

## Justice Reinvestment Frequently Asked Questions

February 2021

Q. Do the following people earn good time? Program refusals? Level C offenders? Split –to-serve?

A. *Yes. People in these categories are eligible to earn good time.*

Q. Is Reintegration Furlough grandfathered for people who are currently approved, but have a Reintegration Furlough date after 12/31/20?

A. *There is no statutory language to grandfather people. There are no Reintegration Furlough releases after 12/31/2020. Instead, inmates are able to earn good time to reduce their minimum sentence and an earlier release. People who were released on Reintegration Furlough prior to 01/01/21 will retain that legal status until they are moved to Parole or Community Supervision Furlough; depending on the circumstances of their case. The legal status “Reintegration Furlough” will be removed from OMS on July 1, 2021. board*

Q. Will the parole board accept reports at 90- and 60-days pre-minimum; in the past they have not?

A. *The Parole Board is instructing DOC to submit parole summaries 60 days prior to the minimum to ensure that the offender’s hearing is 30 days prior to their minimum. The Board will schedule the offenders between the 30 and 60 day mark to ensure the hearing is held according to statutory timeframes.*

Q. What if they are pending a major A at the 90-day mark for presumptive parole.

A. *Inmates with a pending infraction are not eligible for presumptive parole. The parole summary must be submitted, and the Parole Board will schedule the case for a hearing per statute.*

Q. It says up to 7 days ERT, who decides from 0 to 7 how many days are awarded?

A. *There is a table in the earned good time rule that shows the number of days awarded based on how long the person has been in custody/supervision. The number of days will be calculated and applied by the sentence computation unit.*

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<b>Earned Good Time Prorate Chart</b>				
# days incarcerated (includes furloughs) per month...	1-9 days	10-18 days	19-27 days	28-31 days
# days on minimum & maximum sentence	2	4	6	7

Q. How will the sentence computation unit know to whom it should award Earned/Work Camp Good Time?

A. *The Business Application Support Unit (BASU) will develop an OMS report for the Sentence Computation Unit to run. The report will generate a list of people who are eligible for Earned Good Time and Work Camp Good Time. This report is dependent on accurate data entry in OMS. There is currently an effort to make sure DR data is clean.*

*Once the appropriate good time is applied, staff will run a different report out of OMS to give to the offender a notification of their Earned/Work Camp good time.*

*This functionality will eliminate the green and yellow sheets. Staff will receive instructions regarding the information that is necessary in OMS for this functionality to work. This functionality is not yet operational.*

Q. If the major DR is overturned, or reduced, do offenders then earn the good time for that month and how will that be known?

A. *Offenders will not earn their good time for the month they were adjudicated guilty. If the DR is overturned or reduced to a minor the CSS will contact the sentence computation unit to let them know. The incident infraction will need to be updated by the CSS/Hearing Officer prior to requesting the SCU to make the change.*

Q. When is the annual parole report due, a year from when they last saw the board or the anniversary of their minimum?

A. *From the Parole Board: It is due on the anniversary of their minimum. The manual will be changed to reflect this. It's easier to track if someone moves off schedule of their initial eligibility date.*

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Q. What do we mean by current sentence?

A. *The current sentence is the active sentence for which a person is being supervised. The sentence can be for multiple charges.*

Q. When 808f is repealed will everyone need a residence?

A. *No, this is part of the guidance about setting a special supervision condition related to residence.*

Q. For an inmate to file a Rule 74 appeal, do they need to exhaust the grievance process first?

A. *Yes. As long as the DOC has a procedure in place for challenging DOC's decisions, an offender will have to exhaust those administrative remedies prior to filing in Court. With regard to interrupts that are 90 days or more or revocations, these decisions are made at central case staffing determination meetings. Our current directive, 410.02, Section 11, allows for a grievance to be filed directly to the Commissioner if challenging a central case staffing decision after being found guilty of violating a furlough condition. There will probably be some challenges to any exhaustion arguments our AAGs make in these cases since the procedure will be new; but, until a court decides otherwise, exhaustion is still required.*

Q. Eligible offenders who are “not adjudicated of a major disciplinary rule violation” and “not reincarcerated from the community for a violation of release conditions” (not including no-fault housing loss) a) will be awarded up to seven (7) days of EGT credit each month toward their minimum and maximum sentence – would this mean those in on NOS do NOT receive the good time, or is there a prescribed amount of time that they don’t?

