

HOUSING D.C. FELONS FAR AWAY FROM HOME: EFFECTS ON CRIME, RECIDIVISM AND REENTRY

HEARING

BEFORE THE
SUBCOMMITTEE ON FEDERAL WORKFORCE,
POSTAL SERVICE, AND THE DISTRICT
OF COLUMBIA

OF THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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HOUSING D.C. FELONS FAR AWAY FROM HOME: EFFECTS ON CRIME, RECIDIVISM AND REENTRY

WEDNESDAY, MAY 5, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL
SERVICE, AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:47 p.m., in room 2154, Rayburn House Office Building, Hon. Stephen F. Lynch (chairman of the subcommittee) presiding.

Present: Representatives Lynch, Norton, Davis, Cummings, and Chaffetz.

Staff present: William Miles, staff director; Aisha Elkheshin, clerk/legislative assistant; Adam Fromm, minority chief clerk and Member liaison; Howard Denis, minority senior counsel; and Mitchell Kominsky, minority counsel.

Mr. LYNCH. Good afternoon. The Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia will now come to order. I apologize for the delay, the slight delay in starting. We had votes on the floor.

But let me welcome all of the Members. I am told that Mr. Chaffetz, the ranking member, will be along shortly. He as well was on the floor.

But to all of our Members, subcommittee hearing witnesses, and all those in attendance, the purpose of the hearing today is to examine the criteria used to determine the placement of D.C. Code offenders, as well as to discuss the rehabilitation and reintegration challenges that these individuals face as a result of being in prison so far from their homes and supportive networks.

The chair, the ranking member, and the subcommittee members will each have 5 minutes to make opening statements, and all Members will have 3 days to submit statements for the record.

Ladies and gentlemen, again, let me welcome you to this subcommittee, D.C.-related oversight hearing entitled, "Housing D.C. Code Felons Far Away From Home: The Effects on Crime, Recidivism and Reentry." Today's hearing gives the subcommittee the opportunity to examine the criteria used to determine the placement of D.C. Code offenders. In addition, we will examine the unique rehabilitation and reintegration challenges faced by these individuals as a result of being imprisoned such a far distance from their homes and support networks.

As you may know, the National Capital Revitalization and Self-Government Improvement Act of 1997, also known as the Revitalization Act, transferred the responsibility and costs associated with certain State criminal justice functions, including housing, parole and supervised release of adult felons convicted under the D.C. Code, D.C. Criminal Code, from the District of Columbia to various Federal Government agencies. While considerable progress has been made over the past 10 years since the enactment of the Revitalization Act, a host of challenges regarding the implementation of effectiveness on felon supervision, reentry and revocation systems and practices remain.

Notably, D.C. Code felons are unique in that they are routinely housed hundreds of miles away from their homes. In addition to placement in the District of Columbia, nearly 5,700 D.C. Code felons are housed in 33 States in facilities owned or leased by the Federal Bureau of Prisons. While the majority of these individuals reside in facilities located in Pennsylvania, North Carolina, and West Virginia, some D.C. Code felons receive placement in States as far away as Florida, Texas, and California.

In recognition of the challenges posed by distant placement, the Federal Bureau of Prisons, pursuant to a 1998 Memorandum of Understanding executed with the District of Columbia, seeks to house each inmate within 500 miles of their home. However, a variety of factors, including the availability of beds, security concerns, and individual prisoner medical needs, may affect that placement. Accordingly, today's hearing is intended to both examine the Federal Bureau of Prisons offender placement process and procedures, as well as explore how the issues of distance impacts the reentry process.

With research suggesting that prisoners who have regular contact with members of their family have lower recidivism rates than those who do not, placement far away from the home makes the reentry process especially hard for D.C. ex-offenders. Ex-offenders also face many barriers that impede their return to society, including a lack of education and minimal employment qualifications.

I would like to especially thank my colleague and friend, Congresswoman Eleanor Holmes Norton, for her tireless work in this policy area and her work on keeping me up-to-date and pushing on this issue. The subcommittee looks forward to continuing to work with her and her office as we conduct oversight on this issue, as well as other members of the committee.

Again, I thank all of those in attendance this afternoon, and I look forward to hearing the testimony of our witnesses. I now yield to the ranking member, Mr. Chaffetz, for 5 minutes for an opening statement.

[The prepared statement of Hon. Stephen F. Lynch follows:]

**STATEMENT OF CHAIRMAN STEPHEN F. LYNCH
AT THE SUBCOMMITTEE ON FEDERAL WORKFORCE
AND POSTAL SERVICE, AND THE DISTRICT OF COLUMBIA**

**“Housing D.C. Code Felons Far Away from Home: Effects on Crime,
Recidivism and Reentry”**

**Wednesday, May 5 at 2:00 p.m.
2154 of the Rayburn House Office Building**

Ladies and gentlemen, again, let me welcome you to the Subcommittee’s D.C. related oversight hearing, entitled “Housing D.C. Code Felons Far Away from Home: Effects on Crime, Recidivism and Reentry.” Today’s hearing gives the Subcommittee the opportunity to examine the criteria used to determine the placement of D.C. Code offenders. In addition, we will examine the unique rehabilitation and reintegration challenges faced by these individuals as a result of being imprisoned so far away from their homes and support networks.

As you may know, The National Capital Revitalization and Self-Government Improvement Act of 1997, also known as the Revitalization Act, transferred the responsibility and costs associated with certain state criminal justice functions, including the housing, parole and supervised release of adult felons convicted under the D.C. Criminal Code, from the District of Columbia to various federal governments. While considerable progress has been made over the past ten-plus years since the enactment of the Revitalization Act, a host of challenges regarding the implementation of effective felon supervision, reentry and revocation systems and practices remain.

Notably, D.C. Code felons are unique in that they are routinely housed hundreds of miles away from their homes. In addition to placement in the District of Columbia, nearly 5,700 D.C. Code Felons are housed in 33 states in facilities owned or leased by the Federal Bureau of Prisons. While the majority of these individuals reside in facilities located in Pennsylvania, North Carolina, and West Virginia, some D.C. Code felons receive placement in states as far away as Florida, Texas, and California. In recognition of the challenges posed by distant placement, the Federal Bureau of Prisons, pursuant to a 1998 Memorandum of Understanding executed with the District of Columbia, seeks to

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Again, I thank all those in attendance this afternoon and I look forward to hearing the testimony of our witnesses.

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Mr. CHAFFETZ. Thank you, Mr. Chairman. And thank you all for being here and for your insight that we will be hearing from today.

At the onset, let me just say that this is one of the critical roles and functions of our government. You know, for most campaigns people will tell you you are not going to win or lose an election based on what happens with the Bureau of Prisons and these types of issues unless something has really, really gone awry. But for me personally, I think it is one of those core functions that government should do and execute well, and is a duty and a service to the public.

We also have to recognize that most people will be returning to the public for instance, in my State, we refer to it as the Department of Corrections. But I often wonder are we doing enough to actually correct this behavior so that people can return to their public life, you know, go back into society and be productive members of that society. And so this is a long-term interest for me personally, and I appreciate holding this hearing.

I was not elected to Congress yet, when the Lorton facility was shut down in 2001. However, from what I understand, a number of congressional leaders from both sides of the aisle worked together, in both the Clinton and the Bush administrations, to facilitate the transfer of the D.C. prisoners to a newly built facility in North Carolina. And it is my understanding this change was much needed, and a high priority for the local congressional delegation because of the extremely sub-par conditions at the Lorton facility.

In transferring inmates, the District of Columbia got a safe new facility at no cost to the city. Since the Federal Government absorbed the cost, the subcommittee has heard about conditions and programs in the facility and others where D.C. felons are housed.

On October 16, 2007, our predecessors on the subcommittee held a hearing entitled "Doing Time," which focused on D.C. prisoners being prepared for reentry with access to the Bureau of Prisons services. On September 22, 2009, we held a hearing on the local role of the U.S. Parole Commission, which focused on alternatives to incarceration within the District of Columbia. And on February 3rd of this year we held a hearing on halfway houses in the District of Columbia with testimony from many of the same entities we will hear from today.

This additional view today is welcome, and we do appreciate your time. I remain interested in how the Bureau of Prisons and the Court Services and Offender Supervision Agency work together to reduce recidivism. We all want ex-offenders to return safely to their communities, and this transition is difficult.

Proximity of jailed offenders to their communities is also a key factor for inmates and their families. But it is clear that released offenders can best succeed if they are sober, employed, and have a place to live. Otherwise, they are highly likely to go through the revolving door of the criminal justice system.

Again, I think there is a proper role of government to help those that are in need of making those transitions back into their communities. How we best do that in a cost effective manner but, at the same time, wanting people to become self-sufficient and get back on their feet, I think is critical.

That is why I appreciate bringing up this hearing today. I appreciate your insight and look forward to learning more about the issue.

With that, I will yield back the balance of my time, Mr. Chairman.

[The prepared statement of Hon. Jason Chaffetz follows:]

**OPENING STATEMENT OF
JASON CHAFFETZ
RANKING MEMBER
SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL
SERVICE, AND THE
DISTRICT OF COLUMBIA
HEARING: "HOUSING D.C. CODE FELONS FAR AWAY FROM
HOME: EFFECTS ON CRIME, RECIDIVISM, AND REENTRY"
MAY 5, 2010**

Thank you Mr. Chairman for holding this hearing.

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This additional view today is welcome.

I remain interested in how the Bureau of Prisons and the Court Services and Offender Supervision Agency work together to reduce recidivism. We all want ex-offenders to return safely to their communities.

Proximity of jailed offenders to their communities is a factor. But it is clear that released offenders can best succeed if they are sober, employed, and have a place to live. Otherwise, they are highly likely to go through the revolving door of the criminal justice system.

**Thank you again Mr. Chairman.
I look forward to hearing from our witnesses.**

Mr. LYNCH. I thank the gentleman. The chair now recognizes the gentlelady from the District of Columbia, Ms. Eleanor Holmes Norton, for 5 minutes for an opening statement.

Ms. NORTON. Thank you, Mr. Chairman. And may I again thank you for always being willing to hold hearings on matters of importance to the District of Columbia. And I would like to simply summarize my opening statement and to say that of all the matters you could, in fact, hold a hearing on, nothing is more important than guaranteeing public safety in the District of Columbia, as well as facilitating reentry of our men and women who are now spread across the United States in prisons, many of them far from home, as a result of the Revitalization Act, affording very little contact with their families or with services and making reentry a huge challenge to the city and to the inmates themselves and to the Federal agencies, including the BOP, who must work with them.

Mr. Chairman, we do not ask, in this hearing, for changes in the Revitalization Act. We recognize that the District of Columbia asked for this change. It wanted Lorton closed. Lorton was anything but a model prison. It wanted it taken off of its budget, and there are many advantages to the Bureau of Prisons. In my judgment, the Bureau of Prisons is the best prison system in the world. Now, that may not say much when you consider what prisons look like in most of the world, but if you have visited the Bureau of Prisons, I think you would agree that it is a fine prison.

The real question is, does it meet the challenges that Congress posed when, for the first time in U.S. history, Congress placed a State prison system within the Federal prison system. Now, you can put them there and spread them out as if they were all Federal prisoners. They are not. There are 5,700 of these D.C. Code offenders, and I think it blows the mind, Mr. Chairman, to recognize that they are in 115 different facilities in 33 States throughout our country. There are no State prisoners who face this kind of dispersal, lack of access to families, and to services for all that means for them, for the city, and for the city to which they must return. In fact, best practices make clear what happens, frankly, in every State, that from the time an inmate is in the criminal justice system to the time he is released and post-release, the authorities have a relationship with him that must assure his successful reentry. So that if we were in Maryland or Virginia State system, for example, that these services, these parts of the criminal justice system would all be working together with the offender.

Now, the challenge created here is that we are dealing with, in our Federal system, Federal agencies like the Bureau of Prisons and CSOSA on the one hand, and facilities here in the District, not to mention the Parole Commission on the other. So you have a meeting of State and local agencies that will call for greater understanding and coordination and, frankly, creativity to, in fact, deal with this unprecedented challenge in our city.

For example, the Bureau of Prisons doesn't have to be as nearly in touch with the local needs of a city the way it should occur when they have this set of State prisoners in their midst. Prison, parole, and supervision agencies in each State serve only offenders in that State. That is not the case here. It doesn't mean it is impossible to deal with. One of the challenges we will be hearing from if you

are in a State prison system you are closer in touch, for example, with the resources and skills necessary to get a job. That is going to be pretty hard if you are in North Dakota or Arizona or Wyoming or wherever BOP has sent you.

You are learning a skill, I am pleased to say. I have gone to BOP facilities, impressed with what they do in vocational training. It doesn't have much relationship to what these men and women will find when they get back home. Almost none of these facilities can be called close to home. CSOSA tries to do what it can. It can reach only a fraction of those who will be returning home.

Mr. Chairman, I will be absolutely candid. I think the answer is placing D.C. Code felons in one BOP facility closer to D.C., men, women and, yes, we have children all the way in North Dakota. They should be brought home right now and made closer to home. In the meantime, we can do a better job of coordinating reentry and the needs of these D.C. Code felons for some contact with their family before, all of a sudden, out of prison, into the District they are expected to somehow act as they would if they had been in an ordinary State prison where they would have had access to their families, to some sense of services, and to the true integration into reentry.

So Mr. Chairman, this is a very important hearing for the District of Columbia. I couldn't thank you and the ranking member more for assuring this hearing today.

[The prepared statement of Hon. Eleanor Holmes Norton follows:]

OPENING STATEMENT OF
ELEANOR HOLMES NORTON
HOUSE SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE AND THE
DISTRICT OF COLUMBIA

HOUSING D.C. CODE FELONS FAR AWAY FROM HOME: EFFECTS ON CRIME,
RECIDIVISM AND REENTRY

May 5, 2010

First, I want to express my deep appreciation to Chairman Stephen Lynch for his willingness again to schedule an important hearing to assure public safety in the District of Columbia. This hearing on "Housing D.C. Code Felons Far Away from Home: Effects on Crime, Recidivism, and Reentry," is critical to successful reentry and law abiding behavior by returning inmates. State-of-the-art penology requires preparation by authorities as well as access to families and services at home that we fear D.C. inmates are not receiving. The federal government assumed a number of the District's criminal justice functions and costs when Congress passed the National Capital Revitalization and Self-Government Improvement Act of 1997 (the Act). As a result, the federal government now plays a critical role in housing and rehabilitating D.C. Code Felons. The Act directed the District to close its Lorton Correctional Complex and gave BOP responsibility for incarcerating D.C. code felons. Today, approximately

5,700 D.C. Code Felons are housed in 115 BOP facilities, located in 33 states and the District of Columbia.

In transferring state felons to federal custody for the first time in U.S. history, Congress challenged federal Bureau of Prisons (BOP) to accommodate state inmates sentenced under local law. District code felons account for the only large and permanent cohort of state inmates in the federal prison system. The Subcommittee wants to assist the BOP in securing the advantages important to overcoming the possible disadvantages of this unique arrangement in our federal system. It is important to remember that best practices indicate that all elements of the criminal justice system -- from prison to post-release supervision -- should work together from the day an offender enters prison until release. However, because of the unique relationship between the District of Columbia, a local jurisdiction, and the BOP, a federal agency, it will take special effort without precedent for D.C. agencies, the BOP, and other federal agencies to effectively coordinate such efforts. Today, we are particularly interested in the rehabilitation and reintegration challenges D.C. code felons and their families face because of the placement of

state inmates in 33 states, many at great distances from their homes and support networks, and the additional effects on public safety in the District of Columbia.

Federal responsibility for this local mission creates a special need for the BOP to understand the local needs of our city, just as our subcommittee has the responsibility of ensuring that D.C. code felons are properly transitioned back into our communities. Unlike the integrated criminal justice systems in the states—where the prison and the parole and supervision agencies in each state serve only offenders in such state—the agencies responsible for D.C. code felons either serve both federal and D.C. Code felons or only D.C. code felons, making coordination among these agencies inherently more difficult. For example, D.C. code felons who are incarcerated in dozens of states far from their families and support networks face difficulties obtaining D.C.-specific job training, information, and connections to D.C. specific reentry resources, and maintaining all important ties to family and friends in the District. While most D.C. Code felons participate in BOP vocational training programs, many are not learning a skill that is relevant to the Washington, D.C. labor market. The D.C. area's largest employment categories are business services (70 percent), hospitality and tourism (11 percent), and health

care (10 percent), but a 2005 study found that only 25 percent of D.C. inmates in vocational programs are receiving training in those areas. In addition, with the exception of the Rivers Correctional Institute (Rivers), which is a BOP-contracted facility 200 miles from the District, only one third of whose inmates are D.C. code felons, the only routine contact the Court Services and Offender Supervision Agency (CSOSA) has with D.C. inmates prior to their release is through the DVDs and written materials it sends to all BOP facilities housing D.C. code felons, which provide information about the resources and services available in the District to returning prisoners.

Placing D.C. code felons into one BOP facility closer to D.C. should be our goal. In the meantime, we must work with BOP to better meet the reentry needs of D.C. code felons by establishing improved coordination with D.C. agencies and other federal agencies from the time of incarceration until the time of release.

This hearing is particularly important because it will give this subcommittee the opportunity to hear first-hand from federal officials, experts as well as residents transitioning back into society. We welcome The Honorable Harley G. Lappin, Director, Federal Bureau of

Prisons; Adrienne Poteat, Deputy Director of CSOSA; Nancy LaVigne, Director of the Urban Institute's Justice Policy Center at the Urban Institute; Philip Fornaci, Director, DC Prisoner's Project; Andrew Cook, Previously Incarcerated, Bureau of Prisons; and Louis Sawyer, Previously Incarcerated. We thank you for appearing today and look forward to testimony from each of you.

Mr. LYNCH. Thank you. Before I read the introductions of our panelists, it is the custom of this committee to ask anyone who is going to offer testimony before the subcommittee to be sworn. So could I ask you all to rise and raise your right hands.

[Witnesses sworn.]

Mr. LYNCH. Let the record show that all the witnesses have answered in the affirmative. Let me begin with Mr. Lappin.

Harley Lappin has served as the Director of the Federal Bureau of Prisons since April 4, 2003. A career public administrator in the Federal Bureau of Prisons, Mr. Lappin is responsible for the oversight and management of the Bureau's 115 institutions and for the safety and security of more than 210,000 inmates under the agency's jurisdiction.

Deputy Director Adrienne Poteat serves as the agency head of the Court Services and Offenders Supervision Agency [CSOSA], for the District of Columbia. In this position, Ms. Poteat oversees a Federal agency of nearly 1,300 employees, which was created by the D.C. Revitalization Act of 1997 to improve public safety through active community monitoring and supervision of ex-offenders.

Ms. Nancy LaVigne is the current director of the Justice Policy Center at the Urban Institute. Ms. LaVigne is an expert on crime prevention and prisoner reentry and is the founding Director of the U.S. Department of Justice's Mapping and Analysis for Public Safety Program.

Mr. Philip Fornaci joined the D.C. Prisoners Legal Services Project as executive director in August 2003. In addition to his primary management and the fundraising responsibilities, Mr. Fornaci also manages the D.C. Prisoners Legal Services Project public policy work, which is aimed at advocating for the humane treatment and dignity of all persons convicted, charged or formally convicted with a criminal offense under the District of Columbia law.

Mr. Andrew Cook is a former D.C. Code offender and Bureau of Prisons inmate. Having only been recently released from prison, Mr. Cook is continuing his effort to reintegrate back into society by participating in various transitional programs and by searching for employment opportunities.

Mr. Louis Sawyer is a current parolee under the supervision of Court Services and Offender Supervision Agency. Mr. Sawyer was released from prison earlier this winter and is presently participating in a job training program with the organization, So Others Might Eat.

I know some of you have testified here before, so I want to thank you all for offering your advice and counsel to the committee. I would now like to give each witness an opportunity for a 5-minute opening statement.

Mr. Lappin, you are now recognized for 5 minutes.

STATEMENTS OF HARLEY LAPPIN, DIRECTOR, FEDERAL BUREAU OF PRISONS; ADRIENNE POTEAT, DEPUTY DIRECTOR, COURT SERVICES AND OFFENDER SUPERVISION AGENCY; NANCY LaVIGNE, DIRECTOR, JUSTICE POLICY CENTER, THE URBAN INSTITUTE; PHILIP FORNACI, EXECUTIVE DIRECTOR, D.C. PRISONS PROJECT; ANDREW COOK, FORMER FEDERAL BUREAU OF PRISONS INMATE; AND LOUIS SAWYER, FORMER FEDERAL BUREAU OF PRISONS INMATE

STATEMENT OF HARLEY LAPPIN

Mr. LAPPIN. Good afternoon, Chairman Lynch and members of the subcommittee. Congresswoman Norton, thank you for your kind comments during your opening statement. I appreciate the opportunity to appear before you today to discuss the Bureau of Prisons designation process, particularly as it affects the reentry needs of offenders from the District of Columbia.

