U.S. Department of Justice
Federal Bureau of Prisons

Change Notice

DIRECTIVE AFFECTED: 5880.32
CHANGE NOTICE NUMBER: 1
DATE: 1/24/2003

1. **PURPOSE AND SCOPE.** To update the District of Columbia Sentence Computation Manual with instructions for implementing the provision of the District of Columbia Sentencing Reform Amendment Act 2000 (SRAA).

2. **SUMMARY OF CHANGES.** Added instructions for implementing and computing District of Columbia Code §§ 24-203.1 and 24-203.2 SRAA (felony and misdemeanor) offenses committed on or after August 5, 2000.

3. **TABLE OF CHANGES**

Remove	Insert
Table of Contents	
Pages i - iv	Pages i - iv (CN-1)
Chapter 3	
Pages 1 - 3	Pages 1 - 4 (CN-1)
	Chapter 13a

4. **ACTION.** File this Change Notice in front of PS 5800.32, the District of Columbia Sentence Computation Manual.

/s/
Kathleen Hawk Sawyer
Director

* **CHAPTER 13a**

13a. CALCULATION OF SENTENCE FOR OFFENSE COMMITTED ON OR AFTER AUGUST 5, 2000.

13a.1 The original D.C. Code § 24-203.1, Sentencing Reform Amendment Act (SRAA), became effective on August 5, 2000. This statute applied only to D.C. Code § 24-1212(h) offenses and required the court to impose an **adequate** period of supervision to follow imprisonment or confinement. The original § 24-203.1 did not address non § 24-1212(h) or misdemeanor offenses. On August 11, 2000, at 5:00 p.m., the original § 24-203.1 was amended. This new § 24-203.1 applies to **all** felony offenses. Additionally, § 24.203.2 was added to address misdemeanor offenses. For offenses committed during this period, August 5, 2000, through August 11, 2000, at 4:59 p.m., the courts may sentence the defendant under either the OMNIBUS or the SRAA sentencing provisions for non § 24-1212(h) offenses.

13a.2 **ISM Responsibility.** It is the ISM staff's responsibility to review each J&C Order carefully to determine which sentencing provision applies to each count. If ISM staff are unable to determine which sentencing provision applies, then staff will refer the matter to the Regional Inmate Systems Administrator (RISA).

13a.3 **Good Time Credit for SRAA Sentences.** D.C. Code 24-203.1(d) states in part that,

> ***A person sentenced to imprisonment, or to commitment pursuant to D.C. Code § 24-803, under this section may receive good time credit toward service of the sentence only as provided in 18 U.S.C. § 3624(b).***

Note:
- An SRAA sentence is not entitled to a reduction from the term of imprisonment or confinement for successfully completing a substance abuse program under 18 U.S.C. § 3621(e)(2)(B) nor a shock incarceration program under 18 U.S.C. § 4046.
- SRAA sentences are not eligible to earn educational or meritorious good time (D.C. Code § 24-429 and 24-429.1) credits.

13a.4 Combining D.C. SRAA Sentences. There is no aggregation language in the SRAA. Since there are no differences in good time credit for SRAA or PLRA sentences, those sentences may be combined with themselves and each other (including YRA and Split sentences) to establish a single release date, yet an SRAA sentence may not be combined with any other type of sentence, including one for a misdemeanor offense.

13a.5 Supervised Release.

(A) Prior to August 11, 2000, D.C. Code § 24-203.1(b)stated in part that,

. . . the court shall impose an adequate period of supervision to follow release from the imprisonment or commitment.

(B) After August 11, 2000, D.C. § 24-203.1 (b)(1) states,

If an offender is sentenced to imprisonment, or to commitment pursuant to § 24-803, under this section, the court shall impose a period of supervision ("supervised release") to follow release from the imprisonment or commitment.

(C) Supervised release may run concurrent or consecutive to other periods of supervised release to include probation. If the court is silent, they will be treated as concurrent. If no term of supervised release is included in the J&C, ISM staff will notify the RISA.

(D) If the D.C. Superior Court imposed a period of supervision, the Court Services and Offender Supervision Agency (CSOSA) (see D.C. Code § 24-1233(a)) is responsible for the supervision as provided for in D.C. Code § 24-1233(c)(2). The U.S. Parole Commission has the authority to revoke supervised release and impose a revocation term.

(E) If a period of supervision was imposed by any U.S. District Court for only a D.C. Code offense(s), the U.S. Probation Service is responsible for supervision and the U.S. District Court has the authority to revoke supervised release and impose a revocation term.

13a.6 Multiple Terms of Supervised Release. The possibility exists that a prisoner may be released with a combination of supervised release periods to follow, one or more periods under the jurisdiction of the U.S. District Courts (SRA, VCCLEA, and PLRA), and one or more periods under the U.S. Parole Commission's jurisdiction. Supervised release imposed by a U.S. District Court for a D.C. Code offense will be under the U.S. District Court's jurisdiction and be supervised by the U.S. Probation Service. Following are some examples of supervised release situations:

(A) **Combination of U.S. Code and D.C. Code periods of supervised release in a single J&C.** The supervised releasee will be under the U.S. District Court's jurisdiction and under the U.S. Probation Service's supervision for both periods of supervised release. Only the court may revoke supervised release in this situation.

(B) **Supervised release imposed by U.S. District Court and by Superior Court.** Upon release from both sentences, the terms of supervised release run concurrently, one under the U.S. District Court's jurisdiction and the other under the U.S. Parole Commission's jurisdiction. A supervised releasee could be returned as a supervised release violator for a U.S. District Court imposed term of supervised release with a period of supervised release under the jurisdiction of the U.S. Parole Commission unrevoked, or the reverse.

13a.7 Notification Procedures for Multiple Terms of Supervised Release. Because of the possibility of multiple periods of supervised release under two different jurisdictions, ISM staff must ensure that release paperwork includes release notification to the appropriate jurisdictions (U.S. Probation Service for the U.S. District Court and CSOSA for the U.S. Parole Commission/Superior Court). ISM staff will also ensure that the jurisdiction with the unrevoked period of supervised release is notified of a prisoner's return to imprisonment as a supervised release violator.

13a.8 D.C. Code § 24-203.2 (Misdemeanor Sentence). This section pertains to sentencing and good time credit for misdemeanor offenses committed on or after August 5, 2000, for persons who elect sentencing under this provision or whose offense was committed on and after 5:00 p.m. on August 11, 2000. The section states in part,

> ***A sentence of incarceration, or of commitment pursuant to D.C. Code § 24-803, for a misdemeanor . . . shall be for a definite term, which shall not exceed the maximum term allowed by law. A person sentenced to incarceration, or to commitment pursuant to D.C. Code § 24-803, under this section, shall serve the term of incarceration or commitment specified in the sentence, less any time credited toward service of the sentence as provided in D.C. Code § 24-429 through D.C. Code § 24-433.***

(A) **ISM staff not responsible for calculating misdemeanor sentences.** ISM staff are not responsible for calculating D.C. Code misdemeanor sentences but it is necessary that they are able to identify those sentences. In addition, it is necessary that ISM staff are able to perform unofficial calculations to determine how the misdemeanor sentence fits into the overall sentencing scheme so that an informed decision can be made as to when, or whether, the prisoner should be returned to the D.C. Department of Corrections to serve the misdemeanor sentence. The D.C. Department of Corrections is to be contacted for a calculation of his or her misdemeanor sentence.

(B) **Misdemeanor sentence not eligible for parole under SRAA.** A misdemeanor sentence under this section is for a definite term and not eligible for parole.

(C) **Misdemeanor sentence eligible for educational and meritorious good time credits.** A misdemeanor sentence under 24-203.2 is eligible to earn educational and meritorious good time credits as administered by the D.C. Department of Corrections.

13a.9 Combining D.C. Code § 24-203.1 Sentences with PLRA Sentences for 3621(e) and 4046 Purposes. As noted in section 14.7(2)(a)(b), 18 U.S.C. §§ 3621(e) and 4046 do not apply to 24-203.1 sentences. Since those sentences may be combined with PLRA sentences that may qualify

for §§ 3621(e) and 4046 reductions, the sentences must be calculated initially as standing alone to determine which rule applies in each situation. (These same rules will apply to non-PLRA sentences except they will not be combined to form a single release date.)

(A) In concurrent sentence situations, if the SRAA SRD is equal to or greater than the PLRA SRD, no §§ 3621(e) or 4046 reduction may be given.

(B) In concurrent sentence situations, if the PLRA SRD is greater than the SRAA SRD, a §§ 3621(e) or 4046 reduction may be given. No reduction, however, may reduce the time to serve earlier than the SRAA SRD.

(C) Regardless of which sentence comes first in combinations of **consecutive** sentences, a §§ 3621(e) or 4046 reduction may be given. In these instances, the RISA must be contacted.

13a.10 Fines. There are no provisions in D.C. Code to retain a prisoner in confinement beyond the release date for nonpayment of a fine. There is no provision in the SRAA that addresses a fine in connection with a prisoner being released on supervised release and 18 U.S.C. § 3624(e) does not apply. ISM staff are not required to monitor a prisoner's fine status for release purposes. ISM staff are required, however, to notify the appropriate U.S. Attorney of any prisoner released with an unpaid fine (see the Notice of Release of Inmate with Criminal Fine form (BP-S384)).

13a.11 Probation Under D.C. Code § 16-710. The **SRAA** has amended D.C. Code § 16-710 by adding a new subsection (b-1) that authorizes the court to order, as a condition of probation for a felony, that the defendant remain in custody or in a Community Correctional Center (CCC) during nights, weekends, or other intervals totaling not more than one year during the term of probation. Other probation provisions remain in effect. The amount of time in custody, or in a CCC is not to exceed one year, while on probation, may be accumulated during the entire period of probation. Jail time credit will be awarded as ordered in a subsequent term of imprisonment.

U.S. Department of Justice
Federal Bureau of Prisons

Program Statement

OPI: CPD
NUMBER: 5880.32
DATE: 1/23/2001
SUBJECT: District of Columbia Sentence Computation Manual

1. **PURPOSE AND SCOPE.** To establish procedures for computing sentences for inmates sentenced under District of Columbia code.

2. **PROGRAM OBJECTIVE.** The expected result of this program is:

Sentences imposed under D. C. Code will be properly calculated and inmates will have accurate release dates.

3. **DIRECTIVES AFFECTED.**

a. **Directive Rescinded**

PS 5880.31 D.C. Code Offenders Sentence Calculations (11/8/96)

b. **Directives Referenced**

PS 5270.07 Inmate Discipline and Special Housing Units (12/29/87)
PS 5800.07 Inmate Systems Management Manual (12/24/91)
PS 5880.28 Sentence Computation Manual-CCCA (2/21/92)
PS 5880.30 Sentence Computation Manual ("Old Law") (7/16/93)

4. **STANDARDS REFERENCED.**

a. American Correctional Association 3rd Edition Standards for Adult Correctional Institutions: 3-4094

b. American Correctional Association 2nd Edition Standards for Administration of Correctional Agencies: 2-CO-1E-05

c. American Correctional Association 3rd Edition Standards for Adult Local Detention Facilities: 3-ALDF-1E-03

d. American Correctional Association 3rd Edition Standards for

Adult Boot Camp Programs: 1-ABC-1E-09

5. **MCC/MDC/FDC/FTC PROCEDURES.** Procedures in this Program Statement apply to Metropolitan Correctional Centers, Metropolitan Detention Centers, Federal Detention Centers and Federal Transportation Centers.

/s/
Kathleen Hawk Sawyer
Director

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APPENDIX

CHAPTER 1

1. **INTRODUCTION** No official comprehensive or definitive sentence computation manual for the calculation of D.C. Code sentences existed before the issuance of this manual. Because of the National Capital Revitalization and Self-Government Improvement Act of 1997 (hereinafter referred to as the District of Columbia Revitalization Act of 1997), which places responsibility for the incarceration and treatment of existing and future sentenced D. C. Code felony offenders with the Bureau of Prisons (BOP), it was necessary to produce a D.C. Code Sentence Computation Manual. Producing the manual provided the opportunity to consolidate practices as well as update and establish computation procedures resulting from the numerous D.C. Code statutory additions and amendments since 1987. This manual is the basic authority and instructional document on which BOP staff will rely to compute D.C. Code sentences.

CHAPTER 2

2. BACKGROUND

2.1 The BOP and the District of Columbia Department of Corrections (DCDC) have been housing prisoners for each other under various agreements and statutory provisions for more than fifty years. Before the mid 1980's, the BOP and DCDC accepted responsibility for the calculation of both U.S. Code and D.C. Code imposed sentences regardless of where the sentence was first or subsequently calculated. This responsibility for calculation was possible because both U.S. Code and D.C. Code sentencing provisions were similar enough to allow for accurate and lawful calculations. Certain U.S. Code statutory provisions were in fact, used for enforcing and calculating a D.C. Code sentence.

2.2 Circa 1959, the BOP and DCDC began aggregating (combining) U.S. Code and D.C. Code sentences because all offenders were committed to the custody of the United States Attorney General and the calculation differences, although sometimes troublesome, were accommodated. This aggregation requirement continues for "Old Law" and pre-April 11, 1987 D.C. Code sentences. Both the BOP and DCDC had been aggregating multiple sentences before 1959 but only if all sentences were either for U.S. Code or D.C. Code offenses.

2.3 Upon reaching the effective date of November 1, 1987, of the Sentencing Reform Act (SRA) of 1984, the BOP made the decision that "Old Law" and SRA sentences could not be aggregated. The BOP and the DCDC agreed that SRA sentences could not be aggregated with D.C. Code sentences regardless of when the D.C. Code offense occurred.

CHAPTER 3

3. DEFINITIONS

* **CHAPTER 3**

1212(h) sentence. A sentence imposed for an offense as described in D.C. Code § 24-1212(h). *

CHAPTER 4

Adult sentence. A U.S. Code or D.C. Code sentence that was **not** imposed under the provisions of Title 18, Chapter 402 (**Federal Youth Corrections Act**)& 403 (**Juvenile Delinquency**) of the U.S. Code or Title 24, Chapter 8 (**Youth Rehabilitation)** of the D.C. Code.

CHAPTER 5

Anchor sentence. The first sentence to commence when more than one sentence is involved.

CHAPTER 6

Bail Reform Amendment Act (BRA) of 1992 (§ 23-1321). An offense under the BRA is for failure to appear.

CHAPTER 7

D.C. Code offense. A criminal violation of law as set forth in the District of Columbia Code.

CHAPTER 8

D.C. Code sentence. A sentence imposed by the United States District Court for the District of Columbia or by the District of Columbia Superior Court after conviction for a D.C. Code offense.

CHAPTER 9

DCEGT credits. District of Columbia educational good time credits awarded under the provisions of D.C. Code § 24-429 (effective April 11, 1987) or § 24-458.8(g) (effective May 8, 1996).

CHAPTER 10

DCGCT credits. District of Columbia good conduct credits awarded under the provisions of D.C. Code § 24-405 (repealed April 11, 1987).

CHAPTER 11

DCIGT credits. District of Columbia institutional good time credits awarded under the provisions of § 24-428 (effective April 11, 1987 and repealed June 22, 1994).

CHAPTER 12

Execution of sentence suspended (ESS). Sentence was imposed but execution was suspended or execution of a portion thereof was suspended (§ 16-710). A period of probation usually follows.

CHAPTER 13

Federal arrest. For purposes of this manual, an arrest made by a federal or D.C. law enforcement official for a violation of U.S. Code or D.C. Code.

CHAPTER 14

***Felony sentence.** A sentence that is imposed for an offense that carries a maximum penalty in excess of one year. (A sentence of one year or less, or a sentence to probation, for an offense with a possible maximum penalty of more than one year is a felony conviction.)

CHAPTER 15

Gap period. The period of time from on or after August 5, 2000 through 4:59 p.m. on August 11, 2000. *

CHAPTER 16

Imposition of sentence suspended (ISS). Imposition of sentence was suspended (§ 16-710). A period of probation usually follows.

CHAPTER 17

Inoperative time. Time during which a sentence that has commenced, stops running, i.e., after commencement of sentence, the prisoner is removed from physical or constructive custody of the U.S. Attorney General.

CHAPTER 18

Mandatory minimum. A term for which the court cannot set a period of parole ineligibility any less than prescribed by the offense.

* **CHAPTER 19**

Mandatory Parole. The final release date of GTCA sentences when parole is not granted, and the inmate is to be released after the deduction of all good time credits. It also applies to OCJRAA sentences when parole is not granted, and the inmate is to be released after the deduction of DCEGT. *

CHAPTER 20

Maximum term. The greatest possible period imposed by the court that establishes the term of imprisonment.

CHAPTER 21

Minimum term. The term imposed by the court that establishes the

period of parole ineligibility.

CHAPTER 22

Minimum maximum term. A term for which the court may **not** impose a lesser maximum term.

CHAPTER 23

*__Misdemeanor sentence.__ A sentence that is imposed for an offense that carries a maximum penalty not to exceed one year. (Multiple misdemeanor sentences when added together and exceed one year are still considered misdemeanor sentences.)

CHAPTER 24

New 203.1 sentence. A felony sentence imposed under D.C. Code § 24-203.1 as amended by the **SRAA.**

CHAPTER 25

New 203.2 sentence. A misdemeanor sentence imposed under D.C. Code § 24-203.2. *

CHAPTER 26

Non-D.C. Code sentence. A state, foreign or U.S. Code sentence.

CHAPTER 27

Non-federal arrest. An arrest made by state or foreign law enforcement officials.

