
CORPORATE CRIME REPORTER

EXPERT NAMES TOP FIVE PRISONS FOR WHITE-COLLAR CRIMINALS

Hand caught in the corporate cookie jar?

Guilty on all counts?

Judge sentences you to the slammer?

Fear not, dear corporate CEO.

There is a guide for your post-conviction life.

It's called the *Federal Prison Handbook 2005*.

And it's author – Alan Ellis – wants you know – there is prison, and there is prison.

While the guidebook profiles each of the nation's 178 federal prisons, only about a third of them are minimum security prisons – or federal prison camps – suitable for your average CEO.

And Ellis says – this is what you want – a federal prison camp.

While the fabled Club Fed is a thing of the past – you know, get up in the morning, play golf, steak and lobster for dinner – federal prison camps are a cut above your other currently available alternatives.

Ellis is a lawyer who specializes in federal sentencing and post-conviction remedies.

The federal system houses 180,000 prisoners.

Ellis estimates that about ten percent, or 18,000, are white-collar criminals.

In an interview with *Corporate Crime Reporter*, we asked Ellis to name his top five prisons for white-collar criminals.

Here's his list:

Yankton, South Dakota. "A stand alone federal prison camp," Ellis says. "A vanishing breed. These are camps that are not satellites to larger more secure institutions. It happens to be a converted college that went defunct. It's in the middle of the town, not on the outskirts. There is a lot of community programming. People leave during the day and come back at night."

Englewood, Colorado. "That's outside of Denver," Ellis says. "It's a satellite camp to the federal correctional institution there. I'm told by my clients that it is a pretty laid back place."

Texarkana, Texas. "The federal prison camp there has an drug and alcohol treatment program," he says. "It has a pond stocked with fish. And one of my clients said he liked to spend his day fishing."

Sheridan, Oregon. A federal prison camp outside of a medium level security facility about 60 miles from Portland.

Pensacola Naval Base. "You get out during the day, you work on the Naval base, you intermingle with Navy personnel," Ellis says. "The food is better. You are outside. I've had people who were taking care of the grounds at the admiral's house. The admiral's wife would bring out lemonade, invite the inmate in for lunch. Things of that sort."

"If you are Jewish, I would say the federal prison camp at Otisville, New York, about 70 miles from New York City," Ellis adds. "It has programs for orthodox and religious Jews. It has religious furloughs where people leave the prison for religious holidays."

Ellis says that while most white-collar convicts are assigned to federal prison camps, getting into a federal prison camp is not slam dunk automatic. (See *Interview* with Alan Ellis, page 10.)

SIMI VALLEY HOSPITAL PAYS \$3.6 MILLION TO RESOLVE FALSE CLAIMS CASE

Simi Valley Hospital and Health Care Services has paid the government \$3,645,872 to resolve allegations that it submitted false claims to Medicare.

Without admitting wrongdoing, the hospital agreed to pay the settlement to resolve a federal fraud investigation into the hospital's billing practices.

Under the Medicare program, hospitals are reimbursed through the Diagnostic Related Groups – or DRG – classification system.

When a patient is discharged, a hospital assigns a diagnosis code that determines the DRG, and that in turn determines the payment the hospital will receive for the treatment rendered to the patient.

Simi Valley Hospital and Health Care Services was accused of routinely "upcoding" – it submitted claims for more intensive or sophisticated levels of service than what had been actually documented by

(See **SIMI VALLEY**, page three)

Men are not angels, even when they speak for the worker. Add into the mix a coddled, politically connected company that is insulated from a variety of outside pressures by public-sector control, and that sort of hothouse is bound to grow some bad seeds. For the workers' sakes, we hope the scandal is dealt with forcefully. But a real fix would involve addressing VW's corporate governance and ownership structure.

– *The VW Scandal, Editorial, Wall Street Journal, July 12, 2005*

INTERVIEW WITH ALAN ELLIS, SAN RAFAEL, CALIFORNIA

Here's the thing about the federal system:

If you are indicted, there is a 19 out of 20 chance that you will be convicted – for you math majors – that's 95 percent.