The Bureau of Prisons is the Nation's largest corrections system. We are responsible for the incarceration of more than 211,000 inmates, including 5,408 inmates convicted in the District of Columbia Superior Court. We refer to this population as D.C. Code offenders. We appreciate the unique role the BOP plays in the District of Columbia.

While the number of D.C. Code offenders is relatively small compared to the entire inmate population, we devote substantial resources to ensure they receive appropriate care and treatment. Given our decades of experience, we know that consistency is critical to effectively achieving our mission. For this reason, we employ a validated objective classification system to designate all inmates. Our policy is to initially designate each inmate to the lowest security level possible, given medical, security and program needs in an institution within 500 miles of the anticipated release area. This is consistent with requirements of the Memorandum of Understanding between the District and the Office of Management and Budget that was signed in 1997 as a precursor to the National Capitol Area Revitalization Act.

Crowding in Federal prisons across the country has had a profound impact on our inmate designation process. We have experienced significant increases in the inmate population over the last 2 decades. The Bureau of Prisons is operating at 37 percent over rated capacity systemwide, with high security institutions operating at 51 percent over capacity and medium security institutions operating at 46 percent over rated capacity.

Stated quite simply, this level of crowding means there are not always available beds for offenders as close to their homes as we would like. Crowding poses real risks to inmate safety. Additionally, prison composition can greatly impact safety and security. Inmates in the Federal prisons across the country have repeatedly demonstrated their proclivity to organize based on geographical area, gang affiliation, racial and ethnic background, and they have further demonstrated that such organization can lead to misconduct and attempts to severely disrupt prison operations.

Accordingly, we make every effort to distribute the inmate population across facilities such that we balance the various factors

noted above. We have found that this balance is critical to operating safe and secure prisons.

Inmate health care needs impact designations, particularly for inmates with medical conditions that require significant treatment. These inmates typically are designated to a medical care Level 3 facility or a Federal medical center. Only six of these are within 500 miles of the District of Columbia. Location itself creates designation pressures.

We have little control over where prisons are built and many are sited in very remote locations. We have made clear in the past our strong desire to site a prison in the D.C. area. As Congresswoman Norton will recall, we fought hard to secure just a small portion of the Lorton property during the negotiations over the Revitalization Act. We were unsuccessful in those efforts and had to look elsewhere to construct facilities to absorb the D.C. sentenced felons into our system.

We remain committed to the goal of housing the majority of D.C. Code offenders within 500 miles of the District, and we have been quite successful in meeting this goal, with over 75 percent of them currently confined in institutions within 500 miles of the District.

Four categories of offenders, however, are likely to continue to be housed outside of that radius, inmates with special management and security needs, inmates with significant medical needs, inmates who engage in significant misconduct, and high security sex offenders.

Mindful of our role as the State Department of Corrections for the District, we provide specialized programming and opportunities for D.C. offenders that will help facilitate their successful reentry, while ensuring that they are housed in safe and appropriately secure facilities.

We provide enhanced reentry programs at Rivers, to include a residential drug abuse program that allows eligible inmates to earn up to 1 year off their sentence.

We have a trauma treatment program for female offenders at Hazelton, WV. We have residential reentry centers that service three D.C. facilities, to include Hope Village, which is the largest RRC in the Nation. And finally, we continue to collaborate with Court Services and Offender Supervision Agencies on transitional issues.

Chairman Lynch, this concludes my formal statement. Again, I thank you and the members of the committee for your support of our agency and will be happy to answer questions that you may have of me.

[The prepared statement of Mr. Lappin follows:]



Department of Justice

STATEMENT OF

HARLEY G. LAPPIN
DIRECTOR
FEDERAL BUREAU OF PRISONS

BEFORE THE

SUBCOMMITTEE ON FEDERAL WORKFORCE, POSTAL SERVICE, AND
THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT
UNITED STATES HOUSE OF REPRESENTATIVES

ENTITLED

"HOUSING D.C. FELONS FAR AWAY FROM HOME:
EFFECTS ON CRIME, RECIDIVISM, AND REENTRY"

PRESENTED

MAY 5, 2010

**Statement of Harley G. Lappin, Director
Federal Bureau of Prisons
Before the U.S. House Oversight and Government Reform Subcommittee on Federal
Workforce, Postal Service, and the District of Columbia
May 5, 2010**

Good morning Chairman Lynch and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss the designation process of the Bureau of Prisons (BOP), particularly as it affects the reentry needs of offenders from the District of Columbia (D.C.).

I am well aware of the unique role that we play in the District of Columbia. While the number of inmates sentenced in D.C. Superior Court is relatively small compared to our entire inmate population (less than 3%), we devote substantial resources to ensuring D.C. offenders receive appropriate care and treatment. And, mindful of our role as the "State Department of Corrections" for the District of Columbia, we work hard to maintain a variety of collaborative relationships with the local criminal justice community.

The mission of the BOP is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and provide inmates with a range of work and other self-improvement programs that will help them adopt a crime-free lifestyle upon their return to the community. We recognize that the post-release success of offenders is as important to public safety as inmates' secure incarceration. The two parts of our mission are closely related – prisons must be secure, orderly, and safe for our staff to be able to supervise work details, provide training, conduct classes, and carry out treatment. Inmates who are productively occupied in appropriate correctional programs are less likely to engage in misconduct and violent or disruptive behavior.

Federal Inmate Population

The BOP is responsible for the incarceration of more than 211,000 inmates. This figure represents primarily offenders who have been charged with or sentenced for committing Federal crimes and, based on the National Capital Area Revitalization Act of 1997, also includes felons convicted of violating D.C. statutes. Specifically, we house 5,408 inmates who were sentenced in D.C. Superior Court. More than 75 percent of these offenders are housed within 500 miles of the District.

We have experienced significant increases in the inmate population in the last 2 decades. While we are no longer experiencing the dramatic population increases of between 10,000 and 11,400 inmates per year that occurred from 1998 to 2001, the increases are still significant and include average annual net increases of 5,000-7,000 inmates per year for the last 5 fiscal years (from 2003 to 2008). We expect these increases to continue over the next several years, reaching a total of 222,000 by the end of fiscal year 2011.

Currently, the BOP confines approximately 172,857 inmates in Bureau-operated facilities with a total rated capacity of 126,130 beds. Additionally, 38,598 are under contract care, primarily in privately-operated prisons. Systemwide, the BOP is operating at 37 percent over its rated capacity. Crowding is of special concern at higher security facilities including penitentiaries (operating at 52 percent over capacity) and medium-security institutions (operating at 47 percent over capacity). These facilities confine a disproportionate number of inmates who are prone to violence. The BOP has managed severe crowding by double bunking throughout the system -- 93 percent of all high-security cells and 100 percent of all medium-security cells are double-bunked. In addition, approximately 15 percent of all medium-security cells are triple-bunked or inmates are being housed in space that was not designed for inmate housing. With enhanced funding received in FY 2010 the BOP has begun the activation process of two new medium security facilities, and the FY 2011 President's Budget requests funding to begin the activation of one additional medium and one high security prison. This additional capacity, however, does not keep pace with the recent or projected population growth, and crowding is expected to continue to increase.

The continued professionalism and dedication of our staff have been critical to the BOP's ability to operate safe and secure facilities, managing many more inmates than our prisons were designed to house, and preparing inmates to transition back into their communities. Preparing inmates for reentry, including implementing the requirements of the Second Chance Act, is a high priority for the BOP. But we are limited in our ability to attend to this priority due to the high level of crowding and constrained level of staffing in our institutions. Funding in the 2010 Consolidated Appropriations Act has allowed the BOP to increase on-board staffing, and, the FY 2011 President's Budget includes half year funding of \$59 million to add an additional 1,200 new staff. The combination of elevated crowding and constrained staffing has limited our ability to provide all inmates with the necessary range of programs that provide the job skills and life skills necessary to prepare them fully for a successful reentry into the community.

Crowding also affects inmates' access to important services (such as medical care and food services), an institution's infrastructure (the physical plant and security systems), and inmates' basic necessities (access to toilets, showers, telephones, and recreation equipment). Correctional administrators agree that crowded prisons result in greater tension, frustration, and anger among the inmate population, which leads to conflicts and violence.

In 2005, the BOP performed a rigorous analysis of the effects of crowding and staffing on inmate rates of violence. Data was used from all low-security, medium-security, and high-security BOP facilities for male inmates for the period July 1996 through December 2004. We accounted for a variety of factors known to influence the rate of violence and, in this way, were able to isolate and review the impact that crowding and the inmate-to-staff ratio had on serious assaults. This study found that both the inmate-to-staff ratio and the rate of crowding at an institution (the number of inmates relative to the institution's rated capacity) are important factors that affect the rate of serious inmate assaults.

The analysis revealed that a one percentage point increase in a facility's inmate population over its rated capacity corresponds with an increase in the prison's annual serious assault rate by 4.09 per 5,000 inmates; and an increase of one inmate in an institution's inmate-to-custody-staff ratio

increases the prison's annual serious assault rate by approximately 4.5 per 5,000 inmates. The results demonstrate through sound empirical research that there is a direct relationship between resources (bed space and staffing) and institution safety.

In the past, we have been able to take a variety of steps to mitigate some of the effects of crowding in our facilities. For example, we have improved the architectural design of our newer facilities and have taken advantage of improved technologies in security measures such as perimeter security systems, surveillance cameras, and equipment to monitor communications. These technologies support BOP employees' ability to provide inmates the supervision they need in order to maintain security and safety in our institutions. We have also enhanced population management and inmate supervision strategies in areas such as classification and designation, intelligence gathering, gang management, use of preemptive lockdowns, and controlled movement. We have, however, reached a threshold with regard to our efforts, and are facing serious problems with inmate crowding.

Inmate Designations

The BOP places inmates in facilities based on their security and program needs using a validated classification system that employs objective criteria and also allows for professional judgment. We recognize that separation from family and community is an unfortunate consequence of incarceration. Thus, our policy is to initially designate each inmate in the lowest security level facility possible given his/her security and program needs, and at a facility that is reasonably close to the anticipated release area (ordinarily considered placement within 500 miles of the inmate's release residence). We are not always able to meet this objective due to the extreme crowding the BOP has been experiencing in recent years and because, at times, there may not be an institution within 500 miles that matches the inmate's security and program requirements.

Additionally, there are times when designation decisions are substantially impacted by the need to separate specific inmates based on one having testified against the other or other conduct. In such instances one of the separatees may have to be confined at a facility that is outside of the 500-mile radius. Finally, an inmate may have special needs (such as medical treatment) that cannot be addressed at an institution within 500 miles.

The initial classification and designation process includes a review of an inmate's records obtained from the court (presentence investigation report, judgment and commitment order, and statement of reasons). Factors included in the objective scoring of an inmate's security level include: age, education level, drug and alcohol involvement, the severity of the current offense, criminal history score, history of violence, history of escapes, detainers, and whether the court allows the offender to be on his/her own recognizance during the trial and/or self-surrender to the BOP facility. A numerical score results from this review and the inmate is initially assigned to one of four security levels (minimum, low, medium, or high for males; minimum, secure, or high for females).

The BOP's classification process also includes an assessment of factors that may indicate the need to place an inmate in a higher or lower security level institution than is indicated by the

objective score. The BOP recognizes that certain behaviors demonstrated by offenders prior to their commitment indicate a particular risk to institution security or public safety (e.g., threats to government officials, sex offenses, disruptive group members, a serious escape attempt). In those cases, the BOP uses professional judgment within specific guidelines to incorporate management considerations and public safety factors in the decision about institutional placement, resulting in a higher or lower security level placement as needed.

Some offenders have specific characteristics that warrant adjustments to their designation. For example, convicted law enforcement officials are initially designated to a facility that is less likely to have offenders with whom the official came into contact in the community. Inmates who have had extensive media publicity associated with their case may also need to be designated to a facility further from home, as local media attention and the likelihood that their crime victims might have a nexus to inmates in a facility close to home can lead to security risks for such offenders. The BOP monitors these offenders' designation and program assignments carefully through the Central Inmate Monitoring System.

Finally, in order to provide appropriate and necessary medical and mental health treatment to the inmate population, the BOP assigns "Care Levels" (1 through 4) to each inmate. These assignments are based upon the level of care that each inmate requires to effectively meet his or her medical and mental health needs. Moreover, each institution is classified by Care Level according to staffing structure, community health resources, and community sub-specialists available. There are times when an inmate's Care Level will require his/her placement at a facility that is greater than 500 miles from home. For example, the BOP operates six Federal Medical Centers (prison hospitals – five male facilities and one female facility). Inmates requiring this level of medical or mental health care may be designated further than 500 miles from home in order to provide necessary treatment.

Inmates undergo periodic reviews (every six months, and every three months within their final year in prison) with BOP staff to assess all aspects of their incarceration, to include their designation. Based on this review and security and safety considerations, if deemed appropriate and if bed space is available, the BOP will transfer an inmate who is more than 500 miles from his release residence to a facility closer to his/her home and family. By policy, inmates are required to spend at least 18 months at their designated facility prior to a transfer to another facility of the same security level. If their programming needs change or security level changes, a transfer may be approved prior to 18 months. Inmates may also be transferred to a facility that is greater than 500 miles from their release residence based upon misconduct, medical needs, or other programming needs (e.g., drug programming bedspace).

Housing D.C. Offenders

The National Capital Revitalization and Self-Government Improvement Act of 1997 (The Revitalization Act; Title XI of the Balanced Budget Act of 1997 (P.L. 105-33)) required the BOP to assume responsibility for the incarceration of D.C. sentenced felons by December 31, 2001. The law also requires us to treat D.C. Superior Court inmates like Federal inmates, stating: "Such

persons shall be subject to any law or regulation applicable to persons committed for violations of laws of the United States consistent with the sentence imposed.”

Throughout the development and implementation of the Revitalization Act, the BOP made clear our strong preference to either retain some portion of the Lorton Correctional facility for use as low security bedspace or to obtain capacity somewhere else in the D.C. metro area. Our goal was threefold -- a local facility would provide a strong incentive for D.C. Superior Court high security offenders serving long sentences to demonstrate their suitability for transfer to a lower security facility closer to home, would encourage D.C. Superior Court low security offenders to maintain good institutional adjustment such that they could remain in a low security facility close to home, and a would provide much needed capacity for housing other federal offenders from the region. Unfortunately, neither option was made available to us. As such, the BOP was forced to seek capacity outside the D.C. metropolitan area to meet the demands of the Act.

Immediately after passage of the Revitalization Act, the BOP began working with the D.C. Department of Corrections to ensure that the transfer of inmates would be orderly and efficient. Our ambitious construction schedule and our use of some State correctional institutions and some privately-operated facilities allowed us to meet the Act's requirement prior to the deadline; the transfer was completed in November 2001.

The Revitalization Act further required the BOP to house at least 2,000 D.C. sentenced felons in privately-operated facilities by December 31, 1999, and to confine 50 percent of D.C. sentenced felons in private facilities by September 30, 2003. These requirements were superseded by a provision in Public Law 106-553 (enacted on December 21, 2000) which provided that, beginning in fiscal year 2001 and thereafter, the BOP confine in privately-operated prisons only those D.C. inmates who are determined to be appropriate for such placement based on Federal classification standards and any threat they may pose to public safety.

In March, 2000, we entered into a contract with the Rivers Correctional Institution in Winton, North Carolina, located 215 miles from D.C., for the confinement and management of approximately 1,200 low-security D.C. inmates. The Statement of Work for the Rivers facility allows for the designation to this institution of other low-security inmates. The facility opened in March 2001. Rivers Correctional Institution began receiving inmates in April 2001. The contract expiration date is March 6, 2011. The new solicitation for this bedspace is pending contract award, and is expected in June, 2010. While the original solicitation stated proposed sites had to be within a 500 mile radius of D.C., we amended the solicitation to require proposed sites be within 300 miles of D.C.

Currently, Rivers Correctional Institution confines approximately 700 D.C. inmates with approximately 600 criminal aliens occupying the remaining beds. Having large numbers of D.C. inmates at Rivers allows for the provision of specialized programming that can be tailored to the needs of offenders returning to D.C. The Residential Drug Abuse Programming (RDAP) at Rivers provides an opportunity for offenders to earn up to one year off pursuant to the amended D. C. statute. CSOSA also provides specialized programs, working collaboratively with local employers, labor unions, and community college staff to establish the Building Trades Program.

CSOSA has also collaborated with the local community on job fairs to assist with post-release employment.

With respect to reentry programming, BOP Community Corrections staff provide release preparation classes twice annually to Rivers inmates. In addition, CSOSA also holds quarterly Release Preparation Program (RPP) sessions that involves staff from CSOSA, BOP, U.S. Parole Commission, Hope Village, and other D.C. organizations committed to helping ex-offenders. The sessions are conducted once a year at Rivers, and three times a year via teleconference at the D.C. Re-Entry and Sanctions Center. BOP staff also travels to Rivers twice a year to conduct an RPP class with offenders being released to D.C.

We remain committed to the goal of housing the great majority of D.C. inmates within 500 miles of the District, and we have been largely successful in meeting this goal. As of April 27, 2010, 4,090 or 75.6 percent of the total of 5,408 inmates were confined in institutions within 500 miles of the District. There are three categories of offenders, however, who are likely to continue to be housed outside of the 500-mile radius to the District: (1) inmates with significant medical needs, who must be placed in our Federal Medical Centers; (2) special management inmates (for example, inmates requiring protective custody); and (3) discipline cases.

Maintaining Family and Community Ties

The BOP recognizes how important it is for inmates to maintain contact with their families and friends while in prison. The vast majority of inmates release to the community, and those who have ties to their families and community are more likely to become law abiding citizens than those who do not. Moreover, offenders' families often provide substantial support to the releasing prisoners regarding important needs such as housing and employment. The BOP authorizes inmates to maintain community ties through visiting, the controlled use of the telephone, the postal service, and secure, monitored electronic messaging.

Inmates may have contact visits with their families, friends, attorneys, and other special visitors (except at the Administrative Maximum Security Facility in Florence, Colorado, where all visiting is non-contact). With prior approval, inmates may also receive visits from their consulate, representatives from community groups, clergy, and members of the media. Each institution sets its own visiting policy within specific parameters. For example, visiting takes place at Rivers Thursday through Sunday and federal holidays, and six visitors are allowed per visit.

Inmates also maintain contact with the community through telephone calls. They may place collect calls or place calls via a debit system. Inmates are limited to 300 phone minutes each month, and that limit is extended to 400 minutes during November and December. Additional phone call minutes can be approved if extenuating circumstances exist, and all calls are subject to monitoring.

Inmates may also use written communication. There is no limit to how many letters an inmate can send or receive, however, inmates must purchase their own stamps unless they are deemed

indigent. All written correspondence, except legal and special mail, is monitored. Inmates may also correspond with their families and friends via electronic messaging. The inmate electronic messaging system allows transmission of text only, with no instant messaging, no transmission of images, and no access to the internet. Inmates may log on for up to 60 minutes before being automatically logged off. All delivery of sending and receiving messages is delayed by a minimum of 1 hour for security reasons, and all messages are subject to monitoring.

Inmate Reentry

Many inmates enter BOP custody with substantial skill deficits, limited education, limited work history, and myriad behavioral and emotional issues. D.C. inmates are no exception. Almost all of our inmates will be released back to the community at some point. We know that they need job skills, vocational training, education, counseling, and other assistance (such as drug abuse treatment, anger management, and parenting skills) if they are to successfully reenter society. We try to address these needs beginning in the first days of an inmate's incarceration. Every Federal prison offers inmate programs that stress the development of work skills and life skills needed to enhance employment upon release and to help inmates maintain a crime-free lifestyle. These programs include work, education, vocational training, substance abuse treatment, participation in faith-based programming and religious services, psychological services and counseling, release preparation, and other programs that impart essential life skills. BOP also provides other structured activities designed to teach inmates productive ways to use their time.

Rigorous research has found that inmates who participate in programs are less likely to commit future crimes; inmates who participate in Federal Prison Industries (FPI) are 24 percent less likely to recidivate; inmates who participate in vocational or occupational training are 33 percent less likely to recidivate; inmates who participate in education programs are 16 percent less likely to recidivate; and inmates who complete the residential drug abuse program are 16 percent less likely to recidivate and 15 percent less likely to relapse to drug use within 3 years after release.

