

## **FREQUENTLY ASKED QUESTIONS ABOUT FEDERAL HALFWAY HOUSES & HOME CONFINEMENT**

### **Q-1: What is a halfway house?**

**A:** A halfway house is a residence located in the community where people are placed to either (1) serve all or part of a sentence, or (2) serve a period of time after being released from federal prison, in order to prepare for reentering the community. They are also called “community corrections centers” (CCCs), but several years ago, the Bureau of Prisons (BOP) renamed them “residential reentry centers” (RRCs). This new name shows that the BOP views a halfway house as a place reserved for people leaving prison, as opposed to a place where a person can serve his entire sentence.

### **Q-2: How are halfway houses different than prisons?**

**A:** Halfway houses are located in the community and provide much greater liberty than prisons. Halfway houses do, however, have rules, treatment programs, work requirements, and curfews. For prisoners sent to serve time at a halfway house at the end of their prison sentences, time at the halfway house is generally focused on reentry preparation, including job training and drug treatment. Almost all prisoners sent to a halfway house at the end of their prison sentences will be required to go outside the halfway house during the day to work or participate in drug treatment.

### **Q-3: What does the BOP consider when deciding whether to place people in a halfway house?**

**A:** 18 U.S.C. § 3621(b) says that the BOP may place prisoners in whatever “penal or correctional facility” it thinks meets “minimum standards of health and habitability.” When deciding where to send a prisoner to serve his sentence, including halfway houses, the law says that the BOP should consider

1. The resources of the facility contemplated;
2. The nature and circumstances of the offense;
3. The history and characteristics of the prisoner;
4. Any statement by the court that imposed the sentence:
  - a. Concerning the purposes for which the sentence to imprisonment was determined to be warranted; or
  - b. Recommending a type of penal or correctional facility as appropriate; and
5. Any pertinent policy statement issued by the U.S. Sentencing Commission pursuant to section 28 U.S.C. § 994(a)(2).

The statute also forbids the BOP from showing favoritism to prisoners with a high social or economic status when deciding where a prisoner is placed. When deciding whether to send someone to a halfway house and for how long, the BOP will look at the prisoner’s disciplinary record and whether the prisoner has refused to participate in prison programs and reentry preparation programs. In the BOP staff’s discretion, if a person has too many serious disciplinary

issues or has failed or refused important pre-release programming, he may be denied placement in a halfway house. The BOP says that because it has limited halfway house space, it wants to ensure that the people placed in halfway houses are ready and willing to take advantage of the halfway house's programs and opportunities for a successful reentry.

**Q-4: Could a prisoner serve his entire sentence in a halfway house?**

**A:** Yes. 18 U.S.C. § 3621(b) gives the BOP the right to place any prisoner in any place of imprisonment, and a halfway house is a place of imprisonment. In practice, however, this usually happens only for nonviolent offenders who receive very short sentences. People facing sentencing should discuss with their lawyers the possibility of serving their sentences in a halfway house.

**Q-5: If the court recommends halfway house placement for all or part of a prisoner's sentence, is the BOP required to follow the court's recommendations?**

**A:** No. 18 U.S.C. § 3621(b) explicitly requires the BOP to *consider* a sentencing court's recommendation that someone serve time in a halfway house, but the BOP is *not required* to follow the court's recommendation.

**Q-6: Is the BOP required to place people in halfway houses?**

**A:** No, but 18 U.S.C. § 3624(c) requires the director of the BOP to do as much as is practical to make sure that prisoners spend some part of their sentences in conditions that will prepare the prisoner for reentry (release from confinement). These "conditions" include time in a halfway house. *See* 18 U.S.C. § 3624(c). A BOP guidance memo issued on June 24, 2010, says that prisoners should be considered for at least three months (90 days) in a halfway house. The June 24, 2010 guidance memo is available at <http://www.famm.org/Repository/Files/BOP%20Halfway%20House%20Guidance%206.24.10.pdf>. See Question 12 below for more information.

