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Testimony

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BUREAU OF PRISONS

Recent Concerns and  
Challenges for the Future

Statement of  
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**BUREAU OF PRISONS: RECENT CONCERNS AND CHALLENGES FOR THE FUTURE**

**SUMMARY OF STATEMENT OF NORMAN J. RABKIN  
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Over the past decade, new criminal justice policies and demographic changes in the prison population have created challenges for BOP as well as state and local correctional systems because of increasing numbers of prison inmates, inmates serving longer sentences, demands on health care systems from a more diverse prisoner population, and increased financial burdens on government systems to pay for correctional costs.

During the past 8 years, GAO has addressed the issues of prison crowding, options for expanding BOP's capacity, privatization, and health care (including drug treatment). GAO has reported the following:

- In 1989, we noted that the prison population was expanding faster than BOP had estimated; therefore, BOP's expansion plans at that time were understated. Also, BOP was not making full use of halfway houses as a way to relieve crowding in prisons. BOP's efforts to use boot camps as an alternative to prisons was too small in 1993 to have any substantial impact.
- GAO recommended in 1991 and 1992 that BOP use a double-bunking standard in its plans and prison designs. BOP changed its standards, avoiding about \$1 billion in construction costs. GAO also recommended in 1990 that BOP more systematically evaluate the use of excess military property for federal prisons.
- Concerning privatization, in 1991 GAO recommended that the Congress give BOP explicit authority to conduct and evaluate a pilot test of federal prison privatization.
- Over the years, GAO has reported on various aspects of BOP's attempts to meet the health care challenge of its changing population. Reports have covered the quality and quantity of care provided to all inmates, including those with mental health and drug abuse problems as well as those with other special needs.

GAO's work suggests that the principal barrier BOP will probably face in accomplishing its objective of confining offenders in appropriate facilities and environments is being able to afford to provide that level of service.

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss our recent reports on the Federal Bureau of Prisons (BOP). Responding to congressional concerns and challenges to BOP and correctional systems across the country, our federal corrections work during the past 8 years has focused on four areas: prison crowding, options for expanding BOP's capacity, privatization, and health care (including drug treatment). In my testimony today, I will briefly describe the challenges and issues we believe confront BOP, recap our key findings and recommendations on these matters, and highlight concerns for the future. A list of our related products is attached.

### CHALLENGES TO THE FEDERAL PRISON SYSTEM

Over the past decade, new criminal justice policies and demographic changes in the prison population have affected corrections systems across the nation. As a consequence of these policy and population changes, BOP as well as state and local correctional systems have confronted new challenges. Four challenges, in particular, deserve special consideration: the increasing number of prison inmates, inmates serving longer sentences, demands on BOP's health care system from a more diverse prisoner population, and increased financial burdens on government systems to pay for correctional costs. Let me briefly address these changes and challenges in relation to federal corrections.

During the 1980s, Congress enacted several statutes that dramatically affected the federal prison population. These statutes included the Comprehensive Crime Control Act of 1984 and the Anti-Drug Abuse Acts of 1986 and 1988. Provisions in these acts expanded the types of crimes subject to federal prosecution and established mandatory minimum sentences for certain crimes, particularly drug offenses and violent crimes. The 1984 Crime Control Act created the U.S. Sentencing Commission, which was charged with developing the federal sentencing guidelines that took effect on November 1, 1987.

Perhaps the most visible consequence of these federal initiatives has been the increase in the federal prison population. Between 1986 and May 1995, the federal prison population more than doubled to about 42,000 to 88,875. In addition, nearly 10,000 individuals were in federal custody in halfway houses, home confinement, or contract jails. BOP projects the prison population will be more than 100,000 by the end of fiscal year 1996.

New federal policies affect the time served by federal inmates. Those sentenced under the guidelines are not eligible for parole and must serve their entire sentences less a maximum "good time"

reduction of 54 days per year. The effect of these provisions, combined with more restrictive eligibility standards for nonprison sentences, has lengthened the sentences that federal inmates serve.

