

Halfway Houses and Reentry

BOP Leadership Series: with Jon Gustin (Retired BOP Administrator over RRCs)

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- » YouTube: <https://youtu.be/2f4n9OT9Gp0>
- » iTunes: <https://podcasts.apple.com/us/podcast/halfway-houses-and-reentry-in-the-bop-jon-gustin/id1330244967?i=1000567283209>

1. Jon Gustin: Halfway House and Reentry

- » Section in video—0:00 to 4:56

Background with BOP: Jon Gustin spent 24 years with the Bureau of Prisons. He spent the first four years working as an officer and a counselor in institutions. Then, he transitioned into a leadership role, working with the nation’s halfway house system. During his final seven years with the Bureau, Jon served with the title of Administrator: Residential Reentry Management Branch. In that role, he provided oversight and direction over halfway house—now called residential reentry centers. As an administrator of national and community-based programs nationwide, he has depth and breadth of experience. Justice-impacted people can learn from the insight he provides into halfway houses and reentry centers.

In an effort to provide continuity of services nationwide, Jon tells us they have a central location, with national rules. Jon and his team wanted standardized programs nationwide. People in the Western Region should get the same treatment as people in other regions.

Under Jon’s leadership, when he retired in December of 2021, approximately 350 people responded to his division. They oversaw more than 15,000 people in the community.

2. What is the difference between an RRM, an RRC, and a Day Reporting Center?

- » Section in video—5:10 to 7:10

An RRM is the residential reentry manager in one of the 24 different field offices that provide supervision and oversight for those residential reentry centers—also known as halfway houses—in his geographical area. For example, Jon told us that when he served as the RRM for the Minneapolis region, he also provided oversight for all the Bureau of Prisons halfway houses in Minnesota, North Dakota, and South Dakota.

People that operate the RRCs, or halfway houses, typically oversee the people in home confinement.

Regarding Day Reporting Centers (DRC), the Bureau only operates two nationwide, one in Memphis and the other in Sacramento. The Day Reporting Centers do not accommodate people that need housing. Administrators in the DRC will oversee the programs and case management for people assigned there.

The RRM has additional responsibilities, such as managing relationships with the local jails and prisons that house juveniles and adults.

3. What stakeholders in the BOP will assess my qualification for placement in community?

» Section in video—7:10 to 14:48

The case manager in the BOP will conduct team meetings every six months or 12 months, depending on the location. When a person moves within 18 months of anticipated release to the community, the case manager will assess how much time to submit for community confinement.

The individual going into the system should think about those meetings. The sooner a person begins to document a journey, showing how he or she is working to prepare for reentry, the more persuasive the person will be in self-advocacy. Although a person may have an attorney at the start of the journey, once a person gets into the system, the person will need to advocate for himself. To advocate effectively, the person should begin thinking about the tools, tactics, and resources he or she can create to advance the effort.

The justice-impacted person should consider the different ways to memorialize the reentry preparations because other stakeholders may weigh in on the decision. For example, the RRM may consider the reentry package. The well-prepared individual will begin thinking about these complications at the start of the journey. To the extent that he can begin documenting the story in the presentence investigation report, he will be in a stronger position. In addition, each time the person has a team meeting in prison, the person should prepare in advance. If he writes about his steps, he may persuade the case manager to populate the record in the team meeting report. Those reports will become a part of the permanent record other stakeholders will review.

- » What plan are you making?
- » In what way does your plan take strengths and weaknesses into consideration?
- » How does your plan show that you've been thinking about the challenges you'll face?

People may put limitations on themselves in documenting a record. While going through 26 years in prison, I would use every opportunity to show the deliberate, systematic steps I took to prepare for success upon release. I created third-party validators that would make the efforts irrefutable. The work I did inside helped me overcome obstacles and challenges that complicate the journey through prison and the reentry process. It's never too early and never too late to prepare for success.

The person should think today about the conversations he will have three years from today, or five years from today. If a person considers those conversations, the person can begin building a body of work that will support a self-advocacy effort.

Jon advised people to think about an ID card. In society, we carry a driver's license with us. But a person that goes to prison for several years may lose track of the government ID. People in the halfway house will consider the ID essential. For that reason, prior to going into the system, take the initiative to put the ID card in an accessible place, or send the ID to the case manager in prison so that it's a part of the file. That way, when a person transfers from prison to a halfway house, the ID will already be in the file. The birth certificate and social security card will also be helpful.

