

§ 2.54

§ 2.54 Reviews pursuant to 18 U.S.C. 4215(c).

The Attorney General, within thirty days after entry of a Regional Commissioner's decision, may request in writing that the National Appeals Board review such decision. Within sixty days of the receipt of the request the National Appeals Board shall, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institutional or regional level. The Attorney General and the prisoner affected shall be informed in writing of the decision, and the reasons therefor.

[42 FR 39821, Aug. 5, 1977, as amended at 43 FR 17470, Apr. 25, 1978; 44 FR 3408, Jan. 16, 1979]

§ 2.55 Disclosure of file prior to parole hearing.

(a) *Processing disclosure requests.* At least 60 days prior to a hearing scheduled pursuant to 28 CFR 2.12 or 2.14 each prisoner shall be given notice of his right to request disclosure of the reports and other documents to be used by the Commission in making its determination.

(1) The Commission's file consists mainly of documents provided by the Bureau of Prisons. Therefore, disclosure of documents used by the Commission can normally be accomplished by disclosure of documents in a prisoner's institutional file. Requests for disclosure of a prisoner's institutional file will be handled under the Bureau of Prisons' disclosure regulations. The Bureau of Prisons has 15 days from date of receipt of a disclosure request to respond to that request.

(2) A prisoner may also request disclosure of documents used by the Commission which are contained in the Commission's regional office file but not in the prisoner's institutional file.

(3) Upon the prisoner's request, a representative shall be given access to the presentence investigation report reasonably in advance of the initial hearing, interim hearing, and a 15-year reconsideration hearing, pursuant and subject to the regulations of the U.S. Bureau of Prisons. Disclosure shall not be permitted with respect to confidential material withheld by the sen-

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tencing court under Rule 32(c)(3)(A), F.R.Crim.P.

(b) *Scope of disclosure.* The scope of disclosure under this section is limited to reports and other documents to be used by the Commission in making its determination. At statutory interim hearings conducted pursuant to 28 CFR 2.14 the Commission only considers information concerning significant developments or changes in the prisoner's status since the initial hearing or a prior interim hearing. Therefore, pre-hearing disclosure for interim hearings will be limited to such information.

(c) *Exemption to disclosure (18 U.S.C. 4208(c)).* A document may be withheld from disclosure to the extent it contains:

(1) Diagnostic opinions which, if known to the prisoner, could lead to a serious disruption of his institutional program;

(2) Material which would reveal a source of information obtained upon a promise of confidentiality; or

(3) Any other information which, if disclosed, might result in harm, physical or otherwise to any person.

(d) *Summarizing nondisclosable documents.* If any document or portion of a document is found by the Commission, the Bureau of Prisons or the originating agency to fall within an exemption to disclosure, the agency shall:

(1) Identify the material to be withheld; and

(2) State the exemption to disclosure under paragraph (c) of this section; and

(3) Provide the prisoner with a summary of the basic content of the material withheld with as much specificity as possible without revealing the nondisclosable information.

(e) *Waiver of disclosure.* When a timely request has been made for disclosure, if any document or summary of a document relevant to the parole determination has not been disclosed 30 days prior to the hearing, the prisoner shall be offered the opportunity to waive disclosure of such document without prejudice to his right to later review the document or a summary of the document. The examiner panel may disclose the document and proceed with the hearing so long as the prisoner waives his right to advance disclosure. If the