

INTERNAL DOCUMENT

GUIDANCE DOCUMENT
SENTENCE COMPUTATION MANUAL

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GENERAL GUIDANCE

The purpose of this document is to provide guidance to DOC staff concerning how to perform a sentence computation. A sentence computation is a calculation of an offender's minimum and maximum release dates. In order to calculate a sentence computation, staff must understand the manner in which sentences may be structured, be able to make accurate sentence calculation adjustments, and apply credit and reductions of term, or "good time."

All sentence computations for Vermont offenders shall be performed by a centralized Sentence Computation Unit (SCU). Information from the offender's record in the Offender Management System (OMS) and the court system may all be necessary when performing a sentence computation. The SCU accesses information from the courts through its computerized database system, VCAS.

Whenever an offender reports to begin service of his or her sentence, staff shall ensure the DOC is presented with proper documents authorizing the detainment or incarceration of the individual, in accordance with the [administrative directive concerning intake](#). This information informs DOC of the offender's legal status. The SCU performs a sentence computation for all sentenced offenders.

SC MANUAL

The SCU maintains a folder on the S: Drive called "SC Manual." Within this folder, there is a subfolder for each offender sentenced to the DOC that contains all documentation related to the offender's sentence. In addition, the SC Manual folder contains all the forms and Excel spreadsheets necessary to complete a sentence computation.

SENTENCE COMPUTATION UNIT (SCU) PHRASEOLOGY

When making notations in OMS or on documents, the Sentence Computation Unit uses a unique phraseology to convey information relevant to an offender's sentence. The notations appear as a series of information separated by slashes, and can be found in the "Comments" field of the "Criminal Charges" pop-up box for the specific charge, on the Arrest Charges tab in OMS. The information contained is always in the same order, and is comprised of the following details:

1. Credit;
2. Count of the docket;
3. Sentence imposed; and
4. Any court orders (e.g., "concurrent," "time to report").

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EXAMPLE

72d/ct1/45d-90d/concurrent to docket B

The above notations means that the offender has 72 days credit and was sentenced on the first count of the docket. The court imposed a sentence of 45 to 90 days incarceration, and the sentence is to run concurrent to docket B.

EXAMPLE

5d/ct3/2-4y asb 60d WC

The above example means the offender has 5 days of credit and was sentenced on count 3. The court imposed a sentence of 2-4 years, all suspended except 60 days of work crew to serve.

SENTENCE STRUCTURE

BASIC SENTENCE STRUCTURE

A sentence is a court decision detailing consequences to be imposed upon a convicted person. Courts may impose a sentence on each charge for which a person is convicted.

[13 V.S.A. § 7031](#) states:

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The Court shall give the person credit toward service of his or her sentence for any days spent in custody as follows:

(1) The period of credit for concurrent and consecutive sentences shall include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.

(2) In sentencing a violation of probation, the Court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation,



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whichever occurs first, until the violation is sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense.

(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at the jail or the place of detention.

Minimum Term

The purpose of the minimum term is to set the time when an offender becomes eligible for parole or placement on conditional reentry or reintegration furlough.

Maximum Term

The purpose of the maximum term is to set the time at which an offender is discharged from his or her sentence. The maximum release date, less any credit and reduction of term, is the actual term for which the offender must remain under DOC custody or supervision, unless released by the parole board or by Governor’s pardon.

SENTENCING OPTIONS

Although there are many ways in which a court can structure an offender’s sentence, sentences are comprised of the following basic elements: fines, restitution, suspended sentences (e.g., probation, deferred sentences, reparative probation), and imposed sentences.

Fine

A fine is a monetary sanction against an offender, in which he or she is required to pay money to the state as a result of being convicted of an offense. Maximum amounts of fines are established by statute and vary with the severity of the offense.

In cases when an offender does not pay a fine ordered by the court, the court may impose an order for imprisonment. [13 V.S.A. § 7033](#) states “Such a term of imprisonment for nonpayment of a fine shall be served consecutive to the previous term or terms to which the respondent is sentenced.”

Restitution

[13 V.S.A. § 7043](#) establishes restitution as a possible sentence. According to that statute, restitution must be considered in every case in which a victim of a crime has suffered a material loss. The order of restitution establishes the amount of the material loss incurred.

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Restitution may be ordered as a condition of probation, Supervised Community Sentence (SCS), Pre-Approved Furlough (PAF), or parole. The funds are collected by a restitution unit. An offender may not be charged with a violation for nonpayment of restitution.

Suspended Sentence

A suspended sentence is an order for an offender to be incarcerated for a specified period of time, with the imposition of the sentence suspended. That means, although the offender has been given an incarcerative sentence, he or she does not have to serve it. Instead, the offender is placed on probation and given a series of conditions to follow. If the offender follows the conditions, then the probation case is closed without the offender serving an incarcerative sentence. If, however, the offender does not follow the conditions of probation, then he or she is brought before the court for a violation hearing. If the court finds that the offender violated the conditions of probation, it may impose the suspended incarcerative sentence, or a portion thereof.

Split Sentence

A split sentence is an order for an offender to serve a specified portion of the sentence in a correctional facility, on home confinement, or on work crew, followed by the remainder of the sentence on probation.

Imposed Sentence

An imposed sentence is an incarcerative sentence that the offender is required to serve.

Most often, imposed sentences in Vermont have both a minimum and a maximum. The offender must complete the minimum portion of the sentence in a correctional facility, and then becomes eligible for parole or furlough, until the maximum is served. If the parole board does not release an offender on parole, then the offender remains incarcerated or on furlough until the maximum of the sentence is satisfied.

TYPES OF SUPERVISION AND SENTENCING ALTERNATIVES

There are various types of sentencing alternatives which a court may impose. [13 V.S.A. § 7030](#) states:

In determining which of the following should be ordered, the court shall consider the nature and circumstances of the crime, the history and character of the defendant, the need for treatment, and the risk to self, others and the community at large presented by the defendant....

The DOC supervises offenders while they are incarcerated, or on probation, furlough, home confinement, or parole. An offender may be under a single type of supervision, or a combination. This section explains the possible types of supervision and sentencing alternatives.

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Probation

[28 V.S.A. § 201](#) defines “probation” as “a procedure under which a respondent, found guilty of a crime upon verdict or plea, is released by the court, without confinement, subject to conditions imposed by the court and subject to the supervision of the commissioner” of DOC. The court may suspend all or part of any sentence, and place the defendant on probation. Probation may last for a time period specified by the court, or until further order of the court.

With a sentence of probation, the offender is required to follow one or more conditions, and is answerable to the court for his or her performance of the condition(s). During the period of probation supervision, the offender receives no credit toward service of the suspended sentence. Probation can be for an unspecified period or a set term, and can be for a far longer period than specified in the suspended sentence. Field staff must request discharge from probation for non-specific terms, as offenders remain under supervision until further order of the court.

Term Probation

The term of probation for misdemeanors and non-violent felonies must be for a specific term, unless the court specifically finds that the interests of justice require a longer or an indefinite period of probation.

For offenders serving a specific term of probation, the assigned Field Correctional Services Specialist (CSS) shall review the offender’s record in OMS during probation, and may file a petition requesting the court to extend the period of probation. Such a petition must be filed at least forty-five days prior to the expiration of the offender’s probation term, and is intended to provide the offender the opportunity to complete programming consistent with his or her conditions of probation. These probation extensions may not exceed one year. (See [28 V.S.A. § 205](#) for further information.)

Deferred Sentence Probation

Deferred sentence probation is when, upon an adjudication of guilt, the court defers sentencing and places the offender on probation with multiple conditions. These conditions can be found in [13 V.S.A. § 7041](#). If the offender successfully completes the period of supervision, the court may order the sealing or expungement of any information related to that offense. DOC will maintain the record until receipt of such an order.

In cases when a deferred sentence is violated, the courts do not consider it a Violation of Probation (VOP), even though the probation office files VOP paperwork for these violations. In these cases, the SCU shall receive a new mittimus (“mitt”) for a deferred sentence violation, and not a Revocation of Probation mittimus.

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Administrative Probation

When an offender receives a suspended sentence and is placed on probation with limited conditions, it is referred to as “administrative probation.”

Reparative Probation

When an offender receives a suspended sentence and is placed on reparative probation, he or she must satisfactorily complete all reparative activities assigned by a community board.

Standard Probation

Standard probation is when an offender receives a suspended sentence and is placed on probation with multiple standard conditions and selected special conditions.

Split Sentence

A Split Sentence is an order for an offender to serve a specified portion of the sentence in a correctional facility, on home confinement, or on work crew, followed by the remainder of the sentence on probation.

The sentence is structured as being “all suspended but” (asb) for a specified period of incarceration, home confinement, or work crew. Additionally, the offender is given conditions of probation. (See Sentence Computation Sample Mittimus A.)

The minimum and maximum release dates are equal for split sentences, unless it is a split within a split (see below). The time to serve in the split sentence can be greater than the minimum, but cannot be greater than the maximum.

EXAMPLE

The offender received 6 to 12 months all suspended but 7 months. The effective sentence is 7 months to 7 months, not 6 months to 7 months.

Split sentences can contain a split sentence within them (See Sentence Computation Sample Mittimus B).

EXAMPLE

The offender received 3 to 5 years, all suspended but 2 to 4 years. The offender is eligible for furlough or parole after 2 years.

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When an offender receives a split sentence, DOC receives the following two separate orders:

1. A probation warrant; and
2. A sentencing mittimus.

Supervised Community Sentence (SCS)

A supervised community sentence (SCS) is an intermediate sanction in which the court may place an offender directly under Parole Board supervision, with approval of the DOC. SCS sentences are designed to allow the offender to participate in certain community based treatment programs, for which he or she must meet eligibility criteria. (See [28 V.S.A. § 352](#) for more information.) The SCU shall calculate the [effective sentence](#) for offenders who are sentenced to SCS. (See Sentence Computation Sample Mittimus C.)

If an offender violates SCS, he or she must appear before the Parole Board. The Parole Board can continue the offender under SCS supervision in the community, suspend community SCS by incarcerating the offender for a specific period of time, or revoke SCS and remand the offender to DOC custody. (See the administrative directive on the [Parole Board process for offenders on supervised community sentence](#) for further information.)

Pre-Approved Furlough (PAF) and Home Confinement (HC)

PAF and home confinement (HC), are statuses in which an offender can be released from a correctional facility without parole. In these cases the offender may be released before satisfying his or her minimum release date. The court may also sentence an individual to this status directly from the court, in which case, the offender would not be required to report or serve any period of incarceration prior to commencing this community supervision sentence.

When the court places an offender directly on furlough to participate in certain community based treatment programs, it is referred to as “pre-approved furlough” (PAF). In order to receive this type of sentence, the offender must meet program eligibility criteria.

A PAF sentence may require a short period of incarceration (see Sentence Computation Sample Mittimus D) or place the offender on immediate furlough (see Sentence Computation Sample Mittimus E). Risk management PAF sentences may include up to 60 days of incarceration. The DOC must agree to the offender being placed on PAF status for participation in a specified program. (For more information, see the [administrative directive on pre-approved Furlough](#).)

If a mittimus is received that orders more than 60 days of incarceration before release on PAF, have the Field CSS contact the sentencing court as the offender would not be considered eligible for PAF, and clarification must be obtained.

In cases when the offender on PAF violates furlough conditions, he or she may be immediately incarcerated and subjected to an administrative due process hearing. This does not impact the offender’s minimum and maximum release dates.

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Home Confinement (HC)

Home confinement (HC) is also a form of PAF. HC restricts the offender to a pre-approved residence continuously, except for absences authorized by the court. These restrictions are enforced by appropriate means of supervision, including electronic monitoring and other conditions. (See Sentence Computation Sample Mittimus F, G, and H.)

The maximum HC sentence length cannot exceed 180 days. In cases when the offender on HC violates furlough conditions, he or she may be immediately incarcerated and subjected to an administrative due process hearing.

Work Crew

Also known as the Community Restitution Program, an offender may be sentenced to work crew. A work crew sentence is served in the community, and is another form of PAF. These sentences require an offender to complete a number of unpaid days or hours of work in the community, on a schedule determined by the court or DOC. The sentences are structured as short and/or split sentences. (See Sentence Computation Sample Mittimus I.)

Work crew sentences are usually served on an interrupted basis. This means the offender reports for a day of work, is released, and then returns on the next scheduled work day. Offenders' work crew days are recorded in OMS, and can be viewed through the "Scheduling Check In/Out Report All" report. The Vermont Administrative Code¹ limits participation in the community restitution program to sixty work days.

For more information on how to calculate a work crew sentence computation, see the [Community Restitution Program \(CRP\)/Work Crew section in this document](#).

Interrupted Sentence

For an interrupted sentence, the offender is ordered to serve his or her sentence on an intermittent schedule determined by the court as listed on the sentencing mittimus. The interrupted sentence can be served in any number of ways (e.g., weekends only, daily, hourly, once a month), and the offender is released between periods of incarceration. (See Sentence Computation Sample Mittimus J and K).

Incarceration

When an offender is sentenced to serve time in a correctional facility, it is referred to as "incarceration."

¹ CVR 13-130-018



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In cases when the sentence is referred to as “straight time to serve,” the imposed sentence is served continuously in a correctional facility, until the offender is eligible for release or the maximum term is served. (See Sentence Computation Sample Mittimus L and M.)

