better outcomes than the comparison subjects.

These positive findings span the outcome areas that we looked at in the three post-release interview periods. Sometimes they were small, but most of the time, the differences were positive.

Finally, we would like to point out that this type of comprehensive detailed evaluation is highly uncommon for justice research. Unfortunately, a shortage of funding for criminal justice research prevents policymakers from having ready access to independent, objective information to assist them in making important decisions in this vital and increasingly expensive policy area.

The National Institute of Justice is the primary source of funding in this country for criminal behavior and justice research. NIJ has existed for more than 40 years, but its budget remains remarkably underfunded.

NIJ's base budget I will note in the fiscal 2009 Omnibus appropriations bill is $48 million. And these funds signify an incredibly small commitment to understanding a major policy area that concerns all of our citizens and, as we noted at the beginning of our remarks, consumes $215 billion of taxpayer money annually.

Although we understand there are many priorities competing for federal dollars, comprehensive evaluations can lead to better policy and programs, resulting in better use of taxpayer dollars and improved outcomes. We think the return on investment will also make us safer.

Thank you for your time, and we would be happy to answer your questions.

[Written testimony of Pamela K. Lattimore, Ph.D., Principal Scientist, Crime, Violence and Justice Research Program, RTI International, Christy A. Visher, Ph.D. Principal Research Associate, the Urban Institute Professor, University of Delaware follows:]

Prepared Remarks of

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Crime, Violence and Justice Research Program
RTI International
and
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Principal Research Associate, The Urban Institute
Professor, University of Delaware

Before the

United States House of Representatives Appropriations Subcommittee on Commerce, Justice, Science and Related Agencies

Regarding

Assessment of the
Serious and Violent Offender Reentry Initiative

March 11, 2009

RTI INTERNATIONAL

Urban Institute

Mr. Chairman and Members of the Subcommittee, we are pleased to appear before you today and to provide you with information regarding the evaluation of the *Serious and Violent Offender Reentry Initiative, a National Institute of Justice funded study* that is being conducted by researchers at RTI International and the Urban Institute.

I am Dr. Pamela Lattimore, a Principal Scientist at RTI International. Seated next to me is Dr. Christy Visher, Principal Research Associate at the Urban Institute and Professor at the University of Delaware. We are Co-Principal Investigators of the evaluation.

As you may know, RTI International is an independent, nonprofit research organization based in Research Triangle Park, North Carolina, that provides research and technical expertise to governments and businesses in more than 40 countries. The Urban Institute, located in Washington, D.C., is an independent, nonprofit, nonpartisan research organization that examines the social, economic, and governance challenges facing the nation.

Dr. Visher and I have been studying criminal behavior and the effectiveness of correctional programs for more than twenty years. These issues have taken on more importance during this time as the number of people under the supervision of the criminal justice system doubled from 3.7 million in 1988 when Dr. Visher and I began visiting research fellowships at the National Institute of Justice to 7.3 million in 2007 (the latest data available). During this time, the number of people in state and federal prisons grew from about 600,000 to nearly 1.6 million. Our local jails now hold over 780,000—more than double the 340,000 who were jailed in 1988.

These increases have been accompanied by a growing price tag. In 2006, federal, state and local governments spent nearly $69 billion on corrections—more than three times the $20 billion spent in 1988. If we add in other criminal justice costs such as law enforcement and court systems, we see similar increases with a much larger price tag: total criminal justice costs have grown from $65 billion in 1988 to nearly $215 billion in 2006.

These numbers represent a significant investment at the federal, state and local levels and many lives. The question that confronts us is "Is there a better way?"

For the past nearly six years, we have been evaluating the Serious and Violent Offender Reentry Initiative (SVORI) that provided grants to 69 state agencies across the country in 2003 and 2004. The Initiative was an ambitious, $110 million federal investment that provided corrections and juvenile justice agencies with grants to develop and implement prisoner reentry programs.

SVORI grants supported the creation of a continuum of services that started in prison and continued following release. SVORI had four specific objectives:

1) Improve the quality of life and self-sufficiency of released prisoners by improving employment, housing, and family and community involvement;

2) Improve the health of returning offenders by addressing substance use, and physical and mental health problems;

3) Reduce criminality among returning offenders through programming and services, as well as supervision and monitoring; and

4) Promote systems change through multi-agency collaboration and case management strategies.

Although the grantees shared these objectives, each grantee crafted a unique approach that reflected local needs and resources. All grantees were required, at a minimum, to establish and support a partnership between institutional agencies, such as the departments of corrections and juvenile justice, and at least one community agency.

Grantees were also encouraged to include five specific components in their programs: diagnostic and risk assessments, individual reentry plans, transition teams, community resources, and graduated levels of supervision. Within this basic framework, each grantee used the SVORI funding to tailor reentry programming to the needs of their jurisdictions.

In addition to imposing relatively few restrictions on grantees, the SVORI grants differed from previous programs for prisoners that, generally, are reserved for non-violent and, often, for first-time offenders. (For example, the Prisoner Reentry Initiative that was funded by the federal government after SVORI explicitly excludes people who have ever been convicted of violent or sex offenses.) The SVORI grantees were allowed to interpret "serious and violent" and most appear to have focused their programs on violent and/or repeat offenders.

The impact of this unprecedented reentry program investment is the focus of the SVORI multi-site evaluation, the most extensive evaluation ever funded by the National Institute of Justice, the research arm of the U.S. Department of Justice. After a one-year planning grant, we conducted three surveys of the directors of the 89 SVORI programs that were developed by the 69 agency grantees. These surveys collected information on the nature of each of the locally designed SVORI programs, including the components of the program and the targeted participant population(s), as well as information on the barriers that were encountered and overcome as programs were developed and implemented.

We also conducted interviews with SVORI program participants and comparison subjects from 12 adult programs and 4 juvenile programs located in 14 states. In total, we interviewed nearly 2,500 men, women and boys between July 2004 and April 2007 at four specific points in time: about 30 days prior to their release from prison, and at 3, 9 and 15 months following their release. (We were unable to recruit sufficient numbers of girls to include them in the study.)

The interviews asked for detailed information on criminal and employment history and past substance use; treatment and service needs; services and program receipt; and numerous outcomes in criminal justice, employment, health (including current substance use and mental health), and housing. For those in

the community at 3 and 15 months following release, we also conducted oral swab drug tests.

Finally, during this past year, we received administrative recidivism data from these fourteen states and the FBI that we will use to determine official reincarceration and rearrest rates.

All of this information is being analyzed to examine the impact of these 16 SVORI programs in 14 states (12 adult and 4 juvenile programs). The evaluation is not yet complete, but we are able to share with you some of the important conclusions of our work so far.

(1) The successful reintegration of individuals exiting prison is a complex issue that requires a comprehensive approach.

The SVORI legislation specified a joint effort of the Departments of Justice, Labor, Education, Health and Human Services, and Housing and Urban Development. This collaboration acknowledges that individuals leaving prison have needs that span multiple domains and that these needs are interwoven. For example, individuals exiting prison generally have little education and few job skills. They are likely to have problems with drugs and alcohol and many suffer from mental illness. Additionally, things that we take for granted—such as a driver's license, how to fill out a job application, having a place to live—may be out of reach.

For example, among our respondents, only about 60% of the adults (less than 20% of the boys) had finished twelfth grade or had a GED. Less than two-thirds of the men and only about half of the women had worked during the six months prior to their current incarceration (only slightly more than a third of the boys had worked). Further, 95% of the men and women and nearly 90% of the boys admitted to having used illegal drugs. Nearly 80% of the women, about 55% of the men and 50% of the boys had been treated for either a mental health or substance abuse problem prior to incarceration.

The SVORI program participants also had serious criminal histories. Fully 80% of the adults had been in prison before. Half of the men and 30% of the women also had had at least one juvenile detention. The men reported an average of 13 prior

arrests—the women about 11 and the boys about 7. The boys also had prior records—most had been in juvenile correctional facilities before.

(2) SVORI funding was a significant step forward in the development and continuation of reentry programming in most states.

SVORI funding boosted the development of reentry programming in most states, according to SVORI program directors. We conducted an email survey of SVORI program directors early last year—after the programs had expended all of their SVORI grant funds—to determine whether activities initiated with SVORI grant funds were continuing. We received responses from 56 of the 89 programs. More than three-quarters of the program directors said that their agencies were continuing at least some programs or activities that began as a result of SVORI grant funds. A similar proportion said that their states had developed and were implementing other reentry components. Many suggested that the SVORI funds had been instrumental in starting or improving their states' efforts to develop reentry programming.

(3) SVORI funds increased collaboration among state and local agencies and organizations.

An important goal of the SVORI grants was to foster increased collaboration between departments of correction or juvenile justice and other state and local agencies as well as community and faith-based organizations. In interviews with directors of the 16 programs in our impact evaluation, nearly all of the directors reported that the relationship between their agency and the community supervision agency had improved as a direct result of the SVORI grant. One program director said, "SVORI played a part in all the change [that was] going on. It was the catalyst by virtue of providing funds and guidance to put a model in place and demonstrate to the system how this could be done."

Further, 13 of the 16 program directors reported increased collaborations with community-based organizations (or CBOs), and 9 of the 16 reported increased collaborations with faith-based organizations (or FBOs)—again, as a direct result of the SVORI grant. One director said, "SVORI enhanced awareness both on the

part of the Department of Corrections as well as on the part of the CBOs as to how it's important to work together. We have developed a set of FBOs with whom the DOC can work. FBOs are also contacting DOC directly to ask if there are things that they can do."

Of note, most of the program directors reported that these new and improved collaborations had continued or expanded after the conclusion of the SVORI grant.

(4) SVORI funds resulted in the development of local programs that provided an increase in services for participants.

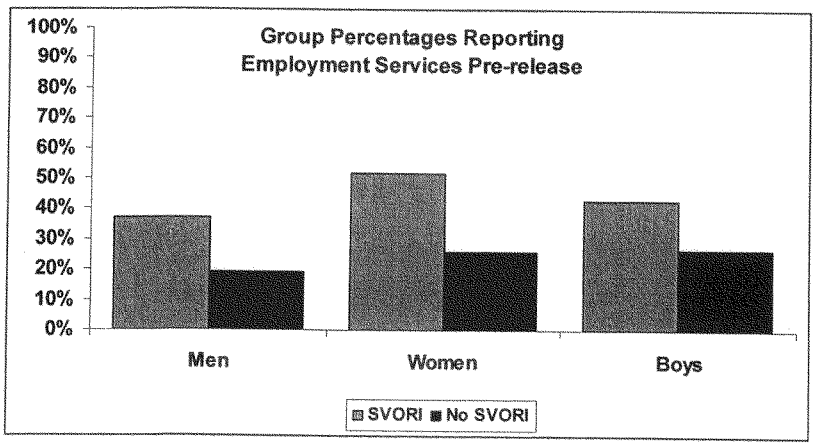
Overall, participation in SVORI programs greatly increased the likelihood of receiving a wide variety of services, such as reentry planning, assistance obtaining documents (such as driver's licenses), mentoring, substance abuse and mental health treatment, and educational and employment services. This was true for the men, the women and the boys.

For example, 98% of women and 87% of the men participating in SVORI programs reported receiving at least one of twelve transition services. The most common was services to prepare for release: 90% of the women and 75% of the men reported that they had received services to prepare for release. These percentages were about 50% higher than those reported by the comparison groups (59% of women and 51% of men).

Most of the adult programs identified employment as a primary focus. Most SVORI participants (93% of the women and 79% of the men) reported that they had received at least one of six educational and employment programs or services. The most common types of services reported were educational services, training to change attitudes towards criminal behavior, and life skills programming.

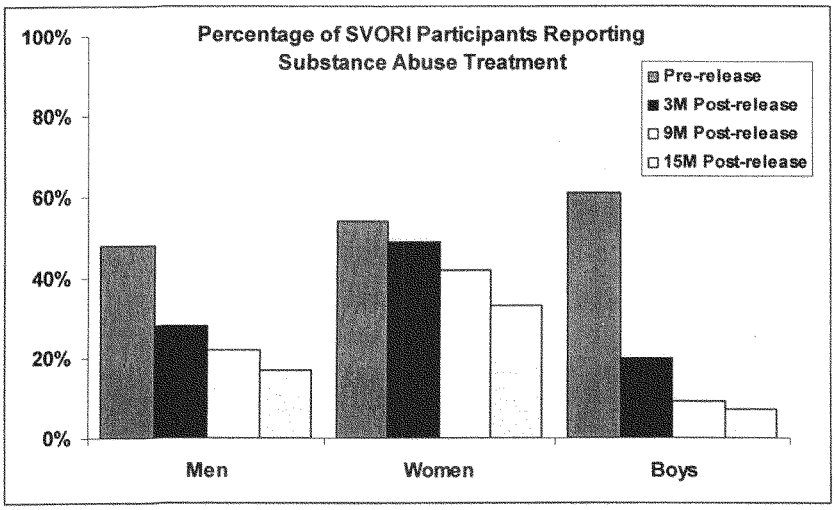
Only 37% of the men and 52% of the women said that they had received employment services. However, these percentages were about twice those of the comparison subjects who said they had received such services. So, again, SVORI

program participation greatly increased the likelihood of services or programs—but at levels far less than 100%.



(5) More services were delivered prior to release than after release.

The level of provided services and programs dropped substantially following release. For example, as the chart on the following page shows, on average, about half of the men in SVORI programs received substance abuse treatment in prison—a percentage that dropped substantially following release. Similar findings were observed for the boys who were in SVORI programs. The women were somewhat more likely than the males to continue receiving services following release.



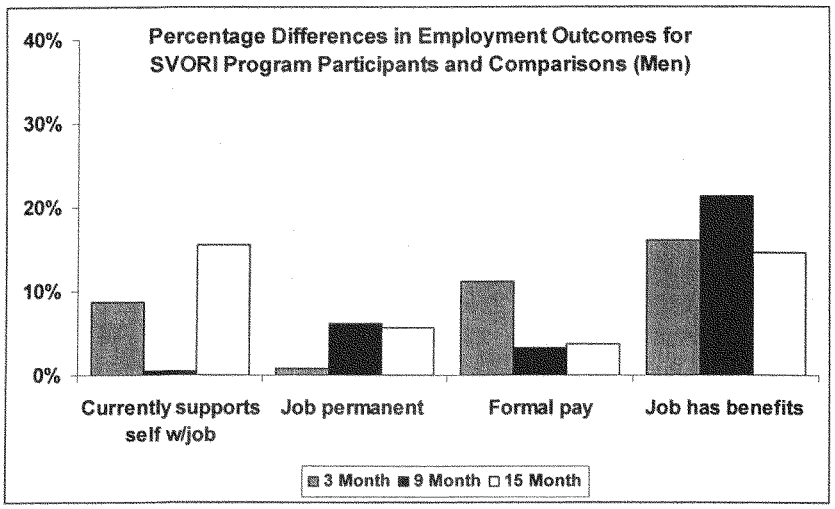
(6) The $69,000,000 question: What was the impact of SVORI on outcomes?

Serious and Violent Offender Reentry Initiative program participants were much more likely to receive a broad array of services and programming than similar individuals who were not in SVORI programs. However, this was much truer during the pre-release phase than following release. Also, although levels were higher, they were not 100%. These services were expected to lead to improved outcomes across a variety of dimensions, including housing, employment, mental health, family relationships, education, substance use, and criminal behavior.

We are finalizing our impact analyses and can report only preliminary findings. We have examined over 100 possible outcomes across the domain areas targeted by SVORI. In most cases, the difference in outcomes between those participating in SVORI programs and the comparison subjects indicates that SVORI program participation resulted in an improvement in outcomes.

In many cases, these differences were small, but we know from the literature that effective correctional programs generally result in improvements of 5% to 15%, so our findings are in line with what we would have expected.

These positive findings span the various outcome areas and the three post-release interview periods. For example, the preliminary results for the adult men in our study on some of our employment measures show that SVORI program participants were about 10% more likely than comparison subjects to report supporting themselves with a job 3 months following release. They were also more likely to report having a job that was permanent, that offered formal pay, and that had benefits such as health insurance and vacation pay.



In conclusion, the SVORI programs provided significant but small increases in services to a population with tremendous needs in education, employment, health and basic living skills.

Those participating in SVORI programs overall have better outcomes following release from prison than comparable individuals who received some services while in prison but who did not participate in SVORI programs.

These findings are very encouraging because they suggest that small differences can have an impact and that programs have a basis to continue to improve their programs and their outcomes by expanding the services provided to each participant. As we learned, most of the SVORI programs chose to continue to build on what they learned and implemented as a result of their SVORI grants. They continued and expanded the services that were being provided, as well as the collaborations and partnerships.

Finally, we would like to point out that this type of comprehensive, detailed evaluation is highly uncommon for justice research.

We only touched on some of the highlights today of what we have been able to learn by having the luxury to study 16 SVORI programs and thousands of subjects over a number of years. Most justice program evaluations focus on single programs with small numbers of subjects and for short periods of time.

Unfortunately, a shortage of funding for criminal justice research prevents policy makers from having ready access to independent, objective information to assist them in making important decisions in this vital and increasingly expensive policy area.

Though the National Institute of Justice has existed for more than 40 years, since the Crime Control and Safe Streets Act of 1968, its budget remains remarkably underfunded. NIJ's base budget in the FY 2009 Omnibus Appropriations bill is $48 million.

These funds—which again represent the primary source of funding for criminal behavior and justice research—signify an incredibly small commitment to understanding a major policy area that concerns all our nation's citizens and, as we noted at the beginning of our remarks, consumes $215 billion annually.

Although there are many priorities competing for federal dollars, comprehensive evaluations can lead to improved policy development, improved program implementation and administration, better use of taxpayer dollars, and improved outcomes—returns on investment that will also make us safer.

Thank you for your time. We would be happy to answer questions.

Mr. MOLLOHAN. Thank you, Dr. Lattimore.

Dr. Visher, would you like to make a statement?

Ms. VISHER. No.

TREATMENT CENTERS PARTICIPATION

Mr. MOLLOHAN. How did you create a consistency among those treatment centers participating in order to get some standardized results coming in, or did you?

Ms. LATTIMORE. Well, that is an interesting question. I mean, our responsibility was to evaluate the programs that were developed and implemented by others.

We actually were not even given our initial planning grant until after the program grants had been awarded. So by the time, you know, Urban Institute and RTI were selected to do the evaluation, all the program development work was long underway.

And so we had nothing to do with the programs themselves other than to go in after the fact and document what they had done and then try to make a determination of the impact of what they had chosen to do.

Mr. MOLLOHAN. Tell us a little bit more then about the programs that participated in your study.

Ms. LATTIMORE. Actually, I think the SVORI funding, the legislation that created SVORI, is very interesting and somewhat unique compared to other justice programs—because it is really allowing local agencies to make a determination of which populations they felt were most important and critical to provide services to and how they would draw not only upon the grant funds but also the other available resources in their communities and from other agencies to structure a program that would be responsive, they thought, to the needs of those populations.

Now, from an evaluator standpoint, that complicates things dramatically because you have got everyone doing something different.

And with SVORI in particular, the idea, and I think again a good one and the literature supports, is that you would try to identify what the needs of individual people within the program—what their needs were—and then you would tailor, you know, among the array of services you have available. You would actually then tailor for the individual.

So you have these programs that all had different component parts and then within each program, different individuals could be receiving different kinds of services.

So the idea behind that was to allow needs to be identified and those needs to be met with services that were appropriate to those needs within the available resources and considerations of the local agencies.

Mr. MOLLOHAN. So give us a couple of typical examples of organizations that participated in the program. Are they nonprofits? Were they state supported institutions? Were they state owned and operated institutions? What were the range of organizations that participated in the study?

Ms. VISHER. Well, the RFA requested that the Department of Corrections or the funding agency coordinate with community agencies. That was a condition of the award.

Mr. MOLLOHAN. A community agency is a government entity.

Ms. VISHER. Not necessarily, no.

Mr. MOLLOHAN. Okay.

Ms. VISHER. A community agency could be a nonprofit organization. It could be a social service organization. It could have been a faith-based agency.

But they had to develop collaborations with community agencies. And this was unusual, but it worked very well and it actually forged collaborations that had not existed in the past.

And this was something that was also being proposed by "The Second Chance Act" as well, which we think is a major step forward, so that Departments of Corrections have to work with agencies that are outside the fence to develop plans for people to come back into the community. And that worked fairly well.

Mr. MOLLOHAN. So a wide range of agencies, organizations, nonprofits——

Ms. VISHER. Yes.

Mr. MOLLOHAN [continuing]. Participated in the study?

Ms. LATTIMORE. Right, along with other state agencies.

Mr. MOLLOHAN. To get comparative information out of such a diverse group of organizations, I would imagine, would be difficult. Maybe not. How did you do it?

Ms. VISHER. Well, we had several strategies. One was that we did a survey, three surveys actually, of all the Program Directors, of all 89 Program Directors all across the United States.

This money went to all 50 states and some of the states developed multiple programs. We talked with all the Program Directors at least three times to get information about how they were running the program, who they were collaborating with, and exactly the kinds of services that were being delivered.

And then the other part of the evaluation was, of course, to pick a set of sites. We picked 14 states that were implementing 16 programs to identify individuals, participants in the program as well as a set of comparison individuals.

We did 2,500 interviews in prison with these individuals and then we followed them for 15 months after they were released and got very detailed information about exactly what kinds of services they received in prison, what their needs were, and then after they were released, what kinds of services they were receiving, what their needs were, how they were doing in the job market, what their mental health status was, what their substance abuse level was.

We used oral swab drug tests. In addition to self-reported, we used an oral swab test to get some valid information about their actual drug use. And we did this through a 15-month period after their release.

Mr. MOLLOHAN. So what you have at the end of this is a fairly comprehensive review and information about what programs are out there and some outcome information about them. So what you are able to do here is compare programs that are out there and perhaps out of that fashion best practices? Is that the——

Ms. LATTIMORE. It is actually interesting. I mean, our mandate for our grant, our evaluation grant, our mandate was to determine whether SVORI works. That leaves two questions.

One is what is SVORI and that is when we had to go out and determine that, you know, everybody was doing something different and how do we make a determination of what services and programs really, you know, constituted these different SVORI programs.

And then the other is, what do we mean by what works when you have programs that are supposed to affect employment outcomes, housing outcomes, substance abuse outcomes, mental health and other health status outcomes, and as well as criminal behavior outcomes.

And so you end up with this array of different outcomes to which you are trying to address the what works question. And to affect those different areas, of course, people were providing services. We identified, really, 28 pre-release and 30 post-release types of services that were being provided or made available to individuals and made an assessment about whether people were actually getting those services.

I mean, I have described it as a fruit basket, you know. And so you are trying to find out which fruit—you know, each program developed their own different fruit basket and then now it was our job to identify what was in the fruit basket and then figure out whether or not that fruit was actually helping people or not.

And, so, it has been a wonderful opportunity, I think, to gather a lot more data than, generally, people are able to do in this kind of evaluation about different kinds of approaches and to make a determination.

So our initial question has been, did SVORI work? Which is just to, basically, say, okay, we are not going to pay any attention to what is in the fruit basket. We are just going to see if fruit baskets work.

And then the next step and really what needs to be done next is to pay a lot more attention to the different kinds of things that are in there, the different kinds of services and programs that were being made specifically available in these different programs and find out how those meet the needs of different recipients and how effective they are.

So the first question was basically if you give a state agency some broad guidelines, some money, tell them to improve services for an offender population that was going to carry through, you know, working with your community partners, carry through post release, will, so question number one, will you increase the level of services that are being provided to people?

And I think the definitive answer to that is yes.

The second question then is if you do that, increase services to, of whatever nature, increase services to individuals that are, you know, in these circumstances, will you see better outcomes?

And the answer to that is if you increase services a little, what—services increased a lot, but it is going from 20 percent of people getting something to 40 percent of people getting something. And so if you do that, then, yes, you start to see positive outcomes. So——

Mr. MOLLOHAN. Well, we will get into that.

Ms. LATTIMORE. Yes.

Mr. MOLLOHAN. Mr. Wolf.

Mr. WOLF. Thanks. Thank you, Mr. Chairman.

Welcome. Every time, this is not for the record, but every time I think of the University of Delaware, I think of the tolls on Route 95 that the State of Delaware is levying on us.

Ms. VISHER. Well, actually, there is a commuter program. I was involved in it. There is a commuter program, so actually my toll going into Delaware is only 80 cents each way.

Mr. WOLF. Can you tell me how? I have family up there. I go up there. Actually, my kids gave me a map of how I can avoid the tolls. I have never taken it. But, anyway, that is not for the record.

Mr. MOLLOHAN. You probably use about three gallons extra.

PRISON PROGRAMS

Mr. WOLF. No, it is not. Actually, I can give you the copy. I will give you the exit. You get right off.

But I was involved in prison programs before I got elected to Congress. I was involved in a program called Man To Man where we would go down to Lorette Reformatory which was a pit. And I got very discouraged. I had three different prisoners that I agreed to counsel. I visited. The commitment was on a monthly basis and we would help them find jobs.

And after the third one, the first two were rearrested again and the third one, it just seemed like—I spoke to a young prisoner who got out about a month and a half ago and it did not seem like a lot had changed. He was in federal prison. He was in a federal prison, one of the better run federal prisons that I understand is the case.

And I would just say to the Chairman maybe there is a day that we ought to go up and have a day public hearing in a prison or privately just to listen to the prisoners off the record without the wardens, without anybody there to really find out what works and does not work and their perspective.

And I wanted to ask you, one, what do you think about the—we are going to go through this battle again on the whole issue of work in prisons. I am going to offer an amendment to require or allow an increase in work, a demonstration project whereby they will make products that are no longer made in the United States.

How important do you think of somebody getting out of prison is the fact that they have had work, real work, I do not mean picking up butts on a policing of the grounds, but real work is with regard to once they are released quickly? I do not have a lot of time, so if I can get some sense. How important do you both think that is?

Ms. VISHER. Well, the research does not suggest that work in prison necessarily improves employment on the outside. I think it depends on, as you said, the type of work. And that has not been very well documented in the research.

Mr. WOLF. But I am talking about real work. I am not talking about working in the laundry. I am talking about——

Ms. VISHER. If they are developing skills that they can use and that they have, then that to me is very similar to job training. And those kinds of programs can be very helpful in getting jobs on the outside.

Mr. WOLF. Okay. Do you agree?

Ms. LATTIMORE. Right. I agree with that. I agree with that.

Mr. WOLF. Secondly, the programs that I have been involved in, and I have worked a little bit with prison fellowship, they will be a prison fellowship person today. I have great admiration for Chuck Colson. I think he understands from both sides of the process.

How important is it for a faith-based situation, because I know many of the local groups, ACLU, always rant and rave against faith-based groups? Barry Lynn makes it a career opposing that. How important do you believe it is for—I believe it is very important.

And from the prisoners that I have spoken to and I spoke to a whole group last week, they believe it made the difference in their time. Some were from Chicago. Some were from the State of Virginia.

How important do you think, whatever the faith may be, the faith aspect in the prisons?

Ms. LATTIMORE. And, Christy, you may be aware of something that I am not aware of. There is no literature that I am aware of.

There have been no, you know, solid studies that have been done that demonstrate a relationship of, you know, participation in faith-based programs in and of itself because what you have to worry about are the people that select to go. It is a selection effect, so that the people that choose to participate in the faith-based programs while they are in prison are the people that would have been most likely not to have gotten in trouble later anyway.

And so without controlled experiments, it is sort of difficult to make a determination. And to my knowledge, there have not been any.

Do you know of anything?

Ms. VISHER. Well, the Urban Institute actually has looked at faith-based prisons in Florida. My colleague there, Nancy Vigne, took a close look at faith-based prisons which are a little bit different than providing faith services in prisons. And these are prisons focused pretty much on—sort of organized around faith principles.

And she has not done a long-term evaluation about outcomes, but apparently difficult behavior, disruptive behavior is controlled in those settings much more so than in other prisons. The inmates do find a sense of, I would say, peace while they are in prison when they are participating in those programs.

But what happens is that there is not any continuity with that kind of program on the outside.

Mr. WOLF. Right. Once they leave, no. I——

Ms. LATTIMORE. Once they leave, right.

Ms. VISHER. Once they leave, then it is gone because they are not making connections. These faith-based organizations are not making connections with community churches in these neighborhoods where individuals are going back to so that they can continue that kind of spiritual assistance or whatever kind of assistance they may have been receiving.

FAITH-BASED PROGRAMS

Mr. WOLF. Well, that is a very good point. I think the initial purpose of the faith based was that the churches, the synagogues, the mosques would then come around the person once they left the prison so there was a continuity.

If I could get her name——

Ms. VISHER. Sure.

Mr. WOLF [continuing]. We can chat with her.

Ms. VISHER. They have found that there is a dramatic drop-off in individuals' connections with faith-based institutions once they leave prison.

Mr. WOLF. Yeah. Well, I could see that, particularly if the churches or synagogues do not come alongside.

Thirdly, is there, and the Chairman used this word, is there a best practices? Is there a list of things that we know, boy, that works?

I mean, we have done that in Topeka. We have done it in Santa Fe. We have done it in Timbuktu. This is it. If we are going to build a new prison, if we are going to have a prison, these are the seven things that we know. Is there a best practices?

Ms. LATTIMORE. Go ahead, Christy.

NATIONAL ACADEMY OF SCIENCE

Ms. VISHER. The National Academy of Science has released a report last year that talked about the role of supervision and reentry into the community. And what that report concluded was that we are becoming clearer on this question about what actually works.

Cognitive behavioral therapy programs, which used to be unusual in prisons, are becoming much more common. And these are kinds of programs that try to change criminal thinking.

And if you talk to prisoners and people on the outside and the people that have gone through the change and actually did quite well, what they tell me is "the dude has got to change his attitude." And that is a really important component.

Mr. WOLF. Well, then shouldn't we, though, have a best practices list? Should not there be a study that just says we have looked all over federal prisons and state prisons, we have looked at what they are doing in Scandinavia and Austria and Australia, and these are the best practices, right, left, center, middle, what? These things which may go against what we believe hope to be, but these are the things that honestly ethically, morally, decently, we know work? I mean, shouldn't we have that?

Ms. VISHER. Partly it depends on what my colleague said earlier, is that you need to tailor what they receive to their needs.

Mr. WOLF. Right. But, I do not think things have improved personally. I mean, you may be on—I do not know. We have not actually gotten to whether you agree or disagree with me. That is my last question. But I do not think they have improved. And I read all the articles on this issue. I have been in a lot of prisons. I have talked to prisoners who just got out. I do not think they have improved.

I mentioned the other day to Mr. Lappin, one prisoner I spoke to got out. They released him at seven o'clock at night on a Satur-

day night in a big city. And, you know, big city, seven o'clock. So I do not think things are getting better.

And, Mr. Chairman, I think sometimes if you want to build something without going to the basics, you can make a mistake. It seems someone has to put together, and you used the word, the best practices of what really does work. That does not mean it works in every case, but we know here and there and all.

Would you agree that that would make sense to have a—and we are dealing with human beings. We are all different, different backgrounds. But would that make sense?

Ms. VISHER. Absolutely. And I think science is moving in that direction.

Mr. WOLF. William Wilberforce started prison reform in Great Britain. I mean, we are working toward it. When do we reach the end? I mean, lives are being destroyed. They are coming out. And so to say that we are working toward it, do we hit it in 2025?

I mean, we have spent so much money and we are dealing with live individuals who are, you know, made in the image of God. They have got dignity and everything else. So, I mean, I think we have got to do something fast, but I think we need to know what really does work.

Let me ask you this question. What are the most successful, what is the most successful prison system in the United States, state system, and what is the most successful one around the world?

Ms. LATTIMORE. I have no idea. Just to respond briefly to what you were talking just before is I think that we have to keep in mind what I completed our oral or in our written summary with is that to know what works and to develop, given that we have, you know, I do not even know what, thousands of prisons and jails, thousands of prisons and jails in this country, and, you know, 1.6 million people in our prisons and people being treated different ways, the amount of money that has been spent to try to determine and ascertain, to be able to produce what you are asking for, which is what works and to be able to say what works for whom, when you are spending maybe a million dollars a year on research, maybe, you know, that is not a lot of money to examine all of these questions.

Mr. WOLF. Well, I mean, we are spending so much. I mean, it seems to me——

FUNDS GOING TO PRISON

Ms. LATTIMORE. We are spending money on the prisons, mean, running the prisons and the jails and so forth, but money is not being spent on the research that would answer the questions of what works.

Mr. WOLF. Well, but I think, you know, with all due deference, I mean, the Congress have been in session since 1789. I mean, you know, maybe we should, but not to say, you know, prisons are not a new system. Maybe we should do some more on that.

But, you know, I think we need a best practices list and someone has to say what are the most successful programs and what are the most successful in federal prisons, in state prisons, and in local prisons and around the world.

Now, maybe we can ask an independent group who are not of the right, not of the left, but will just deal with that.

The other two issues I had, the staff just pointed out a lot of the money on this is coming out of Labor HHS and not out of here.

Ms. LATTIMORE. Yes.

Mr. WOLF. So what is the role of meshing them together and——

Ms. VISHER. Well, the SVORI initiative was a multi-funded initiative and a lot of the money did come out of Department of Labor which meant that the programs, many of them, most of them had an employment focus. Because the states were getting money from Department of Labor, they were told that they needed to focus on employment services.

And so we find actually in our analysis that there are positive outcomes for the SVORI participants in terms of employment. They are currently supporting themselves with a job at higher levels than our comparison subjects who did not go through the program. They are getting jobs with benefits, health benefits and vacation benefits at higher rates than those who did not go through the program.

So these special programs that were focused on employment seem to be paying off. Similar dollars were not necessarily coming from SAMHSA, so substance abuse, for example, was a lower priority than some of these programs. So we can only ascertain that if you put more money into substance abuse treatment services, then perhaps you would have seen greater impacts on substance use. But we did see, quite strong actually impacts on employment outcomes.

PRISON RAPE BILL

Mr. WOLF. Last two questions. I was the author of the Prison Rape bill. What do you think the situation is, if you have any knowledge, of prison rape in particularly state and local prisons? I mean, it was a very, very big problem, but it was a problem nobody wanted to talk about. Do you have any indications of whether it is up or down or moving, whatever is happening?

Ms. LATTIMORE. RTI International is actually doing the data collection for PREA and in conjunction with a cooperative agreement from the Bureau of Justice Statistics.

Mr. WOLF. What are you finding?

Ms. LATTIMORE. It is someone else's project. I am just aware of it, so I am not actually working on that project. But I do know that they published the results from the first year results and they are in the process of collecting the second year's data.

And you obviously cannot make a determination if things are going up or going down with like one—you know, right now they have only had one data point. And they found, you know, modest levels of abuse, but I think they found high variability in terms of institutions. The rates were much higher in some institutions than others and the type of interactions, staff, prisoner or prisoner on prisoner, that kind of thing varied somewhat from institution to institution. I would be happy to send you the report.

Mr. WOLF. We can get the report.

Ms. LATTIMORE. Okay.

RECIDIVISM

Mr. WOLF. The last question I have is, with regard to recidivism, is it compared to, let us say, 1940, is it going up, is it going down, or is it level?

Ms. VISHER. It is probably level. We do not have the results from the recidivism analysis for this project. We have been trying to compile all the official records from all the different states that we are studying and we are not there yet.

But overall, aside from the impact from the SVORI Program, we have seen in this country that the recidivism rate has remained surprisingly stable for well over 20 years. But these kinds of programs that SVORI initiated with the positive outcomes we are seeing on other dimensions, on substance use, on mental health and employment, we think that greater implementation is needed.

And part of the problem with SVORI is that I call it partial implementation. They did not get all the services they could have for a variety of reasons. And the services were delivered more often in the prison than outside the prison. And we know that that period after release is a very critical period and if you do not get services after release, then whatever you have done in prison may not even be very helpful.

So if we can solve these kinds of problems, which states are moving in that direction, they have all told us that SVORI money has allowed them to continue developing efforts in these areas and that their programs are getting stronger, and we hope that "The Second Chance Act" will build on these factors that SVORI helped them put in place, that we will then begin to see the recidivism rate go down.

I am sure as you know "The Second Chance Act" has as a goal a reduction of recidivism of 50 percent in five years. That is very, very ambitious, but some states——

Mr. WOLF. Do you think they will reach that goal? Just yes or no.

Ms. VISHER. I think it is incredibly ambitious.

Mr. WOLF. Okay.

Ms. LATTIMORE. I agree with that, yeah.

Ms. VISHER. I think it depends on how they target the program and how they focus it. Perhaps some states that are already doing a lot. For example, we found that Iowa is quite progressive.

Ms. LATTIMORE. Has been quite progressive for decades.

Ms. VISHER. For a long time. They may be able to reach——

Ms. LATTIMORE. And they had what we are talking about, implementation. Actually, the people in SVORI programs come—it came closer to there being sort of a hundred percent provision of services for the participants in Iowa than we saw in any of our states.

And I think you are going to hear from someone from Michigan tomorrow. In Michigan, you were talking about innovative, I mean, they have taken a very innovative and creative approach to tackling prisoner reentry from a statewide, long-term, you know, approach. And so I think you will find that what they have to say, Dennis has to say tomorrow quite interesting.

And Washington State is also another state that has passed legislation that has established basically performance standards and

a performance measurement system for a new effort and focus on prisoner reentry, reducing recidivism in Washington. And I think there are going to be some very interesting things to come in the years to come from Washington State.

Mr. WOLF. Thank you.

If you could just submit for the record, I would like to see a list of the 50 states of how well you think they are geared and doing on this issue. If you do that, I would appreciate it.

Thank you very much.

Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Wolf.

Mr. Bonner.

Mr. BONNER. Thank you, Mr. Chairman.

Ladies, thank you all for coming.

I am the newest member of the Subcommittee and I am learning a lot about how little I really know about our judicial system, correctional system.

Congressman Wolf and the Chairman have forgotten more about this issue than I probably will ever know. They certainly bring a lot of experience to this.

But I would like to ask two questions and forgive me. You may have covered it in your opening remarks. I have not found it yet in going through it because I was a few minutes late.

How were the participants chosen to participate in SVORI?

HOW PARTICIPANTS ARE CHOSEN

Ms. LATTIMORE. To participate in the programs, it varied from state to state, but in virtually all the states, they selected a targeted population and that varied dramatically.

We talked a little bit about sort of the fact that the programs were all very different. So, for example, the program in Texas was actually focused on people who were in administrative segregation in maximum security prisons to try to, you know, to get individuals in that circumstance ready for release.

Very different from Connecticut. They were focused on a co-occurring population, people who had both mental illness and substance abuse problems, and trying to focus on those individuals.

In Virginia, the Virginia program was an employment focused program that was run out of sort of using the Fairfax County Jail as a halfway house. And, again, a very interesting kind of program.

And then other programs like South Carolina's was basically, you know, anybody who was interested in participating, you know, and was going to be in prison for long enough could come and participate in these programs. And they had limits on the numbers, so it varied. But each state set their own criteria for, you know, identifying who was the targeted population.

Mr. BONNER. And there were 14 states?

Ms. LATTIMORE. In our impact study. There were actually a total of 89 programs. We selected 14 of the 89 to study the outcomes.

Mr. BONNER. From a parochial standpoint, was Alabama one of them by chance?

Ms. LATTIMORE. No.

Ms. VISHER. We had to select programs that we felt would have sufficient numbers of people that we would be able to include in our overall study. Some of these programs were fairly small.

For example, they said they would only be able to capture 100 or 150 people in the program because perhaps they were targeting it to a specific prison or perhaps they were targeting it to a specific jurisdiction in their state. So the programs were limited in that respect.

So we tried to pick programs where we would have enough people in them that we could develop a large enough sample to do the kinds of analysis we needed to do. I do not remember the issues surrounding Alabama.

Ms. LATTIMORE. We actually have some information though. They were not included in the impact study, but we actually have information on all of the programs in terms of their characteristics and who they were serving and what they intended to do. And so we do have information here on what Alabama was doing, but it was not included as one of our outcomes.

Mr. BONNER. I would like to see that from just personal interest.

Congressman Wolf asked one of the questions I was going to ask and that is, what states have model programs or what countries are doing a better job than we are. You indicated that Michigan and Washington State are two that come to mind.

As a child growing up with a father who was a judge, juvenile judge, among other hats, I will never forget. We had an incident happen. And I grew up in a small town of 1,200 people. We had an incident happen in the late 1960s during a very tense time in the south where the cemetery was vandalized. And several of the graves were destroyed. And a young man was wrongly accused of committing that crime.

The people in the town wanted to find a rope and a tree. I mean, there was anger because that someone would be so insensitive to go into the cemetery and to vandalize those graves.

My father met with the young man. He believed that he was wrongly accused and wanted to make certain—the Sheriff's Department had a sheriff and two deputies, so it was very small, almost like Mayberry. But he believed that the wrong man had been jailed.

Long story short, they ended up finding the three young men who did do the crime. The anger then turned to them. And they were from very prominent families in the community.

My father believed that it was very important for things to be put in perspective. And even though he died when I was a young man, I was 13, I will never forget the anguish that he went through to make sure that those boys did not end up having their lives destroyed because they made a really bad decision.

And so instead of taking them out of school and putting them on a path to prison, he made them go—the cemetery had a wrought iron fence around it and he made them go in the dead of summer in south Alabama and scrape the paint off of the fence and repaint it.

And one of the young men now is a doctor. And I have seen him in recent years and he said had your father not shown some com-

passion with me when I made a terrible mistake as a 16-year-old, I would have never been able to go to med school.

So there has got to be a better way, and I think Congressman Wolf raised a good question. If there are other countries, Germany, Japan, or other countries or other states where we can all look to as models because the statistics are just frightening that two-thirds of all the prisoners who are released are going to go back and commit another crime.

Your own testimony that 95 percent of the men and women and nearly 90 percent of the boys admitted to having used illegal drugs, 80 percent of the women and 50 percent of the boys, 55 percent of the men had been treated for either a mental health or substance abuse problem prior to incarceration, it seems to me that we have just got to find a better way.

And, again, going back to childhood, I used to watch candidates running for District Attorney or Attorney General. They always advertised that they were the toughest on crime. They slammed the jail door shut and they were going to put them behind jail for the rest of their lives.

And, yet, just two years ago, this Congress and the American people were focused on illegal immigrants crossing the borders. It is not something we talked about during the presidential campaign. And, yet, we have an opportunity for people who are qualified and who will be out of prison one day to train them so that they can go out and participate in the American Dream. And we are somehow missing the point.

So my question. I apologize for rambling. Congressman Kennedy yesterday asked of the panel what type of effort was being done to bring outside groups, Alcoholics Anonymous or Narcotics Anonymous or other groups into the prisons. And the panel at that time said that they were not aware that there was a great effort to bring people from outside in.

In any of your research, do you have any data that shows the impact, positive or negative, of bringing outside groups in to help who have experience in a community and encouraging them to come into the community of prisoners to try to help make a difference so when they do leave, even if they came in with a drug addiction or a drug exposure, they have a better chance of not repeating that mistake?

OUTSIDE GROUPS IMPACT

MS. LATTIMORE. Actually, it is interesting that you ask that. It is one of the program characteristics that we focused on collecting data on when we were doing our survey of all 89 programs, not just our impact sites. This sort of reaching out versus reaching in component, we have looked at, periodically as something that we thought was important.

We have had so much to focus on, we really have not focused on that. And I would be happy to get you some information related to sort of how many of the programs were actually doing that. It clearly is something that we would be interested in looking at what the impact of that was because I think we were asking about it for exactly the reason that you are raising, that we think that it probably is important.

Mr. BONNER. I would love to get it if that is possible.

I have got a City Councilman in closing, Mr. Chairman, a City Councilman, older gentleman in one of the communities in my district. And we have a state prison in my district. And he has asked me for years to come up on a Sunday and go be part of a mission program that the men of his church go visit with the prisoners. And I am more determined than ever now that I am going to do that because I think I will have my eyes opened.

So thank you very much.

Ms. LATTIMORE. Right just to add, AA and NA is actually, to my knowledge, very, very common and has a very big presence in most prison systems.

Mr. BONNER. Thank you.

Mr. MOLLOHAN. Thank you, Mr. Bonner.

SVORI, you targeted serious and violent offenders in your study, correct?

SERIOUS AND VIOLENT OFFENDERS

Ms. VISHER. The states define serious and violent offenders. But as we noted in our opening remarks, by all accounts from the statistics we received, these were serious and violent offenders. They had been in the system for a long time and they had previous convictions, lots of arrests.

Mr. MOLLOHAN. Do you think focusing resources on this segment of the offender population is a good investment of resources?

Ms. LATTIMORE. Yes. There is some emerging evidence that suggests that you actually stand the biggest chance of making the biggest difference with the people who have the biggest problems, right?

And that also was another way in which SVORI was different from many of the other federal initiatives on prisoners because it did target this riskier, you know, serious and violent population as opposed to the first-time, nonviolent drug offender, for example, that has been the target of a lot monies.

And there is some emerging evidence to suggest that focusing on the people that have the highest needs and being able to provide real services to them may be where you may get the biggest bang for your buck.

WHAT WORKS

Mr. MOLLOHAN. Were you just reviewing and surveying or are you going to be making judgments about what are the best reentry programs and the most successful strategies of preventing recidivism?

Ms. VISHER. Well, the next step in our analysis is to determine what works for whom and for how long. And that is obviously a critical question. And we know because the states do things so differently and states had different levels of service provision that we expect to see state differences.

So we want to understand those states that were providing more services that maybe had the better outcomes, what were they doing. And that is the next step in our analysis and we actually are hoping that they do just as well, will help us extend our analysis a little bit because that was not our primary question that was

asked of us to answer with our initial award. But we clearly feel that is a critical question and we have the data to be able to answer that question.

Mr. MOLLOHAN. Will you get to answering that question when you publish your results or are we looking at another award to get to that?

Ms. LATTIMORE. This will be the next phase of research. And really Christy was following on my remarks earlier that the question that we had for us then was just this black box question, you know, does SVORI work.

And I think we are well on our way to getting that answered and that is what this initial set of volumes for our final report for this initial award is going to cover. But we will have to find additional monies to dig deeper into the data that we have.

NEXT PHASE OF RESEARCH

Mr. MOLLOHAN. Okay and the next phase, define that for the Committee. What do you think, precisely, the next phase is and what conclusions can be achieved in the next phase?

Ms. LATTIMORE. What we envision, what we would like to be able to do is to begin to dissect the data in a way—well, we have the data, but be able to start analyzing the data with respect to looking at the different kinds of services that were provided by specific programs as well as what individuals got, look at that.

We think that it would be important to add at least another year of administrative data. This would be Departments of Correction reincarceration data as well as another year of arrest data so that we could look at least three years following release from prison to see what the long-term impacts are.

Then also it would be extraordinarily invaluable to be able to go out and interview at 36 months following release, say, or 46 months following release the same cohort of individuals. There have been so few opportunities in criminal justice research to follow a panel for multiple years. And we think we have got a key opportunity here to add to our knowledge by being able to do that.

Mr. MOLLOHAN. You have got a——

Ms. LATTIMORE. We have got a——

Mr. MOLLOHAN [continuing]. Database.

Ms. LATTIMORE. We have got a database that has got basically 30 days prior to release, three months following release, nine months following release, and fifteen months following release. So we would like to add a fourth follow-up data point to that to be able to look long term.

Mr. MOLLOHAN. Another grant?

Ms. LATTIMORE. Yes, to be able to look long term to say, okay, now because there is so—well, and actually if you look at "The Second Chance Act" solicitation that just came out, it says that programs should be able to say what happens 12 months following release. But clearly what everyone is really interested in the long term is what is the long-term impact of these programs.

Mr. MOLLOHAN. Okay. How many individuals would you be following?

Ms. LATTIMORE. We had of the 12 adults sites, the distribution looks like it seems any distribution you would ever see. If we take

just six, the top six of those in terms of size, it allows us to pick up 75 percent of the people who were in our original sample. So we would really only need to go into six or seven states in order to get——

Mr. MOLLOHAN. Okay.

Ms. LATTIMORE [continuing]. 75 percent. So that would be twelve to fourteen hundred people.

Mr. MOLLOHAN. Okay. But you would be narrowing the programs you are looking at.

Ms. LATTIMORE. Right.

Mr. MOLLOHAN. At programs that vary——

Ms. LATTIMORE. That is right.

Mr. MOLLOHAN. The elements.

Ms. LATTIMORE. That is right.

Mr. MOLLOHAN. What is delivered and how it is delivered is different in those programs.

Ms. LATTIMORE. Right.

Mr. MOLLOHAN. So you would be——

Ms. LATTIMORE. Losing something.

Mr. MOLLOHAN. You would be losing.

Ms. LATTIMORE. Yes.

Ms. VISHER. But there is variation in those six or seven programs.

Mr. MOLLOHAN. Sufficient variation?

Ms. VISHER. Yes, there is a wide variety.

Mr. MOLLOHAN. Do you think that those six or seven or however many programs you would be following are representative of the best practices that you would be looking at if you looked, for example, at the whole population?

Ms. LATTIMORE. Yes. I think in the ideal, obviously it would be good to be able to go back to all, you know, the 16 programs, we have got two sub-populations that are large. We have got our boys and our women.

You noticed I did not mention girls and the reason for that is we could not find enough girls when we started to be able to include them.

But we have got 350 boys, 350 women that I think provides us a huge opportunity to find out what the long-term needs are. So to be able to look at all of these 16 programs again would be really great, but——

Mr. MOLLOHAN. This follow-up study that you are talking about, is it multi-agency? Would you envision multiple federal government agencies supporting it and is it another $100 million study?

Ms. LATTIMORE. Well——

Ms. VISHER. No, no, no. Our study was not 100 million. A hundred million was given to the states.

Ms. LATTIMORE. Yes.

Ms. VISHER. Our study was 12 million.

Mr. MOLLOHAN. Okay. All right.

Ms. LATTIMORE. Right.

Mr. MOLLOHAN. Well, we are getting down to a number.

Ms. LATTIMORE. Yes, I know, our study was 12 million.

Mr. MOLLOHAN. Not that that is a small amount of money.

Ms. LATTIMORE. Yes.

Mr. MOLLOHAN. So.

Ms. VISHER. We were trying to propose something that would be on the order of perhaps a million dollars and that would probably not include the follow-up of the boys and the women because going out and finding these individuals again, we are doing face-to-face interview, that is a very expensive proposition.

The reason why we were able to collect so much data that we had was because this was a very generously funded project from the National Institute of Justice. As I understand it, the National Institute of Justice received funds from other agencies to help them support that project. I do not know if that is possible now.

Mr. MOLLOHAN. Which project?

Ms. LATTIMORE. The evaluation.

Ms. VISHER. The evaluation.

Mr. MOLLOHAN. Okay. And that is the $12 million effort?

Ms. VISHER. I do not know if that is possible now. The connections between the Department of Labor and Department of Justice may be different than they were when our project was funded five years ago.

Mr. MOLLOHAN. Okay. And so you are talking about a million dollars. You are talking about a multi-year follow-up, it sounded like, and different reporting periods, I suppose, as you went along. But I think you mentioned even three, four, five, or six years.

Ms. LATTIMORE. The data that we have to take us through, in terms of interviews, through 15 months post release. And the administrative data that we have collected takes us through 24 months or so, two to three years following release. And so the goal of this new study would be to be able to extend that horizon out further and that is what we were thinking——

BUDGET

Mr. MOLLOHAN. On an annual basis, how much do you think that would cost to follow-up?

Ms. LATTIMORE. I mean, we——

Mr. MOLLOHAN. Just a range.

Ms. LATTIMORE. I think that if we wanted to follow, continue to follow the sample that we have, the individuals that we have, depending on—for one to two million dollars.

Mr. MOLLOHAN. One to two million over a five year period?

Ms. LATTIMORE. Right, I mean, one to two million a year over a five year period, I mean, we could continue to follow them for a long time. I mean, like I say, the six sites, 75 percent, we could, you know, work with that.

FOLLOW UP INTERVIEWS

Mr. MOLLOHAN. I understand. And tell the Committee how important you think it would be to do that and what would be achieved, just briefly. How important do you think that would be to do the follow-up and what would be achieved?

Ms. LATTIMORE. To be able to do the follow-up interviews, we really need an understanding of what happens to these individuals as they go through. There are some very interesting sort of things that we do not understand at all. And the three, nine, and fifteen month data that look just strange, it is like they are doing better

at three months and fifteen months than they are doing at nine months. And, of course, we can only observe that because we had three, nine, and fifteen months.

So now what are we going to learn if we were able to talk to somebody after they have been out for 36 months or when they are back in after, you know, having been out for a while and why things went wrong and so forth. So I think just a better understanding of the processes and pitfalls.

Mr. MOLLOHAN. Okay. But my question was, how important do you think it would be to do that? How valuable would it be to have insights into the problems that we are all talking about here today?

Ms. VISHER. I think the positive impacts we are seeing already in 15 months—we need to know whether those positive impacts are being sustained. We can only know that by getting more information from them.

Mr. MOLLOHAN. Are these people going to be in programs for three, four, five, and six years or are you just going to be following up with people who are outside of a program?

Ms. VISHER. We are following up people that have been through this program. They may have gone back in. We do not know.

Mr. MOLLOHAN. Right.

Ms. VISHER. We would anticipate from the data we have seen that the people who have been through the program will continue to do better.

Mr. MOLLOHAN. Yes.

Ms. VISHER. But we do not know that until we talk to them.

Ms. LATTIMORE. I think that, you know, it will address some of Congressman Wolf's—help us to be able to better understand some of Congressman Wolf's concern about, you know, what is working and what do we need to do to help people and has anything really changed. I mean, I think it is the kind of thing or kind of research that begins to allow us to get some insight into those issues.

REPORTS

Mr. MOLLOHAN. I know you are going to have a report with preliminary information later on this year, I think you are going to be——

Ms. LATTIMORE. Yes.

Mr. MOLLOHAN [continuing]. Producing a report, but for those of us who are a little impatient, give us an idea of how important the following are just generally. And then when I get finished with this, I want to ask you what other things we should be thinking about.

Education, how important is education in this?

Ms. VISHER. It is the number one need that the inmates expressed to us. We had asked them about their needs and it was number one.

Mr. MOLLOHAN. And what kind? Education goes from training to four years in college to postgraduate degrees.

Ms. VISHER. Well, 40 percent did not have a high school education, so we can start there. But they want other kinds of training.

Mr. MOLLOHAN. That makes such huge sense.

Ms. VISHER. You cannot get a job right now if you do not have—

Mr. MOLLOHAN. Not only that. And it is that, of course, but it is a huge self-esteem issue——

Ms. LATTIMORE. Yes.

Mr. MOLLOHAN [continuing]. I would think. Everybody else has a credential of some kind. And if you go out there and you do not have a credential, in addition to having a record, you do not have anything positive. So I can see where that is really huge.

So that is number one. So if we are looking at that and looking programmatically at it, we should be thinking education both——

Ms. VISHER. Yes.

Mr. MOLLOHAN [continuing]. In incarcerated circumstances and post incarceration? Okay.

Ms. VISHER. Yes.

SUBSTANCE ABUSE TREATMENT

Mr. MOLLOHAN. Treatment, substance abuse treatment?

Ms. VISHER. More of the participants in our programs receive substance abuse treatment than those that do not participate which suggests that the money and the services that were available under the program allowed them to get those services. So if more assistance is provided to the institutions, more of those kinds of services, I think it can only help.

But the critical point is that unless that kind of service continues in the community, those services in prison are probably wasted. And that was difficult for people in corrections and communities to work because these are different pots of money. These are agencies that do not often work together.

Mr. MOLLOHAN. And they are different programs? So coordination. I should write coordination down here.

Ms. LATTIMORE. Coordination, yeah.

Ms. VISHER. Coordination is huge.

Mr. MOLLOHAN. Okay. But substance abuse treatment is a real discriminator here?

Ms. LATTIMORE. Yes.

Ms. VISHER. Yes.

Ms. LATTIMORE. And the thing to remember, you know, Congressman Bonner mentioned the 90, 95 percent. Well, for the men, you know, I pointed out that 50 percent of the men got some treatment while they were in prison, but that is much smaller than 90, the 90 percent of people who were using illegal drugs, and then that dropped off to 20 percent——

Mr. MOLLOHAN. Okay.

Ms. LATTIMORE [continuing]. Three months after release. So it is really stark what the gap is between need and treatment received.

Mr. MOLLOHAN. As you looked at substance abuse treatment programs, did any of those programs include medication?

Ms. VISHER. We know that you were interested in medication because our colleague testified before you. And we do not know of programs in our study that use medication. Very, very unusual.

I was in a conversation yesterday about this question. Correctional institutions are very, very reluctant to use these medications in prison.

Mr. MOLLOHAN. Because they are not used to it. It is new. It would be new in their regimen, right?

Ms. VISHER. And because of staffing issues. You need nurses to deliver them. They do not have the resources for the nurses. They are worried about control of the drugs. There is a stack of issues.

For example, apparently one of the drugs, you need to watch somebody for 40 minutes to make sure the pill dissolves underneath their tongue. And so it is not just sort of the newness, but it comes with other kinds of problems, especially with staffing to deliver these kinds of drugs and the control of the drugs themselves.

Mr. MOLLOHAN. So it is sufficiently new that we really do not have much experience with it and this study will not be able to speak to that?

Ms. VISHER. The study——

Ms. LATTIMORE. Right.

Ms. VISHER [continuing]. May not speak to that.

Mr. MOLLOHAN. All right. Counseling, psychological or otherwise.

Ms. LATTIMORE. Christy mentioned cognitive behavioral therapy as sort of one of the best practices that, evidence-based practices that are out there. And so, it is not just counseling, but it is the specific kind of counseling. And it does appear that some things like cognitive behavioral therapy does make a difference and does work.

Ms. VISHER. And it is not necessarily a one on one, but it is a manualized approach that uses techniques to help people realize the kinds of errors they are making in their thinking and to change their thinking.

And these programs have been very well evaluated and they do show impacts both in prison and in the community. They are becoming more frequent in prison, but they are nowhere near universal. And, again, they probably need a booster session in the community.

So, again, continuity of care is a critical concept when you are talking about people coming out into the community. We talk about continuity of care with substance abuse, but we are also talking about continuity of care with respect to these kinds of cognitive programs or even employment programs.

You can do a lot behind the bars in terms of training someone, but if you do not carry that into the community and set them up with some kind of program that utilizes that training, then that money in prison was lost.

Mr. MOLLOHAN. What programs did continuity of care better?

Ms. VISHER. Ohio has a very good program in place which starts a year before people are released where they start working on a case plan and a release plan for the individual. They bring community caseworkers into the prison on a monthly basis to meet and decide what kinds of milestones are being met towards progress, towards release. And then they have that same community case manager and that parole officer working with that individual on the outside.

So they have tried to develop cooperation of the community and the institution to increase the chances that things will not be dropped when someone walks out the door.

FEDERAL V. STATE PRISONS

Mr. MOLLOHAN. Is the federal government doing any or all of these things, and are they doing it well if they are?

Ms. VISHER. The Federal Prison System?

Mr. MOLLOHAN. Yes.

Ms. LATTIMORE. The Federal Prison System has historically been much better funded than the state systems. And so the availability of services and programming to certainly the inmates has historically, in general, you could say, been much higher in the federal prisons than you see certainly in some state prisons, in most state prisons.

Mr. MOLLOHAN. Is the Federal Prison System a part of your study?

Ms. LATTIMORE. No. They were not a recipient of a SVORI grant, so it was restricted to state agencies.

Iowa is another place, I think, that has been pretty——

Ms. VISHER. Historically.

Ms. LATTIMORE [continuing]. Historically very good at sort of trying to bridge that gap between inside and outside.

Ms. VISHER. One of the things the Federal Prison System has is a system of halfway houses, that people are released to halfway houses. That is not common in the state system. It depends on how the state is set up whether they have that kind of component.

And so they do have a halfway house system in Erie County which is where we did our study in Pennsylvania, but not all states have that setup.

Halfway houses are difficult for communities to accept. It takes some cooperation between the community and the prison system to make that work.

Mr. MOLLOHAN. Mr. Ruppersberger.

GANGS IN PRISONS

Mr. RUPPERSBERGER. The first thing, I am glad that we are doing this.

My background was as a prosecutor and one of the things that I noticed over and over again was the recidivism and then the inability now that we have socially and for a lot of other reasons, and I am looking in your report, about when you leave prison, what is going to happen with your life. Are you going to be coming back? Are you going to go back to drug issues?

One of the areas that I have been focusing on with this Committee a little bit has been gang violence and gangs generally from Philadelphia to North Carolina.

In your studies or in your research, did you look at the impact of gangs on the—I mean, I know the psychological studies you have done. Has that become a component, because it has been said many times that children in middle school sometimes go to gangs because the gang becomes their family? Did you look at that? Was there any involvement in your research as it related to gangs?

Ms. LATTIMORE. We asked about gang membership. It is not clear, I mean, on our interviews with, you know, our subjects, the prisoners initially and then after they were released. We asked

about gang membership. The levels that were reported, the self-report of gang membership was low.

Ms. VISHER. Even for boys.

Ms. LATTIMORE. Even for boys. I am not quite sure what to make of that, i.e. I am not quite sure whether—you know, you have to think about the circumstances. You know, you are interviewing these, you know, all of our subjects in a prison setting and you are saying are you a member of a gang, currently a member of a gang. And, in fact, in a couple places, we were not allowed to ask that question because of some of the state rules and regulations. So we anticipated being able to look at that, but it is not clear in our data that we have, you know, that we have at least acknowledged gang members.

Mr. RUPPERSBERGER. Another thing. In your studies, I guess you have all different types of prisoners. What impact do the violent and repeat offenders have in the study as it relates to those that are not or are in prison for nonviolent or repeat offenders?

Ms. VISHER. We have not examined whether or not the programs work better for certain kind of offenders or not. That is the kind of information we may be able to discern in a follow-up study where we can look at what works best for what kinds of offenders. But as we indicated in our statements, most of the prison systems consider the people that we were including in our study to be serious and violent or they would not have been in prison and they had very serious histories.

MARYLAND PRISON SYSTEM

Mr. RUPPERSBERGER. I am going to be a little parochial here. You are from Maryland, I think?

Ms. VISHER. Yes, I am.

Mr. RUPPERSBERGER. Have you had a chance to evaluate the Maryland prison system?

Ms. VISHER. I did some work in the Baltimore system several years ago in a program that they were studying.

Mr. RUPPERSBERGER. The penitentiary downtown.

Ms. VISHER. The penitentiary downtown, we interviewed people in the penitentiary downtown which, as you know, people are released to that facility if they are returning to Baltimore from all over the state.

Mr. RUPPERSBERGER. Yes.

Ms. VISHER. And some colleagues of mine also have analyzed the reentry program in the State of Maryland as well. I think that program, the reentry program in Maryland has dramatically improved over five years. It started out as a community-based program and then actually the woman that was directing that program became the Deputy Director of Corrections. So she has taken her knowledge from the community and taken it——

Mr. RUPPERSBERGER. Why has it improved?

Ms. VISHER. It has improved.

Mr. RUPPERSBERGER. Why has it?

Ms. VISHER. Why has it improved? Well, I think in part, it is because of her knowledge of the community and her sort of charisma in the ability to convince the Secretary to put a lot of new reentry programs in place.

She has also developed some very important partnerships with agencies around the state. So, for example, she meets with the State Department of Labor. She meets with the State Department of Health and Human Services. These are the kinds of partnerships in the state that are necessary to develop an appropriate reentry program.

One of the things that "The Second Chance Act" requires is a reentry task force. And I think that is really important because if the Governor is not at the table, if the Governor is not bringing his other people to the table to make sure that everyone is working towards this problem, then it is not going to happen. And that is what is happening in Maryland.

Mr. RUPPERSBERGER. I will tell you a little story. It is just behavioral patterns.

I was conducting a Grand Jury investigation about prison corruption and there was an individual who had been in prison for about twelve years and was getting ready to get out. Then he participated in a prison riot and beat up a guard or whatever. And he got another five or ten years.

And I asked him the question, when you were getting ready to get out, why didn't you just step away. And he said, well, I want to make this place better for my kids. It was assumed that his kids were going to go there.

Just one other question. Have you had a chance to study the West Virginia Prison System?

Ms. VISHER. No. I am sorry. Actually, West Virginia imprisons a lower percentage of its population than almost any other state in the country.

Ms. LATTIMORE. Yeah.

Mr. RUPPERSBERGER. They are good guys, I guess, right?

Ms. VISHER. Maybe.

Mr. MOLLOHAN. Are you——

Mr. RUPPERSBERGER. I am finished. That is fine.

Mr. MOLLOHAN. Thank you, Mr. Ruppersberger, a fine member of the Committee.

The Department of Justice recently released a comprehensive funding announcement for "The Second Chance Act" Prisoner Reentry Initiative that requires grantees to have a goal of reducing recidivism by 50 percent within a five year period.

Based upon your assessment of SVORI, is that realistic?

Ms. VISHER. Well, I will let my colleague answer as well. I think I know what she is going to say.

I think it is highly ambitious and it is all going to depend on the starting point. These are numbers and you can do a lot of things with numbers.

If you start with a group that is motivated to improve, then you may see a 50 percent reduction. But if you start with a general population like the population that we studied, I would be tremendously surprised if we could——

FAITH-BASED INITIATIVES

Mr. MOLLOHAN. That is really important and interesting. And following up Mr. Wolf's interest in the faith-based initiatives, that is a very self-selecting group.

Ms. VISHER. That is right.

Mr. MOLLOHAN. If it were self-selecting, you might be able to achieve that.

Ms. VISHER. Right. Very, very important.

Mr. MOLLOHAN. Well——

Ms. VISHER. There are no guidelines to the states about how they sort of choose that benchmark. In fact, it is reiterated in the solicitation this is just a goal. It is actually not a requirement.

Mr. MOLLOHAN. Well, thinking about that, and if you were a state or the federal government planning this and putting together the construct of such a program, do you think that we should be in the business of targeting like that? Should we be trying to isolate groups and then treating them because they have similar characteristics? How do you treat diverse populations? How do you deal with this issue?

Ms. LATTIMORE. Actually it is quite interesting. About half of, if you talk about the general population, about half of them do not come back. So, you know, 50 percent do not come back already. So only about half do come back.

So the goal, as I understand it, under "The Second Chance Act" is to define some way for some group to be defined somehow to cut whatever their rate is, you know, by 50 percent. And I think that it is really ambitious.

If you look at the reductions in recidivism of programs that have been proven to be effective, you usually see that to be—you know, reductions of 10 to 15, maybe 20 percent, which is not trivial when you think that each percentage reduction point is fewer crimes, fewer arrests, fewer, you know, damage to victims, prosecution costs, you know, the huge costs that are associated with each incident.

A 10 to 20 percent reduction is not trivial. And in order for a program to be useful, you really cannot—it has to be able to be applied to a broad range of people. And so if the only way that a state feels that it can meet this 50 percent target is by picking the people that it thinks are least likely to come back anyway——

Ms. VISHER. It is a waste of money.

Ms. LATTIMORE [continuing]. It is a waste of money. And so while goals are important, you know, it needs to be tempered with, you know, what you are going to get if you achieve those goals.

Mr. MOLLOHAN. Well, relative to the way that SVORI was implemented by the Department, what changes would you recommend for how "The Second Chance Act" funds should be targeted?

Ms. VISHER. Well, we actually met with the Bureau of Justice Assistance. We were asked to come and meet with them while they were putting together a solicitation and we gave them some ideas. And some of those are incorporated into the solicitation. Actually, I think it is a very well-written solicitation. I think it is going to be ambitious for the state. As you know, there is a 25 percent cash match. I personally am a little bit worried about that given this climate——

Mr. MOLLOHAN. About the match part?

Ms. LATTIMORE. Yes.

Ms. VISHER [continuing]. Because the current state budgets, as you I am sure know, are in disarray. Trying to find that kind of

match is going to be difficult. Some have even mentioned perhaps suspending that match for a year. I do not know if that is something the Committee would want to talk about.

But there is some concern about that. But we talked to the Bureau of Justice assistance about the problems that we face. I think this continuity of services that I have talked about is very important.

Mr. MOLLOHAN. When you are saying these things, remember the context of my question is, what recommendations would you make—however good it is——

Ms. VISHER. Right.

Mr. MOLLOHAN [continuing]. Can it be improved?

ENROLLMENT PROBLEMS

Ms. VISHER. Make sure the applications include like a plan for the continuity of the services from prison to the community. We had some issues with enrollment. The programs were not fully as enrolled as we had expected. And so they need to carefully look at their systems. It is very complicated actually enrolling people in these programs——

Ms. LATTIMORE. Yeah.

Ms. VISHER [continuing]. Because, for example, if you want to return people to a specific city, say Columbus, well, prisons in Ohio, there are 32 prisons in Ohio, and people are scattered all over. It is not like the prisons near Columbus are getting prisoners that are going back there.

So you have to then sort of pull the people together in a prison to direct services to them and that requires some collaboration and planning that some of these states just have not done.

So when we went out to try to find the people for the evaluation, we found that the programs were really small because they had not done the planning ahead of time to make sure that the people were going to be in the prison when they were going to deliver services and the area where they were going to be returning. So it requires some planning.

Mr. MOLLOHAN. Does this solicitation anticipate that challenge?

Ms. VISHER. The enrollment challenge a little bit. I am not sure. But, again, these kinds of things could be written into a review of the proposal. Unlike SVORI, this is competitive. SVORI, as you know, went to every state. And so this is an improvement in that it is competitive.

And let us hope that the reviewers at the Justice Department take that seriously, take that mandate seriously, and choose reviewers who will pick the best applications that respond to some of the issues that SVORI had trouble with and are able to fund the ones that have the best chance of succeeding, including things like the reentry task force that I mentioned and the collaboration with the community.

The other problem that the SVORI Program had that we have mentioned, which is more difficult to document in an application is the full implementation of the services. Remember we described the fact that there might have been services from zero to a hundred. They might have only gotten a third or 40 percent of that.

So the full implementation of services and a plan to make sure that they are going to be able to deliver those services is also really important.

GRANT PROGRAM PROBLEMS

Ms. LATTIMORE. And to build on that, I think the thing to remember is that, there are a lot of things happening at once and that it just takes time for that Department of Corrections to implement something.

But one of the problems sometimes with some of these grant programs is they are so short term that by the time, you know, you pull your task forces together and you pull your coalitions together and you start to figure out what is supposed to be in the programs, well, half of your grant period is gone. And then it is like, okay, now we stop and now, oh, here comes another grant.

Now, like with PRI, oh, we are supposed to focus on nonviolent offenders and do something else for them. But that is where, you know, we can build on our program. But it is a whole different population and sort of a whole different approach.

Mr. MOLLOHAN. Okay. Thank you.

Mr. Wolf.

GANG RECRUITMENT

Mr. WOLF. Thank you, Mr. Chairman.

A couple issues, and I know Mr. Ruppersberger raised it and I appreciate him doing that.

On the gang issue, have you seen—and you were not looking at that so much on gang recruitment. I have been told that when you go to certain prisons, you join this gang, that gang, or that gang. You are not unaffiliated. If you are, you are in trouble. Have you seen much on that or is that not something you have been—that would have a bearing on where you go when you get out though. So what are your comments about that gang recruitment?

Ms. LATTIMORE. We are not.

Mr. WOLF. Should you be looking at it? Since it happens to be one of the most significant issues facing the nation, gang violence, and it is growing, since I get from your eyes it is not the thing that you were following and I understand that, but maybe you should be looking at that to see if there is any indication of gang membership and where they go when they get out.

Ms. LATTIMORE. That was not the focus of this study. And, you know, I know that there is a lot of concern not only with gangs but, you know, some concern about prison radicalization. I mean, there is a whole variety of other issues that need further study that really were not the——

Mr. WOLF. The radicalization is different, what they come out and do, but the gang issue, if you are part of a gang and you come out, you may then—if you are having a hard time, and the comment I wanted to make is I guess you are going to have a harder time now with the economy being what it is. I mean, if you are a prisoner and you got out and you are on probation and you are interviewing at IBM, your chances really are zero.

And so with the declining economy, it may make all these things that you are reporting actually much worse until the economy gets

better. And so, therefore, if you come out and you do not get the job at IBM or working at Harris Teeter or working wherever, you then migrate to the neighborhood. I mean, if you come out a certain place, you go back into the neighborhood, you go back into the gang. You go back into that. I mean, there are MS13 gangs in prison and MS13 gangs outside of prison.

So if you could look at that, I would appreciate it.

The other thing is if you could kind of tell us what you have as you go follow-up on both the faith issue because, you know, man does not live by bread alone. It is not only our—it is what you feel, and also the work issue.

And if you had to answer a question what is the purpose of prison, it is punishment or is it rehabilitation, and if you could give me just a one word answer, and what percentage you believe it should be, prison rehabilitation, punishment? Do you think it is 80 percent one, 50 percent? What do you think? You are experts now, so I am looking at you.

Ms. VISHER. That is a value question actually. And actually I was thinking about this question the other night. I think that it is probably about 50/50. Obviously they are not in prison because they have been good citizens. So part of the——

Mr. WOLF. What do you think? You think it is 50/50 now or what do you think it should be?

Ms. VISHER. I think it should be at least 50/50. I do not think it is 50/50 now.

Ms. LATTIMORE. Oh, I would say now, if you are asking about——

Ms. VISHER. Now?

Ms. LATTIMORE [continuing]. In terms of resources, I would say it is 90 percent punishment——

Mr. WOLF. Yeah.

Ms. LATTIMORE [continuing]. And 10 percent rehabilitation.

Ms. VISHER. I think it should probably be closer to 50/50.

PROGRAMS AFTER PRISON

Mr. WOLF. Well, I agree. And that leads to my last question, is that maybe—I think what Mr. Bonner said was accurate. Maybe the answer is to sort of defund or remove the funding for some of the incarceration things and set up a mechanism whereby there can be some matching grants to groups who connect with these people after they leave so that AA or whatever the program may be whereby they are willing to participate but also to be able to fund them. It is a volunteer effort, but to be able to fund them on some little things.

Would it not make sense to sort of take away—and, you know, we are not going to be adding a lot of new stuff. The nation is in debt and we are sinking insofar as what we owe. Would it make sense to take some of the money that we have under the incarceration punishment category and shift it into rehabilitation but also shift it into rehabilitation after they leave?

Ms. VISHER. This is exactly what a report that came out last week recommended. The Pew Center released a report that said one in thirty-one adults in this country is under some kind of criminal justice——

Mr. WOLF. Yeah. I saw the report.

Ms. VISHER. Yes and it says that 90 percent of our dollars go to prison and only 10 percent of our dollars go to community when most of the individuals under community justice supervision are in the community. So there does need, I believe, there does need to be a dollar shift. This, however, is a difficult thing to do.

I am familiar, for example, in Illinois when they tried to close a prison in Illinois and the Governor was unable to do so because those prisons in those rural communities become the life blood of that community. And it is very difficult to close prisons in those communities.

However, New York State has been successful. From what I understand, New York State's prison population is declining and their crime rate is declining. They are making these choices to close prisons and put more money into community supervision. And maybe that is one of the reasons why their crime rate is declining.

Mr. WOLF. Well, maybe what we could do, Mr. Chairman, if my amendment is successful to be carried and we can convince the Congress, we could take the money that goes into Prison Industries and thus reclaiming industries that are no longer in the United States, so we are not competing with industries.

I mean, I do not want to compete with a furniture manufacturer if he or she is making—but we talked about what we call Operation Condor, that we are bringing businesses back that are no longer in the United States, for instance, perhaps television sets, et cetera, et cetera. My chair is sinking as I am speaking.

But then take that money on a pilot, on a pilot, and flood it into after prison services with regard to drug and alcohol and employment and maybe actually set up in a prison or in an area, maybe do one federal and one state whereby you would actually have, Mr. Chairman, an employment office, agency, maybe the Kelly Company or some outside private sector group and take that money so that we would be able to see that with that money—because I do not think there is going to be a lot more funding.

And the states or California is in the tank and other states are having a hard time, and I think the first area they are going to cut with all due respect is going to be prisons because prisoners do not vote and there is no—and see if we could demonstrate that we could show that we are moving some of the money out that is being spent while they are in prison but particularly taking this money that we are making on Prison Industries and allocating it for services for after they leave.

And then you would have a double advantage because the money that they would make—perhaps we should pay them minimum wage in this program. They could take one-third that they could send to their families, one-third for restitution, one-third that they would have as a sum when they get out rather than 12 cents an hour or whatever and then that would help them sort of to continue the process. It would be interesting to see. And then you could sort of follow that because I think——

Ms. LATTIMORE. Yes.

WORK IN PRISON

Mr. WOLF. My sense is the answer, and you know more about it than I do, that if you did that, gave a man or woman dignity while they were in, gave them work on something that they could transfer, not working in the laundry doing, you know, table cloths, and then they were learning a skill and then you have helped them find a job really intensively like as an employment agency will work with you, not just help you do a resume, but they will make some calls, they will set up the interviews, and they are doing it on a contractual basis, and then you were monitoring, I think you would see—and then if you were funding some of the outside groups like Prison Fellowship or AA or whatever the group is, I think you might see a fairly dramatic——

Ms. VISHER. There is actually a study going on that is looking, and some of this is called transitional job work, and MDRC, Manpower Development Research Corporation, and the Urban Institute are doing an evaluation with funding from the Joyce Foundation——

Mr. WOLF. Okay.

Ms. VISHER. To study a transitional job program in five communities. And the initial results were done in New York which found that these transitional jobs, giving people jobs immediately after prison with some supportive services to find jobs and to get the training and perhaps education they need reduced their rearrests——

Mr. WOLF. It has got to.

Ms. VISHER [continuing]. Within the first year.

Mr. WOLF. I think you just solved the answer of prison rehab—I think that is the answer. You cannot have a person come out and not have a job. They are going to go back to the neighborhood. They are going to go back to their friends. They are going to go back to their—and they are going to go back to the gang. And then the end result is that some Friday night, you know, you are back in the process again anyway.

Well, if we can see how we do that and if as you are looking, if you can look at the faith issue and the work issue. And I appreciate your testimony.

Thank you, Mr. Chairman.

SECOND CHANCE ACT

Mr. MOLLOHAN. Thank you, Mr. Wolf.

Well, you have given us some ideas of how "The Second Chance Act" funds should be targeted under this solicitation.

Were there any points that you wanted to make beyond that? That is important. That is out there. It is being solicited. Anything more than what you talked about?

Ms. LATTIMORE. I would just like to actually follow up. This was something we were talking about earlier today and it is an idea that, you sort of bounce around and you are always confronted with the question of, well, why should we spend my hard-earned taxpayer dollars on someone who has done something bad.

And obviously the answer to that question is that, is the public safety in the long run, the rehabilitation issue. You get somebody

back, turn them into a productive member of society and we are all better off. And for many people, that is not a satisfying answer.

And it seems to me that there should be an opportunity somewhere for programs that would allow, that would provide training and education to prisoners and with the understanding that they would pay back. So it is like a scholarship.

Mr. MOLLOHAN. You are talking about inside the——

Ms. LATTIMORE. Inside, yes.

Mr. MOLLOHAN [continuing]. Correctional facility?

Ms. LATTIMORE. Yes. A scholarship, and obviously, I mean, we all know that Pell grants are no longer available to inmates, but to set up a program that would allow prisoners to take classes from a community college or to take classes from a university.

