

**Army Regulation 15–130**

**Boards, Commissions, and  
Committees**

# **Army Clemency and Parole Board**

**Headquarters  
Department of the Army  
Washington, DC  
19 November 2018**

**UNCLASSIFIED**

# ***SUMMARY of CHANGE***

AR 15–130

Army Clemency and Parole Board

This major revision, dated 19 November 2018—

- o Adds policy for parole of prisoners (chap 5).
- o Adds personnel training policy and procedures (chap 6).
- o Adds contents for and management of Army Clemency Board case files (chap 7).
- o Adds an internal control evaluation (app B).

Effective 19 December 2018

**Boards, Commissions, and Committees**  
**Army Clemency and Parole Board**

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By Order of the Secretary of the Army:

**MARK A. MILLEY**  
*General, United States Army*  
*Chief of Staff*

Official:

  
**Kathleen S. Miller**  
*Administrative Assistant to the*  
*Secretary of the Army*

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**History.** This publication is a major revision.

**Summary.** The Army Clemency and Parole Board is established under the authority of Sections 951 through 954, Title 10, United States Code; DODD 1325.04; and DODI 1325.07. This regulation prescribes the policies and procedures by which the Army Clemency and Parole Board makes recommendations and parole determinations.

**Applicability.** This regulation applies to the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve, unless otherwise stated. This regulation is applicable during full mobilization.

**Proponent and exception authority.** The proponent of this regulation is the Assistant Secretary of the Army (Manpower and Reserve Affairs). The proponent has the authority to approve exceptions or waivers to this regulation that are consistent with controlling law and regulations. The proponent may delegate this approval authority, in writing, to a division chief within the proponent agency or its direct reporting unit or field operating agency, in the grade of colonel or the civilian equivalent. Activities may request a waiver to this regulation by providing justification that includes a full analysis of the expected benefits and must include formal review by the activity's senior legal officer. All waiver requests will be endorsed by the commander or senior leader of the requesting activity and forwarded through their higher headquarters to the policy proponent. Refer to AR 25–30 for specific guidance.

**Army internal control process.** This regulation contains internal control provisions in accordance with AR 11–2 and identifies key internal controls that must be evaluated (see appendix B).

**Supplementation.** Supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from the Assistant Secretary of the Army (Manpower and Reserve Affairs) (SFMR–RBC), 111 Army Pentagon, Washington, DC 20310–0111.

**Suggested improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Assistant Secretary of the Army (Manpower and Reserve Affairs) (SFMR–RBC), 111 Army Pentagon, Washington, DC 20310–0111.

**Distribution.** This regulation is available in electronic media only and is intended for the Regular Army, the Army National Guard/Army National Guard of the United States, and the U.S. Army Reserve.

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\*This regulation supersedes AR 15-130, dated 23 October 1998.

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## Glossary

## Chapter 1 Introduction

### 1–1. Purpose

This regulation establishes the policies, procedures, and responsibilities associated with the Army clemency, parole, and mandatory supervised release (MSR) programs.

### 1–2. References and forms

See appendix A.

### 1–3. Explanation of abbreviations and terms

See the glossary.

### 1–4. Responsibilities

*a. Secretary of the Army.* The SECARMY or designee retains the authority to—

(1) Remit or suspend a portion or all of the unexecuted part of any approved sentence to include adjusting significant disparities in sentences, other than a sentence approved by the President. Reduce, suspend, or remit sentences when consistent with the maintenance of good order and discipline in the Army and in the best interest of society and the prisoner.

(2) Remit or suspend any remaining part or amount of the unexecuted portion of an approved sentence extending to death that, as approved by the President, has been commuted to a lesser punishment.

(3) Substitute for good cause an administrative discharge for an executed punitive discharge or dismissal.

(4) Restore to duty an individual whose approved sentence does not include a punitive discharge or includes a punitive discharge that is either suspended or unexecuted.

(5) Direct reenlistment of an individual whose approved sentence includes an executed punitive discharge.

(6) Make parole and MSR determinations.

(7) Commute a dismissal adjudged by a court-martial to a reduction to any enlisted grade in time of war or national emergency. A person so reduced may be required to serve the duration of the war or national emergency and 6 months thereafter.

(8) Review those cases involving prisoners who have served 20 years in confinement when the offense was committed after 29 October 2000, and the approved sentence was life without eligibility for parole however, the authority to remit or suspend that sentence may not be delegated.

*b. Assistant Secretary of the Army for Manpower and Reserve Affairs.* The ASA (M&RA) will exercise Army Secretariat oversight for Army corrections, parole, MSR, clemency functions and American Corrections Association (ACA) accreditation. Additionally, the ASA (M&RA) has responsibility for the functions and operation of the governing body of the Army Corrections System (ACS), the Army Corrections Council, which is composed of the following members:

(1) Deputy Assistant Secretary of the Army (Installations and Housing), Office of the Assistant Secretary of the Army (OASA) (Installations and Environment).

(2) Senior Deputy Counsel, Office of General Counsel.

(3) Deputy Assistant Secretary of the Army (Military Personnel Management & Equal Opportunity Policy), Office of Manpower and Reserve Affairs (OASA (M&RA)).

(4) Deputy Assistant Secretary of the Army (Review Boards) (DASA (RB)).

(5) OASA (M&RA).

(6) The Department of the Army, Provost Marshal General (DAPM).

(7) The commander, Army Corrections Command.

(8) Office of the Deputy Chief of Staff, G–1 (one representative).

(9) Office of The Judge Advocate General (TJAG) (one representative).

(10) Office of the Assistant Chief of Staff for Installation Management (one representative).

(11) Commanding General, Installation Management Command (IMCOM) (one representative).

(12) Surgeon General (invitational advisor only).

(13) Chief of Chaplains (invitational advisor only).

*c. Deputy Assistant Secretary of the Army (Review Boards).* The DASA (RB), as delegated by the SECARMY, will—

(1) Take final action on favorable clemency actions recommended by the Army Clemency and Parole Board (ACPB), unless further delegated.

(2) Decide all appeals regarding denied parole by the ACPB.

- (3) Supervise the ACPB Chairperson and Board Manager and oversee the operation of the ACPB.
- (4) Retain the authority to take final action on selected parole determinations by the ACPB as set forth in paragraph 4–3b.
- (5) Provide oversight of the ACS during annual technical assistance visits and ACA audit preparation in support of all ACS facilities.

### **1–5. Records management requirements**

The records management requirement for all record numbers, associated forms, and reports required by this regulation are addressed in the Records Retention Schedule-Army (RRS–A). Detailed information for all related record numbers, forms, and reports are located in ARIMS/RRS–A at <https://www.arims.army.mil>. If any record numbers, forms, and reports are not current, addressed, and/or published correctly in ARIMS/RRS–A, see DA Pam 25–403 for guidance.

## **Chapter 2 Army Clemency and Parole Board Organization**

### **2–1. Establishment**

Under the authority of Sections 952 through 954, Title 10, United States Code (10 USC 952 through 10 USC 954), the SECARMY may establish a parole system. The ACPB is established under DODD 1325.04 to assist the SECARMY in executing clemency and parole authority. The SECARMY has designated the DASA (RB) to act on parole and clemency matters. The ACPB is the primary agency charged with authority for the administration of clemency, parole, and MSR policies and programs.

### **2–2. Army Clemency and Parole Board purpose**

The ACPB is established to—

- a. Make recommendations to the DASA (RB) for eligible individuals with approved sentences from courts-martial concerning the following clemency actions:
  - (1) Remission or suspension of the unexecuted portion of any approved sentence, including all uncollected forfeitures, other than a sentence approved by the President.
  - (2) Remission or suspension of the unexecuted portion of an approved sentence extending to death that, as approved by the President, has been commuted to a lesser punishment except for life without eligibility for parole. The SECARMY retains authority to act on clemency approval recommendations for life without eligibility for parole cases.
  - (3) Upgrading, for good cause, of an unexecuted dishonorable discharge to a bad conduct discharge.
  - (4) Substitution of an administrative form of discharge for a discharge or dismissal executed in accordance with the approved sentence of a court-martial.
  - (5) Restoration to duty of an individual whose approved sentence does not include a punitive discharge or includes a punitive discharge that is either suspended or unexecuted.
  - (6) Effect uniformity in sentences for similar offenders so far as practical.
  - (7) Reenlistment of an individual whose approved sentence includes an executed punitive discharge.
- b. For those prisoners confined in or released under supervision from military correctional facilities (MCFs), make determinations such as—
  - (1) Approving parole/MSR. When parole or MSR is approved, establish general and specific conditions of supervision to be enforced while under supervision.
  - (2) Disapproving parole/MSR.
  - (3) Rescinding parole/MSR.
  - (4) Suspending parole/MSR.
  - (5) Revoking parole/MSR.
  - (6) Advancing parole eligibility.
  - (7) Release from parole/MSR.
- c. Develop and recommend the adoption of uniform clemency, parole, and MSR policies. The programs established by this regulation are primarily for the benefit of the Government. There is no right to clemency and parole.
- d. Perform other duties as directed by the DASA (RB).

### **2–3. Composition**

The ACPB consists of five members who are assigned to or employed by the Army Review Boards Agency (ARBA). The ACPB Chairperson, who will chair the board, will be a civilian with extensive experience in the criminal justice field and

will possess knowledge of military personnel policies and practices. The ACPB board will, at a minimum, also consist of at least one active duty field grade officer and one member from the ARBA Legal Office. The other members will be field grade officers and career civil service employees at or above civilian pay grade general schedule (GS-13). The ACPB will meet as directed by the Chairperson to make clemency recommendations and to recommend approval/disapproval of eligible individuals for parole and/or MSR and, if approved, to determine the conditions of release/supervision (see paras 2-2 and 2-4).

#### **2-4. Direction and control**

*a. Chairperson.* The ACPB Chairperson—

- (1) Establishes hearing dates for the ACPB and presides at such hearings.
- (2) Authenticates and reports ACPB clemency, MSR, and parole actions.
- (3) Represents the ACPB and the Department of the Army (DA), as appropriate, before Government agencies or committees and professional organizations concerned with clemency, parole, and MSR.
- (4) Acts as liaison between Army corrections officials and the ASA (M&RA) or the DASA (RB), concerning matters related to clemency, parole, MSR, and correctional programs (for example, rehabilitation, vocational, and training) to the extent those programs impact ACPB.
- (5) Maintains liaison with the United States Parole Commission, the Administrative Office of the United States Courts (Probation Division), the National Sex Offender Targeting Center, U.S. Marshals Service, and the Clemency and Parole boards and board officials of the other military departments.
- (6) Issues/approves DD Form 553-1 (Parole/Mandatory Supervised Release (MSR) Violator Wanted by the Armed Forces) warrants for parole/MSR violations where public safety demands it.

*b. Board Manager.* The ACPB Board Manager—

- (1) Provides support to the ACPB Chairperson concerning board hearings and any taskings requiring assistance.
- (2) Assigns cases to support the ACPB Chairperson and assigns ACPB staff to conduct parole hearings, as delegated by the ACPB Chairperson.
- (3) Coordinates annual reviews, updates, and revisions of AR 15-130 and all ACPB regulations and standard operating procedures.
- (4) Conducts monthly meetings with the ACPB staff.
- (5) Manages ACPB training program.
- (6) When delegated, acts as the official spokesperson for the parole authority. When acting as the official spokesperson, the ACPB Board Manager expresses views at all times which are consistent with approved policies of the ACPB.
- (7) Assists the ACPB Chairperson as further directed.

*c. Reporting.* Reporting requirements are as specified in DODI 1325.07.

#### **2-5. Administrative support**

The ACPB is a component board of the ARBA. ARBA will provide the ACPB with all administrative support to include personnel support, office space, equipment, and travel funds.

### **Chapter 3**

## **Eligibility and Procedures for Consideration for Clemency, Parole, and Mandatory Supervised Release Restoration and Reenlistment**

#### **3-1. Eligibility consideration**

The ACPB shall consider for clemency, restoration to duty or reenlistment when the court-martial convening authority has taken action on the sentence—

*a. Clemency petition authority of the Secretary of the Army.* The SECARMY or designee, is empowered by Article 74(a), of the Uniform Code of Military Justice (UCMJ) to remit or suspend any part or amount of the unexecuted part of any approved sentence, including all uncollected forfeitures other than a sentence approved by the President; and by Article 74(b), UCMJ, for good cause, to substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the approved sentence of a court-martial. The SECARMY routinely exercises this authority through the DASA (RB). In extraordinary cases, additional petitions to the SECARMY for clemency under Article 74, UCMJ, should be addressed to The Judge Advocate General (DAJA-CL), 2200 Army Pentagon, Washington, DC 20310-2200, and must be submitted by the convicted Soldier or his/her attorney or a recognized veterans' organization acting on the Soldier's behalf. If the Soldier is in confinement, the petition shall be forwarded through the MCF. The MCF shall forward the

petition, along with copies of relevant records reflecting on the Soldier's record in confinement. Petitioners not in confinement shall forward the petition directly.

*b. Other clemency petition authorities.* Any general court-martial convening authority with personal jurisdiction over a convicted Soldier may exercise clemency pursuant to Article 74(a), UCMJ, as designated by the SECARMY and as limited by Article 60, UCMJ. However, once a convening authority has taken action on the record of trial pursuant to Article 60, UCMJ, any action affecting a punitive discharge or dismissal is withheld to the SECARMY, ASA (M&RA), or in the case of clemency and parole petitions under 10 USC 952, the DASA (RB) or designee. Clemency petitions for Army prisoners confined in other Service correctional facilities will be forwarded with appropriate confinement records to the ACPB. Clemency petitions for Army prisoners confined in Federal/State correctional facilities will be forwarded with appropriate confinement records and the facility's recommendation to the ACPB.

*c. Prisoner clemency.* The ACPB shall consider a prisoner for clemency, restoration to duty, or reenlistment when the court-martial convening authority has taken action on the sentence, the prisoner's case has been reviewed by an MCF disposition board or by an appropriate Federal correctional or probation official, and the prisoner meets the eligibility criteria. Prisoners may waive restoration and reenlistment consideration by the ACPB in accordance with this regulation. A prisoner sentenced to death is ineligible for consideration by the ACPB.

*d. Approved unsuspended sentence.* When a prisoner's approved unsuspended sentence includes no confinement or the approved unsuspended sentence to confinement is less than 12 months, normally there shall be no consideration by the ACPB. The SECARMY may direct that the ACPB consider those cases.

