

CHARLES COLSON TASK FORCE ON FEDERAL CORRECTIONS

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TESTIMONY OF THE
WASHINGTON LAWYERS' COMMITTEE FOR CIVIL RIGHTS
AND URBAN AFFAIRS

Since its founding more than 45 years ago, the Washington Lawyers' Committee for Civil Rights and Urban Affairs (WLC) has developed a wide range of litigation, advocacy, and educational programs and projects addressing a broad range of civil rights, discrimination, and poverty concerns, including those relating to the criminal system and the war on drugs. All DC residents convicted of a felony are sent to federal Bureau of Prisons (BOP) facilities, and WLC's DC Prisoners' Project is the only legal organization representing the interests of the over 5,000 DC prisoners held in dozens of BOP facilities across the country, as well as DC prisoners on parole from those facilities. While this may appear to be a relatively small number, WLC is perhaps the only organization that is charged with looking systematically at the BOP across the country from the perspective of prisoners' concerns and advocacy. This gives WLC a unique system-wide insight and an important perspective on the BOP problems that this Task Force is studying, and we appreciate this opportunity to submit testimony. Our testimony will cover problems in how the BOP treats DC prisoners, more system-wide problems at the BOP, and recommended actions to reduce the federal prison population.

First, there are serious problems with the way BOP treats DC prisoners. They are confined by the BOP a long way from home, some as far away as Colorado and California, which itself seriously damages family relationships and prospects for successful release. For example, the most seriously ill DC female inmates are sent to a BOP facility in Ft. Worth, Texas, which is more than 1,350 miles from D.C. In addition, in our experience, BOP tends to automatically treat black prisoners from DC as high security risks. This is in large measure because it is assumed that they are members of an alleged gang called “DC Blacks.” Whatever the reason, however, the result is that DC prisoners are significantly overrepresented in high security BOP facilities. Although only about 11.4% of federal prisoners are confined at high security facilities, that figure for DC residents in federal prison is almost three times as high – 32.4%ⁱ

Second, conditions generally at such high security prisons are extremely troubling. BOP, more even than some state prisons, has improperly and unconstitutionally dealt with prisoners with mental disabilities in such prisons by subjecting them to solitary confinement, usually making their conditions worse, and failing to provide minimally adequate treatment. A pending WLC lawsuit at the federal Supermax prison in Colorado will, we hope, produce a settlement and some real improvement in that area, but such problems persist in other BOP facilities around the country. We strongly support, at minimum, the concerns and recommendations of the December, 2014 Federal Bureau of Prisons: Special Housing Unit Review and Assessment, including the concerns about the difficulties that the special task force had in obtaining information from BOP itself. This report suggests, at the very least, that

reforms and great caution are needed before BOP opens yet another maximum security prison in Thomson, Illinois, as called for in the most recent BOP budget.

Other WLC litigation at federal prisons concerns alarming levels of violence and inhumane conditions. Cases concern such problems as housing prisoners together despite known antagonisms, attacks on inmates by other inmates with no action by BOP officials despite previous knowledge, and placing prisoners in ambulatory or four-point restraints for days, weeks, and months, contrary to BOP standards.

We are also challenging BOP's failure to provide other disabled prisoners with minimal accommodations required under the Americans with Disabilities Act. For example, when WLC sued the Commonwealth of Virginia on behalf of deaf prisoners, Virginia agreed to settle the case to provide such required accommodations, including videophones for effective communication. Videophones are even more important for DC residents in federal prisons far from home. But BOP has refused to allow videophones, despite numerous complaints and several pending lawsuits by WLC.

Third, our experience with BOP strongly supports the conclusion that significant steps should be taken to reduce the population at federal prisons. This is not only because of problems like overcrowding and bad conditions but also because alternatives to incarceration have proven more effective and less costly to our society. At the front end, we strongly support decriminalization of nonviolent drug possession and other offenses. DC has recently decriminalized the possession of marijuana, and we expect that this will reduce the number of DC residents sent to prison. We also believe that federal courts around the country should be authorized and encouraged to utilize

pretrial diversion programs like drug courts that can successfully deal with such nonviolent offenders better than incarceration. BOP should also increase halfway house time and support more halfway house contracts and home confinement.

Action should also be taken at the back end, after a prison sentence begins. Steps should be taken to increase the amount of “good time” credit that a federal prisoner can earn to reduce a sentence for “good behavior.” This can be accomplished not only by statutory change, but also by BOP simply changing the way it calculates such credit.ⁱⁱ With respect to parole, DC prisoners in BOP facilities fall under the US Parole Commission, and we have experienced significant problems in that regard. Some of our litigation, for example, has dealt with the Commission applying the wrong standards to groups of DC prisoners and imposing improper parole conditions. In addition, particularly because DC prisoner parole hearings occur literally across the country because of the location of DC federal prisoners, it is particularly egregious that the Commission does not currently allow attorneys for prisoners to appear by video at such parole hearings, even though other participants at such hearings are allowed to appear by video. This should be changed immediately. Finally, the current agreement between BOP and DC under which some DC offenders with short sentences remain in DC should be expanded, hopefully with more halfway house facilities available in DC. If necessary, DC offenders reaching the end of their sentences could be transferred to DC prison facilities to finish their sentences and have access to reentry organizations and family.

Thank you for your time and consideration of these issues.

ⁱ See D.C. Corrections Information Council, Annual Report Fiscal Year 2013 (Feb. 28, 2014) at 5-6 (stating that 1850 of 5692 DC prisoners in federal system, over 32.4%, are at high or supermax facilities); Federal Bureau of Prisons, Prison Security Levels, available at www.bop.gov/about/statistics/statistics_inmate_sec_levels.jsp (last updated Jan. 24, 2015)(stating that 11.4% of BOP inmates are confined at high security levels)

ⁱⁱ See Families Against Mandatory Minimums, Frequently Asked Questions About Federal Good Time Credit (June 7, 2010)