

1 Department of Corrections

2

3 Adopted Rules Governing the Operation of the

4 Office of Adult Release

5

6 Rules as Adopted

7 11 MCAR S 2.601 Definitions and purpose.

8 A. Scope. As used in 11 MCAR SS 2.601-2.622, the following  
9 terms have the meanings given them.

10 B. Availability. "Availability" means the date on which the  
11 offender has:

12 1. made bail, bond, or has been released on personal  
13 recognizance or no bail required; or

14 2. completed any local incarceration time which results  
15 from a misdemeanor, gross misdemeanor, or felony stayed sentence.

16 C. Board of Pardons. "Board of Pardons" means the Board of  
17 Pardons established by Minnesota Statutes, chapter 638.

18 D. Bookslip. "Bookslip" means the form issued by the  
19 central office records clerk which designates the agent of  
20 record.

21 E. Case management. "Case management" means the total  
22 system employed in the management of an inmate's case, including  
23 but not limited to the development of needs assessments and  
24 program plans; conducting progress and reentry reviews; and  
25 developing recommendations for conditions of release.

26 F. Commissioner. "Commissioner" means the commissioner of  
27 corrections.

28 G. District supervisor. "District supervisor" means a  
29 Department of Corrections field supervisor.

30 H. Executive officer of adult release. "Executive officer  
31 of adult release" means the person to whom the commissioner of  
32 corrections has delegated the authority for granting parole and  
33 work release; for revoking parole, work release, and supervised  
34 release; and for granting discharge from an indeterminate  
35 sentence.

36 I. Expiration of the determinate sentence. "Expiration of

3-16-84

1 the determinate sentence" means the date on which the maximum  
2 sentence pronounced by the court occurs.

3 J. Expiration of the indeterminate sentence. "Expiration of  
4 the indeterminate sentence" means the date on which the maximum  
5 sentence pronounced by the court less good time reduction occurs.

6 K. Extraordinary circumstances. "Extraordinary  
7 circumstances" mean any uncommon, exceptional conditions, facts,  
8 or events which affect an individual.

9 L. Guidelines. "Guidelines" mean a sentence under Minnesota  
10 sentencing guidelines.

11 M. Inmate. "Inmate" means a person committed to the  
12 jurisdiction of the commissioner who is imprisoned in a  
13 correctional facility or other place designated by the  
14 commissioner.

15 N. Minnesota Corrections Board Parole Decision-Making  
16 Guidelines. "Minnesota Corrections Board Parole Decision-Making  
17 Guidelines" means a document effective July 1979 used by the  
18 Minnesota Corrections Board as a guideline to determine length  
19 of incarceration.

20 O. Institution caseworker. "Institution caseworker" means  
21 the institution's staff person assigned the responsibility of  
22 coordinating the development of needs assessment, program plans,  
23 progress review and reentry reviews for those inmates assigned  
24 to their caseloads.

25 P. Near the site. "Near the site" means a place not to  
26 exceed 50 miles from the site of the alleged violation.

27 Q. Parole. "Parole" means that portion of an  
28 indeterminate sentence served by an inmate in the community  
29 under supervision and subject to prescribed rules.

30 R. Probable cause. "Probable cause" means a finding by a  
31 court in an omnibus hearing or by a hearing officer in a  
32 probable cause hearing.

33 S. Probable cause hearing. "Probable cause hearing"  
34 means a hearing held to determine if there are reasonable  
35 grounds for belief that one or more conditions of release may  
36 have been violated.

1 R- T. Program teams review team. "Program teams-mean  
2 review team means" a group of Department of Corrections  
3 employees in a correctional facility whose assigned function is  
4 to develop needs assessments and program plans and to conduct  
5 progress reviews for those inmates assigned to them.

6 S- U. Projected release date. "Projected release date"  
7 means a date in the future at which an inmate will be released  
8 providing: (1) the inmate's behavior is satisfactory, (2) the  
9 release date was based on complete and accurate information, and  
10 (3) the inmate is not considered to be a risk to the public at  
11 the time of release.

12 T- V. Projected release plan. "Projected release plan"  
13 means a proposed plan for an inmate when released to the  
14 community, including a place of residence and employment as well  
15 as any special or standard conditions which may be imposed at  
16 the time of release.

17 U- W. Public interest. "Public interest" means the interest  
18 the public has in maintaining the integrity of legal sanctions  
19 and the rights of citizens.

20 V- X. Public safety. "Public safety" means the protection  
21 of the public from injury, danger, and violence.

22 W- Y. Reentry review. "Reentry review" means the review  
23 which is held in order to establish conditions of release.

24 X- Z. Releasee. "Releasee" means a person on parole, work  
25 release, or supervised release status from a correctional  
26 facility who is under sentence to the commissioner.

27 Y- AA. Residential community program. "Residential  
28 community program" means a structured residential program in the  
29 community such as a halfway house, chemical dependency treatment  
30 center, or another treatment program designed to change the  
31 behavior of residents and to protect the public.

32 Z- BB. Revocation hearing. "Revocation hearing" means a  
33 hearing held for the purpose of determining whether cause exists  
34 for the revocation of parole, work release, or supervised  
35 release and for determining whether parole, work release, or  
36 supervised release should be revoked and for setting the term of

1 reimprisonment to be served by the violator.

2 ~~AA-~~ CC. Risk to the public. "Risk to the public" means the  
3 degree to which an individual is likely to cause injury, damage,  
4 loss, pain, or peril to the public or to engage in unlawful  
5 sexual behavior involving a victim.

6 ~~BB-~~ DD. Serious health problem. "Serious health problem"  
7 means a documented physical health problem of an inmate or  
8 releasee which makes the continuation of a criminal sentence  
9 impractical and inconsistent with the public interest.

10 ~~CC-~~ EE. Supervised release. "Supervised release" as-defined  
11 in-Minnesota-Statutes,--section-244-05 means that portion of a  
12 determinate sentence served by an inmate in the community under  
13 supervision and subject to prescribed rules, adopted in  
14 accordance with Minnesota Statutes, section 244.05.

15 ~~DD-~~ FF. Supervising agent. "Supervising agent" means the  
16 parole and probation agent who is assigned to the individual on  
17 parole, work release, or supervised release status.