Work Camps

The work camps are correctional facilities in which offenders are afforded the opportunity to earn time off their sentence on a day-for-day basis, by engaging in supervised community work. If certain criteria are met, the DOC shall place eligible offenders in the work camp programs, in accordance with the policy on [work camp](#). Offenders can earn up to 30 days camp good time per month, in accordance with the [Work Camp Earned Reduction of Term \(CERT\) section of this document](#).

Conditional Reentry (CR)

Conditional Reentry (CR) is another furlough status in which an offender can be released from a correctional facility without parole. To be released on CR, an offender must first reach his or her minimum term.

CR is established by statute. [28 V.S.A. § 723](#) states:

When a sentenced offender has served the minimum term of the total effective sentence, the department may release the offender from a correctional facility under [section 808 of this title](#) for the offender to participate in a reentry program while serving the remaining sentence in the community.

Reintegration Furlough (RF)

Reintegration Furlough (RF) is a furlough status established through [28 V.S.A. §808c](#) and the DOC [administrative directive on reintegration furlough](#). It provides a highly structured transitional period for the offender, to enhance his or her reintegration upon returning to the community from incarceration.

The DOC releases offenders who would otherwise be released on their minimum release date to this highly-structured furlough, within 180-days prior to that date. There are exceptions, outlined in the administrative directive. Offenders serving a [split sentence](#) are not eligible for [early release](#) to RF. In addition, offenders who are not expected to be released on their minimum release date are not eligible for RF.

Qualified offenders may earn [additional time on furlough](#), beyond the 180-day window, by meeting specific eligibility criteria as outlined in the [administrative directive on reintegration furlough](#).

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The release of an offender to the community by the Parole Board, on or after the offender's minimum release date, and before the maximum release date is referred to as "parole." The offender is subject to conditions imposed by the Parole Board and is placed under the supervision of the DOC.

When an offender is paroled, he or she is supervised by the DOC until the end date of the parole agreement. This may be the offender's maximum release date, or an earlier release date set by the Parole Board.

Time under parole supervision does not count as credit against any sentences levied after the parole has begun. (See [28 VSA, Section 401 et seq.](#) for further information.)

OTHER TYPES OF MITTIMUSES**Civil Contempt Cases**

Civil cases are not criminal cases; therefore [sentence computations](#), [Credit Verification Worksheets](#) (see Sentence Computation Sample Form A), and [sentencing notifications](#) are not completed. Persons in civil contempt cases are held as detained until their release date, or until they meet specified conditions ordered by the court.

The SLA shall enter the release date or conditions in the "Comments" field of the "Criminal Charges" pop-up box for the specific charge, on the Arrest Charges tab in OMS.

1. If a mittimus is received for a civil contempt case that orders a specific amount of time to serve, the offender will be held, and not released until the end of the specified time.
2. If the mittimus indicates a specific amount of time or an amount of money to pay, the offender will be held, and may be released once the money is paid or the specified time has been served – whichever comes first.
3. If the mittimus indicates conditions that must be met (e.g., payment, residence), the offender may only be released once the conditions are met. In cases when the conditions are not related to a monetary payment, the offender must have the court approve his or her release after meeting the conditions.

Drug or Treatment Court Sanctions

Offenders referred to drug or treatment court will often receive a sanction of time to serve by the courts. If this occurs, the SLA shall treat the sanction paperwork similar to civil contempt cases. Therefore, a [sentence computation](#), [Credit Verification Worksheet](#), and [sentencing notification](#) are not required. The release can be found in the "Comments" field of the "Criminal Charges" pop-up box for the specific charge, on the Arrest Charges tab in OMS.

1. Drug or treatment court sanctions specify the duration of the sanction, as well as the date and time the offender is required to report to and be released from the correctional facility.

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2. Orders for sanctions can come on a sentencing mittimus or bail mittimus. In both instances, the offender is held as detained. This is because the offender is being held on a sanction, not an imposed to serve sentence with a specified minimum and maximum term.

EFFECTIVE SENTENCE

The SCU is responsible for identifying the effective sentence of all those imposed. [28 V.S.A. § 722](#) defines “Total effective sentence” as “the sentence imposed under sections [7031](#) and [7032](#) of Title 13 as calculated by the department in the offender’s records.”

The effective sentence is the minimum and maximum sentence arrived at, after computations are made by the SCU. To determine the effective sentence, the SCU identifies which charges are “controlling,” or would result in the offender having the longest minimum and maximum terms. The effective sentence is therefore a combination of all open sentences for which an offender has been convicted.

Determining the Effective Sentence

The SCU shall determine an offender’s effective sentence by evaluating the court-imposed sentence(s).

Single Sentence

A single sentence is when an offender has one charge, with one minimum and one maximum imposed.

Multiple Sentences

Multiple sentences involve more than one imposed sentence, and can come from a variety of courts and dockets. They are a combination of consecutive and/or concurrent imposed terms, and there is always more than one imposed sentence. The sentences are combined to create the underlying effective sentence.

When an offender is sentenced on multiple mittimuses, or is currently serving a sentence and receives an additional sentence, the SCU shall use the information from all the sentences to determine the effective sentence.

1. The SCU shall use an Excel worksheet called the “Sentence Comp Tally Sheet” (see Sentence Computation Sample Form B) when calculating multiple sentences. The form is located in the SC Manual folder on the S: Drive.
2. All information used in the Sentence Comp Tally Sheet shall be taken from the sentencing mittimus(es) as issued by the courts.

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Identifying Concurrent and Consecutive Sentences

The SCU shall use the following guidelines to determine if a sentence is concurrent or consecutive:

1. All multiple sentences are considered concurrent, unless the mittimus specifically states that a sentence is to run consecutively to another sentence.
2. If a mittimus only states the word consecutive, but does not indicate to which charge the sentence is consecutive, the sentence is considered to be consecutive to all current and existing dockets.
3. If the mittimus states consecutive to “present,” “current,” or “existing” sentence, and does not identify a specific docket, the SCU shall interpret all three words in the same manner. The newly imposed sentence(s) shall be made consecutive to all sentences already levied against the offender.
4. For Violation of Probation (VOP) orders in which the VOP mittimus does not specify whether the sentence should be considered consecutive or concurrent, the original sentence information (i.e., previous probation orders and/or split mitts) shall be followed regarding consecutive/concurrent. (See Sentence Computation Sample Mittimus N and O.)
5. If a mittimus has conflicting orders, or is unclear, the SCU shall request the site SLA contact the sentencing court for clarification.

Determining Effective Sentence for Multiple Sentences

The SCU shall use the following guidelines to determine the effective sentence for multiple sentences:

1. For multiple concurrent sentences, the effective sentence will be the one individual sentence that results in the longest time to serve, less any credit.
2. For multiple consecutive sentences, the effective sentence will be a combination of all the sentences added together. If there are different sentencing dates, the oldest date will be the sentence “to commence” date.
3. For a mixture of concurrent and consecutive sentences, calculations are made to determine which combination of sentences results in the longest minimum and maximum time to serve.
4. Often multiple sentences must be calculated separately to determine which combination of sentences results in the longest effective minimum and maximum. As a result, the effective minimum and maximum may not always come from the same docket(s).
5. When an offender has been given multiple sentences, all charges remain open and part of the offender record until the entire sentence is satisfied (maximum release date reached). **ALL charges remain active until the entire sentence has been served. DO NOT close out charges that are part of the overall effective sentence.**
 - a. For sentences imposed concurrently, some charges can be satisfied by credit for time served, and may not be considered part of the underlying effective sentence. Even though the newly imposed charge may be satisfied by credit, it shall remain open and active in cases when the offender is currently serving a sentence. If an offender is sentenced on new charges while in execution of a sentence and the new charges become the effective sentence, the older charge still remains open and active until the entire sentence is satisfied.

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- b. For sentences imposed consecutively, all charges must be considered as part of the underlying effective sentence.

EXAMPLE

The offender has three charges: Simple Assault, 0 to 30 days; Aggravated Assault, 3 to 5 years; and Unlawful Mischief, 6 to 12 months, all concurrent. The Aggravated Assault becomes the effective sentence for these three charges. Do not close out the Simple Assault charge after 30 days, nor the Unlawful Mischief charge after 12 months has lapsed.

CREDIT

Under the law, offenders sentenced to incarceration may receive credit for any time spent under DOC supervision before their conviction, other than time spent on probation or parole. Credit for time served reduces the sentence imposed by the court, and reduces the length of time an offender remains under DOC supervision for any term of confinement. Any portion of a day an offender is incarcerated or on furlough counts as a day of credit, except in cases when the sentence is listed in hours.

EXAMPLE

The offender serves five minutes, he or she shall receive one day of credit

Before April 3, 2013, 13 V.S.A. § 7031 (b) stated:

The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The Court shall give the person credit toward service of his sentence for any days spent in custody *in connection with the offense for which sentence was imposed*. [Emphasis added]

For all sentencing mittimuses, the SCU shall research and award credit in all circumstances. The following are exceptions to this rule:

1. Any time spent in residential treatment, at the Vermont Psychiatric Care Hospital (VPCH), Woodside, or in a local lockup;
2. Time detained in another state; and
3. Twenty-four hour court-ordered curfew that is not supervised by DOC.

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For the above exceptions, the court must specifically order the number of credit days to apply to the sentence, as well as provide the location of credit (refer to [Credit for Time in Treatment Programs](#), [Detention Time in Another State](#), and [Local Lockups](#) sections below).

If the court makes no mention of credit on the mitt, the SCU **shall still conduct research** to determine time spent in custody in connection with the sentenced offense. Any credit discovered through research shall be applied to the sentence. If the sentencing mitt orders no credit be awarded (see Sentence Computation Sample Mittimus P), the SCU shall still conduct the research, however no credit will be applied to the sentence.

Research is conducted for time spent in Vermont Corrections custody only.**APPLICATION OF CREDIT****General Guidelines for Applying Credit**

The SCU shall research the amount of credit to which an offender is statutorily entitled. **In all cases when the research indicates the offender is due a different amount of credit than the number of days ordered on the offender's mittimus, the SCU shall apply the greater of the two amounts.**

This section outlines how to research and apply credit. The following guidelines shall be used when applying credit:

1. In cases when credit research reveals more credit was earned than ordered on the mittimus, the SCU shall award the amount revealed by research.
2. In cases when credit research reveals less credit was earned than ordered on the mittimus, the SCU shall award the amount ordered on the mittimus.
3. In cases when the mittimus does not mention credit, the SCU shall award the amount of credit revealed by research.
4. In cases when an amended mittimus is received that orders more or less credit than was previously ordered, the SCU shall apply the credit as ordered by the court on the amended mitt.

Notification of Discrepancies

In all cases, the SCU shall alert all parties to any discrepancies found while researching credit, by indicating each of the following on the [Sentence Calculation Notification Form](#) (SNF) (see Sentence Computation Sample Form C):

1. The amount of credit ordered on the mittimus;
2. The amount of credit to which DOC research indicates the offender is statutorily entitled; and
3. The amount of credit awarded by the SCU.

INTERNAL DOCUMENT

Sentences After April 3, 2013

On April 3, 2013, Act 4 was signed. [13 V.S.A. 7031](#) now states:

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The Court shall give the person credit toward service of his or her sentence for any days spent in custody as follows:

(1) The period of credit for concurrent and consecutive sentences shall include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.

(2) In sentencing a violation of probation, the Court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation, whichever occurs first, until the violation is sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense.

(c) If any such person is committed to a jail or other place of detention to await transportation to the place at which his or her sentence is to be served, his or her sentence shall commence to run from the date on which he or she is received at the jail or the place of detention.

The Act 4 ruling is not retroactive. The SCU shall apply credit for cases sentenced after April 3, 2013 as follows:

1. Credit shall no longer be “in connection with the offense for which it was earned.”
2. Pre-sentence credit shall be awarded for all time spent in the following types of DOC custody:
 - a. Incarceration;
 - b. Furlough;
 - c. Home confinement/detention; and
 - d. Work crew.
3. Credit shall be applied from the earliest date of detention “for the offense,” or from the date of arraignment until date of sentencing. For the purposes of applying credit, the earliest date of detention for the offense shall be determined by the date on which the offender is:
 - a. Arrested or lodged for the new charge; or
 - a. Arraigned on the new charge.
4. Time on probation or parole supervision does not count as credit.

INTERNAL DOCUMENT

Single Sentences

In cases when the offender is serving a single sentence, any credit discovered through research shall be applied to the single sentence.

Concurrent Sentences

In cases when the offender is serving concurrent sentences and the credit on each comes from the same period of detention, the SCU shall calculate the credit for the [effective sentence](#) that results in the longest minimum and maximum terms. When the effective minimum and effective maximum sentence come from different dockets, they shall only carry credit for the sentence from which each is calculated. In such cases, credit shall only be applied to the minimum release date if it was earned on the charge used to calculate that date. Similarly, credit shall only be applied to the maximum release date in these cases if it was earned on the charge used to calculate that date.

When credit exceeds the minimum or maximum imposed, the sentence is considered “[satisfied](#)” and never begins to run. Credit can satisfy the minimum, maximum or both. If an offender is currently serving a sentence, the satisfied sentence is subsumed in the current sentence, remains open and part of the offender’s record, and shall be included on the sentence computation. The satisfied sentence remains open and active until the entire sentence has reached the maximum release date. For more information, see [13 V.S.A. § 7032 \(c\) \(01\)](#).