CHAPTER 28

***Original 203.1.** A sentence imposed under D.C. Code § 24-203.1 **(SRAA)** as it existed on August 5, 2000 through August 11, 2000, at 4:59 p.m. (Pertains to 1212(h) offenses.) *

CHAPTER 29

PV Warrant. A warrant issued by either the District of Columbia Board of Parole or the United States Parole Commission for alleged parole violation.

CHAPTER 30

Parole eligibility date. The date on which a prisoner becomes eligible for parole after having served the minimum term.

CHAPTER 31

Raw expiration full term date. The date the computation begins (DCB) plus the term in effect (TIE) equals the Raw expiration full term (EFT) date. The Raw EFT may include inoperative time but does not include jail time credit.

CHAPTER 32

State. Includes all non-federal and non-foreign law enforcement organizations or agencies within a state.

CHAPTER 33

Statutory Parole Date. The final release date of GTCA sentences

when parole is not granted, and the inmate is to be released after the deduction of all good time credits. It also applies to OCJRAA sentences when parole is not granted, and the inmate is to be released after the deduction of DCEGT.

CHAPTER 34

Step back. An unofficial phrase that applies to a defendant who has been required to appear before the court and who is ordered into immediate custody after a hearing. The phrase occasionally appears in a hand written form on court documents.

CHAPTER 35

Time credit. Credit for one full day of jail time or time spent serving the sentence, regardless of the length or duration of the detention during that day.

CHAPTER 36

U.S. Code new law sentence. A sentence imposed for a U.S. Code offense that occurred on or after November 1, 1987.

CHAPTER 37

U.S. Code offense. A violation of criminal law as set forth in the U.S. Code.

CHAPTER 38

U.S. Code old law sentence. A sentence imposed for a U.S. Code offense that was committed prior to November 1, 1987.

CHAPTER 39

Unlike sentences. Sentences imposed under different sentencing provisions.

CHAPTER 40

4. UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA AND THE DISTRICT OF COLUMBIA SUPERIOR COURT

40.1 The District of Columbia Court of Appeals and the Superior Court of the District of Columbia were established on February 1, 1971 (Title 11, D.C. Code, § 11-101). District of Columbia Code offenses committed on or after February 1, 1971 are prosecuted in the District of Columbia Superior Court. A U.S. Code offense cannot be prosecuted in the District of Columbia Superior Court.

40.2 Prior to February 1, 1971, D.C. Code offenses were prosecuted in the U.S. District Court.

40.3 A D.C. Code offense and U.S. Code offense that are joined in the same information or indictment are prosecuted in the United States District Court (§ 11-502). If the U.S. Code offense is dismissed or acquitted and the D.C. Code offense is successfully prosecuted, the U.S. District Court Judgment and Commitment (J&C) would contain only the D.C. Code offense and sentence.

40.4 The U.S. District Court for the Eastern District of Virginia has jurisdiction over D.C. Code offenses, as well as U.S. Code offenses, that are committed in any of the DCDC facilities located in Lorton, Virginia. A J&C issuing out of that court would contain only the D.C. Code offense and sentence if no U.S. Code offense was involved or if the U.S. Code offense was dismissed or acquitted.

40.5 In addition, a D.C. Code offense may be transferred to any U.S. District Court under Rule 20 (**Transfer from the District of Columbia for Plea and Sentence**) of the Superior Court Rules of Criminal Procedure. As a result, it is possible for a D.C. Code offense and sentence to appear on any U.S. District Court J&C.

CHAPTER 41

5. PRIMARY CUSTODY

41.1 Primary custodial jurisdiction attaches to the law enforcement sovereign which initially takes a person into official detention. Primary custodial jurisdiction remains with that sovereign until that sovereign relinquishes jurisdiction over the prisoner. Relinquishment may occur by release on bail, bond or own recognizance; by dismissal or acquittal of pending charges; parole; termination of sentence; pardon; executive clemency; court order; successful appeal; escape; or by relinquishment of primary jurisdiction through a mutual agreement with another custodial sovereign. (See **United States v. Warren, 610 F.2d 680 (9th Cir. 1980)** and **United States v. Smith, 812 F.Supp 368 (E.D.N.Y. 1993).**) Loaning a prisoner to another sovereign via a writ of habeas corpus or via the Interstate Agreement on Detainers does not transfer primary jurisdiction.

41.2 Primary custodial jurisdiction may also be lost if the prisoner, while in the extended limits of a sovereign's jurisdiction (usually while in the community in a community corrections facility or on furlough, work release, etc.), is arrested by another sovereign's law enforcement organization and that organization refuses to return the prisoner pending resolution of its charges.

41.3 Prisoners in the D. C. Department of Corrections with pending U.S. Code and D.C. Code charges are in the primary custody of the Attorney General (held by the United States Marshal (USM) (18 U.S.C. § 4086)) awaiting prosecution by the United States Attorney in both the U.S. District Court and D.C. Superior Court. It is the United States Attorney who determines the order in which the U.S. Code and D.C. Code charges are prosecuted and whether the charges may be consolidated for prosecution purposes. It is this decision making process by the United States Attorney that leads to the BOP determination as to which sentence jail time credits will apply. Those situations will be discussed in Chapter 8, Jail Time Credit.

CHAPTER 42

6. TIME SERVED COURT ORDER

42.1 A time served court order is an order that is issued by the sentencing court at the time of sentencing or at some later time after commencement of a sentence that terminates the imprisonment portion of the sentence.

42.2 United States District Court and District of Columbia Superior Court. A time served order issued by a U.S. District Court or a D.C. Superior Court unless otherwise stipulated, is construed as including all jail time credit and time spent serving the sentence as well as any supervision time that was a part of a term of imprisonment being served, e.g., parole, mandatory release supervision. If some other form of supervision, not a part of the term of imprisonment but a part of the sentence imposed on that count, e.g., supervised release, probation, was included but not mentioned in the time served order, then the appropriate U.S. Attorney will be contacted to ascertain the court's intent.

42.3 If the time served order pertains to one or more counts but not all the counts, the other count or counts will remain in effect. Other sentences will remain in effect.

42.4 A concurrent **count** commences on the same date on which the time served count had commenced if both counts were imposed on the same date. A concurrent **sentence** commencement date does not change because of a time served order.

42.5 A consecutive count or sentence will be processed in accordance with the manner in which it was imposed in relation to the time served count. If only one other count or sentence existed, the consecutive count or sentence would commence on the date of the time served order.

42.6 For a combination of unaffected concurrent and consecutive counts or sentences, the counts or sentences will be calculated as required for the aggregation or non- aggregation of sentences.

42.7 If there was a count, or counts, unaffected by the time served order, or if other sentences were involved, an analysis must be made to determine the jail time credit that should, or should not, carry over to the remaining counts or sentences. (See Chapter 8, Jail Time Credit.)

42.8 State court time served order. State courts issue time served orders while DCDC prisoners are in the primary custody of the state and while in the primary custody of DCDC. It will be assumed that a state court time served order includes the state jail time credit, time spent serving the sentence and any time credits that would have caused an earlier release date, unless otherwise specified by the court.

42.9 For a time served order while a DCDC prisoner is in the primary custody of the state serving the D.C. Code sentence concurrently, the order will have no effect as to the DCB of the D.C. Code sentence.

42.10 If the D.C. Code sentence is lodged as a detainer, the sentence will commence on the date of the time served order.

CHAPTER 43

7. INOPERATIVE TIME

43.1 A sentence which has commenced becomes inoperative (stops running) when a prisoner is removed and is no longer in the physical or constructive custody of the U.S. Attorney General. A sentence will not become inoperative because of a commitment for examination or treatment under D.C. Code § 24-302 (See Chapter 10, Commitment of Insane Persons and Time Credit). Inoperative time is always applied to a sentence before jail time credits are applied.

43.2 There are no U.S. Code or D.C. Code statutory provisions that define or discuss inoperative time. Both the Bureau of Prisons and the DCDC rely on 18 U.S.C. § 3568, **Effective date of sentence** (for offenses committed prior to November 1, 1987) and § 3585(a), **Commencement of sentence** (for offenses committed on or after November 1, 1987) as support for holding sentences inoperative if the prisoner is removed from the custodian's primary custody for service of the sentence. Since both §§ 3568 and 3585(a) provide the statutory authority for commencement of sentence, then a sentence would stop running if the prisoner was removed from the primary custody of the responsible custodian that triggered the commencement of sentence. The courts have supported the application of inoperative time.

43.3 Escape. The sentence is inoperative beginning the day after escape through the day preceding the apprehension from escape. If the prisoner is apprehended for a new D.C. Code offense, the escape sentence will resume on that date and no jail time credit will accrue toward the sentence for the new offense or for the eventual escape sentence. If apprehended for a non-D.C. Code offense, the sentence from which the escape occurred will not resume unless the non-DCDC place of incarceration is designated as the place to serve the D.C. Code sentence or until the prisoner is turned over for service of the D.C. Code sentence.

43.4 Voluntary surrender time. Voluntary surrender time begins the day after release and continues through the day preceding the day of arrival at the facility at which the sentence is to be served. The decision to accept a prisoner without proper paperwork, or to accept on a date earlier than the prescribed date, shall be made by the warden, community corrections manager, or his designee. Once the sentence for an early arrival has commenced, the

prisoner does not have the option of being released pending arrival of the originally designated arrival date.

43.5 Stay of execution of sentence for release pending appeal or to complete business/personal matters. A sentence will be stayed for a prisoner who is released on the date of sentence and the sentence will not commence until returned to custody for service of the sentence. If the release occurs on a date later than the date of sentence, the sentence will become inoperative the day after release and continue through the day preceding resumption of the sentence.

43.6 Civil contempt order (Title 11, D. C. Code § 11-944, 18 U.S.C. § 401 or 28 U.S.C. § 1826) entered during operation of another sentence. A civil contempt order interrupts the service of another sentence beginning the day after the order is entered. A sentence that has been interrupted as the result of a civil contempt order will resume on the last day that the civil contempt order is in operation. The time to serve as the result of a civil contempt order receives **no** form of good time or jail time credits (See Chapter 8, Jail Time Credit, for the effect of a civil contempt order on jail time credit).

43.7 Imposition of a sentence while in the service of a civil contempt order (Title 11, D. C. Code § 11-944, 18 U.S.C. § 401 or 28 U.S.C. § 1826). If the civil contempt order is in effect when a sentence is imposed, commencement of the sentence will be delayed during operation of the civil contempt order unless the court specifies otherwise. The time to serve as the result of a civil contempt order receives **no** form of good time or jail time credits.

43.8 Release by court order. A sentence becomes inoperative if a prisoner is released by a court order that appears to be improper or that doesn't correspond to a release method recognized by the BOP. (The RISA must be consulted when this type of court order is received.) The sentence will resume running after resolution of the court order and upon return to BOP custody. The U.S. Attorney in the district from which the court ordered release originated shall be consulted to learn the status

of that release if another U.S. Code or D.C. Code sentence commences. The possibility exists that the court ordered release sentence should not resume if the prisoner is committed to USM or BOP custody for a reason unrelated to the court ordered release.

CHAPTER 44

8. JAIL TIME CREDIT

44.1 "Old Law" jail time credit, 18 U.S.C. § 3568. From June 22, 1966 to April 11, 1987, the DCDC awarded jail time credit to D.C. Code offenders under § 3568, based primarily on BOP's policy (See **Sentence Computation Manual (Old Law)**,Chapter VI). The jail time credit portion of § 3568 states,

> ***The Attorney General shall give any such person credit toward service of his sentence for any days spent in custody in connection with the offense or acts for which sentence was imposed.***

44.2 The BOP totals all jail time credits for concurrent sentences and deducts that total from the aggregate sentence. **The BOP will recalculate any D.C. Code sentence that does not conform to the BOP's "Old Law" jail time credit policy.**

44.3 The instructions in the **Sentence Computation Manual (Old Law)**, Chapter 6, will continue to apply to D.C. Code sentences for offenses committed before April 11, 1987.

44.4 Jail time credit under Title 24, D. C. Code § 24-431. This section provides for jail time credit for D.C. Code offenses committed on or after April 11, 1987. Jail time credit is applied to both the **maximum** and **minimum** (including **mandatory minimum**) terms after application of inoperative time, if any. (See Title 24, D. C. Code § 24-431(b) below for disposition of jail time credit resulting from dismissal or acquittal of charges.) (**Note:** 18 U.S.C. § 3585(b), Credit for prior custody, the U.S. Code jail time credit provision, which became effective November 1, 1987, does not apply to D.C. Code sentences.)

a. **Title 24, D. C. Code § 24-431(a).**

> ***(a) Every person shall be given credit on the maximum and the minimum term of imprisonment for time spent in custody . . . as a result of the offense for which the sentence was imposed. When entering the final***

order in any case, the court shall provide that the person be given credit for the time spent in custody . . . as a result of the offense for which sentence was imposed.

b. (**Note:** See Chapter 17, Parole "Street Time" credit and parole violator terms, for credit for time spent on parole in the community.)

44.5 To comply with § 24-431(a), the court may simply state that **the person be given credit for the time spent in custody** and leave the amount of credit to be awarded up to the BOP. In that case, ISM staff will award the amount of credit based on the policy in this chapter the same as if the court had made no statement.

44.6 If the court provides the actual time periods (dates) for which the credit should be applied, ISM staff shall determine if the time periods stated are correct. If ISM staff disagree with the time periods stated, ISM staff shall apply the amount determined by the court if it is a greater amount than statutorily authorized, and then proceed to resolve the conflict with the court.

44.7 If ISM staff discover time credits clearly outside the time period specified by the court that appear to have been unknown or not considered by the court, then ISM may award those credits without consultation with the court.

44.8 **"In custody" time** (official detention), for jail time crediting purposes, begins on the date taken into custody on the basis of the offense for which the sentence was imposed.

a. An arrest made by non-federal officials for federal officials solely because of the D.C. Code offense is considered the same as if made by federal officials and any time spent in non-federal custody solely on the basis of the D.C. Code charge will be awarded.

b. Jail time credit will be awarded, or not awarded, for the following reasons:

1) **Federal or non-federal arrest on the D.C. Code charge for which the sentence was imposed.** Time spent in official detention as a result of the offense for which the sentence was imposed will be awarded.

2) **Jail time credit for time spent in a halfway house pursuant to a Pretrial/Presentence Work Release Order under Title 23, D. C. Code § 23-1321(c)(xi) or a Pretrial Services Intensive Supervision Program Release Order.** Jail time credit will be awarded for time spent in a DCDC halfway house prior to sentencing. In addition to the time spent in jail, credit will be awarded only for the days actually spent in a halfway house as a result of a **Pretrial/Presentence Work Release Order** or a **Pretrial Services Intensive Supervision Program Release Order** (ISP) issued by the District Court or the Superior Court. The credit will not be awarded unless the J&C file contains the completed original or certified copy of the order. This portion of the time credit will not commence until the prisoner is committed to the DCDC halfway house, regardless of the date of the order or the date commitment was ordered.

3) **No jail time credit for time spent in a ISP Community Phase Program.** No jail time credit will be awarded for time spent in the **ISP Community Phase** program. Placement in this program is documented by the completed **Official Release To Intensive Supervision Community Phase** form issued by the **District of Columbia Pretrial Services Agency, High Intensity Supervision Unit.** If the inmate is returned (stepped back) to a half-way house, then jail time credit must be evaluated under 8.8.b.2 of this chapter.

4) **No jail time credit for time spent in Operation Progress (Electronic Monitoring Program).** No jail time credit will be awarded for time spent in the **Electronic Monitoring Program.** Placement in this program is documented by the completed Superior Court order form, **You Are Hereby Released To The Third Party Custody Of The Department Of Corrections For Placement In Operation Progress (Electronic Monitoring Program).**

c. **Effect of Release Order on other counts or cases if not dismissed or acquitted.** Multiple counts or cases may exist after commitment to official detention. While undergoing investigation or prosecution on one or more counts or cases, the

court may enter a **Release Order** that may contain language such as **Released from custody on this case only** or **Released from custody on this count only** which means that the defendant is released from custody for a specific count or case that is pending but not currently active. The defendant may remain in official detention on other counts or cases. Even though the prisoner receives no credit while under a **Release Order** on a count or case, the effect may be nil if a sentence is received on the remaining counts or cases because of aggregation/non-aggregation rules as shown in the example below. (See section 8.20 (a) of this chapter for an explanation if the other counts or cases were dismissed or acquitted.) If a sentence results from the **Release Order** count or case (or if a PV warrant is filed as a detainer) prior to the termination of a sentence that was imposed on the other count or case, the "Release Order" sentence (or PV term) may receive time credit belonging to the other count or case because of the aggregation/non-aggregation rules. Following is an example.

Release Order rule has "no effect"

06-10-1996 Arrested on **Case Nos. 1 & 2**
06-30-1996 Released from custody on **Case No. 1**
07-10-1996 Sentence commences in **Case No. 2**
07-20-1996 Sentenced in **Case No. 1** to a concurrent or consecutive sentence

30 days jail time credit (06-10-1996 through 07-09-1996) applied to **Case No. 2**)

Even though no jail time credit was accrued in **Case No. 1** after 06-30-1996, the aggregation or non-aggregation of the sentences allow for the credit to be applied.

