

	Corrections and Community Supervision	Discharge from Sentence, by Maximum Expiration of Sentence, Court Order, Deportation, Absconders, or Death		NO. 9245 DATE 09/09/2019
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SUPERSEDES DOP P&P Manual Item 9208.02 REFERENCES (Include but are not limited to) NYS Executive Law Article 35 §837(6) & 837(8-a); NYS Executive Law Article 12-B §259-J; Directives #9025, #9205, #9218;		APPROVING AUTHORITY  		

- I. **PURPOSE:** The purpose of this directive is to establish requirements and procedures for Community Supervision (CS) and Office of Special Investigations (OSI) personnel regarding the discharge of eligible parolees from supervision.
- II. **POLICY:** Eligible parolees released from Department of Corrections and Community Supervision (DOCCS) facilities may be discharged by the Board of Parole after review, consideration, and determination of case summaries of eligible parolees, provided that such discharge is in the best interests of society. Similarly, parolees may be discharged from supervision due to extraordinary circumstances.
- III. **DEFINITIONS**
 - A. Criminal History Record Information (CHRI): New York State Executive Law Article 35 - §837(6) and §837(8-a) establish the New York State Division of Criminal Justice Services (DCJS) as the central repository for criminal history records in New York State. Qualified agencies contribute information and have access to information contained in the central data facility, which includes such information as criminal record, personal appearance data, fingerprints, photographs, etc. Criminal information entered on a CHRI report is recorded based upon arrest fingerprint cards being submitted to DCJS. A CHRI contains a New York section, and if available, an Interstate Identification Index (III) section and National Crime Information Center (NCIC) postings.
 - B. Interstate Identification Index (III – pronounced triple eye): An index pointer system for the interstate exchange of criminal history records. All 50 states contribute fingerprint records and expungements to the FBI – CJIS Division; however, only 20 states contribute automatically through the National Fingerprint File Program.
- IV. **ELIGIBILITY:** Listed below are the different discharge categories of parolees from supervision.
 - A. Discharge of Absconders: The discharge of a long-term absconder is considered only after it can be demonstrated that there is no useful purpose to continue to carry the case as an absconder. Consideration for discharge will be entertained only after it is established that there are no leads that may reasonably be used to locate the absconder, and the lack of any law enforcement contacts indicates that the absconder is not perceived as a threat to society.
 - B. Discharge by Maximum Expiration of Sentence (ME Date) Date or Discharge by Post-Release Supervision Maximum Expiration (PRSME) Date: A parolee may be removed from the supervision caseload only after the assigned Parole Officer (PO) or OSI Investigator (INV) receives specific authorization to do so from Internal Operations or when the parolee's name appears on the discharge list received from Internal Operations.

- C. Discharge by Death: A case is eligible for removal from the supervision caseload when the assigned PO obtains either a photocopy or certified copy of the parolee's Death Certificate or a fingerprint verification from DCJS.
- D. Cancellation of Delinquency: When a parolee who is in delinquent status is apprehended, and where the ME date or PRSME date is imminent and there is no substantial delinquency time owed, Community Supervision or OSI staff may submit a request to the Board of Parole with a recommendation that delinquency be canceled.
- E. Court Order: When a court so orders, a parolee must be discharged from supervision.
- F. Cooperative Supervision: A parolee being supervised in New York State on behalf of another state or jurisdiction may be discharged ONLY upon receipt of notification by the Interstate Bureau from the other state or jurisdiction to do so.
- G. Deportation: A deportation case having a maximum expiration of "Life" may be considered by the Board of Parole for discharge if the deportee is at least 70 years of age, has been in deportation status for at least 15 years, and the request includes a New York State Criminal History Record (NYSCHR/NYSID) report obtained within 30 days of submission.

V. PROCEDURE

A. Absconders

1. Once a CS PO or OSI INV has exhausted all viable leads for an absconder, the PO/INV will review the case to determine if the parolee meets one of the following requirements for discharge consideration:
 - a. The parolee has been in absconder status for at least 5 years and the original ME or PRSME date in place at the time of absconding has passed;
 - b. The parolee has been an absconder for 10 years and the ME or PRSME date has not been reached; or
 - c. The parolee has been Conditionally Released from an indeterminate or determinate sentence, owes less than six months of delinquent time, and has reached the ME date or PRSME date and owes no further time to the sentence or the period of post-release supervision.

NOTE: If the parolee was Conditionally Released from an indeterminate sentence, but does not meet the requirements under subsection c, the parolee may still be eligible for discharge consideration under subsections a or b.