Our Inmate Skills Development initiative, funded this year in FY 2010, unifies our inmate programs and services into a comprehensive reentry strategy. The three principles of the Inmate Skills Development initiative are: (1) inmate participation in programs must be linked to the development of relevant inmate reentry skills; (2) inmates should acquire or improve a skill identified through a comprehensive assessment, rather than simply completing a program; and (3) resources are allocated to target inmates with a high risk for reentry failure. The initiative includes a comprehensive assessment of inmates' strengths and deficiencies in nine core areas, and allows us to meet the important reentry goals required by the Second Chance Act. This critical information is updated throughout an inmate's incarceration and is provided to probation officers as inmates get close to their release from prison so as to assist in the community reentry plan. As part of this initiative, program managers have been collaborating and developing partnerships with a number of governmental and private sector agencies to assist with inmate reentry.

In addition to the wide array of inmate programs we offer, the BOP provides a Release Preparation Program in which inmates become involved toward the end of their sentence. The

program includes classes in resume writing, job seeking, and job retention skills. The program also includes presentations by officials from community-based organizations that help former offenders find employment and training opportunities after release from prison.

Release preparation includes a number of inmate transition services provided at our institutions, such as mock job fairs where inmates learn job interview techniques and community recruiters learn of the skills available among inmates. At mock job fairs, qualified inmates are afforded the opportunity to apply for jobs with companies that have job openings. Our facilities also help inmates prepare release portfolios, including a resume, education and training certificates, diplomas, education transcripts, and other significant documents needed for a successful job interview.

We have established employment resource centers at all Federal prisons to assist inmates with creating release folders to use in job searches; soliciting job leads from companies that have participated in mock job fairs; identifying other potential job openings; and identifying points of contact for information on employment references, job training, and educational programs.

The BOP places most inmates in community-based programs for the final portion of their term of imprisonment to help offenders gradually re-adapt to their community environment. These programs are a critical component of a comprehensive reentry strategy. Many of the programs and treatment that offenders receive in the correctional institutions are reinforced during their stay in the community-based programs. These programs provide an important opportunity for offenders to find a job and a place to live, save some money, complete drug treatment (in some cases) and strengthen ties to family and friends. In other words, these programs contribute to public safety.

BOP staff conduct regular oversight of all Residential Reentry Centers (RRC), including those in D.C. We contract with two RRCs in D.C. to provide reentry services: Fairview (for female offenders) and Hope Village for male offenders. We also have access to Efforts for Ex-Convicts (EFEC) through the D.C. Department of Corrections. As of April 23, 2010, there were 336 D.C. offenders in D.C. RRCs. The average length of stay in RRC is currently 105 days overall, and 160 days for female D.C. offenders. D.C. offenders who are not placed in RRCs generally fall in to four categories: the inmate is serving a short sentence (particularly supervised release violators with short terms), the inmate participates in CSOSA's Re-entry and Sanctions Center in lieu of RRC (particularly violators from Rivers), lack of specialty bedspace for certain types of offenders (e.g., sex offenders), or the inmate refuses RRC placement.

In an effort to further enhance the transition of D.C. Superior Court offenders to the community, BOP has collaborated closely with CSOSA to improve the release transition process. BOP has coordinated with CSOSA in release preparation meetings at Federal facilities and halfway houses, with Hope Village providing office space for six CSOSA officers to work directly with the transitioning offenders. Fairview and EFEC each have one CSOSA officer on site. These officers work closely with the RRC staff on inmate release planning. BOP officials also participate in a workgroup with the United States Parole Commission, CSOSA, and the National Institute of Corrections on reentry issues (ensuring that there is effective communication between the corrections, community supervision, and releasing authority agencies).

The BOP complements its use of RRCs with home detention. Some inmates are placed in home detention for a brief period at the end of their prison terms. They serve this portion of their sentences at home under strict schedules, curfew requirements, telephonic monitoring, and sometimes electronic monitoring. The supervision is provided by staff at the RRCs. After release from the RRC or from the institution (for inmates not released through a RRC), most inmates have a period of supervised release under the supervision of the U.S. Probation Office, or in the case of D.C. offenders, by CSOSA.

Closing

Chairman Lynch, this concludes my formal statement. Again, I thank you, Mr. Chaffetz, and the Subcommittee for your support of our agency. As I have indicated in my testimony, we are being challenged significantly in our ability to meet our mission. We desire to expand inmate programs that have been demonstrated to reduce recidivism as expressed through our mission. We can provide more inmates, to include D.C. offenders, with the opportunity to avail themselves of beneficial correctional programs by reducing our crowding and adequately staffing our facilities as funding permits. I would be pleased to answer any questions you or other Members of the Subcommittee may have.

Mr. LYNCH. Thank you, Mr. Lappin.

Ms. Poteat, you are now recognized for 5 minutes for an opening statement.

STATEMENT OF ADRIENNE POTEAT

Ms. POTEAT. Good afternoon, Chairman Lynch, Ranking Member Chaffetz, Congresswoman Norton, and members of the subcommittee. I am pleased to appear before you today at this hearing to examine the impact of housing D.C. inmates far from home.

As the Deputy Director of the Federal agency responsible for supervising approximately 16,000 men and women, I know firsthand that the foundation for an individual's successful reentry starts with time spent in prison. If credible opportunities for treatment, education and occupational training are available and taken advantage of, and then comprehensive release planning occurs, a person can leave prison with a real chance to pursue a positive and constructive way of life.

Approximately 6,000 D.C. Superior Court sentenced inmates are now serving their sentence in the Federal Bureau of Prisons' facilities around the country. Since our agency was established in August 2000, incarcerated men and women have returned to the District of Columbia at a rate of about 2,200 per year.

CSOSA's Transitional Intervention for Parole Supervision [TIPS] teams, are primarily responsible for facilitating an inmate's return home from prison, either transitioning through a residential reentry center or directly to the community. BOP case managers submit a release plan to CSOSA that includes the inmate's proposed living arrangement and, when available, the potential employment. The TIPS community supervision officers investigate their release plans to ensure they are conducive to a successful reentry and do not pose a risk to the community.

About 6,400 of the 16,000 men and women under supervision are either on parole or supervised release. Most have long histories of substance abuse, educational underachievement, and underemployment; 80 to 90 percent of this population reports a history of illicit drug abuse. They have low rates of high school or GED completion, and only 40 percent report stable housing arrangements upon intake. Less than 40 percent are employed. Many of them also face challenges reuniting with their families and establishing pro-social relationships. These conditions can have a significant impact on the success of community supervision.

However, it is well recognized that when effective work on these matters can be accomplished during incarceration, the prospective for successful reentry is increased. It was toward that end that in 2003 CSOSA launched an initiative at the Rivers Correctional Facility in Winton, NC. We chose Rivers because of the large number of offenders housed there at the time, and it was approximately 225 miles away from the District. At the time it was 1,100 offenders there. Now they have approximately 500 to 600 offenders in that facility.

Our work at Rivers began with the implementation of a video mentoring as part of our faith-based community partnership. The program linked inmates nearing release with faith-based mentors who provided pre-release encouragement and post-release support.

This program was an extension of an existing effort started the previous year where volunteer mentors from local faith institutions were matched with re-entrants transitioning through the halfway house. We believed that by making matches earlier, we could better prepare the mentees for reentry and lay the foundation for post-release.

CSOSA installed video conferencing systems at Rivers and at our headquarters to allow mentors and mentees to have face-to-face conversations about job development, locating stable housing, and establishing new and more positive leisure time activities and friendships. Family members were also present during some of these sessions.

In October we began conducting Community Resource Day for a group of 200-plus offenders at Rivers. During this program, we piloted it by transporting several of our vendors to Winton, NC. After that we began doing these sessions by video conferencing. That way we were able to expand some of the vendors that were participating in our Resource Day. They included presentations by the U.S. Parole Commission, BOP, and Hope Village, our community supervision officers, local job training providers, the D.C. State Superintendent of Education and the Community College of the District of Columbia, the Housing Counseling Service and Jubilee Housing, Unity Health Care and the D.C. HIV/AIDS Administration, among others. Surveys by both our providers and offenders were very positive, and they were completely satisfied with that program.

Now, we suspended the mentoring program in 2007 after expanding the community-based mentoring program to include men and women on probation. This increased demand for mentors and quickly exhausted our available pool. However, we plan to reinstitute this video conferencing by including the women in Hazelton, WV, who are also now participating in a pilot program conducted by Our Place.

Last fall, with the cooperation of the BOP, we developed and distributed Community Resource Day packages to all of the offenders and all of the institutions and BOP facilities. We have been asked to send additional packets, which the inmates found very useful. The response has been overwhelming, positive, and we continue to receive requests.

Thank you very much for the opportunity to participate in today's hearing, and I look forward to answering any questions that you may have.

[The prepared statement of Ms. Poteat follows:]

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STATEMENT
OF
ADRIENNE POTEAT,
DEPUTY DIRECTOR,
COURT SERVICES AND OFFENDER SUPERVISION AGENCY
FOR THE DISTRICT OF COLUMBIA
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE ON THE FEDERAL WORKFORCE,
POSTAL SERVICE AND THE DISTRICT OF COLUMBIA

MAY 5, 2010

Good afternoon Chairman Lynch, Ranking Member Chaffetz, Congresswoman Norton, and Members of the Subcommittee. I am pleased to appear before you today at this hearing to examine the impact of housing D.C. inmates far from home. As the Deputy Director of the federal agency responsible for supervising approximately 16,000 men and women under community supervision in Washington, D.C., and as a former Warden with the D.C. Department of Corrections, I know firsthand that the foundation for an individual's successful reentry can be laid during time spent in prison. If credible opportunities for treatment, education and occupational training are available and taken advantage of, and if comprehensive release planning and preparation can be accomplished, a person can leave prison with a real chance to pursue a positive and constructive way of life.

Approximately 6,000 D.C. Code inmates are now serving their sentences in the Federal Bureau of Prison's (BOP) facilities around the country. Since our agency was established in August 2000, incarcerated men and women have returned to the District of Columbia and CSOSA's supervision at the rate of about 2,200 per year.

CSOSA's specialized Transitional Intervention for Parole Supervision (TIPS) teams are primarily responsible for facilitating an inmate's return home. TIPS provides reentry services to inmates who transition from prison through a Residential Reentry Center to community supervision, as well as to those released directly from a BOP facility to the community. BOP case managers submit a release plan to CSOSA that includes the inmate's proposed living arrangement and, when available, their potential employment. The TIPS Community Supervision Officers (CSO) investigate these release plans to ensure they are conducive to successful reentry and do not pose a risk to the community. TIPS reports back to the BOP on the viability of the proposed release plans. In all cases, TIPS CSOs prepare a transition report utilizing all the information available that will guide the initial work of the CSO assigned to the case for ongoing supervision. This may include the individual's substance abuse history, criminal behavior patterns, history of violence or aggression, educational or vocational deficits or physical or mental health challenges.

On any given day, about 6,400 of the 16,000 men and women under CSOSA's supervision are either on parole or supervised release. Most have long histories of substance abuse, educational underachievement and underemployment. More

specifically, 80 to 90% of this population reports a history of illicit drug use. Both groups have lower rates of high school or GED completion; 41% and 50% respectively. Only 40% of these reentrants report stable housing arrangements upon intake. Only 38% of the parolees and 27% of the supervised releasees are employed. Many men and women returning home face challenges with family reunification or with establishing pro-social relationships that offer companionship and support. These conditions can have a significant impact on the stability and success of community supervision. Our CSOs endeavor to help the reentrants they supervise address these challenges, through counseling and appropriate referrals to resource and service providers as well as mentors. However, it is well recognized in our field that when effective work on these matters can be undertaken during the period of incarceration, the prospect for successful reentry is increased. It was toward that end, back in 2003, that CSOSA launched an initiative at the Rivers Correctional Institution in Winton, NC to work collaboratively with the BOP and the prison's management and staff to enhance D.C. inmates' release preparation.

We chose to work with Rivers because of the large number of D.C. inmates there and its proximity to the District of Columbia. When we first visited the facility, there were over 1100 D.C. inmates housed there. As such, it produced the largest stream of individuals returning home to D.C. In addition, Rivers' location, approximately 225 miles from the District, made it fairly accessible in about a four-hour drive. Though today Rivers' population of D.C. inmates is much smaller, hovering between 500 and 600 on any given day, that still, by far, constitutes the largest single concentration of D.C. inmates at any facility within the federal prison system. While there are a few BOP

facilities closer to the District (such as FCI Petersburg and FCI Cumberland), their D.C. populations are about half that of Rivers. We targeted our efforts at Rivers because we saw we could reach the most people there. We quickly began using videoconferencing technology to close the distance between us, saving time and increasing productivity.

Our work at Rivers began with the CSOSA Faith Community Partnership's implementation of Video Mentoring to link inmates nearing release with faith-based mentors who provided pre-release encouragement and assistance and post-release support. We later developed Community Resource Day, a quarterly videoconference to provide inmates nearing release with information from local government, faith-based and non-profit service providers about housing, health care, education, and employment. From the onset, the response has been positive with inmates consistently telling us that these programs give them hope which they did not have before.

Our Video Mentoring Program was an extension of an existing effort started the previous year where volunteer mentors recruited from local faith institutions were matched with reentrants transitioning through the Residential Reentry Centers (halfway houses). We believed that by making matches prior to release, we could better prepare the mentees for release. We arranged for the mentors and mentees to meet by videoconference to implement an individualized reentry plan laying the foundation for post-release life. Mentors assembled for the sessions in our Training and Career Development Center. The mentees would report to a small room in the prison used to conduct parole hearings. CSOSA purchased and placed videoconferencing systems at

both locations to facilitate the transmissions. The mentors provided their mentees with support and guidance regarding job development, locating stable housing and establishing new, more positive leisure time activities and friendships. Mentees' family members and partners were frequent participants in video mentoring sessions.

D.C. inmates meeting the program's eligibility criteria were invited to participate. They were scheduled for an assessment interview by CSOSA staff that was conducted by videoconference. The interview enabled us to determine whether a mentee lacked a support system and a mentor could be helpful. It also helped us determine the mentee's needs and set forth specific goals in a plan for the mentoring relationship. Once a match was made and the video mentoring sessions began, they continued bi-weekly until the mentee was released. After release, mentors and mentees would continue to meet at least monthly for a minimum of six months.

We suspended the video mentoring program in 2007 after expanding the scope of the community-based mentoring program to include men and women on probation. This substantially increased the demand for mentors and quickly exhausted our available pool. Priority for a mentor match was given to mentees already under supervision in the community where the benefit to public safety was more immediate. Later this year, however, we expect to resume the use of videoconferencing to facilitate release preparation. The focus will be on female inmates at the BOP's Secure Women's Facility at Hazelton, West Virginia who are participating in Our Place D.C.'s reentry demonstration pilot.

In October 2004, our videoconferencing technology was put to a new and broader use at Rivers as we began delivering information on District-based resources and services to groups of 200+ offenders scheduled to return home within the next 90 days. Presentations covering housing, health care, education and employment were delivered by representatives from CSOSA, the District of Columbia government, and several faith-based and community-based non-profit organizations. The inmates were given the opportunity to ask all of the presenters questions. Each inmate was provided with a packet of handouts from the presenters on the subject matter that they covered. The packets essentially serve as personal resource guides upon release.

This pioneering development was made possible when Rivers' former Warden, George Snyder, agreed to our request to have the institution's visiting hall wired for videoconference interactions. That step enabled us to begin communicating with large groups of inmates, rather than just the individuals or small groups that were possible during our video mentoring program.

We had initially piloted Community Resource Day earlier in 2004 by transporting teams of resource and service providers to Rivers by bus. We undertook this initial effort in response to a request from Rivers' Assistant Warden for Programs, David Farmer. Mr. Farmer was seeking to enhance the institution's existing Release Preparation Program, which provided generic information to inmates about life skills, personal finance and job readiness. The information package that we developed, built upon that foundation by

enabling the inmates to meet and hear directly from the very resource and service providers they might need to turn to for assistance after arriving home.

Conducting the Community Resource Day presentations by videoconference allowed us to expand the number of providers able to participate. We found several organizations that were unable to permit staff to devote a day or more to travel to Rivers. Now, it just takes a couple of hours for each presenter to come to our office and share their valuable information with the inmates.

The structure and basic content of the day-long Community Resource Day program has remained largely unchanged over the years. The morning segment includes a representative of the U.S. Parole Commission covering issues involving Parole and Supervised Release. Representatives from either the BOP or Hope Village Residential Reentry Center cover rules and procedures surrounding halfway house placements. Those speakers are followed by our TIPS and General Supervision CSOs covering their activities and services. They are followed by a panel addressing topics related to Family Strengthening and Support such as marriage, domestic violence, fatherhood and child support. After lunch, our faith community partners talk about their mentoring and other services. Next, Job Training, Development and Placement are addressed by organizations including the Excel Institute, D.C. Central Kitchen, Community Empowerment Training Academy, Opportunities Industrialization Center, Goodwill, SOME and the D.C. Department of Employment Services. Representatives from the D.C. Office of the State Superintendent of Education and the Community College of the

District of Columbia cover Education. Following that, Housing is addressed by representatives from the Housing Counseling Service and Jubilee Housing. Finally, Unity Health Care and the D.C. HIV/AIDS Administration cover Health Care Services. Surveys completed by both participating inmates and providers consistently document a high level of satisfaction with this program. Last fall, with the cooperation of the BOP, we were able to develop and distribute a Community Resource Day DVD Package for utilization by D.C. inmates at all of the prisons within the BOP system. While it does not offer the direct interaction with resource and service providers that is the hallmark of the Rivers experience, it, nonetheless, empowers the inmates to find the help they need.

Thank you very much for the opportunity to participate in today's hearing and present information about CSOSA's activities. I look forward to answering any questions you may have for me.

Mr. LYNCH. Thank you, Ms. Poteat.

Ms. LaVigne, you are now recognized for 5 minutes for an opening statement.

STATEMENT OF NANCY LaVIGNE

Ms. LAVIGNE. Mr. Chairman, members of the subcommittee, thank you for the opportunity to speak today about the implications of D.C. felons being housed far from their homes.

I am Director of the Justice Policy Center at the Urban Institute, where we've conducted extensive research on the topic of prisoner reentry. We've documented the many challenges of prisoner reentry, and we've conducted studies to identify the factors that predict both successful prisoner reintegration as well as recidivism.

Among these studies we've specifically examined D.C. Code felons. We've learned that, like their counterparts throughout the country, incarcerated D.C. Code felons return home in need of health care, drug treatment, jobs, and affordable shelter. But D.C. felons face an unusual incarceration experience in that they are typically incarcerated hundreds of miles from their families, their potential employers, and post-release services. In fact, over 20 percent of these felons are housed more than 500 miles from their homes. This compares to a national average for the average State prisoner of about 100 miles from their home, still pretty far, but their experience is much more severe in that regard.

So why is distance an important issue? Research points to two reasons. First, it can diminish family support and, second, it makes finding treatment and services difficult.

Let's focus on the family issue first. Our studies have found that families are an important influence on the reentry process and they provide much needed support to returning prisoners. Both emotional support and tangible support, such as housing and financial assistance, are associated with higher employment rates and reduced substance use after their release. This support from families, however, is not a given. Rather, it is closely linked to the nature and type of contact that prisoners have with their family members, their parents, their intimate partners and their children prior to their release.

In fact, our research has found that in-prison contact with family members is predictive of the strength of family relationships following release. Other studies have shown that family contact during incarceration is associated with lower recidivism rates. Such contact can maintain or reinforce attachments to children, giving exiting prisoners a greater stake in conformity upon release.

We have learned that exiting male prisoners who have strong positive attachments to their children tend to be legally employed for longer periods of time than fathers who have weaker ties to their kids. Maintaining and even strengthening family ties during incarceration can bolster the positive impact that family can have after a prisoner's release.

But our surveys of family members of prisoners found that the single greatest barrier to maintaining contact was that prison was far from their homes. Clearly, the closer prisoners are housed to their homes, the more contact they will have with family.

Now, let's turn to the second reason that distance creates problems for returning prisoners. In addition to family support, ties to post-release jobs and reentry services are vital for reentry success. Research finds that the most effective reentry programs begin behind bars and continue in the community.

Now, we work with a lot of State prison administrators and we hear them lamenting about how difficult it is for them to link up people who are housed in prisons often far from their homes to services because they tend to live in cities rather than in the remote areas where prisons are located. But at least those administrators are working within the same State system. By contrast, the reentry planners working with D.C. felons are operating with different systems and in a diverse set of States across the country.

The distance between a correctional facility and the prisoner's post-release destination makes connecting with employment, housing, substance abuse treatment, faith-based institutions, and a whole host of other reentry resources all the more difficult.

