



Change Notice

DIRECTIVE AFFECTED: 5882.03
CHANGE NOTICE NUMBER: 5882.03
DATE: 2/4/98

-
1. PURPOSE AND SCOPE. To update the Program Statement pertaining to Fines and Costs.
 2. SUMMARY OF CHANGES. This Program Statement provides revised procedures for processing fines and costs for inmates convicted of offenses committed before November 1, 1987. Additionally, Rules language and policy text have been updated in accord with statutory changes regarding the role of the U.S. Magistrate Judge and U.S. Attorney in processing committed fines and costs.
 3. ACTION. File this Change Notice in front of Program Statement 5882.03, Fines and Costs for "Old Law" Inmates.

/s/
Kathleen M. Hawk
Director



U.S. Department of Justice
Federal Bureau of Prisons

Program Statement

OPI: CPD
NUMBER: 5882.03
DATE: 2/4/98
SUBJECT: Fines and Costs
for "Old Law"
Inmates

Rules Effective Date: 1/28/98

1. **[PURPOSE AND SCOPE]** §571.50. This subpart establishes procedures for processing a fine, or fine and costs ordered by the court with respect to an inmate convicted of an offense committed before November 1, 1987. When the court orders a prisoner's confinement until payment of a fine, or fine and costs under 18 U.S.C. § 3565, the Bureau of Prisons shall confine that inmate until the fine, or fine and costs are paid, unless the inmate qualifies for release under 18 U.S.C. § 3569.

a. An inmate held on the sole basis of his/her inability to pay such fine, or fine and costs, and whose non-exempt property does not exceed \$20 may request discharge from imprisonment on the basis of indigency (see 18 U.S.C. § 3569).

b. Under 18 U.S.C. § 3569, the determination of indigency may be made by a U.S. Magistrate Judge. Where the U.S. Magistrate Judge makes a finding of non-indigency based on the inmate's application for a determination of his ability to pay the committed fine, or fine and costs, staff shall refer the application to the appropriate United States Attorney for the purpose of making a final decision on the inmate's discharge under 18 U.S.C. § 3569. It is to be noted that 18 U.S.C. § 3569 provides for confining an inmate for nonpayment of a committed fine, or fine and costs.]

2. **[PROGRAM OBJECTIVES]**. The expected results of this program are:

[Bracketed Bold - Rules]

Regular Type - Implementing Information

a. Fines and costs will be processed in accordance with 18 U.S.C. § 3565 and 3569.

b. Inmates with committed fines may make application for a determination of indigency under 18 U.S.C. § 3569.

3. DIRECTIVES AFFECTED

a. Directives Rescinded

PS 5882.02 Fines and Costs (10/20/83)

b. Directives Referenced. None.

c. Rules cited in this Program Statement are contained in 28 CFR 571.50-55.

4. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: None

b. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: None

c. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: None

d. American Correctional Association Standards for Adult Correctional Boot Camp Programs: None.

5. MCC/MDC/DETENTION FACILITIES. This policy applies to inmates in holdover status and those inmates in pre-trial status who are so classified based upon non-payment of a committed fine, or fines and costs.

6. [DEFINITIONS] §571.51

a. **Fine**. A monetary penalty associated with an offense imposed as part of a judgment and commitment. There are two types of fines.

(1) **Committed Fine**. A monetary penalty imposed with a condition of imprisonment until the fine is paid.

(2) **Non-committed Fine**. A monetary penalty which has no condition of confinement imposed.]

The U.S. Code does not refer specifically to either committed or non-committed fines. These terms have evolved to distinguish between the two types of fines.

[b. Costs. Monetary costs of the legal proceeding which the court may levy. Imposition of costs is similar in legal effect to imposition of a fine. The court may also impose costs with a condition of imprisonment.]

7. COMMITTED FINE, OR FINE AND COSTS - OVERVIEW. Title 18, U.S. Code, Sections 3565 and 3569 are the controlling statutes. Section 3565 states in part:

"If the court finds by a preponderance of the information relied upon in imposing sentence that the defendant has the present ability to pay a fine, or penalty, the judgment may direct imprisonment until the fine, or penalty is paid, and the issue of execution on the judgment shall not discharge the defendant from imprisonment until the amount of the judgment is paid."

