

District of Columbia Corrections Information Council



RECOMMENDATION ASSESSMENT REPORT: PROGRAMMING

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District of Columbia Corrections Information Council

Charles Thornton, Board Chair
Katharine A. Huffman, Board Member
Nkechi Taifa, Board Member

About the District of Columbia Corrections Information Council

The District of Columbia Corrections Information Council (CIC) is an independent oversight body mandated by the United States Congress and the Council of the District of Columbia to inspect, monitor, and report on the conditions of confinement in correctional facilities where residents from the District of Columbia are incarcerated. This includes facilities operated by the Federal Bureau of Prisons (BOP), the District of Columbia Department of Corrections (DOC), and private contractors.

The CIC reports its observations and recommendations to the District of Columbia Representative in the United States Congress, the Mayor of the District of Columbia, the Council of the District of Columbia, the District of Columbia Deputy Mayor for Public Safety and Justice, the Director of the BOP, the Director of the DOC, and the community.

About the Recommendation Assessment Series

The Corrections Information Council inspects and reports on conditions of confinement in correctional facilities where DC Code offenders are located. The Recommendation Assessment series reviews and reports on common recommendations from previous inspection reports. The series also assesses the implementation of recommendations. In some instances, additional recommendations are provided to better address residents' needs. The CIC will monitor and report on the recommendations and publish updates following significant changes to the implementation or creation of new recommendations.

Introduction

The Bureau of Prison’s (BOP) policy states that facility wardens must “ensure that an inmate with the need, capacity, and sufficient time to serve, has the opportunity to” complete various programming.¹ Programming is one of the most significant ways to reduce an individual’s chance of recidivism and prepare them for reentry into society.² CIC staff reviewed its own inspection reports produced since 2018 and found that DC Code offenders raised issues regarding programming at 11 of the 13 institutions visited by CIC staff.³ Through interviews and correspondence with the CIC, incarcerated DC Code offenders continue to report a lack of programming - and issues with program eligibility.

The CIC highlighted the lack of any tracking system across BOP facilities to monitor whether the programs offered in each institution meets the needs of the incarcerated population.⁴ The problem is not with the policy surrounding programing, but the implementation of that policy.⁵ Both the CIC and the Government Accountability Office (GAO) recommended a tracking system that puts the First Step Act (FSA) into practice.⁶ To further ensure the implementation of the FSA and BOP policy, the CIC recommends functionality within the tracking system to manage waitlists and track resident release dates. The following report uses data from CIC inspections, resident interviews, and external reports to review the implementation of past recommendations regarding these issues and make updated recommendations.

Previous Recommendation Summary

The below recommendations have been previously made to the BOP in inspection reports over the last five years. The recommendations stem from reports at various facilities and have been edited for clarity and brevity.

Recommendation	Status
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¹ BOP Program Statement, *Education, Training, and Leisure Time Program Standards*, 5300.21, available at https://www.bop.gov/policy/progstat/5300_021.pdf.

² See DOJ BOP, *First Step Act: Initial Review of the SPARC-13 Needs Assessment System* (Mar. 2022), available at https://www.bop.gov/inmates/fsa/docs/bop_fsa_needs_validation_report_2021.pdf.

³ See generally BOP Inspection Reports available at: <https://cic.dc.gov/page/inspection>.

⁴ *Id.*

⁵ GAO, *Bureau of Prisons Should Improve Efforts to Implement its Risk and Needs Assessment System*, GAO-23-105139 (Mar. 20, 2023), available at <https://www.gao.gov/products/gao-23-105139>.

⁶ *Id.*; BOP Inspection Reports

Additional staffing.	Partially resolved
Create a tracking system to monitor programming.	Not resolved
Consider early release to determine program eligibility.	Not resolved

Previous Recommendation: Additional Staffing

Status: Partially resolved

Updated Recommendation # 1: BOP officials should create at least one partnership with another organization to offer programming within institutions.