*example **4***

44.9 In official detention on two or more D.C. Code cases or a combination of D.C. Code and U.S. Code cases regardless

of which case caused the arrest for the detention. For jail time credit purposes, the aggregation/non-aggregation rules apply as follows.

a. For consecutive sentences that **can be aggregated**, total all jail time credit and **deduct from the aggregate.**

b. For consecutive sentences that **cannot be aggregated.** Calculate each sentence as standing alone applying only the jail time credit belonging to each.

c. For a **concurrent sentence** with an EFT equal to or greater than the EFT of the anchor sentence and that **can be aggregated**, total all jail time credit and **deduct from the aggregate.**

d. For a **concurrent sentence** with an EFT equal to or greater than the EFT of the anchor sentence and that **cannot be aggregated**, total all jail time credit and **deduct from each.**

e. For a **concurrent sentence** with an EFT that is equal to or less and an SRD that is greater than the anchor sentence prior to application of jail time credit, **each sentence shall stand alone** and each sentence shall have deducted only its jail time credit.

f. For a **concurrent sentence** with an EFT that is equal to or less and an SRD that is equal to or less than the anchor sentence, but with a PE date that is greater than the anchor sentence prior to the application of each sentence's jail time credit, **each sentence shall stand alone** and each sentence shall have deducted only its jail time credit.

g. For a **concurrent sentence** with an EFT, a PE date and an SRD equal to or less than the anchor sentence prior to the application of each sentence's jail time credit, total all jail time credit and **deduct from the anchor sentence.** The concurrent sentence will be considered absorbed in every respect.

44.10 Joint non-federal and federal arrest for a combination of non-federal and D.C. Code charges.

a. No credit will be awarded to the D.C. Code sentence if the time is awarded to a non-federal sentence.

b. Credit will be awarded to the D.C. Code sentence if not awarded to a non-federal sentene.

44.11 Commission of a new D.C. Code offense while serving another sentence. No jail time credit will be awarded for the new offense while serving another sentence.

44.12 Escape while serving a D.C. Code sentence, regardless of where that sentence was being served and regardless of any other sentence that was being served. If arrested solely as an escapee, the sentence from which the escape occurred will recommence and no jail time credit will accrue toward an eventual escape sentence.

a. If the escapee is arrested for a D.C. Code or U.S. Code offense while in an escape status, the escape sentence will recommence on the date of that arrest.

b. If the escapee is arrested for a non-federal offense, the escape sentence will not resume running until the escapee is returned to primary federal custody.

44.13 No credit for non-federal similar or identical charges. Credit awarded to a non-federal sentence based on charges that were similar or identical to D.C. Code charges will not be awarded to the D.C. Code sentence.

44.14 No credit for non-federal "no benefit" time. Non-federal and D.C. Code sentences may run concurrently. No non-federal jail time credit will be applied to the D.C. Code sentence regardless of whether such credit benefitted the raw EFT date of the non-federal sentence in relation to the raw EFT of the D.C. Code sentence, i.e., **any jail time credit awarded to a non-federal sentence will not be awarded to a D.C. Code sentence** unless it is dismissed or acquitted .

44.15 No jail time credit while under the jurisdiction of a writ of habeas corpus. No jail time credit will be awarded while under the jurisdiction of a writ of habeas corpus unless the prisoner receives no credit for that period of time from the jurisdiction that has primary custody.

44.16 No jail time credit while serving a D.C. Code or U.S. Code civil contempt order. No jail time credit will be awarded for the duration of a civil contempt order

under § 11-944 or 18 U.S.C. § 401 or 28 U.S.C. § 1826. Jail time credit will be awarded through the date that the contempt order begins and will continue on the final day of the contempt order if the prisoner returns to a jail time credit earning status. The time to serve as a result of the civil contempt order receives **no** good time credits. (See Chapter 7 on Inoperative time for the effect of a civil contempt order on a sentence that was in operation when the civil contempt was ordered or if a sentence was imposed during the service of a civil contempt order.)

44.17 Credit for jail time while undergoing examination or treatment under § 24-301(a), Commitment during trial. A person who has undergone examination or treatment under § 24-301(a) will receive credit for such time as jail time credit on a subsequent sentence. (See Chapter 10, Commitment of insane persons and time credit, for more information.)

44.18 Credit/non-credit resulting from a D.C. Superior Court time served order. If it is determined that a time served order does not include the jail time credit, and other counts or sentences are involved, an analysis must be made as to whether that credit applies to any other sentence. (See Chapter 6, Time served court order, for more information.)

44.19 Jail time credit for probation revocation terms.

a. For a sentence of probation resulting from the **imposition of sentence being suspended** or **imposition of sentence and suspension of the execution thereof** all time spent in official detention in connection with the original offense shall be applied to the probation revocation term provided the time has not been applied to any other sentence.

b. For a sentence of probation resulting from a sentence that was imposed with execution of a portion thereof suspended, see Chapter 15, Split Sentences, for the application/non-application of jail time credit against the probation revocation term.

44.20 Reasons for the termination of jail time credit. Release on bail, bond or own recognizance; escape; placement in a civil contempt status; charges dismissed or acquitted; commencement of sentence.

NOTE: If the court orders jail time credit contrary to these rules or if a situation is present that appears to warrant a double award of jail time

credit, i.e., the award of the same jail time credit to different sentences, consult the RISA or central office.

a. **§ 24-431(b).** This section states,

When a person has been in custody due to a charge that resulted in a dismissal or acquittal, the time that would have been credited against a sentence for the charge, had the charge not resulted in a dismissal or acquittal, shall be credited against any sentence that is based upon a charge for which a warrant or commitment detainer was placed during the pendency of the custody.

1) Credit if a D.C. Code warrant (includes a PV warrant) or commitment detainer is placed with a law enforcement agency outside the District of Columbia. If a D.C. Code warrant or a commitment detainer was on file with a law enforcement agency outside the District of Columbia and the charge results in a dismissal or acquittal, the jail time credit will be applied to the sentence that results from the warrant or commitment detainer. The credit will apply beginning no earlier than the date on which the warrant or commitment detainer was received at the facility in which the prisoner was detained. (In the case of a PV warrant, the PV term would commence no earlier than the date the PV warrant was received at the facility in which the prisoner was detained.) Unlike "Old Law" 18 U.S.C. § 3568 jail time credit, the status or nature of the charge that was dismissed or acquitted makes no difference, the credit will still apply even if no bail was set or the charge was not bailable.

2) **Credit when multiple U.S. Code and D.C. Code offenses occur prior to arrest and are prosecuted in one or more trials and one or more charges are dismissed or acquitted (while incarcerated within the District of Columbia).** If multiple D.C. Code offenses occur and arrest is made on only one charge, and that charge was dismissed or acquitted, the jail time credit accrued will apply to the other counts or sentences.

a) No credit will apply to a probation revocation term prior to a probation revocation hearing or prior to the issuance of a warrant for alleged probation violation, whichever is first.

b) No credit will apply to a subsequent PV term if a warrant was issued but not on file as a detainer

3) **Credit when multiple D.C. Code offenses occur prior to and after arrest and are included in one trial and one or more charges are dismissed or acquitted.** If multiple offenses occur prior to and after arrest and the charges for which arrested are dismissed or acquitted, the jail time credit accrued on those charges will apply to the other charges from the date of the offense if later than the date of arrest.

a) No credit will apply to a probation revocation term prior to a probation revocation hearing or prior to the issuance of a warrant for alleged probation violation, whichever is first.

b) No credit will apply to a subsequent PV term if a warrant was issued but not on file as a detainer.

44.21 Effect of Release Order on other counts or cases if dismissed or acquitted. No jail time credit will be accrued toward the "**Release Order**" count or case (including a PV warrant that was issued but not on file as a detainer) while in that status if the other count or case was dismissed or acquitted. An example follows:

Release Order rule has "effect"

06-10-1996 Arrested on **Case Nos. 1 & 2**
06-30-1996 Released from custody on **Case No. 1**
07-10-1996 Acquitted in **Case No. 2**
07-10-1996 Recommitted in **Case No. 1**
07-31-1996 Sentence commences in **Case No. 1**
42 days jail time credit (06-10-1996 through 06-30-1996 and 07-10-1996 through 07-30-1996) applied to **Case No. 1**).

Because **Case No. 1** was in a "Release Order" status from 06-30-1996 to 07-10-1996 while being held in **Case No.2**, which was acquitted, no credit can be applied to **Case No 1.** for that 9 days.

*Example **5***

CHAPTER 45

9. COMMENCEMENT OF SENTENCE

45.1 There is no D.C. Code statutory provision that pertains to the commencement of sentence. There are two U.S. Code statutory provisions that are followed by the BOP for the commencement of both U.S. Code and D.C. Code sentences.

45.2 For sentences imposed for offenses committed prior to November 1, 1987, 18 U.S.C. § 3568 (Repealed effective November 1, 1987) is followed and it states in pertinent part:

> ***The sentence of any person convicted of an offense shall commence to run from the date on which such person is received at the penitentiary, reformatory, or jail for service of such sentence . . .***
>
> ***As used in this section the term "offense" means any criminal offense, other than an offense triable by court-martial, military commission, provost court, or other military tribunal, which is in violation of an Act of Congress and is triable in any court by an Act of Congress.***
>
> ***If any such person shall be committed to a jail or other place of detention to await transportation to the place at which his sentence is to be served, the sentence shall commence to run from the date on which he is received at such jail or other place of detention.***
>
> ***No sentence shall prescribe any other method of computing the term.***

45.3 For sentences imposed for offenses committed on or after November 1, 1987, 18 U.S.C. § 3585(a) (Effective November 1, 1987) is followed and it states,

> ***A sentence to a term of imprisonment commences on the date***

the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service of sentence at, the official detention facility at which the sentence is to be served.

45.4 The language, in both statutes, is worded in such a way as to preclude a sentence from beginning to run any earlier than the date on which it was imposed, i.e., the BOP will not calculate a sentence as commencing any earlier than the date of imposition. In addition, a court may not order a sentence to commence earlier than the date of imposition.

45.5 Since the DCDC follows §§ 3568 and 3585(a) for the commencement of sentence, then it is clear that a sentence may commence automatically to run only if the prisoner is in the **exclusive** custody of the Attorney General, i.e., in the custody of a United States Marshal, the DCDC or the BOP, on the basis of the charges for which the sentence was imposed. Since the prisoner is generally in federal custody on the basis of the charges for which the sentence was imposed, the sentence immediately commences. Following are rules pertaining to the commencement of sentence when other sentences or other jurisdictions are involved.

a. If the prisoner was in custody under the jurisdiction of a superior court writ of habeas corpus ad prosequendum from non-federal custody at the time of imposition of sentence and the court was silent, the sentence will run consecutively to the non-federal charge or sentence.

b. If the prisoner was in custody under the jurisdiction of a superior court writ of habeas corpus ad prosequendum from non-federal custody at the time of imposition of sentence and the court orders the sentence to run concurrently with the non-federal charge or sentence, the prisoner shall be returned to the non-federal jurisdiction and the BOP will designate the non-federal jurisdiction as the place to serve the sentence provided there is no statutory provision to preclude concurrent service.

c. If the prisoner was serving a U.S. Code or a D.C. Code sentence at the time the new sentence was imposed and the court was silent as to the new

sentence, the new sentence will run consecutively to

the sentence in operation (See § 23-112, Consecutive and Concurrent Sentences, and Chapter 19 of this manual.

d. If the prisoner was serving a U.S. Code or a D.C. Code sentence at the time the new sentence was imposed, the court may order the new sentence to run concurrently, provided there is no statutory provision that would require otherwise.

e. If the prisoner was sentenced and released on appeal bond the same day, the sentence shall be stayed pending disposition of the appeal, i.e., the sentence will not commence until the appeal has been resolved. (See **Rule 38(a)(2), Superior Court Rules of Criminal Procedure.**

CHAPTER 46

10. COMMITMENT OF INSANE PERSONS AND TIME CREDIT

46.1 This chapter pertains to commitments under the provisions of the D.C. Code, Chapter 3., § 24-301 (prior to sentencing) and § 24-302 (while serving sentence) and the time credit which may be awarded as a result of those commitments.

a. **Commitment during trial (§ 24-301(a)).** A person who is committed pursuant to § 24-301(a) will be awarded such time as jail time credit on the sentence based on **§ 24-431(c)** which states,

Any person who is sentenced to a term of confinement in a correctional facility or hospital shall have deducted from the term all time actually spent, pursuant to a court order, by the person in a hospital for examination purposes or treatment prior to trial or pending an appeal.

b. **Commitment after acquittal by reason of insanity (§ 24-301(d)(1) and 18 U.S.C. § 4243(i)(1)).** Under § 24-301(d)(1), a person who is acquitted solely on the ground of insanity at the time of the commission of the offense will be committed to a hospital until such time that the person is eligible for release pursuant to § 24-301(e). Under 18 U.S.C. § 4243(i)(1), the person may be transferred to the custody of the Attorney General who will commit the person for treatment in a suitable facility. Under these provisions, the prisoner shall not be released until an order is received from the court.

c. **Commitment while serving sentence (§ 24-302).** This section establishes the procedure for the transfer of a person who is serving a D.C. code Sentence and who is mentally ill to an appropriate hospital facility. A prisoner who is serving a D. C. Code sentence within the BOP and who is suspected of suffering from a mental disease or defect shall be processed in accordance with Chapter II, Insanity Defense Reform Act of 1984 (See the subsections pertaining to 18 U.S.C. §§4245-4247) of the Sentence Computation Manual-CCCA.

CHAPTER 47

11. CALCULATION OF SENTENCE FOR OFFENSES COMMITTED PRIOR TO APRIL 11, 1987

47.1 D.C. Code Sentences Served in the D.C. Jail or in the Workhouse of the District of Columbia. Prior to April 11, 1987, D.C. Code Sentences that were served in the D.C. Jail or in the Workhouse of the District of Columbia were calculated under the provisions of § 24-405, Good conduct deduction (hereinafter referred to as District of Columbia good conduct time (DCGCT)). The section states in part,

> ***All persons sentenced to and imprisoned in the Jail or in the Workhouse of the District of Columbia*** [emphasis added], ***and confined there for a term of 1 month or longer who conduct themselves that no charge of misconduct shall be sustained against them shall have a deduction upon a sentence of not more than 1 year of 5 days for each month; upon a sentence of more than 1 year and less than 3 years, 6 days for each month; upon a sentence of not less than 3 years and less than 5 years, 7 days for each month; upon a sentence of 5 years and less than 10 years, 8 days for each month; and upon a sentence of 10 years or more, 10 days for each month, and shall be entitled to their discharge so much the earlier upon the certificate of the Superintendent of the Workhouse for those confined in the Workhouse, of their good conduct during their imprisonment. When a prisoner has 2 or more sentences the aggregate of his several sentences shall be the basis upon which his deduction shall be estimated.***

47.2 D.C. Code Sentences Served in the non-workhouse facilities at Lorton or in the BOP. For D.C. Code offenders confined at the non-workhouse facilities at Lorton, the sentences were calculated under the provisions of the U.S. Code with the exception of the minimum term (parole eligibility). **Calculation of the**

minimum term was performed in accordance with the D.C. Code (See Chapter 16, Minimum Terms, Parole Eligibility). The U.S. Code parole provisions (18 U.S.C. §§ 4201-4218) did not apply as the D.C. Code contained specific parole provisions.

a. The U.S. Code provisions that were followed are: 18 U.S.C. §§ **4161, Computation generally; 4162, Industrial good time; 4163, Discharge; 4164, Released prisoner as parolee; 4165, Forfeiture for offense;** and **4166, Restoration of forfeited commutation.** Only a brief explanation and description of these statutory provisions will be covered in this manual since they are comprehensively discussed in the **Sentence Computation Manual-Old Law.**

b. The BOP continued to apply §§ 4161-4166 to D.C. offenders transferred to the BOP.

47.3 18 U.S.C. § 4161, Computation generally. The DCDC utilized 18 U.S.C. § 4161 (SGT) for offenses committed prior to April 11, 1987 for prisoners committed to the non-workhouse facilities at Lorton because the good conduct time provisions of § 24-405 (DCGCT) in the D.C. Code applied only to persons sentenced to and imprisoned in the **Jail or in the Workhouse of the District of Columbia** as described above. § 4161 states:

> ***Each prisoner convicted of an offense against the United States and confined in a penal or correctional institution for a definite term other than for life, whose record of conduct shows that he has faithfully observed all the rules and has not been subjected to punishment, shall be entitled to a deduction from the term of his sentence beginning with the day on which the sentence commences to run, as follows:***
>
> ***Five days for each month, if the sentence is not less than six months and not more than one year.***
> ***Six days for each month, if the sentence is more than one year and less than three years.***
> ***Seven days for each month, if the sentence is not less than three years and less than five years.***
> ***Eight days for each month, if the sentence is not less than five years and less than ten years.***
> ***Ten days for each month, if the sentence is ten years or more.***

When two or more consecutive sentences are to be served, the aggregate of the several sentences shall be the basis upon which the deduction shall be computed.

a. The formula for determining SGT and DCGCT for a single month, or any number of months, is: **Month(s) x rate = Days for one or more months.** (For example: 7 months x the rate of 5 days per month = 35 days for the 7 months. 60 months x the rate of 8 days per month = 480 days for 60 months.)

b. The formula for determining the days to award for a partial month is: **Days x rate ÷ 30 = Days (fractions are dropped) to award.** (For example: 11 days x the rate of 8 days per month = 88 days ÷ 30 = 2.9 days (fractions are dropped) = 2 days SGT. 15 days x the rate of 7 days per month = 105 ÷ 30 = 3.5 days (fractions are dropped) = 3 days SGT.

c. There are no examples of pre-April 11, 1987 sentence calculations for D.C. Code sentences in this manual since those calculations are the same as for U.S. Code Old Law sentences which are fully discussed and described in the **Sentence Computation Manual-Old Law.**

47.4 18 U.S.C. § 4162, Industrial good time. This type of good time includes industrial good time, meritorious good time (not to be associated with § 24-429.1 Meritorious good time), camp good time and community corrections good time. All these forms of good time are collectively called extra good time (EGT).

a. Industrial assignments at Lorton were awarded EGT under this provision to D.C. Code sentences for a period of time that ended in the 1980's. There may be D.C. Code offenders still serving D.C. Code sentences that received this type of EGT from DCDC. This EGT shall continue to be applied as awarded by the DCDC and will be considered vested.

b. For prisoners in the custody of the BOP, EGT has been awarded to D.C. Code sentences from the 1940's to June 22, 1994 for offenses committed prior to June 22, 1994. **No EGT will be awarded to a D.C. Code sentence for an offense committed on or after June 22, 1994.** EGT earned in a BOP facility is vested.

c. The formula for EGT is: **Days on assignment x rate = Product ÷ Days in month = Total number of days to be awarded for a month (any fraction of a day equals 1 day).** Please see the **Sentence Computation Manual (Old Law)** for complete and comprehensive instructions for the application and examples of EGT. EGT may not be forfeited or withheld.

d. It is important to reiterate the exception to the "any fraction of a day equals 1 day" rule. A prisoner who is in and out of an assignment the same day, does not receive a 1 day EGT credit for that day, i.e., a prisoner must be in an assignment for a minimum of 2 consecutive partial days before 1 day of EGT may be awarded.

