



LEGAL RESOURCE GUIDE

TO THE

FEDERAL BUREAU OF PRISONS

2004

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I. INTRODUCTION

The Federal Bureau of Prisons (BOP or Bureau) was established in 1930 to provide more progressive and humane care for federal inmates, to professionalize the prison service, and to ensure consistent and centralized administration of the 11 federal prisons in operation at that time. Today, the BOP consists of over 100 institutions, 6 regional offices, a Central Office (headquarters), 2 staff training centers, and approximately 30 community corrections offices. The regional offices and the Central Office provide administrative oversight and support to the institutions and community corrections offices. Community corrections offices oversee community corrections centers and home confinement programs. The BOP is responsible for the custody and care of sentenced federal inmates, as well as a significant number of pretrial detainees and pre-sentenced offenders for the U.S. Marshals Service and the U.S. Immigration and Customs Enforcement. The BOP also has custodial responsibility for the District of Columbia felons sentenced to terms of imprisonment.

A. The Bureau's Mission

The mission of the Bureau of Prisons is to protect society by confining offenders in the controlled environments of prison and community based facilities that are safe, humane, cost-efficient, and appropriately secure, and to provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

B. This Publication

This publication is intended to serve only as a guide to legal resources, including relevant statutes, regulations, program statements (available on the Internet), and current case law on issues that the BOP is facing today. It provides a general overview of the prison system, its services, and programs. The statutes, regulations, program statements, and case law decisions referred to in this guide may have been updated since publication. Thus, it is suggested that readers conduct independent research and confirm cited legal references within when exploring BOP matters. Please note, a current list of program statements is routinely updated on the BOP's website.

The publication is divided into three sections: (1) Pretrial Issues, (2) Sentencing Issues, and (3) Post-Conviction Issues. Additionally, Appendices are included and provide a Facilities Directory (Appendix A), List of Legal Contacts in the Bureau of Prisons (Appendix B), and List of Acronyms (Appendix C).

C. Website

The BOP Internet home page is located at "<http://www.bop.gov/>." This site provides access to BOP public information, including program statements, a directory of BOP facilities, regional and central offices, inmate locator information, employment information, acquisition information, Freedom of Information Act information, search capability, and links to other relevant Internet sites, including the National Institute of Corrections.

D. Population Profile

For the most current information on the BOP's inmate population, please refer to the BOP website located at "<http://www.bop.gov/>." This site describes BOP inmates by security level, gender, race, ethnicity, citizenship, age, type of offense, and sentence imposed.

E. D.C. Code Offenders

By virtue of Section 11201 of Chapter 1 of Subtitle C of Title XI of the National Capital Revitalization and Self-Government Improvement Act of 1997 (Revitalization Act), approved August 5, 1997 (P.L. 105-33; 111 Stat. 740), the BOP administers the imprisonment terms of D.C. Code felony offenders. The Revitalization Act grants the BOP broad authority to provide for the "custody, care, subsistence, education, treatment and training" of D.C. Code felony offenders in its custody. D.C. Stat. § 24-1201(a) and (b). That authority requires managing D.C. Code felony offenders "consistent with the sentence[s] imposed." *Id.* Thus, with exceptions noted, D.C. Code felony offenders are managed like U.S. Code offenders.

II. PRETRIAL ISSUES

A. Pretrial Detention

The availability of federal detention bed space is a major concern for the BOP. The BOP, U.S. Marshals Service, and U.S. Immigration and Customs Enforcement have been working together, under the direction of the Deputy Attorney General, to alleviate the shortage of detention bed space. The primary focus has been prioritizing and developing necessary detention resources in key districts and emphasizing appropriately-structured community supervision alternatives for non-dangerous offenders. The BOP is aware of the growing concern of some courts regarding the availability of bed space in federal detention centers and requests the opportunity to work out any specific bed space concerns of the court prior to the issuance of a court order. See 28 C.F.R. § 551, Part J, Pretrial Inmates; Program Statement 7331.04, Pretrial Inmates.

B. Pretrial Inmate Healthcare Concerns

Pretrial inmates often contend that their medical condition cannot adequately be treated while in pretrial status. See, e.g., United States v. Sherman, 53 F.3d 782 (7th Cir. 1995). In fact, there are virtually no medical problems that the BOP healthcare delivery system cannot respond to adequately, either within its institutions or by contracting with physicians and hospitals in the community. See Program Statement 6000.05, Health Services Manual. Likewise, pretrial inmates in U.S. Marshals Service contract facilities are entitled to receive needed care from community providers.

Emergency medical care is available in all BOP facilities. BOP inmates whose health care needs exceed those services available in a typical institution may be transferred to a BOP medical referral center in Springfield, Missouri; Rochester, Minnesota; Butner, North Carolina; Carswell Air Force Base, Texas; Lexington, Kentucky; Devens, Massachusetts; or Fort Worth, Texas. Each of these BOP facilities is

accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO), the same organization that accredits community healthcare organizations. When a BOP facility cannot adequately treat an inmate's condition, the inmate will be sent to a community hospital which is under contract with the BOP. When necessary, air ambulance service is used to transport inmates for urgent treatment.

Specialized health care resources are also available at a number of BOP institutions. For example, at least one institution at each security level is wheelchair accessible. There are also specialized facilities that provide nursing home services for offenders in need of skilled nursing care. These facilities are located at the Federal Medical Center (FMC) in Fort Worth, Texas, for males, and the FMC in Carswell, Texas, for females. A later section on Health Care Services in the BOP provides more details on available programs and services. See, infra, Section IV - Post-Conviction Issues: Programs and General Services: Medical Services.

C. Interstate Agreement on Detainers

Many prisoners in BOP custody have detainers for unresolved criminal charges pending against them in one or more jurisdictions. To facilitate programming designed for treatment and rehabilitation, and resolution of pending matters, the BOP participates with those states that are parties to the Interstate Agreement on Detainers. See 18 U.S.C. App. II; and Program Statement 5800.13, Inmate Systems Management Manual, Chp. 7. This agreement makes it possible for jurisdictions having an untried indictment, information, or complaint, to secure temporary custody of the inmate in order to bring him or her to trial. Such proceedings may be initiated by the state or by the inmate. Program Statement 5800.13 delineates the appropriate procedures for inmates who have detainers lodged against them by a member state.

D. Mental Illness

In 1984, as part of sentencing reforms, Congress enacted comprehensive provisions concerning the evaluation and treatment of mentally ill offenders. Title 18 U.S.C. §§ 4241-4247 provides the necessary judicial procedures that must take place when an offender appears to be, or is, suffering from a mental disease or defect. See also Program Statement 6000.05, Health Services Manual, Chp. IX; and 5310.12, Psychology Services Manual, Ch.9.

1. Section 4241: Pretrial Mental Evaluations and Commitments

Title 18 U.S.C. § 4241 explains the procedures necessary to determine the mental competency of a defendant at any time after the commencement of the prosecution and prior to sentencing. If there is reasonable cause to question the defendant's competency, the court will order a hearing upon the motion of one of the parties or upon its own motion. See 18 U.S.C. § 4241(a). Prior to the hearing, the court may order the defendant to undergo a psychiatric or psychological examination. See 18 U.S.C. § 4241(b).

The court may commit the defendant to the custody of the Attorney General for placement in a suitable facility¹ to be examined for a reasonable period not to exceed 30 days unless the director of the examining facility requests a reasonable extension, not to exceed 15 days. See 18 U.S.C. § 4247(b). After the examination period expires, a report is filed with the court by the facility's staff and copies are provided to counsel.

If after the hearing the court finds by a preponderance of the evidence that the defendant is mentally incompetent, the court must commit the defendant to the custody of the Attorney General for hospitalization and treatment in a suitable facility. This commitment period is for a reasonable period of time, not to exceed four months, to evaluate if there is a substantial probability that, in the foreseeable future, the defendant will regain competence. See 18 U.S.C. § 4241(d)(1).

An additional commitment period may be ordered if the charges have not been disposed of and the court determines there is a substantial probability that the defendant will become competent to stand trial in the foreseeable future. See 18 U.S.C. § 4241(d)(2). However, the defendant cannot be committed for a determination of his or her competency to stand trial for a period longer than the maximum possible sentence he or she faces. See United States v. DeBellis, 649 F.2d 1 (1st Cir. 1981). If the defendant does become competent to stand trial during the examination period, the warden of the examining facility files a certificate with the court stating such. A second competency hearing is held and, if the defendant is shown to be competent by a preponderance of the evidence, the prosecution resumes. See 18 U.S.C. § 4241(e).

2. Sections 4242 and 4243: Determination of Insanity at Time of Offense and Commitment Proceedings

Pursuant to 18 U.S.C. § 4242, the attorney for the government, after receiving notice that the defendant intends to rely upon the defense of insanity, may ask the court to order the defendant to undergo a psychological or psychiatric examination. Similar to § 4241, the § 4242 study may be conducted locally or, where incarceration is deemed necessary, in a BOP facility. After the issue of insanity has been raised, the fact finder is required to reach a special verdict of either guilty, not guilty, or not guilty only by reason of insanity.

When an offender has been found not guilty only by reason of insanity, a hearing will be conducted no later than 40 days after the special verdict. See 18 U.S.C. § 4243(c). At the hearing, a person found not guilty only by reason of insanity has the burden of proving by clear and convincing evidence that his or her release would not create a substantial risk of bodily injury to another person or serious damage of property of another. See 18 U.S.C. § 4243(d). Please note that while the hearing must take place within 40 days, § 4247(b) states that the examination under § 4243 may not exceed 45 days. If the offender fails to meet this standard, he or she will be committed to the custody of the Attorney General.

¹In addition to BOP and U.S. Marshals facilities, title 18 U.S.C. § 4247(i)(A) authorizes the Attorney General to contract with states, localities, political subdivisions, or private agencies for the confinement, hospitalization, or treatment of a person committed pursuant to Chapter 313.

Once committed, the Attorney General will make continuous reasonable efforts to release the offender to the appropriate state in which the offender was domiciled or tried, if the state will assume responsibility for his custody, care, and treatment. Note that the Attorney General has authority to stipulate the terms and conditions under which a federal insanity acquittee will be placed in state custody for care and treatment. See 18 U.S.C. § 4243(e). With the inmate's state placement or conditional release, there is a continuing federal interest in these types of cases, so a transferred individual cannot be unconditionally released by the state facility without the concurrence of the committing court. Accordingly, prior to discharge, the director of the state facility must first comply with 18 U.S.C. § 4243(f) and notify the committing court of the potential release. The federal court, applying federal standards, decides whether the acquittee will in fact be discharged. See United States v. Husar, 859 F.2d 1494 (D.C. Cir. 1988).

3. Section 4244: Conviction and Pre-Sentencing Stage

If an offender is found guilty of an offense, but a question is raised as to his or her mental condition prior to the time of sentencing, the court may order a hearing and a mental examination to determine whether the defendant is presently suffering from a mental disease or defect such that commitment to a suitable facility for care or treatment, in lieu of imprisonment, is appropriate. See 18 U.S.C. § 4244. If, after the hearing, the court finds by a preponderance of the evidence that such placement is appropriate, the defendant will be provisionally sentenced to the maximum term authorized by law and committed to the custody of the Attorney General for hospitalization in a suitable facility. See 18 U.S.C. § 4244(d). If the defendant later recovers to the extent that he or she is no longer in need of care and treatment, then he or she will proceed to final sentencing, with the court having the option of modifying the provisional sentence.

Commitment under § 4244 is to the custody of the Attorney General. While the statute envisions "commitment in lieu of imprisonment," the § 4244 defendant actually faces an undetermined period of commitment to a prison mental health unit; whereas, if he or she proceeds to final sentencing, there will be a definite term of commitment and the opportunity under § 4245 to receive necessary treatment. A defendant's decision to invoke § 4244 may result in a period of hospitalization longer than that which was possible had the defendant received a final sentence.

4. Section 4245: Post-Sentencing Treatment

Title 18 U.S.C. § 4245 provides for hospitalization and treatment of sentenced inmates found to be suffering from a mental disease or defect. If an inmate refuses to consent to hospitalization for care and treatment, § 4245 provides the method for involuntary hospitalization.

The court may order the hospitalization of an inmate for care or treatment if, after a hearing, the court finds by a preponderance of the evidence that the inmate is suffering from a mental disease or defect for which he or she needs hospitalization. See 18 U.S.C. § 4245(d). Section 4245(e) provides that the commitment may be discharged upon certification from the warden that the inmate has recovered to an extent that he or she is no longer in need of hospitalization, or upon the expiration of the sentence of imprisonment.

5. Section 4246: Hospitalization of Mentally Incompetent Person Due for Release

Title 18 U.S.C. § 4246 provides for the commitment and hospitalization of an inmate due for release that is found to be suffering from a mental disease or defect that would create a substantial risk of bodily injury to another person or serious damage to the property of another upon release. If the director of a medical facility certifies that the inmate meets the standards set forth in § 4246(a), he or she will file such certificate with the clerk of court in the district court where the inmate is confined. The certificate must also certify that suitable arrangements for state custody and care are unavailable. Defendants found not competent and not restorable to stand trial under § 4241(d) are also subject to the provisions of § 4246 if they meet the criteria for commitment. Once the certificate has been filed, the offender's release is stayed. The clerk of the court will send a copy of the certificate to the offender, the attorney for the government, and if the person was committed under § 4241(d), to the committing court. See 18 U.S.C. § 4246(a).

The court will order a hearing to determine whether, by clear and convincing evidence, the person suffers from a mental disease or defect such that his or her release would create a substantial risk of bodily injury or serious damage to property. If sufficient evidence exists, the court will commit the person to the custody of the Attorney General. See 18 U.S.C. § 4246(d).

The Attorney General will make continuous reasonable efforts to release the person to the appropriate official of the state in which the person is domiciled or was tried. If the state refuses to assume responsibility for the offender's custody, care, and treatment, the Attorney General will hospitalize the person for treatment in a suitable facility until the state will assume such responsibility or until the person's mental condition is such that his or her full release, or conditional release, would not pose a substantial risk of injury to other persons or damage to property. The director of the medical facility may initiate discharge proceedings in accordance with § 4246(e), or counsel for the inmate may seek discharge by filing a motion for a hearing. A motion by counsel for the inmate seeking discharge may only be filed after 180 days from the date the court ordered hospitalization or continuance of the hospitalization. See 18 U.S.C. § 4247(h).

It is the BOP's position that its mental health staff are functioning as court officers in conducting these mental health examinations and, as such, their actions assisting the court order should be shielded by absolute immunity. See McArdle v. Tronetti, 961 F.2d 1083 (3d Cir. 1992); Turney v. O'Toole, 898 F.2d 1470, 1472-73 (10th Cir. 1990); In re Hannon, 425 F.2d 916 (1st Cir. 1970) (order makes psychiatrist officer of the court). See also Program Statement No. 6000.05, Health Services Manual, Chp. IX, § 15 (BOP staff must at all times maintain the stance that they are working for the court in § 4241(a) and § 4242 cases and maintain neutrality).

6. Application of Chapter 313 Offenders With Mental Defect or Disease

The table that follows illustrates the operation of 18 U.S.C. Ch. 313. **Note: All examinations ordered pursuant to Ch. 313 are conducted in accordance with the provisions of § 4247 (b) and (c). Specifically, § 4247 (b) states that, inter alia, the examination be conducted by a licensed or certified psychiatrist or psychologist and that the person to be examined be committed to the**

custody of the Attorney General for placement in a suitable facility closest to the court. The facility may be a USMS contract facility or a BOP facility, whichever is “closest to the court.”

