

Testimony: Harley J. Lappin, Director, US Bureau of Prisons

US Congress: Hearing On The Fiscal Year 2009 Budget Request For The Bureau Of Prisons, The U.S. Marshal Service, And The Office Of The Federal Detention Trustee

From "FedCURE, CIO" <cio@fedcure.org>:

This is a lengthy text of the hearing held to approve the supplemental appropriations requested by the BOP in July, 2008. It offers a number of insights and statistics that are normally unavailable to the public. I strongly recommend this for reading if you have the time:

Mr. Mollohan. The hearing will come to order. Good afternoon to everyone. We welcome a panel of three department of Justice witnesses to this hearing on the fiscal year 2009 budget request for the Bureau of Prisons, the U.S. Marshal Service, and the Office of the Federal Detention Trustee. We will begin with testimony from Mr. Harley G. Lappin, the Director of the Bureau of Prisons, and proceed then to other agencies in sequence.

Mr. Lappin, first of all I want to begin by expressing my personal and the Subcommittee's condolences to you upon the passing of your dad. That is a very difficult thing. And it is a great testament to you and to him that you are here fulfilling your responsibilities in this circumstance. My dad died when we were considering a bill, a very important bill. I believe it was a Steel Loan Guarantee Bill on the floor, and I was carrying it, Senator Byrd had carried it on the Senate side. And we were doing it that night. And I know, I know your feeling about that and how it really is an honor to your father that you fulfill those responsibilities under those circumstances. So especially welcome to the hearing today.

Mr. Director, lately it is hard to open the newspaper without seeing a news article or a commentary on recent studies on the explosive growth of prisoners incarcerated in federal, state, and local prisons and jails over the last twenty years. As in the states, the Bureau of Prisons is faced with rising inmate populations and rising fixed costs and aging infrastructure. We look forward to working with you to address these challenges and we want to compliment you and your staff on the tremendous job you are doing in the face of scarce resources. And we want you to know that we look forward to your testimony to see where those places are that you need special help and timely, and so that we can be responsive.

Your written statement will be made a part of the record.

We look forward to your oral testimony. And before calling upon you to deliver that I would like to call upon our fine Ranking Member Mr. Frelinghuysen for any comments that he might have.

Mr. Frelinghuysen. No comments other than to echo the sentiments and sympathy of the Chairman, and thank you for your good work and all those who stand behind you each and every day doing some very tough work on behalf of our nation. Often unrecognized, underappreciated, and that not only goes to you but to those who follow behind you to testify today. Thank you very much, Mr. Chairman. Mr. Mollohan. Mr. Lappin.

Mr. Lappin. Thank you both for your sympathy for my Father, I appreciate that very much, and certainly for the fine comments recognizing the wonderful staff who work in the Federal Bureau of Prisons who do a great job each and every day. But good afternoon to both of you and the other members who I am sure will arrive over the course of time.

OPENING STATEMENT OF HARLEY G. LAPPIN

Chairman Mollohan, Congressman Frelinghuysen and other members of the Subcommittee. I am pleased to appear before you today to discuss the President's 2009 Budget Request for the Bureau of Prisons. Let me first begin by thanking you for your support of the Bureau of Prisons. We particularly appreciate the new construction resources provided in the 2008 Omnibus Bill, which allow us to move ahead with three much needed new prisons. I look forward to continuing our work with you and the Subcommittee.

Last year, in reference to your article that you mentioned, the inmate population in the Bureau of Prisons increased by 7,400 inmates. We expect a net growth of 5,000 to 7,000 inmates per year over the next several years. Our current population is over 201,000 inmates. The Bureau facilities are operating at 37 percent above rated capacity system-wide.

Our highest priorities continue to be filling staff positions that have direct contact with inmates and bringing on new beds to reduce crowding to assure that federal inmates continue to serve their sentences in safe, secure, and humane environments. In 2007, the Bureau of Prison's inmate to staff ratio was 4.92 inmates to one employee. The average of the five largest state systems was 3.33 inmates to one employee, based on the latest comprehensive data available from the states. During the past three years we have implemented a number of initiatives to streamline operations and reduce costs. These actions involved permanent changes to BOP operations and reduced costs about \$270 million over the three-year period. We eliminated over 2300 positions, closed four federal prison camps, restructured medical care levels, and consolidated inmate designation and sentence computation functions as well as human resource functions at a central location in Texas. In addition to these permanent actions, we have reduced travel, equipment, vehicles, and training expenditures. These reductions average more than \$100 million per year and continue in 2008. Unfortunately, the rising cost of healthcare remains a serious issue, comparable to what is occurring in the private sector despite our efforts to contain costs.

Almost all federal inmates will be released back into the community. We have released an average of 50,000 inmates per year back to U.S. communities over the past few years, a number that continues to increase as the inmate population continues to grow. Our goal is to ensure that prior to their release, these inmates receive needed job skill training, work experience, education, counseling, and other assistance.

Federal Prison Industries, one of our most important correctional programs, provides inmates with job skill training and work experience thereby reducing recidivism and avoiding undesirable idleness during the inmate's incarceration. We expect Section 827 of the recently enacted Defense Authorization Bill to result in a decline in sales for the FPI program and potentially result in the loss of up to 6,300 jobs.

The 2009 Budget Request is \$5.436 billion for operations in our Salaries & Expenses (S&E) budget, and \$95.8 million for our Buildings & Facilities (B&F) budget. For S&E, a total of \$67 million in program increases is requested to contract for new private beds for low security criminal aliens, and to provide a marginal cost adjustment for some additional inmates. The increases are offset by a proposal to eliminate \$28 million in funding for the National Institute of Corrections and other expenses.

For B&F, this budget continues base level funding for new construction at \$25.2 million and a Modernization and Repair program at \$70 million. One-third of our 114 institutions are over fifty years old and present significant modernization and repair costs that we must prioritize and address each year.

Mr. Chairman, our goal is to continue to run safe and secure prisons. This requires adequate front line staffing in our prisons and adding prison beds to reduce overcrowding. We believe the 2009 request will better help the Bureau to meet these requirements. The inmate population will continue to increase and so will our challenges to provide for their safe, secure, and cost effective incarceration.

Let me thank you again, Mr. Chairman, and members of the Subcommittee, for your continued support. I look forward to working with you and the Committee on the significant challenges facing the BOP and our Budget Request. Thank you.
[Written statement of Harley G. Lappin, Director of the Federal Bureau of Prisons]

FY 2008 NEEDS

Mr. Mollohan. Thank you, Mr. Lappin. Mr. Lappin, this hearing is about the Bureau of Prisons' fiscal 2009 request, however, you have some immediate needs for this year, for 2008, and I would like to talk with you a little bit about that. I would like for you to tell us about that situation. How immediate is the Bureau of Prisons' need and is the \$240 million reprogramming that the Department has sent up here sufficient to solve your current problems?

Mr. Lappin. We appreciate your recognition of the challenge we face, and it is significant. We currently, as you have learned from the reprogramming request, have a need for an additional \$240 million to carry out our responsibilities for the rest of this fiscal year. If you look at how this could happen and why it happened, you will find a variety of issues. If you look at the increase from 2007 to 2008, at the end of the day it was about \$55 million which wouldn't cover the pay increase. Again, there are lots of priorities in the government and many needs. Decisions were made based on those priorities, but at the end of the day we feel as though we are going to need an additional \$240 million.

Mr. Mollohan. What are the biggest cost drivers? Can you talk about that?

Mr. Lappin. Staff and salaries, salaries and expenses. I mean nearly 70 percent of our expenses are for salaries and benefits for employees. The \$240 million would cover the number of employees we currently have employed, the overtime associated with their responsibilities, some of the operational costs, especially medical, and a few others. It is my opinion that \$240 million will get us very close. We will do our best to live within the \$240 million that is added to the budget.

We will monitor closely and we are working very closely with the Department of Justice staff. They are listening very well to our concerns and issues, and have recognized the need for the reprogramming request. We are taking other initiatives in the Bureau to reduce costs. We have reduced overtime funding. We have reduced equipment funding and vehicle funding. We have delayed a couple of programs. We have reduced the relocations associated with staff transfers. We have reduced some training. We have then assumed some other salary savings through staff vacancies.

Mr. Mollohan. Let me back up a little bit.

Mr. Lappin. Sure.

STAFFING

Mr. Mollohan. Talk to us in more detail about the staff situation. More inmates, less staff? I know from my visiting with employees in West Virginia on several occasions, just hearing them anecdotally talk about it. They talk about being on call every week, twice a week for overtime. They are tired, and they also have been associating that with incidents that, in their minds, are associated with the overtime and the understaffing. But if you would, in your opening remarks you talked a little bit about ratios. And I did not get all that, but the feds are four-point-something to one employee?

Mr. Lappin. Yes, right now. And again, let me just say that I continue to believe that we are running a safe, secure prison system, and not without its challenges. And it is because of those great folks out there in the field, each and every day, sacrificing, by working additional overtime, by coming in when there is a need to come in when we have concerns, disruptions, so on and so forth. They just do a great job and we continue to fare well. But there is a limit.

Mr. Mollohan. Let us look at the numbers first.

Mr. Lappin. Our ratio right now is 4.92 inmates to every employee.

Mr. Mollohan. And what was it last year or the year before? Do you know?

Mr. Lappin. Oh, last year we were at about 4.91. The year before, 4.87. In 1997 we were at 3.57.

Mr. Mollohan. That was in when? 1997?

Mr. Lappin. In 1997 we were at 3.57 inmates per employee.

Mr. Mollohan. There must be some ratio that the correctional experts identified, the textbook ratio. What is the textbook ratio?

Mr. Lappin. Well, I am not sure. There is not really a ratio. We have been asked, "Help us define a ratio." And why it is so difficult is it depends on the designs of your institutions and what posts you consider absolutely necessary. Because the vast majority of correctional organizations, the majority of our staff are run on rosters. You identify what work you want done, you tie to that a number of assignments posts, and based on the number of posts it drives the number of employees.

Mr. Mollohan. And modern corrections, new facilities, you ought to be able to do them more efficiently?

Mr. Lappin. Yes, new institutions you can manage safely-- more efficiently.

Mr. Mollohan. So you would expect this number to, I do not know whether you talk about this increase or decrease, but you would expect the ratio to involve fewer employees?