Now, to be fair, there are some likely downsides to housing prisoners close to home. From a correctional security standpoint, if the felons are closer to home visitation will go up, and with increased visitation there could be more possibilities for the introduction of contraband into the facility. And if D.C. Code felons are housed in fewer prisons closer to home, correctional officers would need to monitor the potential for gang violence more closely.

These are real risks, but I believe they're far outweighed by the documented benefits of housing prisoners close to home. With all the challenges associated with the reentry of D.C. felons, this is one change that could have a real positive impact, not only on the successful transition of those returning home from prison, but also on the safety and well-being of the families and communities to which they return.

In the meantime, efforts to facilitate connections between prisoners and post-release service providers through the use of video conferencing should be supported and expanded, and they should also include contact with family members.

Thank you for your time. I welcome any questions you may have.
[The prepared statement of Ms. LaVigne follows:]

Statement by

Nancy G. La Vigne
Director, Justice Policy Center, The Urban Institute

At a hearing on

Housing D.C. Code Felons Far Away from Home:
Effects on Crime, Recidivism, and Reentry

by the

House of Representatives Oversight and Government Reform Subcommittee on
Federal Workforce, Postal Service, and the District of Columbia

May 5, 2010

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to speak today about the implications of D.C. Code felons being housed far from their homes. I am the director of the Justice Policy Center at the Urban Institute, where we have engaged in extensive research on the topic of prisoner reentry. We have documented the many challenges of prisoner reentry and conducted studies to identify factors that predict both successful prisoner reintegration and recidivism. Among those studies, we have specifically examined D.C. Code felons. We learned that, like their counterparts in other parts of the country, incarcerated D.C. Code felons return home in need of health care, drug treatment, jobs, and affordable shelter (Hall et al. 2009; Roman and Kane 2006). But D.C. felons face an unusual incarceration experience in that they are typically incarcerated over a hundred miles from their families, potential employers, and postrelease services (Roman and Kane 2006). In fact, as many as 20 percent of these felons are housed more than 500 miles from their homes

(CSOSA 2010).¹ Research points to two reasons that distance from home presents additional challenges for returning prisoners: it can diminish family support and it makes finding treatment and services difficult.

Our studies have found that families are an important influence on the reentry process and they provide much-needed support to returning prisoners (Naser and La Vigne 2006). But family support is more than simply helpful; both emotional and tangible support, such as housing and financial assistance, are associated with higher employment rates and reduced substance use (La Vigne, Visser, and Castro 2004; Visser et al. 2004; La Vigne, Schollenberger, and Debus 2009).

This support from families, however, is not a given. Rather, it is closely linked to the nature and type of contact prisoners have with their family members—parents, intimate partners, children—prior to their release. In fact, our research has found that in-prison contact with family members is predictive of the strength of family relationships following release (Naser and La Vigne 2006). Other studies have shown that family contact during incarceration is associated with lower recidivism rates (Adams and Fischer 1976; Glaser 1969; Hairston 2002; Holt and Miller 1972; Klein, Bartholomew, and Hibbert 2002; Ohlin 1954). Such contact can maintain or reinforce attachments to children, giving exiting prisoners a greater stake in conformity upon release. This could yield major benefits, as we have learned that exiting male prisoners who have strong positive attachments to their children tend to be legally employed for longer periods than fathers who have weaker ties to their kids (Visser, Debus, Yahner 2008).

Maintaining and even strengthening family ties during incarceration can bolster the positive impact that family can have after a prisoner's release. But our surveys of

¹ The average distance nationwide is 100 miles for male prisoners (see Hagan and Petty 2002).

family members of returning prisoners found that close to two-thirds of family members reported that a long distance from prison made it difficult to stay in touch with their incarcerated relatives (Shollenberger 2009). For many, this issue was closely linked to a lack of transportation, which was the second most commonly cited obstacle to contact and was cited by nearly two in five family members in the study (Shollenberger 2009). Clearly, the closer prisoners are housed to their homes, the more contact they will have with family.

Ties to post-release jobs and reentry services are also vital for reentry success. Research finds that the most effective reentry programs begin behind bars and continue in the community (Gaes et al. 1999). A challenge common to administrators of state-operated reentry programs is that prisons are not typically located near the cities to which most prisoners return. But at least those administrators are working within the same state system. By contrast, reentry planners working with D.C. felons often operate in completely different states. The distance between a correctional facility and the prisoner's postrelease destination makes connecting with employment, housing, substance abuse treatment, faith-based institutions, and other reentry resources all the more difficult.

To be fair, there are likely some downsides to housing prisoners close to home. From a correctional security standpoint, increased visitation could open up more possibilities for the introduction of contraband into the prisons. And, if D.C. Code felons are housed in fewer prisons closer to home, correctional officers would need to monitor the potential for gang violence more closely. These are real risks, but they are far outweighed by the documented benefits of housing prisoners close to home. With all the challenges associated with the reentry of D.C. felons, this is one change that can have a

positive impact not only on the successful transition of those returning home from prison but on the safety and well-being of the families and communities to which they return. In the meantime, efforts to facilitate connections between prisoners and postrelease service providers through the use of video conferencing should be supported and expanded to include communications with family members.

Thank you for your time. I welcome any questions you may have.

Note

The views expressed are those of the author and should not be attributed to the Urban Institute, its trustees, or its funders.

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Mr. LYNCH. Thank you, Ms. LaVigne.
Mr. Fornaci, you are now recognized for 5 minutes.

STATEMENT OF PHILIP FORNACI

Mr. FORNACI. Thank you, Mr. Chairman. And thank you, Congresswoman Norton, for the opportunity to provide testimony, and thank you also to Congresswoman Norton for your work on this issue.

My name is Philip Fornaci. I serve as director of the D.C. Prisoners' Project, the Washington Lawyers' Committee. We advocate on behalf of D.C. prisoners held locally and in Federal Bureau of Prison facilities on issues around safety, health care, access to the courts. We also represent folks in parole hearings. So we have a lot of experience directly in these facilities where D.C. prisoners are held.

As described in my written testimony, I will just summarize a bit, the Revitalization Act of course transformed the District's criminal justice system from an almost exclusively local system to a Federalized system. Our entire criminal justice system, from prosecution through sentencing through incarceration, and then back to parole, supervision and revocation, is all Federal. The criminal justice system was made this way by a Federal legislature in which D.C. citizens of course have no vote, so we have very little control over this situation.

Nonetheless, this is a useful conversation to have. These are issues that our organizations have tried to address at all levels, with the Vice President's Office, with the Bureau of Prisons, with Congresswoman Norton as well.

As we have mentioned, about 6,100 D.C. prisoners are held in at least 98 different Federal prisons spread out from California to Florida to Pennsylvania and beyond. As described earlier, the Memorandum of Understanding with the Bureau of Prisons strives to keep D.C. prisoners within 500 miles of home. This actually is consistent with preexisting BOP policy. The Federal Government has provided no further accommodation or legal commitment for the influx of D.C. prisoners happening 8 or 9 years ago, only about 3 or 4 percent of the population.

For 6,000 D.C. prisoners, the 500-mile radius is a geographic area that reaches from Indiana and Kentucky on the west, Georgia in the south, and upper New York State on the north. This is a rather huge distance. So although D.C. prisoners represent only 3 percent of the total BOP population, the BOP is effectively D.C.'s State prison, as the Congresswoman mentioned earlier.

The entire population of D.C.'s returning citizens have endured incarceration in these far flung facilities. The District retains no control or influence over which facilities will house the prisoners, what programs will be available to them, the security levels within the BOP or how far away from D.C. they will be held.

As you've heard, this situation causes serious problems. Family separation is the most obvious one. Hundreds of miles, thousands of miles away, these prisons are located in rural areas requiring a car generally to get to. Because D.C. prisoners are dispersed so widely, it is difficult for local organizations to set up any kind of

bus system or any way for people in large numbers to visit at any one time. This is a major obstacle.

Telephone calls are extremely expensive. Collect calls run about \$15 for a 15-minute collect call. There is debit calling also available which reduces that call to about \$3.50 to \$4 for a 15-minute call. However, please note that even a well paid prisoner who works perhaps in the UNICORP program will make maybe \$70 a month. So this is an extremely expensive outlay for a prisoner to make.

In addition to this, as Ms. LaVigne has detailed, I think quite accurately, having D.C. prisoners dispersed makes reentry extremely complex, not only because it is impossible to interview for a job or set up housing from a long distance, but also because the case management staff and counselors in these facilities have no experience with D.C.

I am reminded when I visited one facility holding D.C. juveniles in the Bureau of Prisons in North Dakota, as Congresswoman Norton noted, and the teacher in that facility, I asked him what could be a very useful thing for us to give you to help these kids. He said, could you send us a Yellow Pages from the District of Columbia. Well, that clearly did not indicate that he had any real clue as to how someone from that facility is going to get a job back in D.C. or had any idea what life is like for an urban kid now in North Dakota and then returning.

So I want to make a couple of recommendations and cut this a little shorter. My written statement goes into a little bit more detail. But I would echo Congresswoman Norton's statement to move all D.C. prisoners within, if not one, at least a small number of Federal facilities close to D.C. This would have an enormous impact on reentry. It would have an impact on family ties being maintained. There are facilities in Maryland, Virginia and Pennsylvania within 250 miles of D.C. Some combination of these could certainly be worked. There are medical facilities within a fairly short distance in North Carolina. It is certainly possible.

Similarly, a second recommendation is that in facilities housing D.C. prisoners case management staff should be trained appropriately. This really cannot effectively happen unless they are in one small number of facilities.

And third is to address the issue of juveniles. There is simply no reason for D.C. kids, 9, 10, 11, to be sent to North Dakota to serve out their sentences.

Thank you so much. I look forward to answering your questions.
[The prepared statement of Mr. Fornaci follows:]

**“Housing of DC Felons Far Away From Home:
Effects on Crime, Recidivism and Reentry”
House of Representatives, Committee on
Oversight and Government Reform
Subcommittee on Federal Workforce, Postal Service and
the District of Columbia
May 5, 2010**

Testimony of
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Thank you for the opportunity to provide testimony for this hearing on the issue of housing DC felons far away from home, and the effects on crime, recidivism, and reentry. In particular, I would like to thank Congresswoman Norton for her leadership on important issues affecting DC prisoners.

My name is Philip Fornaci. I serve as Director of the D.C. Prisoners' Project, a section of the Washington Lawyers' Committee for Civil Rights & Urban Affairs. Our organization advocates for D.C. prisoners held both locally in D.C. jail facilities as well as those held in the federal Bureau of Prisons (BOP), where those convicted of felonies in D.C. are sent. We advocate for appropriate medical care, protection from violence, and access to basic constitutional rights. We also provide representation to DC prisoners at parole grant hearings.

Our organization was created in 1989, focused on the needs of DC prisoners held locally in the Lorton Prison Complex in Lorton, Virginia. With the enactment of the DC Revitalization Act in 1997, and the subsequent (2001) closing of Lorton and transfer of sentenced DC prisoners to the custody of the federal BOP, the focus of our work shifted to the BOP. Our organization receives calls and correspondence requesting legal assistance and advice from individuals living in dozens of these facilities every year. They seek help on a wide range of matters related to the conditions of their confinement in the BOP, including problems accessing health care and denial of care, protection from or compensation for acts of violence by staff and other inmates, prison disciplinary practices (including use of restraints and long-term isolation), and access to the courts and legal system.

Additionally, in the wake of the 2008 District Court decision, *Sellmon v. Reilly* (551 F. Supp. 2d 66 (D.D.C. 2008)), our organization has become deeply involved in efforts to secure release of hundreds of DC prisoners on parole. In a far-reaching opinion, Judge Ellen Huvelle ruled in *Sellmon* that the members of the US Parole Commission (USPC) had violated the *Ex Post Facto* Clause of the

U.S. Constitution by applying the USPC's own parole regulations and practices to DC prisoners, rather than the regulations and practices of the former DC Board of Parole in effect at the time the prisoner committed his or her offense. As a result of this decision, hundreds (and likely well over one thousand) of DC prisoners have been given new hearings. Our organization has recruited and trained dozens of private attorneys to represent several hundred DC prisoners at parole hearings in far-flung federal prisons, as well as engaging in substantial policy advocacy with the USPC. As a result, at least 400-600 additional DC prisoners were scheduled for release on parole in 2010 (nearly all released to DC), with many more to follow in 2011.

DC prisoners in the BOP face significant challenges, as described later in this testimony. Communication with family and friends, handling legal proceedings, and planning for eventual return to DC are among the most obvious, and serious, problems. However, nearly as significant is the day-to-day experience of DC prisoners in the BOP. Unlike most federal prisoners, whose sentences were handed down in federal court under federal charges, DC prisoners are primarily convicted of local "street crimes." As a result, most DC prisoners tend to be held in the highest security facilities, at least for the first several years of their sentences. Many DC prisoners are very young, with little or no previous experience in the federal system. They are overwhelmingly African-American (more than 90 percent); approximately 38 percent of the BOP population overall is African-American. Few BOP facilities hold more than 200 DC prisoners, leaving DC prisoners an isolated, urban, primarily African-American minority in any prison where they are designated. If they are serving long sentences, DC prisoners can anticipate being moved to a different prison every three to five years, and often more frequently.

The brutal reality of confinement within this system, combined with the isolation that is exacerbated by long distances from DC, creates additional reentry challenges for DC prisoners and for the DC community. Although all federal prisoners tend to be held at some distance from their homes, the BOP is effectively DC's "state" prison. The entire population of DC's returning citizens have endured BOP incarceration. As such, all DC prisoners returning from the BOP should have time and be provided support services for psychological adjustment and reorientation, in addition to housing, employment and health care. Such support services would contribute not only to their well-being but also contribute to public safety in DC. Unfortunately, few formerly incarcerated people returning to DC receive such time or services, and instead find themselves in a mad scramble to avoid homelessness and destitution from the first moment they arrive back in DC.

Background: The Unique Situation of DC prisoners – The 1997 DC Revitalization Act

Unlike “state” prisoners in other jurisdictions, DC Code offenders have a unique relationship with the federal government. DC prisoners are, for most purposes, treated as federal prisoners. The location and conditions of their incarceration, and the terms of their parole (or supervised release), are under the exclusive control of the federal government. Under the Revitalization Act, the federal government has removed the authority to perform these basic state functions of the criminal justice system from the Mayor and Council of the District of Columbia, and from the electorate of this jurisdiction.

President Clinton signed the D.C. Revitalization Act in 1997 at a time when the District of Columbia government was nearly bankrupt, and effectively managed by the D.C. Financial Control Board. The most obvious impact of the legislation was the closing of the Lorton prison complex, with the federal government taking over for the District the financial burden of incarcerating convicted DC felons. However, beyond the fiscal goals, the Revitalization Act radically transformed the DC criminal justice system, effectively putting the federal government in charge. The Revitalization Act:

- Mandated the closing of Lorton in January 2001, **transferring all DC prisoners with felony convictions (as well as parole/supervised release violators) to the BOP** and making them federal prisoners for purposes of facility designation, halfway house placement, and other rules. No DC government agency has any role in decisions about where DC prisoners are sent, nor can the DC government intervene in any situation involving alleged abuse or mistreatment of a DC prisoner.
- **Created the Corrections Information Council (CIC)**, a three-member, voluntary body intended to provide to the BOP “advice and information regarding matters affecting the District of Columbia sentenced felon population.” The CIC has never visited any BOP facility to examine conditions or to interview DC prisoners, in part because there has never been a Memorandum of Understanding with the BOP. The DC government has failed to appoint any members to the CIC since 2004, with the last terms expiring in 2006.
- The legislation required that one-half of **DC prisoners be sent to privately-owned prisons within the BOP**. There have never been enough private prison beds in the BOP to meet this requirement. However, approximately 15 percent of DC prisoners are held in privately-owned prisons within the BOP, most in one facility in North Carolina, the Rivers Correctional Institution.
- **Eliminated the DC Board of Parole in 1998, with many of its functions taken over by the federal U.S. Parole Commission (USPC)**. The primary function of the USPC is to make parole grant decisions for DC prisoners and to adjudicate parole revocations for DC parolees. Prior to

passage of the Revitalization Act, the USPC was on the verge of elimination as the federal government had eliminated parole under federal criminal statutes more than a dozen years before. Now, DC matters occupy more than two-thirds of the USPC's workload.

- **Created Court Services and Offender Supervision Agency (CSOSA)**, an independent federal agency with exclusive responsibility for pretrial, parole and supervised release supervision for DC offenders. These are responsibilities previously handled by the DC Board of Parole. The sole role of this new agency is supervision of formerly incarcerated DC residents (and pretrial defendants), yet it is not accountable to any DC government agency nor is it subject to oversight by any federal agency. Despite its statutory duties to report to the DC Superior Court, CSOSA claims sovereign immunity as a defense to any enforcement action by that Court.
- **Barred the District government from revising any laws or regulations "regarding parole"** that were in effect as of the date of the Act without the "concurrence of the Attorney General" (DC Code §24-131(c)).
- **Mandated the restructuring of DC sentencing laws** to match so-called "determinate" federal sentences, effectively abolishing parole for those convicted of offenses after August 2000.

DC Prisoners in the Federal Bureau of Prisons (BOP)

By January 2001, all DC prisoners had been moved out of the Lorton Prison Complex and moved into the federal BOP. Under current law, once convicted of a felony and sentenced to a prison term, DC prisoners are legally within the custody of the BOP. The BOP even pays the District to house these prisoners in DC jail facilities after they are sentenced and while they await designation and transportation to a BOP facility. The District government retains no discretion over which federal facilities will house the prisoners and what programs will be available to them, the prisoners' security levels within the BOP, or how far from DC they will be held. (Notably, the BOP even aggressively refuses to comply with sentencing orders mandating, for example, that a prisoner sent to the BOP receive psychological counseling or particular medical treatments.)

Under a 1998 Memorandum of Understanding (MOU) between the District and the BOP, the latter agreed to attempt to keep "most" DC prisoners within 500 miles of DC, with efforts to keep most of these within 250 miles. This MOU was consistent with pre-existing BOP policy, which attempts to keep all federal prisoners within 500 miles of their home jurisdictions. The federal government has provided no further accommodation or legal commitment for this influx of DC prisoners, about three to four percent the BOP population. For more 6,000 DC prisoners, the 500-mile radius is a geographic area that reaches from Indiana and Kentucky on the West, Georgia on the South and upper New York State on the North.

Despite this aspirational goal, hundreds of DC prisoners are housed beyond this range, including hundreds held in facilities in Louisiana, Florida, Texas, Arizona, California, and Colorado. In total, DC prisoners are held in 98 different federal prison complexes. Additionally, some are held in various state prisons, in arrangements created by the BOP.

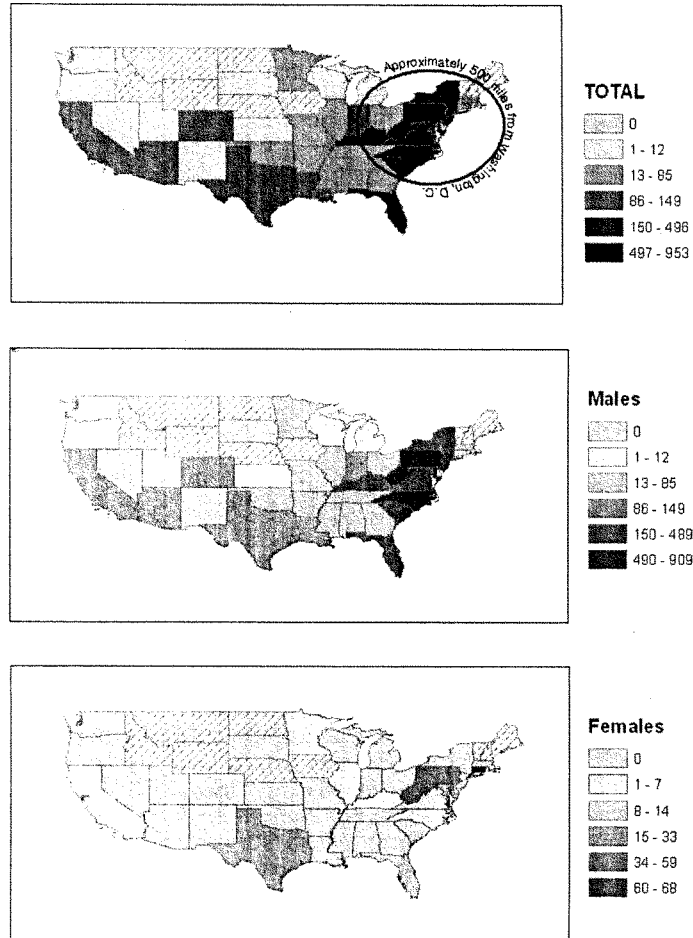
The 15 states with more than 100 DC prisoners are¹:

- Pennsylvania (953)
- North Carolina (738)
- West Virginia (586)
- Virginia (418)
- Kentucky (349)
- Florida (330)
- New Jersey (301)
- Maryland (194)
- New York (150)
- Texas (126)
- Indiana (111)
- Louisiana (106)
- California (103)
- Arizona (102)
- Colorado (101)

The following maps provide a broader picture of where DC prisoners are held as of March 2010, with the circle highlighting a distance of 500 miles from DC.² (The map does not include juveniles held in North Dakota.) It is important to note that some facilities, while within 500 miles of DC, are more difficult to reach than some further away. For example, the facilities in Eastern Kentucky involve a 12-14 hour drive from DC, which might be even more inaccessible than a prison near a major airport in Florida. The BOP complex nearest to DC is located in Cumberland, MD, about 130 miles away, with facilities for medium and low-security inmates.