STATUTORY SECTION	ROLE OF THE ATTORNEY GENERAL	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
Pretrial	Pretrial	Pretrial
<p>§ 4241(a),(b),(c) — Examination to determine defendant's competency to stand trial.</p>	<p>The defendant may be committed for a reasonable period (not to exceed 30 days) for examination; the court may approve a 15-day extension.</p> <p>The examination will be conducted at the nearest suitable facility, if practicable.</p>	<p>The court may permit a psychiatrist or psychologist in the community to conduct the examination. This is particularly appropriate if the defendant is on bond.</p> <p>The BOP will not cover the cost of an examination conducted in the community.</p>
<p>§ 4241(d) — Determination whether the defendant will attain competency.</p>	<p>If incompetent, the defendant must be committed for a reasonable period of time (not to exceed 4 months) for treatment to regain competency. <u>See United States v. Shawar</u>, 865 F.2d 856 (7th Cir. 1989). The defendant may be committed for an additional reasonable period until either the defendant attains competency or until charges are dropped. <u>See United States v. Baker</u>, 807 F.2d 1315 (6th Cir. 1986).</p> <p>The director of the facility must determine whether the defendant is suffering from mental disease or defect such that releasing him or her would pose a substantial threat of harm to others. If so, the director must file a § 4246(a) certificate. <u>See United States v. Wheeler</u>, 744 F. Supp. 633 (E.D. Pa. 1990).</p> <p>The director of the facility must file reports biannually regarding the defendant's progress.</p>	

STATUTORY SECTION	ROLE OF THE ATTORNEY GENERAL	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
Pretrial	Pretrial	Pretrial
<p>§ 4242 — Examination of a defendant who intends to rely on the defense of insanity.</p> <p>Where the defendant is competent, only he or she may raise a defense of insanity. See <u>United States v. Marble</u>, 940 F.2d 1543 (D.C. Cir. 1991).</p>	<p>The defendant may be committed for a reasonable period (not to exceed 30 days) for examination; the court may approve a 15-day extension.</p> <p>The examination will be conducted at the nearest suitable facility, if practicable.</p>	<p>The court may permit a psychiatrist or psychologist in the community to conduct the examination. This method is particularly useful if the defendant is out on bond. See <u>In re Newchurch</u>, 807 F.2d 404 (5th Cir. 1986).</p> <p>The BOP will not cover the cost of an examination conducted in the community.</p>

STATUTORY SECTION	ROLE OF THE ATTORNEY GENERAL	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
Post-trial	Post-trial	Post-trial
<p>§ 4243(a) — The defendant is found not guilty by reason of insanity.</p>	<p>The acquittee must be committed to a suitable facility for examination to determine if his or her release would create a substantial risk of harm to others.</p>	<p>The acquittee must be committed to a suitable facility.</p> <p>The Attorney General may seek civil commitment under state law. <u>See</u> 18 U.S.C. § 4247(i)(B).</p>
<p>§ 4243(e) — The Court determines that releasing the acquittee would create substantial risk of harm to others.</p>	<p>The acquittee must be committed to the custody of the Attorney General.</p> <p>The acquittee will remain hospitalized until the Attorney General is able to arrange for release to the state where the acquittee was domiciled (or tried) for treatment and care, or until the acquittee's condition has improved such that release would no longer pose a risk of harm to others.</p> <p>The director of the facility must file annual reports regarding the acquittee's condition. <u>See</u> 18 U.S.C. § 4247(e).</p>	<p>The State may agree to assume responsibility for care and treatment of the acquittee; this includes assuming all financial responsibility.</p> <p>The director of the facility must file annual reports with the court regarding the acquittee's condition. <u>See</u> 18 U.S.C. § 4247(e).</p> <p>NOTE: The state may not release the acquittee without an order from the committing court. <u>See</u> <u>United States v. Husar</u>, 859 F.2d 1494 (D.C. Cir. 1988).</p>
<p>§ 4243(f) — The director of the facility determines that the acquittee should be released.</p>	<p>The director of the facility must file with the court a certificate stating that the acquittee is ready to be released conditionally or unconditionally.</p> <p>The acquittee may not be released without court order.</p>	<p>The director of the facility must file with the court a certificate stating that the acquittee is ready to be released.</p> <p>The acquittee may not be released without a court order. <u>See</u> <u>United States v. Husar</u>, 859 F.2d 1494 (D.C. Cir. 1988).</p>
<p>§4244(a) — Determine whether the convicted person is suffering from mental disease or defect.</p>	<p>The defendant may be committed for a reasonable time (not to exceed 30 days) for examination.</p> <p>The examination will be conducted at the nearest suitable facility if practicable.</p>	<p>The court may permit a psychiatrist or psychologist in the community to conduct the examination.</p> <p>The BOP will not cover the cost of an examination conducted in the community.</p>

STATUTORY SECTION	ROLE OF THE ATTORNEY GENERAL	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
Post-trial	Post-trial	Post-trial
<p>§ 4244(d) — A convicted defendant who is suffering from mental disease or defect.</p>	<p>The defendant must be committed for hospitalization in a suitable facility under a provisional sentence.</p> <p>The director of the facility must file annual reports regarding the defendant's condition. See 18 U.S.C. § 4247(e).</p> <p>When the defendant no longer suffers from a disease or defect, the director shall file a certificate with the court; the court may modify the provisional sentence.</p>	
<p>§ 4245 — An inmate suffering from mental disease or defect who refuses transfer to a more suitable facility.</p>	<p>The inmate may be hospitalized only after a court order (the court may order an examination pursuant to §4247(b) prior to holding a hearing on the question of transfer).</p>	
<p>§ 4246(a) — An inmate who is due for release but continues to suffer from mental disease or defect.</p>	<p>The director of the facility may file a certificate with the court if, solely because of the person's mental condition, his or her release would create substantial risk of injury to others.</p>	
<p>§ 4246(d) — An inmate who cannot be released because a mental condition creates risk of harm to others.</p>	<p>The inmate shall be committed until the state will assume responsibility for the inmate or the person's condition improves such that release would not create a risk of harm to others.</p> <p>The Attorney General shall try to make arrangements for the state to assume responsibility for the inmate's care and treatment.</p>	<p>The state may agree to assume responsibility for the care and treatment of the person.</p> <p>The Attorney General may seek civil commitment under state law. See 18 U.S.C. § 4247(i)(B).</p>

7. Section 4205: Examination of an Inmate Eligible for Parole

This statute was repealed (along with others pertaining to parole) in 1987; however, some inmates sentenced prior to 1987 (“old law”) may be eligible for parole. The statute allows for the United States Parole Commission (USPC) to receive an evaluation from the BOP regarding an inmate’s suitability for parole, including his mental and physical health, past criminal history, social background, etc.

8. 18 U.S.C. Section 3552(b) and (c): Presentence Study and Report by the Bureau of Prisons, and Psychological or Psychiatric Examination

As part of the presentence investigative process, the court may ask that the defendant undergo a psychological or psychiatric examination to provide information that will aid the court in determining an appropriate sentence. The court may ask any number of questions in its order, including questions about departure from the sentencing guidelines, mitigating circumstances, etc.

This evaluation can be completed in the community “unless the judge finds that there is a compelling reason for the study to be done by the Bureau of Prisons” The statute allows for 60 days for completion of the study, with an extension up to 60 additional days.

The format of the report should generally follow the format used in the other statutes, but should specifically address the court’s question(s).

9. 28 U.S.C. Section 2254, State Custody; Remedies in Federal Courts; and Section 2261, Prisoners in State Custody Subject to Capital Sentence; Appointment of Counsel; Requirement of Rule of Court or Statute; Procedures for Appointment

These sections together concern capitally-sentenced state inmates who bring a federal writ of habeas corpus before a federal court. Mental capacity evaluations, analogous to 18 U.S.C. § 3596(c), may be ordered by the federal judge. There is no requirement that this evaluation be conducted in any particular facility and since the inmate is serving a state sentence, it appears most appropriate that the evaluation be completed in the state facility in which the inmate is housed by a competent, licensed or certified psychiatrist or psychologist.

III. SENTENCING ISSUES

The U.S. Sentencing Commission has published, pursuant to 28 U.S.C. §§ 991-998, guidelines that provide a general framework for sentencing. Below is a discussion of the most frequently used sanctions available in the federal criminal justice system, with particular emphasis on those administered by the BOP.

A. Probation

The federal sentencing court may impose a sentence of probation with conditions placed on the offender, the U.S. Probation Office and the BOP administering the program.

1. Community Confinement

Inmates may be sentenced to community confinement as a condition of probation, which is defined as residence “in a community treatment center, halfway house or similar facility.” 18 U.S.C. § 3563(11). Federally-contracted halfway houses, or Community Corrections Centers (CCCs), have been made available by the BOP for use by the courts. Offenders sentenced to probation or supervised release are placed in the most restrictive component of the CCC and have limited access to the community. CCCs are available for both male and female offenders. See Program Statement 7300.09, [Community Corrections Manual](#).

Also, in lieu of revocation of probation or supervised release for technical violations, the courts may place an offender in a CCC as a condition of supervision. Federally-contracted CCCs are also available for this purpose.

2. Intermittent Confinement

Weekend terms and other forms of intermittent confinement may be imposed as a condition of probation. 18 U.S.C. § 3563(b)(10)² and U.S.S.G. § 5C1.1(c)(3). In most instances, BOP or contract detention facilities are used for this purpose, but placement in a CCC is also permissible.

3. Home Detention

The sentencing guidelines (U.S.S.G. § 5C1.1(c)-(e)) allow home detention as a substitute for imprisonment in certain instances. Ordinarily, inmates on home detention are electronically monitored through services contracted by the Administrative Office of the United States Courts. The BOP is not involved in the home detention program for probationers and supervised releasees.

B. Imprisonment

The BOP maintains a safe and humane correctional environment for offenders sentenced to imprisonment. For offenders receiving terms of imprisonment, it is critical for the BOP to receive a comprehensive Presentence Investigation Report, Judgment and Commitment (J&C) order, and Statement of Reasons

²Section 3583(d) provides “[t]he court may order, as a further condition of supervised release . . . any condition set forth as a discretionary condition of probation in section 3563(b)(1) through (b)(10) and (b)(12) through (b)(20). . . .” Prior to the enactment of the Antiterrorism and Effective Death Penalty Act of 1996, the condition at 18 U.S.C. § 3563(b)(11) was intermittent confinement. Because the Act deleted § 3563(b)(2) and re-designated the remaining conditions set forth in § 3563(b), intermittent confinement is now set forth at subsection (b)(10). However, there is some question as to whether Congress intended this result. Although the Act re-designated the remaining subsections of § 3563(b), it failed to make the corresponding re-designations in 18 U.S.C. § 3583(d), regarding discretionary conditions of supervised release.

(SOR). These documents provide much of the information that is the basis for decision-making on designations, including the appropriate security level, available programs, and pre-release preparation.

1. Institutional Confinement

Title 18 U.S.C. § 3621(a) gives the BOP authority to confine persons sentenced to a term of imprisonment. BOP institutions are divided into security levels: minimum, low, medium, high, plus an administrative category. Institution security levels are determined by factors such as type of perimeter security, number of towers or external patrols, detection devices, security of housing areas, type of living quarters, and level of staffing.

2. Service of Sentence in Non-Federal Facilities

The BOP maintains contracts with local jails and detention centers to augment its capacity to confine offenders serving sentences of a year or less. These facilities may also be used for offenders sentenced to terms of intermittent confinement (such as nights, weekends, or other short intervals) as a condition of probation.

The BOP also maintains contracts with some state correctional systems where some long-term federal offenders are held. Offenders are occasionally transferred to state facilities when they present special management problems, such as needing protection due to their notoriety which precludes safe incarceration in any BOP facility. See Program Statement 5160.05, State Institution for Service of Federal Sentence, Designation of.

3. Intensive Confinement Centers

The BOP operates minimum security Intensive Confinement Centers (ICCs) in Lewisburg, Pennsylvania; Lompoc, California (for male inmates); and Bryan, Texas (for female inmates). ICCs offer specialized programs that contain both a "boot camp" institution and community-based phases. The BOP's authority to operate this program is found at 18 U.S.C. §§ 3621 and 4046. See Program Statement 5390.08, Intensive Confinement Center Program. Eligible participants must be minimum security offenders who have not been previously incarcerated (or who have minor histories of prior incarceration) and who consent to participate in the program.

The institutional phase of the ICC program lasts six months and is individualized for each offender. Structured periods of physical training, work, education, and drug counseling are part of each day's activities; amenities are limited.

An extended period of community corrections center (CCC) placement typically follows completion of the institutional phase of the ICC program. If initiated during the institutional phase of the ICC, drug treatment is continued during the CCC placement. Participants gradually move through less restrictive phases at the CCC center until they are eventually placed on home confinement.

Participation in an ICC program may be recommended by the sentencing court. The BOP attempts to comply with judicial recommendations. However, inmates who do not require the intensive specialized

programs offered at an ICC ordinarily are not accepted for placement due to lack of program needs. In most instances, inmates who demonstrate stable employment, education, military, and/or lack of a substance abuse history, are not approved for placement in the program.

4. Juveniles

Federal prosecution of juveniles is governed by the Federal Juvenile Justice and Delinquency Prevention Act (JJDPA), 18 U.S.C. §§ 5031-5042. See also Program Statement 5216.05, Federal Juvenile Justice and Delinquency Prevention Act (JJDPA). This act deals with the prosecution of a defendant who has not reached his or her 18th birthday and generally prohibits housing juveniles with adult offenders. Given the very small number of federal juveniles, operation of a separate BOP facility for this population is not practical. Therefore, the BOP contracts for placement of these offenders in state and local facilities.

The JJDPA deals with three categories of inmates, with BOP treatment of each group differing as follows:

Confinement of a Person Under 18 - Any inmate who has not attained his or her 18th birthday will be placed in a non-federal juvenile facility. See 18 U.S.C. § 5039. Generally, the BOP attempts to place such inmates in community-based juvenile facilities located in or near the home communities.

Confinement of 18- to 21-Year-Old Juveniles - An inmate who is sentenced as an adult pursuant to 18 U.S.C. § 5032 shall be designated to an adult institution according to normal designation criteria. An inmate who is sentenced as a juvenile will be treated like a person under 18 years of age, unless he or she has a concurrent federal adult sentence whose length is equal to or greater than the juvenile sentence. If there is a concurrent federal sentence equal to or greater in length than the juvenile sentence, the inmate will be housed in an adult facility, and the court imposing the juvenile sentence will be notified of this fact. If an inmate sentenced as a juvenile also has a consecutive adult sentence, he or she will be treated as a person under the age of 18 until the expiration of the juvenile sentence, or in some instances, until he or she has reached the age of 21.

Those Who Turn 21 While Serving a JJDPA Sentence - A person who has been adjudicated as delinquent may be designated to a BOP institution as an adult once he or she turns 21 years old. An inmate will usually be transferred to an adult facility when there is no objection from the court that imposed the juvenile sentence and where such a transfer will not interfere with important inmate programming.

C. Judgment and Commitment Orders

The BOP is charged with interpreting and administering Judgment and Commitment (J&C) orders. The following sections address issues which frequently arise.

1. Judicial Recommendations for a Specific Institution, Geographic Area, or Specialized Program

BOP authority to designate the place of confinement for federal prisoners comes from 18 U.S.C. § 3621. This statute requires the BOP to consider the type of offense, the length of sentence, the defendant's age, the defendant's release residence, the need for medical or other special treatment, any placement recommendation made by the court, and guidance issued by the U.S. Sentencing Commission. Initial designation decisions and decisions to transfer prisoners from one facility to another are ultimately the responsibility of the BOP and are made in accordance with Program Statement 5100.07, Security Designation and Custody Classification Manual. See also McCarthy v. Doe, 146 F.3d 118 (2d Cir. 1998); Cohen v. United States, 151 F.3d 1338 (11th Cir. 1998); United States v. Pineyro, 112 F.3d 43 (2d Cir. 1997); Barden v. Keohane, 921 F.2d 476, 481-82 (3d Cir.1990).

The BOP often receives J&C orders indicating the sentencing court's preference for a specific institution, geographic area, or specialized program. Every effort is made to fulfill the court's request. However, a conflict with BOP policy and/or sound correctional management may prevent compliance. In such cases, Program Statement 5070.10, Judicial Recommendations and U.S. Attorney Reports, Responses to, requires BOP staff to respond to the court in writing and explain the circumstances which prevent compliance. **Prior to finalizing plea agreements or other concessions affecting a defendant's conditions of confinement, it is important for the parties involved to consult and verify with BOP regional counsels' offices that specific conditions of confinement or programs are possible.** This is particularly important when defendants have both state and federal sentences, as complex issues arise over which sovereign bears the responsibility (and cost) of incarcerating such defendants.

The BOP no longer accommodates judicial recommendations to initially place inmates in community corrections centers for the imprisonment portion of their sentences. Rather, all inmates serving terms of imprisonment must be designated by the BOP to prison or jail facilities. This prohibition applies to all U.S. Code and D.C. Code offenders whose prison sentences are administered by the BOP.

2. Sentence Calculation

Through its Inmate Systems Management (ISM) staff, the BOP is responsible for calculating federal terms of imprisonment. See United States v. Wilson, 503 U.S. 329 (1992). BOP policies instructing staff how to calculate terms of imprisonment are complicated and extensive. See Program Statements 5880.28, Sentence Computation Manual (CCCA of 1984); 5880.30, Sentence Computation Manual ("Old Law"-Pre-CCCA-1984); 5110.14, Administration of Sentence for Military and Coast Guard Inmates; 5880.32, District of Columbia Sentence Computation Manual. Specific questions related to sentence calculation should be directed to BOP regional counsels' offices.

Prisoners challenging the calculation of a particular sentence do so by filing a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 in the U.S. District Court possessing personal jurisdiction over their immediate custodian (warden). See, e.g., Chatman-Bey v. Thornburgh, 864 F.2d 804 (D.C. Cir. 1988) (en banc). Inmates are required to exhaust their administrative remedies with the BOP prior to seeking judicial relief. See Porter v. Nussle, 534 U.S. 516 (2002). See also, Program Statement 1330.13, Administrative Remedy Program.

Occasionally, J&C orders indicate the defendant's term of imprisonment shall be calculated in a manner contrary to law. In such instances, the sentencing court shall be alerted by correspondence from the U.S. Attorney's Office or the BOP directly.

3. Commencement of a Term of Imprisonment

Title 18 U.S.C. § 3585(a) dictates that “[a] sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.” Consequently, J&C orders that indicate a defendant's term of imprisonment shall commence at a date earlier than its date of imposition, or some other date, are viewed by the BOP as contrary to statute. See Taylor v. Sawyer, 284 F.3d 1143, 1150 (9th Cir. 2002); United States v. Labeille-Soto, 163 F.3d 93 (2d Cir. 1998); Werber v. United States, 149 F.3d 172, 179 (2d Cir. 1998); United States v. Evans, 159 F.3d 908, 911 (4th Cir. 1998); United States v. Pineyro, 112 F.3d 43, 45 (2d Cir. 1997).

4. Credit for Prior Custody (“Jail Time”)

Title 18 U.S.C. § 3585(b) dictates the method of calculating credit for prior custody for defendants whose offense was committed on or after November 1, 1987. Sentence credit is awarded for any time spent in official detention prior to the date a term of imprisonment commences, provided it was served as a result of the offense for which the sentence was imposed, or as a result of any offense (state or federal) for which the defendant was arrested after committing the offense for which the federal sentence was imposed. Id. Additionally, the time must not have been credited against any other sentence. Id. Slightly different rules apply for defendants whose date of offense is prior to November 1, 1987. See 18 U.S.C. § 3568 (repealed).