Alan Ellis is a practicing attorney in San Rafael, California.

Ellis looked at these numbers and said to himself – the hell with trial, I'm going straight to sentencing.

And he did.

Ellis' exclusive practice is federal sentencing and post-conviction remedies.

He is the author of the *Federal Prison Handbook* (2005), which profiles all of the nation's 178 prisons and advises attorneys on how to secure a favorable prison for their clients.

We interviewed Ellis on July 18, 2005.

CCR: What is your current practice?

ELLIS: Our practice is exclusively federal sentencing and post-conviction remedies.

Our goal is to obtain for our clients the lowest possible sentence – and if it is one of incarceration, to be served in the best place possible, under terms and conditions that will enable the client to get home as quickly as possible.

We have a national practice with regional offices in the San Francisco and Philadelphia areas.

Our San Francisco office is located in the suburb of San Rafael, California, and our Philadelphia office is located in the suburb of Ardmore, Pennsylvania.

CCR: How many cases on your docket at any one time?

ELLIS: At any one time, there could be as many as fifty.

CCR: What percentage are white collar cases?

ELLIS: At this point, eighty percent are white-collar. It didn't used to be that way. Now it is.

CCR: Five years ago, what was it?

ELLIS: Forty percent drug, fifty percent white-collar, and 10 percent federal child pornography.

CCR: Do you have any corporate clients?

ELLIS: No. I only represent clients who have a liberty interest at stake.

CCR: Your practice is one hundred percent post-conviction?

ELLIS: One hundred percent federal sentencing and post-conviction remedies.

CCR: Are you one hundred percent in the federal system?

ELLIS: Yes.

CCR: Why is that?

ELLIS: Several reasons. Number one is – I don't know what I'm doing in the state system.

Better to refuse a case and be thought ignorant than accept it and remove all doubt. There isn't a heck of a lot of white-collar work in the state systems. One would have to familiarize oneself with all of these different jurisdictions around the country.

CCR: How many competitors do you have?

ELLIS: Technically, none.

There are lawyers who handle federal sentencing, lawyers who handle federal prison matters, and lawyers who handle direct appeals and habeas corpus petitions.

But there are no full-service federal sentencing and post conviction law firms like ours who do all three.

I'm 61 years old. I've been doing this for 35 years.

There are younger newer lawyers who are coming along doing this, recognizing that it's a niche practice that can be very rewarding – intellectually as well as financially.

My greatest fear has always been that someone would come along, younger, hipper, and better looking than me.

CCR: Who are those people?

ELLIS: There is a young lawyer who used to be counsel for Families Against Mandatory Minimums. His name is Todd Bussert. He's in Connecticut.

There is a former associate of mine – Alan Chaset – he's in Alexandria, Virginia.

And there's another good lawyer in Nashville, Tennessee – Richard Crane.

CCR: What about Herb Hoelter?

ELLIS: Herb is a sentencing specialist, but he's not an attorney.

CCR: You get a lot of referrals from the big white collar firms?

ELLIS: Yes.

CCR: Do some of the big white-collar firms just wing it on their own on the sentencing aspects of white-collar cases?

ELLIS: Unfortunately, yes.

CCR: Let's look at the Bernard Ebbers sentencing. He was sentenced to 25 years. Did Ebbers' lawyers do the sentencing aspect on their own?

ELLIS: Either that, or they hired somebody like Herb Hoelter to assist them.

CCR: Do we know whether they did or didn't?

ELLIS: I don't know. Their names never appear in the record of the case. When people hire me, one of three things can happen.

One is I enter my own appearance along with local counsel.

Two, I appear of counsel with the firm that has associated me.

Or three, I consult, ghost-write, and my name doesn't appear anywhere in the paperwork.

CCR: When and where did you attend law school?

ELLIS: I graduated from Villanova Law School in 1967.

