



Reducing Recidivism: The Bureau Of Prisons Comprehensive Residential Drug Abuse Program

The Federal Bureau of Prisons' 500-hour Comprehensive Residential Drug Abuse Program (RDAP) is a specialized program for offenders with substance abuse problems.¹ Today, RDAP is the only Bureau of Prisons (BoP) program, other than the good conduct time provided by 18 U.S.C. § 3624(b), through which an inmate may reduce his sentence. It was not always so.

In 1989, when the BoP implemented its first three residential Drug Abuse Treatment Pilot Programs (DAP), an inmate who completed the then 12-month-long program received no reduction in sentence.² Low numbers of DAP volunteers led the BoP Executive Staff to approve residential Drug Abuse Treatment Program incentives in October 1991. Those incentives included performance pay awards, and special T-shirts, ball caps, and pens, but no possibility of sentence reduction.³ All that changed with the passage of the 1994 Violent Crime Control and Law Enforcement Act (VCCLEA).⁴ This important legislation mandated a number of changes, the most significant of which authorized the BoP Director to provide up to a 1-year sentence reduction for non-violent inmates

who successfully completed a (RDAP). See Section 32001 of the Act (codified at 18 U.S.C. § 3621(e)(2)(B)).⁵ The same section of the VCCLEA also required BoP by the end of Fiscal Year 1997 to provide residential drug abuse treatment for all inmates who were "eligible." In May 1995, BoP revised its policy, in accordance with the VCCLEA, to require a verifiable, documented drug, alcohol, or prescription abuse problem before an inmate can be admitted to the program.

RDAP now has the potential to benefit a large percentage of the federal inmate population. When the BoP screened thousands of presentence reports in Fiscal Years 2002 and 2003, it discovered that approximately 40 percent of inmates entering BoP custody met the criteria for a substance abuse disorder. While not all inmates are eligible for RDAP,⁶ a broad category of offenders are. For those who complete the program, many, but not all, will be eligible for the early release benefit of up to 12 months (the current BoP average is between seven and eight months), and an extended halfway house placement (usually 6 months) with possible home confinement at the end of their sentences.

By Alan Ellis, J. Michael Henderson, and James H. Feldman, Jr.

The following categories of inmates are not eligible for early release:

- Inmates who have a prior felony or misdemeanor conviction for homicide, forcible rape, robbery, aggravated assault, or child sexual abuse offenses.
- Inmates whose current offense is a felony that:
 - has as an element, the actual, attempted, or threatened use of physical force against the person or property of another;
 - involved the carrying, possession, or use of a firearm or other dangerous weapon or explosives. This restriction also affects inmates with firearms 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 U.S.S.G. § 2D1.1(b)(1);
 - by its nature or conduct presents a serious potential risk of physical force against the person or property of another; or
 - by its nature or conduct involves sexual abuse offenses committed upon children;

For additional information for specific crimes that would preclude an inmate from an early release, see Bureau of Prison Program Statement 5162.04 which can be found at http://bop.gov/policy/prog-stat/5162_004.pdf. While these offenses preclude an offender from an early release, they do not necessarily preclude him or her from RDAP and its extended pre-release placement.

Although RDAP is not offered at high security federal penitentiaries, it is offered at many other BoP institutions at all other security levels. See Appendix A at right. Because RDAP is in high demand,

Appendix A: Reducing Recidivism Residential Drug Abuse Treatment Programs In The BoP

