

Bureau of Prisons, Justice

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completed forms and any other applicable information the inmate chooses to the U.S. Magistrate Judge.

(c) If the U.S. Magistrate Judge finds that the inmate is indigent, the U.S. Magistrate Judge will administer the oath to the inmate. The inmate shall be released no earlier than the regularly established release date.

(d) If the U.S. Magistrate Judge finds that the inmate is not indigent, Bureau staff shall forward a referral package to the appropriate United States Attorney for a final determination as to the inmate's ability to pay the committed fine, or fine and costs.

[63 FR 4357, Jan. 28, 1998]

§ 571.54 Determination of indigency by U.S. Magistrate Judge—inmates in contract community-based facilities or state institutions.

(a) Inmates with a committed fine, or fine and costs may be transferred to contract community-based facilities, state institutions as boarders, or state institutions for service of federal sentences running concurrently with state sentences.

(b) Inmates with a committed fine, or fine and costs may be committed directly to contract community-based facilities or state institutions as boarders or may be designated to state institutions for service of federal sentences running concurrently with state sentences.

(c) An inmate with a committed fine, or fine and costs who is imprisoned in a contract community-based facility or state institution and desires to make application for a determination of ability to pay the committed fine, or fine and costs under 18 U.S.C. 3569 may make application directly to the U.S. Magistrate Judge.

(d) Upon receipt of a finding by the U.S. Magistrate Judge that the inmate is not indigent, Bureau staff shall forward a referral package to the appropriate United States Attorney for a final determination as to the inmate's ability to pay the committed fine, or fine and costs.

[63 FR 4357, Jan. 28, 1998]

Subpart G—Compassionate Release (Procedures for the Implementation of 18 U.S.C. 3582(c)(1)(A) and 4205(g))

SOURCE: 59 FR 1238, Jan. 7, 1994, unless otherwise noted.

§ 571.60 Purpose and scope.

Under 18 U.S.C. 4205(g), a sentencing court, on motion of the Bureau of Prisons, may make an inmate with a minimum term sentence immediately eligible for parole by reducing the minimum term of the sentence to time served. Under 18 U.S.C. 3582(c)(1)(A), a sentencing court, on motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment of an inmate sentenced under the Comprehensive Crime Control Act of 1984. The Bureau uses 18 U.S.C. 4205(g) and 18 U.S.C. 3582(c)(1)(A) in particularly extraordinary or compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing.

§ 571.61 Initiation of request—extraordinary or compelling circumstances.

(a) A request for a motion under 18 U.S.C. 4205(g) or 3582(c)(1)(A) shall be submitted to the Warden. Ordinarily, the request shall be in writing, and submitted by the inmate. An inmate may initiate a request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A) only when there are particularly extraordinary or compelling circumstances which could not reasonably have been foreseen by the court at the time of sentencing. The inmate's request shall at a minimum contain the following information:

(1) The extraordinary or compelling circumstances that the inmate believes warrant consideration.

(2) Proposed release plans, including where the inmate will reside, how the inmate will support himself/herself, and, if the basis for the request involves the inmate's health, information on where the inmate will receive medical treatment, and how the inmate will pay for such treatment.

(b) The Bureau of Prisons processes a request made by another person on behalf of an inmate in the same manner

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as an inmate's request. Staff shall refer a request received at the Central Office or at a Regional Office to the Warden of the institution where the inmate is confined.

§ 571.62 Approval of request.

(a) The Bureau of Prisons makes a motion under 18 U.S.C. 4205(g) or 3582(c)(1)(A) only after review of the request by the Warden, the Regional Director, the General Counsel, and either the Medical Director for medical referrals or the Assistant Director, Correctional Programs Division for non-medical referrals, and with the approval of the Director, Bureau of Prisons.

(1) The Warden shall promptly review a request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A). If the Warden, upon an investigation of the request determines that the request warrants approval, the Warden shall refer the matter in writing with recommendation to the Regional Director.

(2) If the Regional Director determines that the request warrants approval, the Regional Director shall prepare a written recommendation and refer the matter to the Office of General Counsel.

(3) If the General Counsel determines that the request warrants approval, the General Counsel shall solicit the opinion of either the Medical Director or the Assistant Director, Correctional Programs Division depending upon the nature of the basis of the request. With this opinion, the General Counsel shall forward the entire matter to the Director, Bureau of Prisons, for final decision.

(4) If the Director, Bureau of Prisons, grants a request under 18 U.S.C. 4205(g), the Director will contact the U.S. Attorney in the district in which the inmate was sentenced regarding moving the sentencing court on behalf of the Bureau of Prisons to reduce the minimum term of the inmate's sentence to time served. If the Director, Bureau of Prisons, grants a request under 18 U.S.C. 3582(c)(1)(A), the Director will contact the U.S. Attorney in the district in which the inmate was sentenced regarding moving the sentencing court on behalf of the Director of the Bureau of Prisons to reduce the

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inmate's term of imprisonment to time served.

(b) Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 4205(g), the Warden of the institution where the inmate is confined shall schedule the inmate for hearing on the earliest Parole Commission docket. Upon receipt of notice that the sentencing court has entered an order granting the motion under 18 U.S.C. 3582(c)(1)(A), the Warden of the institution where the inmate is confined shall release the inmate forthwith.

(c) In the event the basis of the request is the medical condition of the inmate, staff shall expedite the request at all levels.

§ 571.63 Denial of request.

(a) When an inmate's request is denied by the Warden or Regional Director, the disapproving official shall provide the inmate with a written notice and statement of reasons for the denial. The inmate may appeal the denial through the Administrative Remedy Procedure (28 CFR part 542, subpart B).

(b) When an inmate's request for consideration under 18 U.S.C. 4205(g) or 3582(c)(1)(A) is denied by the General Counsel, the General Counsel shall provide the inmate with a written notice and statement of reasons for the denial. This denial constitutes a final administrative decision.

(c) When the Director, Bureau of Prisons, denies an inmate's request, the Director shall provide the inmate with a written notice and statement of reasons for the denial within 20 workdays after receipt of the referral from the Office of General Counsel. A denial by the Director constitutes a final administrative decision.

(d) Because a denial by the General Counsel or Director, Bureau of Prisons, constitutes a final administrative decision, an inmate may not appeal the denial through the Administrative Remedy Procedure.

§ 571.64 Ineligible offenders.

The Bureau of Prisons has no authority to initiate a request under 18 U.S.C. 4205(g) or 3582(c)(1)(A) on behalf of state prisoners housed in Bureau of Prisons