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***LEGAL RESOURCE GUIDE  
TO THE FEDERAL BUREAU OF PRISONS***

**2002**

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## ***I. INTRODUCTION***

Prior to 1930, there were seven federal prisons. Each was separately funded by Congress and operated under policies and procedures established locally by each warden. On May 14, 1930, President Herbert Hoover signed legislation establishing the Federal Bureau of Prisons within the Department of Justice. The Bureau of Prisons was created, in part, to ensure consistent, centralized administration of the Federal Prison System. Today, that system consists of 100 activated institutions, ranging from maximum security penitentiaries to minimum security camps, and a community corrections component that manages programs, services, and facilities in the community.

### ***A. The Bureau's Mission***

The mission of the Bureau of Prisons (BOP) 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 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 also provides a general overview of the prison system, its' services, and programs. The publication is divided into three sections: (1) Pretrial Issues; (2) Sentencing Issues; and (3) Post-Conviction Issues.

The BOP and National Institute of Corrections 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.

Additionally, updated Appendices are included and provide a Facilities Directory (Appendix A) and List of Contact Persons in the BOP (Appendix B).

## ***II. THE BUREAU OF PRISONS TODAY***

### ***A. Population Profile***

As of October, 2001, BOP inmate population had the following profile:

- 93% were male and 7% female;
- 56.1% were white, 40.8% black and 3.1% of other races;
- 31.8% were of Hispanic ethnicity;
- 70.3% were U.S. citizens;
- 33.7% were serving sentences less than 5 years;
- 8.9% were serving sentences over 20 years;
- 3.4% were serving life sentences;
- 19 inmates had been sentenced to death;
- 55.1% were convicted of drug offenses;
- Average inmate age was 37 years;
- For FY2001, the average daily cost, without support costs, for maintaining a prisoner in the BOP was \$60.75 or \$22,174 per year.

### ***B. The Role of Community Corrections Managers***

The BOP contracts with Community Corrections Centers (CCCs) that offer a broad spectrum of programs for low-risk offenders. To oversee these services, the BOP maintains a network of community corrections managers (CCMs) in major cities throughout the country. See Program Statement No. 7300.09, Community Corrections Manual and Appendix B - List of Contact Persons in the BOP.

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. The arrangements with state and local government agencies are formalized in Intergovernmental Agreements. The 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 county. In addition, there are some 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 formalized "team" approach to inmate management, which includes participation of the U.S. Probation Office, the BOP and the CSC.

### ***C. District of Columbia Code Felony Offenders***

In August, 1997, Congress passed the National Capital Revitalization and Self-Government Improvement Act of 1997 (D.C. Revitalization Act), Section 11721 of Title XI of Pub. L. 105-33, 111 Stat. 786. The D.C. Revitalization Act obligates the BOP to administer D.C. Code felony terms of imprisonment. See D.C. Code §§ 24-101(a) and (b). The Act requires that D.C. Code felony offenders in BOP custody "shall be subject to any law or regulation applicable to persons committed for violations of laws of the United States consistent with the sentence imposed." Id. Consequently, except as required otherwise by law, and noted elsewhere in this publication, D.C. Code felony offenders in BOP custody are generally treated similar to U.S. Code offenders. For example, similar to U.S. Code offenders, the BOP's goal for D.C. Code offenders is to designate them to institutions within 500 miles of their legal residences.

### ***D. The DNA Analysis Backlog Elimination Act of 2000***

On December 19, 2000, Congress enacted Public Law 106-546, commonly referred to as The DNA Analysis Backlog Elimination Act of 2000 (The Act). This Act requires the BOP or the responsible probation office to collect DNA samples from individuals who have been convicted of a qualifying federal offense, military offense, or D.C. Code offense. The FBI is required to analyze the samples and maintain the information in the Combined DNA Index System (CODIS). Rules language has been implemented to add pertinent sections of the Act to 28 C.F.R. § 28, and to identify the qualifying offenses. The Act provides that inmates who are unwilling to provide a sample may be charged with a class A misdemeanor.

## ***III. PRE-TRIAL ISSUES***

### ***A. Pre-trial Detention***

The availability of federal detention bedspace is a major concern. The BOP, the U.S. Marshals Service, and the U.S. Immigration and Naturalization Service have been working together, under the direction of the Deputy Attorney General, to alleviate the shortage of detention bedspace. Prioritizing and developing necessary detention resources in key districts and emphasizing appropriately structured community supervision alternatives for non-dangerous offenders has been the primary focus. See 28 C.F.R. § 551, Part J, Pretrial Inmates; Program Statement No. 7331.03, Pretrial Inmates.

### ***B. Special Medical Concerns***



The BOP is aware that inmates often contend that their medical condition cannot adequately be treated by the BOP. See, e.g., United States v. Sherman, 53 F.3d 782 (7th Cir. 1995). In reality, either within its institutions or by contracting with physicians and hospitals in the community, there are virtually no medical problems that the BOP health care delivery system cannot respond to adequately. See Program Statement No. 6000.05, Health Services Manual.

On-site emergency medical care is available 24 hours a day in all BOP facilities. 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, Texas; Lexington, Kentucky; Devens, Massachusetts; or Fort Worth, Texas. Each of these BOP facilities is accredited by the Joint Commission on the Accreditation of Health Care Organizations (JCAHCO). This is the same organization that accredits community health care organizations. When these facilities 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) Fort Worth, Texas, for males, and the FMC Carswell for females. A later section on Health Care Services in the BOP provides more details on available programs and services. See, infra, Section V - Post Conviction Issues: Medical Services.

### ***C. Interstate Agreement on Detainers (IAD)***

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 nearly all states in the Interstate Agreement on Detainers. See 18 U.S.C. App. II; and Program Statement No. 5130.06, Detainers and the Interstate Agreement on Detainers Act. 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 No. 5130.06, delineates the appropriate procedures for treating 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 which must take place when an offender appears to be, or is, suffering from a mental disease or defect. See also Program Statement Nos. 6000.05, Health Services Manual, Ch.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).

For purposes of an examination, the court may commit the defendant to the custody of the Attorney General for placement in a suitable facility, which includes a BOP facility, 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 BOP personnel 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 competency. 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 the same. A second competency hearing is held and, if the defendant is shown to be competent by a preponderance of the evidence, the trial proceeds. 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 forty days after the special verdict. See 18 U.S.C. § 4243(c). Please note that while the hearing must take place within 40 days, § 4247(b) states that the examination under § 4243 may take 45 days.

Where the offense involved bodily injury to, or serious damage to the property of another person, or a substantial risk of such injury or damage, the offender bears the burden of proving by clear and convincing evidence that his or her release would not pose a substantial risk of bodily injury to another person or serious damage of property of another. See 18 U.S.C. § 4243(d). If the offender fails to meet this standard, he or she will be committed to the custody of the Attorney General.

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 such that 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 psychological or psychiatric examination of the offender and conduct a hearing as to the offender's suitability for placement in an appropriate facility for care and treatment, in lieu of imprisonment. See 18 U.S.C. § 4244(a). 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 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 which, given current resources, means the defendant will be placed in a mental health unit within a federal prison. While the statute envisions "commitment in lieu of imprisonment," the § 4244 defendant actually faces indefinite commitment to a prison mental health unit; whereas, if he or she proceeds to final sentencing, there will be a definite term of incarceration and the opportunity under § 4245 to receive necessary treatment. A defense counsel'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, section 4245 provides the method for involuntary hospitalization.