18 ~~EE-~~ GG. Working days. "Working days" mean all working days  
19 exclusive of legal holidays and weekends.

20 ~~FF-~~ HH. Work release. "Work release" means an extension of  
21 confinement in which inmates are conditionally released to work  
22 at gainful employment, seek employment, or participate in  
23 vocational or educational training in the community while  
24 serving their sentence in accordance with Minnesota Statutes,  
25 section 241.26.

26 11 MCAR S 2.602 Purpose.

27 The purpose of 11 MCAR SS 2.601-2.622 is to establish the  
28 policies, procedures, rules, regulations, and guidelines which  
29 will govern the operation of the office of adult release  
30 established within the Department of Corrections by the  
31 commissioner in order to discharge the responsibilities  
32 established by law.

33 11 MCAR S 2.603 Administration.

34 For the purpose of coordinating, monitoring, and assuring  
35 uniformity and objectivity in the decisions of parole,

1 supervised release, and work release, the commissioner has  
2 established the office of adult release and appointed an  
3 executive officer of adult release. The commissioner has  
4 delegated to the executive officer of adult release the  
5 authority to grant parole and work release; to revoke parole,  
6 work release, and supervised release; to discharge persons under  
7 indeterminate sentences; and to approve the conditions of  
8 parole, work release, and supervised release.

9 The executive officer of adult release shall be independent  
10 from the administration of the institutions and community  
11 services division and shall report directly to the commissioner.

12 One or more Department of Corrections staff approved by the  
13 commissioner may assist the executive officer of adult release  
14 in carrying out his responsibilities.

15 11 MCAR S 2.604 Executive officer of adult release.

16 The executive officer of adult release shall have the  
17 authority, under the guidelines prescribed in 11 MCAR SS  
18 2.601-2.622, with the exception of those inmates under life  
19 sentences, to:

20 A. grant parole and work release and discharge inmates with  
21 indeterminate sentences;

22 B. approve or modify conditions of parole, supervised  
23 release, or work release as developed by the case management  
24 program teams;

25 C. restructure conditions of parole or supervised release;

26 D. revoke parole, supervised release, and work release  
27 status;

28 E. issue warrants for the apprehension of parolees,  
29 supervised releasees, and work releasees;

30 F. authorize the extradition of absconders from parole,  
31 supervised release, and work release; and

32 G. issue revocation orders to stop time on parolees,  
33 supervised releasees, and work releasees who have absconded and  
34 to start the time running on the inmates' sentences.

35 11 MCAR S 2.605 Case management.

1 A. Program review teams. In each adult institution there  
2 shall be one or more case-management program review teams  
3 appointed by the institution superintendent or warden. One  
4 member of each team shall be designated as the chairman.

5 B. Functions. A program review team shall perform the  
6 following functions regarding each inmate:

- 7 1. develop a needs assessment;
- 8 2. develop a program plan;
- 9 3. develop projected release plans;
- 10 4. develop institutional transfer recommendations;
- 11 5. develop recommendations for work release for  
12 prerelease purposes;
- 13 6. develop recommendations for work release;
- 14 7. conduct program plan progress reviews at least once  
15 every 12 months;
- 16 8. modify needs assessment or program plans as required;
- 17 9. develop conditions of parole or supervised release  
18 jointly with the inmate's assigned field agent;
- 19 10. conduct reentry reviews; and
- 20 11. make recommendations regarding the transfer of  
21 youthful offenders to adult status.

22 C. Plans. All needs assessments, program, and projected  
23 release plans must be in writing and the central office file  
24 copy must be forwarded to the office of adult release for  
25 informational purposes. All conditions of parole or supervised  
26 release shall be imposed by the executive officer of adult  
27 release.

28 11 MCAR S 2.606 Case management process.

29 A. Needs assessments, program, and projected release plans.  
30 Each inmate shall have a needs assessment, program plan, and  
31 projected release plan developed within 60 days of admission.  
32 The needs assessment must specify the inmate's needs as  
33 identified by the program review committee regarding:

- 34 1. chemical dependency;
- 35 2. sexual deviancy;
- 36 3. psychological disorder; and

1 4. other.

2 The projected release plan shall be based on the inmate's  
3 needs and shall contain the conditions required to meet the  
4 department's objective of public protection.

5 The needs assessment, program plan, and projected release  
6 plan shall be developed by the ~~appropriate-institution~~ program  
7 review team, and the central office copy shall be forwarded to  
8 the office of adult release for information purposes.

9 B. Progress reviews. The progress of each inmate under the  
10 jurisdiction of the commissioner shall be reviewed at least  
11 annually by the ~~institution~~ program review team. Progress  
12 reviews may occur in conjunction with custody status changes and  
13 as individual program needs require.

14 The inmate's progress reviews may result in the  
15 modification of the inmate's needs assessment, modification of  
16 program plan, recommendations for institutional transfer, work  
17 release recommendations, and the development of conditions of  
18 parole or supervised release.

19 The central office copy of the inmate's progress reviews  
20 shall be forwarded to the office of adult release for  
21 information purposes.

22 C. Work release for prerelease purposes. Inmates on  
23 prerelease status shall be housed at the Minnesota Correctional  
24 Facility-Lino Lakes. ~~Nonmetropolitan-prerelease-status-will-be~~  
25 ~~available-on-a-limited-basis.~~ Requests for this status shall be  
26 coordinated through the work release director at least 90 days  
27 prior to the inmate's release date. These inmates will be  
28 housed in facilities appropriate to provide the necessary  
29 services.

30 The recommendations of the program review teams shall be  
31 reviewed by the executive officer for granting prerelease  
32 status. The executive officer of adult release shall make the  
33 decision to grant or deny work release status for placement in  
34 the prerelease program.

35 D. Work release. Applications for work release must be  
36 forwarded to the director of work release for approval. If

1 approved by the director of work release, the application must  
2 be considered by the program review team. If approved by the  
3 program review team, the recommendation of the program review  
4 team must be reviewed by the executive officer of adult release  
5 for the granting or denial of work release.

