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(iii) Retard the parole date or commence rescission proceedings as provided by § 2.34;

(iv) Advance the parole date for superior program achievement under the provisions of § 2.60.

(3) A pre-release review pursuant to this section shall not be required if an in-person hearing has been held within nine months of the parole date.

(4) Where:

(i) There has been no finding of misconduct by an Institutional Disciplinary Committee nor any allegation of criminal conduct since the last hearing; and

(ii) No other modification of the release date appears warranted, the Executive Hearing Examiner may act for the Regional Commissioner under paragraph (b)(2) of this section to approve conversion of the presumptive parole date to an effective date of parole.

(c) *Fifteen year reconsideration hearings.* A fifteen year reconsideration hearing shall be a full reassessment of the case pursuant to the procedures at § 2.13.

(1) A fifteen year reconsideration hearing shall be ordered following initial hearing in any case in which a release date is not set.

(2) Following a fifteen year reconsideration hearing, the Commission may take any one of the actions authorized by § 2.12(b).

[46 FR 39136, July 31, 1981; 47 FR 25735, June 15, 1982, as amended at 48 FR 9247, Mar. 4, 1983; 48 FR 44525, Sept. 29, 1983; 49 FR 34208, Aug. 29, 1984; 55 FR 290, Jan. 4, 1990; 60 FR 51350, Oct. 2, 1995; 68 FR 41529, July 14, 2003]

§ 2.15 Petition for consideration of parole prior to date set at hearing.

When a prisoner has served the minimum term of imprisonment required by law, the Bureau of Prisons may petition the responsible Regional Commissioner for reopening the case under § 2.28(a) and consideration for parole prior to the date set by the Commission at the initial or review hearing. The petition must show cause why it should be granted, i.e., an emergency, hardship, or the existence of other extraordinary circumstances that would warrant consideration of early parole.

[42 FR 39809, Aug. 5, 1977, as amended at 44 FR 3407, Jan. 16, 1979]

28 CFR Ch. I (7-1-10 Edition)

§ 2.16 Parole of prisoner in state, local, or territorial institution.

(a) Any person who is serving a sentence of imprisonment for any offense against the United States, but who is confined therefor in a state reformatory or other state or territorial institution, shall be eligible for parole by the Commission on the same terms and conditions, by the same authority, and subject to recommittal for the violation of such parole, as though he were confined in a Federal penitentiary, reformatory, or other correctional institution.

(b) Federal prisoners serving concurrent state and Federal sentences in state, local, or territorial institutions shall be furnished upon request parole application forms. Upon receipt of the application and any supplementary classification material submitted by the institution, parole consideration shall be made by an examiner panel of the appropriate region on the record only. If such prisoner is released from his state sentence prior to a Federal grant of parole, he shall be given a personal hearing as soon as feasible after receipt at a Federal institution.

(c) Prisoners who are serving Federal sentences exclusively but who are being boarded in State, local, or territorial institutions may be provided hearings at such facilities or may be transferred by the Bureau of Prisons to Federal Institutions for hearings by examiner panels of the Commission.

(18 U.S.C. 4203, 4204)

[42 FR 39809, Aug. 5, 1977, as amended at 45 FR 44924, July 2, 1980; 50 FR 36424, Sept. 6, 1985]

§ 2.17 Original jurisdiction cases.

(a) Following any hearing conducted pursuant to these rules, the Regional Commissioner may designate that a case should be decided as an original jurisdiction case. If the Regional Commissioner makes such a designation, the Regional Commissioner shall vote on the case and then refer the case to the other Commissioners for their votes. The decision in an original jurisdiction case shall be made on the basis of a majority vote of Commissioners holding office at the time of the decision.

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(b) The following criteria will be used in designating cases as original jurisdiction cases:

(1) Prisoners who have committed serious crimes against the security of the Nation, e.g., espionage or aggravated subversive activity.

(2) Prisoners whose offense behavior:

(i) Involved an unusual degree of sophistication or planning, or

(ii) Was part of a large scale criminal conspiracy or a continuing criminal enterprise.

(3) Prisoners who have received national or unusual attention because of the nature of the crime, arrest, trial, or prisoner status, or because of the community status of the offender or his victim.

(4) *Long-term sentences.* Prisoners sentenced to a maximum term of forty-five years (or more) or prisoners serving life sentences.

(c)(1) Any case designated for the original jurisdiction of the Commission shall remain an original jurisdiction case unless designation is removed pursuant to this subsection.

(2) A case found to be inappropriately designated for the Commission's original jurisdiction, or to no longer warrant such designation, may be removed from original jurisdiction under the procedures specified in paragraph (a) of this section following a regularly scheduled hearing or the reopening of the case pursuant to §2.28. Removal from original jurisdiction may also occur by majority vote of the Commission considering a petition for reconsideration pursuant to §2.27. Where the circumstances warrant, a case may be redesignated as original jurisdiction pursuant to the provisions of paragraphs (a) and (b) of this section.

[42 FR 39809, Aug. 5, 1977, as amended at 42 FR 44234, Sept. 2, 1977; 48 FR 53409, Nov. 28, 1983; 61 FR 13763, Mar. 28, 1996; 61 FR 55743, Oct. 29, 1996; 68 FR 41529, July 14, 2003]

§2.18 Granting of parole.

The granting of parole to an eligible prisoner rests in the discretion of the U.S. Parole Commission. As prerequisites to a grant of parole, the Commission must determine that the prisoner has substantially observed the rules of the institution or institutions in which he has been confined; and

upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, must determine that release would not depreciate the seriousness of his offense or promote disrespect for the law, and that release would not jeopardize the public welfare (i.e., that there is a reasonable probability that, if released, the prisoner would live and remain at liberty without violating the law or the conditions of his parole).

§2.19 Information considered.

(a) In making a parole or reparole determination the Commission shall consider, if available and relevant:

(1) Reports and recommendations which the staff of the facility in which such prisoner is confined may make;

(2) Official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

(3) Pre-sentence investigation reports;

(4) Recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge and prosecuting attorney;

(5) Reports of physical, mental, or psychiatric examination of the offender; and

(6) A statement, which may be presented orally or otherwise, by any victim of the offense for which the prisoner is imprisoned about the financial, social, psychological, and emotional harm done to, or loss suffered by such victim.

(b)(1) There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available (18 U.S.C. 4207). The Commission encourages the submission of relevant information concerning an eligible prisoner by interested persons.

(2) To permit adequate review of information concerning the prisoner, materials submitted to the Commission should be received by the Commission no later than the first day of the month preceding the month of the scheduled hearing docket.

(3) If material of more than six (6), double-spaced, letter-sized pages is