Mr. Lappin. Without a doubt, some of the increase has resulted from newer design facilities that are more efficient and more effective in watching more inmates with fewer people.

Mr. Mollohan. Yes. So in the modern prison system, or the mixed prison system that you operate, can you tell us what the correct ratio should be?

Mr. Lappin. I really cannot. We were working on an evaluation of how to come up with the number for us, and it might vary from system to system. I do not want it to get any larger. I can tell you that. I think we are at our limit. I would like to see that level come down, and that is why----

Mr. Mollohan. Whoa, whoa, what level come down?

Mr. Lappin. I would like to see the ratio come down.

Mr. Mollohan. The ratio come down?

Mr. Lappin. From 4.92 to a number less than that. That is, I want to add more staff.

Mr. Mollohan. Okay, well we have to put dollars to need here, and so we need, I would love to have a little more guidance than that.

Mr. Lappin. We will certainly provide that. Again, we are working on an evaluation as to how we come to a number.

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

Mr. Mollohan. Yes. Because while it is anecdotal for my constituents to come in and say, you know, "This is too much," and they are not whiners, really, that suggests to me that it is too much. And they can talk about it in the terms they can talk about it, but to be able to translate that into a budget, for you, and into appropriations for us, it needs to be a little more tangible. And if we had help on that that would give us backup and you as well. The states are operating at 3.33. Did I get that right?

Mr. Lappin. Yes, what we do, we look at the five largest states, California, Texas, Florida, New York, and Michigan.

Mr. Mollohan. Is that a relevant, are you making a comparison here?

Mr. Lappin. Well we are just trying to help put it in perspective, how we compare to other similar systems.

Mr. Mollohan. Okay, but I want to know what to do with these numbers. Am I to look at this and say, "Well, 4.91 employees, okay we are operating a modern prison system, or a mixed prison system, it is not all modern, in federal, and the states are 3.33 on an average." Am I supposed to look at that and say, "Gee, we ought to get to 3.33?"

Mr. Lappin. Let me answer that. I do not think we need to get to 3.33. In fact, I think we can operate at a level higher than the 3.57 in 1997, because we have had a lot of newer prisons over the course of that time.

Mr. Mollohan. Right.

Mr. Lappin. So let me kind of help put it in perspective.

For us to get to 3.57, where we were ten years ago, we would have to add 9,000 employees. I do not think there is a need to do that. But you are correct, you need some guidance. Where do we fall on this range? And we will continue to provide to you that information as we conduct this evaluation to see if we can come up with some more accurate assessment of where we think we need to be.

Mr. Mollohan. Okay.

Mr. Lappin. And without a doubt, I am concerned at this ratio. I still think we are doing a great job, but certainly on the backs of the great employees we have. There is a limit. And that is why one of our priorities is to continue to fund those positions at the local level for direct, for staff having direct contact with inmates to try to bring that ratio down.

Mr. Mollohan. Yes, well for the record, I think you are doing a great job. And I think the members of this Subcommittee think you are doing a great job, and there needs to be some advocacy for appropriate funding. Mr. Frelinghuysen?

INMATE POPULATION

Mr. Frelinghuysen. We know you are doing a difficult job. You have given us some of the staggering figures in terms of the increase in the federal inmate population. Could you just talk for a couple of minutes about some other characteristics of that

population? Age, different characteristics that make up the overall mix in terms of ethnic background, race, what are some of the figures that are out there?

Mr. Lappin. Age, race, ethnicity is pretty much similar.

Mr. Frelinghuysen. And have they shifted?

Mr. Lappin. Those have not shifted significantly.

Mr. Frelinghuysen. They are?

Mr. Lappin. Let me give you an idea. About 56 percent of the federal inmate population is white, 40 percent is black, 1.7 percent Asian, 1.8 percent Indian. Of that it is 31 percent Hispanic, so a combination of some folks who are African American, black, Hispanic. Age has really not fluctuated much.

You know, we are around a thirty-five average age.

Mr. Frelinghuysen. Thirty-five years of age?

Mr. Lappin. I think that is what it is. It is pretty close to that. What has hanged, though, the characteristics that have changed are--let me back up to types of offenses. We continue to see the majority of the offenders coming in for drug related offenses. About 52 percent to 53 percent of the offenses are drug related. And then followed by weapons at about 14 percent.

Mr. Frelinghuysen. That drug related figure is a pretty----

Mr. Lappin. I am sorry?

Mr. Frelinghuysen. That drug related is a pretty----

Mr. Lappin. 53.9 percent drug related.

Mr. Frelinghuysen. And that is, let us say ten years ago that might have been considerably lower, or?

Mr. Lappin. Well, that was probably in the middle of the whole War on Drugs. That is when we were ramping up, getting a lot of folks. But you know, if you go back fifteen years, it is much larger. We have seen a significant increase in weapons. Offenders coming into us with weapons violations, that is up to 14 percent followed by immigration.

Mr. Frelinghuysen. What percentage, for instance, would be involved in----

Mr. Lappin. For weapons?

Mr. Frelinghuysen. No, in let us say Bloods, Crips, and MS-13?

Mr. Lappin. I am going to jump to that in just a second.

Mr. Frelinghuysen. Okay.

Mr. Lappin. I just want to mention one other, one huge increase in the number of sex offenders. In fact, we today have about 14,000 sex offenders in prison. So that has really been an emphasis of the Department of Justice, besides drugs, firearms, sex offenses. And then of course, immigration has been for some years with INS originally, now BICE, so on and so forth, border patrol.

The inmates themselves we are seeing, we continue to see a younger, more aggressive, more violent, more gang oriented offender coming to the Bureau of Prisons. Which couples with our need, I think, to look closely at this ratio of staff to inmates. More inmates, fewer staff, more aggressive inmates, you know, that does not, more----

Mr. Frelinghuysen. That could translate into a potential disaster.

Mr. Lappin. Yes, I mean I think there are some challenges there.

Mr. Frelinghuysen. Yes.

Mr. Lappin. Without a doubt, we recognize that. So we are seeing those types of offenders. Without a doubt, gangs are quite a challenge. Between disruptive group members and security threat group members, which we categorize the gangs into, it is quite a challenge at most all locations, if not all. This is complicated somewhat by the emergence of the Hispanic gangs, especially from the Mexican nationals where they play by different rules and can be very disruptive.

Mr. Frelinghuysen. So in the prison system, and I have read about it, there is a unity of purpose when you are in there with somebody who is part of your gang. Mr. Lappin. There is.

Mr. Frelinghuysen. Yes.

Mr. Lappin. So what we try to do is thin them out, control them by size, by structure, by control. But what we have seen emerge over the last few years, unlike I think fifteen, twenty years ago, is the emergence within institutions of these little cliques. You know, a group of folks from Baltimore or a group of people from Little Rock, who if they are not associated with other gangs might just join together. And those fall more into the security threat groups on occasion, just run of the mill, makeshift associations that can tend to be a challenge.

Without a doubt gangs are one of our bigger challenges. We are currently reevaluating the management of gangs in our institutions. We believe that we have got to do a better job of balancing those gangs among the 114 institutions. In doing so it is going to disrupt a long and steadfast philosophy of trying to put all the offenders as close to home as possible. To do that, to balance them, it is going to result in some offenders being further from home than they were before. And so we had to compromise there a little bit. First and foremost, we have got to run safe prisons.

BUDGET SITUATION

Mr. Frelinghuysen. Your budget situation, obviously, has been somewhat complicated. While you have a pending reprogramming seeking \$240 million we shorted you about \$100 million somewhere along the line. So it is a good reason we have a reprogramming. I live in the New York-New Jersey metropolitan area. I must say I hear quite a lot of ads on the local radio station, 1010, for the New York Department of Corrections. So, obviously, you are in the job field out there.

There are, should we say, competitors. As tough as the work is, maybe that is a sign that other institutions are competing for good people to take impossible jobs.

Mr. Lappin. It is. I think in the long term for the Bureau of Prisons, you know, when I look, when people ask me, "Director, what is one of your greatest concerns for the Bureau in five, ten, fifteen years?" I think it is our continued ability to hire, recruit, and retain qualified folks. Because there is going to be more competition for those folks. But we still do very well in most locations. It is very much a challenge in the higher cost areas, New York, Brooklyn, San Francisco, San Diego, Chicago. We have more turnover there than elsewhere. Fortunately, the system as a whole is kind of misleading; because as a whole we have relatively low turnover. But if you separate out those high cost of living areas, you will find that those areas, greater turnover, more of a challenge to continue to keep the rolls filled. California is a huge challenge. Competing with much higher wages in the State Department of Corrections in California and the issues they are facing there, we are struggling there filling just the base positions at certain locations. That is one reason why we increased their pay a little bit, just to try to recruit and retain more staff.

Mr. Frelinghuysen. Thank you for that overview. It has been valuable. Thank you, Mr. Chairman.

Mr. Mollohan. Thank you, Mr. Frelinghuysen. Mr. Aderholt.

PRISON CHAPEL LIBRARY

Mr. Aderholt. Thank you for being here today. I know that in your job you get a lot of questions and a lot of complaints and many things, as I know in my job I do from time to time. But I want to just take a minute and express my appreciation to you for your leadership on the Prison Chapel Library Project. That was, I understand an issue, and I know that you stepped in and resolved that issue very quickly and very effectively. I know several people that were greatly concerned about that, and I believe that you handled that in an excellent manner. So let me just say the word is getting around that you had done an excellent job in

that. In that instance I know of, and I am sure in many other instances, but I did want to point out that it has been an issue that was a very big concern to a lot of people. So thank you for your work on that.

Mr. Lappin. Thank you, sir. We apologize that it happened in the first place. There were competing priorities. But I wanted to ensure the public and the Department, that we had appropriate materials in those libraries. And over the course of seventy-seven years some of those libraries have grown to great size. And through the course of those years maybe not quite as much oversight as we would like. I am pleased that the folks that had concerns approached the Department of Justice, approached the Bureau of Prisons, raised those issues. We sat down with them and resolved the issue. I think to everyone's satisfaction. I appreciate you recognizing that.