6 E. Reentry reviews. The institution caseworker and the  
7 inmate must complete the projected release plan 105-120 days  
8 prior to the inmate's established release date. The projected  
9 release plan, current case summary, annual progress reviews, and  
10 psychological evaluation must be forwarded to the district  
11 supervisor or Community Corrections Act contact person of the  
12 county in which the offender intends to reside. A copy of that  
13 request shall also be forwarded to the district supervisor or  
14 Community Corrections Act contact person of the county of  
15 commitment.

16 The district supervisor or Community Corrections Act  
17 contact person shall assign an a supervising agent within 90  
18 days of the offender's release. The name and telephone number  
19 of the supervising agent assigned must be sent to the  
20 institution caseworker as notification of the supervising agent  
21 assignment.

22 The assigned supervising agent shall verify the  
23 appropriateness of the release plan. If the supervising agent  
24 concurs with the plan, the supervising agent must submit a  
25 prerelease report within 65 days of the inmate's release date.  
26 If the supervising agent does not concur, he must call the  
27 institution caseworker. The institution caseworker and the  
28 ~~field~~ supervising agent shall confer to resolve the difference.

29 Within 45-60 days of the inmate's release date the  
30 institution caseworker or parole unit shall schedule the inmate  
31 for a review before the program review committee team. The  
32 program review team shall conduct a reentry review and finalize  
33 the projected release plan.

34 The district supervisor shall request the central office  
35 records clerk to issue a bookslip. Upon receipt of a copy of  
36 the signed conditions of parole or supervised release by the



1 central office records clerk, a bookslip must be issued.

2 The final recommendations regarding release plans which  
3 have been developed jointly with the supervising agent, the  
4 institution caseworker, and forwarded by the program review  
5 committee team shall be reviewed by the executive officer of  
6 adult release at least 30 days prior to the inmate's established  
7 release date. These reviews shall take place at each Minnesota  
8 correctional facility as follows:

9 1. at least every ten working days at Minnesota  
10 Correctional Facility-Stillwater and Minnesota Correctional  
11 Facility-St. Cloud; and

12 2. at least every 15 working days at Minnesota  
13 Correctional Facility-Shakopee, Minnesota Correctional  
14 Facility-Oak Park Heights, and Minnesota Correctional  
15 Facility-Lino Lakes.

16 The executive officer of adult release shall make the final  
17 decision regarding the conditions of parole, supervised release,  
18 or work release, with the exception of those inmates under life  
19 sentences.

20 11 MCAR S 2.607 Notification to inmates.

21 At least 30 days prior to the reentry review, the inmate  
22 shall receive written notice of the date and time of the  
23 review. The notice shall state the purpose of the review, the  
24 material to be covered, and the right to review the files,  
25 records, and other documents which will be considered at that  
26 time. The notice shall also inform the inmate of the right to  
27 submit written documentation and to appear and speak on his own  
28 behalf during the hearing. All inmates shall be notified, in  
29 writing, of any decisions which affect their program plans,  
30 conditions of release, or release date which occur as a result  
31 of program team reviews or through the disciplinary process.

32 11 MCAR S 2.608 Inmates with indeterminate sentences.

33 A. Concurrent sentences. When an inmate is under sentence  
34 for a pre-May 1, 1980 offense and a guideline sentence  
35 concurrently, and the sentence for the pre-May 1, 1980 offense

1 exceeds the guidelines sentence, release shall be considered  
2 under Minnesota Statutes 1983 Supplement, ~~sections~~ section  
3 243.05 and ~~243.12~~.

4 B. Review of release dates. Incarcerated inmates with  
5 indeterminate sentences governing their release dates which were  
6 established prior to July 1, 1982, shall be handled as follows:

7 1. All release dates established by the Minnesota  
8 corrections board will be left in full force and effect by the  
9 commissioner.

10 2. Special reviews for the purpose of modifying release  
11 dates established by the Minnesota corrections board ~~will~~ shall  
12 be considered by the executive officer of adult release for the  
13 following reasons:

14 a. correcting mathematical, data entry, or  
15 computational errors;

16 b. ~~Minnesota corrections board parole decision-making~~  
17 ~~guidelines-modifications-caused-by-sentence-changes~~ sentence  
18 change caused by modification in the computation of the  
19 "Minnesota Corrections Board Parole Decision-Making Guidelines";  
20 and

21 c. policy changes established by the commissioner  
22 which affect the term of imprisonment.

23 3. The program review team shall determine if the  
24 criteria for a special review have been met. If the criteria  
25 have been met, the program review team shall forward the  
26 information and a recommendation to the executive officer of  
27 adult release. The executive officer of adult release shall  
28 make the final decision regarding the requested adjustment in  
29 the release date.

30 C. Application of guidelines.

31 1. Minnesota sentencing guidelines policies and  
32 procedures must be utilized in determining the term of  
33 imprisonment and projected release date of each inmate with an  
34 indeterminate sentence whose new admission review occurs after  
35 July 1, 1982.

36 2. The criminal history score shall be based on the

1 inmate's status on the date the indeterminate offense occurred.

2 a. To be assigned a juvenile point, the offender must  
3 have been under 21 years of age at the time of the offense. If  
4 so, standard guidelines policies apply.

5 b. To be assigned a custody status point, the offender  
6 must have been under applicable Minnesota state guidelines  
7 policy custody status at the time the indeterminate offense  
8 occurred. If so, standard guidelines policies apply.

9 c. The only misdemeanor, gross misdemeanor, or felony  
10 convictions which shall be utilized to compute the criminal  
11 history score shall be those for which the offender had received  
12 a stayed or imposed sentence prior to the date on which the  
13 indeterminate offense occurred.

14 3. The program review team shall complete a Minnesota  
15 sentencing guidelines worksheet on such inmates and forward the  
16 worksheet to the executive officer of adult release for  
17 approval. If the program review team recommends departure from  
18 the guidelines grid, the written reasons for the departure must  
19 accompany the worksheet.

20 11 MCAR S 2.609 Good time lost; extension of term of  
21 imprisonment.

22 All inmates shall be subject to the loss of good time or  
23 extension of term of imprisonment for institutional disciplinary  
24 infractions as follows:

25 A. All inmates with indeterminate sentences and established  
26 release dates shall have their release date and expiration date  
27 extended by one day for each day of good time lost, not to  
28 exceed the maximum sentence imposed by the court.

