



U.S. Department of Justice
Federal Bureau of Prisons

LEGAL RESOURCE GUIDE
TO THE
FEDERAL BUREAU OF PRISONS

2024

* Statutes, regulations, case law, and agency policies (i.e., Program Statements) referred to in this Guide are current as of October 2024.

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	WXRO	
	MDC Los Angeles	
	FCI Phoenix	
	FDC SeaTac	
	SCRO	
	FCC Beaumont	
	FDC Houston	
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	SERO	
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	FCC Coleman	
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	FCI Miami	
	FCC Yazoo City	
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I. INTRODUCTION

The Federal Bureau of Prisons (FBOP), an agency of the United States Department of Justice, was established in 1930 to provide more progressive and humane care for federal adults in custody (AICs),¹ to professionalize the federal prison system, and to ensure consistent and centralized administration of the 11 federal prisons in operation at that time. Today, the FBOP consists of 122 institutions, 6 Regional Offices; a Central Office located in Washington, D.C.; a Designation and Sentence Computation Center (DSCC) and the Human Resource Services Center located in Grand Prairie, Texas; 2 staff training centers; and 22 Residential Reentry Management Offices (RRM).

Central Office functions as the FBOP's headquarters and provides administrative management and oversight over all Regional Offices and facilities. For this purpose, the Office of General Counsel (OGC) in the Central Office retains numerous legal offices for handling specific concerns related to FBOP responsibilities and activities. The OGC consists of the Commercial Law Branch, the Employment Law Branch, the Legal Administrative Branch (including the Freedom of Information and Privacy Act programs), the Legislative and Correctional Issues Branch, the Litigation Branch, the Real Estate and Environmental Law Branch, the Ethics Office, and the Office of Internal Affairs. Regional Offices provide administrative oversight and support to the region's respective institutions and RRM.

The DSCC is located in Grand Prairie, Texas. The DSCC designates federal AICs to appropriate facilities located within the federal prison system and calculates AICs' sentences based on the information provided by the sentencing court and the application of federal laws and Bureau policy. The Office of Medical Designations and Transportation (OMDT), overseen by the FBOP's Health Services Division, designates AICs with specific medical needs. RRM oversee Residential Reentry Centers (RRCs) and home confinement programs. AICs may be designated to any FBOP facility: a United States Penitentiary (USP); a Federal Correctional Institution (FCI); a Federal Medical Center (FMC); a Federal Prison Camp (FPC); a Federal Detention Center (FDC); a Satellite Prison Camp (SCP), or an Administrative Maximum Facility (ADX). Institutions of varied security levels may be co-located at a Federal Correctional Complex (FCC). No federal AICs are designated to serve their sentences in private facilities at this time.

The FBOP is responsible for the custody and care of sentenced federal AICs, including a significant number of pretrial defendants and pre-sentence AICs housed in our facilities on behalf of the United States Marshals Service (USMS). In addition, the FBOP has custodial responsibility for District of Columbia (D.C.) felons sentenced to terms of imprisonment, and for state and military AICs housed on a contractual basis. Data regarding FBOP's current incarcerated persons population, as well as breakdowns of population by facility and type of facility, are available on the FBOP's public website: <https://www.BOP.gov/about/statistics/>.

¹ "AICs," as used throughout this guide includes "defendants," "AICs," and "alleged AICs," encompassing anyone involuntarily confined, or intended to be confined, in a FBOP facility. "Adults in custody" is used synonymously with "inmates" throughout the FBOP. This term does not impose a presumption of guilt nor is it intended to limit the application of FBOP policy and regulation only to adults, but also, as applicable, to juveniles in custody under a federal sentence. See *infra* IV.C.3, *Juvenile AICs*.

Federal Prison Industries (“UNICOR”) and the National Institute of Corrections (NIC) are components of the FBOP. UNICOR is managed by a Board of Directors, and the Director of the FBOP serves as its Chief Executive Officer. Created by Congress in 1934, this government corporation provides AICs with needed prison employment and the opportunity to learn marketable skills. Items produced in UNICOR factories are sold to government agencies nationwide. Many FBOP institutions house a UNICOR factory or service.

The NIC, established in 1974, provides training, technical assistance, information services, and cooperative agreement awards to service provider groups, and directly assists state and local corrections agencies. The NIC Director and a 16-member Advisory Board, appointed by the Attorney General, advise assistance strategies and manage the NIC’s funding priorities.

A. The Federal Bureau of Prisons Mission, Vision, Core Values, & Ideologies

1. Mission

Corrections professionals who foster a humane and secure environment and ensure public safety by preparing individuals for successful reentry into our communities.

2. Vision

Our highly skilled, diverse, and innovative workforce creates a strong foundation of safety and security. Through the principles of humanity and normalcy, we develop good neighbors.

3. Core Values

Accountability

We are responsible and transparent to the public, ourselves, and to those in our care and custody by the standards we establish, the actions we take, and the duties we perform.

Integrity

We are true to our ethical standards in all circumstances.

Respect

We foster an inclusive environment where the viewpoints of employees, the public, and those in our care and custody are considered and valued.

Compassion

We will strive to understand one another’s circumstances and act with empathy and by we, we mean each other as colleagues and corrections professionals and also compassion for those in our care and custody.

Correctional Excellence

We demonstrate leadership in our corrections field through our practices and values.

4. Ideologies

The FBOP is committed to providing:

- A safe environment for both staff and inmates,
- Secure institutions to confine offenders and protect the public,
- Those skills building programs we can afford, to offer inmates the opportunity to live crime-free lives,
- Service and stewardship to the public and a continued tradition of excellence,
- Staff who are ethical, professional, well-trained, and diverse.

B. Purpose

This guide is intended to serve as a resource for members of the public, counsel, and the courts regarding relevant statutes, regulations, policies, and current case law concerning issues the FBOP faces today. It provides a general overview of the FBOP, its services, and its programs. Statutes, regulations, case law, and agency policies (i.e., Program Statements), referred to in this guide may have changed since publication. Therefore, readers are advised to review the FBOP's website and confirm cited legal references when exploring FBOP matters.

Further inquiries should be directed to the appropriate FBOP legal staff, located in the Office of General Counsel in Washington, D.C.; at the various Regional Officers; and in Consolidated Legal Centers (CLCs) that service specific institutions. See Appendix B.

C. Websites

The FBOP home page is located at www.BOP.gov. We recommend consulting the site for population data, policies/Program Statements, a directory of FBOP facilities and offices, AIC locator information, employment opportunities, directions for inquiries under the Freedom of Information Act, and links to other relevant sites. The site for NIC is www.nicic.gov. UNICOR's site is www.UNICOR.gov.

D. District of Columbia Code Felony AICs

By virtue of section 11201 of chapter 1 of Subtitle C of Title XI of the National Capital Revitalization and Self-Government Improvement Act of 1997, enacted August 5, 1997, Pub. L. No. 105-33, the FBOP administers the imprisonment terms of felony AICs convicted under the D.C. criminal code. The FBOP has broad authority to provide for the "custody, care, subsistence, education, treatment and training" of D.C. Code felony AICs in its custody "consistent with the sentence[s] imposed." See D.C. Code § 24-101(b). With few exceptions, the FBOP manages D.C. Code AICs no differently from U.S. Code AICs.

II. PRETRIAL ISSUES

A. Pretrial Detention

The FBOP and USMS cooperate to manage the allocation of federal detention bedspace. Pretrial AICs may be detained at FBOP detention centers and at other FBOP facilities pending prosecution and/or sentencing. The USMS acquires detention bedspace through agreements with state and local governments; contracts with private vendors; and utilization of available FBOP pretrial cells. The development of detention resources in key districts—while emphasizing appropriately structured community supervision alternatives for non-violent AICs—is the primary focus of this cooperative effort. To the extent practicable, pretrial AICs in FBOP facilities are separated from sentenced AICs, in accordance with 18 U.S.C. § 3142(i)(2). See also 28 C.F.R. § 551.104 (stating pretrial defendants will be housed separately from convicted AICs to the extent practicable).

Should a court have concerns about conditions of confinement, access to medical care, or any other issue relating to a defendant's pretrial detention in a FBOP facility, the FBOP requests the opportunity to address such concerns prior to the issuance of an order. See 28 C.F.R. §§ 551.100–.120; Program Statement 7331.05, Pretrial Inmates. Wardens and other custodians are not parties to the criminal prosecution, and the FBOP has no independent litigating authority to represent its interests before the court, including in response to such concerns from the court. Although FBOP legal staff servicing individual institutions may assist by explaining FBOP policies and procedures, FBOP counsel do not formally represent the agency in the criminal matter. The Assistant United States Attorney prosecuting the case should contact the Warden or the FBOP legal office at the affected institution for assistance in responding to any concerns formally or informally lodged with the court.

B. Pretrial Detainee Health Care

Pretrial detainees held in FBOP institutions are provided on-site medical care by FBOP staff and contractors. The FBOP is responsible for the costs associated with medical care provided in FBOP-managed institutions and in the community. See *Estelle v. Gamble*, 429 U.S. 97 (1976) (holding medical malpractice in correctional institutions may, under certain conditions, rise to the level of “cruel and unusual punishment”). The USMS is responsible for the transportation of pretrial detainees to community-based medical services, with the exception of USMS detainees housed at consolidated sites (e.g., Metropolitan Detention Center (MDC) Brooklyn, Metropolitan Correctional Center (MCC) New York, FDC Miami, MDC Guaynabo, FMC Fort Worth, and FCI Seagoville). The USMS contracts with community medical providers to address the needs of detainees held in non-FBOP facilities.

There is virtually no health care issue that would preclude a defendant from being committed to a federal institution because medical care is available in *all* FBOP facilities. Male AICs whose health care needs exceed those services available in a typical institution may be transferred to a FBOP FMC in Springfield, Missouri; Rochester, Minnesota; Butner, North Carolina; Lexington, Kentucky; Fort Worth, Texas; or Ayer (Devens), Massachusetts. Female AICs may be transferred

to FMC Carswell in Fort Worth, Texas. Should an AIC require more specialized care, the AIC is sent to an appropriate community facility.

Specialized health care for sentenced detainees is also available at several FBOP institutions, and all institutions are wheelchair accessible. See infra V.C.11, Medical Services.

III. EVALUATION OF AIC MENTAL CAPACITY

In 1984, as part of a major sentencing reform effort, Congress enacted comprehensive provisions addressing the evaluation and treatment of mentally ill AICs. Title 18 of the United States Code, §§ 4241–4247, describes necessary judicial procedures that must be followed when an AIC appears to be, or is, currently suffering from a mental disease or defect. See also 28 C.F.R. §§ 549.40–46; Program Statement 5310.17, Psychology Services Manual; Program Statement 5070.12, Forensic and Other Mental Health Evaluations; Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness; Program Statement 6010.03, Psychiatric Evaluation and Treatment; Program Statement 6340.04, Psychiatric Services. The Adam Walsh Child Protection and Safety Act of 2006 (Walsh Act), Pub. L. No. 109-248, provides for the civil commitment of a sexually dangerous person subsequent to the completion of the term of incarceration, as codified in 18 U.S.C. § 4248. For more information on the Walsh Act, see infra V.C.13, Mental Health Counseling and Treatment, Sex Offender Management and Treatment. A Summary Table of the following statutes, under chapter 313, is attached as Appendix A.

Evaluations may be performed by an outside (non-FBOP) psychologist or psychiatrist by specifically designating that condition in the study order. If the defendant is housed in a FBOP facility, a judge may designate in the order that an outside psychologist or psychiatrist be admitted into the facility to conduct the examination. If the defendant is housed in a local non-FBOP facility, a judge may simply note in the order that an outside psychologist or psychiatrist be admitted into that local non-FBOP facility to conduct the examination. The appropriate mental health professional must contact the institution in advance to arrange admission into the facility to examine the AIC and avoid unnecessary delays. A court-ordered study conducted by a community psychologist or psychiatrist is a far quicker and less costly process. If an FMC placement is required, the statutory timeline does not begin until the AIC is received at the designated facility for evaluation.

A. Mental Evaluation and Commitment: 18 U.S.C. § 4241

Title 18 of the United States Code, § 4241, explains the procedures necessary for determining the mental competency of a defendant at any time after the commencement of prosecution, but prior to sentencing. Should there be reasonable cause to question the defendant’s competency, the court will order a hearing upon the motion of one of the parties, or upon its own motion. See 18 U.S.C. § 4241(a). Prior to the hearing, the court may order the defendant to undergo a psychiatric or psychological examination. See 18 U.S.C. § 4241(b). FBOP has specially trained forensic psychologists but limited psychiatric resources. So, the FBOP requests that courts order psychological examinations, reserving psychiatric examinations only for cases where a psychiatrist’s review is absolutely necessary.

The court may commit the defendant to the custody of the Attorney General for placement in a suitable facility² to be examined for a reasonable period not to exceed 30 days, unless the director of the examining facility requests a reasonable extension, not to exceed 15 days. See 18 U.S.C. § 4247(b). After the examination period expires, a report is filed with the court by the facility's staff, and copies are provided to counsel. The FBOP strongly encourages the court to have the initial § 4241 evaluation conducted by outside, non-FBOP mental health professionals; the court can accomplish this by designating the outside specialist in the study order.

Following the hearing, if the court finds by a preponderance of the evidence that the defendant is mentally incompetent, the court must commit the defendant to the custody of the Attorney General for hospitalization and treatment in a suitable facility. This commitment period is for a reasonable period of time, not to exceed four months, to evaluate whether there is a substantial probability that, in the foreseeable future, restoration of competency will result. See 18 U.S.C. § 4241(d)(1).³

An additional commitment period may be ordered if the charges have not been disposed of, and the court determines there is a *substantial probability* that the defendant will become competent to stand trial in the foreseeable future. See 18 U.S.C. § 4241(d)(2). The defendant cannot, however, be committed for a determination of his or her competency to stand trial for a period longer than the maximum possible sentence he or she faces. See United States v. DeBellis, 649 F.2d 1 (1st Cir. 1981). If the defendant becomes competent to stand trial during the examination period, the director of the examining facility files a certificate with the court stating such. A second competency hearing is held and, if the defendant is shown to be competent by a *preponderance of the evidence*, the prosecution resumes. See 18 U.S.C. § 4241(e).

B. Determination of Insanity at Time of Offense and Commitment: 18 U.S.C. §§ 4242–4243

Pursuant to 18 U.S.C. § 4242(a), the prosecuting attorney, after receiving notice that the defendant intends to rely upon the defense of insanity, may ask the court to order the defendant to undergo a psychological or psychiatric examination. Similar to a § 4241 study as described above, the § 4242 study may be conducted locally or, where incarceration is deemed necessary, at a FBOP facility. After the issue of insanity has been raised, the fact finder is required to reach a special verdict of guilty; not guilty; or not guilty only by reason of insanity. See 18 U.S.C. § 4242(b).

When a defendant has been found not guilty only by reason of insanity, a hearing will be conducted no later than 40 days after the special verdict. See 18 U.S.C. § 4243(c). At the hearing, a person found not guilty solely by reason of insanity has the burden of proving by clear and convincing evidence that his or her release would not create a substantial risk of bodily injury to another person or serious damage to the property of another due to a present mental disease or defect. See 18

² In addition to FBOP and USMS contract facilities, 18 U.S.C. § 4247(i)(A) authorizes the Attorney General to contract with states, localities, political subdivisions, or private agencies for the confinement, hospitalization, or treatment of a person committed pursuant to 18 U.S.C. chapter 313.

³ The Supreme Court has held that the government may, in some circumstances, involuntarily administer antipsychotic drugs to a mentally ill defendant facing serious criminal charges in order to render the defendant competent to stand trial. See Sell v. United States, 539 U.S. 166 (2003).

U.S.C. § 4243(d). Note that while the hearing *must* take place within 40 days, § 4247(b) states that the examination under § 4243 *may not exceed* 45 days. If the defendant fails to meet the evidentiary standard, he or she will be committed to the custody of the Attorney General.

Once the AIC has been committed, the Attorney General will make continuous, reasonable efforts to release the AIC to the state in which he or she was domiciled or tried, if the state will assume responsibility for his or her custody, care, and treatment. The Attorney General has authority to stipulate the terms and conditions under which an individual acquitted by federal insanity will be placed in state custody for care and treatment. See 18 U.S.C. § 4243(e). There is a continuing federal interest in the AIC's state placement or conditional release, and any transferred individual cannot be unconditionally released by the state facility without the committing court's concurrence. So, prior to discharge, the director of the state facility must first comply with 18 U.S.C. § 4243(f), and notify the committing court of potential release. The federal court, applying federal standards, decides whether the acquitted individual will be discharged.