When a new concurrent sentence is imposed on an offender serving an existing sentence for which the minimum term has already expired, the offender receives a new minimum. If the new minimum is satisfied by credit, the SCU shall:

1. Update the sentence computation to reflect the new sentencing information; and
2. Adjust the minimum sentence release date in the Offender Management System (OMS) to reflect the:
 - a. Second effective sentence;
 - b. New date of sentencing; and
 - c. Adjusted release date.

Consecutive Sentences

According to the *Percy* ruling², consecutive sentences imposed on the same date shall have the sentences aggregated **before** applying a single credit. Even if researched credit satisfies some of the sentences, they must be included as part of the overall [effective sentence](#).

² *State v. Percy*, 158 Vt. 410 (1992).

INTERNAL DOCUMENT

EXAMPLE

A sentence of 30-60 days, with credit for 60 days, consecutive to a sentence of 30-60 days, with credit for the same 60-day period. The sentence will be 60-120 days, with credit for 60 days.

Blondin Ruling

Under the *Blondin* ruling³, the SCU shall **NEVER** double count credit. This includes the day of sentencing.

Consecutive Sentences After July 1995 and Before March 30, 2006

For consecutive cases sentenced after July 1995 and before March 30, 2006, when the credit has been doubled, the SCU shall only award the credit that has been earned.

1. The release dates shall be adjusted to reflect accurate credit.
2. Even if the previously awarded credit was doubled (one or more days counted more than once), the SCU shall only award credit for the same time period once.

Cases with Same Period of Credit and Different Rules

When calculating credit for two cases with the same period of credit that follow different rules (e.g., 2001 and 2005 rules), the credit shall be applied in the following manner:

1. If the sentences are concurrent, the SCU shall apply credit to the offense for the [effective sentence](#) that will result in the longest minimum and maximum terms.
2. When aggregating consecutive sentences, the SCU shall apply all non-duplicate credit from all dockets which are part of the effective sentence. For more information, refer to the [Sentencing Rules and Reduction of Term section](#) of this document.
3. When an offender is serving a sentence and receives additional consecutive sentences, the SCU shall perform calculations to determine which group of sentences will become the new effective sentence.
 - a. In cases when the new effective sentence does not include any dockets from the first sentence, the SCU shall only award non-overlapping, non-duplicative credit. Credit and time served on the first sentence shall not be applied.
 - b. In cases when the previous minimum sentence has expired, the new minimum shall receive any credit earned from the later of:
 - i. The date the previous minimum expired; or
 - ii. The date of arraignment or earliest detention for the offense.

³ State v. *Blondin*, 164 Vt. 55 (1995)

INTERNAL DOCUMENT

EXAMPLE

An offender is serving 18 months to 5 years and was sentenced on December 6, 2005. On August 6, 2008, he or she receives two new sentences. Docket A is 6 months to 1 year, concurrent to all, and Docket B is 1 to 5 years, consecutive to both the 18 months to 5 years sentence and Docket A. The new effective controlling maximum sentence will now come from a combination of Docket A and B. Because the total previous underlying maximum sentence had not been satisfied and one of the new dockets was ordered consecutive to it, no additional credit will be awarded to the maximum. The previous minimum of 18 months has expired, therefore credit would be applied from the later of the following: the date the 18 months expired; or the date of arraignment or earliest detention for Docket A or B.

Consecutive Sentences and Detention Credit

Simultaneous Detention

In cases when an offender is detained at the same time for two or more charges, and receives consecutive sentences, the SCU shall add the minimums together, as well as the maximums, to obtain the [effective sentence](#).

1. Credit is used only once on the minimum and the maximum. (Credit is not added together.)
2. No double credit is applied.

Separate Detention Periods

If an offender is detained and released on one charge, later detained on a second charge, and then given consecutive sentences, the SCU shall add the credit on both sentences to obtain the credit for the effective minimum and maximum, as long as there is no duplicate time.

Dual Status (Sentenced/Detained)

Sentenced detentioners no longer receive double credit⁴. Therefore, the SCU shall not count the sentencing date as a day of detention.

1. When there are multiple sentences involved, and one is already being served (i.e., the offender is already serving a sentence and receives a new sentence, consecutive to the first one), the offender is NOT entitled to credit on both the underlying sentence and the newly imposed sentence.

⁴ See 13 VSA Sec. 7031(b).

INTERNAL DOCUMENT

EXAMPLE

An offender serving a sentence is ordered held without bail on new charges. The offender receives a new sentence consecutive to his or her running sentence. The offender does not receive credit for detention time on the new charge for the time he or she was held without bail to the date of sentencing, because he or she already received credit for those days in connection with the underlying sentence.

NOTE: The vast majority of consecutive cases will fall into *Percy* (consecutive sentences imposed the same day) or *Blondin* (consecutive sentences imposed on a different day/no double credit).

2. In cases when the current sentence reaches the maximum while the individual is still a detainer, the Judge can sentence the offender consecutively to the expired sentence. In this situation, the credit on the new sentence does not start until the old sentence was completed, or the date of arraignment or earliest detention for the offense, whichever is later.

EXAMPLE

An offender began serving sentence A on January 1, 2016, then picked up a detainer on February 1, 2016. Sentence A expired and was closed on March 15, 2016 and the offender became a straight detainer. The offender was sentenced on the detainer (Sentence B) April 10, 2016. Sentence B was ordered consecutive to Sentence A (the expired sentence). **Sentence B will receive credit from March 16, 2016 to April 9, 2016. Do not include the date Sentence A expired as a day of credit.**

3. In cases when the current sentence minimum has expired and a new sentence is imposed consecutively, credit shall be applied to the new minimum sentence only. This credit shall be applied from the later of:
 - a. The date the previous minimum expired; or
 - b. The date the new charge was lodged or arraigned. In cases when the new charge occurred after the previous minimum expired and the offender was not lodged, credit would start from the date of arraignment.

INTERNAL DOCUMENT

EXAMPLE

An offender is serving 1 to 5 years. After serving the 1 year, offender is released on furlough and picks up a new charge. The new charge receives a sentence of 2 to 5 years, consecutive to the first charge. The new effective sentence will be 2 to 10 years. The minimum sentence would receive credit from the date of arraignment or earliest lodging for the offense, or from the date the first 1 year sentence minimum expired, whichever is later. The maximum credit remains the same as was applied to the first sentence only.

Other

There is one situation where a sentence that is imposed consecutively to an existing sentence would allow for credit for time served to be taken off the newly imposed sentence. This situation is when the credit for time served on a later consecutively imposed sentence (“sentence A”) pre-dates the running of the underlying existing sentence (“sentence B”). Because the credit for time served pre-dates the execution of sentence B, there is no overlap, and therefore, no “double credit” problems. In this situation, *Blondin* does not apply, and the offender should receive credit for time served on the consecutively imposed sentence A.

The most common examples of this would be:

1. When a sentence (“sentence A”), which includes credit for time served, is suspended and the offender is placed on probation. Later, while the offender is still on probation, another sentence (“sentence B”) is imposed with no credit, and the offender begins to serve it. Subsequently, the probation is revoked, and the previously suspended sentence A (including the credit for time served) is imposed and made consecutive to sentence B, which is already running. As noted above, because the credit for time served pre-dated the execution of sentence B, there is no overlap and therefore, no “double credit” problem.
2. When an offender is released on conditions pre-sentencing in connection with an offense (“docket A”), after serving some number of days incarcerated. The offender, while on his or her release, is then sentenced on a separate crime (“docket B”), for which he or she begins serving a sentence. Later, the sentence for docket A is imposed, and made consecutive to the running sentence from docket B. Again, the detention days from docket A precede the running of the sentence in docket B, and therefore there is no overlap and no “double credit” problem.

Pre-Approved Furlough (PAF)

In cases when an offender has credit for time served and PAF/ISAP or Intensive Domestic Abuse Program (IDAP) is ordered, the credit shall be applied to the overall sentence. The court may order a period of incarceration to be served prior to release on PAF. This is commonly referred to as the “punitive portion” of the sentence. Any credit applied to the PAF sentence SHALL NOT be applied to any punitive portion to serve.

INTERNAL DOCUMENT

EXAMPLE

An offender receives a 1 to 3 years PAF/ISAP sentence, with 60 hours to serve in jail. The docket has 25 days of credit. The 25 days will reduce the 1 to 3 years, but will not reduce the 60 hours to serve.

In cases when an offender received multiple consecutive PAF sentences on the same date, and each mittimus orders the same punitive portion, the punitive portions are not considered consecutive.

EXAMPLE

The offender receives four consecutive 1 to 3 year PAF sentences on the same date, and each mittimus ordered 60 days punitive portion. The 60 days are not considered consecutive. The offender will only serve 60 days, not 240 days. The controlling sentence, however, is 4 to 12 years.

1. If an offender is currently on PAF and receives a new incarcerative, home confinement, or work crew sentence, credit shall only be applied if it is derived from charges that are controlling to the [effective sentence](#).
 - a. In cases when the new sentence is ordered concurrent and becomes the effective sentence, then credit earned on the new docket does reduce the new effective sentence.
 - b. In cases when the new sentence is ordered consecutive and the first minimum and maximum release dates have not expired, no additional credit shall be applied unless it is non-duplicative.
 - c. In cases when the new sentence is ordered consecutive and the first minimum has expired, but the maximum has not, credit shall be applied, as described [in paragraph number 3. of the Dual Status \(Sentenced/Detained\) subheading under the Detainer Status and Consecutive Sentences heading of this section of this document](#).
2. One exception to credit application on the punitive portion of a PAF sentence is an offender convicted under [23 V.S.A. § 1201](#) for operating a motor vehicle under the influence of intoxicating liquor or other substance.
 - a. In such cases, credit shall be allowed for residential treatment, under 23 V.S.A. § 1210.
 - b. The SCU shall apply this residential treatment credit to any punitive portion on a PAF sentence, as well as the overall effective sentence, as ordered by the court.

Work Crew

1. In cases when the court orders both time to serve in a correctional facility and on work crew, the credit for time served shall reduce the time served in a correctional facility first.

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EXAMPLE

An offender receives a 6 to 12 month all suspended but (asb) 60 day sentence, to serve 30 days in jail and 30 days on work crew. The docket has 2 days of credit. The 2 days shall be applied to the jail sentence, and the offender will only serve 28 days in jail followed by 30 days of work crew.

2. When an offender serves a day of work crew and an interrupted sentence on the same day, the SCU shall reduce each sentence by the day served. However, if the dockets are part of a suspended sentence and is later violated, this day would only count as one day of credit.

Early Release

Per [28 V.S.A. § 708 \(c\)](#) “If an inmate’s release date falls on a weekend or legal holiday, the inmate may be released at the discretion of the supervising officer on the next preceding day which is not a legal holiday or a weekend.”

Split sentences and straight incarcerative sentences are eligible for early release. In cases when the offender violates probation and is required to serve additional time or the entire unsuspended portion of his or her split sentence, the offender shall receive credit for time served, as well as the number of days he or she was released early. (See Sentence Computation Sample Form D.)

EXAMPLE

An offender is sentenced to 6 to 12 months, all suspended but (asb) 30 days to serve. Day 30 falls on a Saturday. In accordance with 28 V.S.A. § 708, he or she is released on Friday, after serving 29 days (not 30 days). Later, if the offender violates and is required to serve more time, the offender will receive credit for 30 days served, not the 29 actual days served.

Things to Remember When Applying Credit

It is important to remember the following rules when applying credit:

1. Whenever there is a difference between credit as ordered by the Court and DOC research, the SCU shall apply the greater of the two amounts. If there is no court order regarding credit, the SCU shall apply credit as researched.
2. The day of sentencing is NEVER counted as a day of credit when the sentence to commence date and the date of sentencing are the same.
 - a. When the dates are different, however, the day of sentencing can be counted as a day of credit if incarcerated on that date.

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- b. When [calculating a new punitive sentence for a VOP](#), an offender receives credit for the day when the original sentence was levied, if the offender was incarcerated on that day.
 - c. For [work crew sentences](#), the day of sentencing will count as a day of credit if the offender was incarcerated, because the sentence is served on an interrupted basis.
3. If the sentence is listed in hours, then the credit shall also be awarded in hours.

CREDIT FOR TIME IN TREATMENT PROGRAMS

In re McPhee (1982) 141 Vt. 4, addresses the issue of credit for pre-trial detention in a treatment program:

In determining whether restrictions imposed pursuant to pretrial release support credit for time served in custody pursuant to subsection (b) of this section, each case must receive an independent determination of the facts.

The court must specifically order credit for time spent at the VPCH or any residential treatment facility (see Sentence Computation Sample Mittimus Q.). This also applies to Violation of Probation (VOP) mittimuses, when the court ordered credit for time served in a treatment program on the original mittimus. If credit was applied originally, the SCU shall apply it again, even if it is not specified on the revocation mittimus.