After a defendant is sentenced, the BOP is responsible for determining what period(s) of prior custody may be credited toward the federal term of imprisonment. See United States v. Wilson, 503 U.S. 329 (1992); Werber v. United States, 149 F.3d 172, 179 (2d Cir. 1998). Periods spent on pretrial release, no matter how restrictive, cannot be awarded as prior custody credit to U.S. Code offenders. See Reno v. Koray, 515 U.S. 50 (1995). D.C. Code felony offenders may be entitled to such credit. See Program Statement 5880.32, District of Columbia Sentence Computation Manual. Consequently, J&C orders must be carefully drafted to avoid requiring prior custody credit awards in circumstances which are contrary to statute. In those infrequent instances where a sentence being imposed is “adjusted” pursuant to U.S.S.G. § 5G1.3(b), the J&C order should clearly reference § 5G1.3(b), as well as all other relevant facts. See U.S.S.G. § 5G1.3, App. Note 2(c). Otherwise, it may appear that prior custody credit is being awarded contrary to 18 U.S.C. § 3585(b).

5. Credit for Satisfactory Behavior (“Good Time”)

For U.S. Code offenders whose offense was committed on or after November 1, 1987, and D.C. Code offenders whose offense was committed on or after August 5, 2000, 18 U.S.C. § 3624(b) provides good conduct time credit for appropriate behavior. Under that provision, inmates serving sentences greater than one year, but less than life, may receive up to 54 days sentence credit per year served. Id. Inmates

sanctioned for violating prison disciplinary rules may lose all or part of their annual award. See Program Statement 5270.07, Discipline and Special Housing Units.

In light of the mathematics involved, sentencing courts must be very specific in wording the J&C order. Defendants sentenced to a “one year” term of imprisonment will actually serve one year without the benefit of any good conduct time credit. On the other hand, defendants sentenced to a “one year and one day” term of imprisonment can receive credit for satisfactory behavior and thus can actually serve less than one year. **Assistance in wording J&C orders, to effect the Court’s intention, if possible, is available from BOP regional counsels’ offices.**

For inmates whose offense is committed on or after November 1, 1987, § 3624(b) allows 54 days of credit "at the end of each year of his term of imprisonment." This does not mean that inmates serve only 311 days for every year of imprisonment imposed. Rather, it means inmates serve 365 out of 419 days ($365 + 54 = 419$) of their sentence. So, for example, consider the case of an inmate sentenced to a three-year term of imprisonment on January 1, 1992. On January 1, 1993, the inmate receives 54 days good conduct time, leaving 676 days remaining in his or her sentence (2 years minus 54 days). On January 1, 1994, the inmate receives another 54 days of good conduct time, leaving 257 days remaining in his or her sentence (1 year minus 108 days). The inmate will not earn another 54 days of good conduct time against his or her sentence after January 1, 1994, because he or she does not have 365 days remaining to serve. Instead, the final award of good conduct time will be prorated for the final 257 days, resulting in an award of 33 days. The total deduction against the sentence in this case is 141 days ($54+54+33$), not 162 ($54+54+54$).

Sentence credit for satisfactory behavior by U.S. Code offenders whose offense was committed prior to November 1, 1987, is governed by 18 U.S.C. §§ 4161-4166 (repealed). Until 1987, such defendants were eligible to accrue both statutory good time (§ 4161) and extra good time (§ 4162). Statutory good time may be forfeited in whole or in part if the prisoner violates institution rules or commits any offense. See 18 U.S.C. § 4165.

6. Fines and Costs of Confinement

Pursuant to U.S.S.G. § 5E1.2., the court shall impose a fine in all cases unless the defendant lacks the necessary financial resources to make payments. For offenses committed on or after November 1, 1987, the court cannot require that any fine imposed be paid as a precondition for release from imprisonment. This is a change from prior law, which permitted the court to order the defendant to remain in prison until the fine is paid unless and until a determination was made that the defendant was indigent or otherwise unable to pay the fine. See 18 U.S.C. §§ 3565 and 3569; Program Statement 5882.03, Fines and Costs for Old Law Inmates. Nevertheless, pursuant to 18 U.S.C. § 3624(e), the defendant must agree to adhere to an installment schedule prior to being released for the supervision portion of his or her sentence. See 18 U.S.C. § 3624(e); Ross v. Thompson, 927 F.Supp. 956 (N.D.W.Va. 1996), aff’d, 105 F.3d 648 (4th Cir. 1997).

The Application Notes to the Sentencing Guidelines refer the court to the BOP and the Administrative Office of the U.S. Courts for assistance in determining an appropriate fine. The BOP can furnish the court with the average cost of confinement at all facilities, either through the Office of General Counsel located in Washington, D.C., or through one of the six regional offices. The average cost across all facilities is

used because an inmate may be held in several different facilities during a single term of imprisonment. For prisoners who did not receive a fine from the court to cover the costs of incarceration, and for whom the court did not waive the fine due to indigence, the BOP is authorized to collect a fee equal to the cost of one year of imprisonment, or a prorated amount if the defendant is sentenced to a shorter term. See P.L. 102-395, Sec. 111 (18 U.S.C. § 4001 (note)); Program Statement 5380.06, Cost of Incarceration Fee (COIF).

The BOP may require offenders transferred to community facilities to pay a portion or all of the costs of their confinement. See 18 U.S.C. § 3622 (c)(2). Of all employed offenders confined in BOP community programs at any given time, approximately 90 percent make payments toward the cost of their confinement. The funds collected from these prisoners are not returned to the BOP, but rather are paid to the United States Treasury. Nevertheless, requiring such payments is an effective means for the government to recover some of the costs of operating the criminal justice system, and assists offenders in becoming responsible, law-abiding members of the community.

7. Inmate Financial Responsibility Program

To assist in the collection of court-ordered financial obligations, the BOP operates an Inmate Financial Responsibility Program (IFRP) in conjunction with the Administrative Office of the U.S. Courts. See Program Statement 5380.07, Financial Responsibility Program, Inmate. All inmates with obligations, including special assessments, restitution, fines and court costs, state or local court obligations, and other federal obligations are encouraged to develop a financial plan with institution staff.

Participation in the program is tied to eligibility for prison privileges such as preferred housing, job assignments, and community activities (e.g., community corrections center placement and furloughs). Participation is also tied to institutional program and custody level changes. If eligible for parole, the inmate's progress in meeting his or her financial plan is considered at the parole hearing. Inmates are responsible for making all payments from either outside resources, wages from work in the institution, or a combination of the two.

All sentenced inmates who are unable to work for security, educational, or medical reasons are required to work in an institutional or industrial work assignment. See Program Statement 5251.05, Inmate Work and Performance Pay Program. Inmates who work at non-industrial jobs earn between 12 and 40 cents per hour and ordinarily work seven hours per day. They may also earn bonus pay for outstanding work performance. Most of the money inmates contribute to the IFRP, however, comes from outside resources, including an inmate's private holdings and contributions from his or her family.

In recent years, the authority of sentencing courts to authorize the BOP or Probation Officers to set the amount and schedule of payments has been challenged. See, e.g., United States v. Merric, 166 F.3d 406 (1st Cir. 1999); United States v. Kinlock, 174 F.3d 297 (2d Cir. 1999); United States v. Coates, 178 F.3d 681 (3d Cir. 1999); United States v. Myers, 198 F.3d 160 (5th Cir. 1999); McGhee v. Clark, 166 F.3d 884 (7th Cir. 1999); United States v. Gray, 175 F.3d 617 (8th Cir. 1999); Montano-Figueroa v. Crabtree, 162 F.3d 548 (9th Cir. 1998); United States v. Phillips, 139 F.3d 913 (10th Cir. 1998); United States v. Gray, 121 F.3d 710 (6th Cir. 1997); United States v. Prouty, 303 F.3d 1249 (11th Cir. 2002); United States v. Fuentes, 107 F.3d 1515 (11th Cir. 1997); United States v. Miller, 77 F.3d 71 (4th Cir. 1996). Therefore,

sentencing courts that intend to have defendants begin payment of financial obligations through the BOP's IFRP must carefully word the J&C order in one of the following manners (non-exhaustive):

- Indicate financial obligation is "due immediately."
- Remain silent as to when due, in which case 18 U.S.C. § 3572(d) requires "immediate" payment.

Wording such as "Payments to be made as directed by BOP staff" or "Payments to be made in installments as set by the IFRP," are ambiguous and may result in defendant's non-participation in the IFRP. **BOP regional counsels' offices can provide assistance in properly wording J&C orders to accurately reflect the Court's intention.**

8. Victim and Witness Notification

The BOP is highly committed to its Victim/Witness Notification Program, which began in April 1984. Under this program, victims and witnesses are advised when the offender is being released from prison, dies, escapes, has been scheduled for a parole hearing, receives a furlough, or is placed in a community corrections program. See Program Statement 1490.06, Victim and Witness Notification Program.

There is a toll-free phone number available for victims of crime contained within the Victim/Witness Notification pamphlet. The toll-free number may also be obtained from your local Victim/Witness Coordinator in the United States Attorney's Office. Victims and witnesses can use this phone number to request information about the offender's status or about any information they received regarding the offender.

IV. POST-CONVICTION ISSUES

A. Designation to a Facility for Service of a Term of Imprisonment

1. Security Designation and Custody Classification System

After a sentence of imprisonment is imposed, the BOP begins the process of designating the defendant to a facility for service of the sentence. Title 18 U.S.C. § 3621 provides that the BOP shall designate where a prisoner will serve his or her sentence. The BOP retains exclusive discretion to assign and transfer prisoners to any of its facilities. See 28 C.F.R. Part 524 - Classification of Inmates; Program Statement 5100.07, Security Designation and Custody Classification Manual. See also McCarthy v. Doe, 146 F.3d 118 (2d Cir. 1998); Cohen v. United States, 151 F.3d 1338 (11th Cir. 1998); United States v. Pineyro, 112 F.3d 43 (2d Cir. 1997); Barden v. Keohane, 921 F.2d 476, 481-82 (3d Cir.1990). Furthermore, pursuant to 18 U.S.C. § 3625, the BOP's designation decision in any particular case is exempt from judicial review under the Administrative Procedures Act (APA) for an abuse of its discretion. See, e.g., Lyle v. Sivley, 805 F. Supp. 755 (D. Ariz. 1992). The Court's scope of review in such cases is limited to constitutional violations or instances where the BOP exceeded its agency authority. Id.

When an offender is sentenced to a term of imprisonment, the appropriate U.S. Marshal notifies BOP local community corrections managers (CCM) and requests a designation. See Program Statement 7300.09, Community Corrections Manual. The CCM makes an initial determination as to what security level is appropriate for the offender. The CCM then electronically transmits its determination to the regional office where the designation will be made. As a general rule, designations are completed within three days of the CCM receiving the request for designation from the U.S. Marshals Service.

When making designations, the BOP takes into account a number of factors including type of offense, length of sentence, offender's age, offender's release residence, the need for medical or other special treatment, and any placement recommendation made by the court. The BOP primarily relies on the Presentence Investigation Report prepared by the U.S. Probation Service, the J&C order, and the Statement of Reasons (SOR) filed by the court for most of this information. If the court makes findings regarding controverted matters contained in the Presentence Investigation Report that may affect the defendant's classification, the court should record these findings in the Statement of Reasons attachment to the J&C order. See Rule 32(c)(1), Fed. R. Crim. P. Any additional information not contained in the Presentence Investigation Report that should be considered in assigning an appropriate facility should be included as well. For information regarding recommendations from the sentencing court for a specific institution, geographic area, or specialized program, see, supra, Section IV - Sentencing Issues: Judgment and Commitment Orders; Judicial Recommendations for a Specific Institution, Geographic Area, or Specialized Program.

(a) The Role of Community Corrections Managers

The BOP contracts with Community Corrections Centers (CCCs) that offer a broad spectrum of pre-release programs. To oversee these services, the BOP maintains a network of CCMs in major cities throughout the country. See Program Statement 7300.09, Community Corrections Manual and Appendix B - List of Legal Contacts in the Bureau of Prisons.

CCMs and their staff have a variety of responsibilities. They are liaisons with the federal judiciary and with officials at all levels of government. They also play a vital role in designating institutions for offenders who receive terms of imprisonment, as well as supervising the services provided to federal offenders in contract facilities. CCMs can answer questions about available facilities and how the specific elements of an offender's case are likely to be considered in the designation decision.

Community corrections staff are also responsible for accurately determining the community corrections and detention needs of inmates in their assigned geographic areas and developing contractual relationships with public and private resources to meet those needs. Arrangements with state and local government agencies are formalized in Intergovernmental Agreements. Contracts for the services of private providers are developed through the government's competitive procurement process.

The CCM has broad oversight of all aspects of the agency's community corrections contracts and final authority over most case management decisions relating to offenders in community-based programs. Community corrections staff process paperwork concerning escapes and apprehensions and ensure that

proper release procedures are used. They also approve or deny driving privileges for offenders in community programs.

CCCs are available in almost all geographic areas of the country. In addition, there are approximately 40 Comprehensive Sanctions Centers (CSCs) throughout the country. CSCs are similar to CCCs in that they both provide correctional supervision and structured release programs for offenders. However, CSCs offer enhanced programming opportunities, a more structured and graduated system of accountability, and a formalized “team” approach to inmate management, which includes participation of the U.S. Probation Office, the BOP, and the CSC.

(b) Information from the Court

Information regarding the intent of the court in sentencing an offender is very useful to BOP staff. The Presentence Investigation Report, psychological reports, medical reports, and other information are helpful guides. BOP staff find the Statement of Reasons attachment to the J&C order particularly valuable because it explains the reason for the sentence imposed. In most cases, the J&C order and the Presentence Investigation Report provide the only verified background data on offenders. Because these documents are used in making initial designation decisions and subsequent housing, job, and custody assignments, and pre-release planning, the accuracy of the information they contain is critical to the BOP.

2. Movement to the Institution

After an institution has been selected, an inmate may be transported to that facility by the U.S. Marshals Service (USMS) in one of two ways. Usually, the USMS transports the individual by car or contract carrier airlines, depending upon the distance. In conjunction with BOP ground transportation and support, the USMS also operates a fleet of aircraft that provides for economical, expeditious movement of inmates.

In addition, rather than being transported by the USMS, the court may order a defendant to surrender voluntarily at the facility to which he or she is initially designated. The BOP draws a positive inference from the court's determination that the defendant is sufficiently trustworthy to surrender voluntarily, and in most cases an inmate who self surrenders will be designated to a minimum security institution as long as public safety considerations do not warrant a higher-security designation. Few of those ordered to surrender themselves fail to do so.

3. Central Inmate Monitoring System

The BOP monitors and controls the transfer, temporary release (e.g., on writ), and community activities of certain inmates who present special management needs. See 28 C.F.R. § 524.70, et seq., Part F - Central Inmate Monitoring (CIM) System; Program Statement 5180.04, Central Inmate Monitoring System. Such inmates, known as central inmate monitoring (CIM) cases, require a higher level of review that may include Central Office and/or regional office clearance for transfers, temporary releases, or community activities. This monitoring does not preclude a CIM inmate from such activities when the inmate is otherwise eligible, but rather provides protection to all concerned and contributes to the safe and orderly operation of federal institutions.

4. Separation and Witness Security Cases

There are many reasons why an offender may need to be separated from others, stemming from events that either preceded confinement or that occurred during incarceration. See Program Statement 5180.04, Sec.7.f, Central Inmate Monitoring System. If the need for separation is known when the offender comes into custody, a judge, a U.S. attorney, the U.S. Marshals Service, a U.S. probation officer, or any other official may initiate a request for separation. If deemed necessary, separation status may continue throughout the period of incarceration. The BOP may also initiate a separation based on post-conviction events or new information received after the inmate is in custody.

The BOP has two ways in which it ensures the safety of those who must be separated from other inmates. The most structured protection is provided by the Witness Security Program. See 28 C.F.R. § 524.72(a); Program Statement 5180.04, Sec.7.a, Central Inmate Monitoring System. Most offenders in this program are housed in special units of certain institutions, separate and apart from general population inmates; some are confined within the general population at a federal prison.

In other instances, an inmate may require separation from a few other inmates, such as co-defendants against whom he or she gave testimony. This can be accomplished by transferring one or more of the inmates to other facilities. In rare cases, placement as a contract boarder in a state institution may be necessary.

Once an inmate's separation needs are identified and confirmed, providing for his or her ongoing safety is facilitated by the use of the BOP automated information system. This system includes information about separation cases. Before any inmate is transferred, BOP staff check this system to ensure that, if the inmate is a separation case, none of his or her separatees are at the intended destination.

B. Admission and Orientation Program for Inmates

The Admission and Orientation (A&O) Program for all BOP institutions is governed by Program Statement 5290.14, Admission and Orientation Program. This program provides an introduction to all aspects of the institution and includes interviews with, and screening by, staff from case management, medical, and mental health departments. Upon arrival at a new institution, an inmate will be assigned to the A&O Program for the first week or so. Inmates are immediately provided copies of the institution's rules and regulations, including the inmate discipline policy; and they receive a formal orientation to the programs, services, policies, and procedures of that facility within four weeks of arrival. During the A&O Program, staff make presentations regarding the institution's programs and departments.

C. Programs and General Services

Research has conclusively demonstrated that participation in programs that teach marketable skills helps to reduce recidivism rates. Additionally, institution misconduct can be significantly reduced through programs that emphasize personal responsibility, respect, and tolerance of others. Accordingly, the BOP offers a wide variety of program opportunities for inmates that teach positive social values and life skills.

Programs offered include vocational training, the Life Connections Program, parenting programs, and mock job fairs, as well as other programs described in greater detail below.