**Q-7: Who is not eligible for placement in a halfway house at the end of their prison sentences?**

**A:** The following prisoners are *not eligible* for halfway house placement:

- a. Those assigned a "Sex Offender" Public Safety Factor (but though those convicted of possession of child pornography *are* permitted to go to halfway houses).
- b. Those assigned a "Deportable Alien" Public Safety Factor.
- c. Those requiring in-patient medical, psychological, or psychiatric treatment.
- d. Those who refuse to participate in the Inmate Financial Responsibility Program.
- e. Those who refuse to participate, withdraw, are expelled, or otherwise fail to meet attendance and examination requirements in a required Drug Abuse Education Course.
- f. Those with unresolved pending charges, or detainers, which will likely lead to arrest, conviction, or confinement.
- g. Ordinarily, those serving sentences of six months or less.
- h. Those who refuse to participate in the Institution Release Preparation Program.

- i. Those who pose a significant threat to the community (e.g., prisoners with repeated disciplinary violations that involve violence or escape).
- j. Pretrial, holdover, or detained prisoners.

See BOP Program Statement # 7310.04, pp. 10-11, available at <http://www.bop.gov/DataSource/execute/dsPolicyLoc>, or in the prison law library.

**Q-8: Who decides when a prisoner goes to a halfway house?**

**A:** The prisoner’s unit team should make a release preparation plan, which should include halfway house placement, 11 to 13 months prior to the prisoner’s projected release date. The release plans go to the BOP Community Corrections Manager (CCM), who makes an official referral naming a particular halfway house (or home confinement, which will be limited to 6 months or 10% of the person’s sentence, whichever is *less* – see Question 22). The warden has final decision-making authority for all halfway house referrals, though it is the CCM who ultimately decides whether bed space is available for a prisoner and for how long. CCMs are not supposed to unilaterally deny a prisoner entry to a halfway house or adjust the length of the prisoner’s stay unless the halfway house does not have the bed space or financial resources to house the person.

**Q-9: Who decides which halfway house a prisoner goes to?**

**A:** The BOP Community Corrections Manager (CCM). He or she will include a placement recommendation in the release preparation plan for the prisoner.

**Q-10: Is the BOP required to place a prisoner in a halfway house near their home?**

**A:** The unit team that recommends which halfway house a person is placed in is *supposed* to place a prisoner in a halfway house near the prisoner’s home. The unit team will base its placement recommendation on the details contained in the prisoner’s central file, so the prisoner should make sure that his file contains his correct home address.

**Q-11: What is the maximum amount of time a person can get in a halfway house?**

**A:** Strictly speaking, there is no legal cap on the amount of time that the BOP can place an inmate in a halfway house. 18 U.S.C. § 3621(b) gives the BOP the right to place any prisoner in any “place of imprisonment,” and a halfway house is considered a place of imprisonment.

However, *the practical reality* is that people being released from prison are not given more than a total of 12 months of reentry programming, either in a halfway house or on home confinement (and time on home confinement cannot be greater than 6 months or 10% of the person’s sentence, whichever is *less* – see Question 22 below). **In practice, the most time any prisoner can get in a halfway house is 12 months.** Prisoners with a high risk for recidivism, good adjustment to prison life, demonstrated successful participation in prison programs, and a lack of community support systems are more likely to get more time in a halfway house. This is because the BOP considers high-risk prisoners to be most in need of the services a halfway house provides. Remember, though, that no one is *guaranteed* any time in a halfway house – the decision of how long a person spends in a halfway house is entirely up to the BOP.

**Q-12: What is the minimum amount of time a person can get in a halfway house?**

**A:** A BOP guidance memo issued on June 24, 2010, says that prisoners should be considered for at least three months in a halfway house. However, lower-risk, minimum-security inmates who are not graduates of the Residential Drug Abuse Program and who already have an approved home to go to upon their release may be considered for placement directly on home confinement (also called “home detention”). Alternatively, prisoners fitting this description may be placed in a halfway house for two weeks or less, then transferred to home detention. Remember, though, that no one is *guaranteed* any time in a halfway house or placement in home detention – the decision of how long a person spends in a halfway house and whether and when a person goes into home detention is entirely up to the BOP. The June 24, 2010 guidance memo is available at <http://www.famm.org/Repository/Files/BOP%20Halfway%20House%20Guidance%206.24.10.pdf>.

