

TABLE OF CONTENTS

Section (§)	Title	Page
SUBPART A—UNITED STATES CODE PRISONERS AND PAROLEES		
2.1	DEFINITIONS	9
2.2	ELIGIBILITY FOR PAROLE; ADULT SENTENCES	10
2.3	SAME: NARCOTIC ADDICT REHABILITATION ACT	12
2.4	SAME: YOUTH OFFENDERS AND JUVENILE DELINQUENTS	13
2.5	SENTENCE AGGREGATION	13
2.6	WITHHELD AND FORFEITED GOOD TIME	13
2.7	COMMITTED FINES AND RESTITUTION ORDERS	13
2.8	MENTAL COMPETENCY PROCEEDINGS	14
2.9	STUDY PRIOR TO SENTENCING	16
2.10	DATE SERVICE OF SENTENCE COMMENCES	16
2.11	APPLICATION FOR PAROLE; NOTICE OF HEARING	16
2.12	INITIAL HEARINGS: SETTING PRESUMPTIVE RELEASE DATES	18
2.13	INITIAL HEARING; PROCEDURE	19
2.14	SUBSEQUENT PROCEEDINGS	24
2.15	PETITION FOR CONSIDERATION OF PAROLE PRIOR TO DATE SET AT HEARING	27
2.16	PAROLE OF PRISONER IN STATE, LOCAL, OR TERRITORIAL INSTITUTION ...	27
2.17	ORIGINAL JURISDICTION CASES	28
2.18	GRANTING OF PAROLE	30
2.19	INFORMATION CONSIDERED	30
2.20	PAROLING POLICY GUIDELINES: STATEMENT OF GENERAL POLICY	34

Section (§)	Title	Page
	Guidelines Chart	36
	Offense Severity Index	37
	Chapter 1. Offenses of General Applicability	38
	Chapter 2. Offenses Involving the Person	39
	Chapter 3. Offenses Involving Property	42
	Chapter 4. Offenses Involving Immigration, Naturalization, and Passports	
47	Chapter 5. Offenses Involving Revenue	47
	Chapter 6. Offenses Involving Governmental Process	48
	Chapter 7. Offenses Involving Individual Rights	50
	Chapter 8. Offenses Involving Explosives and Weapons	51
	Chapter 9. Offenses Involving Illicit Drugs	52
	Chapter 10. Offenses Involving National Defense	60
	Chapter 11. Offenses Involving Organized Criminal Activity, Gambling, Obscenity, Sexual Exploitation of Children, Prostitution, Non-Governmental Corruption, Currency Transactions, and the Environment	61
	Chapter 12. Miscellaneous Offenses	64
	Chapter 13. General Notes and Definitions	65
	Salient Factor Score	72
	Item A	73
	Item B	76
	Item C	77
	Item D	78
	Item E	78
	Item F	79
	Special Instructions for Probation Violator This Time	79
	Special Instructions for Parole and Supervised Release Violator This Time	79
	Special Instructions for Confinement/Escape Status Violator This Time	80
2.21	REPAROLE CONSIDERATION GUIDELINES	93
2.22	COMMUNICATION WITH THE COMMISSION	94
2.23	DELEGATION TO HEARING EXAMINERS	96
2.24	REVIEW OF PANEL RECOMMENDATION BY THE REGIONAL COMMISSIONER	97
2.25	HEARINGS BY VIDEOCONFERENCE	99
2.26	APPEAL TO NATIONAL APPEALS BOARD	99
2.27	PETITION FOR RECONSIDERATION OF ORIGINAL JURISDICTION CASES	102
2.28	REOPENING OF CASES.	103

Section (§)	Title	Page
2.29	RELEASE ON PAROLE	107
2.30	FALSE INFORMATION OR NEW CRIMINAL CONDUCT; DISCOVERY AFTER RELEASE	108
2.31	PAROLE TO DETAINERS: STATEMENT OF POLICY	109
2.32	PAROLE TO LOCAL OR IMMIGRATION DETAINERS	109
2.33	RELEASE PLANS	110
2.34	RESCISSION OF PAROLE	111
2.35	MANDATORY RELEASE IN THE ABSENCE OF PAROLE	114
2.36	RESCISSION GUIDELINES	115
2.37	DISCLOSURE OF INFORMATION CONCERNING PAROLEES: STATEMENT OF POLICY	118
2.38	COMMUNITY SUPERVISION BY UNITED STATES PROBATION OFFICERS	120
2.39	JURISDICTION OF THE COMMISSION	120
2.40	CONDITIONS OF RELEASE	120
2.41	TRAVEL APPROVAL	122
2.42	PROBATION OFFICER'S REPORTS TO COMMISSION	122
2.43	EARLY TERMINATION	123
2.44	SUMMONS TO APPEAR OR WARRANT FOR RETAKING OF PAROLEE	126
2.45	SAME; YOUTH OFFENDERS	127
2.46	EXECUTION OF WARRANT AND SERVICE OF SUMMONS	127
2.47	WARRANT PLACED AS A DETAINER AND DISPOSITIONAL REVIEW	128
2.48	REVOCATION; PRELIMINARY INTERVIEW	132
2.49	PLACE OF REVOCATION HEARING	138