C. Mental Condition Prior to Time of Sentencing: 18 U.S.C. § 4244

If a defendant is found guilty of an offense, but a question is raised as to his or her mental condition prior to sentencing, the court may order a hearing and a mental examination to determine whether the defendant is presently suffering from a mental disease or defect such that commitment to a suitable facility for care or treatment, in lieu of imprisonment, is appropriate. See 18 U.S.C. § 4244(a). If, after the hearing, the court finds by a preponderance of the evidence that such placement is appropriate, the defendant will be provisionally sentenced to the maximum term authorized by law and committed to the custody of the Attorney General for hospitalization in a suitable facility. See 18 U.S.C. § 4244(d). If the defendant later recovers to the extent that he or she is no longer in need of care and treatment, the defendant will proceed to final sentencing. See 18 U.S.C. § 4244(e). The court then has the option of modifying the provisional sentence.

D. Post-Sentencing Hospitalization: 18 U.S.C. § 4245

Title 18 of the United States Code, § 4245, provides for hospitalization and treatment of sentenced AICs found to be suffering from a mental disease or defect. If an AIC refuses to consent to hospitalization for care and treatment, § 4245 describes the method for involuntary hospitalization.

The court may order the hospitalization of a defendant for care or treatment if, after a hearing, the court finds by a preponderance of the evidence that the defendant is suffering from a mental disease or defect, the treatment for which requires hospitalization. See 18 U.S.C. § 4245(d). Section 4245(e) provides that the commitment may be discharged upon certification from the Warden that the AIC has recovered to an extent that he or she is no longer in need of hospitalization, or upon the expiration of the sentence of imprisonment.

E. Hospitalization of a Mentally Incompetent Person Due for Release: 18 U.S.C. § 4246

Title 18 of the United States Code, § 4246, provides for the commitment and hospitalization of an AIC who is scheduled for release but who is found to be suffering from a mental disease or defect,

and his or her release would create a substantial risk of bodily injury to another person, or serious damage to the property of another. If the director of a medical facility certifies that the AIC meets the standards set forth in § 4246(a), the director will file such certificate with the clerk of court. The certificate must also certify that suitable arrangements for state custody and care are unavailable. A defendant found not competent and not restorable to stand trial under § 4241(d) is also subject to the provisions of § 4246 if he or she meets the criteria for commitment. Once the certificate has been filed, the AIC's release is stayed. The clerk of the court will send a copy of the certificate to the AIC, to the attorney for the government, and, if the person was committed under § 4241(d), to the committing court. See 18 U.S.C. § 4246(a).

The court will order a hearing to determine whether there is clear and convincing evidence the person suffers from a mental disease or defect, such that his or her release would create a substantial risk of bodily injury or serious damage to property. If sufficient evidence exists, the court will commit the person to the custody of the Attorney General. See 18 U.S.C. § 4246(d).

The Attorney General will make continuous reasonable efforts to release the person to the appropriate official of the state in which the person is domiciled or was tried. If the state refuses to assume responsibility for the AIC's custody, care, and treatment, the Attorney General will hospitalize the individual for treatment in a suitable facility until the state assumes such responsibility or until the person's mental condition is such that his or her full release, or conditional release, would not pose a substantial risk of injury to other persons or damage to property. The director of the medical facility may initiate discharge proceedings in accordance with § 4246(e), or counsel for the AIC may seek discharge by filing a motion for a hearing.

Counsel's motion for an AIC seeking discharge may be filed only after 180 days from the date of a court determination that the person should continue to be committed. See 18 U.S.C. § 4247(h).

F. Civil Commitment of a Sexually Dangerous Person: 18 U.S.C. § 4248

The Walsh Act, starting at 42 U.S.C. § 16911 when initially enacted (now starting at 34 U.S.C. § 20911), provides for the civil commitment of sexually dangerous persons. Title 18 of the United States Code, § 4248, provides that the FBOP may institute proceedings by certifying that a person is sexually dangerous. A sexually dangerous person (SDP) is defined in § 4247(a)(5) as one "who has engaged or attempted to engage in sexually violent conduct or child molestation and who is sexually dangerous to others." Defined in § 4247(a)(6), a person is considered sexually dangerous to others if he or she "suffers from a serious mental illness, abnormality, or disorder as a result of which he would have serious difficulty in refraining from sexually violent conduct or child molestation if released." The Walsh Act requires the FBOP to determine if an AIC due for release is sexually dangerous, and to submit certification to the district court where the person is confined, to determine if civil commitment is necessary.

The FBOP's Sex Offender Certification Review Branch (SOCRB) oversees the civil commitment process. SOCRB reviews the Case Management Assignments of all AICs prior to release, to ascertain whether there is any history of relevant conduct. For AICs with a record of attempted or actual sexual violence or child molestation, an assessment is made of empirically based static and dynamic risk factors. Psychological and legal records are also examined. Consideration is given

to a wide range of factors including criminal history, social and family support, mental and physical health, institution conduct, and other data. SOCRB’s Certification Review Panel (CRP) is tasked with making the final certification determination. Should the CRP find that an individual is an SDP, certification may delay the AIC’s release. A United States District Judge in the federal jurisdiction in which the AIC is held will conduct a hearing and determine the merits of the CRP finding. If the court concurs with the CRP determination, the AIC is placed in the custody of the Attorney General as a civil commitment. Efforts are then made to secure placement with the individual’s state of residence. If those efforts are unsuccessful, the AIC will remain in the FBOP as a resident in the Commitment and Treatment Program until such time as the court of commitment determines the individual to no longer be sexually dangerous.

G. Examination of an AIC Eligible for Parole: 18 U.S.C. § 4205

This statute was repealed (along with others pertaining to parole) in 1987. However, AICs whose offenses were committed prior to November 1, 1987 (“old law”); D.C. Code AICs who committed their crimes before August 5, 2000; and military AICs transferred to FBOP custody all may remain parole eligible. The statute requires the FBOP to furnish to the United States Parole Commission an evaluation of an AIC’s suitability for parole, including his or her mental and physical health, past criminal history, and social background.

H. Presentence Study, Psychological or Psychiatric Examination: 18 U.S.C. §§ 3552(b)–(c)

During the presentence investigative process, the court may order the defendant to undergo a psychological or psychiatric examination. The court will specify the additional information it requires before determining an appropriate sentence.

This evaluation may be completed by a community consultant “unless the sentencing judge finds that there is a compelling reason for the study to be done by the Bureau of Prisons ...” See 18 U.S.C. § 3552(b). The statute allows for 60 days for the completion of the study, with an extension not to exceed 60 additional days. The format of the study report should generally follow the format used in the other statutes, specifically addressing the court’s concerns.

IV. SENTENCING ISSUES

The United States Sentencing Commission (USSC) has published, pursuant to 28 U.S.C. §§ 991–98, the U.S. SENTENCING GUIDELINES MANUAL, to provide a general framework for sentencing. The following is a discussion of the most frequently used sanctions available in the federal criminal justice system. The most up to date version of the manual may be found at: [Guidelines | United States Sentencing Commission \(ussc.gov\)](https://www.ussc.gov).

A. Probation and Conditions of Probation

The federal sentencing court may impose a sentence of probation with conditions placed on the AIC. The United States Probation Office (USPO) monitors the AIC.

1. Community Confinement

As a condition of probation, a defendant may be sentenced to community confinement, defined as residence in “a community corrections facility.” See 18 U.S.C. § 3563(b)(11). The FBOP makes available to the courts federally contracted RRCs. An AIC subject to a term of community confinement as a condition of probation or supervised release is placed in the most restrictive component of the RRC and has limited access to the community.

RRCs are available for both male and female AICs. See Program Statement 7300.09, CN-3, Community Corrections Manual. The court may also place an AIC in an RRC in lieu of revocation of probation or supervised release for technical violations.

2. Intermittent Confinement

Weekend terms and other forms of intermittent confinement may be imposed as a special condition of probation or supervised release. See 18 U.S.C. § 3563(b)(10). However, a court may only impose an intermittent confinement term as a condition of supervised release for a violation of a previously imposed term of supervised release. Id. at § 3583(d). In these instances, the respective FBOP Residential Reentry Management office may coordinate with the USPO for monitoring of the AIC at a non-FBOP facility.

B. Home Detention

Federal sentencing guidelines (U.S.S.G. § 5C1.1(c)–(e)) allow home confinement (referred to as “home detention”) as a substitute for imprisonment in certain instances. Title 18 of the United States Code, § 3624(c)(2), allows for pre-release custody of an AIC in home confinement. See infra V.L.4, Home Confinement. The Judgment in a Criminal Case (J&C) should specify time frames for such detention. Ordinarily, AICs on home detention are electronically monitored through services contracted by the Administrative Office of the United States Courts. The FBOP is not involved in the post-release home detention program for probationers or supervised releasees.

C. Imprisonment

The FBOP maintains safe and humane correctional environments for AICs sentenced to a term of imprisonment. The appropriate USPO provides the FBOP with the Presentence Investigation Report (PSR), J&C, and Statement of Reasons (SOR) after sentencing. These documents are crucial to FBOP decision-making to determine an AIC’s facility designation, including appropriate security level, relevant programs, and subsequent pre-release preparation. The PSR and SOR contain sensitive information regarding an AIC’s social contacts and criminal history; as such, designated AICs may not possess these documents. AICs in pretrial detention may possess a draft PSR exclusively for the limited purpose of review in the brief period immediately following the presentence interview (PSI). Possession is not allowed once the PSI is finalized and furnished to the court. AICs may request to review these documents, maintained in the AIC Central File, by submitting a request for staff. See Program Statement 1351.05, CN-2, Release of Information.

1. Institutional Confinement

Title 18 of the United States Code, § 3621(a), authorizes the FBOP to confine persons sentenced to a term of imprisonment. Institutions are classified by security level: Minimum, Low, Medium, High, and Administrative. Institution security levels are determined by various factors including type of perimeter security, number of towers or external patrols, detection devices, security of housing areas, type of living quarters, and level of staffing.

2. Service of Sentence in Non-Federal Facilities

An AIC may be transferred to a state facility should the individual present special management problems, require protection, or if his or her notoriety precludes incarceration in a FBOP facility. See Program Statement 5160.05, Designation of State Institution for Service of Federal Sentence.

3. Juvenile Offenders⁴

Federal adjudication of juveniles is governed by the Juvenile Justice and Delinquency Prevention Act (JJDPA), codified at 18 U.S.C. §§ 5031–5042. See Program Statement 5216.06, Juvenile Delinquents. JJDPA addresses the adjudication of an offender who has not reached his or her 18th birthday, and generally prohibits housing juveniles with adult offenders. Given the very small number of federally sentenced juveniles, operation of a separate FBOP facility for this population is not practical. Therefore, the FBOP contracts for placement of these offenders in secure and non-secure state and local facilities.

The JJDPA addresses three categories of AICs. Treatment of each group differs as follows:

Confinement of Persons Under Age 18

Offenders who have not attained the age of 18 at the time of commitment will be placed in a non-federal, contracted juvenile facility. See 18 U.S.C. § 5039. Generally, the FBOP attempts to place such offenders in juvenile facilities located in or near their home communities.

Confinement of Persons 18 to 21 Years of Age

An offender who is sentenced as an adult, pursuant to 18 U.S.C. § 5032, shall be designated to an adult institution according to FBOP designation criteria. An offender who is sentenced as a juvenile will be treated as a person under 18 years of age, unless he or she has a concurrent federal adult sentence of a length equal to or greater than the juvenile sentence. If there is such a concurrent federal sentence, the offender will be housed in an adult facility. The court imposing the juvenile sentence will be notified of this fact.

If an offender sentenced as a juvenile also has a consecutive adult sentence, he or she will be treated as a person under the age of 18 until the expiration of the juvenile sentence, or in some instances, until he or she has reached the age of 21.

⁴ While other sections referring to “AIC” may be applicable in some regard, “offenders” is used in this section—instead of “AIC”—solely to avoid confusion by referring to juveniles as “adults in custody.”

Persons Who Turn 21 While Serving a JJDP A Sentence

A person who had been adjudicated as delinquent may then be designated to a FBOP institution as an adult, once he or she reaches the age of 21. A change in placement is not required, and the FBOP may retain the AIC in a contract juvenile facility for continuity of program participation.

D. Judgment in a Criminal Case

The FBOP is charged with interpreting and administering the provisions of the J&C of the federal courts, as follows.

1. Judicial Recommendations for a Specific Institution, Geographic Area, or Specialized Program

The FBOP has sole authority to designate the place of confinement for federal adults in custody. See 18 U.S.C. § 3621(b). By statute, the FBOP is required to consider facility resources; the nature and circumstances of the offense; the history and characteristics of the prisoner; recommendations of the court; and guidance issued by the USSC. Initial designation decisions and decisions to transfer prisoners from one facility to another are ultimately the responsibility of the FBOP and are made in accordance with Program Statement 5100.08, CN-01, Inmate Security Designation and Custody Classification. The J&C may indicate the sentencing court's recommendation to house the AIC in a specific institution, geographic area, or specialized program. While every effort is made to comply with the court's recommendation, conflict with FBOP policy and sound correctional management may prevent honoring the court's recommendation.

Prior to finalizing plea agreements or other concessions affecting a defendant's conditions of confinement, the parties involved should consult with the relevant CLC office regarding factors that might affect availability of the program, or the eligibility of an individual defendant for any program assignment. Specific programs or institution placements should not be part of any agreement or promised to any criminal defendant. This is particularly important when defendants carry both state and federal sentences, as complex issues arise over which sovereign has priority to implement its sentence.

2. Sentence Calculation

The FBOP's DSCC in Grand Prairie, Texas, oversees AIC designations and sentence computations. FBOP policies and instructions to staff for the calculation of terms of imprisonment includes Program Statement 5880.28, Sentence Computation Manual (CCCA of 1984); Program Statement 5880.30, Sentence Computation Manual/Old Law/Pre CCCA 1984; Program Statement 5880.33, District of Columbia Sentence Computation Manual; and Program Statement 5110.16, Administration of Sentence for Military Inmates. Specific questions related to sentence calculation should be directed to the DSCC, telephone (972) 352-4400, e-mail at:

BOP-CPD-DSC-PolicyCorrespondence-S@BOP.gov.

An AIC challenging the calculation of a particular sentence does so by filing a Petition for Writ of Habeas Corpus, pursuant to 28 U.S.C. § 2241, in the U.S. District Court possessing personal jurisdiction over his or her immediate custodian (Warden). See Rumsfeld v. Padilla, 542 U.S. 426 (2004). Typically, district courts require AICs first to exhaust the administrative remedy process within the FBOP prior to seeking judicial relief. See Program Statement 1330.18, Administrative Remedy Program. We request the court contact DSCC staff if questions arise as to how a J&C will be interpreted to avoid potential conflicts. Occasionally, a J&C may direct the defendant's term of imprisonment to be calculated in a manner contrary to law. The FBOP will then notify the prosecuting Assistant U.S. Attorney and/or the court to resolve the conflict.

Commencement of a Term of Imprisonment

Title 18 of the United States Code, § 3585(a), dictates that “[a] sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.” So, J&Cs directing a defendant's term of imprisonment to commence at a date earlier than its date of imposition, or some other date, are viewed by the FBOP as contrary to statute.

Credit for Prior Custody

Title 18 of the United States Code, § 3585(b), dictates the method of calculating credit for prior custody of defendants whose offense was committed on or after November 1, 1987. Sentence credit is awarded for time spent in official detention prior to the date a term of imprisonment commences. Credit is only authorized if it was served as a result of the offense for which the sentence was imposed or as a result of any offense (state or federal) for which the defendant was arrested after committing the offense for which the federal sentence was imposed. Additionally, the time must not have been credited against any other sentence. Slightly different rules apply for defendants whose date of offense is prior to November 1, 1987. See 18 U.S.C. § 3568 (repealed).

After a defendant is sentenced, the FBOP is responsible for determining what period(s) of prior custody may be credited toward the federal term of imprisonment. See United States v. Wilson, 503 U.S. 329 (1992). Periods spent on pretrial release, no matter how restrictive, cannot be awarded as prior custody credit to U.S. Code AICs. See Reno v. Koray, 515 U.S. 50 (1995). D.C. Code felony AICs, however, may be entitled to such credit. See Program Statement 5880.33, District of Columbia Sentence Computation Manual.

Consequently, J&Cs must be carefully drafted to avoid requiring prior custody credit awards in circumstances which are contrary to statute. When a sentence being imposed has been adjusted to account for time already served on an undischarged sentence, the court should note on the J&C the amount of time by which the sentence is being adjusted, the undischarged term of imprisonment for which the adjustment is being given, and that the sentence imposed is a sentence reduction pursuant to U.S.S.G. § 5G1.3(b), for a period of imprisonment that will not be credited by the FBOP. See U.S.S.G. § 5G1.3, Imposition of a Sentence on a Defendant Subject to an Undischarged Term of Imprisonment or Anticipated State Term of Imprisonment, App. Note 2(C), Imposition of Sentence. Similarly, when a court applies a downward departure at sentencing pursuant to

U.S.S.G. § 5K2.23 to account for time served on a term already discharged, the J&C should include a note indicating so. Otherwise, it may appear that prior custody credit is being awarded contrary to 18 U.S.C. § 3585(b) and the Supreme Court's holding in Wilson.

