

## Bureau of Prisons, Justice

## § 571.72

reasons for the denial. The inmate may appeal the denial through the Administrative Remedy Procedure (28 CFR part 542, subpart B).

(b) When an inmate's request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A) is denied by the General Counsel, the General Counsel shall provide the inmate with a written notice and statement of reasons for the denial. This denial constitutes a final administrative decision.

(c) When the Director, Bureau of Prisons, denies an inmate's request, the Director shall provide the inmate with a written notice and statement of reasons for the denial within 20 work-days after receipt of the referral from the Office of General Counsel. A denial by the Director constitutes a final administrative decision.

(d) Because a denial by the General Counsel or Director, Bureau of Prisons, constitutes a final administrative decision, an inmate may not appeal the denial through the Administrative Remedy Procedure.

[59 FR 1238, Jan. 7, 1994, as amended at 78 FR 13479, Feb. 28, 2013]

### § 571.64 Ineligible offenders.

The Bureau of Prisons has no authority to initiate a request under 18 U.S.C. 4205(g) or 3582(c)(1)(A) on behalf of state prisoners housed in Bureau of Prisons facilities or D.C. Code offenders confined in federal institutions. The Bureau of Prisons cannot initiate such a motion on behalf of federal offenders who committed their offenses prior to November 1, 1987, and received non-parolable sentences.

### Subpart H—Designation of Offenses for Purposes of 18 U.S.C. 4042(c)

SOURCE: 63 FR 69387, Dec. 16, 1998, unless otherwise noted.

#### § 571.71 Purpose and scope.

The Director of the Bureau of Prisons is required to provide release and registration information (offender's name, criminal history, projected address, release conditions or restrictions) to state/local law enforcement and registration officials at least five calendar

days prior to release of offenders who have been convicted of certain sexual offenses listed in 18 U.S.C. 4042(c)(4)(A) through (D). Under 18 U.S.C. 4042(c)(4)(E), the Attorney General is authorized to designate additional offenses as sexual offenses for the purpose of sex offender release notification and other related purposes. This authority has been delegated to the Director.

#### § 571.72 Additional designated offenses.

The following offenses are designated as additional sexual offenses for purposes of 18 U.S.C. 4042(c):

(a) Any offense under the law of any jurisdiction that involved:

(1) Engaging in sexual contact with another person without obtaining permission to do so (forcible rape, sexual assault, or sexual battery);

(2) Possession, distribution, mailing, production, or receipt of child pornography or related paraphernalia;

(3) Any sexual contact with a minor or other person physically or mentally incapable of granting consent (indecent liberties with a minor, statutory rape, sexual abuse of the mentally ill, rape by administering a drug or substance);

(4) Any sexual act or contact not identified in paragraphs (a)(1) through (3) of this section that is aggressive or abusive in nature (rape by instrument, encouraging use of a minor for prostitution purposes, incest);

(5) An attempt to commit any of the actions described in paragraphs (a)(1) through (4) of this section.

(b) The following Defense Incident Based Reporting System (DIBRS) Code offenses under the Uniform Code of Military Justice:

(1) 120A (Rape);

(2) 120B1/2 (Carnal knowledge);

(3) 125A (Forcible sodomy);

(4) 125B1/2 (Sodomy of a minor);

(5) 133D (Conduct unbecoming an Officer [involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor]);

(6) 134–B6 (Prostitution involving a minor);

(7) 134–C1 (Indecent assault);

(8) 134–C4 (Assault with intent to commit rape);

**Pt. 572**

**28 CFR Ch. V (7-1-14 Edition)**

(9) 134-C6 (Assault with intent to commit sodomy);

(10) 134-R1 (Indecent act with a minor);

(11) 134-R3 (Indecent language to a minor);

(12) 134-S1 (Kidnaping of a minor (by a person not a parent));

(13) 134-Z (Pornography involving a minor);

(14) 134-Z (Conduct prejudicial to good order and discipline (involving any sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor));

(15) 134-Y2 (Assimilative crime conviction (of a sexually violent offense or a criminal offense of a sexual nature against a minor or kidnaping of a minor)).

(16) 080-A (Attempt (to commit any offense listed in paragraphs (b)(1)-(15) of this section));

(17) 081-A (Conspiracy (to commit any offense listed in paragraphs (b)(1)-(15) of this section));

(18) 082-A (Solicitation (to commit any offense listed in paragraphs (b)(1)-(15) of this section)).

(c) The following District of Columbia Code offenses:

(1) § 22-501 (Assault) if it includes assault with the intent to commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse;

(2) § 22-2012 (Sexual performances using minors—prohibited acts);

(3) § 22-2013 (Sexual performances using minors—penalties);

(4) § 22-2101 (Kidnaping) where the victim is a minor;

(5) § 22-2401 (Murder in the first degree) if it includes murder while committing or attempting to commit first degree sexual abuse;

(6) § 22-2704 (Abducting or enticing child from his or her home for purposes of prostitution; harboring such child);

(7) § 22-4102 (First degree sexual abuse);

(8) § 22-4103 (Second degree sexual abuse);

(9) § 22-4104 (Third degree sexual abuse);

(10) § 22-4105 (Fourth degree sexual abuse);

(11) § 22-4106 (Misdemeanor sexual abuse);

(12) § 22-4108 (First degree child sexual abuse);

(13) § 22-4109 (Second degree child sexual abuse);

(14) § 22-4110 (Enticing a child);

(15) § 22-4113 (First degree sexual abuse of a ward);

(16) § 22-4114 (Second degree sexual abuse of a ward);

(17) § 22-4115 (First degree sexual abuse of a patient or client);

(18) § 22-4116 (Second degree sexual abuse of a patient or client);

(19) § 22-4118 (Attempts to commit sexual offenses);

(20) § 22-4120 (Aggravating circumstances).

(21) § 22-103 (Attempts to commit crime) if it includes an attempt to commit any offense listed in paragraphs (c)(1)-(20) of this section.

**PART 572—PAROLE**

**Subparts A-C [Reserved]**

**Subpart D—Parole and Mandatory Release Violator Reports**

Sec.  
572.30 Purpose and scope.  
572.31 Procedures.

**Subpart E—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 4205(g))**

572.40 Compassionate release under 18 U.S.C. 4205(g).

AUTHORITY: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4205, 5015 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

**Subparts A-C [Reserved]**

**Subpart D—Parole and Mandatory Release Violator Reports**

**§ 572.30 Purpose and scope.**

The Bureau of Prisons provides the U.S. Parole Commission with a Violator Report for use at the revocation hearing of a parole or mandatory release violator, when that hearing is conducted in an institution of the Bureau of Prisons.

[45 FR 33941, May 20, 1980]