



Office of the Inspector General  
United States Department of Justice

Statement of Michael E. Horowitz  
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*before the*

U.S. House of Representatives  
Committee on Oversight and Government Reform

*concerning*

"Oversight of the Bureau of Prisons and Inmate Reentry"

December 13, 2017

Mr. Chairman, Ranking Member Cummings, and Members of the Committee:

Thank you for inviting me to testify at today's hearing examining the Office of the Inspector General's (OIG) oversight of the Federal Bureau of Prisons (BOP), including the BOP's policies and programs to help incarcerated inmates successfully transition back into society. The BOP is the largest Department of Justice (DOJ) component by number of employees, with over 37,000 staff. And its fiscal year (FY) 2017 budget of \$7.1 billion is the second largest budget of any DOJ component, after only the Federal Bureau of Investigation. Indeed, the BOP's budget has grown substantially over the past 20 years, from approximately \$3.2 billion in FY 1997 to about \$7.1 billion in FY 2017, and it now consumes a significant percentage of the DOJ's budget, having increased from 18 percent of the DOJ's budget in FY 1997 to 25 percent of the DOJ's budget in FY 2017. Yet, despite this budget growth, the federal prison system remains over capacity: overall, it was 14 percent above its rated capacity at the end of FY 2017, with high security institutions operating at 25 percent over rated capacity. While these over-capacity figures have decreased significantly since 2013, when the BOP's population peaked at just under 220,000 inmates (its current population is about 184,000 inmates), the BOP is estimating that its inmate population will increase by about 2 percent in FY 2018.

Given this size and growth, it is particularly important that the OIG conduct effective oversight of the BOP and its programs, which we have done and continue to do. For example, we have issued reviews and audits of the BOP's [management of its aging inmate population](#), [monitoring of federal contract prisons](#), [efforts to interdict contraband](#), [implementation of the Prison Rape Elimination Act](#), [efforts to address the increasing costs of inmate healthcare](#), [use of the compassionate release program](#), and [management of Federal Prison Industries](#), just to name a few. All of these reports and others concerning the BOP can be found on our website.

Complementing the OIG's oversight of the BOP through our audits and reviews are the OIG's investigations of criminal and administrative allegations involving BOP staff and contractors. From FY 2013 to FY 2017, the OIG's Investigations Division opened more than 1,000 cases involving BOP staff or contractors, made more than 340 arrests, had more than 280 convictions and pre-trial diversions, and investigated allegations that resulted in more than 700 administrative actions. Through these efforts, the OIG enhances the safety and security of the over 38,000 BOP staff who perform their jobs with great skill and who help keep their institutions and the community safe.

Let me turn to recent OIG reviews of BOP programs that affect the BOP's efforts to prepare inmates for release from prison and back into the community. Whatever one's view is of the federal sentencing laws – whether you think they are fair, too harsh, or too lenient – there should be agreement that it is critical for the BOP to have effective programs for transitioning federal inmates back into society. Every federal inmate, other than those who received a life sentence (which is rare for federal inmates), will be released from prison to return to their communities upon the expiration of the judge's sentence. That is true whether they received a

short prison sentence or a long prison sentence, whether they committed a violent crime or a white collar crime, whether they were in a maximum security prison or a federal prison camp, and whether they acted dangerously in jail or received good time credit. From 2013 to 2015, the BOP released approximately 125,000 inmates from its custody into Residential Reentry Centers (RRC), into home confinement, or directly into communities in the United States. The need for effective BOP transition and reentry programs that reduce recidivism rates is demonstrated by a recent report from the U.S. Sentencing Commission which determined that nearly half of the federal inmates released in 2005 were re-arrested within 8 years of their release for committing a new crime or for violating their supervision conditions.

## **BOP Reentry Programs**

The OIG has conducted several reviews that identify ways the BOP can improve the management and administration of its reentry programs.

Every BOP institution offers, and most inmates are required to participate in, a Release Preparation Program (RPP), which includes courses for inmates in the categories of health and nutrition, employment, personal finance and consumer skills, information and community resources, release requirements and procedures, and personal growth and development. At the time of our review, the BOP's objectives for the RPP were to enhance inmates' successful reintegration into the community through RPP participation; to enter into partnerships with various groups to provide information, programs, and services to releasing inmates; and to reduce inmate recidivism. However, we found that less than a third of the inmates required to participate in the RPP actually completed the entire program. Moreover, we determined that because of inconsistencies in the content and quality of RPP courses, the BOP could not ensure that all inmates received the information they needed to successfully transition back into the community. In addition, we found that the BOP did not ensure that RPPs across its institutions met inmate needs. The BOP also did not adequately leverage its relationships with other federal agencies to enhance RPP efforts. Further, the BOP did not measure the effect of the RPP on recidivism, which limited our ability to assess the program's overall effectiveness. The OIG made seven recommendations to help improve the implementation of the RPP, and all but one of those recommendations remain open. The OIG report can be found at the following link: <https://oig.justice.gov/reports/2016/e1607.pdf>.

Another reentry program facilitated by the BOP is the placement of inmates in RRCs, also known as halfway houses, and in home confinement while serving the remainder of their sentences. Pursuant to the Second Chance Act of 2007, all federal inmates are eligible for RRC and home confinement placement. RRCs provide a supervised environment that supports inmates in finding employment and housing; completing necessary programming, such as drug abuse treatment; participating in counseling; and strengthening ties to family and friends. Home confinement provides similar opportunities, but is used for inmates BOP believes do not need the structure or level of supervision provided by RRCs. In FY 2015, the BOP spent \$360 million on RRCs and home confinement costs and reported having 181 RRCs operated by 103 different contractors as of September 2016.

