



Department of Justice

STATEMENT

OF

HARLEY G. LAPPIN
DIRECTOR
FEDERAL BUREAU OF PRISONS

BEFORE THE

REVIEW PANEL ON PRISON RAPE

PRESENTED ON

MARCH 11, 2008

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Mr. Chairman and Members of the Panel:

I welcome the opportunity to appear before you today to discuss what the Federal Bureau of Prisons (BOP) does to minimize the incidence of sexual assault in Federal prisons.

The BOP's mission is to protect society by incarcerating offenders in facilities that are safe, humane, cost-effective, and appropriately secure; and by providing inmates with work and other self-improvement opportunities to help them acquire the skills needed to return to society as law-abiding, productive citizens. We take these responsibilities very seriously.

Currently, the Bureau of Prisons operates 114 prisons and is responsible for the custody and care of more than 201,000 Federal offenders. Approximately 85 percent of these inmates are confined in correctional institutions or detention centers operated by the BOP. The remainder are confined in secure facilities operated primarily by private corrections companies and, to a lesser extent, by state and local governments, and in privately-operated residential re-entry centers (RRCs).

To promote a safe, secure environment for staff and inmates alike and to increase the likelihood of a successful transition to the community, the Bureau adheres to sound correctional basics and practices and provides self-improvement opportunities that have been proven to work in reducing institution misconduct and recidivism. The Bureau also has policy in place that specifically addresses sexual abuse prevention and intervention (Attachment 1, P5342.06).

The BOP's overall management approach serves as the foundation for preventing sexual assaults and abuse in Bureau facilities, and its effectiveness is enhanced by the BOP's numerous, formal executive oversight strategies and internal systems of checks and balances. These systems of control are designed to ensure compliance with applicable regulations, laws, policies, and procedures; monitor vital functions and operations; identify weaknesses and enhancements needed; and promote effective prison management practices. Together, these mechanisms ensure the Bureau is successfully carrying out its mission.

The agency ensures institution security through a combination of direct staff supervision, architecture and physical features, security technologies, use of the unit management concept, and classification of inmates based on risk factors, which makes it possible for inmates to be housed at institutions that meet their security and program needs.

Involving inmates in programming that targets identified needs not only reduces inmate idleness and the stresses associated with living in a prison, but also plays a major role in preparing inmates for their eventual return to the community. Research has conclusively demonstrated that the Bureau's core programs - Federal Prison Industries, education, vocational and occupational training, and residential drug abuse treatment - significantly reduce recidivism.

Qualified and trained staff are essential for effective inmate management. In the Bureau, regardless of the specific discipline in which a staff member works, all employees are "correctional workers first." Each staff member is responsible for the safety, security, and good order of the institution, as well as modeling pro-social values for the inmate population. All staff are expected to be vigilant and attentive to inmate accountability and security issues.

Staff are highly visible throughout the institution and readily available to inmates, who are encouraged to communicate with staff regarding issues of concern. Both informal and formal grievance procedures are in place to ensure investigation of and timely response (including redress if warranted) to any issue raised by an inmate regarding their confinement.

Since my testimony in March 2006 before the National Prison Rape Elimination Commission, the Bureau has implemented various enhancements to our operations. These include:

- increasing the number of institution staff who have direct contact with inmates, particularly Correctional Services personnel;
- implementing appropriate, proven technological innovations and expanding existing surveillance (e.g., adding to the number of CCTV cameras used for surveillance); and
- updating and issuing new policy on the Bureau's classification system, which is designed, in part, to identify and separate inmates who have a propensity for violence and abuse from those who do not.

The Bureau's classification system plays a key role ensuring a safe, secure institution environment for inmates and the staff who supervise them, but it must be evaluated on an ongoing basis so it accurately reflects changes in the inmate population that can occur with time. The Bureau's critical review resulted in its implementing several substantial changes, such as adding new scoring items for inmate age and education level, and adjusting the scoring cut-off points.

The Bureau's approach to discouraging staff misconduct is multi-dimensional. It begins with a clear understanding of the Bureau's zero tolerance philosophy, includes training to reinforce the agency's expectations with respect to staff conduct, and involves staff reporting up the line - which is both their responsibility and duty - their observations or concerns when they become aware of incidents of misconduct. Management staff (myself included) have expended

considerable time and energy over the past few years in a continuing effort to remind staff of the importance of adhering to the agency's core values - correctional excellence, integrity and respect - and the consequences for failing to do so. I have personally emphasized the need for all staff to **assume ownership** of our roles in promoting solutions that ensure staff and inmate safety.

The Bureau encourages inmates to report incidents of misconduct or otherwise inappropriate behavior. All allegations of staff misconduct, including allegations that a staff member has abused an inmate, are referred to the Department of Justice Office of the Inspector General (OIG), which then refers back to the Bureau's organizationally-independent Office of Internal Affairs (OIA) those it wants the Bureau to investigate. Serious cases of staff misconduct are referred for criminal prosecution. The OIG also has a hotline available to the public for reporting any Department of Justice employee they believe has violated their civil rights or civil liberties. The Bureau takes all allegations of staff misconduct and mistreatment very seriously and investigates every allegation thoroughly. We do not tolerate any type of abuse of inmates, verbal, physical, or sexual. When allegations of serious abuse are accompanied by credible evidence, the staff member is removed from contact with inmates or placed on administrative leave.

