

Retired BOP Warden Scott Finley

By Michael Santos
July 21, 2022



Background:

Scott Finley retired after working with the Bureau of Prisons for 27 years. Every justice-impacted person can learn much from his responses to my questions.

Scott began his career as a corrections officer at FCI Milan, a low-security prison in Michigan, in 1994. He held the position until 2000 when leaders promoted him to case manager. As a case manager, he learned more about people serving time, their backgrounds, and steps they could take to prepare for a successful return to society. After two years, agency leaders promoted him to assistant case manager coordinator, which gave him more responsibility.

After ten years of working at the low-security prison in Milan, Scott transferred to the medium-security prison at FCI Herlong in California. At Herlong, he took on increasing responsibility as a unit manager and disciplinary-hearing officer.

From Herlong, Scott transferred to USP Lewisburg. In Lewisburg, Scott worked as part of the executive leadership team, the warden's executive assistant, and the camp administrator. From Lewisburg, he transferred to FCI McKean, where he worked as an associate warden. After McKean, Scott transferred to the Federal Correctional Complex in Allenwood. At FCC Allenwood, Scott worked in all facilities—including a USP, a medium-security prison, and a low-security prison.

Following those leadership roles of working in institutions, Scott transferred to a leadership role at the BOP headquarters in Washington DC. He participated in policy development as the Correctional Program Division (CPD) administrator. He oversaw unit teamwork, the correctional programs, and the discharge aspects of the agency.

Later, Scott worked as the senior deputy assistant director of re-entry services from 2015-2018 at the BOP headquarters in Washington, DC. Wanting to return to the field, he returned to Pennsylvania to finish his career as the warden of the medium-security prison and camp at Schuylkill. Scott retired from the BOP in December 2021.

Scott's responses to our questions will help anyone going into the system. As a nonprofit, we strive to help justice-impacted people learn more about the system to prepare for a more successful transition to society—at the soonest possible time.

Designations:

People sometimes seek guidance on how to prepare for an appropriate designation. We asked Scott to respond to questions that may help lawyers and people understand what happens after a judge sentences a person to the custody of the attorney general.

After a judge sentences a person to “the custody of the attorney general,” what process takes place in bringing that person into the Bureau of Prisons?

Scott told us that when a federal judge sentences a person to prison, the US Marshals Service sends a judgment and commitment order to the Designation and Computation Center in Grand Prairie, Texas. The federal probation officer also sends the Pre-Sentence Investigation Report (PSR) to the BOP's office in Grand Prairie, Texas.

People going into the system should know they will never meet the people overseeing designations in Grand Prairie. Those people will make decisions based on the documents they receive. The more understanding a person has over those documents, the more effectively a person can prepare to influence the designation process.

In Grand Prairie, administrators will review the package that comes to them. That package will include the pre-sentence investigation report (PSR) and the judgment order. Those documents will help the designator understand the following static (cannot change) factors:

- » The person's current offense,
- » Sentence length,
- » Age,
- » Criminal history and other factors.

Each factor will influence a score that goes into the person's security and custody classification. Learn more about the BOP's program statement on custody and classification with the following link:

<https://prisonprofessors.com/custody-and-classification-systems/>

What will the designator review when assigning an appropriate institution for a minimum-security person?

Besides the PSR and judgment order, the designator will also consider the judge's statement of reasons and any personal information about the person available in the package. The designator will want to assign the person to the most appropriate prison, considering his custody- classification score and individual needs.

An example of "individual needs" may include participation in the BOP's Residential Drug Abuse Program (RDAP). If a person qualifies for RDAP and has a need, the designator will want to place the person in a prison that offers the RDAP program. Likewise, if the person benefits from faith-based or mental-health programs, the designator will consider those factors.

The designator will also attempt to designate a prison within 500 miles of the person's residence.

Limitations sometimes exist, such as available bed space. For the most part, the designator will try to keep the person as close to home as possible, but he will also consider safety factors, including any documented gang affiliations.