*e. Rules for clemency, restoration, and reenlistment.* The rules in this paragraph govern consideration for clemency, restoration, and reenlistment by the ACPB for a prisoner whose sentence is adjudged on or before 9 April 2013.

(1) When a prisoner's approved unsuspended sentence to confinement is 12 months or more, initial consideration by ACPB shall not be more than 9 months from the date that confinement began. The time may, however, be extended to allow up to 90 days processing time between the date the convening authority's actions is received at the MCF and the initial consideration by the ACPB. This paragraph does not apply to a prisoner serving an approved unsuspended sentence of confinement for life without eligibility for parole adjudged for offenses committed after 31 October 2000.

(2) When a prisoner's approved unsuspended sentence:

(a) Is 12 months or more, but less than 20 years, consideration by ACPB shall be at least annually, following the initial review.

(b) Is 20 years or more, but less than 30 years, consideration by ACPB shall be at least annually beginning 3 years from the date confinement began.

(c) Is 30 years or more, including life, consideration by ACPB shall be at least annually beginning 10 years from the date that confinement began.

(3) When a prisoner's approved unsuspended sentence includes confinement for life without eligibility for parole, consideration by ACPB shall be at least once every 3 years, beginning 20 years after the date confinement began. The SECARMY may not delegate the authority to grant clemency for any portion of approved sentences of life without eligibility for parole. Subordinate clemency approval authorities may deny clemency for approved sentences of life without eligibility for parole.

*f. Rules consideration.* The rules in this paragraph govern consideration for clemency, restoration, and reenlistment by the ACPB for a prisoner's adjudged sentence that takes place on or after 10 April 2013.

(1) When a prisoner's approved unsuspended sentence to confinement is 12 months or more, but less than 10 years, initial consideration by the ACPB shall not be more than 9 months after the date confinement began. Subsequent reviews will occur at least annually thereafter. The time may, however, be extended to allow up to 90 days processing time between the date the convening authority's action is received at the MCF and the initial consideration by the ACPB.

(2) When a prisoner's approved unsuspended sentence is 10 years or more, initial consideration by ACPB shall be at least annually, beginning when the prisoner would otherwise be eligible for parole. This consideration is in accordance with this paragraph of this regulation, whether or not the prisoner had an approved unsuspended punitive or administrative discharge or dismissal or an approved retirement. This subparagraph does not apply to a prisoner serving an approved unsuspended sentence of confinement for life without eligibility for parole adjudged for offenses committed after 31 October 2000. Subsequent reviews will occur at least annually.

(a) The MCF commander confining a prisoner with an unsuspended sentence to confinement of 10 years or more may recommend the ACPB review the prisoner for clemency due to extraordinary reasons before the prisoner would otherwise be eligible for an initial clemency review.

(b) A prisoner with an approved unsuspended sentence to confinement of 10 years or more may submit a request to the ACPB for a clemency review due to extraordinary reasons, before the prisoner would otherwise be eligible for an initial clemency review. The request should specify those extraordinary reasons and be sent to ACPB through the MCF commander. The request may be rejected by the Chairperson of the ACPB. If the ACPB's Chairperson accepts the request for

review by the ACPB, the Chairperson will notify the facility in order for the facility to make appropriate victim/witness (V/W) notifications, to initiate a review of the prisoner, and to provide the ACPB the MCF staff's and commander's recommendations concerning the clemency request before the ACPB reviews the prisoner for clemency.

(c) Due to extraordinary reasons, the ACPB Chairperson may direct an initial clemency review of a prisoner before the prisoner would otherwise be eligible for an initial clemency review. In such a case, the Chairperson shall notify the facility to make appropriate V/W notifications and to initiate a review of the prisoner, and to provide to the ACPB the MCF staff's and commander's recommendations concerning the clemency request before the ACPB reviews the prisoner for clemency.

(3) When a prisoner's approved unsuspended sentence includes confinement for life without eligibility for parole, consideration by the ACPB shall be at least once every 3 years, beginning 20 years after the date confinement began. The SECARMY may not delegate the authority to grant clemency for any portion of approved sentences of life without eligibility for parole. Subordinate clemency approval authorities may deny clemency for approved sentences of life without eligibility for parole.

(4) For a military prisoner serving multiple sentences, the prisoner will be reviewed for clemency at the clemency eligibility date and thereafter, in accordance with regulatory guidance of the active sentence currently serving. Clemency consideration will not be reviewed on an inactive sentence.

*g. Confinement in military or Federal correctional facilities.* An individual confined in or paroled from a military or Federal correctional facility—even when serving less than 12 months confinement—may be considered for clemency by the ACPB, for good cause as shown on the individual's written application for special consideration for clemency. An application for special consideration for clemency will be submitted through the appropriate correctional facility commander or Federal correctional official. The facility commander is not required to provide a recommendation, but must initiate or acknowledge to request prior to submission to ACPB.

*h. Exceptions.* Except in the case of prisoners sentenced to death or to confinement for life without eligibility for parole, when exceptional circumstances exist or for other good cause, the ACPB may consider a person serving an approved sentence of any length for clemency.

*i. Supervised release.* A prisoner released on supervision shall be considered by the ACPB for clemency, restoration, and reenlistment 12 months after release on supervision and annually thereafter, upon the prisoner's request, until expiration of the sentence.

(1) When a prisoner has been returned to military control as a supervision violator, the prisoner's consideration for clemency, parole, restoration, and reenlistment shall normally be 12 months after the prisoner's return to military control and annually thereafter.

(2) When a prisoner is not returned to military control, but supervision has been revoked and reinstated, the ACPB shall normally consider the prisoner, upon the prisoner's request, for clemency, restoration, and reenlistment 12 months after supervision has been reinstated and annually thereafter upon request.

*j. Parole consideration.* When a prisoner is considered for parole in accordance with paragraph 3-2b of this chapter, the ACPB may also consider the prisoner for clemency, and upon request, for restoration to duty or reenlistment.

*k. Prisoner elections.* Prisoners may elect not to request clemency; however, the MCF commander and local disposition board, Federal/State correctional official, or United States Probation Officer (USPO) will consider the prisoner's file and make recommendations for measures of clemency as appropriate. The prisoner's waiver and the recommendations from the MCF commander and local disposition board, Federal/State correctional official, or USPO will be forwarded to the ACPB.

*l. Rules.* The rules in this paragraph govern consideration of restoration to duty or reenlistment of prisoners.

(1) The Army shall provide a program to restore or reenlist prisoners in accordance with the needs of the Army. A prisoner is afforded no right by this instruction to participate in any particular restoration program.

(2) In selecting prisoners and supervisees for restoration or reenlistment, consideration should be given to their demonstrated motivation for future honorable service, Army needs, demonstrated ability to perform military duties in a creditable manner, mental, and physical fitness for continued service, and the impact of the supervisee's restoration or reenlistment on the morale, good order, and discipline of the Army.

(3) The needs of the Army govern reenlistment and restoration programs, not the desires of individual prisoners. A prisoner not selected for reenlistment or a restoration program may not appeal, or otherwise contest nonselection.

### **3-2. Parole and mandatory supervised release eligibility**

*a. Conditions for consideration.* Normally, the ACPB will not consider a case for parole or MSR unless all the following conditions are met:

(1) The individual meets the relevant eligibility criteria listed in subparagraphs b or c, below.

(2) The individual case file has been reviewed by a disposition board and the commander of an MCF or the commander's designee.

(3) Action on the adjudged sentence has been taken by the court-martial convening authority pursuant to Article 60, UCMJ, and Rule for Courts-Martial 1107, Manual for Courts-Martial, United States.

*b. Parole.* A prisoner in a MCF will be considered for parole when the prisoner first becomes eligible and annually thereafter.

(1) A prisoner is eligible for parole when requested by the prisoner and when the following conditions are met:

(a) The prisoner has an approved unsuspended dismissal or punitive discharge or an administrative discharge or retirement.

(b) The prisoner has an approved unsuspended sentence or aggregate unsuspended sentence to confinement for 12 months or more.

(c) In cases in which the approved sentence to confinement is less than 30 years, the prisoner has served one-third of the term of confinement, but in no case less than 6 months.

(d) In cases in which the approved sentence to confinement is more than 30 years up to life, the prisoner has served at least 10 years of the term of confinement.

(e) In cases in which the approved sentence to confinement is for life, the prisoner has served at least 20 years of the term of confinement. This paragraph affects only those prisoners with an approved finding of guilty of an offense that occurred after 16 January 2000. For prisoners whose offenses with a finding of guilty occurred prior to that date, and with approved unsuspended, sentences of 30 years or more, including an approved sentence to confinement for life, consideration for parole shall occur after a prisoner has served not more than 10 years from the date confinement began and at least annually thereafter.

(2) A prisoner sentenced to death or life without eligibility for parole is not eligible for parole unless the approved sentence is commuted to a lesser punishment.

(3) A prisoner who is otherwise eligible for parole with an approved sentence including confinement and a fine, with a provision for further confinement if the fine is not paid, will be considered for parole based on the approved sentence to confinement. Any confinement resulting from a failure to pay a fine will not be considered in computing eligibility for parole.

(4) A prisoner who is otherwise eligible for parole with an approved sentence including a fine and no confinement, but with a provision for confinement, if the fine is not paid, will be considered for parole upon imprisonment for nonpayment of the fine.

(5) Projected abatement of confinement will be excluded in computing eligibility for parole.

(6) A prisoner returned to military control as a parole violator and whose parole is revoked, normally will be considered for parole no earlier than 12 months from the date the individual is returned to military control.

(7) When exceptional circumstances exist or for other good cause, the ACPB may waive any parole eligibility requirement, except for those prisoners sentenced to death or to life without eligibility for parole, or in other cases of a special nature reserved for final decision by the SECARMY.

(8) In cases where prisoners waive parole, sections 13 and 17 through 21 of DD Form 2715-3 (Prisoner Restoration/Return to Duty, Clemency, and Parole Statement) will be completed by MCF personnel, signed by the prisoner acknowledging waiver, and forwarded to the ACPB. If the prisoner waives both clemency and parole consideration, the case will be forwarded to the ACPB and considered for clemency.

(9) Prisoners transferred to Federal facilities fall under the exclusive jurisdiction of the U.S. Parole Commission for parole and supervised release determination, unless otherwise designated in writing or the U.S. Parole Commission ceases operation. As such, Federal and Commission parole policies and procedures apply, not those of this regulation.

(10) If a prisoner or parole violator is serving two or more sentences of confinement, the sentences shall be added to determine the date of eligibility for parole and restoration to duty. The remainder of the term of confinement that a parole violator is serving shall be added to such sentence to determine the date of eligibility for parole and restoration to duty.

(11) Upon notification that a prisoner has been approved for supervised release, the MCF shall notify the prisoner and coordinate the supervision plan with the appropriate U.S. Probation Office for review by the supervising USPO. The prisoner shall acknowledge receipt in writing of the provisions of the terms and conditions of supervision and any modifications.

(12) If the USPO has not approved the supervision plan 30 days before the prisoner's parole release date, the MCF commander or designated representative shall notify the ACPB, and continue to work with the USPO to resolve supervision issues (for example, the lack of approval). The ACPB shall determine, not later than 10 days before the prisoner's parole release date, if parole approved should be rescinded or parole date be extended until an acceptable parole plan is approved.

(13) Upon the USPO's acceptance of a supervisee, the MCF shall provide (preferably by fax, e-mail or automated corrections system) the ACPB with the supervising USPO's name, telephone number, fax number, e-mail and postal address.

(14) The departure of the prisoner from the MCF constitutes acceptance of the terms and conditions of parole and operates as a waiver of all accrued good conduct time (GCT), earned time (ET), and special acts abatement (SAA).

(15) Within three duty days after the prisoner's release from the MCF, the MCF will send a copy of the signed supervised release certificate and any signed attachments to the ACPB by electronic transmission.

(16) The MCF shall maintain prisoner files and perform all assigned administrative responsibilities for all supervisees released from that facility. Ensure Victim/Witness Notification Program (V/WNP), deoxyribonucleic acid (DNA) sample collection, and sex offender registration and notification requirements are met per DODI 1325.07. Notify victims and witnesses that the ACPB shall conduct annual clemency reviews, provide the month of the anticipated annual review and advise them that any V/W impact statements must be received a month prior to review. Prepare and submit a typed Federal Bureau of Investigation (FBI) Form I-12 (Flash/Cancellation Notice) on each prisoner released on supervised release. Prisoner files shall be maintained for 2 years beyond expiration of the full term of confinement (completion of sentence).

(17) Promptly forward the prisoner's parole case file to the ACPB upon request.

*c. Mandatory supervised release.* The supervised release of prisoners who are not granted parole prior to their minimum release date (MRD) is a highly effective technique to provide an orderly transition to civilian life for released prisoners and to better protect the communities into which such prisoners are released. Accordingly, it shall be the policy of the Army to use MSR when it is determined by the ACPB to be appropriate.

(1) A prisoner is eligible for MSR when the following conditions are met:

(a) The prisoner has an approved finding of guilty of an offense that occurred on or after 16 August 2001.

(b) The prisoner meets the conditions for parole eligibility per paragraph 3-1e.

(c) The prisoner will not be released on parole.

(d) The prisoner will not be returning to a military unit for continued duty (for example, for retention on active duty and administrative discharge). Prisoners who are returning to a military unit for out-processing/appellate leave and are otherwise eligible for parole shall be reviewed for MSR.

(2) The following procedures shall be used by an MCF in carrying out the responsibilities of MSR:

(a) MCFs shall inform all prisoners, who are potentially eligible for MSR, in writing using the MSR acknowledgement, and ensure that prisoners acknowledge receipt during reception/in-processing time period. The signed copy of the MSR Acknowledgement shall be filed in the prisoner's correctional treatment file (CTF).

(b) A prisoner whose approved sentence (or adjudged sentence, if the convening authority has not acted) to confinement is less than 3 years shall not normally be reviewed by the ACPB for MSR. In the case where a MCF commander determines MSR may be appropriate for such a prisoner, the commander shall forward a recommendation to the ACPB for a decision at the prisoner's last ACPB review before the prisoner's MRD. The recommendation and case file shall be forwarded to the ACPB, whenever possible, not later than 4 months prior to the prisoner's MRD.

