

disapproval of the transferee's release plan.

(4) The Commission shall reopen and modify a determination that has been found on appeal to have been imposed in violation of the law, to have been imposed as a result of an incorrect application of the sentencing guidelines, or to have been unreasonable.

(5) The Commission may reopen and modify a determination upon consideration of the factors listed in section 5K1.1 of the sentencing guidelines if the transferee provides substantial assistance to law enforcement authorities, and that assistance was not previously considered by the Commission. The Commission will treat a request from a foreign or a domestic law enforcement authority as the equivalent of a "motion of the government."

(6) The Commission may modify a determination based upon a clerical mistake or other error in accordance with Federal Rules of Criminal Procedure Rule 36.

(7) The Commission may reopen and modify the release date if it determines that a circumstance set forth in 18 U.S.C. 3582(c) is satisfied.

(1) *Supervised release.* (1) If a period of supervised release is imposed, the Commission presumes that the recommended conditions of supervised release in section 5B1.4(a) of the sentencing guidelines, a condition requiring the transferee to report to the probation office within 72 hours of release from the custody of the Bureau of Prisons, a condition that the transferee not commit another Federal, state or local crime, and a condition that the transferee not possess a firearm or other dangerous weapon are reasonably necessary in every case. These conditions, therefore, shall be imposed unless the Commission finds otherwise. The Commission may also impose special conditions of supervised release whenever deemed reasonably necessary in an individual case.

(2) If the transferee is released pursuant to a date established by the Bureau of Prisons under 18 U.S.C. 4105(c)(1), then the period of supervised release

commences upon the transferee's release from imprisonment.

[54 FR 27840, June 30, 1989, as amended at 55 FR 39269, Sep. 26, 1990; 58 FR 30705, May 27, 1993; 59 FR 26425, May 20, 1994; 60 FR 18354, Apr. 11, 1995; 61 FR 38570, July 25, 1996; 61 FR 54096, 54097, Oct. 17, 1996; 62 FR 40270, July 28, 1997]

§2.63 Rewarding assistance in the prosecution of other offenders; criteria and guidelines.

(a) The Commission may consider as a factor in the parole release decision-making a prisoner's assistance to law enforcement authorities in the prosecution of other offenders.

(1) The assistance must have been an important factor in the investigation and/or prosecution of an offender other than the prisoner. Other significant assistance (e.g., providing information critical to prison security) may also be considered.

(2) The assistance must be reported to the Commission in sufficient detail to permit a full evaluation. However, no promises, express or implied, as to a Parole Commission reward shall be given any weight in evaluating a recommendation for leniency.

(3) The release of the prisoner must not threaten the public safety.

(4) The assistance must not have been adequately rewarded by other official action.

(b) If the assistance meets the above criteria, the Commission may consider providing a reduction of up to one year from the presumptive parole date that the Commission would have deemed warranted had such assistance not occurred. If the prisoner would have been continued to the expiration of sentence, any reduction will be taken from the actual date of the expiration of the sentence. Reductions exceeding the one year limit specified above may be considered only in exceptional circumstances.

[52 FR 44389, Nov. 19, 1987]

§2.64 Quorum.

Any Commission action authorized by law may be taken on a majority

vote of the Commissioners holding office at the time the action is taken.

[61 FR 55743, Oct. 29, 1996]

§ 2.65 Youth Corrections Act.

(a) The provisions of this section only apply to offenders serving sentences imposed under former 18 U.S.C. section 5010 (b) and (c).

(b) *Approval of program plans.* (1) The criteria outlined in paragraph (d) of this section (on determining successful response to treatment) shall be considered in determining whether a proposed program plan will effectively reduce the risk to the public welfare presented by the YCA prisoner's release.

(2) If the prisoner's program plan has not already been approved by the Commission, the examiner panel shall be given the plan at a hearing for review and approval. The examiners shall indicate their approval or disapproval of the program plan (with relevant comments and recommendations) in the hearing summary.

(3) If the examiners consider the plan inadequate, they will discuss their concerns with institutional staff. If there is still a disagreement on the plan, the case will be referred by the Commission's regional administrator to the Bureau's regional correctional programs administrator with the recommended changes. Unresolved disputes concerning the adequacy of the program plan shall be decided by the Regional Commissioner and the Regional Director of the Bureau of Prisons. The Regional Commissioner shall render the final decision on approving or disapproving each program plan on behalf of the Commission. Once the program plan has been approved, subsequent approvals are not necessary, unless significant modifications are made by institutional staff.

(c) *Parole hearings and progress reports.* (1) Initial hearings shall be conducted in accordance with §§ 2.12 and 2.13. The examiner panel will discuss with the prisoner and a staff member who is knowledgeable about the case the program plan and the importance of good conduct and program participation in setting the release date.

(2) An interim hearing must be scheduled for an inmate every nine months if the inmate is serving a sentence of

less than seven years. If the inmate is serving a sentence of seven years or more, the interim hearing must be scheduled every twelve months. If the inmate has been continued to the expiration of his sentence, and he has less than twelve months remaining to be served prior to his release or his transfer to a community treatment center, no further hearing is required. In addition, within 60 days of receipt of any special progress report from the warden recommending parole, the prisoner shall be scheduled for a special interim hearing, unless the recommendation can be timely considered at a regularly scheduled interim hearing. An institutional staff member who has personal knowledge of the case shall be present to assist the examiners in their evaluation of the prisoner's conduct, program performance, and response to treatment.

(3) After any interim hearing or review on the record, the Commission may advance the presumptive release date, let the date stand, or retard/rescind the date if the prisoner has committed disciplinary infractions or new criminal conduct.

(4) An interim hearing will not be scheduled after receipt of a progress report, if the Commission decides on the record to parole the prisoner as soon as a release plan is approved (normally within 60 days of the decision).

(5) The institution shall send a progress report to the Commission:

(i) No more than 60 days before each interim hearing;

(ii) Upon determining that a prisoner should be recommended for parole; and

(iii) Before presumptive parole date to allow for the pre-release record review under § 2.14(b).

The warden may forward progress reports to the Commission at other times in his discretion. Progress reports shall also be sent to the Commission every six months for prisoners who have waived interim hearings to enable the Commission to verify that these prisoners have satisfied the conditions of securing their release on an alternative parole date granted under the former YCA compliance plan (*i.e.*, completion of the program plan) or the normal presumptive release date (*i.e.*, obedience to institutional rules).