



April 26, 2017

# Oversight of the Federal Bureau of Prisons and the U.S. Marshals Service

Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, Committee on the Judiciary, United States House of Representatives, One Hundred Fifteenth Congress, First Session

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# Department of Justice

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**STATEMENT OF**

**THOMAS R. KANE  
ACTING DIRECTOR  
FEDERAL BUREAU OF PRISONS  
U.S. DEPARTMENT OF JUSTICE**

**BEFORE THE**

**SUBCOMMITTEE ON CRIME, TERRORISM,  
HOMELAND SECURITY, AND INVESTIGATIONS  
COMMITTEE ON THE JUDICIARY  
U.S. HOUSE OF REPRESENTATIVES**

**FOR A HEARING ENTITLED**

**OVERSIGHT OF THE BUREAU OF PRISONS  
AND THE US MARSHALS SERVICE**

**PRESENTED ON**

**APRIL 26, 2017**

**Statement of Thomas R. Kane**  
**Acting Director, Federal Bureau of Prisons**  
**U.S. Department of Justice**  
**Subcommittee on Crime, Terrorism, Homeland Security and Investigations**  
**Committee on the Judiciary**  
**U.S. House of Representatives**  
**April 26, 2017**

Good morning, Chairman Gowdy, Ranking Member Jackson Lee, and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss the mission and operation of the Federal Bureau of Prisons (Bureau). I am also honored to speak on behalf of the nearly 40,000 Bureau staff – law enforcement professionals who are "correctional workers first" and support the agency's mission and core values of respect, integrity, and correctional excellence.

**OUR MISSION – A HISTORY OF PUBLIC SAFETY AND REENTRY**

As our Nation's largest correctional agency, the Bureau currently houses approximately 190,000 federal inmates in 122 federal prisons, 12 private prisons, and 270 community-based facilities nationwide. Incarceration of criminals is a valuable crime-reduction strategy and an important law enforcement tool that holds individuals responsible for their actions and deters others from committing similar crimes. The mission of the Bureau, which dates back to 1930, is two-fold: we protect society by confining offenders in prisons and community-based facilities that are safe, humane, cost-efficient, and secure, and we provide inmates with programs that assist them in becoming law-abiding citizens when they return to our communities.

The Bureau has had great success with respect to both parts of our mission as evidenced by key indicators such as low rates of escapes, disturbances, assaults, homicides, and recidivism. Only thirty-four percent of federal inmates are re-arrested or have their supervision revoked within three years following release from prison.<sup>1</sup> Those numbers are a testament to the hard work of our dedicated law enforcement professionals. Their courage, their bravery, and their sacrifice are essential to keeping our communities safe and our institutions secure.

**OUR STAFF – DEDICATED PROFESSIONALS**

Bureau staff play a critical role in the federal criminal justice system; arresting authorities, prosecutors, judges, and community members count on these law enforcement professionals to ensure the individuals in our custody are accounted for at all times, are treated humanely and with dignity, and are returned to their communities with the training and skills they need to be productive, law-abiding citizens. Our hard-earned reputation as the "best in the

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<sup>1</sup> In 2016, the U.S. Sentencing Commission found that only 34% of the inmates released from the Bureau of Prisons in 2005 were re-arrested or had their supervision revoked over a three-year period.

business” is a tribute to the courage, commitment, professionalism, and skill the staff of the Bureau display each and every day. The work our staff does goes largely unseen by the general public. Yet this inherently dangerous work, particularly at our higher security level institutions where we house our most dangerous offenders, helps keep communities safe every day. In just two weeks, the Bureau will honor our staff who made the ultimate sacrifice during our annual Correctional Workers Week Memorial service. These tragedies are powerful reminders of the very real dangers our staff face.

As such, staff safety is one of my highest priorities. Working collaboratively with our union, we have recently published 150 new or updated policies that provide clear guidance and reinforce correctional standards for our operations nationwide. To enhance safety, we added a second officer to the housing units at our high-security institutions and issued stab resistant vests for all staff at high-security institutions, detention centers, and jail units. Pepper spray has been issued to all staff at high and medium security institutions, detention centers, medical centers, and jail units, and cut and puncture resistant gloves have been made available to all staff for use when conducting searches. The Bureau also continued deploying new contraband-detecting technologies, including thermal fences, enhanced walk-through metal detectors, and whole-body imaging devices. These changes help keep our staff safe, and that helps keep America safe.