Credit for Satisfactory Behavior (“Good Conduct Time”)

Title 18 of the United States Code, § 3624(b), provides Good Conduct Time (GCT) credit for U.S. Code AICs whose offense was committed on or after November 1, 1987, and D.C. Code felony AICs whose offense was committed on or after August 5, 2000. The First Step Act of 2018 (FSA), Pub. L. No. 115-391, § 102(b)(1), 132 Stat. 5210 (2018) amended 18 U.S.C. § 3624(b)(1) to clarify the method of counting GCT credit.

Pursuant to this amendment, GCT credit is available for certain eligible AICs. See 18 U.S.C. § 3624(b)(1). For an AIC to be eligible for GCT credit, the AIC must be serving a term of imprisonment exceeding one year, but less than a life sentence.

, Eligible AICs may receive up to 54 days sentence credit for each year of the AIC's sentence imposed by the court. AICs sanctioned for violating prison disciplinary rules may lose all or part of these credits. See Program Statement 5270.09, CN-1, Inmate Discipline Program. In determining whether an AIC shall receive the credit, the FBOP shall consider whether an AIC, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree. GCT credit and FSA credits may both be used to reduce an AIC's sentence. See infra V.L.5, First Step Act Time Credits.

Sentence credit for satisfactory behavior by U.S. Code AICs whose offense was committed prior to November 1, 1987, is governed by Title 18 U.S.C. §§ 4161–4166 (repealed). These AICs may be eligible to accrue both Statutory Good Time (§ 4161) and Extra Good Time (§ 4162). Statutory Good Time may be forfeited in whole or in part if the prisoner violates institution rules or commits any offense. See 18 U.S.C. § 4165.

Specific questions related to good conduct time credit should be directed to the DSCC, telephone (972) 352-4400; e-mail at BOP-CPD-DSC-PolicyCorrespondence-S@BOP.gov.

Fines and Costs of Confinement

Pursuant to U.S.S.G. § 5E1.2, Fines for Individual Defendants, a court shall impose a fine in all cases, unless the defendant lacks the necessary financial resources to make payments. For offenses committed on or after November 1, 1987, the court cannot require that a fine imposed be paid as a precondition for release. This is a change from prior law, which permitted the court to order the defendant to remain in prison until the fine is paid, unless and until a determination was made that the defendant was indigent or otherwise unable to pay the fine. See Program Statement 5882.03, Fines and Costs for [Old Law] Inmates. The Court Security Improvement Act of 2007, Pub. L. No. 110-117, amended 18 U.S.C. § 3624(e) by striking the provision that prohibited releasing an AIC to supervised release unless the AIC agreed to adhere to an installment schedule to pay for any court-ordered fine imposed for the current offense. The statute only requires the FBOP notify the AIC of the requirement to adhere to the court-ordered payment schedule upon release.

The Application Notes to the Sentencing Guidelines refer the court to the FBOP and the Administrative Office of the U.S. Courts for assistance in determining an appropriate fine to cover the costs of confinement. Should the court wish, the FBOP will furnish the court with the average cost of confinement at all facilities, as an AIC may be held in several different facilities during a single term of imprisonment. For prisoners for whom the court did not assess a fine to cover the costs of incarceration, and for whom the court did not waive the fine due to indigence, the FBOP is authorized to collect a fee equal to the cost of one year of imprisonment, or a prorated amount, if the defendant is sentenced to a shorter term. See Program Statement 5380.06, Cost of Incarceration Fee (COIF). The yearly average cost of incarceration for a federal AIC in a FBOP facility for Fiscal Year 2022 was \$42,672.00; in an RRC, that cost was \$39,197.00.

The FBOP is authorized to require AICs, who have been transferred to RRCs, to pay a portion or all of the costs of their confinement. See 18 U.S.C. § 3622(c)(2). Funds collected are not returned to the FBOP, but rather are paid to the U.S. Treasury.

Financial Responsibility Program

To assist in the collection of court-ordered financial obligations, the FBOP operates the Inmate Financial Responsibility Program (IFRP) in conjunction with the Administrative Office of the U.S. Courts. See Program Statement 5380.08, Financial Responsibility Program, Inmate. All AICs with financial obligations—including special assessments, restitution, fines and court costs, state or local court obligations, and other federal obligations—are encouraged to work with staff to develop an individual financial plan.

Participation in IFRP, while not compulsory, is tied to eligibility for prison privileges including preferred housing, job assignments, and community activities, such as community confinement and furloughs. Participation is also tied to institutional programming and custody level changes. If eligible for parole, the AIC's progress in meeting his or her financial plan is a factor considered at the parole hearing. AICs are responsible for making all payments from funds in their AIC accounts, including funds from outside resources and pay from work in the institution, or a combination of the two.

All sentenced AICs are required to work in an institutional job assignment or UNICOR work assignment with the exception of those who are unable to work for security, educational, or medical reasons. See Program Statement 5251.06, Inmate Work and Performance Pay. AICs may also earn bonus pay for outstanding work performance. An AIC with a court-ordered financial obligation is given preference for assignment to UNICOR, and such an assignment requires that 50% of the AIC's earnings are applied to payment of that obligation.

The sentencing court can require AICs to pay fines and special assessments as part of the judgment. If the court orders that these financial obligations are “due immediately,” or if the J&C is silent as to when they are due, then the FBOP will collect those fines and special assessments through the IFRP. In the latter case, 18 U.S.C. § 3572(d) requires “immediate” payment.

If the sentencing court orders a defendant to pay restitution under the Mandatory Victim

Restitution Act of 2006 (MVRA), Pub. L. 113-65, codified at 18 U.S.C. § 3663A, as part of the judgment, most circuits have also held that the court must also set out a schedule of payments for that restitution. One circuit has held that the FBOP may not use the IFRP to collect payments toward an MVRA restitution order unless the order also includes such a schedule. *Ward v. Chavez*, 678 F.3d 1042, 1051 (9th Cir. 2012). As a result, if the sentencing court intends that the defendant make payments toward restitution while imprisoned, then the J&C should contain specific language, such as “while serving the sentence of imprisonment, the defendant must make payments toward the restitution obligation at the rate of no less than \$25.00 per quarter.”

Regardless of the type of financial obligation ordered in the J&C, the court should avoid ambiguous language such as “payments as directed by BOP.” Such statements are ordinarily construed as an improper delegation of judicial authority and could result in the exclusion of the restitution award from the amounts collected by the FBOP under the IFRP. The J&C should either specify that the financial obligation is “due immediately,” or the J&C should remain silent as to when due. Wording such as “payments to be made as directed by FBOP staff” or “payments to be made in installments as set by the IFRP” is ambiguous and may result in the defendant’s non-participation in the IFRP. CLC attorneys should be consulted to craft language in the J&C to reflect the court’s intention.

V. POST-CONVICTION ISSUES

A. Designation to a Facility for Service of a Term of Imprisonment

1. Security Designation and Custody Classification

Upon imposition of a sentence of imprisonment, the FBOP begins the process of designating the defendant to a facility for service of the sentence. Title 18 U.S.C. § 3621(b) authorizes the FBOP to designate where a prisoner will serve his or her sentence. The FBOP retains exclusive discretion to assign or to transfer any prisoner to any facility. See 28 C.F.R. §§ 524.10–11; Program Statement 5100.08, CN-1, Inmate Security Designation and Custody Classification.

The DSCC is responsible for initial custody classification, designation, assignment of FBOP management variables and public safety factors, and all sentence calculation. The DSCC is not, however, responsible for assignment to, or transfer of, AICs from their designated institution to an RRC for 18 U.S.C. § 3624(c) pre-release purposes. Subsequent to the AIC’s designation to an institution, institution staff are responsible for the security and custody classification of the AIC. The DSCC first receives notification of a newly sentenced federal AIC from the U.S. Marshal in the sentencing district. If the court does not direct the defendant to self-surrender, the USMS will arrange for transportation of the AIC to the designated institution. See Program Statement 5100.08, CN-1, Inmate Security Designation and Custody Classification.

Designation decisions account for a number of factors including the level of security and staff supervision the AIC requires, and the level of security and staff supervision the institution provides. Other considerations include matching the medical care needs of an AIC with the level of care provided by the institution, as well as the AIC’s program needs (e.g., substance abuse treatment,

education, and vocational training, individual and/or group counseling, medical/mental health treatment). Various administrative factors will affect the designation, including institution bedspace capacity, proximity to the AIC's release residence, judicial recommendations, separation needs, and security measures required to ensure the safety of victims, witnesses, and the general public. AICs are designated as close as practicable to their primary residence, and to the extent practicable, in a facility within 500 driving miles of that residence.

2. DNA Collection

In accordance with 34 U.S.C. § 40701; 28 C.F.R. §§ 28.11–13; and Program Statement 5311.01, Inmate DNA Sample Collection Procedures, the FBOP collects DNA (deoxyribonucleic acid) samples from all federal AICs, usually obtained through collection kits. DNA samples collected from individuals or derived from crime scene evidence are analyzed to produce DNA profiles that are entered in the FBI Combined DNA Index System. DNA profiles assist in identifying AICs; excluding innocent persons; solving past and future crimes; and combating recidivism through inclusion in the database. AICs who refuse to provide a DNA sample are counseled regarding their lawful obligation and the consequences of non-compliance, which may include progressive administrative sanctions and criminal prosecution.

3. Transportation to a Designated Institution

After an initial designation has been made, an AIC may be transported to the assigned facility by the USMS or FBOP, either by vehicle or contract carrier airline. The USMS also operates a fleet of aircraft in conjunction with the Justice Prisoner and Alien Transportation System. FBOP ground transportation and support, also, provide for economical and expeditious movement of AICs.

On occasion, the court may order a defendant to voluntarily surrender at the facility to which he or she is initially designated. The FBOP draws a positive inference from the court's determination that the defendant is sufficiently trustworthy to surrender voluntarily, and self-surrender will favorably impact the AIC in terms of classification and designation decisions.

4. Interstate Agreement on Detainers

Many prisoners in FBOP custody have detainers for unresolved criminal charges pending against them in one or more jurisdictions. To facilitate treatment and rehabilitation programming and to resolve pending matters, FBOP joins with many states as a party to the Interstate Agreement on Detainers. See Program Statement 5800.15, CN-1, Correctional Systems Manual. This agreement enables a jurisdiction carrying an untried criminal indictment, information, or complaint, to secure temporary custody of the AIC. Such proceedings may be initiated by the state or by the AIC. Program Statement 5800.15, CN-1, delineates the appropriate procedures for a jurisdiction to obtain custody of an AIC with a detainer lodged by a member state. See Program Statement 5875.13, Transfer of Inmates to State Agents for Production on State Writs.

5. Central Inmate Monitoring System

The FBOP monitors and controls the transfer, temporary release on writ, and community activities

of certain AICs who present special management needs or security concerns. See 28 C.F.R. §§ 524.70–.76; Program Statement 5180.05, Central Inmate Monitoring System. Central Inmate Monitoring (CIM) AICs require a higher level of review which may include Central Office and/or Regional Office clearance for transfers, temporary releases, or community activities. Monitoring does not preclude a CIM AIC from such activities when the AIC is otherwise eligible, but contributes to the safe and orderly operation of federal institutions and the protection of the public.

Special measures are taken to protect at-risk AICs. CIM AICs may include, among others, persons whose incarceration generates public notoriety; individuals who have cooperated with law enforcement authorities; AICs who have made threats against government officials; and AICs identified as gang members. While in custody, an AIC may require separation from other AICs stemming from such events that either preceded confinement or occurred during incarceration. So, procedures, such as separation assignments, have been developed to ensure the safety of these individuals. If necessary, such classification may continue throughout the period of incarceration.

6. Communication Management Units

The FBOP operates two Communication Management Units (CMUs), located at FCI Terre Haute, Indiana, and at USP Marion, Illinois. CMUs were established in 2006 and 2008, respectively, to house AICs who, due to their current offense of conviction, offense conduct, activity while incarcerated, or other verified information, require increased monitoring of communications between the AIC and persons in the community to protect the safety, security, and orderly operation of the FBOP or to protect the public. AICs designated to the CMU may have been convicted of a terrorism-related offense, associated with a terrorist organization, repeatedly attempted to contact their victim(s), attempted illegal activities through approved communication methods, or received multiple incident reports due to misuse of such communication methods.

The CMU is a general population unit, with access to customary AIC activities, such as recreation, religious services, and education programming. All communications, however, are subject to increased monitoring. For example, all incoming general correspondence is reviewed by staff prior to delivery to the AIC, and all outgoing general correspondence is reviewed by staff prior to mailing via the U.S. Postal Service. In addition, telephone communication and social visits are limited, are live monitored by staff, and must occur only in English, unless conducted through simultaneous translation monitoring. Further information about CMUs can be found in Program Statement 5214.02, Communications Management Units.

As of May 2024, the FBOP awarded a contract to build a CMU at FCI Cumberland, Maryland. Upon completion, the Cumberland CMU is anticipated to be the only FBOP CMU.

7. Special Management Units

This initiative, as detailed in Program Statement 5217.02, Special Management Units, was implemented to enhance the agency's ability to manage some of the most disruptive and problematic AICs in the BOP. The Special Management Units (SMUs) provide a controlled environment for AICs whose interaction requires greater management to ensure the safety, security, or orderly operation of Bureau facilities, or protection of the public. AICs with a history of serious or disruptive disciplinary infractions, disruptive group/gang activity, participation or

organization in group misconduct, or conduct which disrupts safety, security, or orderly operations may be referred to a SMU. SMU designation is non-punitive and, while SMU conditions of confinement are more restrictive than are those for general population AICs, a SMU AIC may earn increased privileges by progressing through the three-level SMU program. Upon completion of the three-level program and abstaining from gang-related activity, serious or disruptive disciplinary infractions, or group misconduct for at least nine months, the AIC is eligible for redesignation to the general population. The total allowed designation time is 24 consecutive months.

As of May 2024, the program is suspended pending an executive decision on the SMU program's future, and no AICs are housed in a SMU.

B. Admission and Orientation Program for AICs

Every AIC designated to a FBOP institution is required to participate in the Admission and Orientation (A&O) program. See Program Statement 5290.14, Admission and Orientation Program. Staff presentations provide each AIC with information and written materials describing institution operations, program availability, AIC rights and responsibilities, and the FBOP AIC discipline process. Each AIC receives an introduction to all aspects of the institution and meets with staff from the case management, medical, and mental health units.

C. Special Housing, Programs, and General Services

The FBOP offers various resources to manage the needs of AICs while in custody, as well as to provide support upon release.

1. Special Housing Units

The FBOP uses separate, alternative housing, known as Special Housing Units (SHUs), to help ensure the safety, security, and orderly operation of correctional facilities and to protect the public. See 28 C.F.R. § 541.21; Program Statement 5270.12, Special Housing Units. The FBOP mandates the living conditions of the SHU meet or exceed standards for healthy and humane treatment. See 28 C.F.R. § 541.31.

AICs in SHU are classified as either in administrative detention status or in disciplinary segregation status. See 28 C.F.R. § 541.22. Administrative detention status is non-punitive and implemented for a variety of reasons; ultimately, the goal of which is to ensure the safety, security, and orderly operation of facilities and to protect the public. See 28 C.F.R. § 541.22(a). The FBOP may place an AIC in administrative detention status for classification purposes, while the AIC is on holdover status, or to remove an AIC from the general population out of concern for the threat to life property, self, staff, other AICs, the public, or the institution. See 28 C.F.R. §§ 541.23(a)–(c). Alternatively, disciplinary segregation status is punitive and is imposed only by the Discipline Hearing Officer (DHO), as a sanction for committing a prohibited act. 28 C.F.R. § 541.22(b); see infra section V.E, AIC Discipline Program (describing the AIC Discipline Program and the role of the DHO). AICs placed in SHU will receive notice of the reasons for placement unless placement is for classification or holdover. See 28 C.F.R. § 541.25.

An AIC's placement in SHU will be reviewed at various intervals by the FBOP; depending on the justification for placement, the FBOP will also investigate the cause for placement and conduct a hearing. See 28 C.F.R. §§ 541.26, .28. AICs may submit a formal grievance, challenging SHU placement, in accordance with the Administrative Remedy Program. See infra V.G, Administrative Remedy Program.

2. Education and Recreation Programs

The FBOP is committed to providing AICs with opportunities to gain skills needed for successful reentry to the community. Program Statement 5300.21, Education, Training, and Leisure Time Program Standards, requires each institution to maintain an Education Department responsible for providing AICs with literacy classes and other related educational programs. Every institution provides both leisure and law library services. See Program Statement 1542.06, Library Services, Inmate; Program Statement 1315.07, CN-1, Legal Activities, Inmate.