(c) A case file shall be submitted to the ACPB on each prisoner eligible for MSR whose approved sentence (or adjudged sentence, if the convening authority has not acted) to confinement is 3 years or longer. The case file shall be submitted to the ACPB in sufficient time, but not later than 4 months prior to the anticipated MRD, to permit the ACPB to consider all pertinent information in its mandatory supervision decision. The case file shall be created in the same manner as a request for parole consideration. It shall include a supervision plan (verified residence, verified employment, effective employment assistance, or acceptance into a valid educational or vocational program, and, if applicable, a restitution plan). For prisoners who have an approved finding of guilty of an offense that occurred on or prior to 1 October 2004, willful failure to prepare an acceptable supervision plan may result in a Discipline and Adjustment Board and loss of GCT, ET, or SAA, for failure to follow an order or dereliction of duty. For prisoners who have an approved finding of guilty of an offense that occurred after 1 October 2004, award of GCT, ET, or SAA is conditioned on providing an acceptable release plan and MCF commanders shall not award the GCT, ET, or SAA until such a plan is accepted by the ACPB. If the ACPB decides MSR is not appropriate, the MCF commander shall award the GCT, ET, or SAA to the prisoner.

(d) MCFs shall provide timely advance notice to all victims and witnesses indicating a desire to be so notified.

(e) An eligible prisoner's supervision plan and case file shall be considered at the prisoner's last disposition board before the prisoner's MRD. A prisoner whose approved sentence (or adjudged sentence, if the convening authority has not acted) to confinement is greater than 3 years, shall be considered initially for MSR at the earliest regularly scheduled board once the prisoner has come within 22 months of his MRD. In the event the prisoner is not approved upon the first review, consideration will continue on an annual basis while the prisoner remains confined.

(f) Those eligible prisoners not scheduled for a disposition board prior to their MRD or who waive their last disposition board, are still required to be reviewed for MSR by the ACPB. MCF commanders shall forward to the ACPB a supervision plan and the case file on eligible candidates, whenever possible, not later than 4 months prior to the MRD.

(g) Prisoners who are eligible for MSR review shall not be released at their MRD without first being considered and approved or disapproved for MSR in writing by the ACPB. If the facility has not received a decision on a prisoner's MSR from the ACPB 90 days prior to the prisoner's MRD, the MCF commander or designee shall telephonically contact the

ACPB for guidance and resolution. The ACPB shall provide by fax, or by a similarly prompt written communication, a MSR decision not later than 75 days before the prisoner's MRD. If the facility has not received a decision 60 days prior to the prisoner's projected MRD, the MCF commander shall contact Army Corrections Command for assistance in resolving the lack of a decision by the ACPB.

(h) If the ACPB rejects a supervision plan, the plan shall be returned promptly to the submitting MCF with an explanation of the plan's deficiency(s) for the prisoner's expeditious review, revision, and resubmission by the prisoner through the facility staff. Any prisoner whose offenses occurred on or after 16 August 2001, and through 1 October 2004, who is eligible for MSR and fails to prepare an acceptable supervision plan, may be considered by a Disciplinary and Adjustment Board for administrative or punitive removal of automatically awarded unconditioned GCT, ET, or SAA. For prisoners who have an approved finding of guilty of an offense that occurred after 1 October 2004, whose award of GCT, ET, or SAA is conditioned on an acceptable supervision plan, shall not be awarded such credits until such a plan is accepted by the ACPB and approved by the USPO.

(i) Upon notification that a prisoner has been selected for supervised release, the MCF shall notify the prisoner and coordinate the supervision plan with the appropriate U.S. Probation Office for review by the supervising USPO. The prisoner shall acknowledge receipt in writing of the provisions of the terms and conditions of supervision and any modifications. The prisoner may request, in writing, reconsideration of the MSR decision or modification of its conditions through the MCF commander to the ACPB within 60 calendar days of notification of the selection. The ACPB will make the final decision.

(j) If the USPO has not approved the supervision plan 30 days before the prisoner's MRD, the MCF commander or designated representative shall notify the ACPB which shall work with the USPO to resolve supervision issues, the lack of approval, for example. If, through no fault of the prisoner, a supervision plan has not been reviewed or a prisoner is unable to provide an acceptable supervision plan to either the ACPB or the USPO, the prisoner shall not be held past the prisoner's projected MRD. The ACPB shall determine, not later than 10 days before the prisoner's MRD, whether the failure to provide an acceptable plan was willful or otherwise at the fault of the prisoner.

(k) If the ACPB determines a prisoner was at fault in not providing an acceptable supervision plan, the prisoner may appeal that decision within 30 calendar days of notification of the Board's decision. The DASA (RB) shall make the final decision on these appeals. The prisoner shall submit his/her appeal through the MCF commander. The MCF commander shall review the appeal, provide a recommended disposition and rationale, and forward the appeal to the ACPB for referral to the DASA (RB).

(l) If the prisoner refuses to acknowledge receipt in writing of an order onto MSR, the notification shall be witnessed, certifying that the prisoner was advised of the terms and conditions of MSR and of the provisions of MSR acknowledgment, concerning the awarding or loss (as applicable) of GCT, ET, and SAA for failure to fully cooperate with all aspects of the Department of Defense (DOD) and Army MSR program.

(m) Upon the USPO's acceptance of a supervisee, the MCF shall provide (preferably by fax, e-mail or automated corrections system) the ACPB with the supervising USPO's name, telephone number, fax number, and address.

(n) The departure of the prisoner from the MCF constitutes acceptance of the terms and conditions of MSR and operates as a waiver of all accrued GCT, ET, or SAA.

(o) If the prisoner refuses to depart the MCF, the prisoner may be subject to disciplinary action. A prisoner who refuses to accept the conditions of supervision may forfeit all earned GCT, ET, and SAA. For prisoners whose award of GCT, ET, or SAA is conditioned on an acceptable supervision plan, the MCF commander shall not award the abatement.

(p) Within three duty days after the prisoner's release from the MCF, the MCF will send, by electronic transmission, to the ACPB, a copy of the signed supervised release certificate and any signed attachments.

(q) The MCF shall maintain prisoner files and perform all assigned administrative responsibilities for all supervisees released from that facility. Ensure V/WNP, DNA sample collection, and sex offender registration and notification requirements are met per applicable regulations. Notify victims and witnesses that the ACPB shall conduct annual clemency reviews, provide the month of the anticipated annual review and advise them that any V/W impact statements must be received a month prior to review. Prepare and submit a typed FBI Form I-12 on each prisoner released on supervised release. Prisoner files shall be maintained for 2 years beyond expiration of the full term of confinement (completion of sentence).

(r) The MCF shall promptly forward prisoner file to the ACPB upon request.

(3) The following procedures shall be used by the ACPB to carry out the responsibilities of MSR.

(a) A prisoner whose approved sentence (or adjudged sentence, if the convening authority has not acted) to confinement is less than 3 years shall not normally be reviewed by the ACPB for MSR, but shall be reviewed by the MCF commander. In the case where a MCF commander determines that MSR may be appropriate for such a prisoner, the commander shall forward a recommendation to the ACPB for a decision at the prisoner's last ACPB review before the prisoner's MRD. The recommendation and case file shall be forwarded to the ACPB, whenever possible, not later than 4 months prior to the

prisoner's MRD. The ACPB shall promptly review (within 45 days of receipt) each supervision plan and case file. If time is a factor in the case, the MCF commander shall notify the ACPB and request a sooner review if possible.

(b) The ACPB may direct the review of any eligible prisoner for MSR and can direct the MCF to have any eligible prisoner with less than a 3 year approved sentence provide a supervision plan for MSR review.

(c) Prisoners who are eligible for MSR review shall not be released on their MRD without first being considered and approved or disapproved for MSR in writing by the ACPB.

(d) The ACPB shall promptly review (within 45 days of receipt) each supervision plan and case file submitted by a MCF to the ACPB on each prisoner eligible for MSR whose approved sentence (or adjudged sentence, if the convening authority has not acted) to confinement is 3 years or longer. The case file shall be submitted to the ACPB in sufficient time, but not later than 4 months prior to the anticipated MRD, to permit the ACPB to consider all pertinent information in its mandatory supervision decision. If time is a factor in the case, the MCF commander shall notify the ACPB and request a sooner review if possible.

(e) Military prisoners who have been transferred to the Federal Bureau of Prisons (FBOP) and are given early release through GCT, ET, or SAA, may be placed under mandatory supervision "as if on parole." The U.S. Parole Commission will determine the terms and conditions of any such mandatory supervision. In deciding whether or not to place a military prisoner on mandatory supervision, the U.S. Parole Commission should consider the criteria identified in DODI 1325.07 and this regulation. This paragraph affects only those prisoners who have an approved finding of guilty for an offense that occurred on or after 16 August 2001.

(f) If the ACPB rejects a supervision plan, the plan shall be returned promptly to the submitting MCF with an explanation of the plan's deficiency(s) for the prisoner's expeditious review, revision, and resubmission by the prisoner through the facility staff. Any prisoner whose offenses occurred on or after 16 August 2001, and through 1 October 2004, who is eligible for MSR and fails to prepare an acceptable supervision plan may be considered by a Disciplinary and Adjustment Board for administrative or punitive removal of automatically awarded unconditioned GCT, ET, or SAA. For prisoners who have an approved finding of guilty of an offense that occurred after 1 October 2004, whose award of GCT, ET, or SAA is conditioned on an acceptable supervision plan, shall not be awarded such credits, until such a plan is accepted by the ACPB.

(g) If a prisoner is approved for MSR, the ACPB shall promptly transmit by electronic means the DD Form 2716-1 (Department of Defense Certificate of Supervised Release). The ACPB may impose any additional reasonable supervision conditions to the supervision plan that, in the judgment of the ACPB, would further a released prisoner's orderly and successful transition to civilian life, or which would better protect the communities into which prisoners are released. The MCF shall notify the prisoner of the approval for supervised release and all applicable conditions and coordinate the supervision plan with the appropriate U.S. Probation Office for review by the supervising USPO. The prisoner shall acknowledge receipt in writing of the provisions of the terms and conditions of supervision and any modifications. The ACPB will assist the MCF, if needed, with coordination of the prisoner's supervision plan with the respective USPO. At their discretion or upon the request of the supervising USPO, the ACPB Chairperson may modify any terms or conditions of supervision, initiate, or cancel warrants. The ACPB may terminate supervision entirely.

(h) If the USPO has not approved the supervision plan 30 days before the prisoner's MRD, the MCF commander or designated representative shall notify the ACPB. The ACPB shall work with the USPO to resolve supervision issues (for example, the lack of approval). If through no fault of the prisoner, a supervision plan has not been reviewed or a prisoner is unable to provide an acceptable supervision plan to either the ACPB or the USPO, the prisoner shall not be held past the prisoner's projected MRD. The ACPB shall determine, not later than 10 days before the prisoner's MRD, whether the failure to provide an acceptable plan was at the fault of the prisoner. The ACPB shall promptly notify the MCF of its decision telephonically and electronically.

(i) If the ACPB determines a prisoner was at fault in not providing an acceptable supervision plan, the prisoner may appeal that decision within 30 calendar days of notification of the Board's decision. The DASA (RB) shall make the final decision on the appeal. The prisoner shall submit his/her appeal through the MCF commander. The MCF commander shall review the appeal, provide a recommended disposition and rationale, and forward the appeal to the ACPB for referral to the DASA (RB). The ACPB shall promptly process the appeal and forward it to the DASA (RB) for decision. The ACPB shall promptly notify the MCF of the appeal decision telephonically and electronically.

(j) After the supervisee has been released from the MCF, the ACPB shall maintain a supervision file and perform all assigned administrative responsibilities pertaining to the management of the supervisee. The ACPB is responsible for coordinating directly with the supervising USPO any modifications to the supervision plan, release conditions, and violations of the conditions of supervision. The ACPB shall notify the MCF to promptly forward the prisoner case file to the ACPB when necessary. The ACPB shall provide copies of any decisional documents pertaining to any modifications to the supervision plan, release conditions, and violations of the conditions of supervision to the MCF for inclusion in the

prisoner's file. The ACPB shall coordinate and receive clemency review matters from the supervisee and the supervising USPO for all clemency reviews. The ACPB shall coordinate with the MCF for V/W notification.

(k) The ACPB, may at its discretion, request additional assistance from MCFs and shall be available, if needed, to provide additional assistance to MCFs in carrying out the responsibilities of MSR.

### **3–3. Clemency, parole, and mandatory supervised release considerations**

*a. Criteria.* When considering a case, the ACPB will consider each case on its own merits and when applicable should consider the criteria listed in subparagraphs (1) through (6), below. The ACPB shall refrain from developing independent conclusions as to guilt or innocence and shall accept the findings of the Courts-Martial as approved or affirmed as final. Determination of the relevance and weight to be accorded any factor is within the broad discretion of the ACPB. In addition, the ACPB may use risk assessment tools and/or other evaluation guidelines when considering prisoners for parole suitability. These guidelines are not legal or regulatory mandates and the ACPB is not bound by them. These guidelines are established to help identify and recognize good institutional adjustment, program progress, and suitability for commu-nity release.

(1) The ACPB should consider the nature and circumstances of the offense to determine whether a favorable board action would depreciate the seriousness of the offense or promote disrespect for the law. In that regard, the ACPB may consider any of the following:

(a) The effect its decision may have on the deterrence of the offender and others from committing other or similar crimes.

(b) The protection and welfare of society.

(c) The need for good order and discipline within the Army.

(d) The rehabilitation of the offender.

(e) The extent and nature of any violence, or the potential for violence, associated with the offense.

(f) If a weapon was involved, the type of weapon and how it was used.

(g) The physical, financial, social, psychological, and emotional harm done to, or loss suffered by, any victim of the offense.

(h) The motive of the offender.

(i) Whether the offender received any gain from the offense.

(j) The extent of the offender's participation in the offense.

(k) The criminal or administrative disposition of any co-accused and the degree of that co-accused's complicity in the offense.

(l) Whether the offender committed other or similar offenses.

(m) Any provided impact from the community regarding potential release.

(n) Previous ACPB hearing recommendation/discussion.

(2) The ACPB should consider the individual's civilian history and the quality of the prisoner's prior military service when considering a case. The ACPB may give whatever weight it deems appropriate to any of the following:

(a) Prior honorable discharges.

(b) Combat service.

(c) Awards and decorations.

(d) Favorable personnel actions.

(e) Prior criminal activity or evidence of misconduct. The ACPB should consider, in determining the probative value of prior criminal activity or evidence of misconduct, the nature and circumstances of the prior act and the lapse of time between the act and the current offense(s).

(3) The ACPB should review the prisoner's conduct and disciplinary record in confinement to determine whether the prisoner has achieved the degree of rehabilitation necessary to warrant clemency or parole. Prisoners are expected to comply with all institutional rules and to participate meaningfully in available correctional treatment programs. Relevant to this review are the following:

(a) Comments by institution counselors.