4. What does a person experiences after transferring to a halfway house from a prison?

» Section in video—14:50 to 20:14

When a person transfers to the halfway house, the person must remember that he or she is still in the custody of the attorney general. In other words, the halfway house opens a higher level of liberty, but the person is still obligated to the Bureau of Prisons. The person must follow the BOP rules.

People convicted of white-collar crimes frequently have a sense of entitlement. They believe that administrators will consider them for maximum placement in a halfway house and full placement in home confinement. Such flawed thinking reflects a misunderstanding of the BOP's mission and also a misunderstanding of the training that staff members in the BOP receive.

To paraphrase Dr. Stephen Covey's writing in his influential book, *The Seven Habits of Highly Effective People*, we should strive to understand the system before we try to persuade people in the system to understand us.

In our coursework, we advise people to live in the world as it exists—and not as we want it to be. The Bureau of Prisons is evolving in ways that will favor those who become masters of self-advocacy. The prudent person will learn how the system works, then engineer an adjustment strategy that will advance his candidacy to qualify for maximum levels of liberty at the soonest possible time.

No one can change the past. Yet if we understand the system and how people will judge us, we will succeed in building more influential advocacy packages that help us at various stages of the journey.

Leaders have designed the Bureau of Prisons to accommodate people who need the highest level of assistance. For that reason, a wise person will consider strategies to work within that system—understanding all strengths, weaknesses, opportunities, and threats. If a person has a distinguished professional career, that person should use all critical-thinking skills.

- » How can that person build a record that would advance candidacy for early transition to home confinement?
- » Who will administrators consider most worthy of maximum placement in community confinement?
- » What resources can a person create to move closer to the outcome he or she wants?

Depending on personal characteristics, each person will have a different answer to the questions above. Still, a person must think. By developing an effective strategy, the person will begin to restore confidence.

During his presentation, Jon told us about guidelines. He spoke about BOP perceptions.

Each person should consider whether he has built a strategy that would lead others to view him as a person with an “extraordinary and compelling” track record. The more a person understands, the more effectively a person can work. The person should remember that, besides the case manager and unit team, the RRM will also weigh in on decisions. For that reason, the wise person will think about strategies to influence how that RRM will view him in the months, years, or decades ahead.

As Jon advised, the wise person will think about the RRM. How does the RRM define success? The RRM will want people in the facility that succeed upon release. Build a record to help the RRM get the results that he

wants. Remember that the nation only has about 7,500 to 8,000 halfway-house beds. More opportunities exist with home confinement.

If a person is going into the system, that person should think about how to build a record that will advance a candidacy for home confinement based on the reentry plan. And think about how the Bureau of Prisons is changing—and how the person can be in the best position for mercy, leniency, or consideration when the time is right.

5. How would developing relationships with stakeholders in the judicial system influence a person's journey?

» Section in video—20:14 to 25:25

Jon recommends that all justice-involved people work to develop relationships with stakeholders in the judicial system. Yet he doesn't think the RRM would take much time to get to know an individual. The probation officer, on the other hand, will have enormous influence.

Jon encourages people to build a relationship with a probation officer. A probation officer will influence how much liberty an individual has, especially regarding self-employment.

The Bureau of Prisons scrutinizes self-employment very heavily, especially when the person is going into the RRC. It's hard for administrators to track. When someone asks for self-employment, the RRC will likely turn to the probation officer and the court for guidance. If the judicial authorities support self-employment, the individual will be more likely to receive permission to work independently, either for his or a family member's business.

For this reason, our team at Prison Professors encourages people in our community to meditate on the following questions:

- » How will people in the justice community assess the reentry plan you engineered?
- » In what ways does your reentry plan memorialize the deliberate path you took?
- » In what ways are you using your accountability tools to build your team of advocates?

Jon advises people to bring their written plans and progress guides into every team meeting. Then, the person should request the case manager to incorporate the plan and progress guides into the report that will become a part of the permanent record.

The RRM will review the permanent record. That permanent record will go a long way toward influencing how stakeholders view a candidate striving for an earlier release date.

Every individual should accept that he is responsible for building a record that will influence the people he may or may not meet in the future.

Our team believes that a reentry plan should begin the day a person anticipates that he may face a criminal charge.