Title 18 of the United States Code, § 3624(f), mandates an education program for those federal prisoners who are not functionally literate. Pursuant to 18 U.S.C. § 3624(f)(4), non-English-speaking AICs are required to participate in an English-as-a-Second Language program until able to function in the English language at the eighth-grade level. With few exceptions, AICs lacking either a high school diploma, or a state approved high school equivalency certificate, are required to enroll in an adult literacy program for a minimum of 240 hours. See 28 C.F.R. §§ 544.70–.75. Should an AIC prematurely end his or her participation prior to program completion, the AIC will lose some Good Conduct Time if governed by that statutory provision. Upon completion of the 240-hour course, an AIC may choose to end participation in adult literacy classes. However, to encourage the AIC to participate in such programs until earning the General Education Diploma (GED), incentive awards are available. No disciplinary action will be taken if the AIC chooses not to participate after completing the 240 hours.

Section 20412 of the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA), Pub. L. No. 103-322, enacted on September 13, 1994, implemented 18 U.S.C. § 3624(b)(4), which mandates that an AIC with a date of offense on or after September 13, 1994, but before April 26, 1996, lacking a high school diploma or GED credential, *must* participate and make satisfactory progress in the literacy program in order to vest earned Good Conduct Time. The Prison Litigation Reform Act of 1995, (PLRA), Pub. L. No. 104-134, enacted April 26, 1996, modifies 18 U.S.C. § 3624(b)(1), providing that in determining Good Conduct Time awards, the *FBOP* shall *consider* whether an AIC with a date of offense on or after April 26, 1996, who lacks a high school diploma or GED, participates in and makes satisfactory progress in the literacy program, in order to be eligible to earn the maximum amount of Good Conduct Time. The PLRA removes the 18 U.S.C. § 3624(b)(4) requirement and replaces it with a statement authorizing the FBOP to exempt the GED requirement when appropriate. A foreign national who is subject to a final confirmed order of removal, deportation, or exclusion, is exempt from the satisfactory progress requirement of the literacy program provisions of VCCLEA and PLRA. See 28 C.F.R. § 523.20.

FBOP programming emphasizes reentry skills, offering a variety of programs for self-improvement, including occupational training, resume writing, job fairs, and parenting skills.

Recreation programs encourage AICs to make constructive use of leisure time, with both group and individual activities. Physical fitness and wellness programs, such as nutrition and weight control, are provided during non-working hours to promote positive lifestyle changes. See 28 C.F.R. §§ 544.30–.35; 28 C.F.R. §§ 553.10–.15.; Program Statement 5370.11, Recreation Programs, Inmate. Hobbycraft programs vary from institution to institution, and may include painting, leathercrafts, artwork, and ceramics. Completed projects are mailed home, as AICs are not permitted to retain completed projects in their possession.

3. Religious Programs

Under 28 C.F.R. § 548 and Program Statement 5360.10, Religious Beliefs and Practices, the FBOP affords AICs with equitable opportunities to observe their religious practices in the areas of religious diet, ceremonial clothing, religious property, group worship, among others, within security and budgetary constraints. Each institution is assigned Chaplaincy staff, who both minister to the AIC population, and arrange for contract religious clergy and volunteers from the community to assist in group worship, individual religious counseling, spiritual guidance, and the study of sacred writings.

4. Food Service

FBOP offers nutritionally balanced meals. Program Statement 4700.07, Food Service Manual, provides that medical diets be available to AICs who require such accommodations. All AICs, except those on medical or religious diets, are served the same meals in a dining room setting when consistent with the security and orderly operation of the institution. Staff dining rooms serve the same meals offered to AICs. In addition, AICs with religious dietary requirements may apply for the religious diet program, designed to address the dietary restrictions of a variety of different faith groups. Meatless food options are offered as a component of the religious diet program. See Program Statement 5360.10, Religious Beliefs and Practices.

The FBOP follows a standardized menu. The National Menu is designed not only to bring consistency to FBOP Food Service operations, but also to ensure Heart Healthy options are available to increase the ability to prevent and manage chronic health issues of our AIC population. Heart Healthy options, with lower fat and sodium levels, are available and the Warden at any institution may choose to serve only the Heart Healthy food options at select meals. High security institutions may modify the National Menu to address security concerns.

5. Work Programs and UNICOR

All federal AICs are required to work with the exception of those unable to do so, due to reasons related to security, education, or medical necessity. See 28 C.F.R. §§ 545.20–.31; Program Statement 5251.06, Inmate Work and Performance Pay. An institution workday is ordinarily seven hours. Most AICs are assigned to an institution job such as food service worker, orderly, plumber, painter, warehouse worker, or groundskeeper, earning 12 cents to 40 cents per hour. AICs may apply for an assignment to Federal Prison Industries (FPI). FPI, operating under the trade name UNICOR, employs over 10,000 AICs. In accordance with statutory mandates, UNICOR (1) provides employment and industrial skills training to as many AICs as possible; (2) produces

market-priced, quality goods for federal government customers; (3) operates in a self-sustaining manner; and (4) minimizes its impact on private business and labor. See 18 U.S.C. § 4122. UNICOR job wages currently range from \$0.23 cents to \$1.15 per hour. AICs may also earn bonus pay for outstanding work performance. See Program Statement 8120.03, Work Programs for Inmates, FPI; Program Statement 8000.01, UNICOR Corporate Policy and Procedures, CN-1-55.

UNICOR is a wholly owned federal government corporation and does not receive Congressional appropriations for its operations. See 18 U.S.C. § 4122(b)(1); Program Statement 8000.01, UNICOR Corporate Policy and Procedures, CN-1-55; Program Statement 8120.03, Work Programs for Inmates, FPI. Title 18 of the United States Code, § 4124, when read with 10 U.S.C. § 2410n and section 637 the Consolidated Spending Bill for FY 2005 (Division H), Pub. L. No. 108-447, requires federal departments, agencies, and government institutions to purchase products on UNICOR's schedule of products from UNICOR, when comparable to products offered by private vendors in terms of price, quality, and delivery time. If not comparable, then the federal purchaser may procure the product through competitive solicitation, provided UNICOR is given an opportunity to compete. UNICOR also provides a variety of services.

6. Inmate Accident Compensation

AICs are not federal employees and are not subject to the Fair Labor Standards Act or other federal employee compensation laws. If an AIC is injured while performing an assigned duty, he or she must immediately report the injury to the work supervisor. The work supervisor will secure medical treatment for the AIC and file an injury report with the institution safety manager. See Program Statement 1600.14, National Occupational Safety and Health Policy.

Pursuant to title 18 of the United States Code, § 4126, and 28 C.F.R. pt. 301, AICs may be compensated for injuries caused by the actual performance of their work assignments in UNICOR or in other institution work assignments. The Inmate Accident Compensation Program is the exclusive remedy available to AICs who sustain work-related injuries and is the exclusive remedy for subsequent medical care of work-related injuries. AICs may not recover damages in tort for work-related injuries. See 28 U.S.C. §§ 2671-80 (tort claims procedure); United States v. Demko, 385 U.S. 149 (1966).

Lost-Time Wage Program

AICs injured in the course of performing their work assignments, and who are medically excused for at least three consecutively scheduled workdays, may receive lost-time wages equal to 75% of the standard hourly rate for their regular work assignments. Pursuant to 28 C.F.R. §§ 301.201-.205, an Institution Safety Committee oversees the Lost-Time Wage Program. A lost-time wage payment continues until the AIC is released, transferred to another institution (for reasons unrelated to the injury), returns to the work assignment, or refuses to return to work. An AIC dissatisfied with any decision regarding lost-time wages may appeal the decision pursuant to the Program Statement 1330.18, Administrative Remedy Program.

Compensation for Work-Related Physical Impairment or Death

No more than 45 days prior to the date of an AIC's release, but no less than 15 days prior to this date, an AIC who feels that a residual physical impairment exists as a result of a prison work-related injury may apply for compensation. Should circumstances not permit such a submission, a claim may be accepted up to 60 days following release or up to one year after release, for good cause shown. This program is administered from the Central Office, and any questions may be directed to the Claims Examiner, AIC Accident Compensation Program Coordinator. A claim for compensation as the result of a work-related death may be filed by a dependent of the deceased AIC up to one year after the AIC's work-related death. See 28 C.F.R. §§ 301.301–319.

7. Female AICs

AICs are housed separate from the alternative gender. Gender is presumed to be that assigned at birth absent transgender or intersex considerations. At various sites, female AIC units are co-located with male units. However, all housing units and activities are separate. Appropriate programs and services are provided to meet the physical, social, and psychological needs of female AICs. Programming is in parity with that offered to male AICs, tailored to be gender responsive. See Program Statement 5200.07, CN-1, Female Offender Manual.

The designation and classification system for female AICs acknowledges empirical evidence that female AICs are less likely to be violent or attempt escape. Bedspace for female AICs is available at varied security levels.

Birth Control and Pregnancy

The FBOP provides AICs with medical and social services related to pregnancy, birth control, child placement, and abortion. See 28 C.F.R. §§ 551.20–24; Program Statement 5200.07, CN-1, Female AIC Manual. Each AIC assigned female at birth is medically screened for pregnancy upon admission and is instructed to inform medical staff if they suspect they may be pregnant, so that pre-natal care may be immediately provided. Childbirth typically takes place at a community hospital. Staff assist the AIC, with the assistance of a liaison, and work closely with community agencies to effect an appropriate arrangement.

The FBOP offers two community residential programs for pregnant AICs, Mothers and Infants Together (MINT) and Residential Parenting Program (RPP). The MINT program, managed by private social service agencies under contract to the FBOP, is a residential program promoting bonding skills for pregnant AICs. It is at the discretion of the AIC's Unit Team to decide whether to refer the AIC to MINT. A MINT AIC participant may remain at the residential program for a five-month period, beginning two months prior to delivery and ending three months after delivery, to provide an opportunity to bond with her newborn child before returning to an institution to complete their sentence. Prior to the birth, the mother must make arrangements for an appropriate custodian for the child. An AIC is eligible to enter the program if they satisfy the general criteria for furlough eligibility and is in their final two months of pregnancy. See Program Statement 5280.09, Inmate Furloughs. Designation to the MINT program is in accordance with Program Statement 7310.04, Community Corrections Center (CCC) Utilization and Transfer Procedures.

RPP is a voluntary program that allows pregnant AICs to reside with their child for up to 30 months post-delivery. Eligible AICs, upon acceptance, are placed in the RPP at the Washington Correctional Center for Females in Gig Harbor but remain in FBOP custody. Once there, the AIC is responsible for caring for the child, while living in a supervised environment. This program offers services to the AIC, including mental health and medical care, vocational training, etc.

The primary goals of the RPP are to provide a safe residential setting allowing infants and their incarcerated mothers to remain united; ensure a secure, healthy attachment is formed between mother and child; maximize an infant's healthy growth and child development; educate mothers in skills to effectively parent; and work toward self-sufficiency.

Upon arrival at the RPP expecting mothers are provided an orientation that includes a tour of the facility, an overview of the health care clinic and social service assistance, a history of the program and program rules.

Participants work with facility staff to develop a case plan to address programming needs and requirements. Mothers are required to be involved in prenatal and postpartum programs, such as parenting skills, child development, self-care and self-esteem, positive discipline, nutrition, and family life skills. They are also expected to structure their commitments to accommodate the needs of their children, utilize the child development center and approved inmate caregivers. Mothers must also participate in educational components teaching positive and effective life and parenting skills.

Abortion

In accordance with Program Statement 5200.07, CN-1, Female Offender Manual, an AIC retains the responsibility to decide either to have an abortion or carry the pregnancy to term. The Court has also made clear that the exercise of such a choice is not required to be covered by federal funds. See Rust v. Sullivan, 500 U.S. 173 (1991).

Pursuant to 28 C.F.R. §§ 551.20–24 and Program Statement 5200.07, CN-1, Female Offender Manual, the Warden provides each pregnant AIC with medical, religious, and social counseling to aid her in making the decision whether to carry the pregnancy to term or to have an elective abortion. The FBOP will assume all costs associated with the abortion procedure only when the life of the mother would be endangered if the fetus is carried to term, or in the case of rape or incest. In all other cases, non-FBOP funds must be obtained to pay for any abortion procedure.

Whether or not the FBOP pays for the abortion, the FBOP may expend funds to escort the AIC to a facility outside the institution to receive the procedure.

8. *Transgender AICs*

Designation and Housing

The Prison Rape Elimination Act of 2003 (PREA), Pub. L. No. 108-79, was instituted to provide

for analysis of prison rape statistics and to provide funding to protect individuals from prison rape. See *infra* V.C.13, Mental Health Counseling and Treatment Services, Implementation of the Prison Rape Elimination Act of 2003. An associated regulation, 28 C.F.R. § 115.42(c), incorporated into Program Statement 5324.12, Sexually Abusive Behavior Prevention and Intervention Program, provides that in deciding whether to assign a transgender or intersex AIC to a facility for male or female AICs, the agency should consider, on a case-by-case basis, whether a placement will ensure the AIC's health and safety, and additionally, whether the placement would present management or security concerns. Decisions regarding initial designation and placement will be referred to the Transgender Executive Council (TEC), which will consider factors including, but not limited to, an AIC's security level, criminal and behavioral/disciplinary history, current gender expression, programming, medical, and mental health needs/information, vulnerability to sexual victimization, and likelihood of perpetrating abuse. In making housing unit and programming assignments, a transgender or intersex AIC's own view with respect to his/her own safety is given serious consideration. See Program Statement 5200.08, Transgender AIC Manual.

Treatment

Hormone therapy and other medical treatment may be provided after an individualized assessment by institution medical staff. Medical staff will request consultation from Psychology Services staff regarding the mental health benefits of hormone and other medical treatment. If an AIC identifies as transgender, Psychology Services will provide the AIC with information regarding the range of treatment options available in the FBOP and their implications. See Program Statement 5200.08, Transgender Offender Manual.

For some AICs, surgery may be the final stage in the transition process and is generally considered only after one year of clear conduct and compliance with mental health, medical, and programming services at the gender affirming facility. Once that period elapses, an AIC may submit a request to his or her Warden requesting surgical consideration. The Warden will then forward the request to the TEC who will determine if all milestones and goals for surgical consideration are met. When this occurs, the case is referred to the Medical Director for consideration as to whether the surgery is medically appropriate.

Program Statement 6031.05, Patient Care, provides that when the treatment plan for an inmate's medical condition includes consideration for gender affirming surgeries by the primary care team and Psychology Services, it will be referred to the Medical Director after it has been administratively reviewed, discussed, and referred by the Transgender Executive Council (TEC).

The Transgender Utilization Review Advisory Group (TURAG), comprised of healthcare professionals appointed by the Medical Director, will conduct a medical review of the case, including an evaluation of all pertinent medical, surgical, and mental health histories and an interview with the patient. The TURAG will, then, submit a final recommendation to the Medical Director. The Bureau Medical Director will review the TURAG recommendations and supporting clinical documentation to ensure medical, surgical, and mental health concerns are addressed and in accordance with current standards.

A summary of the medical review and decision will be conveyed to the Institution Clinical Director

and Warden. When approved, the inmate patient will be referred to a transgender surgeon for consultation in accordance with established Bureau policy and procedures.

Searches of Transgender AICs

Pat searches of transgender AICs will be conducted in accordance with FBOP's Program Statement 5521.06, Searches of Housing Units, Inmates, and Inmate Work Areas. Pat search information refers only to individuals at male facilities who identify as female. The FBOP does not offer "male only" pat searches. AICs may request an exception via request to the Warden.

Regarding a visual search, AICs will be searched in accordance with the gender of the institution, or housing assignment, in which they are assigned. The visual search shall be conducted to ensure as much privacy to the AIC as practicable. Transgender AICs may request an exception. AICs seeking an exception should request the exception by submitting an Inmate Request to Staff (BP-A0148) to the Warden. Such exceptions will either be granted or denied by the Warden, after consultation with staff from Health Services, Psychology Services, Unit Management, and Correctional Services. See also Program Statement 5200.08, Transgender Offender Manual.

Clothing and Commissary Items

Consistent with safety and security concerns, AICs who have identified as transgender will have the opportunity to have undergarments of their identified gender even if they are not housed with AICs of the identified gender. Standardized list of Commissary items for transgender AICs are available in accordance with the Trust Fund/Deposit Manual Program Statement. The Warden may approve additional items based on the individualized assessment of the transgender AIC. See also Program Statement 5200.08, Transgender Offender Manual.

9. Substance Abuse Treatment

Drug abuse education and substance abuse treatment is available in each institution. See Program Statement 5330.11, CN-1, Psychology Treatment Programs. AICs identified with a history of drug use, a judicial recommendation for treatment, a violation of supervision related to drug use, or an instant offense related to drug use, are required to take the FBOP's drug abuse education course. AICs who are found to have a drug use problem are also referred for nonresidential and residential drug abuse treatment.

