

* This chapter is a part of *Defending a Federal Criminal Case, 2016 Edition*. It is reproduced here with permission from Federal Defenders of San Diego, Inc. Further reproduction is not authorized. For more information about this criminal defense practitioner's guide, please go to www.fdsdi.com.

CHAPTER 19

THE FEDERAL BUREAU OF PRISONS

By

Todd Bussert¹

19.01 INTRODUCTION

The Federal Bureau of Prisons (Bureau or BOP) is the country's largest correctional system. As of 2016, approximately 196,000 prisoners are under the agency's supervision, lower than its peak population, but a nearly four-fold increase since the federal sentencing guidelines system's implementation. In a world where Sentencing Commission data shows that nearly 90% of all convicted defendants are sentenced to some term of imprisonment, the need to understand BOP policies and practices is essential to effective representation.² This chapter addresses issues counsel and their clients commonly confront.

19.02 ORGANIZATIONAL STRUCTURE

The Bureau's Director and Office of General Counsel are situated at the Central Office in Washington, D.C., as are the Health Services Division, the Correctional Programs Division, and the Information, Policy and Public Affairs Division. Analogous sections and officials can be found within each of the six regional offices: Western, North Central, South Central, Southeast, Mid-Atlantic, and Northeast. Executive staff (i.e., the Director, Assistant Directors, and Regional Directors) meet quarterly to review major issues and determine agency policy. The regional offices supervise the agency's 122 facility sites across the country. Regions are further subdivided by Residential Reentry Management (RRM) field offices,³ that oversee contract community-based institutions (halfway houses) and prisoners on prerelease home confinement.⁴

¹ A CJA Panel and Standing Committee member in the District of Connecticut, Todd Bussert (tab@frostbussert.com) is a federal criminal defense attorney and partner at FROST | BUSSERT LLC in New Haven.

² This chapter discusses BOP program statements (P.S.) and operating memoranda, which are available via the Bureau's website (<http://www.bop.gov>). The website is an important resource that, among other things, provides contact information for each federal institution and administrative office, as well as a means to locate clients (the Inmate Locator).

³ A list of BOP offices (i.e., Central, Regional, RRM), including contact information, can be found at <https://www.bop.gov/about/facilities/offices.jsp>.

⁴ Although no longer tasked with designation responsibilities, which are now handled from Texas (see below), RRM staff can be an accessible source of information on policies and procedures that may impact how and where a client is housed.

Federal prisons are identifiable by the security level of the populations they house and the corresponding degrees of freedom afforded. In an effort to reduce administrative costs, the Bureau has increasingly built Federal Correctional Complexes, facilities of differing security levels at one location. Due to steady population growth over the past thirty years, the BOP consistently operates over capacity (i.e., institutions house more than the maximum number prisoners they are designed to handle). Overcrowding is thus essentially unavoidable no matter where a client is housed, a situation that can present safety concerns.⁵

Federal Prison Camps (FPCs or camps)—also known as satellite camps when located adjacent to higher security institutions—house minimum-security inmates (essentially nonviolent offenders with limited criminal histories and less than ten years remaining to serve). Roughly 17% of federal prisoners reside in camps, with the majority of that population being drug offenders. Note that, on occasion, the BOP designates minimum-security inmates with relatively little time to serve to work cadre units in pre-trial holding facilities and at FCI-Medium Ray Brook (NY). Although there are some inmates who welcome such a designation given proximity to family (e.g., placement at MDC Guaynabo allows a sentenced minimum-security prisoner to remain in Puerto Rico), experience suggests that the vast majority of inmates who qualify for minimum-security placement prefer traditional camp designation. It may thus be useful to ask the sentencing court to expressly recommend against work cadre placement, particularly where a defendant who scores out as minimum-security receives a sentence of thirty months or less.

Federal Correctional Institutions (FCIs) are divided into two categories: Low and Medium, connoting the respective security levels of their populations. Barbed-wire perimeter fencing, higher staff-to-inmate ratios, and more restrictive movement characterize life at an FCI. About 38% of federal prisoners are classified low-security, while approximately 30% are medium-security. Approximately 75% of medium-security prisoners have a history of violence and 41% have been sanctioned for violating prison rules—points potentially worth mentioning in support of an argument for a mitigated term of imprisonment.⁶

The balance of the federal prison population is divided between high-security institutions (United States Penitentiaries (USPs)) and administrative institutions. Some 90% of the high-security population has a history of violence, 71% have been sanctioned for violating prison rules, and almost 10% have been convicted of murder, aggravated assault, or kidnapping.

Numerous facilities fall under the “administrative” umbrella. For instance, ADX Florence, Colorado, a Supermax, is administrative. So too are medical centers, the Federal Transfer Center (FTC) in Oklahoma City, and federal detention centers in major metropolitan areas. Finally, the BOP contracts with state correctional systems and private providers for over 200 community-based facilities (i.e., Residential Reentry

⁵ In its fiscal year 2009 budget, the Bureau acknowledged that “[c]rowding is a very real danger in prisons—causing frustration and anger for inmates whose access to basic necessities like toilets, showers, and meals becomes very limited and who face hours of idleness resulting from a limited availability of productive work and program opportunities.” See also BOP Director Charles Samuels Testimony to the Colson Task Force (Jan. 27, 2015) (same) (available at <http://colsontaskforce.org/wp-content/uploads/2015/10/SamuelsStatement-1-27-15.pdf>). In his testimony, then BOP Director Samuels observed that in fiscal year 2009, the five states with the highest prison populations had an average inmate-to-staff ratio of 3:1. The Bureau’s ratio for that year was 59% higher, at almost 5:1.” *Id.* (“crowding remains a problem” despite population decline).

⁶ In speaking to the Colson Task Force (see Note 5), Director Samuels submitted that “[c]rowding also strains facilities’ infrastructure like water, sewage, and power systems, sometimes to the breaking point. Inmate frustration and anger, in turn, are catalysts for violence which poses real risks to the lives of staff and offenders. Of particular challenge was managing the over 40% of the population housed at higher security levels, where the more violence-prone offenders resides.” The FY 2009 budget references an unnamed BOP study which “indicated that a one percentage point increase in a Federal prison’s crowding (inmate population as a percent of the prison’s rated capacity) corresponds with an increase in the prison’s annual serious assault rate by 4.09 assaults per 5,000 inmates.”

Centers (RRCs or halfway houses))⁷ and for fourteen prisons to house non-U.S. citizens subject to removal. Contract facilities house approximately 19% of the BOP population.

19.03 DESIGNATION AND CLASSIFICATION (P.S. 5100.08)

Congress directs the BOP to designate “the place of the prisoner’s imprisonment” and authorizes the Bureau to select “any available penal or correctional facility that meets [agency-established] minimum standards for health and habitability.” 18 U.S.C. § 3621(b). The enabling statute specifically requires that in placing any prisoner, the BOP account for facility resources, the nature and circumstances of the offense, each prisoner’s history and characteristics, statements from the court, and pertinent Sentencing Commission policy statements. *Id.*; see also *Woodall v. Federal Bureau of Prisons*, 432 F.3d 235 (3d Cir. 2005). Since the 1970s, the BOP has adhered to a formal designation process driven by a scored security classification system. Designation determinations are made at a central location by staff relying on information contained in the presentence investigation report (PSI or PSR) and the Judgment and Commitment Order (J&C).

19.03.01 Importance of Presentence Report

To the BOP, a client’s PSR is quite literally “the Bible.” It impacts every aspect of time in federal custody. See *United States v. Brown*, 715 F.2d 387, 389 n.2 (8th Cir. 1983). Significantly, Probation recognizes the importance of the PSR to the BOP and, correspondingly, its role in providing correct information to prevent unintended consequences. Administrative Office of the United States Courts, *The Presentence Investigation Report*, (March 2006) (“Publication 107”). It is thus incumbent upon counsel to understand applicable BOP policy to explain to the court why information in a PSR that may not bear on the sentence to be imposed is still relevant for BOP purposes. See FED. R. CRIM. P. 32(i)(3) advisory committee’s notes to 2002 amendments (counsel may wish to point out matters in PSR that impact designation).

Because information placed in the PSR is seldom removed, counsel should work to prevent the inclusion of potentially damaging information in the first instance. Once disclosed, counsel should review the draft PSR not only for sentencing-related errors and omissions but also for information, or the lack thereof, that might serve to prejudice a client once incarcerated. Counsel should request the wholesale removal of objectionable references—not merely a notation in PSR’s addendum—with citation to BOP policy that is the basis for concern. Counsel should also provide Probation with documentation pertinent to an anticipated accommodation or programming need (e.g., medical records or evaluations) and ask that it be appended to the report. Should Probation refuse requests such as the foregoing, ask the court to correct or modify the PSR before it is forwarded to the BOP.

19.03.02 The Paper Trail

Primary responsibility for prisoner placement rests with officials at the Designation and Sentence Computation Center (DSCC) in Texas.⁸ Based at the DSCC, designation teams are comprised of staff that compute inmate custody classification scores.

Once a J&C issues after sentencing, Probation transmits it, including the Statement of Reasons, and the PSR to the BOP via e-Designate, an electronic, inter-agency system. The classification process then begins when a team receives a request for designation (USM-129) from the Marshal’s Service. It takes approximately

⁷ A list of Residential Reentry Centers, including contact information, can be found at https://www.bop.gov/business/trc_directory.jsp.

⁸ U.S. Armed Forces Reserve Complex 346 Marine Forces Drive Grand Prairie, Texas 75051; (972) 352-4400; BOP-CPD/DSCC@bop.gov.

seven business days from the point all necessary paperwork is received for a designation to be made. Transmittal of the notice of designation, which particularly affects defendants directed to voluntarily surrender, varies by district. To the extent there are delays, counsel should check first with the Marshal's Service to determine when the request for designation was made and then with Probation to ensure what was sent via e-Designate.

It is sometimes the case that counsel seeks to have the BOP reconsider a designation due to either perceived error (e.g., placement at a higher security facility than thought appropriate) or failure to adhere to a judicial recommendation. In order to facilitate an open dialogue with BOP personnel about the reason(s) for a designation, counsel should supply a written authorization, namely a DOJ Form 361-Certification of Identity. *See infra* Exhibit A. Counsel may also wish to seek an amended judicial recommendation that acknowledges the designation with which the Court takes issue, asking that it be transmitted via e-Designate.

For individuals allowed to surrender to BOP custody, sentencing courts must set a specific reporting date and time to report. To the extent that issues affecting surrender arise post-judgment (e.g., a significant change in health or a family emergency), the sentencing court alone has the power to authorize an extension of time; the BOP has no legal authority to modify surrender dates. If a client is unable to report to the designated institution within the time prescribed and the court has not granted an extension, it is advisable to surrender to the nearest U.S. Marshal's Office. Although Marshal's transport carries its own unique problems (i.e., diesel therapy), that is preferable to the risk of being declared a fugitive.

19.03.03 Designation and Sentence Computation Center

The DSCC is home to several functions, including sentence computations, re-designations/transfers, and the placement of individuals presenting with serious or chronic medical or mental health issues, which are referred to the Office of the Medical Designator (*see infra* Section 19.03.07). As reflected below, the teams that intake and upload information for initial designation, and confirm primary federal jurisdiction, are arranged by the federal district from which a request for designation is made (i.e., courts of jurisdiction).⁹ A team of senior designators (Hotel Team) reviews a roster of inmates classified the day before, making the final designation determinations that account for facility populations and judicial recommendations. Of note, the DSCC annually processes some 70,000 designations requests for newly sentenced prisoners.

⁹ The table is current as of press time. Team assignments are subject to change at any time by the BOP.

<u>Alpha</u> District of Columbia D.C. Superior Court	<u>Foxtrot</u> Connecticut Ohio (all districts) Rhode Island South Dakota Virginia (all districts)	<u>Papa</u> Eastern & Southern California
<u>Bravo</u> Maryland Tennessee (all districts) Eastern Texas West Virginia (all districts)	<u>India</u> Southern Texas	<u>Quebec</u> Massachusetts Montana Nevada Oregon Utah Washington (all districts)
<u>Charlie</u> Arkansas (all districts) Kentucky (all districts) North Carolina (all districts) Oklahoma (all districts)	<u>Juliet</u> Western Texas	<u>Romeo</u> Hawaii Illinois (all districts) Michigan (all districts) Puerto Rico
<u>Delta</u> Delaware Idaho Maine New Hampshire New York (all districts) Vermont	<u>Kilo</u> Georgia (all districts) Louisiana (all districts) Mississippi (all districts) Northern Texas	<u>Sierra</u> Northern California Iowa (all districts) Kansas Nebraska Wisconsin (all districts) Wyoming
<u>Echo</u> New Jersey North Dakota Pennsylvania (all districts) South Carolina	<u>Lima</u> Florida (all districts) Guam Northern Marianna Islands Virgin Islands	<u>Tango</u> Alaska Colorado Indiana (all districts) Minnesota Missouri (all districts)
	<u>Oscar</u> Arizona	

Counsel can also contact DSCC staff directly to advocate for clients, or to present information that might otherwise not be considered. Useful materials to share include things that reflect the court's consideration of issues that bear on placement, programming or time credits, such as responses to PSR objections, or the Court's position regarding conditions of confinement (e.g., sentencing transcript excerpts). Also helpful are physicians' letters or records addressing medical or mental health needs not captured in the PSR. The best way to ensure that correspondence or materials reach appropriate team personnel, is to have the court direct Probation to forward them via e-Designate. Records to be placed in a client's "central file," which follows an inmate to each designated institution, can also be sent to the warden at the client's designated (parent) institution—not to the DSCC.

19.03.04 Security/Custody Classification Level¹⁰

DSCC designation staff determines an individual's security level by uploading data to an Inmate Load and Security Designation Form in the BOP's computerized prisoner management and tracking system (SENTRY), which produces a score that corresponds to a classification level.¹¹ The DSCC also considers proximity to a prisoner's legal residence (within 500 miles), population levels at prospective institutions, judicial recommendations, and placement of other inmates with adverse interests (separatees). Once loaded

¹⁰ Portions of this section are taken from attorney Peter Goldberger's (Ardmore, PA) contribution to S. Sady and L. Deffebach, *Update on BOP Issues Affecting Clients Before and After Sentencing* (Feb. 2007).

