



Testimony

Before the Committee on Oversight and
Government Reform, House of
Representatives

For Release on Delivery Expected
at 10:00 a.m. ET
Wednesday, December 13, 2017

DEPARTMENT OF JUSTICE

Continued Action Needed to Address Incarceration Challenges and Offenders' Reentry

Statement of Diana Maurer, Director, Homeland Security
and Justice

Accessible Version

GAO Highlights

Highlights of [GAO-18-275T](#), a testimony before the Committee on Oversight and Government Reform, House of Representatives

Why GAO Did This Study

BOP's rising costs and offender recidivism present incarceration challenges to both DOJ and the nation. For example, BOP's operating costs have generally increased over time, and in fiscal year 2017 amounted to more than \$6.9 billion, or 24 percent of DOJ's total discretionary budget. In addition, from 1980 through 2013, BOP's prison population increased by almost 800 percent, from 24,640 to 219,298. While the prison population began to decline in 2013, DOJ has continued to identify prison crowding as a critical issue. GAO has examined a number of DOJ efforts to slow the growth of the prison population and to reduce recidivism through the use of reentry programs to help offenders successfully return to the community.

This statement summarizes findings and recommendations from recent GAO reports that address (1) DOJ's incarceration reduction initiatives, and (2) BOP reentry programs.

This statement is based on prior GAO products issued from February 2012 through June 2016, along with updates on the status of recommendations obtained as of December 2017. For the updates on DOJ's progress in implementing recommendations, GAO analyzed information provided by DOJ officials on actions taken and planned.

What GAO Recommends

GAO has made 10 recommendations to DOJ in prior reports to help improve performance measurement and resource management. DOJ generally concurred and has addressed or taken steps to address several. GAO continues to believe all of these recommendations should be fully implemented.

View [GAO-18-275T](#). For more information, contact Diana Maurer at (202) 512-8777 or maurerd@gao.gov.

December 13, 2017

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Continued Action Needed To Address Incarceration Challenges and Offenders' Reentry

What GAO Found

The Department of Justice (DOJ) has fully addressed two of six GAO recommendations related to its incarceration reduction initiatives. In June 2015 and June 2016, GAO reported that to help address challenges associated with incarceration, DOJ had, among other things, taken steps to reduce the prison population by pursuing initiatives to use alternatives to incarceration for low-level nonviolent crimes. GAO made six recommendations to DOJ related to these efforts. As of December 2017, DOJ has implemented two of the six recommendations and has not fully addressed the remaining four. Specifically, to enhance efforts to measure program outcomes, DOJ issued guidance on proper data entry and began tracking data on different types of pretrial diversion programs that allow certain offenders to avoid incarceration if they satisfy program requirements. In addition, as of December 2017, DOJ has taken steps to partially implement GAO's recommendation to address unnecessary delays in reviewing inmates' petitions to commute their sentences.

DOJ has not taken action to address recommendations to better assess the results of pretrial diversion programs or another effort to prioritize prosecutions and reform sentencing to eliminate unfair disparities, among other goals. Further, in December 2017, DOJ noted there had been policy changes since GAO made a recommendation related to enhancing measures to monitor prioritizing prosecution and sentencing reform. Although DOJ reported taking some actions to implement GAO's recommendation, these actions did not include establishing measures that incorporate key elements of successful performance measurement systems.

DOJ has addressed two of four GAO recommendations related to its reentry programs. As part of its mission to protect public safety, DOJ's Federal Bureau of Prisons (BOP) provides reentry programming that aims to facilitate offenders' successful return to the community and reduce recidivism (a return to prison or criminal behavior). These reentry efforts include programs offered in BOP facilities as well as contractor-managed residential reentry centers (RRC)—also known as halfway houses—and home confinement services that allow inmates to serve the final months of their sentences in the community. GAO issued three reports in February 2012, June 2015, and June 2016 and made four recommendations to BOP in this area.