1. Education and Recreation Programs

The BOP is committed to providing services and programs that will allow inmates the best opportunity for rehabilitation.³

Program Statement 5300.21, Education, Training, and Leisure Time Programs Standards provides that each institution will have an Education Department responsible for providing literacy and other related programs to inmates. Additionally, the BOP provides inmates with library services necessary for educational, cultural, and leisure activity. See Program Statement 1542.06, Library Services, Inmate.

Two laws have been enacted that affect inmate literacy: the Violent Crime Control and Law Enforcement Act (Pub. L. 103-322) enacted in September 1994, and the Prison Litigation Reform Act of 1995, Pub. L. 104-134, 110 Stat. 1321 (1996) (PLRA), enacted in April 1996. The laws require inmates who lack a high school diploma to participate in a GED credential program to be eligible to earn and vest the maximum amount of good conduct time.

Title 18 U.S.C. § 3624(f) mandates an education program for those federal prisoners who are not functionally literate. Non-English speaking inmates are required to participate in an English as a Second Language (ESL) program until they are able to function at the eighth grade level pursuant to 18 U.S.C. § 3624(f)(4). The BOP also requires inmates who do not have a GED or high school diploma to enroll in an adult literacy program for at least 240 hours. See 28 C.F.R. § 544.70. After that required introduction, an inmate may choose to stop participating. To encourage inmates to participate in such programs until a GED is obtained, the BOP provides incentive awards and limits the pay for inmates who choose to stop program participation without obtaining a GED pursuant to 28 C.F.R. §§ 544.72 and 544.74.

The BOP encourages inmates to make constructive use of leisure time by offering a variety of recreation programs. See Program Statement 5370.10, Recreation Program, Inmate. Programs include indoor and outdoor activities and range from individualized arts and crafts programs to intramural team sports such as baseball, basketball, and volleyball. Recreation programs are designed to promote health and increase the potential for post-release involvement in constructive recreation and health-related activities.

Hobbycraft programs vary across institutions. They typically include activities such as painting, leathercrafts, artwork, and ceramics. Completed projects are mailed home as inmates are not allowed to have completed projects in their possession. See 28 C.F.R. §§ 544.35 and 553.11(e).

³The Supreme Court has held there is no constitutional right to these programs or rehabilitation. See Moody v. Daggett, 429 U.S. 78, 88 n.9 (1976). See also, Garza v. Miller, 688 F.2d 480 (7th Cir. 1983).

Institutions offer information on nutrition, including a "heart healthy" diet. Physical fitness, smoking cessation, and weight reduction programs are also important activities for inmates, and they contribute to stress reduction, mental health, and good interpersonal relations.

2. Religious Programs

Title 28 C.F.R. § 548, Religious Programs and Program Statement 5360.08, Religious Beliefs and Practices set forth BOP policy for inmates who wish to practice their religion while incarcerated. Chaplains are available at all institutions. See 28 C.F.R. § 548.12. In addition, contract religious clergy and volunteers from the community augment BOP staff to make a wide variety of programs available, including those involving group worship, individual religious counseling, spiritual guidance, and the study of sacred writings. See 28 C.F.R. § 548.14. Among the inmate faith groups meeting on a regular basis are Catholic, Jewish, Muslim, Native American, Protestant, Rastafarian, Hindu, and Buddhist. Most institutions offer a Native American sweat lodge for ceremonial use.

3. Food Service

The BOP provides a food service program that offers nutritionally balanced, high-quality meals at all BOP institutions. Program Statement 4700.04, Food Services Manual, and 28 C.F.R. § 547.20, Subpart C - Special Food and Meals, provide that medical diets are available to inmates who require such diets. In addition, the BOP accommodates inmates' religious dietary requirements through its alternative diet program, which is designed to meet the dietary requirements of a variety of different religions. See Program Statement 5360.08, Religious Beliefs and Practices.

4. Work Programs and UNICOR

All federal inmates are required to work with exception of those who, for security, educational, or medical reasons, are unable to do so. Most inmates are assigned to an institution job such as food service worker, orderly, plumber, painter, warehouse worker, or groundskeeper. These jobs pay from 12 cents to 40 cents per hour.

Federal Prison Industries (FPI or trade name, UNICOR) is one of the BOP's most important and cost-effective correctional program. UNICOR was created by Congress in 1934, and is administered by a board of directors. See 18 U.S.C. § 4121, et seq. UNICOR employs approximately 20,000 inmates, representing approximately 20 percent of the sentenced, medically-eligible, federal inmate population. In accordance with statutory mandates, UNICOR: (1) provides employment and industrial skills training to as many inmates as possible; (2) produces market-priced, quality goods and services for federal government customers; (3) operates in a self-sustaining manner; and (4) minimizes its impact on private business and labor. See 18 U.S.C. § 4122.

UNICOR is a wholly-owned federal government corporation that does not receive congressional appropriations for its operations. See 18 U.S.C. § 4122(b)(1); Program Statement 8000.01, UNICOR Corporate Policy. UNICOR produces high-quality products and services. As reflected in 18 U.S.C. § 4121 et seq., federal departments, agencies, and government institutions may purchase products listed on

UNICOR's schedule of products. Federal laws and regulations govern agency procurement of products and services from UNICOR.

5. Inmate Accident Compensation

If an inmate is injured while performing an assigned duty, he or she must immediately report the injury to the work supervisor. The work supervisor will secure medical treatment for the inmate and file an injury report with the institution safety manager for review. See Program Statement 1600.08, Occupational Health and Environment Safety Manual.

Pursuant to 18 U.S.C. § 4126 and 28 C.F.R. § 301, Federal Prison Industries, Inc., inmates may be compensated for all injuries caused by the actual performance of their work assignments in UNICOR or in other paid work assignments in the institution. The Inmate Accident Compensation Program is the exclusive remedy available to inmates who sustain work-related injuries (through either the Lost-Time Wage Program or the Compensation for Work-Related Physical Impairment or Death Program). Inmates may not recover damages for work-related injuries. See Federal Tort Claims Act, 28 U.S.C. § 2671, et seq.; United States v. Demko, 385 U.S. 149 (1966).

(a) Lost-Time Wage Program

Inmates who are injured in the course of performing their work assignments and miss at least three consecutively-scheduled work days may receive lost-time wages equal to 75 percent of the standard hourly rate for their regular work assignments. Pursuant to 28 C.F.R. §§ 301.202-3, an Institution Safety Committee oversees the Lost-Time Wage Program. Lost-time wage continues until the inmate is released, transferred to another institution (for reasons unrelated to the injury), returns to the work assignment, or refuses to return to work. An inmate not satisfied with any decision regarding lost-time wages must appeal the decision through the Administrative Remedy Program.

(b) Compensation for Work-Related Physical Impairment or Death

Former federal inmates (or their dependents) may be compensated for physical impairment or death that results from injuries incurred while performing work assignments at a federal correctional institution. This program is administered from the Central Office. Claims should be filed within 45 days of the inmate's removal from the institution or one year from the date of the inmate's death. See 28 C.F.R. §§ 301 and 303.

6. Female Offenders

According to Program Statement 5200.01, Management of Female Offenders, the BOP will provide appropriate programs and services to meet the different physical, social, and psychological needs of female offenders. In 1993, for example, the BOP developed and implemented a new designation and classification system for female offenders to account for the fact that female offenders are less likely to be violent or attempt escape. As a result of this classification system, several facilities changed their mission to provide more low and minimum security bed space for female offenders.

At facilities for female offenders, the BOP provides programs and procedures that are equivalent to those at facilities for male offenders. For example, educational and recreation programs are available to all female inmates. In the area of job training, the agency's apprenticeship training programs have been accredited by the Women's Bureau of the U.S. Department of Labor, Bureau of Apprenticeship and Training. These programs assist in preparing women for a wide range of positions, including auto mechanic, electrician, plumber, painter, bricklayer, data processor, and secretary. The BOP offers female inmates apprenticeship programs in 40 different trades.

(a) Birth Control and Pregnancy

Pursuant to 28 C.F.R. § 551.20, the BOP provides female inmates with medical and social services related to pregnancy, birth control, child placement, and abortion. See Program Statement 6070.05, Birth Control, Pregnancy, Child Placement and Abortion. Inmates are medically screened for pregnancy upon admission and are instructed to inform medical staff as soon as they suspect that they are pregnant. Childbirth takes place at a hospital outside of the institution pursuant to 28 C.F.R. § 551.22(c), and arrangements are made with outside social service agencies to aid the inmate in finding an appropriate placement for the child. Newborn children are not permitted to return to the institution with their mothers. They may, however, visit in accordance with BOP visiting policy. See 28 C.F.R. § 551.24, Child Placement.

The BOP offers a community residential program for pregnant inmates called Mothers and Infants Together (MINT). Inmates in this program participate in prenatal and post-natal programs and services such as childbirth, parenting, and coping skills classes. In addition to the services particularly related to parenting, MINT sites also offer chemical dependency treatment, physical and sexual abuse counseling, self-esteem programs, budgeting classes, and vocational/educational programs. Inmates are eligible to enter the program if they are in their last two months of pregnancy. Mothers are given an opportunity to bond with their newborn child before the returning to an institution to complete their sentences. Prior to the birth, the mother must make arrangements for a custodian to take care of the child. Institution staff and community social service agencies aid the inmate with placement. Ultimately, it is at the discretion of the unit team to decide whether to refer the inmate to the MINT program.

(b) Abortion

In Roe v. Wade, 410 U.S. 113 (1973), the Supreme Court decided that a woman has a fundamental right of privacy to choose to have an abortion. The Court has also made clear, however, that the exercise of such a choice need not be carried out by using federal funds. See Rust v. Sullivan, 500 U.S. 173 (1991). See also Gibson v. Matthews, 926 F.2d 532 (6th Cir. 1991); 42 C.F.R. Part 50 (HHS rules prohibiting federal funding of abortions). Pursuant to Sec.104 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002 (Public Law No. 107-77), the BOP may not use appropriated funds to require any person to perform or facilitate the performance of an abortion.

Pursuant to Program Statement 6070.05, Birth Control, Pregnancy, Child Placement, & Abortion, and 28 C.F.R. § 551.23, BOP funds are used to pay for abortion services only when the life of the mother would be endangered if the fetus is carried to term or in the case of rape. In all other cases, non-BOP funds must be obtained to pay for any abortion procedure. In all cases, however, whether the BOP pays for the

abortion or not, the BOP may expend funds to escort the inmate to a facility outside the institution for the procedure. See 28 C.F.R. § 551.23(c).

Title 28 C.F.R. § 551.23(b) provides that inmates will receive medical, religious, and social counseling regarding their decision to carry the pregnancy to term or to have an elective abortion. If an inmate decides to have an abortion, arrangements are made for these medical services to be provided in an appropriate clinic outside the institution. BOP policy also provides that employees may decline to participate in the provision of abortion counseling or services. See Program Statement 6070.05, *Birth Control, Pregnancy, Child Placement, & Abortion*.

7. Drug and Alcohol Treatment Programs

To meet the needs of inmates with substance abuse problems, each BOP facility has a substance abuse program. The program involves screening all inmates upon admission, identifying the extent of their drug problems (if any), and providing drug education. See Program Statement 5330.10, *Drug Abuse Programs Manual - Inmate*.

Courts often recommend residential substance abuse treatment for inmates whose criminality is clearly linked to personal substance abuse. When eligible for treatment (as confirmed by BOP staff), inmates are enrolled in a this program. The optimum time for an inmate to participate is 24-30 months prior to release, which then allows for 6 months in a community facility that provides additional drug treatment. Residential drug treatment programs are considered most effective when delivered just prior to an inmate's release. Therefore, inmates volunteering for residential programs normally cannot enter those programs until they have served a considerable portion of their sentences. While awaiting placement in a residential program, however, inmates with histories of drug abuse may participate in drug education programs and/or non-residential drug treatment programs.

The BOP has an ongoing research and evaluation component developed in coordination with the National Institute on Drug Abuse to determine the effectiveness of the treatment programs and the relative effectiveness of their components. The BOP will continue to refine its programs to meet the needs of its population.

8. Residential Drug Abuse Treatment Program

Residential drug abuse treatment is currently available at a number of BOP institutions. Treatment involves a course of individual and group activities provided by a team of drug abuse treatment specialists and the drug abuse treatment coordinator in a unit set apart from the general prison population. Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, non-violent offenders who successfully complete the residential drug abuse treatment program may be eligible to receive up to one year off of their sentences. See Program Statement 5330.10, *Drug Abuse Programs Manual - Inmate*; Program Statement 5162.04, *Categorization of Offenses*. See also 18 U.S.C. § 3621(e) (describing eligibility criteria for early release); *Lopez v. Davis*, 531 U.S. 230 (2001). Pursuant to 28 C.F.R. § 550.58(a), D.C. Code and state felony offenders are not eligible for early release. For inmates participating in the program prior to October 9, 1997, see Program Statement 5162.02, *Definition of Term, "Crimes of Violence"*.

9. Urine Surveillance Program

The BOP has a well developed program to detect and deter inmate drug use in its institutions. See Program Statement 6060.08, *Urine Surveillance and Narcotic Identification*. This program is necessary due to the illegality of drug use and the potential impact such use would have on inmate and staff safety, as well as institutional security. Urine screening is a major element of the program. Inmates involved in community activities are routinely tested for the use of illegal drugs, and other inmates are tested based on individualized suspicions that they are using drugs. In addition, a random sample of the total inmate population of each institution is tested monthly.

Disciplinary action is initiated against all inmates who test positive for unauthorized substances and sanctions can include the loss of early release earned through successful completion of the Residential Drug Abuse Treatment Program.

10. Medical Services

(a) Medical Services available to Sentenced Offenders

The Health Services Division provides medical, dental, and mental health care to inmates. These services are provided by a variety of health care professionals, including physicians, nurses, physician assistants, dieticians, dentists, and pharmacists. BOP civil service health care providers are augmented by officers from the Public Health Service and community consultants. The BOP's goal is to provide health care at a level comparable to that available in the community. See Program Statement 6000.05, *Health Services Manual*.

The BOP considers the health of the offender in making a designation decision. In no case should a defendant's medical problems preclude a sentence to BOP custody. When health concerns are an issue in a designation decision, the case is referred to a medical designator who assigns the offender to an institution or BOP medical referral center with appropriate facilities to provide the needed evaluation, services, and treatment. See Program Statement 6000.05, *Health Services Manual*.

(b) Specialized Healthcare

BOP policy regarding medical care and procedures for caring for inmates with medical needs are set forth in 28 C.F.R. § 549 and Program Statement 6000.05, *Health Services Manual*. Generally, inmates requiring specialized medical care are able to remain in regular institutions because many of them are equipped with special facilities and services and/or have augmented these services with contracts with community health care providers.

Inmates whose healthcare requirements exceed those services available in a typical institution can be transferred to one of the BOP's medical referral centers, which are in Butner, North Carolina; Carswell Air Force Base, Texas; Devens, Massachusetts; Fort Worth, Texas; Lexington, Kentucky; Rochester, Minnesota; and Springfield, Missouri; or to a community hospital, depending on the inmate's medical needs. When necessary, air ambulance service is used to transport inmates for urgent treatment.

There are also specialized facilities to provide chronic care for inmates in need of skilled nursing care; these facilities are the Federal Medical Centers (FMC) at Fort Worth, Texas (for males), and Carswell Air Force Base, Texas (for females).

(c) Medical Facilities

Medical, dental, and mental health services at each institution are provided by staff or contract consultants. Seven BOP facilities have been designated as major medical facilities where at least part of the institution provides specialized health services.

The following provides a brief overview of current BOP medical facilities:

Federal Medical Center, Butner, North Carolina

Located adjacent to the Federal Correctional Institution (FCI), FMC Butner serves as a major medical and psychiatric referral center for male inmates. FMC Butner has an oncology unit providing chemotherapy and radiotherapy, an acute care unit, and a chronic care unit. As part of their mental health mission, FMC Butner performs court-ordered forensic evaluations and long-term inpatient psychiatric treatment.

Federal Medical Center, Carswell AFB, Fort Worth, Texas

Located in north central Texas, FMC Carswell serves as the major medical and psychiatric referral center for female inmates. FMC Carswell relies heavily on an extensive, comprehensive physician/hospital services contract with Baylor All Saints Hospital to provide most speciality and sub-specialty health care services, either at the institution or in the local community. They also have a Residential Drug Abuse Treatment Program for women with medical or psychiatric illnesses.

Federal Medical Center, Devens, Massachusetts

FMC Devens is located in central Massachusetts, 20 miles north of Worcester. This Medical Referral Center serves both medical and mental health inpatients and outpatients. All speciality areas of medicine are available at FMC Devens through either in-house staff or community-based consultant specialists. It has a comprehensive medical contract with the University of Massachusetts, which includes organ transplant services. Additional services provided at FMC Devens include dialysis and hemodialysis treatment for inmates in end-stage renal failure and a Residential Drug Abuse Treatment Program. FMC Devens performs court-ordered forensic evaluations.

Federal Medical Center, Fort Worth, Texas

FMC Fort Worth is located in north central Texas, southeast of Fort Worth. FMC Fort Worth provides chronic care and skilled nursing services for male inmates. Special services are available from community hospitals and special contracts. Patients assigned to the long-term health care unit must be able to maintain their daily hygiene, as well as dress and feed themselves; however, there are some medical beds where more intensive care is provided. FMC Fort Worth also has nurses, physical therapists, and a physician specializing in wound

care. Outpatient forensic studies can also be performed at FMC Fort Worth. Because FMC Fort Worth does not have a psychiatric mission, it is not staffed with psychiatrists.