¹¹ A copy of the form is found *infra* in Exhibit B.

into SENTRY, the matter is assigned randomly to a senior designator who selects the place of imprisonment and notifies the Marshal's Office and the facility of that selection, but not the prisoner or counsel.

Program Statement 5100.08, the *Security Designation and Custody Classification Manual*, establishes BOP policy regarding prisoner classification.¹² The *Manual* is an assessment tool that assigns numerical values to ostensibly objective criteria measuring an individual's risk to public safety and institutional security. A higher score, on a scale of zero to forty-five points, signifies a higher classification level and a more restrictive institution [for males, ordinarily 0-11= minimum, 12-15 = low, 16-23 = medium, 24+ = high; for females, 0-15 = minimum, 16-30 = low, and 31+ = high]. The following are the key security point factors:

- **Age:** A person age 24 or younger receives eight points; 25-35 year-olds receive four points, 36-54 year-olds receive two points; and those 55 or older receive no points.
- **Education:** Two points are assigned to those without a verified (in the PSR) high school diploma or GED certificate. One point is assigned to those enrolled in a GED program, and zero if a diploma or certificate has been verified.
- **Drug Use:** One point for abuse of drugs or alcohol in the last five years. Although the issue arises infrequently, prudence suggests assessing the impact that this point may have on classification level relative to a client's ability and interest in participating in the 500-hour drug program. *See infra* Section 19.06.02.
- **Detainers:** A PSR's mention of detainers, pending charges or outstanding warrants results in points being assigned based on their respective severity. Points are not ordinarily applied for immigration detainers, but a public safety factor (see *infra*) will result in at least low-security placement. Detainers also serve as program disqualifiers, such as for RDAP (see *infra* Section 19.06.02) and halfway house placement. Consider resolving such matters before sentencing, but be aware of the impact new convictions may have on the criminal history score.
- **Criminal History:** Criminal history is measured using the Sentencing Guidelines' criminal history score, as determined by the sentencing court. Accordingly, the criminal history section merits even closer scrutiny, with errors corrected before the PSR is sent to the BOP. BOP uses the original criminal history score notwithstanding a judicial finding that it is over-representative. The best course in such instances is for the J&C to reflect the court's determination, with a separate judicial recommendation that BOP consider a lesser score.
- **Current Offense Severity:** Appendix A to the Manual contains the Offense Severity Scale, which ranges from Greatest to Lowest. Severity points are based not on the offense of conviction but on the "most severe documented instant offense behavior." (For example, if the conviction is for simple assault but the PSR's offense conduct section reflects an aggravated assault, BOP scores the more serious conduct.)
- **Pre-Commitment Status:** Three points are deducted for voluntary surrender, either to the institution or to the USM (other than on the day of sentencing).
- **Prior Violence:** One to seven points, based on seriousness and recency, are applied for prior violent acts where there has been a finding of guilt (looking at the actual behavior as set forth

¹² Counsel are highly encouraged to print a copy of BOP's *Designation Manual* and place it on their bookshelves next to the *Federal Sentencing Guidelines Manual*.

in the PSR). “Minor” violence is aggressive or intimidating but unlikely to cause serious bodily harm or death, while “serious” violence is likely to cause serious bodily harm or death.

- **Escapes:** One to three points are applied for prior escapes from custody, including halfway house walkaways, based on seriousness and recency. Although points are not assigned for absconding, eluding arrest and failure to appear, such actions may result in application of a “greater security” management variable. *See infra*.

By following the application directions set forth in Chapter 4 of the *Manual*, counsel can approximate a client’s security point total. Some factors are straightforward (e.g., age, education level). Others involve a degree of subjectivity that requires a conservative, educated guess.

Beyond providing a sense of the institutional security level for which a client will qualify, engaging in the scoring process prior to sentencing alerts counsel to problematic issues and needed advocacy. For instance, whether a drug offender meets the Bureau’s definition of “Organizer/Leader,” see P.S. 5100.08, App. A, p. 5, can mean the difference between the offense of conviction being labeled “high” as opposed to “greatest” severity, the latter resulting in two more points and application of a Public Safety Factor (see *infra*). Inasmuch as designation personnel view defendants as the person portrayed in the PSR, the best, if not only, opportunity a client may have to resolve a role-related dispute, or similar point of factual contention, is during the sentencing phase. A particular danger is a PSR’s failure to distinguish clearly between “instant offense behavior” and other conduct, namely co-conspirators’ conduct, in which a client was not implicated. Whenever possible, have the Court direct Probation to “clean up” or at least clarify the PSR in these or similar regards before it is transmitted to BOP. Likewise, ensure that the J&C and Statement of Reasons reflect favorable rulings on guidelines enhancement issues (e.g., rejection of proposed two-point gun bump, lesser quantity attribution).

Beyond a prisoner’s scored security level, DSCC staff consider application of overriding factors: Public Safety Factors (PSFs) and Management Variables. P.S. 5100.08, Ch. 5. PSFs are intended to address information suggesting a need for greater precautions in classification. PSFs are not confined to evidence of convictions; the BOP often relies on the PSR’s description of current and prior offense behavior. It is thus critical that offending or incorrect material be stricken from a PSR even though it does not affect sentencing. There are 11 PSFs, application of any of which bars placement at a prison camp:

- **Disruptive group (males only):** The BOP works to balance gang populations throughout the system to prevent one group from having too large a presence at a particular institution.¹³ That said, members of five groups are assigned a Public Safety Factor that results in High security placement unless the PSF is waived: Aryan Brotherhood, Black Guerilla Family, Mexican Mafia, Mexicanemi, and Texas Syndicate.¹⁴
- **Greatest severity offense (males only):** Refers to offense underlying present term of confinement and, as set forth in Appendix A to the *Manual*, includes serious assaults, organizing/ownership in large-scale drug crimes, espionage, extortion through violent means, homicide, kidnapping, robbery, violent sexual offenses, and firearms distribution. Results in at least Low placement.

¹³ Counsel should work to ensure that any gang or organized crime affiliation listed in the PSR is substantiated and where not, or where a client has de-affiliated, request removal of the reference.

¹⁴ Requests for waiver of either a PSF or a Management Variable can be made to the DSCC Administrator.

- **Sex offender:** Assigned when there is any evidence of sexual misconduct in an inmate's background, including prior conduct and notwithstanding the offense of conviction. If the PSR indicates questionable or borderline behavior, seek a finding it was not "aggressive or abusive." Results in at least Low placement and triggers the sex offender notification requirement.
- **Threat to government official:** Results in at least a Low placement.
- **Deportable alien:** Applies to all non-citizens absent a finding by Immigration and Customs Enforcement, or the Executive Office for Immigration Review that removal is not warranted. Results in at least Low placement.
- **Sentence length (males only):** Looks at projected release date (sentence length less anticipated good time credit). Those with more than ten years remaining to serve must be housed in at least Low; more than 20 years, Medium; and more than 30 years, High—all unless waived.
- **Violent behavior (females only):** Two convictions for, or findings of, serious violence within the last five years. Results in placement at Carswell (TX) Administrative Unit, unless waived.
- **Serious escape:** For an incident within the preceding ten years. Unless waived, results in placement of females at Carswell Administrative Unit, and males in at least Medium.
- **Prison disturbance:** Involvement in a serious incident of violence within an institution that produces a finding (in conjunction with a period of simultaneous institution disruptions) of engaging, encouraging or acting in furtherance of a riot. Results in High placement for males, and placement at Carswell Administrative Unit for females.
- **Juvenile violence (juveniles only):** Applies if history of even one serious violent conviction.
- **Serious telephone abuse:** Where, as reflected in the PSR, inmate used or attempted to use a telephone to "further criminal activities or promote illicit organizations," but only if: (i) "leader/organizer" or "primary motivator"; or (ii) used phone to communicate threats of death or bodily injury; or (iii) used phone to conduct or attempt significant fraudulent activity while incarcerated; or (iv) leader/organizer of significant fraudulent activity in the community; or (v) used phone to arrange introduction of drugs while incarcerated. Also applies if monitoring of inmate calls is needed in response to "significant concern" communicated by federal law enforcement, if an inmate has telephone disciplinary violation, or if the BOP "has reasonable suspicion and/or documented intelligence supporting telephone abuse." In addition to affecting placement, this PSF may cause reduction in monthly telephone minute allotment.

Management Variables are grounded in the "professional judgment of bureau staff" and include more nebulous considerations, like population management, the need for medical or psychiatric treatment, circumstances wherein an inmate poses either a greater or lesser security risk than his assigned security level denotes, and judicial recommendations. The last of these is the most frequently encountered by defense counsel.

19.03.05 Judicial Recommendations

The BOP receives judicial recommendations in approximately 50% of cases. Although recommendations are not binding, the BOP is obliged to weigh them and does, in fact, work to comply with them so long as they are consistent with policy and correctional management considerations. *See* 18 U.S.C.

§ 3621(b); P.S. 5100.08, Ch. 5, p. 3; *see also Woodall v. Federal Bureau of Prisons*, 432 F.3d 235, 245-46 (3d Cir. 2005). For instance, if at counsel's request, the court recommends placement at a prison camp, and the client does not qualify for minimum-security placement, the BOP cannot honor the recommendation. The BOP reports complying with approximately 70% of recommendations, wholly or in part.

When requesting placement at a particular institution or class of institution, opportunities for program participation, less restrictive pre-release status while in halfway houses, waiver of fine repayment while in custody, or any other consideration the facts indicate would be appropriate, counsel should emphasize the court's role in the designation process as well as the BOP's willingness to abide by recommendations. *See* 18 U.S.C. § 3621(b)(4). If nothing else, a judicial recommendation indicates the court's perspective as to the appropriate handling of a defendant and to the applicability of security enhancements.

In terms of placement at a given facility, the more specific the better. Also, given the possibility of limited bed space availability at the time of designation, counsel may want to propose alternative locations (e.g., "The Court recommends the defendant's placement at FCI X to facilitate regular family visitation and participation in the ABC program. In the alternative, the court recommends placement at FCI to facilitate visitation."). Recommendations like "close to home" or "nearest to the district" can have unintended, adverse consequences and should be avoided. For those clients who might be appropriate for direct designation to a halfway house (e.g., minimum-security, less than thirteen months remaining to serve), the BOP requires a judicial recommendation.

19.03.06 Re-Designations and Transfers

Once an inmate reaches his assigned facility (parent institution), he is generally ineligible for transfer (re-designation) for eighteen months, during which time he must maintain infraction-free conduct. Specifically, the issue of re-designation is covered during an inmate's periodic Team meetings, which occur every six months. To the extent institution staff support a transfer, they prepare a re-designation package, which must be circulated through the institution's various departments before being signed off on by the warden and transmitted to the DSCC.

Transfers are usually limited to compelling reasons, such as change in classification level, to obtain necessary medical treatment, or to facilitate program participation. Counsel is most frequently contacted regarding clients' desire to be closer to family. Unless told otherwise, the BOP considers an inmate's "legal address," as listed in the PSR, as his "release residence," that is, the address to which he intends to return upon release. Assuming no separate issues, an individual seeking to move closer to home (i.e., within 500 miles) needs to demonstrate why the move is necessary and appropriate (e.g., letter from an immediate family member explaining difficulties in visitation related to distance, cost or medical considerations). That said, experience suggests that closer-to-home requests often fall on deaf ears, particularly where an inmate is still within the first few years of his sentence or does not have much time remaining to serve.

Where escorted transfers are called for, the process can be long and arduous, involving shackled transport from one local jail to the next, extended placement in SHU at high-security institutions and/or prolonged placement at the Federal Transfer Center in Oklahoma City. For those inmates classified "out" or "community" custody transferring from a Low to Minimum or between Minimums, Bureau policy allows for unescorted transfers (furlough transfers), wherein family members on an inmate's approved visiting list can provide transportation to the receiving institution subject to warden approval.

Note that where efforts to correct factual errors fail during the sentencing phase or upon referral to the DSCC, a prisoner can pursue relief through the administrative remedy process and, ultimately, review by the district court in the district in which he is housed. Prisoners maintain certain due process rights in the designation context, as well as a Privacy Act right to insist that fact-bound determinations not be based upon

erroneous information subject to verification. See *Wilkinson v. Austin*, 545 U.S. 209 (2005); *Sellers v. Bureau of Prisons*, 959 F.2d 307 (D.C. Cir. 1992); see also *Perry v. Bureau of Prisons*, 371 F.3d 1304 (11th Cir. 2004).

19.03.07 Medical Care Levels

Defense counsel often justifiably emphasize a client's medical condition(s) as a form of sentencing mitigation. Concurrently, the BOP purports to treat most every medical condition and to provide a level of care commensurate with prevailing community standards. See *United States v. Cutler*, 520 F.3d 136, 172-75 (2d Cir. 2008). Although some courts do question the BOP's ability to provide appropriate treatment, see, e.g., *United States v. Pineyro*, 372 F. Supp. 2d 133 (D. Mass. 2005), most impose sentence fully expecting BOP will accommodate individual needs.

Importantly, the BOP is rarely privy to whatever argument counsel advances in connection with sentencing. Again, what matters to the Bureau is information in the PSR. Counsel should thus make every effort to ensure a PSR's accuracy in this regard. Without complete information, the BOP cannot appropriately determine where an inmate should be housed to best treat and manage medical needs. It is thus critical for counsel to document legitimate health problems.

Prior to a client entering federal custody, counsel can take several steps to help ensure that needs are understood and, hopefully, met. First, obtain letters from treating physicians summarizing the patient's history and recommending a course of care. Also useful are treatment records. Both should be provided to Probation in .pdf format with a request that they be appended to the PSR, particularly at the time that it is transmitted to the BOP via e-Designate. Note that Probation policy precludes its disclosure of a defendant's HIV+ or AIDS status. It is thus recommended that counsel who has a client with either condition obtain a release authorizing Probation to share such information with the BOP and, if necessary, motion the court to direct Probation to make the disclosure.