The court may order that an inmate be hospitalized 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 the treatment of which he or she is in need of 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 as a result of which his release would create a substantial risk of bodily injury to another person or serious damage the property of another. If the warden of a BOP 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. 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 met 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 BOP 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 warden of the BOP 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).

The BOP takes the 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 (3rd 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, Ch.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.

STATUTORY SECTION	ROLE OF THE ATTORNEY GENERAL AND THE BUREAU OF PRISONS	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
<b>Pretrial</b>	<b>Pretrial</b>	<b>Pretrial</b>
<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 BOP 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 AND THE BUREAU OF PRISONS	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
<b>Pretrial</b>	<b>Pretrial</b>	<b>Pretrial</b>
<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. <u>See 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 BOP 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. <u>See 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 AND THE BUREAU OF PRISONS	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
<b>Post-trial</b>	<b>Post-trial</b>	<b>Post-trial</b>
<p>§4243(a) — The defendant is found not guilty by reason of insanity.</p>	<p>The acquittee must be committed to a suitable facility, including a BOP 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><b>NOTE:</b> The State may not release the acquittee without an order from the committing court. <u>See 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 United States v. Husar</u>, 859 F.2d 1494 (D.C. Cir. 1988).</p>
<p>§4244(a) — Determination 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 BOP 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 AND THE BUREAU OF PRISONS	ROLE OF STATE/LOCAL GOVERNMENT OR AGENCIES
<b>Post-trial</b>	<b>Post-trial</b>	<b>Post-trial</b>
<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>

NOTE: 18 U.S.C. §4247(i)(A) authorizes the Attorney General to contract with states, locality, or private agency for the confinement, hospitalization, or treatment of a person committed pursuant to Chapter 313.



## ***IV. 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. Intermediate Punishments***

Recognizing the need for alternatives to traditional confinement, the BOP provides a broad range of intermediate punishments. Intermediate sanctions offer the necessary level of public protection and provide offenders with the structure they need while serving their sentences.

#### ***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. The CCC program is described in more detail below, but offenders sentenced to community confinement 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 No. 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 available for this purpose.

#### ***2. Intermittent Confinement***

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

#### ***3. Home Detention***

The sentencing guidelines (U.S.S.G. § 5C1.1) 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 normally involved in the home detention program for probationers and supervised releasees.

#### ***4. Intensive Confinement Centers (ICCs)***

The BOP operates minimum-security Intensive Confinement Centers (ICCs) in Lewisburg, Pennsylvania; Lompoc, California (for male inmates); and Bryan, Texas (for female inmates). These

centers have some features of a correctional "boot camp" operation, as well as a community-based phase. Participation in an ICC program may be recommended by the sentencing court. The BOP's authority to operate this program is found at 18 U.S.C. §§ 3621 and 4046. See Program Statement No. 5390.08, *Intensive Confinement Center Program*. Eligible participants must be minimum-security offenders who have not previously been 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. Drug treatment is prominent in the ICC curriculum. This facet of the program includes education, counseling, and other state-of-the-art strategies, all designed to offer motivated offenders the opportunity to gain skills, knowledge, and personal strengths that will enable them to abstain from drugs.

Close staff supervision is provided at the ICCs. All discipline is handled in accordance with current BOP policy that provides necessary due process safeguards.

A lengthy period of community corrections center placement typically follows completion of the institutional phase of the ICC program. In cases where a need for drug treatment has been identified during the ICC phase, community corrections centers continue programming initiated in the ICC. Participants gradually move through less restrictive phases in the community until they are eventually placed on home confinement.

## ***B. Imprisonment***

For many offenders, imprisonment (18 U.S.C., Ch.227, Subchapter D) may be the appropriate sanction. The BOP maintains a safe and humane correctional environment for offenders who require incarceration. For offenders receiving terms of imprisonment, it is critical for the BOP to receive a comprehensive Presentence Investigation Report. This document provides much of the information which is the basis for decisionmaking on designations, security levels, custody classifications, and programs.

### ***1. Institutional Confinement***

Title 18 U.S.C. § 3621(a) gives the BOP authority to confine persons sentenced to a term of imprisonment. To accomplish this goal, BOP institutions span a broad range of security levels and types of physical plants. Institution security levels are determined by factors such as type of perimeter, number of towers or external patrols, detection devices, security of housing areas, type of living quarters, and level of staffing. Types of facilities within the BOP are listed below.

#### **Minimum-Security**

Federal Prison Camps have dormitory housing, a relatively low staff-to-inmate ratio, and no fences. These institutions are work- and program-oriented, and many are located adjacent to larger institutions or on military bases, where inmates help serve the labor needs of the of the parent institution or base.

**Low-Security**

Low-security Federal Correctional Institutions (FCIs) typically have double-fenced perimeters, mostly dormitory housing, and strong work and program components. The staff-to-inmate ratio in these institutions is higher than in minimum-security facilities.

**Medium-Security**

Medium-security FCIs have strengthened perimeters (often double fences with electronic detection systems, vehicle patrols, and in some cases armed observation towers), cell-type housing, and an even higher staff-to-inmate ratio than low-security institutions, thus providing even greater internal controls.

**High-Security**

United States Penitentiaries have highly secure, vehicle-patrolled perimeters (either walled or double-fenced, outfitted with electronic detection devices and armed observation towers), multiple and single occupant cell housing, and close staff supervision and movement controls.

**Administrative Maximum**

The Administrative Maximum Facility (ADX), in Florence, Colorado, is the first specifically designed maximum security facility built by the BOP. The facility embodies the numerous design features of the high security facilities and a higher staff-to-inmate ratio. These factors greatly facilitate safer inmate movement, program participation, and staff-inmate interaction in a more secure setting.

**Administrative**

These are institutions — such as Metropolitan Detention Centers, Metropolitan Correctional Centers, the Federal Transfer Center, and Medical Referral Centers — which have special missions and hold inmates of all security levels.

***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 as a condition of probation, such as nights, weekends, or other short intervals.

The BOP also maintains contracts with some state correctional facilities in which some long-term federal offenders are held. Offenders are occasionally transferred to state facilities when they present special management problems, such as needing extensive protection due to their notoriety, thereby precluding safe incarceration in any BOP facility. Offenders may also be designated to state correctional facilities for service of a federal sentence. See Program Statement No. 5160.04, State Institution for Service of Federal Sentence, Designation of.

### 3. *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 No. 5216.05, Federal Juvenile Justice and Delinquency Prevention Act (JJDPA). This statute deals with the prosecution of a defendant who has not reached his or her 18th birthday and any inmate sentenced under the JJDPA as a juvenile delinquent. This statute generally prohibits housing juveniles with adult offenders, and given the very small number of federal juveniles, operation of a separate BOP facility for this population is not practical. Therefore, generally 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. Title 18 U.S.C. § 5039 states that "no juvenile committed to the custody of the Attorney General may be placed or retained in an adult jail or correctional institution in which he has regular contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges." Generally, the BOP attempts to place such inmates in a community-based juvenile facility located in or near the home community.

***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*** - Regardless of the procedure under which the inmate was sentenced, an inmate who has attained his or her 21st birthday may in some cases be designated to a BOP institution as an adult. 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 crucial inmate programming.