Federal Medical Center, Lexington, Kentucky

FMC Lexington is located seven miles north of Lexington, Kentucky. It provides medical services to male offenders. FMC Lexington has a comprehensive medical contract with the University of Kentucky Medical Center. Outpatient forensic studies can also be performed at FMC Lexington. Because FMC Lexington does not have a psychiatric mission, it is not staffed with psychiatrists.

Federal Medical Center, Rochester, Minnesota

FMC Rochester serves as a major medical and mental health referral center for male inmates. Special services are available from community hospitals and by special contracts. Most specialty and sub-specialty consultations are available through the Mayo Clinic. As part of its mental health operations, FMC Rochester provides extensive psychiatric and psychological services, including inpatient psychiatry services and forensic studies.

Medical Center for Federal Prisoners (MCFP), Springfield, Missouri

MCFP Springfield is located in southwest Missouri, approximately 210 miles west of St. Louis. It is a major medical and psychiatric referral center for male inmates. Special services are available from community hospitals and special contracts. Contract services include the areas of nuclear medicine, radiation therapy, ultrasound, echocardiology, doppler studies, coronary angioplasty, and cardiac bypass surgery. MCFP Springfield has extensive psychiatric and psychological capabilities, to include forensic studies, and is the major dialysis center within the BOP.

(d) Voluntary Medical/Mental Treatment

The health care mission of the BOP is to provide necessary medical, dental, and mental health services to inmates by professional staff in a manner consistent with community standards. The principles "medically mandatory" and "presently medically necessary" are used to determine what health care is necessary.

“Medically mandatory” is defined as immediate, urgent, or emergency care required to maintain or treat a life-threatening illness or injury. “Presently medically necessary” is defined as routine care or treatment provided to maintain a chronic or non-life threatening condition that cannot be reasonably delayed without the risk of further complication, serious deterioration, significant pain or discomfort. Determinations regarding what is medically mandatory or presently medically necessary are made by the health care professionals using their clinical judgment. The BOP does not provide care that is medically acceptable but not medically necessary (e.g., for the convenience of the inmate) and some specific procedures such as routine hernia repair, noncancerous skin lesion and tattoo removal, and cosmetic surgery. Exceptions can be made on a case-by-case basis by the Medical Director.

The Supreme Court held prison officials are prohibited under the Eighth Amendment from being deliberately indifferent to an inmate's serious medical needs. See Estelle v. Gamble, 429 U.S. 97 (1976). This principle extends to mental health care needs. See Smith v. Jenkins, 919 F.2d 90, 93 (8th Cir. 1990);

Greason v. Kemp, 891 F.2d 829, 834 (11th Cir. 1990). In following this mandate, however, officials are entitled to exercise their medical judgment regarding medical care. See White v. Farrier, 849 F.2d 322, 327 (8th Cir. 1988). Accordingly, a difference of medical opinion as to treatment, or an inmate's disagreement with the course of medical care, does not establish deliberate indifference. See Snipes v. DeTella, 95 F.3d 586 (7th Cir. 1996); Smith v. Marcantonio, 910 F.2d 500 (8th Cir. 1990).

(e) Inmates and the Acquired Immune Deficiency Syndrome (AIDS)

AIDS is one of the most sensitive and difficult issues to confront prison administrators in recent years. One pressing aspect of this problem is the need to balance the rights of HIV-positive individuals against those of uninfected staff and inmates. To deal prudently and humanely with this dilemma, the BOP has adopted a multi-faceted program of testing, treatment, and education. See Program Statement 6190.02, Infectious Disease Management.

The BOP's HIV testing programs are mandatory and include a yearly random sample, yearly new commitment sample, new commitment re-test sample, pre-release testing, and testing when it is clinically indicated. Inmates must participate in all mandatory testing programs. Any inmate refusing one of the mandatory HIV testing programs shall be subject to an incident report for failure to follow an order. Id.

All inmates are tested prior to release to ensure they are fully informed about their health and the implications of a positive test for them and others with whom they will come in contact. Inmates are also tested for the presence of HIV antibodies when they ask to be tested, when they display clinical signs of HIV infection, and for other administrative reasons, such as when an inmate displays predatory or promiscuous behavior.

In addition, a 10 percent random sampling of inmates is done on an annual basis. This sampling pool receives additional tests at regular intervals, as well as while on release. This random testing program enables the BOP to monitor the rate of viral transmission within the prison system. The re-test findings have shown that a very small portion (only one percent) of those who initially tested negative have subsequently converted to HIV-positive. This low rate is consistent with post-commitment sero-conversion of individuals infected prior to imprisonment, and indicates that little or no transmission occurs during confinement in federal prisons.

HIV-positive inmates in BOP institutions are housed in the general population. See Program Statement 6190.02, Infectious Disease Management. Following a hearing, the BOP segregates only those HIV-positive inmates who demonstrate predatory or promiscuous behavior in order to protect other inmates from becoming infected. See 28 C.F.R. § 541, Subpart E, Procedures for Handling of HIV Positive Inmates Who Pose a Danger to Others.

Inmates being considered for release, furlough, or placement in a community-based program, such as a community corrections center, are tested for the HIV antibody. An inmate who has been tested within one year of this consideration ordinarily will not be required to submit to a repeat test prior to the lapse of a one-year period. An inmate who refuses to be tested shall be subject to an incident report for refusing an order and will ordinarily be denied participation in a community activity. See Program Statement 6190.02, Infectious Disease Management.

Prior to an HIV-infected inmate's participation in a community activity (including furloughs), notification of the inmate's infectious status shall be made by the warden to the USPO in the district to be visited, and by the Health Services Administrator to the state health department in the state to be visited if that state requires such notification. Notification is not necessary for inmates going into the community on escorted trips.

As of February 2002, there were 1,525 HIV positive infections in the BOP (approximately 0.9 percent of the inmate population).

11. Mental Health Counseling and Treatment Services

The BOP offers inmates a full range of mental health services through staff psychologists and psychiatrists, as well as through community mental health specialists. See Program Statement 5310.12, Psychology Services Manual; 6000.05, Health Services Manual; 5310.13, Mentally Ill Inmates, Institution Management of; 6010.01, Psychiatric Treatment and Medication, Administrative Safeguards for. For a discussion regarding the evaluation and treatment of mentally ill offenders under Title 18 U.S.C. § 4241-4247, see, supra, Section II - Pretrial Issues: Mental Illness.

Most BOP institutions employ at least one full-time psychiatrist or psychologist to provide mental health screenings and treatment to inmates. Many inmates can be treated on an outpatient basis. Male inmates who need inpatient treatment are referred to one of several psychiatric referral centers, located in Rochester, Minnesota; Springfield, Missouri; Butner, North Carolina; Devens, Massachusetts; and Carswell Air Force Base, Texas. The Federal Medical Center in Carswell, Texas, treats only female inmates.

Several important principles govern the care and treatment of inmates who suffer from mental disease or defect. For example, patients are medicated only after less restrictive alternatives have been considered. When medication is necessary, the lowest effective dose is administered. Except in emergency situations, psychiatric medicine is not given against the will of the patient unless the patient has been involuntarily committed pursuant to a court order or is subject to a court order specifically allowing involuntary treatment.

Psychiatric medication may be administered involuntarily in emergency situations (i.e., when an inmate becomes an immediate threat to himself and/or others because of a psychiatric illness or mental defect). This may be done only if psychiatric medication is the appropriate treatment for the illness and if less restrictive alternatives (such as seclusion, physical restraint, and minor tranquilizers) would not be effective. Inmates who are given emergency treatment of this type will be immediately referred to a psychiatric referral center.

Seclusion and medical restraints may be used solely for medical reasons — never for behavior modification or punishment. They may be used only in the most extreme situations, and all restraint and seclusion orders must be renewed at least every 24 hours.

(a) Involuntary Mental Health Treatment

The Supreme Court has held that the Due Process Clause permits prison officials to involuntarily medicate a mentally ill inmate with psychotropic medication if he or she is dangerous to self, either actively or by being gravely disabled, or dangerous to others, and the treatment is in the prisoner's medical interest. See Washington v. Harper, 494 U.S. 210 (1990). See also United States v. Sell, 539 U.S. 166 (2003)(holding that if medication is to be involuntarily administered solely for the purpose of restoring an inmate's competency, the decision must be made by the trial court); 28 C.F.R. § 549, Part C - Administrative Safeguards for Psychiatric Treatment and Medication. This treatment is permissible after the inmate has received notice and a hearing before an administrative panel.⁴ See 28 C.F.R. § 549.43(a). Accordingly, BOP policy mandates that psychiatric medication be used only for a diagnosable psychiatric disorder for which such medication is the most acceptable treatment. See Program Statement 6010.01, Psychiatric Treatment and Medication, Administrative Safeguards for; 28 C.F.R. § 549.40.

Psychiatric medication may be administered involuntarily in emergency situations (i.e., when a person becomes a danger to self, including grave disability, and/or a danger to others due to mental illness). This may be done only if psychiatric medication is the appropriate treatment for the illness, and if less restrictive alternatives (such as seclusion, physical restraint, and minor tranquilizers) would not be effective. Inmates who are given emergency treatment of this type will be considered for referral to a psychiatric referral center.

(b) Mental Health Programs

The BOP provides the following major mental health programs:

Psychology Services - All institutions have a psychologist available to provide inmates with counseling and other mental health services. In some cases, the psychologist has an office in the housing unit to enable ongoing counseling programs, conduct personal crisis intervention, and be accessible to inmates for other services. BOP institutions also have staff or contract psychiatrists who are available for individual consultation.

All inmates are screened by psychology services staff during the institution's Admission and Orientation Program. Screening may include an individual interview. Psychologists are available for individual and group counseling. Inmates interested in these services can submit a request for participation to a psychology services staff member. Mental health services are offered to treat drug and alcohol abuse, as well as other behavioral and emotional problems. See Program Statement 5310.12, Psychology Services Manual.

⁴Medication may be administered without an administrative hearing for emergencies in which a person is suffering from a mental illness which creates an immediate threat of bodily harm to self or others, serious destruction of property, or extreme deterioration of functioning secondary to psychiatric illness. See 28 C.F.R. § 549.43(b).

Counseling Services - BOP staff in each housing unit are available for informal counseling sessions, as well as conduct formal group counseling activities through Alcoholics Anonymous, self-image, anger management, and other voluntary groups. Inmate participation in these activities is encouraged, but voluntary.

Treatment of Sex Offenders - In August 1990, the BOP initiated a Sex Offender Treatment Program (SOTP) at the Federal Correctional Institution in Butner, North Carolina. See Program Statement 5310.12 Ch.5.2, Psychology Services Manual. Inmates who meet the criteria may be considered for referral to the SOTP where they will be provided with the tools needed to gain control of their sexual deviancy and to develop strategies to help prevent relapse. Generally, the SOTP has the following criteria for admission:

- Participants must have a documented history of sex offenses, but it is not required that they currently be incarcerated for a sex offense.
- Participants must be volunteers, with a maximum of 24 months and a minimum of 12 months remaining on their current federal sentence(s).
- Inmates are not eligible to participate if they have detainers pending, if they have a history of recent psychotic episodes, if they are illiterate, or if they have a lengthy history of non-sex related offenses.
- Inmates must be volunteers.

Pursuant to the Violent Crime Control and Law Enforcement Act of 1994 (Public Law No.103-322), the BOP provides notification to convicted sex offenders of community treatment programs available to them upon release from federal custody. See Program Statement 5141.02, Sex Offender Notification and Registration. The BOP also notifies state and local law enforcement upon release of a sex offender. See 18 U.S.C. § 4042(c).

D. Visiting, Telephones, and Correspondence

1. Visiting

The BOP encourages visiting by family, friends, and community groups to maintain inmate morale and ties with family members or others in the community. See Program Statement 5267.06, Visiting Regulations. Inmates are permitted face-to-face visitation with approved family and friends, and confidential visitation with attorneys See, infra, Section IV - Post-Conviction Issues: Access to Courts: Attorneys. Each institution schedules its own visiting hours, and inmates receive this information during the orientation process so they can advise family members and others how and when they may visit. However, based on security concerns, institutions may restrict visitation. See, e.g., Kentucky Dept. of Corrections v. Thompson, 490 U.S. 454, 460 (1989) (inmates have no right to “unfettered” visits). Furthermore, inmates have no constitutional right to contact visits. See Bazzetta v. McGuinness, 124 F.3d 774, 779 (6th Cir.1997); Toussaint v. McCarthy, 801 F.2d 1080, 1113 (9th Cir.1986) (collecting cases from the various

circuits); see also Jones v. Diamond, 594 F.2d 997, 1013 (5th Cir.1979) (noting that visitation privileges "must yield, where necessary, to preserve institutional security").

2. Telephones

The BOP extends telephone privileges to inmates as part of its overall correctional management strategy. See 28 C.F.R. § 540.100, et seq., Subpart I - Telephone Regulations for Inmate; Program Statement 5264.07, Telephone Regulations for Inmates. Telephone privileges are a supplemental means of maintaining community and family ties that contributes to an inmate's personal development. An inmate may request to call a person of his or her choice outside the institution on a telephone provided for that purpose. An inmate's telephone time is limited to 300 minutes per calendar month. See Program Statement 5264.07, Telephone Regulations for Inmates. Limitations and conditions may be imposed upon an inmate's telephone privileges to ensure they are consistent with other aspects of BOP correctional management responsibilities. See e.g., Lunsford v. Bennett, 17 F.3d 1574 (7th Cir. 1994); McMaster v. Pung, 984 F.2d 948 (8th Cir. 1993); Benzel v. Grammar, 869 F.2d 1105 (8th Cir. 1989); Lopez v. Reyes, 692 F.2d 15 (5th Cir. 1982).

Inmates are advised of the institution's telephone monitoring capability. See 28 C.F.R. § 540.102. A notice is posted next to each inmate telephone advising that calls are monitored. Id. Ordinarily, calls are paid for by the inmate, but in some cases the receiving party pays. See 28 C.F.R. § 540.105. Unmonitored calls to attorneys are permitted in limited circumstances, as discussed infra, Section V - Post Conviction Issues: Access to Courts: Unmonitored Legal Telephone Calls. The 300-minute per calendar month limitation does not affect an inmate's ability to place unmonitored legal telephone calls. Third party or other alternative call arrangements are not permitted, thus limiting the opportunity for inmates to use the phones for criminal or other inappropriate purposes.

3. Written Correspondence

The BOP encourages inmates to write to family, friends, and other community contacts during incarceration. See 28 C.F.R. § 540.10, Subpart B-Correspondence; Program Statement 5265.11, Correspondence. Inmate correspondence is classified as either "general" or "special" mail. "General correspondence" shall be opened and inspected by staff for both contraband and content which might threaten the security or good order of the institution. See 28 C.F.R. § 540.14. Incoming "special mail" shall be opened only in the presence of the inmate and inspected for physical contraband and the qualification of any enclosures as special mail. See 28 C.F.R. § 540.18. The Correspondence Program Statement should be consulted for detailed discussion of "general" and "special" mail procedures. Additionally, "special mail" is discussed in more detail infra, Section IV - Post-Conviction Issues: Access to Courts: Legal Mail.

Inmates are also able to receive commercial publications from the community. See 28 C.F.R. § 540.70, Subpart F-Incoming Publications; Program Statement 5266.09, Incoming Publications. The BOP permits an inmate to subscribe to or receive publications without prior approval, and has established procedures to determine if an incoming publication is detrimental to the security, discipline, or good order of the institution, or if it might facilitate criminal activity. Id.

E. Inmate Discipline Process

Pursuant to 18 U.S.C. § 4042(a)(3), the BOP has created a disciplinary process to ensure that inmates live in a safe and orderly environment. Immediately after arriving at a BOP facility, all inmates receive written notice of their rights and responsibilities, prohibited acts within the institution, and the specifics of the disciplinary system.

Violations of prohibited acts have sanctions corresponding to their seriousness, including time in disciplinary segregation, loss of good time credits, loss of privileges, and verbal warnings. See 28 C.F.R. § 541.13. Only institution staff may take disciplinary action against inmates. Corporal punishment, as well as retaliatory and capricious disciplinary action, is not permitted under any circumstances. See 28 C.F.R. § 541.10; Program Statement 5270.07, Discipline and Special Housing Units.

Consistent with the minimum procedural protections required by Wolff v. McDonnell, 418 U.S. 539 (1974), the BOP's disciplinary process requires that staff provide the inmate with a written copy of the charges against him or her, provides that the inmate is entitled to be present during the initial hearing, and provides that the inmate is entitled to make a statement and to present documentary evidence on his or her own behalf. See 28 C.F.R. § 541.14-19; Program Statement 5270.07, Discipline and Special Housing Units. Inmates may appeal the decision of the Unit Discipline Committee (UDC) or the Discipline Hearing Officer (DHO) through the Administrative Remedy program. See 28 C.F.R. §§ 541.19.

F. Access to the Courts

The BOP affords an inmate reasonable access to legal materials and to his or her attorney, and reasonable opportunity to prepare legal documents. See Program Statement 1315.07, Legal Activities, Inmate.

1. Law Libraries

Every federal prison maintains a main law library. Inmates not physically able to utilize the main law library (e.g., segregation, medical disability) are provided access to basic law library resources and access to the main law library by staff. In many cases, legal resource materials may be available to inmates during evening and weekend hours. BOP inmate law libraries include, but are not limited to, the following resources:

- Decisions of the U.S. Supreme Court;
- Federal Reporter 2d Series and 3d Series;
- Federal Supplement and Federal Supplement 2d;
- Criminal Law Reporter;
- United States Code Annotated;
- Federal Rules of Civil and Criminal Procedure;
- Titles 8, 21 (Chp. II, Part 1300 to end), and 28 Code of Federal Regulations;
- BOP Program Statements;
- Black's Law Dictionary;

- Federal Sentencing Guidelines; and
- Research and Writing: Some Starting Points.