INQUIRY FROM A CONSTITUENT

Mr. Aderholt. Well, thank you again. It did not go unnoticed, so thank you for that. As you can imagine, as a member of Congress, I get contacted from time to time from constituents that have all types of concerns. Sometimes it is concerns that I can help them with and sometimes there are concerns that are completely out of my hands. But sometimes they feel like their Congressman is the person that they elected to reach out to federal agencies, in particular, and to be an advocate for them. And I do think that is a large part of the job that we have here in Congress, that we are an advocate for a lot of people that sometimes do not know where to go for answers and questions.

I received an email, well actually a phone call and then I asked her to follow up with an email. It is regarding a situation with a prisoner that, and I will just read it briefly to you and I just want to ask your response, and maybe how would be the best way we could respond to her and what the policy is in this case. It says, "Per our conversation yesterday, my husband is due to be released to Alabama on June 20, 2008. His caseworker has informed me that his time will be rounded up nine days and he will not be in Alabama until June 29, 2008. This is a new rule that the caseworker in Manchester,

Kentucky has started since she became the new caseworker. We are asking that you help us get my husband back to Alabama on June 20th, not the 29th. He will have served his perfect time on the 20th." She just called me very demoralized. He had been there a year at the time of our conversation. Of course, nine days does not sound like a whole lot to me or you but, I know this particular family has a ten year old daughter, and it has been sort of an easy case in the beginning but that is beside the point. But in a situation like that, do the individual

prisons have the discretion to release him at a different date?

Or what could you tell me about that?

Mr. Lappin. First of all, we appreciate your involvement. And we welcome you to call us, send us emails, and let us assist you with responding to your constituents.

Mr. Aderholt. Well, Tom Kane knows that I call from time to time.

Mr. Lappin. Is that right?

Mr. Aderholt. Yes, so----

Mr. Lappin. Well, we ought to bring Tom up here. Seriously,

the caseworker locally does not have the authority to make that adjustment. That work is done by our sentence computation staff who have the background, the experience, the expertise, to adjust a sentence computation and to determine the day the individual should get out. If you give me the email with the person's name, we will go right to the sentence computation center, ask them what if any changes were made and why, as related to applicable law. It could be that somebody miscalculated, made an error on some some good time or some jail time. But if you give it to us we will get back to you----

Mr. Aderholt. That would be great. And like I said, you know, sometimes they may have been given wrong information as well. But again, like I say, nine days does not seem like a whole lot to me or you but for someone who has been away from their family and they have served the appropriate time, that can be very demoralizing. And they just have some questions about the system, and they feel the unfairness. And we understand when a sentence is handed down and they have to serve the appropriate

time. But beyond that we, I thought it was only fair to check into that. So after today I will get you the contact information on this. And if you could please help me try to find out some information, my constituent would be very happy.

Mr. Lappin. I will give you my card, or you could send it to Tom Kane.

Mr. Aderholt. Well, either one of you. So----

Mr. Lappin. Because you are right. Nine days is nine days.

We want them out on the day the law says they should be released from prison.

Mr. Aderholt. Okay.

Mr. Lappin. Our goal is to have 100 percent of them released on that day. We would be more than happy to look into it.

Mr. Aderholt. Thank you, I appreciate that. That is all I have.

Mr. Mollohan. Mr. Rogers.

RATED CAPACITY/OVERCROWDING

Mr. Rogers. Thank you, Mr. Chairman. Mr. Director, welcome to you and to all your staff. I have been told that you are 37 percent overcrowded. Is that an accurate figure?

Mr. Lappin. We are 37 percent over rated capacity.

Mr. Rogers. Over what?

Mr. Lappin. Over rated capacity.

Mr. Rogers. Do you mind if I call that overcrowded?

Mr. Lappin. Okay.

Mr. Rogers. What would be your target?

Mr. Lappin. 15 to 17 percent. That is our target.

Mr. Rogers. Over your rated capacity?

Mr. Lappin. And so, let me kind of put it in perspective.

What does that mean? What does 17 percent mean over rated capacity? That means that every cell in the entire Bureau of Prisons has two inmates in it, and we believe in that goal. It may be a long term goal, there is no way we are going to get there overnight, but our goal would be that we get to the point where cells that were built of a certain size, which is a standard size--you have got a couple new prisons in Kentucky, they are a standard size--for a cell of that size it is appropriate for two inmates to be housed in those cells long term. At 17 percent, every cell in the Bureau of Prisons would have two inmates in those cells.

Now realize there are some inmates that cannot be housed with anyone. So for those that require single cells, it is going to push into other cells three inmates. We are okay with that. There are certain inmates that we could temporarily house in that manner. Our target is 17 percent. Mr. Rogers. Well, if you are 37 percent over now and you want to be at 17 percent, that is a 20 percent difference.

Mr. Lappin. Yes.

Mr. Rogers. That is not insignificant. That is a huge, huge undertaking, correct?

Mr. Lappin. Well, it is. And we have faced this over a number of years. And believe me, the Congress, the Administration; let us go back a bit. In 1980, 26,000 were inmates in the federal prison system. Today, 201,000 inmates. The Administration and the Congress have provided for us very well through the majority of those years. Provided funding, provided positions, as the prison system grew. And so we have been very fortunate. But then again the population continues to grow. And without a doubt, we have to continue to decide, how are we going to absorb those additional inmates? Do we continue to build prisons?

Are there other ways to offset some of that growth? And so, you are right, it would be a long term plan. But again, that is our target.

STAFFING

Mr. Rogers. Well, that spans the time I have been in Congress. And I have been on this Subcommittee I think twenty-three or four years of that time, and I have watched the population grow. And have watched directors over the years wrestle with that problem as inmate population kept growing and growing. And it is not getting any better. You say your inmate to staff ratio is 4.92, that is the highest ever, is it not? Mr. Lappin. Well, you know, at least in my tenure we know what it is back to 1997. We were at 3.57 in 1997, we are 4.92. So my guess is this is probably the highest ratio we have had in modern history.

Mr. Rogers. And how many employees short of the minimum number required for safe operations are you?

Mr. Lappin. How many, what is the minimum number for safe operation?

Mr. Rogers. Yes, how short are you of people?

Mr. Lappin. Well, it kind of relates to the question that the Chairman asked a few minutes ago. Yes, what is the right ratio? And again, we are working on what the right ratio is. Our target this year is to have about, 35,400 employees employed, or the compensation and overtime to the equivalent of about 35,400 employees. So if we do not have full-time positions, we are probably going to extend the equivalent of what is not filled in overtime to accomplish the work. Because we are really at the point where if someone does not come to work, we must fill that post with someone.

Mr. Rogers. I want you to make it simple for me.

Mr. Lappin. Okay.

Mr. Rogers. Do you have the minimum number of employees for safe operations? Do you have enough employees for safe operations?

Mr. Lappin. This year the number we have identified is 35,400.

Mr. Rogers. For safe operations?

Mr. Lappin. That is the number we want, yes. I mean, we do not have that number right now. Let me explain. We do not have that number right now. We are about 1,200 shy of that. However, we compensate for that through overtime, so technically, we have got that many employees. Therefore, we believe we continue to run safe and secure operations. We do not want to see that ratio increase any more. And that is why we have drawn, or targeted, that number of employees. If you know the equivalent in overtime----

Mr. Rogers. If you do not have overtime, if you disregard overtime, and you are paying people straight pay, how many people short of safe operations would you be?

Mr. Lappin. Again, we do have the overtime so we continue to run.

Mr. Rogers. If you did not have it?

Mr. Lappin. I think we are staffed at about 34,100. Is that about right?

Mr. Rogers. I will ask you a real simple question. I want a simple answer. With no overtime, if you did not pay overtime, and you are paying people straight pay----

Mr. Lappin. 1,200.

Mr. Rogers. Short?

Mr. Lappin. Yes.

Mr. Rogers. For safe operations?

Mr. Lappin. Well, I would not say for safe. We make adjustments internally. Certainly I can take more risks, for example, at minimums and lows. So what we will do is we will run shorter at minimums and lows where the inmates are less risky and we

will staff up at medium and highs to make sure that those institutions run and have the adequate number of people they need. So we have that flexibility. But if you ask what is the number, the minimum number we want this year? I am 1,200 short of that number.

STUN/LETHAL FENCES

Mr. Rogers. Well staffing or budget shortfalls have led several prisons, including McCreary County, Kentucky, the newest one in my area, to install what they call stun fences in lieu of managed central surveillance towers. Some people believe that tower surveillance is preferable with eyes on---

Mr. Lappin. Sure.

Mr. Rogers. And I assume you agree with that?

Mr. Lappin. I believe the stun lethal is the direction we should go.

Mr. Rogers. Is what? Mr. Lappin. Is the direction we should go. Let me just say, let me give you an example of why I think that. One, stun lethal or lethal fences have been in operation in corrections for twenty, twenty-five years. There was resistance in the Bureau to moving in that direction. But when we looked at our cost savings initiatives, we went and assessed those locations, looked at the operations that occurred there for fifteen, twenty years, and realized they could provide the same level of security at those locations without manning the towers. Many of the staff in towers that are operated cannot see inmates because many of the rec yards are internal now. So the staff in towers cannot see into the rec yards because the buildings are in their way. Unlike the old prisons where the rec yard was more open to the public, or more open to the fence.

So, you know, we could have a long debate, and I am sure there will be many discussions. We believe that if the funding is available it would be wise of us to. Again, technology changes all the time. And this is a technology advancement that we think has merit, that we think we will continue to run safe and secure prisons and not jeopardize the community. And so we are firmly behind the stun lethal fences, whether we have the funding or not because we think it is a more efficient way to operate the prisons.

Mr. Rogers. Mr. Chairman, I have other questions that I will defer to a later time.

ACTIVATION OF FCI POLLOCK

Mr. Mollohan. There will be other rounds. For those who may not have voted, there are forty-five seconds on this vote. Mr. Lappin, if, again, we have a \$240 million reprogramming request. If additional funding is provided at the Department's request level, will the new medium security prison FCI Pollock in Louisiana be activated in the year 2008?

Mr. Lappin. We are currently activating Pollock. It will not have inmates in 2008. But we are currently planning on ramping up, slowly, the staffing for Pollock.

Mr. Mollohan. Okay. So the answer is, even if you do not get this reprogramming, even if you do not get this infusion of \$240 million, Pollock will be activated?

Mr. Lappin. If we do not get the \$240 million we will do the most we can at Pollock to begin the activation. I will not deny that activation will be slowed significantly if we do not get the \$240 million.