This means that the inmate must remain confined until the fine, or fine and costs is paid unless he or she qualifies for release under the provisions of 18 U.S.C. § 3569. The judgment and commitment (J&C) order must contain language which clearly indicates that the inmate is to stand committed until the fine, or fine and costs, is paid or otherwise disposed of according to law.

Under 18 U.S.C. § 3569:

". . . such convict may make application in writing to the nearest United States magistrate in the district where he is imprisoned setting forth his inability to pay such fine, or fine and costs, and after notice to the district attorney of the United States, who may appear, offer evidence, and be heard, the magistrate shall proceed to hear and determine the matter." If it shall appear to the magistrate that "such convict is unable to pay such fine, or fine and costs, and that he has not any property exceeding \$20 in value, except such as is by law exempt from being taken on execution for debt (emphasis added), the magistrate shall administer to him the following oath:

'I do solemnly swear that I have not any property, real or personal, exceeding \$20, except such as is by law exempt from being taken on civil process for debt; and

that I have no property in any way conveyed or concealed, or in any way disposed of, for my future use or benefit. So help me God.'

Upon taking such oath such convict shall be discharged; and the magistrate shall file with the institution in which the convict is confined, a certificate setting forth the facts."

The "oath" referred to above is commonly known as the "Pauper's Oath." The oath is administered to the inmate when a finding of indigency is made. A listing of benefits and payments exempt by federal statute is noted in the Payments Exempt by Federal Statute Without Regard to the State of the Debtor's Residence form (Attachment A). This list is not inclusive and reference should be made to the Internal Revenue Code of 1986 (26 U.S.C. § 6334).

If an inmate applies to the U.S. Magistrate Judge for an indigency determination and the U.S. Magistrate Judge makes a finding of non-indigency, staff shall refer the issue for final disposition, under 18 U.S.C. § 3569, to the appropriate U.S. Attorney (the U.S. Attorney for the district in which the inmate is incarcerated).

When the U.S. Magistrate Judge finds the inmate to possess property valued at an amount in excess of said exemption, the Attorney General, whose authority is delegated to the U.S. Attorney under 28 CFR § 0.171(g), may find that the retention of all such property is reasonably necessary for the inmate's support or that of his or her family and the inmate may be released without further imprisonment solely on the basis of nonpayment of such fine, or fine and costs; or the Attorney General may find that the retention of any part of such property is reasonably necessary for the inmate's support or that of his or her family, the inmate shall be released without further imprisonment solely for nonpayment of such fine, or fine and costs, upon a payment on the account of the fine, or fine and costs, of that portion of the property found to be in excess of that amount reasonably necessary for the inmate's support or that of his or her family.

8. [PROCEDURES - COMMITTED FINES] §571.52

a. (1) Promptly after the inmate's commitment, staff shall inform the inmate that there is a committed fine, or fine and costs on file, as part of the sentence. Staff shall then impound the inmate's trust fund account until the fine, or fine and costs is paid except -

(i) The inmate may spend money from his/her trust fund account for the purchase of commissary items not exceeding the maximum monthly allowance authorized for such purchases.

(ii) Staff may authorize the inmate to make withdrawals from his/her trust fund account for emergency family, emergency personal needs or furlough purposes.

(2) This rule of impounding an inmate's trust fund account applies only when the inmate is confined in a federal institution. It does not apply to a federal inmate confined in a state institution or a contract community-based facility.]

When an inmate with a committed fine, or fine and costs arrives at the institution, the Inmate Systems Manager (ISM) shall notify the Commissary Supervisor, using the Notice to Commissary Supervisor of Committed Fine form (BP-S397) so that the inmate's trust fund account can be impounded. The Unit Manager and Case Manager are given the authority to authorize withdrawals from the inmate's account for emergency or furlough purposes.

[b. If the inmate pays the committed fine, or fine and costs, or staff have verified payment, staff shall document payment in the appropriate file and release the inmate's trust fund account from impoundment.]

If the inmate pays the fine, or fine and costs, or claims that the fine, or fine and costs, have been paid, ISM staff shall obtain a copy of the receipt or similar document from the clerk of the court which imposed the fine or fine and costs. The receipt or similar document shall then become a part of the inmate's J&C file. Copies may be forwarded to the inmate's Central File. No further action need be taken after payment of a fine, or fine and costs and the trust fund account, if impounded, shall be released.