47.5 18 U.S.C. § 4163, Discharge. This section requires that a prisoner shall be released at the expiration of his term of sentence less the time deducted for good conduct.

47.6 18 U.S.C. § 4164, Released prisoner as parolee. This section is an extension of § 4163 and requires that a prisoner having served his term or terms less good-time deductions shall, upon release, be deemed **as if released on parole until the expiration of the maximum term or terms for which he was sentenced less one hundred and eighty days.** Releases under §§4163-4164 are termed **expiration full term (EXP-FT)** with no good time; **expiration good time (Exp-GT)** with 180 days or less of good time; and **mandatory release (MR)** with 181 days or more of good time. For example, a person who earns **144 days SGT** plus **37 days EGT** for a total of **181 days good time**, will be released by **MR**, as if on parole, with **one day of supervision to follow release** from the confinement portion of the sentence. **(MR does not apply to a NARA sentence or its violator term.)**

NOTES:

As noted, DCGCT could be applied only to persons sentenced to and imprisoned in the **Jail or in the Workhouse of the District of Columbia**. It could not be applied to prisoners committed to the non-workhouse facilities at Lorton.

See Chapter 20, Aggregation/Non-Aggregation of Sentences.

This section (§ 24-405) was repealed on April 11, 1987 when it was replaced with § 24-428.

Note: There are numerous examples and a thorough discussion of these releases in the **Sentence Computation Manual-Old Law**.

47.7 18 U.S.C. § 4165, Forfeiture for offense and **§ 4166, Restoration of forfeited commutation.** These two sections authorize the forfeiture and restoration of SGT. Forfeiture and restoration hearings will be conducted under the provisions of the Program Statement on **Inmate Discipline and Special Housing Units.**

CHAPTER 48

12. CALCULATION OF SENTENCE FOR OFFENSES COMMITTED ON OR AFTER APRIL 11, 1987

48.1 The **District of Columbia Good Time Credits Act of 1986** (the "Act")became effective on April 11, 1987 for all D.C. Code offenses committed on and after that date. It also applied to sentences being served but only from April 11, 1987 forward as will be explained post. D.C. Code § 24-405 was repealed by this Act but was replaced with **§ 24-428, Institutional good time** (hereinafter referred to as DCIGT) with no significant change to the amount of good time that could be earned based on conduct. (The change was that good conduct time would begin to accrue with a sentence of **30 days** instead of with a sentence of **one month.**) It also added **§ 24-429, Educational good time; § 24-430, Administration of good time credits** and **§ 24-432, Forfeiture. 18 U.S.C. § 4162, Industrial good time** continued to be applied to sentences imposed under § 24-428.

a. **DC Code § 24-428, Institutional good time.** § 24-428, when initially enacted, applied only to prisoners **imprisoned in a District correctional facility** but this had no negative effect since the BOP applied SGT to prisoners transferred to BOP custody. This practice became moot on August 17, 1991 when § 24-428 was amended to apply to any D.C. Code offender regardless of location and was retroactive. § 24-428 was repealed effective June 22, 1994 for offenses occurring on and after that date. DC Code § 24-428 states,

(a) Every person who is convicted of a violation of a District of Columbia ("District") criminal law by a court in the District of Columbia and whose conduct is in conformity with all applicable institutional rules is entitled to institutional good time credits in accordance with the provisions of this section. Application of good time credits shall commence on the 1st Day of the person's commitment, as follows:

(1) Five days for each month, if the sentence is not less than 30 days and not more than 1 year.
(2) Six days for each month, if the sentence is more than 1 year and less than 3 years.
(3) Seven days for each month, if the sentence is not less than 3 years and less than 5 years.
(4) Eight days for each month, if the sentence is not less than 5 years and less than 10 years.
(5) Ten days for each month, if the sentence is 10 years or more.
(6) When 2 or more consecutive sentences are to be served, the aggregate of the several sentences shall be the basis upon which the good time credits shall be applied.

(b) Good time credits . . . shall be applied to the person's minimum term of imprisonment to determine the date of eligibility for release on parole and to the person's maximum term of imprisonment to determine the date when release on parole becomes mandatory.

(c) Good time credits applied to the minimum term of imprisonment shall be computed solely on the basis of the minimum term of imprisonment. Good time credits applied to the maximum term of imprisonment shall be computed solely on the basis of the maximum term of imprisonment.

(d) Institutional good time credits under this section shall be applied without regard to the person's award of educational good time credits under § 24-429.

NOTES: The formula for determining DCIGT is the same as for SGT and DCGCT as previously discussed.

See Chapter 20, Aggregation/Non-Aggregation of Sentences.

b. As noted earlier, **§ 24-428** applied to prisoners in the service of sentences on the effective date of

April 11, 1987 which had no significant effect except as to minimum terms which will be discussed in Chapter 16, Minimum Terms (Parole Eligibility).

c. There is no 180 day date (18 U.S.C. § 4164) for a § 24-428 sentence. If not paroled by action of the U.S. Parole Commission, a sentence under this section will be **mandatorily paroled** on the SRD.

d. There are no examples of DCIGT calculations or aggregations in this manual since those types of calculations are fully discussed and described in the **Sentence Computation Manual-Old Law**.

48.2 § 24-429, Educational good time. § 24-429, like § 24-428, became effective on April 11, 1987 but unlike § 24-428, it **was not repealed** on June 22, 1994 and remains in effect. § 24-429 applies only to sentenced D.C. Code offenders. The section states:

> ***(a) Every person whose conduct complies with institutional rules and who demonstrates a desire for self-improvement by successfully completing an academic or vocational program, including special education and Graduate Equivalency Diploma programs, shall earn educational good time credits of no less than 3 days a month and not more than 5 days a month. These credits shall not be awarded until completion of the academic or vocational program.***
>
> ***(b) Educational good time credits authorized by the provisions of this section shall be applied to the person's minimum term of imprisonment to determine the date of eligibility for release on parole and to the person's maximum term of imprisonment to determine the date when release on parole becomes mandatory.***

a. A prisoner who was enrolled in an educational course or program prior to April 11, 1987 but who did not complete it until after April 11, 1987, became eligible to earn the credits only from the time on and after April 11, 1987.

b. Any prisoner who enrolled in an educational course or program on and after April 11, 1987 became eligible to earn educational good time credits.

c. A prisoner whose offense occurs on or after August 5, 2000, will not be entitled to earn DCEGT.

d. Prisoners who are in a DCEGT earning status on and after August 5, 2000 will continue to earn DCEGT credits.

e. Prisoners whose sentences were imposed on and after August 5, 2000 but whose offenses occurred from April 11, 1987 to August 5, 2000, will be entitled to earn DCEGT.

f. For full implementation instructions, see Program Statement Educational Good Time Sentence Credit for D.C. Code Offenders.

g. DCEGT, as required by the statute, must be awarded to both the minimum and maximum terms. See Chapter 16, Minimum Terms (Parole Eligibility), for exceptions.

h. If a prisoner is transferred from DCDC to the BOP prior to the completion of necessary documentation to delay or withhold such credits, the BOP will enforce whatever sanction was taken upon the receipt of proper documentation from the Director of DCDC.

i. For D.C. Code offenders transferred to the BOP, educational good time credits are noted in the "Conduct Credits" section of the DCDC Face Sheet.

j. After transfer or commitment to the BOP, enrollment in a BOP approved program for any portion of a calendar month (one day or more) equals one full month's worth(3 to 5 days) of EGT.

k. No DCEGT will be applied to a minimum mandatory sentence.

l. No DCEGT will be applied to any minimum term for an offense mentioned in § 24-434.

m. DCEGT that exceeds the 15-85% date will not be applied to minimum terms as discussed in §§ 24-429.2 and 24-208(b).

n. ISM staff will not award DCEGT until the D.C. Educational Good Time form is received from the Supervisor of Education.

o. ISM staff will calculate the amount of DCEGT to award based on the information contained on BOP form D.C. Educational Good Time.

48.3 § **24-432, Forfeiture.** § 24-432, like § 24-428, became effective on April 11, 1987 but unlike § 24-428, it was not repealed on June 22, 1994 and remains in effect. The section states,

The award of good time credits for good behavior and faithful performance of duties may be forfeited, withheld and restored by the Director, in accordance with rules promulgated by the Mayor pursuant to § 24-430, after a hearing, which shall be conducted in accordance with the rules.

a. Because of this statutory provision, from April 11, 1987, the DCDC no longer had to rely on 18 U.S.C. §§ 4165-4166 for the forfeiture, withholding and restoration of time credits. The implementing DCDC rules for § 24-432, as promulgated by the Mayor, were published in May 1987 in **Title 28, Chapter 5, of the District of Columbia Municipal Regulations**, as amended on February 19, 1988 in **Volume 35** of the **District of Columbia Register.** For D.C. Code offenders in BOP facilities, discipline hearings, or considerations for restoration, are conducted under the provisions of the BOP program statement on **Inmate Discipline and Special Housing Units.**

b. After arrival in the BOP, educational good time credits that have been delayed or withheld may be awarded or restored.

CHAPTER 49

13. CALCULATION OF SENTENCE FOR OFFENSE COMMITTED ON OR AFTER JUNE 22, 1994

49.1 The **Omnibus Criminal Justice Reform Amendment Act (OCJRAA)of 1994**, which became effective June 22, 1994, repealed § 24-428, Institutional good time. As a result, a D.C. Code sentence for an offense committed on and after June 22, 1994 can receive no DCIGT. (See Chapter 20., Aggregation/Non-Aggregation of Sentences.)

a. **Release on the EFT.** Because an OCJRAA sentence receives no DCIGT, a prisoner must be released on the EFT if not earlier paroled and if no DCEGT has been earned. The maximum a prisoner can serve is to the EFT.

b. **Release on parole.** A prisoner who reaches his parole eligibility date after having served the minimum term and is paroled based on a Notice of Action received from the USPC will be released on parole on the date established. The USPC has the authority to alter or change the date by another Notice of Action or other special action directed to the BOP (usually the institution in which the prisoner is presently located) based on its own reasons or at the request of the BOP. Some BOP reasons for requesting a release delay might include completion of release planning, transportation difficulties, short term illness, and other compelling reasons as determined by the warden. The USPC may issue a nunc pro tunc (retroactive) Notice of Action that authorizes parole in the past but not earlier than the parole eligibility date.

c. **Mandatory release.** Prisoners who have earned DCEGT credits will have those credits deducted from the minimum term (See Chapter 16, Minimum Terms (Parole Eligibility), for exceptions) and from the EFT. A prisoner who is not paroled prior to reaching the EFT minus DCEGT credits, will be **mandatorily released** on that date and will be under parole supervision through the EFT date. A mandatory release may not be delayed except for extraordinary reasons involving the care, welfare or security of the prisoner and the institution. A request for such a delay must be referred to the RISA and

Regional Counsel who, with the approval of the Regional Director, will determine a course of action.

d. For information purposes, on May 8, 1996, a Prison Industries was authorized to be established within the DCDC under the provisions of §§ 24-458.1-458.15. Subsection **§ 24-458.8(g)** provides that a prisoner **may receive educational good time credit for participating in the prison industries program pursuant to § 24-429.** As of the publication date of this manual, DCDC had established no program to implement this provision so it is unlikely that DCEGT credits will have been awarded to a DCDC prisoner for participation in a DCDC Prison industries program.

CHAPTER 50

14. YOUTH REHABILITATION AMENDMENT ACT OF 1985

50.1 The **Youth Rehabilitation Amendment Act (YRA) of 1985** (§§ 24-801-807) became effective on December 7, 1985 for convictions that occurred on and after that date if the date of offense occurred on and after October 12, 1984 (the date of repeal of the U.S. Code **Youth Corrections Act** (YCA) (18 U.S.C. §§ 5010-2026). Prior to October 12, 1984, Superior Court could impose sentences under the YCA. The YRA essentially replaced the YCA. The statutory provisions of the YRA pertaining to sentencing matters are stated below.

§ 24-801. Definitions.
For purposes of this chapter, the term:
(1) "Committed youth offender" means an individual committed pursuant to this chapter for treatment in the District of Columbia.
(2) "Conviction" means a judgment on a verdict or a finding of guilty, or a plea of no contest.
(3) "Court" means the Superior Court of the District of Columbia.
(4) "District" means the District of Columbia.
(5) "Treatment" means corrective and preventive guidance and training designed to protect the public by correcting the antisocial tendencies of youth offenders.
(6) "Youth offender" means a person less than 22 years old convicted of a crime other than murder.

IMPORTANT NOTE: As to **conviction**, it is the BOP's opinion that conviction and sentencing, for this purpose only, are separate judicial acts. For example, if a defendant is convicted a few days prior to the twenty-second birthday and sentencing does not occur until after the twenty-second birthday, the court may still impose a sentence under the YRA.

Once trial has commenced, there are a number of events (e.g., release on writ to another jurisdiction, illness,

a request for continuance by the government or defense attorney, appeal, etc.) that can interrupt proceedings causing a conviction to be delayed beyond a person's twenty-second birthday. Whether such delays can be considered exceptions to the "twenty-two at time of conviction" rule are matters to be resolved between the court and the defendant. If a person's conviction occurs after the twenty-second birthday and the court sentences under the YRA, ISM staff shall enforce the judgment and commitment as issued.

§ 24-802. Facilities for treatment and rehabilitation. *This section provides as follows.*

(a) The Mayor shall provide facilities and personnel for the treatment and rehabilitation of youth offenders convicted under District of Columbia law and sentenced according to this chapter.

(b)(1) The Mayor shall periodically set aside and adapt facilities for the treatment, care, education, vocational training, rehabilitation, segregation, and protection of youth offenders.

(2) Insofar as practical, these institutions shall treat committed youth offenders only, and the youth offenders shall be segregated from other offenders, and classes of youth offenders shall be segregated according to their needs for treatment.

NOTE: ISM staff have no responsibility with regard to this section but it is included to furnish ISM staff with a complete overview of the various YRA provisions as well as providing information that may be useful in discussions with other staff and inmates.

§ 24-803. Sentencing alternatives. *The YRA sentencing alternatives follow.*

(1) ***Probation.*** *The court may place a youth offender on probation.*

(a)(1) If the court is of the opinion that the youth offender does not need commitment, it may suspend the imposition or execution of sentence and place the youth offender on probation.

Note: Although not specifically mentioned in subsection **(a)(1)**, it is presumed that the statutory provisions of § 16-710 control for probation sentences under the YRA, e.g., the period of probation cannot exceed five years and the court may impose a "split sentence" as discussed in Chapter 15, Split Sentences, first paragraph. A YRA split sentence will be calculated in every respect the same as described in Chapter 15. A YRA split sentence is not eligible for parole and may not be aggregated with any other sentence except another split sentence or a one count misdemeanor sentence of 180 days or less.

(2) The court, as part of an order of probation of a youth offender between the ages of 15 and 18 years, shall require the youth offender to perform not less than 90 hours of community service for an agency of the District government or a nonprofit or other community service organization, unless the court determines that the youth offender is physically or mentally impaired and that an order of community service would be unjust or unreasonable.

(3) [Omitted.] (Required that the Mayor develop a youth offender community service plan.)

(4) If the court unconditionally discharges a youth offender from probation pursuant to § 24-806(b), the court may discharge the youth offender from any uncompleted community service requirement in excess of 90 hours. The court shall not discharge the youth offender from completion of the minimum of 90 hours

of community service.

Note: Although ISM staff have no responsibility with regard to subsections **(a)(2) and (4)**, they have been included to furnish ISM staff with a complete overview of the various YRA provisions as well as providing information that may be useful in discussions with other staff and inmates.

(*2*) ***Sentencing.*** *A youth offender, upon conviction, may be sentenced as follows.*

(b) If the court shall find that a convicted person is a youth offender, and the offense is punishable by imprisonment under applicable provisions of law other than this subsection, the court may sentence the youth offender for treatment and supervision pursuant to this chapter up to the maximum penalty of imprisonment otherwise provided by law. The youth offender shall serve the sentence of the court unless sooner released as provided in § 24-804.

