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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.

(c) In the case of an eligible DC Code prisoner whose assistance meets the criteria of this section, the Commission may consider deducting a point under Category V of the Point Assignment Table at §2.80, in addition to any other deduction for positive program achievement, when considering such prisoner for parole. In the case of a DC Code prisoner with an unserved minimum term, the Commission may consider filing an application under §2.76 for a reduction of up to one-third of such term less applicable good time.

[52 FR 44389, Nov. 19, 1987. Redesignated at 63 FR 39176, July 21, 1998, as amended at 64 FR 5613, Feb. 4, 1999]

§ 2.63 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. Redesignated at 63 FR 39176, July 21, 1998]

§ 2.64 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 is 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).

(6) For prisoners granted earlier parole dates under former compliance plans in *Watts* v. *Bleaski:* A prisoner may waive interim hearings under this section, in which case he would retain an alternative parole date previously granted to him or a presumptive parole date granted as a result of a finding that the prisoner had responded to treatment. A prisoner who waives an interim hearing under this section may, at any time, re-apply for the hearing and be considered under this section in accordance with the application/waiver provisions at §2.11. The Commission will not review the program plans for prisoners who waive interim hearings pursuant to this paragraph, unless the prisoner subsequently is scheduled for a hearing to consider new criminal conduct or a rule infraction *and* a modification of the original program plan appears warranted due to the prisoner's new criminal offense or infraction. If the prisoner is scheduled for a hearing that may not be waived (*e.g.*, an interim hearing where there has been a finding of a disciplinary infraction since the last hearing, or any hearing scheduled pursuant to §2.20 (b) through (f), this section will be applied at such hearing.

(7) *Warden's recommendation.* Based on the completion of the program by the prisoner, and the quality of effort demonstrated by the prisoner in completing the plan, the warden will recommend to the Commission a conditional release date for its consideration. This recommendation shall be accompanied by a report on the prisoner's participation and level of achievement in different aspects of his program.

(d) *Criteria for finding successful response to treatment programs.* (1) In determining whether a prisoner has successfully ''responded to treatment'' the Commission shall examine whether the prisoner has shown that he has received sufficient corrective training, counseling, education, and therapy that the public would not be endangered by his release. See former 18 U.S.C. 5006(f) (definition of ''treatment'' under the YCA). The Bureau of Prisons shall assist the Commission in

this determination by informing the Commission when the prisoner has completed his program plan and by advising the Commission of the quality of effort demonstrated by the prisoner in completing the plan.

(2) In determining the extent of a prisoner's positive response to treatment, the Commission shall examine the degree by which the prisoner has increased the likelihood that his release would not jeopardize public welfare through his program performance and conduct record. See 18 U.S.C. 4206(a)(2). The starting report for the analysis of a prisoner's response to treatment will be the original parole prognosis reached by the use of the salient factor score, and an evaluation of the nature of the prisoner's prior criminal history and other characteristics of the prisoner. The nature of the current offense may also be considered in determining the risk to the public welfare presented by the prisoner's release. The Commission will then proceed to evaluate whether the prisoner's program participation and institutional conduct has improved the original risk prognosis and evidences an alteration of his valued system, including an understanding of the wrongfulness of his past criminal conduct. For those prisoners who have exhibited serious or violent criminal behavior, the Commission will exercise more caution in making a finding that the prisoner has responded to treatment to the degree that he should be released.

(3) With regard to program performance, significant weight will be given to the following factors in determining a prisoner's response to treatment. This is not intended as an exhaustive list.

(i) *Vocational training:* Where the inmate originally had few job skills, the acquisition of a marketable job skill through vocational training or an apprenticeship program.

(ii) *Education:* Participation in educational programs to acquire an educational level at least the level of a high school graduate.

(iii) *Psychological counseling and therapy:* Where the prisoner's behavior has shown that he may be affected by personality disorders or a mental illness that has hampered his ability to lead a law-abiding life, or that he may otherwise benefit from such programs, participation in psychological and/or other specialized programs which lead to a judgment by the therapist/counselor that the prisoner has significantly improved his ability to obey the law and favorably modified his value system. Participation in these programs will normally be required for a significant advancement of the presumptive release date for a prisoner who has either committed or attempted a crime of violence.

(iv) *Drug/alcohol abuse programs:* Where the prisoner has a history of drug/alcohol abuse, participation in a drug/alcohol abuse program which leads to the judgment by the therapist/counselor that there is a significant likelihood that the prisoner will not revert to drug/alcohol abuse and has thereby significantly improved his ability to obey the law.