Mr. Mollohan. Okay, I am going to step back then. What is activation in your definition so that we can operate off the same understanding?

Mr. Lappin. Once we begin an activation it takes us about six to eight months, depending on some variables, to get to the point where we begin accepting inmates.

Mr. Mollohan. Okay, and what is the moment of activation? When you start accepting inmates? Or when you start getting administrative people in the prison---

Mr. Lappin. Well we begin to, I guess that is a good point. When we begin hiring people in my mind is when the activation begins. Opening the prison with inmates is when you begin taking inmates. So that period between activation and bringing on

inmates is about six months in most cases. If we get into a community where we are struggling hiring locally, then sometimes it is extended somewhat.

Mr. Mollohan. Okay, well I am trying to tie this to your request, or the Department's request, for reprogramming of \$240 million which you have received. And I am trying to understand, if additional funding is provided at the requested level, will Pollock be activated in fiscal year 2008 or will it be activated anyway, and what do you mean by that?

Mr. Lappin. If we get the additional funding, obviously that activation will go much faster. By the end of fiscal year 2008 my guess is we could be very close to fully staffed.

Mr. Mollohan. And if you do not get it what -- Mr. Lappin. Then we can begin to bring inmates in soon thereafter. If we do not get it, it is going to slow down the staffing.

Mr. Mollohan. But you will still staff it?

Mr. Lappin. We will still staff it as high as we can given the other limitations. Again, obviously if we do not get the \$240 million we are going to be struggling to continue other operations. It will slow, I am not going to ramp up as fast a prison we are not using----

Mr. Mollohan. Well, let me ask you this. If you are on the brink, and I know you are so that is not the debate here, if you are on the brink of operating a safe prison system or not operating a safe prison system, or on the margins of that, if you activate a new prison which will result in, I do not know, another thousand, 1,200, 1,500 employees?

Mr. Lappin. 1,500? I am sorry.

Mr. Mollohan. I am talking about----

Mr. Lappin. 1,500 inmates, about 300 employees.

Mr. Mollohan. 300 employees?

Mr. Lappin. 300 employees.

Mr. Mollohan. Okay, so if right now you are on the edge with regard to funding S&E, how can you activate a prison without this infusion and bring on 300 employees more?

Mr. Lappin. You are correct. I mean, it is a very good point and that is why I say we would slow that activation. We would not hire as many. If we do not get the funding without a doubt it is going to be later in the year, or next fiscal year, before we actually begin to bring on inmates.

Mr. Mollohan. I feel like I am trying to help you here, but----

Mr. Lappin. I know you are----

Mr. Mollohan [continuing]. I feel like I am having a hard time doing it. It is probably my----

Mr. Lappin. No, you are absolutely correct. We are in a financial dilemma. We are cautiously moving forward. We are being very careful in what we spend. We are not aggressively pushing Pollock given the fact we are in this dilemma. If our sense is we are going to get the funding then we will certainly speed that up.

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

FUNDING/REPROGRAMMING

Mr. Mollohan. Okay. I do not think I have to do anymore on that. I think I understand. I have some information from the employees, the employee representatives, that if you were not to receive this additional money, \$240 million, \$280 million, \$300 million, that you would have to actually cut correctional staff in 2008. Do you agree or disagree with that statement? Mr. Lappin. Well, I have two choices there. If we did not get the additional funding, obviously, if we do not get additional funding

there is no way we could save that amount of money in operations. So given that, for us to live within the mark that we currently have, we would have to eliminate staff. That is one choice. The other choice is to go deficient.

Mr. Mollohan. I'm sorry?

Mr. Lappin. The other choice is to go deficient.

Mr. Mollohan. Oh, go deficient.

Mr. Lappin. Deficient.

Mr. Mollohan. So you are up against it here. The fiscal year 2009 request of \$5.436 billion for salaries and expenses represents an increase of 7.6 percent over the current year. Given the current year's shortfall, is this request adequate to meet basic BOP requirements in fiscal year 2009?

Mr. Lappin. As I expressed earlier, the increase from 2007 to 2008 was about \$55 million. So clearly, this is a much larger increase from 2008 to 2009, which is going to serve us extremely well. And hopefully we can get that or close to that mark. However, it will continue to be a challenge for us. I think it will serve us well. I think we will be in a better situation, certainly, in a much better situation than we are this year. It will still, I think, require us to act very cautiously, look for efficiencies, prioritize our responsibilities and focus on the highest priorities.

But yes, I think if we can get that mark we are going to be in a much better situation than we are this year. It may still require some strategies to gain efficiencies, but I think we could get through that----

Mr. Mollohan. Does the 2009 request take into account the possibility of this reprogramming request being granted? In other words, would the reprogramming request, say you were to get \$240 million, be annualized in the 2009 request?

Mr. Lappin. I do not believe that will happen. What I think is--- Mr. Mollohan. No, no, "will happen." The question is----

Mr. Lappin. It is not built in.

Mr. Mollohan. Okay, so the answer is no.

Mr. Lappin. That is correct.

Mr. Mollohan. So if you were to, if the Justice Department's reprogramming request at \$240 million were approved then would we anticipate receiving an amended budget request for 2009 to annualize the approval of that request? Of the 2008 supplemental request?

Mr. Lappin. On behalf of the base for 2009. Although there was a \$100 million 2008 reduction through the Congress.

Mr. Mollohan. I am going to forget that big long question I just asked. Are you answering it?

Mr. Lappin. I am going to answer it. I just want to make sure that the base in 2009 is \$100 million more than what we actually got in 2008. Because when the 2009 budget was built they added back in the \$100 million.

Mr. Mollohan. Okay, what about, all right, you are telling me \$100 million----

Mr. Lappin. That is right.

Mr. Mollohan [continuing]. Would be accounted for in the base, and it would be annualized for 2009 in your 2009 request?

Mr. Lappin. One hundred million more.

Mr. Mollohan. Okay, so there would be \$140 million that would not be taken into account and would not be annualized in your 2009 request? Correct?

Mr. Lappin. Correct.

Mr. Mollohan. So for that amount would we expect an amended budget request for 2009? If we were to approve the \$240 million would there be a request for--well, let me ask it.

Mr. Lappin. We do not anticipate that, no.

Mr. Mollohan. You do not anticipate what?

Mr. Lappin. An amended request for another \$140 million.

Mr. Mollohan. Well then, how are you going to pay for, in 2009, the increased funding, which is basically for S&E----

Mr. Lappin. Sure.

Mr. Mollohan [continuing]. Which will occur in 2009, how are you going to pay for it in 2009?

Mr. Lappin. Well, one we could work within the Department to identify other funding, possibly. But the other thing is, we may not see as many inmates. We anticipate some reduction in the number of inmates because of the crack amendment impact, the guideline amendment. Let us take an example currently.

Mr. Mollohan. But you are so far down on employees right now if you let every adjusted sentence adjust and release early, you would still be short of employees, would you not?

Mr. Lappin. But again, there are other things----

Mr. Mollohan. What is the answer to that question? And then you can elaborate.

Mr. Lappin. Would we still be short of----

Mr. Mollohan. Yes, sir. Of employees?

Mr. Lappin. Not necessarily.

Mr. Mollohan. Oh boy, I am really confused.

Mr. Lappin. Well, it is actually \$140 million. In the way you calculated it----

Mr. Mollohan. Did I ask the right question here?

Mr. Lappin. You did ask the right question.

Mr. Mollohan. Okay, thank you.

Mr. Lappin. We believe that with the higher number, the President's number----

Mr. Mollohan. Right.

Mr. Lappin [continuing]. And the fact that the base started a little higher than what was actually enacted, okay?

Mr. Mollohan. Okay. All right.

Mr. Lappin. You would assume we would be about \$140 million short.

Mr. Mollohan. Okay.

Mr. Lappin. What we can not gain through, continue to gain through efficiency in operational areas for some of that \$140 million. If not, we will work with the Department to identify what funding we might need beyond that. If it requires a reprogramming request, we would certainly submit one. But certainly starting off from this point we do not anticipate that, in hopes that we can gain those efficiencies through some of the strategies that we have. We will work with the Department. And if there is a need, we would ask for more funding. Obviously, we are not shy about that. We forwarded a \$240 million reprogramming to you this time. We would make the same assessment once we got into 2009.

Mr. Mollohan. You may not be shy but I would say the, the Department is reluctant. Thank you. Boy, I tell you, Mr. Frelinghuysen, saved by the bell.

RECIDIVISM

Mr. Frelinghuysen. Mr. Lappin, I just wanted to pick up one more figure. The number of people who come through your operation that have been in prison before or have come up through the juvenile system and had some degree of incarceration?

Mr. Lappin. The number of people?

Mr. Frelinghuysen. Yes. In other words, of the population--

Mr. Lappin. Not prior records?

Mr. Frelinghuysen. With prior records, yes. Mr. Lappin. I do not know that number off the top of my head. I may be able to find that number for you through our research department. I can tell you our recidivism rates----

Mr. Frelinghuysen. Yes.

Mr. Lappin [continuing]. Are about 40 percent in the federal prison system. So we are releasing 62,000, 63,000 inmates a year, of 50,000 of those returning to the United States we are seeing a return of about 40 percent. Which really, in my opinion, is significant. I mean, we would love to see it lower. We have seen that number come down over the last few years. If you look at the states, they have about 65 percent recidivism rates. We attribute the difference to the many, many BOP programs that are offered. The inmates are improving their skills in educational and vocational work, and more important are going home better prepared to face reality. But I will work with our research folks----

Mr. Frelinghuysen. Right.

Mr. Lappin [continuing]. To see if we can give you a number, the number of inmates coming into our system with prior records.

[The information follows:]

Inmates With Prior Records

Of the 77,804 inmates designated during calendar year 2007, 54,807 (70%) had a prior record, as indicated by U.S. Sentencing Commission's Criminal History Score.

CRACK SENTENCING AMENDMENT

Mr. Frelinghuysen. You started down this path, the impact of the crack amendment? Mr. Lappin. Yes.

Mr. Frelinghuysen. Just briefly, because I want to get into where you stand relative to the counterterrorism unit and things like that.