CCR: Have you been doing this work all of your professional life?

ELLIS: No. I spent my first two years as a federal law clerk in Philadelphia. I then spent one year teaching business law at the Wharton School of Business and Finance at the University of Pennsylvania.

I was then hired to be a law professor at Golden Gate University School of Law in San Francisco at the ripe old age of 26.

I taught there for a year from 1970 to 1971.

I then started my practice.

CCR: Have you been doing this kind of practice from the beginning?

ELLIS: No. I started practicing in State College, Pennsylvania where I went to undergraduate school at Penn State. I had a storefront office.

I was the students' lawyer. I was the president of the ACLU. I was the only liberal lawyer in town.

I was doing a lot of drug cases back then. I developed a statewide practice in Pennsylvania. I was trying cases.

I tried three cases – lost my first two, won the third and I quit on top.

It got really old. I didn't like trial work.

And I did not like Pennsylvania winters.

So, I did that until 1980.

I then opened an office in Philadelphia, where I was born and raised.

I started doing federal work. I was doing appeals, pre-trial motions and the like.

Then the Burger Court came to be. I saw the handwriting on the wall. Things were not good for the Fourth Amendment and illegal searches and seizures – which was the key issue in drug cases.

For most people, how much time they were going to do and where they were going to do it were probably the two most important considerations in their cases – much more so in the federal system, with the higher rate of conviction.

In state court, there is a defense – you got the wrong guy, some other guy did it, she consented. You don't have that in federal court.

CCR: What don't you have in federal court?

ELLIS: You have fewer trial defenses. For the most part, all you have is reasonable doubt. The feds don't indict unless they feel confident they can convict.

CCR: What percent of federal cases end up with a conviction?

ELLIS: Ninety-four percent result in pleas. Of the six percent that go to trial, the government prevails in 74 percent of the cases. So, 19 out of 20 federal defendants are going to wind up in front of a sentencing judge.

CCR: Ever since the 1980s, you have been doing sentencing law. When did you start publishing the *Federal Prison Guidebook*?

ELLIS: The first one was in 1998. The Bureau of Prisons published something called *Facilities 1989*. And they used to update it every year.

The last one was in 1992. It was a real slimmed down version of what we do. They would tell you something about the facilities.

CCR: Doesn't the Bureau of Prisons web site do the same thing now?

ELLIS: No. The only thing you can get from the web site is where the prison is, how to get there, what their visiting regulations are.

CCR: It has an inmate locator?

ELLIS: It has that, but it doesn't have anything about the prison as far as what vocational programs are available, what educational programs are available?

CCR: Why did the Bureau of Prisons stop publishing its annual guide to prisons?

ELLIS: I have no idea.

CCR: When the Bureau stopped doing it, you said – hey, we can do this?

ELLIS: Yes. We said – we can fill the void.

CCR: How many prisons are there in the federal prison system?

ELLIS: At least 178.

CCR: What kind of prisons are there?

ELLIS: There are six types of federal prisons including federal detention centers where pre-trial, pre-sentenced defendants are held.

Once people are sentenced, they are designated to a federal facility, to one of five types of federal facilities.

The least secure form is called a minimum security facility. These are the so-called federal prison camps.

Then you have low, medium, high and federal medical centers.

CCR: Which ones are the Club Feds?

ELLIS: None.

CCR: Did Club Fed ever exist?

ELLIS: Yes. Probably back in the 1960s. A movie was made of mob people who were devouring lobster and steak behind bars. But that doesn't exist anymore.

There are federal prison camps that do not have fences around them.

You can walk away if you'd like. Very few people do. If you walk away and you are caught, you are charged with escape and you are never going back to a federal prison camp again.

CCR: When you say federal prison camp, you mean minimum security?

ELLIS: Yes.

CCR: How many of the 178 plus federal prisons are minimum security?

ELLIS: About a third – but they account for 19% of all inmates.

CCR: What percentage of the federal prison population is white collar criminal?