As of December 2017, DOJ has implemented two of the four recommendations and has begun to take action to address one of the remaining two. Specifically, to implement one of GAO's recommendations, DOJ established a plan to evaluate the effectiveness of all the 18 reentry programs it offers to inmates in BOP facilities. To implement another GAO recommendation to improve cost management, DOJ began requiring contractors to submit separate prices for RRC beds and home confinement services. As of December 2017, DOJ noted it has taken initial steps to address a recommendation to track outcome data for its RRC and home confinement programs; however, it has not taken action to develop measures to assess the performance of these programs.

Chairman Gowdy, Ranking Member Cummings, and Members of the Committee:

I appreciate the opportunity to participate in today's hearing to discuss our prior work on ways in which the Department of Justice (DOJ) can better assess incarceration reduction initiatives and reentry efforts. This statement reflects prior GAO products issued from February 2012 through June 2016, along with recent updates on the status of our recommendations.

As of December 2017, DOJ's Federal Bureau of Prisons (BOP) was responsible for about 184,000 federal inmates and operating 122 institutions (prisons) across the country. BOP's rising costs and offender recidivism present incarceration challenges to both DOJ and the nation. For example, BOP's operating costs have generally increased over time, and in fiscal year 2017 amounted to more than \$6.9 billion, or 24 percent of DOJ's total discretionary budget. In addition, from 1980 through 2013, BOP's prison population increased by almost 800 percent, from 24,640 to 219,298. While the prison population began to decline in 2013, DOJ has continued to identify prison crowding as a critical issue, particularly in high security institutions. Further, while BOP reports that recidivism rates have declined over the past two decades, the U.S. Sentencing Commission found that of federal offenders released in 2005, 49 percent were rearrested, 32 percent were reconvicted, and 25 percent were reincarcerated during the eight year follow-up period.¹

During the course of our prior work, DOJ was taking steps to slow the growth of the federal prison population by pursuing alternatives to incarceration at various stages of the criminal justice process for nonviolent, low-level offenders, in part to help reduce the size and related costs of the federal prison population.² Knowing the outcomes of these efforts can help BOP adjust its policies and procedures, and ultimately optimize their benefits.

¹United States Sentencing Commission, *Recidivism Among Federal Offenders: A Comprehensive Overview* (Washington, D.C.: March 2016).

²Low-level offenses include offenses below thresholds established for specific offenses, such as fraud-related offenses under a certain amount of money and drug offenses that did not involve violence, firearms, or large scale trafficking conspiracies.

My testimony today is based on our work examining DOJ's efforts to manage the federal prison system. This statement addresses two key areas in which we have issued reports and highlights our recommendations to DOJ to enhance program performance measurement and resource management. Specifically, this statement addresses (1) DOJ's incarceration reduction initiatives and (2) BOP's reentry programs.

This statement is based on several reports we issued from February 2012 through June 2016, and includes updates on selected aspects of these reports as of December 2017.³ For our prior work, we reviewed relevant laws and DOJ and BOP policies, and analyzed documentation and data on the use of incarceration alternatives at or before sentencing. In addition, we interviewed DOJ and BOP headquarters and district officials, and conducted site visits to selected BOP institutions (which were chosen to cover a range of characteristics, including but not limited to inmate gender and presence of relevant BOP programs). More information about the scope and methodology of our prior work can be found in those reports.

To update the status of DOJ's efforts to address the recommendations we made in these reports, we collected and analyzed information from DOJ and BOP program officials on actions they have taken or planned in response. We conducted our work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

³GAO, *Federal Prison System: Justice Has Used Alternatives to Incarceration, But Could Better Measure Program Outcomes*, [GAO-16-516](#) (Washington, D.C.: June 23, 2016); *Federal Prison System: Justice Could Better Measure Progress Addressing Incarceration Challenges*, [GAO-15-454](#) (Washington, D.C.: June 19, 2015); and *Bureau of Prisons: Eligibility and Capacity Impact Use of Flexibilities to Reduce Inmates' Time in Prison*, [GAO-12-320](#) (Washington, D.C.: Feb. 7, 2012).

