



Department of Justice

**STATEMENT OF
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DIRECTOR
FEDERAL BUREAU OF PRISONS**

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

**FOR A HEARING ON
OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS
AND
IMPLEMENTATION OF THE FIRST STEP ACT OF 2018**

**PRESENTED
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**Statement of Kathleen Hawk Sawyer
Director, Federal Bureau of Prisons
Before the Subcommittee on Crime, Terrorism, and Homeland Security
of the
Committee on the Judiciary
U.S. House of Representatives
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Good afternoon, Chairwoman Bass, Ranking Member Ratcliffe, and Members of the Subcommittee. I appreciate the opportunity to discuss with you today the mission and operations of the Bureau of Prisons (Bureau) and our progress in implementing the First Step Act of 2018 (FSA).

I am honored to be selected by Attorney General Barr to return to lead the Bureau and to work alongside the finest corrections professionals in the world. I was originally appointed to serve as the Bureau's sixth Director in 1992, a position I held until my retirement in 2003. While much has changed since my last term as Director, the fundamental principles that guide our mission of protecting society by confining offenders in safe, humane, cost-efficient, and appropriately secure facilities remains the same. As an agency, we must re-commit to those fundamental principles at our 122 federal prisons nationwide.

It is also a privilege to lead this agency as we work together to implement the First Step Act. The Bureau has long espoused the philosophy that reentry begins on day one for each of the over 170,000 inmates in our custody, and we take great pride in the programs we have in place nationwide to assist inmates in returning to their communities as law-abiding citizens. Evidence has shown a number of our programs can work to reduce recidivism, and many more will be subject to evaluation in the future. With the First Step Act, we look forward to further enriching those offerings to help improve the lives of our inmates and, thereby, help keep our communities safer.

The Bureau – long referred to as the standard for correctional excellence – has also faced stresses and strains. The agency experienced over 30 years of rapid inmate population growth and prison construction, significant crowding, under-staffing, and strained budgets. The aftermath of September 11th also brought individuals who presented unique security concerns as the nation's law enforcement efforts were targeted toward international terrorism. In the past four years, the Bureau has largely been without permanent leadership. While those who have taken the helm in the capacity of Acting Director have taken on an incredible challenge and done excellent work, the long-term lack of permanent leadership – along with these temporary tenures – have caused instability for the agency.

These factors have contributed to the Bureau's less than stellar performance in some recent instances, and I am committed to addressing these issues. Together, Bureau staff have risen to every challenge in the past and I am confident this time will be no different.

OUR STAFF – DEDICATED PROFESSIONALS

I am keenly aware of the significant dedication the Bureau's over 35,000 law enforcement professionals have to their agency, and the personal sacrifices they make in fulfilling the agency's important public safety mission. These staff play a critical role in the federal criminal justice system; our partners such as arresting authorities, prosecutors, judges, and community members count on us as 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. The great work our staff do every day goes largely unseen by the general public, in contrast to our missteps. 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. It is critical that we demonstrate our core values – correctional excellence, respect and integrity – each and every day. When we do so, even during adversity, we can ensure that everyone – both inmates and staff – remains safe.

OUR CHALLENGES

Staffing

Staffing our institutions fully is among my highest priorities. The vast majority of Bureau employees are federal law enforcement officers working directly with the inmate population in various roles across our 122 institutions nationwide. These are public trust positions, and it is critical that we select individuals who possess the skills and the integrity to achieve correctional excellence in what can be a demanding, intense, and at times dangerous job.

Law enforcement nationally, and particularly corrections, are struggling to recruit and retain skilled workers. While historically staffing had not been a problem for the Bureau, we are now facing similar challenges. This is particularly true at many of our remotely located prisons, and in our facilities that are located in very high cost-of-living areas. We are currently working aggressively to fill the over 3,700 vacancies nationwide, but doing so will take time. Bureau leadership nationwide understands we must find the right individuals to fill these vacancies – individuals who share our commitment to respect, human dignity, and the very highest level of performance.

We have made great progress. Agency-wide there have been over 9,000 selections made since March 2018, with our hires exceeding our agency separations each month. We have established 10% recruitment, relocation, and retention incentives at our hard-to-fill locations, and a 5% nationwide retention incentive for retirement-eligible employees.¹ We have just put in place a higher entry level for newly-hired Correctional Officers for individuals who have relevant experience, which I anticipate will make these positions more attractive for applicants who have solid correctional experience. We are also using 3,000 temporary positions to allow us to succession plan seamlessly as staff promote or retire, avoiding the lag caused by waiting until the position is vacant to begin the hiring process. I am grateful to the Department of Justice (Department) and to Congress for supporting this temporary position authority. Going forward,

¹ Bureau of Prisons Federal Law Enforcement Officers are subject to mandatory retirement at age 57. See Title 5 § 8355(b) for CSRS and Title 5 § 8425(b) for FERS.

we are working closely with both the Department and the Office of Personnel Management on potential hiring authorities and novel recruitment strategies.