Note: Under subsection **(b)**, the court may sentence a youth offender up to the maximum sentence allowed by the statute for the offense.

(c) Where the court finds that a person is a youth offender and determines that the youth offender will derive benefit from the provisions of this chapter, the court shall make a statement on the record of the reasons for its determination. The youth offender shall be entitled to present to the court facts would affect the decision of the court to sentence the youth offender pursuant to the provisions of this chapter.

(d) If the court shall find that the youth offender will not derive benefit from treatment under subsection (b) of this section, then the court may sentence the youth offender under any other applicable penalty provision.

50.2 There are a number of ways to identify a YRA sentence on a J&C.

a. Some J&C's contain a box that will be checked if a YRA sentence has been imposed. (The statement next to the box is, **ORDERED that the defendant be committed to the custody of the Attorney General for treatment and supervision provided by the D.C. Department of Corrections pursuant to Title 24, Section 803(b) of the D.C. Code [Youth Rehabilitation Act of 1985].**)

b. If there is no box on the J&C, there may be a handwritten or typed statement such as, **Sentenced under the provisions of the YRA**, or **Committed pursuant to § 24-803(b).** There may be other statements on the J&C that will identify the sentence as being under the YRA.

c. If there is nothing on the J&C that states the sentence is under the YRA, but the sentence imposed is for a felony and there is no minimum term, then ISM staff must request a clarification from the court.

50.3 Mandatory minimum terms do not apply in accordance with D.C. Code § 24 804 (a), which makes the inmate eligible for parole.

50.4 A youth offender may not be sentenced under the provisions of the YRA if convicted of the crime of murder (§ 22-2404). (See § 24-801(6) above).

50.5 A YRA sentence commences under the same rules as discussed in Chapter 9, Commencement of Sentence.

50.6 A YRA sentence and a YRA PV term are immediately eligible for parole (See § 24-804 below.)

50.7 A YRA sentence is entitled to earn good time credits the same as any other D.C. Code sentence. The type and amount of good time credits that may be awarded are based on the date of offense (See Chapters 11, 12, and 13.)

50.8 A YRA PV term is calculated the same as any other PV term depending on the date of the original offense. (See § 24-206(a).)

50.9 YRA sentences may be aggregated with each other, including a YRA PV term, but not with any other sentencing provision, including a YRA split sentence.

50.10 YRA sentences may run concurrently with, or consecutively to, each other or other sentences.

50.11 Jail time credit and inoperative time apply to YRA sentences the same as for other sentences.

50.12 **Observation and study.** After conviction and prior to sentencing, the court may commit a youth offender for observation and study as follows.

> ***If the court desires additional information as to whether a youth offender will derive benefit from treatment under subsection (b) of this section, the court may order that the youth offender be committed for observation and study at an appropriate classification center or agency. Within 60 days from the date of the order or an additional period that the court may grant, the court shall receive the report.***

a. The observation and study period is ordered after conviction and prior to sentencing.

b. The time spent in custody for the observation and study is treated as jail time credit on the sentence that results.

50.13 **Statement about sentencing alternatives.** The following subsection is self-explanatory and needs no further comment.

50.14 Subsections in this chapter provide sentencing alternatives in addition to the alternatives already

available to the court.

§ 24-804. Conditional release; unconditional discharge.

(1) Release.

(a) A committed youth offender may be released conditionally under supervision whenever appropriate.

50.15 For sentence calculation purposes, a youth offender is immediately eligible for parole.

50.16 A youth offender may be released on parole by the U.S. Parole Commission **whenever appropriate** prior to the mandatory release date that is based on good time credits, or prior to the EFT if there are no good time credits.

50.17 If the youth offender is released by mandatory release (there is no 180 day date for these sentences) because of good time credits, supervision is to the EFT.

50.18 If the youth offender acquires no good time credits, or loses all good time credits, and is released on the EFT, no supervision follows.

50.19 § 24-804 continued:

Discharge.

(b) A committed youth offender may be unconditionally discharged at the end of 1 year from the date of conditional release.

§ 24-805. Determination that youth offender will derive no further benefit; appeal. If the Director of the DCDC determines that a youth offender will derive no further benefit under this provision, the Director will so notify the youth offender and explain the right to appeal the decision.

(a) If the Director of the Department of

Corrections ("Director") determines that a youth offender will derive no further benefit from the treatment pursuant to this chapter, the Director shall notify the youth offender of this determination in a written statement that includes the following:

(1) Notice that the youth offender may appeal the Director's determination to the sentencing judge in writing within 30 days of the youth offender's receipt of the Director's statement required by this section;

(2) Specific reasons for the Director's no benefit determination; and

(3) Notice that an appeal by the youth offender to the sentencing judge will stay any action by the Director regarding a change in the youth offender's status until the sentencing judge makes a determination on the appeal.

(b) The decision of the sentencing judge on the appeal of the youth offender shall be considered a final disposition of the appeal and shall preclude further action by the Director to change the status of a youth offender for a 6-month period from the date of the sentencing judge's decision.

50.20 If the **no further benefit determination** becomes final, there is **no** change to the sentence computation. The prisoner is still a youth offender, is immediately eligible for parole and the rules about aggregation/non-aggregation still apply.

50.21 Any documentation generated by the DCDC and Superior Court shall be placed in the judgment and commitment file. ISM staff shall assure that case management staff receive copies of all documentation referring to the **no further benefit determination**, regardless of whether successfully appealed. For further information, see ISM Manual.

§ 24-806. Unconditional discharge sets aside conviction.

(a) Upon the unconditional discharge of the youth offender before expiration of the maximum sentence imposed, the District of Columbia Board of Parole shall automatically set aside the conviction.

(b) If the maximum sentence of the youth offender expires before unconditional discharge, the District of Columbia Board of Parole may, in its discretion, set aside the conviction.

(c) In any case in which the District of Columbia Board of Parole sets aside the conviction of a committed youth offender, the Board shall issue to the youth offender a certificate to that effect.

(d) Where a youth offender has been placed on probation by the court, the court may, in its discretion, unconditionally discharge the youth offender from probation before the end of the maximum period of probation previously fixed by the court. The discharge shall automatically set aside the conviction and the court shall issue the youth offender a certification to that effect.

NOTE: ISM staff have no responsibility with regard to this section but should be aware that the setting aside of the conviction is possible for a youth offender. Any documentation received after the youth offender's release that was generated in connection with this provision should be placed in the judgment and commitment file.

CHAPTER 51

15. SPLIT SENTENCE

51.1 The statutory provision that authorizes the imposition of a split sentence is D.C. Code § 16-710, **Suspension of imposition or execution of sentence.** For the purposes of this manual, split sentence means a sentence that was imposed with execution of a portion thereof suspended and a period of probation to follow that may not exceed five years. The phrase "split sentence" is not mentioned in the statute. The phrase, for BOP purposes, distinguishes between a sentence with execution of a portion suspended with probation to follow and a sentence with execution of **all** the sentence suspended.

51.2 The court may impose a "split sentence" to run concurrently with, or consecutively to, an existing term.

51.3 § 16-710 states,

> ***(a) Except as provided in subsection (b), in criminal cases in Superior Court of the District of Columbia, the court may, upon conviction, suspend the imposition or impose sentence and suspend the execution thereof, or impose sentence and suspend the execution of a portion thereof [emphasis added], for such time and upon such terms as it deems best, if it appears to the satisfaction of the court that the ends of justice and the best interest of the public and of the defendant would be served thereby. In each case of the imposition of sentence and the suspension of the execution thereof, or the imposition of sentence and suspension of the execution of a portion thereof, the court may place the defendant on probation under the control and supervision of a probation officer. The probationer shall be provided by the clerk of the court with a written statement of the terms and conditions of this probation at the time when he is placed thereon. He shall observe the rules prescribed for his conduct by the court and report to the***

probation officer as directed. A person may not be put on probation without his consent.

(b) The period of probation referred to in subsection (a), together with any extension thereof, shall not exceed 5 years.

(c) Nothing in this section shall be deemed to supersede the provisions of section 22-104a.

NOTE: § 22-104a refers to the penalty that may be imposed for a felony after at least two prior felony convictions.

51.4 You will note, based on the statute, that the court has three options:

a. Suspend the imposition of sentence.

b. Impose sentence and suspend the execution thereof.

c. Impose sentence and suspend the execution of a **portion** thereof.

51.5 With any of the above options, the court may impose a period of probation not to exceed 5 years. Whether the court may impose consecutive or concurrent periods of probation in the same or other judgments that exceeds 5 years is not a matter over which the BOP has any monitoring responsibility or control. A prisoner with questions about probation should be referred to the Court Services and Offender Supervision Agency for the District of Columbia.

51.6 A **split sentence**, as discussed above, occurs when a court imposes a sentence, suspends a portion thereof, and requires a period of probation to follow.

51.7 The following rules have been established based on the presumption that the court was silent when both the original split sentence and probation revocation term were imposed or, if an order was included, the order did not contradict the rules. If the court did issue an order contrary to these rules, then the matter must be

referred to the RISA or central office for assistance.

a. There is no statutory maximum period of time to serve for the split sentence portion of the sentence.

b. A split sentence is entitled to jail time credit towards imprisonment.

c. Ordinarily, a split sentence is not eligible for parole & no minimum term will be imposed. They will ordinarily be released by Exp-FT or Exp-GT. Whenever the split sentence portion is greater than the minimum term of the original sentence, ISM staff shall contact the Central Office for guidance.

d. A split sentence is entitled to DCGCT or DCIGT depending on the length of the split sentence portion and the date of offense. (There is no DCGCT or DCIGT for offenses committed on or after June 22, 1994.) The rate is dependent on the length of the split sentence portion and not on the sentence imposed.

e. A split sentence may earn BOP EGT (18 U.S.C. § 4162) for an offense committed prior to June 22, 1994 and may earn DCEGT (§ 24-429) for an offense committed on and after April 11, 1987.

f. The initial portion of a split sentence may be aggregated with another split sentence or with a misdemeanor sentence of 180 days or less but may not be aggregated with any other sentence.

51.8 The following rules apply to a split sentence probation revocation term. Any time spent in official detention in connection with the probation revocation term will be applied to the probation revocation term.

a. All of the time spent serving the split sentence, plus its jail time credit, shall be applied to the probation revocation term if the probation revocation term is equal to the original sentence. The actual amount of time spent serving the split sentence will be treated the same as jail time credit.

b. None of the time spent serving a split sentence, including its jail time credit, will be applied to a probation revocation term if the probation revocation term plus the time spent serving the split sentence and its jail time credit when added to the probation revocation term is equal to or less than the original sentence. See Brame v. Palmer 510

A.2d 229 (Ct. App. 1986)

06-15-1990 Arrested
06-23-1990 Sentenced to 2 to 6 yrs, ESS of all but 18 mos with 5 yrs probation to follow.
08-28-1991 SRD (includes 108 DCIGT & 8 JTC).
440 dys served on the 18 mos split sentence(including 8 dys JTC).
11-05-1991 Arrested as alleged probation violator.
11-15-1991 Probation revoked and sentenced to 1 to 3 yrs (10 dys JTC).

None of the 440 days spent serving the 18 month split sentence will apply to the 1 to 3 year sentence since the 440 days when added to the 1 to 3 year sentence does not exceed the original sentence of 2 to 6 years.

Example 3

c. If the time spent serving the split sentence, including its jail time credit, exceeds the original sentence after adding it to the revocation term, then any excess shall be applied to the probation revocation term.

06-15-1990 Arrested
06-23-1990 Sentenced to 2 to 6 yrs, ESS of all but 18 mos with 5 yrs probation to follow.
08-28-1991 SRD (includes 108 DCIGT & 8 JTC).
440 dys served on the 18 mos split sentence (including 8 dys JTC).
11-05-1991 Arrested as alleged probation violator.
11-15-1991 Probation revoked and sentenced to 23 to 69 months (10 dys JTC).

The EFT of the 23 to 69 month probation revocation term, including the 10 days JTC, is 08-04-1997. 440 days served on the split sentence added to the EFT of the probation revocation term is 10-18-1998. The EFT of the 2 to 6 years calculated from 11-15-1991 is 11-06-1997 (with adjustments for 8 days JTC). The difference between 10-18-1998 and 11-07-1997 is 345 days which represents the amount of time that exceeds the original sentence of 2 to 6 years. As a result, an additional 345 days must be deducted from the minimum and maximum terms of the probation revocation term the same as if it was additional JTC.

Example 4

d. A split sentence probation revocation term is entitled to DCGCT or DCIGT if the original offense was committed prior to June 22, 1994. The rate is based on the length of the probation revocation term.

e. A probation revocation term may earn BOP extra good time (EGT) (18 U.S.C. § 4162) for an offense committed prior to June 22, 1994 and may earn DCEGT (§ 24-429) for an offense committed on and after April 11, 1987.

f. The revocation term is entitled to parole consideration provided there is no statutory provision that requires otherwise.

51.9 There is no statutory requirement for the court to attach a period of probation to a sentence that has been imposed with execution of a portion thereof suspended but there appears to be no method of re-confining the prisoner to serve the balance of the sentence unless probation was imposed and subsequently revoked. As a result, whenever ISM staff receive a J&C with a split sentence that contains no period of probation to follow, contact the clerk of court to confirm whether a period of probation was to follow. It is necessary to resolve the question at this time while the information is still current so as to prevent future difficult record searches when a split sentence probation violator is returned.

51.10 If the court imposes the original sentence, the split sentence, or the probation revocation term in a manner inconsistent with the instructions contained in this chapter, contact the RISA for guidance.

CHAPTER 52

16. MINIMUM TERMS (PAROLE ELIGIBILITY)

52.1 A **minimum term** is the term imposed by the court, or the statutory amount of time required to be served for a misdemeanor, that establishes the period of parole ineligibility. A **mandatory minimum term** is a term under which a court cannot set a period of parole ineligibility any less than prescribed for the offense.

52.2 A **minimum maximum term** is a term under which the court may **not** set a lesser maximum term. A **parole eligibility date** is the date on which a prisoner becomes eligible for parole after having served the required minimum term.

52.3 § **24-208(a), Prisoners who may be paroled.** This section authorizes the D.C. Board of Parole to parole all prisoners who are eligible for parole and sets forth the rule for non-felony offenses (misdemeanors).

> **Important Note:** The power of the D.C. Board of Parole for granting parole was transferred to the U.S. Parole Commission on August 8, 1998 (§ 24-1231(a)(1).

52.4 § 24-208(a) states,

> ***(a) The power of the Board of Parole shall extend to all prisoners whose sentences exceed 180 days regardless of the nature of the offense; provided, that in the case of a prisoner convicted of an offense other than a felony, including violations of municipal regulations and ordinances and Acts of Congress in the nature of municipal regulations and ordinances, the prisoner may not be paroled until he has served one-third of the sentence imposed, and in the case of 2 or more sentences for other than a felony, no parole may be granted until after the prisoner has served one-third of the aggregate sentence imposed.***

52.5 The PE rule for a misdemeanor sentence, as established in § 24-208(a), is that a sentence of 180 days or less is

not eligible for parole. A misdemeanor sentence of more than 180 days, or an aggregate of misdemeanor sentences totaling more than 180 days are eligible for parole after serving one-third of the sentence.

52.6 The court does not impose a minimum term for a parolable misdemeanor sentence as the statute, as discussed above, sets parole eligibility at one-third of the sentence if it, or an aggregate, exceeds 180 days.

52.7 Three consecutive 90 day misdemeanor sentences, for example, would result in a total sentence of 270 days with the PE date based on one-third (90 days).

52.8 A misdemeanor sentence of 90 days could not be aggregated with a consecutive felony sentence of 30 to 90 days because the total sentence does not exceed 180 days. The 90 day misdemeanor sentence would have to be served in its entirety before commencement of the consecutive 30 to 90 day felony sentence.

52.9 It is unlikely that the BOP will receive many prisoners with misdemeanor type sentences but the possibility does exist, especially when a misdemeanor sentence is imposed in connection with a felony sentence. In addition, as a result of the OCJRAA of 1994, effective for offenses committed on and after June 22, 1994, most misdemeanor offenses were reduced to a maximum of 180 days. There are at least six misdemeanor offenses that continue to carry a maximum penalty of one year.

52.10 § 24-203, Indeterminate sentences; life sentences; minimum sentences. §24-203(a) provides the general **parole term rules** that the court must follow for imposing a minimum term, which may not exceed one-third of the maximum sentence, **for a felony** and which further states that the minimum term set for a life sentence shall not exceed fifteen years. The section also identifies those offenses for which a mandatory minimum sentence must be imposed. Minimum terms, including mandatory minimum terms, receive jail time credit. There are other D.C. Code offense sections that contain special mandatory minimum provisions and parole eligibility information such as §§ 22-2404 and 2404.1. § 24-203 is set forth below:

(a) Except as provided in subsection (b) and (c) of this section, in imposing

sentence on a person convicted in the District of Columbia of a felony, the justice or judge of the court imposing such sentence shall sentence the person for a maximum period not exceeding the maximum fixed by law, and for a minimum period not exceeding one-third of the maximum sentence imposed, and any person so convicted and sentenced may be released on parole as herein provided at any time after having served the minimum sentence. Where the maximum sentence imposed is life imprisonment, a minimum sentence shall be imposed which shall not exceed 15 years imprisonment . . .