To the extent that a person understands how designators make decisions, a person can work to develop a record. After listening to Scott, I would encourage people to consider the following steps before sentencing:

- » Research the programs available in the Bureau of Prisons at each facility.
- » Assess which programs may work toward an effective release plan.
- » Show the probation officer preparing the PSR an intention to participate in the release plan.
- » Build a personal advocacy package showing a person's steps to work toward a successful return to society.
- » Share the work a person does publicly with the magistrate and the sentencing judge.

Those efforts can lead to influencing the information that a designator considers. The advocacy package could help a person later as well—when the person does not have access to counsel.

For an additional resource, please listen to our interview with Chris Maloney, former chief probation officer of Massachusetts:

How will a designations officer interpret a judge's recommendation?

To the extent possible, designation officers will follow the judge's recommendations. With the importance of the judge's recommendation in mind, the person should build an advocacy package before sentencing. This effort will help a person get as much personal information into the record. The designator will consider the information in the PSR but also the judge's statement of reasons. If the judge offers a reason for his recommendation, the designator will have more details to consider.

During the interview, Scott's suggested that the defense attorney should work to influence what the judge writes in his recommendation. Regardless of what the defense attorney does, a person can also work to build a complete record. Our interview with Chris Maloney (available on the subject-matter expert page of our site) recommended that people write to the magistrate judge to apprise him of his steps in preparation for the journey ahead.

The earlier a person begins to build a release-preparation plan, the more influential the person will become with stakeholders—including the designator in Grand Prairie, Texas.

What should attorneys include in their request for a judge to recommend a specific institution?

Defense attorneys should do their best to populate the person's official record with information that will help designators make the best decision. If the record isn't complete, the designator will not know factors that could potentially influence the person's adjustment. If a person would benefit from RDAP, for example, the defense attorney should ensure that the PSR and the judge's statement of reasons reflect the person's history of substance abuse. If the official record lacks details about the person, the designator will not know what needs to consider during the initial designation.

The record should also include medical needs or mental health needs. The BOP offers many specialized programs. But if the designator doesn't know about the individual's needs, the designator may not be able to assign the most appropriate prison.

The BOP website offers an abundance of information on the different programs that each institution offers. The well-prepared individual will study those programs. Suppose he

finds a program that makes sense or would contribute to his adjustment upon release. In that case, the defense attorney will serve the client well by populating the record with information on why the institution's program would benefit the person's release plan.

If the judge recommends that program and the institution, the designator will be more inclined to designate the facility. Scott said that the judge's statements could influence a subsequent decision if the facility isn't available for the initial designation.

Is there any advocacy process that could influence a redesignation to a camp if Grand Prairie designates a person to a detention center?

Typically, federal detention centers confine people who are in the pre-trial stage. They haven't pleaded guilty, and a jury hasn't convicted them. The BOP separates pre-trial people from people with convictions.

If the judge sentences a person to prison, and the BOP designates the person to serve a sentence in a federal detention center, the person will become a part of the work cadre. The work cadre performs services for the detention center.

For example, people on the work cadre will work in the kitchen and prepare food. They will do laundry services or work in the library, or they may work on various maintenance-type details.

The BOP will assign people with low- or minimum-security scores to the work cadre. They may have job assignments that result in them going outside prison without supervision. They may earn time credits for participating in the work cadre. Still, they may not have access to as many programs as people serving their sentence in a low-security prison or a minimum-security camp.

If Grand Prairie designates a person to serve a sentence in a work cadre, the person would have difficulty persuading the designator to change the designation. It isn't impossible. But it's challenging to coordinate a re-designation.

For this reason, people should listen to what Scott told us: A person should work to influence the judge's recommendation before the sentencing date. The prudent person would study the programs available in the BOP and then build a release plan to show why a specific prison would be best suited for the initial designation. The defense attorney, and perhaps the individual, should ask the judge to make a recommendation and write the reasons for the recommendation in the statement of reasons. Sometimes, the person should

ask the probation officer to make the recommendation.