<i>Institution/State</i>	<i>Months</i>	<i>Security Level</i>	<i>Sex</i>	<i>Other</i>
Mid-Atlantic Region				
FPC Alderson, WV	9	Minimum	Female	
FCI Beckley, WV	9	Medium, Minimum	Male	
FCI Butner, NC	9	Low	Male	
FCI Butner, NC	9	Medium	Male	
FCI Cumberland, MD	9	Minimum	Male	
FMC Lexington, KY	9	Low, Medium	Male	Additional dual dx program
FCI Morgantown, WV	9	Minimum	Male	
North Central Region				
FCI Englewood, CO	9	Minimum	Male	
FCI Florence, CO	9	Medium, Minimum	Male	
FCI Greenville, IL	9	Minimum	Female	
USP Leavenworth, KS	9	Minimum	Male	
FCI Milan, MI	9	Low	Male	
FCI Oxford, WI	9	Medium	Male	
FCI Sandstone	9	Low	Male	
FCI Waseca, MN	9	Low	Male	
FPC Yankton, SD	9	Minimum	Male	
Northeast Region				
FCI Danbury, CT	9	Low	Female	
FCI Elkton, OH	9	Low	Male	
FCI Fairton, NJ	9	Medium	Male	
FCI Ft. Dix, NJ	9	Low	Male	
FPC Lewisburg, PA	9	Minimum	Male	
FCI McKean, PA	9	Minimum	Male	
South Central Region				
FCI Bastrop, TX	9	Low	Male	Spanish available
LSCI Beaumont, TX	9	Low, Minimum	Male	
FPC Bryan, TX	9	Minimum	Female	
FMC Carswell, TX	9	All	Female	Additional dual dx program
FCI El Reno, TX	9	Medium	Male	
FCI Forrest City, AR	9	Low	Male	
FCC Forrest City, AR	9	Medium	Male	
FMC Ft. Worth, TX	9	Low	Male	
FCI La Tuna, TX	9	Minimum, Low	Male	Spanish available - Low
FCI Seagoville, TX	9	Low	Male	
FCI Texarkana, TX	9	Minimum	Male	Southeast Region
LSCI Coleman-Low, FL	9	Low	Male	Spanish available
FCI Edgefield, SC	9	Minimum	Male	
FCI Jesup, GA	9	Low	Male	
FCI Marianna, FL	9	Medium	Male	
FCI Miami	9	Minimum	Male	Spanish available
FPC Montgomery, AL	9	Minimum	Male	Spanish available
FPC Pensacola, FL	9	Minimum	Male	
FCI Talladega, AL	9	Medium, Minimum	Male	
FCI Tallahassee, FL	9	Low	Female	Spanish available
Western Region				
FCI Dublin, CA	9	Minimum	Female	
FCI Dublin, CA	9	Low, Medium	Female	Spanish available
FCI Lompoc, CA	9	Low	Male	Spanish available
FCI Phoenix, AZ	9	Minimum	Female	
FCI Phoenix, AZ	9	Medium	Male	
FCI Sheridan, OR	9	Medium, Minimum	Male	
FCI Terminal Island, CA	9	Low	Male	Spanish available

inmates sometimes must be transferred to a different facility to participate in the program. An institution's case management staff, the RDAP coordinator, and psychology services staff determine an inmate's eligibility for RDAP. The first thing they look for is verification of an inmate's substance abuse problem. They do this by checking the available official documents, which almost always includes the presentence investigation report (PSI).

Because the PSI is the primary document on which the BoP relies for its RDAP placement decisions, defendants should frankly inform U.S. Probation Officers about substance abuse, including the abuse of alcohol and prescription drugs. Other documentation of abuse, such as medical records, should, whenever possible, be included with the PSI and Judgment Order that are forwarded to the Bureau of Prisons when a prison designation is requested by the U.S. Marshal's Service. Although U.S. Probation Officers preparing PSIs always ask defendants during the presentence interviews about substance abuse, sometimes defendants withhold that information, fearing that it might harm them later. When the PSI does not report substance abuse, it is still possible for a defendant to be eligible for RDAP if his or her history of substance

abuse can be documented to the satisfaction of the Bureau. That history of abuse can be established by written documentation provided by medical or mental health professionals familiar with the offender.

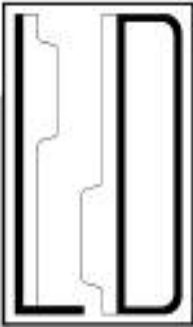
Once the BoP is convinced that an inmate has a substance abuse problem, the offender must meet formal psychological diagnostic criteria. Bureau of Prisons staff look to official background documentation, such as the PSI, for information that supports such a diagnosis. Although an inmate must satisfy formal psychological diagnostic criteria for substance abuse, he or she must not have a serious mental disorder which would interfere with his or her ability to successfully participate in RDAP. Before being accepted into the program, an inmate must also pass an eligibility interview with RDAP or psychology staff. Finally, because the program is voluntary, an eligible offender must sign a formal participation agreement. Although an inmate does not need a judicial recommendation to be admitted to RDAP, a recommendation can help make sure an otherwise qualified offender is admitted to RDAP and gets initially designated to a BoP facility with the RDAP Program.

