



***U.S. Sentencing Commission
National Seminar
Inmate Classifications, Designations,
and Programs***

***Federal Bureau of Prisons
Designation & Sentence Computation Center
Grand Prairie, Texas***

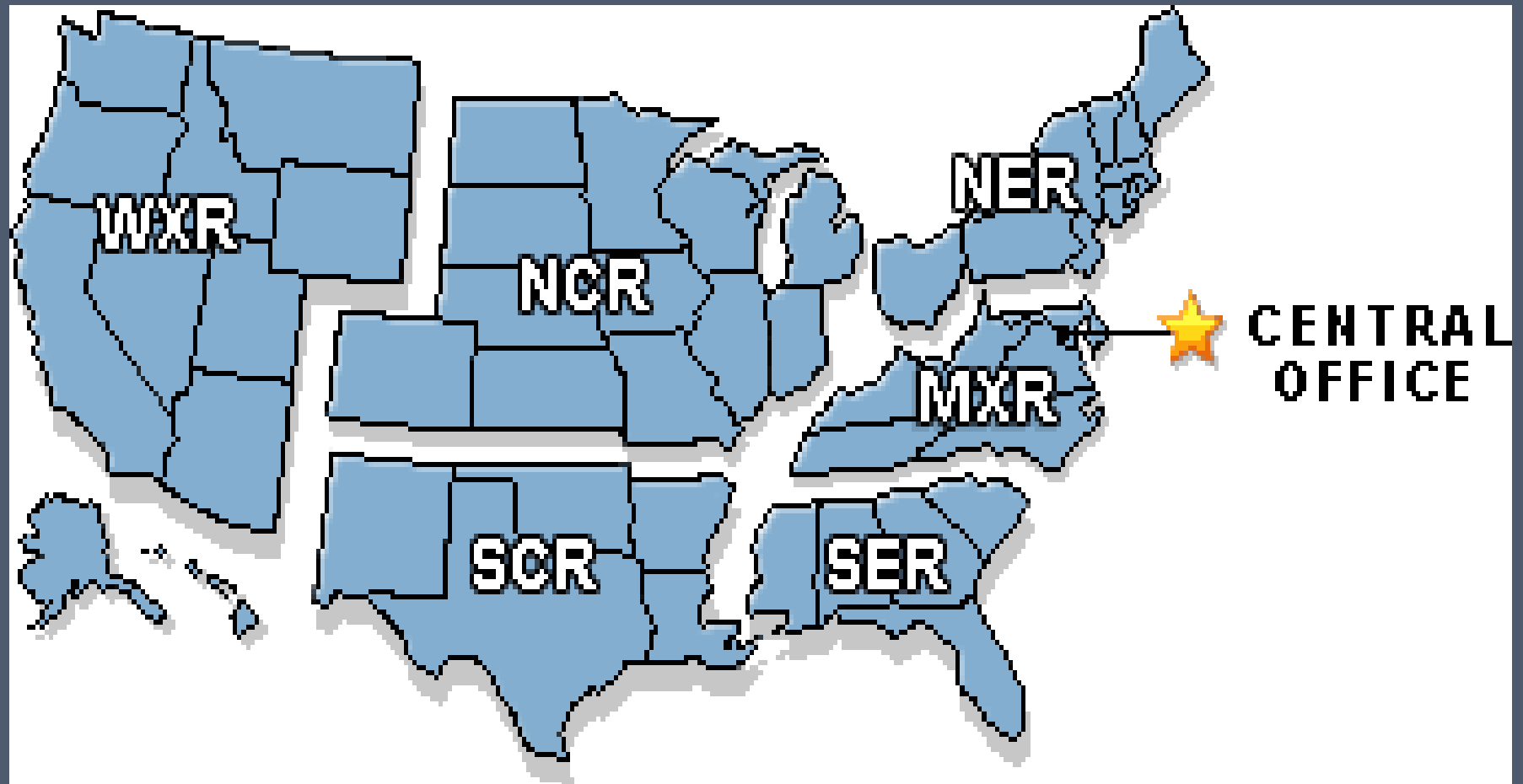
***Jose A. Santana, Chief
Paul Irby, Senior Counsel
Craig Pickles, Section Chief***