### ***C. Judgment and Commitment Orders***

The BOP is charged with interpreting and enforcing 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, and any placement recommendation made by the court. 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 No. 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 No. 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.

## ***2. Sentence Calculation***

The BOP, through its Inmate Systems Management (ISM) staff, 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 immense. See Program Statement Nos. 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, and only 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, 122 S.Ct. 983 (2002). See also, Program Statement No. 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. The following are examples of issues frequently encountered.

### ***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 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 of 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 Werber v. United States, 149 F.3d 172, 179 (2d Cir. 1998); United States v. Wilson, 503 U.S. 329 (1992). Periods spent on pre-trial 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 No. 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.

### ***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 No. 5270.07, Discipline and Special Housing Units.

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.

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." However, this does not mean that inmates serve only 311 days for every year of imprisonment imposed. For example, consider the case of an inmate sentenced to a 3-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).

In light of the mathematics involved, sentencing courts must be very specific in wording the J&C Order. Defendants sentenced to a "1 year" term of imprisonment will actually serve 1 year without the benefit of any good conduct time credit. On the other hand, defendants sentenced to a "1 year and 1 day" term of imprisonment will receive credit for satisfactory behavior and actually serve less than 1 year. Assistance in wording J&C Orders, so as to effect the Court's intention, if possible, is available from BOP regional counsels' offices.

#### ***6. Fines and Costs of Confinements***

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, 3569; Program Statement No. 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 do not return to the BOP; rather, they 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.

### ***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 No. 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 and job assignments, and for community activities such as 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 for work in the institution, or a combination of the two.

All sentenced inmates who are physically and mentally able are assigned to an institutional or industrial work assignment. See Program Statement No. 5251.05, Inmate Work and Performance Pay Program. Inmates who work at non-industrial jobs earn between \$18.48 and \$61.60 per month, based on a seven hour workday. They may also earn bonus pay for outstanding work performance. However, most of the money that inmates contribute to the Inmate Financial Responsibility Program 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. 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 properly reflect the Court’s intention.

### ***8. Victim and Witness Notification***

The BOP manages a Victim and Witness Notification Program to meet the needs of qualifying individuals who request information from the U.S. Attorney in the district in which the prosecution occurred. See Program Statement No. 1490.05, Victim and Witness Notification Program. Under this program, victims and witnesses are advised when the offender is being released from prison, dies, escapes, is furloughed, or is placed in a community corrections program. The victims and witnesses are also notified and may appear in person or provide a written statement to the U.S. Parole Commission if the offender is eligible for parole and is receiving an in-person parole hearing.

Victims and witnesses may phone 1-866-365-4968, or (For Hearing Impaired) TDD: 1-866-228-4619 to obtain information about the offender's status or about any notification they have received. Finally, a victim or witness may inquire whether a particular person who they see in the community could be an offender about whom they have a concern.

## ***V. 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 No. 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 No. 7300.09, Community Corrections Manual. The CCM makes an initial determination

as to where the offender should be confined. The CCM then processes a designation request, which is electronically transmitted to a 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. Marshal's Service.

When making designations, the BOP takes into account a number of factors including: 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, and any placement recommendation made by the court. The BOP primarily relies on the Pre-Sentence Investigation Report prepared by the U.S. Probation Service and the J&C Order 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.

Regarding recommendations from the sentencing court for a specific institution, geographic area, or specialized program, see, supra, Section IV, C,1 - Sentencing Issues: Judgment and Commitment Orders; Judicial Recommendations for a Specific Institution, Geographic Area, or Specialized Program.

## ***2. 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. The court may also include any additional recommendations to the BOP in the "Imprisonment" section, including requests that the inmate be evaluated for treatment of pre-existing medical conditions or substance abuse problems, as well as indicating whether the sentencing judge wishes to be notified upon the offender's release. In most cases, the J&C Order and the Presentence Investigation Report provide the only verified background data on offenders. Thus, their accuracy is of critical importance to the BOP as these documents are used in making initial designation decisions, subsequent housing, job, and custody assignments.

## ***3. Movement to the Institution***

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

In addition, rather than being transported by the U.S. Marshals Service, the Court may order a defendant to surrender voluntarily at the facility to which he or she is designated. The BOP draws a

positive inference from the court's determination that the defendant is sufficiently trustworthy to surrender voluntarily, and frequently such an inmate will be designated to a minimum-security institution as long as public safety considerations do not warrant a higher-security designation. This method results in considerable cost savings to the government, and few of those ordered to surrender themselves fail to do so.

#### ***4. 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 needs for management. See 28 C.F.R. § 524.70, et seq., Part F - Central Inmate Monitoring (CIM) System; Program Statement No. 5180.04, Central Inmate Monitoring System. Such inmates, known as central inmate monitoring (CIM) cases, require a higher level of review which may include central office and/or regional office clearance for transfers, temporary releases, or community activities. This monitoring is not to preclude a CIM inmate from such activities when the inmate is otherwise eligible, but rather is to provide protection to all concerned and to contribute to the safe and orderly operation of federal institutions.

#### ***5. Separation and Witness Security Cases***

There are many reasons why an offender may need to be separated from others, stemming from events preceding and during incarceration. See Program Statement No. 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 No. 5180.04, Sec.7.a, Central Inmate Monitoring System. Offenders in this program typically are housed in special units of certain institutions, separate and apart from general population inmates.

In other instances, an offender may require separation only from a few individuals, 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 is required.

Once an individual's separation needs are identified and confirmed, his or her ongoing safety is assisted through use of the BOP automated information system (SENTRY). This system serves as a repository of all separatee data. Before any inmate is transferred, staff check this system to ensure that if the person 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 28 C.F.R. § 522.40, Subpart E - Admission and Orientation Program, and Program Statement No. 5290.11, Admission and Orientation Program. This program provides an introduction to all aspects of the institution and includes interviews with and screening by staff from the case management, medical, and mental health units. Upon arrival at a new institution, an inmate will be assigned to the A&O Program for the first week or so. See 28 C.F.R. § 522.42(e). 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. See 28 C.F.R. § 522.40(a). Staff make presentations regarding the institution's programs and departments. See 28 C.F.R. § 522.41.

## ***C. Programs and General Services***

### ***1. Education and Recreation Programs***

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

Program Statement No. 5300.17, Education, Training, and Leisure Time Programs Standards provides that each institution will have an Education Department that is responsible for providing literacy and other related programs to inmates. Additionally, the BOP provides inmates within each of its institutions with library services necessary for educational, cultural, and leisure activity. See Program Statement No. 1542.06, Library Services, Inmate.

Title 18 U.S.C. § 3624(f) mandates an education program for those federal prisoners who are functionally illiterate. 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 successfully complete a high school-level (GED) literacy program, there are pay restrictions for prison jobs for those who choose to stop participating in the program pursuant to 28 C.F.R. §§ 544.72 and 544.74.

Most recreation programs are supervised by the education department in each institution. Programs include indoor and outdoor activities and range from individualized arts and crafts programs to intramural team sports such as baseball, basketball, and volleyball. Beyond recreation, there are health promotion and disease prevention activities targeted at healthy behaviors and healthy lifestyle choices.

Nutritional education includes information on a "heart healthy" food plan. Physical fitness, smoking cessation, and weight reduction programs are also important activities for inmates, and they contribute to mental health, good interpersonal relations, and stress reduction.