And would all of them pay the money back? Of course not. But at least you could begin to develop some sort of a process where you would have the sustainable effort where someone is not getting something for nothing.

EDUCATION IN PRISON

Mr. MOLLOHAN. Let me give you a little anecdotal story on that. In West Virginia at one of our prisons, we have a pilot project going on where a local four year college is providing educational training at the local prison, everything from certificates to a four year college degree. And I said this to somebody in a previous hearing. The program has been going on, I guess, for two years now.

One or more prisoners, I think actually there are two prisoners who had earlier requested a transfer to a prison closer to their home once they got into this program. And that opportunity came available to be transferred. They passed it up. They said, no, I really want to get this college degree or as much of it as I can get.

Then another story. One of the prisoners was a lifer and was in a four year undergraduate degree program. And the question came up, well, you know, you are never going to get out of here, why do you want a four year college degree. He said, you know, I am never going to get out of here and I am never going to be able to use this four year degree outside, but I know I am smart. I know I can learn this stuff, and at least I will have learned it, which goes back to the self-esteem issue.

I mean, those are just great stories, and they get to the importance of education in all this, for the self-esteem, and then, of course, also for preparing you to do something outside. But I think the self-esteem issue is huge in people who are in recovery, either from drugs or from just criminal conduct without drugs.

Well, with Mr. Wolf, you covered a bit about the fact that in your study, more services were provided within the correctional facilities and the importance of providing them in the communities after leaving prison, and your feeling that more grants ought to be made available to agencies that provide services on the outside.

I want to ask you, what agencies are we talking about? Are we talking about every agency? Are you talking about government sponsored educational programs or rehab programs or counseling programs? Is this notion of providing additional grants to agencies outside of prison applicable to all service providers?

Ms. LATTIMORE. I think what drives all of this to my mind are what the needs are of the inmate and many of the things we already talked about, education. One of the second highest needs they had was changing their thinking on criminal, their criminal behavior thinking which was a cognitive behavior thing.

But there are some simple things that require you to think sort of outside the box. And one of the next sort of way up there on the top of the list were driver's licenses. And there are some agencies around the corrections, jails or prisons, that had started trying to address that issue. It is actually something you would think that a state would be able to fix.

I mean, clearly when someone gets out of prison—everybody needs identification and that should not be a costly thing, but maybe the transportation or providing a little bit of funds for people to do that. So here it is all of a sudden we are thinking, oh, well, the DMV might be somebody that you want to try to pull into this coalition and transportation at the jail.

And one of the Maryland jails, I think had started to—I saw a presentation on it. They started a program that gave bus tickets to people so that they could and library cards so that people could go down to the library and use the computers so that they could look for jobs.

Mr. MOLLOHAN. You are talking about real transition.

Ms. LATTIMORE. Yes, and so you really, I think, have to think broadly when you think about which agencies. Some of them are public and some of them are private and out of the not-for-profit sector.

Ms. VISHER. Like Goodwill Industries, for example.

Ms. LATTIMORE. Yeah.

LIFE AFTER PRISON

Ms. VISHER [continuing]. That provides job training in many communities, but they also can provide—one of the other top needs are for their clothing. Many of these people are living with relatives, but the relatives are short on funds too. And relatives do not have money to help with food and clothing—food banks and places where they can go to get clothing.

And housing, housing is incredibly important. Thirty days before they were to be released, 50 percent of our population said they were not sure where they were going to live. And there are a number of programs popping up to provide transitional housing services. Many of these come with other services embedded so that there will be counseling services on site or other kinds of services. But these transitional housing services—and there is a whole company of programs that are working in this area to provide more of these kinds of facilities in communities so that people that do not have a place to go or cannot go home have a transitional place where they can go to get their feet on the ground, get a job to be able to get the money necessary to move out.

Ms. LATTIMORE. And some of SAMHSA's programs, I mean, you come full circle, because SAMHSA is looking at substance abuse and mental health. And so they are dealing with their substance abuse and mental health populations.

Also a big concern with homelessness with those populations, so they have got a program at SAMHSA that is trying to provide homeless services.

But many of the people that are in their programs are people who have criminal records. They are either currently on probation or parole or they are in and out of jail all the time.

And so they are actually, you know, coming at it from another perspective, but in the end, you have got these overlapping population pools, many of whom have all of these problems. And so, you know, everybody is sort of looking at it from a different angle, but it is the same group of people in the middle.

Ms. VISHER. I think "The Second Chance Act," there is a solicitation that is coming out directly for local nonprofit and other kinds of organizations. They are going to be flooded with applications. And the review process for those applications is going to be really important because you are going to be needing to be checking credentials and things like that, checking that they have a track record, have they done this before.

Anyone could put together an application and say, oh, yes, I am an organization, I can provide services. But those grants, I think, can be really, really important to supplement the services that have been provided in the institution.

Community corrections, though, is also as the Pew Report suggested incredibly underfunded. And those kinds of community support officers can help individuals make the transition by putting them in touch with other organizations.

Ms. VISHER. It is amazing how people come out of prison and do not know where to go. They do not know what to do.

Mr. MOLLOHAN. They have no guidance.

Ms. LATTIMORE. Yeah.

Ms. VISHER. They have no guidance.

Ms. LATTIMORE. Right.

Ms. VISHER. They have their parole officer, but many people in this country are released without any kind of supervision. And so those people are even at a greater loss for knowing where to go to get some services.

Many states are developing information to help people when they get out to say this is where you go for housing, this is where you can go for mental health assistance or medication or things like that. But, again, it is just constantly changing.

Ms. LATTIMORE. And the problem with that is if you give somebody information as they are leaving prison, all they are thinking about is they are leaving prison. And a month later when they—or two weeks later—when they all of a sudden realize, oh, I need help with these things, they have lost the list. They do not know who to go to. They, they are just out there on their own.

TACKLING RECIDIVISM

Mr. MOLLOHAN. Okay. Well, thank you very much.

Let me just ask a wrap-up question here. Other than providing more funding for "The Second Chance Act" and other federal programs related to reentry, what advice do you have for this Subcommittee on how to change the federal approach to tackling the recidivism problem? This is your chance.

Ms. LATTIMORE. The federal government, I think, plays a critical role not just in providing guidance and funding for these programs but is basically, with the exception of a few foundations, the only source of funding for research. The only source.

And so if we are to learn, we want evidence-based practice and we want to know what works best for whom, but NIDA, the National Institute of Drug Abuse, spends a billion dollars a year on research. That is more money on research than NIJ has spent in its 40 plus years of existence. And NIJ's responsibilities cover courts, corrections, policing, sentencing, criminal behavior, all of these important questions. And I suspect that it is not even close to a billion dollars. I am sure that number could be generated.

But, you know, when you have five or ten million dollars a year and have to spread it over that, and considering, too, that the substance abuse and mental health issues have such a huge impact on behavior and then you add into that—you know, one of my real concerns, a huge concern now is the impact of PTSD and traumatic brain injury on our returning veterans and what the impact of that is in terms of their behavior combined with real serious concerns about homelessness and substance abuse and mental health, then we have got this whole huge new emerging problem out there that we really need to be focused on and start thinking about doing something about.

Mr. MOLLOHAN. One thing that occurs to me as you make that statement is the necessity, before you start funding all this, to coordinate it so that you are funding it in a way that is efficient and the dollars are——

Ms. LATTIMORE. Right.

Mr. MOLLOHAN. The Veterans Administration has a very real role to play in this if——

Ms. LATTIMORE. Yes.

Mr. MOLLOHAN [continuing]. We are going to do that, if they are going to be there. And obviously they are.

Ms. LATTIMORE. I mean, to follow on what Christy said, there are some lessons learned also from the Prisoner Reentry Initiative which was through Labor, but their initial round of grants were to community-based organizations. And they had basically some stumbling out of the blocks, I think, in terms of how do you—okay, so you are based in the community. You are a community-based organization. You are going to serve a criminal justice population that has no requirement to come to you. And so I think they had some real issues, some serious issues with trying to find—getting people enrolled in their programs early on.

Ms. VISHER. If you know the program, you know to come.

Ms. LATTIMORE. That is right.

Ms. VISHER. And that is where the Department of Corrections connection or the probation/parole connection to the community agencies is so important.

Ms. LATTIMORE. Right. I think it took them a couple of years to sort of make that happen and, you know——

Mr. MOLLOHAN. Well, name for the Committee the groups that you think should be sitting down around the table talking about this coordination issue.

Ms. VISHER. Well, all the major cabinet agencies, but this was done actually at one point during SVORI. Pam and I actually presented several times to a Coordinating Committee that the Office of Justice Programs put together, but it dissolved and I do not know why, but the Department of Labor, Department of Health and Human Services, including SAMHSA. Veterans was there. CDC was there.

Ms. LATTIMORE. HUD.

Ms. VISHER. Education was there. HUD was there. People from all these cabinet agencies were there.

Mr. MOLLOHAN. Did it work for the SVORI purpose?

Ms. LATTIMORE. I think that it worked in the sense that.

Mr. MOLLOHAN. There was a silence there.

Ms. LATTIMORE. Yeah. It was not continued. And I think it worked in the sense that if you look across, housing, substance abuse, mental health, physical health, employment outcomes, you do see that these programs by and large tried to have an impact on all of them. And they provided services.

So sort of the initial push out the gate that you will look at all of these things and try to address all of these areas happened, but then, the task force—what happened after SVORI, the next piece of legislation that passed was the Prisoner Reentry Initiative which was given pretty much wholly to the Department of Labor. So then that was that, right?

Ms. VISHER. And they had stopped talking.

Ms. LATTIMORE. Then the next piece of legislation that came on prisoner issues was "The Marriage and Family Support Act" which gave money to ASPE at SAMHSA to work on marriage and family issues for prisoners.

Ms. VISHER. And they did not coordinate with Justice——

Ms. LATTIMORE. And they did not coordinate with Justice——

Ms. VISHER [continuing]. Or the Department of Labor.

Ms. LATTIMORE. The Department of Labor or anybody else. And so now "Second Chance Act." So SVORI was maybe 1998, 1999, 2000, something like that. I mean, it was right around there that it first sort of came through. So in 10 years basically or 20—yeah, 10—from 2000—in 10 years, we have seen SVORI, PRI——

Ms. VISHER. Marriage strengthening.

Ms. LATTIMORE [continuing]. Marriage strengthening, MFS, Marriage Family Strengthening Program, and now we have got "Second Chance Act." So there have been four different initiatives from the federal level that have come out of these different committees and then different agencies that without——

Ms. VISHER. With slightly different parameters.

Ms. LATTIMORE [continuing]. Focus and, with the exception of SVORI, and overall requirement of engagement of other agencies.

Mr. MOLLOHAN. Okay. Well, what should happen here? Tell us how this should happen. What should we be doing right now to bring all this together? We are an Appropriations Committee. How can we help effect that?

Ms. VISHER. Well, I think reinstituting an agency-wide committee on prison reentry initiatives like I described that the Governors convened would be important and designating someone in

those agencies to focus on reentry issues in each of these relative agencies.

And then I do not know if it is coordinated by Justice. Maybe you have a rotating chair because whoever chairs it sort of has the control and sometimes that is not a good thing. So maybe it needs to be chaired outside of one of the agencies. I am not sure. But regular coordination about the funding and how their funding streams are focusing on this population to see whether or not they are being coordinated or not and how they could be coordinated.

Mr. MOLLOHAN. And coordinated as they push their requests for this activity up through OMB and——

Ms. VISHER. Yes.

Mr. MOLLOHAN [continuing]. Back down to the——

Ms. LATTIMORE. Yes.

Mr. MOLLOHAN [continuing]. Agencies and to Congress.

Ms. VISHER. Much like, the Office of National Drug Control Policy does with respect to drug funding.

That is the purpose of that agency—is to sort of coordinate drug funding across various federal agencies. But there are now reentry czars in Governors' offices. But there is not that kind of person in charge of these kinds of efforts in the federal agencies and that could very well be an important step forward.

Mr. MOLLOHAN. Okay. Great. Well, thank you all very much for your testimony here today. We appreciate it. We appreciate your effort in just getting here and then we very much appreciate your expertise.

Ms. LATTIMORE. Thank you.

Ms. VISHER. We will be getting back to you.

Ms. LATTIMORE. Yes. Thank you so much.

Mr. MOLLOHAN. And we will be getting back to you. Thank you.

WEDNESDAY, MARCH 11, 2009.

INNOVATIVE PRISONER REENTRY PROGRAMS, PART I

WITNESSES

GEORGE T. McDONALD, FOUNDER AND PRESIDENT, THE DOE FUND, INC.

PAT NOLAN, VICE PRESIDENT, PRISON FELLOWSHIP

DENNIS SCHRANTZ, DEPUTY DIRECTOR, PLANNING AND COMMUNITY DEVELOPMENT ADMINISTRATION, MICHIGAN DEPARTMENT OF CORRECTIONS

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. Well, gentlemen, thank you all for appearing today. We appreciate your traveling from near and far for us today to share your knowledge on this topic. This afternoon we will have two panels featuring individuals who play a leadership role in innovative programs that facilitate the reentry of offenders into our communities. We have learned a lot over the past few days about some of the challenges we face in this area. But our perspective would not be fully informed without hearing from witnesses who are putting ideas into action with good results.

For the first panel we would like to welcome Dennis Schrantz, the Deputy Director of the Michigan Department of Corrections, who will be talking about the cutting edge work that is going on across his state on prisoner reentry.

In addition, we are pleased to have Pat Nolan, Vice President of Prison Fellowship, to talk about what has made that program so successful. And to round out the panel we welcome George McDonald, the founder and President of The Doe Fund in New York City, to talk about that organization's well respected Ready, Willing, and Able Program.

Gentlemen, I welcome you here today. We will just go from left to right. Pat Nolan, George McDonald, and Dennis Schrantz. And your written statements will be made a part of the record. And you can proceed with your oral presentations. Mr. Nolan.

PAT NOLAN OPENING STATEMENT

Mr. NOLAN. Thank you so much, Mr. Chairman, and honorable members. We thank you so much for giving us time to talk about what is actually working in the field. A little about my background, I was a member of the legislature in California for fifteen years. I was Republican Leader of the Assembly in California and was reliably very tough on crime. Then I was convicted of racketeering for campaign contributions I accepted and spent two years in federal prison. So I had a chance to see the impact of the policies that I had advocated.

Through God's grace I was hired by Prison Fellowship to come and work with government leaders to apply what we are learning to the real world. And it knits together my experience as a legislator, my background as a lawyer, and also my time in prison.

I will start with a vignette that I think will exemplify for you the difficulty people face on coming out. My first day at the halfway house in Sacramento a bunch of my friends from the capital took me to lunch at the Ninth Street Deli, just a few blocks from the capital. And there were eleven of us and the waiter came and they all ordered. And I was looking at the menu. And you know, a deli menu has 110 items on it. And I just kept staring at it. And they waited, and the waiter started to get impatient, and they waited. And I was humiliated. I saw all these choices. I could not make up my mind what to order. For two years I had not had any choice of what to eat and I was overwhelmed by just the simple task of ordering a meal.

When I told that story the first time I was in Oklahoma and a guy that, a much decorated Vietnam veteran that did seventeen years for armed robbery told me he had a similar situation. He went to Penney's to buy underwear. And when he had gone into prison there were boxers and briefs. And when he came out there were different waistbands, different cuts of the leg, colors, patterns. And he could not decide what to order. And when you come out of prison you are allegedly given more clothes. It was, you know, two pairs of underwear worn by eighty-three different people over five years. It is like cheesecloth. So he needed this. And he was so embarrassed that he could not pick what skivvies to get that tears welled up in his eyes. And he ran out of the store in embarrassment. This is a guy, a much decorated veteran of Vietnam. Bashed

his head on the glass of the door coming out, and got back to the halfway house without the underwear that he had gone to get and was accused of having gotten in a fight because of the gash in his forehead.

I say this because I, and this friend in Oklahoma, all came from good families, had good educations, had had positions of responsibility. In his case a brave, courageous man. And a simple task like buying underwear or ordering from a menu is impossible.

Think about the people that come from not that same background. People with poor education, without job skills, without life skills, from broken homes. And that night when they get out of prison, they are usually put on a bus at midnight, they end up in the middle of a strange city in the middle of the early morning hours, 3:00 or 4:00 in the morning. They have been given sometimes $20, sometimes $30. Some states like Alabama give them a check for $10, as if they could cash it anywhere. No ID. And they have got to decide at that moment, where do they live? Do they sleep in the park? Do they go live under a bridge? They certainly cannot get a hotel or a motel. They have no money. The next morning, where are they going to look for a job? What do they eat? Where do they spend their time? And sadly, confronted with all of those choices they often make bad ones. Reentry fails so often within the first six months, often within the first month.

So we at Prison Fellowship decided we needed to do something about it. We could not just care about taking the gospel to people in prison. We had to care about what happened when they got out. And we started a program in cooperation with the State of Texas, in which we prepare them the last year that they were in. Not only in religious program, but life skills. Getting them a GED, helping them get their drivers license ahead of time so they had ID when they got out. But most important, and this was what the study done by the University of Pennsylvania found, mentors. That loving person from the local community that cared about them.

At risk people need relationships, healthy relationships, as much as they need programs. In fact, the programs will be much more successful if they have that relationship with a person that is responsible from the community. The government cannot afford to love them, but people in the community can. And that is what they need. As Dr. King said, "to change someone you must first love them and they must know that you love them." And that is what the people from the community can bring. And it is at no cost to the government that they do this. But they need access.

So the study at the University of Pennsylvania found that graduates of our program that stayed with their mentors had a recidivism rate of 8 percent. They are reincarcerated 8 percent, and that is an astonishingly low figure verified through TDCJ figures as well as the University of Pennsylvania study. Now, we cannot guarantee those results and everything. But it does show that you can intervene and make a difference in their lives.

We are now taking that to communities around the country and establishing what we call Communities of Care, where we are a convener but we pull together the housing, job placement, mental health, medical people to help these inmates when they return. Right here in Loudoun County where I live now our church has or-

ganized eleven other churches to form the Loudoun After Care Program, which matches the returning offenders with loving mentors and plugs them into the resources that are there but that they are sophisticated enough to even know how to access. And I think that is one of the most important things of mentoring. It is not just the love, but it is helping the inmates think through what is available for them and becoming their advocate. Helping them work through the bureaucracy of it.

I would just mention a couple of other programs and it is not just ours that are important. La Bodega de la Familia in New York looks at those returning from prison, those in prison and returning, as the family needs healing, not just the offender. So they provide drug treatment, anger counseling, to try to deal with the issues that are causing that family to be dysfunctional. So that when they return they have a healed family, which is the fabric of our society. The crime in that neighborhood by the New York PD statistics has dropped dramatically from being a high intensity crime area to a normal crime because of the impact that they have had.

In St. Louis the chief probation officer changed the jobs of probation officers there. He said to them, "It is no longer to force inmates to get a job, or offenders to get a job. Your job now is to help them get a job." And the focus was on getting them jobs, not just telling them they should. They worked with churches and local nonprofits, a group called Dress for Success, and they help give them clothes that is appropriate to an interview. They train them on how to write their resume. How to be honest about their conviction. Not hide it, but instead say how they have changed. They have gotten the auto dealers to offer to give them cars, loan them cars. If they keep a job for a year they get to keep the car. What a great incentive. At no cost to the government. The unemployment rate of those under supervision from the St. Louis Probation Department, the Eastern District in Missouri, is one-half of the unemployment rate of the general public in St. Louis. I do not know anywhere else where offenders have a lower unemployment rate than the general public but they have succeeded there.

There are a couple of things that you are going to be voting on in the next few years trying to implement The Second Chance Act that are so important. One is the resource center. There are so many groups out there trying to do this work. But there is no central depository of what works, and how it works. And the resource center will be so great to give them templates to work from. La Bodega de la Familia deliberately wrote materials as they went along so others could replicate it, but most programs do not have that. This resource center will be critical to it. And the fear is that if it does not have its own line item it will get dispersed into other parts of the bureaucracy. It is really important that there be a place where any nonprofit or ministry can go and find out what is working so they can apply it.

The last thing is, and I hope there is some chance during Q and A. I do not want to eat up the time of my fellow panelists. But the Bureau of Prisons has taken a very strange response to The Second Chance Act. They are placing people for only six months in the halfway house. And Mr. Lappin, whom I have great respect for,

said yesterday that it is cheaper to keep people in a low security, or minimum security prison, than it is in a halfway house.

I do not think that properly states the case. Because when an inmate is sent to a halfway house it number one frees up a bed at no capital cost to the community. It is the agency, the nonprofit, that takes them in in the halfway house. He does not take that into account. The second thing is, and this is, I can verify this, a quarter of the income of those inmates in the halfway house goes to pay for their own upkeep. So they are helping support themselves. And when they are sent to home confinement, which usually happens after a month or a month and a half, at no cost to the government they are supervised but still a quarter of their money comes to pay for their upkeep. So they essentially run a cheap motel. Those same beds are rented out over, and over, and over again. They may be supervising five times the number of beds they have. So when he compares a bed in a halfway house to a bed in a prison that is not a fair comparison. The net cost to the government is far less to a halfway house, and it is far more helpful to the inmates on getting back on their feet because they are in the community, with their family, with the support groups they are going to be building relationships with. Thank you for this time.

[Written statement of Pat Nolan, Vice President, Prison Fellowship, follows:]

Testimony for CJS Hearing on Reentry
March 11, 2009

Safer Communities and Fewer Victims: Prison Fellowship's Experience Helping Prisoners Reenter Society Successfully

Chairman Mollohan, Ranking Member Wolf and honorable members, I am grateful to have this opportunity to share some thoughts on how we can make our communities safer and reduce the number of victims by helping offenders make a safe and successful transition from prison to the community.

My name is Pat Nolan. I am a Vice President of Prison Fellowship and serve as President of their criminal justice arm, Justice Fellowship. I bring a unique background to Prison Fellowship. I served for 15 years as a member of the California State Assembly, four of those as the Assembly Republican Leader. I was a leader on crime issues, particularly on behalf of victims' rights. I was one of the original sponsors of the Victims' Bill of Rights (Proposition 15) and was awarded the "Victims Advocate Award" by Parents of Murdered Children.

I was prosecuted for a campaign contribution I accepted, which turned out to be part of an FBI sting. I pleaded guilty to one count of racketeering, and served 25 months in a federal prison and four months in a halfway house. During my time in prison, I had an opportunity to see the impact of the programs that I had so ardently supported while in the legislature. What I saw troubled me, because I observed that little was being done to prepare my fellow inmates for their release.

Now, God has placed me in a position that I can share my observations with you, drawing on all my experiences as a lawyer, legislator and prisoner to help you improve our justice system. I work with government officials at the federal and state levels, helping them develop policies that repair the harm done to victims, reform the hearts of offenders, and, in doing that, restore peace to communities. For the last three years, my efforts have been devoted largely to helping government leaders refocus their policies and resources to better prepare inmates for their return to freedom.

I have traveled to 20 states, working with governors, attorneys general, directors of corrections, judges, victims, legislators, prosecutors and pastors to help them develop programs that are proven to help offenders become law abiding citizens. I am honored to have this opportunity today to share some examples of programs that work in turning offenders into good neighbors.

First, I would like to compliment you and the entire Congress your focus on prisoner reentry, both for the passage of the Second Chance Act, and by following up with these hearings to ensure that the most effective reentry programs are the focus of the BOP and state prison systems.

The scope of prisoner reentry is enormous. Nationally, more than 700,000 inmates will be released from America's prisons this year. To put that in context, that is three times the size of the U.S. Marine Corps. That is an average of over 1,900 offenders per day returning to neighborhoods across the country. This is not early release. These prisoners have served their term. We are now dealing with the back end of the policies of longer sentences and mandatory minimums.

The key questions are: "What kind of neighbors will these returning inmates be? What has been done to prepare them to live healthy, productive, law-abiding lives? Each of us has a stake in seeing that these men and women make a safe and successful return to their communities.

But that transition is very difficult for prisoners to do. Most offenders are released after years in overcrowded prisons where they were exposed to the horrors of violence—including rape—isolation from family and friends, and despair. Most inmates are idle in prison, warehoused with little preparation to make better choices when they return to the free world. Just one-third of all released prisoners will have received vocational or educational training in prison.

The number of prisoners released is now four times what it was 20 years ago, yet there are fewer programs to prepare them return to their communities. While approximately three of every four inmates released from prison have a substance abuse problem, only one in five has received drug treatment.

These men and women face additional barriers, often called "invisible punishments": They are frequently denied parental rights, driver's licenses, student loans, the right to vote, and residency in public housing—which is often the only housing that they can afford.

Further, little is done to change the moral perspective of offenders. Most inmates do not leave prison transformed into law-abiding citizens; in fact, the very skills inmates develop to survive inside prison make them anti-social when they are released. Most are given a bus ticket to their hometown, gate money of between $20 and $200, and infrequently a new set of clothes. Upon leaving prison they will have great difficulty finding employment.

If we do not prepare these inmates for their return to the community, the odds are great that their first incarceration will not be their last. The fact of the matter under current prison policies most of the inmates who are released *will* commit more crimes. The statistics tell the story. The Bureau of Justice Statistics found that two out of three released inmates were rearrested within three years, victimizing more innocents in the process. Over the last 30 years, the rate of rearrest has hovered stubbornly around 67 percent. If two-thirds of the patients leaving a hospital had to be readmitted soon thereafter, the public would quickly find a new place to be treated. If we are to have safer communities, we must find a different way to prepare inmates for their release.

The moment offenders step off the bus they face several critical decisions: Where will they live, where will they be able to find a meal, where should they look for a job, how will they get from one place to the next, and where can they earn enough money to pay for these necessities? These returning inmates are also confronted with many details of personal business, such as obtaining various identification cards and documents, making medical appointments, and working through the many everyday bureaucratic problems that occur during any transition. These choices prompt feelings of intense stress and worry over the logistics of their return to the outside world. To someone who has had no control over any aspect of their lives for many years, each of these problems can be vexing. In accumulation, they can be overwhelming.

My own experience provides a good example. Shortly after my release from prison to the halfway house, some friends took me to lunch at a local deli. The waiter came over to take our orders. Everyone else told him what they wanted, but I kept poring over the menu. My eyes raced over the columns of choices. I knew that I was supposed to order, but the number of options overwhelmed me. My friends sat in embarrassed silence. I was paralyzed. The waiter looked at me impatiently. I began to panic. How ridiculous that I wasn't able to do such a simple thing as order lunch. Finally, in desperation I ordered the next item my eyes landed on, a turkey sandwich. I didn't even want it, but at least it put an end to this embarrassing incident.

For two years I hadn't been allowed to make any choices about what I ate. Now I was having a hard time adjusting to the simple options most people face every day. If I had this much difficulty after only a couple of years in prison, think how hard it is for those inmates who haven't made any choices for five, ten, or fifteen years. When faced with a baffling array of options, is it any surprise that so many newly released prisoners make some bad choices and end up back in prison?

The choices offenders make immediately after release are extremely important. Of the ex-prisoners who fail (that is, are rearrested), over half will fail within the first six months. That is not much time to turn their lives around. One study of rearrests in New York City found that the rate was especially high during the first hours and days following release. This early window of time is the most intense period for ex-prisoners, when they may be overwhelmed by the accumulation of large and small decisions facing them. On average, ex-offenders have only a one-in-three chance of getting through their first three years without being arrested.

As the number of people released from prison and jail increases steadily, we cannot afford to continue to send them home with little preparation. These policies have harmed too many victims, destroyed too many families, overwhelmed too many communities, and wasted too many lives as they repeat the cycle of arrest, incarceration, release and rearrest. The toll this system takes is not measured merely in human lives: The strain on taxpayers has been tremendous. As jail and prison populations have soared, so have corrections budgets, creating fiscal crises in virtually every state and squeezing money for schools, health care, and roads from state budgets.

It does not have to be this way. Fortunately, there are many things that the government in partnership with the community, and in particular our churches, can do that increase the likelihood that inmates will return safely to our communities.

Prison Fellowship has identified six "best practices" that we believe are applicable in almost any prison setting to achieve transformation in the lives of prisoners resulting in lower recidivism and greater public safety.

- Community- men or women living together on a floor, wing, or building with the intentional purpose of transforming their lives with an agreed upon set of principles.
- Consistency- being able to work with prisoners on a frequent and consistent basis – daily if possible.
- Character—a focus on the moral and personal issues that led to criminal behavior.
- Comprehensive – holistic in approach, including spiritual formation, education, vocational training, substance abuse treatment, life skills training, parenting training, etc.
- Continuous – it begins in prison and continues in as they are released from prison into the community.
- Collaborative— it is a collaborative process that must involve many individuals, government agencies, the business community, faith based institutions, and non-profits.

These practices have been developed while Prison Fellowship has operated a reentry program in cooperation with the Texas Department of Criminal Justice. In the InnerChange Freedom Intiative (IFI), offenders are immersed daily in values-based teachings grounded in a biblical perspective and are required to work and improve their education. The second half of the program includes six months of community service outside the prison. While still in prison they are paired with a mentor from a local church who works with them on developing life skills to prepare them for life in the free world. The program continues after the inmate is released with continued guidance from their mentor along with support from a local church.

Dr. Byron Johnson while at the University of Pennsylvania conducted research on the graduates of IFI-Texas. Dr. Johnson's study followed IFI graduates for two years after their release and compared them to inmates with similar backgrounds and offenses who had not participated in IFI. The study found that:

- InnerChange Freedom Initiative graduates were two times less likely to be rearrested. The two-year post-release rearrest rate among InnerChange Freedom Initiative

program graduates in Texas is 17.3 percent, compared with 35 percent of the matched comparison group.

- InnerChange Freedom Initiative graduates were two-and-a-half times less likely to be re-incarcerated. The two year post-release reincarceration rate among InnerChange Freedom Initiative program graduates in Texas is 8 percent, compared with 20.3 percent of the matched comparison group.

These findings present significant implications for our communities. Fred Becker, the first warden at IFI-Texas noted that, "All but one thousand of Texas's 143,000 prisoners have an eventual release date. It's up to us to determine what kind of shape they come back to the world in. If we can stop only 10 percent of those inmates from re-offending, it will mean thousands of citizens who never become victims of crime. InnerChange is a step in that direction."

From his interviews with the IFI participants, Johnson identified five "themes" that are associated with successful rehabilitation, each one of them a part of the IFI teaching:

- a willingness to condemn their previous behavior;
- recognition that life is a "work in progress" and that spiritual growth is a lifelong process;
- replacing the values of prison society with something more worthwhile;
- developing a sense of hope and purpose; and
- sensing the need to give back to society.

One doesn't have to be a believer in the power faith to appreciate the benefits that IFI is providing to the community: fewer victims, safer neighborhoods, reduced court cases, and fewer prisoners. In an editorial titled "Jesus Saves," the Wall Street Journal wrote, " . . . critics of the faith-based approach may claim that their only issue is with religion. But if these results are any clue, increasingly the argument against such programs requires turning a blind eye to science."

Dr. Johnson emphasized that mentors were "absolutely critical" to the impressive results. The support and accountability provided by mentors often make the difference between a successful return to society and re-offending. As these offenders make the difficult transition back into the community, they need relationships with caring, moral adults. The greater the density of good people we pack around them, the greater the chance that they will be successfully replanted back into the community.

Moving from the very structured environment of prison, in which they had virtually no control over any aspect of their lives, inmates returning to their community face a myriad of options and temptations. Such basic decisions as where to sleep, where to seek employment, and with whom to associate confront them the minute they hit the street. They need the love, advice, and encouragement of a mentor. And they need someone to hold them accountable.

The numbers bear stark witness to the importance of inmates maintaining their relationships with their mentors: Only inmates who completed the entire program (including continuing their work with their mentors after release) were less likely to recidivate. Those who left the program early had recidivism rates that were virtually the same as those who did not participate in the program at all. Mere participation in a portion of IFI is insufficient to transform most inmates.

The most effective mentoring relationships begin while the offender is in prison, where the mentor and offender can develop rapport. IFI recruits members of local churches to give at least one hour a week to mentor the IFI inmates, both while they are still incarcerated and after they return to their community. In his interviews with the IFI participants, Dr. Johnson found that the mentors' weekly visits were very important to the inmates. "Without exception, IFI participants have indicated the critical impact volunteers have made in their lives. The sincerity and time commitment of volunteers has simply overwhelmed program participants."[1] The benefit of these relationships with their mentors derives not only from the things discussed, but also for the love conveyed. By faithfully keeping their commitment to the weekly mentoring sessions, the mentors show a commitment to the inmates that many have never experienced before in their lives. As Dr. Martin Luther King, Jr., said, "To help someone, you must first love them, and they must know that you love them."

By holding offenders accountable to "make things right" with their victims, challenging them to change their lives and by connecting them with a mentor to assist them as they return to their community IFI is the embodiment of principles of restorative justice.

Prison Fellowship has adapted the lessons we learned in IFI and are now applying them in communities across the country. We are collaborating with local non-profits to create "communities of care" to assist returning inmates in obtaining housing, medical care, job placement, and drug treatment. Most important, we try to match them with mentors who will help the offenders develop a life plan and think through the choices they face. The mentors help them strategize on how to accomplish tasks such as opening a bank account and obtaining a drivers license, and also hold them accountable to keep appointments with their probation officer and show up for work on time. We have found that while the offenders need programs to assist them in their transition home, they need healthy relationships even more. Dr. King said, "To change someone, you must first love them, and they must know that they are loved." Our mentors provide that love which is so essential to returning offenders.

It is important that government officials understand the essential role that the faith community plays in reentry. It is often tempting for the government to view religious groups as an auxiliary of the state; a cheaper way to provide services that the government can't otherwise afford. That attitude misses the reality that faith based groups provide some things that government programs simply cannot – love and hope. The truth is that volunteers in prison, even those that are involved in secular programs, are overwhelmingly people of faith. They are motivated by their love for the prisoners as

children of God, who bear His image and likeness. They care about those whom Jesus called "the least of these my brothers." As Dr. John DiIulio famously said, "The last two institutions to leave the inner city are liquor stores and the Church." Governments need to deal with faith based groups as a partner which provides things that institutions can't, rather than a useful tool in their correctional kit.

In addition to faith based programs, I would like to call to your attention two others that have had remarkable success helping inmates successfully transition from prison to the community.

The first is Family Justice, which established La Bodega de La Familia in New York City. La Bodega opened in 1996 as a project of the Vera Institute of Justice to test an idea: Could they, by joining with local law enforcement, tap the strengths of families to reduce our reliance on incarceration in a neighborhood with concentrated poverty? Could they improve family well-being while making the neighborhood safer? They included a wide range of stakeholders, including residents, local businesses, drug-treatment providers, clinics, law enforcement, and housing providers in planning and developing their program.

The impact of La Bodega has been very impressive. A study of the participants showed that "family members participating in the program obtained medical and social services they said they needed at significantly higher rates than those in the comparison group, and they showed a significantly stronger sense of being supported emotionally and materially in their social relationships. At the same time, the percentage of Bodega participants using any illegal drug declined from 80 percent to 42 percent, significantly more than in the comparison group. Arrests and convictions were also lower among drug users participating in Bodega over six months."

When La Bodega was founded in 1996 the area was one of the greatest consumers of criminal justice dollars citywide. Now, NYPD reports that crime has decreased dramatically. In the 9th precinct, where La Bodega was established, the rate of arrests for index crimes including murder, rape, and felony assault decreased by more than 59 percent from 1995 to 2008.

The essential difference between La Bodega and other programs is that they treat the family as a whole, providing drug counseling, conflict resolution and health assistance to all the family, not just the offender. Family Justice makes materials and training available to other communities, which is a tremendous help.

Another excellent program is operated by the Chief Probation Officer of the Federal District Court for the Eastern District of Missouri. The focus of the District's Probation Officers is on helping their charges find employment. The Probation Office has organized community and faith based groups to assist the offenders in assessing their skills, writing their resumes, honestly discussing their conviction and explaining how they have changed. They are also coached in how to handle an interview, and provided clothes that are appropriate for the job being sought. The effectiveness of the program is clear. The

unemployment rate for those supervised by that district's probation officers is less than the rate for the general population, and it has been lower each of the last four years. This is an astounding accomplishment. I am not aware of any other jurisdiction in the U.S. in which offenders have a higher rate of employment than those without a criminal record.

The Pew Center on the States released a report last week "One in 31: the Long Reach of American Corrections". It chronicled the astounding number of Americans under correctional control; 200 million in prison and jail, and 500 million more under supervision in the community. The Pew Report also lays out in stark numbers and graphs the paucity of funding for supervising offenders after their release. While there are twice as many offenders being supervised in the community as there are in prison, community corrections receive only 10% of total corrections dollars. If offenders on probation are to stay on the straight and narrow, we need to put more resources into lowering the case loads of probation officers and expand the availability of drug treatment. Congress has taken a first step by funding the Second Chance Act. However, it should be noted that the $25 million for Second Chance Programs in the Omnibus spending bill is only 4/100ths of 1 percent of the $62 Billion spent on prisons in the US. But at least it is a start.

Thank you for your leadership on reentry, and I look forward to continuing to work with you and your staff to help prisoners return safely to their communities and become contributing members of society.

Mr. MOLLOHAN. Okay. Thank you, Mr. Nolan. Mr. McDonald.

OPENING STATEMENT BY MR. GEORGE MCDONALD

Mr. GEORGE MCDONALD. Thank you, Mr. Chairman and members of the Subcommittee for having me here today. Like Pat, I have been arrested four times but fortunately I have not been convicted. And it was for feeding homeless folks in Grand Central Terminal. I used to go there every night at 10:00 and feed 400 people standing outside. The people who ran the terminal thought that I was attracting them from all over the other forty-nine states to come for the bologna sandwich and the carton of milk. But I did that for those number of nights to learn who the folks were. And what I came to realize, and what they told me over and over again, was that they appreciated the sandwich but what they really wanted was a room and a job to pay for it.

So, you know, that struck me. Indigent people work? That sounds like a good solution to homelessness. And so I set out to put together a program to do exactly that, based on what I heard from them. Not because I was any expert, believe me, in anything. But a woman had died of malnutrition, a friend of mine, and I got some money together. And we started buying food and giving it out.

So the long and short of it is that we picked up, my wife and I, Harriet, who was a screenwriter in Beverly Hills at the time writing about a little girl who lived in Grand Central Terminal, we formed an organization called The Doe Fund named after the woman who died. And we set out to get a city contract. And Ed Koch was the Mayor of New York then and he thought that I would fail, and I would not be a critic anymore, and that everything would be fine. But we got a contract with the Housing Preservation and Development Agency of the City.

And it actually turned out to be the first welfare to work contract in America. Because HPD did not care about the social services that we did. They wanted us to go out and repair the apartments that the City owned, take rubbish removal, paint the walls, plaster, tape, that kind of stuff. And we did it. And the first day that we went out, January 1, 1990, we filled up, or January 2nd, we filled up a dumpster in front of an apartment building and called up the City and said, "We need a new dumpster." And the folks in the City said, "Oh, you are not scheduled to get one for two days. We have to go to lunch." And we had filled it up in two hours. And that is emblematic of the kind of folks that when given an opportunity will work.

And we built this organization from the people from the floor of Grand Central Terminal who were castaways, for lack of a better word. We now have 450 employees. We do $50 million in revenue. We have programs in three states. And we have come to find out that over 80 percent of the folks in our program have histories of incarceration of over sixty months each.

So the homelessness was just part of a continuum of coming out of prison, being homeless, living in the park, going to drug treatment programs, getting out of the drug treatment program, not having a job, and doing the whole thing all over again.

So we have a holistic program, now, both for homeless people and for people who come out of prison. Now, when somebody comes

out of prison we meet them at the door. And the program that I am here to talk about today is one that is for folks on parole. So they come home and they have a place to live, with their mother, their grandmother, their significant other. Whoever parole says that they can live with. And then we put them to work right away and start paying them above the minimum wage right away in projects that improve the community.

So Congressman Serrano knows that the men in blue in New York City with Ready, Willing and Able on the back, that clean up four of the five boroughs. We do not go to Staten Island because it takes too long to get there. But four of the five boroughs. We have 55,000 New Yorkers that send us money because they go out of their house, and they talk to the guy on the street in the uniform. And they ask him how his life is. We drug test twice a week, and we have people save, and we have all of the social services that Pat was so correct about.

But here is the deal. 44 percent of the folks who come home from prison in New York every year are rearrested at the end of that year. And there are 19,000 to New York City. Two-thirds go back at the end of three years. But at the end of our program, 4.8 percent go back. And now these are all verifiable results run through the state criminal justice agency. They are not reincarcerated in New York State.

So it is paid transitional work, and the key is those first months when they come home from prison. If you can get them engaged in having money in their pocket that they can bring home to wherever it is that they are living, they will not become homeless and they will not go back to prison. And we have the proof. We do not need any more studies. All we have to do is invest in the proof. And we can shut prisons and end the mass incarceration of African American men in America. Because that is who is in our prisons.

Now, it is not my fault, it is not your fault, it is not our fault. It is just a fact. And it is a fact that is undeniable. And also, if you give them an opportunity, give them some money in their pocket from the hard work that they do improving the community, and give them structure for eight months to a year, they will not go back. I rest my case.

Let me be the first to wish you a Happy St. Patrick's Day. Thank you.

[Written statement by George T. McDonald, Founder and President of the Doe Fund, follows:

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Your contribution is tax-deductible.

Testimony of George T. McDonald before the House CJS Subcommittee

March 11, 2009

Mr. Chairman, Members of the Subcommittee, thank you for allowing me the privilege of appearing before you today. This hearing could not be better timed: the Pew Center on the States reported just last week that one in 31 American adults are either in prison or on supervised release from incarceration. Corrections spending is literally blowing a hole in government budgets at every level, and your commitment to being a part of the solution to this crisis is both crucial and commendable.

As Founder and President of The Doe Fund, the New York based non-profit that operates the *Ready, Willing & Able* paid transitional work program, I have had the privilege of watching thousands of men break lifelong patterns of crime, substance abuse and dependency to become productive, law-abiding, tax-paying citizens – as well as fathers to their children and role models in their communities. And every one of them has done so by grasping the work opportunities we provide.

In the early 1980's, when I first started working with people our society had given up on – homeless, drug-addicted offenders – I heard from their mouths that what they really wanted was a *hand up*, not a handout. They wanted the opportunity to go to work, to lift themselves out of poverty, to end destructive cycles, and to rejoin mainstream society. When I handed them a sandwich they thanked me, but

asked for something more – "a room and a job to pay for it…a room and a job to pay for it." I heard that refrain over and over again.

The *Ready, Willing & Able* program became the response to that refrain. It was the first program of its kind to go beyond immediate emergency needs and to believe in the ability and potential of even the most downtrodden among us to seize an opportunity and succeed.

I recruited the first *Ready, Willing & Able* program participants from the floor of Grand Central Terminal, where they had landed after cycling in and out of prisons and homeless shelters. Together we entered into a contract in which they promised to give up drugs and go to work and I, in return, promised that *Ready, Willing & Able* would be there to give them an immediate job, support them and open doors for them.

From that first handful of men and our first facility in Bedford-Stuyvesant, Brooklyn, we have grown to serve 1,000 people a day in New York and Philadelphia. Our participants come to us, no longer off the floor of Grand Central Terminal, but straight from our prisons. They represent the largest and costliest crisis – both financially and in wasted human lives – our society has ever faced: criminal recidivism.

Mr. Chairman, you know the statistics as well as anyone. 700,000 individuals are released from incarceration in this country every year; two-thirds are rearrested within three years. The bulk of these rearrests – 44% – happen within that critical first year post-release. Academicians agree that the chief factor influencing their

recidivism is the ability to find quality employment: 9 out of every 10 releasees are unemployed when they face rearrest.

It is therefore no surprise that by providing immediate, paid transitional work, *Ready, Willing & Able*'s approach has had extraordinary success in helping this population exit the revolving door of incarceration. We pride ourselves on our extensive data collection and results analysis, which has enabled us to see just how successful we have been: **less than 5% of our criminal justice program graduates are re-arrested within that first post-release year**.

As part of our renowned and highly visible street cleaning project, we put the "men in blue" (as we call them because of their signature bright blue uniforms) to work cleaning 160 miles of city streets every day. They begin work immediately upon entering our program earning above the minimum wage and developing the work ethic and dignity that comes from an honest day's work.

The sweeping, bagging of garbage, graffiti removal, snow shoveling and other street sanitation services they perform have improved the quality of life in the cities where we operate and made our participants beloved and sought after additions to every neighborhood. Because they do this hard and humble work with diligence and good cheer, they have won the support of more than 45,000 individuals who not only send contributions, but notes explaining how they have come to rely on the "men in blue" and – believe it or not – feel safer because of their presence.

While in our program, the "men in blue" live in safe, drug-free shared apartments, are paid above minimum wage to work on one of our street cleaning crews, receive

comprehensive social, educational, and drug counseling services and report to a Parole Officer assigned specifically to participants in *RWA*. They are also drug tested randomly twice per week. Immediately, they become productive, law-abiding members of the community and an example of what is possible when meaningful opportunity is provided and seized. After 9 months, they begin looking for full-time private sector jobs and prepare to exchange their blue uniforms for hard hats; suits and ties; pest control, doorman and security uniforms; and even chef's hats.

In 2006, building on our nearly two decades of success in working with formerly incarcerated individuals – and thanks in large part to the support of this Subcommittee – we adapted *RWA* to serve newly released prisoners who would otherwise become homeless upon leaving incarceration. Today, our original 70-bed Bedford-Stuyvesant facility – as well as 45 beds in another facility – are wholly dedicated to serving this population, representing the nation's most comprehensive residential, work-based model serving new parolees. We seize on the critical moment when an inmate is about to return home and is looking to make a positive change in his life. Recruitment begins inside the prison, before he is even released, and literally offers him a chance to walk out of the prison gate and onto one of our vans that will transport him to his new transitional home.

Three years ago, I was asked by Chauncey Parker, then Director of the New York State Division of Criminal Justice Services, to assemble a committee to formulate recommendations that would enhance employment opportunities for job seekers with criminal records. I had the honor of working, for over a year, with brilliant and dedicated experts to create *The Independent Committee on Reentry and Employment's Report and Recommendations to New York State on Enhancing*

Employment Opportunities for Formerly Incarcerated People. I am proud of the recommendations we put forth in this report and could include findings and statistics from it in this testimony, but instead, I would like to share the stories of some of our program graduates with you.

Anthony Malpica came to *Ready, Willing & Able* with over 50 convictions for Breaking and Entering. During his three decade long addiction to heroin he had known two homes: a prison cell and a cardboard box in an abandoned lot in Spanish Harlem that he called cardboard co-op city. Upon his last release, he heard about *RWA* at a Narcotics Anonymous meeting. Putting on our blue uniform and sweeping the streets of New York was Anthony's first legitimate job at the age of 45. When it came time for him to look for permanent employment, he applied for a job as – of all things – a locksmith apprentice. As he says, "he had broken many locks to rob, but he had never imagined himself fixing them." Today, Anthony has been drug-free for 10 years. He is married and lives in his own home. He is no longer a locksmith apprentice, but a certified, bonded locksmith.

Jose Carrero was 19 when he was sentenced under New York's Rockefeller Drug laws. He was 39 when he came out. While inside, he stabbed another inmate and spent a total of 5 years in solitary confinement. There, "in the box" as inmates call it, he had an awakening and decided to change his life. Upon release, he came to our program, put on a blue uniform and pushed a bucket for a year. He remembers that the things that kept him motivated, when he thought about giving up, were the paycheck and the passersby who patted him on the back and thanked him for the job he was doing. He was used to inspiring fear in people, but never smiles or gratitude. The greatest sense of gratitude for his transformation comes from his two children. In the past his son was told, "You're no good. You will be just like

your father." Today Jose, Jr. sees his father as a role model and appreciates being compared to him.

Jose graduated from our program with a job as a dialysis technician. He likes to say that while he once stabbed people to hurt them, today he does it to save lives. There are thousands of success stories like Anthony's and Jose's, and through the help of programs like The Doe Fund's there can be more. Congress has an opportunity to fund innovative, replicable, and most of all, evidence-based models for prisoner reentry that provide real solutions for communities around the nation to implement.

Indeed, we at The Doe Fund have found the way to replace the revolving door of criminal recidivism with the best front door in America – one that a formerly incarcerated person can walk through with little more than the desire to work hard and rebuild his life and walk back out, a year later, with his sobriety, a full-time job, his own apartment, and a renewed relationship with his children.

Thank you, and I look forward to your questions.

Mr. MOLLOHAN. Mr. Schrantz.

OPENING STATEMENT BY DENNIS S. SCHRANTZ

Mr. SCHRANTZ. Thank you, Mr. Chairman. Thank you very much, Ranking Member Wolf, and members of the Subcommittee. I am very pleased to be here today to talk with you about how the Michigan Prisoner Reentry Initiative has had a statewide impact on prison crowding and prison releases. And our vision in Michigan is very simple: every prisoner released to the community has the tolls necessary to succeed. And in order to do that we focus on developing for every prisoner who is in the system a "transition accountability plan" that is developed with the prisoner and the prisoner's family to prepare that prisoner for release immediately, and the months and the years to follow.

The work that we are doing is dedicated to system change. Governor Jennifer M. Granholm, who offers greetings to you today, and the Director of Corrections Patricia L. Caruso have provided extensive leadership over the past six years to focus on true system change that has resulted in unprecedented growth of reentry throughout the state. We now have eighteen regional sites across the state. They cover all of Michigan's eighty-three counties. We will be funded in the state of Michigan for fiscal year 2010 at about $57 million for reentry. That does not count the cost of probation parole officers and already established services. This is $57 million for services for parolees.

In order for each of these eighteen regions to receive funding, they must create a comprehensive prisoner reentry plan for their region. That reentry plan examines the characteristics the prisoners that are going to be returning to that community over the course of the next year, understands they will be assessed for both risk and need, and understands for the 60 percent of those prisoners returning who are moderate to high risk, that they have to have intensive services or the former prisoners will fail in the community and they will return to prison.

Historically, we have one out of every two prisoners in Michigan returning back to prison within three years. Based on the clients that we are working with, that will be reduced to one out of every three. That is a massive improvement that is not system wide yet, but as we continue to move toward taking what is now a statewide effort and taking it up to scale—which means that every prisoner is assessed for their reentry needs and every prisoner has a transition plan—we expect to see those reductions continue. We are not going to rest easy with data that shows that they are simply not failing and returning to prison. Instead, we are going to be looking at whether or not they are being rearrested and reconvicted as a true measure of changed behavior.

In a real sense the Prisoner Reentry Initiative is a crime fighting initiative, which explains why in Michigan it is a very bipartisan supported effort, bicameral and it is one of the few areas in the political cycle that we have had, not that the Governor is in her second year of her second term, where we have had broad agreement by both parties, both chambers, to implement this broad based reform.

The numbers that we have seen so far show that when you do this work one offender at a time, when you engage the folks in the community, when you design ways to move money from the state level to the local community, requiring a comprehensive plan that indicates which portion of those funds will be used for substance abuse, or housing, or transportation, public safety, etcetera—because every community is different—you see results. And so far we have seen results: Parolees with new sentences have dropped to their lowest rate since 2005 with only ninety-eight out of every thousand coming back with a new crime. Parolee technical violators, those that are not meeting the conditions of parole and come back, have fallen to their lowest rate since we began tracking records in 1992, with eighty-nine per thousand returning for a technical violation. So putting those two numbers together, we have the lowest returns for either new crimes or technical violations that we have had in recent memory. And others have occured in spite of the fact that that parole population has increased from 17,000 parolees on the street to 20,000.

There is a great deal of written information that I have provided you, including the power point presentation that I used for talking points and a rather detailed written statement. I want to make five points to you, then I will stop, as our panel prepares for questions.

Number one is that prisoner reentry can be a successful crime fighting tool if it is evidence based meaning that we have to go where the research leads us. If we want to fight crime we have to do what the research tells us. And frankly, the research tells us that dollar for dollar, spending money on prisons is not the best way to reduce crime. We have known for many years but you get bigger bang for the buck by putting policemen on the street. We get bigger bang for the buck by treating substance abuse, and providing addicted individuals with treatment. You do better by spending money to make certain that there are supportive families and supportive communities and supportive neighborhoods, so that when offenders get out of prison they have the support they need so that they do not return to prison.

Complete system change is very difficult to imagine because the state cannot do all of this work alone. Every state department that has anything to do with this type of work has to be part of the effort. But at the end of the day it all has to happen locally. So in the Department of Corrections at the state level we create the policy structure, we create the funding, and we provide that to the locals. The locals decide how to cut the hog, how to define their comprehensive plan and move forward. And it all has to be based on what truly works.

Number two, that in order for these community programs to be effective they have to be fully funded. There must be a tremendous amount of reinvestment, not just in terms of whole dollars because there are not enough programs to go around for these returning prisoners—but also in terms of reinvesting within the programs that we have so that their quality improves, and that they, too, will go where the research takes them. A lot of folks can deliver substance abuse programs. Fewer numbers of nonprofits can deliver evidence based programs. And so there is a lot of quality control that has to take place.

For repeat violent offenders, there is no doubt that they have to go to prison, but they are going to get out of prison too. And so you need both prisons and reentry. And the question, I think, for state legislators across the country, is what is the balance between funding for incarceration and funding for reinvestment in the community? In Michigan, the Governor decided when she ran for office, that we are out of balance. And as a result of this reentry initiative and focusing on these evidence based practices we are changing the system toward an evidence based system. We will see a 20 percent reduction in our prison population. And before the Governor's second term is over we will have closed sixteen prisons, each one anywhere from 250 beds to 1,200 beds. This drop in the prison population, which will have saved us upwards of $800 million before it is over with, is only possible because of significant reinvestment in those programs that these men and women have to be involved in if they are to be successful.

Number three, prisoner reentry, certainly the Michigan Prisoner Reentry Initiative, is evidence based. What my fellow panelists are saying is that what they are focusing on, too, is evidence based. But there is only a certain amount of research you need before we know what you have to do. And this is an initiative we need to keep studying. The shift in the Congress, I think, toward this philosophy of reentry has had some very dramatic impacts on the state level because it emboldened state leaders to move in this direction as well. And as former Michigan legislators are elected to the Congress, we think this cultural shift will be sustained and expanded.

Number four, that states and community, focus on not just what happens with people when they get out of the prison, or jail, or juvenile detention facilities, but also on offenders who otherwise would be imprisoned. We must reduce admissions to prisons so that only the ones that are incorrigible and violent are the ones going in. By attacking the issues both at the front end and the back end of the system you can rebalance funding as long as there are reinvestments. Michigan is one of the many states in the country that has a Community Corrections Act which has as its goal the reduction of admissions to prison. The national average of how many felons convicted of crimes that go to prison out of 100 is 40. In Michigan it is only 23. We have reinvested $30 million a year for the past ten years to make sure that we have balance at the front end of the system so that instead of going to prison offenders are involved in residential and nonresidential programs. We have got enough fully trained law enforcement officers, parole probation officers on the street to be able to manage them.

Number five and lastly, The Second Chance Act is good public policy. And there are probably about twenty-one states across the country that have been leading the charge on improved reentry for many years. And they are doing the kind of work that you want to see done through The Second Chance Act. There are hundreds, thousands of programs across the country doing this work. And so you are tapping into a brain trust, I think, that is very broad and very deep. And we feel very confident that with increased funding through The Second Chance Act that we will be able to do even better.

At $57 million a year, the Michigan Prisoner Reentry Initiative in Michigan is underfunded. So when you think about levels of funding for the entire country, please keep that in mind. When considering the Second Chance Act funding available to states, the Michigan Department of Corrections and our other departments, work with local jurisdictions, to receive federal funding. So funding goes from the federal government directly to those local jurisdictions where $300,000 or $400,000 or $500,000 can make a world of difference, as opposed to coming to the state bureaucracy where our $2 billion corrections budget, frankly, is sufficient to do our job.

There is a lot more information I could cover but I will save it for questions. Mr. Chairman, Ranking Member Wolf, thank you.

[Written statement by Dennis S. Schrantz, Deputy Director, Planning and Community Development Administration, Michigan Department of Corrections, follows:]

JENNIFER M. GRANHOLM GOVERNOR	STATE OF MICHIGAN DEPARTMENT OF CORRECTIONS LANSING	PATRICIA L. CARUSO DIRECTOR

The Michigan Prisoner ReEntry Initiative

STATEMENT

DENNIS S. SCHRANTZ
Deputy Director
Planning and Community Development Administration
Michigan Department of Corrections

INNOVATIVE PRISONER REENTRY PROGRAMS PART 1

House Committee on Appropriations
Subcommittee on Commerce, Justice, Science and Related Agencies

March 11, 2009

Testimony to House Appropriations Committee *March 11, 2009*
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Innovative Prisoner Reentry Programs

STATEMENT

Chairman Mollohan, Ranking Member Wolf, and Members of the subcommittee, I am pleased to be with you today to discuss the Michigan Prisoner ReEntry Initiative (MPRI).

The vision of the MPRI is that every prisoner released to the community has the tools needed to succeed. The mission of the MPRI is to significantly reduce crime and enhance public safety by implementing a seamless system of services for offenders from the time of their entry to prison through their transition, community reintegration and aftercare in their communities.

My presentation today will include five major points:

1. Pr isoner re-entry can be a successful crime fighting tool if it is "evidence based" that is, based on research. The research is clear about what works to reduce crime.

2. Comm unity programs are more effective to fight crime than prison and we must have significant reinvestment in order to use them (both in lieu of and after prison). But rather than just a program, the MPRI is a complete system change, and that is what is required to improve former prisoner success rates and reduce recidivism. For repeat violent offenders, we need both imprisonment and effective re-entry.

3. T he MPRI is evidence based. It is effective because we require comprehensive local planning, we have a long term commitment to the work, and we are dedicated to effective monitoring and evaluation.

4. When taken together with front end alternatives to keep admissions low, re-entry can reduce prison populations and prisons can be closed. Only closing prisons can generate significant cost savings for reinvestments.

5. T he Second Chance Act is good federal policy and more funding is needed. Compare national funding ranges with Michigan - which will fund MPRI in FY 2010 at $57M - and recognize that Michigan is under-funded even at that level if it is to fully reach the 60% of moderate to high risk prisoners who are returning.

I. Evidence Based Practices - Reducing Crime by Focusing on What Works

Studies show there is little relationship between crime and incarceration and that the cost benefit of imprisonment does not support lengthy periods of incarceration as the best way to reduce crime[1]. While increased incarceration has contributed to crime rate reductions in the past, studies indicate it will prevent considerably fewer crimes in the future and may actually increase crime in Michigan[2]. Prisoners who serve longer terms do not recidivate less frequently. Re-arrest rates for former prisoners who serve one, two, three, four or five years in prison are nearly the same[3].

The rising cost of the corrections budget is not driven by increases in crime, it is driven by the sheer size of the prison system: personnel costs and benefits, health care for prisoners, and fuel consumption.[4] The size of the corrections system is driven more by policy decisions than by crime.

Michigan's incarceration rate and the size of its corrections budget are out of line with surrounding states and the nation as a whole. Michigan prisoners have a 70% longer length of stay in prison that drives up corrections costs considerably. [5] When costs to corrections absorb an inordinate amount of tax dollars, other more effective, long term crime fighting strategies suffer. For example, research shows that for severely disadvantaged children, participation in pre-kindergarten dramatically reduced participation in juvenile and adult crime, and increased high school graduation, employment and earnings[6].

The MPRI was developed, in part, to address and help restore balance to the cost of corrections.

II. Community Investments Are Effective In Protecting Public Safety and Reducing Crime

Employment is a critical dimension of successful offender rehabilitation and is associated with lower rates of re-offending; higher wages are associated with lower rates of criminal activity[7]. Dollar for dollar, investments in effective police practices reduce crime more than imprisonment[8]. Educational and training programs that address fundamental abilities and teach skills directly applicable to the job market contribute to successful reintegration of offenders into society and reduce recidivism[9].

III. Evidence Based Practices - MPRI Works to Reduce Crime:

Prisoners who have access to resources for meaningful transition plans return to prison much less frequently than those who don't. The Michigan Prisoner ReEntry Initiative (MPRI) has increased the success rate of former prisoners[10]. Historically, five of every ten prisoners in Michigan returned to prison within three years; since the MPRI began, this has already improved to fewer than four in ten returning within three years, even though the full MPRI model had not been implemented yet for any of the parolees who have already been out of prison for three years.

- Parolees with new sentences have fallen to the lowest rate since 2005, with 98 per 1,000 returning to prison for a new crime.
- Parolee technical returns to prison have fallen to the lowest rate since records were first tracked in 1992, with 89 per 1,000 returning to prison for a technical violation.
- The overall parole revocation rate has fallen to its lowest level since records were first tracked in 1992, with a return rate of 188 per 1,000 parolees.

These performance measures show improvement in spite of the number of parolees under supervision increasing from 17,000 to over 20,000.

IV. The Michigan Prisoner ReEntry Initiative: Description

Michigan's approach to reduce crime by former prisoners who are re-entering society aligns three major national paradigms on how to develop and fully implement a comprehensive model of prisoner transition planning. As a result, the Michigan Prisoner ReEntry Initiative (MPRI)

represents a synergistic model for prisoner re-entry that is deeply influenced by the nation's best thinkers on how to improve former prisoners' success.

The MPRI is now implemented in all of Michigan's 83 counties through 18 regional community sites. Funding for Fiscal Year 2010 is recommended at $57 million. The rapid growth of the MPRI is a tribute to the leadership and management expertise of hundreds of individuals in Michigan and across the country who have worked tirelessly for the past 6 years to develop and implement the MPRI Model.

To develop the MPRI Model, Michigan had the tremendous benefit of technical assistance grants from the National Governors Association (NGA) and the National Institute of Corrections (NIC) that provide substantial resources for consultation, research, training, and technical assistance. The MPRI Model:

- Begins with the three-phase re-entry approach of the Department of Justice's Serious and Violent Offender ReEntry Initiative (SVORI).
- Further delineates the transition process by adding the seven decision points of the National Institute of Corrections' Transition from Prison to Community Initiative (TPCI) model.
- Incorporated into its approach the policy statements and recommendations from the Report of the ReEntry Policy Council that is coordinated by the Council of State Governments.

Michigan is showing early success in our crime fighting efforts due to the leadership provided from Governor Jennifer M. Granholm and her Corrections Director, Patricia L. Caruso, an evidence based policy framework, and the essential ingredient of strong and organized community buy in.

The **VISION** of the Michigan Prisoner ReEntry Initiative is that every inmate released from prison will have the tools needed to succeed in the community. The **MISSION** of the Michigan Prisoner ReEntry Initiative is to reduce crime by implementing a seamless plan of services and supervision developed with each offender—delivered through state and local collaboration—from the time of their entry to prison through their transition, reintegration, and aftercare in the community. The **GOALS** of the Michigan Prisoner ReEntry Initiative are to:

- **Promote public safety** by reducing the threat of harm to persons and their property by released offenders in the communities to which those offenders return.
- **Increase success rates of offenders** who transition from prison by fostering effective risk management and treatment programming, offender accountability, and community and victim participation.

The MPRI Model involves improved decision making at seven critical decision points in the three phases of the custody, release, and community supervision/discharge process.

PHASE ONE—GETTING READY: The **institutional phase** describes the details of events and responsibilities which occur during the offender's imprisonment from admission until the point of the parole decision and involves the first two major decision points:

1. ***Assessment and classification*:** Measuring the offender's risks, needs, and strengths.
2. ***Prisoner programming*:** Assignments to reduce risk, address need, and build on strengths.

PHASE TWO—GOING HOME: The **transition to the community or re-entry phase** begins approximately six months before the offender's target release date. In this phase, highly specific re-entry plans are organized that address housing, employment, and services to address addiction and mental illness. Phase Two involves the next two major decision points:

3. ***P risoner release preparation*:** Developing a strong, public-safety-conscious parole plan.
4. ***Releas e decision making*:** Improving parole release guidelines.

PHASE THREE—STAYING HOME: The **community and discharge phase** begins when the prisoner is released from prison and continues until discharge from community parole supervision. In this phase, it is the responsibility of the former prisoner, human services providers, and the offender's network of community supports and mentors to assure continued success. Phase Three involves the final three major decision points of the transition process:

5. ***Supervision and services*:** Providing flexible and firm supervision and services.
6. ***Revocation decision making*:** Using graduated sanctions to respond to behavior.
7. ***Discharge and aftercare*:** Determining community responsibility to "take over" the case.

1. The Comprehensive Prisoner ReEntry Plan

Community leaders serve on the Steering Teams in local MPRI sites. These Steering Teams are responsible for developing and reaching consensus in a collaborative manner a local, community-based Comprehensive Prisoner ReEntry Plan that is submitted to the Administrative Agency's Governing Body for approval. The Plan must address 16 service areas such as housing, employment, substance abuse services, mental health, transportation, victim services, and the involvement of local law enforcement and faith-based institutions. For each of these 16 service areas, the Comprehensive Plan describes the local assets that are in place to increase the potential for success for former prisoners, barriers that impede maximum use of these assets, gaps in services, and proposed solutions to address the barriers and gaps. Thus, the plan builds upon existing services and embeds their use within the context of comprehensive service delivery.

The Comprehensive Plan also addresses critical issues such as case management approaches for accountability, monitoring, and performance measurement and ways to educate the public about the crime-fighting goals of the MPRI. The Comprehensive Plan is the basis for requests to the Michigan Department of Corrections for annual MPRI funding as well as requests for support from federal, other state, local and foundation funding sources.

Local collaboration is at the heart of the Michigan Prisoner ReEntry Initiative and the MPRI Model. Collaboration requires stakeholders to meet and to make decisions together. This is different than cooperation, which can be done in isolated silos by simply sharing decisions. MPRI requires a full participatory process in order to change the way the public views, accepts, and responds to former

prisoners within the context of the local justice system – that is now more participatory and transparent. It is only through full community participation in this collaborative work that we will be able to sustain the model when the initiative phase of our work concludes in 2011.

2. The MPRI Application for Funds

Each year, the local MPRI site Administrative Agency submits the collaboratively-developed and approved Application for Funds to the Michigan Department of Corrections (MDOC). This application identifies where State funds will be used to implement the local Comprehensive Prisoner ReEntry Plan. The annual Application for MPRI Funds details the costs to implement the proposed solutions in priority service areas as described in the Comprehensive Plan. The MDOC thus provides both a policy framework and a funding stream for the work that, in the final analysis, is all local.

3. MPRI Public Education and Outreach

Nothing can be more important to taking MPRI up to scale than continual public education to change public perception about prisoners returning to our communities. Taxpayers must recognize identifying the need for services and provision of services as public protection strategies - not as coddling convicts. This requires an enormous dedication of purpose that must be carefully developed, implemented, managed, monitored and reported upon. The role of the Administrative Agency, its board, the Steering Team and the MPRI staff in the development of the MPRI Public Education Plan and its implementation is essential.

Administrative boards comprised of elected and other officials offer many avenues to educate the public and special stakeholder groups. Fundamental to full community support, for example, is the support of law enforcement officials such as chiefs of police, sheriffs and prosecutors who dedicate their careers to fighting crime. Their involvement on the local Steering Team and participation in the development and the execution of the Public Education Plan is essential to gain and sustain their on-going support.

When considering implementation of the Public Education Plan, the differences in the roles of local MPRI leadership and the community coordinator must be clear. The community coordinator is charged with *leading the development* of the plan and community leaders should be designated, along with the coordinator, to *implement* that plan, including activities such as meeting with key stakeholder groups, legislators, the media, etc., is important. Any one specific local stakeholder – be it the community coordinator or any one of the four co-chairs - are not to be the sole or primary spokesperson for MPRI. There should be a wide variety of persons tasked with this responsibility.

4. The Local MPRI Steering Team

Beginning in Fiscal Year 2009, Steering Teams were approved by the MPRI Administrative Agency Governing Body as an advisory team invested with the responsibilities and authority designated by the MDOC contract. Broad based and inclusive efforts to receive nominations for Steering Team members are open and transparent.

The primary and essential role of the MPRI Steering Team, led by the group's four co-chairs, is to design the Comprehensive Prisoner ReEntry Plan and monitor its implementation. It is the responsibility of Steering Team members to attend Steering Team meetings as representatives of their service area and to bring to the table the advice, concerns and input of their stakeholders. Thus, two critical expectations of the Steering Team are that members have the knowledge and expertise of the service area they represent and that they represent their networks, not just their own organizations. The four co-chairs must ensure a robust process for the design of the plan by the Steering Team. Steering Team meetings should be focused on planning, monitoring and reporting.

The MPRI Model requires that service areas critical to former prisoners' success are fully represented on the local Steering Team. The national research is clear on the types of services that are essential and, therefore, the specialty areas that should be represented on the team who can bring their expertise and experience to the table to design a functional and sound comprehensive reentry plan. One of the key outcomes of a truly collaborative process is the absence of duplication and an ability to use existing services whenever possible so that MPRI funding is reserved for the gaps in existing services. For example, public funding streams for employment, housing, substance and mental health services are already targeted by many funding sources for the former prisoner population and efforts to tap into these streams should be maximized. Having individuals who are experienced in these service areas in terms of policies, processes, programs, funding opportunities, and the evaluation of effective approaches is essential to the local MPRI process:

- *Employment.* Employment is a critical dimension of successful prisoner reentry and is associated with lower rates of re-offending; higher wages are associated with lower rates of criminal activity[11].

- *Health care.* The prevalence of severe mental disorders and chronic infectious disease among the prison population is far greater than among the general population[12] and prisoners tend to face limited access to community-based health care upon release.[13]

- *Housing.* The immediate challenge faced by releasing prisoners to secure housing is a process that is often complicated by a host of factors: the scarcity of affordable and available housing, legal barriers and regulations, prejudices that restrict tenancy, strict eligibility requirements for federally-subsidized housing, and research shows that released prisoners who lack stable housing are more likely to return to prison,[14] suggesting that the obstacles to temporary and permanent housing warrant the attention of policymakers, practitioners and researchers.

- *Substance abuse and mental health.* These issues among former prisoners present significant challenges to the reentry process. Studies indicate that while 83% of state prisoners have a history of drug use, only a small fraction receive treatment while incarcerated and after release and that few who had access to, and took advantage of, treatment programs in prison continue to receive appropriate treatment once they return to the community[15] even though prison-based drug treatment has shown success in reducing drug use and criminal activity, especially when coupled with aftercare treatment in the community.[16]

- *Family relationships and pro-social support.* The impact of incarceration and reentry on children and families is significant since the family structure, financial responsibilities, emotional support systems, and living arrangements can be affected; incarceration can drastically disrupt spousal relationships, parent-child relationships, and family networks;[17] and restoring these relationships upon release poses a unique set of challenges.

- *Employment readiness.* Educational and training programs that address fundamental abilities and teach skills directly applicable to the job market contribute to successful reintegration of offenders into society[18] and reduce recidivism.

- In addition to service areas, the critical input of *local law enforcement officials, victim rights advocates and faith based organizations* is required in order to add balance to the comprehensive plan and public education efforts.

The strength of support from these local leaders will help sustain the MPRI Model once the six year "implementation phase" of our efforts has concluded in 2011 and these efforts will no longer be called an "initiative" as we will have changed the way we do business.

Input from experienced service providers is expected and very important. In many communities, they are some of the most knowledgeable individuals because they are "in the trenches" doing the work. However, beginning in FY 2009, Steering Team membership should not include service providers who participate in the local competitive bidding process for MPRI funds and thus have a fiscal relationship with the Administrative Agency to provide MPRI services to parolees[1]. The appearance of a conflict of interest is simply too strong to overwhelm the need for their input to the process.

Given the experience and expertise of human service providers, local Administrative Agencies are encouraged to form a formal service provider advisory committee—including those providers who contract with MPRI—to seek their input on the Comprehensive Plan.[2] Advice by service providers should be a component of the local Advisory Council process that is designed for key stakeholder input regularly to the Steering Team. The Service Provider group should be an important committee of the Advisory Council which will allow their organized and regular input to the local MPRI process. Another option is to have the service provider group report directly to the Steering Team on a regular basis. Either way, a significant and critical role should exist for service providers to offer their observations and advice on to best get the job done.

Steering Teams have four designated Co-chairs: a member who represents the Administrative Agency, a community-based member who represents the local MPRI Advisory Council, the Warden of the local prison that houses MPRI prisoners and who leads the prison's MPRI Facility Coordination Team, and a local management-level representative from Field Operations Administration (FOA), who leads the local FOA Coordination Team. The MDOC appoints the

[1] Law enforcement and other agencies which do not bid for services as they are sole source contracts are exempt from this restriction

[2] In some sparsely populated rural areas, it may not be possible to restrict MPRI contractors from being members of the Steering Team. This issue can be addressed with some flexibility on a case-by-case basis.

Correctional Facilities Administration (CFA) and FOA representatives to the Steering Team. The FOA Steering Team Co-chair works with local Steering Teams to determine the involvement of their staff in the local efforts pertaining to comprehensive planning, implementation and feedback about the effectiveness of the programs that are chosen as contractors in the comprehensive plan due to the critical need for complete "buy in" to the MPRI process. This cross-pollination of the community, the Administrative Agency, the Advisory Council, the prison and FOA assures balanced leadership of the Steering Team with input from key players in the process.

An MDOC representative seated on the governing body of the Administrative Agency assures that Steering Team issues in the local process will be addressed. It is required that the Steering Team Co-chairs and the Community Coordinator have an active role in the review of proposals submitted for funding. Others, as agreed to by the Co-chairs may serve on the proposal review committee. The local MPRI Community Coordinator acts as staff to the Steering Team as an employee or contractor of the Administrative Agency. As such, it is required that the Steering Team Co-chairs work with the Administrative Agency collaboratively to select and hire the Community Coordinator as part of the standard personnel hiring process of the Administrative Agency.

5. The Administrative Agency and its Governing Body

The primary role of the Administrative Agency is to provide the administrative support for MPRI in local sites. This support includes coordinating the competitive bid process, assuring that subcontracts are in place in a timely manner, providing liability coverage, collecting data and monitoring, evaluating and reporting on sub-contractor performance as part of a collaborative effort with Steering Team Co-chairs. The Administrative Agency is responsible for submitting the local Comprehensive Plan and annual Application for Funds developed by the MPRI Steering Team and approved by the Administrative Agency's Governing Body.

The Administration Agency's Governing Body "control" funding as the final decision for contracts rests with the Governing Body. This decision-making authority must be informed and driven by the MPRI comprehensive planning process. However, the Steering Team is responsible for the development of the comprehensive prisoner reentry plan. The two bodies must work together, using the local planning and authorization process, to produce an approved plan and arrive at agreement on the results of the competitive bid process. The role of the local Governing Body in the MPRI is to assure the process for developing the Comprehensive Plan and Application for Funds is collaborative. Thus, the seating on the Governing Body of a member who represents the MDOC – one of the two MDOC Co-chairs of the Steering Team – is critical. It is expected that an MDOC designee will represent the MPRI on the Board[3]

The Governing Body has three options for their review and decisions relative to the comprehensive prisoner reentry plan and MPRI funding based on the recommendations of the Steering Team they have appointed for these purposes: 1) Accept the Steering Team recommendations in total, 2) Reject the Steering Team recommendations in total and refer them back to the Steering Team for

[3] It is understood that in some rare circumstances, the seating of specific representatives on the Administrative Agency's Governing Body as contemplated here may not be possible and that alternative methods of involvement may be needed on a case-by-case basis. For example, some Administrative Agencies are governmental or quasi-governmental entities and have their board membership mandated by law – for example Workforce Development Boards of MWAs and county government agencies.

further work, or 3) Approve some of the recommendations and send the disapproved items back to the Steering Team for additional work.

The Governing Body does not have the authority to change the Comprehensive Plan or to change the results of the competitive bid process in any substantial way without the concurrence of the Steering Team which the Administrative Agency's Governing Body has approved to take responsibility for the preparation of the Comprehensive Plan in such a way that the Board will approve it. It is essential in this process that the Governing Board and the Steering Team co-chairs meet to discuss expectations.

While it is not expected due to the clear expectations about collaboration between the Governing Board and the Steering Team, if a circumstance arises where there is continued disagreement after all local efforts at drafting and re-drafting have been exhausted, the MDOC is often called on to assist in facilitating an agreement. If the Administrative Agency is managing well the local collaborative process, disagreements will never rise to this level. The fact that a Steering Team co-chair sits on the Governing Body all but assures an uneventful process.

Once approved by the Governing Body, the Administrative Agency is responsible for submitting the application to the Michigan Department of Corrections. The Administrative Agency, in collaboration with the MPRI Steering Team, is also responsible for and expected to develop and submit applications for federal, state, local and foundation funding that will further the implementation of the local Comprehensive Plan and to work with other agencies in the community who wish to raise funds for MPRI services.

The Administrative Agency is also responsible for meeting the obligations of the contract with the State as a result of funding provided based on the annual Application for MPRI Funds, and will make sure the following occur:

- Coordinating an open and competitive bid process for the services detailed in the Comprehensive Plan;
- Issuing contracts in a timely manner based on successful bids;
- When necessary and appropriate, advance payments to contractors as allowed by the Administrative Agencies rules and regulations;
- Program and fiscal monitoring and reporting to ensure program fidelity and contract compliance;
- The appointment of a management-level staff person to the Steering Team as a Co-chair to work collaboratively with the team;
- In collaboration with the Steering Team Co-chairs, the hiring of or contracting with a full time, dedicated MPRI Community Coordinator or similarly titled position with the skills and competencies needed and who, if an employee, is 100% dedicated to the work of the MPRI, or, if a contractor, has a contract which includes outcome measures designed to cover all the requirements of the Community Coordinator position as listed in this document under "The Role of the Community Coordinator";
- Ensuring that subcontractor client data systems are consistent with policies and procedures set by the State;

- Ensuring that subcontractor accounting procedures are consistent with policies and procedures set by the State;
- Submitting monthly summary invoices to the State according to policies and procedures set by the State;
- Submitting monthly reports as described by the State;
- Conducting a yearly on-site review of each subcontractor's operations and fiscal administration;
- Participating in semi-annual program reviews as prescribed by the State;
- Participating in trainings held by the statewide MPRI partners;
- With the Steering Team, participating in the public education and outreach effort;
- Working with the Steering Team, their boards, elected officials and other key stakeholders – especially the law enforcement community – to develop and maintain support for the MPRI as outlined in the MPRI Public Education and Outreach Plan.
- Providing office space, phone, computer and supplies for dedicated MPRI staff as appropriate and allowed; and
- Ensuring that all communications regarding the MPRI are productive and open and result in clarity of the goals, objectives and processes that comprise the MPRI.

6. The Role of the Local MPRI Community Coordinator

Community Coordinators are the essential staff to the MPRI process at each site. The Community Coordinators can be employees or contractors of the Administrative Agencies or employees or contractors of third-party agencies. The Community Coordinators are responsible for staffing the Steering Team and assisting with the development and implementation of the locally-approved Comprehensive Plans. Their responsibilities include coordinating and monitoring the use of Comprehensive Plan funds, the effectiveness of the service delivery system, outreach to and education of the public, and collaboration with service providers, justice system professionals and the public.

While each Steering Team and Administrative Agency is encouraged to design locally-specific approaches to these general areas of performance, it is the essential responsibility of the Community Coordinators to coordinate the local MPRI process. Therefore, all duties performed by the Community Coordinator must be focused on MPRI and, given the competencies required to meet this responsibility, the staff must be at a professional level and be remunerated commensurate with the high expectations for comprehensive planning, public education design and execution, and management responsibilities.