The inmate population, itself, has changed, presenting new challenges to BOP. Longer sentences combined with the requirement that inmates now serve at least 85 percent of their sentences are resulting in a growing BOP population of older inmates. For example, from 1990 to 1993, the percentage of federal prison inmates over age 55 grew 43 percent, from 3,222 to 4,596. Though still less than 10 percent of the total BOP inmate population, the proportion of women in BOP's total population continues to grow. The number of HIV positive inmates has grown to about 2 percent of the total population. The spread of drug-resistant strains of tuberculosis presents an emerging threat in crowded institutions. Further, many federal offenders have substance abuse problems, as drug offenses have accounted for about half of all offenders sentenced to prison in federal courts for fiscal years 1989 to 1993, according to Department of Justice data.

This changed population has created challenges for the system, particularly in the area of health care. Older inmates generally have more frequent and more severe medical problems than younger inmates. As HIV positive inmates develop AIDS-related complications, the cost of their medical care rises dramatically. Inmate demand for treatment services has increased, leading to rising costs.

The impact of changing policies and inmate populations have serious budgetary implications for BOP and the federal government as a whole. Federal costs for incarceration and supervision continue to rise as the federal government builds more prisons and hires more staff to meet the demands of the growing inmate population. From fiscal years 1990 through fiscal year 1995, total BOP positions rose from 17,896 to 29,306. During the same period, total appropriations rose from \$2.5 billion to \$2.6 billion. However, the fiscal year 1990 appropriation included \$1.4 billion for construction of new facilities. The real growth in BOP's budget has been the cost of operating existing facilities. Between fiscal years 1990 and 1995, BOP's appropriation for salaries and expenses grew from \$1.1 billion to \$2.4 billion. In its Goals for 1995 and Beyond, BOP reported that it plans to add 43 correctional facilities and increase capacity by 35,873 beds.

### GAO'S FINDINGS AND RECOMMENDATIONS

Our past work provides a good perspective for understanding how BOP can respond to these challenges. During the past 8 years, we have addressed the issues of prison crowding, options for

expanding BOP's capacity, privatization, and health care (including drug treatment). I will briefly review some of our principal reports in these areas, highlighting our findings and recommendations and, where appropriate, BOP's responses.

### Prison Crowding

In 1989, we reported that during the 1980s the federal prison inmate population doubled from 24,162, which was less than 1 percent over capacity, to 48,017, about 56 percent over capacity. At that time, BOP projected its inmate population to grow to about 83,500 by 1995. It also had plans to more than double its capacity by 1995, at a cost of about \$1.8 billion in new construction, expansion of existing facilities, conversion of surplus military or civilian facilities, and leasing.

We indicated that if the prison population grew at a greater rate, which later BOP estimates indicated, the crowding would not be eliminated and extensive expansion would still be needed after 1995. We then embarked on a series of assignments to examine BOP's needs and suggest other options through which BOP could meet them.

We believe that there are opportunities for BOP to make greater use of alternatives to traditional prisons for nonviolent offenders. Within the federal system, three alternatives are available:<sup>1</sup>

- probation with a confinement condition such as to a halfway house, the offender's home (with or without electronic monitoring), or to a jail for nights or weekends;
- a "split sentence," which is a short prison sentence followed by supervision in the community with a confinement condition such as to a halfway house or the offender's home (with or without electronic monitoring); and
- boot camps or "shock" incarceration.<sup>2</sup>

In a 1991 report, we noted that BOP was not making full use of available halfway house beds. In practice, fewer than half of the inmates scheduled for release and eligible for consideration were placed in halfway houses. We recommended that BOP clarify

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<sup>1</sup>The types of sanctions available are governed both by statute and the sentencing guidelines developed and published by the U.S. Sentencing Commission.

<sup>2</sup>Boot camps subject inmates to military style basic training techniques in a corrections setting. They generally target young nonviolent offenders who have not yet committed a major felony.

its policy, use proven procedures to better identify suitable candidates for placement, ensure that wardens start the placement process in a timely manner, and define when placement could be refused. BOP has generally implemented our recommendations for enhancing the use of available halfway house resources. BOP's objective is to place in halfway houses 80 percent of prisoners being released from minimum security prisons, 70 percent from low security, and 65 percent from medium security.