Objectives



- **Overview of the Federal Bureau of Prisons**
- **Initial designations & judicial recommendations**
- **Recommended information to be included in a Presentence Investigation Report**
- **Specific Programs: Drug Treatment Programs, Sex Offender Management Programs, and UNICOR**

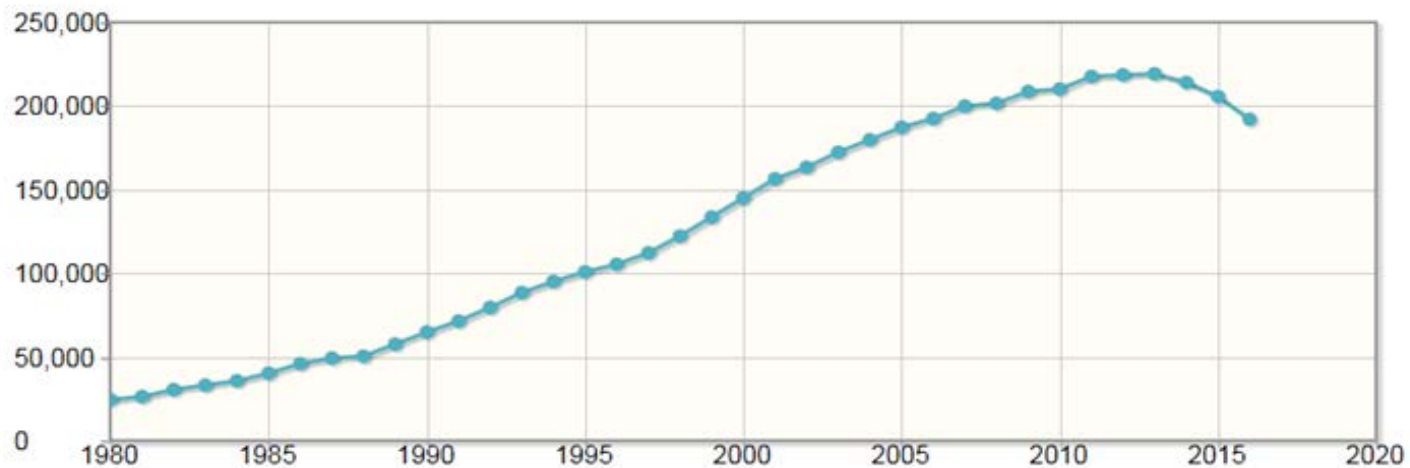
Federal Bureau of Prisons The Central Office & 6 Regions



BOP Quick Facts

- Total BOP inmate population: 187,060
 - This is a nearly 15% reduction from the peak of 219,300 inmates in 2013
 - Population decline factors: changes to drug quantity tables in Sentencing Guidelines (Amendment 782), decline in federal prosecutions due to DOJ's Smart on Crime Initiative, Armed Career Criminal Act (*Johnson v. United States*), Executive Clemency

Past Inmate Population Totals



BOP Quick Facts



- 122 correctional institutions
- 10 private contract correctional institutions
 - Generally, inmates designated to private institutions are male, low security, non-U.S. citizens with 90 months or less to serve, and medical care levels 1 or 2.
- 17 institutions designated for female offenders
 - FPC Alderson, FCI Aliceville, FPC Bryan, FMC Carswell
SPC Coleman, SPC/FSL Danbury, FCI Dublin,
SPC Greenville, SFF Hazelton, SPC Lexington,
SPC Marianna, SPC Pekin, SPC Phoenix, FCI Tallahassee,
SCP Tucson, SPC Victorville, FCI Waseca

DESIGNATION PROCESS



BOP's Designation Authority



- Under 18 U.S.C. § 3621(b), the BOP has the discretionary authority to designate a federal inmate's place of incarceration after considering:
 - The contemplated facility's resources;
 - The nature and circumstances of the inmate's offense;
 - The inmate's history and characteristics;
 - Any statement by the sentencing court regarding the sentence or recommendations; and
 - Any pertinent Sentencing Commission policy statement.

Initial Designation Process

Who has Primary Custodial Jurisdiction?