Those efforts will help a person influence the designation process.

Does the BOP house non-sentenced people together with sentenced people in a detention center?

As a matter of policy, the BOP separates people who have not been convicted from people who have been convicted. The standard federal prison will only confine people that a judge sentenced to the custody of the attorney general.

But the Bureau of Prisons is a large agency. As we discussed during our conversation with Scott's former colleague, Hugh Hurwitz, the BOP operates the standard prisons (USPs, FCIs, and camps) but also administrative prisons, such as:

- » Federal Detention Centers
- » Metropolitan Detention Centers
- » Federal Medical Centers
- » Federal Transit Centers

The administrative facilities confine people that are serving sentences. They also confine people who are in the pre-trial stage. Typically, the BOP will separate pre-trial people from sentenced people. Those people may be in the same facility, but normally, they would be confined to separate housing units with minimal mixing.

People with minimum or low-custody scores may serve time in administrative facilities as part of the work cadre. Still, they would likely be confined to a housing unit that the institution reserves for the work cadre group.

In what ways can a person or a family member advocate for a specific facility?

Advocacy begins with early preparation. First, a person should research the Bureau of Prisons to learn how the agency operates. The First Step Act urges BOP administrators to assign prisons within 500 miles of the person's home.

Sometimes serving time in a prison within 500 miles of the home isn't the best option for the individual.

- » A prison within 500 miles of the person's may not be available because it may not be the appropriate security level.

If a person knows how administrators will categorize him per the custody and classification schedule, the person begins to prepare a more effective advocacy package. That advocacy package may include:

- » A projected custody and classification score,
- » An exhaustive review of prisons that meet the security level,
- » A listing of the programs available in the prisons,
- » An analysis of which prison would most likely influence a comprehensive release plan,
- » A story that explains why a specific prison would be best,
- » A campaign to influence stakeholders would include the US Probation officer, the magistrate judge, the district court judge, and administrators in Grand Prairie.

If a person invested the time and energy to complete such preparation for the proper designation, the person would have more influence in getting the judge to make the recommendation that administrators in the BOP would respect.

In addition, the person could prepare a package to send to designators in Grand Prairie, Texas. The BOP website offers information on how to contact the designations office.

Family members or advocates that work on behalf of the individual could also call. Still, Scott told us that he is unsure whether family members would get through to the appropriate person in Grand Prairie.

If a person wants staff members to advocate on his behalf, the person must sign the appropriate BOP form that authorizes staff members to communicate openly with advocates.

- » Form: (NEED TO GET BOP AUTHORIZATION FORM)

If a person hasn't received a designation letter before the surrender date, is there a pathway for the person to get that information from Grand Prairie?

Through the course of our interview, Scott described a more streamlined version of the designation process. The US marshals and the probation office send appropriate documentation by email to designators in Grand Prairie. Designators have a professional system that allows them to make scores of designations in a timely manner.

If a designation doesn't come through before a person's surrender date, however, the process can disrupt a person's adjustment. If the BOP doesn't confirm a designation within 14 days of the surrender date, the person should consider reaching out to stakeholders in a coordinated campaign, using a combination of letters, phone calls, and potential collaborations with subject-matter experts.

Sometimes people see that the BOP has designated the person to an FCI rather than a satellite camp. Is there a way for people to learn whether they're going to camp if they see a designation to an adjacent FCI?

Some federal prison camps are stand-alone. For example, the camps in Duluth, Minnesota, or Pensacola, Florida, are not adjacent to higher security prisons. More typically, the camps are adjacent to higher-security federal prisons. For example, the camps where I served my sentence, in Florence, Lompoc, and Atwater, sat beside higher-security prisons.

