

§1B1.13 (Policy Statement) - Compassionate Release:

US Sentencing Commission / 2016 Amendments Effective November 1st

Federal law allows judges to release inmates before the end of their term of imprisonment if the Director of the Bureau of Prisons asks the court to release the inmate based on “*extraordinary and compelling reasons.*” Federal law also directs the Commission to “*describe what should be considered extraordinary and compelling reasons.*” If the Bureau of Prisons files a motion, the court ultimately decides whether such reasons exist. After careful study, the Commission made changes to the Guidelines’ policy statement at §1B1.13 detailing what constitutes “extraordinary and compelling reasons.”

In a report, and in public comment to the Commission, the Department of Justice Office of Inspector General pointed out “serious issues with how the Department was running this program and concluded that an efficiently-run compassionate release program combined with modifications to the program’s eligibility criteria could expand the pool of eligible candidates, reduce overcrowding in the federal prison system, and result in cost savings for the BOP.”

Taking into account expert testimony about geriatrics and palliative care in the prison context, as well as other public comment, the Commission strengthened and broadened the criteria for compassionate release with several meaningful changes.

As amended, federal inmates may be eligible for compassionate release based on four categories: “Medical Condition of the Defendant,” “Age of the Defendant,” “Family Circumstances,” and “Other Reasons.”

Circumstances such as terminal illness, debilitating conditions, serious functional or cognitive impairment, and diminished capacity for self-care due to the aging

process, among others, are addressed in the policy statement. The Commission’s action encourages the Bureau of

Prisons (BOP) to use its current authority if an eligible offender meets any of the circumstances defined by the Commission’s expanded criteria for compassionate release. After considering recidivism research, the Commission determined that 65 years should be the age for eligibility under the age-based category. Inmates aged 65 years and older exhibit a very low rate of recidivism (13.3%) as compared to other age groups.

Finally, while only the Director of the Bureau of Prisons has the statutory authority to file a motion for compassionate release, the Commission found that “the

court is in a unique position to assess whether the circumstances exist, and whether a reduction is warranted (and, if so, the amount of

reduction.” In ruling on the motion, the court also considers “whether the defendant is a danger to the safety of any other person or to the community.” Although the Commission’s policy statement is not legally binding on the Bureau of Prisons and does not confer any rights on the defendant, the new commentary is intended to encourage the Director of the Bureau of Prisons to exercise his or her authority to file a motion for compassionate release when the Commission’s criteria are met.

Federal Inmates May be Eligible Based on These Four Categories:

- **Medical Condition of the Defendant**
- **Age of the Defendant**
- **Family Circumstances**
- **Other Reasons**



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The United States Sentencing Commission, an independent agency in the judicial branch of the federal government, was organized in 1985 to develop a national sentencing policy for the federal courts. The resulting sentencing guidelines provide structure for the courts’ sentencing discretion to help ensure that similar offenders who commit similar offenses receive similar sentences.