Increasing our staffing will assist us in our basic correctional functions of safety and security, and also allow us to increase programming and productive activities for the inmate population. Increased staff will also allow us to decrease our use of augmentation – a process whereby we fill temporary gaps in security posts, as when if an officer is on sick leave or is in training, with trained correctional workers and without sacrificing safety and security. It is important to emphasize that all institution employees are law enforcement officers trained to respond to emergencies and perform security duties as needed, not just our correctional officers. Everyone is hired as and is taught that they are correctional workers first. All staff receive the same basic law enforcement training, they all receive the same annual refresher training, and they all receive law enforcement pay and retirement. As such, having these corrections professionals occasionally cover security posts can be a good use of resources. But there are times when low staffing has forced us to do so far more than we would like. Congress has asked that we decrease our use of augmentation, and Congress is correct. These staffing increases will help us achieve that important goal.

Contraband

The Bureau, like corrections nationwide, continues to face dangerous contraband security threats. Contraband cell phones and SIM cards, illicit narcotics – particularly buprenorphine, – and synthetic drugs remain chief among those. The use of drones to drop contraband into prison recreation yards is also an ongoing problem that continues to evolve. We have deployed new contraband-detecting technologies, including thermal fences, state of the art metal detectors, and whole-body imaging devices, and we continue to leverage technology and cutting-edge solutions to effectively detect and interdict prison contraband.

Cell Phones: Contraband cellphones have been an ongoing correctional security and public safety concern for the Bureau, as well as state correctional systems. In addition to traditional detection technology used to keep contraband cellphones out of prisons, Managed Access Systems (MAS) and Micro-Jamming Systems (MJS) are two viable wireless interdiction technologies that offer promising opportunities for deployment in Bureau facilities. But they are both extremely costly. MAS captures all cellular signals within the geo-spatial confines of a prison and disables unauthorized cellular signals from contraband devices, and can be configured to provide intelligence for internal prison security. In contrast, MJS jams all cellular signals within the geo-spatial confines of a prison, rendering cellular communication within the geospatial area useless. The Bureau is currently collaborating with the Department and the National Telecommunications and Information Administration on micro-jamming tests at both BOP and state facilities. We are encouraged by the promising test results and the potential for future deployment of micro-jamming technology. We are also using mobile MAS technology to perform MAS assessments that detect contraband cellphones in a correctional facility. This technology is portable and can be relocated as needed; it is a valuable and flexible measure that can be deployed quickly to react to an identified or trending threat without a requirement to install infrastructure. Pending funding, the Bureau plans to conduct pilots to gauge the efficacy and cost-effectiveness of both MJS and MAS technology. This testing is mission critical, as

contraband cellular devices are used by inmates and co-conspirators to conduct illicit criminal activity; plan escapes; facilitate the introduction of dangerous contraband; and thereby threaten staff, other inmates and members of the public.

Illicit Narcotics and Synthetic Drugs: Synthetic drugs, such as fentanyl and fentanyl analogues, MDMA (ecstasy), K2 (Spice) and bath salts are an ever-evolving contraband threat to corrections nationwide. These compounds can be sprayed onto paper, personal mail, and incoming publications, creating a multi-pronged threat in our prisons. Exposure to the chemicals is hazardous to our staff and inmates, and can be lethal. Inmates who obtain and use the compounds can engage in significant misconduct, unpredictable behavior, and overdose; additionally, illicit contraband economies disrupt the orderly running of our institutions. Because manufacturers of these compounds frequently alter the chemical composition of the substances, reliable detection in a correctional environment where time is of the essence in responding is very difficult. We are working on new approaches that will provide our staff additional tools to reduce or eliminate the chance of exposure to these hazardous compounds, including exploring mail scanning, hand-held scanners, and new technologies to detect synthetic drugs. For example, we are conducting an off-site mail scanning pilot that would eliminate physical mail for general inmate correspondence. Inmate mail would be scanned, converted to an electronic file, and made available to inmates for reading on an inmate kiosk, thus eliminating the threat of synthetic drugs introduction in the physical mail.

