

**OVERSIGHT OF THE FEDERAL BUREAU OF
PRISONS AND THE U.S. MARSHALS SERVICE**

HEARING

BEFORE THE
SUBCOMMITTEE ON CRIME, TERRORISM,
HOMELAND SECURITY, AND INVESTIGATIONS
OF THE

**COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

APRIL 26, 2017

Serial No. 115-17

Printed for the use of the Committee on the Judiciary



Available via the World Wide Web: <http://judiciary.house.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

29-793

WASHINGTON : 2018

COMMITTEE ON THE JUDICIARY

BOB GOODLATTE, Virginia, *Chairman*

F. JAMES SENSENBRENNER, Jr., Wisconsin	JOHN CONYERS, JR., Michigan,
LAMAR S. SMITH, Texas	JERROLD NADLER, New York
STEVE CHABOT, Ohio	ZOE LOFGREN, California
DARRELL E. ISSA, California	SHEILA JACKSON LEE, Texas
STEVE KING, Iowa	STEVE COHEN, Tennessee
TRENT FRANKS, Arizona	HENRY C. "HANK" JOHNSON, JR., Georgia
LOUIE GOHMERT, Texas	THEODORE E. DEUTCH, Florida
JIM JORDAN, Ohio	LUIS V. GUTIERREZ, Illinois
TED POE, Texas	KAREN BASS, California
JASON CHAFFETZ, Utah	CEDRIC L. RICHMOND, Louisiana
TOM MARINO, Pennsylvania	HAKEEM S. JEFFRIES, New York
TREY GOWDY, South Carolina	DAVID N. CICILLINE, Rhode Island
RAÚL LABRADOR, Idaho	ERIC SWALWELL, California
BLAKE FARENTHOLD, Texas	TED LIEU, California
DOUG COLLINS, Georgia	JAMIE RASKIN, Maryland
RON DeSANTIS, Florida	PRAMILA JAYAPAL, Washington
KEN BUCK, Colorado	BRAD SCHNEIDER, Illinois
JOHN RATCLIFFE, Texas	
MARTHA ROBY, Alabama	
MATT GAETZ, Florida	
MIKE JOHNSON, Louisiana	
ANDY BIGGS, Arizona	

SHELLEY HUSBAND, *Chief of Staff & General Counsel*
PERRY APELBAUM, *Minority Staff Director & Chief Counsel*

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY AND INVESTIGATIONS

TREY GOWDY, South Carolina *Chairman*
LOUIE GOHMERT, Texas, *Vice-Chairman*

JIM SENSENBRENNER, Jr., Wisconsin	SHEILA JACKSON LEE, Texas
STEVE CHABOT, Ohio	TED DEUTCH, Florida
TED POE, Texas	KAREN BASS, California
JASON CHAFFETZ, Utah	CEDRIC L. RICHMOND, Louisiana
JOHN RATCLIFFE, Texas	HAKEEM JEFFRIES, New York
MARTHA ROBY, Alabama	TED LIEU, California
MIKE JOHNSON, Louisiana	JAMIE RASKIN, Maryland

CONTENTS

APRIL 26, 2017

OPENING STATEMENTS

	PAGE
The Honorable Trey Gowdy, South Carolina, Chairman, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Committee on the Judiciary	1
The Honorable John Conyers, Jr., Michigan, Ranking Member, Committee on the Judiciary	3
The Honorable Bob Goodlatte, Virginia, Chairman, Committee on the Judiciary	5

WITNESSES

Dr. Thomas Kane, Acting Director, Federal Bureau of Prisons Oral Statement	7
The Mr. David Harlow, Acting Director and Deputy Director, U.S. Marshals Service Oral Statement	8

OVERSIGHT OF THE FEDERAL BUREAU OF PRISONS AND THE U.S. MARSHALS SERVICE

WEDNESDAY, APRIL 26, 2017

HOUSE OF REPRESENTATIVES,

SUBCOMMITTEE ON CRIME, TERRORISM, HOMELAND SECURITY, AND INVESTIGATIONS,

COMMITTEE ON THE JUDICIARY,

Washington, DC.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2141, Rayburn House Office Building, Hon. Trey Gowdy [chairman of the subcommittee] presiding.

Present: Representatives Gowdy, Gohmert, Goodlatte, Chabot, Poe, Ratcliffe, Roby, Johnson of Louisiana, Jackson Lee, Conyers, Deutch, Bass, Richmond, Lieu, and Raskin.

Staff Present: Margaret Barr, Counsel; Jason Cervenak, Counsel; Scott Johnson, Clerk; Joe Graupensperger, Minority Counsel; Veronica Eligan, Minority Professional Staff Member; Mauri Gray, Minority Crime Detailee; and Regina Milledge-Brown, Minority Crime Detailee.

Mr. GOWDY. Good morning. The committee will come to order.

I first want to apologize to everyone, the witnesses, the guests, my colleagues, for being late. We had a House Intel Committee meeting that I needed to be at. So I apologize.

This is a hearing of the Subcommittee on Crime, Terrorism, Homeland Security, and Investigations. We are pleased to have our two witnesses. I will recognize myself for an opening statement, and then my friend from Michigan.

Thank you, everyone, again, for being here. This is the third in a series of hearings to examine the Justice Department and its component agencies as we work to create a justice system that is respected by all and worthy of respect from all. So I want to thank our witnesses again, specifically Thomas Kane, the acting director of the Federal Bureau of Prisons, and David Harlow, the acting director of the U.S. Marshals Service, for appearing before the committee today.

Respect for and adherence to the rule of law is the thread that holds the tapestry of this country together. The law is the most unifying and equalizing force we have, and the best way to respect the law is to enforce it. We are here today to examine two of our law enforcement agencies: the Federal Bureau of Prisons and the United States Marshals Service. The men and women of the BOP

and Marshals Service have committed their careers to public service, justice, and the rule of law.

The Federal Bureau of Prisons' mission is to protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure. Inside the prisons, the BOP programs provide work and other self-improvement opportunities to assist inmates in becoming law-abiding citizens. While we seem to be more familiar with the former, we often fail to recognize the efforts the BOP makes to reduce rates of recidivism and encourage inmates in their transition back into society.

The reality is most of the women in the BOP and the various State departments of corrections will reenter society at some point. Many of these women and men will reenter society with either restitution due to victims or other familial and societal obligations, which require a job. Jobs require education, training, and life skills. Through education programs, inmates have the opportunity to take vocational and occupational training classes, literacy classes, parenting classes, wellness education, and language classes.

The BOP also provides a full range of mental health treatment, through psychologists and psychiatrists. Through their religious programs, chaplains facilitate religious worship and sacred, scriptural studies across all faith lines. As advances have occurred in substance treatment programs, the BOP's drug abuse treatment strategy has grown and changed, focusing more on effective, evidence-based practices. These programs have reduced relapse, criminality, recidivism, and inmate misconduct, while improving relationships, health and mental health conditions, levels of education, and, therefore, employment upon return to the community.

These programs are crucial to providing inmates the opportunities to readapt into their community environment during the final portion of their imprisonment. Overall, these programs result in enormous safety and economic benefit to the public.

The United States Marshals Service, our Nation's oldest law enforcement agency, has been the enforcement arm of the Federal courts and has protected the Federal judicial process since 1789. Just last week, I was with colleagues and friends in Fort Smith, Arkansas, where plans are taking hold to build a museum to honor the women and men of the United States Marshals Service for their countless and historic contributions to the betterment of our country.

Whether serving Federal-level arrest warrants, protecting officers of the court, or protecting Americans through the Witness Protection Program, our U.S. Marshals' mission is to enforce Federal laws and provide support to virtually all elements of the Federal justice system. To execute their mission, they organize themselves into five decision units: Judicial and Courthouse Security, Fugitive Apprehension, Prisoner Security and Transportation, Protection of Witnesses, and Tactical Operations.

By providing protection for Federal judges, court officials, witnesses, jurors, visiting public, and prisoners, the U.S. Marshals quite literally safeguard our judicial process every day. They provide assistance to State and local law enforcement by tracking

down fugitives, recovering abducted children, identifying and locating sex offenders, just to name a few of their many responsibilities.

As we examine the Federal Bureau of Prisons and the U.S. Marshals Service during our hearing today, it is important we not only recognize the critical role these agencies play in our criminal justice system, but also the sacrifices made by the women and men on the staff of the BOP and the Marshals Service. Their sacrifice, unfortunately, sometimes goes unrecognized, but it should be highlighted.

It is because of the BOP and the Marshals Service our communities remain safe and protected from criminals. And it is because of these agencies that justice is and can be carried out.

The work they do is incredibly dangerous, interacting with inmates, offenders, criminals who are often a threat, both to themselves and everyone around them. Some inmates are dangerous and disruptive and present extreme security risk to both our prisons and our Nation. For example, prisons constantly face the danger of contraband security threats, including cellphones, illicit drugs, and drones. Every day, BOP employees walk into potentially volatile situations. There are examples of prisoners coordinating with individuals outside the walls of prisons, which result in serious injury or even death of BOP employees.

All of our law enforcement agencies hold a special place in the hearts of former prosecutors. And there are many former prosecutors on the Judiciary Committee. But for those of us that are former prosecutors, to the extent we have a heart left, law enforcement does have a special place in our hearts.

The head of the South Carolina Department of Corrections is a man named Brian Stirling. I tell Brian every single time I see him that he has the hardest job in all of the justice system. The only time he makes the news is if there is an escape or if an employee of the Department of Corrections is injured or if an inmate is injured. You do not make the news for anything other than bad things. It is an impossibly hard job. I am sure that it is true at the BOP level, as well.

So I want to say thank you for the important job that the BOP does, enforcing the sentences that are imposed for crimes that they did not legislate or sentences imposed by judges, but yet, we ask you to carry out the sentences and do it safely for the workers of the BOP, the public, and the inmates. In addition, we ask you to prepare, for reentry into society, folks that have, in the past, proven unwilling or incapable of conforming to societal norms.

So we are going to explore these issues and others today. And I will look forward to hearing from our witnesses on how we can improve the safety of the officers and the efficiency of both the BOP and the United States Marshals Service.

Again, I want to thank you for coming today. Thank you for your careers. And on behalf of all of us, make sure the women and men that work with your agencies know how grateful we are to them. And with that, I would recognize my friend from Michigan, Mr. Conyers.

Mr. CONYERS. Thank you, Chairman Gowdy. I join you in welcoming our distinguished witnesses to this hearing, which is an important one.