Background

Key Stakeholders in the Federal Criminal Justice Process

Various DOJ and federal judiciary stakeholders play key roles in the federal criminal justice process, and as such, they can also have key roles in considering whether to use incarceration alternatives for a given offender or inmate. For example, in the course of the federal criminal justice process, a U.S. attorney is involved in the process of investigating, charging and prosecuting an offender, among other responsibilities. Federal defenders are called upon to represent defendants who are unable to financially retain counsel in federal criminal proceedings. The U.S. Probation and Pretrial Services Office (PPSO), an office within the judiciary, also has responsibilities including supervising an offender pretrial or after conviction. Federal judges are responsible for determining an offender's sentence, and, in the case of incarceration, BOP is responsible for caring for the inmate while in custody.

Federal Criminal Justice Process

Federal laws and guidelines determine what, if any, incarceration is appropriate for offenders. The Sentencing Reform Act of 1984 established the independent U.S. Sentencing Commission (USSC) within the judicial branch and charged it with, among other things, developing federal sentencing guidelines.⁴ The guidelines specify sentencing guideline ranges—a range of time (in months) that offenders should serve given the nature of their offense and other factors—but also permit sentences to depart upward or downward from guideline ranges because of aggravating or mitigating circumstances. In 2005, the Supreme Court found the sentencing guidelines, which had previously been binding for federal judges to follow in sentencing criminal defendants, to be advisory in nature.⁵ Regardless of the guidelines' advisory nature, judges are still required to calculate sentences properly and to consider the guideline ranges as well as the nature and circumstances of the offense, the

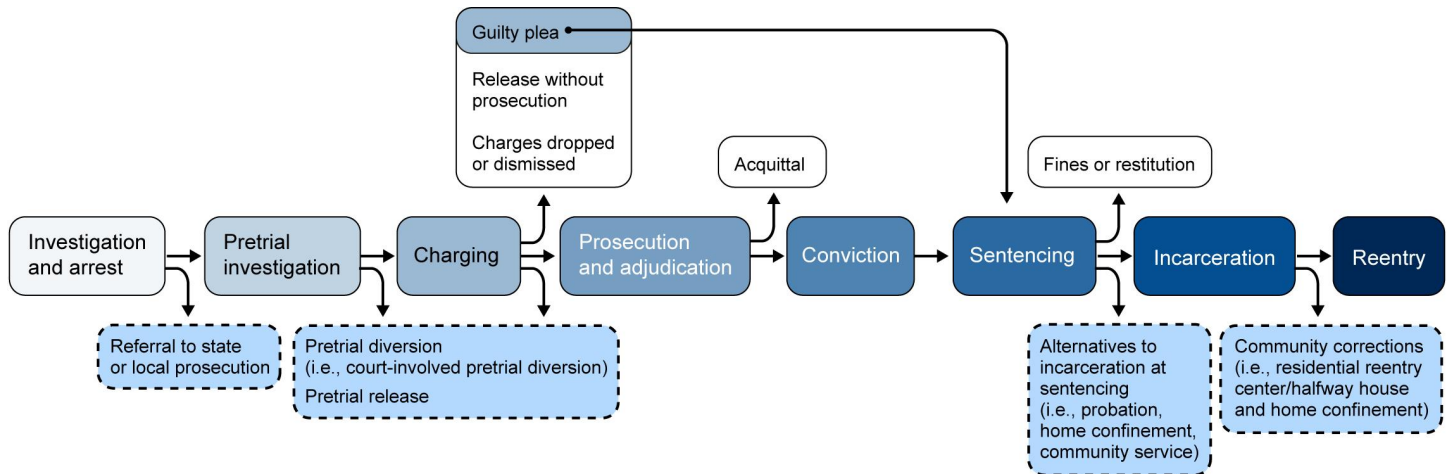
⁴ Pub. L. No. 98-473, § 217, 98 Stat. 1987, 2017.

