

*Association of Federal Defense Attorneys (AFDA)*

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**Online Presentation: BOP's RDAP Program (November 2004)**

**BOP Chat, Tuesday, November 30**

**Good morning. Greg Nicolaysen here. I thank you for taking the time to attend our monthly BOP Chat.**

**I have prepared an informal presentation on the BOP's Residential Drug Abuse Program (RDAP). I will post information and documents about the program, and after I am done, everyone is welcome to chat online by writing in the box at the bottom of your screen, then clicking the POST MESSAGE command in the lower right-hand corner of your screen. All your comments will come to me as the moderator, and I will post them to the public viewing screen topic by topic so we maintain a thread of discussion on a particular subject before moving to the next subject.**

**Here are links to BOP documents that are worth having in your hard drive for future reference:**

**[http|www.afda.org/afda/news/DAP\\_programs.pdf](http://www.afda.org/afda/news/DAP_programs.pdf)**CLICK HERE FOR A DIRECTORY OF BOP FACILITIES THAT OFFER THE RESIDENTIAL DRUG TREATMENT PROGRAM****

**Key updates since the date the BOP prepared the above document:**

- 1. the program at Allenwood has been closed;**
- 2. the program at FMC Devans also has been closed;**
- 3. FCI Elkton has since been added to the list;**
- 4. FCI Terminal Island is now a low security; previously classified as a medium security;**
- 5. Lompoc's program is conducted in Spanish only.**
- 6. FCI Schuylkill (Pennsylvania) is converting part of its facility into an RDAP facility.**

**[http|www.afda.org/afda/news/faq\\_drug\\_abuse\\_program.pdf](http://www.afda.org/afda/news/faq_drug_abuse_program.pdf)**CLICK HERE FOR THE BOP'S "FREQUENTLY ASKED QUESTIONS" ABOUT THE VARIOUS DRUG TREATMENT PROGRAMS OFFERED BY THE BOP****

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**[http|www.afda.org/afda/news/5330\\_10.pdf](http://www.afda.org/afda/news/5330_10.pdf)|CLICK HERE FOR BOP PROGRAM STATEMENT: Drug Abuse Programs Manual (10/9/97 edition, which is the most recent)**

**[http|www.afda.org/afda/news/triad\\_ch4\\_drug\\_programs.pdf](http://www.afda.org/afda/news/triad_ch4_drug_programs.pdf)|CLICK HERE FOR BOP'S DESCRIPTION OF DRUG TREATMENT PROGRAMS AND SERVICES**

**Here is a flow chart summarizing the key components of the RDAP program. The chart was prepared in the fall of 2003 by two paralegals from the Federal Public Defender Offices in Missouri and Illinois:**

**[http|www.afda.org/afda/news/RDAP\\_FlowChart.pdf](http://www.afda.org/afda/news/RDAP_FlowChart.pdf)|CLICK HERE TO ACCESS THE FLOW CHART AS A PDF (ACROBAT READER) FILE**

**[http|www.afda.org/afda/news/RDAP\\_FlowChart.wpd](http://www.afda.org/afda/news/RDAP_FlowChart.wpd)|CLICK HERE TO ACCESS THE FLOW CHART AS A WORD PERFECT FILE**

**Here is information on the BOP's drug programs that I have distilled from the above documents, from my own experiences for clients, and from presenting seminars on the BOP with various BOP consultants:**

**THE BOP'S DRUG TREATMENT PROGRAM  
(PS 5330.10: Drug Abuse Programs Manual)**

**Three Types of Drug Abuse Programs:**

- \* Drug Abuse Education Course**
- \* Non-Residential Program**
- \* Residential Drug Abuse Treatment Program (RDAP)**

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### **First Program: Drug Abuse Education Course**

**Mandatory for all inmates where**

- \* alcohol / drug use contributed to instant offense;**
- \* alcohol / drug use was reason for violation of supervised release or BOP community status which is why inmate is now incarcerated; or**
- \* inmate was recommended for drug program by sentencing judge**

### **Second Program: Non-Residential Drug Treatment Program**

- \* shall be available to inmates with substance abuse problems in all institutions**

### **Third Program: Residential Drug Abuse Treatment Program (RDAP)**

- \* available at selected BOP institutions**
- \* a course of individual and group activities provided by a team of drug abuse treatment specialists**
- \* minimum of 500 hours over a 6-12 month period**
- \* BOP needs 24 months to guarantee placement but will work with sentence of at least 1 year**

**CRITERIA FOR RESIDENTIAL DRUG PROGRAM (RDAP)**

- \* Must have verifiable documented drug abuse problem. Program staff:**
  - conducts Residential Drug Abuse Program Eligibility Interview**
  - reviews all pertinent documents in inmate's central file to corroborate self-reported information.**
  
- \* Convicted of non-violent offense**
  
- \* No serious mental impairment which would substantially interfere with or preclude full participation in the program**
  
- \* Must sign an agreement acknowledging program responsibility**
  
- \* (Ordinarily) must be within 36 months of release**
  
- \* Security level of the institution providing the program must be appropriate for the inmate**

**Will Client Receive A Sentence Reduction?**

**(PS 5330.10, Chapter Six)**

**6.1 Consideration for Early Release-**

**An inmate who was sentenced to a term of imprisonment pursuant to the provisions of 18 U.S.C. Ch. 27, Subchapter D of the Sentencing Reform Act, for a non-violent offense, and who is determined to have a substance abuse problem, and successfully completes a residential drug abuse treatment program may be eligible for early release by a period not to exceed 12 months.**

**Who Is NOT Eligible For Early Release?**

**(See, PS 5162)**

**The listed disqualifications for early release should not affect the corporate crime / business fraud offender.**

**EXCEPTION:**

**\* Inmates who are not eligible for participation in a community-based program as determined by the Warden on the basis of his or her professional discretion**

**Can Client Lose Early Release?**

**(PS 5330.10, Chapter Six)**

**YES.**

**Inmate may lose early release at any time for**

**\* failure to successfully complete ALL components of drug program**

**OR**

**\* committing certain prohibited acts**

## **CHECKLIST OF KEY POINTS RE: RDAP**

- \* Participation and graduation may result in eligibility for up to a 12 month sentence reduction**
- \* Participation and graduation may result in the last six months of custody being spent in a halfway house**
- \* Participation and graduation will result in more stringent conditions of supervised release**
- \* More frequent drug screening**
- \* Higher level of supervision**
- \* Precludes administrative case-load assignment**
- \* Precludes early termination of supervised release**
- \* Zero tolerance for drugs and often zero tolerance for alcohol (even when not the drug of choice)**
- \* Recognize that revocation after sentence reduction may result in Client actually serving more time in prison than if they had never participated in the program**

**It is very important to bear in mind the value and necessity of a good presentence report (PSR) in order to maximize eligibility for**

**placement in the RDAP, primarily in terms of how the PSR affects the client's chances of earning an interview by the BOP for placement in RDAP.**

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**Some key pointers regarding the Presentence Report (PSR), as it applies to RDAP:**

**In order to obtain a BOP RDAP interview one of the following must have occurred:**

- \* The PSR documents that alcohol or other drug use contributed to the commission of the instant offense**
- \* Use of alcohol or drugs has risen to a level inconsistent with good health**
- \* The inmate was recommended for drug programming during incarceration by the sentencing judge**
- \* Client should be able to provide documented proof that care for substance abuse was sought prior to incarceration**
- \* Mental health care provider must be willing to sign affidavit attesting to care provided**

**[End of online presentation. The online discussion with the defense bar that followed the presentation has been omitted.]**