(b) Reports of institution boards.

(c) Evaluations by institution staff.

(d) Evidence of enrollment in or completion of available education, vocational, and correctional treatment programs.

(4) The ACPB should consider the following personal characteristics of the prisoner:

(a) The prisoner's age, education, experience, psychological profile, medical condition, and marital and family status.

(b) The prisoner's need for specialized treatment.

(c) Whether the prisoner has recognized the wrongfulness of his/her confining offense, shown genuine remorse, achieved a sense of purpose, demonstrated a desire for self-improvement, or exhibited self-discipline.

(5) The ACPB will consider the prisoner's release plan before granting parole. Prisoners eligible for parole will submit a comprehensive, detailed, and fully documented parole plan. Prisoners must agree to abide by the parole plan before their parole release. A parole plan should be tailored to motivate the prisoner for continued socialization. The parole plan will include, at a minimum, the following:

(a) A residence requirement stating where and with whom a parolee will live.

(b) Except in the case of a medically disabled prisoner, a requirement that the prisoner have an offer of guaranteed employment, an offer of effective assistance to obtain employment, or acceptance in a bona fide educational or vocational program.

(c) If prisoners owe restitution or have an unpaid fine, a requirement that the prisoner have a detailed plan for making payments toward restitution and/or a fine. The plan should include the name of victims, if possible, and the amount and method of payment installments.

(d) A signed agreement by the prisoner that the prisoner will abide by the parole plan and the conditions of parole.

(e) The ACPB should also consider, impose, add, or subsequently modify any conditions of parole deemed reasonable and appropriate. These may include a requirement to begin or continue treatment for any counseling or health issue and the payment of restitution or the payment of a fine ordered executed as part of the prisoner's approved sentence.

(6) The ACPB shall consider matters submitted by victims or their representatives who have indicated a desire to be notified. The victim, the victim's family members or the victim's representatives may submit matters in writing, in person, by audio tape, video tape or by a combination of all methods for consideration by the ACPB.

*b. Restoration to duty or reenlistment.* The ACPB may recommend the restoration to duty or reenlistment of a prisoner or supervisee who demonstrates potential for further military service.

(1) In selecting an individual for restoration to duty or reenlistment, consideration may be given to the following:

(a) The individual's motivation for future honorable service.

(b) The individual's ability to perform military duties in a creditable manner.

(c) The individual's mental and physical fitness for continued service.

(d) The impact of the individual's restoration to duty or reenlistment on the morale, good order, and discipline of the Army.

(2) The ACPB may recommend that the individual be required to successfully complete a restoration to duty training program as a condition for restoration to duty or reenlistment. An individual is afforded no right by this regulation to participate in any particular restoration to duty training program. Moreover, the needs of the Service govern restoration to duty and reenlistment programs, not the desires of individual prisoners. A prisoner or supervisee who is not selected for such a program may not appeal or otherwise contest non-selection. Neither restoration to duty nor reenlistment affects any aspect of an approved unsuspended sentence, including the character of any unsuspended discharge.

*c. Written application for special consideration.* In addition to considerations for clemency otherwise required, written application for a special clemency consideration that sets forth a basis for the application and contains sufficient grounds for further clemency consideration may be made by the prisoner or on behalf of a prisoner at any time. If the facility commander deems the application worthy, the facility disposition board prior to the next regulatory date of consideration will hear the application. Prisoners confined in Federal penal or correctional institutions may request special clemency considerations through the warden of the confining institution to the Commandant, United States Disciplinary Barracks, who will, if the request is deemed appropriate, forward Federal recommendations with the prisoner's case file to the ACPB. If a special consideration requested by a prisoner is approved and a board held, a new annual review date will be established as of the date of the special consideration.

*d. Other special reviews may occur.* Facility and ACPB initiated special consideration include:

(1) The MCF commander confining a prisoner with an unsuspended sentence to confinement of 10 years or more, may recommend the ACPB review the prisoner for clemency due to extraordinary reasons before the prisoner would otherwise be eligible for an initial clemency review.

(2) Due to extraordinary reasons the ACPB Chairperson may direct an initial clemency review of a prisoner before the prisoner would otherwise be eligible for an initial clemency review. In such a case, the Chairperson shall notify the facility to make appropriate V/W notifications and to initiate a review of the prisoner, and to provide to the ACPB, the MCF staff's and commander's recommendations concerning the clemency request before the ACPB reviews the prisoner for clemency.

## **Chapter 4**

### **Clemency, Parole, and Mandatory Supervised Release Review Guidance**

#### **4-1. Facility general procedures**

##### *a. Notifications.*

(1) Prisoners will be notified in writing of their first eligibility date to be considered for clemency and parole within 90 days after prisoners are first received in the MCF or receipt of the convening authority action by facility staff. Prisoners will be notified of MSR during reception. Prisoners will acknowledge in writing with their signature and date that they received this notification.

(2) All prisoners will be briefed and clearly explained parole, clemency, and MSR procedures during the admission process to the facility. Prisoners will be provided timely assistance from facility supervision analysts to help prisoners understand clemency, parole, and MSR procedures, prepare adequate parole and MSR plans, prepare for their personal appearances before facility boards and their representatives personal appearances before the ACPB. Timely assistance will also be provided to prisoners in filing appeals of parole denials. Prisoners will acknowledge in writing with their signature and date that they received this assistance. Prisoners who require a translator (for example, American Sign Language) will be afforded such and informed that alternate avenues for communication are available.

(3) The facility V/W coordinator will ensure that victims/witnesses are notified of their right to personal appearance before the ACPB, or to submit matters in writing or by audio/video tape. Facilities shall notify victims and witnesses that the ACPB will conduct annual clemency and parole reviews, and will provide the month of the anticipated annual review. Victims/witnesses may provide V/W impact statements.

*b. Facility Boards.*

(1) Facility disposition boards are held at the prisoner's MCF, and are conducted by facility staff as an extension of the ACPB.

(2) The facilities will conduct the local disposition boards in time to have the case to ACPB for a full review at a minimum 30 days prior to his/her parole eligibility date.

(3) Prisoners will be notified in writing 14 days in advance of the disposition board and provided information regarding the subject and purpose of the hearing.

(4) Disposition board will be conducted with careful attention to the prisoner and with ample opportunity for the expression of his/her views.

(5) The prisoner will be present at the disposition board unless he or she elects not to attend, which is documented in writing with the reason the prisoner is not present. Whether or not the prisoner is present at the disposition board, he or she may always submit a letter for the disposition board and supporting documentation. If the prisoner is not present the disposition board will continue as normal.

(6) Disposition board hearing results are electronically forwarded to the ACPB through the Centralized Operations Police Suite (COPS) or in rare cases by paper copies by MCFs not using COPS.

#### **4-2. Army Clemency and Parole Board general procedures**

*a. Impartial vote basis.* The ACPB will review each case on an individual and impartial basis. Prior to the board hearing, all board members will have reviewed the case. Recommendations and determinations will be made by a majority vote. At the discretion of any member of the ACPB, a minority opinion may be included with its decision and/or recommendation.

*b. Analyst review.* Prior to the presentation of a case to the ACPB, an ACPB case analyst will conduct an independent evaluation of the case. The case analyst will make a recommendation to the ACPB, using the appropriate electronic (paperless) format. In making a risk assessment, the analyst attempts to identify factors associated with the criminal offense(s) which led to the individual's incarceration, and then considers whether those factors have been addressed through a combination of: a period of incarceration, treatment, natural maturation, training, education, reintegration programming, and/or other positive pro-social influences.

*c. Appearance before the Army Clemency and Parole Board.* The ACPB proceedings are non-adversarial. No current or former prisoner being considered by the ACPB is authorized to make a personal appearance before the Board. Others, including family members, friends, or professional associates, or attorneys who are designated in writing by the prisoner, may, at no expense to the Government, appear on behalf of an individual being considered for clemency or parole. In addition to personal appearances made on behalf of the individual being considered by the Board, victims, victim's families, and representatives may also appear, at no expense to the Government, to present information concerning the impact of the offense(s) on the victim or the victim's family. The ACPB retains absolute authority to determine who may be permitted to appear, to limit the time of any presentation before the ACPB, and to ensure the orderly nature of the proceedings.

*d. Notification and privacy rights.* The ACPB Chairperson and staff may discuss clemency, parole, or MSR cases with the following individuals consistent with the privacy rights of the individual and victim(s) whose case is being considered by the Board:

- (1) The individual whose case is being considered by the Board.
- (2) The individual's family, next of kin, or authorized representative.

(3) The victim, victim's family, next of kin, or authorized representative. DODI 1030.2 requires notice to victims and witnesses, who so request, whenever there is any change in prisoner status. Changes in status that may require such notification include clemency that results in early release, parole, or other release from confinement, including restoration to duty. MCF commanders will ensure that victims are notified of their right to make a personal appearance before the ACPB, or to submit matters in writing or by audio/video tape by coordinated electronic means.

(4) Any person having a need to know in the performance of his/her official duties or having information required by the ACPB.

*e. Documentation and information required.* ACPB can request prompt and full information from courts, probation offices, facilities, and other agencies. Accurate and complete information is essential to rendering sound and proper clemency and parole decisions. The following documentation (or its computer-generated equivalent) and information shall be made available to the ACPB when considering applicant requests for clemency or parole.

(1) A statement from the MCF Victim Witness Coordinator (VWC). The statement shall be sent with all cases whether or not there are any V/W statements in the case. The statement will annotate if V/W are enrolled, if they have been contacted, and if V/W statements are attached. If the victim declines to make a statement or cannot be located, the commander will include a statement in the clemency and parole packet explaining why a victim impact statement is not included. If parole and clemency are later approved, the victim/witness will be notified prior to the prisoner's release. Telephonic notification will be followed by written confirmation. In cases of espionage, the U.S. Government will be considered the victim, and victim notification will be provided the appropriate service through DA Office of the Provost Marshal General (OPMG).

(2) For parole cases, an ACPB analyst's recommendation. The recommendation shall include at a minimum—

(a) Complete risk factor instrument and complete assessment of information on all Discipline and Adjustment Board convictions or other discipline problems the prisoner has had while in confinement.

(b) Confirmation and documentation of the prisoner's parole plan pertaining to residence, employment, and where applicable, restitution to victims or payment of any fine.

(c) Recommendations of the ACPB analyst concerning prisoner requests and justification for recommendations.

(d) Information concerning the prisoner's progress in treatment, custody, or other institutional progress (supervision analyst may refer to other submitted reports from counselors or other staff pertaining to these areas).

(e) Any additional information concerning aggravating or mitigating factors that may impact decisions pertaining to the prisoner's requests.

(3) A copy of the original general court-martial order (GCMO), a copy of original convening authority action, copies of any appellate court actions, copies of any rehearing or sentence modifications, copies of any corrections to GCMOs or other sentencing documents, copies of any additional or subsequent court-martials, convening authority actions, for example.

(4) DD Form 2715-2 (Prisoner's Summary Data).

(5) DD Form 2719 (Correctional Facility Continuation Sheet).

(6) DD Form 2715-1 (Disposition Board Recommendation).

(7) DD Form 2715-3.

(8) Correspondence received or sent by the ACPB concerning the case.

(9) Statements presented by the individual detailing any preferences concerning reenlistment or restoration to duty, clemency, parole, and MSR.

(10) Any other relevant data including, but not limited to the following:

(a) Pertinent extracts from the prisoner's correctional treatment file.

(b) Medical, psychological, or psychiatric reports.

(c) Stipulation of fact or summarized record of trial or record of trial (one of the three in order).

(d) Analyses and recommendations of MCF disposition boards and command and staff personnel.

(e) Matters submitted by or on behalf of the individual being considered.

*f. Elimination of discrimination.* The ACPB will not consider the individual's race, age, color, religion, gender, sexual orientation, or national origin as a factor in determining the appropriateness of clemency, parole, or MSR.

### **4-3. Clemency and parole actions**

*a. Clemency.* The ACPB's favorable clemency recommendations are subject to final approval by the DASA (RB). The ACPB Chairperson signs the board decision when there is a majority vote to deny clemency.

(1) When the ACPB recommends an individual for restoration to duty or reenlistment, the ACPB will also recommend whether that individual should attend an appropriate course of military training or instruction prior to that individual's restoration to duty or reenlistment.

(2) When the ACPB recommends an individual for reenlistment or restoration to duty, the ACPB will also recommend the pay grade at which the individual should be reenlisted or restored to duty.

(3) The ACPB Chairperson is the authentication authority for clemency denial decisions by the ACPB. Action by the ACPB Chairperson does not limit petitions under Article 74, UCMJ.

(4) The DASA (RB) or ACPB Chairperson will notify the individual concerned in writing of final clemency decision. The facility staff will notify the prisoner of the ACPB decision, and ensure that the prisoner signs and dates the clemency decision of the ACPB, which is not subject to appeal or reconsideration.

*b. Secretary of the Army parole authority.* The ACPB will submit cases with recommendations using the appropriate electronic (paperless) format to the SECARMY or designee for action when they are of a special nature or embody special circumstances. Included in this category are the following:

(1) Cases in which either the SECARMY or designee has indicated a personal interest.

(2) Cases involving national security matters as determined by the SECARMY or designee.

(3) Any individual whose parole may be the subject of controversy or substantial congressional or press interest as determined by either the SECARMY, designee, or the Chairperson of the ACPB.

(4) Cases in which the ACPB recommends parole for any individual convicted of any single offense for which the maximum authorized confinement as determined by the current Manual for Courts-Martial is in excess of 35 years.

*c. Parole authority of the Army Clemency Parole Board.* The ACPB is the approval authority in all parole cases except those withheld by the SECARMY and/or DASA (RB). Approval is based on a majority vote.

(1) The ACPB will make written parole determinations using DD Form 2716 (Parole Acknowledgement Letter), or its electronic or computer-generated equivalent.

(2) The ACPB will furnish the individual concerned with written notice of a final parole determination not later than 21 working days from the date the determination is made. If parole is approved, a DD Form 2716-1 or its computer-generated equivalent, signed by the ACPB Chairperson will accompany the notice. If parole is denied, the notice will state the reasons for the denial. The facility staff will ensure the prisoner is briefed on the ACPB decision, and that the prisoner signs and dates the notification of the ACPB decision.

#### **4-4. Parole denial appeal**

A prisoner who is denied parole may submit a written appeal within 60 calendar days of receipt of the written notification of the denial. New or additional material or information that was not previously considered by the ACPB should be included in the appeal.