⁵ See *United States v. Booker*, 543 U.S. 220 (2005).

defendant’s history, and the need for deterrence, among other sentencing goals.⁶

As we reported in June 2016, alternatives to incarceration were available at various steps in the federal criminal justice process, from charging and prosecution through incarceration (see figure 1).⁷

Figure 1: Steps in the Federal Criminal Justice System Process with Alternatives to Incarceration



Source: GAO analysis of Department of Justice component roles and responsibilities. | GAO-18-275T

Note: Alternatives to incarceration are shown in the bottom row. Except for the referral to state and local prosecutors, defendants can still be incarcerated federally after being provided these alternatives if they fail to meet the specific terms and conditions of the alternative.

For instance, at the front-end of the criminal justice process, there are pretrial diversion programs that can provide offenders an opportunity to avoid prosecution or incarceration if they satisfy program requirements. In addition, toward the end of inmates’ periods of incarceration, BOP may place inmates in residential reentry centers (RRC, also known as halfway houses), in which inmates are housed outside of a prison environment prior to their release in the community. During their time in RRCs, inmates are authorized to leave for approved activities, such as work; are monitored 24 hours a day, such as through sign-out procedures; are required to work or be actively seeking work; and are required to pay a

⁶18 U.S.C. § 3553(a).

⁷We scoped the review (GAO-16-516) to focus on alternatives available once the case is considered by a U.S. Attorney’s Office; therefore, we did not review alternatives pre-arrest, or those used by law enforcement.

percentage of their salaries as a subsistence fee to cover some of their expenses at the RRC.

In addition, BOP may place inmates in home confinement toward the end of their sentences. While in home confinement, inmates are required to remain in their homes when not involved in approved activities, such as employment, and are supervised and monitored, such as through curfews, random staff visits, or electronic monitoring.⁸ RRC staff may provide the supervision of inmates in home confinement. Through an interagency agreement, BOP and the PPSO also established the Federal Location Monitoring Program, through which PPSO officers provide supervision for BOP inmates on home confinement under certain conditions. Among other things, to qualify inmates ordinarily must be classified as minimum security level; seek and maintain employment; and pay for all or part of the costs of the Federal Location Monitoring Program.

Overview of BOP's Institutions and Role in Transitioning Offenders into Society

BOP is responsible for the custody and care of federal inmates. As of December 2017, there were a total of about 184,000 federal inmates, according to BOP. According to BOP data, 83 percent of these inmates are in the 122 institutions managed by BOP. The remainder are confined in secure privately managed or community-based facilities, local jails, or in home confinement.

BOP has a role to help ensure that offenders properly transition into society and avoid a return to prison or criminal behavior (recidivism) after they have completed their terms of incarceration. Among other activities, BOP provides reentry services to inmates within federal prisons that may include drug treatment programs, education and vocational training, and psychology services. BOP also is to facilitate the transfer of inmates into RRCs, which provide assistance as inmates transition into communities, to include home confinement. RRCs provide employment counseling and job placement assistance, financial management assistance, and

⁸For additional information on the technologies and systems used to track individuals through electronic monitoring, see GAO, *Electronic Monitoring: Draft National Standard for Offender Tracking Systems Addresses Common Stakeholder Needs*, [GAO-16-10](#) (Washington, D.C.: Oct. 26, 2015).

substance abuse treatment or counseling as well as other services, which may vary by facility. According to BOP, approximately 180 RRCs provide housing for over 7,500 federal offenders prior to release into their communities.

Federal Collateral Consequences Can Affect Reentry

As we reported in September 2017, individuals convicted of a crime may have limitations placed upon them that can affect their reentry.⁹ Individuals convicted of a crime generally face a sentence, which can include fines, probation, and incarceration in jail or prison. In addition to the sentence, individuals may also face collateral consequences—penalties and disadvantages, other than those associated with a sentence, which can be imposed upon an individual as a result of a conviction. For example, collateral consequences may prohibit people who committed crimes involving a sex offense or offense involving a child victim from working in a child care facility. Collateral consequences can be contained in federal and state laws and regulations. Notably, federal collateral consequences can serve various functions, such as enhancing public safety or protecting government interests. In 2012, the American Bar Association began compiling the first nationwide inventory of collateral consequences, known as the National Inventory of the Collateral Consequences of Conviction (NICCC). As of December 31, 2016, the NICCC contained roughly 46,000 collateral consequences established through federal and state laws and regulations.

