



Department of Justice

STATEMENT OF

**HARLEY G. LAPPIN
DIRECTOR
FEDERAL BUREAU OF PRISONS**

BEFORE

**SUBCOMMITTEE ON HUMAN RIGHTS AND THE LAW
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

AT A HEARING ENTITLED

“HUMAN RIGHTS AT HOME: MENTAL ILLNESS IN U.S. PRISONS AND JAILS”

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the Subcommittee on Human Rights and the Law
Committee on the Judiciary
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**Entitled
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Good morning Chairman Durbin, Ranking Member Coburn, and Members of the Subcommittee. I am pleased to testify on the very important topic of mental health care and mental health treatment in the Federal Bureau of Prisons (BOP). Inmates with mental health problems present a host of challenges and often need staff-intensive services. Over the past several years these challenges have become particularly difficult – the number of inmates with mental illness continues to increase and our agency operates within constrained budgets. Based on our work with the Association of State Corrections Administrators, the American Corrections Association and others, we are well aware that the challenges we face are not unique to the federal prison system.

As the inmate population has grown in recent years, so also has the number of mentally ill inmates in BOP custody. While the BOP’s psychiatric referral centers are often used to handle the most severe of these cases, the vast majority of mentally ill inmates are maintained in non-medical institutions. Although the number of mentally ill inmates in any one institution is usually small, the high visibility of this special population, their potential for being disruptive, and their concentration in higher security institutions dictates they be closely monitored.

Traditionally, psychology services departments in non-medical institutions have provided services to these inmates, emphasizing institutional management and treatment options rather than referral for hospitalization. Successful long-term management of these cases requires a comprehensive program of institution-based care that includes accurate and early identification

procedures, effective treatment programs, and in cases of acute psychological disturbance, timely referral to a specialty institution.

The BOP utilizes a wide variety of medical and mental health care professionals to fulfill the mission to provide appropriate care for inmates with mental illness. It is an ongoing challenge to recruit and retain these professionals in rural or high cost of living areas, where many of our institutions are located.

A study of BOP admissions cohorts from 2002 and 2003 revealed that 19 percent of the incoming offenders suffered from mental illness.

As in the community, the vast majority of mental health care in the BOP is provided on an outpatient basis at the institution by Psychology Services staff, working in collaboration with other staff including therapists, counselors and social workers, and either a full-time or consultant psychiatrist, as appropriate. We also conduct an array of forensic evaluations for the courts.

Individual and group counseling is available in all BOP institutions. Due to staffing shortages at many locations, we prioritize individual counseling based on the severity of the inmate's problem. BOP psychologists conducted 37,263 individual counseling sessions in fiscal year 2008.

Group counseling is a very effective method for the delivery of mental health services to inmates in the BOP. The number and frequency of groups vary by institution, depending on the needs of the inmate population. Group counseling is also part of the BOP's residential drug abuse treatment program, as well as a number of intensive mental health treatment programs described in the next section. Separate from the group counseling that occurs in these intensive and residential programs, general group counseling is very common practice. In August 2009, 7,943 inmates were actively participating in general group counseling across the BOP. In addition, the BOP has developed a number of intensive treatment programs to address the needs of mentally ill inmates.

Inpatient psychiatric services are provided to inmates as needed. Inpatient psychiatric beds and psychiatric services are located in the BOP's medical referral centers. These inpatient placements are reserved for acutely mentally ill individuals, and most of the mental health treatment for these inmates is provided in an outpatient setting. Some offenders are required to

be housed in these facilities based on court orders regarding the need for hospitalization (See 18 U.S.C. §§ 4242 and 4245). The relevant statutes provide a variety of due process mechanisms to ensure inmate rights are protected.