In 1993 we reported that the federal boot camp program was too small to help reduce overall costs and prison crowding, and it was too early to assess the program's impact on recidivism. Although most of the state officials we surveyed believed the programs were successful in reducing short-term costs and crowding, we concluded that there was no clear indication that boot camps had measurably reduced recidivism.

### Expanded Capacity

We addressed the issue of whether BOP was expanding its capacity at the least cost to taxpayers from two perspectives. First, we focused on BOP's policies and standards that influenced its rated capacity--the maximum number of inmates for which its facilities were designed (not including capacity set aside for medical and disciplinary segregation). Second, we looked at BOP's identification and evaluation of surplus military property for prison use.

We reported in 1991 that states built prisons at a lower cost per bed than BOP, primarily because federal design standards provided for one inmate to a cell (single-bunking), 55 percent more space per inmate, and more dedicated space for inmate programs. We also reported that despite operating at 60 percent over its rated capacity, BOP had not experienced unmanageable problems in double-bunking. We made several recommendations to get BOP to incorporate double-bunking into its design standards as much as possible.

BOP revised its design standards for determining prison capacity from single-person cells to two-person cells, thus significantly increasing capacity at both existing and planned facilities.<sup>3</sup> BOP also revised its policy to change the space allocated per cell from 90 square feet to 75 square feet. In its fiscal year 1995 budget submission, BOP estimated that implementing the double-bunking changes would add 25,000 beds to current capacity through fiscal year 1997, saving an estimated \$1 billion in additional construction costs.

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<sup>3</sup>BOP's policy is to use two-person cells in 100 percent of minimum and low security facilities, 50 percent in medium security, and 25 percent in high security.

In 1990, we recommended a more thorough review of excess military property for use as federal prisons. BOP uses both active and closed military installations as correctional facility sites. By 1993, BOP

- had 9 minimum security facilities on active military bases,
- had 14 facilities in operation and 8 under design or construction on 16 deactivated bases or former military property,
- had acquired 2 additional military properties, and
- was evaluating and pursuing 15 other military properties as potential sites.

### Prison Privatization

During the 1980s, prison overcrowding, court orders to reduce it, and budgetary considerations led several states to place inmates in privately managed prisons. At the federal level, use of privatization had been limited to specialized groups (e.g., illegal aliens) and unsentenced offenders. In 1988, the President's Commission on Privatization recommended that BOP contract for private sector operation of a medium or maximum security prison as a basis for comparison with a similar facility operated by BOP. BOP submitted a proposal to use private contractors to build and operate a minimum security facility. The Senate Committee on Appropriations denied that request. The Committee was concerned that the proposal signaled a first step in privatizing the federal prison system, which it opposed on public policy grounds.

In response to a request of the House Small Business Subcommittee on Regulations, Business Opportunity, and Energy, we reviewed BOP's documents and reported in 1991 that research on the benefits of privatization--i.e., reducing costs and providing services--was inconclusive. We suggested that more research and testing would be useful to determine what role, if any, privatization would play in BOP's overall expansion plans. We recommended that Congress grant BOP the explicit authority to conduct and evaluate a pilot test of privatization in conjunction with the National Institute of Justice. To date, such authority has not been granted to BOP.

BOP currently contracts with private firms for halfway houses (which BOP now calls Community Correction Centers), detention of juveniles, electronic monitoring, and some jail and detention facilities. About 10 percent of BOP's total inmate population is housed in contract facilities. BOP's fiscal year 1996 budget request proposes privatizing the management and operations of several prisons, including the pretrial Metropolitan Detention



Center in Brooklyn, NY, and minimum and low security federal prisons in Forrest City, AR; Taft, CA; and Yazoo City, MS.