- Primary custodial jurisdiction is the legal concept established by the U.S. Supreme Court in Ponzi v. Fessenden, 258 U.S. 254, 262 (1922), that the question of who exercises custodial jurisdiction over an individual charged with crimes against two sovereigns is a matter of comity to be resolved by the sovereigns.
- Vested in the sovereign that first arrests a defendant until that sovereign relinquishes its authority
- Can be relinquished through operation of law (bail release, dismissal of charges, parole, sentence expiration) or by mutual agreement between the sovereigns

Initial Designation Process

Who has Primary Custodial Jurisdiction?



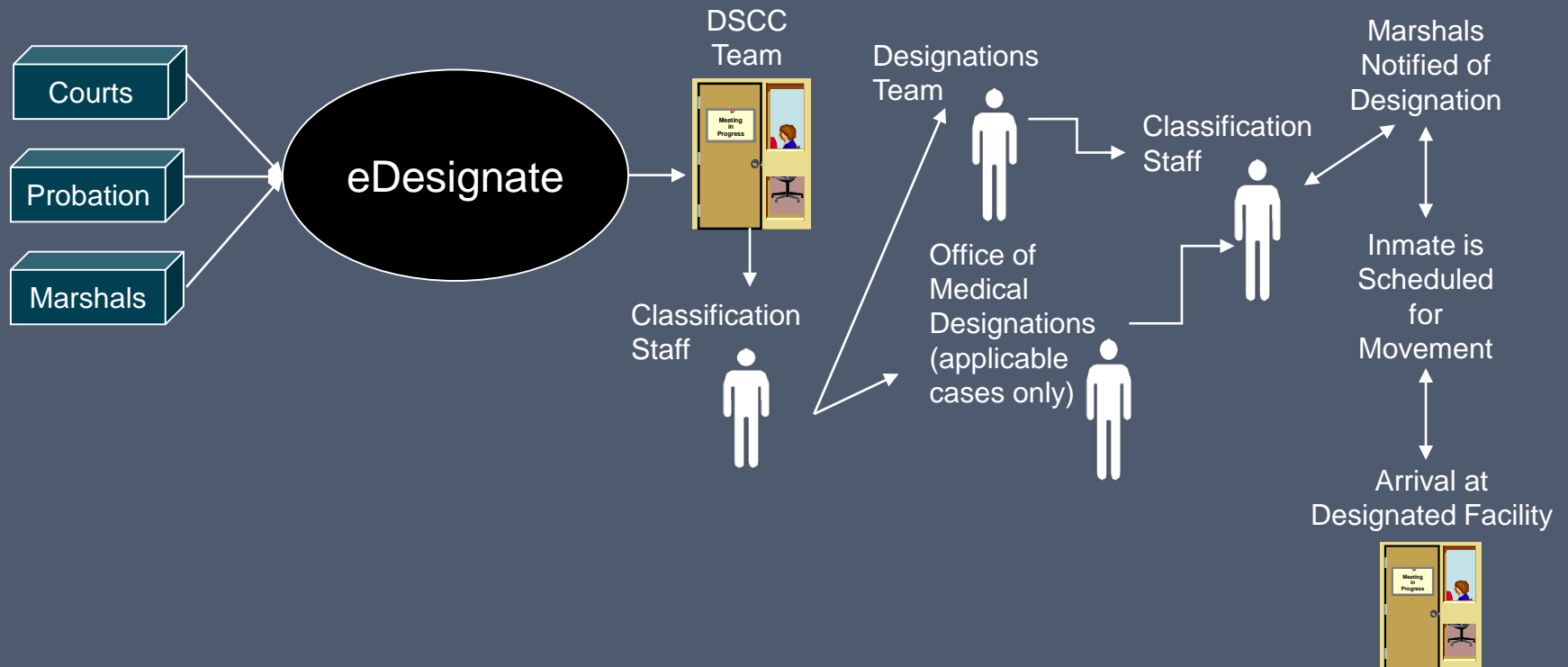
- DSCC team determines whether the federal government has properly acquired primary custody.
- If the state has not properly relinquished jurisdiction, the team notifies the USMS so they do not accept the inmate into physical custody. Jurisdiction is NOT transferred when inmate is received into federal custody via writ ad prosequendum.
- If the inmate is properly in federal custody, the team will determine the inmate's custody score.

Initial Designation Process



- eDesignate System is used in all 94 federal judicial districts and DC Superior Court.
- USMS sends designation packet that includes the USMS Form 129, J&C, SOR and PSR to DSCC.
- DSCC team classifies (scores) the defendant, then either DSCC's Hotel Team or Office of Medical Designations and Transportation designates.