**Q-13: Can a person refuse to go to a halfway house?**

**A:** Yes. In the past, FAMM heard of instances of retaliation and disciplinary action taken against prisoners who refused placement in a halfway house, including putting the person in solitary confinement or administrative detention and reducing the person’s good time credit. However, the guidance memo issued by the BOP on June 24, 2010, instructs BOP staff that people who refuse to be placed in a halfway house cannot be disciplined.

If a person is concerned about the safety of the halfway house he may be assigned to, he should try to learn as much about the halfway house as possible and, if possible, talk to a lawyer about any concerns. Prisoners can also work with their family members and other supporters on the outside to look for a job, a place to live, and transportation so that they can be in a better position to be released from the halfway house sooner.

**Q-14: Who runs halfway houses?**

**A:** Halfway houses are under the BOP’s control, but virtually all of them are operated by private contractors.

**Q-15: What are the conditions in a halfway house?**

**A:** Conditions vary from halfway house to halfway house. Some offer private rooms, while others have shared rooms with one or more roommates. Some rooms have doors that residents can close and others have curtains instead of doors or don’t have doors at all. All halfway houses are different, so it’s best to try to find out as much as possible about the specific halfway house the prisoner might be going to.

**Q-16: Is medical care available in halfway houses?**

**A:** No. No medical services or health care are provided. Prisoners placed in halfway houses are responsible for their own medical care. Before being placed in a halfway house, they must show that they can afford medical care or health insurance. People who have serious medical or mental health conditions and cannot be placed in a halfway house may be placed directly on home

confinement/detention, if BOP staff can make arrangements so that the person receives the medical and mental health care they will need once they are released.

**Q-17: Is drug treatment available in a halfway house?**

**A:** Yes. Transitional Drug Abuse Treatment (TDAT) is the drug abuse treatment programming available at halfway houses. Participation in TDAT is voluntary for anyone who qualifies for the Residential Drug Abuse Program (RDAP), but prisoners transferred to a halfway house after completing the in-prison portion of the RDAP are required to participate in TDAT. The program involves 1-4 hours each week of substance abuse treatment, including individual, group, or family counseling. RDAP prisoners who don't complete the TDAT program will not graduate the RDAP and will endanger any RDAP sentence reduction they might have otherwise been eligible for. Participants are subject to the same disciplinary regulations as any other BOP prisoner being incarcerated in a traditional prison facility. *See* BOP Policy Statement #7430.02 (Apr. 14, 1999), *available at* <http://www.bop.gov/DataSource/execute/dsPolicyLoc>, or check in a prison law library.

**Q-18: What fees do prisoners pay when staying in a halfway house?**

**A:** Prisoners must pay a halfway house fee equal to 25% of the prisoner's gross income, but cannot be required to pay more than the average daily cost of their halfway house placement. Prisoners also must pay for their own medical care or health insurance.

**Q-19: How can a prisoner get out of the halfway house early?**

**A:** People may shorten their halfway house time by showing that they are eligible to be placed on home confinement. They will want to show that they have:

- A home to go to,
- A job waiting for them,
- Transportation to and from that job, and
- The money to pay the daily fee for placement in the halfway house, whether the person ends up staying there or not.

*See* BOP Policy Statement #7320.01 (Sept. 6, 1995) *available at*

<http://www.bop.gov/DataSource/execute/dsPolicyLoc>, or check in the prison law library.

Additionally, lower-risk, minimum-security inmates who are not graduates of the Residential Drug Abuse Program and who already have an approved home to go to upon their release may be considered for placement directly on home confinement (also called "home detention"). Alternatively, prisoners fitting this description may be placed in a halfway house for two weeks or less, then transferred to home confinement/detention. However, the greatest amount of time a person can spend in home confinement is 6 months or 10% of their sentence, whichever is *less* (see Question 22 below).

**Q-20: What is home confinement/detention?**

**A:** Home confinement, or home detention, is a method of serving a prison sentence in a prisoner’s own home. Like a halfway house, prisoners on home confinement are still under the BOP’s control. They will be required to keep a curfew and to show that they can pay the cost of their own medical expenses or insurance, as well as the home confinement fee (25% of the prisoner’s gross income, generally). Prisoners on home confinement may have work requirements and drug treatment programming, and they may be required to report to a prison facility twice a week for drug testing and other programs. Prisoners may also be subject to electronic home monitoring (wearing an electronic device that allows the BOP to track the person’s movements). If a prisoner is not found where he is supposed to be while he is on home confinement, this can be considered an “escape” from custody, which could have serious consequences (including going back to prison).