As the Crime Subcommittee continues its oversight of the components of the Department of Justice that advance the Department's law enforcement mission, the Bureau of Prisons and the Marshals Service both play very important roles in this regard.

It is particularly important that we closely examine the administration of the Bureau of Prisons at this time. You see, the Federal prison population increased by almost 800 percent, 800 percent, between the years 1980 and 2013 before a modest decline kicked in over the past few years. The Bureau of Prisons' budget accounts for approximately 25 percent of the Justice Department's total spending, so clearly, we must reexamine the policies that have led to this explosion.

The greatest contributor to this growth, which constitutes a crisis in over-incarceration, is the proliferation of mandatory minimum sentences, which unjustly impose sentences without regard to the facts of each case and, as we have seen with the prisons' budget, waste taxpayers' dollars.

And so I am heartened that there is a bipartisan recognition growing about the need to reexamine these policies. And I hope that we will continue that effort today in the Judiciary Committee.

Of course, we must also continue our effort to enact prison reforms at the Federal level, with the goal of expanding the availability and types of programs that prisoners participate in and that will reduce the possibility of recidivism. With regard to the Bureau of Prisons' operation, I fully recognize the challenges in appropriately housing such a large prison population. But we must do better in several regards.

Over the years, the inspector general, the IG, has pointed out deficiencies with respect to the provision of health care in the Federal prisons, at one time noting that these problems were so serious, we could consider them constitutional violations. Such problems are particularly troubling at private prisons, which I am no fan of. Last year, *The Nation* magazine published an article detailing serious and disturbing instances of poor health care at private prisons contracted by the Bureau of Prisons. We must not allow these problems to continue, and we are going to follow this issue closely after these hearings.

With respect to private prisons, generally, the inspector general has noted how poorly they compare to Bureau of Prison-run facilities across an array of factors. We must end our reliance on these for-profit, contract prisons. They are being counterproductive.

It is also important today that we examine the role of the U.S. Marshals Service and its administration. That agency has a broad mission, ranging from protecting our Federal courts and judges, holding post-arrest detainees, administering the Witness Security Program, and apprehending fugitives. In recent years, there have been questions about the use of the Witness Security Program's inclusion in handling of individuals who had been involved in terrorism. We need to evaluate how the agency has responded to such concerns raised by the inspector general.

And with regard to the apprehension of fugitives, we need to examine Marshals Service's use of cell-site simulators, also known as Stingray devices, in light of the Department's guidelines on these devices. Advancements in such technology have the potential of

making law enforcement more effective, but we must still abide by the requirements of the Fourth Amendment to our Constitution.

So I thank the acting director of both agencies for being with us today. We look forward to your testimony and to our evaluation and discussion of these issues. I thank the chairman.

Mr. GOWDY. The gentleman from Michigan yields back. The chair will now recognize the gentleman from Virginia, the chairman of the full committee, Mr. Goodlatte.

Chairman GOODLATTE. Thank you, Mr. Chairman. Welcome, Acting Director Kane and Acting Director Harlow. I thank you both for your service, and I am happy you are here with us today. And I also want to thank Chairman Gowdy for holding this third in a series of hearings, examining the various components of the Department of Justice.

The Federal Bureau of Prisons is tasked with protecting society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. It is the duty of the Bureau of Prisons to not just warehouse Federal inmates, but to assist those inmates in becoming law-abiding citizens.

We all have an interest in that since, as we all know, the vast majority of Federal inmates will someday be released. It is for this reason that I am deeply concerned about the precipitous drop in the number of inmates employed in proven reentry programs, such as the Federal Prison Industries program.

Last year, FPI only employed 10,896 inmates. This reflects a reduction of more than $\frac{2}{3}$ in the percentage of eligible inmates working in the FPI program: from 25 percent in 2000 to less than 8 percent in 2016.

The steep decline in this program has a deleterious impact on both prison operations and inmate recidivism. First, correctional workers' representatives cite this decline as a significant contributor to the increase in inmate-on-officer assaults the Bureau of Prisons has experienced in recent years.

Second, inmates who work in Federal Prison Industries are 24 percent less likely to reoffend upon release from prison than non-FPI inmates and 14-percent more likely to be gainfully employed post-incarceration.

We must ensure that participation in FPI is maximized to the fullest extent possible to protect the hardworking men and women of the Bureau of Prisons. I look forward to working with you, Director Kane, to ensure that this happens.

I am also pleased to welcome Acting Director Harlow to discuss the United States Marshals Service, the oldest law enforcement agency in the United States. Since its creation in the Judiciary Act of 1789, the U.S. Marshals Service has been tasked with protecting the Federal judiciary. Today, it continues this mission and has taken on a variety of other duties, including fugitive operations, Witness Security, and Tactical Operations.

The Marshals Service provides critical assistance to State and local law enforcement agencies in apprehending dangerous fugitives. In 2016 alone, the U.S. Marshals Service arrested over

80,000 fugitives who were evading justice in both State and Federal judicial systems. Each day, deputy U.S. Marshals voluntarily expose themselves to great danger in pursuing violent criminals, often with little recognition. I would like to assure the men and women of the Marshals Service that their work is critical and appreciated.

Executing the assorted duties assumed by the Marshals Service requires a great deal of manpower, coordination, training, and proper equipment and facilities. Today, we will discuss areas where the Marshals Service is experiencing challenges. I know the agency is looking for changes in its hiring capabilities, and I would like to hear the problem you presently encounter with the current framework.

With Congress' oversight responsibilities, we must also address times when agencies have not been able to meet all expectations placed upon them, so we can assure such mistakes are not repeated.

Yesterday, the Department of Justice inspector general released a report finding the Marshals Service had not provided sufficient oversight of a contracted company that operated Leavenworth Detention Center. This led to problems such as triple-bunking of prisoners and understaffing of the prison. I would like to hear what protocols the Marshals Service has in assuring proper oversight of contracted companies and what, if any, steps the Marshals Service has taken to avoid such problems in the future.

Acting Director Kane and Acting Director Harlow, I thank you again for being here and for your continued service. And I look forward to your testimony regarding the challenges facing both of your agencies. Thank you, Mr. Chairman; I yield back.

Mr. GOWDY. The gentleman from Virginia yields back. We have a very distinguished couple of witnesses today. I want to begin by swearing you in before I introduce you.

If you would please stand and raise your right hand. Do you swear the testimony you are about to give is the whole truth and nothing but the truth, so help you God?

Let the record reflect the witnesses have answered in the affirmative. You may be seated.

I will introduce you en banc and then recognize you individually for your 5-minute opening. I will tell you that your full body of your opening is available to the members, and I am sure that they will read it assiduously. So you are free to summarize that in 5 minutes if you would like to do so.

Our first witness is Dr. Thomas Kane. He is the acting director of the Federal Bureau of Prisons. Our other witness is Mr. David Harlow, who is the acting director of the United States Marshals Service. Those are the two shortest bios I have ever read. So thank you for that. Dr. Kane, you are recognized.

STATEMENTS OF THOMAS KANE, ACTING DIRECTOR, FEDERAL BUREAU OF PRISONS; AND DAVID HARLOW, ACTING DIRECTOR AND DEPUTY DIRECTOR, U.S. MARSHALS SERVICE

STATEMENT OF THOMAS KANE

Mr. KANE. [inaudible] hopefully and Ranking Member Conyers. And it is great to be here this morning. I appreciate the opportunity to appear before you today to discuss the mission and operation of the Federal Bureau of Prisons.

I am honored to speak today on behalf of the nearly 40,000 Bureau staff, who are law enforcement professionals who support the agency's public safety mission and our core values of respect, integrity, and correctional excellence. These dedicated public servants are on the job 24 hours a day, 7 days a week, and operating Federal prisons that are safe, cost-effective, and humane.

The Bureau plays a critical role in the Federal criminal justice system. Incarceration of criminals is a valuable crime-reduction strategy and an important law enforcement tool that holds individuals responsible for their actions and deters others from committing similar crimes.

Our staff ensure that Federal inmates are accounted for at all times, are treated humanely, and are returned to their communities better prepared to be law-abiding citizens.

In addition to our 122 Federal prisons at our four security levels, we have several administrative facilities. We also have contracts with 11 secure, privately-operated prisons and a network of privately-operated, residential reentry centers. Our total inmate population, currently, is 188,722 and continues to decline from the high-water mark of 219,580 in fiscal year 2013.

The President and the Attorney General have a strong commitment to our Nation's public safety, and we understand this may lead to growth in the Federal inmate population. We are prepared to work closely with the Department to ensure that sufficient capacity is available to address any projected increase, while maintaining our commitment to safety and security.

Many inmates come to prison with limited job skills and experience, education deficits, substance abuse disorders, and mental health problems. Federal prisons provide opportunities for inmates to work, develop discipline and structure, and address these problems, thereby enhancing safety for our staff and our communities.

The Bureau continues to face challenges in its prison operations. Terrorist inmates and those with ties to drug cartels and organized crime present grave risks to our operations and to public safety. Gangs create significant disruptions and dangers to staff and inmates alike through their attempts to continue their criminal operations. Introduction of contraband, such as illicit narcotics, including synthetic drugs and cellphones, is a perpetual problem. And drones are an increasing threat used to introduce this contraband into prisons and for other means.

Health care costs continue to rise as we manage increasing numbers of older inmates, many of whom have complex medical problems. At the same time, recruitment and retention of qualified

medical professionals in our prisons is hampered by lower Federal pay in benefits than are offered by the private sector.

We look forward to continuing to support the law enforcement efforts of the Department of Justice and the administration.

Chairman Gowdy, Ranking Member Jackson Lee, who is not with us as yet, excuse me, and members of the committee, this concludes my formal statement. I appreciate the opportunity to provide the committee with my formal statement and would be happy to answer any questions.

Mr. GOWDY. Thank you, Dr. Kane.

Mr. Harlow.

STATEMENT OF DAVID HARLOW

Mr. HARLOW. Good morning, Chairman Gowdy, Chairman Goodlatte, Ranking Member Conyers, members of the Judiciary Committee. I am privileged to be the Acting Director of the United States —

Mr. GOWDY. If you will push that button. Some of my older colleagues need to be able to hear you.

Mr. HARLOW. Sorry, sir. I am privileged to be the Acting Director of the United States Marshals Service. I appreciate the opportunity to appear before you today. I will keep my statement short, so that I can share two narratives with you before answering your questions.