Mr. Lappin. As of, this week, Tuesday, we had processed

1,522 orders to reduce sentences. Of those, 793 were immediate releases. 729 shortened the sentence, but not to an immediate release so those inmates have some time remaining. I do not know exactly how much. Now that we have started the process our sense is that this fiscal year, between now and the end of September, we will probably release about 1,500 to 2,000 more inmates than we would have without the adjustment. We believe next year will probably be around 2,500 to 3,000. So there are 19,500 offenders who are potential candidates for reduction.

Mr. Frelinghuysen. Well you said that in terms of drug related you gave us a figure of 14,000 earlier.

Mr. Lappin. No, that was sex offenders.

Mr. Frelinghuysen. Oh, excuse me, sex offenders.

Mr. Lappin. And 52 percent of our offenders are drug offenders.

Mr. Frelinghuysen. Okay.

Mr. Lappin. But many of those offenders have convictions on things other than crack--powder cocaine, methamphetamine, marijuana. So of the 52 percent of the offenders, there are about 19,500 who may fall into the category of being eligible for a sentence reduction. We anticipate, at least the sentencing commission's projections reflect, that about 12,000 of those could be released over the next five years, earlier than they would have been. The other 6,000 or 7,000 are going to be spread out over the course of about fifteen or twenty years. So it is going to slow down significantly over the first five years.

Mr. Frelinghuysen. And they will be monitored after their departure?

Mr. Lappin. My assumption is the majority of them have supervised release. And my guess is we have some statistics of those that do not. But the vast majority of the offenders come into our custody and then have supervised release. So they do not lose that when they release early, it just picks up a little earlier. They continue to be supervised.

COUNTERTERRORISM

Mr. Frelinghuysen. Okay. Could we focus for a few minutes? We provided you with \$17 million last year to establish the counterterrorism unit. Where do we stand? How is the effort going? I know you have a pending supplemental of, what, \$ 9 million? Is that right? Update us on it.

Mr. Lappin. I am very pleased with the progress we have made, not just on the counterterrorism unit but on our management of terrorist offenders. Last year when we spoke there were some concerns over the monitoring of mail, phones, and so forth. The ramp up of the counterterrorism unit is going quite well. We are doing a better job of monitoring mail and phones given that mandate. The other thing we have done is we have----

Mr. Frelinghuysen. You may have to direct that to the Chairman.

Mr. Lappin. I will do that. We have ramped up communications management units. Now that we know we are going to have these folks long term, a lot of the more serious offenders, terrorists, were housed at ADX Florence. We found that some of those, although they needed closer monitoring, did not need the security requirements at Florence. So we are ramping up two communications management units that are less restrictive but will ensure that all the mail and phone calls of those offenders are monitored on a daily basis.

CRACK SENTENCING AMENDMENT

Mr. Mollohan. The new sentencing, or some decisions impacting the sentencing guidelines, would impact the length of the sentences for crack cocaine convictions and incarcerations? If that happens, you are going to be releasing drug addicted offenders more quickly, correct? Addicted offenders.

Mr. Lappin. Yes.

Mr. Mollohan. Does that suggest that somebody is going to have to take care of that problem on some percentage basis? I mean, they are not all going to walk out and stay clean.

Mr. Lappin. Right.

Mr. Mollohan. So what should we be anticipating? What should you be anticipating programmatically, or planning for programmatically? And what should we be anticipating in the treatment area? Should we be increasing the treatment intensity? The after care? The halfway house? How should we be doing this, particularly since folks are being released early?

Mr. Lappin. Well these folks that are being released immediately, unfortunately some of them will return to the community without treatment. That is unfortunate.

Mr. Mollohan. Well, that is really unfortunate.

Mr. Lappin. Very unfortunate. And given that, I would certainly be working with, we need to be working with probation, the folks that are supervising those folks. Some of them will release, unfortunately, without halfway house opportunity. Now this is a very small percentage of the entire group. It will only affect those that are releasing right now, and that we anticipate releasing with in eighteen months.

Mr. Mollohan. Are you releasing people right now that you were anticipating releasing in eighteen months?

Mr. Lappin. That we were anticipating?

Mr. Mollohan. Yes.

Mr. Lappin. Absolutely.

Mr. Mollohan. So this policy is in effect immediately?

Mr. Lappin. In November the Sentencing Commission made a decision, actually December, to adjust by two levels the crack guidelines, crack sentencing guidelines, and postponed its implementation until March 3. It asked judges to please wait until March 3, give the prisons and other probation, marshals, other folks, time to prepare for what could be a wave of early releases. And so there was kind of a waiting period. But some of these folks may be in drug treatment now, because they were nearing the end of their sentence. A few of them may not have gotten into drug treatment yet. And their sentence was shortened to the point that they are releasing with either only a portion of that treatment completed, or possibly none. But again, it will only affect those that are releasing right now.

Mr. Mollohan. Not only, though. I am all for a reconsideration of our sentencing guidelines. But is it mandatory that you release from the prison prisoners who fall into this category even if they have not received drug treatment? Or have----

Mr. Lappin. We have no choice. The judge reduces their sentence, we must release them.

Mr. Mollohan. Can they be released contingent upon their staying clean after they are released and going through a program that requires testing?

Mr. Lappin. I assume the court could put conditions on that release.

Mr. Mollohan. And when you say "the court?"

Mr. Lappin. The court.

Mr. Mollohan. You are talking about federal courts? The individual courts? It would be up to the discretion of the individual judge?

Mr. Lappin. Correct. Now, again, hopefully after this first wave, as I mentioned of the 1,500 we have received orders on 729 of them did not release. So what we will do with those, 729, we will immediately look at their new release date. And if they are recommended for drug treatment and they are volunteering for drug treatment, we are going to put them at the top of the list, and we will immediately put them in drug treatment.

Mr. Mollohan. Doing these things individually like that, is not the way to do it. We ought to be looking at what are the consequences of this action, however well intentioned. And I am totally in favor of more sympathetic treatment to people who are in jail because of drug use offenses. But it needs to be looked at in the context of the different situations we are putting people in and the likelihood of their being successful or failing in those situations.

Mr. Lappin. Well, without a doubt, it was a negative consequence of the decision. Because some of these folks will leave----

Mr. Mollohan. Well, they will be right back in.

Mr. Lappin [continuing]. Without completion of treatment. And just let me say, I mean, we are struggling a little bit in the drug treatment area. We unfortunately----

DRUG TREATMENT PROGRAM

Mr. Mollohan. Well, I want to get that. What about the needs, additional resource needs, to intensity the treatment for those who are still going to be in long enough to experience treatment? Do we need to think about the supplemental, increasing your funding in that area? 2008-2009? Mr. Lappin. Let me get the number for you here. This was the first year since the requirement was imposed, that we treat 100 percent of the inmates who require drug treatment, and volunteer for drug treatment, that we were unable to treat all of the offenders. We treated probably 18,000 offenders this past year. We needed to treat 22,000. So we----

Mr. Mollohan. And that is because of lack of resources?

Mr. Lappin. We did not have enough drug treatment specialists to increase the number of classes to accommodate that.

Mr. Mollohan. Okay, is that a problem you face, you are describing a 2008 problem?

Mr. Lappin. We still have that problem.

Mr. Mollohan. Were you describing 2007? Just when you said that was the first year? Okay. What about 2008? What is your circumstance in 2008?

Mr. Lappin. We still have a 7,000 inmate backlog for drug treatment.

Mr. Mollohan. Okay. Does the Department of Justice request for the \$240 million reprogramming include funds for adequate drug treatment of all the inmates that require it?

Mr. Lappin. I have to go back and check exactly what was included in that \$240 million?

Mr. Mollohan. So you are not sure you can answer that question?

Mr. Lappin. I will answer that. What we have done is, getting back to what we need----

Mr. Mollohan. Would you get back to the Committee for the record?

Mr. Lappin. I will do that.

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

Mr. Mollohan. Soon? Before we do our supplemental? And before we address your reprogramming request?

Mr. Lappin. I will do that.

Mr. Mollohan. I really want to know the answer to this. Your testimony indicates that 40 percent of inmates entering the BOP system have a drug use disorder and require residential drug abuse treatment. Do you agree with that?

Mr. Lappin. That is pretty close.

Mr. Mollohan. In fiscal year 2008, BOP was only able to provide treatment to 80 percent of eligible inmates instead of the 100 percent requirement established by the Violent Crime Control and Law Enforcement Act of 1994. Do you agree with that? Treated 80 percent instead of 100 percent that were mandated under the authorization?

Mr. Lappin. That is probably pretty close.

Mr. Mollohan. How much additional funding is needed to be in compliance with this law?

Mr. Lappin. We need about another eighty positions. And about \$10 million in funding to work off the backlog and treat 100 percent. The eighty positions are included in the \$10 million.

Mr. Mollohan. Now have you followed these individuals in a way that would allow you to tell us what percentage of the participants succeed in remaining drug free after treatment and after release?

Mr. Lappin. Yes.

Mr. Mollohan. Well, what is----

Mr. Lappin. Well, as I indicated our recidivism rate is about 40 percent. We have recidivism research on all of our programs. Our drug treatment, vocational training----

Mr. Mollohan. Well, that was not exactly my question.

Mr. Lappin. And we see a reduction of about 16 percent, from our 40 percent----

Mr. Mollohan. My question was how many remaining drug free? Do you have a kind of follow up program----

Mr. Lappin. Yes.

Mr. Mollohan [continuing]. That would allow you to say how many remain drug free?

Mr. Lappin. Well, I do not know the exact number. I can tell you what percent, which the percent coming back is probably about 30 percent of those folks coming back versus 40 percent without treatment.

INMATE MEDICAL CARE

Mr. Frelinghuysen. One of your biggest cost drivers in your S & E account is inmate medical care. We sort of touched on it. I think the last couple of years you have needed reprogramming to cover those costs. And you have a large increase for fiscal year 2009. Now what is the total amount budgeted in the package before us today for medical care?

Mr. Lappin. Medical care?

Mr. Frelinghuysen. Yes.

Mr. Lappin. We spent about \$730 million last year. I think we got close to \$800 million in requirements this fiscal year.

Mr. Frelinghuysen. Why the increase?

Mr. Lappin. The rising cost of healthcare----

Mr. Frelinghuysen. Right.

Mr. Lappin [continuing]. And aging. You know, although the average age remains about the same, we have a lot more older inmates. It is also because we tend to get a lot more younger inmates. So the average age stays about the same, but we have more older inmates, more care issues, more needs, and healthcare costs continue to increase.