## **OUR POPULATION - PAST AND PRESENT**

During the first five decades of the Bureau’s existence, the number and type of inmates we housed remained fairly stable. Beginning in the 1980s, however, federal law enforcement efforts and new legislation altered sentencing in the federal criminal justice system, bringing about a significant increase in the number and types of persons incarcerated for federal offenses. Our inmate population doubled in the 1980s and doubled again in the 1990s. In the late ‘90s, the BOP began absorbing the DC inmate population as a result of the National Capital Revitalization Act. The aftermath of September 11<sup>th</sup> also brought individuals who presented unique security concerns as the nation’s law enforcement efforts were targeted toward international terrorism. System-wide crowding increased, at one point reaching a high of almost 50%. By 2013, the Bureau’s population had climbed to almost 220,000.

With this growth, it became increasingly difficult to fund all of the capacity that was needed to house the inmate population. The Bureau was required to provide care for more and more inmates – many of whom arrived with substantial and costly health care needs and educational and vocational skill deficits. To respond to this challenge, we adapted new inmate supervision strategies, improved architectural design, and improved security technologies. We also increased our reliance on private corrections to provide additional capacity, primarily for our low security criminal alien population.

Crowding in recent years has declined, and our inmate to staff ratio has improved from 5:1 to 4:1. In the event that inmate population levels again increase, the Bureau will use all available resources and work through solicitation processes to ensure adequate capacity is available, while maintaining our commitment to safety, security, and effective reentry programming.

The sentencing changes in the 1980s and 1990s not only affected the number of inmates we housed, but also the type of inmates who began coming into our system. For nearly five decades, federal inmates were primarily bank robbers and white-collar inmates. But with changes in laws and prosecution policy came changes in our population. Currently, almost half of our population is serving sentences for drug offenses; approximately one-third of those are medium or high-security offenders, and almost one-quarter of the drug offenders have some form of serious violence in their history. The remainder predominantly includes inmates convicted of weapons offenses, immigration offenses, and sex offenses.

Inmates at our higher security levels present the greatest challenges. For example, at the medium security level, approximately 75 percent of the inmates have a history of violence, 41 percent of the inmates have been sanctioned for violating prison rules, and half of the inmates in this population have sentences in excess of 8 years. At the high-security level, more than 90 percent have a history of violence, and 71 percent of the inmates have been sanctioned for violating prison rules. One out of every four inmates at high-security institutions is gang affiliated.

### **OUR PROGRAMS – REENTRY BEGINS ON DAY ONE**

Reentry is a critical component of public safety. Most inmates come to prison needing job skills, vocational training, education, counseling, health care, and other assistance such as treatment for substance use disorders, anger management, parenting skills, and linkage to community resources for continuity of care if they are to successfully reenter society. It is imperative we at the Bureau assist inmates with these needs because each year more than 41,000 inmates are released back into our communities.

The Bureau assesses inmates throughout their term of incarceration by thoroughly reviewing the static and dynamic factors associated with their criminal behavior. Understanding the underlying causes of their criminal behavior allows us to provide inmates the help they need to succeed once back in their communities. We periodically evaluate the validity of the individual factors and the assessment as a whole, and continue to find it highly predictive of misconduct, and thus the future risk of recidivating. To further enhance and support this process, we have developed a fully integrated online information system – Insight – that allows ongoing, multidisciplinary reviews of each inmate’s progress toward established goals and recommended programs. This system, which will be fully implemented nationwide in June, will also provide progress summaries to our law enforcement partners, such as the United States Probation Office, that will assist with the inmate’s transition to the community.

Bureau programs include work, education and literacy, vocational training, substance use disorder treatment, observance of faith and religion, psychological services and counseling, and other programs that impart essential life skills. Three program areas, Federal Prison Industries (FPI), Residential Drug Abuse Programming (RDAP), and vocational and occupational training, have been empirically proven to reduce recidivism. Specifically, research has shown that inmates who participate in FPI are 24 percent less likely to recidivate than similar non-

participating inmates. They are also significantly less likely to engage in misconduct while in prison, and that directly leads to safer prisons. Follow-up analyses further revealed that FPI provides the greatest benefit to minorities, who are often at the greatest statistical risk for recidivism. 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. And by keeping inmates constructively occupied, these programs also help keep our prisons safe. Residential Drug Abuse Treatment Program (RDAP) participants are 16 percent less likely to recidivate and 15 percent less likely to have a relapse in their substance use disorder within three years after release. These programs help to keep our staff and our communities safe.

FPI provides inmates the opportunity to gain marketable work skills and a general work ethic. This is particularly noteworthy for reentry given the barriers to post-release employment many inmates face. However, FPI must be self-sustaining and does not receive appropriated dollars for its operations, and had previously faced years of declining revenues and net earnings. That trend was reversed in 2016 through a major factory consolidation. At present, FPI provides training to almost 18,000 inmates annually with plans to create an additional 6,000 inmate jobs by 2021. We are grateful to Congress for the support of this proven program.