A. *People who are returned to incarceration on an NOS (except for no-fault housing loss), will not receive earned good time during the month of the return if the violation is upheld. If their behavior meets the criteria for awarding earned good time in the subsequent month, earned good time will be applied to the sentence. This means only one month of good time is lost on a furlough return.*

Q. If someone is in on an NOS – do they not earn any good time for the entirety of the sanction? Would they, for instance, after the completion of an interrupt then start earning good time again, interrupt is over, they have no housing, so they lack residence?

A. *People who are returned to incarceration on an NOS (except for no-fault housing loss), will not receive earned good time during the month of the return if the violation is upheld. If their behavior meets the criteria for awarding earned good time in the subsequent month, earned good time will be applied to the sentence.*

Q. With Presumptive Parole are we still required to do parole summaries?

A. *Yes. Parole Summaries are required.*

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Q. When a court gives an offender “credit for time served” during sentence- will the offender be getting the Earned/Work Camp Good time associated with the credit?

A. *Credit for time served and earned good time are not the same. When the court gives credit for time served at sentencing, that credit is applied during the sentence computation to determine the minimum and maximum release dates. A person is eligible to begin earning good time after they are sentenced. Any earned good time is applied to the calculated minimum and maximum release dates for each month it is earned. A person can receive credit for time served and begin to earn good time after sentencing. Good time is not awarded for time served as a detained inmate.*

Q. How does earned good time impact the 70% rule?

A: *A person designated as a high-risk sex offender according to 28 § 204b shall not be eligible for parole, furlough, or any other type of early release until the expiration of 70 percent of their maximum sentence. The 70% date is calculated based on the imposed sentence. It does not change. These offenders are eligible to earn good time. The good time will be applied to the DOC calculated min and max dates. So, while the max release date will decrease, the inmate is still not eligible for release until they serve 70% of the imposed sentence.*

Q. Can you send us all the listed offenses that are disqualified the Presumptive parole.

A: *For an accurate, up-to-date list of the offenses, please run the VERMONT ARREST CODES report from OMS. New crimes are added regularly that meet the listed crimes criteria. This is the best way to ensure you have the most accurate information. Any offense with a YES in the LISTED column is disqualification from presumptive parole.*

Q. Are Sex Offenders supposed to be on S4 when the first come out? Do we need to have Chrysta fix this?

A. *They are supervised as an S4 for 90 days in terms of contact standards only. They will need to score as normal in OMS but maintain contact standards as an S4 for the first 90 days of supervision, regardless of how they score.*

Q. On page 18, in Directive #348, the criteria for Deferred Sentence Probation for completion of administrative supervision is misleading, given that the State’s Attorney’s will push back and say this is illegal unless it is specifically outlined in the probation order that they can request and early discharge. Otherwise, no early discharge is allowed per law. The state’s attorneys have gotten very argumentative with POs based on this guidance. Is this something we can change?

A: *There is not a universal opinion amongst States Attorneys or Judges. Our policy simply states we are required to review at the midpoint and determine if discharge is an appropriate recommendation. The directive indicates that in circumstance when we didn’t consider discharge at the midpoint because conditions had not been met then we should do so once they have been met. The legality of discharge for deferred sentences is something that has been discussed for some time. States Attorneys should be discussing issues like this with the local DM.*

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Q. With contact standards and domestic violence offenders. The intimate partner contact standards are in there, but what about the victim of the offense if it's not the same person?

A: If the offender meets the guidance criteria for restricting victim contact then the supervising officer should do so. Victim input is required before expanding contact.

Q. Why are the conditions out of order in OMS?

A: Click on the header of the "Name" column and it will sort them in numerical order.

Q. The new RMSL Points Based Classification does not account for Sex Offenders needing to be on S4 for the first 90 days of supervision, how do we handle?

A: Sex Offenders are supervised at an S4 for 90 days in terms of contact standards only. You can score them as normal in OMS but maintain your contact standards as an S4.