Mr. Frelinghuysen. I cannot imagine a more difficult environment to provide inmate medical care. How much of it is provided in the institution and how much of it is related to being placed in other settings? I obviously assume these people are armed or not necessarily. They may be dangerous, but they obviously have to be guarded to protect other patients.

Mr. Lappin. Our goal is to perform as much of that care as we can in our institutions. But without a doubt, we cannot provide the full range of services. We have a break down of inside and outside healthcare. We will get that to you for the record. I do not have the exact number. But our goal is to provide as many of those services in our institutions. We have done a number of things to be more efficient. For example----

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

Mr. Frelinghuysen. And those who provide it are MDs?

Mr. Lappin. Oh, absolutely.

Mr. Frelinghuysen. Yes.

Mr. Lappin. Our healthcare structure, includes medical doctors, PAs and nurses, with their support staff. But it is really a combination service. We provide the base level staffing to perform the basic functions necessary in medical.

We oftentimes have contracted at each location with hospitals surrounding the facility to assist us with needs that we cannot provide there. What we have done is we realized, we finally realized, that we could not provide the same level of healthcare at all 114 prisons, given the fact that some were in very rural locations. Some were in locations where we really could not get very good deals at the local hospitals. So we basically went to structured care level facilities. So we have institutions now that have very healthy inmates. We have institutions that have less healthy, we have institutions with more ill inmates, and we have those that need hospitalization. So there was a couple things there. One, we could not get good contracts at local hospitals. Two, we could not hire the people we needed. We were in rural area. It was difficult to get the professional staff. And so we tried to put more healthy inmates there so you have less of a need.

Mr. Frelinghuysen. So the bottom line is you are doing your utmost to control the cost?

Mr. Lappin. I would be happy to provide for the record the strategies we deployed over the last three or four years to control costs. But even with that, our costs continue to increase.

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

CROWDING ISSUES

Mr. Frelinghuysen. Getting back to the issue of overcrowding, I understand you recently completed a study tying increases in crowding and inmate to staff ratios to increase in serious assaults. Can you tell us a little bit about, share the results of that study?

Mr. Lappin. We did do an evaluation of the impact on crowding and staffing on violent incidents. And let me give you an example. Let me explain a serious assault. A serious assault, is oftentimes when somebody has to go to the hospital. They need medical care. They could die, or they are very seriously injured. So you have got varying levels of assaults in the institutions. You have serious assaults, and you have less serious assaults. So the study was relevant to serious assaults.

Mr. Frelinghuysen. There are assaults, prisoner to prisoner and there are assaults prisoner to the prison staff. Make the distinction, if you could, in your response.

Mr. Lappin. Currently, we do it by rate per 5,000. Without a doubt, if you look at the actual numbers from year to year to year, the numbers are increasing but primarily driven by the fact that you have more inmates. So you would expect the number to go up. But if you look at it by rate, right now our rate of serious assaults on staff is 1.8 per 5,000 inmates. And on inmates, inmate on inmate serious assaults, is 10 assaults per 5,000 inmates. What that study reveals, is if you increase crowding by 1 percent, you should expect, I think, 4 or 4.09 more assaults per 5,000 than if it remained at the original level. If you increase the ratio of inmates to staff by one inmate, you are going to see an increase of assaults by about 4.5 per 5,000. If you lowered the ratio we would assume that there would be some lowering of that. So we know that crowding and level of staffing has an impact on the number of serious assaults. Obviously that's why we are monitoring very closely that ratio, of inmates to staff as well as crowding.

Mr. Frelinghuysen. So are there certain institutions that have historically had the most serious assaults between inmates and prison staff? Are there some that are up there historically?

Mr. Lappin. We monitor that very closely. You are right. It kind of goes in waves. It fluctuates. But there are a couple of locations where we have had more serious incidents than others. Let me give you an example. I just recently responded to the Chairman, specifically on homicides and assaults at certain penitentiaries. In that response, excuse me----

Mr. Frelinghuysen. I am glad you have quite a lot of water provided.

Mr. Lappin. But you know what? If I run out of water----

Mr. Frelinghuysen. All that water, it looks like it is from the spring but it is actually from the Anacostia.

Mr. Lappin. But if we run out of water and I am done, just give me a second, I will be done here in a second.

Mr. Frelinghuysen. Okay.

Mr. Lappin. One particular institution was USP Beaumont.

And without a doubt we have got concerns at that particular institution. And it has gone on several years. The staff there have done a wonderful job in very challenging circumstances. I give them enormous credit. On the other hand, I am concerned about their reaction to some of the training that is provided, some of the direction. And this goes to all of the staff. I am not talking about just management, I am talking about all of the staff. So given that, we are going to make an adjustment there, temporarily. We are going to bring down the security level. We are going to give them a break, and we are going to bring down the level of high security inmates there. We are going to reduce the number of inmates then we are going to do some training. We are going to ensure that the folks are properly trained, ready to go, and then we will begin to transition back.

So certainly when we see those incidents, let me give you the whole story. His other question was these newer institutions, you are seeing some serious assaults there. And we are. And that, I guess, certainly is the challenge of opening a high security institution with your most risky inmates and lots of less experienced people. So we have gone into those locations and done

additional training. We are very pleased with the reaction of those staff. We are confident that level of incidents will come down and be more consistent with other penitentiaries. But without a doubt, when we see this increase occurring over time, we try to intervene and do what we can to reduce those levels of incidents and concerns. That is a great question.

PROGRAMS TO REDUCE RECIDIVISM

Mr. Mollohan. Thank you, Mr. Frelinghuysen. Well, we have talked about inmate substance abuse treatment. And I would like for the staff to be able to follow up with you and your staff, Mr. Director, about that so that we know exactly what the situation is and what appropriation demands would be to make it better. Offender recidivism, as we talked about, is at a 40 percent rate. Other than drug treatment, what programs does the Bureau of Prisons offer, which you think have an impact in reducing, recidivism and what more should we be doing in those or other areas?

Mr. Lappin. Yes. Without a doubt, Prison Industries is one of these programs. Of the inmates who participate in Prison Industries, we see fewer of them coming back than the run of the mill inmate. Also inmates who get a GED, and inmates who get vocational training. And to be quite honest with you, even though we do not yet have the results of other specialty programs that improve social values, improve decision making, we anticipate that we are going to see similar results in those programs as well. So too other psychology programs, we have some other specialty programs, and we have faith-based programs. The bottom line is, those inmates are volunteering for those programs. That is the first step towards improving their skills and abilities. They are acknowledging, "Hey I have issues. I need to deal with those issues."

Mr. Mollohan. Yes, I get the feeling we have a very progressive management in the Bureau of Prisons. For all of these programs, we do not have enough resources to implement the programs that we need and certainly to run them at a scale that makes them available to all eligible, willing prisoners.

Mr. Lappin. We monitor our waiting lists in all these areas. We are managing the GED waiting list very well. We are managing the vocational training waiting list well. Obviously we have already talked about drug treatment and the backlog we have there. It is unfortunate that there are thousands and thousands of inmates who release from prison never participating in Prison Industries where they learn, work skills, that is a trade. They learn what it means to get up on time and be at a certain assignment and be held accountable for the work that you do. Work skills that many of them lack when they come to prison.

Mr. Mollohan. Mr. Lappin, I would like you to submit for the record references which discuss this matter. Academic references, case study references, which talk about all of these, I call them remedial programs, and to the extent they are available what impact they have on recidivism.

Mr. Lappin. We will do that.

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

Mr. Mollohan. And also the quality of life of incarcerated people. And then I would like to follow up, perhaps at a hearing, or otherwise, and understand those issues. So I have a lot of questions in those areas. Some of them we will submit for the record. But I do want to mention, or give you an opportunity to talk about the importance of the Prison Industries Program. I understand that is particularly effective at providing skills for inmates when they are released and works to reduce recidivism. Is that accurate?

Mr. Lappin. That is accurate. This was reflected by the research we have done on inmates who participate in a Prison Industries Program for as little as six months.

Mr. Mollohan. How many inmates in the federal prison system ever participate in a Prison Industries Program?

Mr. Lappin. Today there are 23,000 inmates working in Prison Industries.

Mr. Mollohan. What is the percentage of your population?

Mr. Lappin. 18 percent of the eligible inmates who could be in Prison Industries.

Mr. Mollohan. 18 percent of the eligible inmates?

Mr. Lappin. 18 percent of the eligible inmates.

Mr. Mollohan. Yes.

Mr. Lappin. Our goal is 25 percent.

Mr. Mollohan. Why? Does that reach all of them?

Mr. Lappin. It does not.

Mr. Mollohan. Well why is that your goal? Why is your goal not to reach 100 percent of those who are eligible?

Mr. Lappin. I am confident if we ever reach that goal, we will set a new goal. But it has been the goal for many years.

Our proposal would be that all eligible inmates----

Mr. Mollohan. And that is a factor, really, of resources, that also the push back you get from the private sector with regard to Prison Industries, is that correct?

Mr. Lappin. And some legislation that has been passed that has limited our ability to continue to grow and provide additional work opportunities in Prison Industries.

Mr. Mollohan. Yes, I think that is very shortsighted because the cost to society is real and the savings to society would be, I think, equally or more real if we did engage inmates in more skill----

Mr. Lappin. I mean, we recognize the concern. The concern is we are taking jobs away from law abiding citizens and businesses. We do not want to do that.

Mr. Mollohan. Yes.

Mr. Lappin. We are more than happy to explore work opportunities that have less, if any, impact on businesses in the United States. Let me give a quick example, call centers. Most of that work has been done in other countries. We have brought some of that work back and inmates are now answering 411 calls for information, all public information. It is a wonderful area. They work in shift work. In advance of going into that program they receive education where we help them eliminate slang from their language----

Mr. Mollohan. Yes, I do not want to go into too much of that but you have certainly affirmed the usefulness of the program and I would like to follow up for the record, and to follow up otherwise.

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

HEALTHCARE COSTS

Quickly on healthcare costs, because we have not included, and Mr. Ruppertsberger has not had a chance to question and Mr. Rogers wants an additional chance. But I do want to talk about healthcare cost increases. The budget includes large increases for healthcare, \$40 million just for healthcare inflation and a requested increase for population adjustment. 32 percent is for medical care and supplies, I understand. What is the total amount budgeted for prison healthcare in 2009?