When the BOP designates a person to a camp adjacent to a higher-security prison, administrators in the higher-security prison will process the person into the prison. Upon processing, the administrators will see the person's custody and classification score. Officers will separate people with minimum-security scores from people with higher-security scores. After they go through processing, the people will walk to the camp.

The designation letter may indicate that the person should report to a Federal Prison Camp (FPC), Satellite Prison Camp (SCP), Federal Correctional Institution (FCI), or United States Penitentiary (USP). The person's custody and classification, however, will determine where the person serves the sentence. Suppose the person receives a designation letter for an administrative facility, such as a Metropolitan Correctional Center (MCC), Federal Detention Center (FDC), or Federal Transit Center (FTC). In that case, the person will become a part of the work cadre.

How can a person confirm that the receiving institution has the PSR and other necessary paperwork before the person surrenders—so the person doesn't go to the hole while waiting for the paperwork?

Scott stated that this type of mishap should not occur with the streamlined designation process. Staff members at a receiving institution have the resources to resolve the matter in the rare instance that a person surrenders to prison before the paperwork arrives.

Our team recommends that a person creates a communication plan before surrendering to prison. The following suggestions may help:

- » Before surrendering to prison, a person should delegate a contact person in the community.
- » The person should let the person know to expect a phone call within 24 hours of surrendering.
- » If the person cannot access his telephone account after surrendering to the general population, he will find people to help. Those people will get a message to the person's family members, assuring them that he is okay.
- » The person should have a plan if the contact person does not receive a phone call within 24 hours. The plan may include calling the institution, contacting administrators in Grand Prairie, and asking the defense attorney to intervene.

What does the BOP authorize a person to bring when he surrenders?

People surrendering to a federal prison should take the minimalist approach. The policy provides that a person can bring the following items:

- » A plain wedding band with no stones or markings, with a declared value of less than \$100,
- » Earrings for females only (again, no stones or markings and must value at less than \$100),
- » Medical or orthopedic devices that the person requires provided the BOP formulary authorizes the medications.
- » Legal documents may include medical records—and we recommend the person bring a typed directory of important contacts with name, phone number, email, and mailing address.
- » Personal or identifiable forms of documentation (driver's license, photo identification),
- » Religious items (if the Warden deems it not to be a security threat, as well as a values of less than \$100), and
- » Prescription eyeglasses.

The person should not attempt to bring additional personal items. To minimize the introduction of contraband into an institution, the BOP does not authorize a person to bring personal clothing, books, or much of anything other than the items listed on the bullet points above. The BOP sells items through the commissary or allows bookstores to send

books.

Is there a national policy that governs whether a person can bring currency with him upon surrendering?

Financial resources can ease some of the burdens of confinement. If a person has access to resources, the person can purchase items from the commissary. The commissary sells food, clothing items, and personal hygiene supplies. In theory, the BOP will provide everything a person needs to survive. But access to commissary will make life easier for any person in prison.

Although the policy allows people to bring currency with them upon surrendering, Scott recommended a different approach. To make things easier, a person should use the BOP's process. The following link shows the process to send money to people in federal prison:

<https://prisonprofessors.com/send-money-to-people-in-federal-prison/>

What happens to a non-vaccinated person upon surrendering?

The Bureau of Prisons does not require people to vaccinate. Whether vaccinated or not, people go through the same procedures.

Guidelines from the Center for Disease Control (CDC) influence whether the warden modifies operations due to COVID-19.

The warden may determine that safety in the institution requires all people to undergo quarantine. Whether vaccinated or not, people will follow the same procedures.

After the quarantine period, officers will test each person to determine if he has COVID.

People who do not show COVID symptoms join the general population, regardless of their vaccination status. They can participate in any program, regardless of vaccination status.

Please give us your interpretation of the BOP's policy on furloughs for:

The Code of Federal Regulations publishes guidelines on furloughs. A furlough authoriz-

es a person to leave the prison for a period, on condition that the person will return to the prison to complete the sentence.