### Inmate Health Care

Over the years, we have reported on various aspects of BOP's attempts to meet the health care challenge of its changing population. Our work covered the quality and quantity of care provided to all inmates, including those with mental health and drug abuse problems as well as other special needs.

In 1991, we reported that about two-thirds of mentally ill inmates were being enrolled in treatment programs but not all were being screened, diagnosed, and treated. A BOP advisory group recommended that additional resources, improved staff training, more detailed information on inmate needs, and an overall quality assurance program were needed to cope with these problems. At the time of our report, BOP had implemented some of the group's recommendations and was considering others. We concluded, however, that given the challenges of prison overcrowding, budgetary restraints, and the difficulties in hiring sufficient staff, it remained to be seen how thorough and effective BOP would be in implementing all its plans.

According to Department of Justice data, drug offenses have accounted for about half of all offenders sentenced to prison in federal courts for fiscal years 1989 to 1993. Many of these offenders have substance abuse problems. We reported in 1991 that drug treatment was reaching only a small fraction of inmates with serious substance abuse problems. As of April 1, 1991, only 364 inmates were receiving treatment in the intensive residential programs,<sup>4</sup> and less than half of the treatment slots were filled. For inmates with less serious substance abuse problems, needed services were not available in all prisons. At that time, BOP was planning to expand the investment in its treatment program from an estimated \$7.2 million in 1990 to \$21.8 million in 1992.

In 1992 and 1993, in response to congressional concern regarding allegations of patient neglect, unacceptable medical practices, and incompetent physicians in BOP, we reviewed medical services at three of BOP's seven medical referral centers. We found that inmates with special needs, including women, psychiatric patients, and patients with chronic diseases, were not receiving all of the health care they needed. This situation was occurring because there were insufficient numbers of physician and nursing staff to perform the required clinical and other related tasks.

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<sup>4</sup>Prison residential treatment programs provide living quarters and treatment facilities for participating inmates separate from the general inmate population.

In addition, two of the three centers failed to correct identified quality assurance problems.

Although BOP strongly disagreed with our conclusions, it agreed with our specific findings. We made several recommendations to BOP to improve inmates' access to quality care. In February 1995, BOP informed Congress of numerous changes and pilot studies that it had initiated in response to our recommendations. For example, BOP was implementing a pilot study to determine whether the cost to provide medical services could be reduced through the use of Preferred Provider Organizations and sharing agreements with other federal agencies, such as Department of Veterans Affairs hospitals. In addition, BOP is seeking legislative authority to require their private sector health care providers to bill at Medicare rates.

#### CONCERNS FOR THE FUTURE

As we enter the 21st century, BOP will probably continue to confront the challenges of increasing numbers of inmates, inmates serving longer sentences, demands on its health care system, and increasing correctional costs. BOP issued a report on its goals for 1995 and beyond. BOP's mission statement, which sets the tone for how it intends to carry out its statutory responsibilities, focuses on confining offenders in appropriate facilities and environments. Our work suggests that the principal barrier BOP will probably face in accomplishing that objective is being able to afford to provide that level of service. We believe that BOP, Congress, and the other important stakeholders in this country's criminal justice system will need to focus their attention on what an appropriate level of service is and how it can be provided in an era of reduced federal budgets and workforces.

To assist Congress in its oversight, we will continue to monitor such issues as inmate health care, privatization, alternatives to incarceration, expanded capacity, as well as other issues as they emerge.

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Mr. Chairman, this completes my statement. I would be pleased to answer any questions.

RELATED GAO PRODUCTS

Pell Grants for Prison Inmates (GAO/HEHS-94-224R, Aug. 5, 1994).

Bureau of Prisons Health Care: Inmates' Access to Health Care Limited by Lack of Clinical Staff (GAO/HEHS-94-36, Feb. 10, 1994).

Sentencing: Intermediate Sanctions in the Federal Criminal Justice System (GAO/GGD-94-63BR, Jan. 14, 1994).

Federal Prison Expansion: Overcrowding Reduced but Inmate Population Growth May Raise Issue Again (GAO/GGD-94-48, Dec. 14, 1993).