2. Preparation of Legal Documents

Inmates are permitted a reasonable amount of time, ordinarily during the time an inmate is not participating in a scheduled program or work assignment, to do legal research and prepare legal documents. See 28 C.F.R. § 543, Subpart B - Inmate Legal Activities; Program Statement 1315.07, Legal Activities, Inmate. Inmates have access to photocopying machines, typewriters, and office supplies. For safety, security, and fire hazard reasons, inmates may be limited in the amount of legal materials they may possess. Inmates with pending court deadlines may be given additional law library time.

Inmates may generally assist each other in preparing legal documents, absent unique security concerns, e.g., segregation status inmates. There are, however, restrictions on possessing another inmate's legal materials. See Program Statement 1315.07, Sec. 8(f), Legal Activities, Inmate.

3. Attorneys

At every institution, inmates are permitted to contact and retain attorneys. See 28 C.F.R. § 543.12; Program Statement 1315.07, Sec. 9, Legal Activities, Inmate. Attorneys, and in some cases their representatives, may generally visit inmate clients in private conference rooms if available, or in other accommodations set up to ensure a reasonable degree of privacy. See 28 C.F.R. § 543.13.

Some institutions have ongoing legal aid programs which may or may not be funded by the BOP. See 28 C.F.R. § 543.15. These programs are staffed by law students and professors, legal assistants, or attorneys.

4. Legal Mail

Particular care is taken to ensure that "special mail" (mail to or from courts, attorneys, and certain government officials) is kept confidential. See 28 C.F.R. § 540.18; Program Statement 5265.11, Correspondence. Special mail must be marked "Special Mail-Open only in the presence of the inmate" and the sender must identify himself or herself on the envelope as a person entitled to invoke the protections of special mail. For example, "John Doe, Attorney," not "Law Offices of Blauman & Blauman." Id. See also United States v. Stotts, 925 F.2d 83 (4th Cir. 1991). Incoming special mail is opened in the presence of the inmate and visually inspected for contraband. Staff may inspect special mail to determine that it qualifies as such, but do not otherwise review its content. Inmates may seal and deposit outgoing special mail, and it will be sent out of the institution without correctional staff opening it and conducting an inspection.

5. Unmonitored Legal Telephone Calls

Inmates may place unmonitored telephone calls to their attorneys. See 28 C.F.R. § 540.102; Program Statement 5264.06, Sec. 8, Telephone Regulations for Inmates. To do so, inmates must specifically request staff assist them by first approving, then placing, the call on an unmonitored telephone. Id. In order to receive permission to place an unmonitored attorney call, inmates are ordinarily required to establish that communication with attorneys by other means is not adequate. Id. As previously noted, the 300 minutes

per calendar month limitation does not affect an inmate's ability to place unmonitored legal telephone calls.

Inmate requests for unmonitored attorney calls are reviewed carefully. Frequent unmonitored telephone calls increase an inmate's opportunity to pursue illegal activities without detection. Additionally, staff time and attention are unfairly focused on the single inmate receiving numerous unmonitored telephone calls at the expense of the many other inmates on a caseload.

G. Administrative Remedy Program

The BOP's Administrative Remedy Program is a process through which inmates may seek formal review of any issue that relates to their confinement, if informal procedures have not resolved the matter. See 28 C.F.R. Part 542 - Administrative Remedy; Program Statement 1330.13, Administrative Remedy Program. This program applies to all inmates confined in institutions operated by the BOP, inmates designated to contract community corrections centers under BOP responsibility, and former inmates for issues that arose during their confinement. See 28 C.F.R. § 542.10.

Inmates are obligated to attempt informal resolution of grievances prior to filing a formal request for administrative remedy. See 28 C.F.R. § 542.13. Once a formal request is filed at the institution level, the warden of that facility has 20 days to investigate and provide the inmate a written response. See 28 C.F.R. § 542.18. If the inmate is not satisfied with the warden's response, he or she has 20 days to file a Regional Administrative Remedy Appeal. See 28 C.F.R. § 542.15. Once received in the regional office, the regional director has 30 days to investigate and provide the inmate a written response. Id. If the inmate is not satisfied with the regional director's response, he or she has 30 days to file a Central Office Administrative Remedy Appeal. Once received in the Central Office, the Administrator, National Inmate Appeals, has 40 days to investigate and provide the inmate a written response. After receiving the Administrator's response, the inmate has exhausted the BOP's Administrative Remedy Program. The program provides for expedited investigations and responses in emergency situations, as well as extensions of time for both filing grievances and receiving responses.

If the issue is sensitive (e.g., the inmate's safety or well-being would be placed in danger if the request became known at the institution), the inmate may submit it directly to the appropriate regional director. The inmate must mark the request as "sensitive" and explain in writing the reason for not submitting the request at the institution. See Program Statement 1330.13, Sec. 8(d)(1), Administrative Remedy Program. If the Regional Administrative Remedy Coordinator agrees that the request is sensitive, the request shall be accepted, investigated, and a response will be generated. Otherwise, the request will not be accepted, and the inmate shall be advised in writing of that determination, without a return of the request. The inmate may then pursue the matter by submitting a request for Administrative Remedy locally to the warden. The warden shall allow a reasonable extension of time for such a resubmission. See 28 C.F.R. § 542.17.

The Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, 110 Stat. 1321 (1996), requires prisoners exhaust administrative remedies before filing lawsuits in federal court. That statute provides that "No action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). See also Porter v. Nussle, 534 U.S. 516 (2002); Booth v. Churner, 532 U.S. 731 (2001). A requirement of exhaustion of administrative remedies

serves to: (1) promote administrative efficiency by preventing premature interference with agency processes; (2) encourage respect for executive autonomy by allowing an agency the opportunity to correct its own errors; (3) facilitate judicial review by affording courts the benefits of an agency's experience and expertise; and (4) maximize judicial economy by having the agency compile the factual record. See Rafeedie v. I.N.S., 688 F.Supp. 729, 738 (D.D.C. 1988), aff'd in part, 880 F.2d 506 (D.C. Cir. 1989), citing to, McKart v. United States, 395 U.S. 185, 193-95 (1969). In Davis v. Keohane, 835 F.2d 1147, 1148 (6th Cir. 1987), the Court stated:

[W]here available administrative remedies are as likely as the judicial remedy to provide the desired relief, a district court should dismiss the suit for failure to first exhaust administrative remedies rather than address the merits of the claim. This practice is consistent with the federal court's policy of exercising judicial restraint in matters within the expertise of prison administrators and will allow speedy and consistent resolution of claims that may concern many prisoners.

H. Personal Property

Inmate possession of personal property is governed by Program Statement 5580.06, Personal Property, Inmate. See also 28 C.F.R. § 553, Inmate Property. Inmates may possess only that property which is authorized to be retained upon admission to the institution, is issued while the inmate is in custody, is purchased in the institution commissary, or is approved by staff to be mailed to, or otherwise received by an inmate. See 28 C.F.R. § 553.11. These rules contribute to the effective management of inmate personal property in the institution and contribute to a safe environment for staff and inmates by reducing fire hazards, security risks, and sanitation problems. Personal hygiene items are issued by the institution. See Program Statements 4400.03, Property Management Manual; and 5230.05, Grooming.

I. Special Administrative Measures

Title 28 C.F.R. § 501 authorizes the Director of the Bureau of Prisons, upon the direction of the Attorney General, to impose Special Administrative Measures (SAMs) on an inmate, thereby restricting the inmate's conditions of confinement. The SAMs are imposed to prevent disclosure of classified information and to prevent acts of violence and terrorism.

1. National Security Cases, 28 C.F.R. § 501.2

Under § 501.2, upon direction of the Attorney General, the Director may authorize the warden to implement SAMs that are reasonably necessary to prevent disclosure of classified information. SAMs include, but are not limited to, placing an inmate in administrative detention and restricting social visits, mail privileges, phone calls, and access to other inmates and to the media.

Section § 501.2 authorizes the Director, upon direction of the Attorney General, to determine the period of time an initial SAM is imposed, up to one year. The Director may also extend the SAM in increments of time not to exceed one year, if the Attorney General receives certification from the intelligence community

that there is a current danger that the inmate will disclose classified information and that the unauthorized disclosure would pose a threat to national security.

2. Prevention of Acts of Violence and Terrorism, 28 C.F.R. § 501.3

Under § 501.3, upon direction of the Attorney General, the Director may authorize the warden to implement SAMs that are reasonably necessary to protect persons against the risk of death or serious bodily injury. Initial imposition of the SAM is limited to 120 days, unless the Attorney General approves a longer period of time, up to one year. SAMs include, but are not limited to, placing an inmate in administrative detention and restricting social visits, mail privileges, phone calls, and access to other inmates and the media.

The SAM may be extended by the Director in increments of time not to exceed one year, on receipt of written notification from the Attorney General that certification was received by the Attorney General from law enforcement or intelligence community that there continues to be a substantial risk that the inmate's communications or contacts could result in death or serious bodily injury to persons.

J. Family Emergencies and Temporary Releases

In limited circumstances, temporary release from the prison facility may be obtained through an approved furlough or an escorted trip. See 28 C.F.R. § 570, Subpart C - Furloughs, and Subpart D - Escorted Trips; Program Statements 5280.08, Furloughs, and 5538.04, Escorted Trips. Several factors are reviewed in determining whether a trip is permissible and how such a trip will be accomplished. Factors reviewed include the reason for the trip, the offender's criminal history, security designation, and custody classification.

1. Furloughs

A furlough is an authorized absence from an institution by an inmate who is not under escort by a BOP staff member, U. S. Marshal, or other federal or state agent. See Program Statement 5280.08, Furloughs. For federal inmates whose offense occurred on or after November 1, 1987, 18 U.S.C. § 3622 vests authority to grant furloughs in the BOP. For offenses committed prior to November 1, 1987, 18 U.S.C. § 4082 provides the authority for furloughs. The BOP has delegated this function to the warden of the particular federal prison in which the inmate is incarcerated. See 28 C.F.R. § 570.32(a). The warden is required by BOP policy to consider numerous eligibility criteria in considering furlough requests from federal inmates. See Program Statement 5280.08, Sec.9, Furloughs. Finally, pursuant to 18 U.S.C. § 3625, the BOP's decision to deny a furlough is exempt from judicial review under the Administrative Procedures Act (APA) for an abuse of its discretion. See, e.g., Lyle v. Sivley, 805 F. Supp. 755 (D.Ariz. 1992). The court's scope of review in such cases is limited to Constitutional violations or instances where the BOP exceeded its agency authority. Id.

Furloughs are a privilege intended to help inmates develop release plans; re-establish family ties; participate in educational, religious, social, and recreation-related activities; or receive medical treatment. Except where the purpose of the furlough is to obtain necessary health care treatment, or to transfer to another facility, the inmate or the inmate's family must bear all expenses of the furlough, including transportation.

If requested by the court, the BOP will inform the court that a particular inmate is being considered for furlough.

Only inmates who have less than two years remaining until their anticipated release dates and who have community custody are eligible for non-emergency day furloughs. Ordinarily, inmates with histories of violence, aggressive sexual behavior, criminal history involving pornography, or high-level involvement in drug trafficking are not granted furloughs. An inmate who meets these and other requirements set forth in national policy may submit applications for a furlough to his or her respective warden. Denials of furloughs may be formally challenged through the BOP's Administrative Remedy Program.

2. Escorted Trips

The BOP provides approved inmates with staff-escorted trips into the community for such purposes as receiving medical treatment not otherwise available, visiting a critically-ill member of the inmate's immediate family, or participation in program or work-related functions. See Program Statement 5538.04, Escorted Trips. Escorted trips fall into one of two categories, medical and non-medical. The need and/or reason for an escorted trip may arise unexpectedly (e.g., to visit a critically-ill family member) or may be planned in advance (e.g., to attend an educational function). In many instances, the inmate and/or family must bear the cost of an escorted trip. Inmates denied escorted trips may formally challenge the decision through the BOP's Administrative Remedy Program.

K. Release

1. Early Release from Prison

(a) Executive Clemency

The U.S. Constitution, Article II, Sec. 2, gives the President power to issue pardons, commute sentences, remit fines, and grant reprieves to any person convicted of a federal crime. The United States Pardon Attorney reviews all petitions for executive clemency, undertakes the necessary investigation, and prepares a recommendation for the President. See 28 C.F.R. § 1.1, et seq. Federal inmates seeking executive clemency should secure the necessary form from the Office of the Pardon Attorney, or from the warden at the federal correctional facility. Upon receiving notification that an inmate has filed for commutation of sentence, the warden shall forward relevant information to the Pardon Attorney for consideration. See 28 C.F.R. § 1.5.

Petitions for commutation of sentence (including remission of fine) are a last resort to be used only if relief cannot be obtained from the United States Parole Commission or if extenuating circumstances exist, such as critical illness or meritorious service rendered by the petitioner. See 28 C.F.R. § 1.3. In the event a federal inmate is granted a commutation of sentence, he or she shall be notified through the warden at the place of his or her confinement. See 28 C.F.R. § 1.7.

Inmates seeking a pardon (rather than commutation of sentence) must wait at least five years after their release from confinement, or, if no confinement was imposed, five years after the date of conviction. See 28 C.F.R. § 1.2. No petition should be submitted by a person who is on probation or parole.

(b) Reduction in Sentence

Title 18 U.S.C. § 3582(c)(1)(A)(i) authorizes the sentencing court to reduce an inmate's sentence upon motion of the Director of the BOP "if it finds that extraordinary and compelling reasons warrant such a reduction [and] that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission." For inmates whose offense was committed prior to November 1, 1987, the BOP may file a motion with the sentencing court seeking to reduce term of imprisonment to the time the inmate has served, thereby making him or her eligible for parole consideration. See 18 U.S.C. § 4205(g). The actual release decision then rests with the Parole Commission, rather than the sentencing court. See also 28 C.F.R. § 571.62.

While the statute authorizes the BOP to file the motion directly with the sentencing court, the BOP will contact the Assistant U.S. Attorney who prosecuted the inmate and ask that he or she present the motion to the court on behalf of the Director of the BOP pursuant to 28 C.F.R. § 571.62(a)(4). Being mindful of its mission to protect society, the BOP utilizes these early release procedures sparingly. See 28 C.F.R. § 571.61. In general, reduction in sentence motions are only filed on behalf of inmates suffering from a life-threatening or terminal medical condition or who are severely and permanently mentally or physically debilitated. Additional factors that are carefully considered include, but are not limited to the nature of the crime committed, the length of the inmate's sentence, the amount of time served, and the inmate's ability to continue criminal activity. Federal courts have indicated that the BOP's discretion to file a motion for early release is non-reviewable. See Simmons v. Christensen, 894 F.2d 1041 (9th Cir. 1990); Turner v. U.S. Parole Comm'n, 810 F.2d 612 (7th Cir. 1987).

2. Parole

Many inmates sentenced to a term of imprisonment of more than one year for offenses committed before November 1, 1987, are eligible to be released on parole. See 18 U.S.C. § 4205; and 28 C.F.R. § 2.2. Generally, inmates must complete one-third of the term imposed or some other court-imposed minimum term before becoming eligible for parole. See 28 C.F.R. § 2.2; Program Statement 5800.07, Inmate Systems Management Manual.

A federal inmate seeking parole must fill out an application for parole, which is available at every BOP facility pursuant to 28 C.F.R. § 2.11. At least 60 days prior to the initial parole hearing, the inmate is notified of the time and place of the hearing and of the right to review all documentation to be considered by the Parole Commission. See 28 C.F.R. § 2.11(e).

When the BOP files a motion with the sentencing court seeking to reduce the minimum term of the sentence to the amount of time already served, the inmate becomes eligible for parole immediately. See 18 U.S.C. § 4205(g); 28 C.F.R. § 572.40. In the event the sentencing court grants such a motion, the warden of the institution where the inmate is confined shall schedule the inmate for a parole hearing at the earliest possible date. See 28 C.F.R. § 572.43.

Inmates can submit a written request to the warden for a § 4205(g) motion when there are particularly meritorious or unusual circumstances that were unforeseeable at the time of sentencing. See 28 C.F.R. § 572.41. The warden will promptly review such a request and determine whether to refer the matter with a recommendation to the regional director. See 28 C.F.R. § 572.43. The regional director then determines whether to forward the matter with a recommendation to the Office of General Counsel, which in turn forwards the matter to the Director of the BOP for a final decision. See 28 C.F.R. § 572.43. If the warden or the regional director denies such a request, the inmate may appeal the denial through the Administrative Remedy Procedure.

3. Community Confinement in Preparation for Release

Pursuant to 18 U.S.C. § 3624(c) most inmates nearing release or parole from a BOP institution will go to a community corrections center (CCC) as a transitional service during the final portion of their sentence. The BOP will designate inmates to community confinement only as part of pre-release custody and programming, during the last 10 percent of the prison sentence being served, not to exceed 6 months. This placement assists offenders in finding a job, locating a place to live, and re-establishing family ties.

Every offender placed in a CCC is provided with structured programs, job placement services, counseling, and closely-monitored activities. All CCCs conduct drug testing and offer counseling for alcohol and drug-related problems. Inmates' program plans are individualized and tailored to the needs of the offender. During their stays, employed offenders are required to pay a subsistence charge to help defray the costs of their confinement in the CCC. See 18 U.S.C. § 3622(c).