Section (§)	Title	Page
2.50	REVOCATION HEARING PROCEDURE	140
2.51	ISSUANCE OF A SUBPOENA FOR THE APPEARANCE OF WITNESSES OR PRODUCTION OF DOCUMENTS	142
2.52	REVOCATION DECISIONS	143
2.53	MANDATORY PAROLE	146
2.54	REVIEWS PURSUANT TO 18 U.S.C. 4215(c)	147
2.55	DISCLOSURE OF FILE PRIOR TO PAROLE HEARINGS	147
2.56	DISCLOSURE OF PAROLE COMMISSION FILE	154
2.57	SPECIAL PAROLE TERMS	162
2.58	PRIOR ORDERS	163
2.59	DESIGNATION OF A COMMISSIONER TO ACT AS A HEARING EXAMINER ...	163
2.60	SUPERIOR PROGRAM ACHIEVEMENT	163
2.61	QUALIFICATIONS OF REPRESENTATIVES	166
2.62	REWARDING ASSISTANCE IN THE PROSECUTION OF OTHER OFFENDERS; CRITERIA AND GUIDELINES	166
2.63	QUORUM	167
2.64	YOUTH CORRECTIONS ACT	168
2.65	PAROLING POLICY FOR PRISONERS SERVING AGGREGATE U.S. AND D.C. CODE SENTENCES	171
2.66	REVOCATION DECISION WITHOUT HEARING	172
2.67	[RESERVED]	
	SUBPART B—TRANSFER TREATY PRISONERS AND PAROLEES	
2.68	PRISONERS TRANSFERRED PURSUANT TO TREATY	173
2.69	[RESERVED]	

Section (§)	Title	Page
SUBPART C—DISTRICT OF COLUMBIA CODE PRISONERS AND PAROLEES		
2.70	AUTHORITY AND FUNCTIONS OF THE U.S. PAROLE COMMISSION WITH RESPECT TO DISTRICT OF COLUMBIA CODE OFFENDERS	181
2.71	APPLICATION FOR PAROLE	182
2.72	HEARING PROCEDURE	182
2.73	PAROLE SUITABILITY CRITERIA	183
2.74	DECISION OF THE COMMISSION	184
2.75	RECONSIDERATION PROCEEDINGS	184
2.76	REDUCTION IN MINIMUM SENTENCE	185
2.77	MEDICAL PAROLE	187
2.78	GERIATRIC PAROLE	188
2.79	GOOD TIME FORFEITURE	189
2.80	GUIDELINES FOR D.C. CODE OFFENDERS	189
2.81	REPAROLE DECISIONS	198
2.82	EFFECTIVE DATE OF PAROLE	198
2.83	RELEASE PLANNING	199
2.84	RELEASE TO OTHER JURISDICTIONS	200
2.85	CONDITIONS OF RELEASE	201
2.86	RELEASE ON PAROLE; RESCISSION FOR MISCONDUCT	202
2.87	MANDATORY RELEASE	202
2.88	CONFIDENTIALITY OF PAROLE RECORDS	202
2.89	MISCELLANEOUS PROVISIONS	203
2.90	PRIOR ORDERS OF THE BOARD OF PAROLE	203

Section (§)	Title	Page
2.91	SUPERVISION RESPONSIBILITY	203
2.92	JURISDICTION OF THE COMMISSION	203
2.93	TRAVEL APPROVAL	204
2.94	SUPERVISION REPORTS TO COMMISSION	204
2.95	EARLY TERMINATION FROM SUPERVISION	204
2.96	ORDER OF EARLY TERMINATION	205
2.97	WITHDRAWAL OF ORDER OF RELEASE	205
2.98	SUMMONS TO APPEAR OR WARRANT FOR RETAKING OF PAROLEE	206
2.99	EXECUTION OF WARRANT AND SERVICE OF SUMMONS	207
2.100	WARRANT PLACED AS DETAINER AND DISPOSITIONAL REVIEW	208
2.101	PROBABLE CAUSE HEARING AND DETERMINATION	209
2.102	PLACE OF REVOCATION HEARING	211
2.103	REVOCATION HEARING PROCEDURE	212
2.104	ISSUANCE OF SUBPOENA FOR APPEARANCE OF WITNESSES OR PRODUCTION OF DOCUMENTS	213
2.105	REVOCATION DECISIONS	214
2.106	YOUTH REHABILITATION ACT	215
2.107	INTERSTATE COMPACT	217
SUBPART D—DISTRICT OF COLUMBIA CODE SUPERVISED RELEASEES		
2.200	AUTHORITY, JURISDICTION AND FUNCTIONS OF THE U.S. PAROLE COMMISSION WITH RESPECT TO OFFENDERS SERVING TERMS OF SUPERVISED RELEASE IMPOSED BY THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.	218
2.201	PERIOD OF SUPERVISED RELEASE	219