*a. Initiation of appeal.* An appeal will be submitted through the commander of the MCF in which the prisoner is confined. The MCF commander will take the following actions:

(1) Review the appeal.

(2) Recommend an appropriate disposition and explain the basis for that recommendation.

(3) Forward the appeal to the ACPB for referral to the DASA (RB).

*b. Appeal submission instruction.* Page one of the appeal must provide a brief summary of all the grounds for appeal. Page two of the appeal must provide a statement of the facts and reasons in support of each ground identified in the summary. Continuation pages are permitted for longer appeals. Additional information may be provided in an addendum to the appeal. The ACPB and DASA (RB) may refuse to consider any appeal which does not follow this format. The appeal decision will be on the record, and notification of the decision will be provided through the facility staff. Prisoners are not permitted to submit multiple copies of their appeal, nor documents which are in the ACPB's file.

(1) Permissible grounds for appeal.

(a) The ACPB relied on erroneous information, and the facts justify a different decision.

(b) There was significant information in existence but not known to the prisoner at the time of the hearing, and a different decision would have resulted if the information had been presented.

(c) There are especially mitigating circumstances in the case which justify a different decision.

(2) Summary of grounds for appeal instructions—

(a) Provide a brief description of the error which is believed to have occurred, or the specific reason for the DASA (RB) to give you a different decision. There is no need to repeat the “ground for appeal” (from page 1) which applies. List the most important grounds for appeal first.

(b) Please present your grounds for appeal in the order in which they appear in your summary. For each ground of appeal, use the following format, first stating the facts that are relevant to deciding the ground you have identified, and then the reasons why you believe the ACPB erred and/or should make a different decision. Use continuation pages in the same format.

*c. Appeal response.* Final action on all appeals of a parole denial by the ACPB is taken by the DASA (RB), except for an offender serving an approved sentence of life with eligibility for parole that has not been reduced to a number of years.

The DASA (RB) may affirm a denial of parole in such cases, but only the President of the United States or the SECARMY may grant parole on appeal of a parole denial for an offender serving an approved sentence of confinement for life that has not been reduced to a term of years. Additionally, on those cases where the DASA (RB) denied parole, the appeal must be forwarded to the ASA (M&RA) for a final decision.

*d. Notification of action.* The DASA (RB) will furnish the individual concerned with written notice of final action on a parole appeal. If the parole appeal is approved, a DD Form 2716–1 signed by the ACPB Chairperson will accompany the notice. If the parole appeal is denied, the notice will state the reasons for the denial.

#### **4–5. Parole rescission**

When an effective date for parole has been set, release on that date is conditional upon the continued satisfactory conduct by the prisoner and upon completion of a parole plan considered to be satisfactory to the USPO. The ACPB will review any reported prisoner misconduct occurring while the prisoner is awaiting release on an approved parole. The ACPB Chairperson may temporarily delay the release of a prisoner on parole, pending recommendations from the MCF commander.

*a.* MCF commanders will provide the ACPB with a report detailing the facts and circumstances of the prisoner misconduct. The report will include any relevant report of investigation or other documents. The MCF commander will recommend an appropriate disposition of the prisoner's case.

*b.* The MCF commander will provide the prisoner with the following:

- (1) Written notice of the basis for the parole rescission proceedings.
- (2) A reasonable opportunity to present written matters in the prisoner's behalf relevant to the parole rescission proceedings.

*c.* Upon review of the MCF commander's report and recommendation, the ACPB may take the following actions:

- (1) Make no change to the original parole determination.
- (2) Rescind parole and direct the date upon which the prisoner will next be eligible for parole consideration.
- (3) Take any other appropriate parole determination action.
- (4) In cases when a prisoner has been approved for parole and subsequently declines such release, the prisoner's declination will be forwarded to the ACPB to rescind the parole.

*d.* Parole rescission actions by the ACPB are final and not subject to appeal.

*e.* The ACPB will furnish the prisoner concerned with written notice of a final parole rescission action. If parole is rescinded, the notice will state the reasons for the rescission.

#### **4–6. Supervision revocation**

A supervisee will remain on supervision provided that he or she substantially complies with the conditions of supervision. When the ACPB determines that a supervisee has violated a condition of supervision, the ACPB may act to revoke supervision.

*a. Standard.* A determination to revoke supervision will be supported by a preponderance of the evidence the supervisee has violated a condition of supervision and that the violation warrants supervision revocation. The fact a supervisee has neither committed a new criminal offense nor has been convicted of committing a new criminal offense does not preclude a decision to revoke supervision. In cases of suspension or revocation of supervision, this regulation provides no benefit or right to any prisoner whose supervision is suspended or revoked, except as explicitly set forth in this regulation. Computation of any sentence remaining to be served will be done in accordance with applicable provisions of this regulation, DOD 1325.7–M, and AR 633–30. Prisoners who have been transferred to the FBOP shall have their remaining sentences and related issues computed according to DOD 1325.7–M and AR 633–30 as applicable when supervision is suspended or revoked.

*b. Suspension of supervision.* Upon receipt of credible information that a supervisee may have violated a condition of supervision, the ACPB Chairperson may, prior to initiating further supervision revocation proceedings, determine whether supervision should be suspended pending resolution of the alleged violation and, if so, revoke the supervisee's supervision. Upon reviewing the facts and circumstances of the alleged supervision violation, the ACPB Chairperson may take the following actions:

- (1) Direct that supervision not be suspended.
- (2) Direct that supervision be suspended and that the supervisee remains released under community supervision.
- (3) Direct that supervision be suspended and that a detainer be placed against the supervisee, with the appropriate confining authority.
- (4) Direct that supervision be suspended and that the appropriate military authority return the supervisee to custody at a MCF. This action will be taken only if the ACPB Chairperson finds the supervisee is not in compliance with a condition

of supervision and either that the supervisee is a danger to the public safety, is a threat to him/herself, and/or is a risk to flee supervision.

(5) Modify the conditions of supervision upon the recommendation of the supervising USPO.

(6) Issue a letter of warning or similar document. When a letter of reprimand or warning is issued, it does not negate consideration of the identified misconduct at future preliminary or supervision violation hearings. Additionally, it does not shield that portion of time on supervision from forfeiture as a result of a future supervision revocation.

*c. Preliminary interview.* When supervision has been suspended, a preliminary interview shall be held to determine whether probable cause exists to establish that a parolee violated a condition of parole.

(1) If the supervisee absconds supervision, or pleads guilty to or is convicted of or a court takes action tantamount to a finding of guilty of an offense that is punishable by imprisonment, or if a civilian court issues a warrant for the supervisee's arrest, the supervisee's absconding, the guilty plea, the court conviction, or the civilian warrant shall suffice as probable cause and a preliminary interview may be waived by the ACPB Chairperson.

(2) Preliminary interviews shall normally be conducted by a USPO in the district where the supervisee is supervised, provided that the USPO has not previously supervised the supervisee. The ACPB Chairperson may appoint an ACPB hearing examiner or another neutral and detached official to conduct a preliminary interview.

(3) The supervisee will be provided with the following rights:

(a) At least 3 days prior to the preliminary interview, written notice of the time and place of the preliminary interview, the purpose of the interview, the supervisee's rights at the preliminary interview, and the specific supervision violation(s) charged.

(b) Disclosure of evidence and the opportunity to inspect the evidence upon which the preliminary hearing is based.

(c) An opportunity to be heard and to present evidence and favorable witnesses. Witnesses called by the supervisee will be at no expense to the Government. The supervisee may confront adverse witnesses unless the witnesses would be subjected thereby to a risk of harm.

(d) The supervisee may be represented at the preliminary interview by an attorney of choice at no expense to the Government. If the supervisee requests assistance to adequately present the case, he/she must have counsel appointed to assist. The role of an attorney or representative at a preliminary interview will be limited to the examination of witnesses, presentation of evidence, and the offering of a statement on the supervisee's behalf regarding whether supervision should be revoked. During the hearing, the supervisee's representative will not be permitted to enter objections or challenges. Objections or challenges may be submitted in writing to the hearing officer for attachment to the hearing record.

(e) Request postponement of the preliminary interview for good cause.

(4) After the hearing, the hearing examiner will immediately notify the supervisee of the recommendation and provide a written summary of the preliminary interview hearing and recommendation to the supervisee within 21 days of the hearing. A report of the preliminary interview together with a recommended disposition will be forwarded to the ACPB Chairperson or Board within 7 calendar days of the preliminary hearing.

*d. Supervision violation hearing.* The ACPB Chairperson or Board will review the preliminary interview report and any other relevant matters. If the ACPB Chairperson or Board finds that there is probable cause to believe that the supervisee violated a condition of supervision, the ACPB Chairperson or Board will direct that a supervision violation hearing be held. If the ACPB Chairperson or Board finds probable cause does not exist to believe that the supervisee violated a condition of supervision, the ACPB Chairperson or Board will return the supervisee to the original supervision status.

(1) The purpose of a supervision violation hearing is to determine whether the supervisee has violated a condition of supervision and, if so, whether supervision should be revoked.

(2) The supervision violation hearing will normally be held at or near the place of the alleged supervision violation to afford the supervisee access to witnesses and documentary evidence. Where the supervisee has been returned to a MCF or is confined by civil authorities, the supervision violation hearing may be held at the place of confinement.

(3) The ACPB Chairperson or Board Manager will appoint a hearing officer to conduct the supervision violation hearing. The hearing officer normally will be experienced in the corrections field and will be a field grade officer or a career civil service employee at or above civilian pay grade GS-12. The hearing officer will be neutral and detached.

(4) Formal rules of evidence do not apply to supervision violation hearings. The hearing officer and the ACPB may use any relevant evidence when considering a case for supervision revocation.

(5) The supervisee will be afforded the following rights:

(a) At least 10 working days before the supervision violation hearing, written notice of the time and place of the supervision violation hearing, the specific alleged violation(s) charged, the purpose of the supervision violation hearing, the evidence upon which the supervision violation hearing is based, the supervisee's rights at the supervision violation hearing, and the options available to the ACPB.

(b) Disclosure of the evidence and the opportunity to inspect the evidence upon which the supervision violation hearing is based.

(c) The supervisee may present witnesses and documentary evidence and may cross-examine adverse witnesses unless the witnesses would be subjected thereby to a risk of harm. A request for witnesses will be made five working days prior to the hearing and will be subject to the approval of the hearing officer. The hearing officer need not delay the supervision violation hearing if a requested witness declines to appear or fails to appear at the hearing. The hearing officer may limit or exclude any irrelevant or repetitious witness, statement, question, or documentary evidence. The attendance of witnesses on behalf of the supervisee is voluntary and will be at no expense to the Government.

(d) The supervisee may be represented at a supervision violation hearing by a civilian attorney or by a person of the supervisee's choice, at no expense to the Government. If requested by the supervisee, a military attorney will be detailed by the U.S. Army Trial Defense Service. The supervisee has no right to a military attorney of the supervisee's choice. The role of the supervisee's representative will be limited to the examination of witnesses, presentation of evidence, and the offering of a statement on the supervisee's behalf regarding whether supervision should be revoked. During the hearing, the supervisee's representative will not be permitted to enter objections or challenges. Objections or challenges may be submitted in writing to the hearing officer for attachment to the hearing record. For good cause, the hearing officer may deny a supervisee's choice of a non-attorney representative.

(e) Request postponement of the supervision violation hearing for good cause.

(6) The hearing officer will forward a summarized transcript of the supervision violation hearing, all documentary evidence, allied papers considered, and a recommended disposition to the ACPB Chairperson or Board within 7 calendar days of the supervision violation hearing.

(7) A supervisee may waive a preliminary interview or a supervision violation hearing or both. The ACPB at any stage of investigating an alleged supervision violation may offer the supervisee an expedited revocation procedure (ERP). The offer will summarize what the Board concluded are the facts in the case and explain—

(a) The Board believes it has the facts to determine appropriate action in the case.

(b) The general due process to which the supervisee is entitled in a preliminary inquiry or supervision violation hearing or both.

(c) The action the Board will take if the supervisee waives the due process.

(d) The waiver of the right to appeal the action of the Board if the ERP is accepted.

(e) The supervisee's consent shall not be deemed to create an enforceable agreement with respect to any action the ACPB is authorized to take by law or regulation, or to limit in any respect the normal consequences of a revocation of parole or MSR.

(f) If the supervisee does not accept the ERP, the Board will not consider that decision in making its final decision in the supervisee's case nor will the offer made in the ERP be binding on the Board.

*e. Supervision revocation determination.* The ACPB analyst will present to the ACPB, the supervision violation hearing record and the recommendation of the hearing officer, together with those matters normally considered by the ACPB in making supervision determinations. The ACPB will determine whether the supervisee violated a condition of supervision. If the ACPB determines no violation has occurred, the supervisee will be returned to the original supervision status. If the ACPB determines the supervisee has violated a condition of supervision, it may take any of the following actions:

(1) Revoke supervision.

(2) Revoke supervision and either re-parole or re-release the violator under MSR.

(3) Return the supervisee to the original supervised status, to include removal of any detainer placed against the supervisee as a result of the alleged violation.

(4) Direct that the violator be reprimanded and that a record of the reprimand be placed in the violator's records.

(5) Modify the original conditions of supervision.

(6) Revoke supervision solely upon a determination that a supervisee has violated a condition of supervision by a failure to pay a fine or restitution, only if it finds subparagraph (a) or (b), below exists, except as provided for in (c)—

(a) The supervisee has willfully refused to pay the fine or restitution when the supervisee has sufficient resources to pay.

(b) The supervisee has failed to make a sufficient bona fide effort to obtain employment, borrow money, or legally acquire sufficient funds with which to pay the fine or restitution.

(c) If the supervisee cannot pay the fine or restitution, despite sufficient bona fide efforts to do so, supervision may only be revoked if no alternative disposition exists that will adequately serve the need for good order and discipline within the Army and the correctional treatment of the supervisee.

(7) Supervision revocation actions by the ACPB are final and not subject to appeal.

(8) The ACPB will furnish the supervisee with written notice of a final supervision revocation action within 21 calendar days of the decision. If supervision is revoked, the notice will state the reasons for the revocation.

