



# FIRST STEP ACT

## Earned Time Credits

This fact sheet describes time credits available under the First Step Act of 2018 (FSA) (Public Law 115-391) and analyzes Federal Bureau of Prisons (FBOP) data made available to the Commission. **This resource examines** only a subset of the overall population of individuals eligible to earn FSA time credits: **individuals released from FBOP custody in calendar year 2023 after earning and applying FSA time credits**. Because FSA time credits are governed by statute and implemented by the FBOP through program statements and policies, this data does not necessarily represent how time credits will function in an individual's case. As explained below, this resource also does not include information on other groups of eligible individuals who might have earned FSA time credits or about other relevant statutory provisions governing FBOP custody. Therefore, the Commission does not intend this data to reflect the actual term any given individual will spend in FBOP or secure custody.

### WHAT ARE FSA CREDITS?

The FSA created a system in which some incarcerated individuals can earn time credits for their participation in **evidence-based recidivism reduction programming** or **productive activities**. Under 18 U.S.C. § 3632(d)(4), these time credits may later be applied toward early release from the secure custody of the FBOP.

### HOW ARE FSA CREDITS APPLIED?

The FBOP applies FSA time credits individuals have earned in an order specified by FBOP policy. First, for individuals whose original sentences included a term of supervised release, the FBOP will apply up to one year of FSA time credits toward their early transfer to supervised release. These credits, which are limited by statute, reduce the time an individual spends **in FBOP custody**. Second, the FBOP will apply any remaining FSA time credits toward an individual's early transfer to **prerelease custody**. These credits reduce the time an individual spends in **secure custody**, but these individuals remain in FBOP custody until finally released from a Residential Reentry Center or home confinement.

### HOW IS FSA CREDIT ELIGIBILITY DETERMINED?

Incarcerated individuals can earn FSA time credits if they are not serving a sentence for a **disqualifying conviction** (alone or as part of an aggregated sentence).

An individual's **PATTERN** risk level determines the process by which FSA time credits will apply toward early transfer to supervised release or to prerelease custody.

- Early transfer to supervised release is available for individuals who were rated as minimum or low risk to recidivate in their last reassessment.
- Early transfer to prerelease custody is available for individuals who were rated as minimum or low risk to recidivate through their last two reassessments.

Individuals whose **PATTERN** risk levels are medium or high may receive early transfer to supervised release or to prerelease custody only upon approval by the warden of their facility after a determination that the individual: (1) would not be a danger to society, (2) has made a good-faith effort to lower their recidivism risk through participation in appropriate programming, and (3) is unlikely to recidivate.

### FACT SHEET GLOSSARY

#### **Evidence-Based Recidivism Reduction Program**

A group or individual activity that (1) has been shown by empirical evidence to reduce recidivism or is based on research indicating that it is likely to be effective in reducing recidivism; (2) is designed to help individuals succeed in their communities upon release from prison; and (3) may include components related to, *inter alia*, social learning and life skills, parenting skills, morals or ethics, cognitive behavioral treatment, substance abuse treatment, vocational training or prison work programs, and faith-based classes or services.

#### **Productive Activity**

A group or individual activity that is designed to allow individuals determined as having a minimum or low risk of recidivating to remain productive and thereby maintain a minimum or low risk of recidivating, and which may include the delivery of certain programming to other incarcerated individuals.

#### **In FBOP Custody**

Subject either to "secure custody" or "prerelease custody":

- **Secure custody** means confinement to a FBOP-managed institution.
- **Prerelease custody** means placement into a community-based facility, such as home confinement or Residential Reentry Center.

#### **Disqualifying Conviction**

Prohibited statutes of conviction generally involve violent or gang-related offenses, sex offenses, certain national-security or immigration-related offenses, and some drug-trafficking offenses in concert with the additional aggravating factors (a list of excluding offenses is available on the Commission website). See 18 U.S.C. § 3632(d)(4)(D).

#### **PATTERN**

The Prisoner Assessment Tool Targeting Estimated Risk and Needs is the risk assessment system that FBOP staff uses to measure an incarcerated individual's risk of recidivism.