ELLIS: A very small percentage – less than 10 percent.

People have this misimpression that the federal prison system is chuck full of white-collar criminals. Not true.

Most of my clients who are white-collar inmates are shocked when they arrive to find that the vast majority of people there are minority drug dealers.

Talk about culture shock.

My sense is that more than half of the inmates are drug convicts.

In fact, Bureau of Prison statistics indicate that it's 54 percent – followed by weapons, explosives, and arson offenses which account for 13 percent of inmates, immigration offenses which make up 11 percent, robbery 6 percent, burglary, larceny and property offenses 4 percent, homicide, aggravated assault, kidnaping make up 3 percent, sex offenses 1 percent, and national security less than 0.1 percent and probably growing.

White-collar offenders – if you include extortion, fraud, bribery, banking and insurance crimes, counterfeiting, embezzlement, antitrust violations, election law offenses, and environmental and regulatory offenses – probably account for about ten percent.

Of course with over 180,000 federal inmates, 18,000 white-collar offenders is nothing to sneeze about.

CCR: What's the breakdown - white-collar criminal versus street criminal?

ELLIS: Ten percent white-collar, the rest others.

CCR: For the most part, do the white-collar criminals end up in the minimum security prisons?

ELLIS: For the most part, yes. But, many people think that they are automatically going to get into a minimum facility because they are a white-collar offender, because they have no prior record.

But that is not always the case.

For example, if the Bureau of Prisons believes that you are a security risk or a management concern, you are not going to get into a federal prison camp.

They define a management concern as somebody who is a violent offender, a predatory type inmate.

Very few white-collar offenders fit that mold, so that is generally not a problem.

Security risk is another matter.

The Bureau of Prisons relies almost exclusively on the pre-sentence report to make its placement decisions.

I have had white-collar clients whose pre-sentence investigation report finds them to have substantial assets abroad.

The Bureau concludes from this that you might walk away, jump on a plane, fly to a country that doesn't have an extradition treaty with the United States and stay there.

I have had clients like that get designated to low-level facilities that have barbed wire fences around them for that reason alone.

CCR: A white-collar defendant is convicted.

Automatically, the judge orders a pre-sentence report?

ELLIS: Yes.

CCR: Who does the pre-sentence report?

ELLIS: The U.S. Probation Office, which is part of the federal courts.

Each district has its own probation office. Each office has two components.

One writes pre-sentence reports. That's all they do.

The other supervises people released from custody or are on probation.

CCR: Why are pre-sentence reports done?

ELLIS: To allow the judge to impose an appropriate sentence.

Even though the sentencing guidelines now are merely advisory, the probation officer needs to calculate the guideline score.

The report looks at the circumstances surrounding the offense, who the victims are, any restitution that may be owing, to whom, how much, offender characteristics like family background, employment history, physical health, mental health, substance abuse, prior record.

CCR: How can a sentencing lawyer like yourself affect sentencing?

ELLIS: In my opinion, big-time, especially in the wake of the Supreme Court decision in *Booker*, which said that the guidelines are advisory.

CCR: Some who have analyzed the sentences since have said that *Booker* hasn't changed sentencing, that judges are still adhering to the guidelines.

ELLIS: That data seems to indicate that.

Judges are still unfamiliar as to how far they can go under *Booker*.

Some judges have never sentenced under a pre-guidelines system, which didn't kick in until 1987.

And they feel very comfortable with the guidelines and not having to make individual sentencing determinations.

Also, I don't think many lawyers have taken advantage of *Booker* as well as they could have and represented their white-collar clients the way they could have to get a below the guidelines sentence.

CCR: What is a mitigation specialist?

ELLIS: A mitigation specialist is a non-lawyer criminal justice professional.

We have two in our firm – both of whom are forensic licensed clinical social workers.

They evaluate the client, talk to doctors, family,

friends, co-workers and tell the story about who this guy is, why he did what he did, why he's worthy of a break, why he's unlikely to do it again.

