

Memo

To: Members of the CJS Subcommittee
From: Pat Nolan, Vice President of Prison Fellowship
Re: BOP Underutilization of Statutorily Allowed Halfway House Placements
Date: March 8, 2009

At this week's CJS hearing, I hope the members will closely question Harley Lappin about the BOP's policies halfway house placements. They have adopted very restrictive policies that severely limit the amount of time inmates are assigned to halfway houses. There are several statutes that authorize halfway house placements that are underutilized as a matter of BOP policy.

These statutes allow the BOP to place offenders in halfway houses:

Second Chance Act – The SCA allows up to 12 months halfway house for all inmates, to be determined on an individual basis, and in particular as an incentive for inmates to participate in programs that prepare them for reentry. Instead, the BOP has arbitrarily limited halfway house to six months, unless the warden and the regional director sign the recommendation. There are several ways in which this policy is directly contrary to the letter of the Second Chance Act as well as the spirit of the SCA, as discussed below. I can tell you from the flood of correspondence from inmates Prison Fellowship has received, this policy has had a terrible impact on the morale of the inmates preparing for release as well as their mentors.

Good Time Credit –,The BOP is statutorily allowed to release inmates after they serve 85% of their sentence. The BOP has adopted a method of computing good time credits which forces the inmates to serve 87.5%. Why?

Boot Camp – The number of federal prisoners assigned to boot camps is extremely small. Studies have shown that, unlike many state boot camps, the federal program is very successful in reducing recidivism. Why isn't the BOP increasing the number of beds available in boot camps?

RDAP Program – This drug and alcohol treatment program allows a reduction of sentence by a year. Yet, because of bureaucratic dysfunction at the BOP, many inmates are placed in RDAP program so late in their sentence that there is less than a year left on their sentence, thereby depriving them of the full time off that the statute affords them.

Background on BOP policies on halfway house assignments

The BOP has adopted policies that severely restrict the placement of offenders in halfway houses. These policies result in less time for the inmates to reestablish contact and rebuild their relationships with family, meet more frequently with their mentors, search for employment, arrange for housing, obtain a drivers license or ID, arrange for health care, and find a house of worship.

These are pro-social activities that significantly improve the chances of successfully making the transition from prison to freedom – and they are activities that are almost impossible to complete from inside prison. Plus, they take time to accomplish even in a halfway house. That is why the Second Chance Act calls for placement “of sufficient duration to provide the greatest likelihood of successful reintegration into the community.”

The Act also offers “the maximum allowable period in a community confinement facility” as an incentive for inmates to participate in reentry and skills development programs. And the Act instructs the BOP to prepare an individual assessment to determine the appropriate period of halfway house assignment.

Despite the clear language of the Second Chance Act, the BOP issued a policy that limits halfway house assignments to six months, and provides for rare only "upon a showing of an inmate's extraordinary and compelling re-entry needs" and only with the signature of the warden and the regional director of the BOP. As a result very few counselors have undertaken the added paperwork to seek placements longer than six months. Some counselors have even told the inmates that they will go the “hole” (solitary confinement) if they even request a placement longer than six months.

Holding inmates for even one day longer than necessary costs the taxpayers significantly more money, and is very discouraging for inmates who are eager to reunite with their families. In addition, while at the halfway house the offenders become contributors to the community, paying one quarter of their earnings for their upkeep, and pay income and payroll taxes.

It is puzzling that the BOP continues to resist lengthening halfway house assignments, despite several clear statutes authorizing them to do so. The BOP claims that studies have shown that the benefit of halfway house assignments declines after six months. But when asked for a citation to such a study, they demur. In fact, after an extensive search, neither I nor other prison reform advocates can find any research that supports the BOP position. In fact, the experience of Prison Fellowship is that a year is usually sufficient. In some cases even longer assignments are helpful, but six months is barely adequate to make the difficult transition from prison to freedom. The key is to make individual determinations as to the appropriate length of placement, with the usual placement being 12 months. The BOP policy makes placements of longer than six months very hard to attain. In fact, virtually no placements of longer than six months have been granted since the SCA became law.

Potential Questions for Director Lappin

Why haven't you adopted policies to comply with the Second Chance Act's authorization of 12 months placement in halfway houses?

Since the SCA passed in April of last year how many inmates have been given placements longer than six months?

How many empty beds are available in halfway houses that the BOP contracts with?

What steps has the BOP taken to expand the number of halfway house beds available to comply with the SCA? How many additional beds do you plan to be available by the end of this fiscal year? By the end of next year?

Why doesn't the BOP use a method of computing halfway house placements so that the inmates get the full 15% allowed by law?

What are you doing to expand the number of beds available in boot camps?

How many inmates have not been able to take advantage of the full year off their sentence for participating in the RDAP program because they weren't admitted to the program in time to get the full year? What steps are you taking to maximize the time off inmates receive for participating in RDAP?