Community Coordinators must be clear about how Administrative Agencies will support them in meeting performance objectives and how the performance and quality of the work is to be implemented, managed, monitored, evaluated and reported. While Community Coordinators may have titles that are reflective of other staff in Administrative Agencies' personnel and contracting structure, if employees, they must be full-time employees dedicated to the MPRI process. The MDOC includes in their annual contracts adequate funds for this purpose. The essence of MPRI is local decision making, and that local decision making must be highly coordinated, highly

collaborative, dedicated to high-quality performance, documented, and the subject of clear communication. This is why the role of the Community Coordinators is so crucial to the process.

It is critical to the success of the MPRI that the Community Coordinators are provided continual education and training. This includes formal training events – which must be informed by experience of the Community Coordinators – as well as regular statewide capacity building meetings to discuss what they are learning at the local level.

7. MPRI Prison Facility Coordination Team

The primary role of the MPRI Prison Facility Coordination Team is to assure that the MPRI Model for Phase I and Phase II is implemented in the local prison facility. The team's membership includes the Warden of the facility (or his/her designee) who sits as the Steering Team Co-chair, the MPRI Facility Coordinator, and other CFA staff that have direct responsibility over the programming and implementation of MPRI in the facility. In general, the primary issues which need to be addressed, consistent with the approved Comprehensive Community Corrections Plan and in collaboration with the local Steering Team include, but are not limited to:

- Assessment and classification: Measuring the offender's risks, needs, and strengths;
- Prisoner programming: Assignments to reduce risk, address need, and build on strengths;
- Prisoner release preparation: Developing a strong, public-safety-conscious parole plan.

8. MPRI FOA Coordination Team

The primary role of the MPRI FOA Coordination Team is to assure that the MPRI Model is fully implemented locally. The FOA team will be led by the local FOA representative who sits as the Steering Team Co-chair. It will have in its membership, MPRI agents (from the field and facility), local supervisor(s) and other FOA staff as appropriate to address local issues and needs consistent with the approved Comprehensive Community Corrections Plan and in collaboration with the local Steering Team. These responsibilities in general include, but are not limited to:

- Supervision and services: Providing flexible and firm supervision and services;
- Revocation decision making: Using graduated sanctions to respond to behavior; and,
- Discharge and aftercare: Working collaboratively to ensure that an appropriate transition plan in place when the MDOC role is over due to the discharge of the former prisoner from parole supervision.

9. Leadership Development and Capacity Building: Defining and Sharing What Works

The MDOC will provide opportunities for Administrative Agency Directors, Steering Team co-chairs, and Community Coordinators and other designated local MPRI staff to meet on a regular basis as professionals engaged in this difficult work. All local stakeholders can benefit from meeting regularly and sharing ideas and successful and unsuccessful approaches to their work; advise on the training that is needed, the timing of training and the content; and to keep up to date on the news of statewide MPRI business, as well as to simply provide an opportunity for fellowship.

The Michigan Council on Crime and Delinquency - MDOC's contractor for capacity building - is responsible for coordinating and staffing these meetings and making certain the most informed 'best practices' stakeholders are invited to attend. In terms of process, all of the local and state stakeholders will be polled regularly for their ideas on topic areas and appropriate audiences for these capacity building sessions and the meetings will be designed accordingly to be inclusive and issue oriented.

10. The Local MPRI Advisory Council

Advisory Councils are being put into place at each MPRI community site to create a strong base for community support and to act as a vehicle for public education. In response to the MPRI Model, many MPRI community sites have already developed such local councils whose members have a shared interest in the success of the initiative. Those involved in these groups are often local citizens who lack the time or the position to be involved in day-to-day operations or to be involved in the Steering Team. Often they are family members of prisoners, local faith-based members, victims of crime, or retired corrections or justice officials who simply want a formal way to be involved and show their support. And, as stated, the Advisory Council represents an opportunity for service provider input to the process, especially through a specifically named committee of the Council.

These groups are not intended to be as "staff intensive" as the Steering Teams as they would likely need to meet less regularly, for example as part of an annual public event where the successes of the local MPRI are highlighted and positive press is generated. Many non-profit boards have these types of events every year.

As local Advisory Councils have evolved, their primary role is to inform a broad base of stakeholders about the development and implementation of MPRI in the local community as a means to generate broad-based public support and as a forum for essential public education about the MPRI. Within this role, it is the responsibility of the Advisory Council members to attend Advisory Council meetings and participate in reaching out to the public at-large to educate them about MPRI in their community. The primary expectation of the Advisory Council is that members are interested in understanding MPRI and will share their knowledge of MPRI within their network. Ideally, the chairperson of the local MPRI Advisory Council sits as a Co-chair on the Steering Team and would be a community- or faith-based representative with no financial interest in the Comprehensive Prisoner ReEntry Plan. If the local Steering Teams currently includes a community advocate who don't meet this guideline, there is no need to change, but efforts should be made to do so at the appropriate time.

V. Working with the Faith Community: Evidence Based Principles to Guide the Process

Research shows that one of the most effective ways to reduce criminogenic tendencies is through strong family ties and pro-social activities[19]. Unifying efforts and expanding the number of individuals from the faith community working with those affected by the criminal justice system is having an incredible impact on crime reduction and personal transformation – but more can be done. Accomplishing greater achievements in this critical collaboration requires expanded and

intentional collaboration between the faith-based community and the criminal justice system, which will be unique in both a state and national context.

There are five guiding principles for expanding positive collaboration between the faith community and the MPRI that create a roadmap for action. These have been developed as a result of conversations with the faith community and national, state and local MPRI partners. The guidelines express how to build healing communities, network for advocacy, and provide social services:

1. Build Opportunities for Strengthening Pro-Social Support through Healing Communities: Communities of faith can be a powerful force in the lives of returning citizens by providing pro-social support through mentoring relationships. These activities can greatly improve the chances of successful reintegration of former prisoners into the local communities.

2. Assist Those Left Behind by Working with Families to Strengthen Family Networks: Faith-based organizations also can strengthen connections between former prisoners and their families, or build new "extended family networks" when family bridges are burned or nonproductive.

3. Address the Consequences of Crime by Working with Victims & Promoting Restorative Justice: Faith-based organizations should respond to the consequences of crime by assisting victims. A faith-based focus on forgiveness, reconciliation, redemption and restoration creates an ideal backdrop for this work.

4. Build the Station of Hope Network to Enhance Effective Collaboration and Advocacy: Connecting existing networks of faith-based organizations is critical to enhancing a sense of unity for diverse organizations addressing issues related to returning prisoners. The power of these entities working together can positively impact key policy issues in the criminal justice system. Enhanced public education and awareness of challenges within the system are also a benefit to networking for advocacy.

5. Build Capacity for Improved Performance-Driven Contracting: Training and capacity building support should be made available for faith-based organizations that want to address the needs of returning prisoners. Training will allow them to compete successfully with more experienced community-based organizations. Considerations include anticipating potential challenges faced by newly developing organizations and guiding faith-based organizations to understand the language of government contracts and the requirements that often accompany them.

Building Healing Communities

Prisoners may enter incarceration with varying degrees of cognitive deficits that influence criminal thinking and behavior, such as pro-criminal attitudes, pro-criminal associates and impulsivity. Furthermore, while incarcerated, individuals may develop coping skills for the prison environment that are not appropriate on the outside. Examples include social withdrawal, dependence on institutional structure, and adherence to exploitative norms of prison culture. If, upon return to the

community, individuals resume their former lifestyles with the same pro-criminal associates, it is likely only a matter of time before they commit another crime.

Unfortunately, this is most often the case. More than two-thirds of people released from prisons are rearrested for new offenses within three years of their release, and more than half return to prison for committing new crimes or violating the conditions of their release.[20] It is essential, then, to reverse these negative cognitive deficits and social effects by creating environments where healthy, pro-social interaction is modeled and where prisoners, former prisoners, their families and victims can practice a new way of thinking and acting.

Worshipping communities are a natural environment for reinforcing pro-social behaviors necessary for positive reentry. Whether through prayer, religious study, planned social activities, volunteering in the community, or simply through companionship, faith-based institutions work hard to improve the social environment, both for their members and their broader communities. Based on this experience, faith-based institutions may be able to affect returning prisoners in ways that other programs do not. Faith communities can help create the conditions for personal transformation, provide inspiration, and motivate individuals to achieve individual goals. Witnessing others who have faced similar challenges and succeeded, talking about personal issues, forming relationships with a group of peers, and gaining a sense of religious faith or other forms of inspiration, may enhance an individual's mental resolve to complete substance abuse treatment, to get a job, or to peacefully manage family conflicts[21].

Worshipping communities are also an innate environment for establishing positive mentoring relationships. Clergy create relationships with their congregants to lead them in a fruitful faith journey, small faith groups build strong connections with one another in order to accomplish their mission, and many congregations have more formal mentoring 'ministries,' such as after-school tutoring programs in order to improve the success of community members. It seems natural, therefore, for faith-based institutions to mentor returning citizens since they are potentially some of the most vulnerable people in our communities.

With proper training, Michigan congregations can enhance a successful community reentry through intentional mentoring relationships with this target population. Some faith-based organizations have already developed trainings for their congregations. While often very good, they have been to this point fairly limited in scope and size. For newly interested congregations, developing new trainings may be a major roadblock to initiating their interests. Moreover, congregations may be reticent to mentor this population without outside support.

Fortunately, an excellent training curriculum was developed by the Annie E. Casey Foundation for congregations interested in mentoring this special population. Already, it has been successfully implemented in a number of pilot sites, including Detroit. This curriculum, "*Healing Communities*" prepares congregations to better understand and address the challenges faced by those imprisoned and those reintegrating back into the community. The training also challenges us to understand how building a "Healing Community" requires us to nurture and support both the family and the victims of crime.

VI. MPRI Impact and Performance Measures: Preliminary Evaluation

The MPRI began its work on evaluation and performance monitoring by focusing on parole failures and returns to prison. In 2008, as plans were being made to improve the evaluation approach by examining arrest and convictions of former prisoners, a national peer review was held and experienced and highly respected researchers from across the country were brought together and asked to comment on the preliminary approach to evaluating the MPRI and to make recommendations on how to improve the approach. As a result, a "learning site" model has been developed that will examine the success of former prisoners one community site at a time.

1. Preliminary Evaluation Approach and Result

The Implementation Schedule for the MPRI Model: The planning for MPRI was launched in October, 2003 beginning with a complete review of the research on what works to reduce crime and culminating in a strategy for building a statewide, seamless system of risk-reduction services and supervision for every prisoner. A tremendous amount of work has been accomplished, putting Michigan on target to bring MPRI up-to-scale by 2010 in accordance with the original implementation plan. Three issues regarding the implementation of the MPRI need to be clear in order to understand the process that was followed:

A. The Order of the Phased Implementation: Phase II and Phase III, and then Phase I:

Full implementation of the MPRI Model requires enormous changes in the way the Michigan Department of Corrections and the State of Michigan as a whole conduct the business of criminal justice and corrections, including building new relationships with communities statewide and redefining the way the Department collaborates with other state agencies and local communities to improve public safety. Consistent with the original implementation plan, early planning and implementation efforts focused heavily on *Phase II: Going Home* (preparation immediately prior to release, including community in-reach) and *Phase III: Staying Home* (community-based services and supervision).

As acknowledged in the MPRI Model, prison programming and re-entry preparation starting at reception (Phase I) are key elements for success. However, to have the greatest, most immediate impact on recidivism, the research has demonstrated that maximum impact on risk reduction is made through community-based interventions. So, that is where the work was started. By leveraging the growing momentum and enthusiasm for improving prisoner re-entry in communities across the state, an early focus on community organizing and local capacity building promised and delivered an immediate impact on offender success early in our implementation efforts. As a result, the implementation of the MPRI has been in stages. First, Phases II and III, and then Phase I.

B. Pilot Sites, Followed by Statewide Implementation, Then "Up to Scale":

Concurrently, efforts have been underway to first gradually take the initiative "statewide" (meaning every county is covered) and then in FY2010, take it "up to scale" (meaning every prisoner is assessed at reception under the MPRI Model).

The Department promised and delivered a commitment to success and took the collaborative, community-based planning model *statewide* in three years, so that by October, 2007 every jurisdiction in the state had the MPRI capability.

During the next two years (2009-2010), the Department is committed to taking the MPRI Model *up to scale* and implementing all phases of the model with all offenders – as appropriate for each individual's risk and needs. Accomplishing this degree of comprehensive systems change – while maintaining a focus on quality assurance and continuous quality improvement – requires a thoughtful implementation plan with a realistic timeline.

C. Special Populations:

Special populations in prison (youth, boot camp, developmentally disabled prisoners, etc.) will be implemented one population at a time since they cannot be moved to facilities closer to their homes for Phase II.

2. The Need for Immediate Impact on Recidivism and Preliminary Tracking of MPRI Outcomes

The Michigan Prisoner ReEntry Initiative (MPRI) was born at least in part out of necessity. Michigan's prison population grew by 2,142 inmates in 2002, continuing 19 consecutive years of annual growth that nearly tripled the number of incarcerated offenders in the State prison system from year-end 1983 to year-end 2002. The forecast was for more of the same through 2003 and beyond unless decisive action was taken. Available prison capacity had dwindled to 838 unoccupied beds, representing only 1.7% of the total net operating capacity of more than 50,000 beds. The prison system was projected to run out of beds within 9 months based on current trends at the time. Unabated growth of this magnitude could not be accommodated either by the prison beds that remained in reserve or by the State budget that was facing a multi-million dollar deficit in FY 2003.

Due to the necessity of taking actions that would have an immediate impact on this pattern of population growth, intensive efforts were made to identify and take advantage of measures that had the potential to quickly and safely yield fewer parole failures and revocations (especially as part of the "low hanging fruit" of the launching of the MPRI) and thus help to control prison growth. As a part of that, the Department essentially began implementing some of the components of the MPRI Model even while the full Model was still being designed and built.

The focus on Phases II and III for prisoners approaching eligibility for parole was a natural starting point under the circumstances, rather than starting with Phase I at reception for prisoners who had yet to serve their full minimum sentences in secure prisons before parole eligibility.

Efforts such as these to begin controlling prison population growth while maintaining and even improving public safety were successful, as Michigan's prison population decreased by 902 inmates during 2003-2004. There have been some sizable swings both up and down in the total number of prisoners during the 3 subsequent years because of several dynamic circumstances and events that

have occurred, but the prison population has uncharacteristically been basically flat for the past five years on the whole since the genesis of the MPRI.

At the end of calendar year 2007, there were only 744 more State prisoners than there had been at the end of 2002 (an average annual growth of about 150 during 2003-2007 versus average annual growth of 1,925 that occurred during 1984-2002. This has been a tremendous achievement, and the preponderance of evidence certainly indicates that the MPRI, while not the only factor, has been a significant contributor to prison population reduction.

A key issue from day one of the planning for MPRI has, of course, been to monitor and assess the effects on prison population as a result of its effect on recidivism and public safety. The MPRI has been expected to improve public safety and reduce the need for prison beds in two ways:

1. Impro vement in parolee and discharged offender success following release, through reductions in violation behavior and new crime – meaning, in turn, fewer victims and therefore fewer returns to prison for either technical violations of the conditions of supervision or new sentences.

2. Gradual increases in the parole approval rate, as a direct result of better parolee success brought about by the improvements in risk reduction and management, parole planning, offender supervision, community engagement in collaborative case management, and access to services and effective treatment. Demonstrated success in these areas is increasing Parole Board confidence in release outcomes and resulting in a greater willingness to consider releases to effective parole supervision settings and strategies.

The overall evaluation effort is to include both summative and formative components: that is, it will work to provide detailed assessment of not only the outcomes but also a comprehensive review of how well the MPRI model is being implemented with fidelity across the different sites and timeframes. Thus, the comprehensive evaluation will answer questions not only about WHAT happened to MPRI participants, but also WHY and HOW those results were achieved.

This is an unavoidably long-term comprehensive evaluation effort, just like the implementation of the full MPRI model itself. First up is a thorough process evaluation of the implementation of the MPRI as the model's phases and components are brought on-line and fully implemented with fidelity over time. Then, before definitive outcome evaluation results can be obtained:

- All phases of the MPRI model must be in place and the new way of doing business must have an opportunity to mature,
- Expanded, integrated data systems must be fully developed to completely capture both the implementation measures and the intermediate outcome measures of the MRPI, and
- MPRI participants who have benefited from exposure to the full MPRI model must be released back to their home communities with an adequate and standardized follow-up period to reliably gauge the outcome results relative to expectations.

3. Some Principal Weaknesses & Limitations of the Preliminary Tracking Methodology

It is the Department's position that the month-to-month tracking of recidivism outcomes for individual MPRI offender release cohorts (who have gradually benefited from implementation of more and more of the components of the full MPRI model), along with comparison to baseline recidivism data from a typical recent year, is actually a creative approach that takes outcome measurement about as far as is feasible right now – in the early stages of implementation of the full MPRI Model. The tracking methodology controls for what we know to be some of the most important potential confounding variables – such as time at risk, prior parole failure, and mental illness. The current approach provides tracking data in a reliable manner, a task it performs quite admirably.

At the same time, the Department has no illusions about the weaknesses and limitations of the current approach:

- This initial effort is essentially an ex-post-facto design with numerous potential confounders for which sufficient controls have not yet been imposed.
- The current recidivism measure – return to prison – is rather one-dimensional, and though it adequately reflects offender behaviors that rise to the level of necessitating re-incarceration in a State prison, there are broader measures such as verifiable arrests leading to convictions, and other sanctions such as jail time that, once available in a reliable and timely manner, would more comprehensively capture the full extent of any victimization caused by released offenders in the community.
- Time at risk is currently neither sufficiently long nor standardized enough to begin to draw anything other than preliminary conclusions about recidivism findings.
- Considerably more data collection and process evaluation will be necessary to describe and assess the nature, extent and fidelity of implementation of the MPRI Model within the Department, within other partnering state agencies and organizations, and at the local community level.
- There is a great deal of variability across the MPRI sites with regard to all manner of local differences – such as evolution and status of community corrections, existing processes for and degree of implementation of MPRI principles and features (e.g., collaborative case management), gaps and barriers to capacity and delivery of relevant services, comprehensiveness and consistency of automated data collection, and baseline recidivism outcomes.
- We can not yet establish an empirical link between observed outcomes and MPRI processes, activities and spending. A major example of that is the need to first establish a link between the efforts under the MPRI to address criminogenic needs and the impact on intermediate outcomes such as employment, housing, and successful treatment.

Nevertheless, even given weaknesses and limitations such as these, there is every reason to believe that changes in the way the Department does business – brought about by actions taken to adhere to the principles and implement the components of the MPRI Model – are contributing significantly to observed differences in outcomes, even though we cannot yet establish the causal links between them. We believe that the early evidence supports three propositions:

1. Real changes in policies and processes are occurring within and outside the Department and at the local community level as the result of MPRI, and those changes are consistent with the best evidence regarding effective practices.
2. Rea l changes in outcomes are also occurring.
3. T here is reason to believe that the changes in outcomes are, at least in substantial part, the result of the changes in practices brought about by the MPRI.

4. Performance Indicators through August 2008:

The MPRI improves Parole Board confidence as it has provided improved resources to the Parole Board, including better training and more sophisticated assessment instruments. The MPRI process reduces and manages risk which, in turn, raises Parole Board confidence in parole plans and outcomes, enabling higher parole approval rates. Improved parole guidelines are being developed as a way to sustain and expand the impact of these improvements. The most recent performance indicators show improvement in spite of the number of parolees under supervision increasing from 17,000 to over 20,000:

- 12,979 MPRI paroles since 2005, and only 2,698 back in prison
- 944 fewer returns to prison than expected under baseline (3,642) when controlling for time at risk and history of prior parole failure
- 26% improvement in total MPRI returns to prison to date against baseline expectations

These results to date for MPRI cases represent early outcomes for offenders who have been out of prison for considerably less than three years for the most part, and yet some of the early systemic changes brought about by the MPRI have already shown an impact on Michigan's 3-year recidivism rates for all parolees.

- Historically, five of every ten prisoners in Michigan returned to prison within three years; since the MPRI began, this has already improved to fewer than four in ten returning within three years, even though the full MPRI model had not been implemented yet for any of the parolees who have already been out of prison for three years.
- Parolees with new sentences have fallen to the lowest rate since 2005, with 98 per 1,000 returning to prison for a new crime.
- Parolee technical returns to prison have fallen to the lowest rate since records were first tracked in 1992, with 89 per 1,000 returning to prison for a technical violation.
- The overall parole revocation rate has fallen to its lowest level since records were first tracked in 1992, with a return rate of 188 per 1,000 parolees.

An important way to measure the impact of the MPRI is to review Parole Board approval rates by offense groups. Recent data indicate:

- Overall parole approval rate is 58.1% - highest since 63.3% in 1993
- Drug offender parole approval rate is 80.6% - highest since 81.6% in 2005
- Other nonviolent offender parole approval rate is 70.8% - highest since 71.1% in 2005
- Assaultive offender parole approval rate is 43.1% - highest since 44.3% in 1999

- Sex offender parole approval rate is 21.0% - highest since 26.6% in 1996 – new risk assessment demonstration project has shown better differentiation in risk levels for this group
- Annual parole revocations are down by 42% since record high year of 2002, despite a 40% increase in size of parole population

5. Next Steps in the Evaluation Process

The basic questions are how to demonstrate full MPRI Model implementation with fidelity, how to continue to improve the monitoring of progress, and how to best measure and record the multiple dimensions of process, impact and outcomes on so complex an enterprise as the MPRI has become.

An important consideration here is to ensure an understanding that the MPRI is not just a linear set of limited steps in the handling of each offender from reception into prison through aftercare in the community following discharge from supervision. Rather, the MPRI is a fundamental shift in every aspect of how the criminal justice system and even the human services system operates in Michigan when dealing with offenders who are released back to the community. More specifically, the MPRI is *not* limited to merely:

- Assessment of risk, criminogenic needs and strengths at prison intake.
- Development of a Transition Accountability Plan for each offender.
- Evidence-based programming while in prison to address risk/needs & build on strengths.
- Community in-reach, as transition from prison back to the home community approaches.
- Collaborative case management during parole supervision.
- Aftercare by individual community support networks following discharge from supervision or discharge on the maximum sentence.

The MPRI is all of these things, but it is also much broader than that. It is a sweeping change from a philosophy of, "Trail them, nail them and jail them," to a focus on promoting offender success as law-abiding citizens who have the tools necessary to succeed.

Therefore, many of the changes (beyond the list of steps above) that have already been made in offender parole readiness, parole board decision making, parole supervision, revocation policies/practices, community outreach and engagement, expanded violator diversion options, application of reentry principles and practices to existing programs and processes, et cetera, are all part of the MPRI.

The significance of this is that rather than representing a vast sea of confounders to which controls must somehow be imposed to enable isolation of the true effects of the MPRI in a rigorous evaluation, factors such as these are instead additional aspects of the MPRI itself as long as they are consistent with MPRI principles.

It will be very challenging indeed to conduct a comprehensive evaluation of all things MPRI, especially as the MPRI is brought up to scale to the point where it is no longer an initiative at all, but instead simply how the Department does business every day with every offender under its jurisdiction.

We have essentially started with "dashboard" indicators, and will have to gradually work toward more rigorous methods as the full MPRI model is brought on-line. Given the need for exhaustive measurement of process, impact, intermediate outcomes and re-victimization of any kind and degree – all beyond our data system capabilities and resources at present – this will likely require designs such as the use of truly matched samples with deep profiling for precise comparisons, and/or case study approaches to provide rich, descriptive context to the outcomes observed and the catalysts of the results.

We look forward to moving forward with next steps on developing an evaluation design that will allow us to conduct a more robust approach to measure not only the impact the MPRI has on the state prison system as a result of improved success rates – that is, reduced returns to prison – but also on the impacts more critical to the community: arrests and convictions. We must recognize that for prosecutors, judges, sheriffs and the community at large, our promise to "make communities safer" is going to be evaluated.

VII. National Evaluation Peer Review

In May 2008, a meeting of nationally-recognized experts in the area of corrections research was convened. This peer review meeting was intended to review current research and reporting efforts and to begin the process of developing a longer-term evaluation strategy. A more detailed summary of the meeting and its outcomes is available as a separate document. Highlights include:

- The openness and transparency of MDOC's sharing of data and methods is unique in the experience of the participants. The panel was impressed with MDOC's willingness to "open the books" for review by a panel of experts.

- The panel acknowledged the tracking data as an accurate indicator of failure rates for the baseline and MPRI groups while noting the need for additional research to establish cause for observed differences. The expert panel also acknowledged the importance of controlling for time at risk and prior parole failure, but noted the need for additional controls.

- While there was some discussion about the most appropriate means of reporting, there was acceptance that the tracking data indicate a difference in failure rates between the baseline and MPRI groups.

- There was consensus that recidivism measures need to be broadened to include data on arrests and convictions to achieve a more comprehensive set of indicators of actual behavior on parole.

- There was extensive discussion of what is, and is not, MPRI. The group agreed that MPRI represents far more than a single program, as indicated by the massive number of policy statements and recommendations that represent the entirety of MPRI. Taken as a whole, these statements and recommendations indicate the scope of the system change that will result from MPRI.

- It is critical to continue and expand process measurement to document the ways in which MDOC's management of offenders has changed under MPRI.

- There was a strong sense that evaluation of MPRI would be enhanced by implementing and evaluating the full MPRI model in controlled sites, which would allow for the application of more rigorous methods and better controls over outside factors. In this controlled environment, it will be possible to obtain higher quality information about the impact of MPRI when it is fully implemented. Those results would then be expanded and validated by a system-wide comprehensive evaluation.

- There is a need for a comprehensive evaluation to control for as many potentially confounding factors as possible to establish that changes in outcomes can reliably be attributed to MPRI.

- Given that MPRI is now at the point of going up to scale, the timing is right for conducting the kind of comprehensive evaluation needed to establish the impact of MPRI.

VIII. Fully Implementing the MPRI Model and Evaluating its Impact on Crime: A Learning Site Approach

In 2009, the Michigan Department of Corrections (MDOC) will use a learning site approach to fully implement and evaluate the Michigan Prisoner ReEntry Initiative (MPRI) Model. The Department is convinced that tremendous learning can come from this intensive implementation approach that can inform both the statewide implementation of the MPRI Model as well as the comprehensive evaluation strategy that will be used to measure the impact of the Model when it is implemented to scale. This approach will provide the evidence that is needed to convince the key stakeholders in the MPRI effort that the Model is sound and that, when fully implemented, it reduces crime.

Launching a learning site in Fiscal Year (FY) 2009 will further enhance a smooth transition to a new governor's administration in FY2011. Between FY2009 – FY2011, substantial progress can be made on evaluating the alignment of practice with key elements of the Model and to evaluate the impact of the Model on crime. The Learning Site evaluation will be conducted by a third-party, independent evaluator that will continuously report to stakeholders on the major findings from their process and outcome analysis so that any suggested changes can be implemented and evaluated in real time. During this period, MDOC suggests that data can be captured and analyzed along three key dimensions:

1. *Process Measures* such as the quality of assessment and case plan development and the use of evidence-based programming;
2. *Intermediate Measures* of offender success such as housing attainment, employment, and other services as well as the quality of service delivery;
3. Preliminary findings on several cohorts of former prisoners who transition through the Learning Site against *justice outcomes* such as arrests, convictions, violations and returns to prison.

Findings from the Learning Site will be used to inform the statewide evaluation strategy for measuring the impact of MPRI on these three key dimensions. Under Governor Jennifer M. Granholm's leadership, the statewide evaluation of the MPRI will be funded and will begin in FY2011. By the end of a new Governor's first term (2014), the statewide evaluation will have produced 5-years of data. In order to have results during this timeframe, MDOC funding that has been established for a full statewide evaluation beginning in FY 2009 will be reinvested for this learning-site approach. This, coupled with an investment from other funding partners, will support the MPRI Model implementation and evaluation in one Learning Site.

1. Evaluation System Change One MPRI Community Site at a Time

The first learning site that will be evaluated against the model is the Kent County MPRI Community Site. Approximately 3,000 male prisoners who are currently incarcerated in the Michigan prison system are expected to return to Kent County upon release. Sixty percent, or 1,796 prisoners, are either past their Earliest Release Date, or will be at their Earliest Release Date in the next two years. In addition, over the course of the next year, approximately 500 new prison admissions from Kent County for terms of two years or less will be received at the reception center and another 59 parolees are projected to be returned to prison. Thus, the Kent County site has a sufficient number of prisoners who can transition through all three phases of the process and be evaluated against criminal justice outcomes in the next two years.

The Learning Site evaluation will benefit from a focus on prisoners with short terms because the largest proportion of offenders who are admitted to prison each year have terms of two years or less. Using this population also allows the third party evaluator to produce both process and outcome data during the two-year window when this data can have the most benefit in attracting the support of a new governor's administration and new legislative leaders who will take office in 2011 (in addition to the Governor's election, both the Michigan House and the Senate will be elected in November, 2010).

By the time Governor Jennifer M. Granholm leaves office in January of 2011 there will be robust, independent evidence of the effect of MPRI on crime as well as substantial progress on the statewide evaluation which will be planned and begin implementation during her tenure. This will further enhance the already strong likelihood that there will not be a delay or major change in the continuation of the MPRI as a new Governor – and a new administration – takes over the reins of state government. As the evaluation continues over time, prisoners who are serving longer terms will also be evaluated against the Model which will provide further independent evidence of MPRI's effect on crime reduction.

MDOC will expand the learning site evaluation strategy to other sites during the next few years as part of our comprehensive statewide evaluation plan. The Learning Site strategy is designed to compliment and help drive on-going and continual efforts to take the MPRI fully up to scale. The four core components of the revised statewide evaluation plan, starting with the Learning Sites, are proposed to include:

A. ***Measures of offender behavior.*** The indicators of offender criminal behavior include arrest, conviction, and disposition and will be analyzed. Other intermediate measures of offender behavior will be analyzed such as employment retention, wage earnings, residential stability, family support, and participation in treatment. Much can be learned from the Learning Site on how to measure and analyze this data. These lessons learned will be incorporated into the statewide evaluation plan.

B. ***Ten-Year Trend Analysis, Year-by-Year, Quarter-by-Quarter.*** A ten-year trend analysis of site-specific data, available in real time, will be used to allow for localized interpretation of the offender behavior data and to understand the impact singular events can have on crime trends in specific communities. Data will also be retrospectively collected on outcomes and characteristics of offenders that have returned each community since 1998 in order to establish a ten-year trend history.

   Additional data will be collected on events that affect the criminal justice system such as high profile criminal events, major corporate layoffs, changes in disposition and return to prison rates. These data will be plotted over time and provide a contextual framework to better understand shifts in criminal justice trends.

C. ***Comprehensive evaluation of impact.*** New data will be collected on characteristics of offenders returning to communities that include additional information on offender demographics, criminal risk, criminal history, degree of MPRI Model exposure, and program and treatment dosages. Measures of impact, such as return to prison rates and time to parole failure, will be tracked and measured by MDOC and will augment the independent evaluation as ancillary but critical information.

   An important component of this plan is that MDOC's data collection system needs to be enhanced to allow for the effective tracking of these variables. Piloting the enhanced data collection system in the Learning Site will ensure that the system is ready to be launched statewide to improve the tracking of these key variables.

D. ***Measures of Fidelity.*** Finally, the MDOC will pilot a Total Quality Management (TQM) system at the Learning Site to measure and improve fidelity to the MPRI Model. Key measures of fidelity include assessing staff's offender engagement skills and evaluating supervisor's use of the "coaching, counseling, and discipline" strategy for staff development.

IX. Corrections' Spending Has Been Reduced Through Efficiencies And Cost Cutting

In the past six years, Corrections' spending in Michigan has been reduced by nearly $400 million dollars by cutting the bureaucracy, re-configuring prison space, and implementing the MPRI.[22] Michigan's efforts at "right sizing" the prison system is the most dramatic shift in resources from prisons to the community in the country. Reductions in the prison population will have resulted in the closing of 12 prison facilities between 2003 and 2009.

$188 million in additional savings is expected for FY10 as efforts continue to focus on reducing the prison population. $68 million will be reinvested for community supervision and grants to communities for offender treatment and programming.

Successful efforts under the Michigan Community Corrections Act (CCA) to reduce the number of admissions to prison and improve the use of local jail facilities will continue with an increased focus on using evidence based practices for effective offender assessment and accountability. Amendments to the CCA - and $1 million in additional funding - is expected for Fiscal Year 2010.

Due to the success of MPRI, the prison population is declining and as prisons empty, they will be closed. With the bipartisan support of the Michigan Legislature, MPRI stakeholders have worked for the past six years to be prepared to take MPRI up to scale in FY 2010. Under MPRI, successful efforts will continue to reduce the number of prisoners past their Earliest Release Date (ERD) with greater success and fewer returns. $20 million in additional FY 2009 funding – on top of the $33 million already budgeted - has been recommended by the Governor to the Legislature to enhance the expansion of the MPRI and community supervision.

The department will also review its approach to security classification and the use of prison beds throughout the system that will result in the ability to use the most efficient housing methods possible.

As the current fiscal year progresses, we will determine which prison facilities can be closed. By June 2009, we will know which combinations of facilities can be closed based on the use of the facility, the location of the facility so that layoffs can be minimized and so that the impact of the community will be as minimal as possible. The department expects layoffs – exactly how many and where will be unknown for many months.

As the Parole Board identifies additional prisoners who are prepared for release, additional Parole Agents will be required to effectively supervise and manage them in the community. In order to parole additional prisoners as part of a concerted effort to reduce the number of prison beds in use by 3,500, resources will be available to effectively supervise them to reduce the likelihood that they will return to prison.

As prisoners are better prepared for parole consideration, parole rates are likely to increase. To be prepared for the increasing numbers of parolees, MPRI services need to be expanded to enhance the likelihood that returning prisoners will succeed in the community. $22.5 million will be added to the budget to expand MPRI funding to communities for prison in-reach, housing, transportation, substance abuse, employment, and mental health services.

The MDOC recognizes there are special needs and challenges in the effective management of special need prisoners in the community. For example, for sex offenders, specialized resources are necessary to ensure safe and affordable housing in order to respect any statutory restrictions regarding residence. Specialized Parole Agents will work closely with community partners to ensure safe and stable housing is a component in the effective management of these offenders.

This funding will augment monies expected to be available through the American Recovery and Reinvestment Act to be effectively used for former prisoners and probationers who need extensive job support in order to sustain their employment. MPRI funding to local communities will be expanded to accommodate these efforts.

The Council of State Government's Justice Reinvestment Workgroup Recommendations will Further Reduce Spending Beginning in Fiscal Year 2011.

Governor Jennifer Granholm, House Speaker Andy Dillon and Majority Leader Mike Bishop formed in 2008 a bi-partisan work group under the auspices of the Council of State Governments (CSG) Justice Reinvestment Initiative that has broken the political logjam that has consistently stymied many prior justice policy reform proposals. The CSG work group recommendations are the best consensus-based policies that could be developed and the recommendations are positive next step that complements the Administration's on-going efforts to control prison costs and institute justice policy reforms.

The "package approach" that the CSG work group has developed strikes a good balance between safely reducing the prison population and reducing future crime through enhanced education and job training efforts. It is expected that the Legislature will fast-track the CSG work group proposals to ensure that maximum savings will begin in Fiscal Year 2011. Over time, these efforts must be reinforced with additional justice policy reforms that further reduce the prison population.

There recommendations would not have been feasible without the statewide capability of the MPRI to respond to the call for even more aggressive action to reduce the Michigan Prison population.

CSG Work Group Recommendations that Affect Prison Admissions

Probationers with high risk and need factors have high rearrest rates and need intensive supervision, health services, education and other supports. The Justice Reinvestment Work Group has recommended that the Legislature and the Administration:

- Amend the Community Corrections Act (CCA) to eliminate the restriction to only allow targeting of non-assaultive offenders and to require the use of validated risk and need assessment.
- Target High Risk probationers under the CCA and measure impact of evidence based practices on reducing rearrest and demonstrate the quality of programs funded under the CCA.
- Expand graduated sanctions and services for probationers including the use of short jail stays as sanctions and, in the service area, improved approaches for employment.

CSG Work Group Recommendations that Affect Length of Stay

The Michigan Parole Board has broad discretion in keeping prisoners past the date that judges' sentences dictate. Currently, Michigan prisoners are serving, on average, over 144% of the minimum term given by the judiciary, when considering their entire time spent in prison including returns[23]. In 2007, first time prison releases to parole served an average 127% of their court-

imposed minimum sentence. The Justice Reinvestment Work Group has recommended that:

- Legislation to require that the Parole Board release prisoners after serving between 100-120% of their court-imposed minimum sentence – with limited exceptions.
- Legislation to require that the Parole Board revoke parole for no more than 9 months for first time revocations related to condition violations.

- Legislation to require that the Parole Board, with only few exceptions, provide at least 9 months of parole supervision for prisoners who otherwise would have served their entire maximum sentence (no "max outs", with few exceptions).

In closing, when taken together with front end alternatives to keep admissions low, re-entry can reduce prison populations and prisons can be closed. Only closing prisons can generate significant cost savings for reinvestments and reinvestments are critical to effective crime reduction efforts. The Second Chance Act is good federal policy and more funding is needed. Compare national funding ranges with Michigan - which will fund MPRI in FY 2010 at $57M - and recognize that Michigan is under funded even at that level if it is to fully reach the 60% of moderate to high risk prisoners who are returning.

Between FY 2003 and FY 2015, over $900M in cost savings, efficiencies and cost avoidance will result from the Granholm Administration's focus on improving justice policies. Prison population projections will move from a projected need for 58,000 beds by 2007 (projected in 2003) to a projected need of about 43,000 beds in 2015 (2009 projections) for a 26% reduction in needed beds. Michigan's 51 prisons in 2003 will be reduced to as few as 28 by 2015.

Some observers have indicated that this may be the single largest decarceration initiative in the history of criminal justice in the United States. This massive, decade long focus on improved policies to reduce the prison population began by focusing on evidence based practices for improving prisoner reentry.

Thank You.

ENDNOTES

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Mr. MOLLOHAN. Thank you, Mr. Schrantz. Mr. Schrantz, the scope of what Michigan is doing is, as you have described it here, simply astounding, really. When did you start this initiative?

MICHIGAN GOVERNOR

Mr. SCHRANTZ. Well, it is important to understand that the Governor ran as Governor with a plank in her platform to reform prisoner reentry. And so, when she was first elected to office in 2003 her first message to her cabinet on issues of justice and crime was that they were to collaborate on prisoner reentry. So we started the planning in earnest before the election, when I worked on her campaign. And then she brought me into state government to be able to manage this reform.

We planned for two years and in 2005 we began our first reinvestment by closing a private prison that had exorbitant cost and terrible performance. We took $19 million in savings and we put about half of that into our first prisoner reentry pilot sites. Then the next year we doubled that, the next year we doubled that. So by the time we got to 2006, we had established sites across the state. And then in 2008 we asked each of those eighteen sites to expand their borders so they now cover all of the state. In order to do that, we connected with One Stop Shops across the state, which in Michigan are called Michigan Works Agencies. Out of those eighteen sites, fourteen of them have as their administrative agency a Michigan Works Agency. And they are very well suited, obviously, to focus on the issue of jobs.

So we went to their natural borders and expanded. The other sites include the Southeast Michigan United Way, Genessee County government, Catholic Social Services, and then a human services collaborative in Oakland and Livingston counties. So we let the locals decide who actually manages the money. So far we have worked with about 12,000 prisoners and the data that I expressed to you concerns those 12,000.

Mr. MOLLOHAN. And you started in 2003?

Mr. SCHRANTZ. We started planning in 2003. We started implementing in 2005. We worked for two years before we actually started putting prisoners through the MPRI.

Mr. MOLLOHAN. Well, you are doing a lot. You are recreating your entire criminal justice framework, really, to focus on rehabilitation, reduce recidivism. You are moving prisoners more quickly out of prison to parole, providing services to try to avoid violating parole. Not to sound like the recent criticism of the President of the United States, but are you trying to do too much?

Mr. SCHRANTZ. We are certainly trying to do too much, I will tell you that, but Governor Granholm was very clear when she took office. She said, "You are going to get this fixed during my watch." And I remember saying to her, "Well I hope you get reelected for two terms because we are not going to get it done in four years." And so, frankly, I would say that our rapid expansion does certainly have some downsides. But we have been able to take advantage of this enormous energy and commitment across the state, and really have tapped into such a broad passion to do this work that I do not think we should have done it any other way.

Mr. MOLLOHAN. How have you gotten your community service providers prepared for this?

Mr. SCHRANTZ. Well, the community service providers are pretty much prepared as collaboratives in their own right. They are very well organized in their local communities. They know each other, they work with each other. And so when funding streams and government structures are put into place they are usually ready to respond.

Mr. MOLLOHAN. But you have had to orient them. I mean, you have had to prepare them. You have had to resource them.

Mr. SCHRANTZ. Sure. One of our first opportunities for funds included some foundation funding from the JEHT Foundation, which recently folded. It is in Mr. Serrano's district. And it is very ironic that Mr. Madoff may be doing time in prison and so much of the money that he helped raise actually funded the reentry initiative. I was thinking today of writing him a letter asking him to think about when he was ever going to get out. Because of JEHT funding, we were able to place a community coordinator in each of our first eight sites. And that community coordinator was a full time staff person who worked to develop the first comprehensive plan for that area who brought to the table the human service providers, the warden from the local prison, the head of the local parole office, a faith based or a community advocate. They formed a committee which then created the comprehensive plan. That comprehensive plan came to the state for funding. When the state funded it, we did not need the JEHT Foundation money for that particular district, so we used the JEHT money for the next eight sites. And we did that repeatedly for three years, organizing at the community level not with Department of Corrections staff, functioning as facilitators or experts. Because we knew that that skill of community development organizing is a very specific skill. And we used a statewide nonprofit community organizing agency to hire those people (the Michigan Council on Crime and Delinquency).

INTERCHANGE FREEDOM INITIATIVE

Mr. MOLLOHAN. Mr. Nolan, the recidivism rates of graduates of your Interchange Freedom Initiative are impressive. A two year post release rearrest rate of 17.3 percent compared with 35 percent for nonparticipants, and a two year reincarceration rate of only 8 percent compared with 20.3 percent for nonparticipants. How long has the IFI been operating, and in how many communities are you operating today?

Mr. NOLAN. It started in 1996. The first one opened in 1997. We were negotiating with TDCJ to set it up. We are now in seven different states. However, we are treating the IFI, frankly, as a laboratory of what works so then we can roll it out at far less expense in communities around the country. Our target are the seventy-five major communities across the country which have the greatest number of offenders returning. And we are working to roll the mentoring program out there along with the communities of care coordinating the other assets.

I think as Dennis said, those groups are there. They are doing the work. And it really just takes somebody helping them plan. And one of them, I think, essential provisions of The Second

Chance Act is that for the grants they have to come up with a strategic plan, and a consortium so that we get the maximum impact from these groups that on their own have been doing tremendous work. But that map out what the needs of offenders are. And where there is overlap, or also where there are gaps. And what we have found is, we have been a great catalyst in the seven states where we work for a lot of groups that have been saying, "Gee, we were hoping somebody would call us together." And so we are surfing, if you will, off all this other great work. And we are just sort of the catalyst to bring them together.

Mr. MOLLOHAN. Well, we want to get to asking the cooperation and working together question here in just a little bit.

Mr. NOLAN. Okay.

READY, WILLING AND ABLE PROGRAMS

Mr. MOLLOHAN. Mr. McDonald, the low rearrest rate for the Ready, Willing and Able graduates is quite impressive. If you could get down to a 4.8 percent rearrest rate throughout the population of reentering offenders, that would make a huge difference in the crime rates and the strains on correctional facilities, not to mention the lives of the reentering offenders. How does your rearrest rate compare with other reentry programs out there?

Mr. GEORGE MCDONALD. Well, it is hard to know. Because, Mr. Chairman, it is hard to get any information that you could determine was accurate. I mean, it is like drug treatment programs, you know? Everybody has got the most effective drug treatment program in the world but the people that come into our facilities have been in twelve or fourteen different drug treatment programs. We run the most successful drug treatment program in America and we are not a drug treatment program. We drug test twice a week. We treat people like they are adults, and expect them to act that way. And they earn money so they have money in their pocket. In our Harlem facility they only have to walk a couple blocks to be able to buy any drugs that they want and they do not do it.

We measure with the state, working closely with the Brooklyn district attorney with the funding that we have gotten through your Subcommittee. You know, we work with the state, we work with the city, we work with the district attorneys.

Professor Bruce Western at Harvard University, who just made a recent presentation on this at the Brookings Institution has studied our program and has studied it in conjunction with the Brooklyn district attorney's office. And says that paid transitional work is the answer. I mean, think about it. It is the difference. Because the guy comes home, he goes and sleeps on the sofa or sleeps with his girlfriend, or wherever parole says that he can be, and then he tries to get a job. Okay. Well, how many days does he go out and knock his head against the wall? The hardest thing in America to do is for an African American man with a prison record to get a job. That is simple.

Now, what does he really do? After he goes through this process and cannot get a job, he gets thrown out of where he is living because they do not believe that he sincerely wants to bring anything into the home when he does. But he cannot get a job, so he falls

back on the conduct that got him put in prison in the first place. And then it makes it that much harder the next time he comes out.

The alternative is just a minimal investment. Our program costs $25,000 for a slot. And a slot serves 1.4 people a year. So you can figure out how much that is. About $13,000 of that $25,000 goes directly to the person's pocket. That is the pay that they get, in cash. It is getting money to them at the most critical time when they need money.

You know, I had a guy write to me who was discharged from prison in Florida saying he wished our program was there. Because he gets $100 when he gets out of prison and all that is good for is to buy a gun.

Mr. NOLAN. Mr. Chairman.

Mr. MOLLOHAN. Yes?

Mr. NOLAN. Can I say, you pointed out the problem, though, for all these programs is how do you know they are effective? And frankly, we are all dependent on the state for figures. In Texas and the seven states where we are the Department of Corrections give us those figures. Dennis and what he is doing in Michigan is perfect, because he is tracking those inmates and seeing how they are doing, what programs they are in, and they are measuring who is effective. But nonprofits without the benefit of the state figures do not have the credibility. So that is an essential part of this, is having the states do like Dennis is doing where they are overseeing all of this and they can then measure the effectiveness.

Mr. MOLLOHAN. Mr. Wolf.

Mr. WOLF. Thank you, Mr. Chairman. I think the fact that you have this panel probably makes these hearings well worth it. I think this is the most impressive testimony that I have heard since I have served in this institution on the issue of prison reform. And not gloom and doom, and I know Pat, and I think Prison Fellowship does a marvelous job. Chuck Colson and Prison Fellowship, and God bless him.

And Mr. McDonald, I know about the Doe Fund and I think you are exactly right. I know a young prisoner. He got out about two and a half months ago. He cannot, he is African American. He cannot get a job. He cannot get a job. Your testimony on page three, to find employment is the answer. And I might say, I have got to say this, we had the previous panel earlier, earlier this morning. They acted like they did not have any of the answers. I mean, the three of you, with all due respect, seem to have a lot of answers. And I, from my understanding I think you are right.

And Mr. Schrantz, I am going to take your material. I am going to get it to my governor and my people. And Pat, maybe we can meet sometime with the state and see if we can adopt this. I think this is the answer. And your figures, Mr. Schrantz, are more impressive because you are the center of ground zero of the economy evaporating.

Mr. SCHRANTZ. Yes.

UNEMPLOYMENT SITUATION IN MICHIGAN

Mr. WOLF. Your governor, I have seen her on television, talking about the job loss that you have. I think your unemployment rate is 10 percent.

Mr. SCHRANTZ. It is double digits.

Mr. WOLF. Double digit. And so here they are doing what they are doing in an unemployment situation. So, I mean, we are going to follow up with the three of you. And maybe Mr. McDonald can get you to come on down with Pat. And then if you can give us what you have, and we will get it to Governor Kaine and see what we can do.

The couple questions, the last witnesses said they had no information on recidivism. I just looked, you do have information. Why did they not have it? And I think this is a better hearing than the Bureau of Prisons Director. Either we should swear these men in and take the oath, or either they are telling us the truth or they are not telling it. If you are telling the truth, we should ask them to stand up and swear them in. But it is different. It is different. So I would like to do that.

My time is limited. I want to get downstairs. We have a Tibetan amendment, too. I want to ask a couple of questions. Mr. Nolan, Pat, are you aware, I asked about Islamic terrorism, and are you aware of any situation where Wahhabi have kept moderate Islamic materials out of prisons?

RELIGIOUS MATERIALS/GROUPS IN PRISON

Mr. NOLAN. Yes. Because of our work on behalf of religious freedom for all prisoners, and not just Christians, Islamic groups, moderate Islamic groups have contacted us and said as they have sent literature into prisons it has been rejected by Wahhabist imams that are hired as chaplains who say it is not faithful to the Koran. And of course, the Wahhabists have a, it would be, the analogy I would use is letting David Koresh choose what versus of the Bible to use. Putting him as the gatekeeper on that.

Unfortunately, the screening of some of the imams I think leaves a lot to be desired. And so the imams have these radical views and they are keeping out literature which tries to present the other side, the Koran as supporting a peaceful existence rather than a more warlike one. And the letters are, you know, pretty thick of these Muslim inmates that are frankly oppressed as they try to learn more about their faith not from a Wahhabist perspective.

Mr. WOLF. Is this at federal and state level?

Mr. NOLAN. It is federal and state. The states, plural. But in the federal institutions it has been a real problem.

Mr. WOLF. Would you submit for the record any information you have with that?

Mr. NOLAN. I would be glad to. I might say one terrific group that I would love to discuss with you privately has asked us not to publicly identify them because they are afraid for themselves.

Mr. WOLF. This is a Muslim group?

Mr. NOLAN. Muslim group, yes.

Mr. WOLF. Who wants to be in the prison——

Mr. NOLAN. Right.

Mr. WOLF [continuing]. But is intimidated from coming in?

Mr. NOLAN. Are being excluded from the prisons.

Mr. WOLF. And do you think the Bureau of Prisons knows about this?

Mr. NOLAN. Yes.

Mr. WOLF. Well, if you can give me the information——

Mr. NOLAN. Yeah. I would be glad to.

TRADE WORK IN PRISONS

Mr. WOLF [continuing]. I will follow up. I have so many other questions. In the interest of time, and I know there are other witnesses. This is a very impressive panel. Two other questions I would have to ask and I will summarize them together. I believe it would be important to bring more work into the prisons. If you all agree, yes or no.

Mr. SCHRANTZ. Yes.

Mr. WOLF. Real work, too. Not the laundry.

Mr. SCHRANTZ. That is challenging, yes.

Mr. WOLF. Challenging.

Mr. NOLAN. And training.

Mr. WOLF. And training, exactly. Maybe I will just, the last thing is, I guess I should ask it. I am thinking of offering an amendment, and maybe this would be the panel. Do you think, I had asked before, is there a best practices list that we could take? And I was thinking of the idea, and the morning witnesses were, like, "You know, we have got thousands of miles to go before we sleep and so we are not there." And you guys tell us we are there if we have the resources.

Mr. SCHRANTZ. If I may offer a suggestion. The National Institute of Corrections that is housed in the Federal Bureau of Prisons was instrumental in us working in Michigan on creating a design that was going to work. The Council of State Governments has been doing some tremendous work in reentry throughout the nation as well. They convened a reentry policy council many years ago that created a virtual encyclopedia of information on how to do this work. We are following that work. And there are several publications that we use with our stakeholders that provide a very substantial roadmap on what local jurisdictions and state jurisdictions need to be able to do in order to get the work done.

It requires funding. But before funding even comes into the forefront it requires a plan. And before there can be a plan there has got to be a vision. You know, a friend of mine says all the time that a vision without a plan is a hallucination. And I think that is really important when you do this work. Because you must require, as you do in The Second Chance Act, and as we require at the state level, very significant planning before the money flows.

And I do not think there is any better time than to do this work in tough economic times. Because here is what drives us: we are spending too much money on prisons. And the Governor recommended in her budget in Michigan, a $188 million cut in corrections in one year, which will require us to close as many as five prisons when they empty because of the work we are doing. She reinvested, recommended reinvestment to the State Legislative of $68 million of that $188 million in savings. Without that reinvestment we cannot save the money. It takes money to save money. And so these tough economic times, I think, are ideal.

If it were not for this tough economy in Michigan, I will guarantee you we would not have been able to get this done in such short order. There is no way.

Mr. WOLF. Well, please——

THE DOE FUND

Mr. GEORGE MCDONALD. Can I just say, the paid transitional work is not necessarily the responsibility of the government. Our program started out as a revenue generating program. We got paid for the work that we did for the City of New York. Not a grant from the Human Resources Administration, or for social work, or for any of that stuff. It was for renovating apartments. And if we did not do that we did not get paid. Then we took that concept and built it into street cleaning. So we work for many business improvement districts that pay us. My profit is to be able to pay the person long enough for them to get work skills that they need to be place in private sector jobs.

If you mandate it, if you say that part of what we are going to do, along with the planning process, along with the great work that the states are doing, and along with mentoring, is paid transitional work, and you all figure out how you are going to do it, that is even a great advance.

Mr. WOLF. Well, you know, it is interesting. The whole debate over the H–1B, we cannot get enough workers, we cannot do this, and we, they are telling us that they have workers. I mean, I think we need a panel to look, and do you think it would make sense in a panel, I think the three of you would be very, just sort of look and come back together——

Mr. GEORGE MCDONALD. We will stay here and wait.

Mr. WOLF. No, I mean, I mean to take, for us to fund kind of a group. Maybe you, the three of you, or Chuck and others, to be on. People, not a right or a left, but people who really, one, they care, and two, they know. It is not enough to just care without knowing. But, and see if we can put together kind of a report by a certain date whereby here is the way it is. Would that make sense? Or would you all be interested in being a part of that?

Mr. SCHRANTZ. Yes, certainly. I think we would be standing on the shoulders of those before us.

Mr. WOLF. We can call it the William Wilberforce Project.

Mr. NOLAN. Mr. Wolf, I would love to participate in that. I only ask that there, and this Committee and the rest of Congress has shown the commitment. But Governor Schwarzenegger asked to be on his strike team on rehabilitation. We pulled together experts from across the country and within CDCR. Top notch folks. We all agreed. Everybody knows, in corrections, knows what needs to be done. It is the political will to do it. We know. We have known for twenty years what works and we have more evidence now. But it is really getting your buy in and your colleagues. And you did that on The Second Chance Act. As Dennis said, that has spread across the country and given hope everywhere in every DOC. So your commission would be great. But then there needs to be the follow through with Congress to say this is important stuff. This is public safety.

Mr. WOLF. Thank you. And thank you all for your testimony.

Mr. MOLLOHAN. Okay. Thank you. Mr. Schiff.

Mr. SCHIFF. Thank you, Mr. Chairman. And I concur with my colleagues. I think this has been just a tremendous panel. And Mr. Chairman, Mr. Nolan and I represented the same area out in Los Angeles. And when I was in the state senate Mr. Nolan came and testified before our committee there as well and offered very valuable insights.

You may have in fact been at this hearing that I am going to refer to. Father Greg Boyle was on one of the panels. And I remember something that he, he does a lot of work with at risk youth in Los Angeles. And really started an organization called Homeboy Industries that make clothing and put at risk kids to work. And I remember he was asked I think by one of my colleagues, John Vasconcellos, if he could find a, point to a common denominator of these kids in these tough neighborhoods, tough circumstances, who had turned their lives around. What was the common denominator?

And his answer is interesting in light of your testimony today. Because he said, "Well, there are two things." One is they had a mentor. They had somebody who cared whether they succeeded or failed. And it might have been a teacher, or a parent, or a grandparent, or a probation officer. But somebody cared whether that person succeeded or failed. And the second thing was a job. And this is, obviously, very consistent, Pat, with your testimony, and Mr. McDonald, with yours. If there is a third leg of the stool it is probably substance abuse treatment. I think when we send people with substance abuse problems out of our prisons into the population without dealing with that problem then we should be surprised when they do not recidivate. And it was interesting, Mr. McDonald, in your testimony that, you know, you found the most successful antidrug program is the incentive of a paycheck. And you cannot get the paycheck——

Mr. GEORGE MCDONALD. Well, and the drug testing.

Mr. SCHIFF. Well, you have got to have the drug testing. But you cannot get the employment unless you are clean. And so the incentive is the employment as the magnet.

Mr. GEORGE MCDONALD. Right. That is it. Because they already have it.

Mr. SCHIFF. And what I am interested in, because I do not think, and Mr. Schrantz your testimony about the need for us to invest in proven programs and not just sort of what sounds good, and maybe organizations we like, but, you know, what do we empirically have evidence actually works. I do not think any of us would disagree with any of those things. And the challenge is always putting it into practice.

And I have two questions. And, Pat, with your experience as a legislator, and your experience in Michigan, and on the ground, I think there are two things that we can do. One is, of course, we can try to improve the federal prison system, which we have direct jurisdiction over. The other is we can incentivize the states to do things that they should be doing. The challenge, one of the challenges is where is the, you know, where is the locus of responsibility here? And, you know, in The Second Chance Act I offered an amendment that was adopted to require sort of on a prison by pris-

on basis that the Bureau keep statistics about how their reentry programs were working and not working.

You might have two prisons in the same state with the same general prison population who have very different records of recidivism. I am not sure the prisons by and large keep track of that. Now, maybe the Department of Corrections as a whole does, or maybe no one does. We are trying on the federal level to get the federal Bureau to do it. But what is the right level to both provide the resources, but also require the accountability? How do we ensure that we do have these jobs programs and efforts? It seems very cost effective to me. And a twofer if you can pay the salary for people to do public work that needs to be done anyway. And it is far cheaper even if they were not doing the work to pay them than imprison them. But, you know, paying them, giving them a job skill, and have them do something productive is the all around winner.

But where is the right venue? How do you recommend to us as legislator we improve the federal system, and how do you recommend that we incentivize the states?

WARDENS

Mr. NOLAN. Well, a warden that had been a warden for twenty-four years in Oklahoma, which is a pretty tough system, made a recommendation to me that absolutely is a home run. And that is, he said right now wardens and corrections officers are graded and promoted on if there are escapes or riots. If nobody escapes and nobody riots they are a good warden. If one of the people in their care leaves prison and murders somebody a block from the prison, they say it is not my job. He said that may keep institutions safe, but it is not public safety. We need public safety. So he said we need to give them incentives so it is not a job, the job dissolution light does not flash in our mind every time a volunteer comes into prison.

Because under the current system it is a disincentive to allow volunteers in because it is a potential security problem. He said if we graded, included in their grade recidivism, exactly what you said, for their facility, graded against other facilities of the same type. So, you know max versus, you know, other max prisons. Held them accountable, all of a sudden it would change the incentives and those wardens would welcome the volunteers to come into prison. They would welcome the jobs programs. They would follow those inmates and try to make sure that they were succeeding because their promotion would depend on the success in the community, on the person not returning.

And in Oklahoma we got that adopted. That is part of their DOC now, that type of incentive. But it is exactly what you said. Prison by prison keep accounting of it. And that holds them responsible for what? Public safety, not just institutional safety.

Mr. SCHIFF. See, and the prisons though, they may have the ability within their four walls of making sure, you know, there is occupational training, and mentoring. But they do not have the authority in terms of the reentry efforts once they are outside the four walls. Will they not come back and say to us, "I can only deal with them when they are on the inside." Let us say, in Michigan. "The

people who are really falling down on the job are the people who are supposed to take care of them after they have left the building." So this is one of the challenges we have.

I agree with Pat. And I think, you know, we ought to incentivize the wardens to look at their recidivism. They are going to say, "We can only look at part of the job." And this, if this sounds very familiar it sounds a lot like the debate over No Child Left Behind.

Mr. NOLAN. Uh-huh.

Mr. SCHIFF. Where the teachers are saying, "I can only control what is in the classroom." We are saying, "Well, we are going to give you more money but, you know, more accountability. And we want to measure one school compared to another school in the same similar"——

Mr. NOLAN. But see, my response is the wardens being graded would have the same impediments. They are dealing with the same communities. Prisoners go back to about seventy-five neighborhoods, or communities, in this country. The vast majority of them. So wardens that have their inmates going back to that community, if the institutions are not there, if the reentry structure is not there, if they have not had the coordination like we talked about, that is going to affect every warden the same. And what the difference, the variable is what they do inside. Yes, they cannot control the outside. But again, that is a constant. So I would say that is the answer to them. Because they will resist it. They do not want to be graded on public safety.

Mr. SCHIFF. But how do we provide that kind of accountability for the wardens, but also, Mr. Schrantz, if you could address on the reentry side, because I imagine if you imposed this in Michigan, maybe you already have some form of this, they are going to say, "Well, it is the Department of Corrections that really is falling down. Because they have jurisdiction over what happens after they are out. Do not pin it all on me, Mr. Warden." So——

Mr. SCHRANTZ. Accountability starts at the top and works its way downhill. The Governor is holding the Director of Corrections accountable. The Director of Corrections is holding every warden accountable and every head of our local parole office accountable. And in order for that accountability to actually have any legs it is our responsibility as an agency to provide these folks with the tools and the resources they need to be able to do the job.

Mr. SCHIFF. And who, and maybe there is just no local venue for this, but let us say that you have a prison in Ann Arbor. I am sure they would not want one in Ann Arbor.

Mr. SCHRANTZ. We actually do not.

Mr. SCHIFF. No.

Mr. SCHRANTZ. We have one in Coldwater, though.

Mr. SCHIFF. Okay, let us pick Coldwater.

Mr. SCHRANTZ. Okay, good.

Mr. SCHIFF. Okay. The, you know, the warden at Coldwater is responsible for, you know, the inmates while they are in the institution. You can give them some responsibility in terms of recidivism after they leave. But who outside that institution has primary responsibility to make sure there are programs like Mr. McDonald's, or programs like Mr. Nolan's? Do you have to go all the way up to the statewide Director of Corrections?

Mr. SCHRANTZ. It is certainly not a responsibility of the warden. The other thing to recognize with our prison system just like all prison systems, is that the people who move in and out of that prison change all the time. There are buses that are moving in and out of that prison all the time. So in order to be able to track recidivism or failure, etcetera, you really have to have a statewide system. The warden should be responsible for making certain that the model that we provide for programming, the model that we provide for prison, to bring the people in the communities into the prisons to work with the inmates, is in place with the standards that we provide. And he or she can be measured in their performance against that. That in turn, though, has to be able to be communicated back to the warden in terms of, "Well, if all the wardens are doing this together that is why we are reducing the return rate." So they have to have the feedback.

Mr. SCHIFF. Well, let me just ask you, in Coldwater, wherever the inmates from Coldwater are released to, are they released into Coldwater?

Mr. SCHRANTZ. No. Very, seldom are they released to Coldwater. Prisons are generally not built in the communities where most of the prisoners come from.

Mr. SCHIFF. Right. Well, okay. Where is the main population center that Coldwater inmates would be returned to? The number one?

Mr. SCHRANTZ. Detroit Wayne County is where 44 percent of all of our inmates go when they are released.

Mr. SCHIFF. Okay. Does someone have responsibility in Detroit and that county?

Mr. SCHRANTZ. Yes.

Mr. SCHIFF. Who has responsibility there that is equivalent to the warden's?

Mr. SCHRANTZ. Wayne-Monroe County is one region of 18 regions. Each has four co-chairs that are in charge of that region and that comprehensive plan. The warden from the local prison, where we now move the men just before release so they are actually at least doing two months in the prison nearest home. The other co-chair is the head of the local parole office. The third co-chair is the administrative head of the agency who we give the money to. And then the fourth person is a community advocate. Those co-chairs are responsible for that comprehensive plan. The administrative agency is responsible for the money. And when we want results for that particular community we go to them.

Mr. SCHIFF. Well, and you know, that sounds great, actually. You have the warden as a member of that committee.

Mr. SCHRANTZ. Has to be. Has to be.

PRE-RELEASE FACILITY

Mr. GEORGE MCDONALD. The problem in New York, the principal state that we are in, is that the prisons are the job program. They do not want to close prisons because they are all upstate. They are 400 or 500 miles away from where the folks live and where prisoners go back to. Now, they come to Queensboro for two months and that is when we go in to the actual pre-release facility. We educate them about our program and then pick them up when they come out the door. But the idea that, they would laugh at us if we

said that we were going to hold anybody responsible. They want them to come back. Unbelievable, but read the front page of the——

Mr. SCHIFF. In those circumstances it would be hard to hold a warden in upstate New York responsible for what happens in New York City.

ROCKEFELLER DRUG LAWS

Mr. GEORGE MCDONALD. Right. Well, you are not going to. But read the New York Times today about the reform of the Rockefeller drug laws. If they reform the Rockefeller drug laws then 2,000 folks would come home from prison. And they do not want to do it because they do not want to pay the administrative costs of processing the 2,000 folks.

The solution is this solution. The solution, or the regional reentry task force, where you get the district attorneys, and providers, and everybody working together, that is what we need. The focus of the Congress on this subject is what we needed. And your continued focus and continued sophistication of finding out more and more and more about how to effect change. That is the kind of leadership we need. First and foremost, is the leadership of the government of the United States of America to grab hold of this and say, "This is not tenable. And it costs us so much money. And it is the last frontier of public safety." It really is. We can live in a virtually crime free society except for this interpersonal stuff that we do if we get these folks out of prison and get them into our economic system. Which is still the greatest economic system in the world, just a little blip we are going through.

UPSTATE NEW YORK VS. NEW YORK CITY

Mr. NOLAN. If I could just push back on you, that you cannot hold a warden in upstate New York accountable for what happens in New York City. There are dozens of prisons in upstate New York, all of whose, or the vast majority of their inmates going back to New York City. I would say you can hold them accountable. Because, if there is a difference in recidivism rate among those prisons, and most of their inmates are going back to New York, then something is different that causes the inmates from one prison to do better than the others.

Mr. MOLLOHAN. Thank you, Mr. Schiff. Mr. Aderholt?

Mr. ADERHOLT. Yes. Thank you, Mr. Chairman. Thank you each for being here today, and for testifying before our Subcommittee. Each of you bring a very interesting perspective and just some great ideas to this issue. And it is interesting to learn about each of your projects and what you do. Of course, I am familiar with what Prison Fellowship has been doing. And I know it is a great organization. So Pat, certainly we have worked on a couple of projects together and so I certainly realize the impact that Prison Fellowship makes. But certainly your other groups here, I thank you for what you do as well.

Yesterday, of course, as it has already been alluded to, we had the Director of the Bureau of Prisons who came and testified before the Committee. And one of the questions that I asked yesterday was about the halfway houses. And I know Pat, you mentioned

that in your opening testimony. You mentioned the fact of how important that was, and how that we should, find a workable way to do that. It is my understanding that from The Second Chance Act that up to twelve months can be spent in a halfway house. Is that correct?

Mr. NOLAN. Yes.

HALFWAY HOUSES

Mr. ADERHOLT. Yesterday it seemed like, during the testimony yesterday when they were talking about six months, so it was kept to be, the term they use now. They did not say that you could not be there for twelve months in a halfway house, but it seemed like that was sort of the standard, like, they are looking at six months. And even as the upper limit. I just want to know your thoughts on that, and where that is coming from.

Mr. NOLAN. Yes. It is quite frustrating, those of us who supported The Second Chance Act. Several places in The Second Chance Act it says twelve months. And especially as an incentive to inmates to participate in drug treatment and reentry programs. The BOP has issued a rule that caps it at six months and the only way to get more than six months is to have the application signed by the warden, and the regional director. And to my knowledge there have only been two in all of the BOP. Now, there may be more and it would be interesting to ask them that. But I am aware of only two instances in which they have gotten more than six months since The Second Chance Act. And those two were only for a few days more, because of exigent circumstances.

Now, they claim that it is cheaper to keep somebody in a low or minimum security prison than in the halfway house. But they also talked about the problem of overcrowding in prisons. And the stress that puts on the officers, and the violence in prisons. I serve on the Prison Rape Elimination Commission and I was also on the Commission on Safety and Abuse in America's Prisons. Overcrowded prisons lead to violence and rapes. While people are in the custody they are stripped of all ability to defend themselves and then they are subjected to violence and rape in our prisons. The way to deal with that is lower crowding.

In statute currently are several ways to move people to a halfway house, The Second Chance Act. But also good time credits. The BOP figures good time credit, like the auto dealer does on percentage rates of credit. So it really works out instead of 15 percent credit for good time, only 12.5 percent. That does not seem like a lot but spread over the couple of hundred thousand folks in prison, federal prisons, it is a lot. Those are beds that could be going home.

BOOT CAMPS

Secondly, boot camps, guaranteed time off. And unlike state boot camps that have been proven pretty ineffective, the federal boot camps have been proven effective. But they are not expanding them. The number of federal inmates is tiny. It not only would give them the discipline that is needed, but it cuts time off their time in prison. Again, those are beds that could be used to solve overcrowding. The RDAT Program, which is drug treatment, allows up to a year off. The problem is, the BOP bureaucrats are so slow in

processing the inmates to get into these classes that oftentimes they have less than a year left on their sentence. So yes, they participate in RDAT Program, but they do not get the full year off. Why not have the bureaucracy work so they are in a class, so they can take advantage of the full year, freeing up beds again?

And again, for the reasons I said earlier, it is actually cheaper to keep folks in a halfway house. They are not counting capital costs. They are not counting the folks that are sent to home confinement from a halfway house. They are not counting the contributions, the payments of inmates, of one-quarter of their wages that go to this in order to get to the figure. It is cheaper for the taxpayers. It also, oftentimes preparing to come home takes more than six months. All the, when they are at home they are able to bond back with their family, solve any of the conflict issues with their family. They are able to be closer to their mentor instead of hundreds or, in the case of BOP, thousands of miles away. They are able to get their drivers license. They are able to look for a job, all while they are there locally. They cannot do that far away in a prison. So giving them more time is in everybody's interest, except the BOP resists it and I do not understand. It is puzzling to me. And as the Appropriations Committee you ought to hold them accountable for why are they spending more money keeping folks in than when the law already allows them to let them go to the halfway house or home.

Mr. GEORGE MCDONALD. And I would also say that, it is based on evidence. You have to base it on evidence. Not what some person sitting in an agency decides that this is what it should be, such as six months. In my experience, and now it is twenty-five years of this kind of stuff, it is always shortsighted. It is always looking for the quickest, bang for a buck and let us move on. But if you treat the person, as I said earlier, in our day program, eight months is the average. The cost of incarceration, including police and all of that, is around $115,000. You know, $40,000 for a state prison, $60,000 for a jail in the city.

In our homeless program, where folks come home from prison, do not get a job, wind up out on the street and then in a homeless shelter, it takes us twelve to fourteen months. But when they come right out of prison it takes us eight months. But we ought to be able to have as long as it takes for that individual person. So if it is twelve months for that, for the person who comes home from prison, and fifteen years later they have not been back to prison, well, that would be a good investment of time. And we have 4,000 people over the past twenty years that I can introduce you to by social security number.

PRISONER REENTRY INITIATIVE

Mr. SCHRANTZ. I would add, in great support of that statement, that what we have learned in Michigan in the Prisoner Reentry Initiative is that you have to deal with each individual offender based on that offender's risk and need. That has to drive the individual plan. And while there are funding constraints that may require an agency to say, "Look, we do not have enough money to keep these guys in treatment for five years because if you did you would serve the first 100 instead of 600." Restrictions make some

sense. But in only the agencies that I run, I at least allow an average. So that "on average" they say serve, about six months. So that, for every guy you have that only needs a month, you have got a guy that can do a year. For every guy that does three months you have a guy that can do nine months.

Use the money wisely as an incentive, and understand that the reason they need this housing. Many times because of substance abuse service delivery must be provided within the house itself lifelong addictions. We have this belief in this country that a man or woman who comes to prison, after twenty-four, twenty-six, thirty years of life, fifteen of which they were drug addicts, they are cured in prison. They are still a drug addict when they get out. And suddenly after release in three or four months they are not a drug addict anymore. They are going to relapse. And they must have access to drug free living environments, short intervals, back and forth, throughout their entire parole. And that should be allowed by the funding agency.

I am no expert on the Bureau of Prisons so I do not want to jump into that fray. But I think that what is critical is to understand, as George says, is that you have to do what the research says. And the research says there is no such thing as one size fits all. Base it on risk. Base it on need. If I have a guy in a program that has hurt people fifteen times, I am not going to throw him out of a house after three months simply because somebody says his time is up. I need to keep him there. On the other hand, I do not want to keep a guy in a house for low level larceny for three or four years. I mean, we have got to go where the evidence takes us. The evidence says, base it on research, base it on risk assessment, and then modify your individual plan accordingly.

State agencies have to be able to be flexible in their funding. They create the structure and the money, and then they should get the hell out of the way and let the folks in the local jurisdictions who live in these places make those kinds of decisions around public safety issues. That is how we operate.

DEPARTMENT OF LABOR

Mr. GEORGE MCDONALD. May I say this real quick? The Department of Labor.

Mr. ADERHOLT. My time is up, but go ahead.

Mr. GEORGE MCDONALD. Chairman, I am so sorry.

Mr. ADERHOLT. But we will defer this. No, go ahead,

Mr. GEORGE MCDONALD. The Department of Labor, and talk about short sightedness, in their reentry initiative, it was limited to nonviolent things. You know, and what kind of insanity is that? That we are just not going to help violent offenders when they come out.

Mr. SCHRANTZ. We have a waiver. The Department of Labor does give a waiver now, but you have to apply for it. And we do not know whether that waiver is going to continue. That is a huge issue for us. If the federal government is going to restrict us from working with people with a violent past or sex offenders, we are not going to want your money. We can already take care of those nonviolent, low level offenders. The big challenge is how to reduce violent crime.

Mr. NOLAN. To show how absurd the system is, in California at Pelican Bay, Supermax, in the middle of nowhere. I have been up there, been through it. They keep people in isolation, some for as long as five, seven years. When they are finished their sentence, they serve every minute of their sentence in solitary. They frog walk them to the gate, have them go out the gate, stick their hands through and unlock their belly chain, their handcuffs, their shackles, and let them loose.

Mr. MOLLOHAN. Is that a federal prison?

VIOLENT OFFENDERS

Mr. NOLAN. No, that is a state prison. But that is horribly dangerous to the public, and it is cruel to that offender. There has been no transition. As Dennis says, the nonviolent folks are easy. It is hard to get a job and stuff, but it is easy. The violent folks we need to worry about. They are going to finish their sentences someday, too. There needs to be some transition for them, some restoration of decision making in their life, the reformation of their thinking from criminogenic behavior. We would say reformation of the heart. All that needs to take place. But like me not being able to order from the menu of a deli, think about this guy that has been in solitary for five or seven years. And had a violent past. We are asking for trouble doing it that way.

Mr. ADERHOLT. Is the thinking on that just that the violent offenders will have been there for so long that you do not think about when they will get out? Or what is the basis——

Mr. NOLAN. I for the life of me cannot fathom it.

Mr. GEORGE MCDONALD. No. The drug related crimes sometimes are classified as being violent when they really are a drug related crime.

Mr. ADERHOLT. But usually those have long sentences that go along with them, so I——

Mr. GEORGE MCDONALD. Yes, but the point is that they get out. A person serves their sentence, and if they are not on civil confinement for a sex offender, other than that they are going to get out. And they are going to be in society. So what do we want to do? Do we want to use the Department of Labor's money to help them get a job? Or do we want to ignore them?

Mr. SCHRANTZ. And if I may add to that. Men and women who are in prison and misbehaving with serious misconducts, hurting other prisoners, hitting correctional officers are going to probably max out their sentence, meaning they are not going to be eligible for parole in a parole state like Michigan. And so the thinking historically has been they are so dangerous we do not dare let them out. We want them to do every minute in prison. But we cannot continue to support that policy.

In Michigan, based on a Council of State Governments Justice Reinvestment Initiative Report that I recommend you all look at because it is some stunning work in terms of how states can bring all this stuff together under one umbrella of thinking and planning. They recommended and the legislature expected to adopt, a law that every prisoner is going to serve at least nine months on parole. The message from the legislature is: Department of Corrections, you had better wrap your head around it because you are

spending $35,000 a year on average per person and for some as high as $65,000 for the maximum security inmates and you had better use that money to rehabilitate them and get them ready for release. And they are going to be supervised on parole. That is a much smarter public policy.

And the existing policy is kind of short sighted lacks planning and lacks of accountability. As Mr. Schiff indicates these are important issues that all have to be rolled in together. We cannot let these outdated policies continue. They have to be changed.

Mr. ADERHOLT. Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Aderholt. Mr. Ruppersberger?

Mr. RUPPERSBERGER. I am not prepared. I am sorry. We had other committee meetings, and I am trying to, I have to leave in five minutes. So I am listening but——

Mr. MOLLOHAN. Well, we appreciate your coming in. Thank you.

Mr. RUPPERSBERGER. I do think it is a very relevant issue. I was a former prosecutor, as Mr. Schiff was. And this whole issue of recidivism, and some of the notes here I believe are really important. So I will be briefed on that.

Mr. MOLLOHAN. Thank you. Listening to this, all of you have very impressive stories. You have impressive statistics that you cite. And the outcomes are inspiring, really, to the system and to those who need to think about how we should be spending money. It is great to have an answer that the solution is out there, that all you need to do is pull together some way. So in regard to pulling together some way, all of you are coming at this, from different directions. All of you have different programs. Mr. Schrantz's program sounds like it is more comprehensive. There is an authority, a governmental authority that has put into place an architecture. And increasingly that system is relating to the whole state in a very comprehensive way. Each of you are looking at a discrete, community. But you are nevertheless having very important outcomes with regard to recidivism. How do we take all of this information in, and think about relating it? And seeing it work together? And let me ask Mr. Schrantz first.

SECOND CHANCE ACT

Mr. SCHRANTZ. Sure. I think you have established appropriately in The Second Chance Act that strategic plans are required. In fact, when folks compete for the Prisoner Reentry Initiative demonstration projects they have to show that they are doing this level of collaboration. And so, I think you have already created the policy framework that is necessary.

Mr. MOLLOHAN. But what framework is that? I would think that the framework would start with the state, exactly like how you have done it, and then these providers would fit in somewhere.

Mr. SCHRANTZ. I believe that is true. I believe that in order for this to work, as I think we would all agree, you must have state support. Because the state has an awful lot of the responsibility, and the money, and the data that is necessary. You also must have local responsibility and local owners of the problem or the problem will not be fixed. And you need what we call in Michigan a "state-local collaboration" where the state has the structure, has the funding, and we hold folks accountable. But the folks that we are work-

ing with in the local jurisdictions, the folks that are running the types of programs that these gentlemen are talking about, are the ones that we have to have at the table.

The state Department of Corrections and state level authorities, just like I think is true for federal authorities, need to be able to put that structure in place, the requirements for the work, and then support those agencies and those departments that do the work. We have competed very successfully for the federal reentry demonstration projects. We are very happy with the way that it works. We frankly do not want a whole more of federal oversight than what we have. We think it is already there. If anything, there are barriers that are in place in the federal government that hurt our chances to be able to do it. Department of Labor is just that one example, and we have had a pretty good time of working with them.