CCR: They did all of that for Ebbers, and he still got 25 years, which is the equivalent of a life sentence.

ELLIS: It works for me.

CCR: How do you know that it works?

ELLIS: I believe in my heart of hearts that I can obtain for a client a lower sentence than he would have obtained had I not been in the case.

In my most recent sentence, the government recommended 63 months for a tax evader.

We got him 41 months.

That's the kind of difference we are making.

CCR: When you see a white-collar case, what are the most fertile areas you are going to explore?

ELLIS: In every case, you have to answer the why question – why did this guy do what he did?

I used to say it was a two-part question, with the second question being – why won't he do it again?

But most white-collar offenders are not going to do it again.

The question is – why did they do what they did?

One category of defendant is the terminally stupid.

The second category is the follies of youth.

The third category is perhaps the largest – a nice guy who made a bad mistake in judgment.

The fourth client is the greedy, avaricious son of a bitch.

The fifth one is the mentally ill. And I don't mean the 95 IQ guy drooling from the mouth, walking on all fours. I'm talking about people who have had significant mental health disorders which contributed to the commission of their offense.

CCR: Your question is – is the client crazy?

ELLIS: Right. That's what I mention in my most recent article – *Representing the White Collar Client in a Post-Booker World*.

If you think your client is crazy, guess what? He may be crazy.

CCR: Let's say you answer number four – the client is a greedy, avaricious son of a bitch.

Do you go to the judge and tell the truth – the client is a greedy, avaricious son of a bitch?

ELLIS: No, unless I saw a real good strategic reason for doing that – and I can't think of any right now.

CCR: So, what do you say to the judge in that case?

ELLIS: It's a take on the old legal adage – if the law is against you, argue the facts.

If the facts are against you, argue the law.

And if both the law and the facts are against you, take the probation officer out for lunch.

CCR: So, back to the original question – what are the areas that work in getting a lesser sentence for a white-collar criminal?

ELLIS: The guidelines look at something called aberrant behavior.

Under the guidelines, you can get a reduced sentence for aberrant behavior.

CCR: Isn't most white-collar crime aberrant behavior?

ELLIS: That depends on how you define aberrant behavior.

There used to be two schools of thought on this.

One school of thought was that it had to be a spontaneous impulsive act.

You are driving down the street, and the back door of a Brinks armored truck flies open and out drops a sack of money.

You immediately brake your car, pick up the money, and take off in the opposite direction.

You have never done anything like this in your life.

Some courts say – that is aberrant behavior and only that is aberrant behavior.

Others said – no, a marked departure from an otherwise law-abiding life, if not done over a very long period of time, could constitute aberrant behavior.

The guidelines took a middle ground.

They said – this can't take a long period of time.

If this has been going on for a while, it isn't aberrant behavior.

Post-*Booker*, I can go in and argue that the behavior was out of character.

I don't call it aberrant behavior – I call it out of character.

A marked deviation from an otherwise law-abiding life.

CCR: What's an example of a case where it has worked?

ELLIS: I get letters from friends and business associates saying – cannot believe that this person did what he did. He's a pillar of the community.

CCR: That's almost every white-collar criminal. They go to church, they live in the suburbs, they

have two kids and two cars – or more.

The neighbors think the guy is the best thing since sliced bread. They don't know what the guy is doing at work. Aberrant behavior can be argued for every white-collar criminal.

ELLIS: No, because some of these people have been doing what they have been doing a long time, particularly the people in the boiler rooms.

CCR: Forget the boiler rooms. I'm talking about the CEOs and CFOs from mainstream companies.

ELLIS: These people aren't virgins. Many have been doing what they have been doing for a while.

CCR: So, aberrant behavior exists among white-collar criminals.

ELLIS: Well, again I don't call it aberrant behavior. I call it out of character behavior.

And I'm not talking about somebody who has been ripping off investors for a long period of time.

I'm talking about somebody who has come to this very recently because of financial setbacks, mental health problems, other emotional factors.