Section (§) Title	Page
2.202 PRERELEASE PROCEDURES	220
2.203 CERTIFICATE OF SUPERVISED RELEASE	220
2.204 CONDITIONS OF SUPERVISED RELEASE	220
2.205 CONFIDENTIALITY OF SUPERVISED RELEASE RECORDS	235
2.206 TRAVEL APPROVAL AND TRANSFERS OF SUPERVISION	235
2.207 SUPERVISION REPORTS TO COMMISSION	236
2.208 TERMINATION OF A TERM OF SUPERVISED RELEASE	237
2.209 ORDER OF TERMINATION	238
2.210 EXTENSION OF TERM	238
2.211 SUMMONS TO APPEAR OR WARRANT FOR RETAKING RELEASEE	239
2.212 EXECUTION OF WARRANT AND SERVICE OF SUMMONS	243
2.213 WARRANT PLACED AS DETAINER AND DISPOSITIONAL REVIEW	245
2.214 PROBABLE CAUSE HEARING AND DETERMINATION	245
2.215 PLACE OF REVOCATION HEARING	250
2.216 REVOCATION HEARING PROCEDURE	252
2.217 ISSUANCE OF SUBPOENA FOR APPEARANCE OF WITNESSES OR PRODUCTION OF DOCUMENTS	255
2.218 REVOCATION DECISIONS	257
2.219 MAXIMUM TERMS OF IMPRISONMENT AND SUPERVISED RELEASE	259
2.220 APPEAL	275
M MISCELLANEOUS PROCEDURES	275
(01) Aggregated/Non-Aggregated Sentences	275
(02) Courtesy Hearings	276
(03) Disqualifications of Commission Personnel	276

Section (§) Title	Page
(04) Standards for Prisoner Interviews	276
(05) Designation of Personnel Other Than Hearing Examiners to Conduct A Hearing ...	276
(06) Court Modification of Sentences	277
(07) Translations	277
APPENDIX 1 STANDARD WORDING ON ORDERS	278
APPENDIX 2 TEMPORARY/SPECIAL PROCEDURES	287
A. Retroactivity of Certain Commission Revisions	287
B. Preliminary Interviews: Western District of Washington Cases	287
C. Rescission Considerations: Second Circuit Cases	288
APPENDIX 3 USE OF PAROLEES AND MANDATORY RELEASEES AS INFORMANTS .	291
APPENDIX 4 TRANSFER TREATY CASES	293

INTRODUCTION

This manual contains the Commission's rules (28 C.F.R. 2.1-2.107; 2.200-2.220) as well as the notes, procedures, and appendices that clarify and supplement these rules. If there appears to be a direct conflict between any of the procedures and a rule, the rule shall control. The notes, procedures, and appendices in this manual are intended only for the guidance of Parole Commission personnel and those agencies which must coordinate their work with the Commission. The notes, procedures, and appendices do not confer legal rights and are not intended for reliance by private persons.

In some instances, it is necessary to implement procedural changes immediately. This will be accomplished by issuance of a *"Rules and Procedures Memo"* signed by the Chairman (to be subsequently ratified by the Commission). These memos are numbered in sequence according to the year issued.

SUBPART A—UNITED STATES CODE PRISONERS AND PAROLEES

■ §2.1 DEFINITIONS.