Mr. MOLLOHAN. Perhaps for the record you can list some of those for us. Mr. McDonald, how do you respond to that question?

Mr. GEORGE MCDONALD. Well, I agree. That is basically it. Is whatever architecture you can establish at the top through then holding the jurisdictions responsible for working together.

Mr. MOLLOHAN. Do you work within that framework?

Mr. GEORGE MCDONALD. Oh, yes.

Mr. MOLLOHAN. Explain it to us.

STATE OF NEW YORK PROGRAM

Mr. GEORGE MCDONALD. Well, we work with the Brooklyn District Attorney's Office. And we have the ComALERT community program.

Mr. MOLLOHAN. Now that is not a state program, though.

Mr. GEORGE MCDONALD. No.

Mr. MOLLOHAN. That is not a State of New York program.

Mr. GEORGE MCDONALD. He is a state official.

Mr. MOLLOHAN. Well, I know he is a state official.

Mr. GEORGE MCDONALD. State official.

Mr. MOLLOHAN. But New York does not have what Michigan has.

Mr. GEORGE MCDONALD. I am not going to sit here and try to kid you, Mr. Chairman. New York State is not interested in reducing its prison population because they do not have the political will. The people upstate are different than the people downstate. And they want the jobs that the prisons provide and they do not want to close the prisons. So——

Mr. MOLLOHAN. Oh, of course that is another problem. But——

Mr. GEORGE MCDONALD. So you could do something about that.

Mr. MOLLOHAN. No, we have our hands full here. But your pointing it out, that may, I am sorry Mr. Serrano is gone because he could carry it back.

Mr. GEORGE MCDONALD. Well, he knows. Believe me.

Mr. MOLLOHAN. Okay. But you agree that there has to be some authority, architecture in which you work?

Mr. GEORGE MCDONALD. Yes. But you through any federal money that you appropriate can enforce that.

Mr. MOLLOHAN. Yes. But that is, that is just in spots. That is not necessarily——

Mr. GEORGE MCDONALD. Well, spots.

PROTOTYPES

Mr. MOLLOHAN. No, I understand that. But what I am trying to get at is the question that everybody is trying to get at, here. Where is the prototype? But let me ask Mr. Nolan if he would respond to my first question.

Mr. NOLAN. Yeah. First of all, let me explain my role within Prison Fellowship. Prison Fellowship found it is not just enough to take the gospel to people. We have to care about what happens to them after, so they set up Justice Fellowship, which I head up, to work with government officials to reform the system. And my friend John Von Kannon at the Heritage Foundation says, "Prison Fellowship saves souls retail and you do it wholesale, Nolan." So I work with the state officials like Dennis. And I think it does have to be through the State.

And we are working with Dennis in Michigan. Part of our role is to build public support form nontraditional supporters of prison reform to work with conservative Christians as well as liberal Christians, to work with secular people, to build the public support to support what Dennis is doing.

I think the key, though, is, and I think you are asking what the lynchpin is, is to have an official like Dennis, and his boss Pat Caruso, and Governor Granholm, that are committed to systemic reform. Then programs like ours can flourish. But if they are not welcome, if they are viewed as outsiders, if they are viewed as, you know, hug-a-thug folks, which we are referred to a lot in corrections, as something that is irrelevant to changing people inside prison, then we lose. And so I think you are right. The lynchpin is getting state corrections department to have this vision and to be open to the life changing programs then that the locals operate.

Mr. SCHRANTZ. If I may add?

Mr. MOLLOHAN. Please.

Mr. SCHRANTZ. Just one more second. I think you could look across the country and you could see a dozen, at least a half a dozen states, that have been at this work of statewide system change for many years under the guidance of both the National Institute of Corrections, which has done a very excellent job at providing a model for prisoner reentry. It is called the, From Prison to Transition, a community model, TPC model. Also the National Governance Association has done some great work and pulled together many states.

Those states, to name a few, Missouri, Kansas, Michigan, Ohio, a couple of others perhaps, those states together, you know, could explain an awful lot about how to get this work done. But I think that the framework has to be that the state supports it and allows it, does not dictate it. That there is sufficient funding to be able to make it happen. And that there is a level of accountability so that it is not going to be just a fair weather kind of approach that you cannot prove up the road. If a state is not ready to take hold of this, and I have done some work in New York State. I have traveled there many times. I met with their commissioner. They have got a lot of motivation they just do not seem to have much of a structure to try to, you know, figure out how to grab hold of it. They do not have the right leadership.

In Michigan, the reason that the state of Michigan is doing this work the way we are doing it is because the Governor ran on it. And when she ran she said, "You make sure that I told the truth when I said I could deliver, you deliver." So you go from leadership to administrative capability and then reinvestment. And if it not there, then we have to rely on program after program after program to be able to keep it up until perhaps the state kind of gets their act together and connects the dots.

Mr. MOLLOHAN. Well, this starts becoming a best practices consensus——

Mr. SCHRANTZ. Yes.

Mr. MOLLOHAN [continuing]. At some point. And you are pioneers in that. Okay. Well, that is interesting.

So systemic, top down, flexibility to allow imaginative programs, programs that work, that are locally tailored, but broadly applicable, scalable——

Mr. GEORGE MCDONALD. And measurable.

Mr. MOLLOHAN [continuing]. And measurable to participate within that system. So structure, flexibility, local guidance from the top.

Mr. SCHRANTZ. Exactly right.

NATIONAL INSTITUTE OF CORRECTIONS

Mr. MOLLOHAN. Okay. And you said it during your testimony. You have all said it. But I would like you to tick it off one, two, three, four.

We go to the National Institute of Justice for these models, for the guidance here.

Mr. SCHRANTZ. The National Institute of Corrections.

Mr. MOLLOHAN. I am sorry, the National Institute of Corrections.

Mr. SCHRANTZ. It is actually in the Bureau of Prisons.

Mr. NOLAN. Right, right.

Mr. MOLLOHAN. The National Institute of Corrections, thank you. Sorry. So we go to the National Institute of Corrections.

Mr. NOLAN. It is a good place to start, yes.

Mr. MOLLOHAN. It is a good place to start. Where is the definitive place to go?

Mr. NOLAN. Well, the Council of State Governments, they have the Reentry Policy Council, which is excellent. The Pew Center on the States has done, you know, terrific work. They just came out with a report this week on reentry. So I think combining those. I don't think there is one repository. That is why the Resource Center in the Second Chance Act is so important——

Mr. MOLLOHAN. Okay.

Mr. NOLAN [continuing]. I think. But right now it would be NIC.

Mr. MOLLOHAN. What will the Resource Center do that is different from what the National Institute of Corrections does?

Mr. NOLAN. Well, reentry is just a part of the NIC. They have overall, you know, best practices in corrections.

Mr. MOLLOHAN. Right.

Mr. NOLAN. The Council of State Governments works with health and other issues, not just prisons. So I think one place concentrating on reentry, pulling together all of the best practices. That is the idea of the Resource Center that you already funded.

Mr. MOLLOHAN. Okay.

Mr. NOLAN. Not with a separate line, but it's funded in there. I think is a place where——

Mr. MOLLOHAN. I have the line item right here.

Mr. NOLAN [continuing]. Groups like us can go there.

Mr. MOLLOHAN. I made a note on——

Mr. NOLAN. Okay.

Mr. MOLLOHAN [continuing]. The line item.

Mr. NOLAN. Okay. Great, thanks. I am settled.

REENTRY POLICY COUNCIL REPORT

Mr. SCHRANTZ. I think that the most substantial report in guidance for reentry is the Reentry Policy Council Report. The Council of State Governments indicated that they will be able to provide that to your members and your staff.

Mr. MOLLOHAN. Okay.

Mr. SCHRANTZ. That is what we used and it is an encyclopedia of good information.

Mr. MOLLOHAN. Okay.

Mr. SCHRANTZ. It is not a light read. It is like a cookbook to help when you need to break it down, when you are concerned about the operations of the work. It is not just about the big picture stuff and flying at 50,000 feet, but actually getting into prison operations.

Mr. MOLLOHAN. Right.

Mr. SCHRANTZ. As well as, getting into the parole issues, working with the communities.

Mr. MOLLOHAN. Right.

Mr. SCHRANTZ. This encyclopedia is something that we have gone back to reportedly.

Mr. MOLLOHAN. Okay, great. Well, we will reference that. Now, listening to all of you, again, this sounds really exciting, really optimistic. It sounds hopeful. Obviously not easy, but it does sound hopeful.

But how do drugs factor into all this? And I know, Mr. McDonald, you spoke eloquently about the therapy of work with regard to all of this but certainly to drugs.

But based on the little bit of experience that I have had in looking at this, the craving aspect of drugs is a derailer. I haven't heard you talk about that in terms of the failing. Your statistics are one-year statistics, right, Mr. McDonald?

Mr. GEORGE MCDONALD. Right.

Mr. MOLLOHAN. What kicks people out before that year?

Mr. GEORGE MCDONALD. We lose the most people in the first three months of our program.

Mr. MOLLOHAN. Okay. So——

Mr. GEORGE MCDONALD. If they make it through the first three months, they are well on their way.

Mr. MOLLOHAN. Okay. It is important to define what success is.

Mr. GEORGE MCDONALD. Well, success is we, after two years, 72 percent of the folks——

Mr. MOLLOHAN. Okay.

Mr. GEORGE MCDONALD [continuing]. Are still——

Mr. MOLLOHAN. What are the reasons for failure or reasons for getting to one year? What are the reasons for not getting to one year?

Mr. GEORGE MCDONALD. You know, you change brain patterns. It is effort and reward.

Mr. MOLLOHAN. Right.

Mr. GEORGE MCDONALD. The effort and reward——

DRUG ABUSE PREVENTION AFTER PRISON

Mr. MOLLOHAN. But, do most people fall out because they just go back to drugs? Do most——

Mr. GEORGE MCDONALD. Some don't make the effort. In other words——

Mr. MOLLOHAN. No, I know.

Mr. GEORGE MCDONALD. Drugs, yes. I am sorry.

Mr. MOLLOHAN. I am asking is it that they go out and commit another crime? Okay, that gets you out in four years. Is it because they fall off the wagon?

Mr. GEORGE MCDONALD. It is drugs——

Mr. MOLLOHAN. Okay.

Mr. GEORGE MCDONALD [continuing]. Or alcohol. They fall off the wagon.

Mr. MOLLOHAN. That is the base, okay. What percentage of people that start fall off the wagon or don't make the one year because of drugs? If you have a hundred people that start on the first day, how many of them don't make the one year because of drugs? And please identify yourself for the record.

Mr. GEORGE MCDONALD. Harriet Karr McDonald, my wife and partner.

Mr. MOLLOHAN. Hi, welcome.

Mrs. HARRIET MCDONALD. I would say 20 percent of the people don't make it. And the overwhelming majority of those are because they use again.

Mr. MOLLOHAN. Because they use drugs again.

Mrs. HARRIET MCDONALD. Right.

Mr. MOLLOHAN. Okay.

Mrs. HARRIET MCDONALD. What we do is relapse prevention. Dealing with the substance abuse aspect of the population—really close to 100 percent of the people we serve have——

Mr. MOLLOHAN. Yes, I am sure.

Mrs. HARRIET MCDONALD. It is practically 100 percent.

Mr. MOLLOHAN. Right.

Mrs. HARRIET MCDONALD. So relapse prevention and the use of NA and AA, which we literally bring them to our facilities.

Mr. MOLLOHAN. Okay.

Mrs. HARRIET MCDONALD. Because the people can get sponsors in their community——

Mr. MOLLOHAN. Right, right.

Mrs. HARRIET MCDONALD [continuing]. That are like mentors.

Mr. MOLLOHAN. Okay.

Mrs. HARRIET MCDONALD. And also it is free.

Mr. MOLLOHAN. Right.

Mrs. HARRIET MCDONALD. And the people can use it.

Mr. MOLLOHAN. Okay. So you have an aggressive——

Mrs. HARRIET MCDONALD. An aggressive drug prevention——

Mr. MOLLOHAN [continuing]. Drug prevention program.

Mrs. HARRIET MCDONALD [continuing]. Program.

Mr. GEORGE MCDONALD. Even though we are not a traditional licensed program.

Mr. MOLLOHAN. Okay.

Mrs. HARRIET MCDONALD. But that is one of the most—I would say outside of paid work—which is the reward——

Mr. MOLLOHAN. Right.

Mrs. HARRIET MCDONALD [continuing]. And also prevents people from committing crimes.

Mr. MOLLOHAN. Right.

Mrs. HARRIET MCDONALD. The other most important aspect of what we do is drug prevention.

Mr. MOLLOHAN. Okay, all right. Thank you. In that program—well, Mr. Nolan, would you please respond to that too?

Mr. NOLAN. Yes.

Mr. MOLLOHAN. We don't have much time.

Mr. NOLAN. I don't have the exact figures. I will get them for you.

Drugs are by far the important reason. We don't kick somebody out automatically if there are drugs.

We have found people relapse. And you have got to try to——

Mr. MOLLOHAN. But drugs are your big issue.

Mr. NOLAN. Absolutely.

Mr. MOLLOHAN. I didn't notice that the Ranking Member of the full Committee was here.

Mr. LEWIS. I just came in to see my——

Mr. MOLLOHAN. I hope you haven't been here very long.

Mr. LEWIS. I came over to see my friend, Pat Nolan. And Judge Manley is here.

Mr. MOLLOHAN. Well, let me call on you.

Mr. LEWIS. No. We will go vote. I just wanted you to know that I care about drug courts. And I kind of like Pat too. That is all it was.

[Recess.]

Mr. MOLLOHAN. We will come to order. I think Mr. Wolf has a question or two. And I have just a really brief question or two. And then we will sum this panel up and thank you for being here.

In your Doe Fund Program, what happens after the street cleaning phase of the program? Is there a moving on?

Mr. GEORGE MCDONALD. Well, yes. And I am glad you asked that question, because I didn't have time before. The first part is that folks come into our facility, and they stay in our facility for the first 30 days. And they work cleaning, and we do the drug testing.

Then when we feel that they have been—you know, they are ready to go out into the community, because of course we put them out in the community in our uniforms. And parenthetically I have to say that people write to us all the time with those checks that they send. And they say how safe they feel with our guys in the community. It is just incredible. We put the American flag on their sleeve and our logo on the backs, so that they are easily identifiable.

So then they go out into the field for five months and do the street sweeping. And then they get funneled into various vocational training tracks. We have all revenue-generating programs that we

have, so they are social ventures. They are entrepreneurial ventures. We have a company called Pest at Rest, the Bug Stops Here. You know, recessions come and go, the cockroaches are always with us.

So we train them. And they get $14.00 an hour jobs with benefits. But we run our own pest control business to do the training. We have a program called Resource Recovery where we go around and we collect this fryer grease, the vegetable oils from restaurants. We have over a thousand restaurants in New York City that we collect from now and turn it into bio-diesel fuel. And on and on.

Mr. MOLLOHAN. Yes, that is impressive. I am not even going to get into the impact on the private sector. I would ask you about that otherwise.

Mr. Wolf.

Mr. WOLF. Thank you. You know, I think it is a private sector operation too. I was thinking the same thing that the Chairman was. But then I concluded we don't want crime. We can't just put people out and say, you know, you are out of the halfway house. Here is a hundred bucks, go out. And then not expect them to come back.

One, I want to thank the three of you. Two, I know how to reach Pat. Pat lives in my district. And I have great respect for Pat and his group. If you could send me what you have, Mr. Schrantz, so that I can get to the State of Virginia. And, Mr. McDonald, if you can get me what you just told the Chairman on the different programs, and I am going to send that to my—to my state and see.

I would like to suggest something here. You are with the Council of Governments, one of you are with them. I would like to suggest that the Council of Governments, working with the Pew Foundation, put on a national conference sometime maybe late this year or next year. And bring in correction people from around the country. And let me just, you know, commend the Governor of Michigan. Maybe she could be a speaker.

I think if all you said is true, and I know he didn't swear you in, but if it is all true, then it is almost too good to be—I mean, it has got to be performed. And so what I would like to ask the Council of Governments and the Pew Foundation—I don't know if there is anybody here from the Pew Foundation or not.

I bet the "New York Times" has a reporter covering this good news story. Would the "New York Times" reporter raise your hand? Remember last week they covered the fact that Barack Obama's hair is turning grey? And now here is something really. And they miss this one. They must be somewhere else.

But if we could ask the combination—the combination of the three if you know this. Do you think it would be a good idea to put together a conference bringing in the top correction people around the country? And, you know, we funded several years ago, in the good old days when the Republicans controlled the Congress, we funded a conference on sexual trafficking. And we brought in all the police departments and everything so that we knew what—and I think maybe we can ask the Pew Foundation, if the Chairman wanted to join me, we could—or I could just do it myself, is to ask Pew and do you think the Council of Governments would be inter-

ested in doing this? Both well thought of, neither right nor left. I sort of just kind of thought to maybe ask the group of you to come in and maybe put a two-day conference on in Washington or some other place.

Mr. SCHRANTZ. Sir, if I may, you might want to focus on kind of a think tank rather than a conference. I think what you may need are some of the best and the brightest people from all over the country. And we could fill the room with folks like us. There are a lot of people who know this work. There are 14 states that have on staff my counterparts.

Mr. WOLF. Who do you think should sponsor it? Council of Governments?

Mr. SCHRANTZ. I think the Council of State Governments is ideal.

Mr. WOLF. And do you think Pew might help fund it?

Mr. SCHRANTZ. I think Pew might help fund it.

Mr. WOLF. That is what I was thinking of so much that Pew helps fund it, because they did some pretty good work that Pat mentioned. And the Council of State Governments with the credibility you all have. Do it either here, or do it in Michigan, or do it wherever you are really going to really do it. Bring some of the best minds, so that you in essence have the best practices.

And actually, you know, for three old guys, you were fairly exciting insofar as laying out what the opportunities are insofar as really making a difference. And I think that is kind of what we really want. I think since the time I have been here, it is the most significant, positive testimony rather than, you know, we need more money for this or this is a problem. You sort of laid it in a positive way.

So if I can officially ask, you know, the Council. And if you could ask the Pew Foundation, we will be glad to—I know a couple of people at the Pew Foundation we could ask and see.

With that, Mr. Chairman, I appreciate you having these hearings. And I want to thank the three witnesses.

Mr. MOLLOHAN. Thank you, Mr. Wolf. Mr. Lewis.

Mr. LEWIS. Mr. Chairman, it is not appropriate for me to take any time at all. But it is refreshing to me to walk into a room where at least it is filled with people who are positive bleeding hearts who aren't just asking for money. They want to make a difference. Bleeding heart is okay. Old is another question. Pat and I are contemporaries, so we are not going to lie. Some of us just get better.

Anyway, Mr. Chairman, thank you for letting me just be here.

Mr. MOLLOHAN. Thank you, Mr. Lewis.

Well, we want to thank our three distinguished witnesses. You did a great job. You certainly helped the Subcommittee. A lot of information on a topic that we are just incredibly interested in. So thank you all very much.

Mr. GEORGE MCDONALD. Thank you for your interest.

WEDNESDAY, MARCH 11, 2009.

INNOVATIVE PRISONER REENTRY PROGRAMS, PART II

WITNESSES

JENNIE S. AMISON, DIRECTOR, GEMEINSCHAFT HOME

JUDGE STEPHEN MANLEY, SANTA CLARA COUNTY SUPERIOR COURT

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. Welcome to our Innovative Prisoner Re-entry Program hearing. We have two witnesses, which I would like to invite to come to the table. Welcome to you both. For our last hearing panel of the day we will pick up right where we left off by hearing from two more individuals with significant practical experience in the reentry field.

I would like to welcome Judge Stephen Manley with the Santa Clara County Superior Court and Ms. Jennie Amison, the Director of Gemeinschaft Home, a residential reentry program for non-violent offenders with substance abuse issues.

I thank both of you for joining us here today. It is good to see you both again. I appreciate the opportunity to work with you. This Committee appreciates your appearing here today to give us the benefit of your expertise in this area.

I am going to note that each of your written statements will be made a part of the record. And I call now on Mr. Wolf for any remarks that he might have.

Mr. WOLF. Welcome.

Mr. MOLLOHAN. Mr. Lewis. Ms. Amison, you proceed first. And, again, your written statement will be made a part of the record. And you proceed as you will.

MS. AMISON OPENING REMARKS

Ms. AMISON. I would like to thank you first for inviting me to testify at this hearing on reentry. I have been in the trenches for 18 years working with offenders. I started out at Indian Creek Correctional Center in the State of Virginia, which has 1,085 men incarcerated in that prison. And while they were incarcerated, three to six months later I saw them coming back. And I was astounded, because substance abuse was their main issue, this full prison, was a substance abuse treatment facility. And I saw them come back three to six months later. And it really troubled me.

And the resonating theme between all of them was I can't find a job. I have to pay fines and restitution. I have nowhere to live. I have to pay child support. And I am having trouble getting my driver's license so I can get back and forth to meet the probation officer or parole officer or whatever.

So in the State of Virginia we developed a continuum of care where in this therapeutic community program, once the individuals got out of a four-phase program of treatment, they come to our program, which was the fifth phase. The name of our program is the Gemeinschaft Home. It is German. And it means community.

I am the Executive Director. I have been there eight years. Our program is a premiere program in the State of Virginia. I traveled last year to Tokyo, Japan. And in Japan, I testified before 100 Japanese on our program how to reduce recidivism in Japan. Although they drink saki, it was kind of hard to convince somebody to stop doing that.

But anyway, I testified before them. And they came over to Virginia to Harrisonburg. And they adopted our program and our structure in their halfway houses in Tokyo, Japan. They did a two-week study over here. We entertained them for two weeks. And let them study our way of doing things.

I am also Director of Replications for the Milton S. Eisenhower Foundation. And I have traveled all over the United States replicating what works. And what works is the program that we have. And I would like to explain that to you now.

It is a six-month residential program. Our referrals come from the Virginia Department of Corrections. And we have a pre-release program. They come to us six months early prior to their release after they have finished their substance abuse treatment, because as we all know, well know, the majority of the non-violent offenders that are incarcerated, they have substance abuse issues.

And after their incarceration, they come to our program. And we give them a holistic approach to treatment. Now, if an offender gets out with $25.00 and what they have on their back, my contention is they are going back to what they know best.

However, if they have a program where they can come and they have a roof over their head, a residential program where they are getting employment services. I have an employment coordinator. I have a health service coordinator. We have a mentoring program. We have a fatherhood initiative. We have a parenting program. We do financial planning. We do everything under one roof. And it is a holistic approach.

Not only that, we network with the community. We do a lot of community service projects. And our community is very supportive of the work that we do, because one of the things that I teach in our program is you have to make restoration to the community. It might not be the community that you come from. But you have to restore your faith in a community. And so they do community service projects with all of the non-profit agencies in our community. We network with James Madison University that is in Harrisonburg, Virginia, Eastern Mennonite University, and Bridgewater College, all from which we get interns.

We have a study that shows our success rate, the results are included in your packet. We have a 75 percent success rate. Dr. Peggy Plass in the Criminal Justice Department from James Madison University did our statistics for us to study our program and the study was three years out.

And we looked at the rearrest, the recommital, and the rate of—the kind of violations that they were going back for, which were ordinance crimes for the most part, those that did go back.

Our program has been successful, because of the holistic approach. And the approach that the State of Virginia uses. I believe that reentry starts when a person enters the prison gates. It is too late to start working with a person on alcohol on drug abuse once they get out and all of the other issues that they have, because I worked in a prison for ten years. They can get high inside the institution. Drugs are in prison. And if they want to use, they can use inside prison. And I have seen that. I have seen men test positive for drugs inside the institution.

So my thing is reentry planning should start and need assessments done to find out what are the needs, because you can deal with one issue, which might be the substance abuse. And not deal with the behavior that clouded their thinking. And you still are going to end up with the problem, or you might have the finest employment program in the United States. And you can hire an ex-offender. And you can give him a job. But if he is still drinking, and drugging, and using, how is he going to maintain the job?

So it is not just a band-aid approach that we use. We use the holistic approach. And not only am I talking from being in the trenches and experience, I am talking about traveling throughout the United States. Right now I am working with CCDO, under the Department of Justice, providing technical assistance to their weed and seed sites.

This is a need, because people want to know how to help these people that are coming back to their communities. Seven hundred thousand men, you all have heard the statistics, are coming out of prison this year. And they are coming to your communities. And it is cheaper to have a non-violent offender in a program such as ours to be replicated throughout the United States that works. Instead of having just practices than to have them locked up behind bars and costing the taxpayers more money with no services and then letting them out after three, four, five, six years with $25.00 and the clothes on their backs. And my contention is we either pay now or we pay later.

Prison, we can find the money to build them. And we are building them at a rapid rate. And we have a lot of level-one prisons that house non-violent offenders. And I heard the gentleman say earlier about violent offenders. What about the violent offenders? Well, it is going to be a long time before violent offenders get out. And I agree that we need to think of innovative ways, because I believe that violent offenders are the less likely to recidivate and studies show that, because they are less likely to commit a violent crime.

But, however, how many of you sitting in this room want a house full of violent offenders living in your neighborhood? Raise your hands. I didn't think so. So that is the problem with violent offenders. It is hard pressed to have a community to accept violent offenders into the community as a whole. They will work with them individually, the churches and the faith-based organizations.

But with an innovative program like this, they don't mind non-violent offenders. They don't mind working with the females. You

tell them they are non-violent offenders, they don't have sexual crimes and, hey, the community welcomes that.

I just traveled to St. Louis and Philadelphia and helped set up a program similar to ours in those two states and also working in Pawtucket, Rhode Island. They want to replicate. They want to do something for reentry.

Mr. MOLLOHAN. Thank you, Ms. Amison. We look forward——

Ms. AMISON. Oh, yeah, I could talk all day. Go ahead.

[Written statement by Jennie Amison follows:]

House Appropriations Subcommittee on Commerce, Justice, Science, and Related Agencies

Jennie Amison's Testimony

March 11, 2009

Focus: Prisoner Reentry

My name is Jennie Amison and I have been a resident of Virginia for 59 years. I now reside in Harrisonburg, Virginia where I am the Executive Director of a 60-bed reentry program for non-violent offenders with substance abuse issues. We provide residential services for 48 men and 12 women. Gemeinschaft Home is a transitional therapeutic community program that contracts with the Virginia Department of Corrections. We are nationally and internationally recognized and our work was showcased in Tokyo Japan. Japanese officials came over in 2007 to study our program and implement it in Japan. We are also a Delancey Street replication. I provide technical assistance with the Department of Justice under the Center for Community Safety at Winston Salem State University. I am currently working with Pawtucket Rhode Island's Weed and Seed Reentry initiative as well as St. Louis and Philadelphia to show them how to replicate Gemeinschaft Home's program.

Gemeinschaft Home works closely with James Madison University and Peggy Plass who is the head of their Criminal Justice program to provide research evaluation for our program. Attached to this you can see a complete copy of the research evaluation on Gemeinschaft Home. A few highlights of the study include that: Gemeinschaft offenders were significantly less likely to have been rearrested, significantly less likely to have been reconvicted, and significantly less likely to have been recommitted than were the controls group. Gemeinschaft offenders who were rearrested became reinvolved with the criminal justice system an average of more than 150 days later than did controls. When they were rearrested, there is evidence that the offenses of the Gemeinschaft population were less severe. Gemeinschaft offenders who were rearrested were relatively more likely to have been charged with ordinance offenses than were controls, and less likely to have received a felony charge.

The reason for me entering into this work is because for ten years I worked in a Virginia correctional facility that housed 1080 men that provided them with therapeutic community treatment. For years, I saw these men leave and 3 to 6 months later return to prison. The resonating theme of all the men that returned was; I can't find employment, housing, healthcare, I can't pay child support or my restitution and fines and I can't find appropriate social networks. The majority of these men had no skills for employment and most lacked their GED.

When you send an individual back to the streets with only $25 and a bus ticket, what are the expectations for them to succeed or to become productive members of the community? When you talk about public safety, we are considered a model program because we are a continuum of care. The residents have the therapeutic community treatment while in prison and continue this treatment at our residential facility. They enter our program and we provide full wrap around services for their transition. We use a holistic approach when we deal with the mental, physical, social, spiritual, vocational and family of each resident.

Our program provides individual counseling, group counseling, financial management, employment services, health care services, parenting skills, GED training, healthy relationship building skills through our mentoring program. Our program is highly structured and the community of residents is the agent of change. The men have learned to be their brothers' keeper and accept responsibility for their actions. We provide community service projects for the men and partner with colleges, universities, and other non-profit organizations in the community to assist our program. Having a person simulate a natural environment and giving them the necessary tools to become active and productive members of the community is when real learning occurs.

As you may know, 700,000 offenders are going to be released from prison this year and in Virginia alone, we have almost 11,000 offenders coming out each year. Whether we like it or not, they are coming back to our communities. When we talk about public safety, what is safe about letting an addict back into his/her neighborhood with $25, no housing, and no skills with the same people, places and things. We are setting them up to fail in our communities and to repeat crime. We are making prison a revolving door without giving these people the necessary tools to succeed.

In Virginia alone, 63% of males incarcerated are African American and 52% do not have a high school diploma; 49% are non-violent offenders (Pew Center on the States). We can provide residential housing in communities for non-violent offenders, which will decrease the cost of incarceration and have them in a program where they are receiving the adequate skills they need to be successful, productive tax-paying members of society. Correctional spending increased from nearly $9 billion to $60 billion during the past 20 years, but prisoners are less prepared for reentry than in the past (The Third Way Culture Program Report). According to the Boston Review, the cost of national Reentry efforts would be about $7 billion each year, roughly one-tenth of total current spending on corrections. The benefits of addressing this issue from the Reentry aspect far outweigh the cost of continued incarceration, both socially and economically.

We have helped our prison population grow by not providing adequate services to those who are incarcerated. Reentry planning should start when the men enter the prison gate. Need assessments should be done to see what plan is needed for the offender. A case manager should be working towards these resources upon the offenders' entry into our community.

Many states are feeling the need to address the issues of returning ex-offenders back into their communities. Many communities and faith-based organizations want to help but do not have the resources or the training. The Second Chance Act money and Public Safety money can be spent more wisely by paying now with adequate services to assist these offenders.

Reentry is not about the ex-offender it is about public safety and building community capacity. It is about improving communities through making ex-offenders contributing members. Reentry is about healthy and wholesome communities.

References

- "Reentry," Bruce Western: Boston Review, July/August 2008.
- The Pew Center on the States, One in 100: Prison Behind Bars in America 2008
- The Third Way Culture Program, The Impending Crime Wave: Four Dangerous New Trends and How to Stop Them.

Mr. MOLLOHAN [continuing]. To your answering questions.

Mr. Lewis, Judge Manley is here today. And I know you think highly of him. Would you like to say a few words?

Mr. LEWIS. Thank you, Mr. Chairman. I really came in no small part, because I heard you had two of my friends appearing before the Committee.

I have the privilege of serving as the Ranking Member on the Appropriations Committee, so I will try to spend as little time interfering with the Subcommittee Chairman and the Ranking Member's work as I can. They don't need people like me hanging around and interfering.

But in the meantime, the work that you all are about impact the effect upon our society and people's lives by attempting to help us figure out what is the appropriate role for the federal government, as well as local government and so on, and breaking this cycle for people, particularly the non-violent criminal, but the cycle of recidivism that is so dramatically impacting our society.

I first got to know about Judge Manley's work, because of his relationship with Judge Pat Morris who is now the Mayor of San Bernardino, California, my hometown. And he played a role in this total effort to attempt to have drug court have an affect upon those individuals who are involved in essentially non-violent crime. But making sure that we are activating the community to be heavily involved in trying to turn this pattern around.

The federal government does have a role. It is not just money but the spirit that is reflected in this panel. The Chairman is a wonderful and fabulous human being. And if you don't know Frank Wolf, you should know him.

In the meantime, I just wanted to come to express my appreciation to Judge Manley. And we will be chatting more while you are in town.

Judge MANLEY. Thank you very much, sir.

Mr. MOLLOHAN. Thank you, Mr. Lewis.

Judge Manley.

Judge MANLEY. Thank you very much for the opportunity to testify, Mr. Chairman, Mr. Wolf, Mr. Lewis.

I would like to, just by way of background, first of all address an issue and that is this, I would like to thank this Subcommittee and all of you for what you have done in this past year. And prior to that, your many efforts to assist the drug courts, our JAG and Byrne programs, our reentry programs that are court related.

It really does make a difference. We really do believe that this works. And often our pleas fall on deaf ears. But always in this Subcommittee you have given us the respect and support that we are so grateful for, because I am just a practitioner out in the field.

As a judge I work very hard in trying to develop new and better responses. And I would like to talk, spend my time if I may, speaking about that in terms of reentry. I think you are all aware that California I think has the most severe problem of any state in the nation. It is not dissimilar. But the volume, the numbers are horrendous. Seventy percent of all individuals placed on parole are returned to state prison within a year to two years.

What is driving our increase in the prison population is not new crimes. It is being driven by people being returned to prison who

are on parole. And when you have that number going back, and you are talking about 120,000 on parole every year, you have to start thinking, I think, about changing the entire paradigm of the way we approach this issue.

And I did most certainly enjoy listening to the previous presentation. But let me suggest this to you. You don't get to prison simply because, you do not get to prison, you do not get to jail without a judge. It takes a judge to send you there, a judge to make a determination that you go there. And we so often place all of our emphasis and discuss these issues looking down the line at, well, now they are going to get out of prison. And we do this in California. And I know that it is done elsewhere. Let us have a plan. And let us develop something so that we integrate. And let us stop this revolving door.

But we never look at the beginning. And I think that what happened here over the years, starting some 15 years ago, drug courts judges, it was a judge-driven initiative, basically said what is wrong here is we are doing the same thing day after day. And I have been a judge now nearly 30 years. I am falling into that group of older Americans who support their country. I have watched this 30 years. And I traditionally—I can sentence someone to prison in one and one half minutes unless there are aggravating factors. I see the same people come back. I see their grandchildren. I see their children.

I discovered early on we were not getting anywhere thinking that punishment was the answer. And where did it all lie? It all starts out with the judge. And so what I am suggesting to you today is that rather than only look at parole and probation, this wonderful program you just heard about, why aren't we thinking about these things in the beginning?

Everyone ends up released other than a small percentage of offenders who will not be released. So leaving those aside, people are going to come back. And they will come back to our local communities. California I do not think is dissimilar from other states. When you start out in my county committing crimes, go to prison, you come back to my county on parole. If you stay in my county, you are on probation.

So why don't we change the paradigm and say the judges should accept accountability and responsibility for outcomes? Now I know this may sound very different from other testimony you have heard. But I firmly believe that this is where we have gone wrong. And this is why the drug court movement has worked, because in drug courts judges simply said, look, enough is enough. We are going to take this on ourselves to form a local team to put in accountability, to use carrots and sticks, to motivate offenders to change their lives, to deal with the most pressing problems. And I know you have heard other testimony.

But I guarantee you in California, the Chairman discussed this, substance abuse, mental health are driving our prison and jail populations. They drive all other crimes. It doesn't matter what the crime is. You will find these factors there.

When we sentence traditionally, we don't look at these factors. We simply look at the past. Judges, we are very good at looking at the past. We rely on precedent. We look at what they did before,

what the facts of the case are, how many times they have been to jail, how many times they have been to prison, we get a probation report that has not changed in 20 years, in my jurisdiction or in the State of California, and then we give a sentence, and then we go through the door into our chambers, and we forget about the person. I think that's all wrong. I think we ought to have the accountability of monitoring that person in coming back into the community and doing well.

And I think you start doing that by having an assessment. There has been a lot of talk about risk and needs. And I want to be very quick about this. It is a complex area. But I think there are two kinds of an assessment. The first one you need is a risk. How dangerous is this person to the community if you let them out? How dangerous? And that has to be considered, because if this person is going to be a danger to the community, we have to look to punishment and other alternatives.

However, the vast majority of people are not going to score high on that scale. And yet they are going to go prison and jail. What we ought to look at to them is to the risk in terms of their succeeding in the community. What is the risk? What are those factors? They don't have jobs. They don't have any education. They don't know life skills. They have a substance abuse problem.

All right, then we start talking about the needs. How do you meet these things? You have got to give them substance abuse treatment from day one. If you don't start looking at it that way, you don't get anywhere. Then you develop a plan, not when they are getting out of prison.

In California, we have this marvelous new system. We are going to plan for people 90 days before they are released. Well that is 90 days too late. It is 100 years too late. We should have started from the day they were sentenced. We should have assessment built into the sentencing. So that we know this person is coming back, let us start planning for them coming back now. And then when they come back, let us place them in tracks.

In other words, what I am calling for and truly believe in—I do it in my county. I have seen it all over this country. I monitor 1,600 offenders. You could say how can you do that, one judge? I know them. Why, because those who need the least monitoring get put on a calendar where they see me very seldom if it all.

Those who need to be watched daily, those who are using drugs every day of their life, those who are mentally ill and cannot stay on their medications or will not, those who repeatedly violate restraining orders and other things that they are not to do, they see me weekly if necessary.

The point is if you use a group of judges and design a system this way and build on motivating offenders to change, get away from this determinate sentencing. You know what is wrong with determinate sentencing? Very simply, you say to somebody okay, you get out of prison in two years. All that person thinks about is the two years when he gets out. He doesn't think about changing his life or her life. They don't care about that. They have got an end in sight. When you say to them, "I don't know what is going to happen next, it all depends on you," it changes.

And I think that is what we have learned from drug courts and from reentry courts. And I urge you to incentivize reentry courts, because if you pull the courts in, we have one great advantage over state parole and over probation departments. We can bring everyone to the table. And we can say you need to work together. And I can tell you working with parolees every day, I spend more time getting people to the table and getting them to change the way they think about things. If they were left alone, nothing would change. And we would see no difference.

So I know time is a factor. And I want to end very quickly with this, we have a proven example in California of how badly a system can be when you leave the courts out of it. We have a mandatory initiative, a vote initiative, that requires us to place people who are sentenced and are low-level drug offenders, use or possession, into treatment, no incarceration. We have a system for paroles separate from the courts that mandates they put them into treatment.

If you look at the outcomes, the court where we monitor as judges how that person performs, make sure they get into treatment. Have wonderful programs like this in our community who we know and can work with in comparison with the state that contracts with some huge program that has no oversight and never follows through. And the individual offender never sees anybody they can relate to or be held accountable by. You have failure.

Sixty percent of those people don't even—from the state system don't even enter treatment. Whereas, you know, reentry court model it is the opposite, 70 percent enter. And in our state, our legislature has said this, and I urge you to think about this, incentivize this, they have given us a mandate in drug courts. You either reduce prison days or you don't get the money. Believe it or not the entire court system in our state changed. And we are saving money, because sentencing practices are changing.

So I leave you with this. Please give courts the continuing—urge, make this a part of your reentry program, that courts must have the continuing obligation to supervise offenders. Use a real risk and needs assessment from the start of booking through sentencing on through the offender's life as they come back into the community. Require the judges to use it. And then develop a system so that when people come out of prisons and jails, they will be monitored in a drug court, reentry court-type setting.

It can be done. Thank you very much.

[Written statement by the Honorable Stephen Manley, Judge, follows:]

Testimony of the
Honorable Stephen Manley
Judge
Superior Court of California
County of Santa Clara

Commerce, Justice, & Science Subcommittee
Committee on Appropriations
U.S. House of Representatives
Hearing on Innovative Prisoner Reentry Programs
Wednesday, March 11, 2009
3:00 PM, H-309 Capitol

Good afternoon. Chairman Mollohan, Ranking Member Wolf, and distinguished Members of the Subcommittee, it is an honor to be here to discuss one of the most pressing challenges facing our Nation, prisoner reentry. As a judge for nearly 30 years, I have not only seen first hand how the current system of justice has failed to reduce the ever growing rates of incarceration and recidivism but, more importantly, I have learned that if we make basic changes to our existing sentencing policies and parole and probation practices, utilizing an effective reentry court system with responsibility returned to the courts, and judges, we can and do produce better outcomes.

The Prisoner-Reentry Population is Expanding Rapidly in the U.S.

Over 650,000 inmates are released from U.S. prisons back into the community each year, and the number of released inmates has been growing steadily over the past few decades.[1] Approximately 93% of all inmates are eventually released from prison and approximately 45% of state prison inmates are expected to be released within a given year.[2] Currently, the ratio of new prison admissions to prison releases is approaching 1:1; that is, for every new inmate sentenced to prison, another inmate is released.[3] In part, this is the result of prison population caps that have been imposed in many jurisdictions, which require the total inmate head-count to remain steady or decrease in designated institutions. Absent the availability of new funds to build new facilities, some inmates must be released in order to make way for new entrants.

Traditional Parole Supervision Has Been Unsuccessful

Unfortunately, success on parole has been the exception rather than the rule. Less than one-half of parolees satisfy their conditions of parole supervision, including remaining abstinent from drugs or alcohol.[4] Within 3 years of their release from prison, approximately two-thirds of inmates are charged with a new crime and over one-half are re-incarcerated either for a new crime or for a technical parole violation.[5] Over 85% of drug-abusing offenders return to drug abuse within the first year after their release from prison and over 95% return to drug abuse within 3 years.[6]

Outcomes are even worse for inmates who "max out" on their sentences and are released without parole supervision. Unconditional releases are approximately 10% more likely to be rearrested for a new criminal offense than inmates released under parole supervision.[7]

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[1] E.g., McCaskill, C. (2008). Next steps in breaking the cycle of reoffending: A call for reentry courts. *Federal Sentencing Rptr, 20*, 308-309.

[2] Petersilia, J. (2003). *When prisoners come home: Parole and prisoner reentry*. Oxford Univ. Press.

[3] Id.

[4] Solomon et al. (2005). *Does parole work? Analyzing the impact of post-prison supervision on rearrest outcomes*. Washington, DC: Urban Institute

[5] Langan & Levin (2002). *Recidivism of prisoners released in 1994*. Washington, DC: Bureau of Justice Statistics, U.S. Department of Justice. Spohn & Holleran (2002). The effect of imprisonment on recidivism rates of felony offenders: A focus on drug offenders. *Criminology, 40*, 329-357.

[6] Hanlon et al. (1998). The response of drug abuser parolees to a combination of treatment and intensive supervision. *Prison Journal, 78*, 31-44. Martin et al. (1999). Three-year outcomes of therapeutic community treatment for drug-involved offenders in Delaware. *Prison Journal, 79*, 294-320. Nurco et al. (1991). Recent research on the relationship between illicit drug use and crime. *Behavioral Sciences & the Law, 9*, 221-249.

[7] Solomon et al., *supra*.

Reasons for Poor Outcomes on Parole

How do we explain these abysmal outcomes? My observation is that the problem stems primarily from the absence of the continuing authority of the courts over reentry cases. Virtually all offender-reentry programs transition individuals from prison or jail back into the community under the supervision of parole, or probation as in the case of split-sentencing jurisdictions. Although the intent is to place the offenders in treatment and other programs that meet their needs for successful reintegration, there are several major problems with this approach:

1. *Responsibility for supervising the offenders is fragmented and distributed across multiple criminal justice agencies.* The truth is that we do not have a "criminal justice system" in this country; rather, we have multiple systems—perhaps better characterized as fiefdoms—that take turns supervising offenders. After sentencing, the courts are often no longer involved with the case until there is a petition for a violation of probation (v.o.p.) or the offender has been charged with a new crime. (Even then, the case will often be brought before a different judge than the one who originally sentenced the offender, with no familiarity with the offender or the originating case). In many instances, after sentencing the court hands over authority for the offender to another agency. The offender may be sentenced to probation, which depending on the jurisdiction may be administratively housed within or outside the judicial branch, within a separate executive agency, or sometimes within the department of corrections (DOC). If the offender is sentenced to jail, prison or an intermediate sanction, such as boot camp or a community-correctional center, authority over the case is typically transferred to DOC, which is independent of the courts.

   This fragmented process virtually guarantees that there will be a lack of continuity in treatment and supervision of offenders. If a careful assessment of the offender was used to craft the original sentencing plan, the assessment results are often not communicated down the line to probation, parole or DOC, and do not necessarily control or influence subsequent decisions made about the offender. As a result, whatever care was taken by one agency to provide the appropriate disposition may be ignored or undermined by another agency within a few days, weeks, or months. What we need is a seamless transition of supervision plans, starting from the point of arrest or sentencing, and continuing uninterrupted through community reentry.

2. *Probation and parole officers often lack the requisite power and authority to control their cases in the community.* It is unacceptably naïve to believe that offenders are ordinarily motivated to receive treatment and other services, and to take responsibility for their rehabilitation. Even those offenders who are motivated to change their behavior often lack confidence that they are capable of doing so. As a result, they may be expected to exhibit poor compliance with treatment and other supervisory conditions. Left to their own devices without close monitoring and meaningful consequences for their non-compliance in treatment, approximately 75% of probationers and parolees drop out of treatment prematurely or attend treatment irregularly.[8]

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[8] See, e.g., Marlowe, *Effective strategies for intervening with drug-abusing offenders*, 47 VILL. L. REV. 989 (2002).

Unfortunately, probation and parole officers often lack appreciable power to intervene in this process. Apart from relatively low-magnitude sanctions at their disposal, they are typically required to file a v.o.p. petition with a court or hearing officer. The adjudicative process is often lengthy and there is no guarantee the judge or hearing officer will be familiar with the case or will back up the probation or parole officer's recommendations. Often, the judge or hearing officer may unintentionally undermine the parole officer's efforts. What we need are dedicated court calendars that routinely hear v.o.p. petitions, are staffed by judges who are familiar with the cases and with parole conditions, and are prepared to back up parole officers' decisions with judicial "teeth."

3. *Probation and parole agencies have had considerable difficulty bringing the treatment community to the table.* Although approximately 80% of offenders are substance abusers[9] and nearly one-half are clinically addicted to drugs or alcohol,[10] a recent national survey found that relatively few parolees receive adequate substance abuse treatment to meet their clinical needs. Only about one-half of parole programs offer low-intensity educational services, and less than one-quarter offer an adequate dosage of evidence-based treatment services.[11] Parole agencies are even less likely to offer services for problems other than substance abuse, such as mental illness, medical illness, family dysfunction, or domestic violence. Less than 20% of parole programs offer services addressing these critically important issues.[12]

   Many parole agencies have no incentive to even consider local treatment and services because they are never in the position to begin the engagement process with the offender. A recent study in California found that in 2005, fully two-thirds of more then 120,000 California parolees only saw their parole agents once every six weeks.[13]

   In my experience, most probation and parole officers direct offenders to find a place to live, get a job, report regularly, enter treatment, drug test, and stay out of trouble. The obligation is put nearly 100% on the offender and if he or she fails to follow directions, the answer is often more punishment. Armed with quasi-police powers of arrest and detainment, the result is often repeated v.o.p.'s for technical violations, resulting in an expensive, revolving-door process of release, followed by re-incarceration, followed by release. Relatively sparse efforts are made to apply treatment-oriented consequences or to administer lower-magnitude sanctions that can maintain the offender in the community while simultaneously protecting public safety.

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[9] Belenko & Peugh (1998). *Behind bars: Substance abuse and America's prison population.* New York: Center on Addiction & Substance Abuse at Columbia University.

[10] Karberg & James (2005). *Substance dependence, abuse, and treatment of jail inmates, 2002.* Washington, DC: Bureau of Justice Statistics, U.S. Dept. of Justice. Fazel et al. (2006). Substance abuse and dependence in prisoners: A systematic review. *Addiction, 101*, 181-191.

[11] Taxman et al. (2007). Drug treatment services for adult offenders: The state of the state. Journal of Substance Abuse Treatment, 32, 239-254.

[12] Id.

[13] California Department of Corrections and Rehabilitation, Expert Panel on Adult Offender and Recidivism Reduction Programming, Report to the Legislature (2007), *A Roadmap for Effective Offender Programming in California.*

This process was clearly exemplified in our experiences with intensive supervised probation and parole (ISP) programs that were implemented in the 1980s. These programs were created to provide closer surveillance of offenders in the community. The parole officers carried lower caseloads and were specially trained to identify and intervene with psychosocial problems faced by the offenders. Unfortunately, in practice many of the programs simply watched the offenders more closely, and were more likely to catch them in the act of committing infractions. As a result, the offenders were more likely to receive technical violations and to be returned to custody, rather than receiving augmented treatment services to help them remain successfully in the community.[14]

Importantly, however, research did find that those ISP programs that actually provided evidence-based treatment services to the offenders were associated with reductions in crime averaging 10% to 20%.[15] Virtually all of the reductions in recidivism were attributable to the parolees' contact with treatment. The more treatment they received, the lower the likelihood of recidivism. What we need is a problem-solving approach that brings parole officers, treatment providers and the courts together as a team to provide the most effective and cost-effective solutions for recalcitrant offenders.

California's Experience

There is no clearer evidence in my mind of these problems than California's experience with a relatively recent sentencing initiative called "Proposition 36". Simply put, Proposition 36 changed sentencing policy in the State related to nonviolent offenders who use and/or possess drugs (whether they are on parole or newly sentenced). It requires the courts and parole to order the offenders to enter treatment and prohibits incarceration if they attend and complete treatment.

The results over nearly 8 years have been clear. Those offenders on parole have been the least likely to enter treatment and complete it, although they have the most to lose in terms of incarceration. The lion's share of the parolees either failed to show up for treatment or dropped out of treatment prematurely, recidivism rates actually *increased* in our state, and roughly 60% of the parolees ultimately had their parole revoked.[16] In contrast, probationers who were sentenced by the courts and continuously supervised by a judge in a Drug Court-like model were the most likely to succeed and remain safely in the community.

Applying the Reentry Drug Court Model

These undisputed problems with parole call out for the application of the Drug Court Model to offenders reentering our communities. In many ways, our current problems with parole directly parallel those previously faced by probation agencies supervising offenders sentenced to community

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[14] *E.g.*, Gendreau et al., *Intensive Rehabilitation Supervision: The Next Generation in Community Corrections?*, 58 FED. PROBATION 72 (1994).

[15] Gendreau et al., *The Effects of Community Sanctions and Incarceration on Recidivism*, 12 CORRECTIONS RES. 10 (2000). Aos et al. (2006). *Evidence-Based Adult Corrections Programs: What Works and What Does Not* (2006). Washington State Institute of Public Policy.

[16] University of California, Los Angeles. (2005). *Evaluation of the Substance Abuse and Crime Prevention Act, 2005 Report.* Los Angeles: UCLA Integrated Substance Abuse Programs;

supervision in lieu of incarceration. Poor treatment compliance and high revocation rates among probationers led the courts to create the Drug Court Model as a community sentencing alternative.

Drug Courts bring the power and influence of the judiciary to bear on the management of drug-involved offenders. Participants are required to appear in court regularly for status hearings, during which the judge may apply gradually escalating sanctions for infractions and rewards for attending treatment, remaining abstinent and meeting other treatment-plan goals, such as finding a job or completing an education. A team-model is followed, in which the judge, probation, treatment agencies and police work together to manage the case and enhance improvements in offenders' functioning. The various agencies do not sacrifice their traditional functions, but rather exercise their functions in a problem-solving manner that enhances their own effectiveness in fulfilling their professional roles.

Drug Courts began as a pre-adjudication program designed to divert nonviolent offenders from incarceration into community-based supervision and treatment. Based on their documented success in enhancing offenders' compliance with treatment and reducing substance abuse and crime, Drug Courts have now expanded to become a viable post-conviction sentencing option, an alternative to revocation for repeat probation violators, and a reentry mechanism for prisoners returning to the community.[17] Reentry Drug Courts are being increasingly developed at the federal, state and local levels. Currently, there are 20 Federal Reentry Drug Courts (although they do not always go by that name) serving either as a condition of supervised release from the U.S. Bureau of Prisons, or as a last-ditch effort to avoid revocation for federal offenders who violate their terms of supervised release.[18]

One might ask what is the value of applying the Reentry Drug Court Model as a successful reentry strategy for offenders? The answer is that it effectively and efficiently resolves the barriers I previously identified. The reentry plan is developed from the outset at the point of sentencing, and is consistently applied throughout the offenders' involvement with the criminal justice system. Authority over the case is not transferred between different agencies, but rather is coordinated by the various actors within a unified system. This ensures continuity of treatment and supervision services over time, avoids duplication of efforts, and prevents agencies from acting at cross-purposes. Moreover, the authority of the court can be called upon at all times to back-up the authority of parole and corrections officers. Knowing that the judge will put "teeth" behind their efforts, parole officers may be more willing to alter the conditions of community supervision and apply lesser-magnitude sanctions, rather than feeling that they have little recourse but to revoke release. Finally, judges, through the advent of Drug Courts, have demonstrated their ability to bring the treatment community into the process, and to engage their efforts in an integrated manner toward improving offender outcomes. Put simply, when a judge invites treatment providers to a meeting or to a hearing, they usually show up and contribute. This level of cooperation has not been as easy to accomplish or as consistently applied when it has been attempted by correctional officers.

Targeting Reentry Plans According to Offenders' Risks and Needs

I am not suggesting that all released inmates need to attend a fully constituted Reentry Drug Court program, with all of the services that are ordinarily attendant to this model. Evidence from Drug

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[17] Huddleston et al. (2008), *Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States*. National Drug Court Institute.

[18] Id.

Courts reveals that a substantial proportion of defendants and probationers can be managed on alternative "tracks" that may require fewer court hearings, less frequent treatment sessions, or lesser schedules of sanctions and rewards.[19] For example, substantial research in Drug Courts indicates that "low risk" offenders who have less severe drug problems, less complicated criminal histories, and better prognoses in standard treatment may not need to be managed on a regular status calendar in court.[20] Instead, they can be effectively supervised by probation officers and brought before the court only if there is a serious problem with their compliance in treatment.

In the probation context, this approach has been successfully applied in a program called Project H.O.P.E. (Hawaii Opportunity Probation with Enforcement). In H.O.P.E., offenders are primarily supervised by probation officers, undergo random weekly urine drug testing, and receive gradually escalating sanctions from the court for infractions. The sanctions may include brief jail stays of up to several days or a few weeks. Evidence suggests that H.O.P.E. significantly reduces probation revocations and new arrests for a substantial number of drug offenders.[21] What is important to recognize, however, is that H.O.P.E. is a court-supervised intervention. A special court calendar is created by the judge to hear v.o.p. petitions in a timely manner, and the judge applies previously agreed-upon sanctions that are clearly explained to the offenders. In this way, probation officers are assured that the judge "has their backs" and will be available daily to respond quickly and meaningfully to transgressions. This enables the probation officers to enforce the conditions of supervision more effectively and do their jobs better.

In the diversion context, I understand from my colleagues in New York, that they are having success with alternatives like the Drug Treatment Alternative to Prison Program (DTAP) which is authorized in the Second Chance Act. However, once again, it has been demonstrated that the program works most effectively when there is appropriate screening and assessment and direct judicial monitoring.

Based on the experiences in California, Hawaii, New York, and consistent with the Second Chance Act, I am calling for is the development of a Reentry Court System that would involve, first, the court assuming full responsibility for managing offender outcomes, and next, assigning offenders to separate calendars or tracks called by a group of judges who conserve resources and at the same time keep offenders in rehabilitation and treatment through to completion. If appropriately structured and applied, such a model should be capable of monitoring and supervising large numbers of offenders in each jurisdiction through different levels of structured court intervention.

Once we have eliminated from consideration those offenders who pose a true threat to public safety, and thus who should be retained under correctional control, we can fashion a broad spectrum of treatment, rehabilitation and supervision tracks that can be clearly defined and efficiently

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[19] Marlowe (2006). Judicial supervision of drug-abusing offenders. *Journal of Psychoactive Drugs, SARC Suppl. 3*, 323-331.

[20] Marlowe et al. (2007). Adapting judicial supervision to the risk level of drug offenders: Discharge and six-month outcomes from a prospective matching study. *Drug & Alcohol Dependence, 88S*, 4-13.

[21] Hawken & Kleiman, *H.O.P.E. for Reform*, THE AMERICAN PROSPECT (2007), at http://www.prospect.org/cs/articles?article=hope_for_reform.

implemented. Some of these tracks may, for example, focus on mentally ill offenders, others may focus on offenders who have a generally good prognosis for standard treatment, and others may focus on offenders with the worst prognoses, who need to be kept on a short rein with frequent status hearings and intensive treatment services. In terms of day-to-day practice, some of the tracks might be managed primarily by treatment providers within their own clinical programs, others might be supervised by parole officers using a graduated schedule of sanctions similar to H.O.P.E, and the most serious offenders would be supervised closely by the judge in collaboration with parole officers and treatment providers.

Regardless of whatever track an offender is initially placed in, the court would retain continuing jurisdiction over the case and could intervene quickly and meaningfully if there were problems with the offender's performance. This would include ongoing authority to alter the conditions of supervision, place the offender on a different track, or revoke parole.

My Experiences with a Reentry Drug Court System in California

I have practical experience presiding over a Probation and Parolee Reentry Drug and Mental Health Court in Santa Clara County, CA. In this court, which supervises probationers on leaving jail and parolees on release after commission of a new offense, I see on a daily basis the disadvantages of simply placing offenders under the supervision of a parole agent or probation officer. Our parole system, not unlike those in other states, is driven by rules. In California, an offender who is on parole and commits a technical violation of parole (e.g., fails to report on schedule) or commits a new low-level offense is first incarcerated by the parole agent with a "parole hold" placed, which keeps the offender in custody. This is followed by the filing of procedural paperwork that is driven by a rigid set of rules that cannot be ignored or avoided. The process often leads to the offender waiving his or her rights to a formal hearing and going back to prison, or to a formal hearing often with the same end result. Punishment has been accomplished (and frequently more severe punishment than a judge would normally have imposed), and with no change to the offender's behavior. The result is that nearly 70% of parolees in California are returned to prison within one year. At the same time, treatment beds, job training slots, and psychiatric appointments are not utilized effectively because few offenders take advantage of them.

In my court, the goal is to keep parolees out of prison and to make sure that they keep appointments, stay in treatment, and report regularly to the court. The parole agents are part of a local team that gathers in the courtroom and works together. The orientation of the court is to push the offender to follow his or her rehabilitation plan, which is driven by a personal risk and needs assessment. Housing that did not exist is found and paid for, treatment slots that were empty are now full, offenders are surrounded by so many coercive individuals that they have little choice but to make an effort to succeed. Once they find the beginning of success, they gain confidence. If they slip, the remedy is not necessarily incarceration, but reengagement; and if they need a sanction, they receive one as quickly as they receive praise. Their goals change over time from "getting off parole" to "making my life a success." The advantages of this approach lie in the fact that the most intensive judicial, parole, probation, case management, and treatment services are concentrated on those offenders who have the greatest needs for the treatment and are at the greatest risk to drop out of treatment or fail to enter it.

Because the Parole Division as well as the independent Board of Parole Hearings has agreed to allow a local judge to have the power to supervise parolees, parole-holds can be lifted at my request within a day, and the team (which includes the parole agents, treatment providers and attorneys) work out a treatment plan and decide on an appropriate response to misconduct, which might include a short jail sanction, other accountability requirement or no sanction at all, and move the offender directly into or back into community treatment and services.

This approach to supervising one of the most difficult and expensive cohorts of offenders (specifically, offenders on probation and parole who are seriously mentally ill as well as ongoing substance abusers) has been independently evaluated through a MacArthur Foundation grant. The preliminary findings indicate that arrests in the 18-month follow-up period are significantly reduced, the time between release from jail on the target arrest and time to re-arrest is longer, and clients experience a significant reduction in the number and length of incarceration stays compared with offenders in the control group.[22]

California is now moving in the direction of the Reentry Drug Court Model for the entire state. Senator Denise Moreno Ducheny, who is the Chair of the State Senate Budget Committee, has introduced legislation in the present session that would require the Judicial Council to establish a pilot program for the operation of up to 10 Reentry Court programs for parolees who would benefit from community drug treatment or mental health treatment. The programs will include the key components used by Drug Courts, applying a highly structured model, including monitoring by a judicial officer, dedicated calendars, nonadversarial proceedings, frequent drug and alcohol testing, and close collaboration between the respective agencies involved, including parole, to improve offender outcomes.

In my view, the essential elements in this legislation are (1) the return of jurisdiction over parolees to the courts, and (2) the conditioning of any continued funding on evidence of actual improvements in offender outcomes.

What I have learned in the Reentry Court process is that if you group offenders into tracks based on a valid assessment of their risks and needs, one judge can manage a very large program. I personally supervise over 1,600 offenders in my Reentry Court, and many of these offenders are seriously mentally ill as well as addicted to drugs or alcohol. The offenders are scheduled on different days and times of the week based on the amount of court supervision and review that is anticipated to be needed, with the important rule that a parole agent, probation officer or treatment provider (or the offender individually) may come to court on any day of the week for immediate intervention.

In California, the independent Legislative Analyst's Office found that leaving aside new sentences to prison, the two factors that have driven the increase in the prison population to its present untenable level over 20 years are (1) parole violators with new felony convictions returned by the courts and (2) parole violators returned by the Board of Parole Hearings, accounting for over 60,000 offenders.[23]

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[22] Steadman and Callahan, MacArthur Mental Health Court Study (2008), *Preliminary Findings*.

[23] California Legislative Analyst's Office (2009) *2009-10 Budget Analysis Series, Judicial and Criminal Justice.*

A basic reason to rethink and redesign our strategy in supervising offenders' reentry can be found in the fact that the reason we are locked into overcrowded prisons does not lie only in a failed parole system. We also have a failed court system and probation system in the supervision of reentry. The lesson to be learned is that our traditional practices in sentencing and processing of probation and parole violations has remained for many years driven by a fixation on punishment as the only response. Simply put, the offender is punished when sent to jail or prison, and then punished further once released into the community.

What Drug Courts have demonstrated is that we need a reentry response and an alternative to incarceration to reach the result of meaningful behavior change and meaningful reintegration back into the community. We are now ready to take that concept one step further and apply it through a Reentry Court Systems Model based on Drug Court principles to many thousands of offenders, rather than only a select few.

We have been following a very traditional model of sentencing in most states, and in my many years as a judge I have seen little change in that model until the advent of Drug Courts. As judges, we either punish or we don't punish. What we never do is look beyond the day of sentencing to the reality that nearly every offender will return to our community or remain in it, and we as judges should play a more active role in accepting responsibility for outcomes and viewing the courts as having an opportunity to play a central role in obtaining better outcomes for offenders than our traditional punishment model.

Recommendations

In conclusion, accomplishing this paradigm shift in community-reentry requires several practical changes to our sentencing policies and parole and probation practices. All of these changes have clear precedent and evidence for success in various state measures, and can be instituted successfully with reasonable effort and expense.

1. The courts must be given continuing authority to supervise offenders following their release from custody. Some models already exist incorporating this concept to a limited extent. For example, some states have split-sentencing provisions which authorize judges to sentence offenders to a period of custody followed by an additional period of probation under the continued jurisdiction of the sentencing court. Others have MOUs between the courts and parole department, which allow judges to supervise cases alongside parole officers. Still others have quasi-judicial officers that are housed within DOC but have court-like authority to issue subpoenas, revoke parole and impose other legally authorized sanctions. What is needed is a clear commitment to place the responsibility directly with the courts to oversee reentry.

2. Between the time an offender is booked into jail and the time of plea negotiations and sentencing negotiations, an assessment should take place as to every felon in terms of (a) the risk that he or she poses now and in the future to public safety; (b) the risk that the offender will not benefit from standard treatment or other available interventions in the community without intensive judicial scrutiny; and (c) the treatment-related needs the offender has in terms of such problems as addiction, mental illness, housing, employment, education and other factors critical to successful reentry.

3. Judges should be required to consider the above risk and needs factors when rendering sentences, and should be required to craft a reentry care plan that takes these factors into account when rendering the ultimate disposition. Although judges should retain discretion to render verdicts and dispositions according the unique issues presented by each case, they should be required to include issues of risk and needs in their calculus of judicial decision-making.

4. Reentry Court Systems should be developed that include a range of alternative tracks suitable to the types of risk-and-needs profiles presented by various offenders. Continued funding of these programs should be made explicitly contingent upon their improving offender outcomes, protecting community safety, and doing so in an efficient and cost-effective manner.

Thank you for the opportunity to share my experience and recommendations in this area. I realize that I am suggesting a new approach that I believe will produce better outcomes in terms of successful community reentry for offenders, and I look forward to a continued discussion with the Subcommittee. I will be happy to answer any questions at this time.

Mr. MOLLOHAN. Thank you, Judge. Judge Manley, you say you have a 70 percent recidivism rate in California?

Judge MANLEY. Yes. But for those individuals who are released on parole. This is a state system.

DRUG COURTS

Mr. MOLLOHAN. Now how do drug courts impact that recidivism rate? And if you would——

Judge MANLEY. Okay.

Mr. MOLLOHAN [continuing]. Explain the difference.

Judge MANLEY. In my court, I have parolees. I have an informal written agreement with the director of parole and the Board of Parole Hearings that allows me to have the jurisdiction. In California you lose all jurisdiction over anyone you send to prison the minute you send them to prison. You have 90 days to change your mind. But you have no jurisdiction over what happens.

They agree to give me the jurisdiction. Therefore, when the parolee comes back in the community and tests dirty, in California you go back to prison. That is a technical violation of parole. If you don't show up at a treatment program, you go back to prison. If you don't show up to see your parole agent, you go back to prison.

If I have the control, I don't have to have that be the end point. I can say, "All right, you will see the parole agent tomorrow. And if you don't, you will go to jail for one day." One day. There is nothing parolees hate more than having their lives interrupted for a short period of time. It drives them nuts. And to be held accountable gets the result. And that is the big difference.

The parole system, they see their parole agent once every six weeks. You can't monitor or supervise anyone. In the end, the technical violations are rule driven, or as in the court, we have no real rules other than we want a better outcome. We want treatment. We are going to make sure you get into treatment and stay there. And if you don't, there will be consequences. Parole has none of that.

Mr. MOLLOHAN. Do you have a statistic for recidivism, under the drug court scenario versus the parole scenario?

Judge MANLEY. In terms of going back to prison, we have the opposite of what happens when you send people to parole. You have 30 percent. All right? So in other words, parole it is 70 percent. We drop that down to 30 percent, dealing only with parolees, because to all offenders, it is in the neighborhood of 13 to 17 percent recidivism. By that I mean, commission of a new crime.

Mr. MOLLOHAN. Okay. I really want to understand the difference there. But just staying with parolees, because the 70 percent recidivism rate relates to parolees obviously.

Judge MANLEY. Yes. Recidivism, Mr. Chairman, means that they are returned to prison. And they may be returned to prison not for committing a new crime, but for violating——

Mr. MOLLOHAN. Violating their parole. I understand.

Judge MANLEY. Right.

Mr. MOLLOHAN. But I am just trying to compare apples to apples here a little bit. And trying to see the impact of drug courts in the lives of those who are under, criminal jurisdiction.

Judge MANLEY. Then that will come down to 17 percent or less.

Mr. MOLLOHAN. In drug courts?

Judge MANLEY. Yes.

Mr. MOLLOHAN. And the same population managed by you in a drug court environment——

Judge MANLEY. Right.

Mr. MOLLOHAN [continuing]. And drug court scenario, you reduce the recidivism rate from 70 to 17.

Judge MANLEY. Right.

Mr. MOLLOHAN. Over what period of time?

Judge MANLEY. Over three years.

Mr. MOLLOHAN. And is that your measurement? Do you have outcomes——

Judge MANLEY. The measurement is——

Mr. MOLLOHAN [continuing]. For three years, four years, five years?

Judge MANLEY. Yes. We have a five-year study going on right now. We are up to—we have done it for two years. And the measurement is really recidivism in terms of committing new crimes. And the length of time in custody is another outcome we measure. And the third outcome we measure is how many people go back to prison or jail.

Mr. MOLLOHAN. And those statistics are written up so that they can be made a part of the record?

Judge MANLEY. There is a MacArthur study. There was a MacArthur grant study that has been done for jurisdictions, two in California, one in New York, and one other state. And that they have issued preliminary findings and the rest will come out later in this year.

And I can make those available to you, sir.

Mr. MOLLOHAN. Okay. Thank you, Judge.

Ms. Amison, can you talk about the benefit of your programs in terms of reduction in recidivism? And give us some comparisons.

GEMEINSCHAFT OFFENDERS

Ms. AMISON. Yes. Our study started with our first cohorts in June 2000. And our first cohorts entered June of 2000, last cohorts entered January of 2002. And at the time of this report, the prisoners had been out of prison a minimum of 1.5 years and a maximum of 3.5 years.

Now what they based this on was people that have therapeutic community with no transitional therapy in the communities against people that had no therapeutic community or no transition therapy through the community at all. And were released from prison during the same time period that Gemeinschaft offenders were released from prison.

And what is significant—the Gemeinschaft offenders were less likely to be rearrested than were either prison TC or non-prison TC controls. Prison TC controls they had lower arrest rates than the non-prison TC offenders. The whole report is in here. And the reconviction rate, the Gemeinschaft offenders had a significantly lower reconviction rate than the control groups.

And then as we went to the recommital rates, the Gemeinschaft offenders had significantly lower recommital rates than the con-

trolled groups. And we have the bar graphs to show the rate that James Madison University did.

Mr. MOLLOHAN. What document are you referencing there?

Ms. AMISON. The study that was done by Dr. Peggy Plass from James Madison University.

Mr. MOLLOHAN. Would you make that study a part of the record?

Ms. AMISON. It is a part of it.

Mr. MOLLOHAN. Oh, it is a part of your testimony. It's already there? Okay, terrific.

Ms. AMISON. Yes. It is in here.

Mr. MOLLOHAN. Thank you.

Mr. Wolf.

Mr. WOLF. Mr. Lewis.

Mr. LEWIS. No, no, please.

Mr. MOLLOHAN. Mr. Lewis.

Mr. LEWIS. I am here to——

Mr. MOLLOHAN. Well, I will let you two decide.

DRUG COURTS OPERATIONS

Mr. WOLF. Thank you, Mr. Chairman. I have a couple of questions. And I would appreciate your comment. Judge Manley, are drug courts drug courts all over the country, the same way they operate? Do the ones in Virginia operate the same way as the ones in California? Is it pretty much?

Judge MANLEY. Yes. They follow a basic model.

Mr. WOLF. Okay. I have never been. I should go to one. And I was invited——

Judge MANLEY. Oh, I urge you.

DRUGS IN PRISON

Mr. WOLF [continuing]. And I didn't go.

Ms. Amison, a couple of questions. When I asked Director Lappin yesterday I have been told by some prisoners that what is available on the street is available in prison. He acted like, well, yes, just a little bit sometimes. Is that fairly common, or what is available in the street is available in the prison with regard to drugs?

Ms. AMISON. Yes. It is available. I worked in prison for ten years. And we had them tested right there in the prison and urine screens done there. And the same substances that they were getting on the street were inside the prison.

Mr. WOLF. Now this is not asking you for your program, but overall for the State of Virginia, the state that I represent, how well does Virginia do? You heard your own testimony. You gave it. You heard Judge Manley. You also heard the three previous witnesses.

Ms. AMISON. That is a good question.

Mr. WOLF. How well do we honestly do?

Ms. AMISON. Let me tell you. We were doing real well for many years. But not right now we are not doing well at all, because the state has cut out all programs. My doors are about to be shut.

Mr. WOLF. Right.

Ms. AMISON. So all of the programs, community programs, have been cut out as far as reentry is concerned. We were doing real well. We had the ideal models as far as non-violent offenders. The

Department of Corrections was doing a superior job as far as making referrals to the program. You did not have enough beds due to the lack of money to accommodate the number of prisoners that were getting out of the therapeutic community programs.

But as far as the continuum of care, we had the best thing going in the State of Virginia around—that I have seen as far as reducing recidivism.

Mr. WOLF. And that changed—when did we begin to see the change in the State of Virginia, the last three or four years, ten years?

Ms. AMISON. We started seeing the change when the banks got into trouble and Wall Street got into trouble. And the money started going away. That is when we saw the change. And we could have used money for more beds in the State of Virginia. And we could have—and our goal in Virginia was to replicate this model.

Mr. WOLF. Well, your model how much is your model replicated say in Richmond or in Tidewater and Northern Virginia? I see one guy shaking his head no. I mean, are we replicating it or are you sort of a stand-alone operation?

Ms. AMISON. We kind of stand alone. We have a program where they have some beds designated for the type of people, non-violent offenders, that are coming out of the TC in Richmond called Rubicon.

Mr. WOLF. Have you testified before the General Assembly?

Ms. AMISON. No. This is the first time anybody, I have got the best thing going. And this is the first time anybody ever asked me to testify.

Mr. WOLF. Who discovered you other than Mr. Mollohan we will give him the credit.

Ms. AMISON. Other people around the United States have discovered me.

Mr. WOLF. We will let the record show that Mr. Mollohan discovered her.

Ms. AMISON. The Chairman, I had a long session with him last year, before that.

Mr. WOLF. Good. Well, to Mr. Mollohan's credit.

Ms. AMISON. Yes.

Mr. WOLF. The last question is I think you said something that really had to be said. And I think, again, Mr. Chairman, let me just say and probably—is the Bureau of Prisons person here? Yeah, I would have thought there was someone. Oh, you are with the Bureau of Prisons? Okay, Justice.

HALFWAY HOUSES

Mr. Lappin made everyone feel guilty about the fact that you didn't want a halfway in your neighborhood with violent criminals. And that he was having trouble. He was saying, "We are having trouble in your area in Virginia, Mr. Wolf."

I think you have painted it in a very accurate way. No one wants a violent criminal group with armed robbery or all that other stuff in your neighborhood. And I think if you said I want one, you would be kidding yourself. But I think the way you explained a non-violent offender, bank fraud or something, it makes all the difference in the world. So I think it is important that I think Mr.

Lappin is correct that, because I think the way you explain it makes it more reasonable and more understandable than the way that he did yesterday.

Ms. AMISON. And it is less threatening to the community. When you say non-violent offenders, it puts a different face. Our offenders go into the schools, the elementary schools, high schools and talk to the students at school to keep them from——

Mr. WOLF. Have you had any or many situations where people who were in your program went out and committed a crime in Harrisonburg?

Ms. AMISON. I have had two instances——

Mr. WOLF. Out of how many people?

Ms. AMISON [continuing]. In the eight years that I have been there. And we serve 120 people a year.

Mr. WOLF. If you could send—do I have a copy of it? We are going to send a copy down to Secretary Marshall and to others.

Ms. AMISON. He knows me well. I call him all the time.

Mr. WOLF. And I assume, Judge, I have yours too. Ask them what their—what they are doing. And I think with the combination of the two of you with the last three, offers an opportunity to really test the system, see if what you are saying is really accurate, or if it was just.

But, thank you. I thank you both.

Ms. AMISON. Thank you.

Mr. MOLLOHAN. Mr. Lewis.

Mr. LEWIS. Thank you very much, Mr. Mollohan, for just letting me in the room. I wanted to mention to those who are listening that I am not a lawyer. I don't spend time in these rooms with these competitors of mine very often, because they do their jobs very well. But there has been a long history in our State of California where we have tried to get a handle on the interplay between drug problems, mental health and violent crime.

And Judge Manley could tell you that it has been at least four decades ago that Laneron Petree Short tried to make a change in our state. That is, we had a long history of when people had demonstrated some difficulty we essentially sent them to a local mental hospital and threw the key away. And the design was to attempt to unravel that, stop that pattern of non-concern about humanity.

The legislature took some dramatic steps. Made it very difficult to incarcerate people in terms of the mental facility at least, but we also had another piece of that. Another important stool was to—the leg on the stool was to have clinics in communities that would make certain that families were enough involved so that people had treatment care and otherwise. The second phase of it never was put in place. And because of that there are humans who get trapped in this process and the story does not begin when they walk in the jail cell, it begins an ongoing part of their life.

So Mr. Chairman, we have some opportunities ahead of us with this stimulus package. As you know I am not for spending all the money in the world, but for programs that are demonstrating their ability to work, helping us exercise the models that can help other communities around the country, are very much worth our attention, as long as we don't put people on a pathway where two years

from now the money is going to fall off and they will be off a cliff again. But drug court is an illustration of exactly that.

One of the things that I have seen working, and having a real impact upon people's lives is what—is that experiment that took place in California, and I hope is rapidly impacting other locations.

But Judge Manley, he and I will be talking further about this question, but if there is a way I can at all help you, Mr. Chairman, I want to.

Mr. MOLLOHAN. Thank you.

DELANCEY STREET

Ms. AMISON. Can I say one quick thing? Sustainability is also the key for these type of programs, and we are also one of Delancey Street replications that is in San Francisco, California.

Mr. MOLLOHAN. Say that last sentence again? You are one of——

Ms. AMISON. A replication of Delancey Street in San Francisco, California Dr. Mimi Silbert gave us her blessings and gave us technical assistance, and we started an auto detailing business. We didn't have enough money to sustain the business, but right now we are doing a refuge pickup where we get paid quarterly, and our guys go out and pick up refuge on the weekend for the local restaurants. And we are getting ready to start a catering business.

So we also work on sustainability and sustaining ourselves so we won't have to continue to find ourselves in this fix without any money and we can support ourselves.

Judge MANLEY. Well following up, I agree with what Mr. Lewis said, that if you fund something high then all of a sudden it crashes down two years later, you in essence are pulling the rug out.

Mr. MOLLOHAN. I wanted to ask you one other question, both of you, and it is probably not a fair question, but I am going to do it. What is your evaluation of the three witnesses who testified earlier? Did what they said ring true? I mean the DOE Program and job opportunities, did that ring true to you?

Ms. AMISON. All of that rang true to me, and I agree with a lot of what was said. But I still stand on a holistic approach, because there is a mirage of needs that offenders have once they are released.

Judge Manley, my hat goes off to him, because what he said about the drug court and the way he is doing the drug court is ideal. And the other gentleman, and I know Pat that was here, they do excellent work. And all of these together, all communities are not the same and everything is not going to work in every community.

I went to Pawtucket, Rhode Island, and I was like this type of program is not going to work because of the combination of offenders and things that they had going on in Pawtucket, and the steering committee that they had, and the collaborations.

Well a drug court might work very well in Pawtucket, Rhode Island, so I feel that the five witnesses that you had testify, all of them were excellent ideas. It depends on the area, the city, and the state that you are in, which program will fit.

Judge MANLEY. Well in fact, you work in consort with Judge Manley or with a judge—with a drug court. Folks that are going to drug court could very well be in your program. Is that correct?

Ms. AMISON. They could be, but we don't have a drug court.

Judge MANLEY. No, I understand you don't.

Ms. AMISON. Yes.

Judge MANLEY. But I'm saying, you would be complimentary for a drug court person.

Ms. AMISON. Oh yes, it would be ideal.

Judge MANLEY. Yes, you would like that, wouldn't you?

Ms. AMISON. I would love it.

Judge MANLEY. Yes, you would, because you would have a hammer, which you don't have right now.

I would just say in response to Mr. Wolf, I think the testimony is—the previous testimony is right on point.

I think what I am trying to emphasize is that what I have observed, the real problem is, you can create a lot of programs that are very fine and they do a very good job with offenders, but if you can't get offenders, enough of them, into the programs and retain them there, then the program really doesn't meet the need.

And I am especially aware of this in California, and of course any other state that faces our problems where we are under a court order to reduce the prison population by 40,000 or more, maybe as high as 60 or 70,000.