1. The SCU shall only use information received from the court to award treatment time credit.
2. The mittimus must specify the number of credit days to be applied.
3. If there are multiple consecutive sentences with the same date of sentencing, and each imposed sentence orders the same number of days for residential treatment, the days shall be counted once towards the effective sentence, and not multiple times for each mittimus.
4. If a newly imposed sentence is ordered consecutive to an existing sentence, and the mitt orders treatment credit, the SCU shall not apply the credit, because the offender was in execution of a sentence. In cases when the existing minimum sentence has expired, the ordered treatment credit shall only be applied to the newly imposed minimum effective sentence, in accordance with the [Consecutive Sentences heading of this section of the document](#).
5. If the newly imposed sentence indicates specific dates for Residential Treatment credit and research reveals no duplication, the SCU shall award the credit.

CREDIT FOR TWENTY-FOUR-HOUR CURFEW

There are times when an offender is ordered by the court to be under twenty-four-hour curfew while released on conditions (see Sentence Computation Sample Mittimus R.) The court mandates the offender's continual residence in his or her home without exception, and places the offender on an Electronic Monitoring Program supervised by the local Sheriff Department. The offender is constrained to a single place, and is not allowed any discretionary movement or travel. Because this time is not supervised by DOC, the court must order the DOC to apply the specific amount of time spent on curfew as credit against the offender's release dates.

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DETENTION TIME IN ANOTHER STATE

In order to give credit for time served out-of-state, it must be specifically ordered on the mittimus by the court (see Sentence Computation Sample Mittimus S). The SCU shall only use information received from the court or verified by the NCIC and Extradition Administrator to award this credit. The court must provide the number of days.

1. The offender is entitled to credit for detention time served in another state, if the offender was being held solely on Vermont charges.⁵
2. A Vermont offender, who seeks pre-sentencing credit for days spent in custody in another state, bears the burden of establishing that the charge on which the Vermont sentence was imposed was the sole basis of custody at issue.⁶ The SCU may apply this credit in cases when the NCIC and Extradition Administrator verifies that the time spent in out-of-state custody was strictly for a Vermont sentence.
3. If an offender is incarcerated in another state on a charge that led to revocation of his or her probation, the offender is entitled to credit for all days spent in custody awaiting return to Vermont following completion of his or her out-of-state sentence.⁷

LOCAL LOCKUPS

There are instances where an offender will be lodged at a local lockup before coming to DOC custody. The SCU shall award this credit only when the court provides the specific number of days on the sentencing mittimus. (See Sentence Computation Sample Mittimus T.) This also applies to VOP mittimuses, when the court ordered credit for time served in a local lockup on the original mittimus – it will be awarded on the VOP sentence.

1. When there are multiple consecutive sentences with the same date of sentencing, and each mitt orders the same amount of local lockup time, the SCU shall apply the credit only once.
2. When a newly imposed sentence is ordered consecutive to an existing sentence, the SCU shall not apply any local lockup credit ordered on the new mittimus to the maximum, as the offender was in execution of sentence. If the previous minimum has expired, the SCU shall apply the local lockup credit ordered to the new minimum only, in accordance with the [Consecutive Sentences heading of this section of the document](#).
3. When the newly imposed sentence indicates specific dates for local lockup credit and research reveals no duplication, the SCU shall award the credit.

PROBATION VIOLATIONS

In cases when probation is revoked, the SCU shall calculate credit to include all time served:

1. Pre-sentencing to date of original sentence; and
2. Since the VOP was filed.

⁵ *State v. Coe*, 150, Vt. 448 (1988), known as “Sole Basis Rule”

⁶ *State v. Coe*, 150, Vt. 448 (1988)

⁷ 13 VSA Ch. 221, Section 7031, *State v. Coe* (1988)

INTERNAL DOCUMENT

Split Sentence Cases Prior to March 30, 2006

For cases before March 30, 2006 on a split sentence, if the original mittimus ordered a specific amount of credit days and it was applied, the SCU shall apply the same amount of credit on a Probation Revocation mittimus. However, the SCU shall award the amount of credit that was actually earned, in cases when research reveals that the offender:

1. Actually earned more credit than was originally awarded; or
2. Had been previously awarded duplicate credit. Double credit shall not be applied.

Probation Cases Originally Ordered Consecutive to a Jail Sentence

For probation revocation cases when the original probation case was ordered consecutive to a separate jail sentence and the offender was detained for the same time period, the offender shall not receive credit for this detention time on the revocation, because the credit was already applied to the jail sentence.

EXAMPLE

On May 1, 2006, the offender was sentenced on count 1 to 6 to 12 months, all suspended, consecutive to count 2 for 1 to 3 years jail. The offender was detained on both counts from February 1, 2006 to April 30, 2006 (89 days). The offender receives the 89 days of credit on count 2. On June 1, 2009, count 1 is revoked. The offender will not receive this credit again because it was already applied to count 2.

Probation Cases Originally Ordered Concurrent to a Jail Sentence

Francis/Stone Credit

The *Francis v. Hofmann*⁸ and *Stone v. Pallito*⁹ court decisions changed the way credit for time served was awarded on probation revocation sentences, when a probation sentence and a jail sentence were ordered concurrent to one another. If the probation revocation was originally a deferred sentence, Francis/Stone credit DOES NOT apply. This ruling will only apply if the offender is sentenced to a probation sentence. The steps in determining if *Francis or Stone* applies are as follows:

1. In cases when the sentences are concurrent with one another, the SCU shall apply any time served (i.e., in jail, on furlough (CR, PAF, RF, Home Confinement, etc.), or work crew), from the date the offender is sentenced to probation to the date probation is revoked, as credit on the VOP Docket.
 - a. In cases when the incarcerative sentence and the VOP are consecutive to each other, Francis/Stone credit does not apply, and no credit shall be awarded.

⁸ *Francis v. Hofmann*, 2008 VT 137, *Doner v. Pallito*, Docket No. 32-2-09 Wrcv

⁹ *Stone v. Pallito*, Docket No. 926-12-09 Wncv

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- b. Any sentenced incarcerated time served, from the date the probation began to the date the probation was revoked, shall be applied as credit for time served on the probation revocation docket, as long as the probation docket and the docket on which the time was served are concurrent with each other.

NOTE: The only credit that can be applied as Francis/Stone credit is sentenced time served while on probation. Detention time does not apply. Any good time (ART/ERT/CERT) awarded on the incarcerative docket does not apply to the VOP.

- 2. The SCU shall enter “Credit received from docket (enter docket number) per Francis/Stone decision” in the comments section of the [Credit Verification Worksheet](#) (see Sentence Computation Sample Form A). Follow the example below when entering this information.

DEPARTMENT OF CORRECTIONS RECORDS					# of Days applied to Effective Sentence	COMMENTS
Documents used to verify Credit	From	Through	# Days	Total Days by Docket		
ML/DDR/SM	9/12/1997	11/16/1997	66			Arr: 09/13/97; Sentenced 11/17/97 1y6m-10y
	11/17/1997	8/18/1998	275			Sentence reconsidered 08/18/98 to 0-10y all suspended, on probation
	8/19/1998	6/25/2001	1042			Credit rec'd from docket 0123-05-98 Bncr per Francis/Stone Decision
	4/2/2002	4/3/2002	2			VOP Filed 02/01/02;
	2/25/2003	3/18/2003	22			Probation revoked 03/19/03,

EXAMPLE

When an offender receives probation while serving an incarcerative sentence and the probation is later revoked, the time served from the date of sentence on the probation case to the date of revocation shall be applied as credit. If the incarcerative sentence ends before the VOP, the VOP will only receive credit from the date of sentence of the probation case to the max or end date of the incarcerative sentence.

Docket A: January 1, 2016 – sentenced 3 to 6 months to serve
July 1, 2016 – maxed out

Docket B: May 1, 2016 – sentenced 3 to 6 months probation, concurrent (no previous credit)
July 15, 2016 – Violated to serve underlying sentence

Docket B will receive credit from May 1, 2016 to July 1, 2016, from Docket A due to the Francis/Stone ruling.

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EXAMPLE

When an offender is on probation and later receives a separate concurrent incarcerative sentence, and then probation is subsequently revoked, the probation shall receive credit for the time served, from the date of sentence on the concurrent incarcerative time to the date of the probation revocation.

Docket A: February 15, 2016 – sentenced to 3 to 6 months, all suspended probation
May 10, 2016 – probation revoked

Docket B: April 1, 2016 – sentenced to 2 to 4 months to serve, concurrent

Docket A will receive credit from April 1, 2016 to May 10, 2016 for time served from Docket B.

Francis/Stone credit is retroactive. In cases when the offender should have received credit on a VOP for incarceration while on probation, but it was not previously awarded, the SCU shall award the time once it becomes aware the offender did not receive the credit.

Other Credit for Probation Sentences

Besides the Francis/Stone credit, VOP sentences can also receive credit for all time incarcerated (i.e., in jail, on furlough (CR, PAF, RF, Home Confinement, etc.), or work crew), from the date the VOP is filed with the court until the date the VOP is resolved or probation has been revoked.

Deferred sentences shall not receive Francis/Stone credit.

In cases when an offender on reparative probation does not satisfy the conditions of his or her probation and the probation is revoked, he or she shall receive any pre-sentencing credit, as well as any Francis/Stone credit, if the sentences are concurrent with each other.

CREDIT ON ZERO MINIMUMS

1. Credit applied to a zero minimum on concurrent cases does not affect the minimum release date.
2. Credit shall be applied to the zero minimum for multiple consecutive cases.

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EXAMPLE

The sentences are 0 to 6 months with 30 days' credit; 0 to 1 year with no credit; and 6 to 12 months with no credit, all consecutive. The effective sentence will be 6 months to 1 year, 18 months with 30 days' credit applied to both the minimum and the maximum.

EXAMPLE

The offender is sentenced on multiple dockets with a mixture of consecutive and concurrent orders (see sample Sentence Comp Tally Sheet below). The effective minimum is derived from charge 1, 2, and 6. At first glance, it appears that credit earned on charge 6 would only be applied. However, since charges 1 and 2 are consecutive, you must aggregate charge 6 with charge 1 and 2 and apply all non-duplicate credit earned on each charge to the effective sentence.

EFF SENT CHG #	OFFENSE	VOP	TYPE	DOCKET NO.	OFFENSE DATE	MIN	MAX	CC	CS	CREDIT	SENTENCE COMMENCE DATE
1	DA		PAF	1243-10-15 Wmcr1	10/17/15	0	1y			199d	01/12/16
2	FIPO		PAF	1243-10-15 Wmcr2	10/17/15	0	1y		1	199d	01/12/16
Current Total Eff Sent from Above				MINIMUM		0				199d	01/12/16
				MAXIMUM			2y			199d	01/12/16
3	GNEGOP		PAF	1320-11-15 Wmcr1	10/26/15	0	1y		1,2	197d	01/12/16
Current Total Eff Sent from Above				MINIMUM		0				199d	01/12/16
				MAXIMUM			3y			199d	01/12/16
4	BC		PAF	1476-12-15 Wmcr1	12/08/15	0	1y	3	1,2	169d	01/12/16
Current Total Eff Sent from Above				MINIMUM		0				199d	01/12/16
				MAXIMUM			3y			199d	01/12/16
5	DUI2	Y	PAF	0310-03-15 Wmcr2	03/20/15	6m	9m	1-4		170d	01/12/16
Current Total Eff Sent from Above				MINIMUM		6m				199d	01/12/16
				MAXIMUM			3y			199d	01/12/16
6	RESIST	Y	PAF	0313-03-15 Wmcr3	03/13/15	9m	1y	3-5	1,2	170d	01/12/16
Current Total Eff Sent from Above				MINIMUM		9m				199d	01/12/16
				MAXIMUM			3y			199d	01/12/16

DRUG OR TREATMENT COURT CASES

Credit shall be given for sanctions imposed in drug or treatment court to be served with the DOC (i.e., incarcerated, work crew, or home confinement/detention). In these cases, the court imposes

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sanctions to be served in the custody of the DOC. In cases when the offender serves a sanction and the charge is later moved from drug to criminal court and sentence is imposed, any sanctions supervised by the DOC count as credit for time served.

CREDIT AND VIOLATIONS OF CONDITIONS OF RELEASE

The VT Supreme Court case, *Alfred Zera*, 137 VT 421, applies to cases in which the offender was sentenced prior to April 3, 2013, and states:

...the plain meaning of [13 V.S.A. 7031\(b\)](#) is that if conditions of release are imposed in connection with a charge, and the conditions are not met, then the time spent in custody is “in connection with the offense (charged).”

In cases when an offender is released on conditions, then later violates those conditions and is charged and lodged with a Violation of Conditions of Release (VCON), the offender shall be entitled to credit for time served on the original offense, for time spent detained on the VCON charge, per *Zera*.

HOURLY CREDIT

Calculating Hourly Credit Adjustment

There are times when an offender’s sentence is ordered to be served in hours. In such cases, the SCU shall calculate the hourly credit adjustment to be applied to the sentence, using the following steps:

1. Research any time spent in DOC custody prior to sentencing.
 - a. Credit hours shall be rounded to the nearest whole number. If an offender is incarcerated for thirty or more minutes, round up to the next hour.

EXAMPLE

The offender is incarcerated for 48 minutes. Round up, for 1 hour of credit.

EXAMPLE

The offender is incarcerated for 2 hours and 15 minutes. Round down, for 2 hours of credit.

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EXAMPLE

The offender is incarcerated for 3 hours and 30 minutes. Round up, for 4 hours of credit.

NOTE: If an offender receives a sentence in hours, any credit earned shall be applied as hours.

EXAMPLE

The offender is held from 1640 hours to 1820 hours, credit is 1 hour 40 minutes. Two hours credit will be awarded.