CCR: What comes after aberrant behavior?

ELLIS: Mental health disorders.

Do people with mental health disorders get to be CEOs?

Yes. They get to be politicians, judges and lawyers.

Is it paranoid schizophrenia? I don't think so.

People that are delusional, psychotic?

I don't think so.

But bipolar disorders, people that are manic?

Yes, big time.

Bipolar disorder, manic depression, where people have incredible highs and lows.

I had a client who I was very successful with bipolar disorder with psychotic features.

In his case, he ripped off Medicaid.

He was ripping off Medicaid in New York State.

He agreed to pay restitution in the amount of \$800,000.

And unless he paid it right away, he was going to jail.

New York State prisons are not Club Feds.

So what did he do? He defrauded Medicare.

He suffered from a delusion that federal medicare was a gift from God to allow him to pay back New York Medicaid.

We got him probation.

CCR: What happened to the Club Feds?

ELLIS: They were few and far between. They did

exist.

CCR: But why did the system get rid of the golf courses?

ELLIS: Bad publicity.

CCR: Martha Stewart went to a minimum security prison in West Virginia.

ELLIS: The women there call it Camp Cupcake. She could have walked off into the wilds of West Virginia.

CCR: Do you have sense as to how many federal inmates skip out when they are sentenced?

ELLIS: Very few. They are generally out on bail pending sentencing. They virtually all show up to sentencing. Then they are virtually all allowed to self-surrender. They virtually all show up.

They could walk away from the camp, but very few do that.

CCR: You sometimes argue something called post-offense rehab. That one is hard to believe.

ELLIS: Well, I demonstrate it. I develop a community service option and have the client start right away.

And I'm not talking about writing checks or sponsoring the a golf classic.

I'm talking about ladling soup in the soup kitchens.

Mental health treatment is also helpful.

CCR: You believe that there are always good alternatives to prison.

ELLIS: Yes, for non-violent criminals.

The violent people I want as far away from me as I can get them.

CCR: Prisons should be reserved for violent criminals only?

ELLIS: Probation and fines for white-collar offenders isn't enough.

You have to make a principled argument to a sentencing judge.

You can't just pull a figure out of the air.

Mid-range sentencing alternative options such as halfway houses and home confinement also are appropriate.

CCR: If a high profile white-collar criminal is sentenced to anything other than a minimum security prison, has the defense attorney failed?

ELLIS: No. In some cases – for example, my guy with a 41-month sentence, the tax evader – this judge believes that he has assets hidden abroad and that he is an escape risk.

The judge took the unusual step of revoking his bail when the verdict came in.

And that was because of the assets abroad.

The only way to get that kind of a convict into a minimum security prison is to use a polygraph.

And I test them on the question – do you have assets abroad?

If he passes it, I go running to the probation officer and the judge with a copy of the results.

If he doesn't, it goes into the shredder.

CCR: Do you look at the big named cases, and their sentences and say to yourself – the defense lawyers in those cases messed up?

ELLIS: Yes.

CCR: What are the mistakes that you see defense attorneys making?

ELLIS: Not answering the why question, and therefore not humanizing the guy enough.

Not proposing an alternative.

Not having their client evaluated by a mental health professional.

CCR: Maybe these high-profile defendants don't want to admit that they are mentally ill.

ELLIS: Are you kidding? I never had a problem. Scratch that. I have one client currently pending sentencing who I've had to drag kicking and screaming to a forensic psychiatrist.

Finally, I just got the report back today and it is going to help me big time.

It is a battered woman with a dependent personality disorder who was convicted along with her father.

She always did whatever daddy told her to do.

And that's going to be my argument at sentencing – daddy told me to do it.

Daddy said – do this. And she did it.

Another way that lawyers mess up in this area is that they don't prep the client prior to the pre-sentence interview.

The client goes in drinking like a fish, or abusing pharmaceutical drugs.