Hobbycraft programs vary from institution to institution. They typically include activities such as painting, leathercrafts, artwork, and ceramics. Completed projects that are authorized by the recreation department may be mailed home. Inmates are not allowed to have completed projects in their possession. See 28 C.F.R. §§ 544.35 and 553.11(e).

## ***2. Religious Programs***

Title 28 C.F.R. 548, Religious Programs and Program Statement No. 5360.08, Religious Beliefs and Practices set forth the 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 available a wide variety of programs, 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***

Program Statement No. 4700.04, Food Services Manual, provides that BOP professionals will manage a food service program that provides nutritionally balanced, high-quality meals, and that all BOP institutions will ensure their meals' nutritional adequacy. Title 28 C.F.R. § 547.20, Subpart C - Special Food and Meals, provides 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 No. 5360.08, Religious Beliefs and Practices.

## ***4. Work Programs and UNICOR***

Work is a very important part of institution management and offender programs, providing constructive activities and remuneration. Meaningful work programs are the most powerful tool prison administrators have in managing the inmate population. In 1983, the BOP began a major research program designed to measure the effects of Federal Prison Industries experience and vocational training on offenders' behavior when released to the community. This study involved 7,000 inmates and spanned several years. The results showed that (when compared to inmates who had similar backgrounds, but who did not participate in these programs) inmates who participated in Federal Prison Industries or vocational training programs (1) showed better institutional behavior (less likely to have disciplinary problems), (2) were more likely to be employed in the community after release, (3) earned slightly more money when released to the community, and (4) were 35 percent less likely to be rearrested in the first year after release. A recent follow-up study found that inmates who had participated in industries programs were 24 percent less likely to be reincarcerated within 8 to 12 years after release, and inmates who had participated in vocational training were 33

percent less likely to be reincarcerated within 8 to 12 years after release. Therefore, it is the policy of the BOP that all eligible inmates who are medically able to work are assigned to a specific program or job. This assignment may include participation in educational, job training, or apprenticeship programs.

Title 18 U.S.C. § 4121, et seq., Federal Prison Industries, Board of Directors and 28 C.F.R. § 301, et seq., Federal Prison Industries, establishes and outlines the function of the Federal Prison Industries, Inc. (FPI or UNICOR), which is the largest source of jobs for federal inmates. UNICOR employs about 25-30 percent of the eligible inmate population and is a wholly owned federal government corporation that does not receive congressional appropriations for its operation. The mission of UNICOR is to employ and train inmates through the operation of factories. See 18 U.S.C. § 4122(b)(1); Program Statement No. 8000.01, UNICOR Corporate Policy. UNICOR produces high-quality products and services. Federal departments, agencies, and government institutions purchase products listed on UNICOR's schedule of products. Otherwise, a waiver is to be obtained from UNICOR before such purchases are made from another source. UNICOR also provides services on a non-mandatory, preferred source basis.

UNICOR products must meet all the specifications of the Department of Defense, the General Services Administration, and the other agencies to which it sells. UNICOR must be competitive with the private sector in price, quality, and delivery. UNICOR provides a diverse range of products and services in order to avoid any adverse impact on segments of the private sector that also do business with the federal government. See 18 U.S.C. § 4122(b)(1). To ensure that it does not compete unfairly with the private sector, UNICOR operates under product guidelines processes requiring a public announcement and hearing process regarding any new product or significant expansion of an existing product that it proposes. See 18 U.S.C. § 4122(b)(4). See also Program Statement No. 8000.01, UNICOR Corporate Policy.

### ***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 No. 1600.08, Occupational Safety and Environment Health Manual.

Pursuant to 18 U.S.C. § 4126, and 28 C.F.R. Part 301, Federal Prison Industries, Inc., (FPI), inmates may be compensated for all injuries caused by the actual performance of their work assignments in FPI or in other paid work assignments in the institution. Inmate Accident Compensation — through either the Lost-Time Wage Program or the Compensation for Work-Related Physical Impairment or Death Program — is the exclusive remedy available to inmates who sustain work-related injuries. 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. This award 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.

***(b) Other Compensation***

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. See 28 C.F.R. § 301.303.

***6. Female Offenders***

Program Statement No. 5200.01, Management of Female Offenders, requires the BOP provide appropriate programs and services to meet the different physical, social and psychological needs of female offenders. For example, in 1993 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 BOP of the U.S. Department of Labor, BOP 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 apprenticeship programs in 40 different trades to female inmates.

***(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 No. 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. The 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 women who are pregnant at the time of commitment called Mothers and Infants Together (MINT). Women are eligible to enter the program if they satisfy the general criteria for Community Correction Center placement and they must be in their last two months of pregnancy. Mothers then have three months to bond with the newborn child before they are returned to an institution to complete their sentence. 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. Prior to the birth, the mother must make arrangements for a custodian to take care of the child. The warden shall provide opportunities for counseling by institution staff and community social service agencies to 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. See Program Statement No. 7310.04, Community Correction Center Utilization & Transfer Procedure.

### ***(b) Abortion***

In Roe v. Wade, 410 U.S. 113 (1973), the Supreme Court made it clear that a woman has a fundamental right of privacy to choose to have an abortion. The Court has also made it 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 No. 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 to receive the procedure. See 28 C.F.R. § 551.23(c).

Title 28 C.F.R. § 551.23(b) dictates that inmates will receive medical, religious, and social counseling regarding their decision whether 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 No. 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 No. 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 amenable to treatment (as confirmed by BOP staff), an inmate's optimum program duration is 24-30 months prior to release, which includes 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. Given the growing demand in this area, the BOP is committed to expanding its 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 Program***

Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 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 No. 5330.10, Inmate Drug Abuse Programs Manual; Program Statement No. 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 No. 5162.02, Definition of Term, "Crimes of Violence."

### ***9. Urine Surveillance Program***

The BOP has a well developed program to detect and deter drug use in its institutions. See Program Statement No. 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.

The number of positive test results for the random tests continues to be very low for the last few years — 1% FY99; 1.1% FY00; 1% FY01; and FY02 .8%. Disciplinary action, including the loss

of a previously earned early release due to successful drug abuse treatment completion, is initiated against all inmates who test positive for unauthorized substances.

## ***10. Medical Services***

### ***(a) Medical Services available to Sentenced Offenders***

BOP Health Services Division, which relies on the U.S. Public Health Service for many of its personnel, provides high-quality medical, dental, and mental health care to inmates. These services are provided by a variety of health care professionals, including physicians, nurses, physician assistants, dietitians, dentists, and pharmacists. The BOP's goal is to provide health care at a level comparable to that available in the community. See Program Statement No. 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 No. 6000.05, [Health Services Manual](#).

### ***(b) Specialized Health Care***

BOP policy regarding the medical care and procedures for caring for inmates with medical needs are set forth in 28 C.F.R. Part 549 and Program Statement No. 6000.05, [Health Services Manual](#). Whenever possible, offenders requiring specialized medical care remain in regular institutions, a number of which are equipped with special facilities and services. At least one institution at each security level is wheelchair-accessible. Additionally, the climate is considered when making designations, so that, for instance, those who require crutches or canes usually are not placed where snow and ice may be a problem.

Inmates whose health care requirements exceed those services available in a typical institution may 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 specialized facilities to provide nursing home services for offenders in need of skilled nursing care; these facilities are the Federal Medical Centers 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 the current BOP medical facilities.