[c. Staff shall interview the inmate with an unpaid committed fine at least 75 days prior to the inmate's release date. Staff shall explain to the inmate that to secure release without paying the committed fine, or fine and costs in full, the inmate must make an application, on the appropriate form, to the U.S. Magistrate Judge for determination as to whether the inmate can be declared indigent under 18 U.S.C. § 3569.]

It should be noted that 18 U.S.C. § 3565(h) stipulates:

"The obligation to pay a fine or penalty ceases upon the death of the defendant or the expiration of twenty years after the date of the entry of the judgment, whichever occurs earlier. The defendant and the Attorney General may agree in writing to extend such twenty-year period."

9. [DETERMINATION OF INDIGENCY BY U.S. MAGISTRATE - INMATES IN FEDERAL INSTITUTIONS §571.53]

a. An inmate with a committed fine, or fine and costs who is imprisoned in a federal institution may make application for a determination of indigency directly to the U.S. Magistrate Judge in the district where the inmate is imprisoned under 18 U.S.C. § 3569.]

The ISM or designee is responsible for interviewing the inmate. The inmate makes application for determination of indigency by:

- completing the Committed Fine Application, Oath, and Order form (BP-S401), and
- attaching the BP-S401 to the completed Financial Statement of Debtor form (OBD-500) (OBD-500 is the form provided by the Department of Justice. If the Court prefers a different form, then that form shall be used.)

If the inmate has problems completing the forms, or refuses to complete either of the forms, then the Notice to U.S. Attorney of Committed Fine form (BP-S395), shall be distributed at the time specified explaining the reason either or both forms were not attached. Copies of Form BP-S401 and/or Form OBD-500 shall be distributed if and when the inmate completes the forms.

Not less than 60 days before the inmate's release date, using the BP-S395, the ISM or designee shall notify:

- the U.S. Attorney in the district where the fine, or fine and costs was imposed,
- the U.S. Attorney of the district in which the inmate is confined, and
- Unit staff.

If it is not possible to furnish notice 60 days in advance, then written notice shall be sent as soon as ISM staff learn of the pending release date. ISM staff shall notify both U.S. Attorneys by electronic communication in addition to the written notice.

[b. After completion of the application, staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate Judge.]

ISM staff shall offer to forward the completed forms and any other applicable information the inmate chooses to the U.S. Magistrate Judge. The forms shall be mailed certified, return receipt requested. ISM staff shall follow-up to assure that the U.S. Magistrate Judge receives the inmate's application.

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

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

ISM staff must keep both U.S. Attorneys advised of the inmate's activities with the U.S. Magistrate Judge and shall, upon request, furnish to the U.S. Attorneys or U.S. Magistrate Judge any information contained in the inmate's file that may assist in arriving at a decision about the inmate's financial status.

10. [DETERMINATION OF INDIGENCY BY U.S. MAGISTRATE JUDGE - INMATES IN CONTRACT COMMUNITY-BASED FACILITIES OR STATE INSTITUTIONS §571.54.

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

If an inmate will have less than six months remaining until his or her release date at the time of the expected transfer to a non-federal facility, staff at the transferring institution are to ensure that the processing instructions discussed in Attachment B are followed prior to the inmate's transfer.

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

See Attachment C for processing instructions.

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

See Attachments B or C for processing instructions.

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

11. REVIEW BY U.S. ATTORNEY. Upon notification of a non-indigency finding by the U.S. Magistrate Judge, Bureau staff shall forward a referral package to the appropriate U.S. Attorney.

a. The ISM shall forward the referral package to the appropriate U.S. Attorney immediately following the U.S. Magistrate Judge's finding. If the inmate is not housed in a Federal institution, the following staff shall forward the referral package:

- The Community Corrections Manager (CCM) shall forward the referral package for inmates transferred or committed directly to contract community-based facilities and state institutions as boarders,
- The Regional Inmate Systems Administrator (RISA) shall forward the referral package for inmates transferred or designated to state institutions as the place to serve federal sentences concurrently with state sentences)

The referral package shall contain:

- a memorandum from the Warden (CCM or RISA) requesting final disposition by the U.S. Attorney,
- any document issued by the U.S. Magistrate Judge,
- copies of any other documentation in the inmate's file concerning the inmate's financial status including the inmate's commissary account record, and
- copies of the federal and/or state exemption rules or laws.

