



Department of Justice

STATEMENT OF

**CHARLES E. SAMUELS, JR.
DIRECTOR OF THE FEDERAL BUREAU OF PRISONS**

BEFORE THE

**COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND HUMAN RIGHTS
UNITED STATES SENATE**

REGARDING

**REASSESSING SOLITARY CONFINEMENT: THE HUMAN RIGHTS, FISCAL, AND
PUBLIC SAFETY CONSEQUENCES**

PRESENTED

JUNE 19, 2012

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Introduction

Good morning, Chairman Durbin, Ranking Member Graham, and Members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss the housing of inmates and the circumstances under which segregation-type housing is used within the Bureau of Prisons (Bureau) to ensure safety and security. Although this is my first appearance before this Subcommittee as Director, I have been with the Bureau for nearly 24 years, having started as a correctional officer and then holding many positions including Warden and Assistant Director. Chairman Durbin, I appreciate you and other members of the Judiciary Committee for your support of the Bureau over the years, and I look forward to continuing our work together.

First, I want to thank you for raising the important issue of the role of inmate segregated housing in corrections. Inmate safety and well-being is of the utmost importance to the Bureau, in addition to ensuring the safety of our staff and the community at large. As such, we want to do all that we can to ensure that while they are in our custody we provide outstanding care, treatment, and programming that will provide them the best opportunity for successful reentry to their communities. In order to provide these important services, it is critical that we run our institutions in a safe and orderly manner. Said another way, 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. When institutions are not safe, inmates who are motivated to program and improve their lives have diminished access to programming opportunities. Further, unsafe institutions place staff and other inmates at risk, and potentially pose a danger to the community at large, for example in situations of inmate escapes or disturbances.

In order to effectively carry out our mission - 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 that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens - at times we must remove some of the most dangerous and disruptive offenders from the institution's general population. Usually such removal continues for only brief periods of time until the disruptive inmate can demonstrate his or her ability to refrain from misconduct within the institution. And only a very small subset of the population are housed away from the general population at any point in time. The vast majority of our inmates remain in general population throughout their term of incarceration and work safely and effectively to achieve their reentry program goals.

The Bureau is the nation's largest corrections system with responsibility for incarcerating nearly 218,000 inmates. Currently, we confine more than 177,000 inmates in 117 facilities with a total rated capacity of 127,236. The remaining almost 41,000 inmates are managed in contract care consisting primarily of privately operated prisons.

Within our population there are a small number of inmates (estimated at 3.6%) who suffer from serious mental illness or significant developmental disabilities. Rigorous policies and practices ensure that the needs of these inmates are identified and appropriately managed. We are mindful of the limitations and challenges these inmates face, and we ensure that they are appropriately assessed and treated throughout the course of their incarceration. We also ensure that they are held accountable for behaviors that are directly under their control and not attributed to a mental illness; this ensures the safety and security of all inmates.

Our psychologists work closely with staff and inmates to ensure that these mental health needs are carefully considered with respect to housing and disciplinary decisions. For safety reasons, this population is sometimes housed in by segregated housing. In some instances, restricted housing may still be required for these inmates, to ensure safety and security. Our psychologists monitor and treat these inmates in view of their needs, and staff who interact with these inmates while in restricted housing are aware of and responsive to their special needs.

We are also aware that some inmates with mental illness who are asymptomatic in the general population may develop symptoms upon placement in segregated housing. In order to ensure that the mental health of these inmates does not deteriorate in segregated housing, these inmates are identified based on their history of mental health problems. SHU and supervisory correctional staff are educated about their disabilities by means of a tracking roster, and are required to contact a psychologist if the inmate is placed in a segregation unit, so that preventative interventions can occur.

Finally, we are aware of the claims that some individuals have made regarding the potential negative impact of long-term extreme isolation on individuals. Thus, we seek to ensure that these inmates are not completely isolated as that term may be typically understood. Nearly all of these inmates continue to have interactions with other inmates, albeit through more restrictive settings or means. They all have daily interactions with staff, who are vigilant in monitoring for signs of distress. They also have other opportunities for interaction with others (through telephone calls and visits), as well as access to a wide range of programming opportunities that can be managed in their restrictive housing settings. Bureau psychologists receive specialized training on responding to the needs of mentally ill offenders in segregation units. Additionally, all staff are trained on an annual basis in suicide prevention and in identifying and addressing mental health disorders that can contribute to deterioration of mental health. Correctional Counselors, Lieutenants, and Health Services staff receive additional training on mental health problems and the appropriate steps to take when problems are identified.