We reported on collateral consequences contained in federal laws and regulations (i.e., federal collateral consequences) that can be imposed upon individuals with nonviolent drug convictions (NVDC).¹⁰ Our review of the NICCC found that, as of December 31, 2016, there were 641 collateral consequences in federal laws and regulations that can be triggered by NVDC. The NICCC data indicated that these 641 collateral consequences can limit many aspects of an individual's life, such as

⁹GAO, *Nonviolent Drug Convictions: Stakeholders' Views on Potential Actions to Address Collateral Consequences*, [GAO-17-691](#) (Washington, D.C.: Sept. 7, 2017).

¹⁰For the purposes of our 2017 report, we defined NVDC as violations of laws prohibiting or regulating the possession, use, distribution, or manufacture of illegal drugs which do not include (a) offenses that have as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. See [GAO-17-691](#).

employment, business licenses, education, and government benefits. For example, individuals may be ineligible for certain professional licenses, federal education loans, or federal food assistance. Moreover, we found that the NICCC identified that 78 percent of these 641 collateral consequences can potentially last a lifetime.

We also reported on selected stakeholders' views. We spoke to 14 individuals who were leaders of organizations representing judges, victims of crime, and states, among others—on actions the federal government could consider to mitigate these collateral consequences. Most of the stakeholders that we interviewed—13 of 14—said it was important for the federal government to take action to mitigate federal collateral consequences for NVDC. Thirteen stakeholders said that mitigating federal collateral consequences could potentially reduce the likelihood that individuals with NVDC reoffend. Similarly, 11 stakeholders said that mitigation could potentially increase the likelihood that individuals with NVDC successfully reenter the community after jail or prison. The text box below identifies some of the statements made by stakeholders during our interviews from our prior work regarding federal collateral consequences for NVDC.

Stakeholder Perspectives on Federal Collateral Consequences for Nonviolent Drug Convictions, as Reported in GAO-17-691

- “The breadth of federal collateral consequences for nonviolent drug convictions is so massive and affects so many aspects of a person’s life, such as family life, immigration, jury service, housing, employment, and voting, that they contribute to an underclass of people.”
- “Many instances wherein the federal collateral consequences for nonviolent drug convictions end up making it hard for people to live a law abiding life. For example, they may not be able to live in public housing or may be barred from getting an occupational license or doing a particular job. This may push them to turn back to committing crimes to make some money.”
- “...some federal collateral consequences for nonviolent drug convictions are sensible and appropriate. If we abolish [all that] exist you could imperil public safety...”
- “We can’t just say we’re going to err on the side of public safety and implement a wide range of collateral consequences strictly across the board. The problem is that public safety is undermined by making it impossible for individuals to move on from the criminal offense.”
- “It is important not to assume that nonviolent means that there is no victim.”

Source: Selected stakeholders interviewed by GAO. | GAO-18-275T

DOJ Has Fully Addressed Two of Six GAO Recommendations Related to Its Incarceration Reduction Initiatives

Since 1980, the federal prison population increased from about 25,000 to about 184,000, as of December 2017. In June 2015 and June 2016, we reported that in part to help address challenges associated with

overcrowding in certain institutions and related costs of incarceration, DOJ had taken steps to reduce the prison population by pursuing initiatives to: use alternatives to incarceration for low-level nonviolent crimes; prioritize prosecutions to focus on serious cases; and commute, or reduce, sentences of qualified federal inmates. In these reports, we highlighted potential areas for continued oversight of these initiatives and made six recommendations. DOJ concurred with five of these recommendations and partially concurred with the other. As of December 2017, DOJ has implemented two of the six recommendations and had not fully addressed the remaining four.