The first relates to how humble I am to be working with the men and women of the United States Marshals Service. As the world's premiere fugitive hunters, we conduct some of the most dangerous work in law enforcement. That was brought home in the most painful way on November the 18th when a group of deputy U.S. Marshals and task force officers in Georgia surrounded a mobile home containing a fugitive who was wanted for the attempted murder of police officers in South Carolina. A few minutes later, Pat Carothers, a 26-year Marshals Service veteran, had made the ultimate sacrifice, killed by the fugitive who had been lying in wait with a gun behind the bedroom door.

Pat left behind his beautiful wife and five children, three of whom are U.S. Naval Academy graduates or current students. To those of us who knew him, and several of your staff members met Pat last year when they visited our task force, he was the epitome of a selfless professional. It has been my privilege to be associated with Pat and the many men and women like him throughout my 34-year Marshals Service career. They walk into harm's way every day, making communities across our Nation safer.

The second highlight involves this committee and shows how our stakeholders and Congress can help us accomplish our missions. As part of the Justice for Victims of Trafficking Act, this committee helped give the U.S. Marshals Service the authority to assist State and local officers and other Federal agencies in locating and recovering critically missing children. Previously, we could not help our State and local partners, who were coming to us and asking for help, to locate and find missing children, who we knew were in critical danger, but we did not have a warrant for someone's arrest.

Thanks to Chairman Gowdy, who introduced it, and Chairman Goodlatte and Ranking Member Conyers, who helped get it across

the finish line; in May of 2015, we obtained critically missing child authority.

I am pleased to report to this committee today that, as a direct result of that new authority, the U.S. Marshals Service has already recovered 102 endangered children, who, previously, we would have not been able to help.

Let me give you one example. Earlier this year, a 16-year-old girl in Alabama did not return home from school. Security cameras captured the child getting into a vehicle. Upon investigation, it was determined that the child was being prostituted and being beaten by her abductor and had been taken to another State. Our Fugitive Task Force quickly found the girl, and we had the memorable pleasure of telling the girl's father that their daughter was safe.

These are just two examples of the extraordinary work that we do every day. There are many others in the areas of judicial security, the Asset Forfeiture program, Prisoner Operations, Witness Security, Tactical Operations, and all the other the Marshals Service mission areas.

Thank you for your continued support. It is greatly appreciated by all of us in the U.S. Marshals Service. I look forward to answering your questions.

Mr. GOWDY. Thank you, Mr. Harlow. The chair will now recognize Mr. Chabot.

Mr. CHABOT. I thank the chairman for yielding. I have been a member of this committee a little over 20 years now. And this is for Dr. Kane; I want to talk to you about the Prison Industries program. And the full committee chairman, Mr. Goodlatte, mentioned it in his opening statement, but I wanted to go into it a little bit more.

And prior to getting here over 20 years ago, as a member of Cincinnati City Council and as a county commissioner, I had worked very closely with local law enforcement, particularly the sheriff, Si Leis, back in Hamilton County back in those days, finding ways to put jail inmates to work doing various things around the community. They had taken something from the community, and it was an opportunity for them to give something back.

So I have been active with the Prison Industries program here for many years now and had worked very closely with my Democratic colleague, Bobby Scott, in the challenges that we faced over the years. One of the challenges was that there was an argument that there is some competition with folks in the private sector. For example, I think one of the things we made here were desks, in the Prison Industries. And some of them went to Federal Government office buildings and things.

And so some of the folks in the office industry and Pete Hoekstra, who was the one that we generally battled with, and he had been in that industry. And I see some of your folks smiling back there because they remember these days. But we used to battle about that.

And I happen to be the chairman now of the House Small Business Committee, so I kind of look at it from both sides. And I think what we have to do is have a balance here. These folks that are imprisoned in Federal prisons around the country, and it is the same thing at the State and local level, but these folks, most of

them, are going to get out someday. And so if they can get a skill that they can, then, put into use in the private sector someday, that is an advantage that reduces recidivism. And I am not saying anything that you, obviously, do not already know.

But I have the same concerns that the chairman mentioned in his opening statement that, back in 2000, 25 percent of those eligible for the program in the Federal prisons were participating, and as of 2016, just 16 years later, it is down to 8 percent. That concerns me greatly. And I would like to see what we can do to improve those numbers and have more folks that we are incarcerating at taxpayer expense in Federal prisons, how we cannot work more effectively to get those folks skills.

It occupies them in the prison, so they are, perhaps, less dangerous to the guards. They have got something occupying their minds that is productive, rather than scheming against other inmates or against the guards.

So, in any event, I rambled on for a while here. Could you address that, Dr. Kane?

Mr. KANE. Absolutely, Mr. Chabot. Thank you so much. Thank you for your support of Federal Prison Industries over the years. And we are greatly appreciative of Chairman Goodlatte's very focused attention on the issue continuing to this day, as I know you are.

The high-water mark of 25 percent was largely reached at a time when the Federal Government was spending more money as a whole on things, including the Defense Department, our biggest customer.

With the changes in budgets over the last 10 to 12 years at the Federal level, some of the demand for the products Prison Industries has made historically have been reduced. But in addition to that, in 2016, we took a very focused look at our deficiencies in producing those products that we sell to the Federal Government and did major restructuring. We closed or consolidated underutilized factories that also contributed, to some extent, to the reduction in the overall training opportunities for inmates in Federal Prison Industries.

And so, now, we have put the existing Federal Prison Industries on a sustainable path. We had actually lost revenue over about a 7-year period. For the first time in 8 years, we had a very positive year as a result of that restructuring with not only the consolidations and closings, but also streamlining of staff, especially management. And again, we feel we are on a very strong path of sustainability.

We are now turning our attention to the utilization of the authorities granted us by Congress in recent years, especially the opportunity to repatriate or reshore the opportunity to produce products that we can now offer to private sector. And so we have done some of that. We are employing roughly 800 inmates in those kinds of initiatives, but we need to do much more. That enables us to grow training opportunities for inmates without, in any way, competing with U.S. citizens who are working in similar areas here in the United States.

Mr. CHABOT. Thank you. Mr. Chairman, could I ask for 1 additional minute? I thank the gentleman.

You probably will not have time to answer the question, but there were two other issues I was going to raise. I have to chair the Small Business Committee at 11:00, so I will not have a chance, in case they went into a second round.

But just quickly, it is my understanding that one of the big problems that prisons are facing nowadays, both at the Federal and local level, as well, is cellphones getting smuggled in and criminal activity that goes on as a result of that and other, again, schemes that sometimes prey on the public and various things. I know there are some technologies that are coming forward that you can block these things to basically make them ineffective.

Mr. KANE. Yes.

Mr. CHABOT. We have had some folks in our office talking about that.

And the other area that I was going to raise was the unacceptably high levels of prison rape that has been occurring. And I know it has been an ongoing problem. But again, those were a couple issues that I would like you to think about. And I will probably follow up in another forum at another time if I can.

Mr. KANE. We would greatly appreciate it. Thank you, Mr. Chabot.

Mr. CHABOT. Thank you very much. Thank you, Mr. Chairman. I yield back.

Mr. GOWDY. The gentleman yields back. The chair will now recognize the gentleman from Michigan, the ranking member of the full committee, Mr. Conyers.

Mr. CONYERS. Thank you, Mr. Chairman.

Gentlemen, this is a very disturbing hearing for me because we know that there is a lot of inadequate health care, misdiagnosing, and sometimes no care at all. And we know that the private prisons are run for-profit, which means the lower their costs are by rendering inferior services, they are able to make more profit. And that is what they are: a for-profit business.

Now, I have some questions about private prisons, and I would like to explore any reluctances that you have about this, Dr. Kane.

Mr. KANE. Thank you, Ranking Member Conyers. It is my pleasure to address the question. There are times when prison may have challenges with health care. Certainly, private prisons do, as well as government-operated prisons. But with respect to the operation of private contract prisons working for the Federal Government, they are holding, as you know, sir, Department of Justice, Bureau of Prisons inmates, individuals in our custody, the custody of the Federal Government. It is our responsibility to ensure that these contract operations or prisons are meeting the essential needs of the prisoners, certainly to include health care.

And so when we learn that there are issues or problems with a private contract prison, we have onsite staff who are observing the operations every day. If an individual who has a health issue is acutely ill and needs more intensive care than can be provided at a contract prison, they are moved back to a Bureau of Prisons facility or to a hospital.

If a contractor providing private prison desk were to have a systematic problem, we would take deductions for that from payments to them. If that problem were to persist, we would use cure notices

specifying what needed to be done to change their operations. And if they were to fail after being put on such notice, we could cancel that contract if need be.

And so we provide ongoing oversight, even every day, with staff onsite. In addition, we send in subject matter experts to provide reviews and audits on a regular basis. One of the recommendations of the IG was to add another medical subject matter expert to those review teams, and we are doing that.

Mr. CONYERS. Thank you. Is there any updating of this process going on, or where do we go from here? What does the future look like?

Mr. KANE. With respect to private prisons in general, sir, do you mean? Or with respect to health care?

Mr. CONYERS. Well, let's take both of them while we are at it.

Mr. KANE. Okay. Absolutely, sir. With respect to health care, we really appreciate the recommendations of the IG. We agreed with them, and we are pursuing the implementation of each of those. With respect to the operation of private prisons in support of the Bureau of Prisons, we always, first, attempt to maximize the utilization of the capacity that the Bureau of Prisons has in its own facilities.

To the extent that we need to complement the capacity of the Bureau of Prisons to manage the Federal inmate population involving the private sector, we do that as needed. And historically, we have done that at the lowest security level, housing criminal aliens at private sector institutions.

Given Attorney General Sessions' strong focus on a priority for the investigation and prosecution of immigration offenses, we do expect an increase in additional immigration offenders over the weeks and months ahead. We will monitor those population trends very closely, and to the extent that increases in immigration offenders, at the lowest security level, occur, we will both, first, as I mentioned earlier, maximize the use of Federal Bureau of Prisons institutions at the lowest security level and, to the extent needed, contract for additional capacity from the private sector to help manage those low security immigration offenders.

Mr. CONYERS. Thank you. Let me ask the other question to Director Harlow.

What has the United States Marshals Service done to ensure that known or suspected terrorists, participating in the Witness Security Program, do not pose national security risks to our country and its citizens?