As you know, our agency has no control over the number of inmates who come into federal custody and little control over how long they stay. The inmate-to-staff ratio in our

institutions has increased from 3.6-to-1 in 1997 to 4.9-to-1 today. Rigorous research has demonstrated that both increased crowding and an increase in the inmate-to-staff ratio result in an increased number of serious assaults.

System-wide, the Bureau is operating at 40 percent over its rated inmate capacity. Crowding is of special concern at our higher security facilities—with 51 percent overcrowding at our high security institutions - United States Penitentiaries (USPs) and 48 percent at our medium security Federal Correctional Institutions (FCIs). While the Bureau continues to provide appropriate necessities like toilets, showers, and meals, staffing issues may impact the availability of productive work and program opportunities. Inmate overcrowding may become a catalyst for violence which poses real risks to the lives of staff and inmates. Crowding also strains facilities' infrastructure, including water, sewage, and power systems.

The combined inmate population confined in medium and high security facilities represents over 45 percent of the inmate population housed in Bureau facilities. At the medium security level approximately 76 percent of inmates have a history of violence, 42 percent have been sanctioned for violating prison rules, and half have sentences in excess of 8 years. At the high security level, half of the inmates have sentences in excess of 12 years, 70 percent have been sanctioned for violating prison rules, and more than 90 percent have a history of violence. One out of every six inmates at high security institutions is gang affiliated. There is a much higher incidence of serious assaults by inmates on staff and inmates at medium and high security institutions than at the lower security level facilities. Last year, more than three-quarters of serious assaults against staff occurred at medium and high security institutions.

Despite this myriad of challenges, we have been fortunate to experience relatively few instances of significant violence within our facilities. I attribute this success to the hard work of our staff who collectively work 24 hours a day to ensure the safe and orderly operation of our 117 federal prisons. Respect is a key component to this and, along with our other core values of integrity and correctional excellence, is critical to our agency's continued effectiveness. Inmates and staff alike are expected to treat everyone – other inmates and staff, visitors, and the public – with dignity and respect.

Inmate Management

The Bureau houses inmates in the least restrictive conditions necessary to ensure the safety and security of all inmates, staff, and the public. As such, the vast majority of inmates are housed in General Population (GP) units within an institution and are able to move freely about the compound during the day and evening. We recognize GP is generally the best housing option for our inmate population both in terms of programming and staffing costs. As such, only a very small proportion of offenders are held in more restricted housing, and most for only brief periods of time.

With few exceptions, all sentenced inmates in the Bureau of Prisons who are medically able to do so are required to work – most work in jobs such as food service, landscaping, infrastructure maintenance (heating, cooling, electrical, plumbing, carpentry), or as orderlies within the housing units. Inmates may also seek work in Federal Prison Industries (FPI), one of

the Bureau's most important correctional programs that has proven to reduce recidivism.

We also offer a variety of inmate reentry programs such as a substance abuse treatment, education, occupational/vocational training, faith-based programming, and cognitive-behavioral therapy programs. These important programs not only teach inmates skills that will help them transition effectively to their local community upon release, but also help keep inmates productively occupied and decrease misconduct. Indeed, rigorous research has demonstrated many of these programs (FPI, Residential Drug Abuse Programming, and Education/Occupational/Vocational Training) reduce recidivism. Open movement on the compound at virtually all security levels, to include our high security institutions, allows inmates to safely and efficiently access these important reentry tools without requiring significant staff resources. Open movement also allows inmates to efficiently access medical, dental, and mental health care appointments, another critical component of our program.

While the majority of the inmates within our population comply with rules, some engage in willful misconduct and may require more restrictive housing to maintain the safety of the inmate him/herself, the inmate population, staff, and the public. The Bureau primarily uses three types of more restrictive housing to maintain safety and security: Special Housing Units (SHU), Special Management Units (SMU), and the Administrative Maximum Security Institution, Florence, Colorado (ADX). These restricted or segregation-type housing in the Bureau provide inmates with ample opportunities for staff interaction, reentry programming, and time outside the cell for recreation. Moreover, aside from the ADX, the segregated housing units typically have two inmates assigned to each cell. Housing within the ADX is single celled – each inmate has his own cell. Even there, however, inmates are not housed in extreme “isolation” or “solitary confinement,” but continue to interact with staff and other inmates on a more restricted basis. Placement in the ADX is restricted to inmates who clearly pose an extreme safety risk and need stringent restrictions to maintain safety for other inmates, staff, institutional operations and the public.

Special Housing Units (SHU)

Every federal prison, with the exception of minimum security prison camps, has a SHU to securely separate inmates from the general population. SHUs house two broad categories of inmates: (1) inmates who are in disciplinary segregation status, and (2) inmates who are in administrative detention status. An inmate can submit a formal grievance challenging his or her placement in the SHU through the Administrative Remedy Program, outlined in 28 Code of Federal Regulations, part 542.