2. Multiply the number of hours arrived at in number 1. above by 0.042 to derive the hourly credit adjustment.

EXAMPLE

The offender received an all suspended but (asb) 60 hour sentence, to report on June 26, 2015 at 6 p.m. He or she served a day of work crew on June 2, 2014, and was held from September 2, 2014 at 2020 hours through September 3, 2014 at 0818 hours.

06/02/14 a day of Work Crew = 8 hours
Held from 09/02/14 at 2020 through 09/03/14 at 0818 = 12 hours
Total number of hours = 20
 $20 \times 0.042 = .84$

After credit is applied, the offender's release dates and time would be June 28, 2015 at 10 a.m.

Application of Hourly Credit

When applying hourly credit, the SCU shall:

1. [Calculate the hourly credit adjustment to be made to the offender's sentence.](#)
2. Enter the offender's sentence information for the corresponding charge as follows:
 - a. Enter the Sentence View of the Arrest Charges tab in OMS.
 - b. Enter the date the offender's sentence is set to commence, in the "Official Sent Dt" field. The "Sent Start Date" will auto-populate.
 - c. Enter the time the sentence is supposed to start, in the "Sent Start Time" field. The "Serve/Credit Start Date" and "Serve/Credit End Date" fields will auto-populate.

INTERNAL DOCUMENT

- d. Uncheck “Include 1st Day” box for the charge to which the hourly credit adjustment will be made (leave the “Days Credit” field blank).
 - e. Enter the type of sentence into the “Sentence Type” field.
 - f. Enter the minimum sentence in the “Sentence Hrs” field.
 - g. Enter the maximum sentence in the “Sentence Hrs MAX” field.
3. Right click on the charge to enter the adjustment, as follows:
- a. Select “New.”
 - b. Select “Time Credit.”
 - c. The “Credit Type” is entered through a manual adjustment.
 - d. Enter a space in the “Date” field, which will populate the current date.
 - e. Enter the number of hours credit in the “Comments” field as “# hours of credit.”
 - f. Enter the exact hourly credit adjustment calculated, including the decimal point, in the “Amount” field.

EXAMPLE

0536-06-14 Bncr - DRIVING UNDER INFLUENCE-2ND	06/26/2015	18:00	<input type="checkbox"/>	0	06/26/2015 18:00	06/28/2015 10:00	Concurrent
Manual Adjustment			<input checked="" type="checkbox"/>	0.84			

Min Release Date	Max Release Date	Calculated Rlse Date:
6/28/2015	6/28/2015	Sunday, June 28, 2015 10:00 AM

RESEARCHING CREDIT

The SCU shall complete a Credit Verification Worksheet (see Sentence Computation Sample Form A) for every new or amended sentencing mittimus received. This worksheet is an Excel Spreadsheet which can be located in the SC Manual folder on the S: Drive. The Credit Verification Worksheet shall include all dockets and counts on all Vermont sentences an offender is currently serving. Credit shall be determined from OMS records (movement history, legal status), affidavits, arrest warrants, bail mittimuses, docket disposition reports (DDR), and any other reports that verify an offender’s custody status.

The SCU shall determine credit for each docket independently, and list each on the Credit Verification Worksheet separately. For dockets with multiple counts, all counts may be listed on the same line if they have the same periods of confinement. If the credit time is different on each count, they shall be listed separately.

1. In cases when a Credit Verification Worksheet has never been completed on an older case and a new charge is added, the SCU shall create a Credit Verification Worksheet listing all offenses the offender is currently serving. In cases when the research of the SCU reveals that the credit on the older case(s) is/are different than what was originally applied, the SCU shall apply the credit, [as instructed under the Consecutive Sentences heading in the Application of Credit subsection of the Credit section of this document](#), for cases calculated before March 2006.

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2. After the SCU has notified the court of the credit awarded through the [sentencing notification](#), the court may submit an amended mittimus for this same docket, indicating a specific number of credit days to award. If this occurs, the SCU shall award this credit. The SCU shall make an entry on the Credit Verification Worksheet indicating the Judge ordered the application of this credit. It was not earned, but because of the second order, the SCU shall apply it.
3. Some courts may request that offenders sentenced to serve a specific amount of hours start their sentence when they are sentenced in court because they are in custody of the Sheriff and brought directly to jail. The sentencing mittimus will always indicate this. For example, "Sentence to commence: 10/29/07 at 0930." The offender may not actually be booked into DOC custody until many hours later, however credit shall still begin at the time ordered on the mittimus.

There may be occasions when the DOC will be requested to research credit prior to sentencing. The DOC has agreed to research credit in advance of sentencing, provided the request is received with at least one week notice.

Credit Research Process

The following are steps to be taken by the SCU when researching credit:

1. Determine if the offender is currently serving a sentence or if this is a new sentence.
 - a. For new sentences, the field/facility sites shall scan and e-mail all sentencing documents (i.e., mittimus, arresting officer affidavits, court documents) to the AHS Court Documents e-mail address (AHS.DOCCourtDocuments@vermont.gov). Open a new Credit Verification Worksheet from the SC Manual folder on the S: Drive (see Sentence Computation Sample Form A), and complete the top section of the form.
 - b. For offenders currently serving a sentence, open the existing Credit Verification Worksheet and update it accordingly.
2. 3. Determine the dates of incarceration, by using either the date of arraignment or earliest lodging for the offense from one of the following reports in OMS:
 - a. "Offender Movement History;" or
 - b. If researching work crew days credit, either the "Scheduling Check In/Out Report All" or "Detainee Simple Check In/Out History" report.
4. Use the "Offender Movement History" report to review the movement history and legal status for errors.
 - a. If an error is found in the offender movement history, correct the error in OMS, or ask the SLA to look into the error and correct it accordingly.
 - b. If an error is found in the legal status, correct the error in the Legal Status area, or ask the SLA to look into the error and correct it accordingly.
5. Once the dates of incarceration have been determined, document the credit earned on the Credit Verification Worksheet.

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RECORDS MAINTENANCE

Save the completed Credit Verification Worksheet (see Sentence Computation Sample Form A) to the offender’s folder in the SC Manual folder on the S: Drive.

NOTE: All sentence computation documents (i.e., Credit Verification Worksheets, Sentence Comp Tally Sheets (see Sentence Computation Sample Form B), sentencing mittimus) shall be scanned into OMS by the SLA. If there are Credit Verification Worksheets in the file for dockets that have maxed out, they shall be uploaded as an attachment to the offender’s record in OMS.

SENTENCING RULES AND REDUCTION OF TERM

“GOOD TIME”

Incarcerative sentences can be reduced through the application of “good time.” Good time can come in the following forms:

1. Automatic Reduction of Term (ART);
2. Earned Reduction of Term (ERT); or
3. Work Camp Reduction of Term (CERT).

RULES

[28 V.S.A. § 811](#) has been amended multiple times throughout the years, resulting in different reduction of term rules. These rules affect the amount of ART/ERT awarded. The date on which the offense is committed determines which rules are applied when calculating an offender sentence computation.

Currently, [28 V.S.A. § 811](#) only allows for Work Camp Reduction of Term (CERT).

Pre-94 Rules:	Offense committed before July 1, 1994
1994 Rules:	Offense committed on or after July 1, 1994 through June 30, 2000
2000 Rules:	Offense committed on or after July 1, 2000 through June 15, 2001
2001 Rules:	Offense committed on or after June 16, 2001 through June 30, 2005
2005 Rules:	Offense committed on or after July 1, 2005

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With multiple offenses, different rules can apply to the minimum and maximum, depending on which combination results in the longest minimum and maximum terms. The rules on the minimum and maximum do not have to be the same.

1. If the sentences are concurrent, the rule that results in the longest minimum and maximum terms applies.
2. When aggregating consecutive sentences, all the sentences are governed by the rule that would apply to the oldest offense.
3. When aggregating Pre-94 (PR94) or 1994 rules with 2000 or 2001 rules, only the Pre-94 and 1994 charges shall receive ART and ERT on the minimum sentence.
4. Sentences from 2000 or 2001 rules shall only have ART or ERT applied to the maximum release date.
5. In cases when multiple rules apply, the SCU shall compute separate calculations before aggregating the sentences in order to apply ART or ERT to the appropriate sentence.

EXAMPLE

The two mittimuses below were sentenced on the same date; however, the offense dates occurred under different rules.

```
0619-08-00 Frchr. Ct. 1: Title 13 VSA 1024 (a) (1)
SIMPLE ASSAULT
Minimum: 6 Mo(s) Maximum: 12 Mo(s)
Credit for time served: credit for 8 days served
Sentence to commence: 09/13/01
OFFENSE DATE: 08/11/2000
```

```
0217-09-01 Frchr. Ct. 2: Title 23 VSA 1201 (a) (1)
BURGLARY OF AN OCCUPIED DWELLING
Minimum: 3 Yr(s) Maximum: 5 Yr(s)
Concurrent to Docket 619-8-05 Frchr
Sentence to commence: 09/13/01
OFFENSE DATE: 08/21/2001
```

The Simple Assault was committed under 2000 rules. The Burglary offense was committed under 2001 rules. Because the Burglary offense is a longer sentence than the Simple Assault offense, and the charges are concurrent (running at the same time), the 2001 rules would apply to this offender's effective sentence.

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AUTOMATIC REDUCTION OF TERM (ART)

Before July 1, 2005, all offenders were automatically entitled to a reduction of days from their sentence for every thirty days incarcerated. This is referred to as “automatic reduction of term” (ART). Offenders were only **entitled** to receive the reduction after they had served thirty days. If an offender had only thirty days to serve, they did not receive this reduction.

For most offenders, ART applied only to the maximum sentence. For Pre-94 and 1994 rules, however, ART also reduced the minimum sentence.

The SCU calculates all ART once, at the beginning of the sentence.

Pre-94 Rules: Offenders are entitled to 10 days per month ART on both the minimum and maximum sentence. Offenders do receive ART while on furlough.

1994 Rules: Offenders are entitled to 5 days per month ART off both the minimum and maximum sentence. Offenders do receive ART while on furlough.

2000 Rules: Offenders are entitled to 5 days per month ART off the MAXIMUM sentence only. No automatic reduction on the minimum. While on furlough the offender continues to receive ART on the maximum only.

2001 Rules: Offenders are entitled to 5 days per month off the maximum, only while incarcerated or on pre-approved furlough. Before July 1, 2005, these offenders could be released to the community at their minimum (on Conditional Reentry) without good time, at which point they were no longer eligible for ART off their maximum.

2005 Rules: Offenders no longer receive automatic reduction of term.

NOTE: Offenders who made parole were not eligible for ART. Any ART previously awarded for the time period the offender is on parole was removed from the sentence. This shall include the time from the date the offender was paroled to the maximum expiration date.

Days to Serve Charts

The SCU uses Excel spreadsheets containing Days to Serve charts to calculate an offender’s ART. These charts are located in the SC Manual folder on the S: Drive.

EARNED REDUCTION OF TERM (ERT)

Before July 1, 2005, all offenders were eligible to earn a reduction of time off their minimum and maximum release dates for every calendar month. This reduction is referred to as “earned

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reduction of term” (ERT). Any offense committed after July 1, 2005 is no longer eligible to receive ERT.

1. Offenders released to Conditional Reentry (2001 rules) became ineligible for ERT once released to community supervision.
2. An offender became eligible to earn ERT on the first day of his or her first full calendar month of incarceration. The first partial month of a sentence, offenders were not eligible for ERT.
3. ERT was deducted from offenders’ release dates as though it were time served.
4. ERT was posted when earned, unlike ART, which is computed at the initiation of the sentence.
5. Offenders serving less than thirty days could not earn ERT.
6. For multiple offenses, ERT was only counted once.
7. The maximum release date cannot be less than the minimum release date.
 - a. For 2000 and 2001 rules, if the minimum and maximum release dates are the same (as in a split sentence), no ERT shall be posted, because the maximum cannot be reduced below the minimum. Once the maximum and minimum became equal, even though an offender still earned ERT, it could not be posted. This applies to ERT only. Offenders serving at the work camp may still have CERT time applied to the sentence.
 - b. For Pre-94 and 1994 rules, offenders were able to earn ERT on the minimum and maximum, if the sentence is sixty days or greater. For Pre-94 and 1994 rules, ERT was posted, even if the minimum and maximum sentences are equal.
8. For each month before January 2004, there must be an earned reduction of term award sheet (often green in color) (see Sentence Computation Sample Form E), documenting the award of ERT, and specifying the number of days awarded. There should be a separate sheet for every month since the date incarceration began.
9. On January 1, 2004, an automatic database system was implemented, which awarded ERT based on a one-time data entry for a specified number of days. This entry told the database system to award the same number of days every month until changed. The only time a change could be made to the number of days awarded was when an earned reduction of term award sheet was completed and signed by the Corrections Services Specialist (CSS) and appointing authority.

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Pre-94 Rules: Offenders can earn a maximum of 5 days ERT per month off the minimum and maximum sentence. Before July 1, 2005, offenders on furlough continued to earn ERT.

1994 Rules: Offenders can earn a maximum of 10 days per month off the minimum and maximum sentence. Before July 1, 2005, offenders on furlough continued to earn ERT.

2000 Rules: Offenders can earn up to 10 days per month off the maximum sentence only. The minimum sentence does not change. Before July 1, 2005, offenders on furlough continued to earn ERT off the maximum only.