29 B. All inmates with indeterminate sentences who have their  
30 expiration date as their assigned release date shall have their  
31 expiration date extended by one day for each day of good time  
32 lost, not to exceed the maximum sentence imposed by the court.

33 C. All inmates with guidelines sentences shall have their  
34 supervised release date extended by one day for each day of good  
35 time lost.

36 D. All parole violators shall have their release date

1 extended by one day for each day of good time lost.

2 E. All violators of supervised release shall have their  
3 projected release date extended by one day for each three days  
4 of segregation time served.

5 11 MCAR S 2.610 Offenders on parole or supervised release status.

6 Progress reviews shall be completed annually on all  
7 offenders on parole or supervised release status by the  
8 supervising agent. Unless the expiration date occurs earlier,  
9 offenders on parole status shall be considered for discharge  
10 when consistent with public safety.

11 11 MCAR S 2.611 Inmates with life sentences.

12 A. Advisory panel. The commissioner shall convene an  
13 advisory panel of Department of Corrections employees, which  
14 shall consist of, but not be limited to, the following:

- 15 1. the deputy commissioner for institutions;
- 16 2. the deputy commissioner for community services;
- 17 3. the superintendent or warden of the institution of the  
18 inmate's residence; and
- 19 4. the executive officer of adult release.

20 The commissioner shall serve as the chairman of the  
21 advisory panel.

22 B. Duties of panel. The advisory panel shall review each  
23 inmate who is serving a life sentence three years prior to the  
24 inmate's parole or supervised release eligibility date in order  
25 to establish a projected release date or a future review date.  
26 The advisory panel shall assist the commissioner in thoroughly  
27 considering the inmate's entire case history, including the  
28 facts and circumstances of the offense for which the life  
29 sentence is being served; past criminal history, institutional  
30 adjustment, program team reports, psychological and psychiatric  
31 reports where pertinent; and the results of community  
32 investigations.

33 The program team of the inmate's residence shall prepare  
34 appropriate reports and recommendations as requested by the  
35 institution superintendent or warden.

1 C. Inmate's rights. The inmate shall be given 60 days  
2 notice prior to the date of review and:

3 1. shall be entitled to submit written documentation in  
4 support of his or her position;

5 2. may shall have the choice to be present at the review  
6 hearing;

7 3. an attorney representing the inmate or an advocate of  
8 the inmate's choice shall be allowed at the review hearing; and

9 4. a representative of the ombudsman's office may be  
10 present at the review hearing.

11 D. Duties of officials. The commissioner may initiate  
12 inquiries and take testimony as authorized by Minnesota  
13 Statutes, section 243.05.

14 The executive officer of adult release shall assist the  
15 commissioner in interviewing interested parties and prepare a  
16 summary of community input for presentation to the advisory  
17 panel.

18 During the deliberative process only members of the  
19 advisory panel shall be present unless determined otherwise by  
20 the commissioner.

21 E. Projected release date. The commissioner shall establish  
22 a projected release date for each inmate or continue the case to  
23 a future review date. The decision of the commissioner shall be  
24 communicated to the inmate in writing within 30 days of the  
25 review and shall contain the following:

26 1. the factors utilized in arriving at the projected  
27 release date or a future review date;

28 2. the future review or projected release date; and

29 3. actions by the inmate which could cause the projected  
30 release or review date to be changed.

31 The projected release date, once established shall not be  
32 modified without a review incorporating the elements of the  
33 initial review referred to in C. with the exception of changes  
34 caused by a loss of good time.

35 11 MCAR S 2.612 Conditions of parole or supervised release.

36 A. Objective of public safety. Conditions of parole or

1 supervised release shall be based on the need for public  
2 safety. Surveillance with optional treatment programming shall  
3 be utilized when consistent with case planning in order to  
4 achieve maximum public safety.

5 B. Requirements and prohibitions of release. All offenders  
6 on parole or supervised release shall be required to comply with  
7 the following standard conditions of parole or supervised  
8 release:

9 1. Releasees upon leaving the institution shall report  
10 immediately at the destination specified by the supervising  
11 agent.

12 2. Releasees shall at all times follow the instructions  
13 of their supervising agent and keep the supervising agent  
14 informed of their residence and activities. Releasees shall  
15 advise their supervising agent within 24 hours if they are  
16 arrested.

17 3. Releasees shall maintain contact with the supervising  
18 agent in the manner prescribed by that supervising agent.

19 4. Releasees shall submit reports as required by the  
20 supervising agent and shall respond promptly to any  
21 communication from their supervising agent.

22 5. Releasees shall follow the supervising agent's  
23 instructions with respect to the use of intoxicants and shall  
24 not possess or use narcotics or other drugs, preparations, or  
25 substances as defined by Minnesota Statutes, chapter 152, except  
26 those prescribed for the releasee by a licensed physician.

27 6. Releasees shall not purchase or otherwise obtain or  
28 have in their possession any type of firearm or dangerous weapon  
29 as defined by Minnesota Statutes, section 609.02, subdivision 6.

30 7. Releasees shall not leave the state without the  
31 written permission of the supervising agent specifying the terms  
32 and conditions under which permission is granted.

33 8. Releasees shall not be convicted of any felony, gross  
34 misdemeanor, or any misdemeanor punishable by imprisonment as  
35 defined in Minnesota Statutes, section 609.02, or of repeated  
36 traffic offenses other than parking violations. Acknowledgement

1 in the form of a confession under oath in open court before a  
 2 judge may be considered a conviction for the purpose of this  
 3 condition.

4 9. A finding of probable cause by a court of competent  
 5 jurisdiction or grand jury indictment shall be considered  
 6 grounds to hold a releasee in custody unless and until the  
 7 releasee is found not guilty.

8 C. Special conditions of release. Special conditions of  
 9 release mean any conditions on the release form other than the  
 10 standard conditions, setting forth individual specified  
 11 requirements to be followed by a releasee. These special  
 12 conditions include:

13 1. special conditions which set forth limits regarding  
 14 contact with specified persons, travel from or to specified  
 15 locations or areas, or increased contact with the supervising  
 16 agent beyond that which is considered standard;

17 2. participation conditions which require the releasee to  
 18 be involved in nonresidential therapy or counseling programs;  
 19 and

20 3. residential conditions which require the releasee to  
 21 be involved in a residential program.