Where a client is taking medication, counsel should provide the prescribing physician a copy of the BOP's national formulary to confirm that the medication is available.¹⁵ If it is, accommodation should presumably be a non-issue. If it is not, consideration should be given to substituting formulary medications for non-formulary medications to gauge their efficacy and potential side effects. To the extent a formulary medication cannot safely be substituted for a prescribed, non-formulary medication, the doctor should explain the efforts taken and reasons why in a letter. Inasmuch as medications are often reviewed and changed when inmates first arrive at an institution, clients should also be directed to bring copies of physicians' letters with them when reporting to custody.

The BOP seeks to identify and manage medical needs by assigning Care Level classifications to all inmates and federal facilities that are designed to match prisoners with institutional and community resources. Prisoners fall within one of four categories:

- **Level 1:** Under seventy, and healthy generally, but may have limited needs that can be managed by medication and clinical evaluations every six months (e.g., mild asthma, diet-controlled diabetes, stable HIV patients not needing medication);

¹⁵ The formulary can be obtained by typing "formulary" in the search box on the BOP's website (www.bop.gov). The search should produce two related .pdf documents.

- **Level 2:** Stable outpatients requiring quarterly evaluations who can be managed in chronic care clinics but not needing regular enhanced resources (e.g., medication-controlled diabetes, epilepsy, emphysema);
- **Level 3:** Fragile outpatients who require frequent clinical contact and possible assistance with daily living activities (e.g., cancer in remission less than one year, advanced HIV, severe mental illness in remission through medication); and
- **Level 4:** Inpatients with severely impaired functioning needing 24-hour nursing care (e.g., cancer in treatment, dialysis, quadriplegia, stroke/head injury, major surgery, acute psychiatric illness).

As for the corresponding facility considerations: Level 1- allows designation at a facility located approximately one hour or more from community medical centers (i.e., remote)¹⁶; Level 2- allows designation at a facility with no special capabilities beyond those that Health Services staff ordinarily provide, but within about one hour of major regional treatment centers, therein permitting more immediate attention to medical emergencies; Level 3- requires designation at a facility which are mostly adjacent to Level 4 institutions; Level 4- requires designation at Medical Referral Centers. There are six Care Level 4 institutions: FMC Butner (NC), which has a relationship with Duke Medical and is considered the BOP's oncology center; FMC Carswell (TX), the only Care Level 4 facility for female inmates; FMC Devens (MA), which has a dialysis unit; FMC Lexington (KY); FMC Rochester (MN), which has a relationship with the Mayo Clinic and is considered the BOP's cardiac center; and USMCFP Springfield (MO), which also has a dialysis unit.

19.03.08 Mental Health Care Levels

Just as it assigns Medical Care Levels, the BOP also assigns Mental Health (MH) Care Levels. A MH Care Level 1 facility is intended for inmates with no identified mental health problems and those with stable conditions requiring psychological contact or clinical intervention no more than every three-to-six months. MH Care Level 2 is for those who require at least quarterly interventions. MH Care Level 3 connotes frequent intervention (weekly) over an extended period. MH Care Level 4 equates to psychiatric hospitalization.

Consistent with many defense attorneys' experience, the Bureau of Justice Statistics has estimated that 45% of federal inmates have mental health problems. BJS, MENTAL HEALTH PROBLEMS OF PRISON AND JAIL INMATES (Sept. 2006). Yet, according to the BOP more than 90% of inmates qualify for MH Care Level 1 placement, while less than 1% qualify for MH Care Level 3 or 4 placement (combined). *See* U.S. GOVERNMENT ACCOUNTABILITY OFFICE, BUREAU OF PRISONS: TIMELIER REVIEWS, PLAN FOR EVALUATIONS, AND UPDATED POLICES COULD IMPROVE INMATE MENTAL HEALTH SERVICES OVERSIGHT (July 2013). Anecdotal evidence suggests that BOP designates those with persistent mental health issues (e.g., anxiety) to at least low security institutions based on the putative need for closer monitoring that the higher staff-to-inmate ratios at FCIs offer. Also, there appear to be increased incidents of the discontinuation in the use of psychotropic medications, or a reduction in the number and/or strength of medications prescribed.

19.03.09 Sentence Computation

DSCC staff handles inmate sentence computation issues—credit for time served and time remaining to serve. The relevant data is captured on a Sentence Monitoring Computation Data form, which inmates can obtain from institution staff. The form is typically reviewed during intake and then during program reviews.

¹⁶ These include USP Atwater (CA), FCI Bennettsville (SC), FCI Berlin (NH), USP Big Sandy (KY), FCI Herlong (CA), USP Lee (VA), FCI Manchester (KY), FCI McDowell (WV), FCI McKean (PA), FCI Oxford (WI), FCC Pollock (LA), FCI Ray Brook (NY), FCI Safford (AZ), FCI Sandstone (MN), FCI Three Rivers (TX), FCI Yankton (SD), and FCI Yazoo City (MS).

Based on the BOP's time credit matrix, which the Supreme Court affirmed, most federal prisoners can expect to serve 87.14% of the sentence imposed, as opposed to the commonly-assumed 85%. *See Barber v. Thomas*, 560 U.S. 474 (2010).

Inmates frequently complain that they are not receiving credit due for time served or based on concurrent state sentences. It is a complex, fact-specific area for which bright-line guidance is difficult.¹⁷ Counsel should thus be wary of making any assurances to clients about credit for time served.¹⁸ That said, two common scenarios counsel confront provide considerations that should be weighed.

19.03.09.01 Client In State Custody on Pending Charges at Time of Federal Arrest

This scenario highlights the concept of "primary jurisdiction." Clients who are brought into custody by a given jurisdiction remain under that jurisdiction's primary custody and control until formally discharged (e.g., released on bond, dismissal of case, completion of sentence, etc.). Being produced in another jurisdiction via writ does not extinguish the original jurisdiction's primacy; the defendant is merely "on loan."

A defendant who is found guilty and sentenced first in state court must complete whatever state sentence is imposed before the BOP will assume custody. Although a state conviction/sentence can adversely affect a client's criminal history score, the federal court is able to reduce a defendant's federal sentence to reflect time served in state custody (U.S.S.G. § 5G1.3 and 18 U.S.C. § 3553(a)) as well as to order the federal sentence to run concurrent to undischarged portion of the state sentence. Further, pursuant to *Setser v. United States*, 132 S. Ct. 1463 (2012), federal courts can impose sentence to run concurrent to a not yet imposed state sentence. Where the federal court directs that the federal sentence run concurrent to another term of imprisonment, the BOP treats it as an order that the state prison be designated as the individual's place of federal imprisonment (until such time as the state sentence is completed and the person is handed over to the BOP). *See* P.S. 5160.05 (offering language federal court should use to make clear its intent). Absent the federal court expressly ordering the federal sentence to run concurrently, the BOP will treat the federal sentence as running consecutive to any undischarged term of imprisonment since the BOP does not readily afford "double credit" for time served on another sentence. *See* 18 U.S.C. § 3585(b). That said, the BOP will generally check with courts to confirm intent.

Resolution in state court first is not desirable to those looking to serve their time in federal custody. Because it is the rare case where a state is willing to allow a pre-trial detainee to discharge to a federal warrant or detainer, counsel might look to determine whether the state is amenable to dropping its case or agreeing to a non-prison sentence should the federal sentence be deemed sufficient punishment. In such instances, the client would be sentenced first in federal court and then, once the state case resolves, discharged to the outstanding federal detainer. To ensure that the client receive full consideration from the BOP for time served in state custody, it is essential that counsel obtain certified, written verification that none of the time served in state custody was credited toward another sentence (e.g., certified disposition from the state court that the case was dropped or the sentence imposed carried no term of imprisonment, even time served) and forward that verification to BOP Inmate Systems Management officials at the DSCC.

¹⁷ *See generally* Henry J. Sadowski, *Federal Sentence Computation Applied to the Interaction of Federal And State Sentences*, THE CHAMPION, at 38 (NACDL April 2014).

¹⁸ To the extent that time credit considerations are fundamental to the rationale for the sentence, counsel should incorporate them formally into the record in order to provide a possible basis for relief via 28 U.S.C. § 2255 if it is later determined the Court misapprehended a material fact(s) when imposing sentence.

19.03.09.02 Client In Federal Custody on Pending Charges When Charged In State Court

From a federal perspective, this is usually seen as the most desirous scenario because “primary jurisdiction” means that the individual is in federal custody and that the federal sentence can and should control. Under this scenario, it is often best to have the federal sentence resolve first so as to avoid any confusion about whether the state Department of Corrections has credited any time served in federal custody against a state sentence. Note, however, that the BOP shall treat any state matter—regardless of whether the client is convicted and sentenced, or the charges remain pending—as producing a detainer even if none is lodged. This impacts a client’s security level (at least Low) and pre-release placement (halfway house) eligibility. In jurisdictions requiring that a prisoner appear in front of the paroling authority before a sentence is terminated, it is likely that the client will serve his entire federal sentence at an FCI (or higher) and then be returned to the state to tend to outstanding matters.

19.04 INSTITUTIONAL LIFE

The best advice counsel can offer the client facing his first term of imprisonment is, “You will learn more in the first few weeks than I or any guide book can tell you.” Thus, while this section touches upon most frequently asked questions, one of the best ways to assist clients is to put them in contact with former federal prisoners, particularly those who served time at a client’s designated institution. This can be accomplished by inquiring on criminal defense listserves. Former clients are surprisingly receptive to sharing their experiences.

19.04.01 Receiving and Orientation

Intake practices vary by institution. Generally, new prisoners are accepted weekdays during business hours (9:00 a.m. until 4:00 p.m.). Those approved for voluntary surrender should arrive no later than 10:00 a.m. to help avoid processing delays or other unexpected problems, such as placement overnight in the Special Housing Unit (SHU or “the hole”).

Receiving and Discharge (R&D) staff conducts the first part of the intake. It is akin to a police booking and can last anywhere from 30 minutes to three hours. Inmates are strip-searched, photographed and fingerprinted before submitting to social, medical, and psychological evaluations. The social evaluation entails a brief social history/security screening meant to ensure each prisoner is an appropriate candidate for the institution (not requiring additional supervision or unavailable services). The medical evaluation includes a physical exam, a screening for tuberculosis and other contagious diseases, and the taking of history of current and prior conditions. The psychological evaluation assesses mental status and suicide risk.

It is during R&D that unauthorized personal property is taken and packaged for return to the prisoner’s home address (at the Bureau’s expense). Medication in an individual’s possession not prescribed by the BOP is prohibited and will be confiscated and destroyed. Items that one can bring ordinarily include prescription eyeglasses, a plain wedding band (no stones), a religious medallion, and a money order. Clients should call the designated institution before reporting to confirm what the facility allows.

At the completion of R&D, institutional clothing is presented and, assuming a bed is available, a housing unit assigned. Lack of bed space results in SHU placement until population pressures ease. Admission and Orientation (A&O) usually occurs within four to five days of R&D. It entails meeting with the Unit Team that will supervise the inmate. Prisoners are also introduced to the heads of the various departments, review the institution’s policies and standard operating procedure contained in a handbook that each inmate should receive, and assigned a job.

19.04.02 Staff

The BOP has nearly 40,000 full-time employees, 63% of whom are White (Non-Hispanic), 22% of whom are African-American, 12% of whom are Hispanic, and 73% of whom are male. On the whole, correctional workers tend to be conservative-minded and bureaucratic. An array of counselors, correctional officers, medical personnel, and administrators staff each institution. Because one of the Bureau's stated goals is for staff to serve as "law-abiding role models," they are compelled to interact regularly with prisoner populations. Staff supervises all facets of prisoner life: living, dining, visiting, etc. They also conduct regularly scheduled counts to monitor prisoner whereabouts (five on weekdays, six on weekends).

An inmate's primary interaction is with the Unit Team located in his housing unit: unit officer, counselor, case manager, and unit manager. Concerns, requests, grievances, etc. are addressed to the Team, often in writing ("a cop-out"), and can be appealed to the warden. Wardens, who are vested with tremendous discretion in their respective institutions' daily operations, invariably uphold team decisions, therein restricting opportunity for meaningful review. Additional appeals can be made to the regional and central offices, with exhaustion of the administrative remedy process positioning one for potential redress through the District Court in which a prisoner's institution is seated. *See* 28 U.S.C. § 2241.¹⁹ Ultimately though, wardens are the frontline of the BOP's senior administration, and, absent clear abuses of discretion, their decisions stand.

19.04.03 Visitation (P.S. 5267.09)

Each institution's visiting regulations can be found on its home page on the Bureau's website, <http://www.bop.gov>. Although institutions might have unique procedures, all require that a prisoner's visitors be pre-approved. The approval process requires the prisoner to mail a standardized form to the prospective visitor, who then must return the completed form to the Unit Team, which conducts a background check. *See infra* Exhibit C. This process may be waived if a prospective visitor is identified as family or a friend in the PSR. An individual slated for self-surrender can help expedite the approval process by mailing a letter to herself at the institution a few days before reporting that contains the names, addresses and dates of birth of prospective visitors—such letters should have "Scheduled to Report [DATE]" written on the envelope.

19.04.04 Telephone Use (P.S. 5264.08)

Inmates may use institution telephones when off duty from work assignments. They may call individuals on their approved telephone lists. In order to add names to the list, an inmate must provide a person's pertinent contact information, which staff then reviews before authorizing and entering it into the institution's computer. Each inmate must establish a phone account and purchase phone credits before placing calls. Inmates are provided with a personal pin number that automatically deducts credits from their account.