*f. Credit for service of sentence on supervision.* An individual whose supervision is revoked will receive credit for time spent on supervision except as follows:

(1) If, after being released on supervision, the supervisee commits and pleads guilty to, is convicted of, or a court takes action tantamount to a finding of guilty to a new offense that is punishable by a term of imprisonment, the ACPB may order the forfeiture of the time from the date after release to the date of suspension, revocation, or return to custody to serve the military sentence. To support sentence computation the ACPB shall provide the MCF commander in writing with the inclusive dates of credit. Such forfeited time shall not be credited to service of the sentence. An actual term of confinement need not have been imposed for such conviction if the statute under which the supervisee pleads guilty to, is convicted of, or a court takes action tantamount to a finding of guilty to a new offense permits the trial court to impose any term of confinement. If such plea, finding, action, or conviction occurs subsequent to a supervision violation hearing, the ACPB may reconsider the forfeiture of time served on supervision or other disposition, as appropriate.

(2) If the ACPB finds that a supervisee refused or failed to respond to any reasonable request, order, or summons of the ACPB or any agent thereof, including the assigned USPO, or if the ACPB finds that the supervisee was not in compliance with the conditions of supervision, the ACPB may order the forfeiture of time from date of the refusal, failure, or violation to the date of revocation or return to custody to serve the military sentence. The length of time between release on supervision and the refusal, failure, or violation, and the nature and seriousness of the misconduct shall be considered in determining whether a supervisee was ever in compliance with the supervision conditions.

(3) Computation of any sentence to be served shall be done in accordance with DOD 1325.7–M (reference (e)) for prisoners adjudged on or after 27 July 2004 and AR 633–30 for prisoners adjudged prior to 27 July 2004. Prisoners who have been transferred to the FBOP, however, shall have their remaining sentences and related issues computed according to the FBOP and U.S. Parole Commission or military regulations (as applicable) when parole or MSR is suspended or revoked.

*g. Sentence notifications.* After a revocation hearing, the correctional facility shall immediately inform the prisoner of the next tentative release date. When a court-martial is pending or outstanding sentences to be served prevent the setting of a tentative release date the correctional facility will advise the prisoner of the tentative date. In all cases when the tentative release date is greater than 1 year after the revocation hearing a tentative review hearing will be established and the prisoner will be advised of this date. The signed notification will be placed in the prisoner's CTF and attached in the ARBA module of COPS.

#### **4–7. Announcement of clemency actions**

*a.* To preclude possible irregularities in departmental documents announcing clemency actions (that is, reduction, remission, or suspension of sentences, or mitigation or suspension of discharge) each document received will be scrutinized to determine its authenticity. Any apparent irregularity will be reported to the appropriate court-martial convening authority or the ACPB for advice prior to taking action on the document(s) therein.

*b.* A prisoner will be promptly notified of clemency action taken.

*c.* With the exception of return to military service, a clemency action affecting a sentence imposed by court-martial announced in a departmental directive becomes effective when delivered to the prisoner concerned. The SECARMY approval of restoration is implemented through the completion of the following actions, all of which are contingent upon the other.

(1) The unexecuted portion of the sentence to confinement is remitted.

(2) Simultaneously, the individual completes the enlistment process to include the enlistment oath. Because restoration to duty is a voluntary action, the individual may elect to withdraw the request any time prior to completion of the enlistment process. In that event, remission of the sentence to confinement will not become effective, but the prisoner will be eligible immediately to submit a request for clemency in the form of parole per this regulation. Once implemented, a clemency action may not be revoked unless it is determined that the original action was in error or upon reconsideration by the Secretary per subparagraph c, above.

## **Chapter 5 Parole of Prisoners**

### **5–1. Policy**

Army prisoners will be released from confinement at the times and under the conditions most likely to ensure their earliest assumption of responsibilities as productive law-abiding citizens.

### **5–2. Procedures**

Policy and procedural guidance for parole of U.S. Army prisoners is contained in this regulation. MCF commanders will convene disposition boards to evaluate and make recommendations regarding prisoners confined in Army facilities, per

criteria established by the ACPB. Disposition boards will refer to the considerations in this regulation when evaluating ACS prisoners for parole consideration.

### **5–3. Jurisdiction**

*a.* A prisoner on parole will remain under the legal supervision and control of the releasing facility and a local USPO assigned by the Probation Division of the U.S. Courts, until the expiration of the full term or aggregate terms of the sentence without credit for abatement.

*b.* The U.S. Parole Commission, Department of Justice, has exclusive jurisdiction over Army prisoners confined in Federal penal and correction institutions on matters concerning parole.

*c.* Prisoners from an ACS facility who have parole approved will remain under the releasing facility's administrative control at the time of release on parole, unless otherwise directed.

### **5–4. Preliminary parole consideration**

Each eligible prisoner will execute a DD Form 2715–3 indicating whether parole is desired.

*a.* In cases of prisoners who do not desire parole, only sections I, II, and III, blocks 13, 14, and 17 through 21 of the form will be completed. If the prisoner is unable or refuses to sign the parole statement, it will be forwarded with an appropriate explanation.

*b.* Each prisoner desiring parole will complete all sections of the form and submit it to the commander or designated representative at least 5 days, but not earlier than 45 days, prior to local parole consideration. The prisoner will be provided necessary assistance in developing a satisfactory tentative parole plan and will be encouraged to take the initiative in developing a parole plan. The prisoner will agree in writing to abide by that plan. Officials of the Federal Probation Service will not be requested to establish or verify any element of the prisoner's tentative parole plan prior to parole approval.

*c.* Processing of requests for parole will not be discontinued or delayed because of inability to develop a satisfactory parole plan. In such instances, the tentative parole plan representing the best efforts of the prisoner and the correctional facility staff will be used in-processing the prisoner's requests.

### **5–5. Disposition board action**

*a. Request for parole.* Normally, requests for parole will be considered by the disposition board and forwarded to the ACPB to arrive not later than 30 days prior to the prisoner's parole eligibility date. Requests for parole, clemency, and/or restoration may be considered as much as 120 days in advance of eligibility date when such action will permit concurrent consideration based on the initial review clemency eligibility dates and parole eligibility dates. At no time will a review be adjusted within this 120-day window that would cause either consideration to occur later than the earliest of the two review dates. Requests for parole will be accompanied by documentation described in chapter 4 above, to include a Victim Impact Statement if appropriate.

*b. Institutional action.*

(1) The disposition board will consider each parole applicant on an individual basis in consonance with the policy and objectives of parole, as specified in this regulation and AR 190–47. The board's recommendations for or against parole will include a statement determining whether the policy and objectives of parole will be accomplished by release on a specific date.

(2) Prior to convening the disposition board, the facility commander or designated representative will advise appropriate victims and witnesses of the parole consideration and inform the victims/witnesses of the address to which impact statements may be forwarded.

(3) Prisoners under consideration for parole must acknowledge in writing that they will comply with state violent or sexual offender reporting or registration requirements. Similarly, candidates for parole should demonstrate compliance with court-ordered dependent support or restitution to victims or have made arrangements to the courts' satisfaction.

(4) The MCF commander or a designee will review the disposition board's recommendation to ensure the policy and objectives of parole have been considered in the evaluation and recommendation. Whenever the MCF commander's parole recommendations differ from those of the Disposition Board, the reasons shall be stated.

*c. Action prior to dispatch.* The following matters will be considered carefully in preparing material and forwarding recommendations for final action:

(1) Special precaution should be taken to not place the Army in a position of approving or condoning illegal or immoral relationships in the proposed community of residence. Particular care will be taken to ensure that information submitted concerning the prisoner's marital status is both clear and adequate.

(2) In cases where parole is recommended because of family hardship, the progress summary will include, wherever practical, verification of the following:

- (a) The amount and source of income or assistance being received by dependents, including salaries, public assistance grants, or contributions by relatives and others, and whether this income is sufficient to meet the family needs.
- (b) Immediate relatives who are able to assist dependents.
- (c) Extent to which the prisoner contributed to family welfare prior to entrance into service, while in service, and during absence from service.
- (d) Whether the family conditions were aggravated by the prisoner since coming into service, or whether the present hardship has been created by circumstances surrounding the family.
- (e) Ensure the prisoner has employment or has assistance in obtaining employment.

#### **5–6. Organization actions**

*a.* The ACPB will approve or disapprove Army parole applications submitted to that board, using the COPS ARBA module to record its determinations.

(1) Announcement of parole will include authenticated copies of a DD Form 2716–1.

(2) Prisoners who are denied parole will be provided written notification of the reason(s) their request was denied. The ACPB will make notification to the prisoner through the ACS facility commander within 30 days of the board's decision.

*b.* Using DD Form 2716, the commander will ensure that prisoners are informed of the denial and given the opportunity to appeal the decision. The prisoner will sign and date the notification of parole denial, in memorandum format, upon receipt.

*c.* Release on parole is conditioned upon approved parole and completion of a parole plan considered to be satisfactory to the USPO.

*d.* Misconduct subsequent to receipt of parole approval may delay or preclude release on parole. The MCF commander may, with the approval of the ACPB or the ASA (M&RA), delay the normally scheduled parole release date and may recommend to the ACPB that the parole approval be rescinded in the event of a major violation of institutional rules.

*e.* It is the policy of the ACPB to permit supervision officers (USPOs) to respond to minor technical violations committed by supervisees at their discretion in accordance with the policy of the U.S. Probation Office. Serious violations, patterns of noncompliance, law violations, and violations which endanger public safety and welfare are to be reported to the ACPB.

#### **5–7. Appeal of parole disapproval**

*a.* A prisoner whose application for parole has been denied may submit an appeal through the ACS facility commander, within 60 calendar days of receipt of written notification of the denial. New or additional material information, which was not previously considered, should be included in the appeal. An appeal must specify, and evidence support one or more of the following reasons:

(1) The decision violated proper procedure, was based on an error of law, or was inconsistent with a lawful purpose.

(2) The decision was based on erroneous information and the facts justify a different decision.

(3) One or more of the members of the parole board relied on incorrect or irrelevant information in making the decision, as demonstrated in the record and a different decision would have resulted if the error had not occurred.

(4) There was significant relevant information in existence, but not known to the parole hearing panel at the time of the hearing.

*b.* The SECARMY or a designee will inform the prisoner of the action on the appeal. Decisions of the Secretary will be final.

#### **5–8. Completion of parole plan**

On receipt of notification that parole has been approved, and prior to release, the U.S. Probation Office will be requested to establish the validity of the residence arrangement, employment, and other elements of the tentative parole plan. The USPO will be promptly furnished complete information concerning the proposed parole plan, including proposed residence, proposed employment, the names and addresses of close relatives, and admission and progress summaries.

#### **5–9. Employment requirements**

Unless a waiver is granted for cogent reasons, no prisoner will be released on parole until satisfactory evidence has been furnished that the prisoner will be engaged in a reputable business or occupation. Employment requirements for release on parole will be deemed to have been met when one of the following applies:

*a.* A prospective employer has executed a letter offering employment, an offer of effective assistance to obtain employment, guaranteed employment, or acceptance in a valid educational or vocational program, and, if applicable, a restitution plan.

*b.* A recognized trade union or similar organization has provided documentation that, subsequent to release on parole, the prisoner will be considered a member of the organization in good standing and that, through the normal functions of the organization, the prisoner will be afforded employment rights and assistance equal to that furnished other members in good standing.

*c.* A USPO has given assurance that a job has been secured for the prisoner.

#### **5–10. Waiver of employment**

*a.* Prior to furnishing employment agencies information from a prisoner's record, the written authorization of the prisoner will be obtained. If, after parole approval, every effort to obtain employment has been made without success, the MCF commander with the approval of the ACPB or DASA (RB), may grant a waiver of employment in accordance with the following:

(1) If a reputable prisoners' aid, welfare, or employment organization has given assurance that it will assist the prisoner in getting employment after release on parole and will assure the prisoner's livelihood pending permanent employment, a waiver may be granted. Because of the heavy burden already carried by prisoners' aid organizations and similar agencies, the use of these agencies will be limited to those cases in which such action appears absolutely essential to a suitable release plan.

(2) State and/or local agencies may be considered in granting waivers of employment since these agencies are unable to obtain and offer assurance of employment for individuals prior to release from confinement and personal interview. The use of these agencies will be limited to the following conditions:

*(a)* When known factors, such as the qualifications and experience of the individual, demonstrated placement ability of these agencies, and employment opportunities in the community, give reasonable assurance that employment will be available to the prisoner following release.

*(b)* When an adequate means of support is available for the prisoner until suitable employment is obtained.

*(c)* When an officer of the probation service concurs with the release without the promise of employment and agrees to furnish necessary assistance in obtaining employment.

*b.* In addition to the types of waivers authorized in paragraph *a* above, a waiver of employment may be granted for those prisoners who present evidence of adequate means of support and sufficient funds to defray the expense of education, and have been accepted by an accredited educational institution.

#### **5–11. Supervision of prisoners on parole**

Individuals released on parole (parolees) are under the direct supervision of Federal probation officers.

#### **5–12. Clemency considerations**

*a.* Parolees are eligible for and will continue to receive clemency consideration on the established annual review date. The ACPB will obtain a report of a parolee's adjustment and the supervisee's request on DD Form 2715–3 from the USPO concerned. This information will be included in the recommendations submitted to the ACPB for clemency consideration by the SECARMY. The USPO will furnish recommendations relative to restoration to duty if the parolee personally submits an application for restoration to duty.

*b.* The date of the parolee's next annual clemency review will appear on all correspondence concerning clemency and parole from the ACS facility to the probation officer, subsequent to the prisoner's release on parole.

#### **5–13. Change in status**

*a.* If the sentence to confinement of a parolee expires prior to completion of appellate review, the facility commander will—

(1) Transfer the prisoner to an excess leave without pay status. A DA Form 31 (Request and Authority for Leave) is required to grant excess leave.

(2) Furnish the individual information and instructions regarding the change in status, the address of the military commander of the unit to which assigned, and other information that clearly establishes the status change and obligation.

*b.* If, on completion of the appellate review, the parolee's sentence is ordered executed, the Personnel Control Facility (PCF) commander will—

(1) Obtain a medical examination or separation physical assessment for Soldiers separated according to discharge type as prescribed in AR 40–501, if required.

(2) Process separation document, DD Form 214 (Certificate of Release or Discharge from Active Duty).

(3) Furnish the individual instructions regarding the appellate action and request the return of identification cards that were furnished for use pending completion of the review of the case.

## **5-14. Termination of parole or mandatory supervised release**

### *a. Expiration.*

(1) Parole or MSR will terminate at expiration of sentence. If a discharge has been executed and the parolee has complied with the conditions of parole, the parolee will be discharged from supervision when the full term of the sentence(s) is completed.