The BOP's RRC and home confinement placement decisions are supposed to be driven by an individual assessment weighing an inmate's need for reentry services against the risk to the community. However, our review found that contrary to BOP policy, guidance, and relevant research, the BOP's placement decisions were not based on inmates' risk for recidivism or need for transitional services. Rather, the BOP was placing the great majority of eligible inmates into RRCs regardless of whether they needed transitional services, unless the inmate was deemed not suitable for such placement because the inmate posed a significant threat to the community. As a result, high-risk inmates with a high need for transitional services were less likely to be placed in an RRC or home confinement, and were correspondingly more likely to be released back into society directly from BOP institutions without transitional programming. Moreover, low-risk, low-need inmates were being placed in RRCs even though BOP guidance, as well as the research cited in the guidance, indicates that low-risk inmates do not benefit from and may in fact be harmed by RRC placement because of, among other things, their exposure to high-risk offenders in those facilities. We also found that the BOP was underutilizing direct home confinement placement as an alternative to RRCs for low-risk, low-need inmates, which results in fewer RRC resources being available for high-risk, high-need inmates.

Further, the BOP did not have performance measures that evaluated the efficacy of its RRC and home confinement programming, or procedures that adequately assessed the quality of services provided by RRC contractors. Moreover, the relevant, albeit dated BOP recidivism and RRC research generally found that RRCs did not appear to have a significant impact on recidivism, although RRC placement generally was found to be beneficial for high-risk offenders and to facilitate an inmate's transition back into society. The OIG made five recommendations to improve the BOP's management of this program, and two remain open. The OIG report can be found at the following link: <https://oig.justice.gov/reports/2016/a1701.pdf>.

### **BOP's Handling of Prisoners with Mental Illness**

An important part of BOP's responsibilities is to ensure that inmates with mental illness receive the necessary treatment. One of several important reasons for doing so is because those inmates will eventually be released back into their communities. A recent OIG review concerning the BOP's use of restrictive housing for inmates with mental illness identified several issues of concern, including that BOP mental health staff did not always document inmates' mental disorders and therefore the BOP was unable to accurately determine the number of inmates with mental illness. We also found that while the BOP has taken a number of steps to address the mental health concerns for inmates in restrictive housing, significant issues remain regarding the adequacy of the BOP's policies and its implementation efforts.

In addition, we are concerned that confining inmates with mental illness in restrictive housing units (RHUs) could have a negative impact on mental health of

the inmates and inhibit their ability to successfully reintegrate into society. Research shows that time spent in solitary confinement contributes to elevated rates of recidivism and that many inmates released into the community from RHUs, which can be functionally equivalent to solitary confinement, come out of these units disabled and ill-equipped to reintegrate into the community. Of note, in a sample of 239 inmates with mental illness housed in Special Management Units (SMU), which are a form of RHU, we found that 31 inmates (13 percent) were released directly into the community from the SMU. We also found that, on average, these 31 inmates had spent nearly 29 months in the SMU prior to their release.

The OIG made 15 recommendations to the BOP to improve its screening, treatment, and monitoring of inmates with mental illness who are assigned to restrictive housing, and all but one of the recommendations are open. The OIG report can be found at the following link:

<https://oig.justice.gov/reports/2017/e1705.pdf>.

## **Conclusion**

The OIG will continue to conduct oversight of the BOP's programs in order to help them improve their effectiveness and efficiency, and investigate allegations of misconduct by BOP employees or contractors to ensure a safe and secure prison environment. This concludes my prepared statement, and I am pleased to answer any questions the Committee may have.

## Meet the Inspector General



Michael E. Horowitz was confirmed as Inspector General for the Department of Justice (DOJ) by the U.S. Senate on March 29, 2012, and sworn in as the fourth confirmed Inspector General on April 16, 2012. Since 2015, he has simultaneously served as the Chair of the Council of the Inspectors General on Integrity and Efficiency (CIGIE).

As Inspector General, Mr. Horowitz oversees a nationwide workforce of more than 450 special agents, auditors, inspectors, attorneys, and support staff whose mission is to detect and deter waste, fraud, abuse, and misconduct in DOJ programs and personnel, and to promote economy and efficiency in Department operations.

Prior to serving as Inspector General, Mr. Horowitz worked as a partner at Cadwalader, Wickersham, & Taft LLP, where he focused his practice on white collar defense, internal investigations, and regulatory compliance. He also was a board member of the Ethics Resource Center and the Society for Corporate Compliance and Ethics. From 2003 to 2009, Mr. Horowitz served as a Presidentially-appointed and Senate-confirmed Commissioner on the U.S. Sentencing Commission.

Mr. Horowitz previously worked for DOJ in the Criminal Division at Main Justice from 1999 to 2002, first as Deputy Assistant Attorney General and then as Chief of Staff. Prior to joining the Criminal Division, he was an Assistant U.S. Attorney for the Southern District of New York from 1991 to 1999. From 1997 to 1999, Mr. Horowitz was the Chief of the Public Corruption Unit, and from 1995 to 1997, he was a Deputy Chief of the Criminal Division. In 1995, he was awarded the Attorney General's Award for Distinguished Service for his work on a complex police corruption investigation.

Before joining the DOJ, Mr. Horowitz was an associate at Debevoise & Plimpton and clerked for Judge John G. Davies of the U.S. District Court for the Central District of California.

Mr. Horowitz earned his Juris Doctor, *magna cum laude*, from Harvard Law School and his Bachelor of Arts, *summa cum laude*, from Brandeis University.