

Getting Out Early: BOP Drug Program

The Federal Bureau of Prisons provides a very specialized program that can benefit offenders with substance abuse problems, which include not only alcohol and illicit drugs addictions, but also abuse of pharmaceutical medications. As an incentive, the program offers qualified offenders time off their sentences in addition to good conduct time. This program is known as the 500-hour Comprehensive Residential Drug Abuse Program (RDAP). Indeed, RDAP is the only mechanism by which federal inmates can now potentially receive a reduction in their sentences beyond earning good conduct time credit.

There is a broad category of offenders who are eligible for this program. Some of them will be eligible for early release benefit of up to 12 months (the BOP average is 8.5 months) and an extended halfway house and home confinement placement (usually six months) at the end of their sentence. (18 U.S.C. § 3621(e).)

Eligibility for RDAP is determined by institutional case management, the RDAP coordinator, and psychology services staff. First, they look for verification of an inmate's substance abuse problem through a check of available official documents, which almost always includes the presentence investigation report.

Next, the offender must meet formal psychological diagnostic criteria. Again, Bureau of Prisons staff will look at official background documentation, such as the presentence report, for information that supports the diagnosis. The

Alan Ellis, of the Law Offices of Alan Ellis in San Rafael, California, and Ardmore, Pennsylvania, is a nationally recognized authority in the fields of plea negotiations, sentencing, appeals, parole and prison matters, habeas corpus 2241 and 2255 petitions, and international prisoner transfer treaties. He is the publisher of *Federal Presentence and Post Conviction News*,

and coauthor of the *Federal Prison Guidebook*, *The Federal Sentencing Guidebook* and the *Federal Post Conviction Guidebook*. He is also a contributing editor to *Criminal Justice* magazine. **J. Michael Henderson** is a federal prison consultant to the Law Offices of Alan Ellis with more than 23 years of experience working with the Bureau of Prisons where he served as the former regional designator for the Western Region of the United States.



offender must not have a serious mental disorder that would interfere with the ability to successfully participate in RDAP. The program is voluntary and the eligible offender must sign a formal participation agreement.

Once placed in BOP custody and within 36 months of release, a prisoner can request an eligibility interview. The submission of the request initiates the RDAP application, and, within a short period, the inmate should receive notice of an interview with either the institution's RDAP coordinator or a drug treatment specialist, or, if the facility does not offer RDAP, a member of the psychological services staff. Ideally, the eligibility interview should be scheduled within sufficient time for persons to be in RDAP within 27 months or more from projected release (sentence length less any pretrial or anticipated good time credits).

The interview itself can be a source of extreme stress. Given the § 3621(e) incentive, as well as a general suspicion of prisoners, interviewers approach each applicant with an abundance of cynicism. An applicant can safely assume that no matter what appears in the presentence report, the interviewer will pose difficult questions and insist on knowing whether voluntary admission is sought in good faith to obtain treatment, or simply to secure a quicker return home. Customary inquiries include when applicants learned about the program, particularly about the § 3621(c) credit; whether attorneys advised them to exaggerate treatment needs when meeting with Probation; and exacting details about drug or alcohol use (e.g., when, how often, where, with whom, others' awareness, etc.). (Todd Bussert and Joel Sickler, *Bureau of Prisons Update: More Beds, Less Rehabilitation*, THE CHAMPION, 42, 44 (March 2005).)

The RDAP program is available at many of the Bureau's institutions, and for all security levels except high security at the federal penitentiaries. (See list of facilities that offer the program on page 69.) RDAP is currently in high demand, which sometimes necessitates the trans-

BOP'S RESIDENTIAL DRUG ABUSE TREATMENT PROGRAM

INSTITUTION, STATE	MONTHS	SECURITY LEVEL	SEX	OTHER
[Mid-Atlantic Region]				
FPC Alderson, WV	9	Minimum	F	
FCI Beckley, WV	9	Medium, Minimum	M	
FCI Butner, NC	9	Low	M	
FCI Cumberland, MD	9	Minimum	M	
FMC Lexington, KY	9	Low, Medium	M	addt'l dual dx program
FCI Morgantown, WV	9	Minimum	M	
[North Central Region]				
FCI Englewood, CO	9	Minimum	M	
FCI Florence, CO	9	Medium, Minimum	M	
FCI Greenville, IL	9	Minimum	F	
USP Leavenworth, KS	9	Minimum	M	
FCI Milan, MI	9	Low	M	
FCI Oxford, WI	9	Medium	M	
FCI Sandstone, MN	9	Low	M	
FCI Waseca, MN	9	Low	M	
FPC Yankton, SD	9	Minimum	M	
[Northeast Region]				
FPC Allenwood, PA	9	Minimum	M	
FCI Danbury, CT	9	Low	F	
FCI Elkton, OH	9	Low	M	
FCI Fairton, NJ	9	Medium	M	
FCI Ft. Dix, NJ	9	Low	M	
FPC LewisBerg, PA	9	Minimum	M	
FCI McKean, PA	9	Minimum	M	
[South Central Region]				
FCI Bastrop, TX	9	Low	M	Spanish available
LSCI Beaumont, TX	9	Low, Minimum	M	
FPC Bryan, TX	9	Minimum	F	
FMC Carswell, TX	9	All	F	addt'l dual dx program
FCI El Reno, OK	9	Medium	M	
FCI Forrest City, AR	9	Low	M	
FCC Forrest City, AR	9	Medium	M	
FMC Ft. Worth, TX	9	Low	M	
FCI La Tuna, TX	9	Minimum, Low	M	Spanish available-low
FCI Seagoville, TX	9	Low	M	
FCI Texarkana, TX	9	Minimum	M	
[Southeast Region]				
LSCI Coleman-Low, FL	9	Low	M	Spanish available
FCI Edgefield, SC	9	Minimum	M	
FCI Jesup, GA	9	Low	M	
FCI Marianna, FL	9	Medium	M	
FCI Miami, FL	9	Minimum	M	Spanish available
FPC Montgomery, AL	9	Minimum	M	Spanish available
FCI Talladega, AL	9	Medium	M	
FCI Tallahassee, FL	9	Low	F	Spanish available
[Western Region]				
FCI Dublin, CA	9	Low, Medium	F	Spanish available
FCI Dublin, CA	9	Minimum	F	
FPC Englewood, CO	9	Minimum	M	
FCI Lompoc, CA	9	Low	M	Spanish available
FPC Nellis, NV	9	Minimum	M	
FCI Phoenix, AZ	9	Minimum	F	
FCI Phoenix, AZ	9	Medium	M	
FCI Sheridan, OR	9	Medium, Minimum	M	
FCI Terminal Island, CA	9	Low	M	Spanish available

fer of an offender from one facility to another where space is available. RDAP classes are called cohorts, as participants are housed together in designated quarters. These offenders are expected to devote a portion of each day to RDAP, with a part-time institutional work assignment. RDAP can be completed in as little as nine months, and, optimally, when offenders complete it they are transferred to community correctional centers (halfway houses) for transitional prerelease program assistance that lasts for up to six months.

When inmates are 90 percent of the way to their 3621(e) release date (full sentence less good conduct time less reduction for successful completion of the RDAP in- and outpatient program), they are eligible for referral to home confinement.

The following categories of inmates are not eligible for the RDAP program:

- INS detainees;
- pretrial inmates;
- contractual boarders (for example, District of Columbia, state, or military inmates).

Inmates not eligible for early release, include those who have a prior felony or misdemeanor

conviction for homicide, forcible rape, robbery, aggravated assault, or child sexual abuse, and inmates whose current offense is a felony that 1) has an element, the actual, attempted, or threatened use of physical force against the person or property of another, 2) involved the carrying, possession, or use of a firearm or other dangerous weapon or explosives, 3) by its nature or conduct presents a serious potential risk of physical force against the person or property of another, or 4) by its nature or conduct involves sexual abuse offenses committed upon children. Inmates with firearm convictions and inmates who have received a two-level adjustment in their drug guideline offense severity score for possession of a dangerous weapon (including a firearm) pursuant to section 2D1.1(b)(1) of the U.S. Sentencing Guidelines are also ineligible for early release. (For information on the specific crimes that would preclude an inmate from an early release, see Bureau of Prison Program Statement 5162.04, available at www.bop.gov. While precluding early release, these offenses do not necessarily preclude the offender from the RDAP program and its extended prerelease placement.) ■