

Department of Justice

§ 2.40

a victim outside the prison) are graded as new criminal behavior in the community.

(b) The above are merely guidelines. Where the circumstances warrant, a decision outside the guidelines (above or below) may be rendered provided specific reasons are given. For example, a substantial period of good conduct since the last disciplinary infraction in cases not involving new criminal conduct may be treated as a mitigating circumstance.

[45 FR 59871, Sept. 11, 1980, as amended at 51 FR 32072, Sept. 9, 1986; 52 FR 5763, Feb. 26, 1987; 52 FR 17399, May 8, 1987]

§2.37 Disclosure of information concerning parolees: Statement of policy.

(a) Information concerning a parolee under the Commission's supervision may be disclosed to a person or persons who may be exposed to harm through contact with that particular parolee if such disclosure is deemed to be reasonably necessary to give notice that such danger exists.

(b) Information concerning parolees may be released by a Chief U.S. Probation Officer to a law enforcement agency (1) as deemed appropriate for the protection of the public or the enforcement of the conditions of parole or (2) pursuant to a request under 18 U.S.C. 4203(e).

[47 FR 13521, Mar. 31, 1982, as amended at 52 FR 33408, Sept. 3, 1987]

§2.38 Community supervision by U.S. Probation Officers.

(a) Pursuant to sections 3655 and 4203(b)(4) of title 18 of the U.S. Code, U.S. Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to persons released by parole or as if on parole (mandatory release) under the Commission's jurisdiction.

(b) A parolee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

[44 FR 3409, Jan. 16, 1979]

§2.39 Jurisdiction of the Commission.

(a) Jurisdiction of the Commission over a parolee shall terminate no later than the date of expiration of the maximum term or terms for which he was sentenced, except as provided by §2.35, §2.43, or §2.52.

(b) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

(c) Upon the termination of jurisdiction, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

[42 FR 39809, Aug. 5, 1977, as amended at 48 FR 22919, May 23, 1983]

§2.40 Conditions of release.

(a) The following conditions are attached to every grant of parole and are deemed necessary to provide adequate supervision and to protect the public welfare. They are printed on the certificates issued to each parolee and mandatory releasee:

(1) The parolee shall go directly to the district named in the certificate (unless released to the custody of other authorities). Within three days after his arrival, he shall report to his parole adviser, if he has one, and to the U.S. Probation Officer whose name appears on the certificate. If in any emergency the parolee is unable to get in touch with his parole adviser or his probation officer or his office, he shall communicate with the U.S. Parole Commission, Chevy Chase, Maryland 20815-7286.

(2) If the parolee is released to the custody of other authorities, and after release from the physical custody of such authorities, he is unable to report to the U.S. Probation Officer to whom he is assigned within three days, he shall report instead to the nearest U.S. Probation Officer.

(3) The parolee shall not leave the limits fixed by his certificate of parole without written permission from the probation officer.

(4) The parolee shall notify his probation officer within two days of any change in his place of residence.

(5) The parolee shall make a complete and truthful written report (on a form provided for that purpose) to his

probation officer between the first and third day of each month, and on the final day of parole. He shall also report to his probation officer, at other times as the probation officer directs, providing complete and truthful information.

(6) The parolee shall not violate any law, nor shall he associate with persons engaged in criminal activity. The parolee shall get in touch within two days with his probation officer or office if he is arrested or questioned by a law-enforcement officer.

(7) The parolee shall not enter into any agreement to act as an informer or special agent for any law-enforcement agency.

(8) The parolee shall work regularly unless excused by his probation officer, and support his legal dependents, if any, to the best of his ability. He shall report within two days to his probation officer any changes in employment.

(9) The parolee shall not drink alcoholic beverages to excess. He shall not purchase, possess, use, or administer marihuana or narcotic or other habitforming drugs, unless prescribed or advised by a physician. The parolee shall not frequent places where such drugs are illegally sold, dispensed, used, or given away.

(10) The parolee shall not associate with persons who have a criminal record unless he has permission of his probation officer.

(11) The parolee shall not possess a firearm or other dangerous weapon.

NOTE: Such permission may not be considered in cases in which the parolee is prohibited from such possession by any federal, state, or local law.

(12) The parolee shall permit confiscation by his Probation Officer of any materials which the Probation Officer believes may constitute contraband in the parolee's possession and which he observes in plain view in the parolee's residence, place of business or occupation, vehicle(s), or on his person. The Commission may also, when a reasonable basis for doing is presented, modify the conditions of parole to require the parolee to permit the U.S. Probation Officer to conduct searches and seizures of concealed contraband on the parolee's person, and in any building, vehicle, or other area under

the parolee's control, at such times as the U.S. Probation Officer shall decide.