52.11 It should be noted that for a felony the above subsection requires the court to impose a maximum period not exceeding the maximum fixed by law and a minimum term not exceeding one-third of the maximum. Because of this language, ISM staff will know that any sentence which includes a minimum and a maximum term is for a **felony** conviction. Sentences with no minimum term are for **misdemeanors.**

52.12 A sentence of 3 years to 9 years is easily identified as a sentence for a felony conviction. It is possible that a sentence of 30 days to 90 days could be imposed for a felony conviction in which case the prisoner would be eligible for parole after service of 30 days. Regardless of the time remaining to serve at the time the sentence is calculated, the prisoner should be given an opportunity to make application for parole.

52.13 The remainder of § 24-203 follows:

(b) The minimum sentence imposed under this section on a person convicted of an assault, with intent to commit rape in violation of § 22-501, or of armed robbery in violation of § 22-3202 shall be not less than 2 years if the violation occurs after the person has been convicted in the

District of Columbia or elsewhere of a crime of violence as defined in § 22-3201, providing for the control of dangerous weapons in the District of Columbia. The minimum sentence imposed under this section on a person convicted of rape in violation of § 22-2801, shall not be less than 7 years if the violation occurs after the person has been convicted in the District of Columbia or elsewhere of a crime of violence, as so defined. The maximum sentence in each case to which this subsection applies shall not be less than 3 times the minimum sentence imposed, and shall not be more than the maximum fixed by law.

(c) For a person convicted of: (1) a violation of § 22-505 (relating to assault with a dangerous weapon on a police officer) occurring after the person has been convicted of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction; (2) a violation of § 22-3202, providing for the control of Dangerous weapons in the District (relating to illegal possession of a pistol), occurring after the person has been convicted of violating that section; or (3) a violation of § 22-3601 (relating to possession of implements of crime) occurring after the person has been convicted in the District of Columbia of a violation of that section or of a felony, either in the District of Columbia or in another jurisdiction, the minimum sentence imposed under this section shall not be less than 1 year, and the maximum sentence shall not be less than 3 times the minimum sentence imposed nor more than the maximum fixed by law.

52.14 There are other offense sections within the D.C. Code which specify mandatory minimums that are in addition to those covered by the information contained in § 24-

203. It is necessary that ISM staff review each sentence imposed to assure that the minimum and maximum terms are within the statutory requirements for each offense. For sentences imposed on and after April 11, 1987, it is especially important to know the length of any mandatory minimum term that makes up all or some of the minimum term imposed by the court since **only the non-mandatory minimum portion of the sentence may receive good time credit deductions**. This rule is based on DCDC's practice of not awarding good time credits to any mandatory minimum sentence regardless of whether the offense is covered in **§ 24-434** (see b. below).

52.15 An offense and sentence appendix is included in this manual to assist ISM staff in their monitoring function.

52.16 Minimum terms imposed on and after April 11, 1987 up to June 22, 1994 may receive DCIGT and DCEGT. For offenses committed on and after June 22, 1994, minimum terms may receive only DCEGT and DCMGT (there is no DCMGT since no program is in place to award the credit). As a result, the following rules will refer to "good time credits" which means that staff must be aware that minimum terms imposed for offenses committed on and after June 22, 1994 cannot receive DCIGT credits but only DCEGT and DCMGT credits.

52.17 Following are the rules that apply for the awarding of good time credits when a mandatory minimum term makes up some or all of the minimum term.

a. A minimum term imposed that is equal to the mandatory minimum term for that sentence will not receive good time credits.

b. A minimum term that exceeds the mandatory minimum portion, may receive good time credits for the difference between the date the mandatory minimum term expires and the date the total minimum term expires. The final parole eligibility date may never be reduced to a date that is earlier than the date that would be established based only on the mandatory minimum term.

c. For DCIGT purposes (for offenses committed from April 11, 1987 to June 22, 1994), the rate will be determined by the entire length of the minimum term

imposed. For example, a minimum term of 10 years with a mandatory minimum of 5 years would receive the DCIGT rate of 10 days per month for a total of 600 days (5 years x 12 months = 60 months x 10 days per month = 600 days). After establishing the parole eligible date based on the minimum term, deduct the 600 days DCIGT from that date to

establish a new date. This date is subject to change since DCIGT credits may be forfeited and restored.

d. DCEGT/DCMGT credits, as earned, will be deducted from the DCIGT date, to establish an even earlier parole eligibility date. This date is also subject to change since DCEGT is applied as earned.

e. DCEGT/DCMGT credits (for offenses committed on and after June 22, 1994), as earned, will be deducted from the minimum term date to establish a parole eligibility date. This date is also subject to change since DCEGT is applied as earned.

52.18 Exceptions to the application of institutional and educational good time credits to the minimum term under § 24-434. This applies to any offense committed on or after April 11, 1987. Under the provisions of **§ 24-434, Exceptions,**

Institutional and educational good time credits shall not be applied to the minimum terms of persons sentenced under § 22-3202, § 33-501, §33-541, § 22-2404(b), § 22-2903, or § 22-3204(b).

52.19 Title and section descriptions follow:

a. **§ 22-3202. Additional penalty for committing crime when armed.** See **§ 22-3201(f)** and **(g)** for the definitions of crime of violence and dangerous crime.

b. **§ 33-501. Definitions.** Contains the definitions relating to controlled substances.

c. **§ 33-541. Prohibited acts A; penalties.** Contains the prohibited acts and penalties relating to controlled substances. Mandatory minimum sentences for this section became a nullity as a result of D.C. Law 10-258, **District of Columbia Non-Violent Offenses Mandatory-Minimum Sentences Amendment Act of 1994,** which became effective on May 25, 1995 for offenses occurring on and after that date, i.e., there are no mandatory minimum sentences for § 33-541 offenses on and after May 25, 1995.

d. **§ 22-2404. Penalty for murder in first and second degrees.** Subsection **(b)** pertains to first degree murder.

e. **§ 22-2903. Carjacking.**

f. **§ 22-3204. Carrying concealed weapons; possession of weapons during commission of crime of violence; penalty.** Subsection **(b)** pertains to the penalty that may be imposed for using weapons, or imitation weapons, while committing a crime of violence or dangerous crime as defined in **§ 22-3201(f)**and **(g).**

52.20 The language of § 24-434 appears to apply to the **entire** minimum term of all the sections mentioned without regard to the mandatory minimum portion of the sentences. The DCDC, however, has interpreted this section as applying only to the **mandatory-minimum** portion of the minimum term imposed. Under this section, D.C. IGT and D.C. EGT will not be applied to the minimum term.

52.21 Prisoners who may be paroled under 24-208(b) and limitations on the application of educational and meritorious good time credits to minimum terms under § 24-429.2. §§ 24-208(b) and 24-429.2, under certain circumstances, limit the amount of time that a minimum term may be reduced by DCEGT and DCMGT credits. These sections became effective on June 22, 1994 and apply to any offense committed on and after that date.

52.22 Under the provisions of **§ 24-208(b), A person convicted of a crime of violence as defined by § 22-3201, shall not be paroled prior to serving 85% of the minimum sentence imposed; provided, that any mandatory minimum sentence shall be served in its entirety.**

52.23 Under the provisions of **§ 24-429.2, Educational and meritorious good time credits shall not reduce the minimum sentence of any inmate convicted of a crime of violence as defined by § 22-3201, by more than 15%.**

52.24 A crime of violence under **§ 22-3201(f)** states,

"Crime of violence," as used in this chapter, means any of the following crimes, or an attempt to commit any of the same, namely;

murder, manslaugh-ter, first degree sexual abuse, second degree sexual abuse, or child sexual abuse, mayhem, maliciously disfiguring another, abduction, kidnaping, burglary, robbery, housebreaking, any assault with intent to kill, commit first degree sexual abuse, second degree sexual abuse, or child sexual abuse, or robbery, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment in the penitentiary, arson, or extortion or blackmail accompanied by threats of violence or aggravated assault.

52.25 To a certain extent, the sections are redundant (must serve 85% as opposed to a reduction of not more than 15%) except as they relate to a mandatory minimum term which, under §24-208(b), may not be reduced by any form of good time and which must be served in its entirety.

52.26 If the crime of violence, as defined by **§ 22-3201,** has no mandatory minimum term, then an 85/15% date must be established to assure that good time credits do not reduce the parole eligible date below the 85/15% date. The 85/15% date will become the parole eligible date should that occur.

52.27 If the minimum term imposed is equal to the mandatory minimum which must be served for the offense, then no good time may be awarded and there is no need to establish an 85/15% date since the mandatory minimum date would be the parole eligibility date.

52.28 If the minimum term includes a mandatory minimum portion, calculate the 85/15% date on the basis of the entire minimum term. In this situation three different results may occur as follows.

52.29 If the 85/15% date is equal to or less than the mandatory minimum date, the mandatory minimum date will become the parole eligibility date.

52.30 If the 85/15% date is greater than the mandatory minimum date, then good time credits will be deducted from the minimum term date until reaching the 85/15% date in which case the 85/15% date will become the parole eligibility date.

52.31 If the good time credits that are deducted from the minimum term do not reduce the minimum term to the 85/15% date, then that date will become the parole eligibility date.

52.32 The formula for determining 85% of a minimum term is (do not include jail time credit in this calculation): **DCB + minimum term = minimum term date (minus 1 day) - the date prior to DCB = number of days in minimum term x .85 = number of days equivalent to 85% (rounded up) + DCB (minus 1 day) = 85%/15% date.** Any jail time credit shall be deducted from the just determined 85%/15% date to establish a final 85%/15% date.

(5 year minimum term)

```
07-15-1994 DCB    =  1994-07-15
5 yr min. term    = +   5-00-00 yrs
Min. term date    =  1999-07-14* =  22110
Date prior to DCB =  1994-07-14  = -20284
Dys in min. term  =                 1826 dys
Times 85%         =               x  .85
Dys equal to 85%  =       (round up) 1552.1 = 1553

DCB               =  1994-07-14* =  20284
Days equal to %85 =               + 1553
85%/15% date      =  1998-10-14  =  21837
```

Example 5

CHAPTER 53

17. PAROLE "STREET TIME" CREDIT AND PAROLE VIOLATOR TERMS

53.1 Parole street time credit. Parole, under **§ 24-431(a)**, means time spent in the community (street time) after parole or mandatory release from a D.C. Code sentence on or after April 11, 1987, the effective date of the section, and has the effect of requiring that such time be applied against a subsequent parole revocation term. **§ 24-431(a)** states in part,

53.2 Every person shall be given credit on the maximum and the minimum term of imprisonment for time spent . . . on parole as a result of the offense for which the sentence was imposed. When entering the final order in any case, the court shall provide that the person be given credit for the time spent . . . on parole as a result of the offense for which sentence was imposed.

53.3 The D.C. Code provision, **§ 24-206**, in place prior to § 24-431, required that no street time be applied to a parole revocation term. § 24-206 states in part,

> ***. . . If the order of parole shall be revoked, the prisoner, unless subsequently reparoled, shall serve the remainder of the sentence originally imposed less any commutation for good conduct which may be earned by him after his return to custody. . . . The time a prisoner was on parole shall not be taken into account to diminish the time for which he was sentenced*** [emphasis added].

53.4 § 24-206 was not repealed on April 11, 1987 and remains in effect. The D.C. Board of Parole implemented § 24-431 and applied street time credit to the parole revocation term for offenses committed on and after April 11, 1987. For D.C. Code offenders arrested as alleged parole violators outside the District of Columbia, the U.S. Parole Commission enforced the provisions of 24-206(a) since it had not been repealed, i.e., the U.S. Parole Commission would not award street time credit to the parole revocation term.

53.5 On **April 23, 1998,** the District of Columbia Court of Appeals sitting en banc in **United States Parole Commission v. Noble, 711 A2d 85,** upheld the United States Parole Commission's interpretation that § 24-206(a) requires the forfeiture of street time credit upon revocation of parole. This means that a D.C. Code parole violator must serve the balance of the sentence, remaining to be served at the time of release on parole, upon revocation of parole. An incarcerated parole violator may be reparoled at any time. The effect of **Noble** on D.C. Code offenders sentenced on and after April 11, 1987 was:

a. Persons in the community who successfully completed supervision prior to **Noble** have not had the supervision period extended and are not subject to revocation.

b. Persons in the community undergoing supervision on and after **Noble** have had the supervision period extended through the EFT date as calculated at the time of release on parole.

c. Persons in an absconding status from supervision, or who are incarcerated on other non-federal or federal charges with a warrant on file for alleged parole violation, will be required to serve the balance of the sentence as it existed at the time of release on parole.

d. Prisoners who were incarcerated as parole violators on and after **Noble** have had the EFT extended based on the total amount of time that remained to be served through the EFT at the time of release on parole and the sentence has been recalculated.

e. Prisoners who were paroled, reincarcerated as parole violators and reparoled prior to **Noble,** must have the sentence recalculated from the beginning to withdraw any street time credit that may have been awarded to the revocation term.

f. Prisoners who were paroled, reincarcerated as parole violators and reparoled, and then reincarcerated as a reparole violator on or after **Noble,** must have the sentence recalculated from the beginning to withdraw any street time credit that may have been awarded to any prior revocation term.

53.6 Parole Violator Terms. As noted in paragraph a. above, a parole violator must serve the balance of the sentence as it existed at the time of release with no benefit for street time. With one exception, a D.C. Code parole violator term is calculated the same as an "Old Law" U.S. Code parole violator term that has received no credit for street time. The exception is that the **conduct** good time (SGT, DCGCT or DCIGT) to be awarded is based on the length of the PV term rather than on the length of the sentence from which paroled (includes mandatory release) as required by § 24-206, which states in part,

> ***. . . For the purpose of computing commutation for good conduct, the remainder of the sentence originally imposed shall be considered as a new sentence.***

See the **Sentence Computation Manual, Old Law**, for PV term calculation examples.

CHAPTER 54

18. PAROLING AUTHORITY, REVOCATION AND SUPERVISION

54.1 On August 5, 1998, the paroling authority of the D.C. Board of Parole was transferred to the U.S. Parole Commission under the District of Columbia Revitalization Act of 1997. The authority is contained in § 24-1231 and states in part,

> ***(a) Paroling jurisdiction.--***
>
> ***(1) Jurisdiction of Parole Commission to grant or deny parole and to impose conditions.-- Not later than one year after August 5, 1997, the United States Parole Commission shall assume the jurisdiction and authority of the Board of Parole of the District of Columbia to grant and deny parole, and to impose conditions upon an order of parole, in the case of any imprisoned felon who is eligible for parole or reparole under the District of Columbia Code . . .***
>
> ***(2) Jurisdiction of Parole Commission to revoke parole or modify conditions.-- On the date in which the Court Services and Offender Supervision Agency for the District of Columbia is established under § 24-1233, the United States Parole Commission shall assume any remaining powers, duties, and jurisdiction of the Board of Parole of the District of Columbia, including jurisdiction to revoke parole and to modify the conditions of parole, with respect to felons.***

54.2 The USPC has published rules in the **Code of Federal Regulations** (CFR), Title 28, Sections 2.70 through 2.90, to implement their statutory authority over D.C. Code parole matters. ISM staff are encouraged to become familiar with the full text of all CFR sections just mentioned. Following are some excerpts of various pertinent CFR sections that may affect, impact, or pertain to, ISM operations.

54.3 28 CFR § 2.70 states in part,

> ***(a) The U.S. Parole Commission shall exercise authority over District of Columbia Code offenders pursuant to Section 11231 [§ 24-1231] . . . and D.C. Code 24-209. The rules in this subpart shall govern the operation of the U.S. Parole Commission with respect to D.C. Code offenders and are the pertinent parole rules of the District of Columbia . . . pursuant to Section 11231(a)(1) [§ 24-1231(a)(1)] of the Act.***
>
> ***(b) The Commission shall have sole authority to grant parole, to establish the conditions of release, for all District of Columbia Code prisoners who are serving sentences for felony offenses, and who are not otherwise ineligible for parole by statute, including offenders who have been returned to prison upon the revocation of parole or mandatory release, wherever confined. (D.C. Code 24-804(a)).***
>
> ***(c) The Commission shall have authority to recommend to the Superior Court of the District of Columbia a reduction in the minimum sentence of a District of Columbia Code prisoner, if the Commission deems such recommendation to be appropriate D.C. Code 24-201(c)).***
>
> ***(d) The Commission shall have authority to grant parole to a prisoner who is found to be geriatric, permanently incapacitated, or terminally ill, notwithstanding the minimum term imposed by the sentencing court (D.C. Code 24-263 through 267).***
>
> ***(e) The Board of Parole of the District of Columbia will continue to have jurisdiction over District of Columbia Code offenders who have been released to parole or mandatory release supervision, including the authority to return such***

offenders to prison upon an order of revocation. The jurisdiction and authority of the Board over such offenders will be transferred to the U.S. Parole Commission by August 5, 2000, pursuant to Section 11231(a)(2) [§ 24-1231(a)(2)] of the Act.

(f) When the D.C. Board of Parole has issued a warrant for a parolee who has been confined in a federal prison to serve a new U.S. or D.C. Code sentence, the U.S. Parole Commission shall have jurisdiction to revoke parole and to determine the disposition of such warrant. (D.C. Code 24-209.)

54.4 ISM staff must be especially mindful that:

a. All D.C. Code sentence applications for parole or reparole must be submitted to the USPC. It is the USPC that makes all parole decisions.

b. Until August 5, 2000, the D.C. Board of Parole will issue all warrants for alleged D.C. Code parole violations and conduct all revocation hearings for prisoners who are committed to DCDC facilities. (See § 28 CFR 2.70(e) above.)