Telephone calls last up to 15 minutes, with 300 minutes being the maximum allowable per month (400 in November and December). The allotted number of monthly minutes is a substantial hardship to many, especially those with close family ties and large families. One result is abuse of the BOP's phone system. Caution clients strongly against violating institution telephone rules because it can, and does result in placement in SHU (both during investigation and as punishment), loss of good time credits and/or lengthy suspension of telephone and visiting privileges. The most common abuses are three-way calls, when the party on the other end joins another into the call (regardless of whether the third party is on the inmate's approved

¹⁹ Further information concerning the BOP's administrative remedy process can be found in P.S. 1330.17, *Administrative Remedy Program* (Aug. 20, 2012). *See* 28 C.F.R. § 542.10 - 542.15.

list); conducting “business” over the telephone; having another inmate call a family member at one’s behest; and use of a cellular phone smuggled into the institution.

All non-legal calls begin with a recorded announcement that the call originates from a federal correctional institution, which is repeated midway through the call. Non-legal calls are recorded and subject to monitoring. In certain circumstances, individuals whose use of telephone facilitated their offense conduct, or who committed an institutional infraction involving the use of a telephone, are subject to a Serious Telephone Abuse PSF. *See supra* Section 19.03.04. In addition to Low placement, such persons can expect their calls to be more closely monitored.

19.04.05 Mail (P.S. 5265.14)

All mail should be addressed using an inmate’s committed name (as listed by the BOP) and register number (e.g., John Doe, Reg. No. XXXXX-XXX). Each institution’s address for prisoner mail can be found on its home page on the Bureau’s website, <http://www.bop.gov>. Personal mail is subject to inspection by staff outside of an inmate’s presence. Unless labeled correctly (see *infra* Section 19.07), legal mail is handled like personal mail.

Prisoners may only receive hardcover publications and newspapers directly from the publisher, a book club or a bookstore. Minimum and Low prisoners can receive soft cover publications (excluding newspapers) from any source, while those at Medium, High and administrative facilities must receive them from the publisher, a book club or a bookstore. Other restrictions on incoming publications, such as those restrictions concerning content, can be found in P. S. 5266.11. *See* 28 C.F.R. § 540.70, *et seq.*

19.04.06 Electronic Mail

The majority of inmates are permitted to communicate via electronic mail known as the Trust Fund Limited Inmate Communication System (TRULINCS). The program is run through CorrLinks, a Web based electronic mail service (<http://www.corrlinks.com>) that requires registration. The program allows inmates to send e-mails of up to 13,000 characters, without attachments, to individuals on their approved contact lists. TRULINCS is intended “[t]o provide the Bureau with a more efficient, cost-effective, and secure method of managing and monitoring inmate communication services.” Messages are, like the telephone system, subject to monitoring (and retention), and thus not confidential; there is no confidential attorney-client e-mail system. Certain sex offenders and inmates whose conviction involved Internet use are precluded from accessing TRULINCS.

19.04.07 Commissary Account and Privileges

The BOP allows prisoners to maintain commissary accounts through which they can both purchase approved items at allotted times from an institution’s commissary (e.g., food, cigarettes, clothing, personal hygiene products, MP3 players, radios, watches, fans, etc.) and pay for telephone calls.²⁰ Self-surrender prisoners should be encouraged to bring a U.S. Postal Service money order made out in their name and including their federal register number. Although there are no limits on the balance one may keep, it is recommended that accounts not be excessive since others invariably learn such information and it invites unwelcome attention (i.e., pressure or threats).

Once funds are deposited in a prisoner’s account they are considered his property regardless of the source (e.g., a gift from family). Consequently, at the warden’s discretion they may be used to satisfy financial

²⁰ Commissary items vary by institution. Some facilities’ lists can be accessed by searching for “commissary list” on the BOP’s website, www.bop.gov.

obligations, like court-ordered restitution, via the Inmate Financial Responsibility Program (IFRP). *See United States v. Lemoine*, 546 F.3d 1042 (9th Cir. 2008) (upholding BOP's ability to require inmates to pay restitution under IFRP at a higher or faster rate than the specified by the sentencing court); 28 C.F.R. 545.10, *et seq.*; P.S. 5380.08. For prisoners in BOP custody, third parties should send funds for deposit to:

Federal Bureau of Prisons
First Name Last Name
Reg. No. XXXXX-XXX
Post Office Box 474701
Des Moines, Iowa 50947-0001

Deposits should be money orders made out to "First Name Last Name" and include the register number. The sender's name and return address must appear on the upper left-hand corner of the envelope in case of return. The BOP destroys anything else included in the envelope (e.g., personal items). The sender must trace funds not deposited into a prisoner's account.

Money can also be sent via Western Union and Money Gram. Instructions concerning these methods can be found at <https://www.bop.gov/inmates/communications.jsp>. Information about specific deposits can be obtained from the BOP by calling (202) 307-2712 between 8:00 a.m. and 4:30 p.m. EST.

19.04.08 Employment and Education

Most federal prisoners must work, albeit in mundane, menial positions for which wages are minimal (12 to 40 cents per hour). For instance, approximately 12% of the population is responsible for food preparation. The best opportunity for meaningful employment exists within Federal Prison Industries (UNICOR), which pays 23 cents to \$1.15 per hour. Be advised, however, that FPI positions, which reach approximately eight percent of the inmate population, tend to be reserved for veterans and for those with longer sentences. There has also been litigation and criticism concerning health-risks associated with such jobs. *See, e.g., DOJ-OIG, A REVIEW OF FEDERAL PRISON INDUSTRIES ELECTRONIC-WASTE RECYCLING PROGRAM* (Oct. 2010). Many institutions also offer vocational training through work assignments. Vocational programs include HVAC, plumbing, motor vehicle maintenance, welding, dental assisting, carpentry, culinary arts, and electrical.

Inmates who have not graduated high school or earned a General Equivalency Diploma (G.E.D.) are required to enter a literacy program, which progresses from basic literacy to attaining one's G.E.D. This requirement affects a significant percentage of the inmate population, and failure to participate can result in loss of good time credits. Similarly, non-English speaking prisoners must participate in English-as-a-Second Language (ESL) courses until able to function at an eighth-grade level. Aside from prisoner-taught adult education courses, academic opportunities are otherwise limited to correspondence courses, the cost of which is borne by the inmate.

19.04.09 Medical Care (P.S. 6031.04)

The quality of correctional medical care is often rightly criticized. However, for most clients the more pressing concern is when treatment will be afforded, and when it will be withheld. In simplest terms, clients should not expect to receive either the same level of attention or the same level of care as they do in the community. Ailments for which one would routinely go to and be seen by a doctor when home are commonly ignored or insufficiently treated when in federal custody. This is partly due to inadequate staffing. *See U.S. GOVERNMENT ACCOUNTABILITY OFFICE, BUREAU OF PRISONS HEALTH CARE: INMATES' ACCESS TO HEALTH CARE IS LIMITED BY LACK OF CLINICAL STAFF* (Feb. 1994) (finding that inmates are not receiving needed health care due to insufficient numbers of physician and nursing staff to perform required clinical and other

related tasks); *see also* U.S. DEP'T OF JUSTICE, OFFICE OF THE INSPECTOR GENERAL, REVIEW OF THE FEDERAL BUREAU OF PRISONS' MEDICAL STAFFING CHALLENGES (March 2016) (“Although BOP policy states that the vacancy rate shall not exceed 10% during any 18-month period, we found that only 24 of 97 BOP institutions had a medical staffing rate of 90 percent or higher as of September 2014.”). It is partly due to cost containment. But, largely, it is due to how the BOP defines when treatment must be provided and when it can be withheld.

The BOP classifies the care it provides inmates within five levels:

- **Medically Necessary-Acute or Emergent:** Serious, potentially life-threatening conditions that, if untreated, would cause rapid health deterioration or significant, irreversible loss of function. Examples include heart attacks, strokes, major head trauma, and detached retina;
- **Medically Necessary-Non Emergent:** Serious, non life-threatening conditions that, if untreated, would cause health deterioration that could lead to premature death or would prevent later repair, or that produces pain or discomfort that impairs daily living activities. Examples include heart disease, diabetes, cancer, breast reconstruction following mastectomy, and infectious diseases;
- **Medically Acceptable-Not Always Necessary:** Conditions for which elective procedures that may improve the quality of an inmate's life. Examples include joint replacement, orthoscopic reconstruction, and non-cancerous skin conditions;
- **Limited Medical Value:** Conditions for which procedures have no medical value nor produce long term gain, and, therefore, are usually excluded services. Examples include minor, self-limiting conditions and cosmetic procedures; and
- **Extraordinary:** Interventions that affect the life of another (e.g., organ transplants) or are investigational in nature.

Experience suggests that it is very difficult to obtain approval for treatment, particularly timely treatment, of any condition that is not deemed medically necessary. In this regard, policy directs that the latter three categories are to be ordinarily denied those with less than 12 months remaining to serve.

Importantly, where treatment is afforded, aftercare may be lacking (e.g., no institution-administered physical therapy). For instance, an inmate may only be “Medical Idle” (recuperating) for a maximum of three calendar days following a procedure for an acute illness or injury. After that, there is a maximum 30 days of “Medical Convalescence” during which inmates may still be required to attend programs that are not physically rigorous (e.g., education or drug classes).

19.05 SEX OFFENDERS (P.S. 5324.10)

Individuals convicted of sexual offenses comprise approximately eight percent of the federal prison population. This subset presents unique issues and considerations that require added attention. *See, e.g.,* Charles L. Scott & Joan B. Gerbasi, *Handbook of Correctional Mental Health* 123 (AMER. PSYCHIATRIC PUB. 2005) (noting that sex offenders “are at risk of being physically harmed if their history is revealed”); *Defreitas v. Lindsay*, No. 08-CV-0052(DLI)(RLM), 2008 WL 4850195, at *3 (E.D.N.Y. Nov. 6, 2008) (citing declaration from MDC Brooklyn warden asserting that sex offenders “are especially subjected to harassment and physical violence”).

First, as noted above (see *supra* Section 19.03.04), minimum-security placement is unavailable. Consequently, many sex offenders who would otherwise qualify for camp designation are housed behind a

barbed-wire fence, a reality that, standing alone, can lead to client anxiety and trepidation. Further, if other inmates discover the individual's offense of conviction, he may well be labelled a "chomo" (prison parlance for child molester) and, at a minimum, be harassed and ostracized. The fear arising from such a destructive milieu prompts some offenders to request placement in protective custody (PC or segregated housing). However, because PC placements are strongly disfavored absent a clear, identifiable threat of harm, institutional staff encourage offenders to return to general population and, if they refuse, are routinely subject to at least a year's placement in SHU until they are considered for transfer.

Second, state and local residency restriction laws and ordinances that prohibit sex offenders from living within a prescribed distance from a specified location (e.g., within 1,500 feet of a school) are impacting federal offenders' pre-release placement opportunities. Specifically, halfway houses, with which the BOP contracts, refuse to accept sex offenders or to supervise them if placed on home confinement. While affecting all sex offenders, this issue has special significance for RDAP-eligible sex offenders (see *infra* Section 19.06.02) in that that the final phase of the program occurs during pre-release. Like non-U.S. citizens subject to removal, sex offenders who cannot be transferred to a pre-release placement cannot graduate from RDAP and, therefore, may be deemed ineligible to participate.

Third, through the Adam Walsh Act, Congress directed the BOP to create a sex offender management program (SOMP) in each of its six regions. See 18 U.S.C. § 3621(f). At present, eight BOP institutions house a SOMP for male prisoners, which, by security level, are: Medium—FCI Marianna (FL), USP Marion (IL), FCI Petersburg (VA), and FCI Tucson (AZ); Low—FCI Elkton (OH), FCI Englewood (CO), and FCI Seagoville (TX); and Administrative—FMC Devens (MA).²¹ One institution, FMC Carswell (TX), houses a SOMP for female prisoners. SOMP facilities are not the exclusive domain of sex offenders. Rather, a hallmark of a SOMP facility is that sex offenders comprise 40% or more of the general population, an arrangement designed to, *inter alia*, reduce the incidents of sex offenders seeking protective custody placement.

There are four basic components to each SOMP: assessment, management, treatment, and release planning. A correctional management plan (CMP) is developed for each SOMP inmate. A CMP imposes restrictions on written and telephone communication (many sex offenders are not permitted to e-mail via Corrlinks), visiting privileges, and property. In particular, SOMP inmates may not possess sexually explicit images, or engage in sexually explicit activity. Release planning includes a discharge packet for Probation with recommendations regarding intensity of community supervision and monitoring.

SOMP placement is not voluntary. Rather, on a case-by-case basis, DSCC personnel determine which sex offenders will be designated to SOMP institutions and which will be designated to standard institutions.²² Although there is no policy governing such determinations, SOMP beds are reportedly intended for more "serious" sex offenders (e.g., individuals involved with the production of illegal images, individuals who travel across state lines to engage in unlawful sexual activity, etc.). It is often the case that individuals convicted of possession or receipt of child pornography are designated to standard FCI-Low locations. Also, and importantly, BOP looks beyond the offense of conviction to determine if an inmate is a sex offender; prior convictions (e.g., rape, sexual assault) are considered.

Fourth is the issue of sex offender-specific treatment. Although the BOP does provide cognitive behavioral therapy to those inmates who volunteer for it, it is only available to inmates as they approach the end of their respective sentences. Each SOMP location offers a voluntary, non-residential Sex Offender

²¹ The list does not include Butner, which some courts still reflexively recommend.

²² Although courts need not recommend SOMP placement, counsel may wish to request it where there is heightened concern about a client's safety while incarcerated.

Treatment Program (SOTP-NR). FMC Devens and USP Marion offer a voluntary, high-intensity Residential Sex Offender Treatment Program (SOTP-R).

SOTP-NR is a moderate-intensity, nine to twelve month program involving two to three group meetings per week that focus on self-regulation, sexual deviancy, criminal thinking, and emotional and intimacy deficits. “Participants learn basic skills and concepts to help them understand their past offenses and to reduce risk of future offending. This treatment is offered to offenders evaluated to have low to moderate risk of reoffending.” See http://www.bop.gov/inmates/custody_and_care/sex_offenders.jsp. Most SOTP-NR participants are first-time offenders serving sentences for internet sex crimes. As of August 2015, there were 642 SOTP-NR participants.