The BOP Director publicly acknowledged the staffing crisis,⁷ and the GAO has been monitoring the issue since 2021.⁸ Because of short staffing, programming is not prioritized and staff who normally run programs, like teachers, stand-in as correctional officers.⁹ Director Peters stated that the BOP struggles to compete in the labor market and attract new talent to work in the remote areas where BOP facilities are located. Many of the positions that facilitate programming require specialized degrees in education and psychology. The BOP is offering recruitment and retention bonuses, as well as conducting outreach through job fairs and marketing to increase staffing.¹⁰

The GAO recommended the BOP develop a method for calculating staffing needs at each facility.¹¹ The BOP is currently working with a contractor to implement a tool to monitor staffing levels.¹² In March 2023, the contractor was testing a prototype tool in three of the six BOP regions, and the BOP estimated the tool would be ready in all six regions by June 2023. It is unclear if this goal was met.¹³ The BOP is focusing on vacancies in correctional services before addressing other staffing needs like teachers.¹⁴

⁷ Jory Heckman, *Bureau of Prisons understaffing leads to ‘unprecedented exodus’ of employees, union warns*, Federal News Network (Sep. 30, 2022), available at <https://federalnewsnetwork.com/hiring-retention/2022/09/bureau-of-prisons-understaffing-leads-to-unprecedented-exodus-of-employees-union-warns/>.

⁸ GAO, *Opportunities Exist to Better Analyze Staffing Data and Improve Employee Wellness Programs*, GAO-21-123 (Feb 24, 2021), available at <https://www.gao.gov/products/gao-21-123>.

⁹ Jory Heckman, Federal News Network.

¹⁰ *Id.*

¹¹ GAO-21-123.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

The BOP has no assessment of whether enough programs are offered at each institution to meet the needs of the incarcerated population.¹⁵ This means that even if all the staff vacancies are filled, it is not clear if there is appropriate programming at each facility to meet the needs of the incarcerated population.¹⁶ The BOP can add additional programming without hiring more staff by partnering with other organizations to provide programming.

BOP policy encourages and outlines how facilities should partner with volunteers, postsecondary education institutions, and other organizations to help offer programming.¹⁷ Partnering with other organizations eases staffing shortage issues and bypasses many of the problems associated with hiring new staff, especially for positions requiring specialized degrees. It allows institutions to increase programming while focusing on filling vacancies in correctional services. Partners could run programs virtually, as correspondence courses, or through educational apps on tablets; avoiding the need to bring people to remote areas. BOP officials should create partnerships with volunteers and organizations to increase programming offered within institutions.

BOP should utilize partnerships to increase programming with an end goal of each institution to offer sufficient programming. The BOP disclosed that it is not prioritizing programming.¹⁸ BOP officials should take initiative in creating partnerships and prioritize offering sufficient programming within institutions to prepare incarcerated residents for successful reentry into society.

Previous Recommendation: Create a Tracking System to Monitor Programming

Status: Not resolved

Updated Recommendation # 2: The CIC recommends the creation of a tracking system that can monitor programming and manage waitlists within BOP facilities.

¹⁵ *Id.*

¹⁶ See DOJ BOP *supra* note 2 (Different programs are designed to meet different needs of residents. For example, Anger Management meets a different need than classes regarding financial literacy. When residents enter a BOP facility, they are given a Needs Assessment to determine what they need, and what programs they should enroll in to address those needs. Currently, the BOP has no methodology to ensure that each institution has the programming required to meet the needs of all the residents. Residents that have anger management or financial needs might enter a facility that does not offer enough of those programs to meet their needs.)

¹⁷ BOP Program Statement, *Volunteer Services*, 5300.22, available at https://www.bop.gov/policy/progstat/5300_022.pdf.

¹⁸ Jory Heckman, Federal News Network.

The BOP has no methodology to ensure it is offering enough programming at each facility to meet the needs of incarcerated residents.¹⁹ The CIC and GAO recommended the creation of a tracking system to ensure that each institution offers sufficient programming for its population.²⁰ The BOP should include functionality in the automated tracking system to monitor programming and manage waitlists based on FSA needs within BOP facilities.