2001 Rules: Offenders can earn up to 10 days per month off the maximum, only while incarcerated or on pre-approved furlough. Once released to conditional reentry, offenders were no longer eligible to receive ERT.

2005 Rules: Offenders do not receive any reduction of term off their sentence. However, offenders serving time in work camps will continue to receive camp reduction of term off their sentence. (See CERT section below)

NOTE: For Pre-94 through 2001 rules, offenders placed on Parole status were no longer eligible to earn ERT.

ERT and Detention

After July 1, 2005, offenders who are sentenced earn the maximum ERT award allowed under the sentencing rules for any time they were detained. The only instance where ERT shall not be awarded during an offender's detention is when the mittimus specifically orders "NO credit" (see Sentence Computation Sample Mittimus P). After research, a determination shall be made as to whether the offender is entitled to ERT based on law.

NOTE: This is a change from our previous practice, due to the fact research is conducted for all credit. In the past, the only instance where ERT for detention time was awarded was when the court ordered credit for time served or for a specific time period (i.e. begin and end dates). If the court ordered credit specified in number of days, the DOC did not award ERT for detention time. Now, ERT will be awarded in all instances of detention except when the mittimus specifically states "NO credit."

1. Before July 1, 2005, if there are earned reduction of term award sheets (see Sentence Computation Sample Form E), the award is as indicated on the sheets.
2. Before July 1, 2005, if there was no earned reduction of term award sheet on file setting the pattern for ERT (as described below), then the ERT award was the maximum number of days that could be applied under the sentencing rules.

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3. After July 1, 2005, detentioners earn the maximum award allowed under the sentencing rules.
4. ERT is not pro-rated for detention time.

“Truing Up”

The awarding of [Retrospective](#) and [Prospective](#) ERT is referred to as “truing up” the sentence. Information regarding these types of awards and how to true up a sentence are below.

Retrospective ERT

Act No. 63 of 2005 states:

Each individual in the custody of the commissioner of corrections who is serving a term of incarceration on July 1, 2005 shall be awarded all reductions in the minimum and maximum terms to which that offender is entitled as of the end of the day on June 30, 2005, consistent with those provisions of [28 VSA, Section 811](#) that were in force when the offender’s crime was committed.

The Federal District Court ruled in 1998 that the DOC’s change in rules for awarding ERT to certain offenders, effective July 1, 1994, violated the Ex Post Facto Clause of the United States Constitution. Only offenders who were convicted for acts committed prior to July 1, 1994 were potentially affected by this decision. This ruling did not affect awards of ERT for offenders whose controlling sentence is based on acts occurring after June 30, 1994. All offenders received notice that they had to request a review of the ERT applied to their sentence by March 15, 2001. Failure to request a review constituted a waiver of all claims regarding ERT for the relevant period, from the date of sentencing to July 1, 1994.

Effective June 30, 2005, every offender’s sentence computation was reviewed for compliance with sentencing rules. Retrospective ERT covers the period July 1, 1994 through June 30, 2005.

1. Anything prior to June 30, 2005 should have an [ERT Review Sheet](#) (see Sentence Computation Sample Form F) completed.
 - a. The ERT Review Sheet is an Excel Spreadsheet which can be located in the SC Manual folder on the S: Drive.
 - b. In cases when a ERT Review Sheet has not been completed for the offender, the SCU shall create one.
2. All ERT/CERT the offender earned before June 30, 2005 is verified, and if not already posted, shall be added to the sentence computation. This is prepared in compliance with the rules in effect when the offender committed the crime.
3. In the instance where no earned reduction of term award sheet documentation exists (see Sentence Computation Sample Form E), the SCU shall use the previous month award. This is referred to as “following the pattern”. If there is no sheet on file setting the pattern for ERT, the award shall be the maximum number that can be applied under the sentencing rules.

INTERNAL DOCUMENT

Detention Time

1. For continuous detention time, the SCU shall calculate Retrospective ERT from the first full month through the month in which the sentence is imposed.

EXAMPLE

An offender admitted April 22, 2005 as detentioner and sentenced December 15, 2005 will receive Retrospective ERT award from May 1, 2005 to December 31, 2005.

2. If an offender is sentenced on the first of the month, the Retrospective ERT award shall go through to the end of that month.

EXAMPLE

An offender sentenced June 1, 2006 will receive Retrospective ERT award through June 30, 2006. The Prospective award would then begin on July 1, 2006.

3. For breaks in detention time, offenders may only receive ERT for a full month served. Detention time is NOT pro-rated.

EXAMPLE

An offender admitted April 22, 2005 and released on bail June 15, 2005 will only receive ERT for the month of May 2005, as it was a full month served.

Steps for Calculating Retrospective ERT

1. The SCU shall complete an ERT Review Sheet (see Sentence Computation Sample Form F) for offenders incarcerated before June 30, 2005. Once the ERT review is complete, any earned reduction of term award sheet (see Sentence Computation Sample Form E) shall be uploaded as an attachment into the offender's record in OMS.
 - a. Before July 1, 2005, if there was no earned reduction of term award sheet on file setting the pattern for ERT, then the award was the maximum number that could be applied under the sentencing rules.
 - b. Before July 1, 2005, if there are ERT award sheets on file, the award is as indicated on the sheet.

INTERNAL DOCUMENT

EXAMPLE

If there is an earned reduction of term award sheet for February for 7 days, and one for May for 10 days, the award will be 7 days for each month February through April, and then the award changes to 10 days per month from May forward, until another sheet changes the number on July 1, 2005. This is referred to as “following the pattern.”

- c. After July 1, 2005, detentioners shall earn the maximum award allowed under the sentencing rules.
2. The SCU shall follow these instructions for calculating Retrospective ERT for all cases, except Pre-94 or 1994 rules when the minimum has not been reached:
 - a. Open the Excel “Sentence Calculator” from the SC Manual folder on the S: Drive.
 - b. Enter the first day of the month following the date the offender was lodged as a detentioner into the “From” field in the “Days Between” section. If an offender is admitted on the first day of the month, the following month is still utilized.

NOTE: There is one instance where this method will not work, and that is when February 1 is the beginning date entered in the “From” field. This is due to the fact that it is a short month. February 1st can be used as the beginning date during leap years only (a year divisible by four). For all other years, the beginning date to use is January 31st.

EXAMPLE

For an offender admitted August 12, 2005, use September 1, 2005 as the beginning date.

EXAMPLE

For an offender admitted September 1, 2005, use October 1, 2005 as the beginning date.

- c. Enter the last day of the month preceding the date that the offender was released from detention in the “To” field. When an offender is held continuously until his or her sentencing, use the last day of the month in which the offender is sentenced.

EXAMPLE

For an offender released May 15, 2005, use April 30, 2005 as the “To” date.

INTERNAL DOCUMENT

EXAMPLE

For an offender sentenced January 15, 2006, use January 31, 2006 as the “To” date.

- d. Use the Excel Sentence Calculator to calculate the number of days, including the begin and end dates.

Days Between (Inclusive)					
From	9/1/2005	153 days (inclusive)			
To	1/31/2006				

- e. To determine the retrospective number of days, enter the result of the calculation in letter d. above into the “Day’s Served” field and hit return. Excel calculates two numbers plus a remainder.
- f. The result achieved in letter e. above provides the number that shall be deducted from the maximum [effective sentence](#) date in the Sentence View of the Arrest Charges tab in OMS for Retrospective ERT.
 - i. For 1994, 2000, or 2001 rules, the SCU shall use the number labeled “Old ART.”
 - ii. For Pre-94 rules, the SCU shall use the number labeled “new ART.”

ART for Days Served					
Days Served	153	Old ART	50		
		New ART	25		
		Remainer	3		

Prospective ERT Award

[Act No. 63 of 2005](#) states:

Notwithstanding any provision of law to the contrary, each individual in the custody of the commissioner of corrections who is serving a term of incarceration for a crime committed on or before June 30, 2005, shall, for purposes of calculating reductions in that inmate’s term of confinement subsequent to June 30, 2005, prospectively be awarded, in total, all reductions in the minimum and maximum terms of confinement to which that inmate would potentially be entitled in the future under the system that was in place at the time his or her crime was committed; provided that this subsection shall not apply to reductions pursuant to 28 VSA, Section 811(d) (work camps) as that subsection appears before July 1, 2005, which shall be awarded at the time the reductions are earned under the system that was in place at the time the crime was committed.

INTERNAL DOCUMENT

The 2005 law was established to eliminate the four previous rules. This puts all offenders in the same system. The Prospective ERT award gives an offender all reductions of ERT to which they would potentially be entitled, from the release date established after the Retrospective ERT was awarded to the end of the sentence.

1. The Prospective ERT award is applied to an offender’s maximum release date.
2. Only offenders sentenced under 1994 and Pre-94 rules who have not yet reached their minimum sentence are eligible to receive Prospective ERT award on their minimums.

Steps for Calculating Prospective ERT

To calculate the Prospective ERT, the SCU shall:

1. Open the Excel “Sentence Calculator” from the SC Manual folder on the S: Drive.
2. The Prospective ERT award begins on the first day of the month following the offender’s sentencing date. If an offender is sentenced on the first day of the month, the award still begins on the following month.

EXAMPLE

For an offender sentenced April 9, 2006, the prospective award calculation begins May 1, 2006.

EXAMPLE

For an offender sentenced May 1, 2006, the Prospective award calculation begins on June 1, 2006.

3. In the Excel Sentence Calculator, type the:
 - a. Date the Prospective ERT is to begin in the “From” field of the “Days Between” box; and
 - b. The maximum release date in the “To” field. The maximum date is obtained from the offender sentence information sheet.

Excel calculates the number of days between the two dates.

Days Between (Inclusive)		
From	5/1/2006	1074 days (inclusive)
To	4/8/2009	

4. Take the number of days between the two dates and divide:
 - a. By 4 for 1994, 2000 or 2001 rules; or
 - b. By 7 for Pre-94 rules.

The number equates to the amount that is to be awarded for Prospective ERT.

INTERNAL DOCUMENT

5. The result from paragraph 4. above is the number that shall be used in the [sentence computation](#) in OMS to reduce the release dates for the Prospective ERT Award by making an adjustment entry to the Sentence Information Sheet. There may be times when the entire Prospective ERT award cannot be applied to the sentence, as the maximum cannot be reduced below the minimum. In this situation, enter the number of days that will result in the maximum and minimum being the same date.
6. For Pre-94 or 1994 rules, if the minimum has not been reached, follow the above steps, except use the minimum release date instead of the maximum release date. The number obtained shall be deducted from the minimum release date.

Specialized Cases

Pre-94 or 1994 Rules

For Pre-94 or 1994 rules, the SCU shall calculate Prospective ERT as described above. If the minimum has not been reached, the SCU shall repeat the steps above, using the minimum release date. The number obtained shall be deducted from the minimum release date only.

Parole Release Prior to July 1, 2005

For cases released on parole before July 1, 2005, once parole is revoked, the case will need to be rebuilt, and have an ERT review completed and the sentence recalculated. The Prospective is then calculated from the first full month following date of arrest on parole, through to the maximum release date.

EXAMPLE

If a parolee is arrested February 15, 2006, and then revoked March 3, 2006, the case will be rebuilt, and Prospective begins from March 1, 2006.

EXAMPLE

If a parolee is arrested February 15, 2006 and revoked on February 20, 2006, the case will be trued up and Prospective begins from March 1, 2006.

Second Effective Sentence Under Pre-2005 Rules

To calculate the Prospective ERT on a second [effective sentence](#) when the rules are pre-2005, the first Prospective ERT will need to be removed. The SCU shall determine what the second effective sentence is, then calculate a new Prospective ERT and apply it to the second effective sentence.

INTERNAL DOCUMENT

2005 Cases

For 2005 cases (offense occurs after July 1, 2005), there is no Prospective ERT Award.

Combination of 2005 Rules and Prior Rules

For combination of 2005 rules and prior rules that are sentenced consecutively, the SCU shall calculate the Prospective ERT separately by following these steps:

1. Aggregate all the 2001 (or before) rules and credit to arrive at the sentence to which ART/ERT will be applied.
2. Compute the Prospective ERT Award for the sentence, as instructed above, using the Excel Sentence Calculator.
3. Aggregate the 2005 sentence(s) with the 2001 (or before) sentence(s).

LOSS OF REDUCTION OF TERM (LRT)

[28 V.S.A. § 812](#) (Denial of good time credit) states:

If during the term of confinement an inmate commits any offense or violates any rule or regulation of the facility wherein he is confined, all or a portion of his good behavior reductions for the month of the offense or violation may be denied. Denial or forfeiture of good behavior reductions shall be in accordance with the rules and regulations established by the commissioner, and in accordance with the procedure established in section 852 of this title. In addition, a maximum of ten days of any previously earned reductions may be forfeited for each subsequent offense or violation of any rule or regulation that occurs in the same month.

Prior to July 1, 2005, a sentenced offender could forfeit up to ten days of automatic reduction of term for the month.

1. If an offender committed more than one disciplinary violation in the same month, they could lose up to ten days of the ART previously awarded.
2. LRT was simply added back into the current release dates.
3. In order to apply LRT, there must be documentation on file, in the form of a loss of good time sheet (often yellow in color) (see Sentence Computation Sample Form G).