Process from Sentencing to Designation



Presentence Investigation Reports



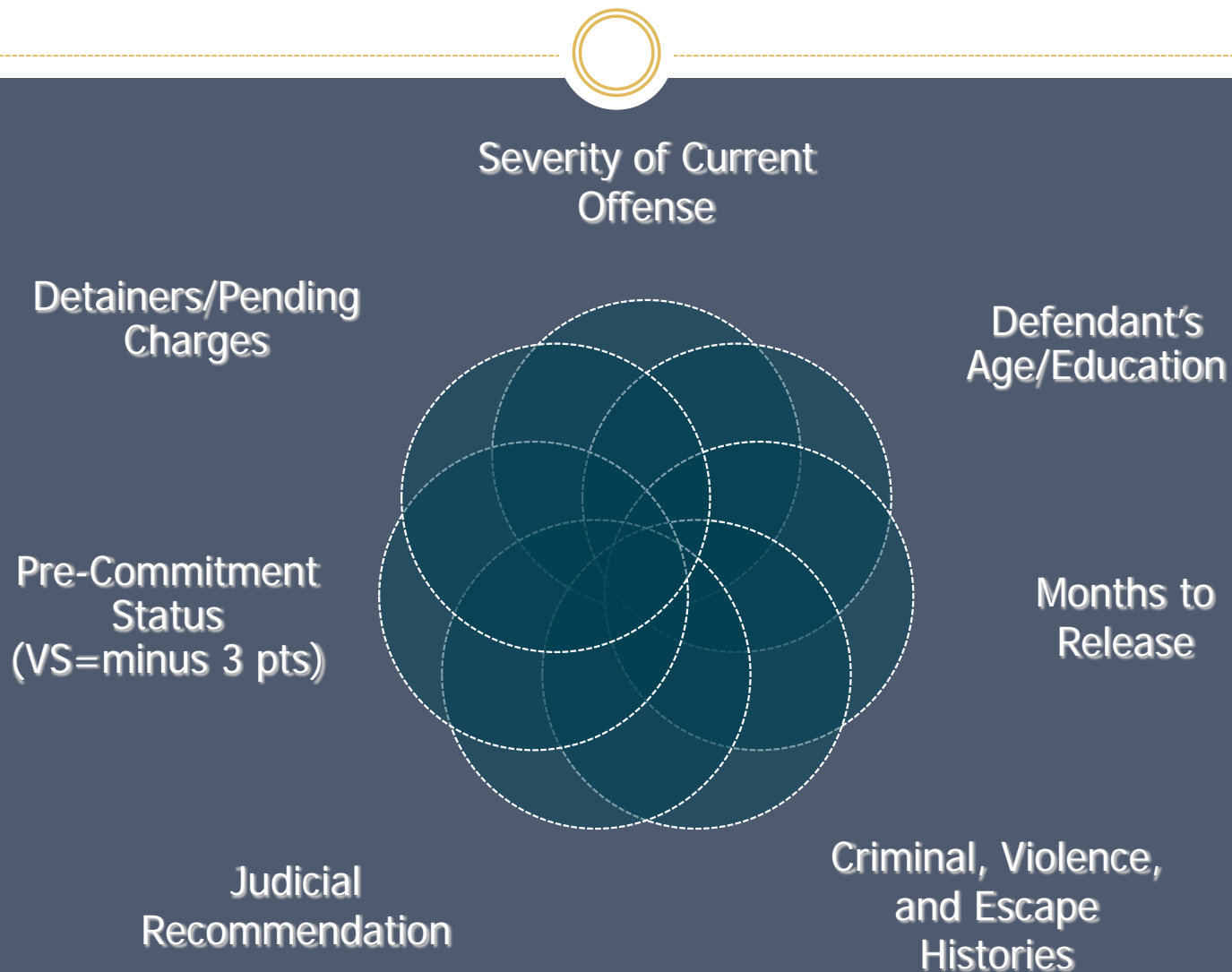
- Information to include in Presentence Investigation Report
 - Arrest dates
 - Identifying data
 - Photograph of defendant
 - Indictment/charging dates
 - Method of release from state custody (if applicable)
 - Information regarding which sovereign took primary custody of defendant upon arrest
 - Synopsis of prior arrests
 - Whether the defendant has an identical or fraternal twin
 - Religious preference, if any
 - Specific medical data on transgender defendants

Security Level Determination



- Classification is necessary to place each inmate in the most appropriate security level institution that also meets his/her program needs and is consistent with the Bureau's mission to protect society.
- BOP facilities are classified into Minimum, Low, Medium, High, & Administrative facilities based upon the level of security and staff supervision at the institution.
- Initial security designation data is entered into Sentry based upon information contained within the PSR and J&C.
- Although an inmate is assigned a particular security level based on the classification score, the score can increase or decrease over time.