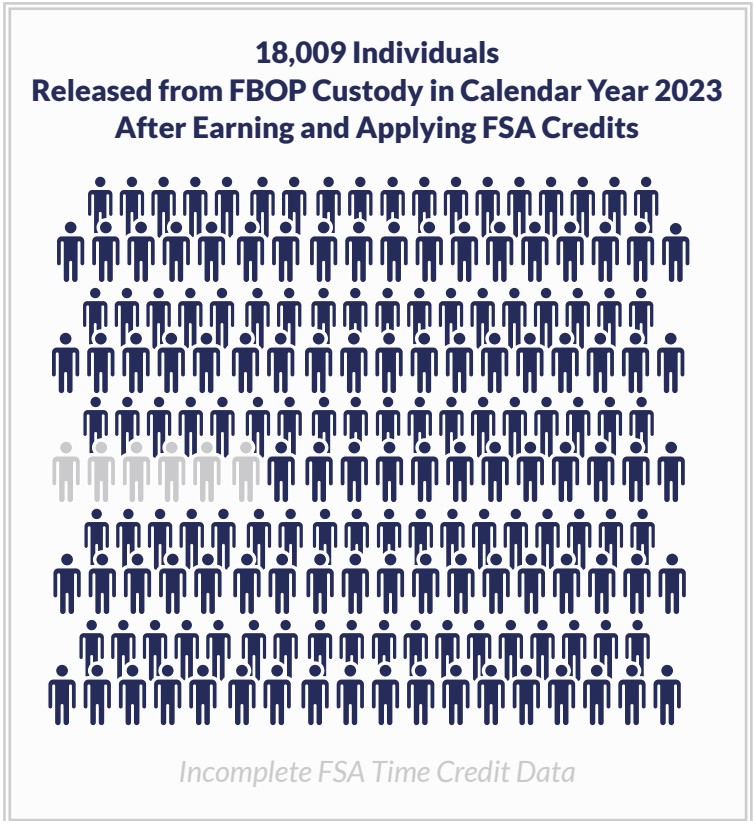
## ABOUT THE DATA

The Commission received data from the FBOP on 18,009 individuals who were released from FBOP custody in calendar year 2023 after they earned and applied FSA time credits. *The study that follows this section included 17,465 individuals for whom complete FSA time credit data was available.*

This fact sheet **does not** include information on certain groups of eligible individuals who have earned FSA time credits but remain incarcerated. Among these individuals are those who have earned FSA time credits but:

- Who have not reached the release date resulting from application of the time credits;
- Who are ineligible to apply the time credits earned because they are subject to a final order of removal; and
- Who are ineligible to apply time credits because their PATTERN risk level is too high, and they have not otherwise been approved for application of their credits by the warden of their facility.

This dataset also does not include information on individuals who earned and applied FSA time credits and were released from FBOP custody prior to calendar year 2023.



FSA time credits are distinct from, and may apply in addition to, other credits or placement determinations available under federal law. For example, under 18 U.S.C. § 3624(b)(1), an individual serving a non-life term of imprisonment of more than one year may earn “good conduct time” credits, subject to a determination by the FBOP that, during each year of the sentence imposed by the court, the individual “has displayed exemplary compliance with institutional disciplinary regulations.” If the FBOP determines that an individual has not satisfactorily complied with institutional regulations, it retains the discretion to award lesser or zero good conduct time credits. As illustrated below, the FBOP calculates and applies good conduct time credits before it applies any earned FSA time credits; however, the actual impact of good conduct time credits on the length of an individual’s sentence is not represented in this fact sheet.



FSA time credits also are distinct from, and may apply in addition to, the credits and prerelease custody placement available for completion of the Residential Drug Abuse Treatment Program under 18 U.S.C. § 3621(e). Other provisions that affect the FBOP’s community corrections placement authority, and which may operate independently of FSA time credits, include: (1) 18 U.S.C. § 3624(c) (discretionary prerelease custody authority); (2) 34 U.S.C. § 60541(g) (elderly and terminally-ill individual home detention authority); and (3) section 12003(b)(2) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act home detention authority). The impact of these statutory provisions also is not represented in this fact sheet.

In addition to the data received from the FBOP on 18,009 individuals who were released in calendar year 2023 after they earned and applied FSA time credits, the Commission also received data on an additional 9,328 individuals who were serving a sentence for a disqualifying conviction and scheduled for release in calendar year 2023. These individuals were statutorily ineligible to earn FSA time credits.

