



Bureau of Prisons Revamps Prison Designation Process

Since our April 2006 *Champion* article, *Securing a Favorable Federal Prison Placement*, the Federal Bureau of Prisons has made several changes to the process utilized to determine the appropriate prison for a particular defendant. This update describes the most important changes.

In 2005, the Bureau of Prisons (BOP) began to phase out its regional designators — the people who decided where inmates were sent. That process is now complete. When the U.S. Marshal receives the judgment in a criminal case, he or she no longer requests a designation from the BOP's local Community Corrections Management (CCM). The BOP now processes initial designations, transfers, and inmate sentence computations from its consolidated Designation and Sentence Computation Center (DSCC) in Grand Prairie, Texas.

As before, the judgment generally includes any recommendation by the sentencing judge with respect to place of confinement. If the Statement of Reasons (SOR) has not been included in the judgment order the Bureau receives, the DSCC staff now must make a reasonable effort to obtain a copy by contacting the court or U.S. Probation Office. This change in procedure is an improvement, since it better ensures that the Bureau will follow the intentions of the court when designating a facility, as the SOR may

contain information which overrides the Presentence Investigation Report (PSR) and may affect security classification decisions as part of the designation process.

Under the new system, after a court sentences someone to serve a term of confinement, the designation request, federal judgment order, and PSR are sent to the DSCC. Who does the sending can vary from judicial district to judicial district. In many districts, these documents are transmitted to the Bureau electronically. The Bureau anticipates that soon all judicial districts will follow this practice.

Once the DSCC receives a designation request and the necessary documentation (PSR, judgment, and USM Form 129 showing time in custody), it assigns the case to the team that handles cases from that particular federal district court. There are 18 such teams at the DSCC — each with responsibility for specific federal judicial districts. Teams include records technicians (called legal instrument examiners, or LIEs), case management staff, administrative assistants, and operations members.

The first thing a team does is “score” an inmate. To score an individual, the designation staff considers various factors, including: (a) court recommendation, if any, (b) voluntary surrender status, (c) severity of current offense, (d) criminal history category, (e) history of violence, (f) history of escape, (g) detainees, if any, (h) age, (i) education level (verified high school, enrolled in high school or GED, or no high school), and (j) drug/alcohol abuse within the past five years.¹ Since the PSR is the source for this information, it remains essential that counsel ensure that it is accurate and complete.

While the description of the scoring process in our April 2006 article remains generally accurate, there have been some changes worth noting. The recent scoring changes with regard to drug/alcohol abuse and education levels can now raise the total security level score by no

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more than three total points. Now, the criminal history category can increase the total by up to 13 points, which could increase security by one or two levels. There can be a change, for example, from minimum security to low or medium security. The age category now requires scoring higher points for younger offenders, which can also increase the security classification by one or two levels. The scoring for education and drug/alcohol abuse can now result in a total point increase of no more than three points, which primarily impacts those cases that might be borderline between security levels. For example, a minimum security case scoring at the top of the BOP minimum security range could be raised to low security with the addition of these points.

Public safety factors (PSFs) are the next items the DSCC team considers. Two changes are worth noting. First, while the *violent behavior* PSF still applies to female inmates whose current term of confinement or history involves two convictions for serious incidents of violence within the last five years, such inmates are no longer automatically assigned to the Carswell Administrative Unit, FMC Carswell, Texas. Unless the PSF is waived, inmates with this PSF will be assigned to at least a low security level institution. Second, the *serious escape* PSF now has different criteria for male and female inmates. A female inmate, involved in a serious escape within the last 10 years including the current term of confinement, will now be assigned to the Carswell Administrative Unit unless the PSF has been waived. A male inmate who has escaped from a secure facility, or has an escape from an open institution or program with a threat of violence, will now be housed in at least a medium security level institution unless the PSF is waived.

Finally, the DSCC looks at the defendant's medical history and determines what medical care level institution would be appropriate. The April 2006 *Champion* article discusses the medical care levels established by the BOP. While PSFs and medical care levels are now determined by the DSCC team, the process described in the April 2006 article remains accurate.

The April 2006 *Champion* article also discussed management variables (MGTVs) — factors that can trump a defendant's security score or PSF and are generally imposed by the designator. Two new MGTVs not included in the April 2006 article are:

❖ *PSF Waived.* This MGTV is applied when a PSF has been reviewed and approved for waiver by the DSCC administrator, and will cause the inmate

to be placed at a different security level than if the PSF were in place.

❖ *Long-Term Detainee.* Although the BOP assigns security levels to long-term alien detainees at the time of initial classification, these detainees do not receive subsequent custody reviews as do non-alien regular BOP inmates. Therefore, should circumstances warrant a transfer to a lesser or higher security, the BOP assigns this MGTV. This MGTV can only be approved by the BOP Detention Services Branch, Correctional Programs Division, Central Office.

After the team scores the individual for security classification and completes a sentence computation, it enters the case into the Bureau's computer database for designation. It does not actually designate anyone to a particular institution. That task is now handled by one of seven senior designators. The senior designators also are responsible for all federal inmate transfers based on disciplinary or supervisory needs. Assistant designators handle "routine" inmate transfers.

While this new system may be cost-effective for the Bureau, it makes it more difficult for defense counsel to help clients receive particular designations. Under the old system, an attorney could always call the regional designator to discuss particular areas of concern. That level of personal attention is not always possible for many attorneys unfamiliar with the BOP under the new system. It is often not possible for them to speak with the specific senior designator assigned to a particular client because designations are randomly divided between the seven senior designators. Attorneys who are not personally acquainted with the senior designators are limited to speaking with someone on the team responsible for the pertinent judicial district. In our experience, while team members seem to welcome information that should be useful in the designation decision, they may be unwilling to discuss with attorneys unfamiliar with them or the system the kinds of issues that regional designators were willing to discuss with anyone.

Under the new system it will also not be as easy for an inmate to resolve sentence computation problems. When prison records offices did the actual sentence computations, an inmate could resolve a calculation error by bringing it to the attention of the records office. Easy fixes will no longer be possible under the new system. Not only do institution records offices no longer compute sentences, they are not even able to access the Bureau's computer system to make necessary corrections.

Notes

1. The forms that list these factors (one for male and one for female inmates) are part of BOP Program Statement 5100.08, which can be found at http://bop.gov/policy/progstat/5100_008.pdf. ■

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