You see, to move that kind of a program to make it real without having monitoring supervision and holding people accountable to enter and stay in treatment, that to me is the key if you can get people to take advantage of these programs.

I will tell you on a daily basis I have offenders ask me to send them to prison, because they don't want to do this program. They don't want to get job training. They have given up on themselves. They are addicted. They don't think there is any tomorrow, except drugs, and they are resistant to this.

And so part of a judge's job has to be to motivate an offender to do the thing they don't want to do, even though the programs are outstanding, and a tremendous outcome results that we could show the offender. The offender sits there and says, I just want to do my time. And I spend every week, a vast amount of my time, convincing people do this, try this, believe in yourself and get out there, then come back and show me you did it. And if you screw up I am not going to send you to prison.

You see, and that is what their mentality is, if I do that job training program or if I go to her program and I screw up, that judge is going to hammer me, or the parole agent will hammer me, or somebody else will hammer me, and that is where it all goes wrong I think.

We need to have, and she calls it holistic, to me holistic means we involve the courts, since we are the center where all this stuff starts. We should be involved to make it work, and to do everything we can instead of standing back and ignoring it.

Mr. LEWIS. I never thought about the courts in Earl Nightingale terms before.

OTHER PROGRAMS FOR OFFENDERS

Mr. MOLLOHAN. In your experience, Judge, do you use or are your offenders in some program——

Judge MANLEY. Oh absolutely.

We have 70 providers, you know, in every area. I mean, you have to look at what the assessment tells you. If the person needs life skills, if they are mentally—I work with a large number, and you did make mention to mentally ill offenders. Mentally ill offenders provide a great challenge. But if you do not have the treatment for them and the placements—and I spend most of my time——

Mr. MOLLOHAN. And do you do that? Do you place them?

Judge MANLEY. Yes.

Mr. MOLLOHAN. Do you direct them to get into a program, and then you monitor their being in that program?

Judge MANLEY. Well you have a choice. You either get in this program or you go to jail.

Mr. MOLLOHAN. You work cooperatively in that process.

Judge MANLEY. Oh absolutely. And I follow the direction and assessment.

For example, if there is a medication change and the doctor or clinic wants me to encourage the offender to try it, that is my job, to work with them with the treatment program to get the outcome they want to improve the offender's life and to make sure they stay in the program.

Mr. MOLLOHAN. Now you were here when Deputy Director Schrantz was testifying about the system in the State of Michigan?

Judge MANLEY. Yes.

Mr. MOLLOHAN. Were you here during that?

Judge MANLEY. Yes.

Mr. MOLLOHAN. How would drug courts fit into that architecture?

Judge MANLEY. Well they could, as far as I am concerned, they could fit right into it if it was made a part of it, yes.

Mr. MOLLOHAN. Are there drug courts in Michigan?

Judge MANLEY. There are drug courts in Michigan.

Mr. MOLLOHAN. And so they are a part of this system.

Judge MANLEY. They are part of a system, but what I am, what I am urging is that what we really need is to look at whether or not we are having enough people enter the system, is it large enough to take them all, and are they staying in it? And so that we are really affecting a large number of people.

And the courts see all these people. And so if you have a court system, then you can make sure that there is followup on each offender.

Mr. MOLLOHAN. Okay, and what I am asking is, is what you are talking about complementary to the very comprehensive, integrated systemic program that Deputy Director Schrantz was talking about in Michigan?

Judge MANLEY. Yes.

Mr. MOLLOHAN. Is there a role for drug courts there?

Judge MANLEY. There most certainly is.

Mr. MOLLOHAN. And is that role occurring today; do you know?

Judge MANLEY. It is occurring today up to a point, but only in some parts of Michigan.

FUNDING FOR DRUG COURTS

Mr. MOLLOHAN. Oh, he is over here. Yeah, well I will ask him that then in just a second.

But I have a few more questions.

First of all let me compliment you, because you have worked day and night for drug courts. You believe in them, you have worked hard at them, you have developed them in West Virginia. I know Judge Gahn speaks so highly of you, and I haven't been back for another drug court session, but I certainly intend to go and will this year to catch up.

And in response to our belief that drug courts work, and scaled up they work, we have gone from $15 million in funding to $40 million in funding in fiscal year 2009. Now we are going to be looking to you for kind of a report card on this and to see how we are doing with regard to it.

And let me ask you, do you have any hesitancy that that $40 million cannot be spent efficiently?

Judge MANLEY. Not at all, not at all. I think the incentive of that funding is incredible.

I can tell you the California state senate, the chair of the Budget Committee has introduced legislation for reentry drug courts spurred on by this growth of drug courts in California where we have more than any other state based on that small amount of funding.

Mr. MOLLOHAN. What does your funding profile look like? How much money comes from the state, how much from the federal government, and how much from other sources?

Judge MANLEY. In California approximately $5 million comes from the federal, and I include Byrne Jag, SAMHSA, DOJ. The state, of hard general fund dollars at a time when they don't have them, they continue to fund us at over $30 million. So for every dollar you invest they invest far more.

Mr. MOLLOHAN. Do you have data to compare the cost of your reentry court approach compared to sending an offender to prison?

Judge MANLEY. Yes, we do, and I can provide that to you.

Mr. MOLLOHAN. For the record?

Judge MANLEY. Yes, we most certainly can for the record.

Mr. MOLLOHAN. Thank you.

DRUG COURTS IN MICHIGAN

Let me ask Deputy Director Schrantz if he would join us at the table here, just to answer this one question, unless Mr. Wolf has additional questions.

We didn't ask you about drug courts in Michigan. Do you have them, and are they working, and how do they work?

Mr. SCHRANTZ. Yes, we have drug courts in Michigan, but they are not reentry courts, because in Michigan the judges have no jurisdiction over parolees unless they were to commit a new crime.

So in our state—it is an indeterminate sentencing state. The Parole Board has authority over all parolees, unlike other states that the judges actually have jurisdiction.

So our drug courts, similar to many across the country, deal on the front end and do a good job at intermediate intervention of offenders that perhaps are in the early stages of their career and need to be turned around so they don't become violent offenders. And so they help reduce prison admissions a bit.

But where we are headed I'll quickly say this, is that we are pushing the drug courts to work with a higher risk offender, particularly some violent offenders, because we need that type of——

Mr. MOLLOHAN. How will they work with them if they don't retain jurisdiction?

Mr. SCHRANTZ. Well they work on the front end with probationers, and so they help reduce admissions to prison as opposed to working with parolees.

Mr. MOLLOHAN. Okay. And the difference in those two approaches is that Judge Manley and the drug courts that we are funding in our legislation are courts that have jurisdiction over parolees.

Mr. SCHRANTZ. Yeah, I am not sure about your funding——

Judge MANLEY. Right. It will vary from state to state. In California we are no different than Michigan in that control is rested with the Board of Parole hearings.

Mr. MOLLOHAN. But you have a contract that is given to you.

Judge MANLEY. But due to the dismal results that they were getting, they decided to try this alternative, and that is what has lead to this legislation that we will have.

Mr. MOLLOHAN. Okay. That gets me to the point I wanted to be at to ask the deputy director. Does that sound like a good idea?

Mr. SCHRANTZ. Yeah. We have actually had some judges that have wanted to explore it, but unlike California we are doing a very good job without complicating it with judicial——

Mr. MOLLOHAN. So you are hesitant to embrace——

Mr. SCHRANTZ. I have told many judges that if they are willing to sit on a reentry panel and hold that panel in their court, that I would love to have that type of community leadership.

Mr. MOLLOHAN. Okay.

Mr. SCHRANTZ. Because the real important thing about drug courts that we have learned over the years is that the offender wants to do well because he doesn't want to let the judge down. And so if that paradigm of relationship can be applied in reentry, we are more than welcome to do it, and we don't care that much about the jurisdiction issue. But so far I haven't had any judges take me up on the offer.

Judge MANLEY. You have to have, you have to be pushed, and you have to believe in it, and you have to get judges willing to do it, but what he references to is so important to me.

In my court we have everyone at the table. We have the parole agents, we have the Board of Parole hearings, we have all of the programs there, and there is in a sense a true reentry panel where the judge is really the least important. The judge is more assisting his programs or whatever direction everyone feels——

Mr. MOLLOHAN. Well the judge is the controlling figure in that.

Judge MANLEY. The motivator, the person that holds the person accountable, and as he says, there are certain offenders, and it is very correct. That is why I believe so much in this tracking system in the reentry courts. There are some offenders who need very strong judicial supervision, and perhaps those offenders are the ones who should be in a drug court.

Mr. SCHRANTZ. I will mention that what Mr. Noland said earlier about a catalyst being necessary to get this work done, I think we

would see all across the country that catalyst can come from many places. And when the local jurisdiction is the place where the work is happening, as opposed to the state level like it is in Michigan, you have got to go wherever the leadership will take you.

So if it is a prosecutor, as it is in New York City, that is where you go, because he is willing to use his community leadership. If it is a judge you go with a judge. If it is a parole officer or warden, in many respects you can build a reentry model with any leadership, because it requires collaboration, it is just a different person who brings them all together.

Mr. MOLLOHAN. And the Michigan model?

Mr. SCHRANTZ. The Michigan model, it comes from the governor to the director of corrections, and then we spread it out, you know, and we are the ones that bring folks to the table. But if we weren't doing the work, I am sure somebody else would try to figure out a way to, you know, pull it up, you know, and get it moving.

What we have that is very beneficial I think and extraordinarily productive, is that we had a governor come in promising this, and she had eight years. She will have eight years then to produce it.

Mr. MOLLOHAN. Right.

Mr. SCHRANTZ. And that is how you tackle a state.

Mr. MOLLOHAN. Yes, I understand that, but the real difference is that yours is systemic, which creates a uniformity throughout the jurisdiction.

Mr. SCHRANTZ. Yes.

Mr. MOLLOHAN. Which in this case is the State of Michigan.

Mr. SCHRANTZ. Uniformity is tough. Standards of quality, we are now starting to design a total quality management system, which is another mountain to try to climb, because we have suffered from expanding very broadly, and perhaps not getting as much quality.

Mr. MOLLOHAN. And so my question, let me ask it again if I might.

In your system, is there a place for drug courts if judges wanted to assume this responsibility?

And what I am becoming very appreciative of here at this hearing that I wasn't quite so appreciate of before, is the commitment that this takes on the part of the judge. I mean, your caseload, you become effectively a case manager really at that level, if you accept that responsibility.

Judge MANLEY. And I mean, I would just say that, you know, every state is going to be different. There is no perfect answer to this, but we have the opposite of what Michigan has, in that our parole and our programs are an absolute disaster at a cost of billions, because there is no system in place. There are silos.

Mr. MOLLOHAN. Yes.

Judge MANLEY. And to me what needs to happen is we all need to come together, you know, with court leadership, because everyone looks to the courts. I mean, we are starting to do that in California, and I think that that, you know, has a value that should be reinforced and supported.

Mr. MOLLOHAN. And Deputy Director Schrantz, just again I want to hear you say, in your system Ms. Amison's services would be out there, that would be the local provider and——

Mr. SCHRANTZ. Yes.

Mr. MOLLOHAN. Okay. Thank you very much.

If Mr. Wolf would like to ask you some questions you might want to stay at the table.

MR. WOLF QUESTIONS

Mr. WOLF. Well, I just have one question. Why do you not have a drug court in Harrisonburg? And how do you constitute drug courts? We had one in Loudoun County.

DRUG COURTS IN VIRGINIA

Ms. AMISON. We have drug courts in Virginia.

Mr. WOLF. Yes, I know that, we have them in Loudoun County, but how does a county bring a drug court, and why would you not have one in Harrisonburg? What is that?

Mr. MOLLOHAN. Will you identify yourself, please?

Mr. DEBLASIO. Keith DeBlasio. I work on the state level as a lobbyist. In Virginia the law is written that we have a certain number of counties who are allowed to put in drug courts. Anything that is an expansion of Virginia has to pass the General Assembly and signed off by the governor. And in the western part of the state what we see is a lot of the rural jurisdictions. If the legislators in that area like Senator——oppose that drug court, the General Assembly will never pass it.

Mr. WOLF. Why would he oppose a drug court? I mean, he is a good fellow, I know him well. Why would he oppose the drug court? I mean what? I mean I don't know, you just rolled your eyes. What is that? Why would he oppose it?

Mr. DEBLASIO. I am really not sure, because we have—of course in Virginia we have some of our most conservative members who recognize—our jurisdiction—well, Winchester area, Delegate McDonald is a huge supporter before coming an attorney general of the drug court, so I am not really sure, you know——

Mr. WOLF. Well maybe we can check. Okay, so the reason though that you would not have it then in Harrisonburg is because the number that has been called for in the law is now at that number, and so therefore to have one more—even if Harrisonburg wanted to have it, they would have to come back to the General Assembly and ask them to.

Mr. DEBLASIO. It is not a matter of having one more, it is specifying the jurisdiction. Our code in Virginia actually lists what jurisdictions are allowed——

Mr. WOLF. And how is that determined? Was it by at that time people said I want one, I don't want one?

Mr. DEBLASIO. Each legislation can bring the legislation to have it in your jurisdiction and then the General Assembly votes on it.

Mr. WOLF. Well maybe what—Judge I am going to get your testimony. Send it to Mark Obenshain and—he is a pretty good guy. He is a very good guy. And it would seem to me that you would want to have the drug courts and you could almost.

Ms. AMISON. It would be wonderful.

Mr. WOLF. It almost doesn't add more—so much more money does it? Because if they are in this court or that court, they are

in—you could carve out and the drug court is the drug court, and they are going to be in court so they can——

Judge MANLEY. They will be there anyway.

Mr. WOLF. They got to be there anyway. Well if I can get a copy of your testimony, and yours and we will send it to him and ask him to take a look at it.

Does the Attorney General have much impact on this issue?

Mr. DEBLASIO. Yes, he would.

Mr. WOLF. No, but the reason is, no, Bill Mimms who is now the Attorney General was my AA.

Mr. DEBLASIO. Yes. He has pushed this. We have worked together.

Mr. WOLF. Bill has pushed it. Yes, I would think Bill would be for it.

Well we will get the copy from to him and then see if——

Ms. AMISON. And I would like to sit or have you to come—this committee to come and see exactly what we are doing.

Mr. WOLF. Well, maybe I will tell Bob Goodlight. Harrisonburg used to be in my district. I should go down to Broadway, but we sort of have a congressional courtesy. I don't go roaming into areas that—I am kind of down in Harrisonburg and he said well what are you doing in Harrisonburg?

Ms. AMISON. He supports our program.

Mr. WOLF. He does? Well good. Well maybe some time when I am kind of down near there I could come on by. But if I could, Judge Manley, get your thing and we will send it and we will let you know what happens.

As I leave Mr. Chairman, I just want to thank you for the hearing, so I think they have been very good.

Mr. MOLLOHAN. Thank you, Mr. Wolf.

SECOND CHANCE ACT

Judge Manley, the Second Chance Act also authorized a drug treatment alternative to the Prison Grant Program.

Judge MANLEY. Yes.

Mr. MOLLOHAN. Under that program an offender's prison sentence would be deferred if he agreed to participate in a substance abuse treatment program. If a prosecutor determined that the offender was not complying with the treatment program, the prosecutor would be able to send the offender to prison.

Just being a lawyer and not having practiced in the criminal system, the prosecutor just doesn't seem to me to be the right place for this authority to reside. First of all they are busy prosecuting, they often pick a folder up as they are walking in the room, which isn't much attention sometimes they pay to certain cases. Of course there are certain cases they work very hard on. What do you think about that authority residing in the prosecutor?

Judge MANLEY. Well, I agree with you Mr. Chairman. I think it is a very dangerous precedent to set. I think what you will see is, what we have seen in California and other states. When you give an opt out to one side of an adversarial process, you end up with results that you are not in the best interest of anyone. And I think, that is why usually it is framed in a sense that the prosecutor may

recommend—or any recommendation, the prosecutor must be given great weight by the judge, but you leave that decision to the judge.

The problem with letting an opt out or a prosecutor make a decision, the prosecutor doesn't then take any responsibility for the outcome. The prosecutor is just saying this guy goes back to prison. Whereas with the judge has to say okay, are we at the point where there is nothing more we can do here? And to me that is far more, because then you are placing responsibility on the judge for the outcomes. The outcome is reduce recidivism, fewer people going to prison. So I mean I have that responsibility every day, and I am very reluctant, because I know that once I send him back to prison I will see him again.

Mr. MOLLOHAN. Yes, and I can see it being awfully hard for a prisoner to—not a prisoner, a person to do much bonding with a prosecutor. Positive bonding.

Ms. Amison, do you want to speak to that?

Ms. AMISON. I think that would be a difficult situation for a prosecutor.

Mr. MOLLOHAN. Yes, from the prosecutor's standpoint perhaps.

Ms. AMISON. From a prosecutor's standpoint. I think if they work together with the lawyer and probation officer and they made a joint decision as far as the need for that individual, it would probably come out better. But just to have the prosecutor to make that sole decision, I think that would be very lopsided.

Mr. MOLLOHAN. Yes. Well again, the Second Chance Act authorizes a state and local reentry court grant program to fund initiatives that help monitor and coordinate services for reentering offenders.

Now I haven't looked at the elements of what go into that, but that kind of sounds like drug courts and what you do.

Judge MANLEY. Yes. Drug court, reentry courts, yes. Indeed it is exactly what we do and that is what I think is really the future for how we can be more effective in terms of helping.

Mr. MOLLOHAN. So is that the drug court program?

Judge MANLEY. Well that is a type of drug court. As the witness pointed out, there are various types. There are some that work with offenders who before they enter the process, some during their entry, some just with probationers, but reentry is a major part of what drug courts do most effective, is monitor people when they are in the community after they leave prison or jail.

Mr. MOLLOHAN. Do you have a familiarity with this particular authorization in the Second Chance Act?

Judge MANLEY. I have a familiarity with the language and with the funding stream. I do not know specific programs. I know of some.

Mr. MOLLOHAN. I was going to ask you whether you think it is meritorious.

Judge MANLEY. Whether it is meritorious?

Mr. MOLLOHAN. Yes.

Judge MANLEY. I think it is meritorious.

Mr. MOLLOHAN. Okay.

Judge MANLEY. Yes, I think it is pushing us right in the direction that Congress should push us.

Mr. MOLLOHAN. Because these funds authorize this stuff.

Judge MANLEY. Yes.

Mr. MOLLOHAN. And we fund it.

Judge MANLEY. Right.

Mr. MOLLOHAN. So we just want to know.

Judge MANLEY. Well I would just urge you to fund it. Simply put I think this works.

Ms. AMISON. Is there is anything in there for residential?

Mr. MOLLOHAN. I expect there are some grant programs you should be looking at, but don't rely on me to tell you that. I don't want to take responsibility for you missing maybe a great grant program.

Mr. Honda, welcome to the hearing.

Mr. HONDA. Thank you, Mr. Chairman.

It is really great to see a champion for justice in drug courts too in both of you.

Are there any questions that we haven't asked that you want us to ask? [Laughter.]

I know the Chairman is very——

Mr. MOLLOHAN. The Chairman has asked every question.

Mr. HONDA. And I know that the Chairman has a great interest in finding ways to make sure that folks don't get into the criminal justice system, and that we find ways to reduce recidivism. And I know that in your work and the national reputation all of you have and the way you rally people together to make sure that Congress supports the kind of work that you do is great, so I am just proud to be able to say that I know you all and that we are here to make sure that you realize the kind of success that you can really have, and we understand the policies that you are going to need to support that.

Thank you Judge. Mr. Chairman, thank you.

Mr. MOLLOHAN. Thank you, Mr. Honda.

You would be proud of the witness's testimony.

Let me just have a—if I might have a suggestion for you in maybe working with your representative or with Mr. Wolf.

We are sorry to see that the General Assembly has not funded or has reduced funding for your program and like programs, and think that is very shortsighted. And you may have some advocates here. But if you have done any calculations on how much your program saves the state, or if somebody else has looked at that, you can often appeal to folks who look at these things only through the fiscal prism, if you will, on the basis of, hey look, my program is saving money and it is demonstratable. If you have those statics, you might want to work through your congressman.

Ms. AMISON. I have been, and I have tried.

Mr. MOLLOHAN. Okay. Well, I am sure you are. Let me restate Mr. Honda's offer. If there is anything else either of you would like to say, to get on the record here today, I invite you to do that.

Judge MANLEY. Well, I just want to express appreciation for your interest and the questions, and I think I have set out everything that I think we in drug courts firmly believe in. We very much want to be part of the reentry process, I think that court supervised treatment and rehabilitation really works. I think we have demonstrated that. We repeatedly demonstrate it. And anything Congress can do to move that entire program forward would be

greatly appreciated, because we need to go back and convince our states to do this, and that begins with California.

As I say, we have a legislature that is now looking for the first time to establishing reentry drug courts throughout the state, and that is a beginning, but we need that across the country. And your support of what we are doing I think is not only greatly appreciated, but it is greatly needed.

You don't know the effect you have when you say this is a priority to Congress. The states then see it as something they need to pay attention to. And also they see it as a means of leveraging funding. They are willing then to invest money if they know they are going—that it is outcome driven, that they are expecting the drug reentry courts to produce better outcomes in the disaster they already have, then they are more willing to fund.

So thank you again.

Mr. MOLLOHAN. Thank you, Judge.

Ms. Amison.

Ms. AMISON. I would just like to say that on December the 4th I will be 20 years clean and sober, and I have been through this model of treatment, and I know what can happen if you have the right combination of people working with you and what you can aspire to do and what you can aspire to become.

I never dreamed that I would be sitting before a senate subcommittee and testifying on anything, and it is a pleasure and a honor, and I am proud, because this is hope that I can show the men and women that I work with that they too can overcome their substance abuse issues, they can become clean and sober and have a meaningful life with the right services. I know it can happen because it happened for me.

And I just urge Congress to please, people need a second chance and they need a hand up, and I urge Congress to please take hold of this and make it happen.

Thank you.

Mr. MOLLOHAN. I want to tell you how glad I am that you put that on the record. That is really inspiring, I think. And the best counselors are folks that are recovering, aren't they? They don't fool you.

Ms. AMISON. Not at all.

Mr. MOLLOHAN. They don't fool you.

Well thank you all very much for your testimony. We look forward to working with you into the future.

Thank you.

THURSDAY, MARCH 12, 2009.

"WHAT WORKS" FOR SUCCESSFUL REENTRY

WITNESSES

HON. DANNY K. DAVIS, A REPRESENTATIVE OF CONGRESS FROM THE STATE OF ILLINOIS

JEREMY TRAVIS, PRESIDENT, JOHN JAY COLLEGE OF CRIMINAL JUSTICE

JAMES M. BYRNE, PH.D., PROFESSOR, DEPARTMENT OF CRIMINAL JUSTICE AND CRIMINOLOGY, UNIVERSITY OF MASSACHUSETTS, LOWELL

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. The hearing will come to order.

This morning, before we begin with the hearing panel, we are very pleased and honored to welcome our colleague, Representative Danny Davis, to testify about the theme of this week's hearing, Prisoner Reentry.

It is particularly fitting that Mr. Davis joins us here this morning because he was the sponsor of "The Second Chance Act," which was enacted last year and which promises to help fundamentally change the way we approach prisoner reentry at both the federal and state levels.

Danny, thank you very much for taking time to appear here today. We appreciate it. We look forward to your testimony.

MR. DAVIS OPENING STATEMENT

Mr. DAVIS. Well, thank you very much, Mr. Chairman. And let me first of all thank you and the Committee for holding this hearing.

I want to express real serious appreciation for the evolution of the interest and the concern that is being expressed relative to the whole question of prison reentry.

I happen to believe that this is one of the most serious problems facing America, especially urban communities with specific population groups.

It's common knowledge that our country has become the most imprisoned nation on the face of the earth in both proportion and actual numbers of population.

Studies suggest that about 700,000 of these people return from prison each year. If we would consider that large number of individuals coming home from prison every year, you can imagine the numbers that have escalated. Many of them actually return to specific communities in geographic areas.

For example, in the State of Illinois, where we have about 40,000 people returning, most of them come to one county, that is Cook County, and they come to seven community areas in that county,

which really means that those people in those areas besieged. I mean, you can walk down the street and meet 20 people and if you were to talk to them, sometimes about half of them would be individuals who have prison records or individuals who have some impediment that prevents them from obtaining jobs, housing and access to much needed entitlement programs.

And so it is my feeling that the extent to which you can help these individuals reintegrate back into normal life, that is the extent to which we not only improve the quality of their individual lives, but also the lives of everyone with whom they come into contact as well.

There are large numbers of children, for example, whose parents are either incarcerated, returning home, and all of these children often time suffer the pains of having both parents with prison records, which means that they then miss just normal opportunities.

We were pleased that "The Second Chance Act" found its way through the processes of passage and the fact that the President has proposed $75 million in FY 2010 budget.

But, as I said to the President two days ago I was becoming a little bit concerned because I did not see as much money in the ARRA for reentries, nor did I see it in the 2009 Omnibus. Moreover, I was heartened when I saw the 2010 budget proposal.

It is my hope that at the very least $75 million will be maintained and we will find other resources to fully fund The Second Chance Act. FY 2010 proposed funding level services to 50 states is the equivalent of less than a million per state. This funding is inadequate and will not benefit states with greater population of individuals returning to society. States are hard pressed with decreases in revenue and the rising costs of public safety.

Today at one o'clock, I will reintroduce "The Federal Prison Work Incentive Act of 2009," a piece of legislation designed to restore good time in federal prisons and correction facilities.

As you know "Tough-on-Crime" public policies deprived individuals with federal convictions of parole or probation and requires them to serve at least 85 percent of their conviction or their sentence. Many of them before 18 or 20 years are actually in a position where they could return to their community, go to work, and become assets rather than remaining liabilities to society.

Mr. Chairman, I want to thank you for the interest you have displayed and continue to place not only in this particular issue, but in a range of issues related to criminal justice and related rehabilitation issues.

I appreciate being here and yield back the balance of my time.

Mr. MOLLOHAN. Well, the accolades go to you. And it takes somebody who is really insightful about these things to the point that they become intuitive and just understand what ought to happen. And I think that is reflected in your whole career.

You know, I have told you often that, of the requests when we were doing VA HUD, the requests that you submitted were always totally appropriate and extremely sensitive and relevant to your community. And we always had to fund them because of that.

It is a credit to your sensitivity and to your knowledge of your community, to the point of being intuitive about it. And that is ob-

viously reflected in "The Second Chance Act." And we will be looking very carefully at it.

Now, so far as the appropriation is concerned, I mean, we have not had much of a chance here on "The Second Chance Act." So you have got to give us a first chance——

Mr. DAVIS. Right.

Mr. MOLLOHAN [continuing]. To really look at this. You just got this done last year. And that is the reason we are holding these hearings. And we have attempted to be thorough. The staff has just worked their hearts out to get before the Committee the kind of witnesses that are going to guide us and help us in applying what you acknowledge and point out are scarce resources.

There are some programs, and I do not want to hold you up too long, but there are some programs that the testimony has been very positive in favor of.

And as we look at "The Second Chance Act," which of these grant programs do you think are most important?

Mr. DAVIS. I think that those programs that can result in an individual being able to find employment after everything else is said and done, after a person has been helped with their drug addiction problem.

They may have been helped with their anger control problem. They may have been helped with their inability to read, write, and communicate, maybe even have developed a job skill. But if they cannot find employment, that will actually in many instances drive them back into old behaviors.

I have actually had people come and sit and cry in my office because they will have done what they thought they were supposed to do and, yet, every place that they went to try and find a job, they were told that we do not hire ex-offenders or you have got a record and we just cannot take a chance.

And I think that is one of the reasons we ended up calling this activity "Second Chance," because in many instances, unless individuals get that employment opportunity, then they are totally frustrated.

I mean, there are so many barriers to reentry. You cannot live in public housing. It is against the law. And some states say to get a license to be a barber or even be a nail technician to put fingernail polish on someone's fingernails or you cannot be a butcher, you cannot be a plumber, you cannot work around any health facility, you cannot cut the grass at a hospital unless you can get a waiver.

Mr. MOLLOHAN. Is this true in Illinois?

Mr. DAVIS. And it is becoming one of the more progressive types trying to deal with the problems. But in Illinois, there are still 39 of those kind of——

Mr. MOLLOHAN. Cannots?

Mr. DAVIS [continuing]. Licensure——

Mr. MOLLOHAN. Yes.

Mr. DAVIS [continuing]. Requirements, that if you have a felony conviction, you cannot meet them. And so there you are. We have had people who would go to school and we went to watch some of the career education institutions who will allow people to go through programs knowing full well once they complete the program that they are not going to be able to work unless they can

get a waiver because the state does not allow it. But slowly but surely, I mean, we are tearing those down. We actually had 55 three years ago.

But we have been able to get our legislature to wipe some of them out, so we are down to 33.

Mr. MOLLOHAN. When were those put on the books?

Mr. DAVIS. Many of them were put on the books as we decided that we needed to get tough on crime in the 1980s and the early 1990s. All of the——

Mr. MOLLOHAN. When were they put on?

Mr. DAVIS. Late 1980s——

Mr. MOLLOHAN. The 1980s, 1990s?

Mr. DAVIS [continuing]. 1990s. Three strikes and you are out. Mandatory minimums. The real war against drugs. I think if we could find a way somehow or another to prevent individuals from becoming drug addicted because about half the individuals who end up prison are there because of some drug related activity, whether it is addiction, whether it is trafficking, conspiracy.

I mean, we have a terrible problem, for example, in Illinois. Cook County has 800,000 drug users. And, I mean, that is an awful lot of people.

Mr. MOLLOHAN. Yes. It certainly is.

Mr. DAVIS. We have 3,000 people use drugs every day, as often as they can get them.

Mr. MOLLOHAN. Are you following OJP's promulgation of rules and the release of grant announcements and can you comment on how they are doing?

Mr. DAVIS. Well, I think they are doing quite well. As a matter of fact, we do follow that very closely as well as we monitor many of the programs that people actually do. And even faith-based programs. Some people do not have as much faith in some of those.

But I find that with those programs, without much money, oftentimes they are quite effective because there is something that happens in good ones that we cannot always describe.

Mr. MOLLOHAN. You cannot know.

Mr. DAVIS. Yes. I am a trained psychologist and, of course, many of my friends are psychiatrists and psychologists. And they do not have necessarily, some of them do, the same kind of faith in these kind of programs.

But oftentimes people just kind of get caught up in what is taking place and you follow them for years and they are okay. I mean, they, amazing grace somehow or another——

Mr. MOLLOHAN. Lifts the spirit.

Mr. DAVIS [continuing]. Move them from where they were. And they do not cost much. I mean, it is generally facilitation money that groups like these need. And so they do not need a lot of money to——

Mr. MOLLOHAN. Well, we had an excellent panel, a number of excellent panels yesterday. One of them spoke particularly to this job issue. One is Mr. Nolan's faith-based program and then Mr. McDonald with——

Mr. DAVIS. Pat Nolan.

Mr. MOLLOHAN. Yes, Pat Nolan and Mr. McDonald with the Doe Fund. Those two spoke to the job issue very eloquently in words and obviously their deeds.

Are either one of them active in Chicago?

Mr. DAVIS. Oh, we work closely with Pat and the Prison Fellowship and all of them.

Mr. MOLLOHAN. And how are they doing on the job side of things?

Mr. DAVIS. They are doing well. The jobs that people are able to get really come as an organization develops a relationship oftentimes with an industry or with a particular employer so that they can follow the individuals and monitor.

One of the most effective groups that we work with, of course, is the SAFER Foundation, one of the oldest groups that has been around. And they have a pretty decent track record because they monitor closely the individuals who go out and end up working, provide supportive services, give them help.

Many employers will actually hire ex-offenders as long as there is someone to work with them and they do not necessarily want the general public to be aware of it because if they found out, they would be overpowered with applicants.

But there are entities. For example, Clark Construction Company right here in D.C. has a very excellent approach. Pennzoil in California has a great approach where they actually train individuals to operate their oil changing apparatuses.

And then some people have actually developed small businesses that are working. We have got one where the lady got the idea of teaching ex-offenders how to extract honey and so now they have a business of——

Mr. MOLLOHAN. That is great.

Mr. DAVIS [continuing]. Honey. It is a million dollar business now.

Mr. MOLLOHAN. Well, let me commend the Doe Fund to you, that model. They have, based on their testimony yesterday and reputation, they have had excellent results at the work aspect of all this and the reduction in recidivism that has resulted.

I commend you.

Mr. Wolf.

Mr. WOLF. Just welcome, Mr. Davis.

I think the testimony was good. I think faith makes a big difference. John Newton wrote Amazing Grace. The faith issue was the issue that changed him.

The other thing is work and work makes the big difference. And that is what the panel said. I mean, you cannot get somebody to come out of prison and give them a hundred bucks and let them go on a Saturday night at seven o'clock and then have no job for months and months and months. And so I think the combination of the three of them.

Also, the State of Michigan has a very aggressive program. And I think that is the answer. I think we are building more prisons, putting more people away when we ought to be putting more money into training and work both in prison—Prison Industries is another important issue and, yet, this Congress is generally going the other way.

We are going to offer an amendment that sets up a program whereby prisoners can work on making products that are no longer made in the United States, so we are not in competition with any American jobs, an example being there are no televisions made in the United States.

This is an extreme example, but perhaps if you could have them working on making televisions, which I think would be beyond what we could do, although Emerson at one time was willing to do that and there was opposition, and then they would be getting training that they could do as they got out. And then the idea of once they leave prison, upon leaving prison having a job whereby they can work and they really have dignity.

Does it make sense to you of doing something whereby people could work on products that are no longer—doing real work. I do not mean laundry, linens, and picking up cigarette butts, but real work, working on products that are no longer made in the United States, maybe bringing that product back, if you will, that would help, but also giving a person an opportunity to do something that makes a difference. Does that make sense to you?

Mr. DAVIS. Oh, I think unequivocally and without a doubt. For example, you mentioned television sets. There used to be a Zenith plant about a mile from my home. And, of course, they moved to Mexico and that was the end of the individuals who worked at Zenith.

In addition, you know, those kind of products that are not generally manufactured in our country, I think there is also the maintenance and reconstitution.

We have got one program, for example, where the individuals are taught to redo computers. And we have got a company that gives them their old computers. They learn to take them apart, put them back together. And, of course, the test is that they actually work and then they sell them for three, four hundred dollars each and earn money that way.

Mr. WOLF. And that gives them the skill that they can then take out and also earn a living while they are in prison so that they have a percentage of the money that they have when they leave and also maybe send some to their families.

Anyway, well, I appreciate your support for this, and thank you for your good work.

And with that, Mr. Chairman, I——

Mr. DAVIS. Well, thank you. It adds a level of dignity. And I also want to commend you because you have been one of the stalwarts in this area certainly ever since I have been here. And we have always considered you the go-to person when we needed some help with criminal justice issues. And I want to thank you very much.

Mr. MOLLOHAN. Before you leave, Danny, we had testimony yesterday about drug courts and I just want to get your quick reaction to drug courts.

Are they operating in your area? Do you have a thought about them?

Mr. DAVIS. We have had them for a long time actually and they operate extremely well. Individuals who, I mean, they have got a drug problem, I mean, the real deal is that drug addiction is such a heavy number until it is almost impossible to talk about serious

reentry if you are not talking about doing something with the drug addiction problem that exists in the country.

Mr. MOLLOHAN. So drug courts work? I mean, they are part of what works?

Mr. DAVIS. They are very good. They work extremely well. And I think they are worth their weight in gold.

Mr. MOLLOHAN. Well, that is good. And I note here the announcement by the President that he has appointed the Seattle Police Chief, Gil Kerlikowske, to lead the Office of National Drug Control Policy. And at the same time, they have announced a new emphasis on treatment. So I think that is a good——

Mr. DAVIS. That is wonderful.

Mr. MOLLOHAN. That is a good turn in direction.

Thank you very much for your appearance here today and for your good work. And as I said before, you need folks around who are intuitive about these things and that is reflected in "The Second Chance Act" and in your testimony here this morning. Thank you, Danny.

Mr. DAVIS. Thank you very much, Mr. Chairman. And thank you, Representative Wolf. We appreciate you both.

Mr. MOLLOHAN. Thank you. Thank you.

Okay. Next we would like to welcome two witnesses that I would like to—please, if you will take your seats at the hearing table. Mr. Jeremy Travis, President of John Jay College of Criminal Justice and Dr. James M. Byrne, Professor, University of Massachusetts, Lowell.

Well, this marks the seventh and final hearing of the week on offender reentry. We chose to dedicate so much time and effort to this topic because it is more and more apparent that effective reentry programs are the key to reducing recidivism and the strains on our communities and prison resources associated with recidivism.

The prison population in the United States, federal, state, and local, is soaring. The Pew Center on the States reported last year that one percent of the population is now incarcerated.

And last week, the Pew Center reported that one in thirty-one Americans is under some form of correctional supervision, either in a prison or jail facility or under some form of supervised release. That is truly staggering and it has many negative ramifications for our society.

We must turn this around and there are a number of promising initiatives around the country that have begun to move us in the right direction. We heard about several of these initiatives in our hearings yesterday.

Back in 1974, American sociologist Robert Martinson noted that when it comes to prison rehabilitation programs, nothing works. It is apparent from what we have heard this week that there are things that work. The question now is how to begin implementing what works while continuing to further refine and improve it.

For our last hearing on prisoner reentry, we would like to welcome two respected academicians associated with prisoner reentry research.

Jeremy Travis is the President of John Jay College of Criminal Justice in New York City. Among other things, President Travis

served as the Director of the National Institute of Justice from 1994 to 2000.

Also with us today is James Byrne, a Professor of Criminal Justice and Criminology at the University of Massachusetts, Lowell, and editor of Victims and Offenders: Journal of Evidence-Based Practices.

Welcome, gentlemen, both of you. In a moment, I will ask you to briefly summarize your written testimony, which will be made a part of the record. But first I would like to turn to Mr. Wolf for an opening statement.

Mr. Wolf.

Mr. WOLF. I do not have an opening statement.

Mr. MOLLOHAN. Thank you.

MR. TRAVIS OPENING STATEMENT

So, Mr. Travis, why don't you proceed first.

Mr. TRAVIS. Thank you very much, Mr. Chairman.

Chairman Mollohan, Ranking Member Wolf, I very much appreciate the opportunity to testify before your Subcommittee this morning. This also provides me an occasion to reflect with Chairman Mollohan of our good working together when I was Director of NIJ and since. We did good things for that agency and for the country.

And, Mr. Wolf, to express my appreciation for your support of the work of Professor David Kennedy who is working on gang violence issues in your district. And that has been nationally quite important.

I want to thank the Committee for the invitation, but also to express my personal appreciation for the series of hearings that you have held this week. It is quite remarkable in our nation's history to have a week's worth of hearings on prison and prisoner reentry issues.

And all of us who work on these topics have been heartened by this decision by your Subcommittee. And it really marks a turning point.

I would like to summarize my testimony which is available in longer form by saying that it is divided into four parts.

First I want to just talk a bit about the scale and the scope of the reentry phenomenon to put some of the findings about program effectiveness into context, secondly to talk about the connection between reentry and public safety, which I think is the bottom line that Americans care about the most, third to summarize research findings on program effectiveness, and fourth to recommend some new directions for Congress and the nation as we look forward from this point on.

As this Committee is well aware, the reentry phenomenon as Mr. Davis just alluded to is unprecedented in our national history. We now have 700,000 individuals each year leaving the state and federal prison. Thirty years ago, that was 200,000 people. So we are seeing something we have never seen before as a country.

People ask why this is happening. There is a simple answer to the question. There are more people in prison and, therefore, more people coming out. And except for those who die while they are in prison, everybody comes back home. So it is what I call the iron

law of imprisonment. Everybody who goes to prison comes back now two and a half years after their entry.

But these figures are well known, but we need to place these, I think, in a larger context. First of all, we focus on prison reentry and all my writing has been on prison reentry and to the detriment of our understanding also jail reentry. So at a local level, the phenomenon of jail reentry is the companion piece to the prisoner reentry discussion.

And a wonderful report put out last year by the Urban Institute and our college documented that there are 13 million people leaving jail each year. That is nine million discreet individuals and that is a large number that is influenced upon the communities of concern here.

The second additional phenomenon besides the 700,000 that we know well is just to recognize that we have expanded the nature and the scope of supervision. So when people leave prison, more of them are now placed on supervision than before in our nation's history. Supervision has shifted from service orientation to a surveillance orientation.

And we have had a seven-fold increase in parole revocations, people being sent back to prison because their parole was revoked for a technical violation or a new crime. So a seven-fold increase in revocations standing alongside a four-fold increase in imprisonment, so we have this churning in and out at the community level of lots of people coming out of prison, supervised closely, and being sent back.

And the third important reality that we have to keep in mind as we think about the research findings is the reality of what I have termed invisible punishment. Mr. Davis also alluded to that. We have more collateral sanctions, more legal barriers to reintegration, more barriers to certain jobs or forms of civic participation, voting and the like. All of this makes reintegration more difficult than ever before.

So the net effect of all of these is unprecedented numbers of people, 90 percent men, removed from families and communities, sent off to prison, coming back, concentrated in a small number of neighborhoods, mostly communities of color, and then supervised closely, revoked at a higher level than ever before, sent back to prison at record rates, all of them struggling to get back on track.

And these are the same communities that we should note have typically poor schools, poor healthcare, weak labor markets. And we are asking these communities and these families and these faith institutions and employers to take on this burden, this national responsibility of reintegrating large numbers of individuals.

So the reentry movement, if we can call it that, that I would say is now ten years old, it started when I was in the Justice Department when Janet Reno first called for reentry concept papers as a national call for action, continuing under the Bush Administration with SVORI and the President's reentry initiative. And I credit President Bush's State of the Union address now leading to "The Second Chance Act."

This is an important moment in our nation's history. The appropriations that this Committee is well aware of, $25 million in the

budget for "The Second Chance Act" and 75 million proposed are also important moments in the reentry movement.

But I would note just as a footnote that even at the $75 million level, if we were to divide that money to all the 700,000 people coming out of prison, it is about $100 a person. So we are still far short of what might be needed to make a big difference here.

The second point I want to make is that if we ask the public what is the goal of the reentry work and ask the researchers what do they look at when they look at reentry outcomes, the number one goal is public safety.

I think there is a second goal that Mr. Davis alluded to which is reintegration. That is reconnection to family, to work, to institutions such as faith institutions, revoting, reconnecting to the democratic responsibilities. But I will focus today on public safety and recidivism reduction.

Three lenses on recidivism, I think, are relevant. The BJS numbers are well known. Two-thirds of people released from state prison are rearrested within three years for one or more serious crimes. That is a recidivism measure.

I would like to focus on two others, one from the BJS data, which is that the rate of failure is highest right after people come out of prison. And we tend to forget that. It is not a straight line over time. The rate of failure is highest and diminishes over time. That is a signal to me that the reentry moment, moment of release as we call it, is a moment of high risk.

It is hard to connect back to family. If you are drug addicted when you go in and you are coming out, there is a temptation to return to drug use. There is documented evidence from the public health community it is the highest rate of mortality when people come right out of prison, higher than any other time. That is a health failure, mental health issue in terms of people connecting and getting medication.

So when we think about reentry and failure, we have to think about the failure being associated with time and we have to think about how to put those resources that we devote through "Second Chance" and other funding vehicles, put the resources where the risk is. The risk is highest when people first come out.

The third perspective on the public safety measure that I think is very important, when we ask why is it so important today to think about the public safety outcomes, why does this give the Congress and proponents of "Second Chance Act" a bottom line accountability measure for reducing rearrests, it is both because that has always been the measure of reentry, but today it has urgency because we have two things going on at the same time, record numbers of people coming out of prison and historically low crime rates.

Put those two things together and if you are a Police Chief, what that means is in your community, the people who are being arrested constitute a higher percentage of your arrests than ever before. There is some data to back that up.

In the book I co-edited, there is an article by Rosenfeld and others. The percentage of arrests from the reentry cohort out within the last three years in 1994 was 13 percent. By 2000, it had jumped to 20 percent.

So communities are feeling the level of reentry because lots of people are coming out of prison. But from a public safety point of view, this cohort of people coming out of prison, not because they are more dangerous, because they are not, but because there are fewer arrests and there are more of them constitute a very high percentage of the rearrest activity.

So we have this opportunity to focus squarely on people coming out of prison and do what we can to reduce their failure rate. And it will have enormous payoffs in terms of community and safety. We have never been in this situation before.

So this underscores the importance of focusing on recidivism, focusing on the moment of release because it is time sensitive, but also the difficulty of the task. A two-thirds failure rate is a very high failure rate and I will talk about that next.

The Chairman alluded to the famous Martinson, nothing works, you know, how far we have come from that observation which was mostly true at the time. And I am just going to summarize and maybe Dr. Byrne will pick up on some of this.

There is a body of research literature now, very reputable, very strong coming from a number of different publications, Petersilia, et al, Sider, Dr. Aos from Washington State, the Canadian research, that says basically the following: What works?

In prison, drug treatment works. A number of studies look at them through metanalysis. You have got about a 6.9 percent reduction over time from drug treatment. Drug treatment in jail works, six percent reduction in recidivism. Drug treatment in the community, you get a better bang for your buck, about a 12 percent reduction. Cognitive behavioral therapy, about 8.2 percent reduction. Correctional industries, Mr. Wolf was just mentioning that, 7.8 percent reduction in recidivism. Vocational education and training, very powerful, more powerful effects, about 12.6 percent reduction in recidivism. Employment training and job assistance, some reduction in recidivism, about 4.8 percent. Adult basic education, the research is not quite as strong here, about 5.1 percent. And supervision using treatment programs, drug treatment, you can get to about 21.9 percent.

So this body of research which has emerged over the past decade or so shows that things work. We also should notice that the results, what research calls the effect sizes, are fairly modest here. This is not like medical, take a pill and things get better. This is hard work. But with good programs, you can make a difference.

If you were to run through all of those research studies, you would find these common threads, that our strategies looking at reentry, so what you do with people when they are coming out of prison, should focus on behavioral outcomes, focus on criminogenic needs as we call them, use positive reinforcements, not just negative reinforcements.

Very important that we target high risk offenders. "The Second Chance Act" is commendable in its focus on high risk offenders because that is where you get the most, ironically perhaps, most bang for your buck in terms of public safety.

We should always use risk assessment instruments, also a "Second Chance Act" focus, and this continuity between what you do in

prison and back in the community is very important with the focus being on the community. That is where we got the biggest results.

We also know some things that do not work. One thing that does not work is intensive supervision with lots of surveillance, lots of revocations. Does not work to reduce recidivism by itself. A good body of research on that.

And in a landmark study last year from Urban Institute, we know that supervision all by itself does not reduce recidivism. Just putting somebody on parole supervision does not reduce recidivism compared to those who do not get placed on it.

So this is the time for us to reimagine what we are going to do in reentry because we have these findings that really go to the core of what we had been doing in the past.

What we also know is that you put all—if you would imagine a world in which we did all these things, funded everything right, we could get recidivism reductions up to maybe 15 percent, 20 percent or so, and they would pay for themselves.

So the Aos research from Washington State, which is a cost-benefit analysis, is very encouraging in this regard because we see the cost effectiveness. It is not just that they work, but they pay for themselves.

So the implications of this body of research is we should focus our efforts and our funding on interventions with proven effectiveness, that is where the research findings are so important, and that we should always be looking for the next frontier and fund rigorous research demonstration projects to test new ideas. And "The Second Chance Act" thankfully does both of those with even a call for a random assignment which is very important for researching findings.

My final observation to the Subcommittee is that we really, I think, should not be satisfied with these results. We should, of course, continue to fund those things that work and fund more of them. But these reductions, even the ones we could achieve under the best circumstances, I think, are really too modest given the concern at a community level.

And our approaches have been in my view too constrained and too timid. What has been the constraint? The constraint has been that we think of reentry as an individual level intervention. What can we do for this person coming out of prison to improve his or her skill set, human capital, work on their drug addiction, work on their health issues?

And particularly today with the large numbers of people coming back to small numbers of communities, we have to focus on the context within which they return home. So the shorthand I use for thinking about this different way of thinking, these are both simultaneous, is not just individual level approaches but ecological approaches. What do we do at a community?

So in closing, I just want to cite some research that to me is very promising, new research that suggests that if we focus at the community level, ecological level in addition to the individual level, we can get some very positive findings.

Too bad Mr. Davis was not here, but I want to commend the work in his city. The Project Safe Neighborhoods in Chicago, which is one of the most successful, works as a violence reduction strat-

egy. It builds on Professor Kennedy's work. They do not think of it as a reentry program, but the population they target are those people coming out of prison and those coming on to probation.

It is in essence the way we would think of it as a reentry program. They talk to everybody coming out of prison. They have what they call a community forum, an offender forum with them, law enforcement and community providers and faith institutions and the family members of those people coming out of prison, talk about the consequences of committing crimes again, talk about ways out of the criminal lifestyle through an opportunity to take advantage of Social Services or treatment or educational programs, and it is a combined community message to people coming out of prison.

There is a recently published study of this, of the PSN by Professors Meares and Fagan that shows a 37 percent reduction in homicides in the target neighborhoods of Chicago compared to three years before that. And these are starting to sound like pretty impressive numbers.

Another study recently published on the Boston Reentry Initiative that works with high risk offenders at a local jail, small numbers, does everything all at once to make sure that when they come out, they are met at the gate. There is someone who works with them over time. There is this combined law enforcement and Social Service and community conversation with these individuals.

A new evaluation published by Professor Braga at Harvard showing a 30 percent reduction in overall violent arrest rates.

Reentry courts, I think, are very promising. I gather the Committee had a witness talking about reentry courts last year. They are spreading. I have been told they are in one-third of all federal districts. This is very encouraging. They are supported by "The Second Chance Act."

Promising results, but here is where we need rigorous evaluation, but reentry courts as with drug courts have the same idea of a coordination of services, in this case by a Judge. You have got the parole people in the room. You have got the treatment providers in the room. You have got the family in the room. You have got the pastors in the room. All supervised by a Judge, so it is the same idea of changing the ecology.

And, finally, there are a number of community-based interventions that I think the jury is out on them in terms of their research findings. One, the Safe Return Project in Chicago is being run by the SAFER Foundation that Mr. Davis alluded to. Second, the Reentry Partnership in Baltimore was evaluated by the Urban Institute. And the third, I will say this, Local Pride launched by our Mayor, Mayor Bloomberg, called the New York City Justice Corps. These interventions are truly community based. They try to change the community attitude towards people coming back home.

The Baltimore Reentry Partnership, the community met everybody coming back to their community. They had meetings with them 30 days before they were released from prison, organized services, organized law enforcement and parole supervision.

The Urban Institute evaluation found a reduction to zero of homicides in one of the most troubled communities in Baltimore compared to two homicides and eleven attempted homicides in a comparison group.

The Safe Return Project in Chicago, same idea of community level engagement. Everybody coming back to that community is a client of this program.

And the New York City Justice Corps, the Chairman was talking about employment, and I have high regard for the Doe Fund, by the way, the idea there is to take young people who are coming out of prison or being placed on probation and provide public sector jobs in their communities for six months on work that has been identified by the community as being a community benefit. So it is changing the dynamics between community and offender, recognizing that that dynamic will ultimately improve reentry outcomes and reintegration.

So I think that these represent sort of a new frontier in reentry innovation and present research opportunities that "The Second Chance Act" and I am hoping NIJ will be funded to do research on these. It is a different way of thinking about reentry and it is not to gainsay or to downplay the importance of the individual level interventions, but I think we need to do both of these at the same time.

So it is an important moment in our nation's history.

I thank the Chair and Committee for the opportunity to speak to you and would be available for your questions.

[Written statement of Jeremy Travis, President, John Jay College of Criminal Justice follows:]

Statement by

Jeremy Travis, President of John Jay College of Criminal Justice

At a hearing on

"What Works" for Successful Prisoner Reentry

By the

House of Representatives Appropriations Subcommittee on

Commerce, Justice, Science and Related Agencies

March 12, 2009

Chairman Mollohan, Ranking Member Wolf, and Members of the Subcommittee:

I am honored by this invitation to appear before you to discuss the issue of prisoner reentry and the critical question of the effectiveness of interventions designed to promote successful prisoner reentry. I applaud the Subcommittee for the series of hearings you have held this week on the challenges facing federal prisons, drug treatment, the evaluations of the federal Serious and Violent Offender Reentry Initiative (SVORI), and innovative reentry programs. It is commendable that a committee of our Congress had devoted an entire week to these important issues.

My testimony this morning is divided into four parts. First, I will discuss the scale and scope of the reentry phenomenon. Second, I will draw the connection between the reentry phenomenon and public safety. Third, I will summarize recent research findings on the issue of program effectiveness. Fourth, I will recommend new directions for the Congress and the nation as we search for policy initiatives that will promote successful reentry and reintegration of the hundreds of thousands of individuals leaving state and federal prisons, and the millions leaving our jails each year.

I. Scale and Scope of the Reentry Phenomenon

Our nation has never before witnessed the phenomenon of prisoner reentry at the scale we see today. Of course, ever since prisons were first built, people incarcerated in our prisons have returned home when their sentences were completed. But today, more people than ever before are making this journey home. According to the Bureau of Justice Statistics, more than 700,000 leave our state and

federal prisons each year.[1] Thirty years ago, fewer than 200,000 made this journey home. Why has the prisoner reentry population increased? There is a simple explanation: more people are coming home because we are putting more people in prison. Over the past generation, we have more than quadrupled the rate of incarceration in America, and our prison population now stands at 1.6 million people. There is a very simple and immutable "iron law of imprisonment"[2]: except for those who die in prison, everyone who goes to prison ultimately returns home.[3]

As we consider the ramifications for this unprecedented reentry phenomenon in America, we should also keep in mind these salient realities:

- **Jail Reentry**: Each year, an estimated 13 million individuals[4] leave our nation's jails. Put another way, jails have contact in three weeks with about as many individuals as prisons release each year.
- **Expanded Supervision:** Approximately 70% of those released from prison are placed on supervision, up from 60% in the early 1970s, and the nature of supervision has shifted from service oriented to surveillance oriented, resulting in a seven fold increase, between 1980 and 2000, in the number of people sent back to prison for parole violations.[5]
- **Invisible Punishment**: As the prison population and parole population have increased, the number and extent of collateral sanctions, called "invisible punishment"[6], have also increased. People with felony convictions are now barred from many jobs, benefits, and other forms of civic participation.

The net effect of these realities is profound: a large number of individuals, 90% of them men, are every year removed from their families and communities, held in the nation's prisons and jails, and then returned home facing substantial barriers to reintegration. A majority of these individuals come from a small number of communities in urban America; these communities, already struggling with poor

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[1] U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (2008). *Prison Inmates at Midyear 2007*. Bulletin June 2008, p. 4.

[2] Travis, J. (2005). But they all come back: Facing the challenges of prisoner reentry. Washington D.C.: The Urban Institute Press.

[3] Approximately 95% of all incarcerated individuals ultimately return home. About 40% of those in prison today will be released within the next year. Petersilia, J. (2003). When prisoners come home: Parole and prisoner reentry. New York: Oxford University Press.

[4] These are 13 million releases from jail, consisting of about 9 million individuals, some of whom are released more than once. U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (2008). *Jail Inmates at Midyear 2007*. Bulletin June 2008, p. 2.

[5] U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics (2008). *Prison Inmates at Midyear 2007*. Bulletin June 2008, p. 19. Travis, J. (2005). Travis (2005).

[6] Travis, J. (2002). Invisible punishment: The collateral consequences of mass imprisonment. In M. Mauer & M. Chesney-Lind (Eds.), Invisible punishment: The collateral consequences of mass imprisonment. New York: The New Press.

schools, poor health care, and weak labor markets, are now shouldering the burden of reintegrating record numbers of returning prisoners.

In recent years, the nation has witnessed a remarkable surge of policy interest and innovation in response to these realities. Beginning in the Clinton Administration, when Attorney General Janet Reno called for new approaches to prisoner reentry, and continuing under the Bush Administration, with the Serious and Violent Offender Reentry Initiative (SVORI) and the President's Reentry Initiative (PRI), the federal government has demonstrated commendable leadership. A particularly powerful moment was the eloquent statement by President George W. Bush, in his 2004 State of the Union Address, announcing his administration's commitment to a multi-year federal reentry program and declaring that: "America is the land of second chance, and when the gates of the prison open, the path ahead should lead to a better life."[7]

The legislative proposal that flowed from this commitment – the historic Second Chance Act, signed into law by President Bush almost exactly a year ago – is of historic importance. Broadly bipartisan, encompassing a variety of reentry initiatives, the Second Chance Act marks a turning point in our nation's history. And now, with the inclusion of $25 million to fund the Second Chance Act in the omnibus budget currently before Congress, we can say that we have entered a new era. Furthermore, the decision by the Obama administration to request $75 million for reentry programs in the 2010 budget signals the support of President Obama for a national reentry strategy.

Before turning to the question of the effectiveness of reentry interventions, I would like to put the issue of federal funding in proper context. As welcome as federal funding might be, we should recognize that the amount of federal funding does not track the scale of the reentry phenomenon. One rough calculation makes the point: if federal funds were evenly distributed across the cohort of individuals leaving state and federal prisons – spending no money on jail reentry, or on families and communities of those incarcerated – we would spend about $100 per returning prisoner. The point is obvious: if the federal government wishes to make a significant change in the experience of people leaving prison, much more money will be needed.

II. The Public Safety Nexus

As we consider the most effective strategies to address the challenges of prisoner reentry, we must consider the objectives of those strategies. In my view, there are two overarching goals – to promote public safety (by reducing recidivism rates), and to promote prisoner reintegration (by connecting returning prisoners with the indicia of citizenship, including work, family, peer groups, community, and democratic responsibilities and participation such as voting). I wish to call attention to the first of these goals, but do not want to diminish the importance of the second.

The public safety dimensions of reentry can be considered through three lenses. First, we should acknowledge that the recidivism rate of returning prisoners is very high. If "recidivism" is defined as one

[7] George W. Bush (2004). State of the Union address to joint session of Congress January 20, 2004.

or more arrests for new crimes over a period of time, then we can say, using Bureau of Justice Statistics (BJS) data, that the three-year recidivism rate for individuals leaving state prisons is over two-thirds (67%).[8] And about one-half of returning prisoners are re-incarcerated within that three year period. The challenge we face is daunting: to make significant reductions in this very high rate of re-arrest.

The second lens on public safety is particularly important when considering the effectiveness of prisoner reentry interventions. The rate of failure – as defined by re-arrest – is significantly higher in the initial months following release. According to BJS, 30% of all arrests over the entire three-year period occur within the first six months. We should view these statistics as posing a very specific challenge to our approach to reentry. If the risk of failure is highest in the first six months, then we should devote our efforts and resources to reducing the rate of failure in those months. It's a very simple, but revolutionary concept: we should front-end our reentry services and align our resources to match the risk.

The third lens on public safety and reentry underscores the policy imperative we face. Because our crime rates have fallen to historic low levels, and because the size of the reentry population has risen to historic high levels, the percentage of all arrests in a jurisdiction that can be attributed to individuals recently released from prison, has grown steadily. In 1994, the arrests of prisoners released in the previous three years accounted for 13 percent of all arrests. By 2001, that figure had increased to more than 20 percent.[9] This very simple mathematical reality underscores the importance of developing reentry programs that are effective at reducing rates of failure. Stated differently, we have an opportunity to reduce crime (as measured by arrests as a proxy for crime) by focusing on a relatively small, known population, and giving them the tools and supports needed to succeed.

III. Effectiveness of Reentry Interventions.

About thirty years ago, a team of researchers reviewed the extant literature on treatment programs for offenders and reached a sobering conclusion, captured in a short-hand phrase: "nothing works."[10] This statement (which was not quite accurate at the time) certainly cannot be repeated today. Just the opposite. In the intervening years, researchers have developed an impressive body of studies that underscore the effectiveness of a variety of interventions. Steve Aos and colleagues at the Washington State Institute for Public Policy have surveyed the literature and found a number of rigorous evaluations

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[8] Langan, P., and D. Levin. 2002. *Recidivism of Prisoners Released in 1994*. Washington, DC: Bureau of Justice Statistics.

[9] Rosenfeld, Richard, Joel Wallman, and Robert Fornango. 2005. "The Contribution of Ex-Prisoners to Crime Rates." In *Prisoner Reentry and Crime in America*, edited by Jeremy Travis and Christy Visher (80–104). New York: Cambridge University Press.

[10] Martinson, R. (Spring 1974). "What Works? - Questions and Answers About Prison Reform," *The Public Interest*, pp. 22-54.

that lead to the following conclusions about program effectiveness (showing average recidivism reduction rates, and the number of studies compiled):[11]

- **In-prison drug treatment** programs (called therapeutic communities), especially those with a community component, can reduce recidivism by about 6.9% (six studies)
- **Drug treatment in jail** can reduce recidivism by 6% (nine studies)
- **Drug treatment in the community** can reduce recidivism by 12.4% (five studies)
- **Cognitive behavioral therapy** can reduce recidivism by 8.2% (twenty-five studies)
- **Correctional industry programs** can reduce recidivism by 7.8% (four studies)
- **Vocational education and training programs** can reduce recidivism by 12.6% (three studies)
- **Employment training and job assistance** in the community can reduce recidivism by 4.8% (sixteen studies)
- **Adult basic education** may (weak findings) reduce recidivism by 5.1% (seven studies)
- **Intensive supervision** based on treatment program can reduce recidivism by 21.9% (ten studies)

This literature has also produced a set of guidelines for effective programs.[12] If we want to design programs to reduce failure rates, we should: [13]

- Focus on behavioral outcomes, targeting criminogenic needs, using positive reinforcements
- Target high risk offenders
- Use risk assessment instruments
- Begin treatment in prison and provide continuity in the community
- Provide intensive interventions for at least six months

We also have a very good sense of what interventions do NOT work. We know, from a variety of evaluations, that intensive supervision does not reduce recidivism rates.[14] We also know, from a landmark study conducted by the Urban Institute, that supervision itself does not reduce recidivism:

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[11] Aos, S., P. Phipps, et al. (2006). Evidence-Based Adult Corrections Programs: What Works and What Does Not. Olympia: Washington State Institute for Public Policy. Available at http://www.wsipp.wa.gov/rptfiles/06-01-1201.pdf.

[12] Andrews, D. and J. Bonta (1998). *The Psychology of Criminal Conduct.* Cincinnati, Ohio, Anderson Publishing; Cullen, F. and P. Gendreau (2000). Assessing Correctional Rehabilitation: Policy, Practice, and Prospects. *Criminal Justice 2000.*

[13] Petersilia, J. (2004). *What Works in Prisoner Reentry? Reviewing and Questioning the Evidence.* Federal Probation. Volume 68, Number 2. Available at http://www.uscourts.gov/fedprob/September_2004/whatworks.html

[14] Petersilia 2003. Aos, S., P. Phipps, et al. (2006). Evidence-Based Adult Corrections Programs: What Works and What Does Not. Olympia: Washington State Institute for Public Policy.

individuals placed on parole supervision after prison are no less likely to be rearrested than individuals released with no supervision.[15]

We should view this emerging body of research very positively. We know far more than we did a few decades ago about program effectiveness. We can now move toward a policy of evidence-based programming, so that all correctional and community-based programs can be assessed to determine whether they are carried out according to these principles. We expect that this shift toward evidence-based policies will be facilitated and accelerate by the creation of the Reentry Resource Center as envisioned by the Second Chance Act. Finally, this body of research allows us to see the potential for measurable reductions in recidivism. In fact, according to the best estimates of researchers in this field, if we could implement effective programs for all returning prisoners, with all the resources needed, we could expect recidivism reductions of about 15-20%. And, we can also state with great confidence that these investments would be cost-effective: they would pay for themselves by reducing future criminal justice and corrections costs.[16]

The implications of this body of research for congressional action are quite clear. Congress should require that federal funding support only two types of investment: (1) programs of proven effectiveness; and (2) rigorous research demonstration projects that will test new ideas and expand the body of knowledge to include more effective interventions. Taxpayer funds should NOT support programs that merely sound like they might work, and should not support programs that lack a strong basis in research. Along these same lines, Congress should encourage states to develop certification processes to ensure that all state-funded reentry programs are evidence-based.

IV. **New Approaches to Prisoner Reentry.**

These advances in our research knowledge present a complex challenge to the nation. We can now state, with considerable confidence, that we can intervene in the lives of returning prisoners and reduce their rates of failure, particularly their rates of re-arrest for new crimes. We should now marshal our resources to fund those interventions and to insist that all reentry programs meet a standard of proven effectiveness. But even in the best of circumstances, after a substantial investment of new resources, this strategy would produce modest results, perhaps on the order of 20% reductions in recidivism rates.

We should not be satisfied with these results. In my opinion, we can only achieve results that match the magnitude of the reentry phenomenon if we recognize that our approach has been too timid. We have been constrained by a medical model that focuses on individual-level interventions, rather than also embracing an ecological model that focuses simultaneously on the community context within which individuals are struggling to thrive after prison. The next chapter of innovation in this area should test

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[15] Solomon, A., Kachnowski, V., and Bhati, A. (2005). Does Parole Work? Analyzing the Impact of Postprison Supervision on Rearrest Outcomes. Washington, DC: The Urban Institute.

[16] Aos, Steve, Polly Phipps, Robert Barnoski, and Roxanne Lieb (2001). The Comparative Costs and Benefits of Programs to Reduce Crime. Seattle: Washington State Institute for Public Policy.

ideas that attempt to change the *environment* to which individuals return home. Allow me to cite four promising innovations:

- **Offender Notification Forums**. As part of its Project Safe Neighborhood (PSN) initiative, the City of Chicago launched an Offender Notification Forum. In designated neighborhoods, individuals recently assigned to parole or probation, who had a history of gun violence and gang participation, were requested to attend a forum hosted by the PSN team. In these forums, the offenders would sit for an hour or more with representatives from state and local law enforcement agencies, community representatives, and service providers. The first part of the meeting, led by the law enforcement representatives, focused on the consequences of gun crimes, both for the individual and for the neighborhood. The second segment featured a talk by an ex-offender who had turned his life around, who stressed the impact of violence on the community, the problems of intra-racial violence, and the seriousness of the PSN initiative. The third segment focused on choices offenders can make based on alternatives that are available, including job training, education programs, drug treatment, temporary shelter and counseling.
    - According to a recently published evaluation of the PSN initiative in Chicago,[17] the intervention has been "remarkably effective in reducing neighborhood crime rates." There was a 37 percent reduction in homicide rates in the target neighborhood after the program began, compared to the previous three years.
- **Comprehensive, Interagency Initiatives**. The Boston Reentry Initiative (BRI) is a stellar example of a comprehensive, interagency initiative, bringing together law enforcement, social service agencies, and faith institutions. It is exemplary in that it focuses squarely on individuals posing the highest risk, and starts working with those individuals within 45 days of their admission to the Suffolk County House of Correction (the local jail). Each month, the interagency team identifies between 15 and 20 high risk individuals. Representatives of social service organizations describe the services that can assist with a successful transition. Law enforcement, probation and parole representatives describe the consequences of re-offending in the community. Caseworkers and faith-based mentors then start to meet regularly with the participants. On the day of release, the institution arranges for either a family member or mentor to meet them at the door. They are then encouraged to continue working with these service providers after release.
    - According to a recently published evaluation,[18] the "BRI was associated with significant reductions – on the order of 30 percent – in the overall and violent arrest failure rates."
- **Reentry Courts.** The Second Chance Act calls for the support for the creation of reentry courts, although Congress has not yet appropriated funds to support these innovative courts. The

[17] Meares, Tracey, Andrew W. Papachristos and Jeffry Fagan (2009). Homicide and gun violence in Chicago: Evaluation and summary of the Project Safe Neighborhood program. Review of Research: http://www.psnchicago.org/PDFs/2009-PSN-Research-Brief_v2.pdf.

[18] Braga, Anthony A., Anne M. Piehl, and David Hureau. *Controlling Violent Offenders Released to the Community: An Evaluation of the Boston Reentry Initiative.* Rappaport Institute for Greater Boston Working Paper Series, September 2008.

concept of a reentry court, first proposed nearly ten years ago,[19] is taking hold, particularly in the federal system where many federal districts now have at least one reentry court operational. As with the PSN initiative in Chicago, and the BRI in Boston, the reentry court represents a new way to coordinate available services, and created a new "ecology" of reentry. By placing a judge (or magistrate) in the role of reentry manager, these courts, which draw upon the successes of drug courts and other problem-solving courts, create a different relationship between returning prisoners and the criminal justice system. They provide for coordinated services in ways that are not possible in traditional parole systems. Although reentry courts have not yet been rigorously evaluated, some early findings are promising and show reductions in recidivism rates.[20]

- **Community-based Interventions.** Around the country, there are a number of demonstration projects that are testing a very new reentry model, namely a community-based approach to reentry. Recognizing that some communities are experiencing very high rates of incarceration and reentry, these projects approach reentry as a community phenomenon. These programs create coalitions of community organizations to interact with every person returning home from prison. They attempt to create a different climate in the neighborhood, one promoting successful reintegration. They devote community resources to supporting returning prisoners. One such program – the Baltimore Reentry Partnership – was evaluated by the Urban Institute and was found to be associated with a substantial reduction in homicides, from 2 homicides and 11 attempted homicides in the comparison group to no homicides and no attempts in the treatment group.[21] In Chicago, the Safer Foundation is testing such a community-based program in East Garfield Park, called Safer Return. In New York City, Mayor Bloomberg has supported the creation of the NYC Justice Corps, which provides transitional employment for young people in two New York City neighborhoods, Bedford Stuyvesant and the South Bronx. In each community, a local organization is serving as a convenor, bringing together these young people and community organizations to proposed community benefit projects they can carry out.

These demonstration efforts represent a new frontier in reentry innovation. They do not focus exclusively on individual-level interventions. Rather, they create a coalition of support for individuals returning from prisons and jails, bring together law enforcement and community leaders, communicate clearly about the consequences of illegal behavior, and provide a clear pathway out of a life of anti-social conduct. In supporting the next wave of experimentation – and in finding new ways to reduce

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[19] Travis, J. (2000) But They All Come Back: Rethinking Prisoner Reentry. Sentencing & Corrections Issues for the 21st Century: Papers from the Executive Sessions on Sentencing and Corrections, Number 7. U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, May 2000.

[20] Allen County Community Corrections Re-entry Court, Fort Wayne, IN. Cost Effectiveness of controlled re-entry: Inmates returning to Allen County, Indiana 4 Year Study 2001-2005. Retrieved March 10, 2009 from the World Wide Web at http://www.allencountycorrections.com/ReEntryCourt.html.

[21] Roman, J., Lisa E. Brooks, Erica Lagerson, Aaron Chalfin, and Bogdan Tereshchenko (2007). Impact and cost-benefit analysis of the Maryland Reentry Partnership Initiative. Available at http://www.urban.org/url.cfm?ID=311421.

recidivism and promote public safety – I urge Congress to provide funding, guidance and evaluation for these promising innovations.

We have reached an important moment in our nation's history. With record high incarceration rates, unprecedented extension of state supervision over individuals leaving prison, and a complex maze of legal barriers to reintegration, more people than ever before are returning home after serving time in prison, and are facing daunting barriers to successful reintegration. In these circumstances, the leadership of our federal government in the reentry arena is commendable, and the level of innovation in the world of practice is impressive. Yet our reentry policies are still quite primitive; we are just now beginning to develop an approach to reentry based on evidence of best practices. At this moment, it is critically important that we continue to invest in rigorous evaluations to tell us which interventions are effective at promoting public safety and prisoner reintegration. Perhaps more important, we need the federal government to support the development and testing of new ideas, particularly ideas that recognize that successful reentry is more than an individual act of will. Successful reentry requires strong community support networks and comprehensive services. Interventions that reflect these principles may hold the greatest promise for success.

Mr. MOLLOHAN. Thank you, Mr. Travis.
Dr. Byrne.

MR. BYRNE OPENING REMARKS

Mr. BYRNE. I also want to thank you for inviting me. And following Jeremy Travis' presentation will not be easy. He offered an excellent summary of where we are at in terms of new innovations and new programs.

What I would like to spend my time talking to you today is evidence-based practice, which is a term we use in the field to highlight programs and strategies with solid empirical support. In my presentation, I will seperate the science from what I call the nonsense in the area of evidence-based practice. While I do not think I will contradict anything you have heard, I urge caution in your assessment of "best practices" in prison reentry.

First I should point out that we are at a different point in our field than we are in, say, the hard sciences because we have not done enough experimental research. As a result, when we try to use a "gold standard" for reviews, focusing only on experimental research studies, we end up saying very little about effectiveness; and it makes it very difficult for you as policymakers to really figure out what to do.

The gold standard reviews are out there in our field, but they are just trickling in now, although there has been a push to move in this direction. Advocates of gold standard reviews essentially say that we should have at least two experimental research studies completed with random assignment before we can say something "works" (or does not work) in a particular area.

These experimental studies should confirm a finding, and the great bulk of lower level studies, including quasi experimental studies (you heard about some of those just now) and nonexperimental research studies, case studies, should say basically the same thing. If the majority of those studies confirm the findings from experimental research, we can say a program "works".

So that is the gold standard for evidence-based reviews. And when you use that standard for review, you do get a different picture of the effectiveness of both institutional and community corrections programs than when you use a lower standard for review.

In our field, just so we can say something, we have changed the definition of what constitutes an evidence-based review. We have another standard that I call (and others have called) the bronze standard. This type of review is essentially looking at all experimental studies, but also adding in what they call level three studies which are quasi experiments which have control groups, and/or some type of pre/post comparisons. If at least two level 3 studies (or above) can be identified, the reviewer can offer an assessment as to what works.

When you do that, a large number of studies can be identified, but then you have all the inherent problems with lower level science that you are now bringing in to the review. Today, most of what I will highlight in my review research will be drawn from the bronze standard reviews.

Much of what we talk about in what works, evidence-based reviews in our field combine experimental and quasi experimental research.

There is a third level of review and much of what I see when I go on the web and Google different topics and look at what various professional groups, advocacy groups in particular, say about a specific topic are based on what I call nonscientific or nonsense reviews. These reviews do not systematically look at all the studies in a particular area.

One classic approach that people use when they find a negative study that does not support their position, sometimes we do in our own relationships with people we disagree with, is to marginalize. Essentially, you leave the study out of the review. You just do not mention them. Unfortunately you get that in this third level of reviews. They kind of pick and choose studies and they do not have everything in there.

Unfortunately in our field, much of what we call today evidence-based practice seems to fall into that third category. This is changing.

The Campbell Collaborative is a group that puts out systematic reviews in a variety of fields, including criminal justice. Many of the research studies that Jeremy Travis was just telling you about, come from these Campbell Collaborative reviews.

We are getting better in this area, but this is, I think, an area where we really have to improve the science because we will improve public policy as a result.

So my first point would be let us separate out the science from the fiction in terms of what we know. And when you do that and you go through the reentry research what you find is that we are in less certain terms in some areas than in others.

For example, if you use the gold standard review criteria and you conduct a random assignment experiment where you send some people to prison and put some on alternative sanctions, do offenders do better in prison or do they do better in the alternative sanctions?

There are actually five studies over the last 35 years that do a random assignment, natural experiments in that area. Overall, the results of these experiments are inconclusive.

However, if you look at the full body of studies that are quasi experimental, good quasi experimentals (level 3 and above), you add to those five another about thirteen studies. When you look across those eighteen studies, what you find is the majority of those studies (11) show that alternative sanctions reduce recidivism at a higher level than incarceration.

So there is a good example of if you use the gold standard, you are going to reach inconclusive results. We do not really know whether prison works better than a community-based scenario. However, when you use the bronze standard, you find that the majority of the studies really do point in the direction of alternatives to incarceration.

That is important to keep in mind because as I see the reentry issue, one easy solution to 700,000 people coming out of prison is what I call "pre-entry." Pre-entry focuses on who is going to prison

in the first place, and what happens in prison once they are incarcerated.

And certainly I think there is a body of research that suggests that we could do other things with offenders and not put public safety at risk. And there, once again, I think the bronze standard has been used to conduct these reviews.

But you certainly have to know that there is another view of that research which is based on the gold standard review. Using this standard, we would conclude that we are actually inconclusive in other areas.

So that is point one in terms of where the science fits in terms of what I would call pre-entry, the issue of the decision to incarcerate. Point two of pre-entry is what happens to offenders while they are incarcerated.

Now, what happens in prison does not stay in prison. We know that. Just about everybody who goes to prison comes back to the community.

You know, that is certainly true. Does the period of time in prison make offenders worse? I recently conducted research and edited a book on the culture of prison violence. As part of my research I conducted an evidence-based review looking specifically at what kind of things can reduce violence and disorder in prison.

And lo and behold, what jumps out at you? Participation in treatment programs reduce prison disorder. Programming in general has an impact, but involvement in treatment programs seems to have the largest effect. What you find is violence and disorder levels go down the more treatment programming, programming in general and also treatment program in particular.

Now, some have taken that overall programming finding to say, well, that means you can just put offenders in recreation programs and you will have less violence and disorder in prison. Maybe it is not treatment. Maybe it is just any kind of programming. Well, I do think any kind of program is better than none, but certainly that is something to look at further, using a randomizing field experiment.

And that is kind of a tie in to talking again about this notion of pre-entry. What happens in prison does not stay in prison. So we have to look at ways of reducing violence and disorder in prison because we know that what happens there is going to affect what prisoners do when they return to the community.

So, it is a public safety matter. Even if those studies did not show reductions in subsequent recidivism when offenders leave prison, crime reduction in prison is an important thing to have, but this means that these offenders will have less exposure to violence and victimization in prison.

The nice thing in terms of the research, I just mentioned, is that when you look at prison treatment programs, what you find is statistically significant reductions in subsequent recidivism upon reentry. I think that is pretty consistent, using again the bronze standard review, across the majority of studies currently available for review.

You heard about some of the programs earlier today: cognitive behavioral treatment, therapeutic community models targeting offenders with serious drug problems, vocational training programs,

prison to community job placement programs. All these programs show reductions in recidivism. But, and this is the caveat, they are marginal reductions (about 10%) overall. Since many of these programs are multi-modal programs, it is hard to tease out the effects of individual compounds, such as employment versus vocation versus treatment because there are many things happening. We are talking about ten percent reductions overall; this is not a large effect size.

You will hear people talk about, well, with better program implementation, that 10 percent can get up to 30 or 40%. There is not a lot of empirical support that you can cite. There is one study that talks about changes in level of integrity of treatment, when you improve the quality, you are going to get higher results. But we do not have much in other area. So I cannot say definitively that better implementations will result in significant reductions in recidivism.

So right now we know individual level change strategies in prison do have an impact. When these offenders leave prison and return to the community, the impact is marginal. For this reason I think the suggestion that you heard in terms of looking not only at factors that relate to individual change but also look at community change is critical. We need to do more research on the social ecology of reentry, focusing on person-environment interactions. I think that is a critical avenue for further program development and evaluating research.

A third point I want to make in terms of reentry is that we also have to consider whether the reentry problems we have today is at least partially a consequence of failures of traditional probation and parole. We are talking about a long-term downward trend in success of both probation and parole that you probably heard at other presentations. We are talking today about a 55 percent success rate for traditional probation, 45 percent for traditional parole. Those are not the numbers you want to hear.