(13) The parolee shall make a diligent effort to satisfy any fine, restitution order, court costs or assessment, and/or court ordered child support or alimony payment that has been, or may be, imposed, and shall provide such financial information as may be requested, by his Probation Officer, relevant to the payment of the obligation. If unable to pay the obligation in one sum, the parolee will cooperate with his Probation Officer in establishing an installment payment schedule.

(14) The parolee shall submit to a drug test whenever ordered by his Probation Officer.

(b) The Commission or a member thereof may at any time modify or add to the conditions of release pursuant to this section, on its own motion or on the request of the United States Probation Officer supervising the parolee. The parolee shall receive notice of the proposed modification and unless waived shall have ten days following receipt of such notice to express his views thereon. Following such ten day period, the Commission shall have 21 days, exclusive of holidays, to order such modification of or addition to the conditions of release.

(c) The Commission may require a parolee to reside in or participate in the program of a residential treatment center, or both, for all or part of the period of parole.

(d) The Commission may require a parolee, who is an addict, within the meaning of section 4251(a), or a drug dependent person within the meaning of section 2(8) of the Public Health Service Act, as amended, to participate in the community supervision program authorized by section 4255 for all or part of the period of parole.

(e) The Commission may require that a parolee remain at his place of residence during nonworking hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices. A condition under this section may be imposed only as an alternative to incarceration.

(f) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

(g) The ten-day notice provision of paragraph (b) of this section shall not apply to a modification of the conditions of parole

(1) Following a revocation hearing,

(2) Upon a finding that immediate modification of the conditions of parole is required to prevent harm to the parolee or the public, or

(3) In response to a request by the parolee under paragraph (f) of this section.

(h) A parolee may appeal an order to impose or modify parole conditions under § 2.26 not later than thirty days after the effective date of such conditions.

(i) A prisoner who, having been granted a parole date, subsequently refuses to sign the parole certificate, or any other consent form necessary to fulfill the conditions of parole, shall be deemed to have withdrawn the application for parole as of the date of refusal to sign. To be again considered for parole, the prisoner must reapply for parole consideration. With respect to prisoners who are required to be released to supervision through good time reductions (pursuant to 18 U.S.C. 4161 and 4164), the conditions of parole set forth in this rule, and any other special conditions ordered by the Commission, shall be in full force and effect upon the established release date regardless of any refusal by the releasee to sign the parole certificate.

(j) Any parolee who absconds from supervision has effectively prevented his sentence from expiring. Therefore, the parolee remains bound by the conditions of his release and violations committed at any time prior to execution of the warrant, whether before or after the original expiration date, may be charged as a basis for revocation, and a warrant may be supplemented at any time.

(k) A parolee or mandatory releasee who is released after December 31, 1988, and who is found by the Commission, after a revocation hearing conducted pursuant to these rules, to have been in possession of a controlled substance while on parole, shall have his or her

parole revoked. When considering what action to take with regard to a parolee who fails a drug test, the Commission shall consider appropriate alternatives to revocation pursuant to 18 U.S.C. 4209(a). In no case shall parole be revoked upon the basis of a single, unconfirmed positive drug test that is challenged by the parolee, without other violations having been found to justify such revocation.

(1)(1) The Commission may require a parolee, when there is evidence of prior or current alcohol dependence or abuse, to participate in an alcohol aftercare treatment program. In such a case, the Commission will require that the parolee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment.

(2) The Commission may require a parolee, where there is evidence of prior or current drug dependence or abuse, to participate in a drug treatment program, which shall include at least two periodic tests to determine whether the parolee has reverted to the use of drugs (including alcohol). In such a case, the Commission will require that the parolee abstain from the use of alcohol and/or all other intoxicants during and after the course of treatment. A decision by the Commission not to impose this special condition shall constitute good cause for suspension of the drug testing requirements of 18 U.S.C. 4209(a). In the event such condition is imposed prior to an eligible prisoner's release from prison, any grant of parole or reparole shall be contingent upon the prisoner passing all pre-release drug tests administered by the U.S. Bureau of Prisons.

[42 FR 39809, Aug. 5, 1977, as amended at 45 FR 84054, Dec. 22, 1980; 46 FR 52354, Oct. 27, 1981; 48 FR 22917, May 23, 1983; 48 FR 23184, May 24, 1983; 49 FR 6717, Feb. 23, 1984; 49 FR 44098, Nov. 2, 1984; 50 FR 28101, July 10, 1985; 50 FR 36422, Sept. 6, 1985; 54 FR 11687, Mar. 21, 1989; 55 FR 862, Jan. 10, 1990; 56 FR 30871, 30873, July 8, 1991; 59 FR 66735, Dec. 28, 1994; 60 FR 5461, Jan. 27, 1995; 60 FR 51349, Oct. 2, 1995]

§ 2.41 Travel approval.

(a) The probation officer may approve travel outside the district without approval of the Commission in the following situations: