

4. inmates with detainers that preclude halfway house placement.

The Sentence Reduction

The determination as to whether an inmate is ineligible for early release has been the subject of significant controversy. After much litigation, the BOP modified the criteria for eligibility for early release from a sentence for successful completion of RDAP. (See 28 C.F.R. § 550.55; FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, P5331.02 (a pending revision to 28 C.F.R. §550.55 will liberalize criteria for a §3621(e) reduction), EARLY RELEASE PROCEDURES UNDER 18 U.S.C. § 3621(E) (2009) [hereinafter P.S. 5331.02]; FED. BUREAU OF PRISONS, U.S. DEP'T OF JUSTICE, P5162.05, CATEGORIZATION OF OFFENSES (2009) [hereinafter P.S. 5162.05].) This change was intended to exclude violent offenders by the exercise of the implicit discretion placed in the BOP by the statute, 18 U.S.C. § 3621(e)(2)(B), rather than by definition of the statutory language “nonviolent offense.” The authority for determining whether prior offense history or current offense characteristics preclude § 3621(e) credit has been moved to the BOP’s Designation and Sentence Computation Center (DSCC) in Grand Prairie, Texas.

BOP policy, which the US Supreme Court has upheld, denies early release to persons who have been convicted of a crime of violence—homicide, forcible rape, robbery, aggravated assault, child sexual offense (but *not* possession of child pornography), arson, or kidnapping—or a felony offense (1) that has as an element the actual, attempted, or threatened use of physical force against the person or property of another; (2) that involved the carrying, possession, or use of a firearm or other dangerous weapon or explosives (including any explosive material or explosive device); (3) that by its nature or conduct presents a serious potential risk of physical force against the person or property of another; or (4) that 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 US Sentencing Guidelines Manual Section 2D1.1(b) (1) are also ineligible for early release. For information on the specific crimes that would preclude an inmate from an early release, see P.S. 5162.05. ■