Disciplinary segregation (DS) is a sanction for an inmate's commission of a prohibited act in a correctional facility. Prohibited acts include assault, possession of contraband, fighting, and refusing direct orders from staff.

Administrative detention (AD) is not punitive, rather inmates are generally placed in AD status for three reasons: 1) for investigation of potential misconduct, 2) for protection of themselves or other inmates until appropriate steps can be taken to transfer them to another facility, or 3) until further information is available about their background that allows us to

determine a safe and appropriate facility to house them.

Within seven days of placement in AD or DS, the inmate's status is reviewed at a hearing the inmate can attend. Inmates who are being protected from the general population can request another hearing at any time if they feel their placement in the SHU as a protection case is unnecessary. After these initial reviews, every inmate in both AD and DS receives recurring seven day reviews to ensure basic necessities are met, including sufficient recreation, meals, and showers. Every thirty days the inmate's status is reviewed at a hearing the inmate can attend.

SHU units are supervised by correctional officers who are present in the SHU 24 hours per day and who monitor inmates every thirty minutes. Additionally, correctional staff is available to meet with SHU inmates when requested by the inmate.

Inmates are not only visited by correctional officers, but also by unit team staff and programming staff. A unit team staff visits with the inmates on their caseload once per day. Programming staff visit with inmates for recreation, education, and chaplaincy needs. Every morning and evening all SHU inmates receive a visit from a health services staff member to ensure any medical needs are promptly addressed. Emergency medical care is always available and inmates can take prescribed medications in a SHU. Additionally, mental health and psychology staff makes weekly rounds in SHU and examine each inmate in a personal interview every 30 days of continuous placement in a SHU, or more often as needed or requested for the inmate. All inmates in a SHU receive the opportunity to exercise outside their cells at least five hours per week. This usually occurs in five one-hour periods throughout the week, and a SHU inmate generally shares the recreation area with at least one other inmate.

Special Management Units (SMU)

In fiscal year 2008 the Bureau began converting some existing bed space to Special Management Units (SMUs). These units are part of a 4 stage program lasting 18-24 months, which is designed to assist inmates in modifying behavior that has proven to be confrontational, resistant to authority and disregardful of institution rules. Many of these inmates have participated or had leadership roles in gang-related activity and therefore, present unique security and management concerns. We currently operate five male SMUs in USP Lewisburg, Pennsylvania (1,155 inmates); USP Allenwood, Pennsylvania (225 inmates); USP Florence, Colorado (193 inmates with 500 additional beds brought online by August, 2012); FCI Talladega, Alabama (76 inmates), FCC Oakdale, Louisiana (62 inmates with 260 additional beds by August, 2012). USP Atlanta, Georgia will activate a 60 male bed SMU in August, 2012, to bring our total to six SMUs. As of May 25, 2012, 871 inmates have completed the SMU program.

Inmates are referred for consideration for placement in SMU after a review by the institution warden and the Regional Director. A trained Hearing Administrator notifies the inmate prior to the SMU placement hearing and provides the inmate with specific evidence (unless such information would jeopardize the safety and security or endanger staff or others). The inmate has the opportunity to be present during the hearing, make an oral statement, and present documentary evidence to the Hearing Administrator. The inmate may also have a staff

representative to compile evidence and witness statements for the hearing. Following the hearing, the Regional Director makes the final determination regarding whether or not the evidence supports the appropriateness of SMU placement. The inmate is informed of the decision and his right to appeal the designation through the Bureau's Administrative Remedy Program.

Conditions of confinement for SMU inmates is more restrictive than for general population inmates. An inmate's individual conditions are limited as necessary to ensure the safety of others, to protect the security or orderly operation of the institution, or protection of the public, but all inmates continue to have access to Bureau reentry programming, including drug treatment, medical and mental health care, education, religious services, legal, recreation, commissary, correspondence, social visiting, and telephone privileges. While privileges are initially limited (e.g., less personal property, less commissary), inmates may gradually earn more privileges and are allowed to interact with one another based on their involvement in educational and counseling programs as well as their adherence to institution rules and regulations. Because of the extra supervision SMU inmates require, additional psychologists, counselors, and correctional officers are assigned to the units. The additional staff not only increase security, but also improves the chances of successfully modifying the inmates' behavior.