54.5 For prisoners serving sentences in BOP facilities with a D.C. Board of Parole warrant on file as a detainer, the USPC will determine the disposition of the warrant the same as if it was a USPC issued warrant.

54.6 For prisoners who are arrested outside of the District of Columbia on the basis of a D.C. Board of Parole warrant and who are placed in a BOP facility, ISM shall, within three working days, notify the unit manager of the prisoner's commitment. (For ISM information, the unit manager will contact the USPC for further directions and a determination as to whether the arrestee is entitled to a local revocation hearing and will consult with the D.C. Board of Parole on the case. If the arrestee denies the charged violations and has not been convicted of a new crime while on parole, he will be returned to the District of Columbia for a hearing by the D.C. Board of Parole, unless he waives a local revocation hearing. If the prisoner does not waive the local hearing, a local

institutional revocation hearing will be scheduled, after designation to a BOP facility, and the hearing will be conducted by the USPC.)

54.7 By August 5, 2000, all warrants will be issued by the USPC. Revocation hearings will be conducted by the USPC. The hearings will be in locations determined by the USPC based upon rules that will be published in 28 CFR Part 2.

CHAPTER 55

19. DISTRICT OF COLUMBIA §23-112, CONSECUTIVE AND CONCURRENT SENTENCES

55.1 D.C. Code § 23-112 is the statutory provision that governs whether sentences run consecutively or concurrently and it states,

> ***A sentence imposed on a person for conviction of an offense shall, unless the court imposing such sentence expressly provides otherwise, run consecutively to any other sentence imposed on such person for conviction of an offense, whether or not the offense (1) arises out of another transaction, or (2) arises out of the same transaction and requires proof of a fact which the other does not.***

Note: Any statement referring to more than one count in a single J&C assumes that there was only one trial for that J&C.

55.2 Simply stated, this statute requires that a newly imposed D.C. Code sentence will run consecutively to any existing sentence, including another D.C. Code sentence, U.S. Code sentence or non-federal sentence, if the court does not order otherwise.

55.3 The consecutive rule also applies to multiple counts within a single J&C. For example, if there are two or more counts in a J&C and the court makes no mention as to how the counts are to be served in relation to one another, then the counts would be served consecutively in the order in which they were imposed.

55.4 If there are a mixture of New Law or Old Law U.S. Code and D.C. Code sentences imposed in a single J&C and the court is silent as to how the counts run in relation to one another, then the order in which they were imposed will be controlling in accordance with the following examples. (A reminder, if the court is silent, New Law U.S. Code sentences imposed at the same time as other New or Old Law sentences or D.C. Code sentences run concurrently with the other sentences. New Law U.S. Code

sentences imposed at different times run consecutively to other sentences. (See 18 U.S.C. § 3584(a).) Old Law sentences run concurrently with New or Old Law sentences or with D.C. Code sentences regardless of when they were imposed, provided the prisoner was in the custody of the Attorney General for service of the sentences.) Some examples of "silent" J&C's follow:

Offenses committed prior to 04-11-1987 and are included in a single J&C. PE for the 6 year U.S. Code sentences is 2 years.

06-15-1987 6 yr U.S. Code
6 yr U.S. Code
2 to 6 yr D.C. Code
2 to 6 yr D.C. Code

The two 6 year U.S. Code sentences are running concurrently with a DCB of 06-15-1987 and total 6 years. The two D.C. Code sentences are running consecutively to each other for a total of 4 to 12 years and consecutively to the U.S. Code sentences of 6 years: The total sentence to be served is 6 to 18 years.

Example 6

Offenses committed prior to 04-11-1987 and are included in a single J&C. PE for the 6 year U.S. Code sentences is 2 years.

06-15-1987 2 to 6 yr D.C. Code
2 to 6 yr D.C. Code
6 yr U.S. Code
6 yr U.S. Code

The two 2 to 6 year D.C. Code sentences are running consecutively for a total of 4 to 12 years with a DCB of 06-15-1987. The two U.S. Code sentences are running concurrently with each other for a total of 6 years and a DCB of 06-15-1987. The total sentence to be served is 4 to 12 years.

Example 7

Offenses committed prior to 04-11-1987 and are included in a single J&C. PE for the 6 year U.S. Code sentences is 2 years.

06-15-1987 2 to 6 yr D.C. Code
6 yr U.S. Code
2 to 6 yr D.C. Code
6 yr U.S. Code

Regardless of the order of the 6 year U.S. Code sentences, they are concurrent with each other and have a DCB of 06-15-87. The second 2 to 6 year D.C. Code sentence is consecutive to the first 2 to 6 year D.C. Code sentence and to the first 6 year U.S. Code sentence for a total of 4 to 12 years. The last 2 year U.S. Code sentence of 6 years has no bearing on the calculation since it began on the date of imposition of 06-15-1987 and is absorbed by the other sentences.

Example 8

Offenses committed after to 11-01-1987 but prior to 06-22-1994 and are included in a single J&C. There is no PE for the U.S. Code sentences.

06-15-1987 72 mo U.S. Code
72 mo U.S. Code
2 to 6 yr D.C. Code
2 to 6 yr D.C. Code

The sentences are all consecutive to each other with the total U.S. Code sentences at 144 months to be followed by a 4 to 12 year D.C. Code sentence.

Example 9

IMPORTANT

There are countless combinations of sentences that may be imposed and if ISM staff are fully cognizant of all the aggregation/non-aggregation rules as well as the commencement of sentence rules, then the manner in which the sentences should be served may be competently determined. If there is any doubt about the manner in which sentences are to be enforced, ISM staff must contact the court for clarification of its intent.

CHAPTER 56

20. AGGREGATION/NON-AGGREGATION OF SENTENCE

56.1 Chapter 2 of this manual provides the **background** for the aggregation/non-aggregation of D.C. Code and U.S. Code sentences. This chapter covers the statutory provisions and rationale for the aggregation/non-aggregation of D.C. Code sentences with each other as well as with U.S. Code sentences. (See the **Sentence Computation Manual (Old Law)** and the **Sentence Computation Manual-CCCA** for U.S. Code aggregation/non-aggregation rules.)

a. **U.S. Code aggregation statutory provisions.** The following statutory provisions form the basis on which sentences are aggregated or not aggregated. See Chapter 8 for the application of jail time credit in aggregation/non-aggregation calculations. (**See section 20.4 below for sentences that cannot be aggregated because of the mathematical effect and other exceptions.**)

1) 18 U.S.C. § 4161. In effect for offenses committed up to, but not including, November 1, 1987 when it was repealed. In effect for D.C. Code offenders committed to the D.C. Department of Corrections for offenses committed up to, but not including, April 11, 1987.

(**Note:** The BOP continued to award § 4161 SGT to D.C. Code offenders committed to the BOP up to August 17, 1991 when § 24-428 was amended to apply to any D.C. Code offender regardless of location and was retroactive, i.e., the SGT awarded from April 11, 1987 to August 17, 1991 became a nullity because of the retroactivity of the amendment.)

2) § 4161 states in part,

When two or more consecutive sentences are to be served, the aggregate of the several sentences shall be the basis upon which the deduction shall be computed.

3) § 4161 refers only to aggregation of consecutive sentences. The BOP interprets § 4161 to also apply to concurrent sentences when the EFT of the concurrent sentence extends beyond the EFT of the other sentence because that portion of the

concurrent sentence is consecutive.

4) § 4161 sentences can be aggregated with each other, including § 4161 parole violator terms, and with D.C. Code sentences with offenses committed prior to April 11, 1987, as well as their parole violator terms.

5) § 4161 sentences cannot be aggregated with D.C. code sentences for offenses committed on and after April 11, 1987, non-federal sentences, one count 18 U.S.C. §3651 split sentences, with Youth Corrections Act sentences (18 .U.S.C. Chapter 402), with Narcotic Addict Rehabilitation Act sentences (18 U.S.C. Chapter 314), with juvenile sentences (18 U.S.C. Chapter 403), with Youth Rehabilitation Amendment Act sentences (24 D.C. Code Chapter 8) or with one count D.C. Code § 16-710 split sentence.

b. **D. C. Code aggregation statutory provisions** (§ 24-405). In effect for offenders committed to the D.C. Jail or workhouse for offenses up to, but not including, April 11, 1987 when it was repealed. § 24-405 states in part,

When a prisoner has two or more sentences the aggregate of his several sentences shall be the basis upon which his deduction shall be estimated.

1) Even though the section does not mandate sentence aggregation, it does contemplate aggregation since the amount of the deduction must be based on an aggregation. The section does not mention consecutive or concurrent sentences, so the presumption was that both types of sentences should be aggregated.

2) § 24-405 sentences and their parole violator terms can be aggregated with each other and with their parole violator terms, including 18 U.S.C. § 4161 sentences and parole violator terms.

3) § 24-405 sentences cannot be aggregated with **Omnibus Criminal Justice Reform Amendment Act (OCJRAA) of 1994** sentences, with non-federal sentences, with one count 18 U.S.C. § 3651 split sentences, with Youth Corrections Act sentences (18 U.S.C. Chapter 402), with Narcotic Addict

Rehabilitation Act sentences (18 U.S.C. Chapter 314), with juvenile sentences (18 U.S.C. Chapter 403), with Youth Rehabilitation Amendment Act sentences (24 D.C. Code Chapter 8) or with one count D.C. Code § 16-710 split sentences.

4) § 24-428. In effect for offenses committed on and after April 11, 1987 up to, but not including, June 22, 1994, when it was repealed. § 24-428 states in part,

When two or more consecutive sentences are to be served, the aggregate of the several sentences shall be the basis upon which the good time credits shall be applied.

5) Chapter 20.1(b)(4) above requires that two or more consecutive sentences be aggregated for the purpose of determining the good time credits which shall apply. § 24-428 is also interpreted as applying to concurrent sentences when the EFT of the concurrent sentence extends beyond the EFT of the other sentence because that portion of the concurrent sentence is consecutive.

6) § 24-428 sentences and their parole violator terms can be aggregated with § 24-405 sentences and their PV terms.

7) § 24-428 sentences cannot be aggregated with OCJRRA sentences, one count D.C. Code § 16-710 split sentences, Youth Rehabilitation Amendment Act sentences, 18 U.S.C. §4161 sentences, non-federal sentences, one count 18 U.S.C. §3651 split sentences, Youth Corrections Act sentences (18 U.S.C. Chapter 402), Narcotic Addict Rehabilitation Act sentences (18 U.S.C. Chapter 314), or juvenile sentences (18 U.S.C. Chapter 403).

56.2 On June 22, 1994, the **Omnibus Criminal Justice Reform Amendment Act (OCJRAA) of 1994** repealed § 24-428. As a result, for offenses committed on and after June 22, 1994, D.C. Code sentences earn no good time credits based on conduct, i.e., they earn no DCIGT or SGT. OCJRAA sentences may, however earn DCEGT.

56.3 The **OCJRAA** includes no provision that requires aggregation of sentences, i.e., there is no statutory authority to aggregate these sentences. Therefore,

multiple OCJRAA sentences **cannot be aggregated**, nor may they be aggregated with any other type of sentence.

a. When multiple OCJRAA sentences are imposed, the final computation data shall only record the final PE, EFT, and MR dates as applicable. The Parole Commission makes parole decisions based on guidelines taking into consideration the totality of a prisoner's criminal conduct, and a single PE date is best for that purpose. In addition, a single EFT date for multiple OCJRAA sentences from which DCEGT credits may be deducted will result in only one Mandatory Release Date (MRD) if the prisoner is not earlier paroled.

b. This method of calculation provides case managers and the prisoner with only one release date (either by parole, MR or EFT) which is needed for realistic program planning and release purposes. In these cases, any grant of parole by the Parole Commission is presumed to apply to all OCJRAA sentences imposed prior to the parole date, unless otherwise specified by the Parole Commission.

c. In the case of **consecutive terms**, the maximum term of the consecutive sentence shall be added to the MRD or FTD (whichever is less) of the former sentence or sentences. This will produce the final FTD for the official computation. If any **further** DCEGT is earned, it will be applied to produce a final release date. If any DCEGT is earned during the service of the last term, the final release shall be MR with supervision equal to the amount of DCEGT earned during that term (unless released earlier via parole). If no DCEGT is earned during the service of the last term, the final release shall be via EFT (unless released earlier via parole).

   1) If the imposition date of the new **consecutive** sentence is later than the PED of the former computation (with all DCEGT, without jail credit), the PED on the official computation shall be the PED of the new sentence calculated independently (without jail credit or DCEGT), establishing a final PED. This final PED shall then be adjusted for jail credits and any **further** earnings of DCEGT.

2) If the imposition date of the new consecutive sentence is earlier than the PED of the former computation, the minimum term of the new sentence is added to the PED on previous computation (with DCEGT and without any jail credits), establishing a final PED. This final PED shall then be adjusted for jail credits and any **further** earnings of DCEGT.

d. In the case of **concurrent terms**, final dates are determined by calculating each of the dates (PE, EFT, MR) independently (without application of jail credits), then using the later date (deducting the total of all jail credits from that date) as the final EFT on the official computation. Also, if the PED is based on the first computation, all DCEGT will be applied to the final PED. If the concurrent term forms the basis for the PED, only DCEGT earned after the imposition of the later term will be applied to the final PED. Once the dates are established, all jail credits will be applied.

e. Separate sentence computations must be established when an OCJRAA sentence, and an OCJRAA §16-710 split sentence or Youth Rehabilitation Amendment Act sentence (24 D.C. Code Chapter 8) are imposed.

56.4 GTCA and D.C. Old Law sentences that cannot be aggregated because of the mathematical effect and other exceptions.

a. For a concurrent sentence with an EFT that is equal to or less and an SRD that is greater than the anchor sentence prior to application of jail time credit, each sentence shall stand alone and each sentence shall have deducted only its jail time credit.

b. A one count misdemeanor sentence (§ 24-208(a)) of 180 days or less can be aggregated with a D.C. Code § 16-710 split sentence since both are ineligible for parole and there is no negative mathematical effect.

56.5 Calculation of minimum terms for parole eligibility purposes (D.C. Old Law and GTCA Terms only). The following rules have been established for calculating minimum terms for parole eligibility purposes for **two** D.C. Code sentences or **one** D.C. Code sentence **plus** a D.C. Code PV term.

Note: Parole eligible or parole eligibility will be expressed as **PE** in the rules. ISM staff must remember that the initially calculated PE date is fluid, i.e., the PE date can frequently change as the result of DCIGT forfeitures and restorations and as a result of DCEGT awards.

a. **Consecutive** sentences imposed on the same date and that **can be aggregated.** Add the minimum terms together and add that total to the DCB for an aggregated PE date. Total all jail time credit and deduct from the **aggregated EFT and PE Dates.**

b. **Consecutive** sentence imposed after the DCB of the first sentence and that **can be aggregated** with the first sentence. If the consecutive sentence was imposed before the PE date (without consideration for jail time credit) of the first sentence, add the minimum terms together and add that total to the DCB. Total all jail time credit and **deduct from the aggregate EFT and PE dates.**

c. **Consecutive** sentence imposed after the DCB of the first sentence and that **can be aggregated** with the anchor sentence. If the consecutive sentence was imposed after the PE date (without consideration for jail time credit) of the first sentence, add the minimum term of the consecutive sentence to its date of imposition to establish a PE date for the aggregate. Total all jail time credit and **deduct from the aggregated EFT and PE dates.**

d. **Consecutive** D.C. Old Law and GTCA sentences imposed on the same date and that **cannot be aggregated.** Calculate each sentence as standing alone applying only the jail time credit belonging to each.

e. **Concurrent sentence** with an EFT equal to or greater than the EFT of the first sentence and that **can be aggregated.** Regardless of when the concurrent sentence was imposed, calculate the PE date for the concurrent sentence from the date of imposition and compare it with the PE date of the first sentence prior to the application of any jail time credit on either sentence. If the PE date of the concurrent sentence is greater than the PE date of the first sentence, the PE date of the concurrent sentence will be the PE date for the aggregate. If the PE

date of the concurrent sentence is less than the PE date of the first sentence, the PE date of the first sentence will be the PE date for the aggregate. Total all jail time credit and **deduct from the aggregate EFT and PE dates**.

f. **Concurrent** D.C. Old Law or GTCA sentence with an EFT equal to or greater than the EFT of the first sentence and that **cannot be aggregated**. Calculate each sentence as standing alone. Total all jail time credit and **deduct from each EFT and PE date**.

g. **Concurrent** D.C. Old Law or GTCA sentence with an EFT that is equal to or less and an SRD that is greater than the first sentence prior to application of jail time credit for either sentence. **Each sentence shall stand alone** and each sentence shall have deducted only its jail time credit.

h. **Concurrent** D.C. Old Law or GTCA sentence with an EFT, a PE date and an SRD equal to or less than the **first** sentence prior to the application of jail time credit for either sentence. The concurrent sentence will be considered absorbed in every respect. Total all jail time credit and **deduct from the PE and EFT of the first sentence**.

i. **Consecutive** sentence to a **PV term that can be aggregated**. Since PE for the PV term is immediate, calculate the PE date for the aggregate from the date of the imposition of the consecutive sentence. (If paroled from the PV term to the consecutive sentence, calculate the same as in paragraph 20.7, j below.) Total all jail time credit and **deduct from the EFT and PE dates**.

j. **Consecutive** sentence that **cannot be aggregated** with a **PV term** and that is on file as a detainer. Calculate the consecutive sentence as commencing on the date of release from the PV term. Calculate the PE date from the DCB of the consecutive sentence. Deduct only the jail time credit due the consecutive sentence **from the EFT and PE date** of the consecutive sentence.

k. **PV** warrant on file as a detainer against the **first** sentence if executed on the release date of the

first sentence. Do not aggregate. Calculate the **PV term** standing alone. Eligible for parole immediately. Jail time credit from the **first** sentence shall not be awarded again.

l. **Concurrent** sentence with an EFT equal to or greater than the EFT of a **PV term**, prior to the application of any jail time credit for either sentence, and that **can be aggregated**. Regardless of when the concurrent sentence was imposed, calculate the PE date for the concurrent sentence from the date of imposition which will be the PE date for the aggregate since the PV term is eligible for parole immediately. Total all jail time credit and **deduct from the aggregate EFT and PE dates**.

m. **Concurrent** D.C. Old Law and GTCA sentence with an EFT equal to or greater than the EFT of a **PV term**, prior to the application of any jail time credit for either sentence, and that **cannot be aggregated**. Calculate each sentence as standing alone. Total all jail time credit and **deduct from each EFT and PE date**.

n. **Concurrent sentence** with an EFT that is equal to or less and an SRD that is greater than a **PV term**, prior to the application of any jail time credit for either sentence. **Each sentence shall stand alone** and each sentence shall have deducted only its jail time credit.

o. **Concurrent sentence** with an EFT and an SRD equal to or less than the **PV term**, prior to the application of any jail time credit for either sentence. Total all jail time credit and **deduct from the PE of the concurrent sentence and from the EFT of each sentence**. Parole from the PV term may be granted prior to the PE of the concurrent sentence leaving only the concurrent sentence remaining to be served. Parole may be granted from both sentences after the PE of the concurrent sentence is reached.