22 ~~D.--Special-conditions-of-release-criteria.--Consideration~~  
 23 ~~for-special-conditions-of-parole-or-supervised-release-shall~~  
 24 ~~include-but-not-be-limited-to-those-inmates-who-are-being~~  
 25 ~~released-and-have-one-or-more-of-the-following-factors-present~~  
 26 ~~in-their-case:~~

27 1.--immediately-following-institution-segregation-status;

28 2.--with-a-custody-status-of-maximum; or

29 3.--with-a-history-of-violent-or-assaultive-behavior.

30 ~~The-inmate-is-considered-to-meet-criteria-specified-in-3-~~  
 31 ~~if-one-or-more-of-the-following-circumstances-apply:~~

32 a.--if-the-offense-involved-substantial-victim-injury

33 and-the-behavior-in-the-offense-was-consistent-with-the-inmate's  
 34 prior-behavior-pattern;

35 b.--if-the-offense-involved-excessive-victim-injury-and

36 the-amount-of-injury-or-violence-inflicted-was-far-in-excess-of

1 that-needed-to-accomplish-the-crime;

2 c.--if-the-offense-involved-attempted-or-actual-victim  
3 injury-and-the-inmate-has-one-or-more-prior-felony-convictions  
4 for-offenses-involving-attempted-or-actual-victim-injury;

5 d.--if-the-inmate-is-determined-to-be-"dangerous"-by  
6 probate-court-or-formal-psychological-or-psychiatric-evaluation;  
7 and

8 e.--if-the-inmate-is-convicted-of-any-offense-through  
9 the-institution-disciplinary-due-process-system-during-his  
10 incarceration-involving-substantial-victim-injury.

11 E.--Chemical-dependency-placement.--Chemical-dependency-may  
12 be-considered-grounds-for-mandating-residential-placement-and  
13 supervision-if:

14 1.--the-inmate-was-under-the-influence-of-chemicals-at-the  
15 time-of-the-current-offense-or-obtaining-chemicals-was-the  
16 motive-for-the-current-offense;-and

17 2.--the-inmate's-behavior-while-under-the-influence-of  
18 chemicals-or-seeking-to-obtain-chemicals-meets-the-criteria  
19 indicated-in-D.

20 F.--Sex-offense-placement.--Sex-offense-behavior-may-be  
21 grounds-for-mandating-residential-placement-and-supervision-if:

22 1.--the-inmate-is-declared-to-be-a-"recidivistic-sex  
23 offender"-on-the-basis-of-a-formal-assessment;-or

24 2.--the-inmate-is-convicted-of-any-offense-through-the  
25 institution-disciplinary-due-process-system-during-his-term-of  
26 incarceration-involving-sexual-assault.

27 G.--Evidentiary-basis-for-criteria.--The-determination-as-to  
28 whether-an-inmate-meets-any-or-all-of-the-criteria-specified-in  
29 D.-F.-shall-be-based-upon-factual-and-verifiable-data-and  
30 behavior.

31 H. D. Development of special conditions of parole or  
32 supervised release. Special conditions of parole or supervised  
33 release shall be developed jointly by the institution program  
34 review team and the field supervising agent.

35 I. E. Approval of conditions of parole or supervised release.  
36 All conditions of parole or supervised release shall be subject



1 to the approval of the executive officer of adult release.

2 ~~F.~~ F. Placement in residential community program. If  
3 placement in a residential community program is prescribed as a  
4 special condition of supervised release, failure to enter and  
5 complete such a program is grounds for revocation of release.  
6 If no community program is available at the time of release, the  
7 matter shall be referred to the executive officer of adult  
8 release for approval of an alternative program or plan.

9 ~~K.~~ G. Notice of conditions of parole or supervised release.  
10 At the time of release from a correctional facility each inmate  
11 shall have read to him the conditions of parole or supervised  
12 release, and the inmate shall sign the conditions of parole or  
13 supervised release. The inmate's signature shall be witnessed  
14 by the staff member who read the conditions of parole or  
15 supervised release to the inmate.

16 ~~E.~~ H. Cooperation of inmate required. Refusal to cooperate  
17 in determining place of residence, employment plans, or  
18 conditions of release shall result in an extension of the  
19 inmate's term of imprisonment through the institutional  
20 disciplinary process. Inmates serving indeterminate sentences  
21 will not be allowed to leave the institution without an approved  
22 release plan.

23 11 MCAR S 2.613 Restructure of conditions of parole or  
24 supervised release.

25 A. Request by offender. Offenders on parole or supervised  
26 release may at any time during their term of release request  
27 that the standard or special conditions of release be modified.  
28 Their request must be made in writing through their supervising  
29 agent who shall submit the request and the supervising agent's  
30 recommendation to the office of adult release within ten days of  
31 its receipt. The executive officer of adult release shall  
32 review the request and respond in writing within 30 days of the  
33 receipt of the request for the modification of the standard or  
34 special conditions of release.

35 B. Request by supervising agent. Supervising agents, after  
36 consultation with their supervisor, may request a restructure of

1 a client's standard or special conditions of release.

2 C. Granting of modification. The executive officer of adult  
3 release may authorize the supervising agent to modify the  
4 standard or special conditions of release or cause the releasee  
5 to be brought before the executive officer of adult release for  
6 a review of the matter of modification. Any modification of the  
7 standard or special conditions of release shall be in writing  
8 and executed with the same formality as the original conditions.

9 11 MCAR S 2.614 Work release status.

10 A. Participation. Participation in the work release program  
11 is voluntary on the part of the inmate. Consideration for work  
12 release status shall be given to those offenders who have met  
13 the Department of Corrections eligibility requirements, have  
14 been accepted by the director of work release and recommended by  
15 the institution program review team. The executive officer of  
16 adult release shall make the decision for the granting or denial  
17 of work release.

18 B. Violations; revocations. All violations of work release  
19 rules shall be handled according to the approved discipline  
20 plan. Revocation of work release status shall be the decision  
21 of the executive officer of adult release after an appropriate  
22 due process hearing.

23 11 MCAR S 2.615 Work release for prerelease purposes.