¹ Court Services and Offender Supervision Agency (CSOSA), Office of Research and Evaluation, "Distribution of District of Columbia Inmates housed in a BOP facility by State and Gender" (April 2010).

² Ibid.



The Complications of Distance

Criminal justice experts agree that maintaining family and community ties is essential to successful community reintegration of ex-offenders. Unfortunately, maintaining family and other community ties is extremely difficult for DC prisoners when they are housed hundreds, even thousands of miles from home. Additionally, DC prisoners in the BOP are isolated not only by distance from DC

but also from each other within the BOP. These different forms of isolation reinforce and exacerbate problems in maintaining family unity.

Because prisons tend to be located in remote, rural areas, public transportation systems are rarely an option for visitation. Families must drive to the facilities, a significant hardship for families without automobiles. Because DC prisoners are dispersed so widely within the BOP, it is also difficult for DC-based social services organizations to arrange low-cost charter bus options so that families can visit loved ones in prison. When DC prisoners were held at Lorton, there were several transportation options available for visitation, and family ties were more easily maintained.

Families are generally unable to visit BOP facilities except in the rarest of circumstances, leaving telephone contact the primary remaining option. In most facilities, collect calls are the only way for prisoners to contact family members (although many now permit use of calling cards). Such calls are limited in time (generally 15 minutes) and costs average more than \$1/minute. Despite a great deal of advocacy nationally on this issue, including several lawsuits³ and legislative efforts, phone rates remain exorbitantly high, particularly in privately-owned prisons.

Distance and Reentry

Returning to DC from a prison 300 (or 1500) miles away makes reentry planning nearly impossible. Access to potential employers, housing services, or social services agencies is limited to letters and telephone calls. There are no job fairs taking place at the far-flung sites housing DC prisoners, nor any programs to encourage recruitment of a labor force from this population, as occurs in many state prisons. Even at Rivers Correctional Institution, which holds the largest number of DC prisoners in the BOP and where CSOSA engages in concerted efforts to provide information to pre-release prisoners, it simply impossible for these men to successfully apply for jobs and housing while incarcerated.

Further complicating the reintegration of DC prisoners after their release from BOP facilities is the inability of BOP facility staff to effectively assist DC prisoners for their return home. With DC prisoners distributed among nearly 100 different BOP facilities, discharge planning efforts can only be piecemeal and completely inadequate. BOP staff are unfamiliar with the local DC community and the challenges facing ex-offenders in DC, which is unsurprising given the circumstances. As noted, CSOSA has attempted to work with staff at Rivers Correctional Institution to develop partnerships with potential employers and housing providers in DC after release from prison. Unfortunately, these efforts

³ See, for example, *Wright v. CCA* (CC Docket No. 96-128 - *Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues In Pending Rulemaking*, a national class action case challenging phone rates in private prisons.

have been generally ineffective in securing housing or employment upon release, although they help to inform prisoners of the existence of potential community resources. Rivers is a minimum security facility, with a generally older and better-educated population than most BOP facilities. Nonetheless, even in a more favorable economic climate, it would be very difficult to attract employers to a relatively small potential workforce hundreds of miles away.

During my visit to North Dakota in 2008 to meet with DC juveniles in the BOP, I asked a teacher at the facility what kind of local information would be helpful for him as he helped to prepare these young men to return to their lives in DC. He suggested that I send him a copy of the DC yellow pages. This startling conversation illuminated not only the complete inability of staff at this facility to assist DC youth in their efforts to prepare for reentry but also the low level of awareness about the urban environment into which these young men would be returning. Most of the young men I met at this facility were serving sentences of three years or less.

Approximately 2,500 to 3,000 formerly incarcerated people return to DC every year from the BOP, with most of these subject to ongoing supervision by the Court Services and Offender Supervision Agency (CSOSA), according to CSOSA statistics.⁴ Fewer than half of these returning residents are placed in halfway houses. Halfway house stays average approximately two to three months (despite the Second Chance Act's mandate for a full year of halfway house placement), during which residents must quickly find jobs, health care and housing (and often drug treatment), or fall into homelessness.

Of the remaining fifty percent of returnees, our estimate is that half of these (or 25 percent overall) are homeless immediately upon their return to DC. Some live in homeless shelters (which are now overcapacity), while others live informally with family or friends (sleeping on couches, floors, etc.) or on the streets. There are a small number of underfunded reentry programs in DC, providing job training and a few providing "transitional" housing. There are also a few limited housing slots available through DC government programs, primarily through the Department of Mental Health. Official statistics indicate that, in the District, 16 percent of people on parole had moved at least three times or lived in a shelter in the prior year, more than likely a significant undercounting, due to the reluctance of parolees to divulge their living arrangements with parole officers. More than 50 percent of people under CSOSA supervision are unemployed.

People returning to DC from the BOP are competing for the same limited social services also intended for homeless people, veterans, and others experiencing destitution in Washington, DC. For many employers and some service providers, a criminal background makes them far less attractive employees and clients than other impoverished people, regardless of their skills, education levels, or evidence of rehabilitation.

⁴ See the CSOSA Reentry Fact Sheet at http://csosa.gov/reentry/resources/reentry_fact_sheet.pdf.

Unless they have family or friends ready and able to house them and find them employment, it is extremely difficult for most formerly incarcerated DC residents to avoid returning to the most dire and unstable living circumstances. There is no organized, coordinated collaboration among the various federal agencies and DC government agencies to prevent these outcomes, which present obvious and dangerous consequences for formerly incarcerated people and for the community.

The Route to Prison to Parole Back to Prison

DC sends more people to prison every year for violations of their parole or supervised release than it imprisons for committing new felonies. In 2008, approximately 1,506 people were sentenced to felonies in the DC court system and sent to the BOP. That same year, more than 1,700 people were sent to the BOP on parole revocations. These violations were overwhelmingly technical or administrative in nature, not new criminal behavior. Overall, approximately 60 percent of all parole revocations are for technical violations, not for violation of any law.

As a result, the DC prisoner population is increasingly made up of older male prisoners serving relatively short prison terms for violating parole rules. Although most parole violators are sent to Rivers Correctional Institution (300 miles away in North Carolina) or to a facility in Pennsylvania, many are sent to even more distant facilities. Their lives are uprooted, their families separated, and employment lost when their parole is revoked. Regardless of the public policy merits (or lack thereof) of technical violations of parole, it is difficult to find a reasonable justification for the practice of imprisoning parole violators in prisons hundreds of miles from home.

The Challenge of *Sellmon*

As noted, the 2008 *Sellmon v. Reilly* (551 F. Supp. 2d 66 (D.D.C. 2008)) decision has led to the release on parole of hundreds of additional DC prisoners in 2009 and 2010. These are men and women who have been incarcerated for at least 12, and often for as long as 25 years. In most cases, they have been illegally over-incarcerated. They have proven to the US Parole Commission that they do not represent a serious risk to public safety and all have taken classes or worked while incarcerated. Overall, they are anxious to re-establish their lives after decades away from DC, with much to contribute.

There are approximately forty to fifty percent more prisoners being released to DC this year than in 2008 as a result of *Sellmon*. Unfortunately, there has been no increase in housing, employment, or drug treatment services made available in response to the increased demand for services. (In fact, there seem to be even fewer services available to them than in prior years, due to the current economic crisis.) Most of these parolees have secured at least some halfway house placement time, although many have been released directly to the

street or to CSOSA's Reentry & Sanctions Center for assessment of substance abuse needs.

Further complicating this situation has been the failure of the various federal agencies to effectively communicate and coordinate with local service providers about this influx of returning citizens. In recent months, CSOSA has taken some steps to address the resource coordination problem, but their efforts are complicated by the failure of the US Parole Commission and the BOP to coordinate release dates, halfway house availability, and other issues. As a result, the reintegration of these long-term DC prisoners has been chaotic and extremely difficult, with many already experiencing homelessness and unemployment.

The *Sellmon* parolees represent a significant opportunity to both understand the challenges of long-term DC prisoners returning home from the BOP and to create services for these and future returning citizens. Virtually all of them have spent time in Lorton as well as in the BOP. This would be an important moment for the federal agencies to finally work with the DC government to address the reentry needs of this significant population.

Recommendations

It is important that the federal government recognize the specific needs of DC prisoners, in particular the unique reentry issues caused by the dispersal of this population across dozens of different BOP facilities. The BOP is our "state prison," despite the federal control. As such, we have a deep interest in how our prisoners are treated there, and how they are returned to us. Unfortunately, as a result of DC's weak political status, our prisoners (and parolees) are subjected to the unfettered discretion of federal agencies over which we have no control.

Nonetheless, the federal government has a significant stake in contributing to public safety in the District and to making it a more livable city for its residents. Here are some basic proposals for the federal government to consider and adopt:

1. The BOP should house all DC prisoners in only a few BOP facilities in Maryland, Virginia, and Pennsylvania within 250 miles of the District, with concerted efforts to house DC prisoners as close as possible to DC. There are facilities in Maryland, Virginia, and Pennsylvania that could be utilized for this purpose. Except in the most extraordinary circumstances, no DC prisoner should be held more than 250 miles away from home.

2. The DC government should work with the BOP to develop local options for housing juveniles held in the BOP. The current system sends these youth to remote locations thousands of miles from home (North Dakota) due to a stated lack of comparable programs closer to DC. Sending 16- and 17-year-olds this distance prevents any real possibility of maintaining close family ties or achieving successful reentry.

3. In facilities housing DC prisoners, case management staff should be trained in appropriate discharge planning issues for the DC population, facilitating engagement by DC employers and social services agencies. Such a project is probably not feasible with DC prisoners spread out into 98 different prison complexes. However, with a more significant population of DC prisoners in only a few facilities, it would be worthwhile for potential employers and service providers to set up training and job placement programs to facilitate the successful reintegration of DC prisoners into the DC community.

4. To the extent feasible, DC prisoners should have access to halfway house placement a full year prior to their release, particularly those who have served lengthy sentences. The BOP must insure that BOP-contracted halfway houses do not discriminate on the basis of disability or other grounds, and that these halfway houses actually provide the housing, employment, and public benefits assistance they are contracted to provide. Most currently do not.

5. Pending before the Federal Communications Commission is the case of *Wright v. CCA* (CC Docket No. 96-128 - *Petition for Rulemaking or, in the Alternative, Petition to Address Referral Issues In Pending Rulemaking*), an effort to address the exorbitant telephone rates charged to families of prisoners. This case has been before the FCC for more than five years, without a decision on rulemaking. The FCC should immediately rule on the *Wright* petition and provide appropriate relief.

6. With the intervention of US Attorney General, the BOP must be compelled to initiate meaningful negotiations with representatives of the DC government and the Corrections Information Council to facilitate full access to BOP facilities and to DC prisoners held in those facilities.

7. The DC Revitalization Act requirement that fifty percent of DC prisoners be housed in privately-owned prisons should be repealed. There is not now, nor should there be, sufficient capacity in BOP contract facilities to meet this requirement, which has its origins in political deal-making, not criminal justice policy. So long as any prisoners remain in BOP-contracted private prisons, the BOP must effectively monitor and ensure that all privately-owned prisons meet the same standards as required of other federal prisons, including adequate medical and mental health care, a full range of programming opportunities, and expanded discharge planning resources for DC prisoners. Currently, the BOP formally denies any ongoing responsibility for monitoring the quality of medical care provided in its contract facilities.

8. CSOSA should be made subject to appropriate DC government oversight, with its rules and policies based on DC law and subject to court review. Although federally-funded, CSOSA must base its supervision policies and practices on DC law.

9. The USPC must immediately strengthen due process protections in parole revocation procedures, including provisions for judicial review of parole revocation decisions resulting in imprisonment. The responsibilities of the USPC over DC prisoners in parole rescission and revocation matters should be transitioned to the sentencing courts, with the USPC's role phased out.

10. The Justice Department should either support the DC Council's repeal of DC Code §24-131(c), or support federal legislation achieving the same goal. This statute, passed into the DC Code directly by Congress, requires the "concurrence" of the US Justice Department for any changes in DC local law affecting parole. This statute is arguably unconstitutional, and certainly violates the concept of DC home rule. The DC government should have the ability to alter or amend its own parole laws to suit the needs of the people of DC. The federal government should have no direct role in these local decisions.

Mr. LYNCH. Thank you, Mr. Fornaci.

Mr. Cook, you are now recognized for 5 minutes for an opening statement.

STATEMENT OF ANDREW COOK

Mr. COOK. I would like to say good afternoon. I am also honored to be able to sit before you all today and I thank you all for being, you know, giving affording so I can share my testimony today. Thank you.

Mr. LYNCH. Mr. Sawyer, you are now recognized for 5 minutes.

STATEMENT OF LOUIS SAWYER

Mr. SAWYER. Mr. Chairman, Members of Congress and their staff, distinguished members of the panel, ladies and gentlemen, good afternoon.

You've mentioned, Mr. Chairman, in introducing me, where I was employed with the SOME program, and I need to clarify something, that it is not the SOME, So Others May Eat, it is the Opportunities Industrialization Center of Washington, DC, and I needed to note that for the record because I don't believe I can go back to Southeast if I did not.

Mr. LYNCH. OK. That is duly noted.

Mr. SAWYER. Thank you so much. And I do have a pamphlet for you for the Members of Congress. All right.

I wanted to thank you for this opportunity for sharing with those members who are here in reference to the plight of D.C. prisoners far away from home. I do not want to be redundant for what Mr. Fornaci has said, he has covered most of everything in a nutshell. But I would like to talk with the, have the opportunity to speak to the recidivism and the reentry of D.C. prisoners coming back into the Nation's Capital.

And one thing I do note that is very serious are five essential basic needs that should be looked upon, and those are the transportation of a D.C. prisoner, a returning citizen coming back to the Nation's Capitol, his medical care, psychological, what have you, clothing issues, employment and housing. These are very critical issues that need to be explored and looked upon for being where we are and how far we've been away, such as when I was in the U.S. penitentiary in Lee County for 5 years, and then I transferred to the FCI Allenwood in White Deer, PA, where I made parole on February 9, 2010.

And after spending 25 years in the system, I found that, coming back to the Nation's Capital, the opportunities that I thought would be available were not. But I do thank the Public Defender Services of the Nation's Capital for providing an adult directory of resources. And Ms. April Frazier, who is the staff attorney and who's responsible for the reentry, was very good. And Mr. Allen McAllister, who is staff attorney who's here, who's also working and have worked very hard in seeing to it.

But I would recommend that one of these pamphlets, these booklets, this directory would be able to be sent to each and every one of the institutions in where a D.C. prisoner is housed so it could be noted for the law library. With that said, this directory is very useful and which I have found it when I was there to look into and

to send letters to the appropriate individuals where they could become housing employment, also with the mentoring aspect. And I am also pleased to note that the Welcome Home Project with Ms. Joyce Boyd, who was very helpful in my reentry.

But I must say this. This is of utmost importance, that if a person does not have a foundation, which is his family, some institution, religion, based on a church foundation, a mentor, counselors and advisers, then it is not going to work out. But he has to understand that it is not easy out here. But it is also incumbent upon those to note that with the assistance of the reentry faith-based welcome back, these organizations have pooled together, and I am very much a product of that. And I thank those individuals for being so thoughtful and so helpful.

But we need to meet those needs wherein, even with the transportation issue. We have some organizations that are able to give tokens and then those who are not. But to go out, such as myself, I am in the Hope Village halfway house at 2840 Langston Place Southeast, and to go out every day to look for employment. But based on the fact that I am in the Opportunities Industrialization Center in Southeast Washington, DC, which is the place to be, we still have to go out. It is from 10 a.m. to 2 p.m., Monday through Friday. And it is a job placement training program that facilitates those individuals who are looking forward, but they're training them so they're just not going out to employment without any skills. They are providing that with the Internet, and being able to have those opportunities. And I do, I want to note that for the record. But still, we're looking at those issues that come before this committee.

Thank you, Mr. Chairman.

Mr. LYNCH. Thank you, sir. I want to thank all the witnesses who are coming before the committee to help us with our work, and Mr. Cook and Mr. Sawyer especially for offering your perspective.

I am going to yield myself 5 minutes for my questions, after which I'll recognize the other Members. It seems there's general agreement that the proximity can help a great deal. I know, Ms. LaVigne, you pointed out a couple of instances where there might be some qualifiers to that with respect to gang violence and that type of connection.

But is it possible, Mr. Lappin, Mr. Fornaci mentioned the 250-mile, I know you've got this Memorandum of Understanding that implies, or it establishes a goal of 500 miles, which is a long, long distance. Mr. Fornaci suggests that with some of the existing facilities in the Pennsylvania, Virginia, West Virginia area, you might be able to reduce that down to 250. But I also hear from you and Ms. Poteat about the capacity problem, the overcrowding problem that we have. Is that feasible?

Mr. LAPPIN. Thank you, sir. It is an excellent question. And let me begin by agreeing with them that closer to home is better, even with those challenges. However, this has been a challenge for the Federal system since its creation. Well, I want to set the parameters so you have a sense of how the other inmates in the Federal prison system compare to the inmates from the District of Columbia. And I can break it down by gender.

Right now 75 percent of the inmates from the Superior Court are within 500 miles. Male inmates from the Superior Court within 500 miles, 75 percent. For all the other inmates in the Federal prison system, male, there's 69 percent of them are 500 miles from home. So a larger percentage than with the District inmates are beyond 500 miles.

Comparing male Superior Court offenders with all other Federal offenders, 75 percent of the male Superior Court offenders are within 500 miles of home; 69 percent of all other male Federal offenders are within 500 miles of home. For females, 81 percent are within 500 miles of home. For all other females in the Federal system, 69 percent are within 500 miles of home.

And this has been somewhat true over the course of many, many years. It is unfortunate that a long, long time ago we didn't see the value of inmates being closer to home and before we built prisons, we built them in locations that were closer to where the inmates were coming from. Unfortunately, that did not happen.

So today our infrastructure, much of it new, are in remote rural locations where there are not as many inmates coming from those systems. But you can see that the distance issue has been a challenge for us for a long, long time.

To compensate for that, we work closely with U.S. Probation Service, our contract providers in the halfway houses, CSOSA and others, to try to improve the relationship in advance of the inmates returning home.

To your question, before you can do any of the things you want to do in prison, provide programs, provide reentry opportunities, teach GED, teach vocational training, have inmates working in Prison Industries, you must run safe prisons. Inmates must be able to safely come out of their cells from 6 a.m., until 9 or 10 p.m., whatever time that is, and function within that unit. It has been our experience that we've been more successful allowing that to happen when we have a balanced designation process, when inmates are balanced both geographically, gang-wise, racially, and ethnically. And we strive to achieve that balance at our institutions and retain that balance.

But as you indicated, it is even more of a challenge when you don't have enough beds because, quite honestly, there are some days you are just trying to find an empty bed to put an inmate in at the appropriate security level. So I don't think it is possible within 250 miles and successfully manage those prisons as safely as we do today because it will disrupt this balance that we are trying to achieve. And that is unfortunate.

The other thing is there are several reasons why those that are beyond 500 miles, one, medical care. Some inmates require more medical care. And let me just mention this very briefly. We classify inmates based on security level. Once that is accomplished, we classify them on care level, how much medical care do we think they're going to require, based on their physical condition, because we came to the realization a few years ago that we could not provide the same level of care, health care at every facility, given the fact that many were built in very rural locations or in very urban locations where we were competing for limited resources in the way of health care providers, one, and two, that there were not a lot of

facilities outside of that institution, hospitals, that could provide that care if in fact we could not provide the care inside the facility. So therefore, we created healthy institutions and institutions with inmates who were healthy but needed some additional care and then our more institutions with greater need for health care. That alone sends inmates a little further away from home so that we can provide adequate health care.