DOJ could better measure effectiveness of pretrial diversion alternatives. In June 2016, we reported that DOJ had taken steps to pursue alternatives to incarceration for certain offenders, but could improve data collection and efforts to measure outcomes resulting from the use of pretrial diversion alternatives.¹¹ Our review examined two pretrial diversion programs on the front-end of the criminal justice process that provided offenders an opportunity to avoid incarceration if they satisfy program requirements. Title 9 of the U.S. Attorneys' Manual permits U.S. Attorneys' Offices to divert, at the discretion of a U.S. Attorney, certain federal offenders from prosecution into a program of supervision and services administered by the PPSO. Under the Title 9 diversion program, if the offender fulfills the terms of the program, the offender will not be prosecuted, or, if the offender has already been charged, the charges will be dismissed.

In addition to the Title 9 Pretrial Diversion Program, federal criminal justice stakeholders within some judicial districts have voluntarily established court-involved pretrial diversion practices. Court-involved pretrial diversion allows certain federal offenders the opportunity to participate in supervised programs or services, such as a drug court to address criminal behavior that may be linked to addiction to drugs or alcohol. Program participants are to meet regularly with court officials including a judge and pretrial services officer to discuss their progress in the program. If the offender satisfies program requirements, the offender may not be prosecuted, charges may be dismissed, or the participant may receive a reduced sentence.

¹¹[GAO-16-516](#).

While DOJ had collected some data on the use of pretrial diversion, we found that the data were of limited usefulness and reliability because its case management system did not distinguish between the different types of diversion and DOJ had not provided guidance to U.S. Attorneys' Offices as to when and how pretrial diversion cases are to be entered into the system. In addition, we found that DOJ had not measured the outcomes or identified the cost implications of its pretrial diversion programs. To address these deficiencies, we made four recommendations to DOJ. The first two relate to tracking and entering pretrial diversion data, while the second two relate to assessing outcomes based on the data. Specifically, we recommended that DOJ (1) separately identify and track the different types of pretrial diversion programs, (2) provide guidance to its attorneys on the appropriate way to enter data, (3) identify, obtain, and track data on the outcomes and costs of pretrial diversion programs, and (4) develop performance measures to assess diversion program outcomes. DOJ concurred with all four of our recommendations.

In October 2016, DOJ took actions to fully implement the first two recommendations. Specifically, in September 2016, DOJ provided guidance to staff in its U.S. Attorneys' Offices that outlines (1) the use of two new pretrial diversion codes—one for Title 9 pretrial diversion and another for court-involved diversion and (2) the appropriate entries to create and dispose of each type of pretrial diversion. Attorneys were instructed to use the codes starting on October 1, 2016. However, as of December 2017, DOJ has not implemented the third and fourth recommendations. We continue to believe that by obtaining data on the costs and outcomes of pretrial diversion programs and establishing performance measures, DOJ would gain multiple advantages in its ability to manage these programs and optimize their outcomes and cost implications.

DOJ could better assess initiatives to address prison overcrowding and costs. In June 2015, we reported that DOJ could better measure the efficacy of two incarceration initiatives designed to address challenges related to overcrowding and rising costs.¹² One of these was the Smart on Crime initiative, announced in August 2013 as a comprehensive effort to:

- prioritize prosecutions to focus on the most serious cases;

¹² [GAO-15-454](#).

- reform sentencing to eliminate unfair disparities and reduce overburdened prisons;
- pursue alternatives to incarceration for low-level nonviolent crimes;
- improve reentry to curb repeat offenses and re-victimization; and
- surge resources to prevent violence and protecting most vulnerable populations.

In our report, we found that DOJ had established indicators that were well-linked to these goals; however, the indicators lacked other key elements of successful performance measurement systems, such as clarity, a measurable target, or context. For example, none of the indicators had numerical targets by which to assess whether overall goals and objectives are achieved. To address this deficiency, we recommended that DOJ modify its Smart on Crime indicators to incorporate key elements of successful performance measurement systems. DOJ partially concurred with the recommendation, and agreed to continually refine and enhance the indicators to improve their clarity and context. However, DOJ did not agree that establishing measurable targets for its indicators was appropriate. We recognized that it might not be appropriate to create targets for every indicator. Nevertheless, we maintained that measurable performance targets that are properly developed, communicated, and managed, can aid Department leadership in the admittedly challenging task of assessing progress in the Smart on Crime Initiative.