Mr. Lappin. I think it is \$770 million.

Mr. Mollohan. What has been the annual cost growth for medical services?

Mr. Lappin. I think at about 9 percent. I think that is, other than personnel, it is about a 9 percent increase from year to year, over the last couple of years.

Mr. Mollohan. I understand that we are not adequately providing healthcare to all inmates in the prison system. Or that is my belief. Is that accurate?

Mr. Lappin. I do not agree.

Mr. Mollohan. Okay.

Mr. Lappin. I believe we are providing adequate healthcare.

Mr. Mollohan. What about all these drug offenders?

Hepatitis, are they all being treated adequately for any drug related diseases such as hepatitis?

Mr. Lappin. We very closely track infectious diseases. We know exactly how many HIV offenders there are, that we are aware of, and under risk assessment we test hepatitis, chronic hepatitis B, chronic hepatitis C. We know exactly how many offenders--

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Mr. Mollohan. Okay, would you submit a detailed answer for the record? Mr. Ruppertsberger?

[Clerk's note.--The Department of Justice was unable to provide answers to the questions submitted by the Committee within the timetable established by the Committee. Submissions provided to the Committee subsequent to the printing of this official record have been retained in the Committee's permanent files.]

GANGS AND COUNTERTERRORISM

Mr. Ruppertsberger. Just a couple questions. On the issue of gangs and counterterrorism in prison, I just, I am from the Baltimore area, and ATF working with local law enforcement just had a bust of a Blood gang member and it has turned out, I believe, the key, the head of the operation was running the whole gang operation out of a state prison in Western Maryland. Also the issue of terrorism. And those are two subject matters that are different. You have gangs on the one area, Crip/Blood and whatever else you have, and then the terrorism issue. Are you working with the other federal agencies, both intelligence and FBI, ATF, DEA to deal with that? What are you doing and how are you dealing with it? It is my understanding you are dealing with it a lot better than state prisons.

Mr. Lappin. We all have our challenges. But I have to say I thank our staff locally. This is the key, you need support from the top. And we have great support from FBI, DEA, U.S. Marshals, in effective communication back and forth on offenders who are coming into our custody or leaving our custody, who have associations with disruptive groups or security threat groups, which is the generic term for all the gangs. We operate in conjunction with the Marshals, the FBI, the Sacramento Gang Intelligence Unit in Sacramento, California, which is kind of the clearing house.

Mr. Ruppertsberger. And the Marshals are the---- Mr. Lappin. The Marshals, the FBI, they are part of that organization.

Mr. Ruppertsberger. Kind of like a strike force?

Mr. Lappin. It is, and in fact it is housed in the same building as the California gang intelligence unit. And they work collaboratively on identifying people who are coming into our system, and leaving our system. So we know who is coming as best we can, and they know who is leaving as best they can. I think over the last three or four years the communication has been enhanced significantly. A greater flow of information, great work locally and nationally on that type of issue.

Mr. Ruppertsberger. Do you coordinate with the JTTF in that regard too?

Mr. Lappin. We have permanent members. We have two permanent seats on the National Joint Terrorism Task Force.

Mr. Ruppertsberger. Okay, good.

Mr. Lappin. And our staff are actually the liaisons for all corrections, federal, state, and local. More applicable to terrorists, but certainly getting involved in some of the gang issues. Locally where we have prisons, many of our wardens or representative of the warden are on the local JTTFs so that they are involved locally as well.

Let me just transition a little bit. Let me back up.

Without a doubt, as I said earlier, the management of the gangs continues to be a challenge. More of them, more younger offenders, more violent, more gang associations, so it is troublesome for us. And we are currently stepping back, reevaluating how we are managing those gangs, and the gathering of information. We record all the phone calls, we monitor as many as we can. We read mail, especially on high profile inmates. Our classification system takes into account gang participation. So certainly those at the higher levels end up in more structured, and more controlled environments.

Mr. Ruppensberger. Let me stop you right there. If you have identified a gang leader. Do you have a policy on cell phones in federal prisons?

Mr. Lappin. Yes.

Mr. Ruppensberger. What is that?

Mr. Lappin. None.

CONTRABAND AND STAFF SEARCHES

Mr. Ruppensberger. None, okay. So the other issue. It seems where we are having problems are corruption with respect to the prison guards. And again, this is more state than federal, so I am focusing more on my knowledge of the state prison. Do you have an issue there? And if you do, what protocols do you use to identify that?

Mr. Lappin. It is as much a challenge for us as it is locally. That is, the introduction of contraband, some of which comes in through other inmates or families, some comes in through staff who have decided to break the law, unfortunately.

We have recently implemented, I guess it was until January we did not search our staff coming to and from work. We now search all our staff entering work.

Mr. Ruppensberger. So that is a protocol?

Mr. Lappin. Obviously we will be doing a better job of stopping the introduction of metal, cell phones, those types of issues. It is still going to be a challenge. We are working closely with a number of organizations to identify equipment to help us detect phones in prisons. So it is a big challenge for us. And the smaller the phones get and the less metal that is in them it is going to be more of a challenge.

TERRORISTS

Let me transition real quickly to terrorists. We have got about 211 international terrorists. If you throw in the domestic terrorists the number goes up to a little over 1,200. As I mentioned earlier to one of the other questions I think--

Mr. Ruppensberger. Where are these terrorists from, by the way? What countries?

Mr. Lappin. You know, primarily the Middle East.

Mr. Ruppensberger. Okay.

Mr. Lappin. But there are some international terrorists from other countries. I could get you, I could get a break down very easily and submit it to the record. I think today we are doing a much better job than we were doing a year ago and the year before that. We know more, we have increased resources. We are monitoring 100 percent of the phones and mail for those inmates, it is required for those that we have concerns about. We have in place contracts with companies or to assist us with interpreting. We struggle trying to find resources to bring into the system, to hire people. So we now have contracts in place to complete the interpretations that are required. We have a system to classify those individuals, so that we have them at appropriate security levels and locations to monitor and oversee their incarceration, and what contacts they have both in and outside of prison.

[The information follows:]

Citizenship of International Terrorists

International Terrorists Incarcerated in BOP institutions are citizens of following countries:

Afghanistan, Algeria, Angola, Belize, Canada, Colombia, Croatia, Cuba, Denmark, Ecuador, Egypt, France, Gaza Strip*, Haiti, Indonesia, Iran, Iraq, Japan, Jordan, Kenya, Kuwait, Lebanon, Morocco, Pakistan, Saudi Arabia, Somalia, Spain, Sri Lanka, Sudan, Syria, Tanzania, Trinidad, Turkey, United Kingdom, United States, Yemen, and Yugoslavia (Serbia).

*Not a country.

Mr. Ruppensberger. Okay. Thank you.

Mr. Mollohan. Mr. Rogers.

Mr. Rogers. Thank you, Mr. Chairman. Back briefly to the staff versus prisoner ratio. Have you noticed any change in the number of incidents of violence or disorder as your staff ratio has increased?

Mr. Lappin. If you look at the rate of serious incidents over time, you will see peaks and valleys. But the trend has been a slight increase in the rate of serious assaults. So we have not seen a significant increase. There has been more of an increase at higher security institutions, a concern of ours. I think what concerns me more is the increase in the severity of those incidents. We are seeing more serious assaults. When we have serious assaults they are more serious, I think, now than in the past. We have had a rash of homicides. We have had, as of today, nine homicides this fiscal year. We had twelve last year in 2007. We had four in 2006, and we had twelve in 2005. Let me give you the three prior years, for 2004, 2003, and 2002. We had four, three, and three. So we have seen an increase in the severity of the serious assaults. We have also seen a severity of those assaults that occur on staff, a huge concern of ours.

So, again, the number is a little deceiving. When you look at the rate, you do not see a huge increase. You would assume there would be given more inmates, and fewer staff. On the other hand we are very concerned about the severity of the assaults that are occurring. And we are trying to address those issues by identifying those offenders who behave in that manner and getting them into higher security institutions for greater control and custody.

NON-U.S. CITIZEN INMATES

Mr. Rogers. Deportable aliens.

Mr. Lappin. Yes.

Mr. Rogers. How do you handle that?

Mr. Lappin. Of the 201,000 inmates, almost 52,000 are non-

U.S. citizens. 22,000 of those are incarcerated in private contract facilities. We determined some years ago that would be an appropriate use of private contract facilities. So 22,000, of the low security offenders, low security criminal aliens are the only offenders that are there, primarily. There is a small group of D.C. offenders in one facility, about 600 to 700. So the vast majority of the offenders in private corrections are low security, criminal aliens. The rest of them, the balance, are housed in our low facilities. What we cannot get into our private contract low facilities are in our low facilities. The majority of what remains are in mediums and highs because of violence or escape history, or disruptive behavior.

Mr. Rogers. Well, I want to know about deportable.

Mr. Lappin. Yes.

Mr. Rogers. Those that can be deported.

Mr. Lappin. They are, and obviously they first stay at locations around the Bureau. We have a cooperative agreement with the Bureau of Immigration and Customs Enforcement where they actually have staff on site. And we try to concentrate the individuals who are being considered for deportation, who are coming up on the end of their sentence, we try to concentrate them at those locations around the Bureau. There are institution hearing programs officers from the BICE agency who review and determine whether or not that person is going to be deported. We also work with them and have a facility in Oakdale, Louisiana where many of these offenders are ultimately transferred. If there is a decision to be deported, many of them end up in Oakdale, Louisiana where we then, again, work with the immigration staff to have them deported to their country of residence. There are some folks who we are unable to deport because the country of residence will not accept them. And some of them remain in our custody. Oftentimes BICE takes them back into their custody to house them as detainees. But a small portion of them remain in our custody as long term detainees. We are working closely with BICE for a reimbursable agreement on those few that remain in our custody. Oftentimes the ones that stay with us have health issues or at a higher security level than what they want to put in some of their detention facilities.

Mr. Rogers. Well, I am trying to figure out a place to help you reduce the population. So aliens, noncitizens who are serving time in a federal prison, you do not have the authority to deport them short of them serving their time here?

Mr. Lappin. No, I do not.

Mr. Rogers. Should you and would you like to?

Mr. Lappin. Well, I think that is an issue for the Department of Justice.

Mr. Rogers. You have a feeling about it, surely.