Separations.

Mr. LYNCH. Mr. Lappin, you have far exceeded—I only have 5 minutes. You’ve exhausted all that time. I appreciate your answer was no, is that correct?

Mr. LAPPIN. I do not believe that we can do it as safely as we do today.

Mr. LYNCH. OK. All right. I will now yield to the ranking member for 5 minutes, Mr. Chaffetz.

Mr. CHAFFETZ. Thank you, Mr. Chairman. I have to go swiftly because 5 minutes goes by fast. I do not understand why we have 102 people from Washington, DC, in Arizona. Understanding that the documentation that was here, give me one reason why we would send somebody all the way to Arizona, other than it has really good weather.

Mr. LAPPIN. High security sex offenders. That is the only housing you have of a high security nature where we can house sex offenders in an open population.

Mr. CHAFFETZ. There is nowhere closer than Arizona.

Mr. LAPPIN. There is nowhere closer for high security sex offenders than Tucson, AZ.

Mr. CHAFFETZ. What about 101 people in Colorado?

Mr. LAPPIN. As I indicated, inmates that have special security needs, there are 44 of them at ADX Florence because they have assaulted staff and inmates, they’ve killed inmates, they have attempted to escape. So there is a high security facility, ADX Florence. There are 41 alone in that facility because of their misconduct in prison.

Mr. CHAFFETZ. And let me go to Mr. Fornaci. I saw at least from your kind of nonverbal, I thought you took some issue to this idea of balance based on medical needs and those types of things. Do you care to comment on that based on what Mr. Lynch was questioning?

Mr. FORNACI. Well, yes, thank you.

I was looking at the listing of where D.C. prisoners are. Certainly there is some number of folks in medical facilities which is a care Level 4. The care Level 3 there is a smaller number. But I am not sure that actually states it. I think the security issues I suspect are stronger on Mr. Lappin’s basis than are the medical issues. There are many medical facilities within this area. The care level system is actually relatively new.

I guess what I was raising my eyebrows at is I am a little bit, I am not quite sure of how to interpret it, was the notion of having certain kinds of balance, including racial balance. That was what I was responding to. D.C. folks are known as about 95 percent African American prisoners. It is an urbanized population. The BOP generally is 38 percent African American.

Mr. CHAFFETZ. Thank you. Mr. Cook and Mr. Sawyer, first of all, I appreciate you being here. You have been here. You have seen it. I think your only vested interest is probably to make it better. So maybe starting with Mr. Cook and then Mr. Sawyer, from your vantage point, what is, what are the two or three things, and if you just have one, you just have one, but that you would like to see improved. It is just your own personal point of view. It is from what you've witnessed. If you could make the situation better, what should we be doing? What should we be insisting that the Bureau of Prisons do better?

Mr. COOK. Meaning as far as, you mean as far as the location?

Mr. CHAFFETZ. Yeah. Yeah.

Mr. COOK. Well, from my experience I've been locked up 8 years. And out of 8 years I've been to five different penitentiaries. And out of five different penitentiaries I would say, well, with the help of Mr. Fornaci, I've been out in Indiana. I am not no security risk so I am wondering why was I out there. I don't have no family out there. Then after I leave there I go to Kentucky. Same thing apply.

So I am curious to know what do they, you know, what is the information they use to place a person? I am just thinking they going sending you to the next bed.

Mr. CHAFFETZ. Now he talked about the safety and security of these prisons. From the time they opened that cell to the time they close it did you feel safe in those penitentiaries?

Mr. COOK. Well, I am going to say the only thing I was kind of worried about was getting back home, closer to home. Other stuff don't even matter to me.

Mr. CHAFFETZ. How did you communicate? Do you have family here then?

Mr. COOK. Yes.

Mr. CHAFFETZ. How did you communicate with them? Were there any resources?

Mr. COOK. Well, being so far a way, your money, you don't really have too much money.

Mr. CHAFFETZ. Right.

Mr. COOK. And when you get a job in there, they pay you a little less than nothing. So the little money you do obtain you've got to stretch it. Either you are going to pay—

Mr. CHAFFETZ. Give me an idea. What were you doing and how much money were you making?

Mr. COOK. Well, my first job, I've been a tutor, you know, throughout the BOP. That pay a little bit. That is one of the—

Mr. CHAFFETZ. Like how much in a month? How much in a month does that make?

Mr. COOK. An hour? Like 30 something cent an hour.

Mr. CHAFFETZ. 30 cents an hour. And with that you are expected to pay for long distance toll calls and all that kind of thing to communicate with your family?

Mr. COOK. Pretty much.

Mr. CHAFFETZ. Was your family ever able to come out and visit you?

Mr. COOK. No good.

Mr. CHAFFETZ. Mr. Sawyer, Ill give you an opportunity.

Mr. SAWYER. Thank you so much. Your question again, sir?

Mr. CHAFFETZ. If you had two or three, maybe one or two things that you just want the Bureau of Prisons to do to improve the system for people that are so far away, what would that be? Be very specific and as brief as you can on what you'd like them to do.

Mr. SAWYER. Well, I am very much concerned about Mr. Lappin, who spoke to the issue about when the individuals come out of their prison cells.

I have been in—for 25 years, and I have yet to see—because I have been in the medium-security facility, and even at the U.S. penitentiary in Lee County, when you understand that you are in a prison setting and when you fear no one but God, and God alone, then that tends to give you a more secure balance in where you are and who you are.

But, of course, we understand it is a prison and it is a U.S. penitentiary and it is prison. But still, for the Bureau of Prisons to look at it, in bringing the District of Columbia inmates closer, the States of Pennsylvania, Virginia, Maryland, it should be looked upon as a serious entity wherein the closeness—I don't believe we are a security factor. For those who went in 25, 30 years ago, who are now coming home, they are looking forward to being with their families. It is a telephone issue. It is a visitation issue. And it is very expensive.

They travel all night to get to the facility, and when they come, they are not welcome because, for whatever reason, the Federal Bureau of Prisons staff are not too likened to D.C. prisoners and their families. And, to be honest with you, and I will share that with you because no one wants to speak about that, but that is an issue. That is an issue.

Mr. CHAFFETZ. Thank you both. I wish you nothing but the best, and I appreciate your taking time to be here.

Thanks for the latitude in time, Madam Chair. And I think it is just a crying shame that these people have to be so far away. They are dealing with an exceptionally difficult situation, to say the very least for them and their families, and there is something we got to do, because this ain't right.

Ms. NORTON. I thank you very much, Mr. Chaffetz, for your questions because I think they have elicited the dilemma that we have before us, and, I must say, a dilemma that I think is quite solvable.

As you probe the witnesses who have been transferred from one prison to another—and, for that matter, Mr. Lappin, I want to thank the Bureau of Prisons for quickly admitting D.C. residents to the state-of-the-art drug program. We recognize there are always backlogs, but the notion that our prisoners were not even admitted, that was not your fault, but you certainly got that done. You have set up a drug program, a state-of-the-art program, also at Rivers. We are very grateful for that.

The answers to the questions posed by the chairman and the ranking member, of course, have elicited from Mr. Lappin, you know, what you would expect. He is talking about the Federal prison system as it is, as if Congress in the Revitalization Act hadn't given him a new charge. They didn't say, "Here is a Federal prison. See what you can do with these State prisoners." The charge was to do something unprecedented, take State prisoners and deal with them as State prisoners within a Federal prison system. And you

know that was the case because they are under the D.C. Code still. They are recognizable D.C. prisoners.

So we are working with 500 miles. You have heard testimony here, I think it was from Ms. LaVigne, you know, 100 miles is what you find in the average State. Already they are at a severe disadvantage. And we in the District are supposed to say, "Welcome home, friends," at the end of—it could be 25 years, it could be 10 years, it could be a few years. No matter what it is, almost none of them have access to family services.

So we are not asking for a change in the Federal system. We are asking for the Federal system to do what the Revitalization Act said: Take these State prisoners, treat them as State prisoners within a Federal system, do not disadvantage them, give them the advantages that come from your system, not disadvantages imposed on them.

Now, the fact is, Mr. Lappin, we have some reason to believe that your office may already be thinking in these terms. Has your office been in touch with the D.C. Department of Corrections about bringing D.C. Code offenders home early, 90 days, and putting them in the D.C. correctional treatment facility here in the District of Columbia?

Mr. LAPPIN. Yes, we have had a discussion over the phone.

Ms. NORTON. With whom have those discussions taken place?

Mr. LAPPIN. Director Brown.

Ms. NORTON. Is Director Brown here?

Mr. BROWN. Yes, ma'am.

Ms. NORTON. Rather than deal in hearsay, could I ask that Mr. Brown take the table? I don't want you to have to quote Mr. Brown. Would somebody, staff, bring a chair up so that Mr. Brown can take his seat here since he is here? This is somebody close to home who has already had discussions. This is a problem-solving hearing, and we want to solve this problem, beginning now.

Could you please stand and be sworn?

[Witness sworn.]

Ms. NORTON. Now, you have testified in your written testimony, on page 5, to the advantages—you are right, we tried to get closer to home; we even tried to reserve some part of the Lorton facility for this very purpose. You talk about the advantages for the D.C. Superior Court and closeness to CSOSA. You spell that out, I think, very well. You say you have had discussions with Director Devon Brown of the D.C. Department of Corrections.

Would you, Mr. Brown, say firsthand what those discussions have concerned?

Mr. BROWN. Yes. Director Lappin is correct. I contacted him approximately 3 weeks ago to discuss several proposals, all impacting upon D.C. inmates.

One of those proposals entailed having D.C. inmates who are in his custody, 90 days from their release, be placed in one of my facilities, whereby we could provide them—that is, the city and CSOSA—wraparound services to help in their transition back into our community.

Ms. NORTON. Now, you are willing to take these prisoners.

Mr. Lappin, I want you to consider that when we hear testimony here, we understand the constraints of the Federal prison system.

But I need to ask you whether you are prepared to accept this offer of the D.C. Department of Corrections with the director here testifying today?

Mr. LAPPIN. I am not willing to accept that as of yet. We are going to meet. Because I think there is another group that needs to be discussed in advance of that.

Ms. NORTON. Another group of what?

Mr. LAPPIN. D.C. offenders who are serving short sentences.

Because of the crowdedness at the jail previously, we have been designating inmates who are serving over 30 days to a Federal prison. And I shared with the director that we should first look at this group, because in most jurisdictions, when individuals are serving 6 months or less, we oftentimes designate them to the jail in lieu of transferring them to Federal prison, because when we do that, by the time they get to the Federal prison, it is time to return to their home.

Ms. NORTON. Well, Director Brown, did you take this notion, which is not new to this subcommittee, into consideration, this notion about people who have violated parole?

Mr. LAPPIN. Actually, they are serving a sentence of 6 months or less.

Ms. NORTON. But they are felons.

Mr. LAPPIN. They are felons.

Mr. BROWN. Yes, ma'am. The discussion really began over weekends, which is very similar. I could not see, nor could the Federal judges here see, the utility of having someone who has been sentenced to several weekends have their lives disrupted by having to travel to one of the Federal penitentiaries.

Ms. NORTON. So what happens now to the weekenders or these short-termers?

Mr. LAPPIN. We have had very few of them. But when we do have them, we try to find a jail in close proximity to house them. So, out of Baltimore, there is a jail about 2 hours away. We are in agreement with the director on that issue and the other issue.

The one I am hesitating on is returning these longer-term offenders, 90 days before they are released, back to the District until we have a chance to look at how many that would be, so that he doesn't accept more than he can actually handle at the jail; how much it will cost to transfer them from the Federal prison back to the jail and then to house them.

Ms. NORTON. We know this: that you are paying to keep them in the Federal prisons right now. We know that you testified at length about how overcrowded your prisons are. We know he has available beds. And the challenge is not, of course, to tell us what can't be done, but to adopt the same problem-solving attitude that we are trying to adopt in this hearing.

If there is such an outstanding offer—this is what I ask: for you and Director Brown, within 30 days, to report on progress for the weekenders. You can throw anybody in there you want to, Mr. Lappin, but also for prisoners who would be returning to D.C., not excluding them, but including them.

Considering that there are a number of beds, it will be very hard, Mr. Lappin, for you to show me, since you have to pay for these people to come back home anyway, you have to house them any-

way, it will be very hard for you to show me in your overcrowded condition, as you have testified here today, that you have a greater burden by keeping these prisoners in 115 prisons across the United States than accepting Mr. Brown's offer.

Mr. Davis was the next to arrive. And I am very pleased that Mr. Davis is attending this hearing because he is the author of a landmark bill on reentry for inmates throughout the United States.

Yes, sir?

Mr. DAVIS. Thank you very much, Madam Chairman.

And let me thank the witnesses for being here.

Director Lappin, it is good to see you again.

You indicated that sex offenders under your care, you had to take them 500 miles away to Arizona to find a Bureau of Prisons facility where they be could housed?

Mr. LAPPIN. Not all sex offenders. High-security sex offenders.

Mr. DAVIS. High-security sex offenders. What about sex offenders who are not necessarily as high security?

Mr. LAPPIN. After the passage of the Adam Walsh Act, the Congress in the new law required us to create six sex offender management programs. We have done that. There is one in Petersburg, VA. There is one in Marianna, FL. There is one in each of our regions. The closest one for high-security sex offenders is Tucson.

You can't imagine how difficult it is to house high-security sex offenders in an open population. Prior to this, many of them were housed in segregation because they were unwilling to go to the compound. So we had to find a location where we could introduce this with an entirely new group of inmates, and that was to do it at a brand-new facility. The only high-security institution opening during that time was the one in Tucson. That is where we chose to place this high-security sex offender program.

Mr. DAVIS. Let me ask, what happens to these individuals once they have completed their sentences, once they have served their time, and it is time for them to return back home?

Mr. LAPPIN. Are you asking me?

Mr. DAVIS. Well, no, I—

Ms. POTEAT. They would be under CSOSA's supervision. We develop a plan for each individual, depending on risk and needs. The sex offenders are housed and are supervised in a specialized unit under CSOSA. And those units are at 300 Indiana Avenue.

And we have programs in place to supervise them accordingly. They are lower caseloads. We institute GPS, if necessary. We place them in therapeutic groups. And the caseload ratio, as I indicated, is much smaller in dealing with that population.

The jobs are looked at a little differently, because we have to make sure that where they are working are conducive and they are not posing a risk. And their housing needs are also scrutinized. If, in fact, they have separations against children, then we do not place them in homes or jobs where children are present.

Mr. DAVIS. And I ask these questions basically because it is my experience that sex offenders basically give up their freedom once they are convicted of a sex crime. I mean, my experiences are that trying to find a place for sex offenders to live is almost impossible because, obviously, there is no community, there is no location,

there is no place where they are pretty much acceptable to the rest of society.

And I raise that point because I often talk to young people and I actually caution them quite a bit that, you know, if you reach that point, for all practical purposes, you are sentencing yourself to a lifetime of prison or a lack of freedom relative to movement.

The other point I would like to make, Madam Chairman: Mr. Cook, are you employed? Do you have a job?

Mr. COOK. No, I don't.

Mr. DAVIS. Have you tried to find a job?

Mr. COOK. Several times.

Mr. DAVIS. And you have been unsuccessful. You would attribute that to what?

Mr. COOK. I would contribute that to the lapse, when I fill out my resume, the lapse in times of my current job to my, you know, the last job I had to now, and the resources.

Mr. DAVIS. Would you be a good worker?

Mr. COOK. Yes.

Mr. DAVIS. Thank you, Madam Chairman. Are you going to do another round?

Ms. NORTON. We will do another round, yes, sir.

Mr. Cummings of Maryland?

Mr. CUMMINGS. Thank you very much, Madam Chair.

Mr. Lappin, help me with this. In your testimony, you say that, you know, the Bureau of Prisons is establishing employment resource centers at all Federal prisons to assist inmates with job searches and other areas.

Are those resources focused on local and the statewide level? How do you do that?

Mr. LAPPIN. They are really national, given the fact that in that institution you have inmates not only from all over the United States, you have inmates from all over the world.

Mr. CUMMINGS. Right. OK.

Mr. LAPPIN. And so we focus on those U.S. citizens who return to this country with a national approach to how you go about finding a job: resume building, job searches. We actually are working with companies that provide software as to what jobs are vacant in certain areas that inmates can actually access and see what jobs are vacant in a given area, what types of jobs are available in a given area. So there are resources made available to them, based on their release, to assist them in preparing for a job search.

And then, as they transition to a halfway house or a residential re-entry center, we have work force development staff at those centers who assist them once they arrive at that location, given the fact that the majority of the inmates do transition out through a halfway house.

Mr. CUMMINGS. And what have the results been? I mean, do you followup to see how many inmates have gotten jobs, say, within 6 months of being released?

Mr. LAPPIN. We really, sir, we don't track that. Once they leave the halfway house, they become the responsibility of the U.S. Probation Service. And right now we don't have the wherewithal through technology as of yet to determine how many of them actu-

ally get jobs prior to release. So all we can do is rely on the surveys we might do with halfway houses on a case-by-case basis.

Mr. CUMMINGS. Uh-huh. It seems to me that you would want to—I mean, if you have a program, you want to measure it some kind of way. That doesn't seem like it would take rocket scientist stuff. Maybe I am missing something.

Mr. LAPPIN. No, we agree with you. And we are working—

Mr. CUMMINGS. Whoa, whoa, whoa. If you can send somebody 500 miles away, it seems like you ought to be able to figure out whether they got a job. I am just curious.

Mr. LAPPIN. No, we agree with you. And we have now put in place a system that is electronic in nature that we are going to be able to gather that information more consistently across the United States in the very near future. Right now we don't have the technology in place. It would have to be done by hand.

Mr. CUMMINGS. The reason why I ask that, Mr. Brown knows me well; we go way back. And he knows that I used to do a program in Baltimore, an aftercare program, where we actually worked with the inmates after they got out. And one of the most difficult things has always been, and it continues to be, is jobs.

And is it Mr. Cook?

Mr. COOK. Yes.

Mr. CUMMINGS. Mr. Cook, your problem is not only the fact that you have a record. The problem, also—and I know this because I live in the inner city, and I just did a jobs fair—part of the problem is that, right now, there are a lot of people looking for jobs who have no records. And that is real. And so that competition is kind of rough.

But I am trying to figure out—I am just trying to make sure that if we are doing things—we have a fellow—first of all, what is the significance of the 500 miles? Because 500 miles, I was just doing a little math here, you know, that is a long drive.

Mr. LAPPIN. It is based on traditional distance from home for Federal offenders.

Mr. CUMMINGS. OK.

Mr. LAPPIN. And for years that has been the target, is to try to get them within 500 miles. And, again, realize, there are 115 prisons, but many of them are concentrated in just a few States.

Mr. CUMMINGS. Right.

Mr. LAPPIN. So if you go to West Virginia, for example, you have seven or eight prisons there. If you go to Kentucky, there are seven or eight prisons there. Believe you me, there are not enough inmates coming out of Kentucky and West Virginia to fill one prison, let alone 14 or 15. But you are going to fill those beds.

And so, the 500 miles is driven by our experience over the last few decades and how far the average inmate is from home.

Mr. CUMMINGS. And the only reason I was asking about the job piece is because one of the things that we discovered in our program is that, if we could get somebody a job, they had a much better chance of staying on the street, much better. And then getting them back with their family and trying to redirect their priorities from the street to the family and a job. Because one of the things a job also does is it provides them another family, really.

Mr. LAPPIN. Well, we agree with you, and that is why the halfway house is critically important. And a job and a place to live are the two most important factors. Our research reflects—in a broader scale, not did they get a job, but our research reflects those inmates who transfer out through a halfway house are far more successful at getting a job and retaining a job and less likely to come back to prison.

So in that assessment is the understanding that getting a job and a place to live are the two most important aspects of that release. And, certainly, that halfway house transition helps us be more successful in that regard.

Mr. CUMMINGS. I see my time is up. Thanks.

Ms. NORTON. Thank you, Mr. Cummings.

You can see the Members are very skeptical about this 500 miles. Nobody buys it as in any way facilitating re-entry. So then we have to think outside the box, Mr. Lappin. That is why, since we had this information, it seems to me that should have been in your testimony, if I can be candid, that you were at least looking at that. And we got that information simply because we are in the District.

And, therefore, it is that kind of thinking outside the box, or else we are going to be sitting here trying to thread a needle that does not thread. We are not asking you to change the whole system. We are asking you to accommodate a State system, as the Revitalization Act has mandated.

Now, there is nothing that will keep you, is there, from designating a prison, let's say, within 200 miles or whatever distance would be closer to home, now with various kinds of inmates as a D.C. prison? There is nothing that would keep you from doing that, is there? And, in fact, locating D.C. residents in that particular existing FBOP facility.