Drones: With the support of the Department and the Federal Aviation Administration (FAA), the Bureau has obtained flight restrictions prohibiting drone flights over 108 Bureau institutions. BOP also played a key role in securing the passage in late 2018 of the Preventing Emerging Threats Act of 2018, which authorizes the Attorney General to mitigate credible threats presented by drones to the safety or security of certain BOP facilities and assets considered high risk and a potential target for unlawful drone activity. BOP is working closely with the Department to begin implementing that authority. In the near term, BOP will devote resources to support the testing and evaluation of cutting-edge technology capable of detecting and mitigating drones that threaten BOP facilities. BOP also participates in a Department-wide committee, the Counter-UAS Operational Test and Evaluation Committee (COTEC), focused on exploring the most promising forms of technology to counter the drone threat. BOP will continue to explore the most effective and efficient means of tackling this emerging threat in a manner that protects our prisons while promoting the safety and efficiency of the national airspace system.

Aging Infrastructure

About 30 percent of the BOP's 122 institutions are over 50 years old and 45 percent are over 30 years old. The older an institution becomes, the greater the need for repairs/replacements of systems. Due to years of inmate crowding and aging infrastructures, Bureau facilities and systems continue to sustain extensive wear and tear as well as premature deterioration. As with all deferred maintenance, the longer necessary repairs and maintenance are postponed, the greater the risk of problems becoming worse over time and the repairs becoming more costly. We carefully monitor and maintain the facilities and systems to

minimize the risk of catastrophic failure. However, delaying work on critical infrastructure and preventive maintenance puts even greater pressure on future fiscal years and on our employees to keep deteriorating systems running for much longer than best practices dictate.

This aging infrastructure also affects institution security, as deteriorated facilities add to increased risk of escape, inability to lock down cells, and potential violence due to frustration over inadequate living conditions, such as aging HVAC, plumbing, and roofs. Prison facilities are subjected to much heavier than normal wear since they are continuously used 24 hours a day, 365 days a year. As a result, the rate of deterioration tends to be higher than other federal facilities of similar age. We address this challenge by reprioritizing projects on a regular basis to ensure that the most critical needs are met, but that can result in an inability to then address lower priority projects.

OUR ACCOMPLISHMENTS – FIRST STEP ACT

The Bureau has made great progress in implementing the FSA. We appreciate the considerable work of the Department of Justice (Department) in the implementation process, as well. In particular, the Department's National Institute of Justice has been instrumental in collaborating with us as we move forward aggressively to ensure this important criminal justice reform is appropriately and effectively implemented. We similarly appreciate the ongoing work of the Independent Review Committee as they advise the Attorney General on the new risk and needs assessment systems required under the FSA.

We have listened to the important comments of the many interested stakeholders – from crime victims to a broad array of advocacy groups. The statutory timelines in the FSA were formidable, and placed before us many challenges, but I am proud to say that the Bureau and the Department rose to that challenge. And we continue to remain focused on the full, fair, and balanced implementation of the FSA.

The FSA memorialized in statute many things the Bureau has long had in place, as well as some newer Bureau initiatives. The prohibitions on room confinement for juveniles and restraining pregnant females have been in place in the Bureau for several years. While both populations are quite small within our agency, we recognize these individuals have unique needs. As such, we provide them with programming that specifically addresses these unique needs. Our small population of juveniles are housed in contract juvenile facilities that are required to provide very rich programming and treatment for the population. Our pregnant females have housing options that allow them to spend quality, post-partum time bonding with their child, often up until the inmate releases from prison.

We have for many years made feminine hygiene products available free of charge to our women prisoners. In 2017 we standardized nationwide what products were offered, and made explicit at our female prisons those products should be readily available in common areas in quantities sufficient to meet the needs of the women.

Designating inmates within 500 miles of their release residence when possible – consistent with safety, security, capacity, and inmate programming and health care needs – has long been our policy. Designation to facilities close to an inmate's release residence is important

in supporting family and community ties, as well as facilitating reentry needs, and we remain committed to those placements whenever possible.

The Bureau began a Medication Assisted Treatment (MAT) opioid therapy pilot in 2018, prior to the enactment of FSA. Initial screenings for MAT are completed on all inmates within fifteen months of release, and the Bureau is now screening inmates who are further from release. In conjunction with the pharmaceutical treatment, this program includes substantial psychological support for participants. Now, we are working to expand our pharmaceutical offerings for MAT through enhanced prescriber licensing, which is a federal requirement for some MAT pharmaceuticals.