SOTP-R is intended for inmates “with an elevated risk of re-offending” (e.g., inmates with multiple sex offenses or a history of contact sexual offenses). The program is 12-18 months long, involves segregated housing and treatment five days per week, and includes components similar to SOTP-NR, with added emphasis on skills acquisition, attitude, and values. *Id.* As of August 2015, there were 221 SOTP-R participants.

An inmate interested in volunteering for either SOTP-NR or SOTP-R can be screened for participation at any point during his sentence, as long as it is no later than 36 months before his projected release from custody. However, because participation is restricted to the back end of a prisoner’s sentence, an inmate deemed qualified, but who has too much time on his sentence to enter the program, is placed on a wait list.

Notwithstanding the reported average length of these programs, various factors can influence how long it actually takes to complete them. For instance, an institution lockdown can serve to suspend a program, or an inmate who is disciplined for an institutional rules violation can be temporarily removed from the program. Thus, while program length and structure varies between institutions, SOTP-NR participants are typically placed into the program within the final 24 months of their sentences, and SOTP-R participants within the final 36 months of their sentences.

The BOP has previously described SOTP as “a therapeutic community” that employs “a wide range of cognitive-behavioral and relapse prevention techniques to help the sex offender manage his sexual deviance both within the institution and in preparation for release.” LEGAL RESOURCE GUIDE TO THE FEDERAL BUREAU OF PRISONS, at 29 (Nov. 2008). Given the BOP’s historic approach to ‘treatment,’ wherein offenders are seen as having committed a hundred offenses for every count of conviction, Fifth Amendment considerations are often seen as arguing strongly against clients’ participation. A decision addressing a BOP ‘study’ of prisoners participating in the former Butner treatment program highlights the myriad criticisms:

As [Dan L. Rogers, PhD] testified, the program is ‘highly coercive.’ Unless offenders continue to admit to further sexual crimes, whether or not they actually committed those crimes, the offenders are discharged from the program. Consequently, the subjects in this Study had an incentive to lie, despite the fact that participation in the program would not shorten their sentences. Rogers testified that the Study’s ‘whole approach’ is rejected by the treatment and scientific community.

United States v. Johnson, 588 F. Supp. 2d 997 (S.D. Iowa 2008) (citations omitted).

Finally, the Adam Walsh Act also provided for the civil commitment of sex offenders upon completion of their federal terms of imprisonment. See *United States v. Comstock*, 560 U.S. 126 (2010) (affirming practice). As of August 2015, 54,043 federal inmates had been referred for review for potential certification as sexually dangerous persons. Of that group, 27,026 required formal review, 163 were certified as sexually dangerous persons, and 63 were civilly committed. For more discussion of the Adam Walsh Act and its

implications, see Chapter 7 “Mental Health Issues in Federal Criminal Practice” and Chapter 25 “Federal Sex Offenses.”

19.06 PSYCHOLOGY PROGRAMS & RELEASE MECHANISMS

19.06.01 Pre-Release Placement: Halfway House and Home Confinement (P.S. 5100.08, Ch. 7; P.S. 7310.04; P.S. 7320.01)²³

Transfers to pre-release custody involve placement at a Residential Reentry Center (RRC or halfway house)—a “place of imprisonment” under 18 U.S.C. § 3621(b)—or to home confinement. An inmate’s pre-release plan is to be completed 17 to 19 months prior to his projected release date. The process typically involves discussions between the inmate and his Unit Team, which recommends a period of pre-release placement that, subject to warden review, is forwarded to the appropriate Residential Reentry Manager (see *supra* Section 19.02) for final approval. Issues that can delay the referral process include inspection of the release residence by the receiving district’s Probation Office,²⁴ the inability to secure a promise to pay for medical care for those inmates lacking health insurance, and resolution of outstanding criminal charges.

Through the Second Chance Act of 2007 (Public Law 110-199, Apr. 9, 2008), Congress directed the BOP to ensure that each federal prisoner serve a portion of his term of imprisonment, not to exceed one year, “under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for the reentry of that prisoner into the community. Such conditions may include a community correctional facility.” 18 U.S.C. § 3624(c)(1).²⁵ Attorneys often hear from clients wanting to “get their Second Chance Act” time, meaning a full one year pre-release placement. While nearly all inmates are technically eligible for the full one year, in practice most receive far less. Issues that can affect the length of placement (recommended or approved) include an inmate’s institutional conduct (policy directs that good conduct should be rewarded with longer pre-release placement), “transitional need” (i.e., available release residence, employable job skills, educational background, community support system, financial resources), length of sentence (with those having served more time being seen as requiring longer to re-adjust to society), and bed space availability. Experience shows that the best way for clients to maximize pre-release placement is to demonstrate positive institutional adjustment and develop a good rapport with staff.

Halfway house residents are expected to work. Self-employment, employment at a family-owned businesses or businesses associated with one’s offense conduct, and positions at companies where one was previously a senior leader are generally prohibited. Clients should understand that RRC staff will visit the work site, to confirm viability (e.g., a desk from which to work, safe location) and also visit periodically thereafter, as well as make random calls. Where RRC residents must produce pay stubs, it is recommended that clients arrange to be paid weekly since pass privileges (i.e., time away from the RRC overnight or on weekends) is tied to the number of pay stubs submitted. Standard allotted work time is 35-40 hours per week (excluding commute time), Monday through Friday, though exceptions are made if the employer documents the need. Subject to BOP approval and a documented, employment-related need, an RRC resident can use a

²³ In addition to program statements, the BOP has issued a series of operating memoranda since 2008 that impact pre-release placement practice. These are available on the Bureau of Prisons’ page on the Defender Services Office, Training Division’s website, www.fd.org.

²⁴ Inmates seeking release to a district other than the district in which their legal address (as listed in the PSR) is located should notify their Unit Team as soon as practicable because Probation Offices will have to be contacted regarding transfer of supervision approval.

²⁵ For a discussion of the BOP’s historic halfway house practices, see Todd Bussert, Peter Goldberger, and Mary Price, *New Time Limits on Federal Halfway Houses: A shift in correctional policy*, 21 CRIMINAL JUSTICE 1, 20 (ABA Spring 2006).

private automobile and a cellular telephone. RRC residents are also permitted time away from the facility to attend religious services and medical appointments.

Home confinement can serve as a “place of imprisonment” for the final ten percent of a prisoner’s sentence not to exceed six months. 18 U.S.C. § 3624(c)(2).²⁶ Home confinement is usually available to those who have served a period in a halfway house. While policy does permit direct placement on home confinement, many RRC operators first require a few days to a few weeks at the halfway house before the transition is made. Direct home confinement placement has historically been reserved for inmates unlikely to be employed in the community (e.g., retired, disabled). Since the implementation of the Second Chance Act, however, the BOP has made growing use of home confinement placement for inmates without transitional need, that is, those with employable job skills, a stable release residence, available financial resources, etc. Indeed, inmates who historically received little to no pre-release placement (e.g., low- and medium-security inmates) are now receiving regular consideration, meaning fewer halfway house beds for “white-collar” inmates.

It is important for clients to understand that they remain under BOP custody while on pre-release placement. Too many see a return to the community as signifying the expiration of their sentences, or as a lessening of the need to conform one’s conduct to BOP rules and regulations. In reality, however, the latter can be much more difficult since RRC staff are not correctional (BOP) officials, and the daily routine at halfway houses tends to be more chaotic (less regimented) than at standard institutions. Clients should be reminded that any accommodation outside the norm should be requested and approved in writing (i.e., there should be a record), and that the consequence for a rules violation is often loss of Good Conduct Time and remand to a local pre-trial holding facility (jail) and/or to one’s parent institution for the balance of one’s sentence.

19.06.02 Drug and Alcohol Treatment Programs (P.S. 5330.11; P.S. 5331.02, P.S. 5162.05, 18 U.S.C. § 3621(e); 28 C.F.R. § 550.50, et seq.)

The BOP estimates that 40% of federal inmates have diagnosable, moderate-to-severe substance abuse problems. *See Stmt. of BOP National Drug Abuse Coordinator Beth Weinman at the U.S. Sentencing Commission’s Symposium of Alternatives to Incarceration, Prison Programs Resulting in Reduced Sentences* (July 14, 2008). Some form of drug treatment is mandatory where drug use contributed to the commission of the offense, where it was the basis for revocation of supervised release or community placement, or where the sentencing court so recommends. Sanctions for failure to complete include pay reduction and community program ineligibility.

Although most attention is given to the Residential Drug Abuse Program (RDAP), the BOP operates three drug abuse programs. The first is the 12-15 hour voluntary Drug Abuse Education Course offered at all institutions and designed to teach the prisoner about the consequences of drug/alcohol abuse and addiction by reviewing their personal drug use and the cycle of drug use and crime. 28 C.F.R. § 550.51. The second is the 12-24 week (90-120 minutes per week) Non Residential Drug Abuse Program (NR DAP), which is targeted to, inter alia, those awaiting RDAP, those who do not meet RDAP admission criteria, and those found guilty of an incident report for use of drugs or alcohol. 28 C.F.R. § 550.52. Wardens are encouraged to consider NR DAP graduates for maximum RRC placement. The third program is the nine-plus month, 500-hour RDAP for prisoners with a diagnosable and verifiable substance abuse disorder. 28 C.F.R. § 550.53.

²⁶ Clients will sometimes ask whether their term of imprisonment can be converted to home confinement. The answer is invariably, “No.” That said, it is often the case that halfway house operators will furlough residents to home confinement before their ten-percent dates so long as the resident is willing to continue contributing 25% of their gross salaries toward payment for their halfway house beds.

The BOP developed the “inpatient” RDAP in 1988 to lower recidivism rates. According to empirical evidence from its Office of Research and Evaluations, the program has met that objective. Male inmates who successfully complete RDAP are 16% less likely to be re-arrested or revoked than cohorts who went untreated, and male RDAP graduates are 15% less likely to use drugs. *See Pelissier, et al., Triad Drug Treatment Evaluation*, 65 FEDERAL PROBATION 3, 6 (Dec. 2001) (female graduates 18% less likely to reoffend or use drugs).

Through the 1994 Crime Bill, Congress created an incentive for participation in the inpatient program: those nonviolent offenders who successfully complete the program while incarcerated (and who have not previously received early release via RDAP) are eligible for release up to one year prior to the expiration of sentence. 18 U.S.C. § 3621(e).²⁷ In 2009, BOP implemented a sliding scale for § 3621(e) reductions tied to sentence length: those serving 30 months or less are ineligible for more than a six-month reduction; those serving 31-36 months are ineligible for more than a nine-month reduction; and those serving 37 months or longer are eligible for the full 12 months.

RDAP participation is voluntary. Interested prisoners within 36 months of release may apply by requesting an eligibility interview via a “cop-out” (informal request from a staff member) or a BP-8 (formal request for resolution). The written request serves to initiate the RDAP application and should prompt an interview with either the institution’s RDAP Coordinator or a drug treatment specialist (DTS), or, if a prisoner is housed at a facility that does not offer the RDAP, a member of the Psychology Services staff.

An applicant’s chemical dependency need not be linked to his offense conduct, nor does one’s eligibility for early release (3621(e) credit) affect RDAP eligibility.²⁸ To be eligible for the RDAP, one must, *inter alia*, have 24 months or more remaining to serve,²⁹ present a verifiable, documented pattern of substance abuse or dependence within the 12-month period preceding arrest on the underlying offense,³⁰ have no serious mental or cognitive impairment precluding full program participation, be halfway house eligible (therein

²⁷ The BOP criteria for eligibility for early release from a sentence for successful completion of RDAP intends to exclude violent offenders by the exercise of the implicit discretion placed in BOP by the statute, 18 U.S.C. § 3621(e)(2)(B), rather than by definition of the statutory language “nonviolent offense.” *See* 28 C.F.R. § 550.58; P.S. 5331.02; P.S. 5162.05. Bureau policy, which the Supreme Court has upheld, denies early release to persons who have been convicted of a crime of violence—homicide, forcible rape, robbery, aggravated assault, child sexual offense (but not possession of child pornography), arson or kidnapping—or a felony offense that has as an element, the actual, attempted, or threatened use of physical force against the person or property of another; that involved the carrying, possession, or use of a firearm or other dangerous weapon or explosives (including any explosive material or explosive device); that by its nature or conduct, presents a serious potential risk of physical force against the person or property of another; and that by its nature or conduct involves sexual abuse offenses committed upon children. *See Lopez v. Davis*, 531 U.S. 230 (2001). Effective May 26, 2016, consideration of prior felony and misdemeanor conviction is limited to the ten years prior to sentencing date for the inmate’s current term of imprisonment. *See* Drug Abuse Treatment Program, 81 Fed. Reg. 24484-02 (Apr. 26, 2016) (to be codified at 28 C.F.R. § 550.55(b)(4)).

²⁸ Those deemed ineligible for a § 3621(e) reduction still qualify for a full six-month pre-release placement, a fact that counsel should consider emphasizing to clients.

²⁹ The 24-month figure is properly seen as an arbitrary cut-off since RDAP can be completed in 15 months (nine months at the institution and six months at a halfway house). Accounting for ordinary Good Time credit, someone sentenced to 18 months could complete the program with approximately three weeks to spare on his sentence (though obviously receiving little to no 3621(e) credit).

³⁰ The 12-month parameter derives from the premise that 12 months consecutive sobriety reflects “sustained full remission” for which treatment services are unnecessary. *See* Weinman Stmt., *supra*. *But see Mitchell v. Andrews*, 235 F. Supp. 2d 1085, 1090 (E.D. Cal. 2001) (“The DSM-IV does not require documentation of substance abuse or dependency during the 12-month period immediately preceding either a diagnostic interview, arrest, or incarceration.”) (emphasis in original). In other words, prisoners with lifelong addiction problems, even if confirmed by prior arrests or treatment efforts, are ineligible for RDAP unless BOP staff confirms drug abuse or dependence during the 12 months preceding arrest.

precluding participation by non-U.S. citizens, prisoners with detainers and sex offenders subject to residency restrictions), and sign acknowledgment of program responsibilities. As to substance abuse, staff review the PSR before scheduling an interview to ascertain whether an applicant meets the diagnostic criteria for abuse or dependence indicated in the DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS.