Other provisions also exist for maintaining individuals in custody even after expiration of the sentence if the court determines their release would pose a danger as a result of mental illness or defect (See 18 U.S.C. § 4246). In 2006, Congress added another basis for maintaining individuals in custody beyond expiration of their sentence – the Adam Walsh Child Protection and Safety Act allows for civil commitment of those who are found to be sexually dangerous (See 18 U.S.C. § 4248). But note that the Fourth Circuit Court of Appeals struck down this provision in *United States v. Comstock*, 551 F.3d 274 (4th Cir 2009). The Supreme Court has granted the government’s petition for certiorari on the question whether Congress has the constitutional authority to enact this provision, 129 S. Ct. 2828. While Federal law authorizes the transfer of inmates who are mentally ill to a State or local jurisdiction that has appropriate facilities and also authorizes the application for civil commitment under state law for certain individuals, such transfers are difficult to accomplish due to the unwillingness of States and others to assume responsibility for the costly care and treatment of these individuals.

Screening and Assessment

The BOP identifies inmates who are suffering from mental illness through screenings and assessments which are done at initial intake, during reviews of inmates in special housing units, and as part of ongoing evaluations of mentally ill inmates. BOP psychologists conducted 443,124 routine screenings and assessments in fiscal year 2008. Inmates found to be in need of treatment are referred for treatment evaluation and development of a treatment plan including further transfer to a different facility if necessary.

Intensive Treatment Programs

The BOP has developed a number of intensive treatment programs to address the needs of mentally ill inmates. These programs include:

- **The Challenge Program:** The Challenge Program is a residential treatment program for high-security inmates with a history of substance abuse and/or mental illness. Inmates may participate in the program at any point during their incarceration. The duration of the program varies based on inmate need, with a minimum duration of 9 months. Inmates may volunteer or be designated to the program. The Challenge Program is now available in all United States penitentiaries.

- **The Resolve Program:** The Resolve Program is a nonresidential treatment program for female inmates with trauma-related mental illnesses. Inmates may participate in this voluntary program at any point during their incarceration. The duration of the program varies, based on the needs of the inmate. The program consists of a series of educational and cognitive-behavioral interventions addressing a range of trauma treatment needs. This program is available in 10 BOP facilities that confine female inmates.
- **The Step-Down Program:** The BOP has created special Mental Health Treatment Units (also known as Step-Down Programs) to provide intermediate care to chronically mentally ill inmates who do not require inpatient treatment, but lack the skills to function appropriately in a general prison population. Inmates of all security levels are eligible to participate in this program. The program is available at the Federal Correctional Center in Butner, North Carolina (for male inmates) and at the Federal Correctional Institution in Danbury, Connecticut (for female inmates).
- **The Skills Program:** The Skills Program is a residential treatment program for medium-security inmates who have cognitive and/or social deficits associated with mental illness or brain injury. Inmates with these deficits often have difficulty adjusting to incarceration, particularly with adhering to rules and interacting appropriately with staff and other inmates. This program provides a supportive environment for the inmate's development of essential life skills and coping skills. This program is available at the Federal Correctional Complex in Coleman, Florida.
- **The Habilitation Program:** The Habilitation Program is a residential and transitional treatment program for high- security inmates who cannot successfully adapt to a penitentiary environment, due to their mental health issues. The program allows these inmates to receive treatment in a medium-security setting and to transfer to another medium-security institution upon successful completion of the program. The Habilitation Program is located at the Federal Correctional Complex in Butner, North Carolina.
- **The Dual Diagnosis Residential Drug Abuse Treatment Program:** This special Residential Drug Abuse Treatment Program is available for inmates suffering from both a substance use disorder and a serious mental illness. This integrated treatment program is available at the Federal Medical Center in Lexington, Kentucky (for male inmates) and at the Federal Medical Center in Carswell, Texas (for female inmates).

Psychiatry Services

The BOP currently has 30 full-time psychiatrists within the system, located primarily at the agency's medical referral centers. Other facilities without a psychiatrist receive psychiatry services via tele-psychiatry or through a contractual psychiatrist. At present, 12 BOP psychiatrists provide tele-psychiatry services. All BOP institutions have the capability to use

tele-psychiatry services and institution psychologists work closely with tele-psychiatrists to ensure inmates receive appropriate treatment services.