Similarly, the Bureau has housed dog training programs in our facilities for many years. These programs, which are supported by community organizations and volunteers, provide marketable skills to our inmates, a number of whom have gone on to work in the industry upon release. The programs provide important soft skills, as well, such as responsibility, persistence, and empathy. With the passage of FSA, we have 20 dog pilots operational and the Bureau welcomes additional programs to the pilot.

The policy providing for staff personal weapons storage on Bureau property was issued in September 2018. This provision has special significance for the agency, as in the FSA it is named for Bureau Lieutenant Osvaldo Albarati. Lt. Albarati was murdered on his way home from his job at the Metropolitan Detention Center in Guaynabo, Puerto Rico on February 26, 2013.

With the President signing the FSA into law on December 21, 2018, several provisions became immediately effective. Despite the government shutdown, the Bureau rapidly developed guidance and policies to ensure appropriate implementation. The retroactive application of sentence reductions under the Fair Sentencing Act resulted in over 2,000 orders for release, with the release thus far of over 1,500 of those inmates. Staff also immediately began the challenge of re-programming our Good Conduct Time (GCT) sentence computations to reflect the change. As a result, on July 19, 2019, when the GCT change took effect commensurate with the Attorney General's release of the Risk and Needs Assessment System, the Bureau executed timely releases of over 3,000 inmates.

Guidance regarding the expanded Reduction in Sentence (RIS or compassionate release) provisions were issued in January 2019. Since the Act was signed into law, 95 inmates have received Compassionate Release. The re-initiation of the Elderly Offender Pilot from the Second Chance Act of 2008 was issued in April 2019. We currently have 328 inmates approved for the pilot, with 242 already on Home Confinement. The balance are pending their Home Confinement placement.

De-escalation training has been completed for Bureau field and administrative staff during agency-wide Annual Training. Our institution volunteers – a critical component of our community partnerships at our local institutions – have increased by almost 1,700 volunteers since the enactment of the FSA. In June, we distributed to all our institutions inmate reentry booklets that outline crucial inmate reentry resources, and have already had institutions request additional copies for further distribution to the inmate population. Finally, the youth mentoring pilot programming has been distributed to our institutions nationwide.

RISK AND NEEDS ASSESSMENT

In accordance with the FSA, the Attorney General on July 19, 2019, released the Department's report on the Risk and Needs Assessment System. The new Risk Assessment system – the Prisoner Assessment Tool Targeting Estimated Risk and Needs or PATTERN – has been developed by the Department and is currently undergoing fine-tuning as we consider feedback from stakeholders. The Bureau already has in place a robust Needs Assessment system, and we are working with experts in the field and research consultants to further enhance it.

PROGRAMMING

For many decades, the philosophy of the Bureau has been that release preparation begins on the first day of incarceration. By offering a variety of programs and activities, the Bureau has helped inmates enhance their skills to support a successful reentry back to the community. Reentry programming can be a critical component of public safety. Our goal is to provide inmates with as much opportunity as possible to improve themselves through job training, education, and programs which promote understanding of what it means to be a productive law-abiding citizen. The BOP also provides treatment programs which affect inmate risk and address their needs in critical areas such as mental illness and/or substance abuse.

Inmate programs in federal prisons include work, education (including literacy), vocational training, substance use disorder treatment, psychological services and counseling, observance of faith and religion, and other programs that impart essential life skills. These programs are a critical part of the Bureau's mission to keep our communities safe. The Bureau also provides inmates with career technical education and apprenticeships in a variety of fields including: building trades, mechanics, horticulture, food preparation, and cosmetology, as well as job readiness certifications in areas such as CDL-licensed drivers and biomedical technicians. These programs seek to improve reentry outcomes by promoting prosocial behaviors while targeting behaviors that would otherwise increase the risk of recidivism. The First Step Act provides us with the opportunity to add new programs, and enhance and expand existing programs, to help reduce risk, reduce recidivism, and better prepare inmates to return to our communities.

CONCLUSION

I am honored to speak on behalf of the Bureau, and also on behalf of the many Bureau staff in our 122 institutions, as well as our administrative offices nationwide. Our mission is challenging, but critical to the safety and security of the public, our staff, and the inmates we house.

I also thank the staff who worked long hours to make tremendous progress on the implementation of FSA. The Bureau can be proud of this hard work, but we understand we still have more to do. I look forward to the strong, continued collaboration between our staff, staff

from across the Department, and the many stakeholders with an interest in helping to reduce recidivism.

Chairwoman Bass, Ranking Member Ratcliffe, and Members of the Committee, this concludes my formal statement.