And they are unaware that the Bureau of Prisons has this comprehensive drug and alcohol treatment program, which if successfully completed can result in up to one year taken off of your sentence by the Bureau of Prisons. That's significant.

I have lawyers telling their clients – when they ask you about your drug and alcohol problem, just say – you have an occasional glass of wine with dinner.

CCR: The day after Ebbers was sentenced, the *New York Daily News* ran a photo of Ebbers crying leaving the courthouse.

They called him "Million Dollar Baby."

Do white-collar criminals break down and cry often?

ELLIS: I had a client who literally passed out in the courtroom after sentencing was imposed. The judge ordered the nurse to resuscitate him.

I have had clients cry. But generally, white-collar defendants are not crybabies.

CCR: Since 1998, you have been putting out the *Federal Prison Guidebook*. It comes out every two years. What's in it?

ELLIS: There is a full description of every federal prison in the United States – security level, location, hotels and motels nearby where family members can stay, vocational programming, drug and alcohol treatment, libraries, educational programming, recreational facilities.

We have practice tips. An interview titled - *How to Do Time*. An article titled *Securing a Federal Prison Placement*.

This is the Fodor's guide to federal prisons. It is not subjective.

We don't say – this is the place to go, the food is great, the staff is terrific.

CCR: You don't rate the food?

ELLIS: No, we don't do ratings. It's all too subjective. One client said to me – this place is great Alan. Another client goes to the same place, and he hates it.

CCR: If you were to recommend a place for a white-collar criminal, what would you recommend? Give me the top five.

ELLIS: Yankton, South Dakota. A stand alone federal prison camp. A vanishing breed. These are camps that are not satellites to larger more secure institutions. It happens to be a converted college that went defunct. It's in the middle of the town, not on the outskirts. There is a lot of community programming. People leave during the day and come back at night.

Englewood, Colorado. That's outside of Denver. It's a satellite camp to the federal correction institution there. I'm told by my clients that it is a pretty laid back place.

Texarkana, Texas. The federal prison camp there has an drug and alcohol treatment program. It has a pond stocked with fish. And one of my clients said he liked to spend his day fishing.

CCR: Any place where you can play golf?

ELLIS: No.

CCR: But you can fish?

ELLIS: Yes. But most people suffer from boredom in prison. The most common complaint in prison is

boredom.

Sheridan, Oregon has a federal prison camp outside of a medium level security facility about 60 miles from Portland.

If you are Jewish, I would say the federal prison camp at Otisville, New York, about 70 miles from New York City.

It has programs for orthodox and religious Jews. It has religious furloughs where people leave the prison for religious holidays.

CCR: Even if you were not Jewish, Otisville would make the top five?

ELLIS: No. I would throw in the federal prison camp at Pensacola Naval Base.

You get out during the day, you work on the Naval base, you intermingle with Navy personnel. The food is better. You are outside. I've had people who were taking care of the grounds at the admiral's house. The admiral's wife would bring out lemonade, invite the inmate in for lunch. Things of that sort.

I also should mention that sometimes a defense lawyer plays up a prisoner's illness in the hopes of getting a more lenient sentence, and it backfires.

The Bureau of Prisons orders the inmate to a federal medical prison, which is not minimum security.

CCR: Were you once president of the National Association of Criminal Defense Lawyers (NACDL)?

ELLIS: Yes, in 1990. I was the only non-trial lawyer up until that time to be president.

CCR: How many criminal defense lawyers are there in the country?

ELLIS: There are 12,000 members of the NACDL. So maybe 75,000 total. But only 15 percent concentrate on federal practice.

CCR: The NACDL recently received a grant to set up a white-collar crime project. Who is the donor?

ELLIS: I don't know.

CCR: Why the big secret?

ELLIS: The donor wants to be anonymous.

CCR: One last thing. Do white-collar defendants worry about being assaulted – sexually or otherwise – in prison? And is it a legitimate concern?

ELLIS: Not really, but it can happen – that's why we have a chapter in our Guidebook on how to do time.

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