RDAP classes are called cohorts, because participants are housed

together in designated quarters, rather than in quarters which also house non-RDAP inmates. Participants spend a portion of each day in RDAP, which includes intensive therapy five days a week. Inmates spend the remainder of their day at institutional work or education assignments. Once inmates complete RDAP, they receive aftercare treatment services both in the general population and after they are transferred to community corrections centers. This maximizes the carry-over of skills and ensures an effective transition from the institution program to the community.

RDAP can now be completed in as little as nine months. Optimally, when offenders complete the program, they are transferred to community correctional centers (halfway houses) for transitional pre-release program assistance for up to six months. When the inmate is within 10 percent of his 3621(e) release date (full sentence length less good conduct time less reduction for successful completion of the RDAP in- and out-patient program), s/he is eligible for referral to home confinement.

Currently, there are approximately 6,000 inmates enrolled in RDAP at 49 different prisons, with approximately



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7,600 more inmates waiting to get in the program.

RDAP is not only good for prisoners, it also benefits society in general. That is the conclusion of a study performed by the Bureau of Prisons in conjunction with the National Institute on Drug Abuse. That study, known as the TRIAD Drug Treatment Evaluation Project, can be found in its entirety at http://www.bop.gov/news/research_reports.jsp#drug. Among its findings: (1) RDAP participants are significantly less likely to recidivate and less likely to relapse upon release than non-participants; (2) RDAP participants are significantly less likely to relapse to drug use; and (3) women inmates who complete the program have improved employment figures after release. In addition, an evaluation of inmate behavior found that institutional misconduct among male inmates who completed RDAP was reduced by 25 percent when compared

to misconduct among similar non-participating male inmates; and institutional misconduct among female inmates who completed residential treatment was reduced by 70 percent. These results demonstrate that residential drug abuse treatment in corrections-based settings makes a significant difference in the lives of inmates following their release from custody and yields a significant benefit to institution safety and security.

Notes

1. Substance abuse is not limited to alcohol or illicit drugs. It may include abuse of pharmaceutical medications.

2. Admission into the programs was voluntary, and required inmates to have (1) a drug problem and to have completed the BoP's Drug Abuse Education Course; (2) no outstanding legal concerns to interfere with Community Corrections Center (CCC) placement; (3) no serious medical or mental

health problems; (4) no violent behavior within the last 12 months; and (5) between 24 and 36 months remaining on their sentences. There were no incentives for DAP participation.

3. At that time, the BoP further modified admission criteria to require that individuals meet the Diagnostic and Statistical Manual of Mental Disorder (DSM-III-R — American Psychiatric Association, 1987) criteria for substance abuse or dependence.

4. Section 110505(2)(B), 108 Stat.2017.

5. Earlier drafts of the bill provided the possibility of a year's reduction to any inmate who completed the program. See, e.g., H.R.Rep. No. 103-320, p. 2 (1993). The version of the bill that eventually became law limited the inducement to "prisoner[s] convicted of ... nonviolent offense[s]." 18 U.S.C. § 3621(e)(2)(B).

6. INS detainees, pre-trial inmates, and contractual boarders, such as D.C., state, or military inmates, are not eligible for RDAP.

7. See 18 U.S.C. § 3621(e). ■

About the Authors

Alan Ellis, a past-president of the National Association of Criminal Defense Lawyers (1990-1991), 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. With offices in San Francisco, Philadelphia, and Bangkok, Thailand, Ellis has successfully represented federal criminal defendants and prisoners throughout the United States and abroad. He is the publisher of three highly acclaimed guidebooks: the *Federal Sentencing Guidebook*, the *Federal Post Conviction Guidebook* and the *Federal Prison Guidebook*. Ellis also publishes "Federal Sentencing and Post Conviction News." He has recently authored several articles on the United States Supreme Court's decision in *United States v. Booker*.



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