

United States Senate

February 10, 2021

The Honorable Michael Carvajal
Director
Federal Bureau of Prisons
320 First St., NW
Washington, D.C. 20534

Dear Director Carvajal:

The First Step Act of 2018 (FSA) requires the Federal Bureau of Prisons (BOP) to screen inmates for dyslexia during the prisoner intake process and at each periodic risk assessment of a prisoner. Upon screening inmates and identifying those with dyslexia, BOP is then directed to incorporate programs aimed at addressing the inmate's dyslexia into BOP's evidence-based recidivism reduction programs. From there, BOP is required to provide statistics on the prevalence of dyslexia among prisoners in BOP prisons, noting "the effectiveness of dyslexia mitigation programs among such prisoners that may be attributed to the incorporation of dyslexia screening into the System and of dyslexia treatment into the evidence-based recidivism reduction programs." Perhaps most importantly, the law also provides a clear, science-based definition for dyslexia, in addition to a clear, science-based definition for what a dyslexia screening program should entail.¹

Unfortunately, after reviewing the Attorney General's December 2020 First Step Act Section 3634 Annual Report, I was left with more questions than answers with regards to how these provisions were implemented by BOP. The report accurately states that the FSA requires BOP to use a screening program that is psychometrically valid, efficient, low cost, and readily available when screening inmates for dyslexia.² However, based on the report and previous correspondence with BOP, it is clear that the screening program was developed in-house by BOP, which brings into question how the screening program was developed and whether it is psychometrically valid. To be psychometrically valid, the screening program would need to have statistics and data to demonstrate its reliability, which would include representative data on the target population that the finalized screening program would be used to assess – in this case, an adult prison population. In developing the screening program, did BOP conduct any analysis prior to the deployment of the screening program that would ensure it is psychometrically valid,

¹ First Step Act of 2018, S.756, 116th. (2018). <https://www.congress.gov/bill/115th-congress/senatebill/756/text/eas?q=%7B%22search%22%3A%5B%22first+step+act%22%5D%7D&r=1>

² Office of the Attorney General. (2020). *The Attorney General's First Step Act Section 3634 Annual Report*. U.S. Department of Justice. <https://nij.ojp.gov/first-step-act/the-attorney-generals-first-step-act-section-3634-annual-report-december-2020.pdf>

as required by the FSA? If so, can BOP provide my office with any such information? If it did not, can you please explain why such an analysis was not done to ensure validity?

The report also accurately defines dyslexia as it is defined in the FSA; however, it then states that BOP considered three additional definitions when developing their "Screening Checklist for Dyslexia." The FSA does not direct BOP to use the definition in statute and then tell BOP to pick three additional definitions to consider as well; rather, it has one, clear, evidence-based definition for dyslexia that BOP is to use in determining the appropriate screening program. Using the appropriate definition of dyslexia is critical because it will inform the nature of the screening program that should be used to identify inmates who may have dyslexia. Further, the three additional definitions BOP considered are problematic for reasons I previously articulated to your predecessor in my May 19, 2019 letter to BOP.

The importance of having an accurate definition and a psychometrically valid screening program is that it can be the difference in making or breaking a dyslexia screening program. This brings me to my primary concern with the report, that, "As of October 2, 2020, 4,249 inmates were identified, using an initial screening tool, for further dyslexia testing. There are currently 13 inmates participating in a dyslexia mitigation program."³ In other words, .3 percent of inmates who were screened for dyslexia and required follow-up diagnostics were determined to have dyslexia and subsequently were participating in a dyslexia mitigation program. This is a shockingly small number of inmates, especially when considering the fact that approximately 20 percent of Americans are believed to have dyslexia and it is the most common neuro-cognitive disorder.⁴ How is this possible?

I trust your office will be able to provide me with answers to my questions. There must be accountability in the system if we are to be successful in transitioning inmates to a life of prosperity after their prison sentence, ultimately breaking the cycle of recidivism that too many are held captive to because of an inability to read.

Sincerely,

A handwritten signature in blue ink that reads "Bill Cassidy, M.D." The signature is written in a cursive, slightly slanted style.

Bill Cassidy, M.D.
United States Senator

³ Office of the Attorney General. (2020). *The Attorney General's First Step Act Section 3634 Annual Report*. U.S. Department of Justice. <https://nij.ojp.gov/first-step-act/the-attorney-generals-first-step-act-section-3634-annual-report-december-2020.pdf>

⁴ "Dyslexia FAQ," The Yale Center for Dyslexia & Creativity, "2017." <http://dyslexia.yale.edu/dyslexia/dyslexia-faq/>.