## **OUR GOAL – EFFECTIVE TRANSITION TO THE COMMUNITY**

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

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

RRC bed space is limited and expensive, so we are judicious with our use of this resource. We balance the available capacity with the RRC needs of releasing inmates so that each inmate in need of this transitional service has the opportunity to participate in the program. Maximizing the length of RRC placement for low-risk offenders, as some have recommended, is not only costly, but also would quickly absorb RRC capacity, thereby preventing high risk releasing inmates from having access to some period of pre-release transition through this program. Despite our continued efforts to seek additional RRC capacity in new and existing locations, there remains strong community resistance to RRCs and very few vendors compete for such solicitations.

For lower-risk inmates with lesser reentry needs, the Bureau has been increasing the use of direct placement in home confinement during the final months of a term of incarceration. Inmates who transfer to RRC programs are also expected to transition into the home confinement component as soon as adequately prepared and statutorily eligible. These inmates reside in their homes but are subject to strict schedules, curfews, in-person check-ins, telephonic monitoring, and sometimes electronic monitoring.

## **OUR CHALLENGES – CONTRABAND AND COSTS**

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

The Bureau houses significant numbers of very dangerous and disruptive inmates who engage in frequent and ongoing misconduct, including property destruction and assaultive behavior toward staff and one another. We have had success in managing these individuals by creating Special Management Units (SMU) that remove them from the general population while still providing them access to programming and incentivizing non-disruptive, pro-social behavior designed to gradually prepare them for a return to the general population. As a result of these programs, we have successfully transitioned 850 SMU inmates back into general population, and decreased our SMU numbers overall such that we are down to just one SMU nationwide. Yet, a number of extremely violent and disruptive inmates remain within our population and continue to present security risks.

The very unique security threat presented by the international and domestic terrorists in our population also creates challenges. While the Bureau has for many decades held individuals convicted of terrorism and related charges, after 9/11 the number of those inmates increased substantially. The Bureau developed enhanced oversight capabilities through its key leadership role with the National Joint Terrorism Task Force, and worked closely with the Federal Bureau of Investigation to develop the nationwide program for enhanced correctional intelligence gathering, analysis, and data. Yet, we must remain vigilant of security risks this population may potentially pose to our prisons and our nation.

The Bureau continues to face dangerous contraband security threats. Contraband cell phones, illicit narcotics (including the emerging threat of synthetic drugs), and drones remain chief among those. We have deployed new contraband-detecting technologies, including thermal fences, walk-through metal detectors, and whole-body imaging devices, and have piloted wireless interdiction technologies that show promise for countering the contraband cell phone threat. Synthetic drugs, such as fentanyl and fentanyl analogues, MDMA (ecstasy), K2 (Spice) and bath salts, are altered on a regular basis and are introduced through various means, such as personal mail and incoming publications to inmates, making detection and mitigation difficult.

Finally, health care remains a two-pronged challenge for us. In the wake of an aging population with complicated and chronic medical needs, we face rising costs of health care and pharmaceuticals. At the same time, recruitment and retention of qualified medical professionals to staff our prisons – many of which are somewhat remotely located – is hampered by significantly lower pay and benefit incentives than are offered by the private sector. The Public Health Service has been a strong partner with us in the past, helping to fill the shortfall in these positions, but shortfalls still remain.

## **CONCLUSION**

The Bureau looks forward to continuing to support the law enforcement efforts of the Department of Justice. Chairman Gowdy, Ranking Member Jackson Lee, and Members of the Committee, this concludes my formal statement. I appreciate the opportunity to provide the Committee with my formal statement, and would be happy to answer any questions.





# Department of Justice

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**STATEMENT OF  
DAVID HARLOW  
ACTING DIRECTOR  
UNITED STATES MARSHALS SERVICE**

**BEFORE THE  
SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY  
AND INVESTIGATIONS  
COMMITTEE ON THE JUDICIARY  
UNITED STATES HOUSE OF REPRESENTATIVES**

**FOR A HEARING ENTITLED  
“OVERSIGHT OF THE BUREAU OF PRISONS AND THE U.S.  
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**Statement of  
David Harlow  
Acting Director  
United States Marshals Service**

**Before the  
Subcommittee on Crime, Terrorism, Homeland Security, and Investigations  
Committee on the Judiciary  
U.S. House of Representatives**

**April 26, 2017**

Chairman Gowdy, Ranking Member Jackson-Lee, and Members of the Subcommittee:

Good morning and thank you for the opportunity to appear before you today.