2. If the PO/INV determines that a parolee meets one of the above requirements, the PO/INV will review the parolee's CHRI and III reports to determine if there have been any additional arrests incurred since the delinquency date and to determine if there are any outstanding warrants of another agency or court. If it is determined that there are any new arrests or warrants and the case is determined to be otherwise Cancel Delinquency by Maximum Expiration (CDME) eligible, the Board of Parole must be notified of the additional information.
 - a. For all absconder cases assigned to OSI or CS, the INV/PO will complete [Form #CS9245A](#), "Absconder Discharge Review Form" (ADR).
 - (1) The INV/PO will check boxes that relate to the investigation activity conducted, the date it was conducted, and the results;
 - (2) The INV/PO will indicate, on [Form #CS9245A](#), the reasons for the recommended discharge;

- (3) The INV/PO will submit the case to the respective OSI Assistant Deputy Chief Investigator (ADCI) or CS Bureau Chief (BC) for review. If the ADCI/BC approves, the case will be prepared for submission to the Board of Parole for discharge in accordance with subsections 2-b and 2-c below; and
 - (4) Should the ADCI/BC determinate that all leads have not been exhausted, determine that the case is not eligible, or determine that discharge would not be in the best interest of society, then apprehension efforts will continue.
- b. For absconder cases meeting the criteria for discharge under subsection 1-a or 1-c, and either assigned to OSI or a CS Bureau:
- (1) The INV/PO will prepare and submit to the respective OSI Senior Investigator (SI) or CS Senior Parole Officer (SPO) a Supplementary Violation of Release Report (SVORR) that will address the requirements stated above and the recommendation will read "Cancel Delinquency - Close by Maximum Expiration";
 - (2) The SI/SPO will prepare and sign the analysis recommending the same;
 - (3) The ADCI/BC will review and approve the documents for submission to the Board of Parole; and
 - (4) The INV/PO will await receipt of the Board's decision and ensure that the discharge is reflected in PARMIS prior to sending the folder to Closed Files.
- c. For absconder cases assigned to OSI that meet the criteria under subsection 1-b:
- (1) The INV will prepare an SVORR requesting cancellation of delinquency and restoration to parole supervision;
 - (2) In addition to the SVORR, the INV will prepare a Memorandum to the Board of Parole requesting the granting of a discharge from supervision under Article 12-B, Section 259-J of the Executive Law. The Memorandum is to include an overview of the criminal history, investigative efforts made to apprehend, and the reason for the recommended discharge;
 - (3) The SI will review and sign the SVORR and the Memorandum to the Board. The SI will prepare and sign an analysis recommending the same;
 - (4) The ADCI will review and approve the documents for submission to the Board of Parole; and
 - (5) The INV will await receipt of the Board's decision and ensure that the discharge is reflected in PARMIS prior to sending the folder to Closed Files.

NOTE: In such cases, both a cancellation of delinquency and discharge from supervision must take place for either to occur. If the Board of Parole chooses to cancel delinquency and discharge a long-term absconder case, both actions will be effective on the date of the final Board determination.

B. Maximum Expiration of Sentence

1. In the month following a parolee's ME date or PRSME date, the PO (or designated staff member) will receive the Discharge from Supervision Certificate. Staff will mail, via US Postal Service, the Discharge from Supervision Certificate to the last known address for the parolee. The PO will make an entry in the Case Management System (CMS) to reflect the date the discharge certificate was mailed.
2. The PO (or designated staff member) will inform the SPO should the above documents not be received following the ME date or PRSME date.
3. Should a Discharge from Supervision Certificate be received on a case that is in delinquent status, the PO (or designated staff member) will immediately report the matter to the Quality Control Unit, the SPO, and BC. The discharge will not occur pending the resolution of the delinquent status.

C. Death

1. Upon becoming aware of the death of a parolee, the CS PO/SPO will immediately obtain the following information (if available):
 - a. The actual date of death from the source of information;
 - b. Circumstances that may have caused the death;
 - c. The name the decedent was using at time of death;
 - d. Decedent's date of birth;
 - e. Location of death;
 - f. Social Security number;
 - g. Next of kin or parents' names (maiden name of mother);
 - h. If available, any police or medical examiner's report;
 - i. If available, the name and address of the funeral home; and
 - j. If available, obtain the obituary or memorial program.
2. If a family member is the source of information, staff will request a copy of the death certificate.
3. After obtaining the required information, the PO will notify the SPO and follow procedures pursuant to Directive #4004, "Unusual Incident Report."
4. The PO will obtain a photocopy or a certified copy of the parolee's death certificate or death verification form from the NYS Department of Health or the respective County/City/Town Vital Records Unit.
5. The PO will enter the death record information in CMS.
6. The documents are to be reviewed by the PO and SPO. If the decedent's name is different from Departmental computer records and the name is not previously known (i.e., not listed as an alias in the CHRI, CMS, FPMS, etc.), supporting documentation will be needed to confirm the decedent is in fact the parolee.
7. The SPO will submit all documents to the Quality Control Unit, which will designate the parolee "Discharged by Death" in PARMIS and CMS.
8. The BC will ensure that all reported deceased cases are placed on "Unverified Death" with the Quality Control Unit until the case can be discharged.