6. Are we in agreement that the Bureau of Prisons is bending the arch of justice toward reform?

» Section in video—25:26 to 32:19

We're in agreement that the Bureau of Prisons is advancing. We always need to go farther. The Second Chance Act started to put focus on reentry and focusing on alternative forms of incarceration. It didn't go far enough. It didn't support diversionary programs.

With legislation, we have the thought process of evolution. We started with the Second Chance Act. Now we have the First Step Act. Maybe we should look at whether a person even needs to be incarcerated. Why do we need to confine a person for 90 days?

What alternatives can we create to help correct behavior without an abrupt change of lifestyle that incarceration brings?

The First Step Act gives more authority to the Bureau of Prisons. But with any extensive correction system, we must balance security with reentry. And historically, we didn't even look at reentry. Custody people didn't even think about reentry ten years ago.

We see more emphasis on community-based programs. We're seeing a culture change, especially with this concept of the new director, Colette Peters coming into the Bureau. She'll bring a human element, treating people like they're humans. That's what I think we'll see from Colette.

The Rules and language in the CARES Act show us great hope. We can see what shaped Colette Peters's career and what she will bring to the BOP.

We've written about Colette Peters previously, and I've expressed why I'm so encouraged by what I've read about her. From what I could read, she didn't come from the career track of being a lieutenant, then a captain, and so forth. She studied criminal justice. She built her career as an advocate. She traveled to visit the Norwegian prison system and brought her takeaways to the prison system in Oregon. I'm encouraged by her interest in building a plan to foster better mental health with staff and a system that may incentivize people in prison to pursue excellence in their preparations for success upon release.

With Colette Peters, we may see more programs that give people in prison the guidance necessary to pursue self-directed reentry plans and work toward showing why they're worthy candidates for an earlier transition to home confinement. Suppose the director's position has more authority to allow people to transition to home confinement. In that case, we may see more pathways that will lead people to work toward earning higher levels of liberty based on their "extraordinary and compelling" release plans.

7. What steps should a person take if the halfway house presents a problem or challenge?

» Section in video—32:20 to 38:19

To overcome challenges in the halfway house, a person should begin with an understanding.

The BOP oversees more than 300 halfway houses across the nation. The people working in the halfway houses have varying degrees of training and degrees of professionalism. They interact with thousands of people coming out of prison. Some people have the social skills to function well in society, but some have adjusted in

ways that make them more suitable for life in a high-security penitentiary. They can be aggressive or intimidating. Some people in the halfway house may struggle to differentiate one person from another. Some staff members may have had a bad interaction with someone. As a result, they get in the habit of saying “no,” to all requests; they may present obstacles and challenges that obstruct a person’s pathway to success.

Again, it’s never too early and never too late to prepare for a better outcome. People at the start of a journey should anticipate the obstacles and challenges they face. They should build tools, tactics, and resources that show why the person is worthy of relief. This strategy will help the person put a team of advocates together. Those advocates can help them architect a response to staff members that present challenges. Those advocates can be helpful. This strategy helped me overcome challenges I faced in the halfway house and while in home confinement. Instead of fighting the battle myself, I tapped into the human resources on my team. Those people got me the correct information, the appropriate policy statements, and sometimes, the influence to persuade leaders in the halfway house to reconsider a decision that would have obstructed my pathway to success.

In times like this, it’s wise to remember the wisdom of a great rock-and-roll philosopher, Mick Jagger. In one of his songs, he told us that we can’t always get what we want. But if we try sometimes—we might just find—we get what we need.

When a person disagrees with a staff member, Jon advises that we must exercise discipline and restraint. Our response will go a long way toward influencing the response we receive and setting the tone moving forward. This strategy applies while going through the BOP and as we move forward.

Staff members in the BOP, and those who operate halfway houses, have enormous discretion. When a person gets convicted in federal court, a judge sentences a person to the custody of the Attorney General. The people in prison and the halfway house have policies and procedures, but they also have discretion. Once staff members decide how to respond to a person, it’s difficult—but not impossible—to get a person with more authority to change that decision.

Since the BOP trains all staff members to accept that they’re “correctional officers first,” those people have the power to do several things:

- » They can send a person to the SHU (the hole),
- » They can authorize a person to go into home confinement,
- » They can order a person to work from home,
- » They can approve a person to travel outside of the jurisdiction,
- » They can threaten to send a person from a halfway house back to prison,
- » They can authorize a person to live somewhat independently from 6:00 in the morning until 8:00 in the evening.
- » They can demand a person remain in the halfway house and empty garbage cans all day.
- » They can authorize weekend, overnight visits at home.