In early 2023, the FBOP had 76 residential drug abuse programs (RDAPs) at 70 locations, including two for Spanish-speaking male AICs, and one for Spanish-speaking female AICs, to address the needs of AICs with a diagnosis of substance abuse or dependence based on the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*.

Dual Diagnosis RDAP programs have been developed to address the needs of AICs with a co-existing substance abuse and mental health diagnosis. Successful completion of RDAP requires the participant to receive no less than 120 days of community-based treatment by licensed providers during his or her residence in an RRC or on home detention. RDAP participation includes a program incentive of sentence reduction (up to one year) for an eligible AIC in accordance with

VCCLEA, 18 U.S.C. § 3621(e)(2). To receive the program incentive, the AIC must successfully complete RDAP and must also satisfy the eligibility requirements provided in 28 C.F.R. §§ 550.50–.57, and Program Statement 5331.02, CN-2, Early Release Procedures under 18 U.S.C. § 3621(e). In all cases, however, the award of sentence reduction is at the discretion of the FBOP.

The FBOP's drug abuse treatment strategy parallels community drug abuse treatment regimens differentiating between residential treatment and out-patient treatment (non-residential treatment). This approach allows the FBOP to provide the appropriate intensity of treatment for the needs of AICs with a history of substance abuse.

10. Urine Surveillance Program

Illegal drug use compromises institutional security and threatens AIC and staff safety; the FBOP maintains careful oversight to detect and deter AIC drug use. See Program Statement 6060.08, Urine Surveillance and Narcotic Identification. Urine screening is an effective tool in detecting drug use in the institution. AICs involved in community activities are routinely tested for the use of illegal drugs, and any AIC may be tested based on individual suspicion of drug use. In addition, a random sample of the total AIC population at each institution is tested monthly. Any AIC testing positive for unauthorized substances, or who refuses to submit to a test, is subject to sanction, including the loss of early release earned through successful RDAP completion.

Any visitor or staff member found to be introducing illegal drugs or other contraband into an institution is immediately subject to arrest. See 18 U.S.C. § 1791; 28 C.F.R. §§ 511.10–.18; Program Statement 5510.15, Searching, Detaining, or Arresting Visitors to Bureau Grounds and Facilities. By entering or attempting to enter FBOP grounds or facilities, the individual has consented to search of his person and his belongings. A visitor who refuses to comply with authorized search procedures will be denied entry or be required to leave.

11. Medical Services

Medical Services Available to Sentenced AICs

Every institution maintains a Health Services Unit to provide medical, dental, and mental health care. FBOP policy regarding medical care and procedures for caring for AICs with medical needs is set forth in 28 C.F.R. § 549 and Program Statement 6031.05, Patient Care. Service is provided by a variety of health care professionals, including psychiatrists, physicians, nurses, advanced practice providers (nurse practitioners and physician assistants), dietitians, dentists, and pharmacists. FBOP health care staff is augmented by assigned United States Public Health Service personnel. Community medical professionals are consulted as needed, and AICs are sent to community hospitals should medically necessary care be unavailable at the institution. See Program Statement 6010.05, Health Services Administration.

In determining the appropriate institution in which to house an AIC, the FBOP carefully considers the AIC's health status. As the FBOP provides extensive medical services, a defendant's medical condition generally will not preclude a sentence to FBOP custody. When serious health concerns affect a designation decision, the DSCC will refer the case to the FBOP's OMDT. A specific

institution is designated with attention to the urgency of medical need; institution capability; bed space availability; and security concerns. FBOP facilities are classified by “Care Level” based on the local FBOP health care workforce and range of available community-based services.

Each AIC is assigned a medical “Care Level,” based on his or her medical history as described in the Presentence Report and other available information. The FBOP’s goal in implementing the Care Level system is to assign AICs with greater medical needs to those facilities with more comprehensive on-site medical resources and to provide more effective and efficient access to community-based health care for each AIC.

AICs with Care Level 1 needs are generally healthy, under 70 years of age, and may have limited medical needs requiring clinician evaluation and monitoring. Examples of such conditions are mild asthma, diet-controlled diabetes, and patients with human immunodeficiency virus (HIV) who are stable and do not require medications.

AICs with Care Level 2 needs are those who are stable outpatients, requiring at least quarterly clinician evaluation. Examples of such conditions include medication-controlled diabetes, epilepsy, and emphysema.

AICs with Care Level 3 needs are fragile outpatients who require frequent clinical contacts, and/or who may require some assistance with activities of daily living, but do not require daily nursing supervision. This Care Level may include stabilization of medical or mental health conditions that may require periodic hospitalization. Other examples of this Care Level are patients with cancer in remission less than a year, advanced HIV disease, severe mental illness in remission on medication, severe congestive heart failure, and end-stage liver disease.

AICs with Care Level 4 needs are severely impaired and may require daily nursing care. Examples of such conditions are those with cancer in active treatment, dialysis, quadriplegia, stroke or head injury patients, major surgical patients, acute psychiatric illness requiring inpatient treatment, and high-risk pregnancy.

The DSCC designates those AICs with Care Levels 1 and 2. For those AICs with Care Levels 3 and 4, the designation decision will be made by the OMDT, as the medical need of the AIC is the primary factor in the designation decision.

Federal Medical Centers

Medical, dental, and mental health services at each institution are provided according to the Care Level. Seven FMCs provide specialized health services:

FMC Butner, North Carolina

Located north of Raleigh, FMC Butner is part of the FCC and serves as a major medical and psychiatric referral center for male AICs. FMC Butner has all specialty areas of medicine and is the primary referral center for oncology, providing chemotherapy and radiation therapy. FMC Butner manages a broad range of subacute and chronically ill AICs. An orthopedic surgery

program is available. Dialysis services are provided on-site.

FMC Carswell, Fort Worth, Texas

Located in Fort Worth in the northeast corner of the Naval Air Station, Joint Reserve Base, FMC Carswell serves as the major medical and psychiatric referral center for female AICs. All specialty areas of medicine are available at FMC Carswell, through in-house staff and community-based consultant specialists.

FMC Devens, Massachusetts

Located in central Massachusetts, northeast of Worcester, FMC Devens serves both medical and mental health care needs of male AICs. All specialty areas of medicine are available at FMC Devens, through in-house staff and community-based consultant specialists. Additional services provided at FMC Devens include dialysis treatment for AICs with end-stage renal failure.

FMC Fort Worth, Texas

The Federal Medical Center in Fort Worth, Texas, opened in 1971 and was the first adult co-correctional (male and female) facility in the United States. Over the years, the institution has had several mission changes and currently serves as a medical center for males and a jail for United States Marshals Service prisoners. In addition to providing ambulatory care services for its general population AICs, FMC Fort Worth supports a 76-bed medical unit for Care Level 4 AICs needing 24-hour nursing care.

FMC Lexington, Kentucky

Located just north of Lexington, FMC Lexington treats male AICs. All specialty areas of medicine are available by in-house staff and community-based consultant specialists. FMC Lexington is the primary referral center for AICs with most types of leukemia and lymphoma.

FMC Rochester, Minnesota

Located 80 miles southeast of Minneapolis, FMC Rochester serves as a major medical and mental health referral center for male AICs. Most specialty and sub-specialty consultations are available through the Mayo Clinic, and in other local facilities.

FMC Rochester is the primary referral center for AICs with end-stage liver disease and advanced HIV infection, as well as other infectious diseases requiring long-term management. FMC Rochester provides extensive psychiatric and psychology services, including inpatient psychiatry services and forensic studies.

U.S. Medical Center for Federal Prisoners (USMCFP), Springfield, Missouri

Located in southwest Missouri, USMCFP Springfield is a major medical and psychiatric referral center for male AICs. All specialty areas of medicine are available at USMCFP Springfield,

through in-house staff and community-based consultant specialists.

Springfield is the primary referral center for high security AICs. The institution maintains extensive psychiatric and psychological services, to include inpatient forensic studies. It is the major kidney dialysis center for the FBOP.

Voluntary Mental Health and Medical Treatment

In accordance with Program Statement 6031.05, Patient Care; Program Statement 6340.04, Psychiatric Services; and Program Statement 5310.17, Psychology Services Manual, the health care mission of the FBOP is to provide appropriate and necessary medical, dental, and mental health services to AICs by professional staff. As in the community, each individual AIC is responsible for self-care, and for seeking medical services when necessary. Regardless of Care Level, each AIC is assigned to a Primary Care Provider Team. Whenever possible, the AIC will see the same medical provider(s) for each appointment, ensuring continuity of care and economy of service.

Patient care is provided by appointment, scheduled in advance through request by the AIC, or scheduled by the provider for follow-up examination. A nominal co-pay for AIC-initiated medical visits is assessed to encourage responsible use of health care resources, but no AIC is denied care because of inability to pay. See Program Statement 6031.02, Inmate Copayment Program. Prescribed medications are given free of charge, in accordance with an established National Formulary. Certain over-the-counter medications may be purchased in the AIC commissary. See Program Statement 6541.02, Over-the-Counter Medications. AICs may keep prescribed medications within their possession. Medical staff individually dispenses controlled medication.

12. Managing Infectious Disease

AIC education plays a large role in the FBOP's effort to prevent and manage infectious disease. AICs are provided information on a continuing basis to address disease prevention, both within the institution and in preparation for release. The FBOP has adopted a multi-faceted program of testing, treatment, and education. All sentenced AICs are offered testing for HIV on initial admission; when clinically indicated; and on request of the AIC at the discretion of staff.

Testing is required for AICs with HIV risk factors. While AICs with HIV are housed in the general population, HIV-positive AICs who demonstrate predatory or promiscuous behavior may be isolated in order to protect other AICs from becoming infected. The FBOP also maintains an active program to control and treat contagious Tuberculosis (TB). Each AIC is required to undergo TB screening within two calendar days of initial incarceration. AICs who are free from prior TB infection are screened annually for newly acquired TB infection, and when clinical staff determines that the AIC may be at risk for infection. Infectious diseases are managed in FBOP facilities in accordance with FBOP Clinical Guidance, e.g., COVID-19, HIV, Hepatitis C, Hepatitis B, Scabies, Varicella, Medical Management Exposures, etc. See 28 C.F.R. §§ 541.60-.68; Program Statement 6190.04, Infectious Disease Management. **For current and comprehensive information concerning FBOP's response to COVID-19, refer to the "FBOP: COVID-19 Update" page on <https://www.BOP.gov/>.**

13. Mental Health Counseling and Treatment Services

AICs are offered a full range of mental health services, through psychologists, psychiatrists, and community mental health specialists. See Program Statement 5310.17, Psychology Services Manual; Program Statement 6010.05, Health Services Administration; Program Statement 6340.04, Psychiatric Services; Program Statement 5310.16, Treatment and Care of Inmates with Mental Illness; and Program Statement 6010.03, Psychiatric Evaluation and Treatment. Many AICs can be treated on an outpatient basis. AICs requiring in-patient treatment are referred to one of several psychiatric referral centers: FMC Rochester; USMCFP Springfield; FMC Butner; FMC Devens; and FMC Carswell for female AICs.

Psychiatric medication is used only for a diagnosed psychiatric disorder for which such medication is the most appropriate treatment. See 28 C.F.R. §§ 549.40–.46; Program Statement 6010.03, Psychiatric Evaluation and Treatment. Psychiatric treatment is available on-site, through telemedicine evaluation, or by community consultants.

Suicide prevention is a major concern at all institutions. Program Statement 5324.08, Suicide Prevention Program, emphasizes staff training to alert staff to signs of those AICs who may be contemplating suicide and provides for comprehensive prevention programs.

Involuntary Mental Health Treatment

The Supreme Court has held that the Due Process Clause permits prison officials to involuntarily medicate a mentally ill AIC with psychotropic medication if the AIC is dangerous to self—either actively or by being gravely disabled—or to others, and if such treatment is in the prisoner’s medical interest. See Washington v. Harper, 494 U.S. 210 (1990); see also United States v. Sell, 539 U.S. 166 (2003) (holding that if medication is to be involuntarily administered solely for the purpose of restoring an AIC’s competency, the decision must be made by the trial court); 28 C.F.R. §§ 549.40–.46; Program Statement 6010.03, Psychiatric Evaluation and Treatment. Such treatment is permissible after the AIC has received notice and a hearing before an administrative panel.⁵ In a psychiatric emergency, psychotropic medication may be administered involuntarily if the medication is an appropriate treatment for the mental illness and other alternatives would not be effective. AICs given emergency treatment of this type will be considered for referral to a FBOP psychiatric referral center.

Mental Health Programs

Psychology staff is available at all institutions to provide AICs with counseling and other mental health services. Staff facilitate ongoing counseling programs, conduct personal crisis intervention, and are readily accessible to AICs as needed. Staff or contract psychiatrists are available for individual consultation.

All AICs are screened by Psychology Services staff during the institution’s Admission and

⁵ Medication may be administered without an administrative hearing for emergencies in which a person is suffering from a mental illness which creates an immediate threat of bodily harm to self or others, serious destruction of property, or extreme deterioration of functioning secondary to psychiatric illness. See 28 C.F.R. §§ 549.40–.46.

Orientation Program. Screening may include an individual interview. Psychologists are available for individual and group counseling, and AICs interested in these services may submit a request for participation to a staff member in Psychology Services. Mental health services are offered to treat drug use and alcohol abuse, as well as other behavioral and emotional problems. See Program Statement 5310.17, Psychology Services Manual. In addition, FBOP staff in each housing unit are available for informal counseling sessions. AIC participation in these activities is voluntary and encouraged.

Sex Offender Management and Treatment

The FBOP maintains a comprehensive sex offender management strategy, implemented to effectively manage its population of sex offenders, and manage the risks posed by these AICs to the general public. With the enactment of the Walsh Act, the FBOP further expanded its monitoring, evaluation, and treatment programs for sex offenders. See 18 U.S.C. § 3621(f); Program Statement 5324.10, Sex Offender Programs.

AICs with a history of sexual offenses may be designated to the Sex Offender Management Program (SOMP). SOMP are located at FMC Carswell, Texas (female AICs), FMC Devens, Massachusetts (Administrative/Medical); FCI Elkton, Ohio (Low Security); FCI Englewood, Colorado (Low Security); FCI Marianna, Florida (Medium Security); USP Marion, Illinois (Medium Security); FCI Milan, Michigan (Low Security); FCI Petersburg, Virginia (Medium Security); FCI Seagoville, Texas (Low Security); and USP Tucson, Arizona (High Security). Assignment is made in accordance with the security level of the individual.

All SOMP offer treatment programming in two levels of intensity: the high intensity residential Sex Offender Treatment Program (SOTP-R) or the moderate intensity non-residential Sex Offender Treatment Program (SOTP-NR). AICs volunteering for treatment are assessed to determine the most appropriate program level based on a review of their offense history. AICs at any FBOP institution may request placement in treatment programming. Once an AIC requests treatment, FBOP staff conduct an assessment to determine the AIC's assigned program level and arranges a transfer to the appropriate institution. Treatment is ordinarily provided in the last three years of the AIC's sentence.

AICs determined to be at high risk of reoffending are referred to the SOTP-R, offered at FMC Devens and USP Marion. Placement in the SOTP-R is reserved for high-risk sexual AICs, based on the extent and seriousness of the AIC's offending history, as determined by a formal risk assessment conducted by FBOP staff. The SOTP-R is a modified therapeutic community housed in a specialized treatment unit. The program employs cognitive-behavioral therapy to help the sex offender effectively manage his sexual behavior both within the institution and in preparation for release. Ordinarily, participants complete the program in 18 months.

The SOTP-NR is offered at the remaining SOMP institutions. The SOTP-NR is designed to meet the treatment needs of low and moderate risk sexual AICs. SOTP-NR offers AICs individualized non-residential treatment, ordinarily involving four to six hours of programming per week over a 9-to-12-month period.

Implementation of the Prison Rape Elimination Act of 2003

Congress enacted PREA to address sexual abuse of AICs, including at all institutions housing adults and juveniles, as well as in community-based facilities. Pursuant to 28 C.F.R. § 115, and Program Statement 5324.12, Sexually Abusive Behavior Prevention and Intervention Program, the FBOP maintains a zero-tolerance approach to prison rape. The FBOP has implemented PREA by prevention planning; training and education of staff, volunteer, contractors, and AICs; screening for risk of sexual victimization and abusiveness; and ensuring that any incident is reported, investigated, and that perpetrators are effectively disciplined. AICs are encouraged to report sexual abuse to a staff member, and to inform staff if the AIC has witnessed sexually abusive behavior. FBOP staff keep reported information confidential, discussing the case with officials only on a need-to-know basis, and only for law enforcement or investigative purposes.