It is incumbent on counsel to verify the nature, extent, and time frame of a client's substance abuse and to ensure that the information is accurately presented to probation and reflected in the PSR. Counsel should broach the issue prior to presentence interviews and, when possible, provide PSR writers with independent information documenting the existence and degree of a client's dependence (e.g., medical records and clinical assessments). Should the BOP deem a PSR factually insufficient, a client might well be found ineligible for services and refused an interview. In that instance, counsel and/or the client may supply documentation subsequent to incarceration.

Given the § 3621(e) incentive, and to assure inmate veracity, RDAP eligibility interviews entail difficult questions designed to determine whether admission is sought in good faith to obtain treatment or simply to secure a quicker return home. Applicants can expect to be asked when they learned about the program and the § 3621(e) credit, whether attorneys advised them to exaggerate treatment needs when meeting with probation, and details of their drug or alcohol use (e.g., when, how often, where, with whom, others' awareness, etc.). Counsel should thus advise clients not to mangle or to overstate their problems, either during the presentence interview or when seeking entrance into the program.

Once deemed RDAP-eligible, an inmate is placed on a wait list that is ordered by projected release date (i.e., time remaining to serve, accounting for anticipated good time credit). If housed at an institution not offering the RDAP, a prisoner will be transferred to an institution that does. A list of locations that is current as of September 2015 can be found at Exhibit D. For RDAP-eligible inmates at an institution offering the program, it is not uncommon to be bumped from a class at the last minute when new prisoners arrive with less time remaining to serve. Displacement from a class, which is generally 24 to 27 persons in size, can postpone program participation for several months.

RDAP has two distinct components that must both be completed: the 500-hour "in custody" treatment phase and the Community Treatment Services (CTS) phase at halfway houses and while on home confinement. The residential phase is designed for participants to resolve their individual substance abuse issues. To this end, they are placed in a segregated housing unit, and institutional assignments (work/school) become part-time and secondary to treatment, recovery, and reentry preparation. RDAP participants attend daily, 3.5-hour classes, which track course workbooks and include homework, and regular group therapy sessions. Counseling strategies are intended to compel inmates "to identify, confront, and alter the attitudes, values, and thinking patterns that lead to criminal and drug-using behavior." Triad Drug Treatment Evaluation, 65 FEDERAL PROBATION at 3.

Anecdotally, approximately one-third of RDAP participants fail to complete the program. Tardiness, incomplete assignments, and institutional rules violations can all result in expulsion from the program and the loss of any anticipated time credit. Those who reach CTS are expected to work and prepare for reentry while being subject to added conditions, like group counseling, random urinalysis, and a lower violation threshold than other halfway house residents. These demands continue throughout the period of pre-release confinement, including home confinement. As at the institution, a rules violation can result in loss of § 3621(e) credit, as well as transfer back to a prisoner's parent institution for the remainder of one's sentence.

19.06.03 Mental Health Step Down Program (P.S. 5330.11)

As noted above (see *supra* Section 19.03.08), the BOP considers more than 90% of its inmate population to qualify for Mental Health Care Level 1 placement, meaning they are considered as having no

problems or as being mentally stable. For those being released from psychiatric hospitalization who suffer from what the Bureau considers serious mental illness (i.e., lacking skills to function in a general population but not requiring inpatient treatment), there is a 12 to 18 month Step Down program offered at USP Allenwood (PA), USP Atlanta (GA), and FCI-Medium Butner (NC). At half-day meetings five days per week, cognitive behavioral therapy and skills training are employed to address criminal thinking errors and pro-social interactions.

19.06.04 Skills Program (P.S. 5330.11)

Intended for male prisoners with significant functional impairment due to intellectual disabilities, neurological deficits, or marked social skills deficits, the Skills Program, offered at FCI Danbury (CT) and FCI-Medium Coleman (FL), is recommended (but not exclusive) to those within their first 12-18 months of incarceration. Employing cognitive behavioral therapy and skills training during half-day sessions five days per week, the aim is to enhance academic achievement and adaptive behavior so as to improve institutional adjustment and odds for successful reentry. Participants must volunteer, have a serious mental illness or behavioral disorder, and have no history of sexual predatory violence. In Fiscal Year 2012, 40 inmates participated in the program.

19.06.05 STAGES Program (P.S. 5330.11)

Offered at USP Florence (CO) and FCI Terre Haute-Medium (IN), Steps Toward Awareness, Growth and Emotional Strength (STAGES) affords treatment to male MH Care Level 3 inmates suffering from severe personality disorder, namely borderline personality disorder, with behavioral problem or self-harm histories. The 12-18 month program, which meets half days five days per week, employs cognitive behavioral therapy and skills training in an effort to decrease disruptive behavior (e.g., impulsive actions, turbulent emotions) and foster healthier living in the general population (i.e., help avoid SHU placement, suicide watch) and, ultimately, the community. The program is voluntary, and willingness to participate is assessed through pre-treatment at the referring institution. In Fiscal Year 2012, 17 inmates participated in the program.

19.06.06 Challenge/BRAVE Programs (P.S. 5330.11)

The Challenge Program is an intensive, co-occurring disorders program that targets drug use, mental illness, and antisocial attitudes and behaviors. It is for high security male inmates with at least 18 months remaining to serve. The residential program is located at USP Allenwood (PA), USP Atwater (CA), USP Beaumont (TX), USP Big Sandy (KY), USP Coleman I and II (FL), USP Florence (CO), USP Hazelton (WV), USP Lee (VA), USP McCreary (KY), USP Terre Haute (IN), and USP Tucson (AZ). It offers an intensive drug abuse track and a mental illness track based on a clinical case management model, with hours based on need. There is a 1:20 staff-to-prisoner ratio. In Fiscal Year 2012, 2,139 inmates participated in the program.

The Bureau Rehabilitation and Values Enhancement (BRAVE) Program, located at FCI Beckley (WV) and FCI Victorville (CA), is designed for young male offenders (less than 32 years old) serving their first federal commitment with sentences of 60 months or more. It is intended to address institutional adjustment, antisocial attitudes and behaviors, and motivation to change. Participants in the six-month, 350-hour program are segregated from other prisoners, and participate in group therapy sessions four hours per day, five days per week. In Fiscal Year 2012, 199 inmates participated in the program.

Both programs use interventions that are reportedly supported empirically, including cognitive behavioral techniques delivered in a modified therapeutic community environment. The BOP claims that these programs have been demonstrated to reduce participant misconduct by more than 50%.

19.06.07 Life Connections

Established in 2002, the Life Connections Program is an offshoot of President George H.W. Bush's Faith Based and Community Initiative. Operating at FMC Carswell (TX), USP Leavenworth (KS), FCI Milan (MI), FCI Petersburg (VA), and USP Terre Haute (IN) under the direction of the BOP's Religious Services Branch, the multi-phase, multi-faith program strives to reduce recidivism by instilling values and character through a curriculum of personal, social, and moral development focused on prisoners' faith commitment. Participants, who must volunteer for the program and be approved by the referring institution's chaplain and the warden, are placed in same-faith study and prayer groups led by contracted spiritual guides. Over the course of the 18-month program, inmates learn about reentry-related and other subjects (e.g., ethical decision-making, anger management, victim restitution, responsible parenting, budgeting, marriage enrichment, religious tolerance, respect) from the perspective of the group's sacred text (e.g., Bible, Torah, Quran) and from a philosophical perspective. Participants are further required to complete 500 hours of community service; partake in victim impact programs; complete 150 hours of addiction programming; provide financial and emotional support to their families through weekly correspondence; maintain a regular journal; and establish re-entry goals and action steps. Given the program demands, participants may be unable to participate as fully in general population activities, such as work.

19.06.08 Communication Management Unit (CMU)

Established in 2006, Communication Management Units, located at USP Marion (IL) and FCI Terre Haute (IN), are self-contained housing units (i.e., separate from the main institution's general population) intended to provide increased monitoring of prisoner communication (mail/telephone/e-mail). The CMU are intended for those convicted of, or associated with, international or domestic terrorism; sex offenders who attempt repeatedly to contact their victims; those who, while incarcerated, attempt to coordinate illegal activities through approved communication methods; and those with extensive disciplinary histories related to the misuse/abuse of approved communication methods.

19.06.09 Resolve Program (P.S. 5330.11)

The Resolve Program is a trauma treatment program for female prisoners provided at all female institutions excluding FTCs, FDCs, and MDCs (transfer and metropolitan detention facilities). It consists of both a Trauma in Life Workshop and a non-residential treatment program that employs evidence-based, cognitive-behavioral treatment. The Workshop, which is designed for those within the first 12 months of their sentences and is structured around a journal/guide entitled Trauma in Life, targets those with traumatic life event histories (e.g., childhood abuse or neglect, rape, domestic violence), those suffering from Axis I or Axis II disorders associated with a traumatic life event, and those seeking to learn more about trauma and its potential impact (e.g., effect of physical abuse of children). Workshop graduates who suffer from an Axis I or Axis II disorder associated with a traumatic life event are encouraged to participate in the non-residential program, which has two phases. Phase I entails 12 weeks of one-hour group sessions. Phase II is specialized and works with individuals within one of three groups: Maintenance Skills Group, Cognitive Processing Therapy Group, and Dialectical Behavior Therapy Skills Training Group.

19.06.10 Foundation Program

A ten-week pilot program based at FPC Bryan (TX), Foundation is designed to address female inmates' reentry needs within the first six months of designation. Participants are instructed to examine their physical and mental health, employment, and interpersonal relationships toward developing a personal improvement plan that assists with the reentry process.

19.06.11 Mothers and Infants Nurturing Together (MINT)

At the discretion of the Unit Team, female prisoners who are pregnant at the time of commitment can participate in MINT, a halfway house-based program, subject to satisfying eligibility criteria: in the last three months of pregnancy, less than five years remaining to serve and furlough eligible. *See infra* Section 19.06.12. In addition to pre- and post-natal programs, such as childbirth, parenting and coping skills classes, MINT offers substance abuse treatment, physical and sexual abuse counseling, self-esteem building programs, life skills training, and educational and vocational programs. MINT is managed by private social service agencies under contract with BOP and, significantly, allows women to give birth out of prison.

Either the expectant mother or a guardian must assume financial responsibility for the child's medical care while residing at a MINT facility. Additionally, prior to birth, the mother must arrange for a custodian to assume care of the child. Staff and outside social service agencies are available to aid with placement. Once the child is born, the mother has three months to bond before being returned to her referring institution to complete her sentence, though certain program locations can authorize an extended bonding period.

19.06.12 Furloughs (P.S. 5280.09)

A furlough is an authorized, unescorted absence from an institution intended to advance recognized correctional goals. There are two kinds of furloughs: day and overnight. A day furlough consists of a trip to a location within 100 miles of the granting institution that lasts no more than 16 hours and ends before midnight. Because the stated purpose for day furloughs is "to strengthen family ties and to enrich specific institution program experiences," they are typically granted to inmates wishing to attend a momentous family event (e.g., a child's wedding) or to engage in institution-sponsored activities within the community. Technically, overnight furloughs can extend to 30 days when unique circumstances present themselves, but they ordinarily last three-to-seven days. Unlike day furloughs, there are no stated restrictions on the proximity of an inmate's overnight furlough destination from her designated federal facility.

Before an inmate is considered for a furlough, he must generally: (a) be listed as community custody; (b) be deemed physically and mentally capable; (c) have demonstrated "sufficient responsibility" so as to assure compliance with furlough requirements; and (d)(1) be within two years of anticipated release for a day furlough, or (2) be within 18 months of anticipated release for an overnight furlough to a location within the institution's "commuting area," or (3) be within 12 months of anticipated release for an overnight furlough outside of the commuting area. Furthermore, furloughs are generally unavailable to inmates convicted of serious crimes against the person or those "whose presence in the community could attract undue public attention, create unusual concern, or depreciate the seriousness of the offense." One notable exception is the "Emergency Furlough," which permits attendance to a certifiable "family crisis or other urgent situation" and is available to an inmate confined at his initially designated institution for less than ninety days, as well as to those with more than two years remaining to serve.

No matter the furlough type, an inmate remains under BOP custody even when away from the institution. This means: (a) that he is expected to adhere to prescribed rules; (b) that sanctions can be imposed for rules violations committed away from the institution; (c) that failure to timely return to the institution makes one an "escapee"; and (d) that time spent on furlough is credited towards one's sentence. Additionally, the cost of a furlough (i.e., transportation, lodging, food) is the inmate's and/or his family's responsibility. There is no known provision for indigent inmates.

The involvement of counsel in a furlough request both expedites a decision and improves the chances that the request will be granted. For instance, where a client seeks to attend the funeral of a loved one, counsel can provide essential assistance by ensuring the warden timely receives a copy of the death certificate.

19.06.13 Early Release for Extraordinary and Compelling Circumstances (P.S. 5050.49; 18 U.S.C. § 3582(c)(1)(A), 4205(g); U.S.S.G. § 1B1.13)

Upon motion of the Director of the Bureau of Prisons, a sentencing court may reduce a term of imprisonment if, after considering 18 U.S.C. § 3553(a), it finds, inter alia, extraordinary and compelling reasons that are consistent with Sentencing Commission policy statements. 18 U.S.C. § 3582(c)(1)(A). The Commission has determined that reductions may be appropriate where a prisoner poses no danger to public safety and “is suffering from a terminal illness; is suffering from a permanent physical or medical condition, or is experiencing deteriorating physical or mental health because of the aging process, that substantially diminishes [his ability] to provide self-care within the environment of a correctional facility and for which conventional treatment promises no substantial improvement”; “[t]he death or incapacitation of the [prisoner]’s only family member capable of caring for [his] minor child or minor children”; or some combination of factors, as determined by the BOP Director—individual rehabilitation, standing alone, is insufficient. U.S.S.G. § 1B1.13. Notwithstanding this clear statutory mandate and far-reaching Commission policy, as a practical matter the BOP takes an extremely cabined approach to filing § 3582(c)(1)(A) (“compassionate release”) motions, with most only coming when a prisoner is on his death bed (and not always then, even where the institution and Region support their filing).