I am not asking you to do it. I am asking you if there is anything that you know of that would keep you from doing it—

Mr. LAPPIN. Yes, there is.

Ms. NORTON [continuing]. Given the Revitalization Act and the challenge you face and the testimony you have heard here today.

Mr. LAPPIN. Congresswoman, you and I have had this discussion before.

Ms. NORTON. I have never had this discussion with you at any length, sir. And I want to have it right now, under oath, right here. Is there anything that keeps you from designating a prison within a few hundred miles of D.C. for D.C. inmates at this time? And if there is, I want to know what it is.

Mr. LAPPIN. If you go back to my oral statement or my written testimony, I explain why I believe it is unwise for us to designate a specific location for one type of inmate. Because we have been more successful in operating prisons safely when we have a balanced inmate population.

Ms. NORTON. You are back in the box again. And I am trying to get you outside of the box dealing with the testimony you have heard here about the failures of the BOP because you deal with these prisoners as a part of a Federal complex instead of as a new set of prisoners charged with you. I understand that.

You say, you know, in your discretion, it wouldn't be wise. Obviously, there are ways to have a facility which, in state-of-the-art

penology, has inmates at various levels. Done all the time in the States. But, of course, what it would take, Mr. Lappin, is the will to do it. And if the will to do it needs to come by Federal statute, that is a lot of will by the will of law. But guess what? I don't think it is necessary. That is why I asked you if there was anything in law that kept it from happening. You said what your own view is. I would like to have those discussions with you.

Now, I would like to ask a question, really based on Mr. Fornaci's testimony. But, Mr. Fornaci, you do say something that makes me want to followup here unrelated to the question I was to ask. You say the BOP even pays the District to house these prisoners in D.C. jail facilities after they are sentenced and while they await designation and transportation to a BOP facility.

Director Brown, is that the case? Is the BOP paying the District to house sentenced felons while they await designation and transportation to a BOP facility?

Mr. BROWN. No, ma'am. No, ma'am.

Ms. NORTON. Who pays for these people, who are sentenced felons in the care of the District of Columbia? Who pays for it?

Mr. BROWN. The District of Columbia pays.

Ms. NORTON. Has the District of Columbia ever been paid at all to house any of these felons in District of Columbia care, so far as you know?

Mr. BROWN. Ma'am, the point in which the District of Columbia receives payment from the Federal Government is upon their designation to a Federal Bureau of Prison facility. All time prior to that, the cost is borne by the District of Columbia.

Ms. NORTON. You mean once they are sentenced?

Mr. BROWN. No, ma'am. Even after the sentencing, the District of Columbia continues to absorb the cost of payment for the housing of individuals, felons, who have been sentenced as felons up until the point in which they are designated to a Federal Bureau of Prisons facility.

Ms. NORTON. Is that the case, Mr. Lappin, in States other than the District of Columbia?

Mr. LAPPIN. That is the practice, that up until the point the inmate is designated—so if they are in the jail and they have been sentenced, on the day they are designated to a Federal prison, we begin paying the next day. And that is typical of all the other locations.

Ms. NORTON. So, Mr. Fornaci, the date of the payment, then, becomes an issue. I just wanted to clear that up.

Mr. Fornaci gave really heartbreaking testimony about these children. Yes, they are felons who are as far away from home as you can be, with a teacher with no information about home. And The Washington Post sent a reporter out there a couple of years ago just so that the District would have some sense of what it meant to have a child so far from home. We don't have any issue with people in North Dakota trying to deal with a few kids from D.C.

But could I ask, Mr. Brown, if you have had any discussions with the Bureau of Prisons about taking these few kids—it must be maybe 10 or 12 kids, if that many—and housing them here in the District of Columbia? Have you had such discussions? If you have

not had such discussions, would you be willing to have such discussions with the Bureau of Prisons?

Mr. BROWN. I have had several discussions with the Bureau of Prisons, including a brief discussion with Director Lappin prior to this hearing.

Ms. NORTON. Could you tell us about that discussion?

Mr. BROWN. Yes. I was approached approximately 2 years ago by a Federal Bureau of Prisons official inquiring about the possibility of the District continuing to house juveniles who had been designated to the Federal Bureau of Prisons, to continue to house them at our special juvenile unit at the correctional treatment facility until such time as they reached the age of majority.

Ms. NORTON. Now, Mr. Lappin, I appreciate that is an idea you have had for some time. I have to ask you, why hasn't that idea been acted upon?

Mr. LAPPIN. Well, as I understand, the juvenile facility here didn't have the room at the time we met with them. Also, some concern over the seriousness of the offense behavior of some of these juveniles at that facility.

So you are right, the number here is small. In fact, right now we have four. And we would much prefer to have them much closer to Washington, DC, if not in Washington, DC, I am open to any suggestions. We have been to the State of Pennsylvania, Virginia, West Virginia, the District, and, as of yet, no one is willing—some of them have pretty good programs, but no one is willing to offer up beds.

Ms. NORTON. And here we have, right at home, an offer of perhaps beds.

Mr. Brown, could I ask you, given the fact that these are not likely kids who are out at our new facility here, these are convicted felons, convicted as juveniles, but they are pretty serious crimes, four of them, do you think that you have a facility somewhere here in the District of Columbia that could take these four kids home at this time?

Mr. BROWN. We would handle it the same way as what we proposed to do with the adults.

What I am referring to is those juveniles who are awaiting transfer, they have been convicted, they are awaiting designation, that we continue to house them here in the District at our juvenile unit until such time as they reach 18 years of age and they can be placed in an adult Bureau of Prisons facility.

Ms. NORTON. All right. Now, this is very important. You house them while they are awaiting transfer anyway. I mean, you house them until they are transferred to North Dakota or wherever they are going to be sent. Is that not the case?

Mr. BROWN. That is the case, ma'am.

Ms. NORTON. As with other convicted felons here in the District of Columbia. So all you are saying is, since you have them anyway, since you have already had to keep them separate in a facility based on, among other things, the seriousness of the crime, why ship them to North Dakota in the first place? Is that the testimony?

Mr. LAPPIN. In the past, there has been an issue of space.

Ms. NORTON. Well, you know what? Past is past, and I don't want to take time—

Mr. LAPPIN. But one other—

Ms. NORTON. I am asking—I can understand, and I am not blaming anybody for anything. I am trying to solve a problem, Mr. Lappin.

Mr. LAPPIN. The other issue has been the availability of programs for people who may be in the jail for 2 or 3 years.

Ms. NORTON. Excuse me?

Mr. LAPPIN. The availability of programs for those juveniles.

Ms. NORTON. Are you kidding? Did you hear Mr. Fornaci say that the teacher had to ask for the Yellow Pages just to find out which way was up?

Mr. Fornaci, would you elaborate at what you found at North Dakota?

Mr. FORNACI. Well, I have to say, what I was referring to was actually reentry. The program in North Dakota, in fact, does have educational services. I think that is what Mr. Lappin is referring to.

Ms. NORTON. So you are worried, then, Mr. Lappin, whether or not D.C. has the proper education facilities?

Mr. LAPPIN. I don't know what they have available. My only concern is that sometimes these could be 2-year stays, and I think we just need to make sure—

Ms. NORTON. Well, these children could be sentenced at, what, 16? What is the youngest age, 16?

Mr. LAPPIN. I am not sure. I think it is 15.

Ms. NORTON. Fifteen. It could be 2 years, it could be 3 years.

Mr. LAPPIN. Right.

Ms. NORTON. And that is not at issue here, Mr. Lappin. I am trying to find out what can be done.

Mr. Brown, what is your response about whether or not there are the facilities, whether or not, you know, you have them anyway, so I assume that you are not letting them sit there anyway doing nothing.

So I am not even sure what Mr. Lappin is talking about. You are already providing for these children until they go all the way to North Dakota. What more would have to be done to provide for these children if you didn't send them to North Dakota in the first place?

Mr. BROWN. Ma'am, I would say this: that the D.C. Department of Corrections, for the last 4 years, has been the best-kept secret, not only in the District of Columbia but nationally, in terms of the stellar programming, absolutely stellar programming, that has been brought to our jurisdiction, particularly as it relates to the juveniles. I invite anyone at any time to tour our facility and compare it with any other.

One of the more critical elements that we provide for our juveniles, for the District of Columbia juveniles, is education, particularly for special education inmates. There is something, as you well know, called an IEP, an individual educational plan. It is a legally binding contract between the student, his or her parents, and the provider of education.

Ms. NORTON. You have an IEP.

Mr. BROWN. And we absolutely have it. When they go to South Dakota or North Dakota, that IEP does not follow them, whereas, if they stayed in the District, we would be in adherence to that special educational mandate.

Ms. NORTON. Now, Mr. Lappin, I respect the fact that the Bureau of Prisons has state-of-the-art programs. I have witnessed them, and I have always spoken well of them. So I would certainly welcome your coming to the District to observe Mr. Brown's program to see if it meets your standards.

But assuming that it does, would you be amenable to having these kids, four or five, now incarcerated in North Dakota remain in the District of Columbia, complete with their IEPs, individual education plans, that it provides closeness to parents, preparation if they are about to go over to BOP? Would you be amenable to working with Mr. Brown to see that might happen in the District of Columbia for these kids?

Mr. LAPPIN. Yes.

Ms. NORTON. Thank you very much, Mr. Lappin.

I am going to go now to my friend from Illinois, Mr. Davis.

Mr. DAVIS. Thank you very much, Madam Chairman.

Mr. Sawyer, let me ask you, how long have you been out or free of any obligation to the Federal Bureau of Prisons?

Mr. SAWYER. Well, Mr. Davis, I returned home on February 9, 2010, paroled to the Nation's Capital.

Mr. DAVIS. So you just got home?

Mr. SAWYER. Yes, sir.

Mr. DAVIS. Have you found a job yet?

Mr. SAWYER. Well, no, I have not yet found employment. I have not found that. But I am in the Opportunity Industrialization Center [OIC], which is a job-training organization in southeast Washington that are preparing me for those job sites and what have you.

Mr. DAVIS. What would you consider to be, when you talk about re-entry, your greatest need? What will help you feel the most like you have re-entered society, you are back in the mainstream, you are a regular citizen with the same hopes and aspirations and possibilities as any other citizen?

Mr. SAWYER. Well, Mr. Davis, one key point would be the stigma of not being looked at as an ex-felon. If that could be taken away, that would be fantastic. And, also, the situation with employment and housing.

Mr. DAVIS. And how does one not be looked at as an ex-felon? I mean, if I met you walking down the street, I certainly wouldn't have any indication that you were an ex-felon.

Mr. SAWYER. This is true. One thing in particular would be the concept of the halfway house in which I am located presently, in Hope Village. And when you go out for jobs and searching, they have a vocational counselor who calls in to verify, and they will state that they are from Hope Village. And even though on the resume or application it states, my position is don't ask, don't tell. And if the employer does not ask the question, then I don't share that with them. But if they do, I have no problems with sharing that. But the staff tends to share that information with the employers.

Mr. DAVIS. Oh, so you are actually in a program, which means that you are doing OK because you are on your way. I mean, you are in a program, people are working with you, they are helping you, you are learning things, you are learning where to go, how to go, what to do. So, you are on your way. You will be all right.

Mr. SAWYER. Well, when you say "all right," that is a very interesting way of putting it. But the OIC is the basics in which they are providing job training. And one thing I do know, there are two words that I use, it is "initiative" and being "persistent." And every day I get up and make it my business to go out and to be a part of the OIC operation from 8 a.m. to 4 p.m., and that is Monday through Friday. But if one does not take it upon themselves to take the initiative, then if you want to be dormant—nothing is going to come to a sleeper but a dream.

Mr. DAVIS. Well, thank you.

Ms. LaVigne, let me ask you—of course, the Urban Institute has been involved with this issue for a long time, a number of years, and is recognized as one of the real experts in the country relative to it.

We are making little bits and pieces of progress, I think. But what would you consider to be, say, the two major areas where we are not making or have not made the kind of progress that we need to?

Ms. LAVIGNE. There are so many things we could still be doing, it is hard to choose just two.

I do see that, as much as departments of corrections across the country are really embracing their role as more than just housing people safely and securely but also preparing them for release so they don't ultimately return, they are still having challenges connecting people to re-entry resources on the outside. They do what they can with people behind bars, but they are very challenged in making those connections to the community.

In large part, and as I said in my formal testimony, the prisons are located in places that are far away from where the majority of prisoners end up residing. And that is even more of a stark contrast when we are talking about D.C. felons. So I think that is a big challenge, is making those connections with community service providers.

The other challenge I see is that a lot of people have jumped on the re-entry bandwagon, and that is great, and they talk about doing evidence-based practice because they have heard that is the thing they are supposed to be doing, but they don't really know what that means.

And so they have a lot of resources that they spread very thinly across the inmate population in preparing them for release, rather than taking a step back and trying to understand better what their needs are, what their risks are, and what their assets are, so that they can more tailor re-entry services to individual needs and challenges.

Mr. DAVIS. Thank you very much.

And thank you, Madam Chairman. You know, you could talk about this all week.

Ms. NORTON. And I must say, Mr. Davis, you have done a whole lot more than talk about it for prisoners nationally. And we so appreciate your questions.

Ms. Poteat, first let me say, I understand the hardship that CSOSA is under. You technically have jurisdiction for these more than 5,000 inmates spread across the United States. And you are able to reach very few of them until they land in your lap, so to speak.

You mentioned the—and there are many different kinds of innovations—and I say this to Mr. Lappin. They had to figure out what to do, too. CSOSA not only had to create itself, invent itself from scratch, but then had to figure out how to do what it could to serve as many of these inmates as possible. And one of the things they came up with was video mentoring. And there has been some videoconferencing generally. But that is the kind of innovation we are looking for, the kind of sense of innovation we are looking for.

If these people are so far from home, then if we simply speak the jargon of the Federal prisons, we show no intention to modify and serve the people of the District of Columbia. And if you send us back people who recommit crimes, we are going to hold the Bureau of Prisons responsible. We are trying to assist the Bureau in its mission. And its mission is not only to house these inmates; it is to make sure that they successfully re-enter and do not disturb the peace in the District of Columbia.

And we are not convinced that simply treating them as part of the vast array of the Federal prison system demography, that you can do that if you only think in those terms. You have shown that you are willing to think otherwise, and the answers when Mr. Brown sat down and you disclosed and he disclosed the conversations you are already having.

I will have less frustration at this hearing if we begin to think in those terms. Because as long as you thrust before us what you have, you are not showing the problem-solving notions that we think hearings are for. Hearings are to solve problems. We don't bring you here to say "gotcha." I think your prison system is an extraordinary prison system. I just don't think that if you continue to treat our folks as if they were like Federal prisons, you are doing the best you are capable of doing for them.

Well, here comes CSOSA to say, "OK, let's try video mentoring." Well, first of all, how many prisons have you done video mentoring in, BOP facilities?

Ms. POTEAT. We are doing it at Rivers Correctional Facility, and we are getting ready to extend it to Hazelton.

Ms. NORTON. Let me ask Mr. Lappin. And I don't expect you—I know you are talking about facilities all over the country. But suppose CSOSA was able to do video mentoring with prisons outside of this one that is at least 4 hours from the District. I don't have to tell you, going 4 hours coming and 4 hours back, I don't know why anybody ever—how anybody from D.C. ever gets to Rivers, much less to other prisons.

But would there be anything to keep video mentoring from occurring in other Federal prisons where there are D.C. inmates?

Mr. LAPPIN. We are more than willing to look at new technology that would facilitate the visits.

Ms. NORTON. Thank you very much. That is all I needed to know, if you are willing to look at it.

And, Ms. LaVigne, in the States, in your experience, are rehabilitation and re-entry services provided more or less for the duration of the prisoners' incarceration?

Ms. LAVIGNE. It varies quite a bit by State and even by facility within each State. So it is hard to make a blanket statement.

Ms. NORTON. Well, if I am in the State of Maryland.

Ms. LAVIGNE. Well, I am glad you mentioned that because I wanted to share with you: Even before I knew about the conversation that Director Brown had had with Mr. Lappin, I was sitting here thinking, you know, a compromise might be to do what the State of Maryland does, which is something like, between 6 and 12 months of a person's release date, people are transferred to the Maryland Pre-Release Center in Baltimore to be closer to their homes and jobs and services in their community.

So there is a really good example out there of a way in which this could work. And, you know—

Ms. NORTON. Something like what Mr. Brown was speaking about when he testified, along with the conversation with Mr. Lappin.

Ms. LAVIGNE. Exactly. So there are examples of that out there.

Ms. NORTON. Mr. Brown.

Mr. BROWN. The State of Maryland has been doing that for at least 10 years. I was involved in it, as the Congressman indicated. I know it works. The way the model works is very similar to what I am proposing, and that is individuals from Baltimore, who are placed throughout the Maryland system, when they are about 120 days out from their release, they are transitioned—and that is what it is called, a transition center—back to Baltimore, their home, that is where they reside, to receive wraparound services, from parole and probation, from the community, from the churches—the very model that I am asking.

And I am very pleased—I want to make it clear that Director Lappin has been open in his discussions with me. He has indicated quite correctly, as any director would, that we have to talk in terms of logistics, just what would this involve. And we are at the early stages of the discussion. He has not rejected, in any sense, being willing to explore.

Ms. NORTON. We are here only testing feasibility. I very much appreciate your reference to Maryland.

After discussing this innovation, Ms. Poteat, you say you suspended video mentoring in 2007, the demand for mentors, because you were doing community-based mentoring. And then you say that substantially increased demand for mentors and quickly exhausted the available pool. You are now going back to video mentoring?

Ms. POTEAT. Yes. We had about 200-and-some mentor and mentee matches in about 85 institutions. Well, you know, after a while, the mentor pool exhausts itself. And so the Community Justice Program—in fact, Jasper Ormond, who is here, is constantly continuing, trying to recruit more mentors and institutions so that we will have more to engage in this process.

Ms. NORTON. It does seem to me, with the discussions that Mr. Brown is having with Mr. Lappin, what Ms. LaVigne says about

what happens in Maryland, which sounds like it is old-hat, it sounds like state-of-the-art penology where it is possible. It is not possible for Mr. Lappin to do this within the system if the system doesn't accommodate the needs of this State population. But if we begin to think more broadly and more flexibly, it does look like there are things that we can do even now, even with no new prison or any close prison to the District of Columbia.

Mr. Fornaci, very disturbing in your testimony was something that the Revitalization Act created that is a dead letter, it would seem, the Corrections Information Council. It was supposed to be a three-member voluntary body—I have no idea what “voluntary body” refers to—to provide the BOP with advice and information regarding matters affecting the District of Columbia sentenced felon population.

Then you say on page 3 that the CIC, this Corrections Information Council, has never visited any BOP facility to examine conditions or to interview D.C. prisoners—and here is the operative part—in part because there has never been a memorandum of understanding with BOP.

You say the District government has failed, also, to appoint any members of the CIC since 2004, which means at least they had some members before, with last terms expiring in 2006. Shame on us.

But, first, let me understand about this so-called memorandum of understanding with BOP.

Mr. FORNACI. There had been negotiations, is my understanding—this was a little bit before my experience—with the CIC. They had negotiations with the Bureau of Prisons, and there had been discussions, but no agreement was actually reached.

Ms. NORTON. Well, let's ask Mr. Lappin, because he is the man in charge here at the BOP.

What would be the difficulty in getting a memorandum of understanding so that these people could assist you in matters affecting the District of Columbia?

Mr. LAPPIN. I am more than happy to sit down with whoever is appointed and finish. Because I have, in fact, here a draft memorandum from 2004.

Ms. NORTON. You are ready to go with the District.

Mr. LAPPIN. Absolutely.

Ms. NORTON. Thank you very much.

Mr. LAPPIN. When we have appointed candidates, we will sit down with them and try to finish the memorandum and get it in place.

Ms. NORTON. Thank you very much.

It does look like the onus is on the District of Columbia. Is anybody here from the District of Columbia? You see the disconnect between the District of Columbia. There should at least have been somebody here from the District of Columbia. Now, we didn't notify the District of Columbia, but one of the things we have to do is to reconnect to the District of Columbia.

You can see why the disconnect would occur. The District of Columbia said, “Take this package off of us. We can't pay for it.” The District had good reason to do that. It was carrying a State function that no city in the United States carries, State prisons. And

of course it wasn't funding them. The last thing to get funded was Lorton.

Well, when you go to a Federal—to become essentially a part of a Federal agency, unless somebody is trying very hard in the District of Columbia, you say, well, you know, that is off my plate now. So one of our missions, along with yours, is to reconnect the District of Columbia, because I have every reason to believe the District of Columbia wants to be reconnected. So we are going to take that on, as well, Mr. Lappin, and I appreciate your testimony in that regard.