Mr. HARLOW. Thank you, Ranking Member, for that question. We took the audit that occurred a couple of years ago with OIG and with our partners in the Office of Enforcement Operations very seriously and did an audit of all of the cases of our client in the program and made sure that we had tabs on people that give us concern. We have enhanced our protocols to make sure that we regularly monitor those folks. And of course, we are working with the department to try to limit the number of people with those concerns who come in the program in the first place.

Mr. CONYERS. Have you had any embarrassing moments? Has this program failed occasionally?

Mr. HARLOW. Not, sir, since the review from a couple of years ago. I think our new protocols are steadfast, and they are appropriate.

Mr. CONYERS. Okay, thank you, Mr. Chairman.

Mr. GOWDY. The gentleman yields back. The chair will now recognize the gentlelady from Alabama, Mrs. Roby.

Mrs. ROBY. Thank you, Mr. Chairman, and thank you for your witnesses for being here today. We appreciate your testimony.

I just, on a personal note, have never had the opportunity to thank the United States Marshals Service for what you do. When I was a little girl, we were under the protection of the Marshals Service for a time in our lives. And we really appreciated the dedication and service with the protection of our family during a time that could seem very scary to a 13-year-old girl. So thank you for that.

You are tasked with tracking and apprehending the most dangerous, violent, and evasive criminals in the country. What steps are you taking to ensure that United States Marshals have the equipment and training necessary to keep them safe in executing their duties?

We have heard, specifically, that you may currently face challenges procuring effective personnel protective equipment, like body armor and trauma kits. And we have heard that some of that equipment may be out of warranty, as well. So if you could answer that question, that would be great, to help provide us with information.

Mr. HARLOW. Thank you, Congresswoman, for that question. As I mentioned before, the duty of apprehending violent fugitives is probably the most dangerous in law enforcement. And unfortunately for us, in 2011, we lost nine officers, seven task force officers and two deputy U.S. Marshals.

We immediately started a top-to-bottom review of all our policies, our procedures, our equipment, our training, our organizational structure, to look and see what we could do and what gaps would be there to make our people safer.

We came up with a wonderful series of training programs to make sure that everybody in the Marshals Service who does this type of work has the best training they can possibly have and has it often. And we have actually reprogrammed a lot of resources to make sure that occurs for deputy marshals every day.

In relation to equipment, we did identify that we needed to make sure our people were equipped properly. And I can tell you I am not aware of any expired equipment that we have right now. It is a challenge. We do have to refocus parts of our budget. But there is no higher priority to me than making sure that our deputy marshals have the best equipment. And as long as I am here, they will not have an expired vest or an expired shield.

So we do face a challenge. We do have to reprogram other resources, but nothing more important than the protective equipment for our deputy U.S. Marshals.

Mrs. ROBY. Well, I hope if there ever are specific deficiencies that you will certainly make sure that we are aware of that.

Mr. HARLOW. Yes, ma'am.

Mrs. ROBY. So again, thank you for what your folks do.

Dr. Kane, last Congress' committee, and I was not on the committee at the time, considered legislation authored by our friend and colleague, the gentleman from Utah, Mr. Chaffetz, that would provide incentives to inmates to participate in recidivism reduction programs. What programs are currently being used by you guys to curb recidivism, and what are most successful? Have you seen success?

Mr. KANE. Yes. Thank you very much, Congresswoman. We have seen very significant success as a result of the participation in a variety of programs, most essentially education, job training, substance abuse treatment or avoidance of those problems, and Prison Industries and vocational training. And so, yeah, there are a wide variety of other programs that we use that fall under a broader umbrella, typically referred to as cognitive behavioral therapy, that get at the issues of everyday thinking and decisionmaking that has obviously then become a habitual problem for many of the individuals, or virtually all of the individuals, incarcerated who have made pro-criminal decisions.

And so we try to address all of them, the sort of skills that the chairman referred to that are life skills, in addition to the fundamental skills of education, employment, substance abuse avoidance, that individuals need before they go back to the community in order to remain law-abiding. So we do a wide variety of those things.

Our incredible professionals in the Bureau of Prisons do very complex work of that sort and very dangerous work. And we could not be prouder of what they do. Thank you.

Mrs. ROBY. Thank you both again for the jobs that you do. And we appreciate you being before the committee today. And I yield back.

Mr. GOWDY. The gentlelady from Alabama yields back. The chair will now recognize the gentleman from California, Mr. Lieu.

Mr. LIEU. Thank you, Mr. Chair. Thank you, Mr. Harlow, for your service. I have great respect for the U.S. Marshals Service. But what I would like to ask about today is your use of the Stingray device, also known as a cell-site simulator, that captures information from people's cellphones. I believe there were a number of both Democrats and Republicans who believe our surveillance state has gotten out of control and that there has been way too much spying on Americans.

In late 2014, The Wall Street Journal wrote an article on your Service's use of these devices. So I have some questions, both historically, as well as current practice. From about 2007 to 2014, did you have to use a warrant before you all used the Stingray device?

Mr. HARLOW. Thank you for that question, Congressman. We used a court order. We would traditionally get an order from the court, not necessarily a search warrant, prior to 2014 and the change in the policy from the Department of Justice.

Mr. LIEU. Historically, did you ever use the Stingray device without a court order?

Mr. HARLOW. No, sir. Our personnel adamantly do not use a Stingray device without a court order.

Mr. LIEU. And then there was a change in Department of Justice policy. About when did that happen?

Mr. HARLOW. About 2014 and 2015, there was a great deal of discussions. I think the policy may have actually changed in 2015. It might have bled over into 2016. But it immediately went to a search warrant every time we deploy that equipment.

Mr. LIEU. And that is still the current policy?

Mr. HARLOW. Yes, sir, it is the current policy.

Mr. LIEU. And what kind of information do you acquire from the Stingray?

Mr. HARLOW. Sir, our authority is related to apprehending and locating a violent fugitive. So when we utilize those devices, we are trying to locate a phone that we believe is on the person of the person we are looking for. So essentially the information is location-only of that particular device.

We do utilize it in the most egregious cases. As was pointed out, we arrest about 100,000 people a year. We use these devices on less than 3 percent of the fugitives we arrest. So we use it very sparingly. It is a last-resort tool that we use for the most violent offenders.

Mr. LIEU. All right. Can the device be configured to acquire cellphone data: emails, text messages, voice conversations?

Mr. HARLOW. Not our devices, sir. I do not believe so. I do not believe our devices have that capability.

Mr. LIEU. What do you do with other people that are other captured when you have deployed a Stingray and their cellphone locations? What happens to that information?

Mr. HARLOW. It is disposed of, sir.

Mr. LIEU. At the time that you get it?

Mr. HARLOW. Yes.

Mr. LIEU. All right. Thank you. I appreciate those answers.

Mr. HARLOW. Thank you.

Mr. LIEU. I have some questions for Dr. Kane. Thank you, as well, for your service.

I, along with other members of Congress, wrote a letter to the Federal Bureau of Prisons about recidivism. And we noted that there were these programs known as Arts in Corrections programs that, historically, have done a good job of reducing recidivism. And we were asking about how those programs were working in the Federal Bureau of Prisons and if we could increase those programs.

And the Bureau wrote a letter back to us, and it was dated March of 2016. And the Bureau agreed. And it said that the Bureau recognizes the value of the Arts in Corrections program to deliver effective rehabilitation. And then it stated that the Bureau was presently evaluating opportunities to enhance your art program offerings and explore potential opportunities to partner with community organizations.

I know there are many organizations, one of which is, for example, Actors' Gang, that, in California, they have gone in and done tremendous work in California institutions. I just want to see if there has been any movement on the Arts in Corrections piece of your rehabilitation program.

Mr. KANE. We fully support a wide variety of productive activities among prisoners that may not fall under the umbrella of more traditional, recidivism-reducing programs, such as involvement in the arts. But when you go into any of our institutions, for example,

you will see the sort of paintings that prisoners do in their free time after work and after their involvement in education and other programs. And they are very talented individuals.

And the U.S. Probation Service reinforces with us often that those sorts of personal activities are very important for engaging the individual in using their free time effectively once they are back in the community. So we want to reinforce those sort of life skills-related opportunities.

Mr. LIEU. And let me just conclude with this question: do you mind providing this committee and office with an update about the Arts in Corrections programs?

Mr. KANE. We would be happy to do that, sir.

Mr. LIEU. All right. Thank you. I yield back.

Mr. GOWDY. The gentleman yields back. The chair will now recognize the gentleman from Texas, former United States attorney, Mr. Ratcliffe.

Mr. RATCLIFFE. Thank you, Mr. Chairman. Gentlemen, thank you both for taking the time to be here today to come and inform us about the issues and concerns that relate to your respective agencies.

Dr. Kane, when I was the U.S. attorney for the Eastern District of Texas, my jurisdiction included the Beaumont Federal Correction Complex, which, as you know, includes the Beaumont maximum security USP, as well as the medium- and low-security FCI facilities there.

During my tenure, back in November of 2007, there was an incident there, where two of the correctional officers at the USP were escorting inmates Mark Snarr and Edgar Garcia to their cells. Snarr and Garcia were able to slip their restraints and, using prison-made shanks, repeatedly stabbed the correctional officers, then took the officers' keys and used that to get into the cell of an inmate, Gabriel Rhone. Mr. Rhone was stabbed 50 times and died. Fortunately, both correctional officers survived. Snarr and Garcia, by the way, were prosecuted by my office for capital murder charges and were sentenced to death.

But unfortunately, this was not a one-off incident. And it has been a recurring problem for correctional officers who are vulnerable to attacks from inmates with homemade weapons. I know, in some cases, the ratio is as many as 150 inmates per correctional officer. So I guess I want your perspective on what BOP has been doing, because I know that the sort of spike with respect to this violence has continued, but what BOP has been able to do to try and break out of it and if there is anything that we need to be doing here in Congress to get out of this particular cycle.

Mr. KANE. Thank you, Congressman Ratcliffe. I remember those incidents very well. And we responded immediately by, first, reinforcing the training that involves the activities that those staff members were undertaking, just to ensure that everybody is on top of their game. Number two, we have worked directly with our union, and effectively with our union, on a number of safety initiatives to protect staff, to include the issuance of OC gas for staff to use to defend themselves if they are attacked in that sort of way. We have issued slash- and stab-resistant vests to staff at high-se-

curity and medium-security institutions, jail units, medical centers, et cetera, to protect them from, again, those sorts of attacks.

And we will continue. We have added an additional correctional officer to every high-security living unit on evenings and weekends when, as you alluded to, where an individual might otherwise be supervising 130 very dangerous individuals. We have cut that ratio in half by doing that.