Q. Will Earned Good Time be considered for Home Confinement cases?

A: Yes

Q. If we have someone who we are seeing instead of telephone for whatever reason, what should we list their status type as in OMS?

A: Administrative Probation

Q. How do we account for the DVSIR in the RMSL in OMS?

A: DVSIR can be considered in the score for the third column of the RMSL in OMS titled "ORAS/SOTIPS Risk Level." It does not require an override.

Q: What is the process for day-for-day treatment credit in terms of sentence computation for good time?

A: Please notify Cullen Bullard when someone is in residential substance abuse treatment so they can be awarded the day for day goodtime as outlined in statute. We do not have another mechanism to identify these individuals.

Q: It looks like people will be awarded credit regardless of whether they complete the treatment or not. Seems counterintuitive to reward them for being in that program.

A: Those arguments were made in the legislature. As long as they don't get a DR, they'll still earn EGT. The theory behind this provision was to incentivize participation in treatment.

Q: Do offenders get day for day on residential treatment plus the 7 days of earned good time?

A: No. If an offender leaves treatment and is in a status to earn time, they will be awarded days based on the prorated chart that's in the rule.

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Q: On p. 3 of the furlough agreement, there is no notice that they could possibly have a criminal charge of escape filed against them for absconding. Do we need to provide that notice?

A: *This has been added to the agreement.*

Q: Directive 348 Supervision of Sentenced Offenders in Community says “persons eligible for community supervision furlough” if they have no outstanding warrants, charges, etc. Does that mean that anyone with pending charges is not eligible to come out on furlough?

A: *We will use the case staffing process. We may want to release someone who has a pending charge, and not extraditable warrants. Under the current language if someone has pending a charge, we will not release them. But we can look at it these on an individual basis through the case staffing determination process.*

Q: There are cases with pending misdemeanors that have been released on furlough.

A: *We'd have to staff it. The direction right now is not to release.*

Q: Which directive has sanctioning criteria for the field and for reincarceration?

A: *430.11. There are no more short-term sanctions. No more jail graduation sanctions.*

Q: Do we use special condition 24 as the condition to indicate a requirement to participate in RRP?

A: *Yes. RRP is included in special condition 24. There is now a selection “24e” - other risk reducing treatment or programming in OMS.*

Q. When you are looking at “C” (on page 2) of the general guidelines for directive 348 for who is eligible (as you mentioned in the meeting today) can you also look at B? Should the word “presumptive” be taken out or maybe add if denied parole?? Wouldn’t it be any offender who is past min who we would let out (if recommended for parole but board denies)

A: *Yes. We will review and correct as needed .*

Q. On page 11 of the Supervision Directive (#348) it indicates field checks are at someone’s residence or work site. When Touchette was still Commissioner work site checks were banned due to complaints from what I suspect was a minority about those checks effecting their business. I know we are not doing field checks now, but in the future it really would aid in contacting folks if that banned has been lifted.

A: *There is no ban on checking people at work but there should be consideration as to the impact on the employer and being respectful of the employment setting*

Q. Page 13 (of #348) indicates there are four ways for an offender’s supervision level to change.

\*\*When an offender on furlough or an offender on SCS is granted parole. In our new grid I

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don't believe legal status impacts supervision level. Not sure if that is incorrect. Also is administrative supervision just a new name for response? Or is administrative supervision synonymous with telephone reporting? Page 17 references response supervision.

*A: The RMSL grid no longer contain legal status differentiations. Response supervision was renamed to Administrative Supervision to account for the primary use of telephone reporting.*

Q. Page 19 (of #348) references printing supervision conditions for a furlough book. Is this something that the PO, CCOs or office is supposed to have?

*A: We want to make sure all offices have the information in the rare event that OMS is not available. This can also be in the "pencil file" for each offender. We will look update this language in the next version of this directive.*

Q. Pages 24/25 (of #348) residence approvals Point 1 indicates we conduct approvals for folks with the residence special condition. Part 4 states offenders with standard residence condition... I am unclear if we are doing residence checks just for folks with the special condition or also with the standard condition. If the person just has the standard condition 12 to not inhabit, do we do any residence "checking" if they propose a residence? Do they have to propose a residence or can they live anywhere?