Go back to when I was 18. Go back to like 1970, somewhere around there. I guess I was 16 at the time. The success rates were over 80 percent for probation and close to 70 percent for parole. So something has happened during this period to make traditional probation and patrol supervision less effective.

Now, you say, well, tell us what it is. That is difficult to do because we have not done very much evaluation research on traditional probation and parole practices at all.

Chairman, you mentioned the Martinson study in your introductory remarks. If you go back to that "what works" summary and you look at community corrections programs, what you will find is that only four studies were included in that exhausted Martinson review, five studies. That was a 25 year review period they used, which adds up to one study every five years. Things have not improved that much since 1974 when Martinson released the original piece.

The interesting thing about the original work, though, is that if you go back to that Martinson piece, you will see that he does not say that nothing works. He said that in a journal article and subsequently took that back. What he found is that there is no panacea that works with everything and with everyone.

And as a matter of fact, in terms of looking at community programs, the program that he did highlight that worked was a combination of control and treatment which modeled very closely the intensive supervision programs that were evaluated in the 1990s.

Now, you heard that, what does *not* work is intensive supervision programs. And I think it is important to kind of get this on the record. The evaluation research was consistent that control oriented, intensive supervision, electronic monitoring programs and boot camp programs for that matter did not reduce recidivism. That is clear, based on a bronze standard review.

However, looking more closely at those programs, because there was a range of programs that were developed under the general heading of something called intensive supervision, what you find is there was a lot of variation in key program components. There are a lot of different types of different programs out there. Some programs emphasized treatment more than others; some emphasized central monitoring. That was also true for electronic monitoring, although less so, and also boot camp programs.

The programs that combine control and treatment had the greatest reductions in recidivism. So I think within the, intensive supervision does not work story is actually a success story. And that is important to keep in mind when you look at the next generation of reentry programs because you are hearing a theme here today and I have heard it in other writing as well: reentry programs need to find other optimal "mapping point" between treatment provision on the one hand and offender monitoring and control on the other hand.

Three program elements come to mind (1) high risk offenders, (2) high risk times, (3) high risk places. I am mentioning that because I have a piece coming out with the Pew Center for the Courts in about two weeks which describes Concentrated Community Supervision, targeting resources to high risk offenders, high risk times, and high risk places.

I think that if we look at innovation, and you were talking about community level innovations, and I agree, that is where we need to kind of look at the next generation of programs. I think the initial resources you have now for reentry programs should forget those reentry models that target high risk offenders, target high risk times, target high risk places.

For some, the focus on high risk offenders is very controversial. When you say high risk offenders, you have to keep in mind that when we look at certain groups of people coming out of prison, we do not care about high risk, do we?

Who are the lowest risk offenders coming out of prison in terms of recidivism? Sex offenders and murderers. They are not going to meet your definition of high risk if you are using risk as saying risk of committing a new crime. So we are going to have to factor that in to any discussion of concentrated supervision strategies, because for some groups of people, we might not care that much about the probability of rearrest. What we care about is the possibility of a new crime and the harm done. So it is that risk at stakes kind of issue that we have, to put on the table.

I think this notion of their getting high risk offenders, high risk times, in particular the first couple of months coming out, and

high-risk neighborhoods is leading to new types of strategies. What program developers are talking about, at least I have heard in several jurisdictions, is front loading supervision and services to the first couple of months and then after you see change in behavior, basically dropping offenders off the active supervision caseload. I think John Petersilia has probably written the best summary and justification for that type of behavioral incentive strategy.

What you should know about that is when you look at the numbers in terms of time to failure, you will find changes in time to failure overall for all crimes. But when you look at violence, if you are interested in that subgroup, you will not see significant changes over time. Violent reoffenders is a very low probability event, for offenders released through reentry, a very low probability event, and it does not change that much over time.

However, overall risk of recidivism is higher for offenders during their 1st few months after release. A 50 percent reduction in risk between month one and fifteen, I think, was cited in the recent National Research Council Report. But keep in mind that the base rate is actually very low on a month-to-month basis. And for violence, it does not change that much. So we have to be careful that we do not tout these programs as having major impacts in areas that you would not expect them to have major impacts, given the offender population coming out, and the types of neighborhoods to which they are returning.

The last point I want to make, and it relates to I think this Committee specifically, is thinking about new ways of funding research that would tie the research to the type of allocations that you have here in different ways. I think what we need in our field are independent external evaluations of corrections programs. And you might say, well we have that. We have the Justice Department NIDA, NSF. We do that now. But as a person who has applied for grants and received grants I know that one of the things I have to do is get the cooperation of an agency that will let me in to do the evaluation. But setting up that way, where I have to go to New York City and see, maybe it is Jeremy, or whoever I am going to see to get in, what you essentially do is allow the person being evaluated to pick their evaluator. That is not the same as a self-evaluation but it is certainly at least one step removed. And I think it is one of the reasons why we have a lot of noncritical, unscientific research in the field, and why we do not have much going to the level of quasiexperimental, experimental designs.

I think it is the nature of the beast that to get in the door we are going to have to convince somebody that we are not going to make them look bad. And I am sure everybody in this room feels that way when you make decisions on every aspect of our lives, right? Nobody wants to look bad or to have someone make them look bad. However, I think that hurts science, because it takes away the potential for independent, external reviews of those programs. What I would recommend is simple: everybody receiving reentry money has to agree to allow an implementation evaluation and in those cases where you see full implementation, researchers should then conduct a rigorous impact evaluation.

Jeremy and I know that one of the biggest problems we have with looking at outcome research is that people have not looked at

level of implementation. And when they do, that is where you find that the programs break down. In other words, we have a lot of good ideas, a lot of good models, but they just do not get implemented as designed. So you have to look at implementation first and objectively, not unlike an auditor would. And the second part is, well, what are you going to do after you implement? You are going to look at impact. So after year one, if you have a program that is up to speed, that is when you have to allow a rigorous impact evaluation. But again, I would recommend that you have external evaluations that are selected in a different way than we have done in the past.

I am essentially recommending a break from past practice and I hope I have kind of given a rationale for it. I think over time if we move in this direction you will have more level three, level four, level five studies, the well designed quasiexperiments, and at least a larger number of experimental designs over time. And so we will have better science in our field. One of the, critical things we need today is better information to help policy makers make these kind of decisions.

I will stop there. Thank you.

[Written statement of James M. Byrne. Ph.D. Professor, Department of Criminal Justice and Criminology, University of Massachusetts, Lowell follows:]

What Works in Prison Reentry: A Review of the Evidence

Testimony:

Subcommittee on Commerce, Justice, Science, and Related Agencies
Alan Mollohan (WV), Chair

March 12, 2009

Given by:

James M. Byrne, Ph.D.
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Highlights of Testimony:

- **We need to examine the research on *pre-entry* --focusing on both the decision to incarcerate and what happens in prison-- in conjunction with *reentry*.**

- **A recent systematic, evidence based review of the research on the effectiveness of *incarceration* compared to other sanctions was inconclusive, due to the small number of quality research studies available for review.**

- **Systematic, evidence-based reviews of the research on the effectiveness of traditional *probation* have not been completed, because the necessary quality research has not been conducted.**

- **Systematic, evidence-based reviews of selected *intermediate sanctions*—intensive supervision, electronic monitoring, boot camps—have demonstrated that control-focused sanctions are ineffective(in terms of recidivism reduction).**

- **Systematic, evidence-based reviews of *prison treatment* and programming have revealed that these programs reduce prison violence and disorder, while also resulting in small, but statistically significant, reductions in subsequent recidivism upon reentry.**

- **Systematic, evidence-based review of the effectiveness of both traditional *parole* and the new wave of *prison reentry* programs can not be presented, because the necessary evaluation research on the implementation and impact of these programs has not been completed.**

- **We need to consider new ways of funding reentry programs, which require grantees to allow *independent, external evaluations* of both implementation, and impact. We should not allow jurisdictions to "pick" their evaluator, because it undermines the integrity of the review process.**

1. The Current State of Evidence-Based Reviews

Much of the recent discussion of "what works" in corrections has been based on evidence-based reviews of the research on a particular topic of interest (e.g. the use of incarceration, prison-based treatment programs, community-based sanctions, prison reentry). The proliferation of "what works" reviews run the gamut from high quality, well-designed "scientific" reviews on the one hand to low quality, poorly designed unscientific reviews (otherwise known as nonsense) on the other. Before we examine the available evidence of the effectiveness of various institutional and community control strategies, we need to distinguish the "science from nonsense" among the current wave of evidence-based reviews.

Essentially, there are three basic types of evidence-based reviews: (1) the "gold standard" review focuses only on randomized, controlled experiments, following the lead of the hard sciences; (2) the 'bronze standard" includes both experimental and (well-designed) quasi-experimental research (that includes comparison groups); and (3) the unscientific (or what I refer to as nonsense) approach of self-selecting a number of studies in an unsystematic manner, including experiments, quasi-experiments, and non-experimental research. The unscientific reviews are typically written by advocates of a particular program or strategy (both liberal and conservative). In the most extreme form, the authors of the review simply allude to an evidence-based review or "best practices", with no supporting documentation and/or an evidence-based review to support their recommendations. Unfortunately, much of what is currently touted as "evidence-based" research reviews in the field of institutional and community corrections falls into this last category.

The "gold standard" for evidence-based research reviews mandates that at least two randomized field experiments must have been conducted on a particular program/strategy before we can offer an assessment of "what works" (see, e.g. the reviews conducted for the Cochrane Collaboration at

www.campbellcollaboration.org). When applied to institutional corrections, for example, the use of this gold standard results in a simple conclusion: we simply don't know what works (and what doesn't work) with offenders in correctional settings. Since 1980, only fourteen (14) randomized experiments have been conducted in corrections (Farrington and Welsh, 2005), including seven evaluations of *juvenile* corrections programs, [two evaluations of scared straight programs for male juveniles, four evaluations of boot camps for male juveniles, one evaluation of a juvenile treatment facility (Paint Creek)] and seven evaluations of *adult* corrections programs [three evaluations of therapeutic communities for adult drug-involved inmates, and four evaluations targeting male prisoners placed in one of the following four treatment programs: reasoning and rehabilitation, social therapy, moral reconation therapy, and cognitive behavior treatment]. Obviously, much more rigorous evaluation research will have to be conducted before *gold standard* "evidence-based reviews" can be used to guide corrections practice in either adult or juvenile corrections facilities in the United States.

One solution to the problems associated with applying the "gold standard" to the current body of corrections research is offered by the Campbell Collaborative--lower your standards for including studies in your evidence-based reviews. Using what some have called a "bronze standard", members of the Campbell Collaborative have conducted evidence-based reviews of a wide range of criminal justice interventions. Based on this relaxed standard, both experimental and well-designed quasi-experimental research studies (levels 3, 4, 5 on a quality scale ranging from 1 (low) to 5 (high)) would be examined. For a specific program or strategy to be deemed effective, at least two level 3 (or higher) studies would be needed, with supporting research from the majority of lower quality evaluations (levels 1 or 2). Several of the systematic, evidence-based reviews I highlight in the following section use this relaxed standard for study identification and review; as I demonstrate, different review standards will result in different assessments of "what works".

2. A Review of the Research to Date

In the following section, I highlight the results of the available gold and bronze standard evidence-based reviews of what works in each of the following areas: prison, probation, intermediate sanctions, parole, and offender reentry.

2a. The Specific Deterrent Effects of Prison

In terms of specific deterrence effects on *individual* offenders, there is no methodologically rigorous evidence that incarceration reduces an offender's risk of re-offending upon return to the community; in fact, it appears that when compared to similar groups of offenders placed in one of a range of alternative, non-custodial intermediate sanctions, prisoners actually re-offend at a higher rate (Stemen, 2007; Farabee,2005). Unfortunately, any definitive statements on the comparative effects of incarceration versus non-incarcerative sanctions must await the completion of more—and higher quality—research, preferably using experimental designs.

Villettaz and associates (2006) conducted a systematic evidence-based review of prison vs. community-based sanctions in conjunction with the Campbell Collaborative. Villettaz, et al.(2006), identified only five controlled or natural experiments have ever been conducted on custodial versus non-custodial sanctions. They concluded that "Although a vast majority of the selected studies show non-custodial sanctions to be more beneficial in terms of re-offending than custodial sanctions, no significant difference is found in the meta-analysis based on four controlled and one natural experiments" (Villetaz, et al.,2006:3).

When considering the results of this evidence-based review it is important to keep in mind that only three of the five experiments included in the review targeted adult offenders. One study comparing prison to probation (Bergman,1976) showed probationers fared significantly better; however, a second study comparing prison to community service had mixed results (Killias, Aebi, and Ribeaud, 2000), while a third natural experiment comparing the effects of a 14 day prison term to a suspended sentence reported mixed results as well (Van der Werff, 1979). Two thoughts come immediately to mind: first, you don't conduct a meta-analysis on just five studies, especially if these studies have different target populations (3 adult,

2 juvenile) and different experimental and control group comparisons (see above); second, systematic, evidence-based reviews are only going to be useful to the field when sufficient numbers of well designed research studies are available for review. Obviously, this is not the case here.

I focus on the findings of this systematic, evidence-based review to highlight the potential dangers inherent in an over-reliance on meta-analysis techniques to analyze studies that are as different as apples and oranges; this problem is compounded by the decision to use the "gold standard" and exclude the quasi-experimental research from this analysis. The conclusions reached in the Villettaz, et al (2006) systematic review focused exclusively on the five experimental studies examined in their meta-analysis, and did not include the other 18 studies they identified meeting the study's minimum review criteria. Eleven of these 18 studies showed positive effects for a range of non-custodial sanctions, including probation, home confinement, community service, and mandatory alcohol treatment in drunk driving cases. Only two studies showed positive effects for a prison sanction (prison fared better than electronic monitoring , but only for low risk offenders; shock incarceration fared better than probation).The remaining five studies identified no significant differences between experimental (three prison, two shock incarceration) and control (home confinement, probation, community service, and no prison) groups.

In my view, the available experimental and quasi-experimental research findings—although of poor quality overall-- challenge the underlying assumptions of the classical, deterrence-based theories of crime causation that provide the basic foundation for the prison typology we use to justify our reliance on prison for a wide range of offenders. However, I offer one possible caveat: it could be argued that the higher recidivism rates generally reported in these quasi-experimental research studies for prisoners (compared to non-prisoners) do provide evidence that the prison typology did, in fact, select a target group of convicted offenders who posed a *greater* risk of re-offending than those sentenced to some form of community-based sanction. Is it selection bias or an intervention effect? There is no way of knowing for certain. This is the limitation of moving from a gold standard evidence-based review to a less rigorous "bronze" standard.

Despite this caveat, it appears that we are better at identifying *risk level* than at developing strategies that result in *risk reduction.* I am not arguing that currently sentencing schemes are accurate, because it is entirely possible that the *prison experience* increased the risk posed by prisoners upon release to the community(Stowell and Byrne, 2008). But it seems obvious that there are some individuals who exhibit behavior that can only

be addressed in institutional settings; it is a sad reality that a number of the individuals sent to prison need to be there, for the safety of the community.

Can offenders be changed during their time in prison, or is the most we can hope for a short-term incapacitation effect and relief on the part of victims that these offenders are "out of sight and out of mind", at least temporarily? The answer appears to be that it depends on whether you design a prison system that focuses on offender control or offender change (in those areas that *can* be changed, such as educational deficits, employment skills, addiction issues, and mental health). According to two recent systematic, evidence-based reviews of prison-based treatment programs , prisoners who receive treatment in prison have fewer incidents of misbehavior while in prison(Byrne, Hummer, and Taxman, 2008), and fare significantly better upon release from prison, than prisoners who don't receive treatment (MacKenzie, 2006).Although the reported effect sizes for prison treatment and program participation are modest (a 10% reduction in recidivism upon release using standard follow-up measures), there is reason to anticipate improvements in these effects in prison systems designed to focus on offender change rather than short-term offender control (Welsh and Farrington, 2006; Byrne and Pattavina, 2007).

In my assessment, *comprehensive assessment-oriented and intensive treatment-focused prisons* may be the appropriate classification for some convicted offenders, but not because there is evidence that the prison experience will deter these individuals from future involvement in crime; rather, prison may represent the appropriate location (and control level) for the provision of the types of treatment and services targeted to the offender typology being used (e.g. sex offender, drug offender, mentally ill offender, batterer, violent offender, etc.).The key is to identify the subgroup of all convicted offenders that will require this level of intervention; the assumption here is that we can reduce the size of prison population ,and provide more services to the group of offenders we do incarcerate, without threatening public safety. This is precisely the point being argued by those in favor of downsizing prisons (Jacobson, 2005) and by advocates of prison reform (or rather prison transformation), who argue that we need to replace "bad" control-oriented prisons with "good" change oriented prisons (Maruna and Toch, 2006; Deitch, 2004;Gibbons and Katzebach, 2006).

2b. The General Deterrent and Incapacitation Effect of Prison

My examination of the research on the general deterrent effect of prison underscores the observation attributed to Mark Twain: "there are three types of lies- lies, damn lies, and statistics." In his recent, detailed review of the research on the impact of prison on crime, Stemen (2007) found that variation in effect sizes across studies—for the studies looking to demonstrate a general deterrent effect in particular-- could be attributed to such factors as (1) how the effectiveness of the prison sentence is to be determined (e.g. impacts on individuals, impacts on neighborhoods, state or national level effects;(2) the use of comparison groups and/or comparison policies;(3) the criterion measure employed (violent crime, overall crime); (4) the statistical procedures, including controls for simultaneity , that were applied; and (5) whether cost effectiveness comparisons were included(e.g. if you spent the money on such alternative crime reduction strategies as improving treatment, the quality of education, early childhood intervention, or employment/ anti-poverty initiatives that you spent on incarcerating an increased number of offenders, what would be the crime reduction effect?).

Despite these cross-study differences, I agree with Stemen (2007) that it is possible to use this body of research to answer the question that policymakers and the general public continually ask: does prison work as a general deterrent? By focusing on the results of research conducted at different levels of aggregation with—where available-- appropriate statistical controls for simultaneity, a clearer picture of the general deterrent impact of incarceration begins to emerge (Levitt, 1996; Spelman,2000; Spelman,2005). At the *national* level, a 10 percent increase in the rate of incarceration is estimated to result in about a 4 percent decrease in the rate of index crimes, with estimates of the impact on violent crimes between 3.8 and 4.4 percent. Studies claiming larger reductions in crime (between 9 and 22 percent) using national level data did not include controls for simultaneity. Based on *state* level data, a 10 percent increase in the incarceration rate is associated with a decrease in the crime rate between 0.11 and 4 percent. At the *county* level, a 10 percent increase in incarceration is associated with a 4 percent reduction in the crime rate (Stemen, 2007).I agree with Spelman, Levitt and others who have concluded that our recent incarceration binge has had—at best—only a modest impact on crime rates at the national, state, and local level.

One underlying assumption of general deterrence is that the costs of a particular prohibited behavior must outweigh the benefits of the action, but only marginally, for an individual to be deterred. There is no assumption that

more punishment translates into more compliance with the law. Indeed, too much punishment could have the opposite effect. Two recent studies provide support for this contention, suggesting that there is a "tipping point" for incarceration levels that can be demonstrated at both the state level and the neighborhood level(Liedka, Piehl, and Useem, 2006; Rose and Clear, 1998; Clear, Rose, Waring, and Scully, 2003). Incarceration reduces crime, they argue, but only up to a point. Once the incarceration rate hits a certain level (at the state level the tipping (or inflection) point appears to be around 325 inmates per 100, 000 population), crime rates actually increase. Although they do not identify a specific neighborhood level tipping point, Rose and Clear (1998) explain why they believe this occurs at the local level: "High rates of imprisonment break down the social and family bonds that guide individuals away from crime, remove adults who would otherwise nurture children, deprive communities of income, reduce future income potential, and engender a deep resentment toward the legal system. As a result, as communities become less capable of maintaining social order through families or social groups, crime rates go up" (Rose and Clear, as summarized by Stemen, 2007:6).

The implication of this new research on possible tipping points is not that we should abandon prison as a sanction, but that we need to be parsimonious in its application. When viewed in the context of a typology, it is apparent that definitions of the "in-prison" group were expanded in the 1980's to include "large numbers of nonviolent marginal offenders" (Stemen, 2007: 8). Since there is no evidence that this expanded definition had an added effect on crime rates (Zimring and Hawkins, 1997), it makes sense to consider our earlier, more restricted definitions of who should be considered for prison, which focused primarily on the identification of serious, violent offenders.

Finally, it is worth noting that much of the research on general deterrent effects does not include an examination of various "what if " scenarios : what if we spent the same money used to expand our prison capacity on other strategies designed either as a general deterrent (e.g. police) or as a risk reduction strategy (education, treatment, employment, wages)? According to Stemen (2007), Blumstein(2008), Wilson(2008), and others, only about 25 percent of the major crime drop that occurred in the United States between 1990 and 2005 appears to be linked directly to our increased use of incarceration(Pew Center on the States, 2008,Pew Center on the States, 2009). The other 75 percent of the drop can be linked to a variety of other factors, including fewer "at risk" youth in the general population, decrease in crack cocaine markets, lower unemployment rates,

higher wages, higher graduation rates, the recent influx of Latino immigrants, and of course, changes in police strength and arrest tactics (Leavitt, 2004; Sampson and Bean, 2006) According to Stemen (2007), a review of the research on several of these factors suggests that they offer more crime reduction benefits than prison expansion, at much less cost. Consider the following:
(1) a 10 percent increase in the size of a city's *police force* was associated with an 11 percent lower violent crime rate and a 3 percent lower property crime rate (using county level data);

(2) a 10 percent decrease in the state's *unemployment* rate corresponded with a 16 percent reduction in property crime, but had no effect on violent crime(state and county level data);

(3)a 10 percent increase in *real wages* was associated with a 13 percent lower index crime rate, a 12 percent lower property crime rate and a 25 percent lower crime rate at the national level; state level analyses identified a 16 percent lower violent crime rate; and individual-level analyses reveal that a 10 percent increase in real wages is associated with a 10 percent decrease in crime participation; and

(4) a one year increase in the average *education* level of citizens resulted in a 1.7 percent lower index crime rate, while a 10 percent increase in graduation rates resulting in a 9.4 percent reduction in the index crime rate and a 5-10 percent reduction in arrest rates, through the increased wages associated with graduation (as summarized by Stemen, 2007: 9-12).

While the link between police strength (more police per capita), arrest levels (more arrests, especially for public order offenses) and subsequent reductions in crime is certainly consistent with deterrence-based strategies, few research studies have compared the crime reduction effects of both strategies. And perhaps more importantly, it seems clear from my brief review that research on the general deterrent effect of incarceration should always be examined in the broader context of non-deterrence based social policy changes that may achieve the greater crime reduction effects at a fraction of the cost.

2b. Probation and Parole

Despite the fact that probation is the sanction of choice in this country, there are very few quality research studies that have been conducted on the effectiveness of traditional probation. No systematic, evidence-based review of probation research has been conducted since the release of Martinson's now famous "nothing works" review (Lipton, Martinson, and Wilks, 1975). Similarly, we know very little about the effectiveness of our parole system, apart from a few studies that highlight the high return to prison rates for different cohorts of parolees over the past three decades (see, e.g. National Research Council, 2007 for an overview).We do know that traditional probation and parole programs are not as effective today as they were thirty years ago; we just don't know why, because the necessary research has not been done. In 2005, only 59% of probationers and 45% of all parolees successfully completed their supervision terms; the failures were due to rearrest and/or a technical violation(Byrne, 2008). Any serious discussion of new strategies for addressing the prison reentry problem must begin with an examination of the reasons why these programs—the core of our correctional control strategy—are ineffective. As my colleague, Faye Taxman, has suggested, we spend too much time and evaluation effort focusing on small, boutique programs and not enough on traditional programming.

2c. Intermediate Sanctions

A wide range of programs can be examined under the general heading of intermediate sanctions, but systematic evidence-based reviews can only be identified for three sanction types at this time: intensive supervision, electronic monitoring programs, and boot camps. MacKenzie(2006) reviewed the research on the effectiveness of both intensive supervision and electronic monitoring programs. She identified 16 separate intensive supervision programs and 9 electronic monitoring programs that met her minimum review criteria. She reported that "a large body of research, including random assignment studies, consistently shows the failure of ISP and EM to lower recidivism" (2006:323).Similarly, negative findings were reported in a recent evidence-based review by Wilson, MacKenzie, and Mitchel (2003 study; 2008 update), which was based on a review of 14 adult boot camp programs.

However, recent reanalysis of the research on intensive probation supervision suggests a more nuanced view of the effectiveness of each of this sanction. In those intensive supervision programs that placed an emphasis on treatment (in Massachusetts and California), significant reductions in recidivism were reported. In addition, many of the evaluations included in the original review did not include an implementation assessment; the one study that measured level of implementation found that effectiveness varied by level of implementation. These findings point to the need for reentry program evaluators to measure implementation as well as impact, while also underscoring the need for reentry program developers to design community supervision programs with significant treatment components.

2d. Prison Reentry

No systematic, evidence-based review of prison reentry programs has been completed to date. The lack of quality research on prison reentry was highlighted in the recent review of parole and the desistance process by the National Research Council (2007). At this point, we have several interesting reentry program models available for review (see Travis and Waul, 2003; Byrne, et. al, 2002 for an overview), along with the results of implementation reviews at selected reentry programs across the country. However, Mackenzie's recent evidence-based review of a wide range of prison and community-based cognitive behavioral interventions, drug treatment programs, vocational programs, and offender employment programs is certainly worthy of careful consideration by reentry program developers. According to MacKenzie:

" As reentry programs are developed and implemented, there will be a temptation to focus on programs that increase opportunities for work, reunite families, and provide housing...However, my "what works" review suggests that an emphasis on these opportunities for ties with the community will not be effective if there is not also a focus on individual-level transformation. The results from my review suggest that such opportunities should be preceded by programs focusing on changing the individual through cognitive change, education, or drug treatment" (MacKenzie, 2006:339). I would venture that whether the focus of offender reentry programs is on employment, housing, or the types of individual" transformation" just

mentioned, we should not anticipate significant reductions in recidivism—and community-level crime, unless we also address the need to transform the " high risk "communities in which offenders reside.

3. A Modest Strategy to Improve Correctional Research

For a variety of reasons, institutional corrections managers have not typically supported the use of independent, external evaluations of corrections programs (and strategies) in their facilities and programs; a similar situation exists in our community corrections system. As a result, only a small number of external, independent evaluations have been conducted; and with only a few exceptions, these evaluations are often of such poor quality that they would not be included in the systematic reviews of "evidence-based practice" that legislators and policymakers are now using as a blueprint for organizational change in corrections systems across the country. Because of this longstanding resistance to external, independent evaluation, today's corrections managers are at a distinct disadvantage, because they are unable to cite "best practices" (or evidence-based reviews) either to support their request for new resources, (and programs) or to bolster their claim of organizational effectiveness (and, of course, good management).

Given the dearth of quality evaluation research, not only on prison reentry, but also on the full range of institutional and community corrections programs in this country, an obvious question must be asked: what can we do? My recommendation would be to require agencies(receiving reentry or other special funding) to allow external independent evaluations of both levels of program implementation and impact. In those programs where implementation levels are found to be high, randomized field experiments and/or high quality quasi-experimental evaluations should be conducted as well. I would not mandate an impact evaluation in the first year of a new program, because it takes time for a new program to be fully implemented. However, assuming full implementation by the end of year one, researchers should be allowed to proceed to the impact evaluation phase.

In the past, solicitations for evaluation funding often required researchers to obtain letters of support from the programs/ jurisdictions they propose to evaluate. This could potentially result in a situation where evaluators may directly or indirectly be pressured to

"promise" a positive, non-critical review in exchange for access/support. Over time, this will result in good evaluators being locked out of the review process, because the program managers fear a critical review. One way to address this potential problem is to allow the funding agency to (1) mandate cooperation from sites receiving funds,(2) select the evaluation sites and then(3) send out a solicitation for competitive grant applications.

4. Evaluating the next generation of correctional treatment and reentry programs: Opportunities and constraints

In a recent article in *Criminology and Public Policy* (Byrne, 2008:263-274), I offered the following assessment of "what works" in corrections:

There is no reason to doubt the claim that rehabilitation is back in vogue in the United States; for many critics of current correctional policies, this rediscovery of individual offender rehabilitation is long overdue (Cullen, 2007; Jacobson, 2005, MacKenzie, 2006). However, it certainly appears that there is something fundamentally different about the current policy debate about the need to infuse corrections programs with a healthy dose of rehabilitation. Individual offender rehabilitation is being presented to the public at large—and to federal and state policymakers in particular—as the single most effective crime control strategy currently available. The argument is simple, seductive, and not all that offender friendly: don't provide convicted offenders with treatment because it will *help* them as individuals. After all, better education, better mental and physical health, better personal relationships, better housing, and better job skills are all laudable features of individual offender transformation, but doesn't everyone deserve these opportunities for personal improvement? We need to provide rehabilitation to these individuals, not because it is the right thing to do, but rather because the provision of rehabilitation has been demonstrated to significantly reduce the likelihood of re-offending, which makes us--and our communities --safer. We are not doing it for them; we are doing it for ourselves and our communities.

Of course, some would argue that this represents one of the **big lies** of individual offender rehabilitation, because even significant reductions in the recidivism of the seven million offenders currently under correctional control in this country will not likely change the crime rates of most communities, because offenders do not live—in large numbers-- in *most*

communities. They live in a small number of high crime/ poverty pocket neighborhoods in a handful of states. For example, California and Texas alone account for almost a quarter of all offenders under correctional control in this country today; and within both states, offenders are clustered in a small number of high risk neighborhoods (Byrne, 2008). While crime rates have been steadily dropping across the country over the past thirty years, these high crime/ poverty pocket areas have not changed for the better; in fact, just the opposite is true (Sampson and Bean, 2006). Since residents of these communities do not have the social capital to adequately address the long-standing problems found in high risk, poverty pocket areas, the prospects for community change are bleak, with some arguing that *relocation* may be the only viable strategy at this time; even here, the research on the impact of large scale relocation experiments offers—at best—a mixed bag of positive and negative consequences (Sampson, Sharkey, and Raudenbush, 2008).. The fact that these poverty pocket, high crime areas are areas with very large concentrations of minority—mostly black—residents suggests that racial disparity continues to play a central role in the creation—and control—of this country's crime problem(Sampson, 2004).

While much of the current debate about offender surveillance vs. offender treatment has centered on offender risk level and individual risk reduction, an equally important dimension of the problem has been drawing much less attention: community risk level and community risk reduction. As we consider how and where to target correctional resources, offender location—and community context—represents a critical issue to consider, along with offender risk level, and the timing, location, and quality of service/treatment provision.

A number of jurisdictions are now considering the development of a concentrated community supervision strategy that incorporates the following three risk dimensions: (1) high risk offenders, (2) high risk locations, and (3) high risk times for re-offending (Pew Center on the States, 2009;Byrne,*in press*). The Maryland Proactive Community Supervision model that Faye Taxman has evaluated represents one of the best examples of how to operationally define this multi-dimensional view of risk (Taxman, 2008).

The "new" underlying assumption of rehabilitation advocates is that individuals convicted of both violent and property crimes should be given a "second chance" to transform their lives, but this must occur under the watchful eye of our surveillance-oriented corrections system. While the hoped for transformation process will likely vary from offender to offender,

rehabilitation programs designed to "treat" individual problems in such areas as mental health, substance abuse, educational deficits, and lack of employment/vocational skills represent the core technology of offender change(Byrne and Pattavina, 2007). However, even the most ardent supporters of rehabilitation recognize that the criminal behavior of offenders is not likely to change dramatically unless we also address the underlying community context of criminal behavior (Mears and Avinash, 2006; Kubrin, Squires, and Stewart, 2007). Based on the research evidence highlighted in several evidence-based reviews and meta-analyses conducted in recent years, the provision of "treatment" has been directly linked to statistically significant, but marginal reductions—about 10 percent—in criminal behavior (MacKenzie, 2006, Cullen, 2008).

I suspect that the general public—already wary of the prospects for individual offender change—will be expecting a bit more for their investment in rehabilitation than marginal reductions in offender recidivism. If we can not demonstrate the link between participation in the next generation of individual offender rehabilitation programs and community protection, then support for rehabilitation—tenuous at best—will quickly dissipate. While the general public appears to believe in the *possibility* of individual offender change, I think you will find that most of us are skeptical about the *probability* of individual offender change, particularly among individuals with serious substance abuse and/or mental health problems.

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Mr. MOLLOHAN. Well, thank you both. What excellent testimony. We have had just a really excellent series of hearings this week. And I think this is the right panel to end on. So that was excellent testimony.

Let me start by posing the basic question about what works. Yesterday we heard from leaders of five successful reentry programs. And there was a consensus among them that we know what works. They felt very strongly about that. They sat there and reaffirmed it. And we need to implement it because they know what works. But we have also heard from several researchers this week that there is still insufficient research in the area. And I do not think this is necessarily inconsistent at all, let me say up front. But I would like you both to comment on it. And Dr. Byrne, your testimony seemed to underscore the limits of the current body of research, so why do we not start with you?

EVIDENCE BASED REVIEWS

Mr. BYRNE. Well, it would be nice if there was a systematic, evidence based review of the current generation of reentry programs on which to build. There have been excellent reviews of specific treatments programs that are out there, but there is no systematic evidence based review of reentry programming. You cannot go to the Campbell Collaborative website, which is where I would go, where most researchers here would go to try to find one. It is not there yet. That needs to be done. And what you end up doing when you do not have that type of systematic review of specific programs is looking at reviews of other program models, or for example you look at prison treatment and you assume that that has got to be something that relates over here. Or you look at community treatment programs that were not necessarily run as part of a reentry program. And you do not have the answers that you need.

So my immediate suggestion would be, let us do an evidence based review. The reason it is not there is there have not been enough experimental and quasiexperimental studies done. But I think that is something that needs to be done. I saw that when I was putting my testimony together. Certainly, I can make definitive statements in the area of intermediate sanctions. I can make some pretty clear statements, if you look at my testimony, on prison effects. I am less certain when I get to parole and reentry, and that is frustrating, because obviously this is an important time in terms of developing, you know, new reentry programs and models. It is certainly a frustration that we do not have that.

Mr. MOLLOHAN. Now, for everybody who is impatient, and everybody is with regard to this, and anxious about getting that systematic evidence-based review, the other side of my question was, what do we do? The science has not made it perfect. We do not know exactly what works in all circumstances, nor do we know exactly the A to Z, the soup to nuts solution. But what is appropriate before we get to that definitive answer——

Mr. BYRNE. I think you identify——

Mr. MOLLOHAN [continuing]. Through evidence based review.

Mr. BYRNE. Well, even if that review was here in front of you I do not think it would be definitive. With my knowledge of the research out there I think it would be inconclusive. However, I think

you identify models. And you have a number of models out there. You have heard case study summaries of programs. Jeremy Travis has highlighted some new community-based initiatives, for example, that need to be implemented and evaluated. I think you look at model programs. And I would look at them across the board. I would look at proposals and model programs that are, for example, that cut across the control versus treatment. And, you know, certainly you fund evaluation at models in both areas and see what you find. I would say that even if I had a definitive evidence based review, because this is a whole new generation of programs, a whole new ball game now. And I think, you have some new models out there. That have not been evaluated. You have, certainly, self evaluations and some, I would describe them as quasiexperimental research out there that we can argue about how good it is. But good or bad, there are models out there. Test them rigorously and refine the programs, and let us keep going. I think we are at a watershed point in terms of program development. I think it is an exciting time to be talking about these issues, because there seems to be a growing recognition that we need to find out what works in this area.

Mr. MOLLOHAN. Fund them and implement them, and review them——

Mr. BYRNE. Absolutely.

Mr. MOLLOHAN [continuing]. Almost as research projects?

Mr. BYRNE. Well, I would. I would, and the demonstration projects——

Mr. MOLLOHAN. They create opportunities for the research that you are calling for.

Mr. BYRNE. Sure.

Mr. MOLLOHAN. Thank you. President Travis.

Mr. TRAVIS. It is a welcome question and I think we all love the impatience to sort of get things done and make a difference. If we were having this conversation in a different context I think we would be talking about a different approach to developing evidence. If we were imagining a health issue that was plaguing inner city communities and we were asking the Director of the National Institutes of Health what he or she wanted to do about those issues, there would be a significant investment in research, testing of new ideas, replication of promising projects in a systematic way across the country, the development of protocols for doctors to implement when that condition presented itself when somebody walked through their door. And we do not have, certainly we do not have the same resources but we also do not have the same approach in crime policy. And I know, Mr. Kennedy, that Colonel Esserman has been talking to you about this idea of a sort of teaching hospital model in the policing world. And we need that way of thinking about how do we develop evidence.

And The Second Chance Act, which I think is wonderful in many ways, talk about random assignment, talks about research based demonstration projects, but has not created a sort of systematic way of building knowledge that will influence practice. Rather, we now fund practice, we fund programs, and ask for the evaluation, the research community to run along side it and try to do an evaluation to see whether it works or not.

So a more sort of long term knowledge development agenda would start by saying, "What needs to be evaluated that we are now doing that has never been evaluated?" And then you have a set of studies to evaluate that. What is promising that may be the next frontier, where we want to set up the evaluations as we implement the programs? So that we are doing it in a purposeful way, because we want to develop knowledge for the country.

The third piece of all of this, however, is to make sure that when funding decisions are made by state corrections agencies, state parole agencies, the Federal Bureau of Prisons, social service agencies, police departments, that they are allocating their resources, that we have some rigor in terms of how those resource allocations are made that they can only follow the evidence. So we now allow people to come in and say, "This is a great idea. It is my idea. I am going to do it." And it may or may not be a good idea. And it gets money, but it does not necessarily follow the body of evidence.

Now, the risk in all, there are two risks in what I just said. One is, evidence is always old. Right? We are always evaluating what was last decade's good idea. And it takes time and that is the way research works. And we do not want to freeze a field. We do not want to take a field, particularly like this one, that is in this ferment, this wonderful ferment, and say, "The only thing that we are going to provide taxpayer money for is what worked last decade." Right? Because then you freeze the field. So we have to have some way of testing new ideas in a rigorous way so that you develop the field.

The second limitation or sort of drawback in what I just said is really a science limitation. And that is that our gold standard, as Professor Byrne alluded to, is random assignment. And in this way we feel, we think a little bit too much like medical researchers. We always want the placebo. We want the, you know, there is somebody to get it, somebody not to get it. Wait a couple months, you know, and keep everything else constant. Well, in the work that we are talking about you cannot keep everything else constant. And particularly if you want to do this ecological work that I recommended for the Committee's consideration. At a community level it is very hard to hold everything constant. So it is very hard to do random assignments. Sometimes impossible to do random assignment, I would say in that regard.

So we cannot let the standards of science get in the way of new ideas in either sense. Either because it freezes the past, or because it does not allow for us to do things that are working at the messy level of community and family. And this means a different research design, because we cannot do the gold standard for all types of interventions. But this requires a federal funding strategy for science that tries to get an answer to the Chairman's question. How do we develop best evidence? And then we have to hold practitioners accountable.

So the resource center, which is in The Second Chance Act, is this wonderful idea of a national go to place, where practitioners will go and say, "What is the standard of evidence that if I do this I will get these results?" And fidelity to program design is really important. How does this program actually get implemented? Because we have all evaluated programs that sound good on paper,

lousy implementation, and you get no results. And people blame the idea rather than the implementation. So the resource center, I hope, becomes for the field this place where you can go to answer your questions. But there needs to be some discipline about how we spend taxpayer money after that.

Mr. MOLLOHAN. Thank you. Thank you both. Mr. Wolf.

FAITH BASED PROGRAMS IN PRISONS

Mr. WOLF. Thank you, Mr. Chairman. I have a lot, I have been writing a lot of notes. One, I have been disappointed that you all, neither of you ever mentioned the issue of faith. Neither of you did. It is kind of incredible because I have talked to a lot of prisoners. And I have been in a lot of prisons. I do not know as much as you two guys. But I have been in a lot of prisons. I was a probation officer. I was involved in prison programs where we used to go into prisons. I think you are complicating it a little too much. People in prisons are people. They have moms and dads and husbands and wives and kids. And they are not statistics. And one, you never mentioned faith, which I think is kind of amazing. Because a lot of the prisoners that I have talked to, faith has made all the difference in their life.

Secondly, I think we cannot wait for all of your research. I mean, it is great that you are doing it. But we cannot wait. You cannot tell a man that is in prison that we are going to researching this to see what we really do to see, I mean, we have got to do this. And we have asked, and I appreciate the Council of Governments putting on a conference sometime late this year or next year with the Pew Foundation, bringing in the best practices. I think we do have the best practices. Now, maybe if you all do your research you could refine it and kind of change it. And maybe, you know, it can be adjusted or calibrated or a difference. But I think we have got to begin now.

I think faith makes a difference. I do not think it is the sole difference. I think work makes all the difference. I do not think it is the sole difference. I think drug rehabilitation in prison to make sure anyone who is in prison has that drug, gets in a rehab program, almost guaranteed if they want to get in there and not have a long, long waiting line. But, you know, we are dealing with people.

And on the employment issue, do you think it would make sense, Mr. Davis, I was going to ask him but I did not know how long he was going to stay, that we do a tax credit for companies to hire prisoners who are coming out of prison? That we give a tax credit? We give tax credits to do everything to move, would it make sense to give companies like UPS, or Lockheed Martin, or whatever, a tax credit to hire a person just coming out of prison for two or three years? Whereby, you know, the company would gain something and the person would, would that make any sense?

Mr. TRAVIS. I would like to respond first to the faith issue, Mr. Wolf. The, each of the community coalitions that I mentioned in both my statement and in my oral presentation has at the table a faith institution that is part of that community. And that has been an important ingredient in those sort of offerings to people coming home.

On the work front, just to look at it from the big picture. There is research that shows that the mere fact of having been in prison diminishes an individual's lifetime earnings by 10 to 30 percent. So anything that we can do to reverse that trend is worth considering. So in effect, by having lots of people, 90 percent of them men, coming out to a small number of communities, mostly communities of color, who have a diminished lifetime earnings of 10 to 30 percent we have depressed the gross domestic product of those neighborhoods.

Mr. MOLLOHAN. Right.

Mr. TRAVIS. By the fact that they have been in prison. So our prison build up is having long term consequences for the economic well being of those communities. So that to me makes an argument for a public policy to reverse that and to sort of, in essence to try to help people get back on track. I think a job is the most important, centering thing, for all of us, an important centering part of our lives. It helps provide for families. It does a lot of the work, there is this wonderful saying that a boss is the best parole officer. Right? So it does a lot of the work of supervision.

But the important challenge is to get people into the job in the first place. And the research by Professor Holzer at Georgetown has showed that people who, that people with records are at the lowest level of employability, if you look at it from an employer's point of view. They are below welfare workers, welfare recipients. They are below immigrants. They are below people with spotty records. They are at the bottom of that totem pole. And there is this combined race effect that if somebody, a white person with a criminal record is more likely to get hired than a black man with no criminal record. So we have this combined effect of criminal record and race that puts lots of returning offenders at the very bottom of the employability totem pole.

So tax credits are a good idea.

TAX CREDITS

Mr. WOLF. Do any companies, are there any states that give tax credits? Do you know of any?

Mr. TRAVIS. Yes. And there is some federal supports, as well. I am not sure what it is called but there is a federal tax credit for people to hire somebody with a criminal record.

Mr. WOLF. We will look it up. But do you know what it is?

Mr. TRAVIS. I cannot find, I do not know off the top of my head.

Mr. WOLF. If you could tell me?

Mr. TRAVIS. Yes, we could do that.

Mr. WOLF. I wonder, do most companies know about it?

Mr. TRAVIS. I do not know.

Mr. WOLF. I mean, UPS or whatever. I mean, should we call the Business Roundtable and tell them to take advantage of this opportunity? And, I mean, companies, tax credits, we use our tax code to influence policy and results. Do many of companies take advantage of, do you know, Dr. Byrne?

Mr. BYRNE. No, but I think the idea is a good one. And I would also tie the incentives to the prison part of the work program. We are not only interested in employers hiring upon release, but also

in developing the job training program in the prison. It is the prison to work strategy.

Mr. WOLF. Well, I think that would be a good idea. The problem is that this Congress has diminished the amount of work that prisoners can do. I mean, when Director Lappin was here, I mean some of the things that the Congress has actively voted on, has spoken on on the floor, has taken away the amount of work. So I think knowing what some of the chambers of commerce would do, and knowing what some of the organized labor would do, I think we would have a problem. You know, I would agree with you. I am going to offer an amendment here to set up a pilot program to have prisoners working. I think you may have, or Mr. Davis, working on projects that are no longer made, but yet are training them in something that would in essence, I mean, if you are wiring, and an oversimplification. But if you are wiring a television set you may then be able to wire a computer, or wire a switchboard, or what. But real work, dignity. I found work, I think your comment, and work is dignity. Biblically, it is dignity.

I mentioned the other day, I talked to a prisoner, he got out, he cannot get a job. He cannot get a job. He cannot get a job. So he just lives with his girlfriend. He hangs around. And he cannot get a job. So pretty soon, in three months, if you cannot get a job, what are you going to do? And so the work, and that is where the Doe Foundation, and I think I checked, and we funded the Doe Foundation, you know, when I was Chairman of this Committee, is work. It is dignity. And it is moving up.

And so, well let us look at the tax credit issue. Maybe I will see if I can put in something with regard to that. The other——

Mr. TRAVIS. I just was informed that it is called The Work Opportunity Tax Credit, and UPS does use it.

Mr. WOLF. I, because UPS has a pretty good record of, I wonder what other companies use it? Do you, is there a way?

PRISONS OVERSEAS

Mr. BYRNE. We will find out for you.

Mr. WOLF. If you can find out. The other thing is, have you looked at what other countries, are there any other countries, not states, look at countries that are doing something really great that we are not aware of?

Mr. BYRNE. I was in Dublin last year and I was amazed at the work programs there. I spent an afternoon in a prison, and there were 320 people in the prison outside of Dublin I was in, I forget the name of it. And every one of them had to work in a job. They had a job training program there, that was very in-depth.

And the first thing I noticed was the one to one ratio of inmates to guards. I was a little shocked at that, because that was not like it is in this country. So certainly there was a lot more in terms of informal controls in place, because there was a lot of walking around and interaction between guards and prisoners. But I sat in and I watched them build brick walls, and make things. And they were actually, which surprised me, at this prison they were actually selling some of the things they made to make money. And they were able to do that. Some of the prisoners were pretty skilled metalworkers and they were selling various things.

Mr. WOLF. And what would they pay them?

Mr. BYRNE. I am unsure of the amount, but it went on. They would take some of them out and have them, build their front walks in their homes. Some of the things they did we would not allow here in this country.

Mr. WOLF. Up in Massachusetts you have to have a policeman stand by every construction site, even, my wife is from Marlborough and even if they dig a hole, if you notice and I see you are from Massachusetts, there is a, I think it is Massachusetts state law, the policeman has to stand there while the construction is going on. And so you get to a certain point that, I mean, so. But what, I see you are winking from Mr. Kennedy that you are from Massachusetts. What countries, is there a way that you could furnish us some information about what do you think are the most progressive, or that——

Mr. TRAVIS. I think that America stands apart from the rest of the western world.

Mr. WOLF. Better or worse?

Mr. TRAVIS. Worse, in terms of our approach to, certainly our levels of incarceration, how we treat people while they are in prison, and the approach to reintegration. In the United Kingdom, for example, there is a lot of attention paid to the Chairman's question about only implementing programs of proven effectiveness. So there is actually sort of a certification board that they have established under the Prison Service. I went to a prison in Germany once, much as Dr. Byrne described. Work being done in prison, supervised by the union. I mean, this is a little different from our sort of culture, here, where the union was helping to guarantee that they would learn skills that would help them get jobs when they came back out because they wanted them to be productive.

So I think we have a lot to learn from other countries. We do things quite differently, not just in the scale of our imprisonment but our sort of attitude towards how to spend the time in prison most productively.

Mr. WOLF. Well, if you could give us the list of some of the countries.

Mr. TRAVIS. Sure.

Mr. WOLF. And lastly, we have asked the Council of Governments and perhaps Pew to put on a national conference perhaps next year to gather together some of the best minds and the best practices. Does that make sense to you, to——

Mr. TRAVIS. Yes. And we could learn a lot from the other countries.

Mr. WOLF. Mr. Byrne.

Mr. BYRNE. Yes, absolutely. I think treatment oriented prisons are where we need to go, that preentry comment I was making at the beginning ties in here. As I said earlier, before we talk about reentry, let us talk about preentry. One preentry strategy would be to redesign the prisons, and this is something I have written about. I did not cover it in testimony here, but I think it is critical to think about changing the focus of prison away from control and towards treatment. And I think there are ways of using new technologies to do just that.

Right now we have gone overboard, in my opinion, on the technology of control. We need to think about how to harness the technology of treatment. I think you are seeing it in the drug treatment area. But I think there are a variety of other ways of apply technology to consider. For example, redoing our classification system so we think about risk reduction in prison as opposed to risk control. If we did this, it would lead to a very different configuration of offenders placed in minimum, moderate and maximum supervision, facilities, and in special population housing in prison, than we have right now. Because you would be organizing people, needs first, rather than risk level, thinking about how to deal with the various types of problems they have. Expanding the size of therapeutic community models in prison. Also, fits under the heading of "Treatment Technology".

Mr. WOLF. Expanding the size of what?

Mr. BYRNE. Therapeutic communities. Expanding that for drug offenders, because we know that model works. One of the ironies of the prison research conducted to date is that some of the best evidence of effective treatment programs are in institutional settings. And that is something to keep in mind when you talk about how to balance treatment and control. I think it is something we really need to think about. For example, if you have ever had an addict in your family you know that it is not just getting them into treatment, it is getting them to stay there. And sometimes you have to use coercion to get them there. I am sure you have talked about this in other panels. But to me, that is one of the, major issues that we need to look today.

Prisons might be the location for long term treatment because you cannot get these individuals to go to treatment in community settings. Referral, and participation, in treatment is something I think treatment oriented prisons can address.

Mr. WOLF. Last question. What is the recidivism rate today compared to what it was, let us say, in 1950, 1960, 1970, 1980, and 1990?

BUREAU OF JUSTICE STATISTICS

Mr. TRAVIS. There are two Bureau of Justice statistics studies of recidivism looking, one of the 1993 cohort, one of the 1983 cohort, I think. And it is basically the same. It went up a little bit. And it is, over a three-year period, after being released from prison, about two-thirds of the people being released get rearrested for one or more serious crimes.

Mr. WOLF. Two-thirds?

Mr. TRAVIS. Two-thirds, yes.

Mr. BYRNE. You know, we use that one study over and over again. I have never seen one study cited so much. We do not do enough cohort research so we keep citing that study over and over again. We need to update it, because we are talking now twenty-five years later.

Mr. TRAVIS. We should do this regularly.

Mr. BYRNE. Right.

Mr. TRAVIS. The Second Chance Act envisions money going to both NIJ and BJS. We need a lot more understanding of the basic phenomenon here.

Mr. WOLF. Okay, thank you. Thank you.

Mr. MOLLOHAN. Thank you, Mr. Wolf. Mr. Kennedy.

HEALTH CARE REFORM

Mr. KENNEDY. Thank you. Thank you, Mr. Chairman. Welcome, both of you. Thank you for your testimony and your good work. We have healthcare reform coming up. And so I would like to ask you what your thoughts are about how to integrate these ideas into healthcare reform. In the sense that, you know, 45 percent of the kids that graduate from our foster care system graduate into our adult corrections system. And when I, about three weeks ago, went to my juvenile corrections facility I asked the kids how many of their parents were in jail. Over three-quarters of them raised their hands. So, the best determinate about whether someone is going to jail is not only whether they have been to jail but whether mom or dad has been to jail. So, knowing that, what are we doing to look at this in terms of, if The Second Chance Act has a provision for family counseling. We know already if a child has a parent in jail they are umpteen times more likely to end up modeling what they see, and ending up in that environment. So can you talk about, the need for us to be working with the social service system, the healthcare system, to try to preempt a lot of this stuff from moving forward?

HEALTH CONDITIONS IN PRISONS

Mr. TRAVIS. If you look at any health condition that we care about, tuberculosis, HIV/AIDS, hepatitis, sexually transmitted diseases, mental illness, drug and alcohol addiction, and you were to look at the population of people in prison, they present at rates four to ten times higher than the general population for all of those. So the policy question, public policy question, public health policy question, I think, is given, and I do not like that we are in this state of the world. But given that we have so many people in prison, what do we do to use the time while they are in prison to do something about those health concerns, recognizing that they all come back. And we have this anomalous situation that prisoners are the only group of Americans that have a constitutional right to healthcare. Under the Eighth Amendment they have to be provided healthcare. Healthcare is often one of the things that is cut when budgets are cut. So it is not good healthcare but it is some healthcare. And we do very, so we do not identify these diseases while they are in prison. We do not do educational work to help people avoid particularly communicable diseases when they get back out. We do not work with their families as much as we should. And in particular we do not pay attention to the fact that they all come back to the communities, which is your point. So they go back home and we do not, we do not ensure that they have medication, to make sure that those who are mentally ill get medication when they come out.

Mr. KENNEDY. Right.

Mr. TRAVIS. We suspend Medicaid eligibility when people go into prison.

Mr. KENNEDY. Right.

Mr. TRAVIS. And we should, you know, our state, my state just passed a law to ensure that when somebody comes out their Medicaid eligibility is automatically restored if they had it going in. So they can get the medication. So we send people out with, you know, enough medication for a couple of days and then we wonder why they are wandering around the streets in a week.

Mr. KENNEDY. Yes.

Mr. TRAVIS. We do not link drug treatment. We should make sure that when people who have drug addiction are coming back home that they go to the head of the list rather than the back of the list for drug treatment. Why do we tell somebody to go home and then wait five months to get drug treatment, when we knew they were coming out on whatever date it was. We could have planned it so they would have a continuity at this high risk period. We do not coordinate these services to reduce risk, and reduce failure. And health is one of those, it is like work. It is one of those things that we know enough to be able to figure out how to make those connections better.

And too often the view, and this is sort of not the universal view, but the view of some corrections professionals is they are done when the guy leaves the facility. The policy view should be that we have a responsibility to the communities that we turn to and we have to do everything we can to make that journey successful. And health for some people is right at the center of that. And if we do that we can then reduce those communicable diseases in particular, and the public safety consequences of particularly the mental illness when people come back. But that requires, both inside and outside, a whole different approach to the health continuum.

Mr. KENNEDY. Would you talk a little bit about the Esserman concept that you were bringing up with me earlier, and pairing those within the field.

Mr. TRAVIS. Well, Colonel Esserman, your police chief in Providence, who is both a friend and one of my heroes. He is really, you are very lucky to have him, as you know, has this idea that we should start to build a criminal justice and law enforcement mentality that borrows from the health model. And in the health model we have the notion of teaching hospitals where young doctors go to learn how to do things with the current techniques, and there are research hospitals so that the best scientists in the field are testing new interventions. And we locate within the profession institutions that are doing this important work of raising the standards of the profession. So Colonel Esserman's idea is that a police department can be a teaching department if it has the academic support, which we and others have offered, and Roger Sherman and others at Brown have sort of partnered up with this on this. And that the police department will look at this as a way to develop effective best practices.

So it is this marriage between research and practice that has been lacking, as Dr. Byrnes said, in our field that the teaching hospital would make possible. So you can imagine teaching prisons.

Mr. KENNEDY. Yes.

Mr. TRAVIS. You can imagine teaching parole departments where you have the idea that we have to always be learning, and we have to open to the idea that things do not work. And those things that

do work have to be standard, required protocols as would be the doctor's way of thinking about something. If FDA says this is an accepted drug, a doctor is supposed to use it. If a patient walking into the office says, "I have this disease," the doctor knows what to do about it. We need to develop that way of thinking and that body of science evidence in our field. That is why that idea is so attractive.

Mr. KENNEDY. Genomics, what is the future for testing for people's proclivity towards violence and so forth in terms of the justice field.

Mr. TRAVIS. Not my area of expertise.

Mr. KENNEDY. There has been great debate about the future of that.

Mr. BYRNE. We are now conducting research identifying genetic links to a wide range of physical and mental health problems. For example, OCD, my stepson actually does research on identifying an OCD Gene. A whole range of health problems because we have these incredible abilities with databases that we have never had before. I just gave this lecture to my students a couple of weeks ago.

I think within ten years you are going to have good information on genetic predispositions to violence, and you are going to be making very different decisions based on access to that information. And, although we do not need to talk about abortion issues here today, I suspect that the knowledge at a genetic predisposition may be a factor for prospected parents to consider at some point in the not so distant future. But certainly you are going to have that information, I would predict within a decade from reading the literature. Given the advances in genetic research terms of problems like OCD just in the last three years, major identification of, the gene that produces it. Well, you know the next step will be, once we test for these things, what we do with the information?

So the short answer to that is I think we are within a decade you are going to see, answers to these questions but a lot of that will depend on, because researchers go where the money is, if we are funding this line of research. Although we are funding it for various diseases. I do not know if we will do it in the area of violence.

Mr. TRAVIS. If I could just add, the brain research, I think, is an important contributor here, particularly on understanding addiction and relapse. And the brain research that shows the influence of an environment on cravings, so that when people, because someone comes out of prison, he has been in that unusual environment for two to three years. He goes back home, goes back to the old neighborhood where he used to cop drugs or hang out with his buddies, the mere sort of return to that neighborhood can trigger a brain process that stimulates a craving so that the addiction and the relapse phenomenon is associated with just the return home. So that is why there is this moment of release and this sort of managing the environment is so important.

VETERANS

Mr. KENNEDY. Veterans, you see a big influx of veterans going to be entering our criminal justice system because of the trauma

that they have suffered during the War. Can you comment a little bit about what that is about? I mean, the particular needs they are going to have?

Mr. TRAVIS. This is just a fact of numbers, but it is also a consequence of the experience that they have been through, and the current economic situation. I think it is going to be a very difficult time for returning veterans. And, you know, I am thinking about that more as the President of an educational institution. How do we welcome our returning soldiers into an educational setting so that they can sort of get back on their feet? And I think there will be lots of consequences for a lot of social service sectors not just the criminal justice sector.

Mr. BYRNE. It is the culture of violence aspect of it, too. I mean, you had to be involved in violence to survive. And the irony there is many of the communities we are talking about are poverty pocket, high risk areas that have a culture of violence that you have to at least talk about. So I think it would be one of the issues we will have to look at. What are the cumulative effects of going back to high risk environments, when you are also exposed to violence, not only in the prison setting but also in terms of your previous military experience.

Mr. KENNEDY. Some ideas there in terms of veterans courts would be helpful if you guys could provide some ideas. Trying to be sensitive to the Post Traumatic Stress Syndrome, and also of course the brain trauma that they have suffered from a criminal justice point of view. Now they are in a population and what trauma they have suffered, especially treatment wise how they are going to get taken care of. That would be helpful. Thank you. Thanks, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Kennedy. Mr. Fattah?

Mr. FATTAH. Thank you, Mr. Chairman. Let me first commend the Chairman for the funding of the legislation, for The Second Chance Act. It is a new beginning. The President's budget also attempts to build on that and that is important.

I want to go back to the basics here. You know, we all say, we incarcerate more people than in the rest of the world. We have got so many people in our criminal justice system. The majority of the people in prison in our country, have they committed a violent act?

VIOLENT CRIMES

Mr. BYRNE. 52 percent of state prisoners, a little over a third of federal prisoners.

Mr. FATTAH. So the majority are——

Mr. BYRNE. Of violent crime.

Mr. FATTAH. What was that? I am sorry.

Mr. BYRNE. They have been convicted of a violent crime.

Mr. FATTAH. 52 percent of those in state and local.

Mr. BYRNE. In state prison today, yes.

Mr. FATTAH. And a third of the ones in federal, right?

Mr. BYRNE. It is about a third, a little over a third.

Mr. FATTAH. So I want to ask the question again. A majority of those incarcerated, therefore, have not committed a violent crime?

Mr. BYRNE. Right.

Mr. FATTAH. That is correct.

Mr. BYRNE. Just about right, when you put them both together.

Mr. FATTAH. So I am going to your testimony in particular. You said that the first issue is to get to the decision about whether to incarcerate?

Mr. BYRNE. Yes.

Mr. FATTAH. And that is something that society has had to really think through. Because as best as I can tell, in the empirical information, particularly when we start talking about younger offenders, the minutes we decide to adjudicate and incarcerate, the only real outcome is that they go into a system that produces them as, much more engaged offenders over the long term.

Mr. BYRNE. Yes.

JUVENILE DELINQUENT

Mr. FATTAH. That is that we essentially decide to harvest a juvenile delinquent into an adult inmate over time. Because we are putting them in a place in which they are inculcated with and surrounded by information and activities that do not bode well for their future. So I want to go to your first question in your testimony. You said, the decision to incarcerate. What is your thought about where we might start to maybe retreat from this ace to, spend $100,000 on a cell, and tens of thousands a year to put someone in prison who has not committed a violent crime?

Mr. BYRNE. I would focus on drug offenders and on technical violators. If you could take those two groups out you would have a major impact on prison population size. And that would be very specific. The problem of just saying "Don't incarcerate the nonviolent" is that when you look at the criminal records of many people we put in prison for nonviolent crimes they have committed serious crimes or have long records. The reason judges are putting them in prison, even though they have committed a nonviolent crime, is that——

Mr. FATTAH. That they are not boy scouts, right?

Mr. BYRNE. Correct, they are not boy scouts.

Mr. FATTAH. So you take Bernie Madoff, he has ripped off billions of dollars, he is going to go to jail, he did not commit any violent crime. So there are people who do not commit violent crimes who have done enough bad, might require that they be incarcerated. But there are people who, if someone wrote a bad check, or failed to pay a traffic fine, or, there are juveniles in my state who were incarcerated because they were for-profit juvenile prisons. And a couple of judges decided to take $2 million of kickbacks personally to incarcerate juveniles for little or no reason.

So my point is is that we kind of always skip over the fact that we, decide to lock up more people than anyone else. And then we get to the bigger issues about, reentry, and how we are going to do it, and why they are in prison, and so on. And I think that we should kind of start at this first point, here. Which is, we need to think anew, I believe, about who we are going to incarcerate. There are people that society needs to be protected from. But we do need to think about the fact that we are throwing away a lot of lives because under the best of circumstances people do not leave prison as a better person than when they went in. And, I think that it raises a lot of questions about why we would invest billions of dol-

lars of the taxpayers' money in creating a system in which it does nothing more than create more harm for all of us.

Mr. KENNEDY. Could you do a study for us on comparative effectiveness in, criminal justice policy in terms of, so the taxpayers out there in this country could see what would make them safer per dollar spent? That would make a big difference, I think. Because people would be really impressed about, per the dollars you spent for jail cell for picking up someone for however, what drug charges, versus putting X number of cops on the street for stopping assault and battery and B and Es. And putting it in treatment instead because you can now be able to do, and being able to analyze them. That is what you kind of academics do. And pull out that, and do a real matrix.

Mr. BYRNE. There was a good report last year, Vera Institute of Justice put it out, that did just that. That looked outside the criminal justice system and said, "We spend this money in incarceration, and, we can identify an effect; small, but an effect. What if we spent that same amount of money, a what/if scenario, on something else?" And they looked at education. They looked at employment. And the impact in terms of crime reduction was much greater at the same cost. There is a summary of that research in my written testimony.

Mr. TRAVIS. I would focus, as did Dr. Byrne, in answer to Mr. Fattah's question, on, we can make those investments and they will pay off in the long term. I am also very interested in reducing the level of incarceration in the near term. And the suggestion was made to folks on parole revocations. And that is a clear place to start. But I think that we have an opportunity that we have not seen before to think differently about drug enforcement. And with Mr. Kennedy's permission I also want to allude to another innovation in his city, in Providence.

Two years ago, three years ago, Colonel Esserman and Professor Kennedy, our Kennedy, from John Jay took the High Point Drug Initiative developed in High Point, North Carolina and brought it to Providence, to Lockwood, to that neighborhood. And this is building on the work of Professor Kennedy in the gang violence area, but looking at drug markets in particular. And asking can we, instead of arresting people for drug offenses, can we build cases against them an then bring them into this community setting of the drug dealers, the prosecutors, the federal and state law enforcement agencies, the family members of those individuals, the leaders of the faith institutions and social service providers, and basically say, "We could arrest you all today but we are not going to. We are not going to if you decide to stop dealing drugs in this neighborhood. And if you want to get out of this life, here is a job, here is an educational opportunity for you." The most powerful voice in those meetings, and this is what we did in Mr. Davis' district as well, is the voice of the community. It is the mothers, it is the girlfriends, it is the uncles, it is the employers saying, "You are hurting our community. You have got to stop it." And the law enforcement say, "We have this videotape of this buy and bust operation. There you are. We could arrest you. We are not going to. We have a warrant we could get signed for your arrest. We are not

going to. But all of that is going to fall on you if you start dealing drugs again tomorrow."

So here we have a near term opportunity to use the statutes that we already have in a way that does not involve arresting people. It really says this is going to stop. And the Lockwood results are phenomenal. We are doing it now in Hempstead, Long Island, right outside of New York City. I know these data better.

In a one-year experimental period, in the worst drug market in Nassau County, the level of drug arrests have been reduced by 80 percent. So there are hundreds of people not going to prison in New York State this year because we used this different way of thinking.

So I think there are ways in the near term of organizing these coalitions differently, of law enforcement and service providers and the community voice, that moral voice that comes from the community, to both reduce gang violence and to reduce drug markets. And if you do those, you reduce incarceration.

Mr. FATTAH. Let me just join in. I agree with the Congressman that research in this area would be important. There has been research in this area and I think the more, the better, especially something that would really quantify it on a broader basis.

There is a world of difference between, you know, a joy ride in which the police officer takes this young person home to their parents and says this is what happened and you should talk to this kid and locking a kid up for grand theft auto. And there are two different paths of what happens here.

Now, we know in every instance where this has been reviewed and studied across the country. As you mentioned, there other influences, race in particular. That is that in every instance, race creates a more severe set of circumstances when the same issue is at hand, whether it is retail theft or any other set of dynamics in which the decision to arrest, the decision to what to charge, you know, what happens through to sentencing, in terms of incarceration versus diversion.

So we know that race has an impact and it is a very unfortunate impact when you look at the long-term consequences for the individual and for the communities and for our broader society.

So I do think that evidence-based research is the way to go, you know, but I do not think we should just start at the reentry part of it and that we should get down to the question of how to look at whether or not people should be entering the incarceration phase of our Criminal Justice System on the front end and make sure that all the stakeholders understand the implications of what happens when you take youthful offenders who are involved in antisocial and sometimes criminal activity and put them into a system in which they essentially go to college to be better criminals.

I mean, that is at the end of the day. And they may start out nonviolent, but after being away in one of these penal institutions, in many instances, when they do get rearrested, it is for a violent offense because they have become a lot less of what we would want for them while they have been incarcerated.

Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Fattah.

CHANGING THE CORRECTIONAL APPROACH

Yesterday we had again some really excellent testimony and some of it went to the question of systemic reform. We had testimony about the State of Michigan, which is in the process of fundamentally changing its correctional approach to focus much more significantly on rehabilitation versus punishment.

We also heard from several smaller programs that are having important successes, but on a much smaller scale.

If we hope to seriously address the recidivism problem in the country, don't all states need to undertake the kind of systemic transformation that Michigan is undertaking?

President Travis, why don't you speak to that first.

Mr. TRAVIS. Two months ago, I spent some time in Michigan. I was very impressed with what I saw and was pleased to see Mr. Schrantz here yesterday.

What they are doing is really nationally at the cutting edge. I think there are some other states, Kansas and others, that are in the leadership position as well.

And it starts at the top. I mean, here we have a Governor, Governor Granholm who ran for office saying that reentry was going to be one of her priorities. That is remarkable. And she meant it.

And so at the CEO level for the state, she then convened, I do not know what they call it, but some cabinet of all of her secretaries of her various agencies and saying that all of you have a role to play, the health folks, the education folks, the labor folks, the licensing. We talked about licensing. You all have a role to play in successful reentry and get with the program here. This is not a corrections issues alone. Everybody has a role to play.

And that is critically important. And I think we can do a lot, and I am not in favor of spending more resources here, but we can do a lot of good work here by using existing resources in that more coordinated way.

They also in Michigan were able to get a lot of involvement from the philanthropic communities, so they have foundations involved. They have work underway in some of their high concentration reentry cities so that they have Mayors involved.

So I think the lesson here from the Michigan success is, and it is hard work, but is that you can organize the agencies of government to support successful reentry.

There are now taking the next step which is to say how can we also reduce the rate of incarceration so that we are not just making reentry more successful, we are actually reducing the number of people going to prison in the first place.

So this type of systemic reform, which I think is the right phrase to use, is critically important. It is not the sort of thing that gets funded through a grants program. It is the sort of thing that I think the Congress can in essence require as a condition to get some types of grants, maybe through Byrne or maybe through "Second Chance Act," that states come forward with that sort of organized plan to have all the resources working at the same time.

Mr. MOLLOHAN. Dr. Byrne.

Mr. BYRNE. I think your Committee should consider various types of federal government incentives for systemic change. Iden-

tify where you think best practices should be and where incarceration rates, for example, are too high, identify a specific tipping point. When you drop it below that, financial incentive.

And, you know, I think there have been several studies now that have identified "tipping points" for incarceration at both the state level and the local level. This strategy would be an interesting one where you would essentially tie appropriations, not unlike we did in the early 1970s with the de-institutionalization, to very specific reform benchmark.

So if you are really serious about reform, we can go back to an old model that the feds used to convince the states to do things that maybe they otherwise would not do: link specific benchmark to financial incentives. I think we have done it in a number of areas and that is one thing I would look at.

I would not rely in today's world with the private foundations myself, given the financial situation we have, being able to, you know, take care of.

Mr. MOLLOHAN. My point here, in listening to this, is that in whatever system you are working or what part of the system you are focusing on, whether you are talking about a whole state, a county or a jurisdictional area, there has to be an authority that, I do not like using this word, has the ability to enforce.

If it is the state, the state is requiring performance. And if there is not—in Michigan, this came out over and over again—and if that performance is not there, then there is some sanction that is associated with that failure.

If it is at the local level, then a drug court may serve that purpose with regard to an individual offender. I mean, they are enforcing that. So there is a sanction. There is a standard and a sanction for not meeting that standard.

Mr. TRAVIS. This is a wonderful line of inquiry. There is another example in addition that I would mention which is welfare reform. We saw a lot of innovation within the states where the goal was to reduce welfare case rolls. And there was a lot of federal support for that innovation.

So I think this idea of government taking a lead in creating opportunities for states to be pace setters for the 50 states of the country and creating incentives for states to be successful, in addition to program funding, I think is a very important idea.

And it does work both at the state level—my view is I think Corrections Commissioners should be held accountable for recidivism rates. They do not like that way of thinking.

Mr. MOLLOHAN. We had some of that testimony yesterday.

Mr. TRAVIS. And I think that this is something the Governor is entitled to expect of his or her Corrections Commissioner. But the action is at the local level. The action is at the community level.

And before coming to head up NIJ, I was General Counsel of the Police Department in New York and had the privilege of serving for a short time with Bill Bratton as the Police Commissioner. And he is the author of the comstat idea which has, you know, swept the country.

It was a very simple idea which is that we are responsible for crime rates in our jurisdiction. And I think we need a similar sort of accountability benchmark for both the recidivism rate of people

coming out of prison and this ultimate reintegration rate for people coming out of prison.

And everybody in the jurisdiction has to contribute to that goal. And so whether it is the Mayor or some local official has to have a comstat for reentry success. It is a public safety measure.

And you can make this a bite size operation. And I suppose it is a challenge to a number of jurisdictions, Chicago being one recently, to say let us figure out how do we reduce the failure rate in the first 30 days or 60 days or 90 days for the next cohort of people coming out of prison.

We know that is the time of high risk. We know that is the time where lots of things can go wrong. You would then organize your resources, everybody's resources to that very simple goal. If you do that enough, then you have got an overall success.

So we do not have a way of thinking about public accountability in this area that has bite, that has some real teeth to it. And it is at both of those levels.

And somewhere, some Governors in this fiscal crisis that we are in are going to say, look, the long-term goal for my state is to reduce our level of imprisonment because it is just too expensive. We cannot do it anymore. And I am going to commit my state just as Governor Thompson did for welfare reform to reducing this burden on the taxpayers, that we cannot afford this anymore.

And that is more than what California unfortunately is doing now or other states are doing which is sort of managing in sort of reactive mode how do we reduce the prison budget. It is a systematic approach.

So just as the federal government helped states create incentives for states to think about welfare reform and move people from welfare to work, I think the federal government can help states think about justice reform and move people from prison to work in exactly the same way. That requires a different way of thinking about funding and incentives.

Mr. MOLLOHAN. Dr. Byrne.

Mr. BYRNE. I agree on the incentives. I think that is the idea that I would put out there as something to consider——

Mr. MOLLOHAN. Okay.

Mr. BYRNE [continuing]. For this appropriation you have, the next phase.

Mr. TRAVIS. It is a big idea.

Mr. MOLLOHAN. Okay. And you used the word "important." Systemic reform, and you have to have some of that kind of leadership and that kind of imposition of authority down throughout the system, you said was very important.

I was kind of looking for you to say it is absolutely essential.

Mr. TRAVIS. I am there.

Mr. MOLLOHAN. Okay. Based upon the testimony we have had this week and this morning, arguably if the states were to imitate the attitude of Michigan and to execute on that attitude, you would have this hopefully fundamental change in the approach and a significant change in outcomes. With our scarce resources, how can we, and you can make suggestions here or for the record if you need to think about it, how can we incentivize states to do that? It would be one thing for the federal government to do it in its sys-

tem, but it is another thing for the states to do it in their system. How can we with our scarce resources incentivize that systemic reform in the states?

Mr. BYRNE. Well, you have that resource allocation, right? You have created a spot where people can go for resources that relate to——

Mr. MOLLOHAN. We are the resource center.

Mr. BYRNE. Built into that are some very specific benchmarks that you are looking for and tie compliance with those benchmarks to a new round of awards. That would be my initial thoughts on how to tie it into the structure that you have there now, kind of expand on that resource center model and identify benchmarks.

And, the most obvious benchmark to consider would be incarceration rate reduction, I would think, and certainly revocation policy changes, link reductions in incarceration and changes in revocation policies to financial incentives.

For me personally, I would like to see treatment oriented prisons added to the list at pre-entry benchmark. If you have to use the word prison, you are really talking about residential treatment, but we have to say the word prison to sell it. That would be a third area.

But certainly I think you could do it within the structure you have now if you expand on that resource and also make it kind of a best practices driven strategy where you identify incentives for best practice in these areas.

Mr. TRAVIS. The Chairman will recall the VOI/TIS legislation, the Violent Offender Incarceration and Truth-in-Sentencing legislation, which in essence did what you are suggesting in reverse. It said you can get certain money for prison construction if you would enact legislation that embodies certain principles.

And one result of that was to increase incarceration, increase—it had the desired effect. So you are thinking about something that would have the same model going in the other direction. So that model is there, and I am sure there are probably some other examples. That came with a—this is all part of the Crime Act—came with big appropriations for prison construction, because states were really suffering at the time in terms of the prison growth.

But what we are talking about here is federal leadership, both in reducing prison level incarceration, promoting public safety at the same time, and improving reentry outcomes.

So the best thing out of it is there is money behind it so the states get something in return for meeting those benchmarks, so there would have to be some sort of appropriation that would go along with that.

But if you are moving towards a much more robust funding of the Second Chance Act and you want to influence state policy, this is one way to think about a next wave of funding out of the Second Chance Act that would say, there are certain things that we would like to see the states do, and then you would have sort of a shopping list of desired outcomes for changes in state policy.

Mr. MOLLOHAN. Well in that regard, the reentry resource center, besides being a place for best practices, how do you envision it playing a positive role, beyond what you have eluded to here?

Mr. TRAVIS. Well, I think this is one of the most important things in the Second Chance Act, because it creates a capacity that is funded by the federal government for jurisdictions that are interested in best practices, latest evidence, technical assistance opportunities, a place to go to get that information. It is a rapidly changing field. Ferment is welcome, but in that sort of environment you want to have a place where people can go just to figure out what is being learned in other jurisdictions or what is the research showing at us.

Looking at it from an academic perspective it is a place where we can start to have a sustained conversation about practice, about the evidence, about what is known, about what works, about what doesn't through the resource center.

So it is really this sort of idea knowledge hub for the nation that will benefit practice, but also benefit the research community, because we will have a place it's almost like Campbell collaborative, wouldn't it?

Mr. BYRNE. Right.

Mr. TRAVIS. It is a place to house the research knowledge that can benefit.

Mr. MOLLOHAN. A clearinghouse, so to speak.

Mr. TRAVIS. A clearinghouse, yes.

Mr. MOLLOHAN. Mr. Byrne.

Mr. BYRNE. I think you want more than a clearinghouse though don't you? Don't you think you need that TA component?

Mr. TRAVIS. Yes.

Mr. BYRNE. I think it is critical. You have that right now with the National Institute of Corrections, but that is kind of a small effort. I have done, NFC TAs in several states over the years, and I see those are very quick kind of in-out reviews. What you are talking more is about larger scale reform efforts and that might take a different type of structure. So that clearinghouse notion I think is a good start, but thinking about how to tie it into these critical—as you said—critical benchmarks and maybe identifying incentives that relate to that. Maybe you pick the big three, or you know.

Mr. MOLLOHAN. Well we would invite you to elaborate on that.

Mr. Kennedy.

JUVENILE JUSTICE

Mr. KENNEDY. In the area of juvenile justice, obviously our policies of funding the Office of Juvenile Justice through this Committee, that is a very direct way through a juvenile justice title five programs and grants. And so we can effect the way states operate in a lot of respects, because they have got a whole patch work quilt of state statutes.

So that is where the stipulations we put kind of in terms of our funding could make a big difference.

Mr. TRAVIS. That is another good model.

Mr. KENNEDY. So if you could give us some ideas, given the fact that from whence the kids came that often determines where the kids go, and if the kids—we don't pick them up too quickly and put them into prison, especially in prisons where there are adults and

so forth, they are less likely to end up in adult correction institutions down the road.

Mr. TRAVIS. That is a good analog. There is no adult system equivalent to the OJJDP funding formula, but I think that is what we are struggling with here, is how to come up with something similar to that.

Mr. KENNEDY. Maybe you could give us some of those concepts.

Mr. BYRNE. Sure, I'd be happy to.

Mr. MOLLOHAN. With regard to the reentry resource center, the solicitation is out on this so let me just revise my request. If you all would look at this, you are not an agency, so we know you don't have to be responsive here, but if you would graciously look at it and give us your comment on it if there is anything that needs to be tweaked, calibrated, or otherwise changed.

Well, there have just been excellent questions here and we have covered a lot of territory.

I guess I could ask as a just general question, how you are grading Department of Justice's home work here on the Second Chance Act? Are they implementing it in the right way and do we need to make any suggestions for our part to the Department of Justice in regard to that implementation?

Mr. TRAVIS. I think it is a little early.

Mr. MOLLOHAN. A little early?