Mr. RATCLIFFE. Well, I am very glad to hear that. And of course, if there is anything we can do to support the safety of your correctional officers here, please let us know.

There is a lot of public talk about the threat of radical, Islamist terrorists, but not so much public attention or focus on Islamic radicalization that is taking place in our Federal prisons. In talking with some of my former colleagues who are still at the Department of Justice and still prosecuting these national security cases, it has been expressed to me that there has been some recurring difficulty in getting BOP's assistance and approval in cases where cooperators would be used to electronically record or surveil target inmates. Are you aware that that is a problem or agree that that is an issue, and has that been raised to your level?

Mr. KANE. It has not been raised to my level. I know we are often involved in investigations collaborating with U.S. attorney's offices, the FBI, other investigatory staff, including the Marshals. And so we want to be able to support the effective investigatory and arrest and prosecutorial work of our partners. So I will look into that matter as soon as I return to the office. I am aware of no such concerns, but I appreciate you bringing it to my attention, Mr. Ratcliffe.

Mr. RATCLIFFE. Well, I appreciate you looking into that.

Mr. KANE. Thank you.

Mr. RATCLIFFE. My time has expired. Director Harlow, I wish I had more time. I would just say that, from my experience at the Department of Justice, I benefited greatly from the work of the United States Marshals Service.

The brave men and women in the Marshals Service are, as you, I think, said in your opening statement, the premiere fugitive hunters in our community right now. And so, from my perspective, it is both a vitally important and, frankly, a historically well-run Federal agency. So let me just ask you to thank all of the deputy U.S. Marshals and the brave men and women that support them in this very critical mission. And I yield back.

Mr. HARLOW. Thank you, sir.

Mr. GOWDY. The gentleman from Texas yields back. The chair will recognize his friend from Florida, Mr. Deutch.

Mr. DEUTCH. Thank you very much, Mr. Chairman. Mr. Chairman, I am extremely concerned with recent reports describing the horrific conditions and loss of life during the interstate transportation of prisoners by private companies. These private prisoner transport companies are moving people throughout our country. The people being moved are prisoners currently serving sentences in prison, but also people who are accused of breaking the law but have not yet even been tried or convicted.

In a recent New York Times article, an incident was described involving the transport of Kevin Eli from Virginia to Florida to face

a 9-year shoplifting charge. During the transport, Mr. Eli complained on numerous occasions of pain; however, these complaints were ignored by the guards. And on March 7th, 2017, Mr. Eli died in the transport vehicle. The New York Times article also described in detail the terrible conditions experienced by the numerous other prisoners in the van. Some of the people were transported in the vehicle on a trip that lasted for 2 weeks.

Mr. Chairman, I ask unanimous consent to submit The New York Times article from March 23rd, 2017, entitled, "Death on a Prison Bus: Extradition Companies' Safety Improvements Lag", for the record.

Mr. GOWDY. Without objection.

Mr. DEUTCH. Thank you. Yet this was not the only tragedy involving the interstate transport of prisoners by private companies. The Times article stated there have been 24 people killed or seriously injured in more than 50 crashes involving private prison transports, and approximately 60 prisoners have escaped, and 14 alleged sexual assaults have occurred on the transports.

In 2000, Congress passed and the President signed into law Jenna's Act. This law establishes minimum standards for the transportation of prisoners and people accused of crime by a private transport company. The standards were enacted to protect the prisoners being transported by private companies, to protect the guards involved in transporting the prisoners, and to ensure the safety of the surrounding communities through which private prisoner transport vans travel.

The law provides the Department of Justice with the authority to investigate and to pursue legal action for any violations of the law. But since the enactment of Jenna's Act, the Department of Justice has pursued one case, in 2013, that resulted in the settlement with Extradition Transport of America.

Since last year, I have raised these concerns on numerous occasions. I raised these concerns first with former Attorney General Lynch during a full committee oversight hearing on July 12th, 2016. I submitted follow-up questions for the record, asking if DOJ had investigated several prisoner deaths that occurred in transports since 2012.

On April 12th of this year, I sent a letter to the Attorney General, urging the Department of Justice to use its authority under Jenna's Act to investigate and take appropriate action against a private prisoner transport operated by Prisoner Transportation Services. This is the company described in The New York Times article involving the death of Kevin Eli. And last week, I sent a letter to you, Chairman Gowdy, and the full committee Chairman Goodlatte, requesting a hearing on the issue.

Chairman Gowdy, the subcommittee has jurisdiction over this issue, as this was the House subcommittee that originally considered Jenna's Act when it made its way through the 106th Congress. And I hope that we can work together on this important issue and work on any legislative fixes necessary to ensure that Jenna's Act is enforced.

For our witnesses today, I would like to know whether you make arrangements with private prisoner transport companies to move prisoners to different facilities.

Dr. Kane.

Mr. KANE. Thank you, Congressman Deutch. I will start. We do have arrangements with the private prison contractors with whom we do have contracts. Those are three corporations at the moment.

Mr. DEUTCH. What are the three, Dr. Kane, please?

Mr. KANE. It is GEO; CoreCivic, formerly CCA; and Management and Training Corporation, MTC.

Mr. DEUTCH. Thank you.

Mr. KANE. Each of them is required, by contract, to provide transportation for the Federal inmates in their charge if that is within a 400-mile radius of the facility. If it is beyond 400 miles, the Bureau of Prisons does so. And if they are longer trips, we will work with the U.S. Marshals and JPATS transportation center to use airlift. Back to their responsibilities, we require, in those contracts, that they adhere to the same standards and policies and training for staff that we utilize.

Mr. DEUTCH. I appreciate the training. What happens when problems arise? What happens when there are reports like the ones The New York Times and other papers have documented?

Mr. KANE. We have oversight staff on-scene at each of these locations, each prison, Bureau of Prisons staff. Their responsibility is, each and every day, to oversee those operations, including to observe transportation operations. So they are looking for routine problems, as well as anything that is more sensational, as you have described.

Mr. DEUTCH. And I will wrap up quickly, Mr. Chairman; I appreciate it. Just two final questions. In providing that oversight, when there is information like this that arises, do they conduct reports? Have they conducted reports? And if so, can you make those reports available to us? That is my first question.

Mr. KANE. Yes, if there are any such incidents, those staff would be recording and reporting them. And I am not aware of any. As soon as I am back in the office, we will follow up on this issue and report to you.

Mr. DEUTCH. I appreciate it. But the issues that were reported in this last article, that transportation company was not one of the ones that you mentioned. Do these private prison companies subcontract out to other private transport companies?

Mr. KANE. No, with an exception with CoreCivic, formerly CCA. They have a subsidiary that does transportation. I do not recall the name offhand. It is part of their corporate structure.

Mr. DEUTCH. I am just trying to understand, for the next hearing, to make sure that we have the right folks here to address this issue, who is entering into the contracts with these private transport companies in order to transport these prisoners?

Mr. KANE. Well, as I mentioned, the Federal Bureau of Prisons contracts with the companies that manage the prisons, and they, in turn, provide those transportation services. So in effect, I am not a contracting expert, but I think that our contracts cover, they specify, that they are to provide the transportation. And they do.

Mr. DEUTCH. Okay. Do you know, Mr. Harlow? I am just trying to understand how these other companies play a role.

Mr. HARLOW. Sir, thank you. We utilize some of the major prison operators like the Bureau of Prisons has mentioned. And they pro-

vide transportation service to and from our court service every day as part of a daily rate. I mean, usually it is a small, less-than-50-mile transportation agreement. In terms of the nationwide contracts, I would assume it is mostly State and local governments that are contracting to cut down on the cost of extraditions.

Mr. DEUTCH. Does that make sense, Dr. Kane?

Mr. KANE. It does.

Mr. DEUTCH. Okay. Mr. Chairman, I do hope that we can have a hearing focus on Jenna's Act and private prisoner transportation companies. And I know that Chairman Goodlatte has been interested in this issue, as well. It is just not acceptable in this country that furniture is treated with more care when delivering it across State lines than human beings in our justice system. And I hope that we will have an opportunity to pursue that directly in another hearing. And I appreciate it. I am sorry that I went over. I yield back.

Mr. GOWDY. The gentleman from Florida yields back. The Chair will now recognize the gentleman from Texas, Judge Poe.

Mr. POE. I thank the chairman. Dr. Kane, I have just a few questions. How many people are in Federal prisons today? How many inmates? Give me a number.

Mr. KANE. It is about 159,000, sir, in Federal prisons.

Mr. POE. That is right; that is all I am talking about. Of that 159,000, how many are foreign nationals?

Mr. KANE. Twenty-two percent.

Mr. POE. How many of that 22 percent, after they are convicted, are awaiting deportation? Do you know?

Mr. KANE. Those are ICE determinations.

Mr. POE. Do you know, is the question.

Mr. KANE. I do not know because those determinations oftentimes are not made until just months before the individual is going to be released.

Mr. POE. Do you know how many of the 22 percent today are awaiting deportation?

Mr. KANE. Not exactly. But historical trends will tell us it is the vast majority of them; if not, it is virtually all.

Mr. POE. All right. So most of them. Virtually all. Twenty-two percent of the people in American prisons are foreign nationals. Most of them are awaiting deportation. Is that a fair statement?

Mr. KANE. Yes, I think it is.

Mr. POE. Okay, thank you.

Mr. KANE. And I would say—

Mr. POE. Thank you. I will reclaim my time.

Mr. Harlow, I want to make some comments similar to Mr. Ratcliffe's about the Marshals Service. I was a judge in Texas forever. And before that, I was a prosecutor, like the chairman and many others, Mr. Ratcliffe, and had Marshals testify in my courtroom. I have worked with them back in the old days in prosecution.

And you mentioned in your testimony that, because of the JVT, and as you know, the Justice for Victims of Trafficking Act was a bipartisan bill. We had 11 bills in the house. Myself and Carolyn Maloney sponsored one of those. Ms. Bass and others had a bunch of bills that came together, passed in the House overwhelmingly,

almost by unanimous vote. Same in the Senate, bringing America's awareness to the plight of trafficked females, primarily young girls.

Part of that bill turns some responsibility over to the Marshals Service to rescue those kidnapped victims who are going to be trafficked. What would you estimate, from the time a young female is captured, kidnapped, and then put into trafficking, does the system need to find that female? How many days, would you estimate, before it is a difficult case?