As used in this part:

- (a) The term "Commission" refers to the U.S. Parole Commission.
- (b) The term "Commissioner" refers to members of the U.S. Parole Commission.
- (c) The term "National Appeals Board" refers to the three-member Commission sitting as a body to decide appeals taken from decisions of a Regional Commissioner, who participates as a member of the National Appeals Board. The Vice Chairman shall be Chairman of the National Appeals Board.
- (d) The term "National Commissioners" refers to the Chairman of the Commission and to the Commissioner who is not serving as the Regional Commissioner in respect to a particular case.
- (e) The term "Regional Commissioner" refers to Commissioners who are assigned to make initial decisions, pursuant to the authority delegated by these rules, in respect to prisoners and parolees in regions defined by the Commission.
- (f) The term "eligible prisoner" refers to any Federal prisoner eligible for parole pursuant to this part and includes any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole.
- (g) The term "parolee" refers to any Federal prisoner released on parole or as if on parole pursuant to 18 U.S.C. 4164 or 4205(f). The term "mandatory release" refers to release pursuant to 18 U.S.C. 4163 and 4164.
- (h) The term "effective date of parole" refers to a parole date that has been approved following an in-person hearing held within nine months of such date, or following a pre-release record review.

(i) All other terms used in this part shall be deemed to have the same meaning as identical or comparable terms as used in chapter 311 of part IV of title 18 of the U.S. Code or 28 C.F.R. chapter I, part O, subpart V.

Notes and Procedures

■ 2.1-01. *Calendar Days.* The term "days" means "calendar" days.

■ 2.1-02. *Reference to Rule in Subpart B or C.* A reference to a rule (or a part thereof) in Subpart B (District of Columbia Code Prisoners and Parolees) or Subpart C (District of Columbia Code Supervised Releasees) includes any Notes and Procedures accompanying the referenced rule (or part thereof) unless clearly inapplicable in the context of a U.S. Code parole-eligible offender.

■ **§2.2 ELIGIBILITY FOR PAROLE: ADULT SENTENCES.**

(a) A Federal prisoner serving a maximum term or terms of more than one year imposed pursuant to 18 U.S.C. 4205(a) (or pursuant to former 18 U.S.C. 4202) may be released on parole in the discretion of the Commission after completion of one-third of such term or terms, or after completion of ten years of a life sentence or of a sentence of over thirty years.

(b) A Federal prisoner serving a maximum term or terms of more than one year imposed pursuant to 18 U.S.C. 4205(b)(1) (or pursuant to former 18 U.S.C. 4208(a)(1)) may be released on parole in the discretion of the Commission after completion of the court-designated minimum term, which may be less than but not more than one-third of the maximum sentence imposed.

(c) A Federal prisoner serving a maximum term or terms of more than one year imposed pursuant to 18 U.S.C. 4205(b)(2) (or pursuant to former 18 U.S.C. 4208(a) (2)) may be released on parole at any time in the discretion of the Commission.

(d) If the Court has imposed a maximum term or terms of more than one year pursuant to 18 U.S.C. 924(a) or 26 U.S.C. 5871 [violation of Federal gun control laws], a Federal prisoner serving such term or terms may be released in the discretion of the Commission as if sentenced pursuant to 18 U.S.C. 4205(b)(2). However, if the prisoner's offense was committed on or after October 12, 1984, and the Court imposes a term or terms under 26 U.S.C. 5871, the prisoner is eligible for parole only after service of one-third of such term or terms, pursuant to 18 U.S.C. 4205(a).

(e) A Federal prisoner serving a maximum term or terms of one year or less is not eligible for parole consideration by the Commission.

Notes and Procedures

■ 2.2-01. *Territorial Prisoners.*

(a) *U.S. Territories.* Prisoners sentenced for U.S. Code violations in all territories come under the jurisdiction of the U.S. Parole Commission. Prisoners sentenced for territorial offenses in the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust territories of the Pacific Islands come under

the jurisdiction of territorial parole authorities, not the U.S. Parole Commission, even if they are confined within the United States. Prisoners sentenced for territorial offenses in all other territories come under the jurisdiction of the U.S. Parole Commission.

(b) *Panama Canal Zone*. Prisoners sentenced under former territorial Canal Zone law to sentences of incarceration of over one year are sent to Federal Prisons in the United States and come under the parole jurisdiction of the U.S. Parole Commission unless they have chosen to be transferred to the custody of the Republic of Panama.

■ 2.2-02. *District of Columbia Code Prisoners*. The United States Parole Commission has release jurisdiction over all parole-eligible District of Columbia Code felony offenders. See § 2.70.

■ 2.2-03. *Military Prisoners (10 U.S.C. 858; Uniform Code of Military Justice., Art. 58)*.

(a) Prisoners sentenced by military courts-martial and then transferred to a federal institution come under the exclusive jurisdiction of the United States Parole Commission for parole purposes. Military authorities retain jurisdiction for clemency purposes and may reduce the maximum term to be served. Clemency may be granted either while confined or while in the community on parole or mandatory release.