Mr. TRAVIS. The solicitations are for public response at this point. I haven't looked at them carefully, but I think they have tracked the legislative purpose pretty well. Not every part of the Second Chance Act is now funded. I am particularly concerned about research funding and the data collection funding.

Professor Byrne mentioned the—we should not be in this situation as a country where we have to wait every decade to get recidivism data from the federal government. We don't have a good understanding. We mention parole violations and people going back to prison. We don't have a good understanding of that phenomenon across all the states. You know, every state should be able to turn to its federal government, to the BJS, to get recidivism data that's comparable across states. We have to wait, it is expensive work, but we wouldn't stand for this lack of basic statistical information if we were talking about a health condition, for example, or about labor markets.

You know, the Bureau of Labor statistics can tell us down to the level of industry, you know, what is happening with job creation, what is happening with job loss, what is happening with—you know, we have no similar sort of capacity to understand some of——

Mr. MOLLOHAN. That is a great insight, we will look at that, sure.

Mr. TRAVIS. And then we need to fund that.

Mr. BYRNE. Yes, I think the one area that I would say really needs to be addressed immediately, and I put it in my testimony, is this notion of how we fund and how we structure the selection of evaluators. I think that does go against the teaching hospital model, but it doesn't mean you can't have more than one model, because that model essentially identifies long-term collaboration between program developers and evaluators, and in my opinion that

can be problematic. But that is one model, and I think it is certainly there.

But in terms of kind of up and down audit review functions, I think it should be independent, external, evaluations. I mean, we have changed the way we look at money. I have a son who is an internal auditor, he does that now. There are now a lot of jobs apparently in that area.

Mr. MOLLOHAN. I wonder how many times he heard that when he was growing up.

Mr. BYRNE. I hear about federal laws from him and everything else related to compliance with. Oh God. [Laughter.]

Yes, that is funny.

But you know, certainly that function independent audit, and I think that is—only because I hear it from my kid, he just moved back in with me at 24. If this is part of the record you can move out sooner. Just kidding, he is a good kid, and he can stay as long as he wants.

Mr. MOLLOHAN. Only to move back in.

Mr. BYRNE. That is right, back and forth, the churning that happens it is there for kids in their 20s with the housing situation and everything else, right?

But I think trying to come up with a formula in this act that will generate independent external evaluations I think would be very helpful. And that is not saying that we don't have some very good people that have developed long-term collaborations with, you know, city police departments around the country. Certainly, David Kennedy in terms of his work, is a model. But there are others to consider.

But I think in this case there is a lot riding on this in terms of, you know, allocations. I am looking at 25 million and then 75 million in the area of reentry. I think you really have to build in the external audit function for the implementation of reentry initiating because I think what I worry about is this money is just going to be——

Mr. MOLLOHAN. I get that, I really do.

Mr. BYRNE [continuing]. Moved from one area to another and moved over to somebody else. Borrow from Peter to pay Paul in hard financial times.

And the second part of it is getting external quality impact evaluations.

Mr. MOLLOHAN. We are going to look at that very carefully, and we appreciate that advice, we really do.

Mr. TRAVIS. If I could just add, Mr. Chairman, I have been thinking a little bit more about your question.

We have a new administration, new Attorney General, we are about to have new presidentially appointed heads of these agencies that come up for review before the Senate, and it is a new day with the Second Chance Act.

And consistent with that I think it would be certainly appropriate for this Committee to ask the Justice Department, and particularly the heads of those two agencies, to specific the long-term research agenda. What is it that needs to be learned that can be learned in the area of reentry, both from a statistical point of view,

what should the statistical series look like that will help us understand this phenomenon better?

And what are the big questions, and how do they propose to answer them?

Having sat in the seat of the NIJ director I know that what happens too often is you follow the program dollars and you try to do good evaluations of those programs rather than saying what are the important questions?

Mr. MOLLOHAN. Rather than being asked.

Mr. TRAVIS. That is right, that should be answered.

Mr. MOLLOHAN. Yes, that is a great idea.

Mr. TRAVIS. So that is the old science agency is to scope out a multiyear agenda and then make investments accordingly.

So it turns the conversation in a different direction by saying what are the big questions, rather than does this program work? It may be that those become the same——

Mr. MOLLOHAN. Well it makes it a little more interactive too, which is always more respectful.

Mr. TRAVIS. And then the programs say well here is a big question to be answered, let us see if we can help the country answer this question.

So it just flips the—and I think this Committee would be the right one to sort of ask for that type of agenda.

Mr. KENNEDY. And maybe some continuing education for the judges before sentencing in terms of what works and what doesn't and what can we do there. Because we are bringing up the—we obviously fund judges and so forth. What can we do there? Continuing education?

Mr. TRAVIS. There is a lot of discussion about sort of evidence-based practice throughout the entire criminal justice system and how this applies to sentencing decisions.

Mr. KENNEDY. Right, right.

Mr. TRAVIS. It is some really interesting questions.

Mr. KENNEDY. Right.

Mr. TRAVIS. It is the intersection of social science and juris prudence.

I recently was honored to chair an all day discussion by the American Bar Association and the Kennedy Commission on second look provisions. Ways to think about taking a second look at a sentence after its been imposed, whether through pardon or through parole release or compassionate release or whatever, and I think there is an opportunity now for judges to be part of this conversation in ways that they haven't been.

Mr. KENNEDY. Right.

DRUG COURTS

Mr. TRAVIS. Reentry court is squarely right in the middle of that. And let learning from drug courts—judges have to be trained in relapse and how does a job make a difference.

Mr. KENNEDY. Right, right, right.

Mr. TRAVIS. The role of mental health issues. So we didn't get this in law school.

Mr. KENNEDY. No, no.

Mr. TRAVIS. So the judicial education as part of reentry thinking is an entirely different education.

Mr. KENNEDY. Huge deal.

Mr. TRAVIS. And I don't know that—certainly law schools aren't training prospective lawyers to think that way, but is the National Center for State Courts helping to think about judges thinking about things differently, or the drug court professionals group.

Mr. MOLLOHAN. So as you increase the funding for drug courts, for example, you are suggesting in response to Mr. Kennedy's question, you should at the same time think about the education of the judges who are going to——

Mr. TRAVIS. Professionals involved, and it applies to prosecutors as well. They are thinking differently. Defense lawyers have to think differently.

At the center of this is the judge. And if he or she isn't thinking differently then the whole thing falls apart.

Mr. KENNEDY. Okay. If you could get us some of your perspectives on that and what is going on in that world.

Mr. TRAVIS. Sure.

Mr. KENNEDY. Thank you. And anything about that reentry court.

Mr. TRAVIS. Right, yes.

NATIONAL SCIENCE FOUNDATION

Mr. MOLLOHAN. The staff suggests a good question. Is there a role for the National Science Foundation in any of these studies, in any of this research?

Dr. Byrne, why don't you speak to that first.

Mr. BYRNE. Well obviously that would be beyond the gold standard certainly, and should be assessed. The whole field of criminal justice is one that is, kind of not still looked at as a science, and so, moving in that direction, and certainly, the NSF part in terms of what they fund would generate research, so that—that is positive.

And the National Research Council review completed last year, even though a lot of it kind of rehashed what we had out there for, a few years, that kind of review I think helps too. I think when you get a respected group like the National Research Council pulling together and what we know, I think that helps the field.

So certainly anything that would generate experimental and high quality quasi experimental research I think that is what we have to hope for.

Mr. TRAVIS. I think just to extend that one step further. I think the hope would be that any research institute with federal funds, that would include NIH and NSF and the Education Research Institute within DOE, would see the intersection between incarceration reentry and their sort of core research questions, and that there would be some encouragement from Congress for those research institutes to devote some resources to try to understand the connection between Mr. Kennedy's observations, mental health or brain functioning and incarceration of reentry. Alcoholism and drug abuse, which are NIH functions, and incarceration of reentry. NICHD looks at the family issues impact on children and reentry. NSF, which does basic understanding of—dealing with the socio-

logical research, you know, communities and the dynamics between individuals and their behavior in community life. So all of them have a role to play.

So the NIJ, you know, I think should receive more money in this area and should be directed to do work on behalf of the nation. But these other research institutes clearly have a role to play, and for whatever reason they have not been let us say eager to fund research in that area. Some of them put their big toe into the water, but I think they could be encouraged.

The National Research Council, I should just give my bias here, I am on the Community of Law and Justice of the National Academies, is now thinking about taking a look at the whole incarceration phenomenon in the country in trying to see what knowledge do we have about the impact of this, in essence, an experiment we have done over the past 30 years of quadrupling the rate of incarceration? What knowledge do we have about the impact of that on our country? So that is the mackerel question that the National Academy is hoping to take a look at.

So there are many ways in which these research institutions can be coalesced to—you know, NIJ is a small budget and probably always will have a relatively modest budget, but these other research agencies have a role to play as well.

Mr. MOLLOHAN. Well we have gone well beyond the scheduled hearing time, but if you all would bear with me just another second.

I think there is a broad consensus, if not total agreement, that drugs and addiction are at the very heart of a lot of our recidivism problems, in addition to a huge percentage of our sentences in this country. And as I look at that, the craving is at the center of that. And there are all kinds of strategies, treatment, 12 step, faith based, secular based, and then there is also a whole new, and not so new, but beginning to be tested and studied medical treatment, which I think is very helpful. I mean if you have got a chemical problem, maybe there is a chemical solution, so I am very hopeful about that.

But I would like you all to talk about that a little bit generally, how that fits in. And then specifically I would like to ask you about your attitudes towards the use of Naltrexone, those kinds of medications in drug treatment, and the different forms that that can come in, like 30-day injections, implants and daily doses of this medication.

So either one of you can start. I would like very much a comment from both of you.

DRUG ADDICTION/TREATMENT IN PRISON

Mr. BYRNE. This is the most frustrating part of the whole area of reentry for me, and I have seen it personally in terms of addiction.

When you actually have to get somebody in a residential treatment program, if you are rich you can do it, but we are talking a lot of money. A thirty-day inpatient treatment program with a three-week follow up——

Mr. MOLLOHAN. Which doesn't work anyway.

Mr. BYRNE. But that is 30-day program. If you look at the research in terms of long-term residential treatment for drug addiction, it is a different story. If you can get them in for six to nine months you can maybe have an impact, but outpatient is what we currently use. Residential treatment is the exception.

It is very difficult to get anyone to pay for residential treatment, in addition a lot of the residential treatment that is out there is putting together 23-year-old heroin addicts and 55-year-old alcoholics, and that is a social issue with that trying to do long-term residential with those groups.

So we have a major issue in terms of the funding of residential treatment that I think you are right, this just cuts to the core of a lot of the offenders that we are going to be dealing with because they will have serious drug problems.

And I don't see the answer in this allocation or even in drug courts, because drug courts have a hard time dealing with the long-term addicted individual. They can deal with kind of the low- to middle-level drug offenders, but they can't deal with this group. And to me that is the core—like you said—the core issue.

I think the need for residential treatment and trying to develop mechanisms to get, in particular young people who we know fail at very high rates, but still getting them into treatment and getting them to stay in treatment. I think that is critical.

And I know you had Dr. Taxman here a couple of days ago, and, I am sure she had her feelings on it, but most of what you have out there is outpatient in part because it is driven by managed care systems that don't want to pay unless you have failed several times in outpatient for even short-term residential. And so to me that is a problem.

Now the second part about the new types of drugs. This is part of the technology of treatment that you have to bring out. There are some excellent new drugs out there where, you know, maybe you don't want to have somebody on Methadone, but there are alternatives to that with blockers, and I don't know all the names of them, but if you will go on the NIDA website, you know, everything is kind of there now, and that is certainly I think an area we need to look at.

But I imagine, that you come back to this notion of coercive treatment, involuntary civil commitment for periods of time to get people in treatment. It is kind of if you build it maybe they will come. But we don't have that structure there in terms of long-term residential treatment.

What we have right now is very short-term treatment, almost all of it outpatient, and I think that is a structure—you were mentioning Michigan's model, that is a structural change that is at the core that beyond what we talk about in terms of, you know, specific reentry programs is having access to treatment on demand and to be able to match offender's problems with the type of treatment they need I think is critical. And it would be a sad state that we would have to go to prison to get treatment.

Mr. MOLLOHAN. Well it is horrible. You have to get somebody in a criminal situation, to treat a medical problem, so it is profane, really. It is horrible that the system doesn't deal with this problem,

which at its root is a craving problem, without getting somebody into a criminal vice, if you will.

What you described kind of brings us up to date historically.

But I am really looking for some insight for the record on the qualitative advancement that some of these medications represent. And I am really not talking about Methadone, I am talking about beyond that. It is not even beyond Methadone I don't think. I don't think it is the same, and I am far from an expert. I don't think Naltrexone, Buprenex, and some of these drugs are on the same path. And also the strategies are different for how they are applied.

It is one thing to ask somebody who has cravings everyday and thinks about nothing other than where the next resource is going to come from so he can get the next fix. To ask that person, okay will you take a pill every morning so it will take away your craving, and if you use it will block the effect? That is a hard thing to ask somebody who is experiencing cravings, I think.

But if you have a different strategy for administering medication, such as 30-day shots, well if you wake up and you can't think about that, that choice has been taken away from you.

It seems to me—and again this needs scientific research obviously—but it seems to me that gets you a lot further down the road, because you have dealt with what? You have dealt with the craving issue. You have dealt with it so you have taken choice away. Maybe that is one of those places that you need the authority or the incentive. If you are incarcerated, for example, and you participate in the drug treatment program, you get out a year earlier. But if in addition to taking drug treatment, you would be required to participate in this aftercare program through which you receive a shot every month.

Now there are all kinds of appropriateness and civil liberties issues that go along with that, but I think that, in spite of those challenges, it seems to me that that is a very hopeful avenue in dealing with cravings.

Mr. BYRNE. And you will make some parents very happy of those kids, because they won't have to worry that the kid is taking the drug every day, they know it is only every 30 days they have to worry. So just on that small level you have taken some stress out of that whole situation.

Now you could also do drug testing. Use the drug testing follow up, which is what is being done.

Mr. MOLLOHAN. Yes, exactly.

Mr. BYRNE. But you could take that kind of technology of control off the table by simply having a pill that went one, two, three. Absolutely.

Mr. MOLLOHAN. Are we looking at that in all of this? President Travis, do you want to speak to that?

Mr. TRAVIS. I wish I knew more about this area of research and medical research, I am not familiar.

Mr. MOLLOHAN. I think it is an area that we have to look at. As you are looking, I think we have to know more about it.

Mr. BYRNE. Well, I think that is the intersection of public health and public policy that you were talking about before going through the statistics on the various types of communicable diseases of offenders that coming out of prison. Certainly you throw drug addic-

tion into that mix that you were talking about, and that is what is critical I think in terms of cooperation between, public health and whatever these program models look like. Because the key is not figuring out whether Jim Byrne has a drug problem, the key is getting me into the right level and type treatment and getting me to stay in treatment.

Mr. MOLLOHAN. Yes.

Mr. TRAVIS. So you know, when we talk tolerance that is probably the most important thing we teach judges, right, and these programs what we are trying to do is, you know, deal with various forms of misbehavior, but get them to stay in programs.

And your strategy that you are talking about in terms of utilizing these drugs, will at least get them to deal with that craving issue for a longer period of time. And the longer that they are away the more likely they are going to get better over time. But we know the failure rates of these programs are still remarkably high. Higher than anything we will talk about in terms of recidivism rates.

Mr. MOLLOHAN. Yes, it just seems as we think about all these structural changes and the DOE fund projects and all that, drugs undermines their program at high percentages before their participants complete one year. They start measuring success after one year. Well they have a number of disappointments during that one year.

Well, it is all related to drug addiction. So it seems to me that is the center of the problem, because it is so prevalent. And it does get down to the individual and it gets down to the family. It really gets down to the core issue.

Mr. BYRNE. The interesting treatment on demand demonstration program may be one of your sites in New York, and to see—to demonstrate what would happen if we really put the drug involved offender into the correct level of treatment. And obviously that has implications for all of us who might have addiction issues, regardless of whether we are currently involved in the criminal justice system; but you certainly have that group.

Mr. MOLLOHAN. Well think about how you could drive these numbers. If you could deal with the craving issue here, all the counseling, all the brain scans. I want to learn more about all of that. But if you could deal with the craving—I mean, I love ice cream, and man I will tell you, for me to stay away from it at night is—honestly I have thought about that. If it is in the refrigerator it is hard to stay away from that. I had a doctor tell me once that the craving for heroin is a thousand times greater than one of the most fundamental drives in the human body. One hundred times greater. That is very powerful.

Mr. TRAVIS. Just think of this as a federal science question. We have NIDA that is funding a lot of research that you mentioned, we have centers for substance abuse treatment and prevention within NIH, those are located in a different cabinet agency, but their work has a lot to do with what we are talking about here in terms of crime and reentry and community well being.

So the question from where you sit is how are those resources being used to help answer questions over here that can provide policy? And you know, I love this idea of a—I would have a multisite demonstration so it wasn't one site, where we would say with our

NIH partners, we want to fund a demonstration to test the availability of both the—we will call them behavioral interventions and the medical or pharmaceutical interventions to do something about addiction at a community level, and we are going to do that for five years. That is probably what it will take to run it up, you will get it up and running. And one of the measures we will look at is the reductions in crime, in addition, there will be over measures of well being. But that is thinking bold, that is thinking big, but it is also thinking from a public health perspective, which is what they should be accustomed to, and it is not the way our community is accustomed to thinking about things at that scale. But if you want to go to some of the core issues of employment, addiction, family functioning, you have to think big, and you have to be willing from a scientific point of view to design some big interventions.

There is another idea that is getting some currency in our field, particularly the Brookings Institute had a number of hearings on this—or workshops on it—which is borrowing from the welfare reform era to adopt this idea from prison to work. What would it take to say that we want people when they leave prison to have employment available to them to help them transition for some period of time? Just as we did with people coming off of welfare. We made work available, we incentivized it. Granted that's a little different, but we can incentivize it here as well, and Bruce Western is a sociologist at Harvard, Larry Meed who did work at NYU on welfare reform, they are thinking about this big idea. That would require the Labor Department to say let us test prison to work. Frankly it is not the way the Justice Department thinks about designing and testing interventions.

So I think we are just at that point in history where we have a real good understanding of the phenomenon, we see some big opportunities, they are right in front of us, and they require a different way of thinking about program design, program intervention, and research.

DRUG ADDICTION ROLE AND RECIDIVISM

Mr. MOLLOHAN. Well let me ask you this. If you design a research program to look at these issues one by one or in some sort of a comprehensive design, if you do not look at—well first let me ask you.

To what extent does drug addiction play a role in the failure of preventing recidivism? What role does relapse play in recidivism? Just generally.

Mr. BYRNE. Well for starters you have the technical violators. You know there are a majority of technical violations where we are sending people back to prison for six for nine months because they fail drug tests. You know, we——

Mr. MOLLOHAN. So just on that basis it is huge, let alone going out and committing another crime to feed the habit.

Mr. TRAVIS. And three or four people in prison have a serious history of drug and/or alcoholism.

Mr. MOLLOHAN. So can we then agree it is a big piece of it.

Mr. TRAVIS. Yes.

Mr. MOLLOHAN. Right. So are we designing studies that kind of ignore that? Or maybe that is not the right way to ask that, but

shouldn't we be designing studies for which that is at least a significant part of it, so that at the end of the study we will understand different outcomes based upon different treatments for that condition?

Mr. BYRNE. That is the problem. I mean we basically develop a design and then we then try to work with existing treatment providers to provide that treatment. And within the whole area of managed care, who is going to pay for it? So you have that and it is a problem.

Mr. MOLLOHAN. Now what do you mean? What is a problem exactly?

Mr. BYRNE. Well in the sense that you are not unless you are going to develop a multisite demonstration program that is going to have treatment on demand being funded by that program, then the funding for treatment exists in the real world. Which means you might have better healthcare than me. We have different access to treatment. Or you might not have healthcare at all, so you have no access.

Mr. MOLLOHAN. Yes, but isn't that a policy problem at the end of it?

The real question is, just as a scientific question, if you can provide these different kinds of treatments for the addiction, including medication, then you can start asking what are the effects of the treatment on the disease, and then you can ask the question, how does that impact recidivism?

Am I wrong about that or——

Mr. TRAVIS. I don't know if I am disagreeing with Jim or not, but I think we have a pretty good body of research on the effectiveness of treatment that links in-prison treatment with community-based treatment. I think we have a pretty good body of research over the years that is funded, that looks at the effectiveness of particularly therapeutic programs that link to community-based programs. I don't know whether they have added the latest advances in the sort of medical approach.

And in the drug court context we have some pretty good research on the role of coercion in helping people find their way to treatment.

We have this interesting experiment now in Hawaii called——

Mr. MOLLOHAN. Which is a good thing.

Mr. TRAVIS. Yes.

Mr. MOLLOHAN. Excuse me.

Mr. TRAVIS. It was very effective. And in Hawaii we have the Hope Project, which is testing drug testing as the intervention basically.

But what we don't have, and where I think the Chairman's question is taking us, is what would be the effect of bringing all types of interventions to bear in a systematic way for people who are coming out of prison so that whatever is right for them they can get and it is available in the way that Jim says is not now available?

That is the large scale demonstration project that could lead to very important policy implications, particularly when we are talking about healthcare reform, because this is a population that finds it difficult to get access to treatment dollars, treatment facilities.

Mr. MOLLOHAN. Yes, but that is a different question isn't it? I mean, that is a policy question after you learned what was affected. Then you would go to try to solve that problem. But the question is—no?

I mean, that isn't a leading question, I am not trying to——

Mr. TRAVIS. Well, if you are designing the study that we are talking about, you would take let us say three communities around the country, you would say for—let us just make it a reentry issue—for people coming out of prison treatment will be available. We use the word on demand, but we will say treatment will be available. We will use the coercive power of parole supervision to make sure that, to the extent we can, people stay in treatment, that is always hard, and it will be a range of options that are tailored to what the treatment needs are that will include whatever the appropriate range of options are, and we will see—and we will try to do it in a random assignment way, we will see what the effect is on their recidivism and their well being, and their relationships with their families, all the key indicators.

At the end of that study, let us say it is a three to five year study, we will be able to know the cost effectiveness of that intervention.

Then you have the policy question that you eluded to, which is can we afford to do that? Right?

And what would be the results in terms of safety, of public health, of family functioning? And we will say to the public, it is worth the investment of public dollars.

We are not there yet, but we can put together pieces of it, but if we are thinking about a world in which we can do anything, we would do that level of study. Is that close to what you were saying?

Mr. BYRNE. Absolutely. And I think that is where you do have a possibility of funding different models, and you know, looking at one that has a significant treatment component. Because I would think right now the way this money is going to be allocated, what is going to happen at the local level is they are going to utilize existing resources for treatment. But it is going to be existing resources.

What we are talking about is actually taking over the treatment piece for a period of time to demonstrate impact. When you talk about the community context of treatment, you need to consider, first, where is the treatment located? And secondly, what is the availability of residential versus outpatient? And then you need to examine the quality of treatment, which is a third big issue.

Mr. MOLLOHAN. I mean a huge number of the variables and the success of the whole involves the drug treatment part of it.

Mr. BYRNE. I think so. Like you said, it is the core problem that reentry programs need to address. And I think you can't get away from that when you look at the current allocations strategy, because essentially you are going to be setting up reentry programs that will not be funding the drug treatment component.

Now maybe you can pull back some of that and do demonstrations to demonstrate it for the next wave, I would recommend that, which is why the multisite demonstration that Jeremy suggested I think is an excellent idea.

But you know, that is the big missing link, and you pointed it out. We should have talked about treatments resources more in our presentations and we missed. You had it correct. And that is it is the core problem, is the drug crime connection in terms of this group of offenders.

Mr. MOLLOHAN. Can we work with you on that——

Mr. BYRNE. Sure.

Mr. MOLLOHAN [continuing]. As we go forward with spending the scarce resources. I think we are going to have more with this administration, I certainly hope.

Darek has handed me Subtitle A, Drug Treatment, Section 201. Offender Reentry Substance Abuse and Criminal Justice Collaboration Program. It authorizes the Attorney General to make grants to the States, local governments, and Tribes to "improve the provision of drug treatment to offenders in prisons, jails, and juvenile facilities, to reduce the use of alcohol and other drugs by long-term substance abusers during the period in which each such long-term substance abuser is in prison, jail, or a juvenile facility, and through the completion of parole or court supervision of such long term substance abuser."

So we are authorized to do this at $15 million.

Well, are there any other final comments. You have done very well. If so, now is the time to make them.

Mr. TRAVIS. My only final thought, other than to thank you for a very lively discussion, I think we both felt pushed, which is great.

Mr. MOLLOHAN. Well wait, that wasn't the intention.

Mr. TRAVIS. No, this is what we live for.

I just want to come back to the public safety bottom line. And in my testimony and my statement I underscored this relationship between the reentry phenomenon and crime levels in communities. And we tend in the way we do research, and we tend to in the way we talk about reentry to folks on individual outcomes and program interventions and the like, but we have to step back from that and realize that this is a big phenomenon, unprecedented in our country's history, and the impact at community level is something that we have never seen before. And part of that impact is a criminogenic impact, and we need to basically recognize that the communities are saying to their police chiefs and their majors that their well being needs more attention.

So it is another argument for thinking big here and moving beyond our sort of individual medical model paradigm and looking at some big questions. And the public safety benefit that is possible here, if we think about this very creatively, is I think enormous, and that is beyond funding individual programs that work well according to basic evidence—the latest evidence. It as a way of thinking, the way we have been talking about here, so it is the mackerel of the environmental level.

Mr. MOLLOHAN. Thank you.

Mr. Byrne.

Mr. BYRNE. I have spent my career trying to write about social ecology and community context, and I think what you just summarized is exactly where we need to kind of go with this whole issue of reentry. I use it to look at larger community level problems.

What is it, half of all offenders that came out last year came back to only—I think it is five states, and within those five states they came to several dozen communities within these few states.

So the big lie of offender rehabilitation program, I think I say it in my testimony, is that individual change is going to effect the overall crime rate. It won't for most communities because offenders don't live in most communities. They live in a small number of high crime, high minority concentration, poverty pocket areas, that have not seen a long-term reduction in violence that you have seen in the rest of the country. And there hasn't been a constituency for that group until now. You know it hasn't affected me where I live, as much as it affects the group that is kind of disenfranchised.

And so that is I think the challenge for you here is to demonstrate to the general public why it is important to look at these areas that we have essentially ignored for several decades, while we have seen overall reductions in violence, which is a good thing, but it has not improved in those areas, it is actually gotten worse, and it has been, you know, I think that is pretty well documented.

Rob Samson out of Harvard spent most of his career looking at that whole issue, and I think he has really highlighted it in some of his recent studies, and I cite him here in my testimony.

So I agree, the community context I think is the key to all this.

Mr. MOLLOHAN. Well, Dr. Byrne, President Travis, thank you very much for your testimony today. We appreciate it. It is excellent testimony, a wonderful panel to end I think a very good series of hearings.

Mr. TRAVIS. Thank you very much.

Mr. MOLLOHAN. Thank you all very much for appearing today.

WEDNESDAY, APRIL 1, 2009.

JUSTICE REINVESTMENT

WITNESSES

MIKE THOMPSON, COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER

REPRESENTATIVE JERRY MADDEN, VICE-CHAIR, HOUSE CORRECTIONS COMMITTEE, TEXAS HOUSE OF REPRESENTATIVES

ROGER WERHOLTZ, SECRETARY, KANSAS DEPARTMENT OF CORRECTIONS

OPENING STATEMENT BY CHAIRMAN MOLLOHAN

Mr. MOLLOHAN. Well I think we will be uninterrupted here for a little while so the hearing will come to order. This afternoon's hearing builds on the series of hearings that we held three weeks ago on prisoner reentry programs. Throughout the course of that week we heard from witness after witness about the need to invest more money in reentry services, the importance of coordinating services, and the need to employ evidence-based approaches and follow up with independent evaluations. Another critical lesson from those hearings is that while individual reentry programs can help transition offenders back into their communities, we need to organize our efforts on a large scale if we hope to have large scale impacts on overall recidivism. And beyond reentry, we need to find ways of reducing the number of prison admissions to produce savings for strained budgets at the state and federal levels while improving the security of our communities.

The focus of today's hearing is Justice Reinvestment, an initiative of the Council of State Governments that attempts to take such a comprehensive approach to reforming criminal justice systems at the state level. I would like to welcome Michael Thompson, the Director of the Council of State Governments Justice Center, along with representatives from two of the states with which the Center is working. The Honorable Jerry Madden, who is vice-chair of the Committee on Corrections of the Texas House of Representatives; and Roger Werholtz, the Secretary of the Kansas Department of Corrections. Welcome, gentlemen.

We look forward to learning more about the Justice Reinvestment initiative, including the way in which it is being implemented in Texas and Kansas, and how it is affecting the size of your prison populations, the capacity of your communities to provide services to offenders, and the safety of your communities. Your written statement will be made a part of the record. Before asking you for your oral testimony, I would like to call on our Ranking Member, Mr. Wolf.

Mr. WOLF. Welcome.

Mr. MOLLOHAN. Thank you. Gentlemen, we will start from left to right here. Mr. Thompson.

Mr. THOMPSON. Mr. Chairman, Ranking Member Wolf, members of the Subcommittee, thank you very much for inviting me to testify today to talk about the Council of State Governments Justice Reinvestment Initiative. As you know, prison and jail populations are increasing. These increases are fueled by revocation of probation and parolees. There are also a significant number of failures, and people leaving prison with no supervision whatsoever. What you all did over the past year to ensure the passage of the Second Chance Act and to ensure its funding through the Second Chance Act was really a landmark event, and we believe that that can really have a significant impact on recidivism, and we are looking forward to seeing it implemented.

That said, states across the country, as you know, are facing major fiscal challenges, a combined $350 billion shortfall currently in their budgets. They do not have the resources to take reentry initiatives to the scale that we need to see a significant impact on recidivism. They are either shelving their reentry initiatives or they are dismantling them altogether in order to balance their budgets. What they are finding money for is to build more prisons frequently. And when they build more prisons they find themselves dismantling community-based services and supervision, which then fuels the prison growth further.

Prison spending is taking an increasing portion of state spending. One out of every three who works for the state in Michigan and Ohio now works for the Department of Corrections. Florida and California really illustrate what happens when states continue to go down this path. Florida's prison population is projected to grow by about 25,000 inmates over the next five years. In order to build some facilities to house some of that growing the population the state spent $305 billion last year to build more prisons. At the same time they cut community corrections, they cut community services. They also cut education by about $1 billion.

Eventually, states run out of funding to kind of continue this growth. California is an interesting case study of that. It is one of the most crowded systems in the country. It has become so crowded, the state not having the money to build more facilities, a three federal judge panel has just ordered the mass release of 57,000 inmates to the community. That is a very scary, dangerous situation, especially when the community services and support that I referenced earlier have been dismantled.

It is in this environment that the Council of State Government's members, conservative Republicans and liberal Democrats from across the country, have asked us to find a way to keep dangerous people locked up in prison, to increase public safety, and to actually reduce spending in corrections ultimately. And it was with that mandate that we created the Justice Reinvestment Strategy. And Justice Reinvestment is about analyzing why prison populations are growing and what the crime trends are, translating those findings into policy options, and then tracking the actual impact and to make sure that the results are actually gained.

We have done work now in ten states across the country. In eight states where we have worked, and you will hear about Kansas and

Texas in just a moment, but the results are in and they are very encouraging. Comprehensive criminal justice changes enacted that are all data driven, using the data that we have provided them. And since those changes have been enacted prison population growth has subsided. Prison populations have flattened altogether. And in some cases prison populations have even dropped. At the same time, where we have crime data from those states, we are seeing that crime has actually dropped at the same time. So the results of increasing public safety and spending less on corrections has been achieved.

We want to thank The Pew Charitable Trusts, and the Bureau of Justice Assistance, and Open Society Institute, and other foundations that made all of this work possible.

I want to just tell you about some themes that we have seen from across the state that are sort of cross cutting. The first is that no one size fits all. Every state's criminal justice system is different. You just take the case of Kansas, where parole revocation will go back for up to six months. And then you take Texas where parole revocation going back to prison will go up to four years. Every criminal justice, every state's criminal justice system is distinct.

The second issue is bipartisan collaboration. In order for Justice Reinvestment to work you need to make sure that there is bipartisan collaboration across the branches of state government, and that we really effectively engage local government stakeholders, the prosecutors, police, judges, etcetera. And those in fact have been engaged in the states where we have worked Justice Reinvestment.

The third issue is data. It is really astonishing the lack of data that is in front of policy makers as they are making very important decisions. As an example, Wisconsin runs $1 billion corrections agency, has a research budget of zero. They are essentially policy makers blinded, trying to figure out what part of the elephant they are touching, fumbling thousands of jigsaw puzzle pieces, making huge decisions about the future of public safety without the information they need.

The fourth is that place is very significant. We know that people released from prison return to very particular communities. In the case of Arizona we know that they return generally to Maricopa County in Phoenix. But if you take one neighborhood within Phoenix we found that it is 1 percent of the state's population, 6 percent of the state's prison population. If you want to have an impact we need to do something in that community to make sure the supports and services are available to help people succeed. Within those communities we need to make sure that we are targeting high risk people—50 percent of the people released form prison will fail, but 50 percent will succeed. And too often we see resources targeted on people who are going to succeed, and ironically the research shows that if you target people who are already slated to succeed you actually increase the likelihood of recidivism.

And the last issue is that we need to make sure that we measure what actually happens. We need to actually track what was projected to be the impact and make sure that those results are actually achieved.

And that is Justice Reinvestment in a nutshell. The demand for Justice Reinvestment across the states is overwhelming. We have a long queue of states, governors, and legislative leaders who would like us to work there. We are having a lot of trouble meeting that demand. But we look forward to talking to the Committee about how to make that happen. Thank you very much.

[Written statement of Mr. Michael Thompson, Director, Council of State Governments follows:]

Statement by

Michael Thompson

Director

Council of State Governments Justice Center

Hearing on
Justice Reinvestment

April 1, 2009

Commerce, Justice, Science, and Related Agencies
Appropriations Subcommittee
U.S. House of Representatives

Chairman Mollohan, Ranking Member Wolf, and Members of the subcommittee, I am pleased to be with you today to discuss Justice Reinvestment and the Council of State Governments Justice Center's work in states providing data-driven analyses and options to help state policymakers reduce recidivism, manage the growth of state prison populations, and increase public safety.

Problem

This committee has recently heard testimony about growing prison and jail populations, and how these trends have fueled increases in the number of releases from jails and prisons: 670,000 people released from prison and 9 million from jails each year.[1] Most of the people released from prison, and

[1] The number of people released from prisons has been steadily increasing – from about 600,000 in 2000 to more than 670,000 in 2004. See P. M. Harrison and A. J. Beck, Prison and Jail Inmates at Midyear 2005, U.S. Department of Justice, Bureau of Justice Statistics, NCJ213133 (Washington, D.C.: U.S. Government Printing Office, 2006). The jail numbers (2004) come from A. J. Beck, "The Importance of Successful Reentry to Jail Population Growth," presented at the Jail Reentry Roundtable of the Urban Institute, Washington, D.C., June 27, 2006.

many people released from jail, are placed under some form of community supervision. The Pew Charitable Trusts reported that 5.1 million people (or 1 in 45 adults) are on probation or parole today.[2]

As we return more people to the community from prison and jail and put more people under community supervision, we are seeing record numbers of failures. In fact, these failure rates are largely responsible for driving growth in state prison populations. Pew reported that prison populations will grow 13 percent over the next five years.[3] Much of this is attributable to probation and parole revocations and people released from prison committing new crimes.

I want to thank you Chairman Mollohan, Ranking Member Wolf, and Members of this subcommittee for your support of the Second Chance Act. As you know, Second Chance is an important first step in addressing recidivism rates nationwide. It is also the foundation to address additional criminal justice challenges facing states, local governments and communities, including the need to use state correctional resources more effectively.

Despite the unprecedented interest in reentry, state and county elected officials are finding that they don't have the resources to finance, on a large scale, strategies necessary to make someone's transition from prison to the community safe and successful: improve supervision practices; deliver effective drug and mental health treatment; provide education, job-training, and connections to employment; and ensure safe housing. Indeed, as the states face the grim reality of $350 billion in budget shortfalls over the next 2.5 years,[4] elected officials are scrambling to fund important services and shelving plans to expand promising pilot programs, or worse, scuttling reentry programs altogether.

State spending on corrections has risen faster over 20 years than spending on nearly any other state budget item – increasing from $10 billion to $45 billion a year.[5] In Ohio and Michigan, one out of every three state employees works for the department of corrections. In Ohio, one out of every six state employees is a corrections officer.

State and county officials are now facing a "crisis" in their criminal justice systems: prison costs are rising; important programs in prisons and in the community are being slashed as prison costs eat up more and more of state budgets. The impact of this reality is devastating –community-based programs dwindle, recidivism rates rise, and prison growth accelerates. To fund the expansion of the

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[2] Public Safety Performance Project, *One in 31: The Long Reach of American Corrections*, (Washington, D.C.: Public Safety Performance Project, The Pew Charitable Trusts, March 2009).

[3] Public Safety Performance Project, *Public Safety, Public Spending: Forecasting America's Prison Population 2007-2011*, (Washington, D.C.: Public Safety Performance Project, The Pew Charitable Trusts, February 2007).

[4] Iris J. Lav and Elizabeth McNichol, "State Budget Troubles Worsen," *Center on Budget and Policy Priorities*. 13 March 2009. 30 March 2009. < http://www.cbpp.org/cms/index.cfm?fa=view&id=711>

[5] National Association of State Budget Officers, State Expenditure Report 2006 (Washington, D.C.: National Association of State Budget Officers, 2007). National Association of State Budget Officers, State Expenditure Report 1987 (Washington, D.C.: National Association of State Budget Officers, 1987). From 1991 to 2001, state spending on corrections grew faster than any other state budget item except Medicaid expenditures, according to the National Conference of State Legislatures, "State Spending in the 1990s."

prison system, dollars continue to be siphoned from smart and effective criminal justice policies, which are gradually eliminated altogether.

In Florida, for example, the prison population just surpassed 100,000, and is projected to reach 125,000 within 5 years.[6] To accommodate the growth in the prison population during last year's budget, state policymakers appropriated $305 million to build three new prisons, but had to cut funding for probation officers, the state court system, and $1 billion from the education budget to do so. By 2013, however, state policymakers will need to find hundreds of millions of more new dollars from other parts of the state budget to fund the construction of an additional 16 prisons they will need to house the growing prison population.

When policymakers exhaust all options they have for funding additional prisons, some dangerous scenarios emerge. Policymakers begin considering releasing offenders indiscriminately and in mass numbers, which is especially scary considering that safeguards in the community such as treatment, supervision, and employment services have likely been greatly diminished because of the fiscal pressures described earlier. In California, the state's prisons house 170,000 people, twice their operating capacity, at an annual cost to taxpayers of $9 billion. With severe overcrowding, and no solution in sight, a panel of three federal judges tentatively ruled in February of this year, that the state must reduce the prison population by 57,000, or 40 percent, within three years.

A crime-fighting strategy based exclusively on building more prisons is not the solution. We cannot incarcerate our way out of the problem. Evidence from the states demonstrates that policymakers should not assume that simply incapacitating more people will have a corresponding increase on public safety. For example, over the past seven years, Florida has increased its incarceration rate 16 percent, while New York State's incarceration rate went in the opposite direction, decreasing 16 percent. Despite this 32 percent difference, New York's drop in crime rate over the same period was double Florida's decrease in crime. In short, while New York invested considerably less money in prisons than did Florida, New York delivered greater public safety to its residents.

Justice Reinvestment: A Data-Driven Strategy

Increasingly reluctant to finance the construction of another prison, but wary of the ramifications of doing nothing, our members (who are both the conservative Republicans and liberal Democrats that make up state governments across the country) delivered these instructions to us: help us cut spending on corrections, reduce failure rates of people released from prison, and increase public safety in the neighborhoods where people released from prison return.

In response, we developed a data-driven strategy called Justice Reinvestment, which has three phases:

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[6] Public Safety Performance Project, *One in 100: Behind Bars in America 2008*, (Washington, D.C.: Public Safety Performance Project, The Pew Charitable Trusts, February 2007).

- Analyze crime and corrections data and develop policy options to reduce spending on corrections and reinvest in strategies to increase public safety and strengthen communities.

- Implement enacted policy options effectively.

- Establish and track indicators of key corrections and public safety trends to ensure accountability.

We provide targeted, intensive technical assistance to select states where state leaders have committed to work cooperatively and across branches of government and to provide us with access to data systems. Our team comprises nationally-recognized criminal justice experts, including experts in community supervision, law enforcement, substance abuse, mental health and employment.

We work closely with state policymakers, including the governor and his or her cabinet officials, legislative leaders, judges, local law enforcement, prosecutors, and a broad group of key stakeholders in the state. Over the course of a one to two year process, we provide them with the following deliverables:

**a data-driven explanation that concisely explains why the prison population is growing, who is returning to prison, and for what reasons.*

**a comprehensive analysis of crime trends in the state, which collapses and integrates information across criminal justice and human service agencies, at all levels of government.*

**precise definitions of target populations and geographic areas where specific services and supervision should be targeted to ensure the maximum impact on recidivism.*

**systems that provide policymakers with brief, up-to-date information that track the implementation of new policies and monitor the extent to which they are yielding their projected results.*

With this information, we assist state governments in developing concrete, practical policy options. For each of these options, we project their impact on the prison population and state spending.

Smart decision-making leads to several important results: first, policy makers are examining current data on their criminal justice systems to see what works and what does not; second, states are working to ensure that dangerous offenders are incapacitated – meaning that bed space is available and dangerous people are removed from the community; third, states are designing and implementing new and innovative community programs in the neighborhoods where people released from prison return to ensure they have the substance abuse, mental health, job training, and housing they need.

Our effort is made possible by funding from The Pew Charitable Trusts, the Bureau of Justice Assistance, other private foundations, and the states themselves. Some of the leading foundations in the arena of criminal justice have been: The Pew Charitable Trusts; the Annie E. Casey, MacArthur, Joyce and Ford foundations; the Open Society Institute and the JEHT Foundation.

The Pew Charitable Trusts has been a particularly important player in the field and is a major supporter of our work at the Justice Center. Pew works only in areas where it believes the facts are clear and that significant improvements in public policy can be made by bringing the facts and the research to light. The involvement of nonpartisan, research-based organizations like Pew and others has been absolutely vital to the development of data-driven policy solutions. The Public Safety Performance Project of the Pew Center on the States has been not only a funder but our substantive partner in working with states to analyze their prison populations and generate policy options that protect public safety and control corrections costs. At the national level, the Pew project has produced reports like "One in 100" and "One in 31" that are raising awareness of the dramatic growth in the size and cost of the correctional system, as well as advancing fiscally-responsible alternatives. The private sector will continue to play a substantial role in helping states, but as the "One in 31" report graphically portrayed, the challenges are so large that greater federal assistance is essential.

Emerging Themes from the States

From our work in ten states so far, we have been able to identify several critical issues that typically arise when implementing a Justice Reinvestment strategy.

First, we have learned that each state has distinct issues. There is no "one-size-fits-all" solution to each state. To the contrary, each state's criminal justice system is distinct: the drivers of the prison population, the opportunities to reduce recidivism and increase public safety, and the communities to which people from prison return are unique to each jurisdiction.

Second, a Justice Reinvestment strategy can only be applied where there is a bipartisan commitment among the state's leaders to work together to address the criminal justice challenges. The Justice Reinvestment strategy takes a holistic look at the criminal justice system, focusing on law enforcement, judicial systems, parole and probation, prevention programs, community supervision resources, and geographic mapping of relevant populations. Before we agree to provide the necessary analysis for a state, we require a commitment from the governor, legislature, judicial branch, law enforcement, prosecutors and other key stakeholders to work together in a bipartisan approach to criminal justice policy based on data and analysis we provide to the team. Without a bipartisan commitment from these stakeholders, our work would only provide fodder for political gamesmanship and would serve no useful purpose.

Third, each state needs a comprehensive data analysis of their criminal justice system, and the impact that policy decisions may have on criminal justice costs and public safety. Few, if any, states

have access to such data when making important budget or policy decisions. What information policymakers do receive pertains to a particular agency and is fairly narrow in scope. Equipped with information focused on one part of the criminal justice system, state officials are for all practical purposes blindfolded, touching just one part of the elephant or fumbling with thousands of jigsaw puzzle pieces. We can no longer afford for policymakers to appropriate billions of taxpayer dollars with no understanding of what impact such spending will have on community safety.

For example, Wisconsin's Department of Corrections, which has an annual budget of $1.2 billion, maintains a reasonably modern and effective data system. Owing to budget cuts over the past years, however, the agency has no research department and thus no capacity to analyze the data collected.

Fourth, in every state there are a handful of "high-stakes" communities in which most people return when released from prison or jail. These communities are disproportionately minority, poor, and often blighted and lack resources. State (and county) efforts to reduce recidivism have historically yielded discouraging results in part because resources have not been targeted strategically.

In Arizona, geographic analyses helped state policymakers identify a neighborhood in South Phoenix that accounted for just one percent of the state's total resident population, but six percent of the state's prison population. For every 44 probation revocations that neighborhood generated, the state spent $1 million in incarceration costs. Concentrating resources on that geographic area, and leveraging and integrating investments made through other funding silos, could generate significant improvements to public safety and reduce expenditures.

Fifth, in addition to place-based strategies, we have learned that policymakers also need to ensure resources are concentrated on high-risk individuals. For every two people released from prison, one will be reincarcerated within three years. All too often, however, reentry resources focus on the 50 percent of individuals most likely to succeed and ignore the half that needs assistance. Ironically, the data demonstrate that focusing resources on low-risk individuals can actually reduce their chances of success.

Sixth, state officials enacting policies to reduce corrections spending and increase public safety are typically without the tools to monitor effectively the implementation of these policies and to troubleshoot effectively when the results promised do not actually materialize.

Case Studies

Governors and legislative leaders in many states have made written, joint requests for intensive technical assistance through our justice reinvestment initiative. To date, our funders have authorized us to work in ten states. We are actively engaged in Michigan and Wisconsin. We have completed our analyses in eight states: Arizona, Connecticut, Kansas, Nevada, Pennsylvania, Texas, Rhode Island, and Vermont. In each of these jurisdictions, Republican and Democratic legislators, together with the governor, used the findings and policy options we developed to enact legislative initiatives that received

overwhelming bipartisan support. These policy changes were endorsed by prosecutors and local law enforcement and editorial pages in each of these states because they offered a better dollar-for-dollar impact on public safety than the status quo. The results realized demonstrate why they enjoyed such broad support: prison population growth in these states has either slowed or flattened completely; at the same time, crime is down in each of these states.

Texas

In 2007, the prison population in Texas was projected to grow by more than 14,000 people over a five-year period at a cost to taxpayers of an additional $523 million for the construction and operation of new facilities in the 2008 and 2009 fiscal biennium.[7]

Legislative leaders requested a detailed analysis from the Council of State Governments Justice Center to describe why the prison population was increasing. The Justice Center experts found that three factors were contributing to the buildup of the prison population. First, probation revocations had increased: between 1997 and 2006, the number of people revoked from probation to prison increased 18 percent, despite a 3 percent decline in the probation population. Second, state officials cut funding for residential treatment programs for people on probation and parole, which fueled a growing backlog: by 2006, more than 2,000 individuals were awaiting placement in such programs and facilities. Third, the parole board, whose confidence in community based supervision and supports had waned, reduced parole grant rates; approval rates were below the minimum suggested by the parole board's own guidelines.

During the 2007 legislative session, state lawmakers enacted a package of criminal justice policies to avert the growth in the prison population and save $443 million. To improve success rates of people under supervision, the legislature reinvested $241 million to expand the capacity of treatment and diversion programs, and enhance the use of parole for low-risk offenders.

The legislation included an expansion of treatment and diversion programs: 800 residential treatment beds for people on probation supervision with substance abuse needs; 3,000 slots for outpatient substance abuse treatment; 1,400 new beds in intermediate sanction facilities to divert probation and parole technical violators from prison; 300 new beds in halfway house facilities for people under parole supervision; 500 new beds in a new facility for an in-prison treatment unit targeting people with DWI offenses; 1,500 new beds for an in-prison intensive substance abuse treatment program; and 1,200 slots for intensive substance abuse treatment programs in the state jail system.

The new policies also enhanced parole and probation policies and procedures: establishing a maximum limit for parole caseloads to ensure adequate supervision; reducing probation terms for drug and property offenders from a maximum of 10 years to a maximum of five years to focus the treatment and supervision they receive during the years when research studies show that they are more likely to re-

[7] Council of State Governments Justice Center, "Justice Reinvestment State Brief: Texas," 2007.

offend; creating incentives for counties that create progressive sanctioning models for probation officers to respond effectively to violations of supervision; and, expanding drug courts and other specialty courts to place offenders who committed minor crimes in treatment programs that will reduce their likelihood to re-offend.

Since the enactment of the policies, the prison population growth has slowed. The official state projection released shortly before these policies were approved estimated that the prison population would swell to 160,126 by September 2008. In fact, however, the actual population for that month was 155,459.[8] At the same time, recidivism and crime rates appear to have fallen. Furthermore, whereas the prison population was projected to grow to, the population has now stabilized and is not projected to significantly increase.

Kansas

In 2007, the Kansas prison population was projected to increase 22 percent by 2016 at a cost of approximately $500 million in additional construction and operating costs over a ten year period.[9] The governor and legislative leaders requested intensive assistance from the CSG Justice Center's experts to analyze the prison population and work with policymakers to develop strategies to reinforce Kansas's "tough and smart" criminal justice framework.

The Justice Center found that parole and probation revocations accounted for 65 percent of prison admissions, consuming 27 percent of prison capacity at a cost to taxpayers of $53 million annually. Ninety percent of revocations were for violations of conditions of release, with alcohol or drug use accounting for 32 percent of parole revocations.

Most people released from prison had not participated in programs that could reduce their risk of reoffending. Half of people in need of substance abuse treatment and 72 percent of people needing vocational education did not participate in relevant risk reduction programs prior to their release from prison.

During the 2007 legislative session, state policymakers approved a package of recidivism reduction policies and appropriated $7.9 million to expand reentry programs and strengthen community supervision through the adoption of evidence-based strategies.[10] The legislation included: creation of a performance-based grant program for community supervision (probation) programs to design local strategies to reduce revocations by 20 percent; establishment of a 60-day program credit to create an incentive for people who successfully complete educational, vocational, and treatment programs prior to release; and, restoration of earned time credits for good behavior for nonviolent offenders.

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[8] Legislative Budget Board, "January 2007 Projection Report," 2007. Legislative Budget Board, "LBB Tracking Spreadsheet: TDCJ Population Report," 2008.
[9] Council of State Governments Justice Center, "Justice Reinvestment State Brief: Kansas," 2007.
[10] Ibid, Justice Center.

Since the enactment of this legislation, the state prison population has declined by 4 percent, the state has canceled plans to build any new facilities, and recidivism and crime rates have declined.

Arizona

In 2007, the prison population in Arizona was projected to increase 50 percent by 2017, requiring the addition of 17,000 prison beds at a ten year cost of between $2 and 3 billion in additional construction and operation expenses. State policymakers commissioned an analysis from the CSG Justice Center, which found that high rates of failure among people on probation supervision were contributing significantly to the projected growth in the prison population. In FY 2006, more than 4,000 probationers were revoked to prison for conditions violations at a cost of $100 million to the state. Of those admitted to prison for failing on probation, 79 percent were identified as property or drug offenders.

During the 2008 legislative session, state policymakers enacted legislation to hold probation agencies accountable for reducing crime and improving the success rate of people on probation supervision. The legislation established incentives for both the people on probation and the county probation agencies to improve success rates. First, the legislation allows eligible probationers to earn up to 20 days off their term of supervision for every 30 days they demonstrate positive progression and compliance with their conditions of supervision, participate in their community service assignments, and adhere to court-ordered restitution payments. Probationers who violate conditions of release lose whatever time they initially earned off of their period of supervision. Second, the legislation creates a performance funding mechanism that reinvests 40 percent of any savings realized by the state from reduced probation revocations into the counties to improve victims' services and expand access to substance abuse treatment and other community-based programs designed to reduce recidivism among probationers.

Connecticut

In 2002, Connecticut policymakers faced an $817 million budget deficit, a prison overcrowding crisis, and prison population growth outpacing every other state in the US. In 2004, the Connecticut General Assembly enacted legislation that included provisions to streamline the parole process, reduce parole and probation violations by 20 percent, ensure a period of supervision for all persons released from prison, and require the state to develop a comprehensive re-entry plan to address high recidivism rates.

Enacting these policies generated $30 million in savings in the upcoming year, of which nearly $13 million was reinvested in strengthening community supervision and treatment services. Probation revocations dropped from 400 in July 2003 to 200 in September 2005; and the prison population declined while the crime rate continued to drop.

Pennsylvania

In 2006, an official state projection estimated the prison population would increase 30 percent between 2007 and 2011 at a cost of $850 million in additional construction and operating expenses. Despite this investment in additional capacity, the Commonwealth was projected to still experience a capacity shortfall of 9,300 beds by 2013.

During the 2008 legislative session, the Pennsylvania General Assembly approved a package of legislation that expanded the use of intermediate sanctions for parole violations, increased the use of diversion programs, and established a "risk reduction sentencing option" for people in prison so that there would be an incentive for successfully completing evidence-based programs that reduce recidivism. Additional policies enacted included: several measures to reduce jail overcrowding including reimbursement from the state to county jails for some of the expenses incurred in housing state inmates and requiring people with a maximum sentence of 2 – 5 years to serve their time in prison; a risk reduction sentencing option – equal to three-fourths of the minimum sentence – that would qualify eligible nonviolent offenders for release at the expiration of the sentence date for successful completion of evidenced-based risk reduction programs; and, an increase in the number of eligible participants with substance abuse needs in the State Intermediate Punishment diversion program.

Rhode Island

In 2007, Rhode Island's prison population was projected to increase 21 percent between 2007 and 2017 at a cost to taxpayers of an additional $300 million in construction and operating expenses.

In 2007, policymakers developed and implemented several administrative parole options: screening people admitted to prison during intake to identify people with substance abuse needs; utilizing a logic model to both guide program placement decisions as based on risk and demonstrated need, and ensuring timely access to treatment in prison that will be required by the parole board prior to release; and, employing a parole risk assessment to incorporate when making release decisions.

During the 2008 legislative session, the state legislature enacted changes to provide incentives for people in prison to complete certain risk reduction programs, require the parole board to employ risk assessments when making release decisions, and standardize the way Rhode Island calculates earned time credits for people in prison who demonstrate good behavior.

Nevada

In 2007, the prison population in Nevada was projected to increase 60 percent by 2016 at a cost of approximately $2 billion in additional construction and operating expenses. During the 2007 legislative session, policymakers enacted legislation increasing incentives for people to complete risk reduction programs. The legislation was designed to: increase the number of program credits awarded for completion of in-prison vocational, educational, and substance abuse treatment programs; increase

the credit people in prison and on community supervision can earn off of their sentence for good behavior and compliance with the conditions of their supervision; and, establish the Advisory Commission on the Administration of Justice to review criminal justice polices.

Vermont

In 2007, the prison population in Vermont was projected to increase 23 percent by 2018. To accommodate this growth, the state would need to contract for additional out-of-state prison capacity at a cost of at least $82 million, or build and operate new prison beds, which the state estimated would cost more than $200 million.

During the 2008 legislative session, policymakers enacted legislation to reduce recidivism by people on community supervision and to preempt further growth in the prison population. The legislation included: the reorganization of several prisons and the establishment of a new 100-bed work camp for male offenders with substance abuse treatment needs; the establishment of pilot screening and assessment processes prior to sentencing and prior to release from prison to identify people who are appropriate for treatment and diversion programs; the expansion of the Intensive Substance Abuse Treatment Program; a diversion program that provides intensive community supervision; and, establishing caseload caps and authorizing corrections to use electronic monitoring to strengthen community supervision for high risk offenders and reduce recidivism rates by 10 percent for this population.

Meeting the Demand

Although several states have now demonstrated the value of using data to inform smart, bipartisan criminal justice policies that reduce spending and increase public safety, policymakers in the majority of states remain without this type of detailed, timely information. From these states, policymakers call us weekly inquiring about the possibility of applying a justice reinvestment strategy and requesting intensive technical assistance. Without such support, the real and unsettling possibility exists that policymakers will act without the benefit of data, increasing the likelihood that new policies adopted will compromise public safety or be fiscally unsustainable.

Thank you for the opportunity to testify before the committee today, your attention to these issues, and leadership in helping states address these challenges. We look forward to continuing to work with you on these matters.

Mr. MOLLOHAN. Thank you, Mr. Thompson. Mr. Werholtz.

MR. WERHOLTZ OPENING STATEMENT

Mr. WERHOLTZ. Thank you, Mr. Chairman, Ranking Member Wolf, members of the Committee. I appreciate the opportunity as well to come and talk about Kansas' experience in offender reentry, Justice Reinvestment, and risk reduction.

I think that you will hear a repetition of the same themes from all three of us, but we each have a different perspective. Mine is as a practitioner, I am Secretary of the Kansas Department of Corrections. With the help of an awful lot of people and a lot of organizations, we have been able to achieve some things in my state that we are very proud of, and which we think have been of great benefit to us, and which I think give hope to people considering these kinds of policies that they are intelligent, that they are a good investment, that they are something worth reconsidering. And let me just share with you some of the data that we have been able to track in Kansas.

We have been able to shrink our prison population from its historic high in 2004 by 7.5 percent. We have reduced our monthly parole revocation rates from the 2003 levels by 48 percent. Our facilities report that inmate grievances have declined from their 2004 levels by 36 percent. Our special enforcement officers, which are our armed parole officers, report that parole absconders have declined by 70 percent from their historic highs. Those are the individuals who are actively evading supervision. But I think the most important statistic that I can share with you, and the one that I think for policy makers in my state have convinced us that this is good public policy, is that parolees are committing fewer crimes.

What we have done is compared the reconviction rates for felony convictions committed by parolees under our supervision for the time period prior to us actively engaging in the reentry risk reduction process, with the most recent four-year time period where we have got sufficient data because of the lag times coming in that we think it is a valid comparison. And we have seen a 35 percent reduction in felony reconvictions by people that we supervise.

I think if we were simply ignoring negative offender behavior nobody would argue that this is a policy worth pursuing. But when we can save resources and at the same time make our state safer I think everybody has become convinced that this is something that is worth our investment.

We began this work by taking a systematic self-examination of our operations, and ended up characterizing what we were doing as risk management. And within that label of risk management charted out two paths. What we labeled containment and what we labeled risk reduction. And in the simplest terms if you think about our business of operating a prison system or a correction system, the concept of risk containment simply says that we are going to contain offender behavior, negative offender behavior, within an environment that minimizes the opportunity for that individual to harm a citizen within our state. And we want to use the minimum amount of force and the minimum amount of resources necessary to contain that individual. The concept of risk reduction says that

we want to reduce the probability of negative offender behavior occurring regardless of the environment that those individuals are in.

If you look at our business and how we have measured our performance, we and most prison systems in this country are really good at the containment business. If you divide our average daily population by the number of escapes that we have, or the number of walkaways that we have from our minimum facilities in a given year, the probability of a Kansas inmate getting out and doing physical harm to a citizen in our state is less than two-one-thousandths of 1 percent.

And so regardless of the amount of additional resources that we invest in that effort, it is going to be difficult for us to improve very much on that level of performance in our state. But at the same time, when we were looking at 2003 and earlier, 55 percent of the people that were released from Kansas prisons or more were coming back for new crimes, or for violating their conditions of release. If we were going to make our state safer that was the opportunity that we had for improvement. And that is where we decided to focus our efforts, without reducing the level of commitment that we had to the containment side of the business. But saying, "We want to try and do as well on the risk reduction side."

So we made a commitment to improve our agency's level of performance in the area of risk reduction. And we began this effort by looking at what the correctional research literature said yielded the best results. And you heard Mike mention to you some of those things. We wanted to look at what in our jargon is often labeled as the "what works literature." We received help from a large number of organizations at the local, state, and national level, including Council of State Governments, the National Institute of Corrections, the Center for Effective Public Policy, the Pew Center, the JEHT Foundation, just to name a few. We literally had dozens and dozens of organizations coming to help us out.

And based on what we learned we took that information to the Kansas Legislature, outlined in appearances before our Budget and Judiciary Committees what our strategy was. And we requested that they endorse that strategy. The reason that we did that is that we needed to be able to take that back to our employees, and the other organizations, particularly in corrections and law enforcement with whom we worked, to say this is the policy track that we are going to pursue and we have the backing of our state's policy makers.

We also, and this is really critical, asked them not to judge us on individual events, but to judge us on our ability to influence overall trends. Regardless of the revocation rate, given the population that we work with there are some offenders who are going to go out and harm people once they are released from prison, and in some instances harm them very, very seriously. And we cannot offer certainty. But what we asked the legislature to judge us on was our ability to reduce the frequency with which those events occurred. And they agreed to do that.

With the broad based support that we got from the legislature coupled with very public endorsements from my Governor, Kathleen Sebelius, and our senior senator, Senator Sam Brownback, we began a massive skills redevelopment effort within our agency, try-

ing to equip corrections officers, corrections counselors, parole officers, and other individuals working within our agency with a set of skills that would help them become more effective in changing offender behavior, and try and allow us to achieve the same level of performance that we had on the containment side of the business. And those skills, again, going back to some of the things that Mr. Thompson mentioned, help us identify who to target for the interventions, what specific issues to target with them, and how we should go about addressing those issues. In our jargon risk needs and responsivity are the terms that we use.

But as recently as 2007 the Kansas prison population was still projected to grow quite dramatically because of the high level of probation revocations, people coming in from the front end of the system. And I know Representative Madden laughs at these numbers because there are not enough digits in the prison population, and not enough zeroes in the budget. But we were looking at growing our prison population by over 2,000 in the next decade, and seeing an additional half a billion dollar investment on the part of our state to house and supervise those individuals. And for a state with a population the size of Kansas those are huge numbers.

In response to that, our legislature, after seeing the preliminary results of our work on the parole side of the business that I just shared with you, made a policy decision that rather than expand prison capacity they would invest an additional $4 million, on top of the roughly $15.5 million that they put into our local community corrections programs, to try and allow them to put in place the same strategies that we used at the back end of the system with people at the front end of the system. That was Senate Bill 14 in our 2007 legislative session. It also created some modest incentives for prisoners to address the issues that contributed to their incarceration. And it increased their opportunity to earn time off their sentence if they were convicted of certain lower level crimes.

The Council of State Governments in an independent estimate performed for our legislature concluded that Senate Bill 14 will allow my state to avoid an additional $80.2 million in additional costs over a five-year period.

We have not been immune from the economic problems that are facing this country. And we are experiencing some of the issues that Mr. Thompson referred to. We are having to undo, currently, some of the things that we put in place that helped us achieve these results. But I am hopeful that based on our experience when the economy does turn around we will have a roadmap to rebuild what we had in place, and then improve upon that performance.

I appreciate the opportunity to come and share our experience with you today.

[Written statement of Secretary Roger Werholtz follows:]

Kathleen Sebelius, Governor
Roger Werholtz, Secretary
www.dc.state.ks.us

Statement by
Secretary Roger Werholtz
Kansas Department of Corrections

Hearing on
Justice Reinvestment

April 1, 2009

Commerce, Justice, Science, and Related Agencies
Appropriations Subcommittee
U.S. House of Representatives

Chairman Mollohan, Ranking Member Wolf, and Members of the subcommittee:

Thank you for the opportunity to speak to you about the work we have been doing in Kansas regarding Risk Reduction, offender reentry and justice reinvestment. When you come to Kansas and speak with an employee of the Kansas Department of Corrections, somewhere in that conversation you will most likely hear us say that our role is to make Kansas a safer place to live, work and raise our families. Our vision statement is: "A safer Kansas through effective correctional services." That seemingly straightforward statement, however, is not as simple as it would first appear to most of us. Back home, we can all agree that we want a safer state. Where we sometimes disagree is how best to get to that goal, and what constitutes effective correctional services.

Let me tell you first why you or your staff may want to examine the rest of the information provided in this written testimony. With the help of many, many people and organizations, we have been able to achieve some things of which we are very proud and which have been of great benefit to our state. We have been able to shrink our prison population from its historic high in 2004 by 7.5%. We have reduced our monthly parole revocation rates from their 2003 levels by 48%. Our facilities report that inmates grievances have declined from their 2004 levels by 36%. Our special enforcement officers indicate that parole absconders have declined by 70%

from their historic highs. Most importantly, the reconviction rates for parolees has been reduced. If all of these other reductions had been achieved by simply ignoring negative offender behavior we would have accomplished little of value and we would certainly have not made Kansas safer. But, when we compared the reconviction rates from felonies committed by parolees under our supervision we saw a 35% reduction when compared to the period before we began our risk reduction efforts. I can think of no better measure for making my state safer than that statistic. What follows is a detailed description of how we got to these numbers.

In 2003 and 2004 we began to have that discussion internally within our agency and externally with the Kansas legislature; with various stakeholders such as victims groups, prosecutors, law enforcement, city and county officials, editorial boards, and citizens at large. We started out by looking at the strategies we used to make our state as safe as possible and the data that would indicate how well we were performing. We also looked at what was established in statute to see what direction that gave. What we learned is that conflicting strategies have been prescribed over time which should not be surprising since the debate in this country over the best way to respond to crime has swung back and forth between varying theories in the last hundred years. If one looks at the statutes that created the Kansas Department of Corrections, it is clear that our primary purpose is to rehabilitate offenders placed in the custody of the Secretary and return them to the community at soon as possible with an expectation that they will successfully reintegrate into our communities. If one looks at our sentencing statutes, one would conclude that the purpose of the Department of Corrections is to confine offenders for a prescribed period of time with maximum emphasis on incapacitation and "just desserts." When talking with the various stakeholders inside and outside the system, one would hear responses all across the spectrum regarding what our methods and tactics should be and how our performance should be judged.

As we worked through this systematic self examination, we began to characterize our role in making Kansas safer as a two pronged approach labeled "risk management." Within that approach were two distinct strategies which we labeled "risk containment" and "risk reduction." Containment strategy most simply stated is that an offender will be confined in the least restrictive setting necessary to prevent that individual from harming members of the community. The risk to the public posed by a given offender is contained within the confinement setting until that individual is released from that setting. Risk reduction strategy attempts to reduce the probability that an offender will harm a member of the public regardless of the environment in which the offender is found. Risk reduction acknowledges that most incarcerated offenders return to our communities, and the focus of risk reduction is to minimize them amount and level of harm those returning offenders create when they inevitably return.

Another way to think of this is to think about what a department of corrections like mine is most frequently criticized. Typically we are called to task for three things: cost, escapes, and what offenders do after they are released. We decided to try to establish some performance measures for the latter two dimensions since operating costs are pretty simple to assess. When looking at our containment operations we decided to measure how likely a citizen is to be

physically harmed by a Kansas prison inmate and what we could do to improve upon our level of performance. If one simply divides the average daily Kansas prison population by the number of escapes and walkaways we experience annually, we found that the probability of a Kansas inmate leaving a Kansas prison and physically harming a citizen was less than 0.0098%. It was pretty easy to conclude that we are pretty good at this side of the corrections business, and no matter how much harder we tried or how many more resources we invested, it would be very difficult to raise our level of performance.

On the other hand, in 2003 we were returning parolees to prison once they were released at a rate of 55% or more over a five year follow up period. If we were going to make Kansas safer, this is the area that offered the greatest opportunity. We made a commitment to improve our agency's level of performance in this area while not reducing our level of performance along the risk containment dimension. We began this effort by looking at the correctional research literature to identify those tools and practices that had shown the greatest sustained impact on reducing the probability that someone released from prison would return to prison or re-offend. Much of this information is referred to as the "what works" literature. We received help from a large number of local, state and national partners including the Council of State Governments, the National Institute of Corrections, the Center for Effective Public Policy, the Pew Center, and the JEHT Foundation to name just a few.

Based on what we learned, we took this information to the Kansas legislature and in appearances before our budget and judiciary committees, we requested that they formally endorse these strategies and we asked them to judge our performance on a set of criteria that included reduction if revocation, absconding and re-offense rates. We also asked them (and this was critical) not to judge us on individual events, but rather on our ability to change trends. Given the population with which we work, we are unable to offer absolute guarantees of safety. We told the committees that some of the people under our supervision would re-offend and some of them would hurt people again, sometimes very seriously. We asked them to evaluate us on our ability to reduce the frequency with which those events occur. The committees all agreed and have held to that commitment for five years now. The importance of that should not be underestimated. When a tragedy occurs precipitated by the actions of an offender under supervision, the first response of the media, politicians and the public is to blame the probation or parole officer supervising that offender. On some occasions, that blame may be justified, but most often in my experience, it is unrealistic to expect a probation or parole officer to accurately predict criminal behavior and be able to intervene to stop a crime from occurring. Too often, officers avoid the risk of that criticism by simply responding to every violation of release with a revocation, i.e. returning the offender to prison. The individual officer is rarely, if ever, criticized by the those outside his/her agency for taking such an action even though the result of that type of response is to actually increase the probability that that the offender will reengage in criminal activity.

With the broad based support of the legislature coupled with endorsements from Governor Kathleen Sebelius and Senator Sam Brownback, we began a massive skills development and training/retraining effort to equip personnel with the necessary skills and tools to make data

driven and informed decisions about which offenders to target for the highest levels of supervision and treatment, what issues those interventions should target, and how those interventions and supervision should be delivered. Most position descriptions within the department were rewritten to reflect the skills required to do this work, interview questions and selection criteria were changed to emphasize what it would take to succeed as an employee of this agency, and performance evaluations were restructured to take into account the new skills needed and the new expectations put in place for those positions. And staff are periodically tested for proficiency. Just as corrections officers need to do periodic weapons qualification, parole officers and corrections counselors need to be able to accurately assess an offender on the LSI-R risk assessment instrument. All staff learned new skills based on their particular jobs that were geared to reinforcing the risk reduction side of our mission with the goal of becoming as good at risk reduction as we are at risk containment.

In 2007 the Kansas prison population was still projected to grow quite dramatically because of the high level of probation revocations (these are offenders supervised by local community corrections and court services programs). Estimates and analysis conducted by the Council of State Governments for the Department of Corrections and the Kansas legislature predicted that the state would have to expend an additional $500 million dollars above the current FY 2007 levels to construct and operate the additional prison space projected to be needed over the coming decade. For a state with the population of Kansas this would comprise a huge investment of state resources. The legislature, after seeing the preliminary results of the work being done with parolees, chose instead to create an incentive for locally operated community corrections programs to employ the same risk reduction strategies that had been in place for parolees for a couple of years with the idea of reducing or flattening the rate of growth projected for the prison population.

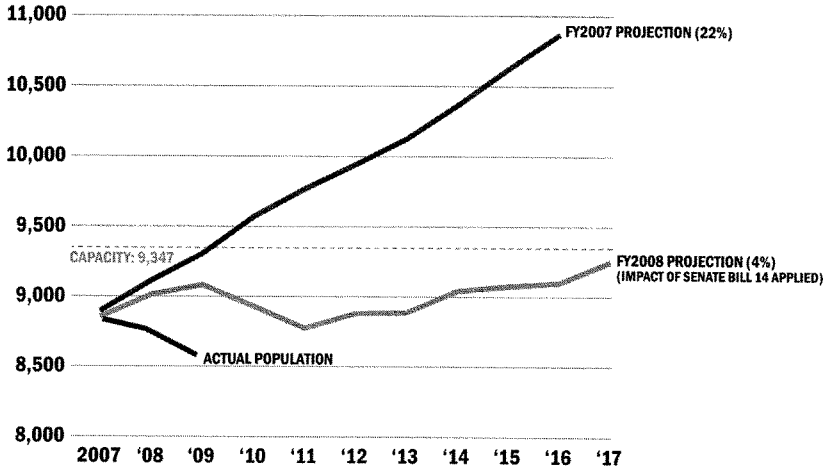
The 2007 legislature passed SB 14 which provided an additional $4 million dollars to the roughly $15.5 million in support already provided to local community corrections programs through operating grants administered through the Department of Corrections. However, the legislature also created an expectation that programs receiving the additional funding reduce their revocations by 20% within two years from their FY 2006 levels. The Department of Corrections was given the latitude to distribute those funds, and we required that each program identify who their high risk population was, how they would use the additional money to address those risks, and what the research was to support the validity of the services and interventions they proposed to put in place. The programs actually achieved the 20% reduction within one year and exceeded it in the second year.

SB 14 also created incentives for prison inmates to participate in treatment and education programs that addressed their specific risk issues by providing the opportunity to earn additional sentence reductions or "good time" for successful completion of the specified programming. It also increased the amount of good time that could be earned by certain lower level offenders. The Council of State Governments, in an estimate prepared for the Kansas Legislature, estimates SB 14 will allow the state to avoid about $80.2 million in additional costs over five years.

Kansas has not been immune to the severe economic downturn we have experienced in the least year. We are concerned that some of what has been put in place to achieve these outcomes will be lost, at least for a period of time. But what we are also certain of is that the reductions we are having to make now would have had a much more severe impact on public safety had we not taken these steps in the last six years. We were able to close three small prison units and a cell house at a fourth that will save us over $4 million annually. We are optimistic that the skills acquired by our staff and our partners as part of this process will help mitigate some of the adverse impact of losing so many treatment and education resources. We are hopeful that when the economic recovery comes, we can use our experiences as a roadmap to rebuild our system even stronger and achieve both our risk containment and risk reduction goals.

KANSAS

KANSAS PROJECTED PRISON POPULATION (FY2007 & FY2008)

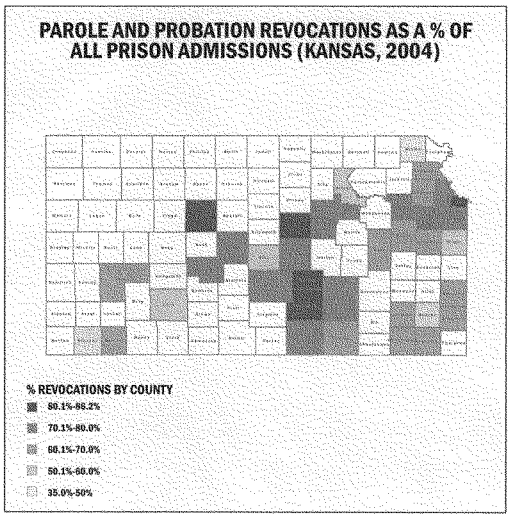


PRISON POPULATION:
DOWN 7.5% FROM 2004

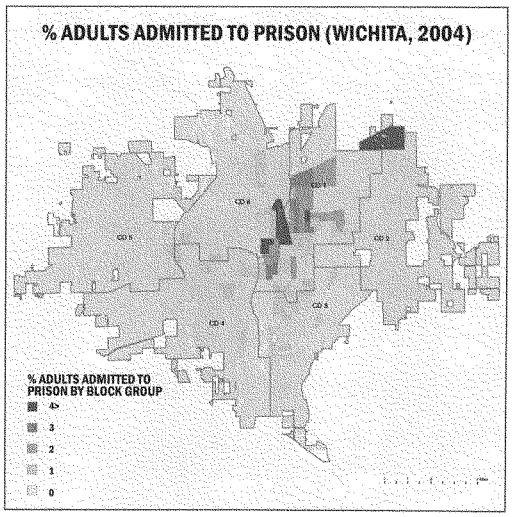
PAROLE REVOCATION RATE:
DOWN 48% FROM 2003

PAROLE ABSCONDERS:
DOWN 70% FROM 2000

PAROLE RECONVICTION RATE:
DOWN 35% FROM 1998-2000 AVERAGE
TO 2004-2007 AVERAGE



Parole and probation revocations accounted for more than half of all prison admissions from each of 34 Kansas counties.



One third of the city's prison admissions come from Wichita's 1st city council district at a cost of over $11 million, half of which, $5.5 Million, was for parole and probation revocations alone.

Map Produced by The Justice Mapping Center with the Spatial Information Design Lab, GSAPP, Columbia University
Data Source: Kansas Department of Corrections, Prison Admissions, 2004

Mr. MOLLOHAN. Thank you, Mr. Werholtz. Mr. Madden.

MR. MADDEN OPENING STATEMENT

Mr. MADDEN. Thank you, Mr. Chairman, Ranking Member Wolf, members of the Subcommittee. I am pleased to be here today to talk a little bit about what Texas has done in Justice Reinvestment. Our strategies, which really did work across party lines in a bipartisan manner, to reduce recidivism and increase our public safety, and particularly to help our Texas taxpayers.

I got started in this, I was chosen Chairman of the Corrections Committee in 2005. And was given the instruction, basically, to look at the cost of prisons, because they cost a lot to build. I started looking at them, okay, if we are not going to build new prisons what can we do? What differences can we make in this whole system? I am neither a lawyer, nor anybody that has been in the criminal justice system, and I do not even have a prison in my district. But I had the challenge that was there. And I heard some things from people in my district. Because you would ask them, "Well, who is in prison?" I have 157,000 prisoners in the State of Texas. It matches pretty closely to the federal system, you know, the federal prisons. We have 112 prisons. The 2,000 prisoners Roger was talking about, that is about a two-week input in the State of Texas' system, to put it in the scales of what we are dealing with.

But how do we make those differences? Because what the people were telling me is, and I got real quickly was that there were two types of prisoners we had. There were the really bad guys that really ought to be locked up for a long time, and then there were the others that we were mad at. That they had done something in violation of the law that hurt some people. That, you know, made them mad, but would not have that much effect on them.

And I started asking the question of people out there in my district, and I am a conservative Republican. I started asking them where, you know, who are these guys that are out there? How many of you have family members that were or are in the prison system, or involved in the drug programs? How many of you went to school with somebody that you know? And how many of you did, have grown up with or grown up playing sports in this community, or had people you worked with, in that category? And where they really bad guys? Or were they people who had made mistakes and deserved those kinds of second chances?

And I will tell you, yes, we certainly ran into some that were really bad guys. But the vast majority of them said, you know, they had some pretty good redeeming qualities. They just made some terrible mistakes. And what can we do? What are the differences that we can make?

So we started looking at, Texas has a history of spending lots of money on building prisons. As I said, I have got 157,000 prisoners right now. The 112 facilities that we have out there we spent over, almost $2.5 billion in twenty years to expand our prisons. And we went into the 207 legislative session with a projection that we were going to have to build about 17,000 new prison beds by the year 2012. And that we had in our budget projection, in our budget that we had prepared by the governor, we had three new prisons costing

just under $600 million would be the additional cost of building those prisons to hold the first wave of those 17,000.

I worked closely with a lot of people. This was more of a legislative thing that we looked than it was coming in from the Governor, or coming from the prison system itself, but coming totally within the legislature. And I worked very closely with my compadre in the Texas Senate, Senator John Whitmire, who is a Democrat. He is the Chairman of the Senate Criminal Justice Committee. And we did a lot of, we requested a lot of technical assistance, particularly anything we could get from the Council of State Governments and their Justice Center, to get us the information on what works. What can we do? If I am going to control the prison population I have got to do one of two things. I have either got to keep people from coming back in, or I have got to stop them from coming in the door in the first place.