Mr. Lappin. Well, again, I am open to any strategy to help us maintain safe, secure prisons. I certainly have no problem assisting or working with the Department to determine if this is a viable option, and with the Bureau of Immigration and Customs Enforcement.

Mr. Rogers. Now one-third of your prisons are over fifty years old?

Mr. Lappin. Yes.

Mr. Rogers. And require very significant upgrades and maintenance because of that, obviously. But in your testimony you also indicate that the prisons constructed since the seventies reflect a modernized architectural design to support the principle of direct supervision of inmates. In other words, increased efficiency.

Mr. Lappin. Increased visibility.

Mr. Rogers. But requiring fewer personnel per prisoner.

Mr. Lappin. If you compare institutions designed prior to that, you are going to see the need for more staff per inmate than in the newer facilities.

Mr. Rogers. Now, the President's Budget Request includes only \$95 million for construction, which includes maintenance of these older prisons especially, which is some indication that your facilities budget is going to become even more acklogged. Repair projects deferred, projects already in construction delayed, not to mention new construction. Is that not counterproductive? If a new prison is going to save you a lot of manpower, they are more efficient. They were designed that way, right? So does it not make sense to phase out some of the really old ones that are not efficient and need a lot of repair in favor of a newer facility?

Mr. Lappin. I cannot argue that point. Clearly there are some of our older facilities that are very expensive to continue to operate. But our dilemma has been that we have never had the opportunity to close them because we have too many inmates.

Mr. Rogers. Yes.

Mr. Lappin. We could not take them offline.

Mr. Rogers. Have you ever closed one?

Mr. Lappin. Yes, we have. In fact, we just closed four institutions a year ago. Four older, very small, inefficient, minimum security camps. But over the course of seventy-seven years we have closed a number of prisons. Alcatraz, McNeil, well, we did not close McNeil we gave it to the State. There are a number of different institutions. We have a list of institutions that have been closed over the years.

Mr. Rogers. Yes.

Mr. Lappin. But certainly an area of concern. There are two aspects of the B and F budget. Certainly new construction is one issue. M and R is the other issue.

Mr. Rogers. Let me briefly follow up.

Mr. Lappin. And we certainly have to prioritize very cautiously funding for modernization and repair because of the number of older prisons and the cost of reconstruction and modernization. So it is an area we really have to prioritize well. Without a doubt we are concerned about the funding level in that area.

TELE-HEALTH

Mr. Rogers. Let me follow up briefly on the Chairman's questioning about medicine, healthcare. I remember from years ago we were talking about telehealth and telemedicine in the prisons. That has probably been fifteen years or so. I do not think we have moved very far along in that time, have we?

Mr. Lappin. Well, we have some. Not as far as we would like to have moved. We do quite a bit of telepsychiatry. We are doing some telehealth in certain locations where we have a contract with a community hospital or an organization that can assist us with that. But without a doubt, we are not where we would like to be. I think that has been limited some by our funding challenge. I mean, without a doubt some of the things that we would like to do have been slowed, given the funding challenges that we have had over the last three or four years.

Mr. Rogers. Well, it just makes all the sense in the world to me to try to utilize telemedicine in the prisons, saving manpower and expenses and malingering prisoners who use this as an excuse to take a ride out in the country one day a week.

Mr. Lappin. Let me mention something we see evolving though. I mean, you are right, fifteen, twenty years ago we saw a greater need. But what has occurred over the last ten, fifteen years or more, is community hospitals who are willing to come to the facility to provide service. That has had a huge impact because in the past typically we took the inmates to the hospital. But we have now arranged services through contracts for them. Let us take FMC Butner in Raleigh, North Carolina. We have several contracts locally where on a given day somebody shows up to do certain types of services for inmates. And we will have all the inmates prepared. Contractors spend an entire day so it is efficient for them. Given that we have seen more of a transition to that type of provision of services, not to say that telehealth is not an option, but we certainly see a bit of a transition ongoing via the priorities and the available manner to provide services.

Mr. Rogers. You could stop a lot of prisoners saying, "I am sick. I want to go to the doctor or the hospital just to get a free ride into town or day out of the cell." I am sure if you said to that same person, "Okay, come to this next cell and we will hook you up with a doctor across town or across the countryside here," I would say you would have fewer prisoners saying they were sick, one. Two, you do not have to have your staff accompany that prisoner all day long out there, wasting time, so it makes every bit of sense in the world to try to save some money. Now the FCC has just awarded over \$417 million for the construction of sixty-nine statewide or regional broadband telehealth networks in forty-two states and three U.S. territories. It seems like a grand time for you to make your big move.

Mr. Lappin. I would love to have that information. We would welcome an opportunity to chat with them.

Mr. Rogers. With whom?

Mr. Lappin. Make connections with the people. I was unaware of this. And if there is funding for the advancement of telehealth we will certainly look into it and see how it can be utilized.

Mr. Rogers. Well I would challenge you to do that. No one is going to come and lay it on your table. You are going to have to go after it.

Mr. Lappin. Absolutely.

Mr. Rogers. There has been awarded a big sum of money for the FCC to expand the telehealth network, which could save you tons and tons of staff and money.

REIMBURSABLE AGREEMENT WITH BICE

Mr. Lappin. You know, you mentioned a few minutes ago about the long term detainees. I can tell you for sure the ones that we keep in our custody typically are individuals who have huge medical issues, because BICE may not have the locations available, or the resources to provide it. So what we need from them, as an example, is a reimbursable agreement with BICE to pay for the cost of those individuals. But we will certainly look into, this opportunity to see if we can enhance our----

Mr. Rogers. If you could get back to us with some report on how you are proceeding, I would appreciate that.

Mr. Lappin. I will do that.

[The information follows:]

Mr. Rogers. And I would be happy to try to help the gentleman and I am sure all of us would. Thank you, Mr. Chairman.

Mr. Lappin. And with the BICE issue.

Mr. Mollohan. Thank you, Mr. Rogers.

Mr. Rogers. Thank you.

Mr. Mollohan. Mr. Aderholt, we are about ready to move onto our next witness. We have three hearings. Do you have any?

Mr. Aderholt. No, you all can move on and I will get ready for the next witness.

Mr. Mollohan. I know the Director will welcome any questions for the record from any of us.

Mr. Aderholt. I have some for the record. I know you would love to stay longer, but---

Mr. Lappin. I am running out of water.

Mr. Mollohan. Director Lappin, again, thank you for appearing before us particularly under these circumstances. And we look forward to working with you and your fine staff. We appreciate the great job they do and we look forward to working with you as we mark up this bill and 2008 supplementals reprogrammings and try to get the Bureau of Prisons the resources they need to do their job. Thank you for appearing here today.

Mr. Lappin. I appreciate your listening and assisting us. We look forward to working with you.

July 22, 2008 -- Washington Times (DC)

OpEd: Secure the Homeland -- Increase Prison Guards

By John Gage and Bryan Lowry

It's the most combustible blend imaginable. Take the federal prison system, dramatically increase the number of inmates, reduce the number of correctional officers, and what do you get? Overcrowding and violence that puts prison staff, the inmates themselves, and the surrounding communities in grave danger.

Sometimes, the results are lethal. Tragically, that was the cruel and preventable fate of Jose Rivera, who was just 22 when he was killed on June 20 by inmates with homemade weapons at the U.S. Penitentiary in Atwater, Calif.

Mr. Rivera's death was a consequence of irresponsible federal policy-making and the inexorable laws of mathematics and human behavior. The higher the correctional officer-inmate ratio, the safer prisons will be, and the lower the ratio, the more likely it is that prisoners will attack one another or their guards.

The prison population is exploding, largely as a consequence of harsh mandatory sentences for drug violations enacted more than two decades ago. Before the new laws were passed, in 1980, there were 25,000 inmates in U.S. Bureau of Prison (BOP) facilities. Ten years later, the number of inmates more than doubled to 58,000. Another 10 years later, and it more than doubled again to 145,000. Today, the federal prison population has topped the 200,000 mark, and it is projected to reach 215,000 by 2010.

However, the number of corrections officers to guard them has not come close to keeping pace. In the mid-1990s, the BOP had 95 percent of positions filled. Today, the situation has deteriorated, with the BOP staffed at an 86.6 percent level and roughly 5,000 correctional officer positions unfilled.

The data confirm what common sense tells us - as overcrowding and understaffing have worsened, violence has grown. For example, a BOP report covering fiscal 2006 found that there were 1,362 armed and unarmed assaults by inmates on staff - a six percent increase over the previous year - and 1,780 inmate on inmate assaults, a 16 percent rise.

Consider also that BOP has some of the most violent inmates in our prison system, including gang members and terrorists such as Eric Rudolph, Theodore Kaczynski ("Unabomber"), and the alleged 20th hijacker Zacarias Moussaoui. Should the next president close Guantanamo Bay, the BOP will be the new home for many more terrorists.

Clearly, this is a homeland security issue that ought to be addressed with the urgency it deserves by the White House and Congress.

First, Congress should enact and the president should sign a \$500 million increase in BOP funding for fiscal 2009 to increase federal correctional officer staffing levels.

Second, federal policy makers should oppose any effort to eliminate the mandatory source preference of the Federal Prison Industries (FPI). This is a federal work program that keeps inmates occupied and productive throughout the day. Without the FPI - or a strong alternative work-based training program that would create a comparable number of inmate jobs - inmates would have much more unstructured time on their hands, a surefire recipe for more violence.

Third, Congress should pass H.R. 1890, legislation introduced by Rep. Tim Holden, Pennsylvania Democrat, that would prevent the use of federal funds for privately-run prisons. The record of prison privatization is not unlike the results of privatization in Iraq with the scandals of Blackwater and Halliburton. Numerous alleged abuses, escapes, riots and safety lapses have been documented at prisons run by the nation's largest private prison companies. Moreover, a 1997 study reported 49 percent more inmate-on-staff assaults and 65 percent more inmate-on-inmate assaults in medium- and minimum-security private prisons than in comparable government prisons.

Jose Rivera should never have been killed. While we cannot turn back the clock, we can ensure that he did not die in vain. In his memory - and for the safety of our brave correctional officers and the people who live near BOP facilities - Congress and the next president must fix our ailing federal prison system.

John Gage is president of the American Federation of Government Employees. Bryan Lowry is president of the AFGE Council of Prison Locals.