

**STATEMENT OF THE
ORGANIZATION ON PROCEDURAL JUSTICE, RACIAL, ETHNIC AND RELIGIOUS PROFILING (OPJ)
SUBMITTED TO
CHARLES COLSON TASK FORCE ON FEDERAL CORRECTIONS
MARCH 3, 2015**

**“THE NATURE AND IMPACT OF OVERCROWDING IN BUREAU OF PRISONS (BOP) FACILITIES
AND PROPOSED MEASURES TO ADDRESS ITS CONSEQUENCES.”**

What limitations in statutory or legislative authority inhibit the Federal Bureau of Prisons (BOP) to effectively reduce federal prison populations, i.e., early release and other measures?

This statement is limited to the Federal Prison system and its imprisonment conditions, and thus we focus on recommendations to improve its operations and to reduce its prison population. The issue is “What can the Bureau of Prison do within the governing law and policies with which it must comply and its primary purpose of protecting the safety, security and lives for which it has responsibility?” Thus, we acknowledge that limitations in statutory and administrative discretion exist in regards to change. Governing laws, rules and regulations restrain and control BOP operations. Therefore, we urge here the implementation of what BOP has now in hand the discretion to do, in light of the realities of financial and human resources currently available to implement recommended change.

First, we urge that upon intake of a person as an inmate in the Federal Correctional system, there would be an assessment and evaluation of the individual’s mental, physical and educational deficiencies in order to prepare inmates to return to society upon completion of sentence. And where individuals are deficient in literacy, math and other skills necessary to employment upon completion of the sentence, inmates should be housed in prison facilities offering those learning opportunities. Indeed, prison systems should regularly offer access to secondary school and / or community college vocational training to prepare the individual for release with employable skills, thus enabling societal reductions in recidivism caused by severe

economic disadvantage. These measures for enhancing the benefits of rehabilitation overrides the punishment demands of sentencing philosophy. Quality rehabilitation and education expand public safety upon the release of persons from prison.

Second, we urge that prison officials institute 'model prisoners' programs, rewarding good behavior by offering increasing 'Good Time Credits' to the maximum extent allowed by existing law, supplemented by citizen advocacy to the Congress for amending the law. Increased 'Good Time' credits would attract the cooperation of and better behavior among inmates, as prisoners naturally desire reduced confinement time and earlier release back into society. Earning 'Good Time' release would be a motivation not to get into fights with other inmates or engage in recalcitrant behaviors. We note consideration of the so-called Barber Amendment which some people contend could reduce the Federal Inmate Population to 100,000 inmates. The theory is that doubling the availability of good time release under the law could reduce the federal prison population by at least 10% per year at a cost savings of \$1.2 billion dollars annually.

These savings then could be redirected to improve the services available to the remaining inmates as to competent medical care, mental health improvement, and expanded educational opportunity. The Barber Amendment would amend Title 18, U.S. Code Section 3624(b)(1) to read as follows: "By striking the number '54' in the first sentence as it appears and inserting in lieu thereof the number '128'; and in the same sentence by striking "prisoner's term of imprisonment" and inserting in lieu thereof "sentence imposed."

This amendment would be retroactive, thus doubling the 'number of days' reduction on the sentence imposed. The money saved by the adoption of the Barber Amendment could be transmitted to reentry preparation and program development enabling redirection from criminality to 'good behavioral sustainability' upon release--the capability to become productive citizens functioning normally in society, the ability to earn a decent wage and support children and families, thus increasing public safety and decreasing the return to criminal activity.

Supporters of the Barber Amendment urge that its enactment would greatly contribute to the healing of our economy and the healing of our Nation, noting that there are almost 211,000 persons incarcerated in federal prison at this time, and the majority of these individuals are first-time non-violent offenders, who under current Federal Bureau of Prisons and U.S. Probation Office procedures, could be safely released by increased Good Time allowances, with no disruption to existing release and reentry processes or risk to public safety.