Sexual acts or contacts between an inmate and a staff member are **always** prohibited and illegal. Except in cases where staff are clearly the victim of sexually abusive behavior by an inmate, staff are considered culpable for sexual behavior between them and inmates. The agency is fully committed to investigating, disciplining, and prosecuting staff who engage in such behavior. The most recent enhancements to penalties in the Federal statutes regarding sexual abuse of a ward (an inmate), included in the Adam Walsh Child Protection and Safety Act of 2006, have been clearly communicated to staff and contractors.

The vast majority of Bureau staff do outstanding work each and every day in support of this agency, the Department of Justice and the American people. Unfortunately, it is the inappropriate actions of a very few that receive public attention and taint the reputation of outstanding public service that other Bureau staff work hard to maintain.

The Bureau also takes allegations of inmate-on-inmate sexual assaults (or non-consensual sexual acts) very seriously, and all allegations are investigated by Bureau staff. Those that involve potentially criminal behavior are promptly referred to the Federal Bureau of Investigation, and depending on the outcome, may be referred for prosecution.

Agency policies apply to **all** Bureau organizational components and sites, mandating consistency with respect to all major operational issues. The policy that specifically addresses the prevention of sexually abusive behavior is designed to ensure:

- a. staff and inmate awareness and understanding of the Bureau's "zero tolerance" with respect to sexually abusive behavior;
- b. standardized procedures to detect and prevent such behavior;
- c. prompt and effective response to the various needs of victims (i.e., physical, psychological, and security needs);
- d. prompt intervention/investigation once allegations of sexually abusive behavior are reported; and
- e. disciplining and prosecution of perpetrators of sexually abusive behavior, when appropriate, in accordance with Bureau policy and Federal law.

The policy addresses inmates with a history of sexual victimization or predation, as well as to those **at risk** of being victimized or of perpetrating sexually abusive behavior. It emphasizes the importance of adhering to sound correctional basics (e.g., observing inmates interacting, communicating effectively with inmates, being alert for behavior changes, closely monitoring institution areas) to not only better detect incidents of sexually abusive behavior, but more importantly, to deter their occurrence. Staff are required to assume all reports of victimization are credible, regardless of the source.

Policy specifically addresses the following areas:

- initial screening performed by Health Services, Psychology Services, and Unit Management personnel upon an inmate's arrival at a Bureau facility;
- referrals, notifications, and actions required when staff identify a history of sexual victimization or predation
- response options available to the unit team when an allegation is made or a risk identified (e.g., changes in housing units or cell assignments, transfer to a greater or lesser security facility);
- medical examination and treatment;
- psychological interventions;
- investigation methodology (crime scene preservation, physical evidence collection, after action review); and
- discipline and prosecution.

All Bureau staff receive training on the prevention and intervention requirements outlined in the agency's policy on sexually abusive behavior. This occurs upon hiring and subsequently during annual refresher training. Specialty training is also provided to those with more direct responsibilities for managing aspects of the program. At Bureau institutions, Volunteer and Contract Coordinators provide training to non-BOP staff on such issues as diversity management, inmate rights and privacy, appropriate communication and interaction with inmates, and in the case of contractors, on the employee code of conduct. All contractors are required to complete training which informs them of this specific policy, and they are held accountable

for adherence to the same standards and are subject to consequences that potentially include prosecution.

All inmates are made aware of their rights and responsibilities under this policy (and all other major policies) during their orientation to the correctional facility ("Admission and Orientation"). This includes educating inmates about the definitions of sexually abusive behavior, prevention strategies, reporting methods, treatment options, and the consequences that perpetrators can expect to face. Inmates also receive this information in pamphlet form.

To ensure the safety of the more than 34,000 Federal inmates held in facilities under contract with the Bureau, the agency has continued to take a very active role in communicating the standards of service and support expected of the contractors and ensuring compliance with contract requirements. The Bureau incorporates the following provisions into the Statements of Work (SOW) used with contractors, thus further safeguarding the rights of inmates placed in privately-operated facilities:

1. specification of the contractor's responsibility to provide a working environment that is free from sexual harassment and intimidation in accordance with Title VII of the Civil Rights Act of 1964, as amended. Sexual abuse/assault/misconduct is defined as verbal or physical conduct of a sexual nature directed toward an offender or employee by another offender, employee, or volunteer of the facility.

2. incorporation in contractor's policy of the prohibition of sexual abuse/assault/misconduct by employees against Federal offenders or other employees.
3. the requirement that the contractor develop and implement a comprehensive staff training program addressing the facility's sexual abuse/assault/misconduct prevention and intervention program. All staff, including volunteers, must receive such training during both employee orientation and annually as part of the facility's in-service training plan.

Regardless of whether the contractor operates a secure facility or residential re-entry center (RRC), the contractor must meet all requirements, elements and protocols of P5324.06. Because these are included in the SOW as a contract requirement, Bureau staff monitor compliance. The public views private facility contractors (under contract with the agency) as an extension of the Bureau; consequently, our policy of zero tolerance for abuse applies to them as well.

The Bureau has a firm and non-negotiable policy of zero tolerance for abuse of inmates of **any** type - verbal, physical, sexual. We are resolute in our determination to provide a safe environment for staff and inmates alike. The comprehensive management approach utilized by the Bureau of Prisons minimizes safety risks, including the potential for sexually abusive behavior, for **all** parties.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or other Members of this Panel may have.

Harley G. Lappin

Director