In March 2017, DOJ noted that, due to a change in administration, the status of the Smart on Crime Initiative was uncertain. In May 2017, the Attorney General issued a new charging and sentencing policy to all federal prosecutors that effectively rescinded any previous policy of DOJ that is inconsistent with the new charging and sentencing policy, including certain aspects of the Smart on Crime Initiative.¹³ In December 2017, DOJ stated it would start to collect data on and monitor the implementation of this new policy. However, DOJ did not provide information on how it plans to modify its indicators to incorporate key

¹³See Memorandum For All Federal Prosecutors, Attorney General Jefferson B. Session III, Department Charging and Sentencing Policy (May 10, 2017) (available as of December 1, 2017 at <https://www.justice.gov/opa/press-release/file/965896/download>). The new policy directed prosecutors to return to the practice of charging the “most serious readily provable offense.” It also provided for exceptions under some circumstances with supervisory approval.

elements of successful performance measurement systems. To the extent that DOJ continues to implement other aspects of the Smart on Crime initiative, such as improving reentry and surging resources to prevent violence we continue to believe this recommendation is valid.

The second initiative we addressed in our June 2015 report was the Clemency Initiative, which encourages nonviolent, low-level federal offenders to petition to have their sentences commuted, or reduced, by the President. Commutation of sentence, as we reported, has long been considered to be an extraordinary remedy that is rarely granted. According to DOJ, in 2013, then-President Obama expressed a desire to review more petitions, and DOJ pledged to expedite the review of such petitions in order to provide them to the President for consideration. However, we found that DOJ had not adequately assessed the extent to which the Clemency Initiative is expeditiously identifying meritorious petitions because it had not tracked how long it takes for petitions to clear each step in its review process or identified and addressed any processes that may contribute to unnecessary delays. We made a recommendation to DOJ to address this deficiency. DOJ concurred, but in March 2017 DOJ stated that it had no standard review process to evaluate. In December 2017, DOJ reported to us that it has taken steps to accelerate the review of commutation cases, such as assigning two attorneys to spend additional time on commutation cases. Although DOJ's actions are consistent with our recommendation, DOJ has not tracked how long it takes for petitions to clear each step in its review process. This makes it unclear whether DOJ's actions are addressing the processes that contribute to unnecessary delays.

DOJ Has Addressed Two of Four GAO Recommendations Related to its Reentry Programs

As part of its mission to protect public safety, BOP provides reentry programming that aims to facilitate offenders' successful return to the community and reduce recidivism. These reentry efforts include programs offered in BOP facilities, as well as RRC and home confinement services that allow inmates to serve the final months of their sentences in the community. In our February 2012, June 2015, and June 2016 reports we highlighted potential areas for continued oversight and made four recommendations to BOP. As of December 2017, BOP has implemented

two of the four recommendations and has taken action to address one other recommendation.

BOP has developed a plan to evaluate its reentry programs. In June 2015, we reported that BOP had 18 reentry programs available to inmates in BOP institutions in the areas of inmate treatment and education.¹⁴ We found that while BOP had plans to evaluate the performance of some of its reentry programs, it did not have a plan in place to prioritize evaluations across all of these programs. As a result, we recommended that BOP include, as part of its current evaluation plan, all 18 of BOP's national reentry programs, and prioritize its evaluations by considering factors such as resources required for conducting evaluations. In May 2016, BOP provided to us an evaluation plan that was consistent with our recommendation. BOP has continued to update the evaluation plan to reflect changes in priority. For example, the most recent plan, updated in July 2017, lists BOP's Mental Health Step Down Unit program as its top priority, with a target evaluation date of fiscal year 2018. According to BOP, this reflects the need for analysis of services for seriously mentally ill inmates.¹⁵

BOP has taken steps to assess costs of home confinement services. In February 2012, we reported that BOP did not know the actual cost of home confinement services.¹⁶ To facilitate inmates' reintegration into society, BOP may transfer eligible inmates to community corrections locations for up to the final 12 months of their sentences.¹⁷ Inmates may spend this time in a RRC and in confinement in their homes for up to 6 months.¹⁸ BOP contracts with private organizations to manage the RRCs and monitor inmates in home confinement.¹⁹ At the time of our review, BOP was paying a rate of 50 percent of the overall per diem rate

¹⁴[GAO-15-454](#).