19.07 ATTORNEY-CLIENT INTERACTION

The BOP purports to recognize the right to confidential and private communication between attorney and client, but such communications are not automatically afforded protected status. Telephone calls between attorney and client are only assured confidentiality if the call originates from the institution and is placed by institution staff on secured lines at the inmate’s request. Even then, it is common for inmates to call from a staff member’s office, with one or more persons in the room. Unless counsel knows that she is speaking with her client privately, on an unmonitored line, do not assume that the call is protected communication. *See, e.g., United States v. Hatcher*, 323 F.3d 666 (8th Cir. 2003) (privilege implicitly waived by knowledge of recording device used to monitor calls).

Similar considerations hold for electronic mail, which is *never* confidential. While clients may show little regard for privacy when e-mailing their lawyers, counsel must always remember and caution clients that these communications are subject to review and stored indefinitely. Recent media accounts confirm that the BOP is fully prepared to disclose attorney-client emails to law enforcement. The issue commonly presents for pre-trial detainees housed at federal holding facilities (i.e., MCCs and MDCs) and has been seen where inmates return to court for post-conviction hearings and re-sentencings.

Correctly marked legal mail is to be opened only in the presence of the inmate to insure the absence of contraband—the contents are not to be read. *Cf. Sallier v. Brooks*, 343 F.3d 868 (6th Cir. 2003). Necessary markings on the outside of the envelope include “SPECIAL MAIL-OPEN ONLY IN THE PRESENCE OF THE INMATE”, and counsel’s first and last names appear followed by “Attorney at Law” under the return address; a return address showing only the name and address of the office or law firm is insufficient, as is “Jane Doe, Esquire.” *See* 28 C.F.R. § 540.19(b); P.S. 5265.14.

Legal visits should be scheduled as far in advance as practicable. At most institutions, the approval process for personal visitors holds equally for legal visitors (see 19.04.03), and certain institutions require that the prisoner submit a request to staff seeking a visit with his or her attorney, not vice versa. Many institutions require attorneys to visit during times scheduled for social visits. Exceptions can be made for exigent circumstances. If counsel feels that staff is not being sufficiently responsive to a visit request, contact the BOP attorney who oversees the institution and, in more extraordinary situations, the Regional Counsel’s Office. *See infra* Exhibit E (contact information). Two final points regarding legal visits: (1) counsel who look to visit a sentenced client frequently may, over time, experience resistance from staff, who typically do not process a

high volume of such visits for one inmate, so strive to be as diplomatic and accommodating as possible, and (2) institutions prohibit visitors from wearing khaki-colored clothing because it matches prison uniforms, so do not wear khakis for a legal visit or risk being denied entrance into the institution.

In terms of clients' access to case-related materials, federal inmates are prohibited from possessing their presentence reports and the Statement of Reasons section of their judgment orders.³¹ There are practical limits on the volume of legal materials inmates can maintain in their direct possession (i.e., bunk area). Many institutions issue "legal lockers" to inmates during the pendency of appeals or post-conviction proceedings. When case information exceeds capacity, the institution will most often store it in the library under staff control, where it is available to the client for review. Counsel should contact the institution before forwarding a substantial amount of legal materials or any item stored electronically (i.e., on disk) to confirm arrangements for storage and client access. For instance, certain institutions require a four-part, carbon Authorization to Receive Package or Property form accompany packages weighing more than one pound. *See infra* Exhibit F.

Finally, counsel should be aware that unlike other administrative agencies, the BOP does not copy attorneys on correspondence sent to their clients, or generally acknowledge counsel's existence. Said another way, while the BOP will generally respond to direct inquiries from counsel (subject to a client signing necessary release forms), it will not allow you to interject yourself into the disciplinary hearing process, or send you copies of responses to administrative remedy appeals that you have filed on your client's behalf.

19.08 RESOURCES

There are a plethora of prison guidebooks available today. Few, however, offer much more than what is freely available on the Bureau's website (<http://www.bop.gov>), elsewhere on the Internet (e.g., www.fd.org's Bureau of Prisons' page, Families Against Mandatory Minimums' topic-specific primers, magazine articles posted on attorneys' websites, various blogs, etc.), from other counsel, and from former clients. There are also any number of prison consultants. Caution should be exercised in this regard, however. There is a substantial subset of consultants/consulting groups that prey on the fears and hopes of prisoners and their families, promising results that are either to be expected in the ordinary course (and thus not requiring the expense of an advocate) or likely unattainable. An even smaller subset of consultants is known to denigrate counsel, and even to create false documents to facilitate clients' eligibility for certain programs.

³¹ To the extent an inmate needs to review these documents, the Unit Team must allow the inmate to see them and take notes on them.

Exhibit A

U.S. Department of Justice

Certification of Identity



FORM APPROVED OMB NO. 1103-0016
EXPIRES 03/31/17

Privacy Act Statement. In accordance with 28 CFR Section 16.41(d) personal data sufficient to identify the individuals submitting requests by mail under the Privacy Act of 1974, 5 U.S.C. Section 552a, is required. The purpose of this solicitation is to ensure that the records of individuals who are the subject of U.S. Department of Justice systems of records are not wrongfully disclosed by the Department. Requests will not be processed if this information is not furnished. False information on this form may subject the requester to criminal penalties under 18 U.S.C. Section 1001 and/or 5 U.S.C. Section 552a(i)(3).

Public reporting burden for this collection of information is estimated to average 0.50 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Suggestions for reducing this burden may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Public Use Reports Project (1103-0016), Washington, DC 20503.

Full Name of Requester ¹ _____

Citizenship Status ² _____ Social Security Number ³ _____

Current Address _____

Date of Birth _____ Place of Birth _____

OPTIONAL: Authorization to Release Information to Another Person

This form is also to be completed by a requester who is authorizing information relating to himself or herself to be released to another person.

Further, pursuant to 5 U.S.C. Section 552a(b), I authorize the U.S. Department of Justice to release any and all information relating to me to:

Print or Type Name

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that I am the person named above, and I understand that any falsification of this statement is punishable under the provisions of 18 U.S.C. Section 1001 by a fine of not more than \$10,000 or by imprisonment of not more than five years or both, and that requesting or obtaining any record(s) under false pretenses is punishable under the provisions of 5 U.S.C. 552a(i)(3) by a fine of not more than \$5,000.

Signature ⁴ _____ Date _____

¹ Name of individual who is the subject of the record(s) sought.

² Individual submitting a request under the Privacy Act of 1974 must be either "a citizen of the United States or an alien lawfully admitted for permanent residence," pursuant to 5 U.S.C. Section 552a(a)(2). Requests will be processed as Freedom of Information Act requests pursuant to 5 U.S.C. Section 552, rather than Privacy Act requests, for individuals who are not United States citizens or aliens lawfully admitted for permanent residence.

³ Providing your social security number is voluntary. You are asked to provide your social security number only to facilitate the identification of records relating to you. Without your social security number, the Department may be unable to locate any or all records pertaining to you.

⁴ Signature of individual who is the subject of the record sought.

Exhibit B

P5100.08
9/12/2006
Chapter 4, Page 16

BP-337 INMATE LOAD AND SECURITY DESIGNATION FORM

FEDERAL BUREAU OF PRISONS

INMATE LOAD DATA				
1. REGISTER NUMBER				
2. LAST NAME		3. FIRST NAME		5. SUFFIX
6. RACE	7. SEX	8. ETHNIC ORIGIN		9. DATE OF BIRTH
10. OFFENSE/SENTENCE				
11. FBI NUMBER			12. SSN NUMBER	
13. STATE OF BIRTH		14. OR COUNTRY OF BIRTH		15. CITIZENSHIP
16. ADDRESS-STREET				
17. CITY		18. STATE	19. ZIP	20. OR FOREIGN COUNTRY
21. HEIGHT FT <u> </u> IN <u> </u>		22. WEIGHT <u> </u> LBS	23. HAIR COLOR	24. EYE COLOR
25. ARS ASSIGNMENT				
SECURITY DESIGNATION DATA				
1. JUDGE		2. REC FACILITY		4. USM OFFICE
5. VOLUNTARY SURRENDER STATUS 0 = NO (-3) = YES IF YES, MUST INDICATE: 5a. VOLUNTARY SURRENDER DATE: _____ 5b. VOLUNTARY SURRENDER LOCATION: _____				
6. MONTHS TO RELEASE				
7. SEVERITY OF CURRENT OFFENSE 0 = LOWEST 3 = MODERATE 7 = GREATEST 1 = LOW MODERATE 5 = HIGH				
8. CRIMINAL HISTORY SCORE 0 = 0-1 4 = 4-6 8 = 10-12 2 = 2-3 6 = 7-9 10 = 13 +				
8a. SOURCE OF DOCUMENTED CRIMINAL HISTORY _____ - PRESENCE INVESTIGATION REPORT or _____ - NCIC III				
9. HISTORY OF VIOLENCE NONE >15 YEARS 10-15 YEARS 5-10 YEARS <5 YEARS MINOR 0 1 1 3 5 SERIOUS 0 2 4 6 7				
10. HISTORY OF ESCAPE OR ATTEMPTS NONE >15 YEARS >10 YEARS 5-10 YEARS <5 YEARS MINOR 0 1 1 2 3 SERIOUS 0 3 (S) 3(S) 3(S) 3(S)				
11. TYPE OF DETAINDER 0 = NONE 3 = MODERATE 7 = GREATEST 1 = LOWEST/LOW MODERATE 5 = HIGH				
12. AGE 0 = 55 and over 4 = 25 through 35 2 = 36 through 54 8 = 24 or less				
13. EDUCATION LEVEL 0 = Verified High School Degree or GED 1 = Enrolled in and making satisfactory progress in GED Program 2 = No verified High School Degree/GED and not participating in GED Program				
13a. HIGHEST GRADE COMPLETED _____				
14. DRUG/ALCOHOL ABUSE 0 = Never/>5 Years 1 = <5 Years				
15. SECURITY POINT TOTAL				
16. PUBLIC SAFETY FACTORS A-NONE I-SENTENCE LENGTH (males only) B-DISRUPTIVE GROUP (males only) K-VIOLENT BEHAVIOR (females only) C-GREATEST SEVERITY OFFENSE (males only) L-SERIOUS ESCAPE F-SEX OFFENDER M-PRISON DISTURBANCE G-THREAT TO GOVERNMENT OFFICIALS N-JUVENILE VIOLENCE H-DEPORTABLE ALIEN O-SERIOUS TELEPHONE ABUSE				
17. REMARKS				
18. OMDT REFERRAL (YES/NO) _____				

Exhibit C

BP-A0629 VISITOR INFORMATION CDFRM
 APR 10 U.S. DEPARTMENT OF JUSTICE FEDERAL BUREAU OF PRISONS

Addressee	Institution	Date
Re: (Inmate's Name and Register No.)		

Dear _____:

I am requesting that you be included among my approved visitors. In order to establish your suitability as a visitor, it may be necessary for institution officials to send an inquiry to an appropriate law enforcement or crime information agency to ascertain whether or not placing you on my visiting list would present a management problem for the institution, or have other possible adverse effects. The information obtained will be used to determine your acceptability as a visitor. The Bureau of Prisons' authority to request background information on proposed visitors is contained in Title 18 U.S.C. § 4042.

In order for you to be considered for the visiting privilege with me, it will be necessary for you to fill out the questionnaire and release form below and return it to the following address: (Institution address).

You are not required to supply the information requested. However, if you do not furnish the information, the processing of your request will be suspended, and you will receive no further consideration. If you furnish only part of the information required, the processing of your request may be significantly delayed. If the information withheld is found to be essential to the processing of your request, you will be informed, and your request will receive no further consideration unless you supply the missing information. Although no penalties are authorized if you do not supply the information requested, failure to supply such information could result in your not being considered for admittance as a visitor. The criminal penalty for making false statements is a fine of not more than \$250,000 or imprisonment for not more than five years or both (See 18 U.S.C. § 1001).

Sincerely,

1. Legal Name		2. Date of Birth	3. Address (Including Zip Code)	
4. Telephone Number (Including Area Code)		5. Race and Sex of Visitor		
6. Are you a U.S. Citizen? ___ Yes ___ No		6a. If yes, provide Social Security No: _____		
		6b. If no, provide Alien Registration No: _____		
		6c. Provide Passport No: _____		
7. Relationship to above-named inmate		8. Do you desire to visit him/her? ___ Yes ___ No		
9. Did you know this person prior to his/her current incarceration? ___ Yes ___ No				
10. If the answer to #9 is yes, indicate the length of time you have known this person and where the relationship developed.				
11. Have you ever been convicted of a crime? If so, state the number, date, place, and nature of the conviction/s:				
12. Are you currently on probation, parole, or any other type of supervision? If so, state the name of your supervising probation/parole officer and the address and telephone no. where he/she can be contacted:				
13. Do you correspond or visit with other inmates? If so, indicate the individual(s) and their location(s):				
14. Driver's License No. and State of Issuance				

AUTHORIZATION TO RELEASE INFORMATION

I hereby authorize release to the Warden of: _____ any record of criminal offenses for which I
 (Institution, Location)
 have been arrested and convicted, and any information related to those convictions.

Signature for Authorization to Release Information _____ (Sign and Print Name) Parent or Guardia
 (If applicant is under 18 years of age, signature of parent or guardian indicates consent of minor to visit inmate).