Should an AIC not feel comfortable talking with staff, AICs are instructed to use special mail procedures and write directly to the Warden, Regional Director, or the Director. An AIC may also send an e-mail directly to the Office of the Inspector General of the Department of Justice if he or she wishes to do so. Every allegation of sexual abuse is investigated, and staff take appropriate steps to both safeguard AICs and to prosecute perpetrators.

D. Visiting, Telephones, and Correspondence

1. Visiting

AICs are encouraged, throughout their incarceration, to maintain ties with family and friends in the community. AICs are ordinarily permitted face-to-face visitation with approved family and friends in the institutions' general visiting room areas. Attorney visits are afforded as much privacy as possible to ensure confidentiality. See Program Statement 5267.09, CN-1, Visiting Regulations. Conjugal visits are not permitted. Each institution schedules its own visiting hours and procedures. AICs receive this information during the A&O process, so they can advise family members and others of the visiting requirements. Visitors should also consult the FBOP website, for individual institution visiting instructions and scheduled hours. Pretrial AICs may receive visits in accordance with the local institution's guidelines for visiting. However, staff may allow a pretrial AIC special visit to protect the AIC's business interests or to help prepare for trial. See 28 C.F.R. §§ 551.100–.120; Program Statement 7331.05, Pretrial Inmates.

AICs have no constitutional right to social prison visits, and the courts have accorded substantial deference to the judgment of prison administrators to place limitations on AIC visiting. Based on security concerns, institutions may restrict visitation. An AIC's visiting privileges may, under certain circumstances, be withheld as a disciplinary sanction. See 28 C.F.R. §§ 540.40–.52.

2. Telephones

Telephone privileges are another means of maintaining community and family ties. See 28 C.F.R. §§ 540.100–.106; Program Statement 5264.08, Inmate Telephone Regulations. AICs may call friends and family outside the institution on a telephone provided for that purpose. An AIC's telephone time is ordinarily limited to 300 minutes per calendar month. Limitations and

conditions may be imposed upon an AIC's telephone privileges to ensure consistency with other aspects of correctional management responsibilities.

AICs are advised of the institution's telephone monitoring capability, and a notice is posted at each AIC telephone advising that calls are monitored. AICs sign the BP-A0407 and BP-A0408 forms to acknowledge they have been informed that phone calls are monitored. Use of the telephone constitutes consent to the monitoring of calls. AICs are responsible for the expenses of AIC telephone use. See 28 C.F.R. § 540.105(a); Program Statement 5264.08, Inmate Telephone Regulations. Unmonitored calls to attorneys are permitted in limited circumstances. See *infra* V.F.5, Unmonitored Legal Telephone Calls. Third-party or other alternative call arrangements are not permitted, thus limiting the opportunity for AICs to use the phones for criminal or other inappropriate purposes. AICs are not permitted possession or use of cellphones or electronic communication devices. Any such possession or use is grounds for disciplinary action and possible criminal prosecution.

3. Written and Electronic Correspondence

AICs are encouraged to write to family, friends, and other community contacts during incarceration. See 28 C.F.R. §§ 540.10–.25; Program Statement 5265.14, Correspondence. AIC correspondence is classified as “general mail,” “special mail,” or “legal mail.” “General mail” is opened and inspected by staff for both contraband and content, which might threaten the security or good order of the institution. Incoming “special mail” is opened only in the presence of the AIC and inspected for physical contraband and the qualification of any enclosures as special mail. Consult Program Statement 5265.14 for detailed discussion of “general” and “special” mail procedures. AICs are not permitted use of express mail services. For more information regarding AIC “legal mail,” see *infra* V.F.4, Legal Mail.

All FBOP facilities provide eligible AICs with the capability to send and receive electronic messages using dedicated FBOP computers. See Program Statement 4500.12, Trust Fund/Deposit Fund Manual. The Trust Fund Limited Inmate Computer System (TRULINCS) electronic messaging system is funded entirely by the AIC Trust Fund, which is maintained by profits from AIC purchases of commissary products and telephone services, and the fees AICs are pay for using TRULINCS. AICs have no access to the Internet. As with traditional mail communication, all such messages are subject to staff monitoring, including an AIC's electronic communication with his or her attorney. Message content is subject to the same restrictions as regular mail.

AICs (other than pre-trial detainees) may not direct a business while incarcerated. This does not, however, prohibit correspondence necessary to enable an AIC to protect property and funds that were legitimately the AIC's at the time of commitment. For example, an AIC may correspond about refinancing an existing mortgage or sign insurance papers, but may not operate a mortgage or insurance business while in the institution.

AICs are permitted to receive commercial publications from the community in accordance with 28 C.F.R. §§ 540.70–.72, and Program Statement 5266.11, Incoming Publications. Except when precluded by statute, AICs are permitted to subscribe to, or receive by mail, publications without prior approval. See 28 C.F.R. § 540.70; Program Statement 5266.11, Incoming Publications. The FBOP has established procedures to determine if an incoming publication is detrimental to the

security, discipline, or good order of the institution, might facilitate criminal activity, or is otherwise prohibited by law, and will reject publications found to meet those criteria.

E. AIC Discipline Program

Pursuant to 18 U.S.C. § 4042(a)(3), the FBOP administers the AIC discipline program to promote a safe and orderly environment for AICs and staff. After arriving at a FBOP facility, all AICs receive written notice of their rights and responsibilities, prohibited acts within the institution, the possible range of sanctions for each offense, and disciplinary procedure.

Engaging in a prohibited act carries sanctions corresponding to the severity of the offense. Sanctions may include time in disciplinary segregation (special housing units), loss of good time credits, and loss of privileges. See 28 C.F.R. §§ 541.1–8; Program Statement 5270.09, CN-1, Inmate Discipline Program; Program Statement 5270.12, Special Housing Units. Only institution staff may take disciplinary action against AICs. Corporal punishment, as well as retaliatory and capricious disciplinary action, is not permitted under any circumstance.

Consistent with the minimum procedural protections required by Wolff v. McDonnell, 418 U.S. 539 (1974), the FBOP disciplinary process requires that staff provide the AIC with a written copy of the charges, and that the AIC is entitled to be present during the initial hearing. An AIC is not permitted a staff representative or to call witnesses at a Unit Discipline Committee (UDC) hearing, but may present documentary evidence. However, at a DHO hearing, the AIC may request a staff representative and may have witnesses appear at the proceeding. An attorney may not represent the AIC at either hearing. AICs may appeal the decision of the UDC or the DHO pursuant to Program Statement 1330.18, Administrative Remedy Program. See 28 C.F.R. §§ 542.10–19.

F. AIC Access to the Courts

The Supreme Court in Lewis v. Casey, 518 U.S. 343 (1996), held that while prisons were constitutionally required to provide AICs with meaningful access to the courts, they were not required to do so in any particular manner. The FBOP affords AICs reasonable access to the courts by providing them with legal materials, access to their attorney, and reasonable opportunity to prepare legal documents. See 28 C.F.R. § 543; Program Statement 1315.07, CN-1, Legal Activities, Inmate.

1. Law Libraries

All federal prisons maintain AIC electronic law libraries (“ELLS”). Legal materials available in the ELL include U.S. District Court, Court of Appeals, and Supreme Court decisions, federal statutes and regulations, and other documents including, but not limited to, court rules and procedures, federal sentencing guidelines, and resource materials. The ELL also contains the FBOP Program Statements. ELL access is available at workstations located in housing units, recreation, medical units, disciplinary and administrative segregation and other spaces in the institution that the Warden feels is appropriate. AICs with pending court deadlines may be given additional time to conduct their legal research on the ELL, if necessary. Training for AICs in the

use of the ELL is available through an on-line tutorial and access to a Quick Reference Guide (in English and Spanish). AICs may also print copies of cases and other materials on the ELL. An AIC may solicit or purchase legal materials from outside the institution, pursuant to Program Statement 5266.11, Incoming Publications.

2. Preparation of Legal Documents

AICs are permitted a reasonable amount of time, ordinarily when not participating in a scheduled program or work assignment, to conduct legal research relevant to their case, and to prepare legal documents. See 28 C.F.R. §§ 543.10–.16; Program Statement 1315.07, CN-1, Legal Activities, Inmate. AICs ordinarily have access to photocopying machines, typewriters, and office supplies. For safety, security, and fire hazard reasons, AICs are limited in the number of legal materials they may possess. See Program Statement 1315.07, CN-1, Legal Activities, Inmate; Program Statement 5580.08, Inmate Personal Property. AICs generally may assist each other in preparing legal documents, absent unique security concerns. However, one AIC may not possess another AIC's legal materials. Any assistance offered by one AIC to another is voluntary, and the assisting AIC may not receive compensation for their services from another AIC. An AIC is not entitled to assistance from any specific AIC.

3. Attorneys

At all institutions AICs are permitted to contact and retain attorneys. See 28 C.F.R. §§ 543.10–.16; 28 C.F.R. §§ 551.100–.120; Program Statement 1315.07, Legal Activities, Inmate; Program Statement 7331.05, Pretrial Inmates. Attorney visiting ordinarily takes place during regular institution visiting hours. Attorney visits may be conducted at times other than established visiting hours with the approval of the Warden or the Warden's designee. Attorneys and, in some cases, their representatives, may generally visit AIC clients in private conference rooms if available, or in other accommodations designed to ensure a reasonable degree of privacy. Attorney representatives, such as interpreters, paralegals, and private investigators, must contact the institution in advance in order to complete the necessary documentation to be permitted to visit and AIC on behalf of an attorney. Legal visits are visually monitored, as necessary, but are not subject to auditory monitoring. See 28 C.F.R. §§ 543.10–.16.

Visits by Foreign Attorneys

Attorneys who are not licensed in a state or jurisdiction of the United States must provide verification of their status as a licensed attorney, in good standing, in a foreign jurisdiction prior to their initial visit. Foreign attorneys should contact their respective consulate office, which should provide official documentation to the United States Government. Please have the Consulate Office directly fax the verification to the respective CLC for the institution they are visiting. Once the status of the foreign attorney is confirmed, the attorney will be processed as a legal visitor for future visits. A foreign attorney's status needs to be updated by staff annually.

4. Legal Mail

Particular care is taken to ensure that "special mail" (mail to or from courts, attorneys, and certain

government officials) is kept confidential. See 28 C.F.R. §§ 540.10–.25; Program Statement 5265.14, Correspondence. Special mail from attorneys must be marked “Special Mail-Open only in the presence of the AIC.” In addition, the sender must identify himself or herself on the envelope as a person entitled to invoke the protections of special mail. The sender’s return address must reference an individual identified as an attorney, not a firm, e.g., “John Doe, Attorney,” not “Law Offices of Smith & Smith.” Incoming special mail is opened in the presence of the AIC and is visually inspected for contraband. Staff may inspect incoming special mail to determine that it qualifies as such, but may not otherwise review its content.

To reduce the likelihood that AICs will successfully send harmful materials to persons in the community by exploiting the privacy afforded outgoing special mail, all outgoing special mail from an AIC must be delivered directly to a staff member for further processing. Staff then confirm that the AIC delivering the outgoing special mail is the same AIC reflected in the return address. AICs may seal outgoing special mail, before submitting directly to staff for further processing. All outgoing special mail is subject to scanning by electronic means.

5. Unmonitored Legal Telephone Calls

AICs may place unmonitored telephone calls to their attorneys. See 28 C.F.R. § 540; Program Statement 5264.08, Inmate Telephone Regulations. To do so, AICs must specifically request staff assistance to first approve the call, and then place the call on an unmonitored staff telephone. A pretrial AIC may telephone his or her attorney as often as resources of the institution allow. See 28 C.F.R. §§ 551.100–.120; Program Statement 7331.05, Pretrial Inmates. To receive permission to place an unmonitored attorney call, an AIC is ordinarily required to establish that his or her communication with attorneys by other means is not adequate. The 300-minute per calendar month limitation does not apply to unmonitored legal telephone calls. AIC requests for unmonitored attorney calls are carefully reviewed. Frequent unmonitored telephone calls increase an AIC’s opportunity to pursue illegal activities without detection, and require an inordinate amount of staff time.

6. AIC Involvement in Litigation While Incarcerated

Depositions

Should an attorney wish to take an AIC’s deposition, the attorney must contact the AIC directly to obtain his or her consent to being deposed. In matters pending in federal court, leave of a court of competent jurisdiction must be obtained, and the court must grant leave to the extent consistent with Federal Rules of Civil Procedure 26(b)(1) and (2), prior to taking any deposition of a federal AIC. See FED. R. CIV. P. 30(a)(2)(B). If the AIC agrees to cooperate, the attorney should then contact the relevant institution, in which the deposition is to be held, to assist in making arrangements. CLC staff at the relevant institution are available to assist, as needed.

The attorney must submit a written request to the Warden containing the following information:

- (1) Name and register number of the AIC being deposed;
- (2) Name, title, and organization of each person attending;

- (3) Requested date and time for the deposition;
- (4) Expected length of deposition;
- (5) List of all equipment to be used at the deposition;
- (6) Case caption, case number, and nature of matter;
- (7) Whether AIC consent has been obtained; and
- (8) Court order, if applicable.

Recording devices are not permitted inside the institution without the prior written permission of the Warden. Requests to introduce such equipment must be processed and approved prior to scheduling a visit. All equipment is subject to inspection prior to entering the institution.

If approved, at the discretion of the Warden, a room may be made available for the deposition. The Warden may also limit the total number of people who can attend the deposition based on the available accommodations. Further, the attendees will generally be limited to the attorneys representing the AIC-deponent, party attorneys, court reporters, or videographers. Ordinary visiting regulations will apply, and each entrant must complete the visitor application process before being admitted to the institution.

Subpoenas

Response to a subpoena by FBOP staff will be processed in accordance with applicable policy. See, 28 C.F.R. § 513; Program Statement 1351.05, CN-2, Release of Information. Should an attorney request the appearance of a staff member in a court proceeding, or request the production of documents by subpoena, the CLC attorneys will consult with the relevant U.S. Attorney's Office, in accordance with 28 C.F.R. §§ 16.21–29. Requests for documents may also be handled through a Freedom of Information Act (FOIA) request. Consult www.BOP.gov/foia for more information on the FOIA process.

Service of Process on AICs

The FBOP will not accept service of process for or on behalf of an AIC. Anyone desiring to serve an AIC may use a local process server, or otherwise follow local court procedures in the jurisdiction in which the AIC is housed. Wardens may require local process servers effectuating in-person service to be a law enforcement officer acting in that capacity. If otherwise permitted to perform in-person service on AICs, Wardens may require non-law enforcement process servers to undergo a criminal background check. The prospective process server or individual seeking to effect service of process is advised to contact the institution in which the AIC is housed, for specific information.

State Court Appearance of an AIC

In accordance with 28 C.F.R. §§ 527.30–.31 and Program Statement 5875.13, Transfer of Inmates to State Agents for Production on State Writs, the FBOP will consider the request of a state or local court for the transfer of an AIC to local, physical custody pursuant to a state writ of habeas corpus *ad prosequendam* or *ad testificandum*. Such transfer is at the discretion of the Warden. Transfers in civil cases pursuant to a writ *ad testificandum* must be cleared through both the institution CLC

and the Warden. Transfers will be recommended only if the case is substantial, where testimony cannot be obtained through alternative means (i.e., depositions or interrogatories) and where security concerns do not preclude such a transfer. Telephonic or video appearance of the AIC is possible, subject to staff availability and prior approval from the Warden.

AIC Access to Electronic Discovery Materials

In some circumstances, an AIC may access litigation documents in various electronic formats rather than in printed form. Electronic legal materials for AIC review should be provided by an attorney on a storage device appropriate with the maintenance of the safety and security of the institution and compatible with the configuration available at the institution. Specific requests and/or questions regarding the institution's e-discovery capabilities should be directed to the Warden of the institution in which the AIC is confined or the responsible CLC. See Appendix B.

G. Administrative Remedy Program

The Administrative Remedy Program provides every AIC with the opportunity to seek formal review of a grievance concerning virtually any aspect of his or her confinement, should informal procedures not achieve resolution. See 28 C.F.R. §§ 542.10–19; Program Statement 1330.18, Administrative Remedy Program. This program applies to all AICs confined in institutions operated by the FBOP, AICs designated to contract RRCs, and to former AICs for issues that arose during confinement. AICs are obligated to attempt informal resolution of grievances prior to filing a formal request for administrative remedy. Once a formal request is filed at the institution level (“BP-9”)⁶, the Warden of that facility has 20 days to investigate and provide the AIC a written response.

If the AIC is dissatisfied with the Warden's response, he or she has 20 days to file a Regional Administrative Remedy Appeal (“BP-10”). Once received in the Regional Office, the Regional Director has 30 days to investigate and provide the AIC a written response. If the AIC is dissatisfied with the Regional Director's response, he or she has 30 days to file a Central Office Administrative Remedy Appeal (“BP-11”). Once received in the Central Office, the Administrator, National Inmate Appeals, has 40 days to investigate and provide the AIC a written response. After receiving the Administrator's response, the AIC has exhausted the FBOP's Administrative Remedy Program. The program provides for expedited investigations and responses in emergency situations, as well as providing extensions of time for both filing grievances and receiving responses. No time limit is imposed upon an AIC raising allegations of sexual abuse through the administrative remedy system.