Primary Classification Factors

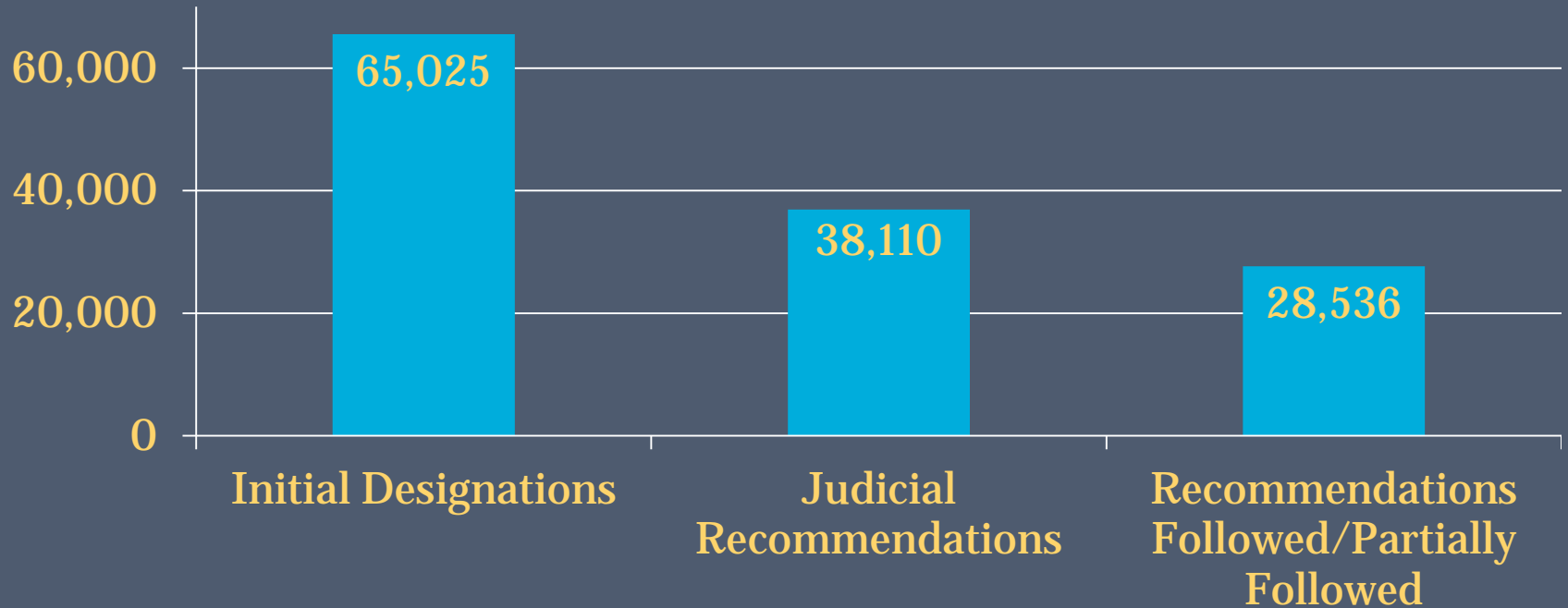


Judicial Recommendations

Over the past 12 months



75% of Recommendations Followed



The Bureau makes every effort to comply as long as the recommendation does not conflict with Bureau policy and/or sound correctional management.

Judicial Recommendations



- Because institution missions and BOP programs change, any judicial recommendations for specific institutions are disfavored.
- Recommendations noting specific characteristics of an institution are preferred, e.g., within 200 miles of Denver, Colorado; a particular VT program; RDAP participation, etc.