Following completion of the four phase SMU program, inmates may be considered for redesignation to a less restrictive facility. To qualify for consideration, the inmate must have, for a period of 12-18 months, abstained from gang-related activity, serious or disruptive misconduct, and group misconduct that adversely affect the orderly operations of the prison. The inmate must also demonstrate a sustained ability to coexist with other inmates and staff. Upon meeting those qualifications, the Unit Team, with the concurrence of the warden, submits a request for redesignation to another facility. If the inmate is not deemed appropriate for redesignation after 24 months of SMU placement, the Regional Director must approve continued SMU housing for that inmate.

U.S. Penitentiary – Administrative Maximum (ADX) in Florence, Colorado

The ADX is a 490-bed male facility constructed in 1994 that currently houses one-fifth of one percent (0.2%) of the Bureau's overall inmate population. The ADX houses those inmates within the Bureau that require the most security and supervision – inmates who cannot be safely managed in a less restrictive environment. As such, these inmates are single-celled and have less contact with other inmates than inmates housed elsewhere within our system. However, they actually have greater individualized contact with staff, as the inmate to staff ratio at ADX is dramatically lower than it is at any other federal prison in the country. By housing such offenders in one facility built with this specific mission, the Bureau can more effectively maintain the safety of both staff and inmates, while eliminating the need to increase the security of other high security level penitentiaries.

All inmates who are designated to the ADX receive a due process hearing prior to their placement at the facility. In order to be considered for placement in a less restrictive environment, inmates must maintain clear conduct, participate in a variety of programming opportunities, and demonstrate an overall positive institutional adjustment. All inmates housed

in the ADX have access to reentry programming, including drug treatment, education, religious services, legal, recreation, case management, mental/physical health care, correspondence, visiting, and commissary.

This institution has three types of housing units: *General Population*, *Special Security*, and *Control Unit*.

General Population (ADX GP)

An inmate may be referred to the ADX GP because their placement in other correctional facilities creates a risk to the institutional security, or staff, inmate, or public safety, or because their status before or after incarceration precludes their safe housing at another institution.

Inmates are referred for consideration for placement in ADX GP after a review by the institution warden and the Regional Director. Central Office (Bureau headquarters) staff then conducts a preliminary review of the case, and if it appears the inmate may be appropriate for ADX GP, a trained Hearing Administrator conducts a hearing where the inmate may be present, make an oral statement, and present documentary evidence. The inmate may also have a staff representative compile evidence and witness statements for the hearing. The hearing report and recommendations are provided to the inmate, and forwarded to the National Disciplinary Hearing Administrator. The Assistant Director of the Correctional Program Division within Central Office makes the final placement determination. The inmate is informed of the decision and his right to appeal the designation through the Bureau's Administrative Remedy Program.

There are four ADX GP housing units, each with the capacity to house 64 inmates. ADX GP inmates receive up to 10 hours of out-of-cell exercise weekly, and are able to converse with other inmates in adjoining recreation areas. They also receive two monitored 15-minute telephone calls monthly. If an inmate maintains clear conduct, positive adjustment, and successful programming (generally for a minimum of 12 months), he is eligible for placement into the institution's step-down component of the general population program.

Inmates assigned to the Step-Down component (capacity of 32) are afforded up to 15 hours out-of-cell exercise weekly, and three 15-minute telephone calls monthly. Inmates who adhere to these provisions for six months may progress to the Transitional phase of the step-down component.

The Transitional phase of the Step-Down unit has a capacity to house up to 32 inmates. The transitional phase allows inmates increased out-of-cell time and four telephone calls per month. Inmates who adhere to the programming requirements for six months may be moved to the Pre-Transfer phase.

The Pre-Transfer phase is the final phase of the step-down component. Ordinarily, this is the final program requirement prior to transfer out of the ADX to the GP of another high security facility. Inmates in this phase are allowed to utilize common recreation areas and barbering facilities, and are provided 300 minutes per month for telephone calls. Inmates in this phase are usually required to remain in this unit for 12 months before being considered for transfer to

another institution. During this 12-month phase, staff can sufficiently monitor each inmate's adjustment in the least restrictive environment within the institution prior to transferring him to another facility.

Control Unit Program

Within the ADX, the Control Unit houses inmates who are the most disruptive individuals within the Federal prison system. Inmates are designated to the unit as a disciplinary sanction that is the result of serious misconduct during service of their sentence (e.g., murdering an inmate with high risk for a repeat offense, murder of a staff member, extraordinarily extreme flight risk). Designation to the Control Unit requires approval by the Regional Director and Assistant Director of the Correctional Programs Division.

Control Unit inmates are afforded individual recreational opportunities up to seven hours a week and receive one 15-minute telephone call monthly. When moved outside of their cells, these inmates are restrained and escorted by three staff. The period of time an inmate is assigned to the Control Unit is determined based on the severity of the misconduct that caused his placement in the unit.