(b) A prisoner paroled and revoked by military authorities, who is subsequently transferred to a federal institution, is eligible for a hearing at the time of the next visit by the United States Parole Commission. The Commission accepts the military parole revocation as final, but conducts a hearing to determine reparole suitability. Such prisoner must file a parole application prior to such hearing.

(c) A military prisoner who committed his crime before August 16, 2001 and is mandatorily released from a facility of the Bureau of Prisons is not subject to supervision by the Parole Commission. A military prisoner who committed his crime on or after August 16, 2001 and is mandatorily released by the Bureau of Prisons may be placed on mandatory supervision as provided at 28 C.F.R. § 2.35(d).

■ 2.2-04. *Non-Parolable Sentences*. Offenders sentenced under any of the following sections are not eligible for parole:

(a) 18 U.S.C. 924(c) [use of a firearm during a federal crime of violence (if the firearm use occurred on or after October 12, 1984) or drug trafficking crime (if the firearm use occurred on or after November 15, 1986)] and 18 U.S.C. 924(e) [possession of a firearm by an offender with at least three prior convictions for a violent offense or serious drug offense (if the possession occurred on or after October 27, 1986)];

(b) 18 U.S.C. 929 [use of restricted ammunition/armor-piercing bullets in a crime of violence (if the use occurred on or after October 12, 1984), or in a drug trafficking offense (if the use occurred on or after November 15, 1986)];

(c) 18 U.S.C. Appendix 1202(a) (if the offense was committed on or after October 12, 1984 and the offender has three prior convictions for certain offenses); section was repealed effective November 15, 1986 and these offenses committed on or after that date will now be charged under §924(e);

(d) 21 U.S.C. 841 (b)(1)(A), (B) and in some cases (C) (drug trafficking offenses involving Schedule I and Schedule II drugs) (only if the offense was committed on or after October 27, 1986);

(e) 21 U.S.C. 848 (continuing criminal enterprise involving drugs); and

(f) 21 U.S.C. 960(b)(1), (2) and in some cases (3) (drug importation and exportation offenses involving Schedule I and Schedule II drugs) (only if the offense was committed on or after October 27, 1986).

Note: An offender may have an aggregate sentence composed of both parolable and non-parolable component sentences and may, therefore, become eligible for parole on part of the aggregate sentence. If the non-parolable component sentence is served first (as usually will be the case), the parole eligibility date on the aggregate sentence will be after completion of the non-parolable component sentence (less good time) plus the minimum, if any, of the parolable sentence. As this date will depend on the amount of good time earned and, thus, may not be known precisely at the time of the initial hearing, the following wording may be used on any parole order on the aggregate sentence: "presumptive parole upon completion of [] months, provided you have reached your parole eligibility date on the aggregate sentence."

The amendments to the criminal code passed by Congress in 1984 included a change for the sentence for firearms offenses under 18 U.S.C. 924 (c)(1) (use of a firearm while committing a drug offense). The amendment required that any term of imprisonment imposed for a violation of the firearms provision shall not run concurrently with any other term of imprisonment. The Bureau of Prisons initially issued a policy instruction that required the 924 count to be served first, regardless of the order in which the other counts were imposed. This method precluded the possibility of any non-924 count from running concurrently with any other sentences. This practice was challenged successfully in *United States v. Gonzales*, 520 U.S. 1(1997). In *Gonzales*, the Supreme Court held that a sentencing court may impose a sentence containing both a 924 count and a non-924 count or counts to run in a way different than stated in the initial Bureau policy instruction. As a result, the Bureau had to review numerous 924(c) sentence computations to see if a change is necessary. If a sentence computation is changed, the Commission may be required to review cases to determine if a *nunc pro tunc* parole decision should be made. If a prisoner contacts the Commission regarding a *Gonzales* issue, refer him back to his case manager to have the Bureau review his sentence computation.

■ **2.2-05. *Transfer Treaty Cases.*** A prisoner returned to the United States under a prisoner transfer treaty who committed his offense abroad prior to November 1, 1987, is treated as if sentenced under 18 U.S.C. 4205(b)(2) for all parole purposes (Exception: In Mexican and Canadian treaty cases, the "street time" forfeiture provisions upon parole revocation are the same as those applicable to Youth Corrections Act cases). If the prisoner committed his offense abroad on or after November 1, 1987, the prisoner is not eligible for parole and a release date is set pursuant to 28 C.F.R. 2.68.

■ **§2.3 SAME: NARCOTIC ADDICT REHABILITATION ACT.**

A Federal prisoner committed under the Narcotic Addict Rehabilitation Act may be released on parole in the discretion of the Commission after completion of at least six months in treatment, not including any period of time for "study" prior to final judgment of the court. Before parole is ordered by the Commission, the Surgeon General or his designated representative must certify that