This result could be greatly enhanced by a more liberal approach to allowing Churches and Community Action groups to provide mentor-counselors for such inmates at least a year before potential release from prison to visit them in jail and give them guidance to prepare for return to society. Mentorship would include arranging for affordable housing upon release, job training placement, reconnection with one's children, and family integration. For example, the

National African American Drug Policy Coalition, Inc. NAADPC) is developing a program to have at least three (3) churches working with its local chapters throughout the United States. Because of the pre-release support from Welcoming Home Committees, adjustments upon return to society are more stable. Welcoming Home's frequent visits with the inmate while in prison aid inmates' life-planning after release. Decisions relating to a place to stay upon release, job training and placement and reconnection with children and family are pre-conceived, thereby providing incentives to make positive adjustments and to be law-abiding in the community. The NAADPC strongly urges Community-Action non-profits to provide transitional housing for individuals released from prison so that they are not obliged to sleep in alleys, abandoned cars, abandoned warehouses and buildings, or search through trash cans and disposals for food in order to survive.

We recommend that the Bureau of Prison set up a reward system for prisoners who are most cooperative in good behavior and complying with prison rules and regulations. Special facilities should be developed for inmates displaying high interest in education, *e.g.*, a community college setting, so that inmates finishing their sentence emerge from confinement in possession of A.A. Degree credentials—an enhancement of employability and simultaneous decrease in potential recidivism.

Further, the Bureau of Prisons should develop a program to avoid excessive solitary confinement for disruptive inmates or those with mental health issues. Solitary confinement frequently enhances the mental illness of the individual. BOP should develop more treatment facilities capable of administering to individuals with mental health issues; and retain prevention medical care personnel to diagnose and treat incipient mental health before illnesses become more debilitating and severe.

We urge that far more 'compassionate' releases be considered. When the Bureau has the discretion to consider a compassionate release for an elder inmate or one with serious health issues, it should do so; especially where the inmate's medical condition restricts mobility or the functional capacity to commit violent crime. An expedited process should be established so that such individuals do not die while the compassionate release is being considered. Further, this would be a means for the Bureau of Prison to save on extensive medical expenses for the inmate, if the inmate was released to family and placed under the Medicaid system for the required care. This would free up prison expenditures to meet the needs of the persons who remain in custody and prepare them far better for return to society.

Instead of investing in the warehousing and confinement of more federal prisoners, we must urge Congress to appropriate adequate funds to provide for the restructuring of the Federal Prison system by implementing some of the reforms we have mentioned in this Statement. Restoration through rehabilitation as the societal goal and the diminishing of the desire for retribution, punishment and deterrence in the law promote and create justice. If treated as human beings in prison, former inmates can successfully return to society. In a fully restored 'equal opportunity' to enter life anew, the restored citizenry can then move on to

positive and productive lives. On their return, and imbued with experienced ‘eyes to see,’ many make greater contributions to society than those who have never been arrested or otherwise fallen from grace. Indeed, because of the imprisonment experience, such persons, in renewal of strength and courage, develop a far greater passion and commitment for “good deeds” and solving societal problems. In heightened compassion and awareness, the formerly imprisoned often relate more to social justice and humanitarian treatment than persons who have never seen the inside of a prison or jail. This should be the very soul and core of what is recognized as the Second Chance Program so wisely enacted by the Congress under the leadership of Rob Portman, now a United States Senator; and Congressman Danny K. Davis. Returning citizens, if given the chance, can make valuable and useful contributions to the welfare of our society and the entire Nation.

In the long run, and within fair systems, justice thrives.

Arthur L. Burnett, Sr., Retired Judge
Superior Court of the District of Columbia
Former United States Magistrate Judge
United States District Court for the
District of Columbia
Chairperson, The Organization on Procedural Justice and
Racial, Ethnic and Religious Profiling (OPJ)
aburnettsr@aol.com

Respectfully Submitted:

Merelyn Bates Mims, Ph.D.
Co-Chair, The Organization on Procedural
Justice and Racial, Ethnic and
Religious Profiling
mbatesmims@msn.com