By understanding the power and discretion of staff members, a person empowers himself. He can figure out which battles to fight and which battles to ignore. The person should always define success, put a plan together, set priorities, and execute the plan.

Jon advises that when a person talks with staff members in a halfway house, it’s crucial to remember that the people working in the halfway house may have entry-level positions. Some of those people are learning about

power over others, and they don't fully understand how to use their authority in the best way. If they respond to a request in a way that presents a challenge to a reentry plan, then the person should be diplomatic in crafting the response.

Every halfway house has security staff, a case manager, a series of supervisors, and a program director. The halfway house should also have the representative's name and contact numbers for people in the Bureau of Prisons. Jon advises a person to move up the chain of command respectfully, with a comment such as:

I'd like to discuss something I observed at the halfway house that may have impacted me personally. I want to talk about this situation and learn if there would have been a way that I could have handled it better or if the staff could have decided differently on this issue.

This approach is less accusatory and less aggressive. It seeks guidance and mentoring to resolve a challenge influencing the person's well-documented reentry plan. The person can bolster the position further if he has appropriate policy statements or supporting documentation that supports the work. Ideally, the correct approach should lead to a solution that will improve halfway house operations for future people and improve the plan for the individual trying to advocate for himself.

Jon said such an approach is positive. Too many people in the halfway house get a small taste of freedom, become entitled, and resent staff members who have authority over them. Living in prison is always an exercise in humility, reminding us that we have to live in the world as it exists and not as we want it to be. We've got to celebrate the incremental wins, choose the strategy that will lead to the best outcome, and understand that we will experience frustrations along the way.

Living in a halfway house can feel frustrating, especially for someone who just came out of prison. To get what we want, we need restraint and calmness. Jon described that when he worked as an RRM, he sometimes received respectful letters that described the challenge. He immediately saw the problem, and he chose to correct it. On the flip side, I'm sure that if a person presented the issue in a disrespectful, entitled way, a manager would choose to let the decision stand and support his staff member.

After 25 years in prison, I reported to a halfway house to finish my final year. While there, I presented the reentry plan. The reentry plan led to my having a high level of liberty. Within a week, I had the authority to leave the halfway house at 6:00 each morning. I could drive my car. I could stay away until 8:00 each evening, six days a week. On Sundays, I received passes that let me leave for eight hours. Within a month, I received home passes on the weekends. After six months, I transferred to home confinement. I had some challenges, such as when I got an invitation to participate in a speaking event that required me to board an airplane and travel to a different jurisdiction. The halfway house manager denied the request. I prevailed by using all the advocacy skills I developed while serving my sentence. For more clarity on those lessons, I urge our audience members to read or listen to *Earning Freedom: Conquering a 45-Year Prison Term*. Other people advocated on my behalf; had I not shown a long history of reentry planning, it's unlikely that the halfway house would have authorized me to travel outside my jurisdiction.

Jon acknowledged that people who work in the halfway house can always say, "circumstances are different." They may authorize one person to a higher level of liberty. When questioned, they can always say that they have the discretion. If they feel as if they're being manipulated or disrespected, they may abuse their authority. For this reason, he cautions people to use discretion and discernment when responding to staff. Step back, take a breath, and be calm.

8. How will Earned Time Credits apply to someone in the BOP and in the halfway house?

» Section in video—38:21 to 44:08

Generally, the BOP rule tells us that the BOP considers RRC programming as “evidence-based programming” and a “productive activity.” As such, people can earn additional credits while serving time in an RRC. But administrators haven’t found it easy to track the programs. We’ll likely see this area evolve.

The first 12 months of earned time credits generally go toward early supervision. As of the time that I interviewed Jon in June of 2022, there were not a lot of people that accumulated 12 months of earned time credit. The law is too new, and the programs are too new. Most people only have 60 to 90 days. Those credits go to early release on the sentence computation.

Those credits do not impact the halfway house time or home confinement time. Instead, the credits relate to a person’s sentence. Administrators will take time off the person’s sentence, just as they do for successful participants of the RDAP program.

When a person reviews the sentence computation sheet, the person should look closely at the projected FSA Release Date. This date will reflect the earned time credits, advancing the release date by the amount of Earned Time Credits. Getting those credits depends on the approved programs.