The Control Unit referral procedures are similar to the ADX GP referral procedures described above, but must include a psychologist's review of the inmate's mental status. Inmates currently suffering from active significant mental disorders or major physical disabilities are not referred to the Control Unit. As with other ADX referrals, the inmate may be present and provide evidence at the hearing, is informed of the final decision, and may appeal the decision through the Administrative Remedy Program.

Once transferred to the Control Unit, inmates are evaluated by a psychologist every thirty days. The Control Unit team also meets with the inmate and makes an assessment of his progress every thirty days. At least once every 60-90 days, the Regional Director and Assistant Director review the status of the Control Unit inmate to determine the readiness for release from the unit. The inmate is normally interviewed in person.

Only the Regional and Assistant Director may authorize an inmate's release from the Control Unit. In making this decision, they consider involvement in work, recreation, and program assignments, interactions with others (inmates and staff), adherence to policy, personal grooming and cleanliness, and quarters' sanitation.

Special Security

The Special Security Unit houses up to 64 offenders (with an additional 32 cells available) who have Special Administrative Measures (SAMs) imposed by the Attorney General. SAMs are special conditions of confinement or limitation of privileges that are reasonably necessary to prevent disclosure of national security information or prevent acts of violence and/or terrorism, outlined in 28 Code of Federal Regulations, part 501.2 and 501.3. SAMs restrict access to mail, media, telephone, and/or visitors, depending upon the specific risk factors. The referral process is similar to the other ADX referral procedures. Similar to ADX GP, this is

a three phase program with increased out of cell time or increased telephone calls monthly based upon positive adjustment and programming, again depending upon the specific SAMs conditions.

Mental Health and Restricted Housing

The conditions of confinement for any inmate within a correctional setting may impact his/her mental health, either positively or negatively. When an inmate is initially designated to the Bureau and upon movement to different institutions, Bureau psychologists review the inmate's history for evidence of mental illness and screen for any current signs of psychological distress; their findings are then taken into consideration when making decision about inmate housing and programming. Specifically, we consider the presence of, severity, and type of mental illness; prior incarceration experiences; the degree of family support; compliance with medication if applicable; compliance with other recommended treatment options; and inmate security level.

All inmates can request psychological services at any time. Moreover, all are psychologically assessed after 30 consecutive days in SHU, SMU, and ADX Control Unit and Special Security Unit. These assessments address their adjustment to their surroundings and threat posed to self, staff, and other inmates. Copies of these assessments are forwarded to the Captain and the Unit Team to ensure that staff is aware of any issues or concerns confronting inmates in restricted housing.

Suicide is always a concern in segregated housing. As such, the Bureau has long maintained a rigorous suicide prevention program throughout our prisons that involves intensive staff training, inmate education, and psychological intervention. As a result of this program, the Bureau has relatively low rates of suicide, with a rate of 6 per 100,000 during fiscal year 2011. Note our rate of 6 per 100,000 is down from 35 per 100,000 in 1970. By comparison, recent Center for Disease Control statistics reveal that suicide rates in the community of males 25 to 64 years of age increased from 21 per 100,000 in 2000 to 25 per 100,000 in 2009. The Bureau also has several suicide prevention safeguards in place for inmates in SHU. Beyond the annual suicide prevention training that all Bureau staff complete, staff working in the SHU also undergo additional supplemental suicide prevention training to ensure they are well trained on risk factors, warning signs, and appropriate responses to inmates who may experience distress while in SHU. Inmates in these units are routinely monitored by all staff for any behavioral changes that might indicate risk.

Conclusion

Chairman Durbin, this concludes my formal statement. I thank you for raising the important issue of isolation and segregated housing within the Bureau of Prisons, and reiterate that this restricted form of housing applies to only a small number of inmates within the Bureau. The use of restricted housing, however limited, remains a critical management tool that helps us maintain safety, security, and effective reentry programming for the vast majority of federal inmates housed in general population.

Again, I thank you Chairman Durbin, Mr. Graham, and the Subcommittee for your

support for our agency. The mission of the Bureau of Prisons is challenging. While there are many facets to our operations, the foundation for it all is safe, secure, orderly institutions, and each and every staff member in the Bureau is critical to this mission. Through the continuous diligent efforts of our staff, who collectively work 24 hours each day, 365 days per year - weekends and holidays - we protect the public. By maintaining high levels of security and ensuring inmates are actively participating in evidenced-based reentry programs, we serve and protect society. I would be pleased to answer any questions you or other Members of the Subcommittee may have.