(2) When the sentence expires before completion of appellate review, the PCF commander will assume supervision and the pre-completed DD Form 2717 (Department of Defense Voluntary/Involuntary Appellate Leave Action) is activated.

(3) On completion of the aforementioned actions, a Certificate of Release from Parole or MSR will be prepared in duplicate. The original copy, signed by the Chairperson, ACPB, will be forwarded to the probation officer for delivery to the supervisee. The duplicate copy of the certificate will be retained for file and a digital copy forwarded to the MCF from which the supervisee was originally paroled.

### *b. Suspension.*

(1) When departmental authorization for assignment of a parolee to a military retraining course for ultimate restoration to duty is received, the Chairperson, ACPB, is authorized to suspend parole without prejudice returning the parolee to military custody for necessary training and further consideration for qualifications for restoration to duty. (Transportation costs incident to return to military custody under these conditions will be borne by the Government).

(2) Whenever it appears reasonably certain the conditions of parole or MSR have been violated (including failure to pay a fine ordered into execution while the parolee is under supervision), the ACS facility commander will transmit by the most expeditious means information concerning the alleged violation and personal recommendations concerning suspension of parole to the ASA (M&RA), ACPB, for a determination as to whether suspension of parole should be authorized. If it is determined that parole should be suspended, and if it is deemed necessary to assure the presence of the parolee pending determination of the parolee's status, on receipt of such authority, the Chairperson, ACPB, will sign a warrant to have the violator taken into custody. The Chief, U.S. Army Deserter Information Point (USADIP) verifies information on the DD Form 553-1, enters the Soldier's name into the National Crime Information Center (NCIC), and forwards a copy of the DD Form 553-1 to all Federal, State, and local law enforcement agencies that may be involved in the apprehension process. DAPM will be notified and Army Corrections Command in coordination with ACPB will determine the facility which the violator will be returned to. DAPM and Command Provost Marshal Office, Headquarters (HQ), IMCOM will execute all necessary liaison and coordination with military and civilian authorities within their geographic area of responsibility for further action and disposition to return the violator to military control at a designated correctional facility.

*c. Additional administrative actions.* Subsequent administrative actions to adjudicate an alleged violation of parole will be conducted per this regulation. Computation of sentence remaining to be served will be computed under DODI 1325.7-M, and AR 633-30. This also applies to Army prisoners who have been transferred to the Federal Bureau of Prisons.

### *d. Revocation of parole.*

(1) ACPB decision regarding parole revocation actions will be transmitted by the most expeditious means to the commanders of ACS facilities, who will notify the prisoner(s) if returned to military custody or the parolee through the probation officer concerned if not returned to military control.

(a) If parole is revoked and the parolee is confined in a civil institution, a detainer will be lodged by specific Provost Marshal Office/Directorate of Emergency Services (DES) having geographic reporting responsibility with civil authorities. If the parolee has remained at large in the district of violation pending decision on revocation, the ACPB, will initiate action to have the parolee return to the custody of the Army at Government expense.

(b) If a flash notice, filed per AR 190-47, is to be canceled because of parole termination by clemency action or revocation prior to the original date of expiration, the applicable portion of the FBI Form I-12 will be completed and forwarded directly to the Department of Justice, FBI.

(2) Personnel records and allied papers of Army parolees confined in civil institutions following revocation of parole, or of parolees whose whereabouts remain unknown for 90 days after suspension of parole, along with correctional facility treatment records will be retained at the MCF in accordance with applicable records holding policy.

(3) A parolee who has violated the parole agreement to the extent that the parolee's activities can no longer be monitored or controlled by the assigned parole officer is termed a parolee at large. Parolees in this category whose paroles have been suspended or revoked, or are pending such action, except where suspension is without prejudice, will be considered the same as escaped military prisoners whose return to military control is desired. When individuals in this category are apprehended, DAPM will be notified and disposition instructions requested.

(4) In posting the FBI Form I-12 "Wanted" notice on a parolee whose apprehension or location is desired, a check should be inserted in the first box, "Wanted for." The reason for posting the notice should be given, such as "Wanted for" alleged parole violation. Filing an FBI Form I-12 "Wanted" notice does not mean the FBI will initiate the arrest of a wanted parolee; the FBI will merely notify DAPM of arrests coming to the attention of the FBI's Identification Division.

When the parolee has been apprehended, the “Wanted” notice will be canceled in the same manner indicated in paragraph 5–15*d* below.

### **5–15. Procedures for return of a military prisoner**

- a.* When a military prisoner’s supervision is revoked and he/she is ordered returned to military control, the ACPB—
- (1) Notifies the Army Corrections Command and the MCF from which the prisoner was released of the decision to revoke supervision.
  - (2) Prepares and signs a DD Form 553–1 and forwards to the USADIP, Fort Knox, KY at [usarmy.knox.imcom-atlantic.mbx.usadip-admin@mail.mil](mailto:usarmy.knox.imcom-atlantic.mbx.usadip-admin@mail.mil).
  - (3) Notifies the supervising U.S. Parole Office.
- b.* When a military prisoner’s supervision is revoked and he/she is ordered returned to military control, the Chief, USADIP—
- (1) Enters the signed DD Form 553–1 into the NCIC Wanted Person File.
  - (2) Is responsible for NCIC records of fugitive parole violators reported to USADIP.
  - (3) Notifies the ACPB, the designated MCF; OPMG, HQ, IMCOM, the PCF, Fort Sill, OK of a DD Form 553–1 entered in NCIC regarding a parole violator.
  - (4) Completes the DD Form 616 (Report of Return of Absentee) and notify the specific provost marshal/DES having geographic reporting responsibility per AR 190–45 when a wanted parole/MSR violator is apprehended.
  - (5) Notifies the HQ, IMCOM, the ACPB, the designated MCF and the PCF of apprehended parole/MSR violator.
- c.* When a military prisoner’s supervision is revoked and he/she is ordered returned to military control, the specific PM/DES having geographic reporting responsibility per AR 190–45:
- (1) Executes all necessary liaison, and coordination with civilian authorities within their geographic area of responsibility to escort the violator in custody to the designated MCF.
  - (2) Schedules and conducts escort of the parole violator to the designated MCF within 7 days of notification of apprehension from USADIP. The ACPB will be notified of the travel arrangements for the parole violator as soon as possible (not later than 96 hours) and any delays.
  - (3) Notifies the designated MCF, OPMG, IMCOM, USADIP, and ACPB of escort movement plan immediately.
  - (4) Provides trained escorts and transportation to transport the violator to the designated MCF.
- d.* When the fugitive parole/MSR violator has been returned to the designated MCF, the receiving MCF will notify USADIP via email upon arrival of the violator in order for USADIP to clear the NCIC Wanted Person File.

## **Chapter 6 Personnel Training**

### **6–1. Policy**

- a.* The ACPB will have a training plan which sets forth the training activities to be accomplished during the training year, a comprehensive training schedule, and training development plans for staff and board members. The training plan will be reviewed annually.
- b.* All new full-time staff members must complete a formalized pre-service program before undertaking their duty assignment.
- c.* All part time staff and volunteers will receive training appropriate to their assignments.
- d.* ACPB will have a designated Training Officer who is responsible for the oversight of the training and staff development program.
- e.* ACPB will establish and conduct a continual in-service training program of all parole board members and full-time employees. Parole board members and full-time employees will receive a minimum of 40 hours of in-service training every training year following their first year of employment in order to enhance employee professionalism, proficiency, and development. Clerical/support staff will receive at least 16 hours of in-service training every training year following their first year of employment.

### **6–2. Procedure**

- a.* The ACPB will establish standing operating procedures applicable to all employees and board members who work full-time or part time in the ACPB. Staff training and development is an integral part of the management and operation of the agency. Staff and board members are encouraged to take professional seminars, courses, correspondence programs, and professional certification programs.

*b.* The annual training plan will be prepared for each fiscal year and reviewed accordingly, and include input from the ACPB staff and board members regarding its effectiveness.

## **Chapter 7**

### **Army Clemency Board Case Files**

#### **7–1. Contents of Army Clemency Board case files**

*a.* The ACPB will establish and maintain a supervision file for each prisoner following their initial clemency review, transfer to FBOP custody or supervised release. Both active and inactive Army Clemency Board Case Files (ACBFs) will be maintained according to activity status and filed alphabetically by last name. At a minimum, the ACBF will include the prisoner’s records as outlined immediately below in paragraph *b.* of this chapter and any requirements as determined appropriate by the ACPB Chairperson and Board Manager. The ACBF will be reviewed at least annually, during initial clemency consideration, unscheduled, or annual reviews to ensure that they are current and accurate. The review will be annotated on the front cover of the ACBF with the date and name of the reviewer.

*b.* Individual personnel documents regarding a prisoner’s correctional treatment will be maintained in the ACBF for each prisoner. Disposition of these records will be in accordance with AR 25–400–2. This folder will include the following documents, as appropriate:

- (1) Section 1: Personal profile—
  - (*a.*) Prisoner Information Sheet.
  - (*b.*) File Report.
  - (*c.*) DD Form 2710 (Prisoner Background Summary) or Army Corrections Information System (ACIS) electronic equivalent.
- (2) Section 2: Court documents—
  - (*a.*) DD Form 2707 (Confinement Order) (if available).
  - (*b.*) DD Form 2707–1 (Department of Defense Report of Result of trial).
  - (*c.*) Charge sheet (if available).
  - (*d.*) Pretrial agreement (if available).
  - (*e.*) Report of investigation/summary.
  - (*f.*) Court-martial order(s).
  - (*g.*) Court-martial review actions (if available).
- (3) Section 3: Computation—
  - (*a.*) DD Form 2710–1 (Prisoner Sentence Computation) or ACIS electronic equivalent.
  - (*b.*) Detainers (if applicable).
- (4) Section 4: Disposition boards—
  - (*a.*) DD Form 2711 (Initial Custody Classification).
  - (*b.*) DD Form 2711–1 (Custody Reclassification).
  - (*c.*) DD Form 2712 (Prisoner Evaluation).
  - (*d.*) DD Form 2715 (Clemency/Parole Submission).
  - (*e.*) DD Form 2715–1.
  - (*f.*) DD Form 2715–2.
  - (*g.*) DD Form 2716–1 (if applicable).
- (5) Section 5: Support documents—
  - (*a.*) Congressional/Freedom of Information Act (FOIA) requests.
  - (*b.*) Victim/witness statements.
  - (*c.*) Prisoner support letters.
  - (*d.*) Congressional/FOIA requests and responses.
  - (*e.*) DD Form 2715–3 (if applicable).
  - (*f.*) Copies of ACPB board actions.
- (6) Miscellaneous documents not previously listed in this chapter.

#### **7–2. Management of Army Clemency Board case files**

*a.* The Board Manager will ensure record management adheres to policy and procedures and act in accordance with Army Records Information Management System. The establishment, use, and content of prisoner records; right to privacy; secure placement and preservation of records; and schedule for retiring or destroying inactive records will be strictly enforced. These policies and procedures will be reviewed annually.

*b.* ACBFs are privileged and will be safeguarded from theft, compromise, and unauthorized disclosure. These files are used, among other purposes, to assist the ACPB in making parole and clemency determinations and recommendations. The files are, therefore, considered part of a law enforcement file and access to these files by prisoners is limited. Access to information in these files by others is governed by AR 25–55. Electronic files concerning prisoners, parolees, or applicant records must show that they are controlled documents whose release is prohibited without prior approval. When a document is released that contains personally identifiable information it will be clearly marked “FOR OFFICIAL USE ONLY.”

*c.* Information in the ACBF obtained under an expressed or implied promise of confidentiality will not be released to the prisoner if release would reveal the source of the information.

*d.* ACBFs are retained in an inactive file for 2 years following expiration of sentence/completion of parole/maximum release date (MXRD) and place, following which they are retired to the National Personnel Records Center and maintained for 25 years before being destroyed by shredding or burning. Transfer of a prisoner from one DOD correctional facility or Federal Bureau of Prisons' facility to another is not construed as release from confinement.

### **7–3. Records submitted for clemency and parole consideration**

MCFs will provide the following documents with each prisoner case submitted for clemency and parole consideration:

- a.* A statement from the MCF VWC.
- b.* Complete risk factor instrument information.
- c.* Complete assessment of information on all Discipline and Adjustment Board convictions or other discipline problems.
- d.* Confirmation and documentation of the parole prisoner's plan pertaining to residence, employment, and where applicable, restitution to victims or payment of any fine.
- e.* Prisoner's progress in applicable treatment, custody, and other institutional progress.
- f.* Copy of the original GCMO, a copy of convening authority action(s), copies of any appellate court actions, copies of any rehearing or sentence modifications, copies of any corrections to GCMOs or other sentencing documents, copies of any additional or subsequent court-martials, convening authority actions.
- g.* Disposition Board and commander/commandant recommendations.

## **Appendix A**

### **References**

#### **Section I**

##### **Required Publications**

###### **MISC PUB 27–7**

Manual for Courts-Martial, United States (Cited in para 3–2a(3).) (Available at <https://armypubs.army.mil>.)

#### **Section II**

##### **Related Publications**

A related publication is a source of additional information. The user does not have to read it to understand this publication.

###### **AR 11–2**

Managers' Internal Control Program

###### **AR 25–30**

Army Publishing Program

###### **AR 25–55**

The Department of the Army Freedom of Information Act Program

###### **AR 25–400–2**

The Army Records Information Management System (ARIMS)

###### **AR 27–10**

Military Justice

###### **AR 40–501**

Standards of Medical Fitness

###### **AR 190–45**

Law Enforcement Reporting

###### **AR 190–47**

The Army Corrections System

###### **AR 633–30**

Military Sentences to Confinement

###### **DA Pam 25–403**

Guide to Recordkeeping in the Army

###### **DOD 1325.7–M**

DOD Sentence Computation Manual

###### **DODD 1030.01**

Victim and Witness Assistance

###### **DODD 1325.04**

Confinement of Military Prisoners and Administration of Military Correctional Programs and Facilities

###### **DODI 1030.2**

Victim and Witness Assistance Procedures

###### **DODI 1325.07**

Administration of Military Correctional Facilities and Clemency and Parole Authority

###### **10 USC Chapter 48**

Military Correctional Facilities

###### **10 USC 871**

Execution of sentence; suspension of sentence

**10 USC 952**

Parole

**10 USC 953**

Remission or Suspension of Sentence; Restoration to Duty; Reenlistment

**10 USC 954**

Voluntary Extension; Probation

**Section III**

**Prescribed Forms**

This section contains no entries.