If the AIC considers the issue to be sensitive, e.g., the AIC's safety or well-being would be placed in danger if the request became known at the institution, the AIC may submit the appeal directly to the appropriate Regional Director. The AIC must mark the request as “sensitive” and explain in writing the reason for not submitting the request at the institution. If the Regional Administrative Remedy Coordinator agrees that the request is sensitive, the request shall be accepted, investigated, and a response will be generated. Otherwise, the request will not be accepted, and the AIC shall be advised in writing of that determination, without a return of the

⁶ Referenced forms for the Administrative Remedy Program are provided by Unit Counselors.

request. The AIC may then pursue the matter by submitting a request for Administrative Remedy to the Warden. The Warden shall allow a reasonable time extension resubmission.

The PLRA requires prisoners to exhaust administrative remedies before filing suit in federal court. That statute provides that “[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.” See 42 U.S.C. § 1997e(a). See also Porter v. Nussle, 534 U.S. 516 (2002); Booth v. Churner, 532 U.S. 731 (2001). Exhaustion is mandatory in Bivens actions.⁷ However, exhaustion in habeas petitions has been judicially created. Exhaustion is generally expected; however, courts may waive it in cases where they believe exhaustion would have been futile. The requirement to exhaust the administrative remedy process serves to: (1) promote administrative efficiency by preventing premature judicial interference with agency processes; (2) encourage respect for executive autonomy by allowing an agency opportunity to correct its own errors; (3) facilitate judicial review by affording courts the benefits of an agency’s experience and expertise; and (4) serve judicial economy by having the agency compile the factual record.

The Supreme Court reaffirmed these holdings, in Woodford v. Ngo, 548 U.S. 81, 90–91 (2006), and mandated “. . . compliance with an agency’s deadlines and other critical procedural rules because no adjudicative system can function effectively without imposing some orderly structure on the course of its proceedings.” The Supreme Court further held in Woodford, “[t]he text of 42 U.S.C. § 1997e(a) strongly suggests that PLRA uses the term ‘exhaustion’ to mean. . . proper exhaustion.” Section 1997e(a) refers to “such administrative remedies as are available” and thus points to the doctrine of exhaustion in administrative law. See Jones v. Bock, 549 U.S. 199 (2007).

H. AIC Personal Property

AICs may possess only that property which is authorized by policy to be retained upon admission to the institution, is issued while the AIC is in custody, is purchased in the institution commissary, or is approved by staff to be mailed to, or otherwise received by an AIC. See 28 C.F.R. § 553; Program Statement 5580.08, Inmate Personal Property. These rules contribute to the management of AIC personal property in the institution and contribute to a safe environment for staff and AICs by reducing fire hazards, security risks, and sanitation problems. Required hygiene items are issued by the institution, and personal preference items are available for purchase in the Commissary. See Program Statement 4400.05, CN-2, Property Management Manual; Program Statement 5230.05, Grooming. AICs may purchase a variety of clothing, snacks, and grooming items in the Commissary at scheduled times. As of April 15, 2006, no tobacco products are sold in the Commissary, and AICs are prohibited from smoking or using tobacco in any form except for religious purposes as authorized by staff in accordance with Program Statement 5360.10, Religious Beliefs and Practices.

⁷ The term “Bivens actions” stems from the case, Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971). In a Bivens action, an AIC is suing a staff member in their individual capacity, alleging that the staff member intentionally or maliciously violated an AIC’s clearly established constitutional right. The AIC seeks monetary damages directly from the employee and not from the U.S. Government.

I. AIC Liens

Following passage of the Court Security Improvement Act of 2007, Pub. L. No. 110-177, the FBOP added additional restrictions to the documents an AIC may possess. Title 18 of the United States Code, § 1521, establishes a criminal offense for filing, attempting to file, or conspiring to file, a false lien or encumbrance against the real or personal property of a federal judge or federal law enforcement officer. Secondly, 18 U.S.C. § 119 establishes a criminal offense for making publicly available “restricted personal information” about a “covered person” with the intent to threaten, intimidate, or incite a crime of violence against such persons which includes court officers, jurors, witnesses, informants, and federal law enforcement officers. AIC mail which contains documents determined to be related to fraudulent Uniform Commercial Code filings, redemption, and/or copyright proceedings may be rejected as outlined in Program Statement 5265.14, Correspondence. If an AIC is found to be in possession of these types of documents or information without authorization, those items will be confiscated, and the AIC will be subject to AIC discipline. In addition, materials believed to be of a criminal nature will be reviewed to determine whether the action should be referred for criminal prosecution, as noted in Program Statement 1350.01, Criminal Matter Referrals.

J. Special Administrative Measures

1. National Security Cases, 28 C.F.R. § 501.2

Upon direction of the Attorney General, the Director may authorize the Warden to implement Special Administrative Measures (SAMs) that are reasonably necessary to prevent disclosure of classified information that would pose a threat to the national security if the AIC disclosed such information. SAMs include, but are not limited to, placing an AIC in administrative detention and restricting social visits, mail privileges, phone calls, access to other AICs and to the media.

Section 501.2 authorizes the Director, upon direction of the Attorney General, to determine the period of time an initial SAM is imposed, up to one year. The Director may also extend the SAM in increments of time not to exceed one year, if the Attorney General receives certification from the intelligence community that there is a danger that the AIC will disclose classified information and that the unauthorized disclosure would pose a threat to the national security.

2. Prevention of Acts of Violence and Terrorism, 28 C.F.R. § 501.3

Upon direction of the Attorney General, the Director may authorize the Warden to implement SAMs that are reasonably necessary to protect persons against the risk of death or serious bodily injury. These procedures may be implemented when there is a substantial risk that an AIC’s communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. Initial imposition of the SAM may be for a period of time not to exceed one year.

The Director may extend the SAM in increments of time not to exceed one year, on receipt of written notification from the Attorney General that certification was received by the Attorney General from law enforcement or the intelligence community that there continues to be a

substantial risk that the AIC's communications or contacts with other persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons.

K. Family Emergencies and Temporary Releases

In limited circumstances, temporary release from the prison facility may be obtained through an approved furlough or an escorted trip. See 28 C.F.R. §§ 570.30–.45; Program Statement 5280.09, Inmate Furloughs; Program Statement 5538.08, Escorted Trips. Several factors are reviewed in determining whether a trip is permissible and how such a trip will be accomplished including the reason for the trip and the AIC's criminal history, security designation, and custody classification.

1. Furloughs

A furlough is an authorized absence from an institution by a sentenced AIC without an escort from the FBOP, the USMS, or other federal or state agent. See Program Statement 5280.09, Inmate Furloughs. For federal AICs, whose offense occurred on or after November 1, 1987, 18 U.S.C. § 3622 vests the FBOP with the sole authority to grant furloughs; for offenses committed prior to November 1, 1987, 18 U.S.C. § 4082 provides the Attorney General authority for furloughs; the related statute was struck by Pub. L. 98-473, § 218(a)(3). The FBOP has delegated this function to the Warden of the federal prison where the AIC is incarcerated. See 28 C.F.R. § 570.33.

Furloughs are a privilege intended to help AICs develop release plans; re-establish family ties; participate in educational, religious, or social activities; or receive essential medical treatment that is not available in FBOP custody. Except where the purpose of the furlough is to obtain necessary health care treatment, or to transfer to another facility, the AIC or the AIC's family must bear all expenses of the furlough, including transportation. Only AICs within two years of their anticipated release dates and who have community custody are eligible for non-emergency day furloughs. An AIC who meets these and other requirements set forth in policy may apply to the Warden for a furlough. Pretrial AICs are excluded from consideration. The Warden ordinarily may not grant a furlough to an AIC convicted of a serious crime against a person or whose presence in the community could attract undue public attention, or undermine the seriousness of the offense. An AIC may appeal denial of a furlough application through the Administrative Remedy Program.

2. Escorted Trips

The FBOP provides approved AICs with staff-escorted trips into the community for such purposes as receiving medical treatment not otherwise available at the institution, visiting a critically ill member of the AIC's immediate family, attending a funeral, or participating in a community program or work-related function. See Program Statement 5538.07, Escorted Trips. Escorted trips fall into one of two categories, medical and non-medical. The need for an escorted trip may arise unexpectedly (e.g., to visit a critically ill family member) or may be planned in advance (e.g., to attend an educational function). In many instances, the AIC and/or family must bear the cost of an escorted trip. An AIC may appeal denial of an escorted trip application through the Administrative Remedy Program.

L. Release

1. Early Release from Prison

Executive Clemency

The United States Constitution, Article II, Sec. 2, gives the President authority to issue pardons, commute sentences, remit fines, and grant reprieves to any person convicted of a federal crime. The U.S. Pardon Attorney ordinarily reviews all petitions for Executive Clemency, undertakes the necessary investigation, and prepares a recommendation for the President.

To expedite the Pardon Attorney's consideration of an AIC's petition for commutation of a sentence of imprisonment, a federal AIC seeking commutation should send the petition through the Warden to the Pardon Attorney. An AIC may request the appropriate forms and instructions for filing a petition for commutation of sentence from the AIC's case manager at the institution. Upon request from the Pardon Attorney, the Director will forward a recommendation on the AIC's petition. Staff may not refuse to process an AIC's petition for commutation of sentence, even when it appears that the AIC is not eligible. See 28 C.F.R. § 1; 28 C.F.R. §§ 571.40–41; Program Statement 1330.15, CN-1, Commutation of Sentence, Petition for. AICs seeking a pardon (rather than commutation of sentence) must wait at least five years after their release from confinement, or, if no confinement was imposed, five years after the date of conviction. See 28 C.F.R. § 1.2. No petition will be accepted from a person on probation, parole, or supervised release. See id.

Reduction in Sentence

Title 18 U.S.C. § 3582(c)(1)(A)(i) authorizes the sentencing court to reduce a sentence upon motion of the Director of the FBOP “if it finds that extraordinary and compelling reasons warrant such a reduction [and] that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.” See 28 C.F.R. §§ 571.60–64; Program Statement 5050.50, Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582(c)(1)(A) & 4205(g). For AICs whose offense was committed prior to November 1, 1987, the FBOP may file a motion with the sentencing court seeking to reduce the AIC's minimum term to time served, thereby making the AIC eligible for parole consideration. The FBOP cannot file a motion on behalf of AICs who are already parole eligible. Those AICs must go directly to the Parole Commission, or the FBOP may recommend to the Parole Commission that the AIC be again reviewed for possible parole. See 18 U.S.C. § 4205(g). The actual release decision then rests with the Parole Commission, rather than with the sentencing court.

For AICs who committed their offense on or after November 1, 1987, the Director may ask the U.S. Attorney, in the jurisdiction that prosecuted the AIC, to file the FBOP's motion for reduction in sentence (RIS), as the FBOP cannot represent itself before the court. AICs may request a RIS under the criteria enumerated in Program Statement 5050.50, which includes medical or non-medical circumstances. Medical circumstances include terminal medical condition and debilitated medical condition. Non-medical circumstances may include elderly AICs; elderly AICs with medical conditions; circumstances in which there has been a death or incapacitation of the AIC's child caregiver, or the incapacitation of an AIC's spouse or registered partner. When reviewing a

RIS request, FBOP considers a number of factors enumerated in the Program Statement, such as the nature and circumstances of the AIC's offense; the AIC's criminal history, including any violations while on supervision; the AIC's institutional adjustment, including the AIC's disciplinary history; the AIC's release plan; and whether release of the AIC would minimize the severity of the AIC's offense or pose a danger to the safety or any other person or to the community. As part of the review process, FBOP may solicit the input of identified victims and the U.S. Attorney's Office responsible for prosecuting the AIC. In addition, the Director may consult with the Office of the Deputy Attorney General as appropriate. D.C. Code AICs may submit RIS requests under the relevant D.C. Code provisions.

After an AIC has fully exhausted all administrative rights to appeal a failure of the FBOP to bring a motion on the AIC's behalf, or the lapse of 30 days from the receipt of an AIC's RIS request by the Warden of the AIC's facility, whichever is earlier, the AIC is permitted to file a motion for RIS directly with the sentencing court.

2. Parole

Many AICs sentenced to a term of imprisonment of more than one year for offenses committed before November 1, 1987, are eligible to be released on parole. See 18 U.S.C. § 4205; 28 C.F.R. § 2. Generally, AICs must complete one-third of the term imposed or some other court-imposed minimum term before becoming eligible for parole. See 28 C.F.R. § 2; Program Statement 5800.15, CN-1, Correctional Systems Manual; Program Statement 5880.30, Sentence Computation Manual/Old Law/Pre CCCA 1984.

A federal AIC seeking parole must apply to the United States Parole Commission. At least 60 days before the initial hearing, the AIC is notified of the time and place of the hearing and of the right to review documentation to be considered by the Parole Commission. See 28 C.F.R. § 2.

3. Pre-Release or Community Confinement in Preparation for Release

Pursuant to 18 U.S.C. § 3624(c), most AICs nearing release or parole from a federal institution will be housed at an RRC during the final portion of their sentence. Such placement assists the AIC in finding a job, locating a place to live, and re-establishing family ties.

RRCs are operated by a number of social service agencies and private companies under contract to the FBOP. RRCs offer a broad spectrum of pre-release programs for community confinement of federal AICs. To oversee these services, the FBOP maintains a network of Residential Reentry Management Offices in major cities throughout the country. See Program Statement 7300.09, CN-3, Community Corrections Manual.

While FBOP staff closely monitor RRCs, the RRC contractor is responsible for all aspects of the AIC's confinement. The RRC will assist the AIC in locating employment; medical care; social services; and in re-establishing community and family ties. Should an AIC violate any conditions of his or her residence at the facility, or has been involved in any further criminal activity, disciplinary sanctions will be imposed. An AIC may be returned to custody. FBOP staff will

review all RRC disciplinary sanctions imposed against the AIC to ensure compliance with FBOP policy.

AIC program plans are individualized and tailored to the reintegration needs of the AIC. During their stays, employed AICs may be required to pay a subsistence charge to help defray the costs of their confinement in the RRC. See 18 U.S.C. § 3622(c).

4. Home Confinement

Home confinement provides an opportunity for AICs to assume increasing levels of responsibility while at the same time providing sufficient restrictions to promote community safety and convey the sanctioning value of the sentence. See Program Statement 7320.01, CN-2, Home Confinement. Title 18 of the United States Code, § 3621, requires the FBOP to designate any penal or correctional facility as the place of a prisoner's confinement; accordingly, an AIC will not be designated to home confinement at the beginning of his or her sentence. Home confinement may be considered for an eligible AIC nearing the end of his or her sentence, and is an option for AICs who no longer require the structure of a halfway house. The AIC remains at his or her place of residence during non-working hours, and may be monitored by telephonic or electronic signaling devices. See 18 U.S.C. § 3563(b)(19).

The FBOP uses two different methods to monitor AICs on home confinement. The first requires the RRC to track the AIC's whereabouts and curfew compliance through daily telephone contacts and periodic personal contacts at the home and workplace. The AIC must also report to the RRC on a scheduled basis for counseling and program updates.

The second method involves electronic monitoring. Many RRCs utilize such electronic monitoring technology, usually involving the use of an ankle bracelet signaling a computer-driven receiving and recording device to monitor an AIC's location.

The First Step Act (FSA) was signed into law on December 21, 2018 promoting criminal justice reform. It tasks the FBOP to assess the recidivism risk and criminogenic needs of all sentenced Adults in Custody and assigns recidivism-reducing programs and productive activities that address their needs to reduce this risk. More information regarding the FSA may be found at www.bop.gov/inmates/fsa/overview.jsp .

5. FSA Time Credits

The FSA provides that eligible AICs may earn time credits (FTCs) for successfully completing evidence-based recidivism reduction (EBRR) programs or productive activities (PAs). FTCs can be applied toward time in prerelease custody or early transfer to supervised release. See 18 U.S.C. § 3632(d)(4)(C). Eligible AICs earn 10 days of FTCs for every 30 days of successful participation in EBRR programs or PAs; an additional 5 days of FTCs are available to certain AICs who are determined to be at a minimum or low risk of recidivism. 18 U.S.C. § 3632(d)(4)(A). However,

the FSA included a lengthy list of criminal convictions which would make an AIC ineligible to receive time credits; that list is codified at 18 U.S.C. § 3632(d)(4)(D). Additional eligibility criteria are codified at 18 U.S.C. § 3624(g)(1). A final rule was published on January 19, 2022, at 87 Fed. Reg. 2705 (2022), codified at 28 C.F.R. §§ 523 and 541, establishing the procedures for earning the application of time credits.