Prisoner Labor: Perspectives on Paying the Federal Minimum Wage (GAO/T-GGD-94-8, Oct. 28, 1993).

Intensive Probation Supervision: Crime-Control and Cost-Saving Effectiveness (GAO/PEMD-93-22, June 4, 1993).

Intensive Probation Supervision: Cost-Savings Relative to Incarceration (GAO/PEMD-93-23, June 4, 1993).

Intensive Probation Supervision: Mixed Effectiveness in Controlling Crime (GAO/PEMD-93-4, June 4, 1993).

Prisoner Labor: Perspectives on Paying the Federal Minimum Wage (GAO/GGD-93-98, May 20, 1993).

Prison Boot Camps: Short-Term Prison Costs Reduced, but Long-Term Impact Uncertain (GAO/GGD-93-69, Apr. 29, 1993).

Prison Inmates: Better Plans Needed Before Felons Are Released (GAO/GGD-93-92, Apr. 20, 1993).

Federal Prisons: Inmate and Staff Views on Education and Work Training Programs (GAO/GGD-93-33, Jan. 19, 1993).

Federal Jail Bedspace: Cost Savings and Greater Accuracy Possible in the Capacity Expansion Program (GAO/GGD-92-141, Sept. 24, 1992).

Sentencing Guidelines: Central Questions Remain Unanswered (GAO/GGD-92-93, Aug. 14, 1992).

State and Federal Prisons: Factors That Affect Construction and Operations Costs (GAO/GGD-92-73, May 19, 1992).

Prison Expansion: Staffing New Facilities Will Be a Challenge for BOP (GAO/GGD-92-75, May 12, 1992).

Mentally Ill Inmates: BOP Plans to Improve Screening and Care in Federal Prisons and Jails (GAO/GGD-92-13, Nov. 20, 1991).

Prison Alternatives: Crowded Federal Prisons Can Transfer More Inmates to Halfway Houses (GAO/GGD-92-5, Nov. 14, 1991).

Prison Costs: Opportunities Exist to Lower the Cost of Building Federal Prisons (GAO/GGD-92-3, Oct. 25, 1991).

Federal Jails: Design and Construction Flaws in Los Angeles Facility Are Being Corrected (GAO/GGD-91-123, Sept. 20, 1991).

Drug Treatment: State Prisons Face Challenges in Providing Services (GAO/HRD-91-128, Sept. 20, 1991).

Drug Treatment: Despite New Strategy, Few Federal Inmates Receive Treatment (GAO/HRD-91-116, Sept. 16, 1991).

Mentally Ill Inmates: Better Data Would Help Determine Protection and Advocacy Needs (GAO/GGD-91-35, Apr. 17, 1991).

Federal Prisons: Revised Design Standards Could Save Expansion Funds (GAO/GGD-91-54, Mar. 14, 1991).

Private Prisons: Cost Savings and BOP's Statutory Authority Need to Be Resolved (GAO/GGD-91-21, Feb. 7, 1991).

Prison Expansion: Program to Identify DOD Property for Prison Use Could Be Improved (GAO/GGD-90-110, Sept. 28, 1990).

Intermediate Sanctions: Their Impacts on Prison Crowding, Costs, and Recidivism Are Still Unclear (GAO/PEMD-90-21, Sept. 7, 1990).

Prison Crowding: Issues Facing the Nation's Prison Systems (GAO/GGD-90-1BR, Nov. 2, 1989).

Federal Prisons: Trends in Offender Characteristics (GAO/PEMD-90-4FS, Oct. 27, 1989).

Criminal Justice: Limited Data Available on Cost of Death Sentences (GAO/GGD-89-122, Sept. 29, 1989).

Justice Issues (GAO/OCG-89-13TR, Nov. 1988).

Prison Boot Camps: Too Early to Measure Effectiveness (GAO/GGD-88-125BR, Sept. 9, 1988).

Sentencing Guidelines: Potential Impact on the Federal Criminal Justice System (GAO/GGD-87-111, Sept. 10, 1987).

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