**Section IV**

**Referenced Forms**

Except where otherwise indicated below, the following DA Forms are available on the Army Publishing Directorate website (<https://armypubs.army.mil>); DD Forms are available on the Office of the Secretary of Defense website (<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>).

**DA Form 11–2**

Internal Control Evaluation Certification

**DA Form 31**

Request and Authority for Leave

**DA Form 2028**

Recommended Changes to Publications and Blank Forms

**DD Form 214**

Certificate of Release or Discharge from Active Duty

**DD Form 553–1**

Parole/Mandatory Supervised Release (MSR) Violator Wanted By the Armed Forces

**DD Form 616**

Report of Return of Absentee

**DD Form 2707**

Confinement Order

**DD Form 2707–1**

Department of Defense Report of Result of Trial

**DD Form 2710**

Prisoner Background Summary

**DD Form 2710–1**

Prisoner Sentence Computation

**DD Form 2711**

Initial Custody Classification

**DD Form 2711–1**

Custody Reclassification

**DD Form 2712**

Prisoner Evaluation

**DD Form 2715**

Clemency/Parole Submission

**DD Form 2715–1**

Disposition Board Recommendation

**DD Form 2715–2**  
Prisoner's Summary Data

**DD Form 2715–3**  
Prisoner Restoration/Return to Duty, Clemency, and Parole Statement

**DD Form 2716**  
Parole Acknowledgement Letter

**DD Form 2716–1**  
Department of Defense Certificate of Supervised Release

**DD Form 2717**  
Department of Defense Voluntary/Involuntary Appellate Leave Action

**DD Form 2719**  
Correctional Facility Continuation Sheet

## Appendix B

### Internal Control Evaluation

#### B–1. Function

The functions covered by this evaluation is to ensure the evaluation of key management controls for administration of the ACPB and DOD correctional facilities conducting clemency and parole actions for Army Soldiers.

#### B–2. Purpose

The purpose of this evaluation is to assist users in evaluating the key internal controls listed. It is not intended to cover all controls.

#### B–3. Instructions

Answers must be based on the actual testing of key management controls such as document analysis, direct observation, interviewing, sampling, and simulation. Answers that indicate deficiencies must be explained and corrective action identified in supporting documentation. These internal controls must be evaluated at least once every 5 years and the evaluation documented on DA Form 11–2 (Internal Control Evaluation Certification).

#### B–4. Test questions

- a.* Have uniform DA policies for the scope and responsibilities of the ACS and ACPB been established and coordinated with appropriate and interested DOD elements? (Headquarters, Department of the Army ONLY)
- b.* Are there procedures in place to ensure that the DASA (RB) acts on recommended clemency approvals, parole appeals, and parole recommendations as specified in paragraph 4–3*b* of this regulation and in accordance with authority delegated? (Clemency actions include reducing or equalizing sentences adjudged by courts-martial; upgrading discharges; returning and restoring prisoners to duty.)
- c.* Are procedures in place to ensure that all clemency, parole, or MSR decisions comply with DODI 1325.07, AR 190–47, and this regulation?
- d.* Are policies updated to reflect changes in public law and DOD guidance to ensure mission compatibility? (Headquarters, Department of the Army ONLY)
- e.* Does at least one member of the ACPB staff meet at least semiannually with the leadership of DOD correctional facilities from which paroles are granted and/or with the head of the DOD correctional agencies to develop means of coordinating programs, to undertake Joint planning, and to agree on means of implementing and evaluating such plans? Does an authority staff member meet at least annually with head of local correctional agencies?
- f.* Do at least two thirds of the hearing examiners have at least 3 years' experience in a criminal justice or juvenile justice position, or equivalent experience in a relevant profession?
- g.* Does the ACPB have access to or receive reports, at least quarterly, from Army Corrections Command? The reports should include population characteristics and the status of parolees and offenders in the system.
- h.* Are prisoners notified in writing of their first legal eligibility date for a parole hearing within 90 calendar days after being received in a correctional institution?
- i.* Are prisoners scheduled for hearing and review by the ACPB at the minimum eligibility date?
- j.* Prior to hearing, do parole board members and hearing examiners review information available in writing about an offender's prior history, current situation, events in the case since any previous hearing, information about the offender's future plans, and relevant conditions in the community?
- k.* Do the facility and ACPB have written policy and procedure that provides that victims are given an opportunity to present information to the paroling authority?
- l.* Are there procedures whereby materials used by the authority in decisionmaking are verified, and materials which cannot be verified are so noted?
- m.* Does ACPB have a written policy regarding the confidential nature of individual case information, and have put into effect specific rules as to the persons who may have access to such information, and the staff who are responsible for the release of that information?
- n.* Do the ACPB and facility parole staff have policy and procedures that provide for the withdrawal of an authority member or hearing examiner in cases which represent a conflict of interest?
- o.* Does the facility have a designated person responsible for conducting the hearing and responsible for the recording and preservation of a summary of the major issues and findings in the hearing?
- p.* Is the prisoner notified personally and orally by the parole authority members or hearing examiners who have heard the case as to the recommendation or decision immediately after the hearing?

*q.* At the first hearing of offenders eligible for parole, does ACPB set a tentative release date? If circumstances prevent the setting of a tentative release date at the first hearing, is a subsequent hearing held within 1 year for the purpose of setting a tentative release date? (In any event, the parole authority gives reasons in writing for any deferral of decision.)

*r.* Are prisoners who are held beyond tentative release dates only after a hearing by the ACPB, at which time the reasons for deferral of parole are articulated in writing?

*s.* Is no offender denied parole or given a deferment unless a personal hearing is held before the parole authority?

*t.* Are prisoners notified in writing at least 14 calendar days in advance of their hearings and are specifically advised as to the purpose of the hearing?

*u.* Are all prisoners allowed to have a representative present at all parole hearings?

*v.* Are the reasons for a parole decision written, signed by a person authorized by the authority, and made available to appropriate staff and to offender within 21 calendar days of the offender's hearing?

*w.* Is the prisoner given an opportunity to present his or her views to the parole authority about specific parole conditions which may be imposed on him or her?

*x.* Is the preliminary interview for alleged supervision violations conducted by an administrative staff member or officer who has not previously been involved in the case?

*y.* If the revocation hearing is not conducted within 60 calendar days after the parolee's return to prison as a parole violator is a request for delay or postponement for good cause approved by the Chairperson or designee?

*z.* Within 21 calendar days of the revocation hearing, is the parolee provided a written statement of the reasons for the determination made and the evidence relied upon?

*aa.* After a revocation hearing, does the ACPB or MCF immediately inform the offender of the next tentative release date; or when the tentative release date is greater than 1 year after the revocation hearing, does the parole authority or representative set a date for a review hearing within 1 year, and advise the offender in writing of this date?

*bb.* Is there a system for providing notification to the registered victim(s) of a crime 45 days prior to any scheduled facility disposition board hearing informing them of their right to submit matters for consideration at the disposition board? Are registered victims advised that they can personally appear before the ACPB at their own expense? (ACS facility commander)

*cc.* Are internal controls in place to ensure treatment information, eligibility dates, disciplinary information, parole plans, and other pertinent information is up-to-date and accurate prior to submission for boards, hearings, and other decisionmaking actions? (ACS facility commander)

*dd.* Are all approved discharge upgrades submitted to ARBA Case Management Division for action?

*ee.* Has ARBA reviewed current corrections policies annually and any proposed or new policy prior to implementation?

*ff.* Has ARBA conducted a technical assistance visit of all ACS facilities in coordination with Army Corrections Command?

*gg.* Has ARBA provided oversight to ensure all ACS facilities and agencies are prepared to be accredited by the ACA?

## **B-5. Supersession**

Not applicable.

## **B-6. Comment**

Help make this a better tool for evaluating internal controls. Submit comments to Department of the Army, Army Review Boards Agency, 251 18th Street South, Suite 385, Arlington, VA 22202-3531.

## **Glossary**

### **Section I**

#### **Abbreviations**

**ACA**

American Corrections Association

**ACBF**

Army Clemency Board Case Files

**ACIS**

Army Corrections Information System

**ACPB**

Army Clemency and Parole Board

**ACS**

Army Corrections System

**AMXRD**

adjusted maximum release date

**APD**

Army Publishing Directorate

**AR**

Army regulation

**ARBA**

Army Review Boards Agency

**ASA (M&RA)**

Assistant Secretary of the Army Manpower and Reserve Affairs

**COPS**

Centralized Operations Police Suite

**CTF**

correctional treatment file

**DA**

Department of the Army

**DAPM**

Department of the Army, Provost Marshal General

**DASA (RB)**

Deputy Assistant Secretary of the Army (Review Boards)

**DES**

Directorate of Emergency Services

**DNA**

deoxyribonucleic acid

**DOD**

Department of Defense

**DODD**

Department of Defense directive

**DODI**

Department of Defense instruction

**ERP**

expedited revocation procedure

**ET**  
earned time

**FBI**  
Federal Bureau of Investigation

**FBOP**  
Federal Bureau of Prisons

**FOIA**  
Freedom of Information Act

**GCMO**  
general court-martial order

**GCT**  
good conduct time

**GS**  
general schedule

**HQ**  
headquarters

**IMCOM**  
Installation Management Command

**MCF**  
military correctional facility

**MRD**  
minimum release date

**MSR**  
mandatory supervised release

**MXRD**  
maximum release date

**NCIC**  
National Crime Information Center

**OASA**  
Office of the Assistant Secretary of the Army

**OPMG**  
Office of the Provost Marshal General

**PCF**  
Personnel Control Facility

**SAA**  
Special Acts Abatement

**SECARMY**  
Secretary of the Army

**TJAG**  
The Judge Advocate General

**UCMJ**  
Uniform Code of Military Justice

**USADIP**  
U.S. Army Deserter Information Point

**USPO**  
United States Probation Officer

**V/W**  
victim/witness

**V/WNP**  
Victim/Witness Notification Program

**VWC**  
Victim Witness Coordinator

## **Section II**

### **Terms**

#### **Abatement**

GCT, ET, and SAA, as described in this appendix, are the only types of abatement of a sentence to confinement authorized in an MCF or for DOD prisoners transferred to an FBOP facility.

#### **Active supervision**

Supervision requiring contact and monitoring by the supervising USPO to assure continued compliance with the conditions of supervision.

#### **Adjusted maximum release date**

The adjusted maximum release date (AMXRD) is computed by taking the MXRD and adjusting it for administrative credit, judicial credit, inoperative time, and the adjustment for crossing the international date line if applicable.

#### **Army Clemency Board case files**

A supervision file maintained by the ACPB for prisoners following their initial clemency review in FBOP custody or on supervised release.

#### **Clemency**

An action taken to remit or suspend the unexecuted part of an approved court-martial sentence, to include upgrading a discharge and the restoration or reenlistment of an individual convicted by a court-martial.

#### **Earned time**

A deduction of days from a prisoner's release date earned for participation and graded effort in the areas of work, offense-related or other rehabilitation programs, education, self-improvement and personal growth, and support activities.

#### **Forfeiture**

The loss of ET/GCT/SAA directed by the MCF commander that has been held in abeyance awarded as a consequence of violations of institutional rules or the UCMJ.

#### **Good conduct time**

GCT is a deduction of days from a prisoner's release date for good conduct and faithful observance of all facility rules and regulations.

#### **Mandatory supervised release**

A form of conditional release (similar to parole) granted to qualifying individuals who have served their sentence to confinement up to their minimum release date. This form of release is served until the AMXRD unless otherwise revoked or remitted by the ACPB.

#### **Maximum release date**

The sentence or sentences to confinement without reductions, but less 1 day for the day of confinement/release. For multiple sentences, each sentence has a specific MXRD.

#### **Minimum release date**

The AMXRD adjusted for credit or forfeiture of GCT and abatements.

#### **Parole**

A form of conditional release from confinement prior to MRD when a prisoner is under the guidance and supervision of a USPO. This form of release is served until the AMXRD unless otherwise revoked or remitted by the ACPB.

#### **Preliminary interview**

A proceeding conducted by a USPO or other appropriate and designated official, other than the offender's supervising USPO, to determine whether probable cause exists to believe that the offender has violated a condition of supervised

release and to provide a basis upon which to recommend to the ACPB whether a supervised release revocation hearing should be ordered.

**Reenlistment**

The return to active duty status of a Soldier whose approved court-martial sentence includes an executed punitive discharge.

**Remission**

Annuling in whole or part the unexecuted portion of a court-martial sentence that has been approved by the convening authority.

**Reprimand**

The letter of reprimand is used to correct significant misconduct and/or repeated lesser offenses. It is a formal disciplinary action that should be adequate for many disciplinary situations which require an action more severe than an oral admonishment. The letter of reprimand is the lowest level of formal discipline. It is a disciplinary action - not an adverse action. Because it is not an adverse action, there is no need to provide due process prior to issuing.

**Restoration to duty**

The return to active duty status of an individual whose court-martial sentence does not include a punitive discharge or includes a punitive discharge that is either suspended or unexecuted.

**Risk factor instrument**

A risk assessment tool that serves as a guideline to evaluate a prisoner's suitability for parole, provide a customary range for time served in confinement before being release on parole, and serves as an aid in determining parole prognosis (potential risk for parole violation).

**Sentence**

The use of the word "sentence" in this regulation means both the unexecuted and executed portions of a court-martial sentence that have been approved by the convening authority.

**Special acts abatement**

A deduction of days from a prisoner's release date earned for a specific act of heroism, humanitarianism, or extraordinary institutional or community support deemed appropriate by the facility commander.

**Supervised release**

Refers to both parole and MSR.

**Supervisee**

A prisoner released from a correctional facility to the community on parole or MSR under the supervision of a USPO.

**Supervision**

The monitoring of a prisoner who has been released from a correctional facility under either parole or MSR by a USPO and the ACPB.

**Supervision violation hearing**

A hearing conducted by a violation hearing officer selected by the ACPB Chairperson to determine whether a supervisee has violated a condition of supervision and whether supervision should be revoked.

**Suspension**

Holding in abeyance the execution of an approved court-martial sentence.

**Time spent on supervision**

The number of days a supervisee spends in the community under supervision. This is commonly referred to as "Street Time."

**Warning**

An intervention is a corrective measure designed to increase control of offenders and to direct offenders toward future compliance with the rules and conditions of release. In taking this informal disciplinary action, ACPB will advise the supervisee of the specific infraction or breach of conduct and exactly when and where it occurred. The supervisee should be allowed to explain his/her side of the incident. ACPB will then advise the supervisee that continued violations will result in formal disciplinary action.

**UNCLASSIFIED**

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