4. Home Detention

Home detention is a generic term used to cover all circumstances in which an offender is required to remain at home during the non-working hours of the day. Home detention programs provide an opportunity for offenders to assume increasing levels of responsibility while at the same time providing sufficient restrictions to promote community safety and convey the sanctioning value of the sentence. See Program Statement 7320.01, Home Confinement.

To prepare for release, most inmates are transferred from an institution to a CCC. If they successfully comply with CCC program requirements, they may be considered for home detention, an option for offenders who no longer need the structure of a halfway house. See 18 U.S.C. § 3563(b)(19). Inmates are allowed to participate in home detention only during the last 10 percent of their sentences or 6 months, whichever is less. See 18 U.S.C. § 3624(c).

The BOP uses two different methods for monitoring inmates on home detention. The first requires that CCCs track the inmate's whereabouts and curfew compliance through daily telephone contacts and periodic personal contacts at the home and workplace. The inmate must also report to the CCC on a scheduled basis for counseling and program updates.

The second technique involves electronic monitoring. Electronic monitoring usually involves the use of an ankle bracelet that signals a computer-driven receiving/recording device that detects an inmate's location.

Only a few contract CCCs are equipped with this technology. Most electronic monitoring is done through programs administered by the U.S. Probation Service.

Appendix A - Federal Bureau of Prisons Facilities

Appendix B - List of Legal Contacts in the Bureau of Prisons

Appendix C - List of Acronyms

APPENDIX A:

Federal Bureau of Prisons Facilities

(June 2004)

Central Office

320 First Street, NW
Washington, D.C. 20534
202-307-3198

Regional Offices

Mid-Atlantic Regional Office

10010 Junction Drive, Suite 100-N
Annapolis Junction, Maryland 20701
301-317-3100, Fax: 301-317-3119

North Central Regional Office

Gateway Complex Tower II, 8th Floor
4th and State Avenue
Kansas City, Kansas 66101-2492
913-621-3939, Fax: 913-551-113075

Northeast Regional Office

U.S. Custom House, 7th Floor
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106
215-521-7300, Fax: 215-521-1893

South Central Regional Office

4211 Cedar Springs Road
Dallas, Texas 75219
214-224-3389, Fax: 214-224-3420

Southeast Regional Office

3800 Camp Creek Parkway, SW
Building 2000
Atlanta, Georgia 30331-6226
678-686-1200, Fax: 678-686-1229

Western Regional Office

7950 Dublin Boulevard, 3rd Floor
Dublin, California 94568
925-803-4700, Fax: 925-803-4802

Staff Training

BOP Staff Training Academy
Federal Law Enforcement Training Center
Building 21
Glynco, Georgia 31524
912-267-2711, Fax: 912-267-2983

Management and Specialty Training Center
791 Chambers Road
Aurora, Colorado 80011
303-340-7800, Fax: 303-340-7968

National Institute of Corrections

NIC Administrative Offices/Prisons
Division/Community Corrections
Division
320 First Street, NW
Washington, D.C. 20534
Phone: 800-995-6423 or 202-307-3106
Fax: 202-307-3361

NIC Jails Division/Academy Division
1960 Industrial Circle
Longmont, Colorado 80501
Phone: 800-995-6429 or 303-682-0382
Fax: 303-682-0469

NIC Information Center
1860 Industrial Circle, Suite A
Longmont, Colorado 80501
Phone: 800-877-1461 or 303-682-0213
Fax: 303-682-0558

Correctional Facilities

Facility Acronyms

FCC - Federal Correctional Complex
FCI - Federal Correctional Institution
FDC - Federal Detention Center
FMC - Federal Medical Center
FPC - Federal Prison Camp
FTC - Federal Transfer Center
MCC - Metropolitan Correctional Center
MCFP - Medical Center for Federal Prisoners
MDC - Metropolitan Detention Center
USP - U.S. Penitentiary

Mid-Atlantic Region

FPC Alderson
Glen Ray Road, P.O. Box A
Alderson, West Virginia 24910
304-445-2901
Fax: 304-445-7736
Security Level: Minimum/Female

FCI Ashland
P.O. Box 888, State Route 716
Ashland, Kentucky 41105-0888
606-928-6414
Fax: 606-928-1854
Security Level: Low/Male (adjacent
Minimum/Male camp)

FCI Beckley
P.O. Box 1280
Beaver, West Virginia 25813
304-252-9758
Fax: 304-256-4956
Security Level: Medium/Male (adjacent
Minimum/Male camp)

USP Big Sandy
1197 Airport Road
P.O. Box 2067
Inez, KY 41224
606-433-2400
Fax: 606-433-2596
Security Level: High/Male (adjacent
Minimum/Male camp)

FCI Butner (Low)
P.O. Box 999
Butner, North Carolina 27509
919-575-5000
Fax: 919-575-5023
Security Level: Low/Male

FCI Butner (Medium)
P.O. Box 1000
Butner, North Carolina 27509
919-575-4541
Fax: 919-575-6341
Security Level: Medium/Administrative/Male
(adjacent Minimum/Male camp)

FMC Butner
P.O. Box 1500
Butner, North Carolina 27509
919- 575-3900
Fax: 919-575-4801
Security Level: Male /Administrative Security

FCI Cumberland
14601 Burbridge Road, SE
Cumberland, Maryland 21502-8274
301-784-1000
Fax: 301-784-1008
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FCI Gilmer
P.O. Box 5000
201 FCI Lane
Glenville, West Virginia 26351-9500
304-462-0395
Fax: 304-462-0396
Security Level: Medium/Male (adjacent
Minimum/Male camp)

USP Lee
P.O. Box 900
Jonesville, Virginia 24263-0900
276-546-0150
Fax: 276-546-9115
Security Level: High/Male (adjacent
Minimum/Male camp)

FMC Lexington
3301 Leestown Road
Lexington, Kentucky 40511
859-255-6812
Fax: 859-253-8821
Security Level: Administrative/Male (adjacent
Minimum/Female camp)

FCI Manchester
P.O. Box 3000
Manchester, Kentucky 40962
606-598-1900
Fax: 606-599-4115
Security Level: Medium/Male (adjacent
Minimum/Male camp)

USP McCreary
330 Federal Way
P.O. Box 1870
Pine Knot, KY 42635
606-354-7000
Fax: 606-354-7001
Security Level: High/Male (adjacent
Minimum/Male camp)

FCI Memphis
1101 John A. Denie Road
Memphis, Tennessee 38134-7690
901-372-2269
Fax: 901-380-2462
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FCI Morgantown
Greenbag Road
P.O. Box 1000
Morgantown, West Virginia 26507-1000
304-296-4416
Fax: 304-284-3613
Security Level: Minimum/Male

FCI Petersburg (Low)
P.O. Box 900
Petersburg, Virginia 23804
804-733-7881
Fax: 804-733-1510
Security Level: Low/Male (adjacent
Minimum/Male camp)

FCI Petersburg (Medium)
P.O. Box 90042
Petersburg, Virginia 23804
804-504-7200
Fax: 804-504-7204
Security Level: Medium/Male

FPC Seymour Johnson
Caller Box 8004
Goldsboro, North Carolina 27533-8004
919-735-9711
Fax: 919-735-0169
Security Level: Minimum/Male

North Central Region

MCC Chicago
71 West Van Buren
Chicago, Illinois 60605
312-322-0567
Fax: 312-322-1120
Security Level: Administrative/Male/Female

FPC Duluth
6902 Airport Road
P.O. Box 1400
Duluth, Minnesota 55814
218-722-8634
Fax: 218-733-4701
Security Level: Minimum/Male

FCI Englewood
9595 West Quincy Avenue
Littleton, Colorado 80123
303-985-1566
Fax: 303-763-2553
Security Level: Medium/Administrative/Male
(adjacent Minimum/Male camp)

ADX Florence
P.O. Box 8500
Florence, Colorado 81226
719-784-9464
Fax: 719-784-5290
Security Level: Administrative Maximum/Male

FCI Florence
P.O. Box 6500
Florence, Colorado 81226
719-784-9100
Fax: 719-784-9504
Security Level: Medium/Male (adjacent
Minimum/Male camp)

USP Florence
P.O. Box 7500
Florence, Colorado 81226
719-784-9454
Fax: 719-784-5150
Security Level: High/Male

FCI Greenville
P.O. Box 4000
100 U.S. Route 40
Greenville, Illinois 66246
618-664-6200
Fax: 618-664-6372
Security Level: Medium/Male (adjacent
Minimum/Female camp)

USP Leavenworth
1300 Metropolitan
Leavenworth, Kansas 66048
913-682-8700
Fax: 913-682-0041
Security Level: High/Male (adjacent
Minimum/Male camp)

USP Marion
4500 Prison Road
P.O. Box 2000
Marion, Illinois 62959
618-964-1441
Fax: 618-964-1895
Security Level: High/Male (adjacent
Minimum/Male camp)

FCI Milan
P.O. Box 9999
Arkona Road
Milan, Michigan 48160
734-439-1511
Fax: 734-439-0949
Security Level: Low/Administrative/Male

FCI Oxford
Box 500
Oxford, Wisconsin 53952-0500
608-584-5511
Fax: 608-584-6371
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FCI Pekin
P.O. Box 7000
Pekin, Illinois 61555-7000
309-346-8588
Fax: 309-477-4685
Security Level: Medium/Male (adjacent
Minimum/Female camp)

FMC Rochester
P.O. Box 4600
2110 East Center Street
Rochester, Minnesota 55903-4600
507-287-0674
Fax: 507-287-9601
Security Level: Administrative/Male

FCI Sandstone
2300 Country Road 29
Sandstone, Minnesota 55072
320-245-2262
Fax: 320-245-0385
Security Level: Low/Male

MCFP Springfield
P.O. Box 4000
1900 West Sunshine
Springfield, Missouri 65801-4000
417-862-7041
Fax: 417-837-1711
Security Level: Administrative/Male

USP Terre Haute
Highway 63 South
Terre Haute, Indiana 47808
812-238-1531
Fax: 812-238-9873
Security Level: High/Male (adjacent
Minimum/Male camp; operates special
confinement unit for inmates under federal
death sentences)

FCI Waseca
P.O. Box 1731
1000 University Drive, S.W.
Waseca, Minnesota 56093
507-835-8972
Fax: 507-837-4547
Security Level: Low/Male

FPC Yankton
P.O. Box 680
Yankton, South Dakota 57078
605-665-3262
Fax: 605-668-1113
Security Level: Minimum/Male

Northeast Region

FCI Allenwood (Low)
P.O. Box 1500
White Deer, Pennsylvania 17887
570-547-1990
Fax: 570-547-0342
Security Level: Low/Male

FCI Allenwood (Medium)
P.O. Box 2500
White Deer, Pennsylvania 17887
570-547-7950
Fax: 570-547-7751
Security Level: Medium/Male

FPC Allenwood
P.O. Box 1000
1049 Allenwood Camp Lane
Montgomery, Pennsylvania 17752
570-547-1641
Fax: 570-547-7687
Security Level: Minimum/Male

USP Allenwood
P.O. Box 3500
White Deer, Pennsylvania 17887
717-547-0963
Fax: 717-547-9201
Security Level: High/Male

MDC Brooklyn
80 29th Street
Brooklyn, New York 11232
718-840-4200
Fax: 718-840-5005
Security Level: Administrative/Male/Female

FCI Danbury
Route 37
33 ½ Pembroke Road
Danbury, Connecticut 06811-3099
203-743-6471
Fax: 203-312-5110
Security Level: Low/Female (adjacent
Minimum/Female camp)

FMC Devens
42 Patton Rd.
Devens, Massachusetts 01432
978-796-1000
Fax: 978-796-1118
Security Level: Administrative/Male (adjacent
Minimum/Male camp)

FCI Elkton
8730 Scroggs Road
P.O. Box 89
Elkton, Ohio 44415
330-424-7448
Fax: 330-424-7075
Security Level: Low/Male (satellite Low/Male
facility)

FCI Fairton
P.O. Box 280
Fairton, New Jersey 08320
856-453-1177
Fax: 856-453-4186
Security Level: Medium/Administrative/Male
(adjacent Minimum/Male camp)

FCI Fort Dix
P.O. Box 38
Fort Dix, New Jersey 08640
609-723-1100
Fax: 609-724-6847
Security Level: Low/Male (adjacent
Minimum/Male camp)

USP Lewisburg
P.O. Box 1000
Lewisburg, Pennsylvania 17837
570-523-1251
Fax: 570-522-7745
Security Level: High/Male (adjacent
Minimum/Male camp and Intensive
Confinement Center)

FCI Loretto
P.O. Box 1000
Loretto, Pennsylvania 15940
814-472-4140
Fax: 814-472-6046
Security Level: Low/Male (adjacent
Minimum/Male camp)

FCI McKean
P.O. Box 5000
Bradford, Pennsylvania 16701
814-362-8900
Fax: 814-363-6822
Security Level: Medium/Male (adjacent
Minimum/Male camp)

MCC New York
150 Park Row
New York, New York 10007
646-836-6300
Fax: 646-836-7751
Security Level: Administrative/Male/Female

FCI Otisville
P.O. Box 600
Otisville, New York 10963
845-386-5855
Fax: 845-386-1527
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FDC Philadelphia
P.O. Box 572
Philadelphia, Pennsylvania 19106
215-521-4000
Security Level: Administrative/Male/Female

FCI Ray Brook
P.O. Box 300
Old Ray Brook Road
Ray Brook, New York 12977
518-891-5400
Fax: 518-891-7334
Security Level: Medium/Male

FCI Schuylkill
P.O. Box 700
Minersville, Pennsylvania 17954
570-544-7100
Fax: 570-544-7225
Security Level: Medium/Male (adjacent
Minimum/Male camp)

South Central Region

FCI Bastrop
Box 730
1341 Highway 95 North
Bastrop, Texas 78602
512-321-3903
Fax: 512-304-0117
Security Level: Low/Male (adjacent
Minimum/Male camp)

FCC Beaumont (Administrative)
P.O. Box 26015
4550 Herbert Road
Beaumont, Texas 77720
409-727-8187
Fax: 409-626-3401
FCC Beaumont's administrative facility
provides various administrative services to the
Beaumont complex.

FCI Beaumont (Low)
P.O. Box 26025
4550 Herbert Road
Beaumont, Texas 77720-6025
409-727-8172
Fax: 409-626-3500
Security Level: Low/Male

FCI Beaumont (Medium)
P.O. Box 26045
4550 Herbert Road
Beaumont, Texas 77720-6045
409-727-0101
Fax: 409-720-5000
Security Level: Medium/Male

USP Beaumont
P.O. Box 26035
4550 Herbert Road
Beaumont, Texas 77720-6035
409-727-8188
Fax: 409-626-3700
Security Level: High/Male (adjacent
Minimum/Male camp)

FCI Big Spring
1900 Simler Avenue
Big Spring, Texas 79720-7799
915-263-6699
Fax: 915-268-6860
Security Level: Low/Male (adjacent
Minimum/Male camp)

FPC Bryan
P.O. Box 2197
1100 Ursuline
Bryan, Texas 77805-2197
979-823-1879
Fax: 979-775-5681
Security Level: Minimum/Female (adjacent
Minimum/Female Intensive Confinement
Center)

FMC Carswell
P.O. Box 27066
"J" Street, Building 3000
Fort Worth, Texas 76127
817-782-4000
Fax: 817-782-4875
Security Level: Administrative/Female
(adjacent Minimum/Female camp)

FPC El Paso
P.O. Box 16300
SSG Sims Road, Bldg. 11636
El Paso, Texas 79906-0300
915-566-1271
Fax: 915-540-6165
Security Level: Minimum/Male

FCI El Reno
P.O. Box 1000
Highway 66 West
El Reno, Oklahoma 73036-1000
405-262-4875
Fax: 405-262-6266
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FCI Forrest City
P.O. Box 7000
Forrest City, Arkansas 72335
870-630-6000
Fax: 870-630-6250
Security Level: Low/Male (adjacent
Minimum/Male camp)

FMC Fort Worth
3150 Horton Road
Fort Worth, Texas 76119-5996
817-534-8400
Fax: 817-413-3350
Security Level: Administrative/Male

FDC Houston
1200 Texas Ave.
P.O. Box 526245
Houston, Texas 77052-6245
713-221-5400
Fax: 713-229-4200
Security Level: Administrative/Male/Female

FCI La Tuna
P.O. Box 1000
8500 Doniphan
Anthony, New Mexico-Texas 88021
915-886-6600
Fax: 915-886-6858
Security Level: Low/Male (satellite Low/Male
facility and adjacent Minimum/Male camp)

FCI Oakdale
P.O. Box 5050
Oakdale, Louisiana 71463
318-335-4070
Fax: 318-215-2547
Security Level: Medium/Male

FDC Oakdale
P.O. Box 5060
Oakdale, Louisiana 71463
318-335-4466
Fax: 318-215-2046
Security Level: Administrative/Male (adjacent
Minimum/Male camp)

FTC Oklahoma City
P.O. Box 898892
7410 South MacArthur Boulevard
Oklahoma City, Oklahoma 73189-8802
405-682-4075
Fax: 405-680-4055
Security Level: Administrative/Male/Female

USP Pollock
P.O. Box 1000
1000 Airbase Road
Pollock, LA 71467
318-561-5300765-0007
Fax: 318-561-5344
Security Level: High/Male (adjacent
Minimum/Male camp)

FCI Seagoville
2113 North Highway 175
Seagoville, Texas 75159
972-287-2911
Fax: 972-287-5466
Security Level: Low/Male and
Administrative/Male (adjacent Minimum/Male
camp)

FCI Texarkana
P.O. Box 9500
Texarkana, Texas 75505
903-838-4587
Fax: 903-223-4417
Security Level: Low/Male (adjacent
Minimum/Male camp)