To qualify for a furlough, a person must meet specific criteria. For example, to qualify for an unescorted furlough, a person cannot have a history of violence and must meet custody guidelines. In specific instances, people who do not meet those guidelines may qualify for escorted furloughs. The person must pay all costs associated with a furlough—including the travel costs for officers that accompany a person on the furlough.

Although wardens in the BOP have the discretion to grant furloughs, as a matter of policy, some wardens may choose not to grant furloughs. People in prison do not have a right to a furlough. For that reason, if a person should work on steps to make him a better candidate. People serving time should focus on what they can control and not on what they cannot control. For example, people can control whether:

- » They're developing good relationships with staff,
- » They're completing programs,
- » They're avoiding behavior that can lead to disciplinary infractions,
- » They're staying current with financial responsibility requirements.

They cannot control whether a warden will authorize a furlough. When wardens approve furlough requests, they are typically for the following reasons:

To transfer from a secure institution to minimum-security,
To attend an unexpected family event, such as a funeral or to visit a loved one in crisis,
To further family ties as a person approaches a release date.

Each case will be different. For these reasons, thinking about self-advocacy early should help a person advocate for himself if the need for a furlough comes up.

Help our audience understand the Financial Responsibility Program (FRP):

The BOP Policy on FRP requires each person to make progress toward paying financial obligations. Those obligations may include criminal fines, restitution orders, assessments, or in some cases, the costs of confinement. Each case will be different, depending upon what the judge stated in the judgment order and the statement of reasons.

The BOP will invite each person to participate in the FRP. If a person refuses to participate in FRP, staff members will classify the person differently. That different classifi-

cation will result in the person's inability to benefit from specific programs—including programs that could lead to an earlier release date.

To participate in FRP, a person must agree to pay a minimum of \$25 per quarter. That is the bare minimum amount to qualify. The Unit Manager, however, has ultimate discretion on how much a person should pay toward FRP.

Staff members will calculate how much the person should pay. They will consider the amount of money a person earns from a prison job and resources that come into the person from outside resources. Based on those numbers, the staff members will determine an appropriate payment, and the individual may choose whether he wants to make that payment. If he refuses to make the payment, the staff member will classify him accordingly as refusing to participate in FRP.

The FRP program authorizes a person to spend \$75 per month. Some people spend more than \$75 each month serving a sentence. For example, they may spend:

- » Commissary limit: roughly \$400 per month
- » Telephone expenses: More than \$200 per month
- » Email expenses: more than \$300 per month
- » Postage expenses: more than 100 per month

To meet those expenses, a person must rely upon outside resources. If a person's family and friends send several hundred dollars each month to a person in prison, the person should expect to pay significantly more than the \$25 minimum payment.

Each person should openly communicate with the unit team. If the person makes a reasonable offer to comply with FRP, the Unit Manager has the discretion to approve the proposal.

What steps would you recommend for someone with minimum-security points who cannot persuade the unit team to transfer him from a low-security prison to a camp?

In response to this question, Scott reiterated the importance of open communication with the unit team. The custody and classification policy determines whether a person is eligible for camp placement. It's the BOP's policy to confine a person in the least restrictive environment, in accordance with the person classification scoring.

If a person has the appropriate scoring for camp placement, but the unit team does not recommend the person for a transfer to camp, the person should learn the reason why. If the person doesn't think the reason is valid, the person has the right to pursue relief through the administrative remedy process.

Conclusion:

We're grateful to Scott for agreeing to share his wisdom with members of our community. We had additional questions regarding the Earned Time Credits and the First Step Act.

Since Scott retired in December of 2021, Scott told us that he preferred to check with his former colleagues in the Bureau of Prisons before he responded to those questions.

We anticipate a follow up interview with Scott in August 2022.

On behalf of our entire team, I send wishes that you're finding value from our series with subject-matter experts. If you have questions, please reach out through Impact@PrisonProfessors.com.

Sincerely,
Michael Santos

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