Mr. HARLOW. Thank you, Congressman. Sorry, I do not know the exact answer to that. But my experience in law enforcement tells me that the first 24 to 36 hours are critical. That is why we pursue it so heavily, to get the missing child authority, because we know we have those skills to help hunt people, and we can hunt good people as easily as we can hunt bad people. And so it is very quickly.

Mr. POE. And that is part of the JVTA legislation, is to help get the Marshals Service to help rescue these child victims and keep them out, get them out of the scourge of slavery in the United States. I want to commend the Service for rescuing those 102 girls. Their lives are better because of it, and the country is better of it, and I commend you for that. Just keep it up.

Go capture some of the outlaws, bring them to court, let Lawyer Gowdy prosecute them, and we will also rescue those girls and make the country safer for at least 102. So I commend you for that.

I want to ask you, though, what can we do, Congress, to make your job better and more efficient in that? The rescue of child victims and the capture of the outlaws: what can we do on that issue of trafficking?

Mr. HARLOW. Well, sir, I feel a little sheepish because, like all other people that come before you, we struggle spreading our resources across—

Mr. POE. You need some more money.

Mr. HARLOW. We struggle, sir, to fulfill our job. And as you know, we have many things tugging at our sleeves: our responsibilities with the courts, our responsibilities with the Witness Program. And so more resources would help. We could do more with more.

Mr. POE. All right. Money. What else?

Mr. HARLOW. Quite frankly, sir, the accepted hiring legislation that I have, one of the things I wanted to talk about today. It would give us the ability to hire people more nimbly, faster, get them on board, and actually utilize them on the street.

Mr. POE. All right. So you want more people, and you want more money. Do you have a special unit assigned to trafficking victims?

Mr. HARLOW. Sir, we have the National Sex Offender Targeting Center, which was a unit set up when we got sex offender authority back in 2006. What we actually do is take those folks off of their sex offender missions, and they work in conjunction with the National Center for Missing & Exploited Children and use those resources to help track these missing children.

Mr. POE. And last comment or question: You also use State and local law enforcement to help you in this endeavor to rescue victims and capture the bad guys?

Mr. HARLOW. Absolutely, Congressman. We still form a posse before we go out. And our State and local law enforcement partners are a big part of that.

Mr. POE. I like that word, posse. Mr. Chairman, I yield back.

Mr. GOWDY. Judge Poe yields back. The chair will now recognize Ms. Bass for her 5 minutes.

Ms. BASS. Thank you, Mr. Chair. I wanted to raise a couple of issues, and one issue is in regard to pregnant inmates and the shackling of pregnant inmates. And it is my understanding that it is not BOP's policy.

Mr. KANE. That is correct.

Ms. BASS. And we did legislation to reinforce that. But what I wanted to ask you was, what steps do you use to enforce it, to make sure that it does not happen, since, anecdotally, we still hear about it? And I do not know if it is training or memos or what.

Mr. KANE. It is absolutely training. We think that training has been accomplished. But it is reinforced, and very strong adherence to principles of individuals performing in accordance with policy. And if they are not performing their job in accordance with policy, they are considered to require some sort of redress administratively. And staff, colleagues, who would work with them would feel a strong propulsion to report a failure.

Ms. BASS. Do you have any idea of what percentage of women are pregnant in BOP's custody at any given time?

Mr. KANE. I do not offhand. It would be a very small number. But I do not. And those are individuals who would have come to us pregnant.

Ms. BASS. Yes, we hope.

Mr. KANE. Yes.

Ms. BASS. That would be pretty bad. I wanted to ask you also a question about compassionate release. And what is the BOP doing to increase the use of compassionate release?

Mr. KANE. Compassionate release, we are working hard—

Ms. BASS. Well, how do you define it, actually?

Mr. KANE. I am sorry?

Ms. BASS. How do you define it?

Mr. KANE. It is defined in several categories, as modified in policy over the last 6 or 7 years. But the primary categories in which individuals are recommended or referred or refer themselves are individuals who are terminally ill, seriously, significantly debilitated as a result of a medical condition; they are not terminally ill, but they really cannot perform well the activities of daily living. I mean, such things as bathing oneself or brushing one's teeth or even eating one's food. They are confined to wheelchairs or to beds, even though, once again, they are not terminally ill.

There are other categories that involve elderly offenders who have served either a minimum or 10 years or the larger of 10 years or 75 percent of their sentence. And the last category is a group of individuals who have a responsibility in the community to children and whose primary caregiver in the community, caregiver for the children, is either disabled, incapacitated, or deceased. And we have actually never had a request for that last category.

Ms. BASS. Okay. Let me ask you a question, Mr. Harlow. And this is about Witness Protection Program. And given the rise in

human trafficking throughout the U.S., particularly targeting vulnerable and at-risk children, I wanted to know if you had a sense of how many young people might be involved, who are victims of sex trafficking. What special protections are provided for them? Do they have access to Witness Protection?

Mr. HARLOW. Thank you, Congresswoman, for that question. Generally our Witness Protection Program involves organized crime or large drug organizations. I am not aware, Congresswoman, of anybody in our program who has been a victim of such things.

Ms. BASS. You know, and I say that because one of the things that is very difficult is to get the young women to testify against the pimp. And so maybe there should be some thought about that, in terms of protecting them.

Mr. HARLOW. Yes, Congresswoman, I understand.

Ms. BASS. So before my time runs out, I just wanted to take a minute to publicly thank Dr. Kane for helping me with a constituent issue that we worked through in moving an inmate. I was very appreciative for the responsiveness of your department and the fact that you stuck with it until we were able to get it done. Thank you very much.

Mr. KANE. My pleasure, Congresswoman. Thank you.

Mr. GOWDY. The gentlelady yields back.

The Chair is going to inquire as to whether it is his turn. I will recognize myself. I like to go last, so I can have a sense of what may be left to ask. So let me start with the most important part.

Mr. Harlow, if you would, on behalf of all of us, extend our sympathies or gratitude to the family of the deputy who was killed in Georgia. I took note of the fact that I think he was seeking a fugitive for someone who had been accused of a crime in South Carolina. So if you would tell the family how grateful we are and extend our sympathies to them, and also to the Marshals that I used to work with in Greenville. I am not going to call all their names, but there is a guy named Johnny Bonn. I think he goes by Johnson now because he is a supervisor now, so he needs a better name than Johnny. But I will always know him as Johnny Bonn. They were fantastic to me. If you would let them know how grateful I am.

Mr. HARLOW. Yes, Chairman. Absolutely.

Mr. GOWDY. Let me ask this on the Bureau of Prisons piece. I have always been curious how you incent people to act properly. Both as a parent, I have been interested in how to incent people properly, but even more so in your case. What do you find works in terms of conforming a population that is where it is, necessarily, because they have not conformed? How do you incent good behavior in the Bureau of Prisons? How do you manage the population for the safety of your officers?

Mr. KANE. Thank you very much, Mr. Chairman. It is a great question. As I mentioned earlier, our staff are amazingly dedicated law enforcement professionals, who do complicated, complex, and dangerous work. And you have hit on both. Individuals come to us who are very difficult to interact with at times, may be threatening and potentially violent at times. But at the same time, you also, in your opening statement, highlighted one of the major respon-

sibilities we have; it is not only the effective incarceration as ordered by the court as a deterrent, but also enabling people to obtain skills that they need, so that, when they do return to our communities, they are not tempted to go back to crime, and they can live a successful, law-abiding life.

And that latter part is part of the complicated side. And we train all staff to communicate well with prisoners, even if they are confrontational, recalcitrant, or cooperative, on a day-to-day basis to take every opportunity to encourage and reinforce involvement in activities or programs that help these people get ready to go back to our communities and remain crime-free.

And a lot of that is not only the job skills and the education needed to perform well in the work environment. As I mentioned earlier, for some, it is substance abuse avoidance. But for virtually all, even the so-called low-risk offenders who have been convicted by the courts and sentenced to a term of incarceration, they have made major decisional errors in doing pro-criminal activities. So they may have a shallow criminal history, they may have an extensive criminal history, but they need to change that thinking.

And some of that is approached more formally through the kinds of criminal-thinking training that I mentioned earlier, done typically by psychologists in groups. But some of it is also part of the this daily interaction between a correctional officer and the inmates they supervise. A counselor, a case manager, a secretary, everybody, the doctors and nurses, they are all trained to be law enforcement professionals and to obtain and practice and use these communication skills that identify issues the prisoner needs to address and encourage them to get on it and focus on it and to do it in a way that the individual receives the guidance well and will work with it.

So I am so happy you asked the question. These prisons are really, as you know, as a former prosecutor, small communities. Literally everything that goes on in any community happens in prison, including crime. And so, you know, there is even the jail within the prison for the individuals who threaten the safety of others while they are there. And it is the Special Housing Unit. But all that is done, from education to job training, basically, to reshaping thinking to pro-social thinking, has to be done while these people are with us. And our staff do an amazing job.

Mr. GOWDY. Well, there are several of us on the committee that have kind of bound together over the past couple of years under the general heading of criminal justice reform. And something that I always find helpful is data, reliable data. So if I were interested in kind of a snapshot of who is in the BOP for mandatory minimum sentences, statutory mandatory minimum sentences, the age of the folks that are serving mandatory minimum sentences, the criminal history, the role in the offense, would you be the proper person to go through for the statistics, or would that be the Sentencing Commission?

Mr. KANE. It is the Sentencing Commission.

Mr. GOWDY. Okay.

Mr. KANE. We do work closely with them on data-related requests. But that would be their data.

Mr. GOWDY. All right. So if Mr. Richmond and I wanted to embark to kind of identify who has been impacted by mandatory minimums, it is the Sentencing Commission and not BOP where we should direct our inquiries.

Mr. KANE. That is correct. We are happy to help you any way we can with data.

Mr. GOWDY. Well, I think data is useful. You know, I do not hear it from my colleagues in Congress, but from time to time, I will hear it on television: the people that are in Federal prison for simple possession of marijuana. And I swear I have no idea who they are; I do not know how you wind up in Federal prison for simple possession of marijuana unless it is on an Indian reservation or in a Federal park. But sometimes, statistics kind of undercut the mythologies that are out there in terms of who is in the BOP. And with respect to mandatory minimums, I am really interested in the criminal history, the age, the role in the offense. So we will go to them.