### **Federal Correctional Institution (FCI), Butner, North Carolina**

FCI Butner is located near the Research Triangle area of Durham, Raleigh, and Chapel Hill. It serves as a major mental health facility for male inmates. Special services are available from community hospitals and by special contracts. The Federal Correctional Institution does not have infirmary or nursing coverage.

### **Federal Medical Center (FMC), Butner, North Carolina**

Located adjacent to the FCI Butner, the FMC Butner serves as a major medical and psychiatric referral center for male inmates. FMC Butner has an oncology unit, an acute care unit, and a dialysis unit for diabetic patients scheduled to be activated in the near future.

### **Federal Medical Center (FMC), 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 the University of North Texas Health Science Center-Fort Worth to provide most specialty and sub-specialty health care services, either at the institution or in the local community.

### **Federal Medical Center (FMC), Devens, Massachusetts**

FMC Devens is located in central Massachusetts, 20 miles west of Worcester, MA. This Medical Referral Center serves both medical and mental health in-patients and out-patient inmates. All speciality areas of medicine are available at FMC Devens either through in-house staff or community based consultant specialists. Services provided at FMC Devens include hemodialysis treatment for inmates in endstage renal failure and a residential drug treatment program.

### **Federal Medical Center (FMC), 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 by 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. Outpatient forensic studies can be performed at FMC Fort Worth.

### **Federal Medical Center (FMC), Lexington, Kentucky**

FMC Lexington is located 7 miles north of Lexington, Kentucky. It is a male-only facility. Special services are available from community hospitals and by special contracts. Telemetry capabilities with ophthalmologists are available locally.

### **Federal Medical Center (FMC), Rochester, Minnesota**

This institution's location provides excellent opportunities for consultation with Mayo Clinic practitioners. 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.

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

MCFP Springfield is located in southwest Missouri, approximately 210 miles southwest of St. Louis. MCFP Springfield is a major medical and psychiatric referral center for male inmates. Special services are available from community hospitals and by special contracts. These 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.

#### ***(d) Voluntary Medical/Mental Treatment***

In accordance with Supreme Court mandates, 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 obeying this mandate, however, officials are entitled to exercise their medical judgment. 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).

The health care mission of the Federal BOP is to provide necessary medical, dental, and mental health services to inmates by professional staff, consistent with acceptable 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 that cannot be reasonably delayed without the risk of further complication, serious deterioration, significant pain or discomfort, provided to maintain a chronic or non-life threatening condition. Determinations regarding what is medically mandatory or presently medically necessary are made using the clinical judgment of the health care professional. For cases determined to be medically mandatory or presently medically necessary, the only instances in which care will not be provided will be for specific categories or levels of care excluded by BOP policy. Levels of care not provided are designated as care that is medically acceptable but not medically necessary and is for the convenience of the inmate. Examples include routine hernia repair, noncancerous skin lesion and tattoo removal, and cosmetic surgery. Exceptions can be made per policy (e.g., plastic surgery) on a case-by-case basis by the Medical Director.

***(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 No. 6190.02, Infectious Disease Management.

HIV testing programs are mandatory and include a yearly random sample, yearly new commitment sample, new commitment re-test sample, pre-release testing, and clinically indicated testing. 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 that 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. Sexual activity and drug use are prohibited in an institution, and staff work diligently to detect and deter these activities. The BOP does not issue condoms or any materials for cleaning drug paraphernalia.

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 reflects 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 No. 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.

An inmate being considered for full-term release, parole, good conduct time release, furlough, or placement in a community based program such as a Community Corrections Center shall be 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 No. 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 Service Administrator to the state health department in the state to be visited, when that state requires such notification. Notification is not necessary for an escorted trip.

In FY 2000, 1.0% of the BOP's total inmate population were HIV positive. As of February 2002, there were 1,525 HIV positive infections.

### ***11. Mental Health Counseling and Treatment Services***

The treatment of inmates with mental health problems is important to the BOP. 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 Nos. 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, Pre-Trial Issues, Section D., Mental Illness.

Most BOP institutions employ at least one full-time psychiatrist or psychologist to provide mental health screenings and treatment to inmates who suffer from mental disease or defect. Many such inmates can be treated on an outpatient basis. Inmates who need in-patient treatment, are referred to one of several psychiatric referral centers, located in Rochester, Minnesota; Springfield, Missouri; Butner, North Carolina; Devens, Massachusetts; Lexington, Kentucky; and Carswell Air Force Base, Texas. The Federal Medical Center in Carswell, Texas, treats only female inmates while the others treat only male 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 person 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 (when a person becomes an immediate threat to himself and others because of a psychiatric illness or 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 or others or is gravely disabled, and the treatment is in the prisoner's medical interest. See Washington v. Harper, 494 U.S. 210 (1990). See also 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. 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 No. 6010.01, Psychiatric Treatment and Medication, Administrative Safeguards for; 28 C.F.R. § 549.40.

#### ***(b) Mental Health Programs***

The BOP provides the following major mental health programs.

***Psychology Services*** - 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 staff member in psychology services. Mental health services are offered to treat drug use and alcohol abuse, as well as other behavioral and emotional problems. See Program Statement No. 5310.12, Psychology Services Manual.

Each institution has 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.

***Counseling Services*** - There are many alternatives for inmates who have personal problems they desire to correct. The staff of each housing unit are available for informal counseling sessions, and 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 No. 5310.12 Ch.5.2, Psychology Services Manual. Those inmates who meet the qualification 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 develop methods which will 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 lengthy history of non-sex related offenses.

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 No. 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 the morale of the inmate and to maintain the ties with family members or others in the community. See Program Statement No. 5267.06, Visiting Regulations. Inmates are permitted face-to-face visitation with approved family and friends, and confidential visitation with attorneys (see, infra, Section V - 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. Furthermore, it is well established that no constitutional right to visitation exists. See Caraballo-Sandoval v. Honsted, 35 F.3d 521 (11th Cir. 1994); Evans v. Johnson, 808 F.2d 1427 (11th Cir. 1987); Belamy v. Bradley, 729 F.2d 416 (6th Cir. 1984).

### ***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 No. 5264.07, Telephone Regulations for Inmates. Telephone privileges are a supplemental means of maintaining community and family ties that will contribute 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. However, 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. 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 written correspondence between inmates and the community which is directed to socially useful goals. See 28 C.F.R. § 540.10, Subpart B-Correspondence; Program Statement No. 5265.11, Correspondence. Inmate correspondence is classified as either "general" or "special" mail. Generally speaking, "general correspondence" shall be opened and inspected by staff for both contraband and content which might threaten the security and 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 V - 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 No. 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. 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 No. 5270.07, Discipline and Special Housing Units.

In Wolff v. McDonnell, 418 U.S. 539 (1974), the Supreme Court held that prison disciplinary proceedings must contain certain due process protections if the process could result in the prisoner losing good time credits. Prohibited acts under the agency's disciplinary code are punishable by loss of good time. Accordingly, the BOP has fashioned its disciplinary process to incorporate the protections required by Wolff and incorporated in Program Statement No. 5270.07, Discipline and Special Housing Units and 28 C.F.R. § 541.10, et seq.