Approximately 4,000 U.S. Marshals and Deputy U.S. Marshals and nearly 1,500 administrative employees and detention enforcement officers make up the United States Marshals Service (USMS), our nation's oldest law enforcement agency. Since 1789, when George Washington appointed the first 13 Marshals, we serve as the enforcement arm of the federal courts and are involved in virtually every federal law enforcement initiative. From the Nation's inception, through our 19<sup>th</sup> century westward expansion, our role in the iconic 20<sup>th</sup> century civil rights struggles, and into the present, USMS has proudly contributed to the rule of law.

We are grateful for the opportunity to speak with you today about the many missions of the USMS, which include protecting the federal judiciary, apprehending fugitives, housing and transporting federal prisoners, managing and selling seized assets acquired by criminals through illegal activities, operating the Witness Security Program, and ensuring that convicted sex offenders are complying with their obligations. Many of our missions are accomplished working

side by side with other federal, state, and local law enforcement agencies, a force multiplier that is a quintessential example of effective government. The agency's headquarters is located in Arlington, Virginia, and provides support to 94 district offices across the country, including the District of Columbia, the Commonwealth of Puerto Rico, and three territories of the United States – the Virgin Islands, Guam, and the Northern Mariana Islands.

## **Judicial Security**

Protecting federal judicial officials, which include judges, attorneys, and jurors, is a primary mission for USMS. Each year, Deputy U.S. Marshals investigate thousands of communications that are vetted into hundreds of significant threats against judges, prosecutors, and other members of the court family. Our investigations have been complicated by the exponential growth of social media communications in the last few years. Senior inspectors and deputies, as well as contract court security officers, provide security and screen visitors at more than 700 judicial facilities across the country. In order to secure those buildings and proceedings, deputies use the latest technology. In addition to providing security to judicial proceedings, Deputy U.S. Marshals also provide protective security details for certain governmental officials when required. The USMS also oversees the security aspect of courthouse construction projects, from design to completion. These protective measures, although not always visible to the general public, are critical to ensuring the security and stability of our federal judicial system.

## **Fugitive Operations**

The USMS is the federal government's primary agency for fugitive investigations and apprehensions. Deputy U.S. Marshals arrest or clear more than 32,000 federal fugitives each year, and Marshals-led fugitive task forces, made up of federal, state, and local law enforcement partner agencies, arrest or clear more than 74,000 state and local fugitives every year. Many of these fugitives are the "worst of the worst"; violent repeat offenders whose capture immediately makes local communities safer. The USMS leads 60 district fugitive task forces and operates seven regional fugitive task forces dedicated to locating and arresting wanted felons. We are also the primary agency tasked with arresting foreign criminal fugitives believed to be hiding in the U.S., as well as working with law enforcement partners and governments worldwide to track, arrest, and extradite fugitives hiding in foreign countries.

The USMS is the lead federal law enforcement agency responsible for investigating sex offender registration violations. Following passage of the Adam Walsh Act in 2006, the Marshals Service has partnered with law enforcement personnel from more than 3,000 state and local agencies to coordinate and conduct sex offender compliance/enforcement operations throughout the country. In FY 2016 USMS conducted 1,920 non-compliant sex offender investigations and assisted with 64,370 compliance checks of known registered sex offenders.

## **Prisoner Operations**

The USMS is responsible for the custody of approximately 200,000 federal detainees each year, beginning at the time of arrest by a federal agency (or remand by a judge) until acquittal, commitment to a designated Federal Bureau of Prisons institution, or otherwise ordered release from our custody. The USMS ensures the safe, secure, and humane care of prisoners in

its custody. We provide housing, medical care, and transportation for an average daily population of about 50,000 federal prisoners throughout the United States and its territories and escort prisoners to and from their court appearances. Each day, we escort approximately 2,292 prisoners to court appearances or for other matters in the 94 federal judicial districts. The USMS does not own or operate detention facilities but partners with state and local governments to house approximately 63 percent of its prisoners. Additionally, the agency houses approximately 18 percent of its prisoner population in private detention facilities under direct contract and approximately 18 percent in Federal Bureau of Prisons facilities. The detention of federal prisoners presents diverse and complex challenges, including: (1) locating detention space near federal courthouses; (2) coordinating with federal, state, and local authorities regarding the execution of writs, court orders, and the transfer of prisoners; (3) separating multiple co-defendant prisoners from each other to ensure their safety and security and the effective operation of the judicial system; and (4) managing prisoners with contagious diseases and chronic illnesses. The USMS annually reviews state, local, and private detention facilities that house federal prisoners to ensure the safe, secure and humane care and custody of those prisoners. Upon conviction, we generally deliver prisoners to their designated Federal Bureau of Prison institutions to serve their sentences. Prisoners that receive short-term sentences generally serve their sentences in USMS custody.