And so, what are the programs? What do those things that we found, and at our request they conducted an analysis of the state prison population and identified several key factors that drove the growth. Low rates of parole, high rates of recidivism, and a shortage of treatment programs and capacity. It was not so much that we did not have treatment programs. It was that we did not have the capacity in them to handle them.

We started looking at the type of prisoners we have in the State of Texas. 5,500 of those 157,000 that I have are there for repetitive DWIs, and we do not take them obviously for first and second ones. They are there at least three, four, fifth, sixth, DWIs. They are habitual drinkers. And we had over 50,000 that were drug offenders. Most of them nonviolent first-time offenders. We incarcerated large numbers of people with mental illness, mental health problems. We are the dumping grounds for the mental health system.

Before the end of the 2007 session we in the Texas Legislature enacted a package of criminal justice reforms that looked at the whole process. We looked at the parole process. We looked at the probation process. We looked at what happened to the people in prison. And to be honest, I looked way back in learning how to break that cycle. And then doing the things we did, we put in 800 new beds and residential treatment for people on probation, supervision with substance abuse needs. We opened up 3,000 slots for outpatient substance abuse treatment for people on probation. Or we put 1,400 beds in intermediate sanction facilities to divert probation and parole technical violators from coming back to prison.

And one of the things we found out was people ended up in prison not because of another offense, but because of either a technical violation of probation or parole. Which in most cases meant dirty urinalysis. In most cases they were not sent there just because they had another offense. Those were sent for other, those were clearly identified to us as repeat offenders of some other type. But they were just technical violators. They had not shown up for meetings. Usually a compound number of those things that had happened to them.

We had 300 new beds in halfway house facilities for people under parole supervision. We put 500 new beds in a facility for our in prison treatment unit targeting these DWI people. So we expanded the capabilities we had there from 500 to 1,000 beds that we could

treat these DWI offenders. Because we found out in our system there were people actually coming in and they were alcoholics, and they were not even getting our DWI program. They got back out, and guess what? They came back in the door. Because there had been no treatment program that had been actually put into those people.

We had the same thing for substance abusers. We found out that some of them were not getting in a timely manner the substance abuse programs that they had. That is why we put in 1,500 new beds in a prison for intensive substance abuse treatment programs. And we put in 1,200 slots for intensive substance abuse programs in the state jail system. Our state jail system takes our lesser offenders.

A portion of these savings were reinvested in strategies to improve the outcome. So I looked at things that break the chain, and we looked at a program called the Nurse-Family Partnership. And I would highly advise any of the members here to take a good look at a program that has the history and the background and the statistics that it really works, and has a difference not just in criminal justice and not just in family violence. But it does help in schools, and it does help programs for mothering. It is a tremendous program.

Since the enactment of these new policies our crime rates are down, revocations are down, and our prison population is stable. I am going to use one of the quick charts here, guys, I actually ran up, which is this one right here which is the Texas prison population and what has happened to it since we did those things.

[Chart]

Mr. MADDEN. The top line, the red line, is the projection. The blue line is what happened. And we can now say for certain that what we did, and the things we have done, in all of those areas, have led to the point where we capped out at about $156,000 prisoners and we are down to somewhere about $154,500 right now because of the things we have done. And we have a projection from our Legislative Budget Board, which is our people that make the projections for us, that indicated to us clearly that in the next seven years we will not have to build one new prison bed in the State of Texas because of what we have done. So what I am saying is, the strategy does work and it works well.

[Written statement of Representative Jerry Madden follows:]

Statement by
Representative Jerry Madden
Texas House of Representatives

Hearing on
Justice Reinvestment

April 1, 2009

Commerce, Justice, Science, and Related Agencies
Appropriations Subcommittee
U.S. House of Representatives

Chairman Mollohan, Ranking Member Wolf, and Members of the Subcommittee, I am pleased to be with you today to discuss how Texas employed a "justice reinvestment" strategy and worked across party lines to reduce recidivism, increase public safety, and help Texas taxpayers get a better return on their investment in the criminal justice system.

Texas has some of the most punitive criminal justice laws in the nation. During the 1980s and 1990s, the Texas legislature enacted tough, new criminal laws which increased the incarceration rate in Texas. Texas became one of the largest prison systems in the nation. So big, in fact, that the size of our prison system roughly approximated the size of the ***entire*** federal prison system.

Between 1985 and 2005, the state prison population grew 300 percent. Texas spent $2.3 billion to add 108,000 prison beds. And yet, in spite of these expenditures, Texas prisons were overcrowded again ten years later. The prison population exceeded capacity by 3,000 persons and correctional facilities were critically understaffed -- placing the safety of staff and inmates at risk of serious harm. In 2007, an official state projection estimated that an additional 17,000 prisoners would be added to the system within five years. To accommodate this increase Texas would need to build three new prisons immediately and three or four more over the next four years.

My colleagues and I were faced with this overcrowding crisis and few viable options. At the start of the 2007 legislative session, we were faced with the prospect of spending $523 million to build and operate additional prisons in the 2008 and 2009 fiscal biennium.

In the face of this crisis, the legislature pulled together and worked across party lines to implement a justice reinvestment strategy. Little did we know at the time that we were at the front of a "Justice Reinvestment" movement that has now spread from state to state. The strategy is based on a data-driven reexamination of each part of the corrections system, and a careful cost-benefit analysis of corrections expenditures.

At the heart of this new strategy, is a simple but critical question – "what is the most effective way to spend limited resources in order to protect and improve public safety?" We answered that question, made the tough choices, and implemented a new and effective program that protects the public and minimizes expenditures.

Working closely with my Democratic counterpart in the Texas Senate, Senator John Whitmire, Chair of the Senate Criminal Justice Committee, we requested intensive technical assistance from the Council of State Governments Justice Center ("Justice Center"). The Justice Center is a national nonprofit organization that serves federal, state, and local governments from all three branches by providing practical, nonpartisan, and evidence-based advice to increase public safety and strengthen communities.

At our request, the Justice Center conducted analyses of the state prison population and identified the key factors driving growth in our prison population:

- **Increased probation revocations**. Between 1997 and 2006, the number of people revoked from probation and sent to prison increased 18 percent, despite a 3 percent decline in the probation population.
- **Reduced capacity of residential treatment programs serving people on probation and parole**. Reductions in funding for community-based substance abuse and mental health services during the 2003 legislative session forced the closure of various treatment programs and facilities. By 2006, more than 2,000 individuals were awaiting placement in such programs and facilities.
- **Fewer approvals for parole.** Parole grant rates were lower than even those suggested by the parole board's own guidelines. For example, had the parole board adhered to its minimum approval rates for low risk individuals, an additional 2,252 releases would have been made from prison to community supervision in 2005.

The analysis also showed that our correctional system was overwhelmed by prisoners who could receive alternative treatment to incarceration, which would result in significant cost savings to the public, and preserve precious resources for the incarceration of dangerous, violent offenders. Specifically, we learned that we have approximately 5,500 prisoners in Texas who have been convicted of multiple DWIs; over 50,000 drug offenders, most of whom are non-violent or first-time offenders; and we incarcerate large numbers of mentally ill offenders who would be better served in community mental health facilities.

Before the end of the 2007 legislative session the Texas Legislature enacted a package of criminal justice policies designed to prevent the predicted growth in the prison population and save $443 million. To improve success rates of people under supervision, we reinvested $241 million to expand the capacity of substance abuse and mental health community-based treatment and diversion programs, and enacted parole reforms to enhance the use of parole for low-risk offenders.

The expansion of treatment and diversion programs included:

- 800 new beds in a residential program for people on probation supervision with substance abuse needs;
- 3,000 slots for outpatient substance abuse treatment for people on probation supervision;
- 1,400 new beds in intermediate sanction facilities to divert probation and parole technical violators from prison;
- 300 new beds in halfway house facilities for people under parole supervision;
- 500 new beds in a new facility for an in-prison treatment unit targeting people with DWI offenses;
- 1,500 new beds for an in-prison intensive substance abuse treatment program; and
- 1,200 slots for intensive substance abuse treatment programs in the state jail system.

The new policies also enhanced parole and probation policies and procedures by:

- establishing a maximum limit for parole caseloads to ensure adequate supervision;
- probation terms for drug and property offenders were reduced from a maximum of 10 years to being reviewed after a maximum of five years to ensure that they receive treatment and supervision during the years when research studies show that they are more likely to re-offend;
- establishing incentives for counties that create progressive sanctioning models for probation officers to respond effectively to violations of supervision; and
- expanding drug courts and other specialty courts to place offenders who committed minor crimes in treatment programs that will reduce their likelihood to re-offend.

The Texas justice reinvestment strategy resulted in an immediate savings of $210.5 million for fiscal years 2008 and 2009. A portion of those savings were then reinvested in strategies to improve outcomes for low-income children and families in Texas through the Nurse-Family Partnerships (NFP) program, a nationally recognized model that pairs nurses with first-time, low-income mothers during the child's first two years. This program– which will provide services to 2,000 families in high risk communities throughout the state – is designed to increase self-sufficiency, improve the health and well-being of low-income families, and prevent violence. In fiscal year 2009, the legislature will appropriate $5.8 million to provide continued support to the NFP program.

Since the enactment of the new policies and programs, appreciable declines have been recorded in the number of revocations to prison and the growth in the prison population.

- Between 2006 and 2008, probation revocations to prison declined by 4 percent and parole revocations to prison plummeted 25 percent. During this same period, the parole board's rate of approvals for supervised releases rose from 26 percent to 29 percent. The decrease in revocations is a clear indication that we have made marked improvement in the reentry of people released from prison.

- The prison population has not only held steady, but declined slightly. Despite an official state projection released in 2007 that estimated a total population of 160,126 by September 2008, the actual population for that month was 155,459. At the same time, recidivism and crime rates appear to have fallen.

- Although the state's nonpartisan Legislative Budget Board projected in 2007, before the application of the justice reinvestment strategy, that the prison population would grow by approximately 17,000 people over five years, it now projects relatively minimal growth. No shortfall in capacity is predicted until 2013, when the system may need approximately 1,300 beds.

The Texas "justice reinvestment" policies were a dramatic turn in Texas' criminal justice policies. The state legislature is committed to ensuring accountability and the continued success of these new measures. The legislature has established the Criminal Justice Legislative Oversight Committee to monitor and evaluate the implementation of the new policies and programs and to evaluate their impact on state prison populations.

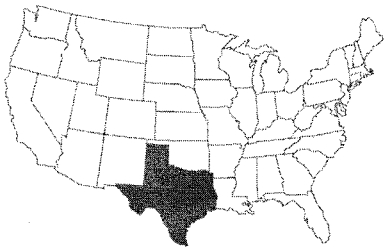
I appreciate the opportunity to inform the Subcommittee of the need for additional resources to expand the justice reinvestment strategy so that every state, and even the federal system, can reexamine criminal

justice policies in a fair and objective way in order to improve public safety and reduce correctional costs. Our programs have made Texas a shining example of what can be done to make our citizens safer and what can be done to make our systems smarter. We are in the process of sharply turning the ship, so that we continue focusing on the serious, violent offenders while providing treatment needs to those who will return to our communities. We are offering these individuals a real chance to return to society as productive citizens -- creating safer communities.

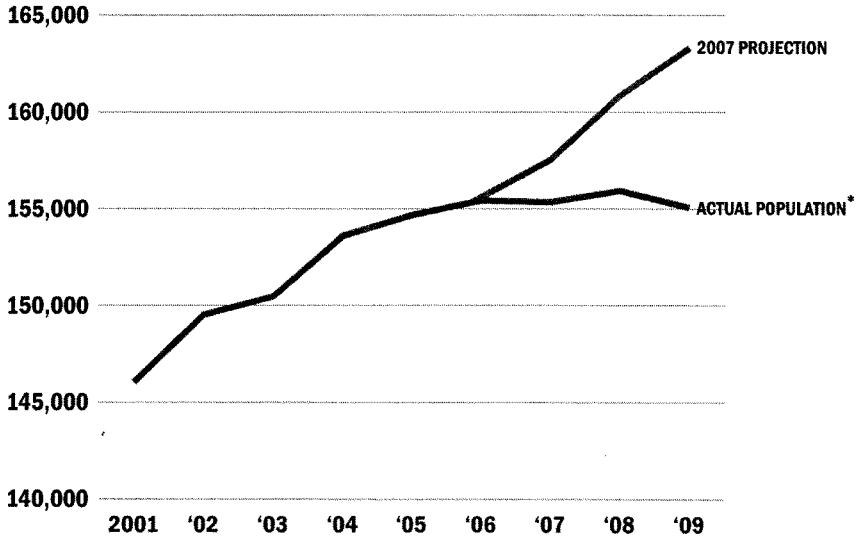
The need for federal support in the states is high and I urge the Subcommittee to consider expanding this program to assist states to reduce correctional costs and improve public safety. It is easy to see that we are at a critical turning point in criminal justice policies – one that will hopefully result in smart and tough policies to protect the public. States need funds to conduct a correctional system review, they need funds to expand on effective resources, and they need funds to make sure that dangerous criminals are incarcerated and nonviolent prisoners are given the opportunity to re-enter society and be productive members of each and every community. The federal government has a leadership role to play in this process, and I urge you to do so.

I would like to thank Chairman Mollohan, Ranking Member Wolf, and the Members of the Subcommittee for allowing me this opportunity to share what we have done in the Lone Star State. Ten years from now, I expect that we will look back and realize that these policies marked the most significant redirection in Texas' criminal justice policy history and that we have been all the safer for them.

TEXAS



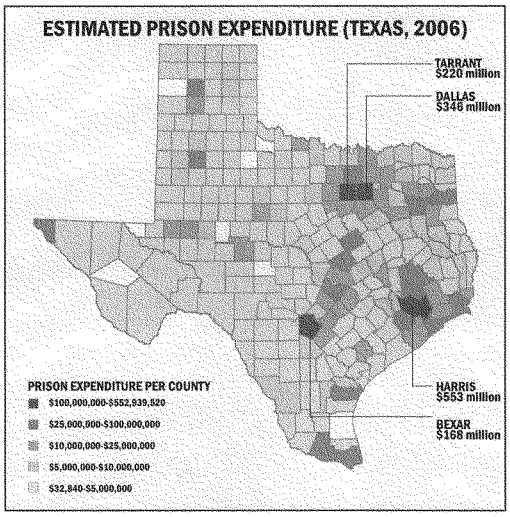
TEXAS PROJECTED PRISON POPULATION



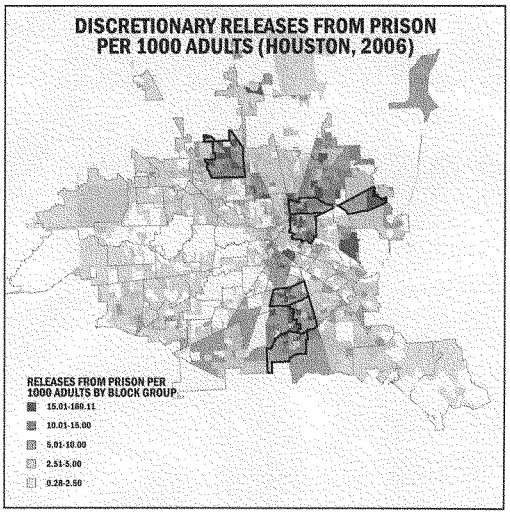
*PROJECTED TDCJ POPULATION FOR DECEMBER 2009 FROM THE MOST RECENT PROJECTION (JANUARY 2009, LBB)

PAROLE REVOCATIONS TO PRISON: DOWN 25% FROM 2006

PROBATION REVOCATIONS TO PRISON: DOWN 4% FROM 2006



The four highest reentry population counties in Texas account for over $1 billion a year in incarceration costs.



Seven neighborhoods account for 25% of Houston's returning prison population but only 5% of its total population.

Map Produced by The Justice Mapping Center with the Spatial Information Design Lab, GSAPP, Columbia University
Data Source: Texas Department of Criminal Justice, Prison Releases, 2005

Mr. MOLLOHAN. Thank you, Mr. Madden.

Mr. MADDEN. Thank you, Mr. Chairman.

Mr. MOLLOHAN. Well, it is all very impressive testimony. Going back to that chart, just before I get into questioning.

Mr. MADDEN. I hope the Committee was provided——

Mr. MOLLOHAN. Well, we would like to have a copy of it for the record.

Mr. MADDEN. Absolutely.

Mr. MOLLOHAN. Because I am going to ask you questions on it for the record, and it would probably be hard for the record——

Mr. MADDEN. By the way, Kansas is down here someplace, down here. And their numbers will be down here.

Mr. MOLLOHAN. I am sorry?

Mr. MADDEN. Kansas' numbers will be somewhere down here on the chart.

Mr. MOLLOHAN. I see. Well, it is all relative, is it not?

Mr. MADDEN. It is. It is.

Mr. MOLLOHAN. Where on this chart did you enact the legislative initiative that——

Mr. MADDEN. The budget things we did were in our 2007 legislative session. It went into effect, most of them I think went into effect in September 2007.

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Some of them started a little earlier, because we were working with the Texas Department of Criminal Justice all along. They knew we could do some things on probation and things that they could have done, so we were working as fast as we can with those guys.

Mr. MOLLOHAN. It is a very impressive line. What you have actually done is leveled off the population, you kept it from growing.

Mr. MADDEN. We have actually seen about a 1,500 prisoner reduction.

Mr. MOLLOHAN. There has been a bit of a reduction, you can see. That is very impressive.

Let me ask you gentlemen, each of you. One of the premises for reform which is particularly appealing to some, those who are deficit hawks, is that these kinds of initiatives save money. And I heard at least two witnesses testify that because of the fiscal condition that states find themselves in, that you have had to curtail this initiative. Well, if these initiatives, these anti-recidivism initiatives, actually save money, why would states choose not to pursue them, particularly in a declining budget? Mr. Thompson, why do you not start.

Mr. THOMPSON. No, it is a puzzling situation. We feel you cannot put a price on public safety.

Mr. MADDEN. You cannot put a price on public safety. We want to make sure that we are maximizing public safety with the options that we are talking about. But we do think that you can spend less and get a better public safety outcome in a lot of these instances. And you are absolutely, there are these, targeting resources in a correct, and smart sort of way you can actually get a better outcome in crime. So why are states not doing it?

There are really two reasons. And it is back to my image of, I gave Wisconsin as an example, it is a billion dollar agency and they have no research capacity whatsoever. It has all been eliminated. And what they know with their prison population, it is growing very quickly. And there is a rush to figure out a way to make sure that they have the additional capacity to house those prisoners. And the only way they can find the money to increase the prison capacity is essentially to strip whatever funding existed from efforts that were based on the community and the supervision. And it is an ironic and troubling situation. But in the absence of any good hard data and information, that is exactly what policy makers end up doing.

Mr. MOLLOHAN. So they need to know.

Mr. MADDEN. That is right.

Mr. MOLLOHAN. I mean, there needs to be a real communication. Are you satisfied that in fact that premise is accurate? That there are savings and that they are quantifiable?

Mr. MADDEN. Yes I think that we have the two terrific examples here where Kansas has literally averted, you know, over the ten years Secretary Werholtz was talking about a $500 million savings. And in the case of Texas, $800 million in savings in terms of the construction plans they were looking at.

Mr. MOLLOHAN. Secretary Werholtz.

CLOSE PRISONS

Mr. WERHOLTZ. Let me talk about our experience for a minute. The cuts that we had to take would have been worse had we not engaged in this effort. I was able to close three small prisons because we did not need the beds, and close a cell house, a major cell house, in a fourth prison and take, I do not want to try to do the math in my head, but take a significant number of beds offline because they were not needed. In my explanation to our legislature about the cuts that we were recommending, those were the ones that I testified were the only cuts that I could recommend that would not have some adverse impact on public safety.

I do not have the statutory authority to release prisoners. So if I am required to house the population that I am dealt, I have got two choices. I either seriously overcrowd what prisons I keep on line and try to close some larger ones down. That puts my staff at risk. It puts the offenders who reside in those facilities at greater risk. It increases the probability of us being unable to contain the population as well as we do.

The other alternative is to start to undo some of those things. In fact, there was an editorial that was run in one of our major papers in our state today where the editor had asked me, "Is this not a penny wise, pound foolish proposition?" And I had to admit that yes, it was.

Mr. MOLLOHAN. What was the proposition exactly?

Mr. WERHOLTZ. Well, that we start to systematically undo some of these things that in the long run are likely to increase the prison population. Produce less favorable public safety results and increase the expenses. It was what, I guess, we considered the least onerous of a number of bad choices. My hope is, and what our testimony has been in hearing with our budget committees, is that I

hope when the economy turns around we remember what we did so we can start to put those things back in place when the resources are there to do it.

The other thing that I would say is that while some of the treatment and education options, and housing options, are going away in our state temporarily, the skills that we infused into our staff we hope will remain. And the partnerships that we have built with other organizations at the state and local levels we hope will remain. And what I think we are going to learn in this state is whether it is the way we work with offenders that is most important, or whether it is all of the tool that we have available to provide for them that is most important in contributing to public safety. I firmly believe both are important. But I am hopeful that the skills that our staff have acquired over the last few years and the partnerships that we have built will mitigate the loss of some of these really important resources.

Mr. MOLLOHAN. Representative Madden.

Mr. MADDEN. Thank you, Mr. Chairman. In Texas' situation we are still in our budget cycle right now. We are still in session right now and we are going for another seventy-some days and our budgets are still being worked on at the present time. I am fairly optimistic that the money that we put in in the last session is actually going to stay. We have had support from the Governor's Office. We have had great support from the legislative leadership in doing the things that we have done. And I am very optimistic that most of those programs will in fact stay in the budget.

Mr. MOLLOHAN. Can you make arguments to our colleagues that if you stay the course that you will save money?

Mr. MADDEN. Absolutely. We are obviously on that path and we are beginning to get the statistics to show that. They know the difference now that we did not spend in the $600 million for the new prisons. We all recognize the fact that what we have done, and that the programs seem to be working. Our crime rate is down. Texas has the advantage of being big, and it has a lot of statistics, a lot of numbers that we can go on. And when we look at the numbers we clearly have a recidivism rate that appears to be improving. That we have the programs that appear to be working, particularly in things like our drug courts. They are really, we have got enough testimony out there from people that say these are really working.

And we spend $50 a day for each prisoner that we put in the prison. So if I just cut 1,000 prisoners, that is $50,000 a day that we are not spending on the prison system in Texas. And I think my colleagues, the message came across very loud and clear. We were both being smart, and we were being tough on crime. We are putting the people in prison that need to be, but putting other people where they needed to be also.

Mr. MOLLOHAN. These incarcerated individuals that you are releasing, is the state incurring a cost in pre-release treatment?

Mr. MADDEN. The state has put money into these alcoholic and drug treatment programs. We are obviously, that has an expense to us. That was part of the $247 million that we added into the budget.

Mr. MOLLOHAN. So it is still a savings overall?

Mr. MADDEN. Absolutely. A substantial savings, over $600 million, in new prisons. And the fact that we would have had to add that many more guards when we have, obviously, a shortage of guards.

JUSTICE CENTER PARTNERS WITH STATES

Mr. MOLLOHAN. Mr. Thompson, can you describe the process through which the Justice Center partners with states?

Mr. THOMPSON. Yes. For us to be engaged in a state we need to get a written letter of request from the governor, from the legislative leadership, the speaker, senate president, chief justice. And then we sit down with them and we ask several questions. Is the state willing to work in a bipartisan way to begin to analyze the situation? I should add to that, are they willing to work with the local government stakeholders who play such a key role in what is happening in their criminal justice system? And then we also look to determine whether they will provide us with access to all the information systems that we need. There is a lot of information that is often sort of sloshing around in state government. But they just have not been able to actually look at it, analyze it, etcetera. And we are going to need access to all of those different information that are housed in the multiple agencies. And then we need a commitment that they are actually going to use this information in a constructive way. We do not want to get involved in a situation where we become a political football. So once a state can demonstrate adherence to all of that criteria, and then I should also add that they will also take a financial stake. We look for them to cover some of the costs that are associated with this.

Mr. MOLLOHAN. Thank you. Mr. Wolf.

Mr. WOLF. Thank you, Mr. Chairman. And Mr. Chairman, I want to thank you for the hearings. I think they have been very good. I think it is the most extensive since I have worked in this institution, that there has been so much time spent.

Also, Mr. Werholtz, if you vote for Sam Brownback for Governor you will have one of the finest guys that I know. Because he cares deeply. I mean, I have traveled with Sam on a number of occasions and he really cares deeply about these issues. And so it is not a partisan issue.

Also, I think all of you covered, I wanted to ask, but before I do is, I thank whatever is done really has to be so authentically, truly, bipartisan. And we have been talking about maybe putting together some sort of commission to look at things. And I am going to ask you if you have been in touch with Pew, I am going to ask you a little bit about that. But if you get a group of people that look at this who are either, you know, the prosecutor who says I am going to lock everybody up and throw away the key, or if you get the head of the ACLU, forget it. It is over. It is history. It is finished. It will never happen.

And I think, you know, I do not know what your background was, I do not know what you are, and I do not really want to know what they are. But I think if you can truly, if you could get a Chuck Colson who really understands these issues, and then get one of you men, or one of the three that were on the panel before, the gentleman from Michigan, and you had the Doe Fund. And

some people who really are not in this political business, and they are not so predictable that you know where they are.

I think there is a unique opportunity. I think we are coming to a storm economically, the figures that came out today, the unemployment rate. And I think there is a later report coming out this afternoon saying 25,000 state and local jobs are gone. And I am sure a lot are going to be prison jobs. So here is an opportunity to do something. So I do think it has to be so truly bipartisan that it stands the test no matter who comes at it.

The questions are several. One, I had asked before at the last hearing, and the Council of Government had somebody, and we have talked to the Pew people. Have you spoken to the Pew people about putting a conference on in the fall or something that really brings together the best minds? Where is that?

Mr. THOMPSON. Yes. We have spoken to The Pew Charitable Trusts. They are a key funder of ours. Actually, there is a representative from The Pew Charitable Trusts right here and——

Mr. WOLF. Who is that, just so I, okay.

Mr. THOMPSON. Jake Horowitz is here. And they would, well I do not want to speak for them, but I know there is a huge interest in having that conversation, about that meeting that you are talking about. And we just need to get dates and we will be meeting with your staff in a heartbeat to get that set up.

Mr. WOLF. Okay. I think, too, the same thing would hold true when you do that, that you have it, both sides, if you will. People who really understand, who are not trying to, you know, make a political statement one way or another. So that it carries credibility. And I think that the Chairman has had a great group of witnesses who can, you know, kind of participate.

The other thing is, is it not time, and maybe both of you two, I was going to ask you, what state is the best but I am not going to ask you that.

Mr. MADDEN. We would have divided counsel on that for you.

Mr. WOLF. Well, I think it is interesting. Kansas is different than, I mean, you have different areas and, you know, you have rural area, different types. And you have Wichita, where you have urban cities, you have Houston. But the combination is good. But do you think it is possible that if this conference works out well, that there can truly be a model law best practices, so that it stands the test of time. That any Secretary of Corrections who gets appointed will have a place to go. This is the best practices. This is the best practices on the issue of work. This is the best practices for the issue of faith. This is the best practice, I mean, can we establish, is there a model law, number one? But can we establish a model law and the best practices that can withstand the test from all different——

MODEL LAWS

Mr. MADDEN. I have got to tell you, when I was doing the things that we were doing, Mr. Wolf, I did not find a model law. Because each of the states were different. And each of our demands and needs were different than the other states. And I did go looking. I mean, obviously, there are organizations, from the National Conference of State Legislatures, that look at model laws. And we did

not find anything that says, "This is a cookie cutter that we should be using." There are great recommendations, though, that can be put into those. And it may be that it is needed, it just was not there to go grab hold of.

So we had to, at the stage, at least in Texas, invent what we thought was going to be the best practice. Now, we were fortunate. There a couple of groups out there. The Washington State people have a wonderful research group that does great data on many of the programs. And they do great comparisons. I would highly recommend that your staff look at what Washington State has provided.

We did also have the advantage that Texas had such a group until 2003. So we did have some of the statistics in Texas. And fortunately, some of that is now with the Council of State Governments with the Justice Center, that they are specifically doing some of those additional data items. So that they are there for us to get that kind of research that we needed. But we did not have all that to fall back on. So what we specifically did look at is, "Okay, look, those things we have in our state," say, "How are they working? What is the data that we have that shows whether they work or not?"

And we found that really the problem was not so much that there were not programs out there, that there were not things out there, that there just were not enough of them. That they were not being used in the right manner. You were right when you talked about the different groups that are out there. We were fortunate in Texas. In 2005 when I started doing some of these things, we looked at, "Well, what are these groups bringing in?" And, you know, when you come into these hearings you will hear from different groups from side, and different groups from the other, and their think tanks come in with all sorts of ideas.

Well, what I found when I got all sides in there, was that with the exception of a few things on the extremes, that they really breed in this area. That there are lots of those things that those people who were intelligent, thoughtful individuals agreed on. So between the 2005 and 2007 session that we had I actually pulled those people in the room and said, "You guys work on this probation bill. I have got to do a probation bill." It did not. It came one vote short. The Governor did not agree with it.

But we came back up, and we passed it with a lot of other things that we did. But I pulled them into the room and said, "Okay, you guys pull together." And ACLU was part of it, and so were some very conservative attorneys groups that said, "Okay, there were lots of things you guys agreed on when you talked to me about this. Sit down at the table and let us see what those are." And that is actually what we pulled together, was those things that actually they all, almost totally, agreed on. And so we were able to do that kind of thing like you talked about.

And you are absolutely right. It will become a point-counterpoint if you do not do it so that all sides have that place. But I will tell you, I have talked to both the conservative and liberal think tanks around the country. And in this particular area that is a lot of consensus on things that do work. Things that work in the way of drug treatment programs, things that work in the way of alcoholic

treatment programs, things that work in mental health. They can in fact make big differences in this whole structure for us.

Mr. WOLF. Well, should, and then maybe Mr. Werholtz, should there be if not a model law but a reservoir of knowledge and information on everything that, whether the Council of Government, that a new secretary can go to directly.

And that is the first, and to follow up it, and now both of you, I want to ask you, if Kansas was so progressive on it or whatever, and Texas, was this led by a bottom up? Or was there one or two individuals in each that say, you know, William Wilberforce, who abolished the slave trade, who worked on prison industries and reform in Great Britain, it was from a man, or a group of men and women, who got together. It kind of came back, so did Kansas come because of Texas? There were three or four people who felt this burden? Or did it just, how did it come about? One, tell me about the model, or having this one place that everyone can go to. And then, how did both of yours come about?

Mr. WERHOLTZ. Well, I agree with Representative Madden that there is no specific model piece of legislation. I think what was most helpful for us was that our policy leaders made a very explicit set of expectations for us.

Mr. WOLF. But what led them to do that?

Mr. WERHOLTZ. I think it is different in each state. I think in Kansas it probably was a bottom up movement to some degree. But there was also a coalition because that was, you know, something that Senator Brownback was working on at the national level. And maybe we met in the middle. I am not really sure I can tell you exactly how it evolved, but it did evolve. What was really helpful for us was both my Governor and my Senator saying to a group of legislators, and Senator Brownback said it most clearly, he said, "I want to see recidivism cut in half in this country in the next five years, and I want it to start in Kansas." Very simple, very straightforward.

If you look at the enabling legislation for my department, that would take you in one policy direction. If you look at the sentencing laws in my state, that would take you in a completely different direction. So the thing that Congress can do, the thing that state legislatures can do that does not cost a penny, is set a clear sense of direction and expectation. And resources are obviously necessary and very helpful. But it is that set of expectations that is most helpful.

There is no single model out there. But what I would say is set an expectation that says that whatever you do and whatever you invest in will be based on the best evidence that is out there of the strategies that work with offenders on the particular issue that you want to address. You know, we oftentimes will characterize things, that substance abuse treatment works. Well, sometimes it does and sometimes it does not. You have got to have the right model with the right people, implemented in the right way at the right time. And you have got to come back and monitor it constantly.

So a clear set of expectations on outcomes. Clear set of expectations on how resources will be invested. And then, this is a personal crusade I am on, but a way to collect the data and compare it across jurisdictions. You heard Mike talk about Wisconsin and

the fact that they have no research capability and no data. The information technology platform in my state is over thirty years old. The one in California is even older than that. The people that know how to program our platform are all retired. And frankly, are dying off. And, you know, the federal government has invested in a lot of criminal justice initiatives. The one that comes to mind is the VOI/TIS Initiative, Violent Offender Incarceration/Truth in Sentencing. That changed the direction of criminal justice policy in this country remarkably. And the federal government invested billions of dollars. For a much more modest investment I think you could modernize the information technology platforms in all the states across the country, collect uniform data, get a sense of what the results of your investment are, and provide policy makers and practitioners like myself the tools to make informed decisions.

Mr. WOLF. The last question is, what about the issue of faith? Prison Fellowship is in my district. I have gone into a number of prisons with them and without them. The men that I have spoken to, both with them and also when I have gone in by myself, faith has seemed to be, and I know there is one, or you have some prisons, you have one or two prisons in Texas that are heavily——

Mr. MADDEN. We have several.

Mr. WOLF. Can both of you talk about the impact of faith and religion?

FAITH AND RELIGION

Mr. WERHOLTZ. We have an IFI Program in our state as well, Inner Change Freedom Initiative. It is the Prison Fellowship, Chuck Colson program. We have over 800 volunteers who are primarily faith-based that come in to assist them, which at the size of ours that is one volunteer for every ten inmates. What the science says about faith is that finding God, in whatever way that you understand God, is probably not sufficient to turn that person's behavior around. But it may be the doorway through which that person walks to get all of the other resources that they need to stand a bona fide chance of making it in the real world. And if you look at, if you just look at an IFI Program, The Inner Change Program, you look, you do not listen to what is being said, you just watch what is going on, it is exactly the same process that you would find in a substance abuse therapeutic community. And what those faith-based programs often bring are all of the other resources that the person needs to survive: access to a job, access to housing, access to pro-social support groups, all of the other things that help people succeed. So from my point of view I do not care if it is a religious experience, an educational experience, an influential staff member. I do not care what it is that hooks that person and gets them motivated to change their behavior. But I need to be open to all of them because, again, going back to that principle of responsivity, each of us responds to something different. And you do not shut the door on something that lets people in.

Mr. MADDEN. And I am going to say I totally concur with what Roger just said. The faith-based units that we have in Texas also offer the followup for their people. When they are leaving prison they provide them with the mentoring, they do provide them with someone in the community that can support them. That is a major

part of any of the programs they have got. Because the critical steps are, yes, they may have found, you know, they may have found their religious target that they wanted to find. But what we have to do for them beyond that, I believe, is make sure when they, that somebody is there when they leave. That they have someone who does care about them, because there are many of them that are, in our prisons that have very few people who care about them on the outside. If someone cares, if someone is helping them provide their way into the community, takes care of those first few days when they get back into the community and the changes that they have in their life. And then in the long term there is a mentoring support system. So the churches do a great job of doing that. And we need to be encouraging them. And anything we can do expand on their ability to do that. But it is like they are changing one life at a time like we have to do.

Mr. WOLF. Well that would be the challenge. And that is what Chuck Colson does, take a person out. Not just for the three years they are in prison, but then the thirty years after they get out. And so, anyway, I thank you.

Mr. MADDEN. And I would like to also say there are other programs that do that, not just the faith-based programs. But we have some other great substance abuse programs and other treatment programs that are doing some of the same kinds of things within their community, too.

Mr. MOLLOHAN. Thank you, Mr. Wolf. Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman.

Let me echo Mr. Wolf's comments on the fine set of hearings you have been holding, and I am glad that my schedule of chairing my own committee has allowed me to be here. Then I will be disappearing soon for my own hearings, and I hope you remember that I made an effort at the end of the session.

Mr. MOLLOHAN. It is well documented.

Mr. SERRANO. Thank you so much, Mr. Chairman.

Mr. MOLLOHAN. With excellent inquiry.

LATINO POPULATION

Mr. SERRANO. A little inside baseball here, but from chairman to chairman we understand.

Gentlemen, I want to thank you and join everyone in thanking you for your testimony today and for the work you do. It is such an important issue.

And I want to bring you to an issue that came up at another hearing when the Federal Bureau of Prisons was here, and that is the increase in the Latino population in federal prisons, and we imagine throughout the state prisons. One-third of the federal prison population, for instance, is Hispanic, and Latinos were 40 percent of all those convicted of federal crimes.

What we couldn't establish clearly at that hearing, at least to my satisfaction, was—and this then speaks to the state prisons as well—how many of these folks were there because they are non-citizens who have committed other crimes or—well let me backtrack a second.

It was clear that the increase was in non-citizen Hispanics. So were they there because they had committed other crimes which

put them in prison? Or, and this is where I couldn't get a good answer, and I don't say a straight answer, because I don't think they had the information, was a largely significant number of those folks in prison for immigration related issues?

Which then would speak to your whole strength and your argument that some people should not be in prison for certain situations, they should be elsewhere.

So number one, has there been an increase at your localities in the Latinos population?

Secondly, is that in any way related to immigration issues, and you feel they should be somewhere else and not in prison? Perhaps getting into a situation which will make them real criminals when they come out.

And just for the record, I know that to a lot of people in the country entering the country illegally is a crime, and certainly under our law it is, but we as human beings know that that is not the same crime as my stealing something or killing someone or assaulting someone. It is a desire for a better life and in the process you break a law.

So anything you want to tell me on those numbers that I presented to you on what you know in your states and speaks to the federal issue.

Mr. MADDEN. Let me fire Texas first of all.

Yes, there has been an increase in Hispanic population, and there has been a large increase in the Hispanic population in Texas.

I don't believe, in fact most of our—we have very few immigration related prisoners in the state prisons. They are felony offenses, have to be, most of those would go that are felony offenses would be in the federal system not in our state system.

We have in our prisons, of that 157,000 population, we have about 10,000 which we now call illegal aliens, okay, because the difference not necessarily they were here illegally to start with, but—I am sorry, the term is used criminal aliens, because they are not U.S. citizens, and therefore we have them as non-citizens, and they would be at some stage deported by the state of Texas after they serve their terms, but they are there for felony offenses, and that would not put them there because of immigration status. But the number is just over 10,000. It varies every day but about 10,700.

Mr. WERHOLTZ. Our experience I think is quite different than Texas.

We have looked twice recently at the request of our legislature, at the question about whether or not our prisons were becoming flooded with illegal aliens.

We have about 8,500, 8,600 people in my prison system on any given day. We can identify 80 that fit the criminal alien definition, and every one of them was actually convicted of another offense, a criminal offense in Kansas.

Immigrations and Customs Enforcement had approached us about a program that they are taking a look at, actually promoting quite actively, to remove criminal aliens from state correction systems and deport them back to their country of origin.

A number of states, I think in particular New York and Arizona, have taken advantage of that, because that did remove large numbers of prisoners from their system.

We have not, because first of all the number is so small, and secondly, we had no assurance that they would not return and re-victimize Kansas citizens.

And the kinds of offenses that were of concern to us were obviously violent and sexual offenses, which is what they were serving time for.

We do have a disproportionate incarceration issue. Latinos and African Americans are disproportionately represented in our prison system, but I don't think that immigration or illegal immigration plays much of a role in our particular system.

Mr. SERRANO. So then it is clear from your testimony that the folks you know about are not there for any immigration related issue, it is just that they happen to be here with also an immigration issue, and they have committed other crimes.

Mr. WERHOLTZ. Yes, sir.

Mr. SERRANO. I have a quick question then. With that growth in population, and I am sure that is a challenge in terms of creating ESL programs or other services within the system, what can you tell me about that?

Mr. WERHOLTZ. It is a huge problem for us. One of the primary issues is that most of our prisons are located in rural areas that are predominantly white. It is extremely difficult for us to recruit Spanish speaking employees.

If you look at our prison population, about 35 percent of it is African American. If you look at our employee base about 11 percent of our employees are African American. That is greater than the proportion of the state's population, but significantly lower than the proportion of our prison population.

And one of the things that we firmly believe is that our facilities are safer and easier to run when the staff looks and talks the same language as the people that we incarcerate. You know, if nothing else in terms of Spanish language, our being able to understand what is being said by the prisoners that we supervise is critical. And when we can't do that, that creates a security problem for us.

It is something that we are struggling with, and I don't have a good solution for it yet, because my prisons are in the wrong place to recruit the kinds of employees that I need to run the system as well as I could. I have got to figure out a way to attract people there that I need.

Mr. SERRANO. Let me ask one last question.

Do you recall, I should know the date, it was in the 80s, the Mariel boatlift, the folks that came from Cuba. That is one of America's best kept secrets, is that a large number of those folks are still in prison because they were not deported to Cuba. They were sentenced here, in some cases for coming here illegally, although it was a boat lift, and they didn't fit into the category that most Cubans fit into, which is if they arrive here and they touch land they can stay, apply for citizenship and become a citizen in two years rather than five for everyone else under the Cuban Adjustment Act. But many of them are still around.

And I know Texas had a population, Georgia had a population, and some other states. And I was wondering, I am always trying to find out where are these folks? But many of them are still in prison 20 odd years later after serving—in many cases they served two or three years, but no one knew what to do with them after that, so they kept them in prison. Do you know anything about that?

Mr. WERHOLTZ. I don't know for sure where they are. I visited the federal penitentiary at Leavenworth at—and this has been probably 10, 12 years ago—where a large number of Cubans were incarcerated, and if I were to speculate, I would guess that they are still residing somewhere in the Federal Bureau of Prisons. I doubt it that they are in state prisons.

Mr. MADDEN. I am not familiar with any, but I will be glad to get you the answer and the Texas program criminal justice give me an answer if there are any of them that were related from that time period or here for immigration violations. I would be glad to get that.

Mr. SERRANO. Thank you. Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Serrano.

Mr. Fattah.

Mr. FATTAH. Thank you, Mr. Chairman.

CELL CONSTRUCTION

Mr. Thompson, let me ask you. What is the average cost of cell construction?

Mr. THOMPSON. I am sorry, of what?

Mr. FATTAH. The average cost of prison cell construction.

Mr. THOMPSON. Oh, boy, well it does vary a lot in different states.

Mr. FATTAH. Right.

Mr. THOMPSON. So I would be——

Mr. FATTAH. Well give me the——

Mr. THOMPSON. I think always in Pennsylvania what I recall Secretary Beard saying is that a medium security facility, just the construction, bricks and mortar, of about 500 per facility, I recall him saying $250 million. And I want to double check that to make sure that I have got that right.

And then I guess the second thing they would always tell me is, and again, defer to Secretary Werholtz here, but is that the construction is just a fraction of the overall cost, that what they are really looking at are the operating costs. That is really where the major money goes down the road.

Mr. FATTAH. Then Mr. Secretary, why don't you help me with this then?

Mr. WERHOLTZ. Based on Kansas numbers, depending on the kind of bed that you are building, whether it is a minimum security dormitory style bed or a maximum security single cell bed, I think the figure you are looking for is probably the latter. That will run $100,000 or more to build a high security bed in a relatively low cost state like Kansas.

We have had success in bringing beds on line for fractions of that when we are adding them to existing facilities. But any time you are building a new facility from scratch the costs are very high in

that $100,000 figure for a maximum or medium security cell would run around $100,000.

In our practice, and I think this is an important point to remember, we will single cell a maximum security prisoner, we will double cell a medium security prisoner. So you get two beds for the price of one, depending on the custody. And it is those little nuances that you have to keep track of when you are trying to identify costs.

OPERATING COSTS

Mr. FATTAH. What about the operating costs? The issue that was raised?

Mr. WERHOLTZ. Our average operating costs in Kansas is about $25,000 per bed, per year.

Mr. FATTAH. Go ahead.

Mr. THOMPSON. And I was going to say, and that number will vary significantly from one state to the next. You know, you look at some of the northeastern states, for example, that will be significantly more expensive.

But one of the things that is always frustrating I know for the legislators that we serve is how difficult it is for them to compare across state lines. Because one state will incorporate healthcare costs in that figure, another state will not. Another state will include bonding and also the capital improvements to it, another state will not.

So there used to be a list of sort of how much it cost per inmate in each of the different states and they stopped keeping it because a lot of people felt it was so misleading because you were comparing apples to oranges.

Mr. FATTAH. Yes. To my colleague in the state house there in Texas. So you have got a prison system that approximates or is as large as the entire federal system.

Mr. MADDEN. We do.

Mr. FATTAH. You got a lot of people in prison.

Mr. MADDEN. We do. We have 157,000 that are in the prison systems. I have about 430,000 on probation. I have just under 80,000 that are on parole. So if you put them all together, I have got a fairly large, fairly substantial percentage of the total population in the state of Texas. It is actually in one of those categories that fit within the whole departments that we are dealing with.

COST OF BUILDING A PRISON

Mr. FATTAH. Now what does it cost you to build a prison cell?

Mr. MADDEN. Prisons for us, we had in our budgetary request during the last session for three new facilities about 6,000 beds. It was going to be just under $600 million for the construction costs alone.

We figure for a maximum or medium security facility, which holds somewhere between 2,000 and 2,500 prisoners, that the cost for those is 250- to $300 million each. So when you are looking at expanding a prison in Texas that is about the cost.

Texas is notoriously cheap on our expenses. We spend about $50 per prisoner per day. Somewhere around $18,000 a year is our cost per prisoner, per day. That is very low compared to many of the

other states. You are going to find that many of the others have a significantly higher cost than we do.

FEMALE PRISONERS

Mr. FATTAH. Now one of the not to often mentioned realties of prison in America today is that the increase in female prisoners. Is that——

Mr. MADDEN. We talked a little bit about that. Because we have some, the numbers are growing. It is still a very small percentage. I think Roger says in Kansas it has gone up a couple percentage every year, but it is a comparatively small number of our prisoners.

Mr. FATTAH. What has been your experience?

Mr. WERHOLTZ. It represents about seven percent of our population now.

Mr. FATTAH. Well what is the increase over say five years ago? Has it doubled, has it tripled?

Mr. WERHOLTZ. As a proportion of the population it is probably only gone up one or two percent.

Mr. FATTAH. I am not asking as a proportion. I am talking about the percentage increase of female prisoners to what it was five years or so ago.

Mr. WERHOLTZ. I would have to look that up and get it to you. I don't have the numbers off the top of my head, and I don't want to wing it.

CHILDREN IN PRISON

Mr. FATTAH. Okay. Now one of the things that we know about prisoners is many of them have children.

Mr. WERHOLTZ. Yes.

Mr. FATTAH. And their children are the most likely people in our country to end up as an inmate themselves. The numbers are just enormous in terms of the likelihood of the children of prisoners who end up being prisoners.

Is that a part of the work that you now are looking at? I know I have a former mayor who has been spending some time out in Texas——

Mr. MADDEN. Yes.

Mr. FATTAH [continuing]. Working on this issue.

Mr. MADDEN. Which mayor do you have in?

Mr. FATTAH. Mayor Good.

Mr. MADDEN. Okay.

Mr. FATTAH. He has been doing some work around in Texas and a few other states and working with the children prisoners.

Mr. MADDEN. Yes.

Mr. FATTAH. And trying to target programs.

Mr. MADDEN. Wonderful program with Amachi that they are doing out there.

Mr. FATTAH. Right, Amachi.

Mr. MADDEN. In fact we have had that in Texas.

Mr. FATTAH. You want to comment on that Mr. Thompson?

Mr. THOMPSON. Yes, sir. Our board, and Representative Madden is one of those members, as well as other leaders have highlighted the exact issue that you are talking about, and we will be presenting an action plan that provide recommendations about how to

improve outcomes for those children, and we are looking to do that in the next couple of months.

Mr. FATTAH. Can you share with the Committee what the percentage—absent any change, what the percentage of these children who would now become inmates in prison.

Mr. THOMPSON. You know, there is a number of studies that people sort of elude to when they talk about the likelihood of someone going to prison or jail if they have a parent incarcerated, but a lot of people have questioned some of that research.

So there is different studies out there, but there is no definitive study that is out there that provides that number. But I would be happy to refer you to some of the stuff that is there after the hearing.

Mr. FATTAH. All right. Thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Fattah.

INQUIRIES FROM STATES

Mr. Thompson, your testimony indicates that you get inquiries, expressions of interest, on a regular basis from the states. How many of them do you follow up with, and is that a function of continuing interest or resources?

Mr. THOMPSON. Yes. We are getting inquires constantly. As a matter of fact, just the general assembly in North Carolina is asking Representative Madden to go and testify asking for us to give explanations of what is happening. I was in Columbus last week. I was in Concord, New Hampshire the week before that.

We are getting one request after the other, and we have what we call a queue that we have established where we try to prioritize those states that are closest to meeting all the criteria that I described earlier. But we ourselves are not able to meet all the demand that is there for this kind of help under Justice Reinvestment.

Mr. MOLLOHAN. Do states pay a fee for this service?

Mr. THOMPSON. They do. We prioritize those states that can actually contribute to the cost of the study and the analysis that we do and the follow up work, but then the lion share is actually picked up by folks like the few charitable trusts and the Bureau of Justice System and other funders.

Mr. MOLLOHAN. That fund the council?

Mr. THOMPSON. That give us funding support, yes.

Mr. MOLLOHAN. Or the Justice Center.

Mr. THOMPSON. Right. But at the end of the day those dollars don't go far enough for us to create the capacity to meet the need in all the states.

ASSISTANCE FROM THE FEDERAL GOVERNMENT

Mr. MOLLOHAN. Do you get any assistance from the federal government, the Department of Justice, or any other entities?

Mr. THOMPSON. We do receive some support from BJA, yes, the Bureau of Justice Assistance.

Mr. MOLLOHAN. What percentage of your budget is dependant upon support from Justice?

Mr. THOMPSON. I would say in terms of the work that we do under Justice Reinvestment, you know, I would say almost about a quarter, you know, comes from the Bureau of Justice Assistance.

Mr. MOLLOHAN. Well why would states not—well let me understand your testimony.

Is your testimony that you are not able to follow up with some states because the Justice Center just doesn't have the resources to do that?

Mr. THOMPSON. Yes.

Mr. MOLLOHAN. If it were a fee for service, why wouldn't the Justice Center have resources to follow up with any particular state that wanted to hire its services?

Mr. THOMPSON. That is something we are definitely asking. But you know, you hear about this incredible fiscal crunch that states are talking about where they are laying off staff, for example, and it is very hard for them to justify bringing in outside expertise or consultants. And so the best they can do is come up with a very limited percentage of the overall cost.

We have not had a state that has been able to come up with the entire cost of the assistance that we are talking about providing.

Mr. MOLLOHAN. I know that it has to be different with every state, because they are different systems and just on the basis of scale, but can you give the Committee some sense of how much it would cost a state to have the benefit of your services from soup to nuts, beginning to end?

Mr. THOMPSON. Sure. Yes. It does vary significantly, because you will get some states that just don't have much of an infrastructure at all in terms of data, and when you are working with, you know, just paper base files, for example, it is a much more——

Mr. MOLLOHAN. When you do your assessments?

Mr. THOMPSON. Right. I mean, so much of what our time is spent is analyzing data and pulling it from a number of different information systems. And you will take some states that are fairly sophisticated, like in Texas, for example, and other states where you are dealing with paper base files, and so that is a factor.

The time, you know, it is typically 12 to 36 months, you know, because we want to make sure that there is some follow up, to make sure that the results that were projected were actually realized.

So recognizing that there is all this variation, I would say on average, you know, we look at about 250- to $500,000 a state.

Mr. MOLLOHAN. What is your annual budget?

Mr. THOMPSON. For the Counsel of State Governments Justice Center our budget is, we are expecting to close out this fiscal year at about $5.4 million.

Mr. MOLLOHAN. And so if I were to divide that by that number that would give me eight states you could deal with? Or is that——

Mr. THOMPSON. Boy my math is not very good, but that is what we have all these expert researchers for.

Mr. MOLLOHAN. Well that is not a lot I guess is the point.

Mr. THOMPSON. But I will say that we have a number of other projects. We do a lot of work around the mentally ill and other issue areas.

Mr. MOLLOHAN. Okay. Going back to a couple lines of questioning, Mr. Wolf's and a couple other folks here I think.

I take it you feel that you have access to best practices. That is the way I think might be the best way to describe what you have.

Mr. THOMPSON. Yes, sir.

Mr. MOLLOHAN. You have best practices that you can apply to a state situation after you conduct an assessment.

Mr. THOMPSON. Yes, sir.

Mr. MOLLOHAN. And you then go into this interactive mode where you fashion recommendations based upon your best practices and the state circumstance. And I suggest that a one size fits all model just wouldn't quite work; is that correct?

Mr. THOMPSON. That is right.

Mr. MOLLOHAN. Where are we on the best practices? If we don't have a model that works for everyone, where are we in terms of best practices?

Do you feel comfortable that we currently have the best practices that, if states chose, they could apply and significantly improve their correctional systems and the issue of recidivism?

Mr. THOMPSON. Yes, I do think we know a lot about what works. And Representative Madden referenced something that the Washington State Institute of Public Policy put out that talks about the effects of well designed interventions.

The trick is, as Secretary Werholtz was saying, is making sure that the program that you provide actually adheres to all of the principles of that effective program, and then that you apply that program to the right population.

So there are, for example, particular mental health interventions that are very effective. You need to make sure that that mental health service that you provide is being integrated oftentimes with substance abuse treatment. We need to make sure that there is integrated mental health and substance abuse treatment. But that treatment isn't often available in the community. And what oftentimes is you will pay for two parallel treatment models. Well that is not going to have the same impact.

And then furthermore, we need to make sure we are targeting particular service models to the populations that need it. And too often what we find is people put together a service package and then they end up targeting a population that didn't need that particular service package, and then you do not see the results that had been projected.

So I think we know a lot about what works, but actually then translating that into practice, both in terms of the program model and then targeting the right population, that is where we hit a snafu, and I think that is where the data becomes so important.

Mr. MOLLOHAN. Mr. Wolf.

Mr. WOLF. If I may.

Mr. MOLLOHAN. Please.

MR. WOLF QUESTIONS

Mr. WOLF. Let me try and answer the question from a recipient's point of view, too.

The experience that we had with Mike and his folks and some of the other resources that our benefactors brought to bear was

that they were willing to come to the State of Kansas, spend a considerable amount of time, and help people think through what was best for us, both at the state, but even more importantly, the local level.

Our probation system is a very fragmented one, and it is locally based. We have got 31 different community corrections programs. And we required with that $4 million addition that our legislature gave to us, that each of those community corrections programs identify for us how they were going to achieve the 20 percent reduction in recidivism that the legislation asked for. What strategies they were going to use to accomplish that. What the evidence was behind those strategies.

And for folks that don't have a lot of built-in resources, just the fact that we could get folks to come in who really understood the business of analysis, and understood the business of facilitating thought around criminal justice issues moved us forward so much faster.

I do have a research department now in my agency. It took me four years to recruit her.

These people are so hard to find and they have so many choices. Getting them to come to a state that has—Kansas is not boring, but it has got a boring reputation. Getting an academic to consider coming to Kansas and work for us is no small feat. And the fact that Mike would bring people and the National Institute of Corrections would bring people to our state to help us think this through was enormously valuable.

Mr. MADDEN. Mr. Chairman, if I may also add.

On our Texas side just one of the things that we really need to do and the legislature is really looking at, and that is results. What results do you get from these programs?

Because the research has got to be done, but then we have got to see what is working and be able to go in and remove the programs are aren't, strengthen and reinforce the ones that are, and work on the ones that need working on to be helped on. Because there are a lot of wonderful programs out there, but we got to know which ones they are.

Mr. MOLLOHAN. Yes.

Mr. MADDEN. And the vast number of people that he is talking about and the vast number of programs, you have got to pick out which ones are really working and which ones are failing.

Mr. MOLLOHAN. Good point. Mr. Thompson, how much followup is there with the states, and do you ever let them go? Do you stick with them?

Mr. THOMPSON. It is interesting. We think that the followup is very important. And I think, you know, you get people like Secretary Werholtz and Representative Madden who are really interested in tracking the results. And we found I think sometimes that the legislature in other states quickly wanted to run on to the next problem and the executive branch wanted to be sort of left alone to implement. And what we have realized as a result of that is that we need to start making a clear condition of our work. That there will be a phase three of this, which is, we are going to stick around for the next one to two years to make sure the results that were projected are actually realized.

CRIMINAL JUSTICE OVERSIGHT COMMITTEE

Mr. MADDEN. One of the things we stuck in our legislation was a criminal justice oversight committee in the legislature, which specifically has the task of going in and looking at program to program results, analyzing the program, and eventually getting the results.

The problem you have with recidivism studies is, hey it is three years after they left the prison. When they leave your prison today you have got at least three years before you get decent data on whether you have been successful or not.

Mr. MOLLOHAN. You know somehow I can just see you pulling these people together at the beginning and keeping them together and marshalling this and pushing them and prodding them in Texas. I can just see you doing that.

Mr. Wolf.

OTHER STATES ASKING FOR HELP

Mr. WOLF. Thank you, Mr. Chairman.

In defense of Kansas though, and I know you meant it in defense.

My daughter biked across America in Bike America, and when she got home she said, "Dad, the people in Kansas were the nicest people", in any state that she had been in. She stayed in churches. I mean, she said, "It was just amazing." Now your mountains are not like the Shenandoah and the Blue Ridge, but the people are kind of nice. So I know you meant it as a compliment to the state.

Has Virginia asked you for any help? Has Virginia been in touch with you?

Mr. THOMPSON. We have gotten inquires from some folks in Virginia, yes.

Mr. WOLF. I mean, but so they haven't asked you though to come in and help them.

Mr. THOMPSON. Well we have not been persuaded that Virginia will meet all the criteria.

Mr. WOLF. And why is that necessary? Because we are going to talk to that. What does that have to be?

Mr. THOMPSON. Well, I think, you know, we need to get written requests from the leadership across state government.

Mr. WOLF. Now what does that take? What—when you say leadership across, who?

Mr. THOMPSON. Typically we look for a written request from the governor, the speaker, and the senate president, as well as some signal from whether the chief justice will be involved.

And we have come down and presented before the legislature, as well as talked to the governor, and they are certainly aware that they are facing a significant challenge with the growth in their prison population.

Mr. WOLF. We are. Yes. And you are pretty close. I mean, Richmond would be a piece of cake for you to be. So well, we will——

Mr. THOMPSON. Yes, and I may be going back soon. [Laughing.]

Mr. WOLF. No, I don't know, and maybe not. I mean, because they just adjourned, but I think I would as we go over the time talk to them and see if we could, you know, get them interested.

You know, in closing I wanted to ask you about prison, prison rape.

Bobby Scott and I were authors of the bill on prison rape, and this has been a great hearing, but in the reality of the warm sunshine of a Friday afternoon versus the cold reality of the rainy Monday morning, this is really pretty tough stuff.

And I know when Mr. Scott and I put the bill in we had tremendous resistance from the states. We had tremendous resistance from the Justice Department in the previous administration. They didn't want to do it. And finally, you know, it passed.

What are the conditions now in state prisons and prisoners with regard to the issue of prison rape, and has the legislation made an impact? Do you know anything about it? What has it meant?

Mr. WERHOLTZ. The legislation has made an impact both good and bad in my view. I am probably one of the people who was part of the resistance, and I need to be up front about that.

I don't know of a corrections administrator, any of my peers, who would think that it is okay to do that kind of thing. And I think that as a group we have worked very hard to make sure that prisons are safe for the people who have to live in them, as well as the people who have to work in them. And we get very defensive when it comes across to us that people think that we are not paying attention to those issues.

That being said, I think it is also disingenuous on our part if we say it doesn't happen, and that there are not places where serious attention needs to be given.

One of the concerns that we have about—and when I say we I should say those of us—me and my peers have—are concerns about what the standards are going to be for the Prison Rape Elimination Act when they are issued and what the costs will be.

And the version of the standards that we have seen are in our view so expensive that we think it may have the opposite result of what was intended. And it may cause states to simply say we will pay the penalty on the grant funds, because it is too financially burdensome to try and conform to the requirements as we have seen them.

I have to emphasize, we haven't seen the final version.

The other problem that we have had with the definition is what all gets categorized within the definition of rape.

In my state it is a felony for any staff person to engage in any sort of sexual activity with an offender, either in prison or in the community. I think we have taken a very aggressive stance against that.

It is also in our understanding defined that any sexual contact between offenders gets classified as rape, whether or not that contact was in quotes, "consensual," because they don't have the ability legally to give consent.

But it has gotten I think characterized as a power dynamic that we don't know whether in fact this is truly consensual, whether it is an exchange for goods and services, whether it is extorted, those kinds of things, but the definition has gotten so broad that—and the development of the standards now has in our view been so closed that we are frankly concerned about what the ultimate outcome is going to be.

And my Association, the Association of State Correctional Administrators has asked for a couple of things to try and get what we think is a more balanced look that is really based on data as opposed to based on anecdotal testimony. And one of the things we have asked for is for the Centers for Disease Control to take a look at the transmission of communicable diseases, and particularly sexually transmitted diseases that occurs in prison.

We think that that evidence will show that there is not a lot of that transmission occurring in prison, and that a lot of it came in with the individuals from the community.

So I have got very mixed feelings about it. I think the motivation for it was well taken and it was something that was needed to draw attention to the issue, but I am more worried about how it is going to be operationalized at this point.

Mr. WOLF. Do you have——

Mr. MADDEN. In the state of Texas obviously legislative—I am talking the legislative side—we certainly do support the legislation and the intent of the legislation. And I think my problem——

Mr. WOLF. One of the cases we based it on was a Texas case.

Mr. MADDEN. I know, absolutely. And we do support the legislative intent and the desire you had there.

I honestly have not spoken to my director—the corrections director specifically about it, other than to ask about the various things when the people were down and doing testimony on it this last time, and why did Texas not do as well in some of the performances and some information, and so that kind of conversation we have had with him.

It was, in fact, one of the things that kicked me off into the thing when we had a little problem with our Texas Youth Commission two years ago when we had to completely restore them, put them in a conservatorship and everything else, was one of the first questions I asked, because I was asking the same questions to the Department of Criminal Justice I asked my Youth Commission, "Where is your PRIA money?" And they said, "Well we don't have any problems like that at the Youth Commission." And we quickly found out that looking at any kinds of data that they had that they clearly did and did not have that.

So I want to commend you for the legislation and we will certainly get you some more information from Texas.

Mr. WOLF. Good. Did counsel have any comment?

Mr. MADDEN. Let me add one other thing, Mike.

One of the things too we found when we dealt with the Youth Commission is what a great help cameras were in the facilities, and we put like 7- or 8,000 cameras in our Youth Commission facilities out of that to make sure the security——

Mr. WOLF. Did that come out of the——

Mr. MADDEN. That came out of the problems we had with the Youth Commission and the thing we also did two years ago.

Besides all the other things we did in Criminal Justice, we did some major reforms in our Texas Youth Commission.

But we also then started asking the questions to our Department of Criminal Justice, well how many cameras have you got? In our 15 youth facility locations we have about 8,000 cameras watching.

In our Texas Department of Criminal Justice we only have about three quarters of that, totally in our 112 facilities.

It is much harder to say that something did or did not happen if you don't have the capabilities to see that. That is one of the things we are pushing our Department of Criminal Justice on this time, at least in many of our facilities, is to expand the use and the monitoring of cameras within the facilities. Because it makes the prisoners safer, it makes the guards safer, it makes, you know, a lot of investigations a lot easier to do if you have got the pictures if something happened one way or the other. So it is a lot easier to prove that something did or did not happen.

Because we had one of the witnesses came into us in 2007 talking about prison rape, and the fact that we had like 60 times more than Ohio and 30 times more than California. And we quickly found that we reported a lot more than Ohio and California did, and we did believe that despite the fact that we may have two or three—well, we did have the same number of prisoners in California roughly and about twice as many as Ohio, that there was any significant difference in the make up of the prisoners that would indicate that we have that much larger a problem in Texas than they did in any of the other prison systems. So we certainly look at reporting the incidents is extremely important also.

Mr. WOLF. Does counsel have any comment?

Mr. THOMPSON. Just that I would say that when the legislation was passed we worked very closely with your office and Congressman Scott's and others and were ultimately found that the legislation—we really appreciated how it was data driven and this comprehensive study that it authorized and set in motion and the way that it set up the commission, and so we were very supportive of it when it was enacted.

Since then we have largely just deferred to our members to find out what is been going on. We have not had much on a conversation since then.

Mr. WOLF. Okay, thank you, Mr. Chairman.

Mr. MOLLOHAN. Thank you, Mr. Wolf.

Mr. Serrano.

Mr. SERRANO. Thank you, Mr. Chairman. I don't have a question. I want with your permission to tell a quick story, which I think you might appreciate.

About oh, ten years ago a group of people from the City University Community came to me and they said, "We have been doing some research and we found out that you are the longest serving elected official in the history of the United States of Puerto Rican background, and we want to celebrate that, a whole weekend where students come in and they speak to you and you tell them what it is been like, and we want it to be an educational thing." So if you are early enough to remember the old Jack Benny show, another guy shows up who was invited and goes, "Psst, don't do it." I said, "Why not?" He said, "You are going to be embarrassed." I said, "Why is that?" He said, "Because you are not the longest serving." I said, "There is no one longer than me in Pennsylvania and New Jersey, Connecticut, and New York." He says, "Yes, but there is one in Kansas." I said, "Kansas, there is no Puerto Ricans in Kansas." He says, "This one is."

Turns out that a young man from the Bronx or from New York City had joined the military after he got his degree—they know who it is, and I will mention the name, because I hope I am right. He had joined the military, he had landed in Kansas after he finished. He met a local girl, married her. Got involved in the community, served three years in the state legislature in the state assembly—the house—and 28 in the state senate.

At that point I would have been embarrassed, I was not the longest running. Luckily he was promoted to the parole board [Laughing.]

So it fits, and now I can have my party. Because now I beat him.

But Paul Feliciano, am I right? I mean and when I told Senator Brownback he said, "Yeah Paul." He says, "He is Puerto Rican?" I said, "Well maybe he operated under don't ask; don't tell." [Laughing.]

But I shared the same story with the Murgia family who have been at every White House you can think of, and I think there are what, three judges in the family or something? And they said, "Paul's Puerto Rican?" I said, "Okay, I am not going to touch this." [Laughing.]

That is my story.

Mr. MOLLOHAN. Thank you, Mr. Serrano.

Mr. Fattah.

Mr. FATTAH. To wrap up, Mr. Chairman, let me first of all commend Congressman Wolf for his legislation. I think it was right on point and I was pleased to be supportive of it.

And Senator Webb from Virginia has just announced major legislation to have a look at our entire penal system in the country. Because he concludes what I think most right thinking people have concluded, is the fact that we imprison more people than any other country in the world. We still have not figured out any real connection between this imprisonment and lowering the crime rate, and we seem to be producing better criminals. Since 90 plus percent of whoever we imprison eventually come home, they don't seem to come home a lot better off than when they were sent, and we invested a lot of money in this deal.

So I want to just say that I think that it must be something in the, I guess the water in Virginia, if Senator Webb is on this point now and Frank Wolf has been on this point for a long time.

So I would thank the Chairman for having the hearing, and thank the witnesses.

Mr. MOLLOHAN. Thank you, Mr. Fattah.

You have other resources. And I believe, Mr. Werholtz, your testimony referred to assistance you receive from the National Institute of Corrections; is that correct?

Mr. WERHOLTZ. Yes.

NIC

Mr. MOLLOHAN. I know that in the '09 budget that was asked to be zeroed, which we didn't approve.

But can you describe for the Committee the assistance that the state received from NIC and how it complimented what you received from the Justice Center, and how that all played in your reworking of your Justice System?

Mr. WERHOLTZ. I would be glad to. And speaking for my peers we are very glad that NIC is still around. It is a very important resource for us.

Mr. MOLLOHAN. Well that is good for you to get on the record. Thank you.

Mr. WERHOLTZ. Yes. The assistance that we get from NIC is very diverse. We have the ability to go to them with requests for, it typically comes in the area of technical assistance, bringing personnel to Kansas, or taking Kansas to observe something in another state.

So most of the direct assistance that we receive from them is relatively modest in the amount. It may be somewhere between $5,000 and $25,000 at each iteration, but it is very easy to access. That is something that I think for us is really important. It is a phone call followed up by a letter. We need help in this area. We have a person in mind that we need to bring to Kansas. Or can you suggest people who can help us on the particular suggest?

That quick response is something that is very useful, and they are very flexible. Because I may have something very different than Brad Livingston in Texas or Jeff Beard in Pennsylvania. You know, so they have tentacles out all over the place to the best practice people. The researchers in the country.

And the other thing that NIC does for us, and I am really fortunate that I get to sit on one of the committees that guides that, is that NIC, Bureau of Justice Assistance, both of those agencies fund research, and so they help build the body of knowledge that we rely on to identify what the best practices are and how best to use them.

I don't know if I am being directly responsive to your question, but they have been a great resource for us ever since I have been with the department.

Mr. MOLLOHAN. Well it is clear they have been a great resource to you, and that is good testimony.

How has it been different than what the Justice Center has provided? And then we will ask the Justice Center and Vice Chair Madden to speak.

Mr. WERHOLTZ. They have brought some subject matter experts to us that aren't part of Mike's shop, and may have some very specific skills.

For instance, to cite one example, bringing in experts who can help train our staff on cognitive behavioral interventions. Mike doesn't have clinicians in his organization. NIC can reach out to a group of clinicians or researchers around the country and help facilitate that knowledge transfer. I think that is one of the primary differences.

What Mike did for us was a lot of data analysis and interpretation, and then expert testimony back to our legislature. And that was helpful because they didn't have a vested interest in putting forth one sort of policy option as opposed to another. Coming from me, some people might suspect my motives or my agenda, but they served as kind of an objective resource. I guess that is the best way I can describe some of the differences.

Mr. MOLLOHAN. Mr. Thompson.

Mr. THOMPSON. Yes. I just want the underscore Secretary Werholtz' point about the crucial role that NIC plays in the field,

and just to further illustrate the point in terms of how what they do compliments what we do.

You know, one of the elements of the legislation—or provisions in the legislation enacted in Kansas called on community corrections, each of the local governments to reduce revocations by 20 percent. So that was the goal that the legislature set. We told them what would happen as a result of that and some key things to look for.

To actually make that happen you need to change the behavior, as Secretary Werholtz is saying, of your aligned community corrections staff. And NIC can bring in those kinds of experts and actually do that. We don't do that. We will then track for the legislature what the results of it are.

There is a second thing too that I want to flag. The National Institute of Corrections like you all has been very focused on the growing numbers of people with mental illness in the criminal justice system.

We are extremely grateful to you for what you did in enacting the Mentally Ill Offender Treatment and Crime Reduction Act. It is an extremely important piece of legislation and we are grateful to you for putting money into it.

The National Institute of Corrections actually, in a specific program that Secretary Werholtz is looking at, is trying to figure out how are we dealing with say parolees and probationers who have a mental illness, and what are we doing differently with them? That is a real sort of practice issue. We are doing some work with them to look into that. But it is another example of how NIC resources leveraging some of this real big picture stuff that we are doing in the state capitol.

Mr. MADDEN. They were a major help also, if I may, Mr. Chairman, in dealing with things in our probation departments. Particularly they had great resources.

Now unfortunately they had, Jett Foundation was down there helping us with some of the funding aspects that we had with some of the things we were doing within our counties with probation training, with the integration of progressive sanction models within the various probation departments that we were working on very hard as part of our overall strategy that actually is really part of this Justice Reinvestment program. And training the people how to do the programs and in the local areas. So that was an extremely important part. And the Bureau of Justice really could have done that.

Mr. MOLLOHAN. Typically, from the point you are contacted by a state, Mr. Thompson, how long is the process from that contact to implementation of changes in any particular state's correctional system?

Mr. THOMPSON. You know, usually there is a period of time where we try to determine whether the state can meet all the criteria that we have. Then there is the period where we do this detailed analysis. I would say there is a few months to figure out whether the state will meet the criteria. And then there is this phase where we do this real detailed analysis talking to local government stake holders that I mentioned earlier. That tends to be another few months. Then there is the whole process with the pol-

icy makers of sorting it into actual policy options. That is another few months.

I would say, you know, typically to see something enacted it takes anywhere from about 12 to 18 months. But then there is that crucial point afterwards that we were talking about and you were asking about, making sure that you stick with a state to make sure that the results that they reinvested in actually materialize.

Mr. WERHOLTZ. Can I give you another example?

Mr. MOLLOHAN. Yes, please.

Mr. WERHOLTZ. We have been working with CSG for at least four years now, and I was looking around to see if Dennis Schrantz from Michigan is still here, I think he is gone now, but we have had this conversation. If you ask us how far along we are in this process, I think both of us who have been engaged in this for four or five years, we would say optimistically we are half way done. This is a very long——

Mr. MOLLOHAN. It is a process not an event.

Mr. WERHOLTZ. And it is cultural. It is really changing the whole nature of your organization.

Mr. MADDEN. Probably only one of us would say we have gotten three quarters of the way at least in doing the things that we needed to do. And he is right, it is a cultural change, because we changed the ship—the direction of the ship such that in this last budgetary cycle that we are now in, my corrections department came in and requested 400 beds on their own. We didn't have to do that as a legislature. They came in and said we need 400 more beds to expand this prison therapeutic treatment that we have for drug addicts. Hadn't been done in a long time.

Mr. MOLLOHAN. Yes, I was very impressed with that part of your testimony.

Mr. MADDEN. And they also put in that they needed reentry officers, personnel with NTDCJ, not for parole, not for other purposes, but to assist the offenders with reentry.

Mr. MOLLOHAN. So this is the evidence of buy in.

Mr. MADDEN. A buy in. Yes, they bought in. They truly bought it.

And Mike's optimistic when he says 12 to 18 months, to get total buy in it is three, four years at least.

Mr. MOLLOHAN. We are wrapping up here. But are there any lessons learned here for the federal system? Or are you all able to speak to that?

Mr. Thompson, do you want take a stab at that?

Mr. THOMPSON. Well, you know, I don't know the ins and outs of the federal system, but you know, I will say that getting the same kind of information that we put in front of the state legislature, your situation does seem somewhat analogous in getting a really good data driven analysis of what is happening with the prison population there, and you know, asking the question, you know, as you all are asking now, how can we get a better return on our investment?

Mr. MOLLOHAN. Do you look to the federal government for best practices in any aspect of this?

Mr. THOMPSON. Absolutely. I mean——

Mr. MOLLOHAN. In the practice of the federal prisons?

Mr. THOMPSON. You know, I mean, to be honest, I am not as familiar maybe with some of the practices that——

Mr. MOLLOHAN. So you don't?

Mr. THOMPSON. Well there is some things, and Roger has a lot of communication with Director Lapin and DOP.

So there are some things with specialty case loads for probationers and stuff that we do find really intriguing, but I should familiarize myself more with the DOP.

Mr. WERHOLTZ. I think the short answer is sure. I think in every system there are things that each of us do well and things that we could all improve on, and we have looked to the federal system for some of the things that they could do, because you know, their resources are so broad. They have been able to try some things that the rest of us kind of look back and wait and see what the outcome is. And we have mimicked a number of those things.

The one that comes to mind and most readily for me is around correctional industries issues.

Mr. MOLLOHAN. Mr. Madden.

Mr. MADDEN. We are also looking at some things that may be cut backs in our prison industry programs too, so that is a possibility, too.

From the legislative standpoint I will say that I didn't get a lot of input on the legislative side in doing the legislative changes when doing some of the other programs within the prisons, yes, certainly there is a lot of contacts that we have and a lot of things that they do well.

Mr. MOLLOHAN. Thank you, gentlemen. Any other questions?

Mr. FATTAH. I have one last question.

Mr. MOLLOHAN. Okay. Mr. Fattah.

EDUCATIONAL ATTAINMENT LEVEL OF INMATES

Mr. FATTAH. Mr. Secretary, can you tell me anything about the educational attainment level of the inmates in Kansas?

Mr. WERHOLTZ. Yes. It is interesting. I think we are a little bit unusual in that the majority of inmates that come into our prison system actually have a high school degree or higher. I think that is probably different than most other states.

Mr. FATTAH. What about Texas?

Mr. MADDEN. Texas is much lower than that. The numbers I have heard, and I didn't have any specific statistics that they have given me, just the general indications where they were three years behind the educational levels they were supposed to be at, which indicated they were somewhere between sixth and ninth grade levels.

Mr. FATTAH. Mr. Thompson, can you add anything to this answer here?

Mr. THOMPSON. Just that there is huge variation among the different states, and that not only are a huge percentage of people incarcerated do not have high school degrees, but then you look at average eighth grade education level and then a very large number who are illiterate all together. And we know that illiteracy in particular is a huge predictor of recidivism.

Mr. FATTAH. Is there any good data on this that is available?

Mr. THOMPSON. There is some, and I would be happy to get it for you.

Mr. FATTAH. Could you supply that to the Chair? Thank you.

Mr. MOLLOHAN. Thank you, Mr. Fattah.

Mr. Serrano.

VOTE FOR PRISONS

Mr. SERRANO. Yes, I just had a quick question which you touched on, the whole idea of what the legislature is presented with, in terms of the request.

Twenty years ago I spent 16 years before that in the state assembly, and I always found in New York that it was easier to get people to vote for the building of prisons than it was to get them to vote for programs for folks coming out of prison and so on.

Has that changed much? And it was the same throughout the country. Has that changed much?

Mr. MADDEN. I think it would be fair to say it is changed in New York. Prison populations are down in New York. One of our board members is a good friend of mine who is also on the prison—chairman of the prison committee, and I guess what is the correction committee—is the chairman of corrections committee. Yes, it has also been easier to get votes to build prisons than it is to do programmatic things. That is a simple vote.

Mr. WERHOLTZ. I think in Kansas it is changing, and it is easier now to get money for programs than it is for prison expansion.

Mr. SERRANO. That is very encouraging.

Mr. MADDEN. I would say that that is also true now in Texas. In the last two sessions we have changed that.

Mr. SERRANO. I remember how tough that used to be, so maybe we have seen the light.

Mr. THOMPSON. I would just add. I mean, that is why with you gentlemen testifying and what you are hearing about Kansas and Texas is not necessarily indicative of what every state is experiencing. You are going to see states that it is probably easier to construct more and then start on distant programs. The main thing we can do is to deal with the issues you are talking about.

Mr. MADDEN. I'm on the board of both of these corrections committees for both the National Conference of State Legislators and American Legislative Exchange Conference and we do see a lot more interest amongst the legislators in the types of things we are doing, because they recognize the cost drivers. The fact we can't imprison everybody. The fact that if we continue on the course we are on right now you will have a, you know, an unmanageable size in your prison populations in the not too distant future, and you can't do that. And so we have to do something that is intelligent, and many of them are reacting with intelligence to that question of what is the right thing to do.

So it is being both smart and tough. There are people we obviously need to lock up and keep there as we have seen in every place, but the vast majority I talked about earlier, those that have those things that we are mad at and we want to figure out some way in making a difference in their lives.

Mr. FATTAH. Thank you.

Mr. MOLLOHAN. That was a great way of talking about it, I thought.

Well it looks like the members have exhausted themselves, and we hope we haven't exhausted you. But we very much appreciate your being here today, traveling so far to do that, and for your expert insightful testimony. It has certainly been helpful to the committee as we work our bill this year. Thank you, gentlemen.

The hearing is adjourned.

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