*A: If an offender meets the requirements for special condition 22, then nothing has changed. If an offender does not meet the requirements for SC22 then you just need a physical address. You only need to verify it is an actual residence. Calling the landlord or current tenants is fine. If the residence is not safe (ex. next door to the victim) you can deny it based on standard condition 12.*

Q. Page 26 (of #348) regarding driving. Does the offender just need to show us a valid license or we just need to verify they have a valid license and no other steps regarding insurance, registration, etc. need to take place?

*A: If the offender states they are legally able to drive, they are granted driving privileges. The DOC does control driving who is eligible to drive a vehicle.*

Q. Page 5 (of #371.02) point 13 indicates the CSS will consult with the PO regarding whether the inmate needs to be staffed. It has been the practice of the CSS to tell the PO that because "they are asking" the person be staffed they write the staffing, but isn't it supposed to be a discussion and then CSS who has the body writes the staffing with PO input just like a parole summary? The document doesn't say who does the writing.

*A: The person requesting the outcome and providing the justification should write that portion of the document. The other aspects are delineated and answered based on roles (CSS writing facility portion/PPO writing field portion).*

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Q. Page 11 (of #371.02) indicates to enter the RMSL in the case plan vs. the direction you provided the other day where it gets entered via points-based classification AND (as I understand it) also added in the case plan. Also on this page is purpose of driving with the need to enter why they need to drive and the DM able to deny their ability. In the Supervision directive it basically said if they have a license they can drive. Not sure which is correct.

A. *The case plan is not up to date with JRI. The directive supersedes OMS forms. JailTracker is currently working on changing the RMSL in the Offender Case Plan to be automatically set from the new Points Based Classification (PBC). When that development is completed and implemented staff will be made aware and the technical guide provided previously for the RMSL will be updated on SharePoint. Additionally, the same RMSL fields in the offender case plan will also be added to the supervision contract and the development done to automatically generate it from the PBC will be there as well.*

*The "Supervision contract" in OMS Case Management will also be updated to be more in line with what we should be tracking. We will be adding things like a Curfew field, Restitution amount, etc. Once this happens you will be able to use the Print button within it to be able to electronically sign the contract by both the PO and the Offender. A technical guide will be provided once this goes live!*

Q. Page 38 (of #371.02) Point 1 of case staffing trigger descriptions indicates “all requests to interrupt or revoke parole and furlough for a significant violation shall be sent to the Central Office Staffing Committee.” I am not sure why we would refer a parole case for a staffing. I did in the past and do now refer cases after the parole violation hearing.

A: *Please continue the practice of referring to the case staffing determination committee after the parole violation hearing.*

Q. If you’re doing a parole summary and the person is past their minimum, do you put in the box asking for the minimum minus good time that they’re past their minimum (write that in the box) or take the minimum and subtract 7 days per month that will bring them up to their parole hearing, even though that date will be well past?

*Answer from the Parole Board: For overdue cases, leave the box blank.*

Q. Is there specific guidance for rationale on recommending Parole conditions?

*Answer from the Parole Board: You can use the furlough guidance where conditions are similar. The Parole Boards is currently working with DOC to potentially align supervision conditions. The Board will not have a guidance document until the conditions work is finished.*

Q. If we are reviewing an inmate that is at their minimum for parole are we recommending them if they are automatically approved for CSF or are we still looking at their charges and DR history to make the decision?

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*A: The general rule is that if the DOC would release a person to CSF, we will make a recommendation for parole. Persons may not be eligible for a presumptive parole based on charges and DR history. That does not disqualify them from regular review by the Parole Board.*

Q. Is the criteria for a positive minimum parole recommendation the same as presumptive parole?

*A: There is a distinction. A person can be presumptively paroled if they meet all the criteria outlined in section A.4.a-g in directive 371.15 Parole Review and Recommendation. If they do not meet those criteria, the person is still able to follow the standard parole process. DOC practice is to make a positive recommendation for parole if we would, or plan to, release a person on community supervision furlough.*

Q. 371.02 does not reflect who is responsible for victim notification prior to release. Page 22 states the CSS and PPO will perform a review of the following as part of the transition and reentry process.

*Answer: This is a collaborative effort as noted on page 21. The CSS and the PPO will work together to determine If assigned to a VSS, the VSS will be lead.*