Prohibited acts are divided into categories according to severity and apply in all BOP institutions. Immediately after arriving at a BOP facility, all inmates are advised, in writing, of their rights and responsibilities, the list of prohibited acts, and the specifics of the disciplinary system. Violations of prohibited acts have sanctions corresponding to their seriousness, including time in disciplinary segregation, disallowance of good time credits, loss of privileges, and verbal warnings. See 28 C.F.R. § 541.13.

Each institution must follow the disciplinary process set forth in 28 C.F.R. § 541, beginning with the incident report and notice to the inmate, and continuing through appeal of the decision of the Unit Discipline Committee (UDC) or the Discipline Hearing Officer (DHO). See 28 C.F.R. §§ 541.14 - 541.19. Inmates may appeal a decision by the UDC or the 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 counsel, and reasonable opportunity to prepare legal documents. See Program Statement No. 1315.07, Legal Activities, Inmate.

### ***1. Law Libraries***

Every federal prison maintains a main law library to which all inmates are provided access, including inmates in administrative detention and disciplinary segregation status, and inmates with medical disabilities. Inmates not physically able to utilize the main law library (e.g., segregation, medical disability) are provided access to a basic law library and access to the main law library by staff. 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, and 28 Code of Federal Regulations;
- BOP Program Statements;
- American Jurisprudence 2d;
- Black's Law Dictionary;

- Federal Sentencing Guidelines;
- Legal Research, Writing, and Analysis (West Publishing Co.); and
- Various other reference materials.

## ***2. Preparation of Legal Documents***

Inmates are permitted a reasonable amount of time, ordinarily during leisure time (that is, when the inmate is not participating in a scheduled program or work assignment), to do legal research and to prepare legal documents. See 28 C.F.R. § 543, Subpart B - Inmate Legal Activities; Program Statement No. 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 No. 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 No. 1315.07, Sec. 9, Legal Activities, Inmate. Attorneys, and in some cases their representatives, may generally visit inmate clients as often as necessary, 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***

Special 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 No. 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 in order to avoid the correspondence being processed as general mail. 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 both contraband and qualification as "legal" mail. Staff do not read the content of "legal" mail. 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 No. 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 are not adequate. Id.

Inmate requests for unmonitored attorney calls are carefully reviewed insofar as important BOP interests are affected. Frequent unmonitored telephone calls increase an inmate's opportunity to pursue illegal activities without detection. Additionally, staff time and attention is 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 an issue that relates to virtually any aspect of their confinement, if informal procedures have not resolved the matter. See 28 C.F.R. Part 542 - Administrative Remedy; Program Statement No. 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 (CCCs) 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 providing extensions of time for both filing grievances and receiving responses.

If complaining about a sensitive issue, in the sense that 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, marking "Sensitive" upon the request and explaining, in writing, the reason for not submitting the request at the institution. See Program Statement No. 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 responded to. 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) (hereinafter, “PLRA”), enacted in April, 1996, requires prisoners to exhaust administrative remedies before filing lawsuits in federal court. That statute provides:

(a) Applicability of administrative remedies -

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, 122 S.Ct. 983 (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 the agency processes; (2) encourage respect for executive autonomy by allowing an agency opportunity to correct its own errors; (3) facilitate judicial review by affording courts the benefits of an agency's experience and expertise; and (4) serve 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***

BOP policy on inmate retention of personal property is found in Program Statement No. 5580.06, Personal Property, Inmate. See also 28 C.F.R. Part 553 - Inmate Property. Inmates may possess only that property which is authorized to be retained upon admission to the institution, which is issued while the inmate is in custody, which is purchased in the institution commissary, or which 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 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 Statement No. 4400.03, Property Management Manual.

### ***I. 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 Nos. 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 No. 5280.08, Furloughs. For federal prisoners 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 prisoner is incarcerated. See 28 C.F.R. § 570.32(a)(1). The warden is required by BOP policy to consider numerous eligibility criteria in considering furlough requests from federal prisoners. See Program Statement No. 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 it 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 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. Inmates who meet these and other requirements set forth in national policy may submit applications for furlough to their respective wardens. 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 No. 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.

## ***J. 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 prisoners 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 that a federal prisoner 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.

Prisoners 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 the term of imprisonment to the time the inmate has served, thereby making him 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 statutes authorize 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. Generally, 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 which 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, prisoners 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 No. 5800.07, Inmate Systems Management Manual.

A federal prisoner 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 immediate parole. See 18 U.S.C. § 4205(g); 28 C.F.R. § 572.40. In the event that 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 may 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 requests 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. Release to the Community after Term of Imprisonment***

Pursuant to 18 U.S.C. § 3624(c) most inmates nearing release or parole from a BOP institution will go to a CCC as a transitional service during the final portion of their sentences. This assists offenders in finding a job, locating a place to live, and re-establishing family ties. See Program Statement No. 7300.09, Community Corrections Manual.



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 program 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 Confinement***

Home confinement 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 confinement 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 No. 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 confinement, 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 confinement only during the last 10 percent of their sentences or six months, whichever is less. See 18 U.S.C. § 3624(c).

The BOP uses two different methods for monitoring inmates on home confinement. The first requires CCCs to 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. As of February 28, 2002, 1,583 federal offenders were on home confinement status.

#### **Appendix A - Federal Bureau of Prisons Facilities**

#### **Appendix B - List of Contacts in the Bureau of Prisons**

# ***APPENDIX A:***

## ***Federal Bureau of Prisons Facilities***

*(October, 2001)*

### **Central Office**

320 First St., 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: 301-317-3115

#### North Central Regional Office

Gateway Complex Tower II, 8th Floor  
400 State Avenue, Kansas City, KS  
66101-2492  
913-621-3939, Fax: 913-551-1175

#### Northeast Regional Office

U.S. Custom House, 7th Floor  
2nd and Chestnut Streets  
Philadelphia, Pennsylvania 19106  
215-521-7300, Fax: 215-521-7476

#### South Central Regional Office

4211 Cedar Springs Road, Suite 300  
Dallas, Texas 75219  
214-224-3389, Fax: 214-224-3420

#### Southeast Regional Office

3800 Camp Creek Parkway, S.W.  
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**

Bureau 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, N.W.  
Washington, D.C. 20534  
Phone: 800-995-6423 or 202-307-3106  
Fax: 202-307-3361

NIC Jails Division/Academy Division  
1960 Industrial Circle, Suite A  
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

### Abbreviations.

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, Box B  
Alderson, West Virginia 24910  
304-445-2901  
Fax: 304-445-2675  
Security Level: Minimum/Female

FCI Ashland  
P.O. Box 888  
Ashland, Kentucky 41105-0888  
606-928-6414  
Fax: 700-358-8552  
Security Level: Low/Male (adjacent  
Minimum/Male camp)

FCI Beckley  
P.O. Box 1280  
Beaver, West Virginia 25813  
304-252-9758  
Fax: 304-256-4955  
Security Level: Medium/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 999  
Old Oxford Hwy 75  
Butner, North Carolina 27509-1000  
919- 575-3900  
Fax: 919-575-4801  
Security Level: Male /Administrative Security

FCI Cumberland  
14601 Burbridge Road, S.E.  
Cumberland, Maryland 21502-8771  
301-784-1000  
Fax: 301-784-1008  
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  
606-255-6812  
Fax: 606-253-8821  
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)