24 A. Participation. Participation in the prerelease program  
25 is voluntary on the part of the inmate. The procedure for  
26 granting work release for placement in the prerelease program  
27 shall be for the program review team to make the referral to the  
28 executive officer of adult release. The executive officer of  
29 adult release shall make the final decision regarding the  
30 granting of work release status for placement in the prerelease  
31 program.

32 B. Violations. Violations of work release or prerelease  
33 shall be handled through the institutional disciplinary process.

34 11 MCAR S 2.616 Warrants, stop time, and hold orders.

35 A. Grounds for issuance. Warrants may be issued for the

1 apprehension and detention of parolees, supervised releasees,  
2 and work releasees:

3 1. who are alleged to have violated the conditions of  
4 their release;

5 2. who are convicted of a new felony and who represent a  
6 risk either by absconding or who have a probability of  
7 committing acts which are dangerous to the community; or

8 3. who are the subject of detainers in appropriate cases.

9 When warrants have been issued as detainers for releasees  
10 who are being prosecuted for new charges, including violations  
11 which are misdemeanors, gross misdemeanors, or felonies, the  
12 revocation process shall not begin until the court process has  
13 concluded. The court process will be considered concluded by  
14 dismissal of charges, a finding of not guilty, or the completion  
15 of any local incarceration time imposed by the court.

16 B. Formal recommendation requirement. At any time the  
17 releasee is prepared to make bail or has been sentenced by the  
18 court, the supervising agent shall submit a written formal  
19 recommendation to the executive officer of adult release  
20 regarding whether to:

21 1. maintain the warrant or allow the releasee to make  
22 bail; or

23 2. cancel the warrant and allow the local sentence  
24 imposed to satisfy the violation time. If this is done, a  
25 notice of release will be filed by the fugitive unit which  
26 provides that the supervising agent be notified 30 or 60 days  
27 prior to release.

28 C. Issuance of warrants. The executive officer of adult  
29 release shall have the authority to issue nationwide or  
30 statewide warrants on a case-by-case basis in accordance with  
31 the following procedures:

32 1. After consultation with his or her supervisor, the  
33 ~~field~~ supervising agent shall submit a violation report to the  
34 executive officer of adult release who shall make the final  
35 decision regarding the issuance of a warrant.

36 2. In emergency situations the supervising agent shall

1 request authorization for the warrant by telephone. The  
2 supervising agent shall call the office of adult release and  
3 provide the necessary information for warrant authorization.

4 3. Upon approval of the emergency warrant, the office of  
5 adult release shall provide the fugitive unit with the necessary  
6 information, and instruct the fugitive unit to issue the warrant.

7 4. If an emergency warrant is issued, a written violation  
8 report must be received by the office of adult release within  
9 five working days.

10 D. Other orders. The executive officer of adult release  
11 shall have the authority to issue orders revoking parole,  
12 supervised release, or work release; to stop the time from  
13 running on the sentences of releasees who have absconded, and to  
14 start the running of the time on the inmate's sentence.

15 E. Hold orders. Apprehension and detention orders may be  
16 issued by the executive officer of adult release or a district  
17 supervisor upon written reasons submitted by a supervising agent  
18 under authority of Minnesota Statutes, section 243.05. No  
19 releasee shall be detained under an apprehension and detention  
20 order for more than 72 hours unless revocation proceedings have  
21 been initiated by the supervising agent.

22 11 MCAR S 2.617 Revocation hearings.

23 A. Location, conduct. Revocation hearings whenever possible  
24 must be held in the community where the conviction of the  
25 violation of a standard or condition occurred. Separate  
26 probable cause hearings may be held if circumstances warrant.  
27 All revocation or separate probable cause hearings must be held  
28 within 15 working days of the releasee's availability to  
29 Department of Corrections.

30 Outside the metropolitan area, as defined by Minnesota  
31 Statutes, section 473.121 revocation or separate probable cause  
32 hearings shall be conducted by a Department of Corrections  
33 district supervisor other than the supervising agent's  
34 supervisor. In cases of special need the executive officer of  
35 adult release may conduct the revocation or separate probable  
36 cause hearings outside the metropolitan area. Within the

1 metropolitan area the hearings shall be conducted by the  
2 executive officer of adult release.

3 B. Grounds. Grounds for the revocation of parole, work  
4 release, or supervised release are as follows:

5 1. Conviction of a felony, gross misdemeanor, any  
6 misdemeanor punishable by imprisonment as defined in Minnesota  
7 Statutes, section 609.02, or repeated traffic offenses other  
8 than parking violations. Acknowledgement in the form of a  
9 confession under oath in open court before a judge may be  
10 considered a conviction for the purpose of revocation.

11 2. A finding of probable cause by a court of competent  
12 jurisdiction or a grand jury indictment shall be considered  
13 grounds to hold the offender in custody unless and until the  
14 releasee is found not guilty.

15 3. Violation of any standard or special condition of  
16 parole or supervised release.

17 C. Actions. If the executive officer of adult release or a  
18 district supervisor finds that releasees are in violation of  
19 their parole, work release, or supervised release, the following  
20 actions may be taken:

21 1. counsel the releasee and continue parole, work  
22 release, supervised release without modification;

23 2. modify and enlarge the conditions of release; or

24 3. revoke parole, work release, or supervised release and  
25 return the releasee to imprisonment for an appropriate period of  
26 time not to exceed the time remaining on the releasee's sentence.

27 D. Reimprisonment. Offenders who have violated the  
28 conditions of parole or supervised release and who have been  
29 returned to institutional status shall be assigned a release  
30 date and a term of reimprisonment, as follows:

31 1. up to six months inclusive of any time spent in jail  
32 in connection with the violation, for violations of conditions  
33 of parole or supervised release other than convictions of or  
34 involvement in criminal activity;

35 2. up to six months for convictions of misdemeanors or  
36 gross misdemeanors;

1           3. six months to expiration of sentence for conviction of  
2 a felony; and

3           4. depending on the time remaining to be served on the  
4 sentence, the type of violation, and the needs of the offender,  
5 up to expiration of the sentence may be assigned as the term of  
6 reimprisonment if there is a finding of risk to the public or if  
7 repeated violations of the conditions of release occur and the  
8 releasee is determined to be unamenable to supervision by the  
9 executive officer of adult release.