INTERNAL DOCUMENT

Pre-94 and 1994 rules: LRT was posted to both the minimum and maximum, unless the minimum was reached or had been satisfied by credit.

2000 and 2001 rules: LRT was posted to the maximum only.

2005 rules: No LRT for 2005 rules.

CAMP LRT: Minor DRs cannot result in a loss of CERT; camp time can only be taken away for Major DRs (according to [administrative directive on responding to offender non-compliant behavior](#))

4. If the minimum and maximum were the same (as in a split sentence), LRT could not be posted for 2000 or 2001 rules, however it could be posted for Pre-94 and 1994 rules.
5. Once a case sentenced before July 1, 2005 has been tried up, only Camp LRT may be applied. Other forms of LRT may no longer be applied to the sentence.

Restoration of Reductions

[28 V.S.A. § 813](#) states:

The supervising officer of any facility wherein an inmate is confined may restore, following the established procedures within the facility, any denied or forfeited good behavior reductions or such portions thereof as he deems proper upon approval of the commissioner.

If LRT was restored, the time was simply subtracted from the release date(s).

WORK CAMP EARNED REDUCTION OF TERM (CERT)

Offenders eligible to serve time in a work camp may earn additional time (in addition to ERT) off their sentences. This Camp Earned Reduction of Term (CERT) time supplements the ERT mentioned in the [Earned Reduction of Term \(ERT\) section of this document](#).

1. CERT may be earned at any facility.
2. CERT shall be deducted from both the minimum and maximum sentences.
3. CERT shall be prorated for the first and last months at the camp.

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Pre-94, 1994, 2000 & 2001 rules: Up to 15 days can be earned for each calendar month of satisfactory participation in the Work Camp Program.

2000 & 2001 rules: Up to 15 days can be deducted from the maximum sentence. Up to 30 days can be deducted from the minimum, as ERT/ART is not deducted from minimum sentence.

2005 rules: Up to 30 days may be earned for each calendar month of satisfactory participation in the Work Camp Program.

4. Work Camp CERT shall be documented each month. A separate Work Camp Good Time Notice of Award (see Sentence Computation Sample Form H) is required for each month for time spent in the work camp.
5. The 2005 law changed, in that offenders in work camp programs may earn up to thirty days per month off their minimum and maximum, regardless of which rules govern the [effective sentence](#). However, no one can earn more than thirty days per month once the Prospective ERT has been completed, including ART and ERT.
 - a. Once the Prospective ERT has been awarded, the maximum release date for CERT time shall not be reduced by more than fifteen days per month for Pre-94, 1994, 2000 & 2001 rules.
 - b. Once the Prospective ERT has been awarded on the minimum release date, CERT time shall not be reduced by more than 15 days per month for Pre-94 and 1994 rules.
6. The chart below indicates the maximum Work Camp time that an offender may earn per month, based on the sentencing rules:

Rules	Minimum	Maximum	Split Sentence Minimum (asb)	Split Sentence Maximum (asb)
Pre-94	15 days	15 days	15 days	15 days
1994	15 days	15 days	15 days	15 days
2000	30 days	15 days	30 days	30 days
2001	30 days	15 days	30 days	30 days
2005	30 days	30 days	30 days	30 days

7. An offender may grieve any award, non-award, or loss of ERT within thirty days of the award, non-award, or loss, in accordance with the [administrative directive on the offender grievance system](#). Failure to grieve within the specified time period shall constitute a waiver of any complaint regarding the award.

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Process for applying Application of CERT

CERT shall be applied to offenders as follows:

1. Each month, all offenders on work camp status shall have a Work Camp Good Time Notice of Award (see Sentence Computation Sample Form H) completed by the Facility CSS, which indicates the number of days Good Time to award. These forms are then scanned to the SCU for data entry.
2. The SCU shall post the time awarded to each offender's release dates. When posting this information, it is extremely important to review release dates before and after the posting to ensure the appropriate amount of time was deducted from the sentence.
3. The SCU shall indicate the newly adjusted release dates on the Work Camp Good Time Notice of Award and return it to the facility.
4. The facility SLA shall provide a copy of the form to the offender and upload it as an attachment to the attachments section of offender's record in OMS.

Application of CERT when Additional Effective Sentence Is Imposed

If a case has been tried up and the offender receives a **consecutive 2005 case**, work camp time (CERT) shall continue to be applied as in the past, until the release date has been reached on the prior effective sentence.

EXAMPLE

An offender is serving 4 to 14 year 1994 rules sentence. The case has been tried up, and therefore the offender receives a maximum of 15 days per month off both the minimum and maximum. The offender's release dates are November 8, 2008 minimum and April 18, 2015 maximum. On November 2, 2008, the offender received a 1 to 2 year consecutive 2005 rules sentence. The offender will continue to receive 15 days per month until such time as the release date from the old sentence is achieved – in this case the minimum can begin receiving 30 days per month, effective December 1, 2008. The maximum can begin receiving 30 days per month, effective May 1, 2015.

EXAMPLE

An offender is serving 3 to 5 year 2001 rules sentence. The case is tried up, and offender receives 30 days per month on his or her minimum and 15 days per month on his or her maximum. The maximum release date is December 10, 2008. The offender receives a consecutive 2005 sentence of 2-5 years. The maximum sentence cannot begin receiving 30 days per month until January, 1, 2009. The minimum will continue to earn 30 days per month.

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If offender receives a **concurrent sentence**, the CERT time award may change, depending on which sentence becomes controlling.

EXAMPLE

An offender is serving 2 to 5 year 2005 rules sentence – application of CERT is 30 days per month on both the minimum and the maximum. He or she had a 2001 probation case of 5 to 8 years that gets revoked and is concurrent, but becomes the controlling sentence. The case would be trued up, prospective awarded, and the maximum amount of CERT time that can be applied to the maximum changes to 15 days.

EXAMPLE

An offender is serving 2001 rules (or before) sentence and is receiving CERT time. He or she receives a concurrent 2005 rules sentence. Once a determination is made as to the controlling sentence, the CERT award on the maximum may need to be adjusted according to which rules control the sentence.

SPECIALIZED CASES

Supervised Community Sentence (SCS)

Supervised Community Sentence (SCS) cases do not earn ERT or ART prior to July 1, 2005, provided the SCS is not revoked. In cases when the SCS was revoked, calculations were made to determine the amount of ART from the date revoked to the end of the sentence. The offender would also become eligible to earn ERT.

1. As of July 1, 2005, Prospective ERT was calculated and awarded to all SCS cases sentenced before July 1, 2005.
2. All new SCS cases for which the offense was committed after July 1, 2005 are treated as a 2005 rule case.

Pre-Approved Furlough (PAF)

Pre-Approved Furlough (PAF) cases DO earn ERT and ART prior to July 1, 2005, and are eligible for the Prospective ERT Award from July 1, 2005 to the maximum release date.

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Conditional Re-Entry (CR)

Prior to July 1, 2005, Conditional Re-Entry (CR) cases earned ERT and ART while incarcerated. Once released to community supervision, ART was removed from the sentence and ERT was stopped.

Effective July 1, 2005, Prospective ERT applied to all CR cases.

Split Sentences

A [split sentence](#) is structured as being “all suspended but” (asb) for a specified portion (e.g., 3 to 5 years asb 2 years). The minimum and maximum release dates are equal for split sentences.

1. Pre-94 and 1994 rules, split sentences earn ERT off minimum and maximum.
2. 2000 and 2001 rules, split sentences shall have no ERT applied, as the maximum cannot be reduced below the minimum.
3. Violation of Probation – When the original probation from a split sentence is later revoked, the offender shall be entitled to ERT from the original time served.

EXAMPLE

The offender’s original sentence is 3 to 5 years all suspended but 18 months. No ERT is awarded on the 18 months served. Later, this sentence is violated and the offender is ordered to serve the original prison term of 3 to 5 years. The offender will receive credit for the 18 months served plus ERT.

- a. Offenders under Pre-94 or 94 rules shall receive ERT as it would have been applied originally.
- b. Offenders under 2000 or 2001 rules shall receive any ERT that would have been earned while the offender was serving the split, once the probation case is fully revoked. The ERT shall only be applied for full months served.
 - i. 28 V.S.A. 811 (h) (2004) specifically stated, “Where the sentence is the unsuspended portion of a sentence imposed under subsection 205(a) of this title, it shall be treated as the minimum term of the entire sentence for purposes of this section.”
 - ii. For cases before July 2005 the SCU shall:
 - a) Use time actually earned, following the pattern if no earned reduction of term award sheet (see Sentence Computation Sample Form E) exists.
 - b) Complete an ERT Review Sheet (see Sentence Computation Sample Form F) to document the ERT awarded. The ERT Review Sheet is an Excel Spreadsheet which can be located in the SC Manual folder on the S: Drive.
 - c) Check the file for earned reduction of term award sheets and enter on the ERT Review Sheet. If there are missing earned reduction of term award sheets, the SCU shall follow the pattern through June 2005.
 - iii. If the sentence is served before July 2005 AND after July 2005, the SCU shall:

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- a) Find the actual ERT earned before July 2005;
- b) Subtract that amount from the maximum release date; and then
- c) Use the result to [calculate the Prospective ERT](#).
- iv. If the incarcerative time was served after 2005, there will be no earned reduction of term award sheets. Refer to the original sentence comp that was completed for the split. Use the max date from that comp to calculate the Prospective ERT that would have been earned.

EXAMPLE

The offender sentenced on April 15, 2008 to 3 to 5 years all suspended but (asb) 2 years – 2001 rules. This gives a maximum release date of April 14, 2010. To determine the ERT that would have been earned on the two years, the Sentence Computation Unit uses the Excel Sentence Calculator as instructed in the manual under the [Prospective award](#).

Sentence Min/Max computation				Reduced for ART		Intermediary Calculations	
Min	Effective Date	1/1/2011		MIN LEN	MIN REL	ART segments	Remain
	Years	15	Pre-94 ART	4110	4/2/2022	4080	35
	Months	0	1994 ART	4695	11/8/2023	4680	15
	Days	0	2000 ART	5475	12/27/2025	---	---
	Credit	0	Straight-No ART	5475	12/27/2025	---	---
Max	Effective Date	4/15/2008		MAX LEN	MAX REL		
	Years	2	Pre-94 ART	550	10/16/2009	540	10
	Months	0	1994 ART	630	1/4/2010		Calculated maximum release date
	Days	0	2000 ART	630	1/4/2010		
	Credit	0	Straight-No ART	730	4/14/2010	---	---
Days Between (Inclusive)							
From	5/1/2008			714 days (inclusive)			
To	4/14/2010						

- 4. For offenders who served the original time on their split at a work camp and later violated their probation, the CERT time is applied to the new sentence.

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EXAMPLE

The offender's original sentence is 3 to 5 years, all suspended but 6 months. The 6 months is served at the work camp. Later, this offender is violated on this same sentence and receives a split, or the entire sentence to serve. Once calculated, the CERT time earned on the original split sentence will be applied to the new VOP sentence, as well as any credit earned.

5. Work Camp – for split sentences being served at the work camp, CERT shall be applied as follows:
 - a. For Pre-94 and 1994 rules – fifteen days to the minimum and maximum.
 - b. For 2000, 2001, and 2005 rules – thirty days to both the minimum and maximum.

Interrupted Sentences

No ART or ERT shall be applied for interrupted sentences.

Work Crew (Community Restitution Sentence)

[Work crew](#), also referred to as Community Restitution Sentence, shall not have ERT applied, as the sentence is served on an interrupted basis, and not continuously.

Out-of-State

Offenders serving a Vermont sentence in another jurisdiction are under the same sentencing rules as if they were serving the sentence in Vermont.

Escape

No ERT shall be awarded for time on escape.

Parole

After July 1, 2005, offenders currently serving a parole sentence SHALL NOT have ART or ERT applied unless their parole is revoked. If their parole is revoked, they become eligible for ART and ERT from the first full month following date of incarceration through the end of their sentence. (Retrospective ERT award for detainee time and Prospective ERT shall be awarded to the maximum release date).

Civil Contempt

Civil Contempt cases shall not earn ART or ERT, because they are not considered criminal cases. These cases are civil cases.

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Reintegration Furlough (RF)

Offenders who meet the criteria established by the [administrative directive on reintegration furlough](#) shall be reviewed by their assigned CSS every six months for eligibility to earn additional awards expanding the [180-day RF window](#).

1. The award must be earned and is not automatic.
2. The award is not prorated.
3. The award shall either be 0 days or 30 days for the six month period, based on the results of the [Reintegration Furlough Eligibility Review for Additional 5 Days Award Form \(RF-ER\)](#).
4. Offenders must meet all established conditions to be eligible for consideration for the additional five days per month award toward RF.
5. **This award is NOT posted on the offender sentence computation.** This is monitored by the assigned CSS. The minimum and maximum release dates do not change for reintegration furlough awards. The award only affects release eligibility.

Home Confinement

Home confinement cases:

1. DO earn ERT and ART, if the offense date is prior to July 1, 2005; and
2. Are eligible for Prospective ERT award, for the time period from the first of the month following the date of sentencing through the calculated maximum release date.

COMMUNITY RESTITUTION PROGRAM (CRP)/WORK CREW

The Community Restitution Program (CRP), or [work crew](#), is an intermediate sanctions program offered under PAF. It is an alternative to a short period of incarceration (up to sixty days).