FCI Memphis  
1101 John A. Denie Road  
Memphis, Tennessee 38134-7690  
901-372-2269  
Fax: 901-382-2462  
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  
P.O. Box 1000  
Petersburg, Virginia 23804-1000  
804-733-7881  
Fax: 804-733-7881  
Security Level: Low/Male (adjacent  
Minimum/Male camp)

FPC Seymour Johnson  
Caller Box 8004  
Goldsboro, NC 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: 312-322-0565  
Security Level: Administrative/Male/Female

FPC Duluth  
P.O. Box 1400  
Stebner Road  
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/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, CO 81226  
719-784-9454  
Fax: 719-784-5157  
Security Level: High/Male

FCI Greenville  
P.O. Box 4000  
100 U.S. Route 40  
Greenville, Illinois 62246  
618-664-6200  
Fax: 618-664-6398  
Security Level: Medium/Male (adjacent  
Minimum/Male 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  
Rt. 5, P.O. Box 2000

Marion, Illinois 62959  
618-964-1441  
Fax: 618-964-1695  
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: 309-477-4688  
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/Female

FCI Sandstone  
Kettle River Road  
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)

FCI Waseca  
P.O. Box 1731  
University Drive, S.W.  
Waseca, Minnesota 56093  
507-835-8972  
Fax: 507-837-4558  
Security Level: Low/Male

FPC Yankton  
Box 680  
Yankton, South Dakota 57078  
605-665-3262  
Fax: 605-665-4703  
Security Level: Minimum/Male

### **Northeast Region**

FCI Allenwood (Low)  
P.O. Box 1500  
White Deer, Pennsylvania 17887  
717-547-1990  
Fax: 717-547-1740  
Security Level: Low/Male

FCI Allenwood (Medium)  
P.O. Box 2500  
White Deer, Pennsylvania 17887  
717-547-7950  
Fax: 717-547-7751  
Security Level: Medium/Male

FPC Allenwood  
P.O. Box 1000  
Montgomery, Pennsylvania 17752  
717-547-1641

Fax: 717-547-1504  
Security Level: Minimum/Male

USP Allenwood  
P.O. Box 3500  
White Deer, Pennsylvania 17887  
717-547-0963  
Fax: 717-547-6124  
Security Level: High/Male

MDC Brooklyn  
80 29th Street  
Brooklyn, New York 11232  
718-840-4200  
Fax: 718-840-4225  
Security Level: Administrative/Male/Female

FCI Danbury  
Route 37  
Danbury, Connecticut 06811-3099  
203-743-6471  
Fax: 203-312-3110  
Security Level: Low/Female (adjacent  
Minimum/Female camp)

FMC Devens  
42 Patton Rd.  
Devens, MA 01432  
978-796-1000  
Fax: 978-796-1118  
Security Level: Administrative

FCI Elkton  
8730 Scroggs Road  
P.O. Box 89  
Elkton, Ohio 44415  
330-424-7448  
Fax: 330-424-4539  
Security Level: Low/Male (adjacent  
Minimum/Male camp)

FCI Fairton  
P.O. Box 280  
Fairton, New Jersey 08320  
609-453-1177  
Fax: 609-453-4015

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

USP Lewisburg  
R. D. #5  
Lewisburg, Pennsylvania 17837  
717-523-1251  
Fax: 717-524-5805  
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, PA 16701  
814-362-8900  
Fax: 814-362-3287  
Security Level: Medium/Male (adjacent  
Minimum/Male camp)

MCC New York  
150 Park Row  
New York, New York 10007  
212-240-9656  
Fax: 212-417-7673  
Security Level: Administrative/Male/Female

FCI Otisville  
P.O. Box 600  
Otisville, New York 10963  
914-386-5855  
Fax: 914-386-9455

Security Level: Administrative/Male (adjacent  
Minimum/Male camp)

FDC Philadelphia  
700 Arch Street  
Philadelphia, PA 19106  
215-521-4000

Security Level: Administrative

FCI Ray Brook  
P.O. Box 300  
Ray Brook, New York 12977  
518-891-5400

Fax: 518-891-0011

Security Level: Medium/Male

FCI Schuylkill  
P.O. Box 700  
Minersville, Pennsylvania 17954  
717-544-7100

Fax: 717-544-7225

Security Level: Medium/Administrative/Male  
(adjacent Minimum/Male camp)

### **South Central Region**

FCI Bastrop  
Box 730  
Highway 95  
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  
Beaumont, Texas 77720  
409-727-8187  
Fax: 409-626-3401

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

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

USP Beaumont  
P.O. Box 26035  
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  
409-823-1879  
Fax: 409-775-5681  
Security Level: Minimum/Female (adjacent  
Minimum/Female Intensive Confinement  
Center)

FMC Carswell  
P.O. Box 27066  
"J" Street, Building 3000  
Fort Worth, TX 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

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.  
Houston, Texas 77002-3505  
713-221-5400  
Fax: 713-229-4200  
Security Level: Administrative

FCI La Tuna  
P.O. Box 1000  
8500 Doniphan  
Anthony, New Mexico-Texas 88021  
915-886-3422  
Fax: 915-886-4977  
Security Level: Low/Male (adjacent  
Minimum/Male camp)

FCI Oakdale  
P.O. Box 5050  
Oakdale, Louisiana 71463  
318-335-4070  
Fax: 318-335-3936  
Security Level: Medium/Male

FDC Oakdale  
P.O. Box 5060

Oakdale, Louisiana 71463  
318-335-4466  
Fax: 318-335-4476  
Security Level: Administrative/Male (adjacent  
Minimum/Male camp)

FTC Oklahoma City  
P.O. Box 898892  
7500 MacArthur Boulevard  
Oklahoma City, Oklahoma 73189-8802  
405-682-4075  
Fax: 405-680-4041  
Security Level: Administrative/Male/Female

USP Pollock  
855 Airbase Road #1  
Pollock, LA 71467  
318-765-0007  
Fax: 318-765-2209  
Security Level: High/Male

FCI Seagoville  
2113 North Highway 175  
Seagoville, Texas 75159  
972-287-2911  
Fax: 972-287-5466  
Security Level: Low/Administrative/Male

FCI Texarkana  
P.O. Box 9500  
Texarkana, Texas 75505  
903-838-4587  
Fax: 903-223-4424  
Security Level: Low/Male (adjacent  
Minimum/Male camp)

FCI Three Rivers  
P.O. Box 4000  
Three Rivers, Texas 78071  
361-786-3576  
Fax: 512-786-4909  
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 33521-8999  
352-330-3003  
Fax: 352-330-0653

FCI Coleman (Low)  
868 N.E. 54th Terrace  
Coleman, Florida 33521-8999  
352-330-3100  
Fax: 352-330-0259  
Security Level: Low/Male

FCI Coleman (Medium)  
811 N.E. 54th Terrace  
Coleman, Florida 33521-8997  
352-330-3200  
Fax: 352-330-0552  
Security Level: Medium/Male

USP Coleman  
846 N.E. 54th Terrace  
Coleman, Florida 33521-1029  
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  
Eglin Air Force Base

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

FCI Estill  
100 Prison Road  
Estill, South Carolina 29918  
803-625-4607  
Fax: 803-625-3139  
Security Level: Medium/Male (adjacent  
Minimum/Male camp)

MDC Guaynabo  
P.O. Box 2146  
San Juan, Puerto Rico 00922  
809-749-4480  
Fax: 809-749-4363  
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: 850-482-6837  
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 0119118  
33 Northwest 4th Street  
Miami, Florida 33101-9118