Judicial Recommendations



IMPRISONMENT

The defendant's term of supervised release is revoked and the defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of **fourteen (14) months**.

☒ The Court makes the following recommendations to the Bureau of Prisons:

The Court strongly recommends that Defendant receive mental health testing and treatment. This guy needs help.

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:
Eighteen (18) months to run consecutively to defendant's [REDACTED] state sentence in [REDACTED]. No further supervision ordered. Defendant to comply with any requests for DNA. The Court recommends the defendant wear a key around his neck as a daily reminder that he holds the key to his future.

Judicial Recommendations



IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

12 months and 1 day as to count 1s.

☒ The court makes the following recommendations to the Bureau of Prisons:

The Court recommends the defendant be designated to FCI Dublin, Anaheim, California.

Judicial Recommendations



IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 30 months.

[✓] The court makes the following recommendations to the Bureau of Prisons:

The defendant shall participate in the 500 hour drug program (RDAP). It is the view of the presiding Judge, based on the history and particular characteristics of the defendant, in the vernacular of the Roman Catholic Church, it would be a Mortal Sin for the Federal Bureau of Prisons to fail to follow the Court's recommendation and not enroll the defendant in the 500 hour drug program (RDAP).

Judicial Recommendations



The Court strongly recommends that the defendant be incarcerated in a facility that may provide treatment for the defendant's diagnosed bipolar and attention-deficit disorders and the Court recommends that the defendant be placed in the Institution Residential Drug Abuse Treatment Program, if qualified.

The Court makes the following recommendations to the Bureau of Prisons:

Designation recommendation to a facility within the State of Florida.

- ☒ The court makes the following recommendations to the Bureau of Prisons:
The Court recommends the defendant be placed in the 500 Hour Bureau of Prison Comprehensive Drug Treatment Program.
The Court recommends the defendant be assigned to an institution outside the Northeast Region for safety reasons.

Classification / *PS 5100.08*



- The DSCC team uses a medical/mental health calculator to establish a screen level.
- The team inputs the security designation data into the BOP's database.
- Depending on the assigned screen level, the case is reviewed by Hotel Team (screen level 1 or 2) or by OMDT (screen level 3 or 4) for designation.

Initial Designation Process

Upon arrival at a BOP facility. . .



After initial designation and provisional care level assignment by DSCC staff, BOP clinicians determine care level based on:

- Treatment modalities;
- Inmate functionality; and
- Diagnostic categories (e.g., cancer, diabetes, etc.)

Based on care level assessment, the institution may request a transfer from OMDT, if needed.

Study Cases



- Pre-trial or pre-sentence evaluations
 - 18 U.S.C. § 3552(b) – presentence medical or mental health study to assist court with determining the sentence to be imposed
 - 18 U.S.C. § 4241(b) – mental competency study by psychologist or psychiatrist
 - 18 U.S.C. § 4241(d) – mental competency restoration
 - 18 U.S.C. § 4242 – study to determine sanity at the time offense was committed

It is, therefore, ORDERED that a **psychiatric** examination of the Defendant be conducted *forthwith*. It is further ORDERED that the defendant's attorney shall make arrangements for the defendant, [REDACTED], to be examined at the **Federal Correctional Institution, Fort Worth, Texas (FCI Fort Worth)**, where a psychiatric,

Designation Issues

Place of confinement



In deciding where to designate an inmate, designators consider the custody classification level and:

- Inmate's care level
- Inmate's release residence
- Inmate's programming needs
- Population levels at appropriate institutions
- Central Inmate Monitoring (CIM) issues
- Increased security measures to ensure protection of victims/witnesses and the public STG/DG
- Judicial recommendations
- Security Threat Groups / Disruptive Groups

Transfer Requests/Redesignations



- Institution staff submit transfer requests to the DSCC; the DSCC cannot originate transfers.
- Examples of transfers:
 - Security level change
 - Disciplinary
 - Program participation
 - Nearer release
 - Closer supervision

Drug Abuse Treatment Programs



**[http://www.bop.gov/inmates/custody_and_care/
substance_abuse_treatment.jsp](http://www.bop.gov/inmates/custody_and_care/substance_abuse_treatment.jsp)**

Drug Abuse Treatment



- The BOP offers several drug abuse treatment programs:
 - Drug Abuse Education Course (offered at every facility)
 - The Non-Residential Drug Abuse Treatment Program (offered at every facility)
 - The Residential Drug Abuse Treatment Program (RDAP)