# FEDERAL BUREAU OF PRISONS DATA - CALENDAR YEAR 2023

## KEY TAKEAWAYS\*

Individuals released in 2023

Average FSA Credits (in Months)

Total Who Earned and Applied FSA Credits	(N=17,465)	10.3
Applied Towards Early Placement onto Supervised Release Only	(N=10,607)	5.1
Applied Towards Early Placement onto Supervised Release AND Prerelease Custody	(N=6,858)	18.5

### ALL INDIVIDUALS IN STUDY WHO EARNED AND APPLIED FSA CREDITS

The 17,465 individuals in this study earned 10.3 months of FSA time credits, on average (accounting for 16.9% of their imposed sentences). On average, these 17,465 individuals earned 7.4 months of FSA time credits toward early placement onto supervised release (accounting for 14.2% of their imposed sentences).

### APPLIED FSA CREDIT TOWARD EARLY PLACEMENT ONTO SUPERVISED RELEASE ONLY

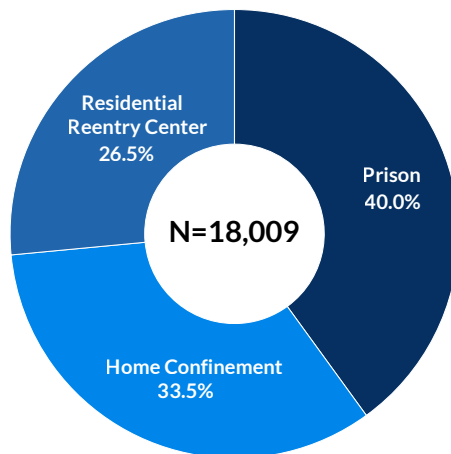
10,607 individuals in this study earned credits only toward early placement onto supervised release (*i.e.*, did not also earn credit toward early placement onto prerelease custody). On average, these individuals earned 5.1 months of FSA time credits (accounting for 16.0% of their imposed sentences).

### APPLIED FSA CREDIT TOWARD EARLY PLACEMENT ONTO SUPERVISED RELEASE AND PRERELEASE CUSTODY

6,858 individuals in this study earned credits toward both early placement onto supervised release and early placement into prerelease custody. On average, these individuals earned 18.5 months of FSA time credits (accounting for 18.4% of their imposed sentences).

*\*The individuals in this study may have earned other credits available under federal law or been placed into prerelease custody under other statutory authority granted to the FBOP. See the About the Data section for more information.*