FCI Three Rivers
P.O. Box 4000
Three Rivers, Texas 78071
361-786-3576
Fax: 361-786-5069
Security Level: Medium/Male (adjacent
Minimum/Male camp)

Southeast Region

USP Atlanta
601 McDonough Blvd., S.E.
Atlanta, Georgia 30315-0182
404-635-5100
Fax: 404-331-2137
Security Level: High/Administrative/Male
(adjacent Minimum/Male camp)

FCC Coleman (Administrative)
868 N.E. 54th Terrace
Coleman, Florida 33521-1029
352-689-5000
Fax: 352-689-3013

FCI Coleman (Low)
868 N.E. 54th Terrace
Coleman, Florida 33521-1021
352-689-4000
Fax: 352-330-0259
Security Level: Low/Male

FCI Coleman (Medium)
846 N.E. 54th Terrace
P.O. Box 1022
Coleman, Florida 33521-1022
352-689-5000
Fax: 352-330-0552
Security Level: Medium/Male (adjacent
Minimum/Male camp)

USP Coleman
846 N.E. 54th Terrace
Coleman, Florida 33521-1023
352-689-6000
Fax: 352-689-6012
Security Level: High/Male

FCI Edgefield
501 Gary Hill Road
P.O. Box 723
Edgefield, South Carolina 29824
803-637-1500
Fax: 803-637-9840
Security Level: Medium/Male (adjacent
Minimum/Male Camp)

FPC Eglin
P.O. Box 600
Eglin Air Force Base, Florida 32542-7606
850-882-8552
Fax: 850-729-8261
Security Level: Minimum/Male

FCI Estill
100 Prison Road
P.O. Box 699
Estill, South Carolina 29918
803-625-4607
Fax: 803-625-5635
Security Level: Medium/Male (adjacent
Minimum/Male camp)

MDC Guaynabo
P.O. Box 2146
San Juan, Puerto Rico 00922-2146
787-749-4480
Fax: 787-775-7824
Security Level: Administrative/Male/Female

FCI Jesup
2600 Highway 301 South
Jesup, Georgia 31599
912-427-0870
Fax: 912-427-1125
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FCI Marianna
3625 FCI Road
Marianna, Florida 32446
850-526-2313
Fax: 850-718-2014
Security Level: Medium/Male (adjacent
Minimum/Female camp)

FCI Miami
15801 S.W. 137th Avenue
Miami, Florida 33177
305-259-2100
Fax: 305-259-2160
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FDC Miami
P.O. Box 019118
33 Northeast 4th Street
Miami, Florida 33101-9118
305-577-0010
Fax: 305-536-7368
Security Level: Administrative/Male/Female

FPC Montgomery
Maxwell Air Force Base
Montgomery, Alabama 36112
334-293-2100
Fax: 334-293-2326
Security Level: Minimum/Male

FPC Pensacola
110 Raby Avenue
Pensacola, Florida 32509-5127
850-457-1911
Fax: 850-458-7295
Security Level: Minimum/Male

FCI Talladega
565 East Renfroe Road
Talladega, Alabama 35160
256-315-4100
Fax: 256-315-4495
Security Level: Medium/Male (adjacent
Minimum/Male camp)

FCI Tallahassee
501 Capital Circle, NE
Tallahassee, Florida 32301-3572
904-878-2173
Fax: 904-216-1299
Security Level: Low/Female,
Administrative/Male

FCI Yazoo City
2225 Haley Barbour Parkway
P.O. Box 5050
Yazoo City, Mississippi 39194
662-751-4800
Fax: 662-751-4859
Security Level: Low/Male (adjacent
Minimum/Male camp)

Western Region

USP Atwater
P.O. Box 019000
#1 Federal Highway
Atwater, California 95301
209-386-4620
Fax: 209-386-4615
Security Level: High/Male (adjacent
Minimum/Male camp)

FCI Dublin
5701 8th Street, Camp Parks
Dublin, California 94568
925-833-7500
Fax: 925-833-7555
Security Level: Low/Female and
Administrative/Male (adjacent
Minimum/Female camp)

FDC Honolulu
351 Elliott Street
Honolulu, Hawaii 96820
808-838-4200
Fax: 808-838-4510
Security Level: Administrative/Male/Female

FCI Lompoc
3600 Guard Road
Lompoc, California 93436
805-736-4154
Fax: 805-736-7163
Security Level: Low/Male (adjacent Intensive
Confinement Center)

USP Lompoc
3901 Klein Boulevard
Lompoc, California 93436
805-735-2771

Fax: 805-737-0295
Security Level: High/Male (adjacent
Minimum/Male camp)

MDC Los Angeles
535 N. Alameda Street
Los Angeles, California 90012
213-485-0439
Fax: 213-253-9520
Security Level: Administrative/Male/Female

FPC Nellis
C.S. 4500
North Las Vegas, Nevada 89036-4500
702-644-5001
Fax: 702-643-2303
Security Level: Minimum/Male

FCI Phoenix
37900 N. 45th Avenue
Phoenix, Arizona 85086
623-465-9757
Fax: 623-465-5199
Security Level: Medium/Male (adjacent
Minimum/Female camp)

FCI Safford
P.O. Box 820
Safford, Arizona 85548
928-428-6600
Fax: 928-348-1331
Security Level: Low/Male

MCC San Diego
808 Union Street
San Diego, California 92101-6078
619-232-4311
Fax: 619-595-0390
Security Level: Administrative/Male/Female

FDC SeaTac
P.O. Box 13901
Seattle, Washington 98198-1091
206-870-5700
Fax: 206-870-5717
Security Level: Administrative/Male/Female

FCI Sheridan
P.O. Box 8000
Sheridan, Oregon 97378-9601
503-843-4442
Fax: 503-843-3408
Security Level: Medium/Male and
Administrative/Male (adjacent Minimum/Male
camp)

FCI Terminal Island
1299 Seaside Avenue
Terminal Island, California 90731
310-831-8961
Fax: 310-732-5335
Security Level: Medium/Male

FCI Tucson
8901 South Wilmot Road
Tucson, Arizona 85706
520-574-7100
Fax: 520-574-4206
Security Level: Medium/Male,
Administrative/Male/Female

FCI Victorville
P.O. Box 5400
Adelanto, California 92301
760-246-2400
Fax: 760-246-2621
Security Level: Medium/Male (adjacent
Minimum/Female camp)

Community Corrections Management Offices

Atlanta CCM Office
715 McDonough Blvd., SE
Atlanta, Georgia 30315
404-635-5673, Fax: 404-730-9785
Districts: Northern/Middle/Southern Georgia,
South Carolina

Baltimore-MARO CCM Office
10010 Junction Drive, Suite 101-N
Annapolis Junction, MD 20701
301-317-3196, Fax: 301-317-3184
Districts: Maryland, Southern Delaware,
District of Columbia, Northern West Virginia

Boston CCM Office
JFK Federal Building
Suite 2200
Boston, Massachusetts 02203
617-565-4293, Fax: 617-565-4297
Districts: Massachusetts, Vermont, Connecticut,
Maine, Rhode Island,
New Hampshire

Chicago CCM Office
200 W. Adams
Suite 2915
Chicago, Illinois 60606
312-886-2114, Fax: 312-886-2118
Districts: Central/Northern Illinois,
Eastern/Western Wisconsin

Cincinnati CCM Office
36 East 7th Street
Suite 2107-A
Cincinnati, Ohio 45202
513-684-2603, Fax: 513-684-2590
Districts: Eastern Kentucky, Southern Indiana,
Northern/Southern Ohio

Dallas CCM Office
4211 Cedar Springs Road, Suite 100
Dallas, Texas 75219
214-224-3522, Fax: 214-224-3367
Districts: Oklahoma, Northern Texas

Denver CCM Office
1961 Stout Street, Rm. 441
Denver, Colorado 80294
303-844-5179, Fax: 303-844-6189
District: Colorado

Detroit CCM Office
211 Fort Street, 6th Floor
Detroit, Michigan 48226
313-226-6186, Fax: 313-226-7327
Districts: Eastern/Western Michigan, Northern
Indiana

El Paso CCM Office
4849 North Mesa Street, Suite 208
El Paso, Texas 79912
915-534-6328, Fax: 915-534-6432
Districts: New Mexico, Western Texas

Houston CCM Office
515 Rusk Avenue, Rm. 12016
Houston, Texas 77002
713-718-4781, Fax: 713-718-4780
District: Southern Texas

Kansas City CCM Office
Gateway Complex, Tower II
400 State Avenue, Rm. 131
Kansas City, Kansas 66101-2405
913-551-1117, Fax: 913-551-1120
Districts: Northern/Southern Iowa, Kansas,
Nebraska, Western Missouri

Long Beach CCM Office
501 West Ocean Boulevard
Suite 3260
Long Beach, California 90802-4221
562-980-3536, Fax: 562-980-3543
District: Central California

Miami CCM Office
401 North Miami Avenue
Miami, Florida 33128-1830
305-536-5705, Fax: 305-536-4024
Districts: Puerto Rico, Virgin Islands, Southern
Florida

Minneapolis/St. Paul CCM Office
300 South 4th St.
Suite 1210
Minneapolis, Minnesota 55415
612-664-5560, Fax: 612-664-5569
Districts: North Dakota, South Dakota,
Minnesota

Montgomery CCM Office
2350 Fairlane Dr., Suite 110
Montgomery, Alabama 36116
334-223-7464, Fax: 334-223-7012
Districts: Alabama, Mississippi, Northern
Florida

Nashville CCM Office
801 Broadway, Rm. 599
Nashville, Tennessee 37203
615-736-5148, Fax: 615-736-5147
Districts: Eastern/Middle/Western Tennessee,
Eastern/Western Kentucky

New Orleans CCM Office
500 Poydras Street
New Orleans, Louisiana 70130
(504) 589-2371, Fax: (504) 589-2378
Districts: Louisiana, Arkansas, Eastern Texas

New York CCM Office
26 Federal Plaza
Rm. 36-110
New York, New York 10278
212-264-9520, Fax: 212-264-9516
Districts: Eastern/Southern New York, New
Jersey

Orlando CCM Office
3659 Maguire Boulevard
Suite 100
Orlando, Florida 32803
407-648-6049, Fax: 407-648-6058
District: Middle Florida

Philadelphia CCM Office
U.S. Custom House, 7th Floor
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106
215-521-7300, Fax: 215-521-7486
Districts: Eastern/Middle Pennsylvania

Phoenix CCM Office
Phoenix, Arizona 85004-2212
602-379-4947, Fax: 602-379-4061
Districts: Southern California, Arizona

Pittsburgh CCM Office
Wm. S. Moorehead Federal Building
1000 Liberty Ave., Rm. 831
Pittsburgh, Pennsylvania 15222
412-395-4740, Fax: 412-395-4730
Districts: Northern/Western New York, Western
Pennsylvania

Raleigh CCM Office
310 New Bern Avenue, Rm. 325
Raleigh, North Carolina 27601
919-856-4548, Fax: 919-856-4777
Districts: Eastern/Middle/Western North
Carolina, Eastern/Western Virginia

Sacramento CCM Office
501 I Street
Suite 9-400
Sacramento, California 95814
916-930-2010, Fax: 916-930-2008
Districts: Northern and Eastern California,
Guam, Hawaii

St. Louis CCM Office
The Robert A. Young Building
1222 Spruce Street, Suite 6.101
St. Louis, Missouri 63103
314-539-2376, Fax: 314-539-2465
Districts: Southern Illinois, Southern Indiana,
Eastern Missouri

Salt Lake City CCM Office
324 South State Street
Suite 228
Salt Lake City, Utah 84111
801-524-4212, Fax: 801-524-3112
Districts: Utah, Wyoming, Nevada, Montana

San Antonio CCM Office
727 East Durango Street, Room B-506
San Antonio, Texas 78206
210-472-6225, Fax: 210-472-6224
District: Western Texas (Austin, San Antonio,
and Waco)

Seattle CCM Office
Jackson Federal Bldg.
915 Second Avenue, Suite 3150
Seattle, Washington 98174
206-220-6593, Fax: 206-220-6591
Districts: Alaska, Oregon, Western/Eastern
Washington, Idaho

APPENDIX B:

List of Legal Contacts in the Bureau of Prisons

(June 2004)

OFFICE OF GENERAL COUNSEL

Kathleen M. Kenney, General Counsel
James Ropelewski, Deputy General Counsel
320 First Street, NW, 7th Floor
Washington, D.C. 20534
Phone: 202-307-3062
Fax: 202-307-2995

Paul W. Layer, Associate General Counsel
Legislative and Correctional Issues Branch
Phone: 202-307-2105
Fax: 202-307-2995

Joyce A. Zoldak, Associate General Counsel
Litigation Branch
Phone: 202-307-3872
Fax: 202-305-4577

Yvonne Hinkson, Associate General Counsel
Discrimination Complaints & Ethics Branch
Phone: 202-514-6165
Fax: 202-616-2080

Donald J. Laliberte, Associate General Counsel
Labor Law Branch
Phone: 202-307-2804
Fax: 202-307-6912

Alan Rotach, Associate General Counsel
Commercial Law Branch
Phone: 202-307-1240
Fax: 202-307-514-8482

Craig Meyers, Associate General Counsel
Real Estate and Environmental Law Section
Phone: 202-307-1240
Fax: 202-307-514-8482

Mina Raskin
EEO Officer/Dispute Resolution Section
Phone: 202-514-6165
Fax: 202-616-2080

REGIONAL COUNSELS

Bill Burlington, Regional Counsel
Mid-Atlantic Regional Office
10010 Junction Drive, Suite 100-N
Annapolis Junction, Maryland 20701
Phone: 919-575-3900 ext. 6076
Fax: 919-575-4811

Daryl Kosiak, Regional Counsel
North Central Regional Office
4th and State Avenues, Tower II - 8th Floor
Kansas City, Kansas 66101-2492
Phone: 913-551-1004
Fax: 913-551-1107

Hank Sadowski, Regional Counsel
Northeast Regional Office
U.S. Customs House, 7th Floor
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106
Phone: 215-521-7375
Fax: 215-521-7483

Mike Hood, Regional Counsel
South Central Regional Office
4211 Cedar Springs Road, Suite 300
Dallas, Texas 75219
Phone: 214-224-3410
Fax: 214-224-3352

Lisa Sunderman, Regional Counsel
Southeast Regional Office
3800 North Camp Creek Parkway, SE
Building 2000
Atlanta, Georgia 30331
Phone: 678-686-1260, Fax: 678-686-1299

Harlan W. Penn, Regional Counsel
Western Regional Office
7950 Dublin Blvd., 3rd Floor
Dublin, California 94568
Phone: 925-803-47232 Fax: 925-803-4818

**REGIONAL COMMUNITY
CORRECTIONS OFFICES**

Community Corrections Administrator
Northeast Regional Office
U.S. Customs House, 7th Floor
2nd and Chestnut Streets
Philadelphia, Pennsylvania 19106
Phone: 215-597-6317, Ext. 370
Fax: 215-597-4512

Community Corrections Administrator
Mid-Atlantic Regional Office
10010 Junction Drive
Suite 100-N
Annapolis Junction, Maryland 20701
Phone: 301-317-3207
Fax: 301-317-3139

Community Corrections Administrator
Southeast Regional Office
Building 2000
3800 N. Camp Creek Parkway, SW
Atlanta, Georgia 30331-6226
Phone: 678-686-1380
Fax: 678-686-1399

Community Corrections Administrator
North Central Regional Office
Gateway Tower II, 8th floor
4th and State Avenue
Kansas City, Kansas 66101-2492
Phone: 913-551-1139
Fax: 913-551-1071

Community Corrections Administrator
South Central Regional Office
4211 Cedar Springs Road
Suite 100
Dallas, Texas 75219
Phone: 214-767-9748
Fax: 214-767-9778

Community Corrections Administrator
Western Regional Office
7950 Dublin Blvd, 3rd Floor
Dublin, California 94568
Phone: 925-803-4758
Fax: 925-803-4844

APPENDIX C:

List of Acronyms

(June 2004)

A&O	Admission and Orientation
AOUSC	Administrative Office of the U.S. Courts
APA	Administrative Procedures Act
BOP	Bureau of Prisons
CCC	Community Corrections Center
CCM	Community Corrections Manager
CIMS	Central Inmate Monitoring System
COIF	Cost of Incarceration Fee
CSC	Comprehensive Sanctions Center
DHO	Discipline Hearing Officer
ESL	English as a Second Language
FCC	Federal Correctional Center
FCI	Federal Correctional Institution
FMC	Federal Medical Center
FPC	Federal Prison Camp
FPI	Federal Prison Industries
FTC	Federal Transfer Center
GED	General Educational Development
HHS	Health and Human Services
ICC	Intensive Confinement Center
ICE	U.S. Immigration and Customs Enforcement
IFRP	Inmate Financial Responsibility Program
ISM	Inmate Systems Management
J&C	Judgment and Commitment order
JCAHO	Joint Commission on the Accreditation of Healthcare Organizations
JJDPA	Federal Juvenile Justice and Delinquency Prevention Act
MCFP	Medical Center for Federal Prisoners
MCC	Metropolitan Correctional Center
MDC	Metropolitan Detention Center
MINT	Mothers and Infants Together
PLRA	Prison Litigation Reform Act of 1995
RDAP	Residential Drug Abuse Program
SAM	Special Administrative Measure
SOR	Statement of Reasons
SOTP	Sex Offender Treatment Program
UDC	Unit Discipline Committee
UNICOR	Federal Prison Industries
USMS	U.S. Marshals Service
USP	United States Penitentiary
USPO	U.S. Probation Office
VCCLEA	Violent Crime Control and Law Enforcement Act of 1994