RDAP - Eligibility to Participate



- Drug treatment program administered by BOP which can result in an early release – up to one year per 18 USC § 3621(e)(2)(B)
- Eligibility to participate:
 - Sufficient time remaining on sentence (ordinarily 27 months)
 - Documentation verifying abuse of drugs and/or alcohol within 12 months prior to arrest for current offense
 - Verification to establish a diagnosis of substance use disorder, as defined by the American Psychiatric Association's Diagnostic and Statistical Manual
 - Inmate is able to complete all phases of the program, including community transition treatment
 - Inmates with disqualifying convictions but documented substance abuse disorders may still participate in the program, but will not receive an early release benefit (about 18% in FY 2016)

RDAP



- Admission based on proximity to release date.
- Three components:
 - 1) Participants are housed together to create a treatment community during 500-hour (9-12 months) program
 - 2) Transitional program in general population
 - 3) Community treatment services – generally 6 months in an RRC
- 88 RDAPs are available in 77 institutions.
 - Spanish-language RDAPs are now available.
 - 3 programs are dual-diagnosis (substance use + mental disorder)
 - 1 program is for inmates with serious medical issues (USMCFP Springfield)
- In FY 2016, 17,848 inmates participated in RDAP
- According to TRIAD study, male inmates who completed RDAP were 15% less likely to relapse and 16% less likely to be arrested than other inmates; female inmates were 18% less likely to relapse or be re-arrested

Inmates Not Eligible for RDAP Early Release



- Immigration and Customs Enforcement detainees
- Pretrial inmates
- Contractual boarders (ex: State or military inmates)
- Inmates with a detainer or who are otherwise not eligible for RRC placement
- Inmates who previously received early release under Section 3621(e)
- Inmates with current convictions for offenses listed in BOP Program Statement 5162.05, Categorization of Offenses

Inmates Not Eligible for RDAP Early Release



- Inmates who have a prior felony or misdemeanor conviction within 10 years before date of sentencing for their current commitment, for:
 - Homicide (including deaths caused by recklessness, but not including deaths caused by negligence or justifiable homicide);
 - Forcible rape;
 - Robbery;
 - Aggravated assault;
 - Arson;
 - Kidnaping; or
 - An offense that by its nature or conduct involves sexual abuse offenses committed upon minors.

Programs - Mental Health



- Challenge

- Penitentiary program with the mission of providing treatment for inmates with drug abuse and/or mental disorders. Consists of a core program and two specialized treatment tracks for drug abuse and mental illness. Program is a minimum of 9 months.
- Challenge is available at almost all high security institutions and contains a violence prevention component

- Resolve

- Trauma treatment program that consists of two primary components: psycho-education workshop and nonresidential program for trauma-related disorders. Available at almost all female institutions, and at FCI Danbury and the ADX for male inmates.

Programs - Mental Health



- **BRAVE (Bureau Rehabilitation and Values Enhancement)**
 - Intensive, cognitive-behavioral, residential rehabilitation program for medium security inmates. Inmates must be 32 years or younger, first time federal offender, and have a sentence of 60 months or more. Program is 6 months and available at FCI Beckley and FCI Victorville.
- **Step Down**
 - Treatment for inmates with serious mental illness. Available at USP Atlanta, FCI Butner and USP Allenwood.
- **STAGES (Steps Toward Awareness, Growth, and Emotional Strength)**
 - Treatment for inmates with personality disorders. Available at FCI Terre Haute and USP Florence.
- **Skills**
 - Treatment for cognitively impaired offenders available at FCI Coleman and FCI Danbury.

Sex Offender Programs



**NUMBER OF SEX OFFENDERS IN BOP –
23,063 (13.61% OF POPULATION)**

Sex Offender Management Programs



- A SOMP is a multi-component program comprised of:
 - Treatment programming
 - Risk assessments
 - Specialized correctional management services for inmates with inappropriate personal property or contact w/ public
- To encourage voluntary participation in treatment and to minimize protective custody lockups, at least **40%** of general population inmates at SOMP institutions have a history of sexual offense.
- SOMP institutions conduct Discharge Evaluations on high-risk sex offenders releasing to the community, which may be used by USPOs to determine treatment and supervision needs.