Forensic Evaluations

The BOP has 36 psychologists who provide court-ordered assessment services, in addition to their responsibilities in providing mental health screening and treatment services. In 2008, forensic evaluators completed 1,627 court-ordered forensic evaluations include those to determine competency to stand trial (see 18 U.S.C. § 4241), insanity at the time of offense (see 18 U.S.C. § 4242), dangerousness associated with mental illness (see 18 U.S.C. § 4246), the need for hospitalization due to mental illness (see 18 U.S.C. §§ 4244 and 4245), and sexual dangerousness (see 18 U.S.C. § 4248).

Suicide Prevention

For many individuals who suffer from mental illness, suicide is a real risk. All BOP staff is trained to recognize signs indicative of a potential suicide, to prevent suicides, and to understand and make appropriate use of the referral process. The BOP uses well-trained staff, skilled clinicians, frequent referrals, prevention techniques, and extended follow-up services to manage the suicide risk presented by Federal inmates.

While any suicide is tragic, over the past 10 years, the BOP's suicide rate has averaged 8.9 per 100,000 inmates. This rate is less than the rate for the general population (11 per 100,000) and approximately one-half the rate for males in the general population (17 per 100,000). The BOP will continue to look for ways to improve on our prevention strategies.

Transitional Services

The transition of mentally ill inmates from prison to the community poses a variety of challenges that must be addressed in order to reduce the likelihood of the offender returning to prison. The BOP works hard to ensure good communication with the supervising authorities – U.S. Probation and Court Services of Offender Supervision Agency for DC offenders as well as treatment providers in the community, through our network of residential reentry centers.

We use residential reentry centers – 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, find post-release employment, and in many cases

find suitable housing. These centers provide a structured, supervised environment and support in job placement, counseling, and other reentry services.

Prior to the release of a mentally ill inmate the treating psychologist prepares a treatment summary, that includes the inmate's current mental health status, treatment received within the BOP, and future mental health treatment needs. The summary is provided to the BOP's Transitional Services staff, who oversees treatment services for inmates housed in residential reentry centers. Transitional Services staff contract with community treatment providers to obtain appropriate mental health services for inmates in these prerelease settings, consistent with the requirements of the Second Chance Act. (*See footnote 1 below.*)

The Second Chance Act also requires the BOP to assess inmates' skills, develop reentry plans, determine program assignments, and provide incentives for participation in skills development programs, and that priority be given to the re-entry needs of high-risk populations, such as sex offenders and inmates with mental health problems.

The BOP is meeting this requirement through our implementation of the Inmate Skills Development initiative. The initiative includes an assessment of an inmate's strengths and skill deficits upon admission, the development of an individualized plan to address skill deficits, and the monitoring of skill enhancements throughout incarceration. The three principles of the Inmate Skills Development strategy 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 the comprehensive assessment, rather than simply completing a program; and (3) resources are allocated to target inmates with a high risk for reentry failure.

The Inmate Skills Development Assessment Form includes a section on mental illness to help us identify these high-risk offenders. Staff will use the information from the assessment to enhance our current efforts in mental health care by targeting and prioritizing the placement of mentally ill inmates in appropriate treatment and skills-building programs.

The Inmate Skills Development initiative is being implemented at all institutions. The BOP is currently performing the initial assessment on all new arrivals, on 50 percent of high-

¹ We are able to release most inmates with a mental illness through a residential reentry center. However, there a number of severely mentally ill inmates who require a level of monitoring not currently available at any residential reentry center.

security and medium-security inmates within 4 years of release, and 25 percent of low-security and minimum-security inmates within 4 years of release.

Conclusion

Thank you for holding this hearing and bringing attention to this important topic. The mentally ill in prison are a unique population that poses real challenges for our agency. We are doing a lot, particularly given the budget restrictions we have experienced. But more can be done and we continue to renew and refine our approaches to ensure we are meeting the needs of these inmates. I will be pleased to answer any questions the members of the Subcommittee may have.