## **Prisoner Transportation**

The USMS Justice Prisoner and Alien Transportation System (JPATS) transports prisoners between judicial districts and correctional institutions in the U.S., including Puerto Rico and the Virgin Islands. JPATS handles more than 1,000 movements per day on average,

about a quarter million movements a year. Prisoner movements take place for a variety of reasons, such as to testify at a trial, serve a sentence at a facility, or transfer between institutions. Our fleet of aircraft moves prisoners over long distances more economically and with higher security than commercial airlines.

## **Asset Forfeiture**

The Department of Justice Asset Forfeiture Program is a key component of the federal government's law enforcement efforts to combat major criminal activity by disrupting and dismantling illegal enterprises, depriving criminals of the proceeds of illegal activity, deterring crime, and restoring property to victims. The USMS plays a critical role in identifying and evaluating assets that represent the proceeds of crime as well as efficiently managing and selling assets seized and forfeited by DOJ. Proceeds generated from asset sales are used to operate the program, compensate victims, and support various law enforcement and community initiatives. We manage a wide array of assets, including real estate, commercial businesses, cash, financial instruments, vehicles, jewelry, art, antiques, collectibles, vessels, and aircraft.

## **Witness Security**

The USMS operates the federal Witness Security Program (WITSEC), sometimes referred to colloquially as the "Witness Protection Program." WITSEC provides for the security, safety, and health of government witnesses and their authorized family members, whose lives are in danger as a result of their cooperation with the U.S. government. The program has successfully protected an estimated 18,750 participants – including innocent victim-witnesses and cooperating defendants and their dependent family members – from intimidation and

retribution since it began in 1971. No participant following program guidelines has ever been harmed while under the active protection of the USMS. The program is a vital and effective tool in the U.S. government's battles against organized crime, drug trafficking, terrorism, and other major criminal enterprises. WITSEC personnel are the leading authorities and foremost experts on witness security matters, providing guidance and training to many government officials throughout the world.

## **Tactical Operations**

The USMS performs tactical operations for sensitive missions involving homeland security, national emergencies, and domestic crises. The Special Operations Group is a rapidly-deployable, highly-trained force of tactically-trained deputies whose members are deployed in high-risk and sensitive law-enforcement situations, national emergencies, civil disorders, and natural disasters. SOG is comprised of 80-100 volunteer Deputy U.S. Marshals who complete rigorous training in specialties such as high-risk entry, explosive breaching, weapons employment, rural operations, evasive driving, less-than-lethal weapons, waterborne operations, and tactical medical support. SOG deploys specialized people and equipment in support of domestic operations such as 15 Most Wanted investigations, fugitive task force support, terrorist trials, and high-threat judicial proceedings.

## **Officer Safety**

The USMS's fugitive apprehension mission is among the most dangerous in federal law enforcement, and officer safety is our top priority. Born of hard lessons learned, we developed Officer Safety Training that includes a 40-hour High Risk Fugitive Apprehension Course, which

focuses on the real dangers of the fugitive mission. This course focuses on topics to include: Deputy Trauma Medicine, Use of Force, Building Entries, Firearms Training, Vehicle Stops and Leadership. We also ensure that all personnel receive officer safety training on a continuous basis, to include, a program to ensure every district has a highly trained Tactical Training Officer able to provide officer safety training on a continuous basis. Finally, in 2014 we researched and developed a program for the cyclical replacement of body armor, which ensures that all body armor is replaced on a 5 year cycle to take advantage of advances in protective technologies.

## **Challenges**

Like our counterparts in the other federal law enforcement agencies, the USMS has learned to balance our diverse missions with resource limitations. We constantly strive to be good stewards of the taxpayer resources that are entrusted to us, even as we live in a fiscally challenging environment. On the hiring front, we are constrained by competitive service hiring rules that our counterparts in FBI, DEA, and ATF do not have. If the Congress grants us excepted service hiring authority, USMS will be able to hire better candidates faster, using fewer taxpayer resources. This Committee has already been extremely helpful in examining this matter, and I look forward to discussing our hiring issues further with you today.

## **Conclusion**

Chairman Gowdy, Ranking Member Jackson-Lee, and members of the Subcommittee, on behalf of the men and women of the United States Marshals Service, thank you for your ongoing support of the Agency's programs. I am committed to ensuring that we are efficient stewards of



the resources you have entrusted to us. I look forward to working with you to ensure we meet our obligations to the Department of Justice, the federal judiciary, and the American people.