Sex Offender Treatment Programs



- Residential SOTP:
 - High intensity program designed for high risk sexual offenders (ordinarily, inmates with multiple sex offenses, or a history of contact sexual offenses).
 - Unit-based program with a cognitive behavioral emphasis. The co-housing of SOTP-R participants permits the implementation of a modified therapeutic community.
 - Offered at FMC Devens (Lows and Mediums) and USP Marion (Mediums and Highs).
 - Inmates need a minimum of 27-36 months remaining on their sentence to qualify for this program. The program is designed to be 12 to 18 months in duration.

Sex Offender Treatment Programs



- Non-residential SOTP:
 - Moderate intensity program designed for low to moderate risk sexual offenders. Most of the inmates in the SOTP-NR are first-time offenders serving a sentence for an Internet sex crime.
 - Shares the SOTP-R's treatment philosophy and program materials, but lacks the frequency of treatment groups and the program duration of the SOTP-R.
 - Participants reside in the general population; there is no modified therapeutic community.
 - Offer at FMC Carswell, FCI Elkton, FCI Englewood, FCI Marianna, USP Marion, FCI Petersburg, FCI Seagoville, and USP Tucson.
 - The typical duration of the SOTP-NR is 9-12 months.

Inmate Programming Opportunities



BOP Programs



- In the Bureau, reentry begins on the first day and continues throughout the inmate's term of incarceration.
- The Bureau is proud that presently 80% of offenders do not return to Bureau custody within three years of release.
- Our reentry model ensures that we provide effective, evidence based, cost-efficient treatment plans for inmates.

Educational Programs



- The Bureau of Prisons' Educational Programs, ranging from basic literacy to high school level classes to post-secondary occupational courses are effective in reducing recidivism.
- All institutions offer literacy classes (GED), English as a Second Language, parenting classes, recreation activities, wellness education, adult continuing education, and library services.
- In FY 2016, **6,456 GEDs** were earned. Of the Bureau's federal inmate population, **31 percent** need their GED. Of the Bureau's D.C. offenders, **39 percent** need their GED.
- Occupational and vocational training programs are provided at institutions based on the needs of the inmates, general labor market conditions, and institution labor force needs.

Programs - UNICOR



UNICOR

- Federal Prison Industries (FPI), or UNICOR, provides job skills training and work experience to 10,981 inmates in 66 factories around the country as of the beginning of FY 2017.
- Inmates employed by FPI are 24% less likely to recidivate than inmates without the benefit of FPI experience.

Scenarios



- ✦ Defendant is a twenty-year-old male who entered a plea of guilty to possession of child pornography. During his competency evaluation, it was discovered that the defendant suffered from Asperger's Syndrome and a variety of educational deficiencies. Defendant still lived at home with parents and has no prior work history. What language, if any, would be appropriate for the court to include in judgment to ensure that defendant received sex offender treatment, mental health treatment, educational and vocational services, and placement in a safe environment in light of his developmental issues?

Scenarios



- ✦ Defendant is a seventy-year-old female with type 1 diabetes and limited mobility (requires wheel chair). Defendant pled guilty to unlawful monetary transaction and was sentenced to 8 months custody. Court would like to ensure defendant is placed in a medical center as close to her family as possible.

Scenarios



- ✦ Defendant is a twenty-year-old male who entered a plea of guilty to possession of child pornography. During his competency evaluation, it was discovered that the defendant suffered from Asperger's Syndrome and a variety of educational deficiencies. Defendant still lived at home with parents and has no prior work history. What language, if any, would be appropriate for the court to include in judgment to ensure that defendant received sex offender treatment, mental health treatment, educational and vocational services, and placement in a safe environment in light of his developmental issues?

Scenarios



- ✦ Defendant suffers from schizophrenia and bipolar disorder, and has a long history of marijuana and cocaine base use. Defendant pled guilty to possession with intent to distribute. The court wants to ensure the defendant receive adequate mental health treatment and be allowed the opportunity to participate in RDAP.

Scenarios



- ✦ Defendant is a twenty-year-old female who pled guilty to sex trafficking of a minor. The defendant is not a member of a gang, but several of her codefendants were members of a large well-known street gang. The court would like to ensure the defendant is placed in a facility that will keep her away from said gang.

Questions?