The ISM, CCM or RISA shall contact the U.S. Attorney five working days prior to the inmate's scheduled release if no response has been received. All contacts with the U.S. Attorney should be documented in the J&C file.

b. ISM staff shall file copies of the U.S. Attorney's written statement as follows:

- Original to the inmate,
- copy to the J&C File,
- copy to the U.S. Attorney in the district where the inmate is located, if not the same district where the fine, or fine and costs were imposed.

c. If the U.S. Attorney authorizes release of the inmate without any payment toward the fine, or fine and costs, a copy of the statement furnished to the inmate shall be the institution's authority to release the inmate. The inmate shall not be released any earlier than the inmate's scheduled date of release.

If the U.S. Attorney requires the inmate to pay some or all of the fine, or fine and costs, a copy of the U.S. Attorney's written statement furnished to the inmate shall serve as the institution's authority to hold the inmate until the matter is resolved. In such cases, the inmate shall stay confined until the U.S. Attorney authorizes the inmate's release.

d. If an inmate in a camp or community-based facility is held beyond the inmate's scheduled release date for refusal to pay some or all of the fine, or fine and costs, staff should consider whether the inmate needs to be transferred to a more secure facility pending resolution of the fine.

12. NON-COMMITTED FINE. The court may impose a fine, or fine and costs, as part of the penalty provision of the inmate's status without requiring that the inmate stand committed until the fine, or fine and costs, is paid. In such case, the J&C will generally state that a fine, or fine and costs have been imposed and contain no additional language.

Advance notification of an inmate's release date does not need to be sent to the U.S. Attorney, since release is not a condition of payment, unless the U.S. Attorney requests advance notification in an individual case. On the inmate's date of release, ISM shall notify the U.S. Attorney for the district in which the fine, or fine and costs, was imposed of the inmate's release date

by completing the Notice to U.S. Attorney of Release of Inmate with Fine form (BP-S384), (original to U.S. Attorney and copy for J&C file). If the inmate has paid the fine, or fine and costs, there is no requirement for notification upon release.

13. SPECIAL CIRCUMSTANCES WITH FINES AND COSTS

a. If the J&C creates some doubt as to whether the fine, or fine and costs are committed or non-committed, the ISM shall refer the case to the RISA for assistance. Whenever appropriate, the RISA will discuss the issue with the Regional Counsel or other appropriate staff members.

b. The Unit Manager or Case Manager shall include fine, or fine and costs, information in all inmate reports and summaries (including Furlough Authorizations). One of the principal reasons is to make the U.S. Parole Commission aware of the fine status and to ensure a parole grant date will be set off at least 60 days from the date of the "Notice of Action" to allow time to process the fine, or fine and costs, prior to the effective date of parole.

c. If an inmate's sentence has been completed and the inmate is held solely for non-payment of a committed fine, the sentence shall be satisfied and the inmate's SENTRY status changed from that of a designated inmate to a pre-sentence admission.

d. An indigent inmate may not be held beyond his or her regularly established release date for nonpayment of a fine.

e. If an inmate with a committed fine, or fine and costs is released from incarceration by application of the "Indigency Oath" and is returned to custody (i.e., parole violation) on the same case, the fine, or fine and costs or unpaid portion thereof is reinstated.

/s/

Kathleen M. Hawk
Director

PAYMENTS EXEMPT BY FEDERAL STATUTE WITHOUT REGARD
TO THE STATE OF THE DEBTOR'S RESIDENCE:

1. Benefits payable to servicemen and veterans and their dependents and beneficiaries.
 - a. Benefits administered by the VA (38 U.S.C. § 3101). Such benefits deposited in a savings and loan association retain their exempt status when not permanent investments (370 U.S. 159 (1962)).
 - b. Annuities based on retired or retained pay to members of the armed services (10 U.S.C. § 1440).
 - c. Special \$100 a month pensions to Medal of Honor recipients (38 U.S.C. § 562).
 - d. Armed Forces Survivor Benefit Plan annuities (10 U.S.C. § 1450).
 - e. Benefits payable under the Veteran's Group Life Insurance plan (38 U.S.C. § 770).
2. Certain benefits payable to Government employees or former Government employees.
 - a. Civil Service retirement and disability benefits (5 U.S.C. § 8346).
 - b. Foreign Service Officer's and Employees' retirement and disability benefits (22 U.S.C. § 1104).
3. Benefits payable to other persons.
 - a. Social Security old age, survivors, and disability insurance benefits (42 U.S.C. § 407).
 - b. Longshoremen's and harbor workers' compensation and benefits (33 U.S.C. § 916).
 - c. Wages due merchant seamen and fisherman (46 U.S.C. § 563 and § 601).
 - d. Railroad retirement and pension benefits (45 U.S.C. § 228L).
 - e. Railroad workers unemployment insurance benefits (45 U.S.C. § 352(e)).
 - f. Compensation payments for injury, death or detention, due to war risk hazards, of certain employees of contractors with the United States outside the United States, non-appropriated fund activity employees outside the United States, and those employed outside the United States under a contract for their personal services outside the United States (42 U.S.C. § 1717).
 - g. Annuities to widows, widowers and surviving children of justices and judges (28 U.S.C. § 376).

COMMITTED FINE TRANSFERS TO NON-FEDERAL FACILITIES

Community Corrections Managers (CCMs) have responsibility for inmates transferred to contract community-based facilities and to state institutions as boarders. Regional Inmate Systems Administrators (RISAs) have responsibility for inmates transferred to state institutions for service of federal sentences concurrently with state sentences.

If an inmate will have less than six months remaining until his/her release date at the time of the expected transfer to a non-federal facility, staff at the transferring institution are to ensure that the following information is completed and forwarded with the inmate.*

- a. Staff should assist the inmate in completing the Financial Statement of Debtor, Form OBD-500.
- b. Staff should assist the inmate in completing the Application for a Determination of Ability to Pay Committed Fine portion of the Form Bp-S401.
- c. The Notice to U.S. Attorney of Committed Fine, Form Bp-S395, as well as the forms mentioned above, shall be completed and forwarded to the appropriate U.S. Attorneys prior to the inmate's departure.
- d. If the institution has any problems complying with these instructions, the Inmate Systems Manager (ISM) must explain the problem(s) in a memorandum to the CCM or RISA. This allows the CCM or RISA to be aware of the status of the fine processing.

Before the inmate submits the Form Bp-S401, Committed Fine Application, Oath, and Order to the U.S. Magistrate Judge, the CCM or RISA must review the inmate's financial status, using the same information that the Warden would use. As part of this review, the CCM or RISA should make every possible effort to acquire information about the inmate's financial status from the U.S. Attorney of the sentencing district.

Based on his/her review, the CCM or RISA should form an opinion as to the inmate's indigency status. This opinion, and the reasons for it, are to be documented in a written memorandum sent to the U.S. Magistrate Judge. Accompanying the memorandum shall be Form OBD-500, Financial Statement of Debtor, Sentence Monitoring Computation Data sheet, pre or post-sentence report, and any other documentation or information used in arriving at the opinion. This package must be sent to the U.S. Magistrate Judge no later than 21 calendar days prior to the release date. The CCM or RISA is responsible for assuring that the inmate makes all required appearances before the U.S. Magistrate Judge.

If the U.S. Magistrate Judge makes a finding of indigency, and allows the inmate to take the Oath of Indigent Prisoner, the inmate shall be released on the date specified by the U.S. Magistrate Judge. If the U.S. Magistrate Judge makes a finding of non-indigency, the CCM or RISA shall ensure that all pertinent information is forwarded to the United States Attorney for a final determination as to the inmate's ability to pay the committed fine. Procedures for this referral are discussed in the current Program Statement on Fines and Costs for "old law" inmates.

*If an inmate will have at least six months remaining until his/her release date at the time of the expected transfer to a non-federal facility, the instructions given in Attachment C - COMMITTED FINE DIRECT COMMITMENTS OR DESIGNATIONS TO NON-FEDERAL FACILITIES - are to be followed.

