

CHAPTER 7: STAYS, COMMUTATIONS AND OTHER DELAYS

I. General Provisions

A. Purpose of Chapter

The purpose of this chapter is to:

1. cite the entities capable of causing execution stays, commutations, and other delays;
2. specify the manner of communicating such delays/commutations; and
3. provide the procedures for implementing the delay/commutation.

B. Policy

It is the policy of the BOP that:

1. procedures must be in place to receive and ensure proper handling of legal interruptions of the execution countdown;
2. staff understand their roles and the BOP's responsibilities in the event of such interruptions; and
3. contingency plans provide methods for responding to:
 - a. temporary delays;
 - b. lengthy delays; and
 - c. commutations.

II. Presidential and Judicial Authority to Interrupt Execution

A. President

1. The United States Constitution confers upon the President the power to grant reprieves and pardons for offenses against the United States. This has been held to include the power to grant conditional pardons and commute sentences.
2. Neither Congress nor a State legislature can limit the President's power to pardon.

B. Courts

A Federal court of competent jurisdiction may issue a stay of execution or invalidate a sentence of death as a result of appellate or collateral proceedings.

III. Communication of Pardons, Stays, Commutations or Delays

A. Prior to Final Execution Countdown

If the BOP receives an order from a Federal court of competent jurisdiction or the President ordering a respite, reprieve, stay, commutation, pardon or other action which requires the suspension or termination of the execution:

1. the Attorney General's Office will be contacted for consultation; and
2. a decision will be made by the Director of the BOP concerning the status of planning and preparation for the execution.

B. During Final Execution Countdown

1. During the final twenty-four hours, the BOP and the USMS will maintain frequent contact with the Attorney General's Office through the [REDACTED]

[REDACTED]

(b)(2) & (b)(7)(F)

[REDACTED]

C. Final Clearance for Execution

At an appropriate time prior to the execution [REDACTED] the Designated United States Marshal will verify clearance to continue with the execution [REDACTED]

[REDACTED]

(b)2
(b)7(F)

[REDACTED]

IV. Procedures to Implement Last-Minute Stays

- A. Upon receiving a stay during the final countdown, the first effort will be to determine the probable length of the delay.
- B. If the witnesses have not been moved from their staging areas, they will be held in those locations until further instructions are received from the Warden to proceed with or terminate the execution.
- C. If witnesses are already at the Execution Facility and the condemned individual is restrained:
 1. If the delay appears to be relatively lengthy, the condemned individual will be returned to the Holding Cell by the Restraint Team. The witnesses will be returned to their staging areas in the order listed. There they will await further information.
 2. If the delay is likely to be relatively short in duration, the witnesses will remain in place. The drapes will be closed and the condemned individual will remain restrained on the table.
 3. If the execution is indefinitely stayed, set for re-sentencing, commuted, or halted by pardon, the execution will be halted, and the condemned individual and witnesses will be immediately advised. Witnesses will be returned to their staging areas and the condemned individual returned to appropriate quarters in the institution.