

## § 2.29

## 28 CFR Ch. I (7-1-08 Edition)

(b) *Institutional misconduct.* Consideration of disciplinary infractions and allegations of new criminal conduct occurring after the setting of a parole date are subject to the provisions of § 2.14 (in the case of a prisoner with a presumptive date) and § 2.34 (in the case of a prisoner with an effective date of parole).

(c) *Additional sentences.* If a prisoner receives an additional concurrent or consecutive federal sentence following his initial parole consideration, the Regional Commissioner shall reopen his case for a new initial hearing on the next regularly scheduled docket to consider the additional sentence and re-evaluate the case. Such action shall void the previous presumptive or effective release date. However, a new initial hearing is not mandatory where the Commission has previously evaluated the new criminal behavior, which led to the additional federal sentence, at a rescission hearing under 28 CFR 2.34; except where the new sentence extends the mandatory release date for a prisoner previously continued to the expiration of his sentence.

(d) *Conviction after revocation.* Upon receipt of information subsequent to the revocation hearing that a prisoner whose parole has been revoked has sustained a new conviction for conduct while on parole, the Regional Commissioner may reopen the case pursuant to § 2.52(c)(2) for a special reconsideration hearing on the next regularly scheduled docket to consider forfeiture of time spent on parole and such further action as may be appropriate. The entry of a new order shall void any presumptive or effective release date previously established.

(e) *Release planning.* When an effective date of parole has been set by the Commission, release on that date shall be conditioned upon the completion of a satisfactory plan for parole supervision. The appropriate Regional Commissioner may on his own motion reconsider any case prior to release and may reopen and advance or retard an effective parole date for purposes of release planning. Retardation without a hearing may not exceed 120 days.

(f) *New adverse information.* Upon receipt of new and significant adverse information that is not covered by para-

graphs (a) through (e) of this section, a Commissioner may refer the case to the National Commissioners with his recommendation and vote to schedule the case for a special reconsideration hearing. Such referral shall automatically retard the prisoner's scheduled release date until a final decision is reached in the case. The decision to schedule a case for a special reconsideration hearing shall be based on the concurrence of two Commissioner votes, including the vote of the referring Commissioner. The hearing shall be conducted in accordance with the procedures set forth in §§ 2.12 and 2.13. The entry of a new order following such hearing shall void the previously established release date.

[44 FR 3406, Jan. 16, 1979, as amended at 46 FR 36138, July 14, 1981; 49 FR 44098, Nov. 2, 1984; 61 FR 55743, Oct. 29, 1996; 68 FR 41529, July 14, 2003]

### § 2.29 Release on parole.

(a) A grant of parole shall not be deemed to be operative until a certificate of parole has been delivered to the prisoner.

(b) An effective date of parole shall not be set for a date more than nine months from the date of the hearing. Residence in a community corrections center as part of a parole release plan generally shall not exceed one hundred and twenty days.

(c) When an effective date of parole falls on a Saturday, Sunday, or legal holiday, the Warden of the appropriate institution shall be authorized to release the prisoner on the first working day preceding such date.

[42 FR 39809, Aug. 5, 1977, as amended at 44 FR 3407, Jan. 16, 1979; 60 FR 51350, Oct. 2, 1995; 68 FR 41530, July 14, 2003]

### § 2.30 False information or new criminal conduct: Discovery after release.

If evidence comes to the attention of the Commission after a prisoner's release that such prisoner has willfully provided false information or misrepresented information deemed significant to his application for parole or has engaged in any criminal conduct during the current sentence prior to the delivery of the parole certificate, the Regional Commissioner may reopen the

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case pursuant to the procedures of § 2.28(f) and order the prisoner summoned or retaken for hearing pursuant to the procedures of §§ 2.49 and 2.50, as applicable, to determine whether the order of parole should be cancelled.

[47 FR 36635, Aug. 23, 1982]

### § 2.31 Parole to detainees: Statement of policy.

(a) Where a detainee is lodged against a prisoner, the Commission may grant parole if the prisoner in other respects meets the criteria set forth in § 2.18. The presence of a detainee is not in itself a valid reason for the denial of parole.

(b) The Commission will cooperate in working out arrangements for concurrent supervision with other jurisdictions where it is feasible and where release on parole appears to be justified.

### § 2.32 Parole to local or immigration detainees.

(a) When a State or local detainee is outstanding against a prisoner whom the Commission wishes to parole, the Commission may order either of the following:

(1) Parole to the actual physical custody of the detaining authorities only. In this event, release is not to be effected except to the detainee. When such a detainee is withdrawn, the prisoner is not to be released unless and until the Commission makes a new order of parole.

(2) Parole to the actual physical custody of the detaining authorities or an approved plan. In this event, release is to be effected to the community if detaining officials withdraw the detainee or make no effort to assume custody of the prisoner, providing there is an acceptable plan for community supervision.

(b) When the Commission wishes to parole a prisoner subject to a detainee filed by Federal immigration officials, the Commission shall order the following: Parole to the actual physical custody of the immigration authorities or an approved plan. In this event, release is to be effected regardless of whether immigration officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

(c) As used in this section "parole to a detainee" means release to the "physical custody" of the authorities who have lodged the detainee. Temporary detention in a jail in the county where the institution of confinement is located does not constitute release on parole to such detainee. If the authorities who lodged the detainee do not take the prisoner into custody for any reason, he shall be returned to the institution to await further order of the Commission.

[43 FR 38822, Aug. 31, 1978, as amended at 44 FR 3409, Jan. 16, 1979; 44 FR 31637, June 1, 1979; 44 FR 34494, June 15, 1979; 47 FR 36635, Aug. 23, 1982]

### § 2.33 Release plans.

(a) A grant of parole is conditioned upon the approval of release plans by the Regional Commissioner. In general, the following factors are considered as elements in the prisoner's release plan:

(1) Availability of legitimate employment and an approved residence for the prospective parolee; and

(2) Availability of necessary aftercare for a parolee who is ill or who requires special care.

(b) Generally, parolees will be released only to the place of their legal residence unless the Commission is satisfied that another place of residence will serve the public interest more effectively or will improve the probability of the applicant's readjustment.

(c) Where the circumstances warrant, the Commission on its own motion, or upon recommendation of the probation officer, may require that an advisor who is a responsible, reputable, and law-abiding citizen living in or near the community in which the releasee will reside be available to the releasee. Such advisor shall serve under the direction of and in cooperation with the probation officer to whom the parolee is assigned.

(d) When the prisoner has an unsatisfied fine or restitution order, a reasonable plan for payment [or performance of services, if so ordered by the court] shall, where feasible, be included in the parole release plan.

[42 FR 39809, Aug. 5, 1977; 42 FR 44234, Sept. 2, 1977, as amended at 50 FR 36422, Sept. 6, 1985; 68 FR 41530, July 14, 2003]