10           The term of reimprisonment under 1.-3. may be either  
11 concurrent or consecutive to incarceration time imposed by a  
12 court of law and served locally.

13 11 MCAR S 2.618 Revocation procedures.

14           A. Investigation and report. Supervising agents shall  
15 investigate all alleged violations of release and after  
16 consultation with their supervisor determine whether grounds  
17 exist to begin revocation procedures. If grounds are found to  
18 exist justifying the initiation of revocation procedures, a  
19 violation report must be submitted to the executive officer of  
20 adult release together with a recommendation as to the issuance  
21 of a warrant directing the apprehension and detention of the  
22 releasee pending a hearing.

23           B. Emergency situations. In emergency situations  
24 supervising agents after consultation with their supervisor, may  
25 call the office of adult release to request an emergency  
26 warrant. The procedure indicated in 11 MCAR S 2.616 governs the  
27 issuance of emergency warrants.

28           C. Initiation of proceedings. If the executive officer of  
29 adult release determines that revocation proceedings shall be  
30 initiated, the supervising agent shall be notified in writing.  
31 The executive officer of adult release shall send a copy of the  
32 violation report to the State Public Defender's office at the  
33 same time that agent is notified to begin revocation proceedings.

34           D. Notice of hearing. Upon receipt of the notice to begin  
35 revocation proceedings, the supervising agent shall have the  
36 following duties:

1           1. The agent shall give the releasee a copy of the  
2 violation report.

3           2. The supervising agent shall advise the releasee of the  
4 purpose of the hearing; his right to a hearing; his right to the  
5 assistance of counsel of his own choosing or the services of the  
6 State Public Defender; his right to present evidence and to  
7 confront and cross-examine witnesses against him; and his right  
8 to admit the violations of release.

9           3. If the releasee signs the admission of violations  
10 form, the supervising agent shall notify the fugitive unit to  
11 transport the violator to a correctional facility designated by  
12 the commissioner.

13           4. Upon return to the correctional facility, the releasee  
14 shall be provided with a dispositional hearing within 15 working  
15 days at which the ~~field~~ supervising agent is not required to be  
16 present.

17           5. If the releasee requests a revocation hearing, the  
18 supervising agent shall call the office of adult release to  
19 coordinate a date and time for the hearing.

20           6. Upon receiving the date and time for the hearing, the  
21 supervising agent shall prepare a notice of hearing form, make  
22 six copies of the rules of release, six copies of any written  
23 evidence, and distribute one set of each according to the  
24 distribution indicated on the notice of revocation hearing form.

25           If the releasee is in custody pursuant to a warrant issued  
26 by the office of adult release, the hearing shall be held within  
27 15 working days immediately after his detention, unless good  
28 cause is shown for a continuance. At the time notice is given  
29 to the releasee, notice shall be sent to the State Public  
30 Defender or private counsel.

31           E. Hearing. The revocation hearing shall be held near the  
32 site of the alleged violation, and conducted by the executive  
33 officer of adult release or a district supervisor who does not  
34 directly ~~supervising~~ supervise the supervising agent alleging  
35 the violation. If parole, supervised release, or work release  
36 is revoked, the releasee shall be imprisoned in a place

1 determined by the commissioner. Releasees may admit the alleged  
2 violations any time prior to the hearing. The admission must be  
3 in writing, and releasees must have been notified of the  
4 consequences of their admission, including that they may be  
5 returned to a correctional facility for a term of imprisonment  
6 specified by the executive officer of adult release or a  
7 district supervisor.

8 F. Warrants. Unless taken into custody by an a supervising  
9 agent under the authority of Minnesota Statutes 1983 Supplement,  
10 section 243.05, a releasee shall not be taken into custody  
11 unless a warrant is issued by the executive officer of adult  
12 release. Requests for hold orders or warrants must allege the  
13 specific facts upon which the alleged violation is based,  
14 indicate the sources of information, and cite reasons why  
15 detention pending the hearing is necessary.

16 Warrants may be issued in all cases where a releasee has  
17 absconded from supervision. Issuance of warrant under these  
18 circumstances and the revocation of parole, supervised release,  
19 or work release shall stop the time from running on the sentence  
20 until the releasee is returned to custody. In all cases where a  
21 releasee is returned from out of state, whether by extradition  
22 proceedings or waiver of extradition, the hearing shall be held  
23 at a location determined by the executive officer of adult  
24 release.

25 G. Failure to appear. Failure of a releasee to appear at a  
26 revocation or probable cause hearing after having been duly  
27 notified will result in the issuance of a warrant for their  
28 apprehension and detention and return to custody pending a  
29 hearing at a place to be determined by the executive officer of  
30 adult release.

31 11 MCAR S 2.619 Extraordinary discharge recommendation to Board  
32 of Pardons.

33 A. Authority. Any person, whether imprisoned in a state  
34 correctional facility, detained elsewhere as authorized by the  
35 commissioner, or at liberty in the community under supervision  
36 and subject to the rules of the commissioner, and serving a



1 sentence under the sentencing guidelines adopted in accordance  
2 with Minnesota Statutes, chapter 244, may apply for a  
3 recommendation for an extraordinary discharge by the Board of  
4 Pardons as defined in Minnesota Statutes, section 244.06.

5 B. Grounds for. An application for extraordinary discharge  
6 shall be based on the following:

- 7 1. serious health problems; or
- 8 2. extraordinary circumstances.

9 C. Documentation of health problems. Applications, based on  
10 B.1. must be supported by written statements by licensed  
11 physicians designated or approved by the Department of  
12 Corrections attesting to the applicant's serious health problems  
13 and giving their opinion regarding:

- 14 1. whether continued imprisonment would be detrimental to  
15 the health and welfare of the applicant; or
- 16 2. whether or not cost effective health care services  
17 necessary to treat the applicant are available within the  
18 department.

19 D. Required findings. Based on the documentation by the  
20 designated physicians and other relevant data, the commissioner,  
21 in order to recommend an extraordinary discharge upon a ground  
22 contained in B.1. must find that:

- 23 1. extraordinary discharge is justified on the alleged  
24 grounds;
- 25 2. the discharge of the applicant will not constitute a  
26 threat to the personal safety of any individual or the public;  
27 and
- 28 3. the discharge is compatible with the public interest  
29 and the welfare of the applicant.