Pursuant to 18 U.S.C. § 3624(c)(1), AICs nearing release may be placed at an RRC in the final months of their term of imprisonment for a period not to exceed 12 months. In addition, 18 U.S.C. § 3624(c)(2) authorizes the Bureau to place AICs on home confinement during the last 10 percent of their term of imprisonment or for 6 months, whichever is less. These time restrictions, however, do not apply when FTCs are used for time in prerelease custody; the FSA requires that, for eligible AICs, FTCs may not be applied to prerelease custody until the amount of time credits is equal to the remainder of the AIC's imposed term of imprisonment. See 18 U.S.C. § 3624(g)(1)(A).

The Director may also transfer an AIC early to supervised release for up to 12 months based upon the application of FTCs, provided that the sentencing court imposed a term of supervised release. 18 U.S.C. § 3624(g)(3).

6. CARES Act

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27, 2020, and authorized the Attorney General to exercise certain authorities during the covered emergency period. The Attorney General subsequently directed the FBOP to prioritize the use of home confinement as a tool for combatting the risk of COVID-19 to the most vulnerable AICs while ensuring the successful discharge of our duty to protect the public. FBOP employees considered AICs carefully and individually for home confinement under the authority of the CARES Act and made transfer decisions accordingly. On April 4, 2023, the Department of Justice published a final rule affirming the FBOP Director has the authority and discretion to allow AICs placed in home confinement under the CARES Act to remain in home confinement after the expiration of the covered emergency period. Although the covered emergency period has ended, some AICs transferred to home confinement under the CARES Act continue to serve their sentences in the community and remain subject to supervision and monitoring by the FBOP.

M. Notification to the Community of the Release of an AIC

Title 18 of the United States Code, § 4042(b), requires that the FBOP notify tribal, state, and local law enforcement officials at least five calendar days prior to the release of an AIC to supervised release, probation, or parole, who has been convicted of a “drug trafficking crime” or a “crime of violence.” Prisoners released under the protection of the Witness Protection Program may be exempt from this provision. This requirement applies to all AICs whose current offense of conviction, or whose criminal history as determined by staff, includes such a conviction. For those AICs confined in an RRC, such notification is made at least two weeks prior to the AIC's release. FBOP staff supply the AIC's name, criminal history, final release date to supervised release, probation or parole, the AIC's projected address on such release, and any release conditions or restrictions on the conduct of the prisoner imposed by the sentencing court, other than the Standard

Conditions of Supervision found on the J&C. See Program Statement 5110.17, Notification Requirements Upon Release of Sex Offenders, Violent AICs, and Drug Traffickers.

Title 18 of the United States Code, § 4042(c), requires notification be made for those AICs who have been convicted of certain sexual offenses. This notification operates both to ensure the safety of the community, and to ensure such AICs are made aware of local treatment opportunities and registration requirements prior to release. See Program Statement 5110.17, Notification Requirements Upon Release of Sex Offenders, Violent AICs, and Drug Traffickers. Notification is made to the chief law enforcement officer of the state, to the chief local or tribal law enforcement official, to the appropriate USPO, and to the sex offenders' registration official responsible for the receipt or maintenance of such information. Notification must be made at least two weeks prior to the release date. Further, staff must attach a completed Sex Offender Registration and Treatment Notification form, to document that the AIC was advised of sex offender registration requirements that may be operable in the releasing jurisdiction.

Sex offender registration and reporting requirements have been made more stringent with passage of the Walsh Act. The Walsh Act establishes standards for a nationwide sex offender registry, and provides grant money to the states upon compliance with the requirements of the act. It is the AIC's legal requirement to register upon release. Section 141 of the Walsh Act, codified at 18 U.S.C. § 2250, creates federal criminal liability for failure to register.

The Victim and Witness Protection Act of 1982, the Crime Control Act of 1990, the Violent Crime Control and Law Enforcement Act of 1994, as well as the Attorney General's Guidelines for Victim and Witness Assistance, set forth procedures to meet the needs of crime victims and witnesses. FBOP will respond to a request from a victim or witness who wishes to be notified regarding a specific AIC's release or release-related activities. See Program Statement 1490.06, CN-1, Victim and Witness Notification Program. A victim or witness of a serious crime requesting to be notified of a specific AIC's release must make this request to the United States Attorney in the district where the prosecution occurred. Upon receiving such a request from the U.S. Attorney, FBOP staff will promptly notify the victim or witness when his or her request for notification has been received. Staff will then notify the requestor of the initial designation of the AIC, the AIC's application for RIS, for Treaty Transfer application, upcoming parole hearing, upcoming military clemency hearing, and should the AIC be released to parole, to an RRC, or to the community, as well as any incidence of furlough, escape, death, and in the event that the AIC is recommitted to custody after release from incarceration.

VI. CONCLUSION

The Bureau of Prisons is committed to the safety of the community, and to the security and well-being of incarcerated AICs. Consult the FBOP website and contact the relevant CLC should you have any further questions or concerns.

VII. APPENDICES

Appendix A: Summary Table, Application of Title 18 U.S.C. Chapter 313 AICs with Mental Disease or Defect

Appendix B: Regional Counsel and Consolidated Legal Center (CLC) Offices

Appendix C: Relevant Acronyms

APPENDIX A: Summary—18 U.S.C. § 313, AIC Mental Disease/Defect
*Application of Title 18 U.S.C. Chapter 313; AICs with Mental Disease or Defect*⁸

CITATION	STATUTORY OBLIGATION	COMMENTARY
<p align="center">PRETRIAL</p> <p>§ 4241(a) – Motion to determine competency of defendant.</p>	<p align="center">PRETRIAL</p> <p>The defendant may be committed for a reasonable period (not to exceed 30 days) for examination; the court may approve a 15-day extension. <u>See</u> 18 U.S.C. § 4247(b).</p> <p>The examination will be conducted at the nearest suitable facility to the criminal court, if practicable. <u>See</u> 18 U.S.C. § 4247(b).</p>	<p align="center">PRETRIAL</p> <p>The court may permit a psychiatrist or psychologist in the community to conduct the examination. This is particularly appropriate if the defendant is on bond.</p> <p>The FBOP will not cover the cost of an examination conducted in the community.</p> <p>If the FBOP is responsible for the § 4241 study, psychologists will conduct the examination.</p> <p>The time period for a § 4241 study begins to run from the time the defendant arrives at the institution.</p>
<p>§ 4241(d) – Determination whether the defendant will attain competency.</p>	<p>If found mentally incompetent, due to a mental disease or defect, the defendant shall be hospitalized for a reasonable period of time (not to exceed 4 months), as is necessary to determine whether there is a substantial probability that in the foreseeable future, he will attain competency. The defendant may be committed for an additional reasonable period until the defendant attains competency. The defendant may be committed for an additional reasonable period until either the defendant attains competency, or until charges are dropped. If at the end of the time period, specified, it is determined that the defendant’s mental condition has not so improved, as to permit proceedings to go forward, the defendant is subject to the provisions of § 4246 and § 4248.</p>	
<p>§ 4242 – Determination of the existence of insanity at the time of the offense.</p>	<p>The defendant may be committed for a reasonable period (not to exceed 45 days) for examination; the court may approve a 30-day extension. <u>See</u> 18 U.S.C. § 4247(b).</p> <p>The examination will be conducted at the nearest suitable facility to the criminal court, if practicable. <u>See</u> 18 U.S.C. § 4247(b).</p>	<p>The court may permit a psychiatrist or psychologist in the community to conduct the examination, which is useful if the defendant is out on bond.</p> <p>If the FBOP is responsible for the § 4242 study, psychologists will conduct the examination.</p> <p>The time period for a § 4242 study begins to run from the time the defendant arrives at the institution.</p>

⁸ Note: All examinations ordered pursuant to Chapter 313 are conducted in accordance with the provisions of 18 U.S.C. § 4247 (b) and (c). Specifically, 18 U.S.C. § 4247(b) requires that the examination be conducted by a licensed or certified psychiatrist or psychologist and that the person to be examined be committed to the custody of the Attorney General for placement in a suitable facility. Unless impracticable, the examination shall be conducted in a suitable facility closest to the court.

CITATION	STATUTORY OBLIGATION	COMMENTARY
POST-TRIAL	POST-TRIAL	POST-TRIAL
<p>§ 4243(a) – Commitment of a person found not guilty only by reason of insanity.</p>	<p>The acquittee must be committed to a suitable facility for examination for a reasonable period not to exceed 45 days (the court may approve a 30-day extension), to determine if his or her release would create a substantial risk of bodily injury to others, or serious damage to the property of another.</p>	<p>The Attorney General may seek civil commitment under State law. <u>See</u> 18 U.S.C. § 4247(i)(B).</p>
<p>§ 4243(e) – Civil commitment should the court determine that releasing the acquittee would create substantial risk of bodily injury to others, or serious damage to the property of another.</p>	<p>The acquittee shall be committed to the custody of the Attorney General.</p> <p>The acquittee will remain hospitalized until the Attorney General is able to arrange for release to the State where the acquittee was domiciled (or tried) for treatment and care, or until the acquittee's condition has improved such that release would no longer pose a risk of bodily injury to others, or serious damage to the property of another.</p> <p>The director of the facility shall file annual reports regarding the acquittee's condition. <u>See</u> 18 U.S.C. § 4247(e).</p>	<p>The State may agree to assume responsibility for care and treatment of the acquittee; this includes assuming all financial responsibility.</p>
<p>§ 4243(f) – Certification for discharge should the director of the facility determine that the acquittee may be released.</p>	<p>The director of the facility must file with the court a certificate stating that the acquittee has recovered such that release, conditionally or unconditionally, would no longer create a substantial risk of bodily injury to others, or serious damage to the property of another.</p> <p>The acquittee may not be released without court order.</p> <p>Revocation of conditional release is handled by the original committing court.</p>	<p>The director of the facility must file with the court a certificate stating that the acquittee is ready to be released.</p>
<p>§ 4244(a) – Motion to determine whether the convicted person is suffering from mental disease or defect and requires treatment prior to sentencing.</p>	<p>The defendant may be committed for a reasonable period (not to exceed 30 days) for examination; the court may approve a 15-day extension.</p>	<p>The court may permit a psychiatrist or psychologist in the community to conduct the examination.</p> <p>The FBOP will not cover the cost of an examination conducted in the community.</p>
<p>§ 4244(d) – Civil commitment of a convicted defendant who is suffering from mental disease or defect and requires treatment prior to sentencing.</p>	<p>The defendant shall be committed for hospitalization in a suitable facility under a provisional sentence. The provisional sentence is valid up to the statutory maximum for the underlying crime under § 4244(d).</p> <p>The director of the facility must file annual reports regarding the defendant's condition. <u>See</u> 18 U.S.C. § 4247(e).</p> <p>When the defendant no longer suffers from a disease or defect, the director shall file a certificate with the court; the court may modify the provisional sentence. <u>See</u> 18 U.S.C. § 4244(e).</p>	

CITATION	STATUTORY OBLIGATION	COMMENTARY
POST-TRIAL	POST-TRIAL	POST-TRIAL
<p>§ 4245(a) – Motion to determine whether a sentenced person is suffering from a mental disease or defect and needs mental health treatment.</p>	<p>The defendant may be committed for a reasonable time (not to exceed 30 days) for examination; the court may approve a 15-day extension.</p> <p>The examination will be conducted at the nearest suitable facility to the court, if practicable.</p>	
<p>§ 4245(d) – Commitment of a person who is presently suffering from a mental disease or defect for the treatment of which he is in need of custody for care or treatment in a suitable facility.</p>	<p>The defendant shall be committed to the custody of the Attorney General for hospitalization until the AIC is no longer in need of custody or until the expiration of the sentence of imprisonment, whichever occurs earlier.</p>	
<p>§ 4246(a) – Certification of an AIC who is due for release but continues to suffer from mental disease or defect, and as a result, is dangerous.</p>	<p>The director of the facility may file a certificate with the court if, because of the person’s mental condition, his or her release would create a substantial risk of bodily injury to others or serious damage to property of another, where that person’s sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to § 4241(d), or against whom all criminal charges have been dismissed solely for reasons related to the mental condition of the person. The certificate shall be transmitted to the clerk of court for the district in which the person is confined.</p> <p>Filing a certificate, pursuant to § 4246(a), stays the person’s release.</p>	
<p>§ 4246(d) – Civil commitment of an AIC who cannot be released because a mental condition creates risk of harm to others.</p>	<p>The AIC shall be committed until the State will assume responsibility for the AIC or the person's condition improves such that release would not create a substantial risk of bodily injury to another or serious damage to property of another.</p> <p>The Attorney General shall try to make arrangements for the State to assume responsibility for the AIC's care and treatment.</p> <p>Revocation of conditional release is handled by the original committing court.</p>	<p>The State may agree to assume responsibility for the care and treatment of the person.</p> <p>The Attorney General may seek civil commitment under State law. <u>See</u> 18 U.S.C. § 4247(i)(B).</p>
<p>§ 4248 – Civil commitment of a sexually dangerous person.</p>	<p>The Bureau of Prisons may certify to the court that the person is a sexually dangerous person. The court shall order a hearing to make that determination.</p> <p>If after the hearing, the court finds by clear and convincing evidence that the person is sexually dangerous, the court shall commit the person to the custody of the Attorney General.</p> <p>The Attorney General shall try to make arrangements for the State to assume responsibility for the committee’s care and treatment.</p> <p>Revocation of conditional release is handled by the original committing court.</p>	<p>The State may agree to assume responsibility for the care and treatment of the person.</p>

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APPENDIX C: *Relevant Acronyms and Abbreviations*⁹

A&O	Admission and Orientation
ADX	Administrative Maximum Facility
AIC	Adult in Custody
FBOP	Federal Bureau of Prisons
CCC	Community Corrections Center
CIM	Central Inmate Monitoring
CLC	Consolidated Legal Center
CMU	Communication Management Unit
COIF	Cost of Incarceration Fee
CRP	Certification Review Panel
D.C.	District of Columbia
DHO	Discipline Hearing Officer
DSCC	Designation and Sentence Computation Center
EBRR	Evidence-Based Recidivism Reduction
ELL	Electronic Law Library
FCC	Federal Correctional Complex
FCI	Federal Correctional Institution
FDC	Federal Detention Center
FMC	Federal Medical Center
FOIA	Freedom of Information Act
FPC	Federal Prison Camp
FPI	Federal Prison Industries
FSA	First Step Act of 2018
FTC	Federal Transfer Center
GCT	Good Conduct Time
GED	General Education Diploma
HIV	Human Immunodeficiency Virus
IFRP	Inmate Financial Responsibility Program
J&C	Judgment and Commitment Order
JJDPA	Federal Juvenile Justice and Delinquency Prevention Act
MCC	Metropolitan Correctional Center
MDC	Metropolitan Detention Center
MINT	Mothers and Infants Together
MVRA	Mandatory Victims Restitution Act
MXR, MARO	Mid-Atlantic Regional Office, Bureau of Prisons
NCRO	North Central Regional Office, Bureau of Prisons
NERO	Northeast Regional Office, Bureau of Prisons
NIC	National Institute of Corrections
OGC	Office of General Counsel

⁹ This list only includes acronyms referenced throughout this document. For information on other regularly used acronyms in the FBOP, please visit: [All Acronyms \(BOP.gov\)](https://www.bop.gov/all-acronyms).

OMDT	Office of Medical Designations and Transportation
PA	Productive Activity
PLRA	Prison Litigation Reform Act of 1995
PREA	Prison Rape Elimination Act of 2003
PSI	Presentence Interview
PSR	Presentence Report
RDAP	Residential Drug Abuse Program
RIS	Reduction in Sentence
RPP	Residential Parenting Program
RRC	Residential Reentry Center
RRM	Residential Reentry Management Branch
SAM	Special Administrative Measure
SCP	Satellite Prison Camp
SCRO	South Central Regional Office, Bureau of Prisons
SDP	Sexually Dangerous Person
SERO	Southeast Regional Office, Bureau of Prisons
SHU	Special Housing Unit
SMU	Special Management Unit
SOCRB	Sex Offender Certification Review Branch
SOMP	Sex Offender Management Program
SOR	Statement of Reasons
SORNA	Sex Offender Reporting and Notification Act
SOTP, -R, -NR	Sex Offender Treatment Program, -Residential, -Nonresidential
TB	Tuberculosis
TC	Time Credit
TEC	Transgender Executive Council
TRULINCS	Trust Fund Limited Inmate Computer System
UDC	Unit Discipline Committee
UNICOR	Federal Prison Industries tradename
USMCFP	United States Medical Center for Federal Prisoners
USMS	United States Marshals Service
USP	United States Penitentiary
USPO	United States Probation Office
USSC	United States Sentencing Commission
USSG	United States Sentencing Guidelines
VCCLEA	Violent Crime Control and Law Enforcement Act of 1994
WXRO	Western Region, Bureau of Prisons