CHAPTER 57

21. MEDICAL AND GERIATRIC PAROLE /REDUCTION OF SENTENCE

57.1 Medical and geriatric parole, §§ 24-261 through 24-267. ISM staff are not involved in determinations about medical and geriatric parole. ISM staff should, however, be aware of those statutory and CFR provisions pertaining to that type of parole release.

57.2 The statutory provisions are covered in the D.C. Code, §§ 24-261 through 24-267, and the USPC has published implementation rules in the CFR in §§ 2.77 and 2.78. Case management and medical staff are primarily involved in the preparation and submission of reports to the USPC that will initiate the parole consideration.

57.3 ISM staff need to be aware that USPC Notices of Action, and subsequent parole certificates, may be received authorizing the parole release of certain D.C. Code prisoners prior to reaching the minimum term (PE eligibility).

57.4 ISM staff have the monitoring responsibility to assure that a geriatric parolee was at least age 65 prior to release (§ 24-265(a)). In addition, the following statutory provision, § 24-267, Exceptions, should be monitored to assure that an ineligible prisoner is not considered for release. § 24-267 states,

a. **Persons convicted of first degree murder or persons sentenced for crimes committed when armed under § 22-3202, or under 22-3204(b), and 22-2903, shall not be eligible for geriatric or medical parole.**

1) **Medical and geriatric reduction of sentence, § 24-268.** On and after August 5, 2000, the Director of the Bureau of Prisons may motion the court to reduce a prisoner's determinate sentence (not eligible for parole) under the provisions of § 24-268 which states,

a) Upon a motion by the Director of the Federal

Bureau of Prisons, the court may reduce the sentence of any person convicted of a felony under the District of Columbia Code committed on or after August 5, 2000, and sentenced to a determinate term of imprisonment which is not subject to parole, and shall impose an adequate period of supervision to follow release, based upon a finding that:

i. The inmate is permanently incapacitated or terminally ill because of a medical condition which was not known to the court at the time of sentencing, and the release of the inmate under supervision is not incompatible with public safety; or

ii. The inmate is 65 years or older and has a chronic infirmity, illness, or disease related to aging, and the release of the inmate under supervision is not incompatible with public safety.

2) The court shall act expeditiously on any motion submitted by the Director of the Federal Bureau of Prisons. If the court receives a request directly from an inmate or a representative of an inmate, the court may refer the matter to the Federal Bureau of Prisons for a motion or a statement of reasons as to why a motion will not be filed.

57.5 ISM staff shall maintain a copy of the motion, or the statement of the reasons why a motion will not be filed, in the J&C file.

57.6 It is anticipated that a positive response to the BOP's motion for reduction will be in the form of a court order that reduces the sentence to time served and will include a period of supervised release to follow.

57.7 If no period of supervised release is on the order, then it should be presumed that the period of supervised release in the original J&C will carry over and ISM shall contact the court to verify the court's intent.

CHAPTER 58

22. APPLICATION FOR REDUCTION OF SENTENCE

58.1 Under § 24-201c, as implemented by the USPC at 28 CFR 2.76, a prisoner may request the Parole Commission file an application with the sentencing court for a reduction in the **minimum** sentence (term). A prisoner who is serving a sentence for a crime for which a minimum sentence is prescribed under § 24-203(b) shall not have the minimum term reduced under these provisions.

58.2 The Parole Commission will accept a prisoner's application only after the service of three or more years have been served on the minimum term. If a prisoner's request is denied, a two year waiting period is required before the Parole Commission will again consider a request.

58.3 If the court approves the application and reduces the minimum term, the prisoner will become eligible for parole on a date based on the recalculation of the minimum term. Release on parole is, of course, at the discretion of the Parole Commission.

58.4 If ISM staff receive a court order that reduces the minimum term, a recalculation of the sentence is required to learn the new PE date. The maximum term remains unaffected. The court order shall be filed in the J&C file.

58.5 ISM staff monitoring will include making certain that the prisoner has served at least three years of the minimum term and that the minimum term was not imposed under the provisions of § 24-203(b).

CHAPTER 59

23. WEEKEND/HOLIDAY RELEASE

59.1 The D.C. Code contains no statutory provision for release on a date other than the scheduled date of release, i.e., there is no weekend/holiday release provision. As a result, the DCDC has relied on 18 U.S.C. § 4163 for pre November 1, 1987 releases and 18 U.S.C. § 3624(b) for November 1, 1987 and after releases that fall on a weekend or holiday. The BOP will continue that practice. Remember, the authority to release a prisoner on a day other than a weekend or holiday is not mandatory, it is discretionary.

a. **Weekend/holiday release for an offense committed prior to November 1, 1987.** For a weekend/holiday release prior to November 1, 1987 under **18 U.S.C. § 4163** or on parole, see the policy in the **Sentence Computation Manual (Old Law), 28 C.F.R. 571.30(a)** and **28 CFR 2.29(b).**

b. Weekend/holiday release for an offense committed on or after November 1, 1987. For a weekend/holiday release on or after November 1, 1987 under **18 U.S.C. § 3624(a)** or on D.C. Code parole or mandatory release, see the policy in the **Sentence Computation Manual-CCCA, 28 C.F.R. 571.30(b)** and **28 CFR 2.29(b).**

D.C. CODE OFFENSES AND PENALTIES

The date that follows each offense represents the last date on which that section was amended in some way. An asterisk (*) that follows a date signifies the date on which the section was effective and that there have been no amendments since.

The sentencing provision that applies to any offense depends on the date of the offense. If the date of offense is on or after the date in parenthesis, then no further research is necessary to determine the penalty that applies.

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§6-2376 Firearms Control (02/22/94)		1yr/$1,000	
§§ (1)		10 yrs/$10,000	
§§ (2)(A)		5 yrs/$5,000	
§§ (2)(B)		1yr/$1,000	
§22-103 Attempts to commit crime (06-22-1994*)		180 dys 5 yrs/$5,000	
Attempt Crime of Violence (§23-1331)		180 dys 5 yrs/$5,000	
§22-105a Conspiracy to commit crime (07-29-1970)		5 yrs/$10,000 (If object less than 5 yrs, not to exceed maximum for offence)	
§22-106 Accessories after the fact (03-03-1901*)		½ fine/imprison-ment of the principal (not more than 20 yrs for crime punishable by death/life (**Butler v. U.S.**, 481 A2d 431)	
§22-401 Arson (03-03-1901*)	1 yr	10 yrs	
§22-402 Arson of own property w/I to defraud or injure others (03-03-1991*)		15yrs	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22-403 Malicious burning, destruction or injury of another's property			
Value $200 or more		10yrs/$5,000	
Less than $200		180 dys/$1,000	
§22-501 Assault w/i to kill, rob or poison, or to commit 1st or 2nd degree sexual abuse or child sexual abuse (05-23-1995)	2yrs	15yrs	
§22-502 Assault w/i to commit mayhem or w/a dangerous weapon		10yrs	
§22-503 Assault w/i to commit any other offense (03-03-1901)*		5yrs	
§22-504.1 Aggravated assault, crime of violence (06-22-1994)*		10 yrs/$10,000	
Attempted aggravated assault (06-22-1994)*		5 yrs/$5000	
§22- 505 (a) Assault police officer (10-18-1995)		5 yrs/$5000	
(b) While armed		10 yrs	1 yr (if prior felony per 24-203)
§22- 506 Mayhem or maliciously disfiguring (03-03-1991)*		10 yrs	
§22- 601 Bigamy (03-03-1901)*	2 yrs	7 yrs	
§22- 712 Burglary (12-01-1982)*		10 yrs/$25,000 or 3 times monetary value, whichever is greater	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22- 713 Bribery of witness (07-01-1982)*		5 yrs/$25,000	
§22- 722 Obstruction os justice (05-23-1995)	3 yrs	life/$10,000	
§22- 723 Tampering with physical evidence (12-01-1982)*		3 yrs/$1000	
§22- 901 Cruelty to children (06-22-1994)			
1st Degree		15 yrs/$10,000	
2nd Degree		10 yrs/$10,000	
§22- 1122 Rioting or inciting to riot (06-22-1994)			
Engages in riot		180 dys/$1000	
Incites riot		180 dys/$1000	
And if serious bodily harm or more than $5000 property damage		10 yrs/$10,000	
§22- 1303 False personation before court (02-17-1909)	1 yr	5 yr	
§22- 1304 Falsely impersonating public officer or minister (05-16-1996)	1 yr	3 yr	
§22- 1410 Making, drawing, or uttering check, draft, or order with intent to defraud (06-22-1994)			
Value $100 or more	1 yr	3 yrs/$3000	
Value less than $100		180 dys/$1000	
§22-1501 Lotteries; promotion; sale or possession of tickets (05-21-1994)		3 yrs/$1000	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22-1801 Burglary (12-27-1967)			
1st Degree	5 yrs	30 yrs	
2nd Degree	2 yrs	15 yrs	
§22-2001 Obscenity (06-22-1994)			
1st Offense		180 dys/$1000	
2nd Offense	6mo/ $1000	3yrs/$5000	
§22-2013 Sexual performances using children (03-09-1983)*			
1st Offense		10 yrs/$5000	
2nd Offense		20 yrs/$15,000	
§22-2101 Kidnaping, conspiracy (11-08-1965		Life	
§22-2307 Threatening to kidnap or injure a person or damage property (06-19-1968)*		20 yrs/$5000	
§22-2404 Murder (05-23-1995)			
1st Degree	Life	Life	30 yrs/Life
2nd Degree	20 yrs	Life	
§22-2405 Manslaughter (05-23-1995)		30 yrs	
§22-2511 Perjury (12-01-1982)*		10 yrs/$5000	
§22-2512 Subornation of perjury (12-01-1982)*		10 yrs/$5000	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22-2513 False swearing (12-01-1982)*		3 yrs/$2500	
§22-2601 Escape from institution or officer (06-22-1994)		5 yrs/$5000 CS to any existing sentence	
§22-2603 Introducing contraband into penal institution (07-29-1970)		10 yrs	
§22-2705 Pandering (05-17-1996)		5 yrs/$1000	
§22-2901 Armed robbery (12-27-1967) Also see 22-3202 (05-21-1994	2 yrs	life	2 yrs if a prior crime of violence (22-3201) per 24-203
§22-2902 Attempt to commit robbery as defined in 22-2901 (03-03-1901)*		3 yrs/$500	
§22-2903 Carjacking (10-02-1993)* Unarmed	21 yrs	21 yrs	7 yrs
Armed	45 yrs	45 yrs	15 yrs
§22-3108 Cutting down or destroying things growing on or attached to the land of another (06-22-1994)			
Value $50 or more	180 dys	3 yrs	
Value less than $50		180 dys/not less than $5 nor more than $100	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22-3202 Armed crimes of violence or dangerous crimes. (No probation or suspended sentence for subsequent conviction of violence or dangerous crime in D.C.) Violent and dangerous crimes defined in 22-3201.			
1st Offense unarmed		Life	
1st Offense armed		Life	5 yrs
2nd Offense unarmed		Life	5 yrs
2nd Offense Armed		Life	10 yrs
§22-3203 Unlawful possession of pistol (05-21-1994)			
1st Offense		1 yr/$1000 per 22-3215	
2nd Offense		10 yr	1 yr per 24-203
§22-3204 (a) Carrying concealed weapons (06-22-1994)			
1st Offense		5 yrs/$5000	
2nd Offense		10 yrs/$10,000	
§22-3427 Breaking and entering vending machines (07-29-1970)*		3 yrs/$3000	
§22-3601 Possession of implements of crime (06-22-1994)			
1st Offense		180 dys/$1000	
2nd Offense	1 yr	5 yr	1 yr per 24-203
§22-3812 Theft (06-22-1994)			

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
1st Degree		10 yrs/$5000	
2nd Degree		180 dys/$1000	
§22-3815 Unauthorized use of motor vehicles (03-10-1983)			
Taking vehicle		5 yrs/$1000	
Fail to return rental vehicle		3 yrs/$1000	
§22-3822 Fraud (06-22-1994)			
1st Degree $250 or more		10 yrs/$5000 or 3 times value whichever greater	
1st Degree less than $250		180 dys/$1000	
2nd Degree $250 or more		3 yrs/$3000 or 3 times value whichever greater	
2nd Degree less than $250		180 dys/$1000	
§22-3823 Credit card fraud (06-22-1994) $250 or more		10 yrs/$5000	
Less than $250		180 dys/$1000	
§22-3831 Trafficking in stolen property (12-01-1982)*		10 yrs/$10000	
§22-3832 Receiving stolen property (06-22-1994)			
Value $250 or more		7 yrs/$5000	
Value less than $250		180 dys/$1000	
§22-3824 Forgery (12-01-1982)*			
Subsection (a)		10 yrs/$10,000	
Subsection (b)		5 yrs/$5000	
Subsection (c)		3 yrs/$2500	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22-3851 Extortion (12-01-1982)*		10 yrs/$10,000	
§22-3852 Blackmail (12-01-1982)*		5 yrs/$1000	
§22-4102 First Degree Sexual abuse (05-23-1995)*		Life/$250,000	
§22-4103 Second degree sexual abuse (05-23-1995)*		20 yrs/$200,000	
§22-4104 Third degree sexual abuse (05-23-1995)*		10 yrs/$100,000	
§22-4105 Fourth degree sexual abuse (05-23-1995)*		5 yrs/$50,000	
§22-4108 First degree child sexual abuse (05-23-1995)*		Life/$250,000	
§22-4109 Second degree child sexual abuse (05-23-1995)*		10 yrs/$10,000	
§22-4110 Enticing child (05-23-1995)*		5 yrs/$50,000	
§22-4113 First degree sexual abuse of ward (05-17-1996)		10 yrs/$100,000	
§22-4114 Second degree sexual abuse of ward (05-23-1995)*		5 yrs/$50,000	
§22-4115 First degree sexual abuse of patient or client (05-17-1996)		10 yrs/$100,000	
§22-4115 First degree sexual abuse of patient or client (05-17-1996)		10 yrs/$100,000	
§22-4116 Second degree sexual abuse of patient or client (05-17-1995)*		5 yrs/$50,000	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§22-4118 Attempts to commit sexual offenses (05-23-1995)*		15 yrs if maximum for offense is life; ½ maximum for offense if term of years; fine not to exceed ½ maximum fine (see 22-4120)	
§23-1327 Failure to appear (06-22-1994)	1 yr	5 yrs/$5000 c/s to any existing sentence	
§23-1328 Offense committed during release pursuant to 23-1321 (06-22-1994)			
For a felony	1 yr	5 yrs c/s to any existing sentence	
For a misdemeanor	90 dys	180 dys c/s to any existing sentence	
§33-541(a)(1)& (b)(1) Drugs (04-18-1996)			
Schedule I or II narcotic or abusive drug		30 yrs/$500,000	
Schedule I, II or III narcotic or abusive drug		5 yrs/$50,000	
Schedule IV drug		3 yrs/$25,000	
§33-546 Distribution of controlled substance to minors (08-05-1981)*			
Subsection (a)		2 times term & fine per 33-541 (a) (2) (A)	
Subsection (b)		2 times term & fine per 33-541 (a) (2) (B),(C) or (D)	

D.C. Code Offenses And Penalties

Offense	Min. Max	Maximum	Mand Min
§33-547 Enlistment of minors to distribute controlled substance in violation of 33-541 (a) (08-05-1981)*			
1st Offense		10 yrs/$10,000	
2nd Offense		20 yrs/$20,000	
§33-547.1 Drug free zones in violation of 33-541 (a) (03-21-1995)*		2 times term & fine	
§33-548 2nd or subsequent offense under Chapter 5 (08-05-1981)*		2 times term & fine	
§33-549 Attempt; conspiracy (08-05-1981)*		Term or fine not to exceed maximum for offense	
§40-713 Negligent homicide (10-09-1987)		5 yrs/$5000	