BOP policy mandates that resident programing eligibility is determined based on their needs, with priority given to those with high risk of recidivism and those with closer projected release dates.²¹ In practice, because of the limited programming offered, incarcerated residents who are eligible for the FSA time credits are prioritized over noneligible residents. Residents that need programming but are not eligible for FSA time credit or have long or indeterminate sentences can end up stuck on waitlists for years.²²

The new automated tracking system should have the ability to check the needs of residents, check the recidivism risk score, and update waitlists for programming based on that information. BOP staff enter Needs Assessments and recidivism risk scores in SENTRY.²³ SENTRY is the data management and storage system used by BOP staff. A tracking system for programming should reference SENTRY to check the Needs Assessments and recidivism risk scores of residents on program waitlists. The system should then manage waitlists to prioritize residents for programming accordingly. A resident whose need is addressed by one program would not have priority for another program addressing the same need; instead, the system prioritizes others whose needs have not been addressed yet. The system would prioritize applicants with unaddressed needs based on their recidivism risk scores. Management staff of program departments within BOP facilities should monitor and audit the tracking system, Needs Assessments, reassessments, recidivism risk assessments, waitlists, and program attendance sheets to ensure the system is operating properly. The system would give BOP officials information on which programs have the longest wait lists, which needs are in high demand, and facilitate efficient waitlist management.

¹⁹ GAO-23-105139

²⁰ *Id.*

²¹ DOJ BOP at 3 *supra* note 2 (When someone enters a federal prison, they are given a Needs Assessment and a PATTERN Risk Assessment to determine their needs and their recidivism risk respectively. The needs determine which programs they should enroll in, and the recidivism risk determines the priority they should be given.)

²² For example, one resident FCI Florence was on the waitlist for a program for three years because they were not eligible for the FSA and had a long sentence.

²³ GAO-230105139 at 10

Previous Recommendation: Consider Early Release to Determine Program Eligibility**Status:** Not resolved

Updated Recommendation # 3: The CIC recommends the creation of a tracking system that can monitor programming and manage waitlists based on early release options.

Individuals are prioritized for programming by proximity to release. Those with long or indeterminate sentences are held on long waitlists or deemed ineligible for programming. There are several laws like the FSA that can shorten someone's sentence or grant them an early release. Some DC Code offenders are eligible for IRAA or Second Look.²⁴ Some federal offenders are eligible for early release under 18 U.S.C. § 3582.²⁵ Some incarcerated residents are eligible for parole.

The BOP should consider these early release possibilities when determining if a resident is eligible for programming. If not, a resident who is eligible for release under one of the above examples may release from prison without gaining the skills to successfully reenter society; or a Judge might deny someone for early release because they were unable to gain those skills.²⁶ Granting more residents the opportunity to program helps them meet requirements for early release options and helps them in sentence modification hearings. This can reduce prison populations and the impact of short staffing.

The CIC recommends that the above-mentioned tracking system include functionality to monitor programming and manage waitlists based on early release options. BOP staff would need to log early release criteria on SENTRY. For example, by logging the age of a resident at the time they committed their crime and the length of time they have been incarcerated, BOP officials could see if they meet the criteria for Second Look.²⁷ Once the early release criteria are logged, the tracking system could reference SENTRY and monitor who is eligible for early release based on those criteria. The system should consider if a resident is eligible for early release when managing the waitlists for the programs to which they apply. The system could prioritize a resident with an

²⁴ See DC Code § 24-403.03, available at <https://code.dccouncil.gov/us/dc/council/code/sections/24-403.03.html>.

²⁵ See 18 U.S.C. § 3582, available at <https://www.govinfo.gov/content/pkg/USCODE-2016-title18/html/USCODE-2016-title18-partII-chap227-subchapD-sec3582.htm>.

²⁶ Some statutes allow for release or sentence modification based on requirements like age and length of time served, regardless of how much programming was completed. Some statutes require a hearing with a judge, who has the discretion to grant or deny the sentence modification and may choose to consider at programming completion.

²⁷ To meet the criteria for Second Look, an incarcerated individual must have committed their crime when they were 24 years old or younger and completed 15 years of their sentence.

unaddressed need who is eligible for early release over a resident who has an unaddressed need and is not eligible for early release. This would ensure that residents who may have a hearing in front of a judge for early release receive the requisite skill set or rehabilitation.

Conclusion

The BOP is currently in a transition period as it begins to implement new policies on programming and increase efforts to rehabilitate the incarcerated population, all while being understaffed. To alleviate the staffing issues, the CIC recommends that the BOP prioritize forming partnerships with outside organizations to offer sufficient programming within BOP facilities. Furthermore, the BOP could better utilize the data that it possesses about incarcerated residents. The tracking system currently in development for the BOP should include functionality to reference underutilized data on incarcerated residents so programming is offered, and waitlists are managed based on need and eligibility for release.