

(f) A prisoner, the prisoner's representative, or the institution, may request the Commission to reconsider its decision on the basis of changed circumstances.

(g) Notwithstanding any other provision of this section:

(1) A prisoner who has been convicted of first degree murder or who has been sentenced for a crime committed while armed under D.C. Code 22-2903, 22-3202, or 22-3204(b), shall not be eligible for geriatric parole (D.C. Code 24-267); and (2) A prisoner shall not be eligible for geriatric parole on the basis of a physical or medical condition that existed at the time the prisoner was sentenced (D.C. Code 24-262).

§ 2.79 Good time forfeiture.

Although a forfeiture of good time will not bar a prisoner from receiving a parole hearing, D.C. Code 24-204 permits the Commission to parole only those prisoners who have substantially observed the rules of the institution. Consequently, the Commission will consider a grant of parole for a prisoner with forfeited good time only after a thorough review of the circumstances underlying the disciplinary infraction(s). The Commission must be satisfied that the prisoner has served a period of imprisonment sufficient to outweigh the seriousness of the prisoner's misconduct.

§ 2.80 Guidelines for D.C. Code offenders.

(a)(1) *Applicability in general.* Except as provided below, the guidelines in paragraphs (b)-(n) of this section apply at an initial hearing or rehearing conducted for any prisoner.

(2) *Reparole decisions.* Reparole decisions shall be made in accordance with § 2.81.

(3) *Youth offenders.* A prisoner sentenced under the Youth Rehabilitation Act shall be considered for parole under these guidelines pursuant to paragraph (a)(1) of this section, except that the prisoner shall be given rehearings in accordance with the schedule at § 2.75(a)(2)(ii) and the prisoner's program achievements shall be considered in the parole release decision in accordance with § 2.106. The guidelines at paragraphs (k)-(m) of this section

for awarding superior program achievement and subtracting the award in determining the total guideline range shall not apply.

(4) Prisoners considered under the guidelines of the former District of Columbia Board of Parole. For a prisoner whose initial hearing was held before August 5, 1998, the Commission shall render its decision by reference to the guidelines of the former D.C. Board of Parole in effect on August 4, 1998. However, when a decision outside such guidelines has been made by the Board, or is ordered by the Commission, the Commission may determine the appropriateness and extent of the departure by comparison with the guidelines of § 2.80. The Commission may also correct any error in the calculation of the D.C. Board's guidelines.

(5) Prisoners given initial hearings under the guidelines in effect from August 5, 1998 through December 3, 2000 (the guidelines formerly found in 28 CFR 2.80, Appendix to § 2.80 (2000)). For a prisoner given an initial hearing under the § 2.80 guidelines in effect from August 5, 1998 through December 3, 2000, the guidelines in paragraphs (b)-(n) of this section shall be applied retroactively subject to the provisions of paragraph (o) of this section.

(b) *Guidelines.* In determining whether an eligible prisoner should be paroled, the Commission shall apply the guidelines set forth in this section. The guidelines assign numerical values to pre-and post-incarceration factors. Decisions outside the guidelines may be made, where warranted, pursuant to paragraph (n) of this section.

(c) *Salient factor score and criminal record.* The prisoner's Salient Factor Score shall be determined by reference to the Salient Factor Scoring Manual in § 2.20. The Salient Factor Score is used to assist the Commission in assessing the probability that an offender will live and remain at liberty without violating the law. The prisoner's record of criminal conduct (including the nature and circumstances of the current offense) shall be used to assist the Commission in determining the probable seriousness of the recidivism that is predicted by the Salient Factor Score.