It is important to clarify, Mr. Fornaci, what you said about—in another part of your testimony. Very disturbing to hear that, 2008, 1,700 people were sent to BOP on parole revocations, overwhelmingly technical or administrative in nature, no new criminal behavior.

No wonder you are overcrowded, Mr. Lappin.

Now, we are working with the parole board. Mr. Fornaci, what do you think could be done about these people being sent away on technical and administrative violations? Is this a problem coming from their re-entry, or is there a change in regulations or law required here?

Mr. FORNACI. Well, I think there are a couple issues.

One of the problems is, the law does not permit the District of Columbia to change its own parole laws at this point. It is not permitted to make any changes in its laws regarding parole without the consent of the United States—

Ms. NORTON. Well, that, Mr. Fornaci, I can understand your frustration, but you have here overlapping jurisdiction. Here, the parole board is a Federal board. This is Mr. Lappin's challenge, too. You can't say, take these people into Federal custody, and not treat them in any way as if they are within a Federal agency.

Mr. FORNACI. Certainly. And I certainly understand that. My point really is that, for instance, if the District of Columbia council decided that technical violations—that is, positive urine sample for marijuana or missing appointments with a parole officer—should not result in incarceration but instead some other alternative—

Ms. NORTON. Well, District government wouldn't have to decide that. Couldn't the parole board decide that?

Mr. FORNACI. But that would be a non-district agency, and that has not been the U.S. Parole Commission's inclination to do that.

Ms. NORTON. Well, the U.S. Parole Commission—I beg to differ—has a new chairman, a former police chief of the District of Columbia, who has, in fact, begun even before he was named chairman of the board by President Obama, when he was a member of the commission has, in fact, begun to use methods other than putting someone right back in prison for a technical violation.

Ms. POTEAT, are you aware of some of what the man I still call Chief Fulwood is doing at the U.S. Parole Board?

Ms. POTEAT. Yes.

And I would like to speak to Mr. Fornaci's remarks. Just so that he will know, in a testimony prior to this we talked about a new venture that Court Services has taken on, and that is dealing with our technical violators who have substance abuse and new criminal charges that are minor, Category 1 or Category 2. And we have

placed them in the correctional treatment facility for 180 days. And they do not face revocation if they complete the program; they are returned to the community.

It is only in a pilot stage. It is only 32 beds, that hopefully we plan to expand to 96 beds. And this is also in collaboration with the U.S. Parole Commission, the Public Defender Service, the Bureau of Prisons, and D.C. Department of Corrections. So that is one of the things.

The other thing is that we are still working on the sanctions matrix to identify and make sure that all of us, including the courts, are in agreement with the sanctions to make sure all of them have been applied before we ask for revocation for the D.C. prisoners.

Ms. NORTON. This of course is not what Ms. Poteat is saying. Some of it is pilot. It's not all well known. But it does show the kind of innovation that it's going to take if we are going to have State prisoners in this Federal system. And the reason I don't want to go to the City Council and then go to this is because I think most of what we're discussing here today can be done with administrative innovation without changes in law and getting all bollixed up in who has jurisdiction and whatever.

Look, D.C. has said you all got jurisdiction. We don't want to pay for these prisoners. Whenever I've asked the D.C. Council to do anything, as I did, Mr. Lappin will remember, as we had to do with the state-of-the-art drug program, the problem was on the D.C. side. D.C. did it instantly. This is an administrative problem. Mr. Lappin has shown an extraordinary ability to deal administratively with the problems we've brought to his attention, and the testimony here has been very encouraging.

Mr. Fornaci, you talk about the release of prisoners from the *Sellmon* case.

Mr. FORNACI. Yes, ma'am.

Ms. NORTON. Would you elaborate on what that means for re-entry and what the *Sellmon* case, *Sellmon v. Reilly* means for the Bureau of Prisons and for the District of Columbia?

Mr. FORNACI. Certainly. *Sellmon v. Reilly* was decided in 2008, when the District Court found that the U.S. Parole Commission was using the wrong standards in determining who should be paroled. So that was changed. And as a result, throughout 2009 and early 2010, the U.S. Parole Commission, through extreme pressure, has agreed to a lot of remedial hearings for people to release them. This is an approximately 600 to 700 extra hearings were held in about a 3 or 4-month span, the end of 2009, early 2010. And that was in fact when Mr. Sawyer was released. These folks have all been held at least 12 years and as many as 25 years, the folks affected by the *Sellmon* decision. So they're all long-term prisoners. And with the impact as is happening now, it's about a 50 percent or so increase in releases for about 6 to 8 months this year and tapering off. There will still be more in the future affected by this decision, but the larger number is this year.

Mr. NORTON. And so these people are coming straight out as a result of these hearings?

Mr. FORNACI. Through the normal process. They're going to the halfway houses or—

Ms. NORTON. Yes. They will come out from wherever they happen to be located?

Mr. FORNACI. Yes. And it's important to realize also that the regulations under which they're being released they have been found through evidence of rehabilitation. There have no disciplinary problems, no disciplinary issues, they have been in programming. So they've been ruled by the Commission to be a safe release. So they're not representing a danger of any kind.

Ms. NORTON. Because if they're not a safe release then they're not released under this program, under *Sellmon*?

Mr. FORNACI. Yes.

Ms. NORTON. Yes, Ms. Poteat.

Ms. POTEAT. We did a profile for all of the cases so we wanted to be proactive in that in working with the Bureau of Prisons so we'll know who exactly is coming out and if you'd like I can just give you a quick overview of what we have.

The average age for this population is 43. 10 percent of them are age 56 or older. The youngest person is 30 years of age. 56 percent of them will have less than a high school diploma or GED. 73 percent of them are unemployed. 50 percent have very limited employment opportunities. 30 percent are in need of stable housing. 83 percent of them have a history of some type of violence. 38 percent have a history of property crimes. 34 have a history of drug-related crimes, and 24 percent have a history of weapon offenses. And then 66 percent have a history of illicit drug usage, mostly marijuana, cocaine, and PCP. 34 percent have a history of alcohol use, and 9 percent have a need for behavior health services. 60 percent report having children and 9 or 10 of them are dependent children. 12 percent of them reported children living in the same household.

So we wanted to get some kind of profiles to see what we needed, the services we needed to provide for them once they are released.

Ms. NORTON. Very useful. You see what we're talking about. We're talking about older prisoners, not particularly prepared to get out, thought they were going to be in longer, BOP had every reason to think they would be in longer. They're going to come home with very little preparation. And of course your profile points up what Mr. Lappin has absorbed.

These are local street criminals. These do not fit the profile of your average Federal prisoner. Yes, there are some street criminals in Federal prison. But these fit much more the profile of Los Angeles State prison, Maryland State prison, New York State prison than they do your average Federal prison.

And when these prisoners are mixed in with other prisoners there have been reports that there have been disturbances and problems, have there not, Mr. Lappin, of placing these prisoners of this profile? You heard 80 some percent have weapons offenses. I mean, these are not folks just toting some drugs, Mr. Lappin. These are honest to goodness folks who got in some big trouble in the District of Columbia. You just mix them in with folks in Federal prisons of various types, and you sometimes have had problems with that in your prisons, with the result that you transfer out folks all around the country. Isn't that so?

Mr. LAPPIN. It is to some degree, although over the last 20 years we have acquired a much more violent offender of our own with the

passage of the Federal drug laws, the firearms violations. The classification system should put them in prisons with like inmates.

So again, it is true that we've had some disturbances, some problems. I can't say it's unique just to the D.C. inmates. We have other groups that have been problematic, whether they're Caucasian groups or Hispanic groups alike. So it's a combination.

Ms. NORTON. I understand, sir. I understand. I can tell you this. I think that the Bureau of Prisons, given its long history, its effective history I might add, in this country, if we challenge the Bureau of Prisons to house D.C. inmates in a prison, to segregate them accordingly, and to deal with them as a State prison system within the Federal system, given your long record of success in state-of-the-art technology, whether you think you could do it, I think your record speaks for itself and that it could be done.

Now, I want to put on the record who these two men are who have agreed to come and testify because we didn't just want them to testify thirdhand. They have experience that needs to be on the record. Let's start with Mr. Cook.

Mr. Cook, you live in the District. How old are you?

Mr. COOK. Thirty-nine.

Ms. NORTON. When were you released from what prison? What prison were you released from to come home?

Mr. COOK. Cumberland, MD.

Ms. NORTON. From Cumberland, MD?

Mr. COOK. Yes.

Ms. NORTON. How many years have you spent in prison?

Mr. COOK. Eight.

Ms. NORTON. Eight of your 39 years. Who do you live with in the District of Columbia?

Mr. COOK. My sister.

Ms. NORTON. You're very fortunate that you have a relative.

What was your last job? What kind of work were you doing? Do you remember?

Mr. COOK. Yeah, it was—I was working—at the time it was called the MCI Center.

Ms. NORTON. What were you doing?

Mr. COOK. It was janitorial work.

Ms. NORTON. Do you have any children?

Mr. COOK. Yes.

Ms. NORTON. How many prisons have you been in in the Bureau of Prisons?

Mr. COOK. Five.

Ms. NORTON. Five prisons in a term of how many years, Mr. Cook? How many years were you in the Bureau of Prisons?

Mr. COOK. 8.

Ms. NORTON. So five prisons in 8 years. What was your first contact with your family? Was it when you were home for the first time or did you have some kind of, like, physical contact with somebody coming to see you? Did people come to Cumberland to see you?

Mr. COOK. Yeah.

Ms. NORTON. Were they more likely to come to Cumberland than when you were at the other four places you were?

Mr. COOK. Yes.

Ms. NORTON. Did that help your reentry? Did it help you to get used to being home and to prepare to come home, to see someone, to have some contact with family?

Mr. COOK. No.

Ms. NORTON. Why not?

Mr. COOK. Because what drove me is I wanted to be home myself. But it was a plus to have them to come down there. But after a while you start looking at things. We much older, so they can only do but so much. Everything else falls on us.

Ms. NORTON. Do you receive services, Mr. Cook? Now that you're home from court services, CSOSA or from the District of Columbia or any services at all?

Mr. COOK. No. As far as, you mean, as far as my supervision or something?

Ms. NORTON. No. Anybody helping, any services to help you find a job? Do the people who render supervision help you in any way?

Mr. COOK. Well, they put me in programs, as far as, you know, outreach programs and stuff. But most times I do it myself.

Ms. NORTON. Mr. Cook, what were you sent to prison for? What was the offense?

Mr. COOK. Robbery.

Ms. NORTON. Robbery.

Mr. Sawyer.

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. What was the offense for which you did time, and how much time did you do?

Mr. SAWYER. Murder One; 25 years, ma'am.

Ms. NORTON. How many prisons were you, in your 25 years, how many prisons of the BOP? Were you in Lorton first?

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. Once you were transferred from Lorton to the Bureau of Prisons, how many Bureau of Prisons were you in?

Mr. SAWYER. Two.

Ms. NORTON. And what were they?

Mr. SAWYER. In 2002, U.S. penitentiary in Lee County, Jonesville, VA, and in November 2007, the Federal correctional institution in Allenwood in White Deer, PA.

Ms. NORTON. Are you now at Hope Village?

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. This is a halfway house?

Mr. SAWYER. That is correct.

Ms. NORTON. Of the Bureau of Prisons—

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. How old are you, Mr. Sawyer?

Mr. SAWYER. Forty-nine, ma'am.

Ms. NORTON. Now, you are one of the so-called *Sellmon* cases that Mr. Fornaci testified about.

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. Did you expect to be released when you were? In other words, along comes this District Court decision. Who informed you that you might be subject to release?

Mr. SAWYER. Well, Madam, this was my rehearing. In December 2005, I went up for my initial, and at that time I was given a 36-

month set-off. And December 2008 was my rehearing. And it didn't occur until April 2009.

Ms. NORTON. Well, that's—you had to have two hearings.

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. Why were two hearings necessary, Mr. Sawyer?

Mr. SAWYER. For the first one it was denied parole because of the ceiling factor.

Ms. NORTON. Because of the what?

Mr. SAWYER. The ceiling factor, in which the number of months that I had not served based on the U.S. Parole Commission's guidelines versus the D.C. Parole Board's guidelines.

Ms. NORTON. But upon rehearing—

Mr. SAWYER. Yes, ma'am.

Ms. NORTON [continuing]. It was decided that you were eligible for release.

Mr. SAWYER. That is correct.

Ms. NORTON. How much sooner were you released than you expected?

Mr. SAWYER. Well, I had initiated the thought of going home in my first hearing.

Ms. NORTON. No, I'm sorry. Before the *Sellmon* case. Were you sentenced to 25 years?

Mr. SAWYER. No, I was sentenced to 22 years, 4 months to life.

Ms. NORTON. Twenty-two years, 4 months to life.

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. All right. So you did not expect, whether the first hearing or the second hearing, to be out of prison when you were released; is that right?

Mr. SAWYER. Oh, no, ma'am. I expected it.

Ms. NORTON. You did expect it?

Mr. SAWYER. Yes, ma'am. Most definitely.

Ms. NORTON. Why did you expect it? The *Sellmon* case came along making it possible for you to come out earlier than might otherwise have occurred, is that not true?

Mr. SAWYER. Well, Madam, according to what I was asked to do, and to program to stay disciplinary free, and in my 25 years I have done just that, and based on the first hearing, all that was in place, recommendations and persons who spoke on my behalf, it was expected that parole would be granted, but it wasn't.

Ms. NORTON. Based on your good conduct, the way you conducted yourself as a man in that prison?

Mr. SAWYER. That is correct.

Ms. NORTON. Sir—

Mr. SAWYER. Ma'am.

Ms. NORTON [continuing]. Did you have contact with your family while, at any time when were you at the Bureau of Prisons facilities.

Mr. SAWYER. Yes, ma'am. I had family visits, not often, but at the U.S. penitentiary in Lee County, for it took them 13 to 14 hours to come from the Nation's Capital to Jonesville, VA, and they would travel overnight on a bus excursion where one of the gentleman in our prisons would run a bus service once or twice, maybe four times a year, and they would run a bus and they would stay overnight, come, leave that Friday night, stay all day Saturday, go

to the hotel, come back on Sunday, spend time with the gentlemen who were in prison and then travel back to the Nation's Capital on Sunday night and return.

Ms. NORTON. Have mercy. Who was kind enough to conduct that bus service? Was that you, Mr. Lappin? Was it CSOSA?

Mr. LAPPIN. No, not us.

Ms. POTEAT. No, ma'am.

Mr. SAWYER. This was a private entity.

Ms. NORTON. That was doing this in order to enable these families?

Mr. SAWYER. Yes.

Ms. NORTON. And of course they have to pay to go on this, somebody had to pay for it?

Mr. SAWYER. No more than \$45 to \$50.

Ms. NORTON. No more than \$45 to \$50 and 13 or 14 hours to see a loved one. There was some loving members of that family.

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. You were fortunate, indeed, given that kind of long trip. When I went to Rivers, that was 4 hours each way. I thought I would kill myself before I got back. Riding along those roads in a van that I very much appreciate that the Bureau of Prisons provided it, but the distance made me wonder for the parents, no matter how, or relatives, no matter how it was facilitated for them to get there. It's an exhausting trip to come so far.

Mr. SAWYER. Yes, ma'am.

Ms. NORTON. Now you have services provided by, such as are available of course at Hope Village. Was there any preparation provided, any services provided to prepare you to come home during the months before you were released?

Mr. SAWYER. No more than I secured for myself.

Ms. NORTON. Meaning?

Mr. SAWYER. The letters that I've written to organizations here, faith-based reentry, those type of letters to those organizations and having those persons write back.

Ms. NORTON. But nothing like you've heard testified that Mr. Brown did when he served in the State of Maryland and the prisoners were brought from Maryland, brought to Baltimore for reentry for several months before they came home; nothing like that was done for you?

Mr. SAWYER. No, ma'am. And it would be welcome if it would have been.

Ms. NORTON. Nor did you have access to the Court Services, CSOSA as we call it, at all in any way?

Mr. SAWYER. Only with the letter writing campaign, and I did write to the faith-based mentoring initiatives, and Mrs. Christine Keels returned my letter and we had dialog once or twice by letter. And when I returned home I did contact her, and she and I have been in contact ever since.

Ms. NORTON. Mr. Cook and Mr. Sawyer, you are both very motivated men. And we find that when people arrive their motivation is at a very high level. And if it's at a high level when they arrive in D.C., we cannot imagine how much good would be done if we had something like what Mr. Brown is talking about so that a few

months beforehand, instead of slapping you right back in the midst of your hometown, you had some preparation.

Your testimony has been invaluable. It has helped. I think Mr. Lappin learned more about what happens. After all, he has responsibility for many thousands more who have nothing to do with the District of Columbia and we're putting a very special burden on him. To have Mr. Brown fortuitously here, we're so pleased, Mr. Brown, that although you were not invited to this hearing because it was about Federal matters, that you were interested enough to come, because it turns out that you have helped us in some considerable ways to move forward so this hearing is not just about talk, but about accomplishing something.

The testimony of each of you has been invaluable by—almost inevitably the official witnesses get most of the questions because they are the people who are responsible. But all of you have offered testimony that has been indispensable to our understanding of what is possible and how to make this system work within the confines that Mr. Lappin must address.

I repeat, we're not seeking release from the Federal prison system. We have great respect for the Federal prison system. Even in my opening testimony, where I talked about where the Federal prison system isn't preparing the vocational programs, which I happen to have seen and appreciate, they're all state-of-the-art programs. You have to understand what BOP does. It doesn't just smack a program down. It then tests it and retests it. It keeps valuable statistics. These people know what they're doing. Yes, they couldn't possibly have a vocational program in there to match the District of Columbia. What are our industries? Tourism, hospitals, the Verizon kinds of job that Mr. Cook had. We can't expect Mr. Lappin to reorient vocation in the prison system. But what we can do is bring the District to Mr. Lappin. We don't want to revolutionize his system. We want to work within his system. But we want to work within his system as a State system that must, in fact, report ultimately to the District of Columbia, its residents and its officials who will be responsible if these two men, extremely motivated, do not have the preparation necessary for them to come home and do what they clearly want to do now, which is live law abiding lives.

This subcommittee, and I can assure you that this chairman who has taken great leadership on law enforcement issues since he's chaired this committee, I can assure you you will have the greatest cooperation from this subcommittee and the full committee, if we, in fact, do what the committee believes must be done, adapt, be flexible, accommodate us, facilitate us within that system for the greater good of our inmates and their families and especially the greater good of the residents of the District of Columbia.

This has been a very fruitful, a very useful hearing to this subcommittee. Mr. Lappin and Mr. Brown, you are to report on your progress on your discussions—we don't expect everything to be wrapped up in a neat package, Mr. Lappin, but your progress within 30 days to the chairman of this committee. Please feel free to have discussions as well with Ms. Poteat and CSOSA and others who have served on this panel. The subcommittee cannot thank you enough for your indispensable and invaluable testimony.

This hearing is adjourned.

[Whereupon, at 5:08 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]



U.S. Department of Justice

Federal Bureau of Prisons

Office of the Director

Washington, DC 20534

July 6, 2010

The Honorable Stephen F. Lynch, Chairman
U.S. House of Representatives
Subcommittee on Federal Workforce, Postal Service and the
District of Columbia
Washington, DC 20515

Dear Chairman Lynch:

Thank you for giving the Bureau of Prisons (BOP) an opportunity to respond to questions for the record stemming from my May 5, 2010, testimony before the Subcommittee on Federal Workforce, Postal Service and the District of Columbia.

You requested an update on discussions or agreements between the BOP and the District of Columbia (DC) Department of Corrections (DOC) to have certain DC inmates in BOP custody placed in a DOC facility. Representatives from the BOP and the DOC met on June 14, 2010, and June 23, 2010, to develop procedures for designating adult inmates with short sentences to the DC DOC. We are currently incarcerating 40 DC offenders serving short sentences (6 months or less remaining on their sentence at the time of designation) at the DC DOC, and plan to increase this number to approximately 200.

With respect to "weekenders" returning to the DC DOC to serve their sentences, the BOP, DOC, and the United States Probation Office have put this initiative in place. The first weekenders are scheduled to report to the DC DOC for the service of their sentence on July 2, 2010.

Once these two initiatives are fully implemented, we will evaluate the feasibility and correctional benefits of returning other DC inmates in our custody to the DC DOC for service of some portion of their sentence.

I trust I have addressed your concerns. If additional information is needed, please do not hesitate contact me.

Sincerely,


Harley G. Lappin
Director