(v) *Work:* Assuming the prisoner is physically and mentally able to do so and is not otherwise engaged in an institutional activity which prevents him from obtaining a job, participation in a job on a regular basis so as to demonstrate a stable life pattern and a favorable modification of his value system.

(4) Prison misconduct (*i.e.,* disobedience to institutional rules, escape) and new criminal conduct in the institution shall be considered in the decision as to whether (or to what degree) a prisoner has successfully responded to treatment. The rescission guidelines of 2.36 shall be used in retarding or rescinding the original presumptive release date set according to the guidelines and the factors described in 18 U.S.C. 4206. If the original presumptive date has been advanced based on response to treatment, the rescission guidelines may also be used to retard or rescind the new date to maintain institutional discipline, if the misconduct is not deemed serious enough to affect the decision that the prisoner has responded to treatment. But misconduct subsequent to the advancement of a release date based on a finding of response to treatment may also result in a reversal of that finding and the cancellation of any advancement of the original presumptive release date.

(e) *Setting the parole date (balancing section 4206 factors with response to treatment).* At any hearing or review on the record, the presumptive release date may be advanced if it is determined that the prisoner has responded to a sufficient degree to his treatment programs. The amount of the advancement should be proportional to the degree of response evidenced by the prisoner. In making the advancement, no rule restricting the amount of the reduction—whether based on the guidelines (§2.20) or the rule on superior program achievement (§2.60)—shall be used. The decision will be the result of a case-by-case evaluation in which response to treatment programs, the seriousness of the offense, and the original parole prognosis are all weighed by the Commission with no one factor capable of excluding all others.

(f) *Parole violators.* Parole violators returned to an institution following a local revocation hearing shall normally be considered for reparole under this section at a hearing within six months of their arrival at the institution.

(g) *Early termination from supervision.* (1) A review of the YCA parolee's file will be conducted at the conclusion of each year of supervision (following receipt of the annual progress report—Form F–3) and six months prior to the expiration of his sentence (after receipt of the final report).

(2) A YCA parolee shall not be continued on supervision beyond the time periods specified in the early termination guidelines (§2.43), unless case-specific factors indicate further supervision is warranted. The guidelines at §2.43 shall not be routinely used to *deny* early discharge to a YCA parolee who has yet to complete two (or three) years of clean supervision.

(3) The Commission shall consider the facts and circumstances of each YCA parolee's case, focusing on the risk he poses to the public and the benefit he may obtain from further supervision. The nature of the offense and parolee's past criminal record shall be taken into account only to evaluate the risk that the parolee may still pose to the public.

(4) In denying early discharge, the Commission shall inform the probation office by letter (with a copy to the YCA parolee) of the reasons for continued supervision. The reasons should pertain, whenever possible, to the facts and circumstances of the YCA parolee's case. If there are no case-specific factors which indicate that discharge should be either granted to denied and further supervision appears warranted, the Commission may inform the YCA parolee that he is continued on supervision because of its experience with similarly situated offenders.

[53 FR 49654, Dec. 9, 1988, as amended at 55 FR 289, Jan. 4, 1990. Redesignated at 63 FR 39176, July 21, 1998]

§2.65 Paroling policy for prisoners serving aggregate U.S. and D.C. Code sentences.

(a) *Applicability.* This regulation applies to all prisoners serving any combination of U.S. and D.C. Code sentences that have been aggregated by the U.S. Bureau of Prisons. Such individuals are considered for parole on the basis of a single parole eligibility and mandatory release date on the aggregate sentence. Pursuant to §2.5, every decision made by the Commission, including the grant, denial, and revocation of parole, is made on the basis of the aggregate sentence.

(b) *Basic policy.* The Commission shall apply the guidelines at §2.20 to the prisoner's U.S. Code crimes, and the guidelines of the District of Columbia Board of Parole to the prisoner's D.C. Code crimes.

(c) *Determining the federal guideline range.* The Commission shall first consider the U.S. Code offenses pursuant to the guidelines at §2.20, and shall determine the appropriate number of months to be served (the prisoner's ''federal time''). The Commission shall deem the ''federal time'' to have commenced with the prisoner's initial commitment on the current aggregate sentence, including jail time.

(d) *Decisions above the federal guideline range.* The ''federal time'' thus determined may be a decision within, below or above the federal guidelines, but it shall not exceed the limit of the U.S. Code sentence, *i.e.*, the number of months that would be required by the statutory release date if the U.S. Code sentence is less than five years, or the