

DEPARTMENT OF JUSTICE**Bureau of Prisons****28 CFR Part 551**

[BOP-1085-F]

RIN 1120-AA80

**Victim and/or Witness Notification:
State Custody Transfers****AGENCY:** Bureau of Prisons, Justice.**ACTION:** Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its regulations to provide for notification when an inmate is transferred to a State or local detention facility for service of sentence. This amendment is intended to provide for the protection of the public in accordance with Attorney General guidelines for victim and witness assistance.

EFFECTIVE DATE: December 6, 1999.**ADDRESSES:** Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.**FOR FURTHER INFORMATION CONTACT:** Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514-6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its regulations on Victim and/or Witness Notification (28 CFR part 551, subpart M). A final rule on this subject was published in the *Federal Register* on April 30, 1984 (49 FR 18386), and was amended February 21, 1990 (55 FR 6178), and February 4, 1994 (59 FR 5514).

Attorney General guidelines for victim and witness assistance specify that a responsible official in the Bureau of Prisons shall make reasonable and diligent efforts to provide a victim with custodial release notification. Such custodial release notification can be reasonably made for inmates who are in the custody of the Bureau at a Bureau institution. In certain instances (for example, when an inmate has a concurrent State sentence) an inmate who has been convicted of a Federal offense may serve his or her Federal sentence while in State custody at a State facility. In these instances, Bureau staff may not have timely notice of changes in the inmate's status relating to release as that term is defined in § 551.151(d).

The Bureau is accordingly revising its statement of purpose and scope in § 551.150 to note that notification is made for "release from a Bureau institution" rather than "release from

prison" as previously specified. The phrase "release from a Bureau institution" is then defined in § 551.151 in place of the term "release" and revised to include the phrase "transfer to a State or local detention facility". Under the revised definition, the Bureau is obligated to notify a victim and/or witness of this change in the inmate's status because the inmate is no longer in Bureau custody at a Bureau institution. Further information on the inmate's status while in State custody may be made available through the coordinating official in the appropriate United States Attorney's Office or Department of Justice investigating field office.

Because this amendment enhances the ability of the Bureau to assist and protect victims and witnesses of crime by providing timely notification of release, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the *Federal Register*.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute "significant regulatory actions" under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to

the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., Washington, DC 20534; telephone (202) 514-6655.

List of Subjects in 28 CFR Part 551

Prisoners.

Kathleen Hawk Sawyer,
Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(p), part 551 in subchapter C of 28 CFR, chapter V is amended as set forth below.

**SUBCHAPTER C—INSTITUTIONAL
MANAGEMENT****PART 551—MISCELLANEOUS**

1. The authority citation for 28 CFR 551 is revised to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 1512, 3621, 3622, 3624, 4001, 4005, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161-4166 (Repealed as to offenses committed on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28

U.S.C. 509, 510; Pub. L. 99-500 (sec. 209); 28 CFR 0.95-0.99; Attorney General's May 1, 1995 Guidelines for Victim and Witness Assistance.

2. Section 551.150 is revised to read as follows:

§ 551.150 Purpose and scope.

The Bureau of Prisons provides a requesting victim and/or witness of a serious crime with information on the

release from a Bureau institution of the inmate convicted of that serious crime.

3. In § 551.151, paragraph (d) is revised to read as follows:

§ 551.151 Definitions.

* * * * *

(d) For purpose of this rule, the phrase *release from a Bureau institution* refers to an inmate's furlough, parole

(including appearance before the Parole Commission), transfer to a State or local detention facility, transfer to a community corrections center, mandatory release, expiration of sentence, escape (including apprehension), death, and other such release-related information.

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