Each person should be careful in interpreting these credits. Everything depends on a person’s adjustment. At every team, a person should ask how the team members calculate the earned time credits.

Jon gave us an example. He suggested we consider a person that earned 90 earned time credits. The person that earned 90 ETC would finish his obligation to the BOP 90 days earlier than if he did not achieve the credits. The team would use the new date, with the ETC applied, to determine how much time to grant for halfway house placement. If a person has 15 months of ETC, the first 12 months will apply to early release; the remaining three months would apply to extra time in a halfway house. A person can earn up to 12 months of early release from ETC, but only if the person has completed approved programs. The team will consider other factors described in the appropriate statute to determine how much halfway house time to recommend.

For a person going into the system, a person that is going in today, he should truly populate the record. His accumulation of credits will help him get out of prison earlier, and it could also help him get to home confinement sooner.

9. What factors influence whether a person goes to a halfway house or goes to home confinement?

» Section in video—44:10 to 49:57

Jon described the many factors influencing whether a person goes to home confinement or a halfway house. Those factors include the law, relevant policies, a person’s conviction, and a person’s adjustment in prison. As described throughout this lesson, the person’s reentry plan can also influence the decision.

We should start by understanding the law. Under the Second Chance Act, Congress authorized the BOP to send a person to a Residential Reentry Center for up to 12 months. Out of that 12 months, the person could transition to home confinement for up to six months in a halfway house, or up to 10 percent of the sentence imposed (whichever was less) on home confinement.

As I described earlier, I transitioned to a halfway house for the final 12 months of my sentence. After six months, the halfway house authorized me to transition to home confinement. Contrast my sentence with a person that had a 24-month sentence. Theoretically, the BOP could grant that person 12 months in a residential reentry center. But the Second Chance Act would only authorize 2.4 months of home confinement (10 percent of the sentence). A person with a sentence of fewer than 60 months would not qualify for six months of home confinement under the general rules of the Second Chance Act.

The First Step Act changed this rule, and so did the CARES Act. If a person transitioned from a secure institution to an RRC under the CARES Act, the person could get unlimited home confinement. The BOP had guidelines to follow, but the CARES Act gave the director the authority to grant increasing levels of time in home confinement. And as I wrote in a separate article, we're seeing evidence that it's the will of Congress and the Attorney General to endow the director of the BOP with even more discretion.

- » Read an article on the Proposed Rule that we publish on our website.

Separately, people should also read the articles we wrote after our interview with Hugh Hurwitz, the former director of the BOP. Hugh reminded us that the Bureau of Prisons is an agency with more than 36,000 people. Just as Jon told us, it's hard to retrain all those people to understand the BOP's new emphasis on the importance of reentry. Some staff members will recommend more time in home confinement than others.

If people understand the bureaucracy, they will be better able to advocate for themselves at every stage in the journey. However, the key to effective self-advocacy is to commit to living as a law-abiding, contributing citizen—not from the individual's perspective but the perspective of stakeholders.

A person should understand the system well and also know that the system is evolving. Creating solid plans that coincide with the changing law will serve a person well. For the next several years, we expect to see many changes and iterations in how BOP interprets and applies the First Step Act. We'll also see changes based on the new BOP director's rules. To understand how the BOP interprets rules in 2022, people should read and understand all the guidance memorandums. The more information a person has, the more effectively a person can architect a self-advocacy strategy.

Jon's responses show the value of creating an effective self-advocacy campaign. The sooner a person begins to document a pathway to reentry, the more influential the person will become in getting the highest level of liberty and the soonest possible time.

10. Is there a pathway to advance a person's candidacy for earlier transition to home confinement if he's in the halfway house?

- » Section in video—49:58 to 55:45

Every rule encourages the BOP to send a person to home confinement as soon as appropriate. But the BOP has massive discretion. Staff members are supposed to consider several factors. Those factors go into the decision.

It's important to understand that the RRM may speak with other stakeholders, including the probation officer, the court, and the prosecutor. They may want to know the intent of the court. What did the judge want?

The RRM has discretion, but it will want to consider the perspective of the other stakeholders. Think about how to influence those stakeholders, understanding that the RRM will consider the judge's intent.

Always remember that documenting a record can become a great resource. People should learn how to develop tools that will help them advance their candidacy for a higher level of liberty at the earliest possible time.