Last question, because I am out of time. You may not want to answer this question publicly. And if you do not want to answer it publicly, that is fine. You can get back to me privately. But I am always curious. I will start with the Marshals. Is there something that is assigned to your jurisdiction that you think is more properly assigned to another Federal law enforcement agency, or is there something you think you could be doing but is not currently in your jurisdiction?

Mr. HARLOW. Thank you, Congressman, Chairman. The first answer, I cannot think of anything off the top of my head that I have now that I think should be assigned someplace else. I would like to have a further conversation, in a different setting, about things that might possibly be assigned to the Marshals Service.

Mr. GOWDY. All right, let's do that. And again, if you would tell the women and men that work in your respective agencies how grateful we are to them, and especially the family of the slain deputy in Georgia.

Mr. HARLOW. Yes, sir.

Mr. GOWDY. With that, I would recognize the gentlelady from Texas, or perhaps the gentleman from Maryland. Gentleman from Maryland?

Mr. RASKIN. Mr. Chairman, thank you kindly. I appreciate it. And welcome to our witnesses. Every day, I take it, there are around 10,000 Federal prisoners who are in solitary confinement conditions. And I guess the average stay in solitary is somewhere around 75 days. So I know that there was recently a critical Department of Justice report, a critical GAO report, and then there were a whole study and recommendations for change, which I was pleased to learn the Bureau of Prisons' staff participated in. You were part of this process.

And so coming out of that process, I understand you, presumably, would need to make changes to your program statements and rules and procedures and policies and practices and so on. And I am just wondering if you could provide us with an update on where we are in terms of translating a new approach to solitary confinement in the prisons. Where are you in this evolution?

Mr. KANE. Thank you very much, Congressman Raskin. First of all, I am going to put this in a broader context, because I want to you to understand that what is happening with what we refer to as restrictive housing, as opposed to solitary confinement, nationally, including the Bureau of Prisons, but in State prisons as well, we actually work very closely together in an association of all directors and we use a different term. It is restrictive housing because we have largely moved away from individuals in effect being in a cell by themselves. At times that is necessary, but the vast majority of people who are in restrictive housing are actually in a cell with someone else. And so solitary confinement, as it is typically thought of or depicted in movies, is not really the case.

You are absolutely correct about the Department of Justice Restrictive Housing Workgroup and the recommendations that were made by it. It involved roughly a dozen components, including the Bureau of Prisons' civil rights and others. And they were adopted by the Attorney General and recommended to the White House for endorsement. The President did that. But again, I would like to offer that what is in those principles and overseeing guidelines exists now across the States and in the Bureau of Prisons, as well.

And by the way, there are roughly a little over 8,000 individuals in restrictive housing today. Only about a quarter of them are actually there for disciplinary segregation. The others are there for an investigation of something that has happened that is threatening to the safety of the prison and the security of the prison. And others, a small number, again, are there usually at their request for protective custody. But those people we work very closely with to move them on to specialized units we have that gradually transition them out to the general population and give them freedom of movement, access to full programs, et cetera.

Mr. RASKIN. I got you. The report, I think, stated—this is, again, before a number of these changes were implemented—that the ordinary prisoner in a solitary confinement or traditionally solitary confinement-type setting would be alone for 23 hours, with very little access to the outside. But you are saying that that is not the norm today?

Mr. KANE. That is correct. That is absolutely correct. People are not in "solitary". They are not alone. And candidly, that is related to concerns by all of corrections nationally, including the Bureau of Prisons, the Department of Justice, about individuals who may have mental illness that we are not aware of that can be exacerbated by being alone, not to mention individuals who may be questioning taking their own lives.

Mr. RASKIN. Got you. One other question for you: The Office of National Drug Control Policy found, in December, that the Bureau of Prisons is conducting a field trial. Is that right? They reported a field trial of a medication-assisted drug treatment program for people who are transitioning back to the community from incarceration. And I am just wondering, what is happening with the field trial of prisoners going back and getting medication assistance for drug problems?

Mr. KANE. Well, currently, that plan for the field trial or the implementation of that program is suspended. It is a new program

that would have gone into effect after the continuing resolution was put in place. And we are not able to do that.

Mr. RASKIN. For budgetary reasons?

Mr. KANE. Yes, currently.

Mr. RASKIN. Okay. I yield back, Mr. Chairman. Thank you very much.

Mr. GOWDY. The gentleman yields back. Judge Gohmert is going to yield in lieu of Ms. Jackson Lee from Texas for 5 minutes.

Ms. JACKSON LEE. Let me thank the judge from Texas for his courtesies and the chairman for his courtesies. Let me also acknowledge on the record that my inability to be here at the beginning of the hearing was because of my membership on the Helsinki Commission, which we were holding hearings on what we call Sudden Kremlin Death Syndrome, which has to do with the rapid death of dissidents in Russia under the administration of Vladimir Putin. So I thank the committee for its courtesies and appreciate the very fine work that is being done.

I also want to say to the chairman that that request for data is crucial. And I look forward to joining him on that request for information regarding the impact on mandatory minimums because I am hoping that we will ignite, again, our move toward criminal justice reform, which would include the bills of many of my members that are on this panel, including Congressman Richmond and others who have joined us in very, how should I say, unifying work on helping to improve the criminal justice system. You gentlemen are components of it, and so I want to get, as quickly as I can, to questions.

And Dr. Kane, thank you for your years of service. As you may have known, I worked very closely with our past Bureau of Prisons director, who visited Houston. So here is a personal invitation for you and U.S. Marshals. You certainly should be there. And I want to acknowledge my U.S. Marshal, Mr. Blankinship, who has done a superb job, has a vast territory. It is amazing how your U.S. Marshals can cover areas that are larger than some States in the United States of America. So we thank you, and Dr. Kane, certainly your commendations and medals indicate your commitment to the service of this Nation.

We hold human beings in these institutions. And so we are not retaining wild animals. They are human beings who have varying levels of acts against society, violent acts, and others. But they are also a myriad of levels. So we have the responsibility for the care and handling of these persons. And their civil rights are not denied or should not be distinguished.

So let me quickly go to the question of private prisons. And I would be interested in—and I am going to try and answer these questions—private prisons, interested in the number that we have. And I want to refer you to legislation that I have that would apply the Freedom of Information Act to private prisons, which is not the case now, which is a sad state of affairs. I also want to know whether private prisons have a major mental health component to it.

So let me just jump to your jurisdiction. When I say your jurisdiction: prisons, not private prisons. Would you give me the census that you think is in prison today under the Federal system? Would

you also give me what your mental health response is and what your suicide census is? What do you do for individuals who may appear to be subject to suicidal acts? And I am going to jump to the U.S. Marshals, so when I finish, you can answer the questions quickly.

First of all, thank you for the 46,000 persons that you have, I think, in sex offenders. And when I say thank you for the work under the Violent Offenders Program under President Obama, \$11 million that helped you get—well, you might want to give me the number. I want to congratulate you on that.

But let me ask you these questions about the U.S. Marshals being diverted into duties assisting ICE regarding undocumented folk, because ICE presently is perennially short. Have you been told by the administration that your offices would be used for that? Thank you for the violent offenders that you have gotten.

Also, we have heard some unfortunate statements from the administration about ridiculous opinions and Federal judges. And I just met with my Federal judges just about a couple of weeks ago and got a number of important issues. I want to know, what level of security are you offering? Or what kind of ramped-up security? Or your recognition that judges get threats and to make sure that those judges, all of our judges, are secure.

Lastly, Dr. Kane, would you comment on whether or not we have a civil rights officer in the Federal Bureau of Prisons and your openings to such kind of officer? I appreciate your answer.

Dr. KANE, if you will go first on the questions that I posed.

Mr. KANE. I am sorry?

Ms. JACKSON LEE. If you would go first on the questions that I posed, that I just gave you.

Mr. KANE. Thank you very much. I will.

Ms. JACKSON LEE. Thank you.

Mr. KANE. Thank you, Ranking Member Jackson Lee, and for your support over the years of the Federal Bureau of Prisons. We greatly appreciate it. We do not have an individual who would be identified specifically as a civil rights officer. But we have very active oversight of all of our operations. And any activity that would be potentially considered to be a civil rights violation by our staff or environmentally would be referred for review by our staff. And if they fail to refer such, that alone is a referable action.

Ms. JACKSON LEE. I gave you other questions. Did you not take note of them?

Mr. KANE. Yes, but I do not claim to remember them all.

Ms. JACKSON LEE. Mental health?

Mr. KANE. Thank you, and private sector and mental health.

Ms. JACKSON LEE. And the Freedom of Information Act.

Mr. KANE. Yes, the Federal population prevalence of serious mental illness is approximately 4 percent or 7,000 nationally. There is another 10 percent or so who need intermittent care, such as a grief counseling, brief sort of intervention for crisis, psychiatric medication. So, 4 percent serious mental illness with ongoing acute treatment, another 10 percent who need the intermittent engagement, and then the rest of the population that is really comprised of people who have other behavioral health issues, certainly including addiction and substance abuse: 40 percent. Other individuals

who are sex offenders: roughly 10 percent, and requiring treatment.

At the private sector facilities, our approach is to ask them to manage individuals who are at the minimal-need level, both respect to medical issues and mental health issues. And we try to take, the Bureau of Prisons, more challenging cases of non-citizens who are low security who normally would go to the private sector. But if they have more strident medical care needs or mental health needs, we keep them in the Bureau of Prisons and treat them there.

Ms. JACKSON LEE. Dr. Harlow. Thank you. The last two questions. Did you hear what I proposed to you?

Mr. HARLOW. Yes, thank you, Ranking Member Jackson Lee. I appreciate the time you gave me yesterday. And thank you for your comments about the Marshals Service. To your first question about immigration enforcement, ma'am, it is not currently part of our jurisdiction, nor have we been asked to assist.

I do want to be clear that the Marshals Service is responsible for helping our State and local partners apprehend violent felons, violent fugitives. And occasionally we do get somebody who is an illegal immigrant who has a violent felony warrant. So we may be involved in arresting that individual. But we are not involved in what I would call status sweeps or picking people up for their illegal status.

To your second question, Ranking Member Jackson Lee, about judicial security, we have noticed a significant uptick. I would associate it more with the proliferation of social media and an uptick in what I would call, not necessarily threats, but inappropriate communications. It is very easy for people, with the variety of Twitter, Snapchat, Facebook, and so forth, to type something on a computer that is inappropriate and send it out. And so a lot of our protectees are receiving what we call inappropriate communications. And our workload has increased, trying to ascertain and analyze if those are serious threats.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. May I just introduce deputy chief counsel, Ms. Monalisa Deugeu, who is now working on the Crime Subcommittee? Thank you.