¹⁵For additional information on BOP mental health services, see GAO, *Bureau of Prisons: Timelier Reviews, Plan for Evaluations, and Updated Policies Could Improve Mental Health Services Oversight*, [GAO-13-1](#), (Washington, D.C.: July 17, 2013).

¹⁶[GAO-12-320](#).

¹⁷18 U.S.C. § 3624(c).

¹⁸*Id.*

¹⁹Through an interagency agreement, BOP and the PPSO also established the Federal Location Monitoring Program, through which PPSO officers provide supervision for BOP inmates in home confinement under certain conditions.

negotiated with the RRC for each inmate in home confinement. For example, if BOP paid a contractor the average community corrections per diem rate of \$70.79 for each inmate housed in a RRC, BOP would pay \$35.39 per day for that contractor's supervision of each inmate in home confinement. However, according to BOP, the agency did not require contractors to provide the actual costs for home confinement services as part of their contract and therefore did not know the cost of home confinement. To help BOP better manage its costs, we recommended that BOP establish a plan for requiring contractors to submit separate prices of RRC beds and home confinement services. BOP implemented this recommendation and determined that all new solicitations as of February 1, 2013, will have separate line items for RRC in-house beds and home confinement services. According to BOP, as of November 2017, 184 solicitations with separate RRC bed and home confinement service line items have been issued since February 2013.

BOP could better measure the outcomes of RRCs and home confinement. In June 2016, we reported that BOP was not positioned to track the information it would need to help measure the outcomes of inmates placed in RRCs and home confinement and did not have performance measures in place.²⁰ Specifically, we found that, as part of its strategic plan, BOP had two measures—one to track the number of inmates placed into RRCs, and another to track the number of inmates placed in home confinement. However, these measures did not help assess the outcomes of RRCs and home confinement, such as how these programs may or may not affect the recidivism rates of inmates. To address this deficiency, we made two recommendations to BOP to (1) identify, obtain, and track data on the outcomes of the RRC and home confinement programs; and (2) develop performance measures by which to help assess program outcomes. DOJ concurred with these recommendations.

As of December 2017, BOP has taken steps to implement our recommendation to identify, obtain, and track data on the outcomes of RRCs and home confinement. In particular, BOP reported to us that it has developed a revised Statement of Work for use with its RRC contractors that requires the contractors to track and report quarterly to BOP on, among other things, the number of placements into and releases from RRCs and home confinement; revocations from RRCs or home

²⁰[GAO-16-516](#).

confinement; and RRC and home confinement residents that have secured full, part-time, or temporary employment. BOP plans to compile these data to track contractor performance and program outcomes. Further, BOP reported to us that it has developed a voluntary survey that asks RRC residents about their RRC experiences, including the amount of help they received in finding and keeping a job, and finding a place to live. These actions are in line with our recommendation and we will continue to monitor their implementation. However, as of December 2017, BOP has not provided evidence to us that it has developed performance measures by which to help assess program outcomes. We continue to believe BOP should do so.

Chairman Gowdy, Ranking Member Cummings, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions that you may have.

GAO Contacts and Staff Acknowledgments

For further information about this statement, please contact Diana Maurer at (202) 512-8777 or maurerd@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Other individuals who made key contributions to this statement include Brett Fallavollita (Assistant Director), David Alexander, Pedro Almoguera, Joy Booth, Billy Commons, III, Tonnye' Connor-White, Jessica Du, Lorraine Ettaro, Michele Fejfar, Christopher Hatscher, Susan Hsu, Tom Jessor, Matt Lowney, Heather May, and Jill Verret. Key contributors for the previous work on which this testimony is based are listed in each product.

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