30 E. Extraordinary circumstances. Applications based upon  
31 extraordinary circumstances referred to in B.2. must allege:

- 32 1. economic hardship on the immediate family of the  
33 applicant;
- 34 2. the hardship is of such uncommon and exceptional  
35 nature that it may only be alleviated by the discharge of the  
36 applicant; and

1 3. the discharge of the applicant will not pose a present  
2 or potential threat to any individual or to the public.

3 If, after appropriate inquiry, the commissioner finds that  
4 the allegations are true, extraordinary discharge may be  
5 recommended to the Board of Pardons.

6 11 MCAR S 2.620 Extraordinary discharge application process.

7 A. Applications. Applications for extraordinary discharge  
8 must be in writing, contain all of the reasons why the applicant  
9 feels such a discharge is warranted, and be supported by  
10 appropriate documentation.

11 B. Assistance, processing. The institution caseworker at a  
12 state correctional facility, or in the case of a releasee, the  
13 supervising agent, if requested, shall assist the applicant in  
14 the preparation of the application. In all cases the  
15 application shall be submitted to the institution caseworker or  
16 supervising agent for review.

17 When satisfied that the application is in proper form and  
18 complete, the institution caseworker or supervising agent will  
19 then submit the application to the case-management program  
20 review team of the facility in which the applicant is confined  
21 or to the field supervisor if the applicant is on release  
22 status. After review of the application, the case-management  
23 program review team or district supervisor shall submit the  
24 application to the executive officer of adult release together  
25 with any recommendations they deem necessary.

26 C. Review. The executive officer of adult release shall  
27 review each application and make recommendations to the  
28 commissioner regarding the application.

29 D. Action on application. Applications for extraordinary  
30 discharge recommendation shall be approved or denied by the  
31 commissioner. If the application is approved, it will be  
32 forwarded to the Board of Pardons for final disposition.

33 11 MCAR S 2.621 Youthful offender 25th birthday review.

34 A. Offenders under field supervision.

35 1. In the case of offenders under field supervision, the

1 institution shall notify the supervising agent 60 days prior to  
2 the offender's 25th birthday. The supervising agent shall  
3 prepare a report for each offender serving a sentence under  
4 Minnesota Statutes 1976, section 242.13, 30 days prior to the  
5 offender's 25th birthday. This report shall contain the  
6 following:

7 a. a recommendation as to whether the offender should  
8 be discharged or transferred to adult status; and

9 b. if there is a recommendation to transfer the  
10 offender to adult status, an outline of the reasons why the  
11 offender is currently dangerous to the public.

12 The executive officer of adult release shall make the  
13 decision as to whether the offender should be transferred to  
14 adult status or discharged.

15 B. Offenders under institutional status. In the case of  
16 offenders under institutional status, ~~institution-staff~~ the  
17 program review team shall review the case material and determine  
18 if a recommendation to transfer the inmate to adult status  
19 should be made based upon the inmate being currently dangerous  
20 to the public.

21 If the ~~institution-staff-feel~~ program review team feels  
22 that the inmate should be transferred to adult status, the  
23 program review team shall make a formal recommendation to the  
24 executive officer of adult release. This recommendation shall  
25 include a list of the factors upon which the recommendation is  
26 based.

27 The following information must be a part of the review  
28 material:

29 1. psychological information which specifically addresses  
30 whether the individual is currently dangerous;

31 2. institutional behavior reports which give evidence of  
32 dangerous behavior within the last two years; and

33 3. a summary report which indicates that at the present  
34 time the individual is dangerous and the conclusionary evidence  
35 which supports or detracts from the transfer recommendation.

36 The executive officer of adult release shall make the

1 decision regarding whether or not the offender shall be  
2 transferred to adult status or discharged.

3 C. Notification to inmate of transfer to adult status.  
4 Each inmate considered for transfer to adult status at his or  
5 her 25th birthday review shall be notified in writing of the  
6 final decision, within 30 days of the review hearing conducted  
7 by the executive officer of adult release. If the offender has  
8 been transferred to adult status, the notification shall include  
9 the following:

10 1. notification of the reasons and grounds on which the  
11 transfer to adult status was made;

12 2. the right to request a hearing of record; and

13 3. that the request for hearing of record must be made in  
14 writing, and within 15 working days of the receipt of the  
15 notification of transfer by the inmate.

16 D. Notification to inmate of hearing. If the inmate  
17 requests a hearing of record, the inmate must be given 60 days  
18 notice prior to the hearing of record and:

19 1. shall be entitled to submit written documentation in  
20 support of his or her position;

21 2. may shall have the choice to be present at the hearing  
22 of record; and

23 3. an attorney representing the inmate or an advocate of  
24 the inmate's choice shall be allowed at the hearing of record.

25 E. Hearing. The hearing of record shall be conducted by the  
26 ~~institution-case-management~~ program review team, and the  
27 Department of Corrections case shall be presented by the  
28 department's legal counsel.

29 F. Recommendation. After the hearing of record, the case  
30 ~~management program~~ review team's recommendation shall be  
31 submitted to the executive officer of adult release for the  
32 final decision.

33 11 MCAR S 2.622 Request for interstate supervision of a  
34 Minnesota releasee.

35 A. Request for transfer. Transfer requests for interstate  
36 supervision of a Minnesota releasee must be submitted to the

1 deputy compact administrator, in the central office, at least 60  
2 days but not more than 90 days prior to the established release  
3 date. The request ~~should~~ shall be submitted on correction form  
4 245, and must include in specific terms the placement offer and  
5 employment, as well as the institution caseworker's evaluation  
6 and recommendation.

7 B. Material to be submitted. The following material ~~should~~  
8 shall be submitted to the compact administrator:

9 1. three copies of the transfer request correction form  
10 245 (interstate transfer request);

11 2. three copies of correction form 312 (application for  
12 compact services);

13 3. three copies of correction form 248 (agreement to  
14 return form) signed, dated, and witnessed; and

15 4. three copies of case management progress reports,  
16 fingerprints, and photos.

17 On cases already under field services supervision the  
18 deputy compact administrator will request the photos,  
19 fingerprints, and progress reports from the releasing  
20 institution.