COMMITTED FINE DIRECT COMMITMENTS OR DESIGNATIONS TO NON-FEDERAL FACILITIES

Community Corrections Managers (CCMs) have responsibility for inmates committed directly from the court to contract community-based facilities and to state institutions as boarders. Regional Inmate Systems Administrators (RISAs) have responsibility for inmates designated to state institutions for service of federal sentences concurrently with state sentences.

Since this inmate is not committed to a federal institution prior to the commitment to a non-federal facility, the CCM or RISA must initiate and follow through on the procedures for processing the committed fine.

- a. Promptly after the inmate's commitment, the inmate shall be informed that there is a committed fine, or fine and costs on file against the inmate, as part of the sentence.
- b. If the inmate pays the committed fine, or fine and cost or claims that the fine, or fine and costs has been paid, the CCM or RISA shall obtain a copy of the receipt or similar document from the clerk of the court in which the fine was imposed and make such receipt or similar document a part of the Judgment and Commitment File. No further action need be taken after payment of a fine, or fine and costs.
- c. The CCM or RISA or designee shall interview an inmate with an unpaid committed fine, or fine and costs at least 75 days prior to the inmate's pending release date. The inmate shall be advised that to secure release without paying the committed fine, or fine and costs in full, the inmate must make an application, on the appropriate form, to the U.S. Magistrate Judge for a determination as to whether the inmate is considered indigent under 18 U.S.C. § 3569.

The inmate applies for a determination as to indigency by completing Form Bp-S401, Committed Fine Application, Oath, and Order and attaching to each copy a copy of the completed Form OBD-500, Financial Statement of Debtor.

- d. The CCM or RISA shall notify the United States Attorneys in the district where the fine was imposed, the district in which the inmate is confined, using Form Bp-S395, Notice to U.S. Attorney of Committed Fine and designated staff at the non-federal facility of the inmate's pending release date as soon as Form Bp-S401 and Form OBD-500 are complete, but not less than sixty days before the release date. If the inmate has problems completing the forms or refuses to complete either of the forms, then the Form Bp-S395 shall be distributed at the time specified with an explanation as to the reason either or both forms are not attached. Copies of the Form Bp-S401 and/or Form OBD-500 shall be distributed if and when the inmate completes the forms. If it is not possible to furnish such notice sixty days in advance, then the written notice shall be sent as soon as the CCM or RISA learns of the pending release date. The CCM or RISA shall notify both United States Attorneys by telephone or teletype in addition to the written notice when the notice cannot be made sixty days in advance. If the Parole Commission grants parole less than sixty days in advance of the effective date of release, the Regional Parole Commissioner shall be notified so that an amended "Notice of Action" can be issued.
- e. Before the inmate submits Form Bp-S401 to the U.S. Magistrate, the CCM or RISA must review the inmate's financial status, using the same information that the Warden would use. As part of this review, the CCM or RISA should make every possible effort to acquire information about the inmate's financial status from the U.S. Attorney of the sentencing district.

Based on his/her review, the CCM or RISA should form an opinion as to the inmate's indigency status. This opinion, and the reasons for it, are to be documented in a written memorandum sent to the U.S. Magistrate Judge. Accompanying the memorandum shall be the Form Bp-S401, Form OBD-500, the Sentence Data Record, the pre or post sentence report, and any other documentation or information used in arriving at the opinion. This package must be sent to the U.S. Magistrate Judge no later than 21 days prior to the release date.

- f. The CCM or RISA is responsible for assuring that the inmate makes all required appearances before the U.S. Magistrate Judge.

- g. If the U.S. Magistrate Judge makes a finding of indigency, and allows the inmate to take the Oath of Indigent prisoner, the inmate shall be released on the date specified by the U.S. Magistrate judge. If the U.S. Magistrate Judge makes a finding of non-indigency, the CCM or RISA shall ensure that all pertinent information is forwarded to the United States Attorney for a final determination as to the inmate's ability to pay the committed fine. Procedures for this referral are discussed in the current Program Statement on Fines, or Fines and Costs.

*These instructions also apply to an inmate transferred from a federal to a non-federal facility, provided the inmate has at least six months remaining until his/her release date. if the inmate is transferred from a federal to a non-federal facility with less than six months remaining until his/her release date, the instructions given in Attachment B - COMMITTED FINE TRANSFERS TO NON-FEDERAL FACILITIES - should ensure that the required information accompanies the inmate.