**Q-21: Can a prisoner go straight to home confinement to serve his whole sentence?**

**A:** Yes, but this will only be the case when the person receives a sentence of probation or supervised release, not imprisonment. Because home confinement is not a “penal or correctional facility,” the BOP *cannot* send prisoners to home confinement before the final 10% or six months of their sentences, whichever is shorter. Rather, home confinement is imposed by the court as a condition of a sentence of probation or supervised release. *See* U.S. Sentencing Guidelines § 5F1.2.

**Q-22: What is the most time a person can get on home confinement?**

**A:** The BOP may place a prisoner in home confinement for **six months or 10 percent of the whole term of imprisonment, whichever is less**. For example, a prisoner serving a 50-month sentence would be eligible for either 5 months (10% of 50 months) or 6 months on home confinement, whichever is *less*. Thus, a person with a 50-month sentence would be eligible for a maximum of only 5 months on home confinement (because 5 months is *less* than 6 months). **IMPORTANT NOTE:** The BOP is *not required* to award six months, 10 percent, or any amount of time on home confinement. Prisoners who the BOP determines to be a higher risk or who require more reentry services may receive little or no time on home confinement. Home confinement is not a required part of the reentry process, and the BOP *does not* have to transfer prisoners to home confinement.

**Q-23: Who decides when a prisoner can go from a halfway house to home confinement?**

**A:** The manager of the halfway house (also called the Community Corrections Manager, or CCM) must approve placement on home confinement. The CCM will base his decision in part on whether the prisoner’s home has a working telephone, whether other adults in the home consent to the prisoner’s placement there, and whether the prisoner has a job. Employment is desirable, but not required. The CCM works with the home confinement provider (the organization that will check in with the prisoner while they are confined at home) to pick a start date (“reporting date”) for home confinement. The reporting date will be a weekday, and the prisoner has 24 hours from that date to check in with the home confinement provider. If electronic monitoring is not available, the prisoner must either qualify for non-electronic monitoring (in which case, the

prisoner must be present at work and/or home to receive random phone calls from the provider) or remain at the halfway house until the sentence ends or electronic monitoring becomes available. The CCM *does not* have to transfer prisoners to home confinement – the decision is discretionary.

However, a BOP guidance memo from June 24, 2010, encourages CCMs to place lower-risk, minimum-security inmates who are not graduates of the Residential Drug Abuse Program and who already have an approved home to go to upon their release directly on home confinement or, alternatively, in home confinement after spending only two weeks or less in a halfway house. The June 24, 2010 guidance memo is available at <http://www.famm.org/Repository/Files/BOP%20Halfway%20House%20Guidance%206.24.10.pdf>.

Remember, though, that **no one has a right to be placed in home detention** – it is a discretionary decision that is entirely up to the BOP and the CCM.

**Q-24: Will someone check up on a prisoner while he is on home confinement?**

**A:** Yes. A “home confinement provider” is the organization that contracts with the BOP to check up with the prisoner by calling them, visiting in person, or arranging for drug testing. In many districts, the U.S. Probation Office handles calls, visits, and drug testing for those on home confinement.

**Q-25: What BOP policy statement governs halfway houses?**

**A:** BOP policy statement #7310.04 (Dec. 16, 1998), *available at* <http://www.bop.gov/DataSource/execute/dsPolicyLoc>, or in the prison law library. The BOP’s guidance memo of June 24, 2010, is also an important document that governs halfway house placement. That memorandum is available online at <http://www.famm.org/Repository/Files/BOP%20Halfway%20House%20Guidance%206.24.10.pdf>.

**Q-26: What BOP policy statement governs home confinement?**

**A:** Look at BOP Policy Statement #7320.01 (Sept. 6, 1995), *available at* <http://www.bop.gov/DataSource/execute/dsPolicyLoc>, or in the prison’s law library.

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