305-982-1114  
Fax: 305-982-1357  
Security Level: Administrative/Male/Female

FPC Montgomery  
Maxwell Air Force Base  
Montgomery, Alabama 36112  
334-293-2100  
Fax: 334-293-2274  
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  
205-362-0410  
Fax: 205-315-4495  
Security Level: Medium/Male (adjacent  
Minimum/Male camp)

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

FCI Yazoo City  
P.O. Box 5050  
Yazoo City, Mississippi 39194  
601-751-4800  
Fax: 601-751-4905  
Security Level: Low/Male

### **Western Region**

USP Atwater  
P.O. Box 019000  
#1 Federal Way  
Atwater, CA 95301

209-386-0257  
Fax: 209-386-4615  
Security Level: High/Male (adjacent  
Minimum/Male camp)

FPC Boron  
P.O. Box 500  
Boron, California 93596  
760-762-5161  
(Deactivated 8/99)

FCI Dublin  
5701 8th Street, Camp Parks  
Dublin, California 94568  
925-833-7500  
Fax: 925-833-7599  
Security Level: Low/Female and  
Administrative/Male (adjacent  
Minimum/Female camp)

FDC Honolulu  
351 Elliott Street  
Honolulu, Hawaii 96819  
808-838-4200  
Fax: 808-838-4507  
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: 213-626-5801  
Security Level: Administrative/Male/Female

FPC Nellis  
C.S. 4500  
North Las Vegas, Nevada 89036-4500  
702-644-5001  
Fax: 702-644-7282  
Security Level: Minimum/Male

FCI Phoenix  
37900 N. 45th Avenue  
Department 1680  
Phoenix, Arizona 85027-7003  
623-465-9757  
Fax: 623-465-5133  
Security Level: Medium/Male (adjacent  
Minimum/Female camp)

FCI Safford  
P.O. Box 820  
Safford, Arizona 85548  
520-428-6600  
Fax: 520-348-1331  
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  
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/Administrative/Male  
(adjacent Minimum/Male camp)

FCI Terminal Island  
1299 Seaside Avenue, Reservation Point  
Terminal Island, California 90731-0207  
310-831-8961  
Fax: 310-732-5335  
Security Level: Medium/Male

FCI Tucson  
8901 South Wilmot Road  
Tucson, Arizona 85706  
520-574-7100  
Fax: 520-670-5674  
Security Level: Medium/Male,  
Administrative/Male/Female

FCI Victorville  
13777 Air Expressway Blvd.  
Victorville, CA 92394  
760-246-2400  
Fax: 760-246-2621  
Security Level: Medium/Male

### **Community Corrections Management Offices**

Atlanta CCM Office  
715 McDonough Blvd., SE  
Atlanta, GA 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  
301-317-3281, Fax: 301-317-3263  
Districts: Maryland, Delaware, District of  
Columbia, Northern West Virginia, Eastern  
Virginia

Boston CCM Office  
JFK Federal Building  
Suite 2200  
Boston, MA 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, IL 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, OH 45202  
513-684-2603, Fax: 513-684-2590  
Districts: Eastern Kentucky, Southern Indiana,  
Northern/Southern Ohio

Dallas CCM Office  
4211 Cedar Springs Road, Ste 100  
Dallas, TX 75202  
214-224-3522, Fax: 214-224-3367  
Districts: Eastern, Northern, and Western  
Oklahoma, Northern Texas

Denver CCM Office  
1961 Stout Street, Rm. 683  
Denver, CO 80294  
303-844-5177, Fax: 303-844-6189  
District: Colorado

Detroit CCM Office  
211 West Fort Street  
Suite 620  
Detroit, MI 48226  
313-226-6186, Fax: 313-226-7327  
Districts: Eastern/Western Michigan, Northern  
Indiana

District of Columbia Community Corrections  
Office  
800 North Capitol Street, N.W.  
Suite 270  
Washington, DC 20002-4244  
202-343-1282, Fax: 202-343-1298  
District: Washington, D.C.

El Paso CCM Office  
4849 North Mesa Street, #208  
El Paso, TX 79912  
915-534-6328, Fax: 915-534-6432  
Districts: New Mexico, Western Texas  
(Midland, Pecos, Del Rio, and El Paso Division)

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

Kansas City CCM Office  
U.S. Federal Courthouse  
Gateway Complex, Tower II  
400 State Avenue, Rm. 131  
Kansas City, KS 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, CA 90802-4221  
562-980-3536, Fax: 562-980-3543  
District: Central California  
Miami CCM Office

401 North Miami Avenue  
Miami, FL 33128-1830  
305-536-5705, Fax: 305-536-6530  
Districts: Puerto Rico, Virgin Islands, Southern  
Florida

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

Montgomery CCM Office  
P.O. Box 230727  
2350 Fairlane Dr., Suite 110  
Montgomery, AL 36123-0727  
334-223-7480, Fax: 334-223-7012  
Districts: Southern/Middle/Northern Alabama,  
Southern/Northern  
Mississippi, Northern Florida

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

New Orleans CCM Office  
Hale Boggs Building  
501 Magazine Street, Suite 1211  
New Orleans, LA 70113  
(504) 589-2371, Fax: (504) 589-2378  
Districts: Louisiana, Arkansas

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

Orlando CCM Office  
3659 Maguire Boulevard

Suite 650  
Orlando, FL 32803  
407-648-6049, Fax: 407-648-6058  
District: Middle Florida

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

Phoenix CCM Office  
Suite 425  
234 N. Central Ave.  
Phoenix, AZ 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, PA 15222  
412-395-4740, Fax: 412-395-4730  
Districts: Northern/Western New York, Western  
Pennsylvania

Raleigh CCM Office  
P.O. Box 27743  
310 New Bern Avenue, Rm. 325  
Raleigh, NC 27611-7743  
919-856-4548, Fax: 919-856-4777  
Districts: Southern West Virginia,  
Eastern/Middle/Western North  
Carolina, Western Virginia

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

St. Louis CCM Office  
The Robert A. Young Building  
1222 Spruce Street, Ste. 6.101

St. Louis, MO 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, UT 84111  
801-524-4212, Fax: 801-524-3112  
Districts: Utah, Wyoming, Nevada, Idaho

San Antonio CCM Office  
727 E. Durango, Room B-138  
San Antonio, TX 78206  
210-472-6225, Fax: 210-472-6224  
District: Western Texas

Seattle CCM Office  
3160 Jackson Federal Bldg.  
915 Second Ave.  
Seattle, WA 98174  
206-220-6593, Fax: 206-220-6591  
Districts: Alaska, Oregon, Western/Eastern  
Washington, Montana

# ***APPENDIX B:***

## ***List of Legal Contacts in the Bureau of Prisons***

*(October, 2001)*

### ***OFFICE OF GENERAL COUNSEL***

Christopher Erlewine, General Counsel  
Kathleen M. Kenney, Deputy General Counsel  
James Ropelewski, Deputy General Counsel  
320 First Street N.W., 7<sup>th</sup> Floor  
Washington, D.C. 20534  
Phone: 202-307-3062  
Fax: 202-307-2995

Jeffrey Toenges, Associate General Counsel  
Legislative and Correctional Issues Branch  
Phone: 202-307-2105  
Fax: 202-305-9684

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  
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