If additional space is required, you may use the back of this form.
 To be filed in Inmate Central File, FOI Section 2

PDF

Prescribed by P5267

Replaces BP-A629 of Sep 00

FILE IN SECTION 3 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 3

Exhibit D

RESIDENTIAL DRUG TREATMENT PROGRAM LOCATIONS

NORTHEAST REGION

FCI Allenwood -L (PA)
FCI Allenwood - M (PA)
 FCI Berlin (NH)
 USP Canaan (PA)
 FCI Danbury (CT)
 FCI Elkton (OH)
 FCI Fairton (NJ)
 FCI Fort Dix 1(NJ)
FCI Fort Dix 2(NJ)
 FPC Lewisburg (PA)
 FPC McKean (PA)
FCI Schuylkill (PA)

MID-ATLANTIC REGION

FPC Alderson 1 (WV)★
 FPC Alderson 2 (WV)★
 FPC Beckley (WV)
FCI Beckley (WV)
USP Big Sandy (KY)
 FCI Butner M1(NC)
 FCI Butner M2(NC)
 FCI Cumberland (MD) FPC
 Cumberland (MD)
SFF Hazelton (WV) ★
 FMC Lexington 1 (KY)
FMC Lexington 2 (KY) ★
 FCI Memphis (TN)
 FCI Morgantown 1 (WV)
 FCI Morgantown 2 (WV)
 FCI Petersburg - M (VA)
 FCI Petersburg -L (VA)

SOUTHEAST REGION

FCI Coleman -L (FL)
USP Coleman II (FL)
 FPC Edgefield (SC)
 FSL Jesup (GA)
 FCI Marianna (FL)
 FCI Miami (FL) Œ
 FPC Miami (FL)
 FPC Montgomery 1 (AL)
 FPC Montgomery 2 (AL)
 FPC Pensacola (FL)
 FPC Talladega (AL)
 FCI Tallahassee (FL)★
 FCI Yazoo City (MS)

NORTH CENTRAL REGION

FPC Duluth (MN)
 FCI Englewood (CO)
 FPC Florence (CO)
 FCI Florence (CO)
 FPC Greenville (IL)★
 FCI Leavenworth (KS)
 FPC Leavenworth (KS)
USP Marion (IL)
 FCI Milan (MI)
 FCI Oxford (WI)
 FPC Pekin (IL)
 FCI Sandstone (MN)
MCFP Springfield (MO) ★
FCI Terre Haute (IN)
 FCI Waseca (MN)★
 FPC Yankton 1 (SD)
 FPC Yankton 2 (SD)

SOUTH CENTRAL REGION

FCI Bastrop (TX)
 FPC Beaumont (TX)
 FCI Beaumont - L (TX)
FCI Beaumont - M (TX)
USP Beaumont (TX)
 FPC Bryan (TX)★
 FMC Carswell 1 (TX)★ ★
FMC Carswell 2 (TX) ★ Œ
 FCI El Reno (OK)
 FCI Forrest City -L(AR)
 FCI Forrest City-M (AR)
 FCI Fort Worth 1 (TX)
 FCI Fort Worth 2 (TX)
 FCI La Tuna (TX)
 FCI Seagoville 1 (TX)
 FCI Seagoville 2 (TX)
 FPC Texarkana (TX)

WESTERN REGION

FCI Dublin 1(CA)★
 FCI Dublin 2(CA)★
 FCI Herlong, (CA)
 FCI Lompoc (CA)
 FCI Phoenix (AZ)
 FPC Phoenix (AZ)★
FCI Safford (AZ)
 FCI Sheridan (OR)
 FPC Sheridan 1 (OR)
 FPC Sheridan 2 (OR)
 FCI Terminal Island 1 (CA)
FCI Terminal Island 2 (CA) ★

CONTRACT FACILITY

RCI Rivers, (NC)

KEY

FCC = Federal Correctional Complex
 FCI = Federal Correctional Institution
 FMC = Federal Medical Center
 FPC = Federal Prison Camp
 FSL = Federal Satellite (Low Security)
 MCFP = Medical Center for Federal Prisoners
 RCI = Rivers Correctional Institution
 ★Female Facility
 ★Co-occurring Disorder Program
 Œ Spanish program

Updated: 09/09/15

89 RDAP Programs at 77 RDAP Locations.

RDAPs in *italics* were activated in FY 2013. RDAPs followed by the number "1" or "2" are at the same location.

Exhibit E

Regional Counsel and Consolidated Legal Center Offices

<p><u>Mid-Atlantic Region - MARO:</u></p> <p>Matthew Mellady, Regional Counsel Phone: 301-317-3120 Fax: 301-317-3132 Zachary Kelton, Deputy Regional Counsel Phone: 301-317-3113 Mid-Atlantic Regional Office 302 Sentinel Drive, Suite 200 Annapolis Junction, MD 20701</p>	<p><u>North Central Region - NCRO:</u></p> <p>Richard W. Schott, Regional Counsel Phone: 913-551-1004 Fax: 913-551-1107 Rick Winter, Deputy Regional Counsel Phone: 913-551-1006 North Central Regional Office Gateway Complex Tower II, 8th Floor 4th and State Avenue Kansas City, KS 66101</p>	<p><u>South Central Region - SCRO:</u></p> <p>Jason Sickler, Regional Counsel Phone: 972-730-8920 Fax: 972-730-8929 Michael Frazier, Deputy Regional Counsel Phone: 972-730-8921 South Central Regional Office U.S. Armed Forces Reserve Complex 344 Marine Forces Drive Grand Prairie, TX 75051</p>
<p><u>Northeast Region - NERO:</u></p> <p>Michael Tafelski, Regional Counsel Phone: 215-521-7375 Fax: 215-521-7483 Joyce Horikawa, Deputy Regional Counsel Phone: 215-521-7376 Northeast Regional Office U.S. Custom House - 7th Floor 2nd and Chestnut Streets Philadelphia, PA 19106</p>	<p><u>Western Region - WXRO:</u></p> <p>Dennis Wong, Regional Counsel Phone: 209-956-9732 Fax: 209-956-9795 Dominic Ayotte, Deputy Regional Counsel Phone: 209-956-9731 Western Regional Office 7338 Shoreline Drive Stockton, CA 95219</p>	<p><u>Southeast Region - SERO:</u></p> <p>Lisa Sunderman, Regional Counsel Phone: 678-686-1260 Fax: 678-686-1299 Craig Simmons, Deputy Regional Counsel Phone: 678-686-1281 Southeast Regional Office 3800 Camp Creek Parkway, SW Building 2000 Atlanta, GA 30331-6226</p>

Exhibit E (cont'd)

Consolidated Legal Centers

• = CLC LEADER * = NOT ACTIVATED

MARO	NERO	NCRO	WXRO	SCRO/Dallas	SERO
<ul style="list-style-type: none"> • Zachary Kelton 301-317-3113 <p>FCI Cumberland, MD FCI Morgantown, WV FCI Memphis, TN FCC Hazelton, WV</p>	<ul style="list-style-type: none"> • Joyce Horikawa 215-521-7378 <p>FDC Philadelphia, PA FCI Fort Dix, NJ FCI Fairton, NJ FCI McKean, PA FCI Elkton, OH FCI Loretto, PA USP Canaan, PA Contract: Youngstown, OH Phillipsburg, PA</p>	<ul style="list-style-type: none"> • Rick Winter 913-551-1006 <p>USP Leavenworth, KS USMCFP Springfield, MO</p>	<ul style="list-style-type: none"> • Dominic Ayotte 209-956-9731 <p>FCI Dublin, CA MCC San Diego USP Atwater, CA FDC Honolulu, HI FCI, Herlong, CA FCI Sheridan, OR FCI Mendota, CA FDC SeaTac, WA USP Atwater, CA Contract: TCI Taft, CA</p>	<ul style="list-style-type: none"> • Michael D. Frazier 972-730-8921 <p>FCI Ft. Worth, TX FMC Carswell, TX FCI La Tuna, TX FSI La Tuna, TX FCI Big Spring, TX FCI Seagoville, TX Contract: Big Spring, TX Eden, TX Milan, NM Post, TX Pecos, TX Raymondville, TX</p>	<ul style="list-style-type: none"> • Craig Simmons 678-686-1281 <p>FCI Talladega, AL FCI Jesup, GA MDC Guaynabo, PR Contract: McCrae, GA Folkston, GA</p>
<p>FMC Lexington</p> <ul style="list-style-type: none"> • Carlos Javier Martinez 859-255-6812 x5710 <p>FMC Lexington, KY FCI Ashland, KY FCI Manchester, KY USP Big Sandy, KY USP McCreary, KY</p>	<p>MCC New York</p> <ul style="list-style-type: none"> • Adam Johnson 646-836-6455 <p>MCC New York, NY MDC Brooklyn, NY FCI Otisville, NY</p>	<p>FMC Rochester</p> <ul style="list-style-type: none"> • VACANT 507-424-7445 <p>FMC Rochester, MN FPC Duluth, MN FCI Sandstone, MN FCI Waseca, MN FPC Yankton, SD</p>	<p>FCI Phoenix</p> <ul style="list-style-type: none"> • David Huband 623-465-9757 x4378 <p>FCI Phoenix, AZ FCC Tucson, AZ (2) FCI Safford, AZ</p>	<p>FDC Houston</p> <ul style="list-style-type: none"> • Eric Hammonds 713-229-4104 <p>FCI Bastrop, TX FCI Three Rivers, TX FDC Houston, TX USP Pollock, LA FCI Pollock, LA FCC Oakdale, LA (2)</p>	<p>FCC Coleman</p> <ul style="list-style-type: none"> • Jeffrey Middendorf 352-689-7382 <p>FCC Coleman, FL</p>

Exhibit E (cont'd)

Consolidated Legal Centers

• = CLC LEADER * = NOT ACTIVATED

<p>FCI Beckley</p> <ul style="list-style-type: none"> • Debbie Stevens 304-252-9758 x4105 <p>FCI Beckley, WV FPC Alderson, WV USP Lee, VA FCI McDowell, WV FCI Gilmer, WV</p>	<p>FCC Allenwood</p> <ul style="list-style-type: none"> • Lori Cunningham 570-522-7642 <p>FCC Allenwood, PA USP Lewisburg, PA FCI Schuylkill, PA</p>	<p>St. Louis, MO</p> <ul style="list-style-type: none"> • Paul Pepper 314-539-2382 <p>MCC Chicago, IL FCI Oxford, WI FCI Pekin, IL USP Marion, IL FCI Greenville, IL FCI Terre Haute, IN USP Terre Haute, IN FCI Milan, MI *USP Thomson, IL</p>	<p>MDC Los Angeles</p> <ul style="list-style-type: none"> • Eliezer Ben-Shmuel 213-485-0439 x5428 <p>MDC Los Angeles, CA FCI Terminal Island, CA FCC Lompoc, CA FCC Victorville, CA</p>	<p>FCC Beaumont</p> <ul style="list-style-type: none"> • Juliana Reese-Colson 409-727-8187 x3262 <p>FCC Beaumont, TX FPC Bryan, TX</p>	<p>FDC Miami</p> <ul style="list-style-type: none"> • Rick DeAguiar 305-259-2511 <p>FDC Miami, FL FCI Miami, FL FCI Tallahassee, FL FCI Marianna, FL FPC Pensacola, FL</p>
<p>FMC Butner</p> <ul style="list-style-type: none"> • Mike Bredenberg 919-575-3900 x6078 <p>FMC Butner, NC FCI I Butner, NC FCI Butner, NC FCI II Butner NC LSCI Butner, NC FCI I Petersburg, VA FCI II Petersburg, VA Contract: Winton, NC</p>	<p>FMC Devens</p> <ul style="list-style-type: none"> • Les Owen 978-796-1043 <p>FCI Danbury, CT FCI Ray Brook, NY FMC Devens, MA FCI Berlin, NH</p>	<p>FCC Florence</p> <ul style="list-style-type: none"> • Chris Synsvoll 719-784-5216 <p>FCI Florence, CO USP Florence, CO ADMAX Florence, CO FPC Florence, CO FCI Englewood, CO</p>		<p>FTC Oklahoma City</p> <ul style="list-style-type: none"> • J. D. Crook 405-680-4004 <p>FTC Oklahoma City, OK FCC Forrest City, AR (2) FCI Texarkana, TX FCI El Reno, OK</p>	<p>SC/FCI Edgefield</p> <ul style="list-style-type: none"> • Tami Rippon Cassaro 803-637-1307 <p>FCI Edgefield, SC FCI Estill, SC FCI Williamsburg, SC FCI Bennettsville, SC</p>

Exhibit F

Paper Form. For Print Only.
(This notice will not print)

BP-A0331
JUN 10

AUTHORIZATION TO RECEIVE PACKAGE OR PROPERTY CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Name and Address of Person Sending Package	EXPIRATION DATE
Name	<div style="border: 1px solid black; width: 150px; height: 20px; margin: 0 auto;"></div> <p style="font-size: small; margin: 0;">This Authorization is Not Valid After The Date Shown.</p>
Address	Enter Inmate Name, Register No., and Institution Address Here:
City State Zip Code	

THE NAMED INMATE IS AUTHORIZED TO RECEIVE (specify below):

You are authorized to send the following personal property. **PLEASE NOTE:** Including unauthorized materials in the package will result in the entire package being returned undelivered.

QUANTITY	ITEM AND DESCRIPTION (INCLUDED STATED VALUE)	DISPOSITION

SPECIAL INSTRUCTIONS: The inmate will mail copy #3 and copy #4 to addressee. The addressee may retain copy #3 but must include the copy #4 in the package. The material must also be received prior to the Expiration Date shown above.

DISPOSITION: S = Storage; D = Donated; K = Keep in Possession; M = Mail; C = Contraband

ENTER SIGNATURE, TITLE AND DATE OF APPROVING OFFICIAL - APPROVING OFFICIAL ALSO ENTERS EXPIRATION DATE, above.

_____ (Signature and Title) _____ (Date Approved)

INSPECTION AND RECEIPT

Completed by Inspecting Staff

Status/Condition of Property Received:

Inspected and cleared for issue: _____
(Staff Signature) (Date)

_____ (Inmate Signature Upon Receipt) _____ (Date)

The Original, Copy 1 and Copy 2 remain together until fully completed. Copy 3 and Copy 4 are forwarded to addressee by inmate. Original- Central File; Copy 1- R&D Property File; Copy 2- Inmate; Copy 3- Addressee to keep; Copy 4- Addressee place in package