Mr. GOWDY. Certainly. Welcome.

Ms. JACKSON LEE. Thank you. I will yield back.

Mr. GOWDY. The gentlelady yields back. The chair will now recognize the gentleman from Texas and then my friend from Louisiana, who has been waiting very patiently. And now, Judge Gohmert from Texas.

Mr. GOHMERT. Thank you, Mr. Chairman. And thank you both for being here, for your testimony, for your job you are doing. And sorry I was late getting here. I want to follow up on areas my friend from Texas was asking about.

For one thing, there is an article here. It is not recent, but it indicates that immigrants take a big bite out of U.S. Marshals custody resources.

Mr. Harlow, what is the status right now? About what percentage, if you could estimate, of your resources is being expended for people who are apprehended who are aliens or immigrants, whether legal or illegal?

Mr. HARLOW. Thank you, Congressman, for that question. Currently, I am sorry, I do not have a number for you. I will be happy to see if I can find that for you. But several people who are arrested, if they are not charged federally, new charges brought by the U.S. Attorney's Office, they do not necessarily come into the Marshals Service's custody in pre-trial detention.

It is important to note that we do have to fight for the same detention beds that ICE does. And so many times, uptick in immigration enforcement causes us to compete against each other, trying to find appropriate bed space near our court cities. So it does affect us. Yes, sir.

Mr. GOHMERT. But my question was if you had an estimate on the percentage of your expenditures regarding custody resources for people who are immigrants.

Mr. HARLOW. I am sorry, sir, I do not have an estimate for that. I will be happy to get back to you.

Mr. GOHMERT. All right. Well, we had heard during the presidency of President Obama's administration a great deal about people in Federal custody for just simple possession of controlled substances. So, Dr. Kane, at one time Jeff Sessions, then-Senator Jeff Sessions, had gotten information regarding the number of people in Federal facilities who were there for simple possession. It was my experience as a state prosecutor at one time and as a felony judge in Texas and as a chief justice that the feds just did not normally deal with simple possession unless it was a huge amount, although sometimes people who were a cooperating witness that were turning against others were allowed to plea down to a simple possession in return for testimony against co-conspirators.

Do you have a current figure on what percentage of people are in Federal prison for simple possession of controlled substance?

Mr. KANE. I do not have that specific figure with me here today.

Mr. GOHMERT. What would be the latest numbers you would have?

Mr. KANE. I can tell you, however, though, it is my experience that it is a very, very small percentage.

Mr. GOHMERT. Yeah. And in fact, it was surprising to me that, although it is a very small number, the numbers that were given to Senator Sessions, that it seemed like around 3/4 of that small number in Federal prison for simple possession were illegally in the country. Do you have any idea how many people are in Federal prison for possession of a controlled substance who are here illegally?

Mr. KANE. I do not have that with me offhand.

Mr. GOHMERT. Can I make that request?

Mr. KANE. Yes.

Mr. GOHMERT. Would you agree to provide the latest information you have on the number of individuals in Federal custody and the number of people that are in Federal custody who are here in the U.S. illegally? You agree to provide that?

Mr. KANE. Yes. I can tell you that 22 percent of all Federal offenders are non-citizens. They are not citizens of the United States. That is almost 40,000. 39,000-plus.

Mr. GOHMERT. Now, you say 22 percent. Is that of people that are—

Mr. KANE. All Federal prisoners.

Mr. GOHMERT. All Federal. Including pre- and post-conviction?

Mr. KANE. No. These are post-conviction.

Mr. GOHMERT. Those are all post-conviction.

Mr. KANE. Yes.

Mr. GOHMERT. I was not familiar with any in Texas. It seems any time there were Federal prisoners, they were kept in the local jail, the county or city jail, normally the county. Is that true around the country?

Mr. HARLOW. Yes, Congressman. Pre-trial detainees are kept by the U.S. Marshals Service.

Mr. GOHMERT. Right. Okay.

Mr. HARLOW. And usually, we rent space at the county jail.

Mr. GOHMERT. All right. Well, I sure do appreciate your work, your testimony, and we will look forward to getting the information. Thanks, Dr. Kane.

Mr. KANE. Thank you, Mr. Gohmert.

Mr. GOHMERT. Thank you, Mr. Harlow.

Mr. GOWDY. The gentleman from Texas yields back. The chair will now recognize the very patient gentleman from Louisiana, Mr. Richmond.

Mr. RICHMOND. Right. Thank you, Mr. Chairman. Dr. Kane, let me just ask you one quick question, which is, when I looked at some of the private prison contracts, some of them had occupancy guarantees; do we still employ occupancy guarantees for contracts with private prisons?

Mr. KANE. We basically are changing the way we do contracts so that we specify a target number to be housed there. And that is the approach we will continue to take going forward.

Mr. RICHMOND. Why do we give them a target population? I mean, we still fund our prisons. I mean, we are going to have to pay for all of the utilities, the guards, and everything else no matter if they are at 5 percent, 10 percent, 100 percent. I just do not see the logic in basically giving an occupancy guarantee or a guarantee or profit or break-even point to a private industry that wants to engage in this business. And I would hope that we could revisit whether we should guarantee any sort of baseline money that they will receive.

Mr. KANE. My understanding is that, from a contracting perspective, it is used to, in effect, drive economies of scale, larger populations in prisons that can be managed, so that their offers in the contract amounts and payments are as low as we can obtain.

Mr. RICHMOND. Well, I would just suggest that, in the hotel-motel industry, as a State, we have done that and others. And to me, it just kind of defies logic because, if we reduce our Federal prison population, we still have an obligation to make sure that their beds are full. So I do not want to belabor that point, but I think it is something that we should look into.

Let me get into what I was really interested in. You mentioned or we have information that the recidivism rate for those that participate in the prison enterprise program or, what is it, RPI, is 24 percent less than others.

Mr. KANE. That is correct. Less than comparable others.

Mr. RICHMOND. Right, and that they are 14 percent more likely to get steady employment.

Mr. KANE. That is correct.

Mr. RICHMOND. Do they get any good time credit for participating in that program?

Mr. KANE. They do not.

Mr. RICHMOND. Okay. What about the, what is it, the RDAP program?

Mr. KANE. Yes.

Mr. RICHMOND. If they participate in that, they can get almost a year of early release.

Mr. KANE. That is correct.

Mr. RICHMOND. What is the recidivism rate of those who participate in RDAP compared to those who do not who also had an addiction?

Mr. KANE. The recidivism rate, did you say?

Mr. RICHMOND. Yes, recidivism rate.

Mr. KANE. Recidivism rate. The relative reduction in recidivism as a result of participating in the RDAP program is 16 percent.

Mr. RICHMOND. So for a program that makes you 16 percent less likely to recidivate, we give you a year off. For a program that makes you 24 percent less likely to recidivate, we do not give you anything. Look, you do not set the policy. I am just asking if I am correct.

Mr. KANE. The incentive, I will offer, for Prison Industries that individuals pursue—and we have waiting lists virtually everywhere; people really want that training opportunity—is they are paid more than other inmates in other institution jobs. And virtually everybody works. But beyond that, they see the value in that program.

Mr. RICHMOND. Right. And where I am going is, if they are less likely to commit a crime when they get out, would it be good policy to give them some good time? Maybe not a year, but give them some early release because every 7 days that we increase good time or release, we save \$50 million a year. So if we are talking about where we are spending money and what would be wise, would it be wise to give people who participate in that program some increased good time like we do RDAP?

Mr. KANE. Well, incentivizing prison program participation is a major issue for us all the time. We would be happy to work further with you and the committee on this issue and brief you on what we do and have discussions with you and other members, if you wish.

Mr. RICHMOND. And it would go the same for the educational programs and the financial literacy, all those other programs. You do not get any increased good time or early release for participating?

Mr. KANE. With respect to education and completion of a GED, a high school equivalent, an individual who does not have that certificate yet, to be eligible for good time, must participate.

Mr. RICHMOND. Okay.

Mr. KANE. So the Congress did design in that contingency for individuals who do not yet have a high school education.

Mr. RICHMOND. My last question would be, statute authorizes you to do up to 15 percent in good time, which would be 57 days a year, I believe. Somewhere around there. 54 days a year, 55.

Mr. KANE. Fifty-four, that is correct.

Mr. RICHMOND. You all implement a program that is 47, days as opposed to 54. If you just get us to the 54, we save \$50 million a year. So the question becomes, I am not saying that it was your idea to do it, but what is the rationale of offering less days' credit than we have authorized you to give?

Mr. KANE. We have dealt with this issue over the years and worked with the committee on it previously. There is a relatively minor tweak in the authorizing language for good time that needs to be made in order for us to give that full 54. And basically, the issue is this: the individual is, in effect, eligible for 54 days a year for every year served.

Mr. RICHMOND. Correct.

Mr. KANE. And so, because the individual does not serve the entire term, they do not get 54 days for all 10 years on a 10-year term, you know, if they are able to leave at 8-and-a-half years.

Mr. RICHMOND. Okay.

Mr. KANE. And so that is all. It is an issue that I think can be resolved fairly non-controversially.

Mr. RICHMOND. Mr. Chairman, if he could just let us know what that tweak is, because if we are trying to find some savings and not put the public at risk—

Mr. KANE. And that is an incentive for positive performance while people are incarcerated.

Mr. RICHMOND. Well, thank you. And I look forward to working with you on all of your issues. And thank you for the job that you do. It is not easy.

Mr. KANE. Thank you.

Mr. RICHMOND. And thank your employees also.

Mr. KANE. I will.

Mr. RICHMOND. With that, I yield back, Mr. Chairman.

Mr. GOWDY. Our friend from Louisiana yields back. This concludes today's hearing. On behalf of Chairman Goodlatte, Ranking Member Conyers, Ranking Member Jackson Lee, and all the members of the committee, we want to thank you for your appearance today and for loaning us your insight and your perspective.

Again, I know I have said it twice before, but it means a lot to me that you let the folks that you work with know that we have asked a lot of them. They have a lot of responsibility. And we have very high standards for the folks in the U.S. Marshals and the BOP. But we are very grateful that there are people willing to do these challenging jobs.

So with that, the hearing is concluded. Without objection, all members will have 5 legislative days to submit additional written questions for the witnesses or additional matters for the record. The hearing is adjourned.

[Whereupon, at 12:06 p.m., the subcommittee was adjourned.]