## LOCATION PRIOR TO RELEASE FROM FBOP CUSTODY

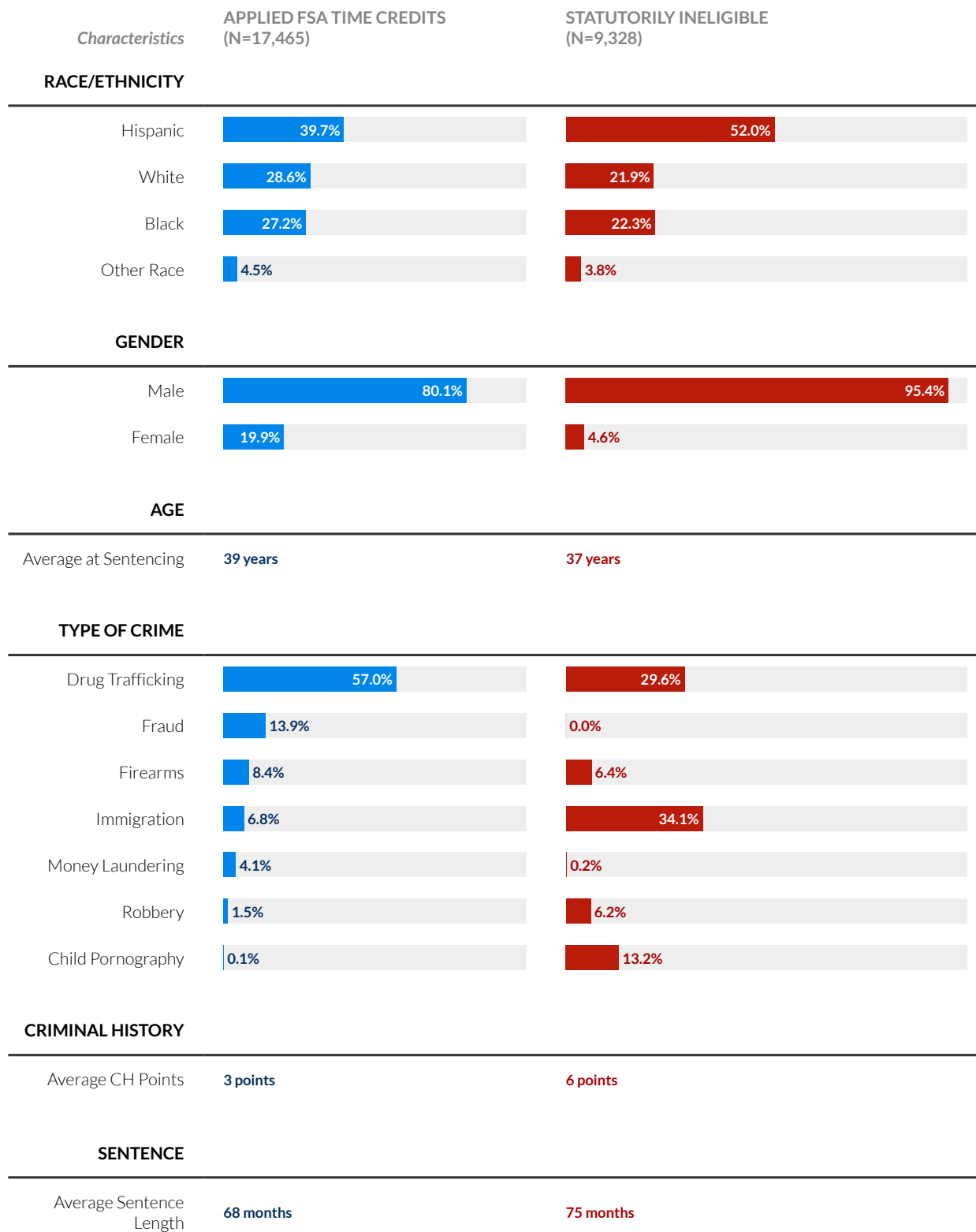


Of the 18,009 individuals released from FBOP custody in calendar year 2023 after they earned and applied FSA time credits, 40.0% were released from the FBOP's secure custody and placed directly onto supervised release. The remaining 60.0% were released from the FBOP's prerelease custody, with persons released from home confinement accounting for 33.5% of all who were released, and persons released from Residential Reentry Centers accounting for 26.5% of all who were released.

## COMPARISON OF INDIVIDUALS WHO EARNED AND APPLIED FSA CREDITS VS. THOSE WHO WERE SERVING A SENTENCE FOR A DISQUALIFYING CONVICTION

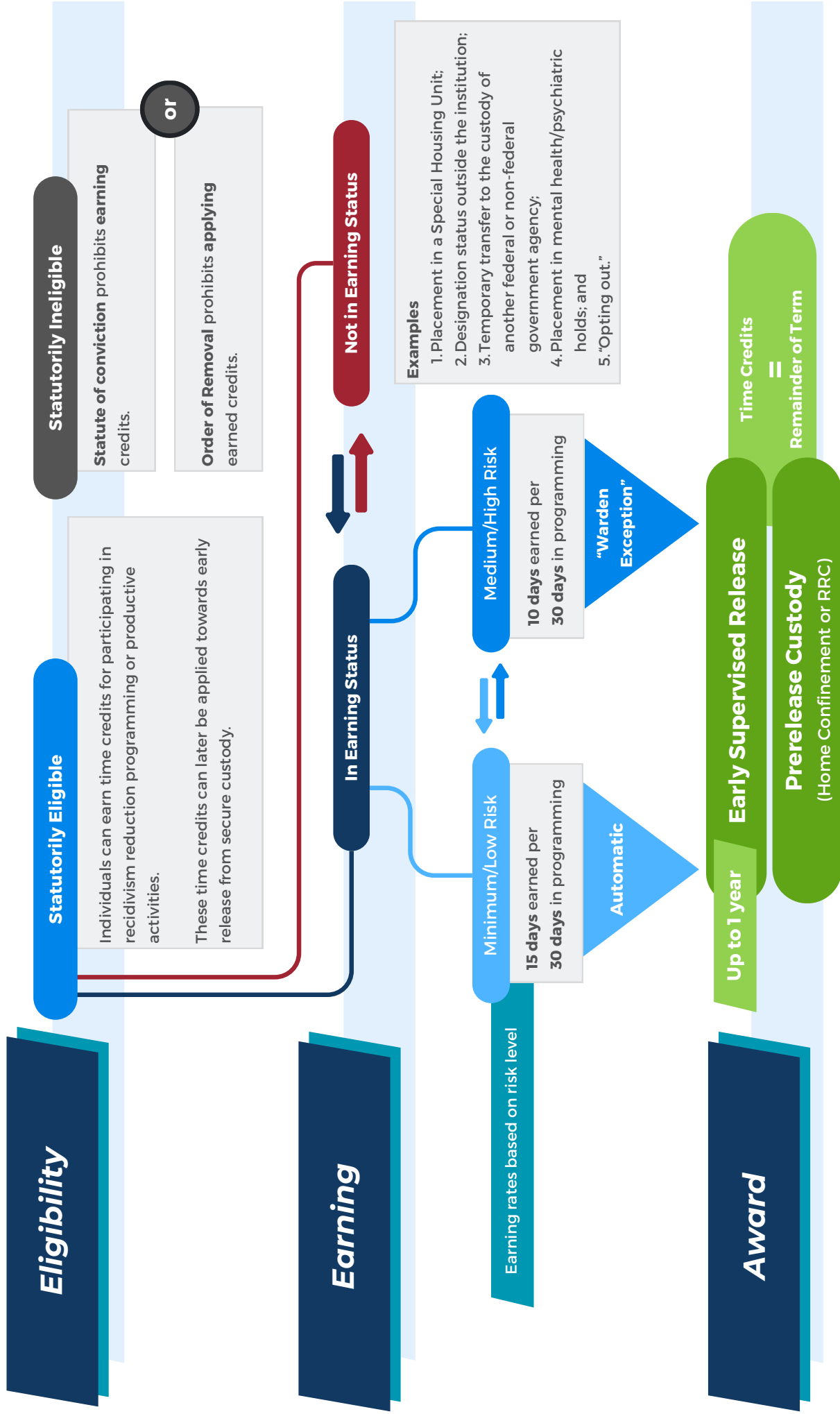
Individuals released in 2023 after earning and applying FSA credits:

- were less likely to be Hispanic as compared to statutorily ineligible individuals (39.7% vs. 52.0%);
- were four times more likely to be female as compared to statutorily ineligible individuals (19.9% vs. 4.6%);
- were twice as likely to have been serving a sentence for a drug trafficking offense as compared to statutorily ineligible individuals (57.0% vs. 29.6%); and,
- received lower criminal history scores and shorter sentences, on average, than statutorily ineligible individuals.



# WHAT PROCESS DOES THE FBOP FOLLOW?

The infographic below illustrates the FBOP's process for determining eligibility, placing individuals in earning status, and awarding FSA credits.



Individuals may lose earned time credits if they violate prison or program rules. These lost credits can be restored.

\*FSA time credits are distinct from, and in addition to, any "good time credit" awarded under 18 U.S.C. § 3624(b) or credits for participation in RDAP.

## ADDITIONAL RESOURCES

The Commission has published this fact sheet to assist in understanding the FSA and its current implementation, relying on primary source documents created by other government agencies. Some of these source documents are available in the list below.

### FBOP Policy Statements and Documents

- [First Step Act of 2018 – Time Credits: Procedures for Implementation of 18 U.S.C. § 3632\(d\)\(4\), 5401.01 CN-2](#)
- [First Step Act Needs Assessment, 5400.01](#)
- [First Step Act Program Incentives, 5220.01](#)
- [Psychology Treatment Programs, 5330.11](#)
- [Community Corrections Center \(CCC\) Utilization and Transfer Procedure, 7310.04](#)
- [Inmate Security Designation and Custody Classification, 5100.08 CN-1](#)
- [Male PATTERN tool](#)
- [Female PATTERN tool](#)
- [PATTERN v.1.3 cut points](#)
- [First Step Act Approved Programs Guide \(May 2024\)](#)
- The FBOP has compiled additional resources including the Attorney General's reports on the First Step Act and information about the PATTERN risk assessment and the SPARC-13 needs assessment and programs [here](#).

### National Institute of Justice Reports

- [2021 Review and Revalidation of the First Step Act Risk Assessment Tool](#)  
(December 2021)
- [2022 Review and Revalidation of the First Step Act Risk Assessment Tool](#)  
(March 2023)
- [2023 Review and Revalidation of the First Step Act Risk Assessment Tool](#)  
(August 2024)

### GAO Report

- U.S. Gov't Accountability Off., GAO-23-105139, [Federal Prisons: Bureau of Prisons Should Improve Efforts to Implement Its Risk and Needs Assessment System \(2023\)](#)



[www.ussc.gov](http://www.ussc.gov)  
[pubaffairs@ussc.gov](mailto:pubaffairs@ussc.gov)  
202-502-4500