9. If verification of death cannot be obtained, the BC will review the case to determine if an absconder warrant should be issued.

D. Cancellation of Delinquency

1. The PO (or Parole Revocation Specialist (PRS), if assigned to the Parole Violation Unit) will verify that the parolee is within 30 days of the original ME date or PRSME date and, if so, will conference the case with the SPO.
2. The SPO/PRS will prepare a Bureau Analysis for the Board of Parole detailing the criminal history, current violation, and circumstances of custody, noting that the parolee is within 30 days of the original ME date or PRSME date with no significant delinquency time to serve. The Bureau Analysis will request that the Board consider "Cancellation of Delinquency, Close by Maximum Expiration."
3. Staff will then follow the Discharge by Maximum Expiration procedure as outlined in Section V-B.

E. Cooperative Supervision

1. A parolee being supervised on behalf of another state or jurisdiction will be discharged ONLY when the PO has received a copy of the Case Closure Notice (CCN) from the Interstate Bureau.
2. Where the ME date of a cooperative supervision case has passed and no notification has been received, the PO will send, through the BC, an email to the Interstate BC detailing the case-specific circumstances. During this period, the PO will not be required to make field visits once the ME is reached; however, the PO must ensure that the parolee continues to report until the CCN is received.
3. When the CCN is received, the PO will provide a copy of the CCN to the parolee during his or her final report.

- F. Court Order: When a PO receives information from an outside agency that a court has ordered the discharge of a parolee from supervision, the PO will case conference the matter with the SPO, who will in turn notify the BC. The BC will then notify the Quality Control Unit and provide the relevant information. Once the Quality Control Unit confirms the accuracy of the information, it will inform the Supervision Bureau of the parolee's discharge.

G. Deportation

1. The Interstate PO will review all deportation cases on an annual basis. If the deportee has been in deportation status for at least 15 years, is over the age of 70, and is serving a life sentence, the Interstate PO will:
 - a. Run a CHRI, to include a III;
 - b. Check the Bureau of Prison's website to ascertain that the parolee is not being detained by Federal authorities;
 - c. Communicate with Immigration and Custom's Enforcement (ICE) requesting a review of ICE records to ascertain that the deportee is not in ICE Custody, or that they have any knowledge of a possible illegal re-entry by the deportee; and
 - d. If each of these checks are negative, the Interstate PO will submit a Memorandum to the Board of Parole requesting that the parolee be discharged from supervision.

2. If the Board of Parole grants the requested discharge, the Interstate PO will follow the Discharge by Maximum Expiration procedure as outlined in Section V-B.

ABSCONDER DISCHARGE REVIEW FORM

PAROLEE INFORMATION

Name: Click or tap here to enter text.

NYSID: Click or tap here to enter text. DIN: Click or tap here to enter text.

Instant Offense: Click or tap here to enter text. Sentence: Click or tap here to enter text.

Release Date: Click or tap to enter a date. ME/PRSME Date: Click or tap to enter a date.

Declaration of Delinquency Date: Click or tap to enter a date.

S.O.R. Level: ☐ 1 ☐ 2 ☐ 3 ☐ Disc.

OMH Level: Click or tap here to enter text.

DISCHARGE TYPE

☐ 5 Years Past Delinquency Date, Maximum Expiration Date or Post-Release Supervision
Maximum Expiration Date

☐ 10 Years Past Delinquency Date, Maximum Expiration Date or Post-Release Supervision
Maximum Expiration Date

☐ CR from Indeterminate Sentence, owes less than 6 months, and ME passed

INVESTIGATION ACTIVITY TYPE

☐ Field Investigation/Collateral Interview: Click or tap to enter a date.

☐ Social Service Check: Click or tap to enter a date.

☐ Accurant/Clear Search: Click or tap to enter a date.

☐ DMV Check: Click or tap to enter a date.

☐ Criminal History: Click or tap to enter a date.

☐ Arrest after Delinquency Date: ☐ YES ☐ NO

☐ Wanted by another Law Enforcement Agency: ☐ YES ☐ NO

☐ Other: Click or tap here to enter text.

INVESTIGATION RESULTS/REASON FOR DISCHARGE

Click or tap here to enter text.

Reviewed by ADCI: Click or tap here to enter text. Date: Click or tap to enter a date.

REASON FOR DEFERRAL

Click or tap here to enter text.

Reviewed by B/C: Click or tap here to enter text. Date: Click or tap to enter a date.