Work crew sentences are usually served on an interrupted basis.

1. The field office shall record the days served in OMS.
2. When sentencing an offender to work crew, the court specifies the number of community service work days.
3. Offenders assigned to work crew have a legal status of "Sentenced," with the legal status type listed as "Work Crew."
4. All offenders on PAF, including those serving work crew sentences, are subject to the DOC's furlough policies. Since work crew days are served on a non-consecutive, interrupted basis, these offenders' custody status with the DOC is limited to the specific times when they are serving their sentence.

WORK CREW SENTENCE COMPUTATION CALCULATION

Work crew sentences are considered incarcerative sentences, and therefore must be calculated the same as any other time to serve sentence. A mittimus must be received from the court ordering work crew time. (See Sentence Computation Sample Mittimus I.)

1. The first step in calculating a work crew sentence is to [research credit](#). Remember, for work crew and other interrupted sentences, the day of sentencing counts as a day of credit (if the

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offender was in jail on the date sentenced). This is because offenders do not start serving the sentence immediately, as work crew sentences are served on an interrupted, non-continual basis.

2. If there is credit to apply to the sentence, the number of days to serve on work crew is reduced. Once credit has been determined, the sentence can be entered into OMS, as described in the [Steps for Calculating a Sentence section of this document](#). OMS will automatically generate the offender’s release dates. Even though minimum and maximum release dates are generated, they will not be utilized to indicate the end date for work crew.

NOTE: The offender will be required to complete the number of work crew days as ordered by the court regardless of the release dates indicated in OMS.

3. The SCU shall complete a Sentence Calculation Notification Form (SNF) (see Sentence Computation Sample Form C), as described in the [Steps for Completing Sentence Calculation Notification Form \(SNF\) section of this document](#).

NOTE: The “Save to Scheduled Release” Tab is not utilized on work crew sentences, so there will be no release dates indicated on the sentence computation.

For work crew cases, the notification form:

- a. Shall not indicate the release dates; but
- b. Shall include the number of days the offender is to serve on work crew.

EXAMPLE

<u>New effective sentence information</u>	
Minimum Sentence: 4 days	Credit applied to minimum: 0 days
Maximum Sentence: 5 days	Credit applied to maximum: 0 days
Minimum release date: <input type="text"/>	Maximum release date: <input type="text"/>
	Current balance of Work Crew Days: <input type="text"/>
	Owed as of today: 5 days

4. Occasionally the court will lodge an offender after they have been sentenced to work crew, for non-payment of a fine imposed for the charge. If this occurs, the time spent incarcerated on the arrest warrant will reduce the number of work crew days to serve. This is not considered credit because it occurs after the date of sentencing, but it can count as time served toward the work crew sentence.

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There are times when an offender serving a work crew sentence may be lodged as a detentioner at a correctional facility on a separate offense, and it is determined after the offender's arraignment that the offender will not promptly meet bail. In such cases:

1. The Facility SLA shall inform the Field SLA that the offender is under custody in a correctional facility.
2. The Field SLA shall inform the appropriate Field CSS or work crew staff member of the offender's lodging.
3. The Field CSS or work crew staff member shall determine if the work crew time will be served simultaneously with the detention time. In cases when it is determined that the offender is to serve the remaining work crew time in a correctional facility:
 - a. The Field SLA shall forward the work crew sentencing mittimus to the facility.
 - b. A Return on Mittimus is not necessary in such cases.
 - c. A Notice of Suspension hearing shall be held.
 - d. The Field SLA shall research the number of remaining days to serve, and shall make an entry in the Arrest Charge comments in the offender's record in OMS. The entry by the Field SLA shall indicate that the number has been researched and verified as accurate.
 - e. The Facility SLA shall change the offender's legal status in OMS from "Detained" to "Sentenced/Detained."
 - f. The SLA shall notify the SCU, which shall calculate the offender's minimum and maximum release dates. This shall be done by adding the remaining number of days to serve to the date the facility is notified to have the work crew served while detained.
 - g. Upon completion of the work crew sentence, the Facility SLA shall change the offender's legal status from "Sentenced/Detained" to "Detained." The Field SLA shall close out the offender's sentenced work crew legal status once the sentence has been served. If the field has no other interest in the offender, the Field SLA shall also close the assigned agency.

Work Crew Failure

Offenders who do not abide by the requirements of work crew may be lodged on their sentencing mittimuses. In such cases:

1. The Field SLA shall:
 - a. Notify the Facility SLA and the SCU that the offender will be serving his or her work crew while incarcerated; and
 - b. Make the note of work crew failure in the "Comments" field of the "Criminal Charges" pop-up box for the specific charge, on the Arrest Charges tab in OMS; and
2. The SCU shall adjust the release dates to reflect the remaining work crew days.

RETURN ON MITTIMUS (ROM)

A Return to Custody on Mittimus Request, more commonly called a "Return on Mittimus" (ROM), serves as a warrant for the immediate arrest of an offender (see Sentence Computation Sample Form I). A ROM is issued when the offender cannot be located. If the offender's

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whereabouts are known, he or she can be lodged on the sentencing mittimus, and a ROM is not necessary.

Issuance of a Return on Mittimus

When a ROM is issued:

1. The Field SLA shall verify the number of days the offender has left to serve, and make an entry into the “Comments” field of the “Criminal Charges” pop-up box for the specific charge, on the Arrest Charges tab in OMS, indicating:
 - a. That the ROM was issued;
 - b. The date the ROM was issued; and
 - c. The number of days the offender has left to serve.
2. The Field SLA shall notify the SCU that a ROM was issued.
3. The Field SLA shall book the offender to TEMP released status on the field headcount.

Lodging of an Offender on a Return on Mittimus

When an offender for whom a ROM was issued is lodged:

1. The Facility SLA shall notify the Field SLA and the SCU that the offender has been lodged on the ROM.
2. The offender shall be rebooked onto the field headcount, and then transferred to the facility headcount.
3. The SCU shall use the Excel “Sentence Calculator” in the SC Manual folder on the S: Drive to determine the offender’s new maximum release date. This is done by entering the:
 - a. Date lodged into the “Effective Sentence Date” field; and
 - b. Number of remaining work crew days owed into the “Days” field.
4. The SCU shall use the Sentence Calculator to determine the number of days to add to the offender’s maximum release date. This is done by:
 - a. Entering the current maximum release date from OMS in the “From” field;
 - b. Entering the new maximum release date calculated in step 3. above in the “To” field; and
 - c. Subtracting one from the result obtained from the Sentence Calculator.
5. The SCU shall make the change to the offender’s maximum release date through a manual adjustment in OMS, by entering the number of days calculated in step 4. above as a negative number for the relevant charge.

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EXAMPLE

The offender was lodged on 7/21/2017 on a ROM, and owes 60 days of work crew. To determine what the release date should be, enter the date lodged and the number of remaining work crew days owed into the Sentence Calculator. The result indicates that his or her release date should be 09/18/17.

To determine the number of days to add to the sentence, enter the offender’s current maximum release date from OMS in the “From” field of the Sentence Calculator. The current release date in OMS is 05/25/17. Then enter the calculated release date of 09/18/17 in the “To” field. The result is 117 days. Subtract one from that number, to get 116 days.

To adjust the sentence, enter a manual adjustment of “-116” days into OMS under the appropriate charge in sentence view. Then click the “Save to Scheduled Release” tab to update the release dates.

Max	Effective Date	7/21/2017		MAX LEN	MAX REL		
	Years	0	Pre-94 ART	50	9/8/2017	30	20
	Months	0	1994 ART	55	9/13/2017	30	25
	Days	60	2000 ART	55	9/13/2017	30	25
	Credit	0	Straight-No ART	60	9/18/2017	---	---

Days Between (Inclusive)		
From	5/25/2017	117 days (inclusive)
To	9/18/2017	

6. **In cases when a ROM was issued and filed with the police department, it is the responsibility of the field staff to cancel the ROM after the offender is lodged.** If the ROM is not cancelled (see Sentence Computation Sample Form J), it will remain active, and the offender could be arrested on it. This may be necessary in cases when:
 - a. The work crew is part of a probation case, and the probation is revoked to serve the sentence; or
 - b. The offender is lodged by field staff instead of arrested by a law enforcement authority.
7. In cases when the DOC determines that the offender shall be released from custody before the completion of his or her sentence, the Facility SLA shall:
 - a. Double click on the appropriate charge on the Arrest Charges tab in the offender’s file in OMS; and
 - b. Make an entry in the “Comments” field of the “Criminal Charges” box, indicating that the offender will be continued on work crew, and the number of days the offender has remaining to serve.

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TIME TO SERVE BEFORE RELEASE TO WORK CREW

An offender may be sentenced to serve time in a correctional facility before being released to serve the remainder of his or her sentence on work crew.

EXAMPLE

0000-00-00 Cacr. Ct. 1: Title 23 VSA 1128 (a)
 LEAVING SCENE OF CRASH-PROPERTY DAMAGE
 Minimum: 60 Day(s) Maximum: 90 Day(s) asb 60d
 Sentence to Commence: 02/06/06
 Recommendations: PAF work crew

Order(s): Defendant to serve 30 days in jail with the remainder on PAF. In the event that PAF is revoked by the Department of Corrections the underlying sentence will be imposed.

The offender received the above mittimus from the court, ordering work crew with time to serve in jail. The sentence computation will be computed for the full 60 days to serve. A manual adjustment will be made to the release date subtracting the 30 days to be served on work crew.

A sentencing notification will be completed, which indicates release dates from the incarcerative sentence, as well as the number of days to serve on work crew. The comments section will indicate that the release dates are for the 30-day incarcerative sentence only, and do not reflect a completion date for the work crew days.

New effective sentence information

Minimum Sentence: 60d	Credit applied to minimum: 0
Maximum Sentence: 60d	Credit applied to maximum: 0
Minimum release date: March 7, 2006	Maximum release date: March 7, 2006
	Number of Work Crew Days to Serve 30d

A second Sentence Calculation Notification Form is not needed once released to the field for work crew.

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WORK CREW WHILE SERVING FURLOUGH

In cases when an offender receives a work crew sentence, and he or she is already serving a furlough sentence, the offender may not have to serve any time on work crew, depending on how much credit is applied to the sentence.

1. If the sentence is imposed consecutive to the furlough sentence:
 - a. The furlough release dates will increase by the number of work crew days ordered; and
 - b. The work crew must be completed prior to the expiration of the furlough sentence.
2. If the work crew sentence is concurrent, it will be absorbed into the furlough sentence.

The SCU shall complete a Sentence Calculation Notification Form (SNF) (see Sentence Computation Sample Form C), as described in the [Steps for Completing Sentence Calculation Notification Form \(SNF\) section of this document](#), and shall indicate the type of sentence ordered by the court in the comments section.

EXAMPLE

NOTIFICATION TYPE: New Mittimus Amended Mittimus Corrected Notification

<u>Prior effective sentence information:</u>	
Minimum Sentence: 4 years	Credit applied to minimum: 25 days
Maximum Sentence: 10 years	Credit applied to maximum: 25 days
Minimum release date: April 10, 2016	Maximum release date: April 10, 2022
	Work Crew Days to Serve 0 days
<u>New effective sentence information</u>	
Minimum Sentence: 30 days	Credit applied to minimum: 15 days
Maximum Sentence: 10 years, 30 days	Credit applied to maximum: 25 days
Minimum release date: []	Maximum release date: April 10, 2022
	Current balance of Work Crew Days
	Owed as of today 30 days

CONVERSION OF FINES TO WORK CREW TIME

Fines may be converted to work crew time. Sentences imposed from an original fine are always considered consecutive when calculating the time to serve. [13 V.S.A. § 7033](#) states:

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When a person is convicted before the same court of different offenses, upon all of which he is lawfully sentenced to imprisonment, he may be committed for all of such offenses upon one mittimus, and the mittimus shall recite the sentence in each case, and contain an order that unless all fines are paid before the expiration of the term or terms of imprisonment, such person shall be imprisoned as provided when a fine only is imposed. **Such a term of imprisonment for nonpayment of a fine shall be served consecutive to the previous term or terms to which the respondent is sentenced** [emphasis added].

Courts are not specifying on the mittimus that the time is converted from a fine. They also may not indicate on the sentencing mittimus that the sentence is consecutive. The SCU typically discovers the fine conversion through review of the DDR and previous sentencing mittimus when [researching credit](#).

EXAMPLES OF WORK CREW SENTENCES

Whenever an offender receives multiple sentences and one of the sentences orders time to be served in a correctional facility, the incarcerative portion of the sentence will always be served. Time to serve in a correctional facility takes priority over all other court orders. The SCU shall follow the court's order regarding mixed sentences (e.g., time served in a correctional facility with work crew, work crew with PAF, PAF with time served in a correctional facility and work crew time ordered).

EXAMPLE

The offender is serving a 25 to 30 days work crew sentence and later receives 20 days, consecutive, to serve in a correctional facility. The 20 days in a correctional facility will be served as ordered by the court, in the middle of the work crew sentence. The number of work crew days is not reduced.

If the 20 days were ordered concurrent, the days spent in a correctional facility would count towards the work crew time, and reduce the number of days remaining on work crew.

Adjustments will need to be made to the sentence computation in order for accurate release dates to show while incarcerated in a facility.

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EXAMPLE

The offender was sentenced on 09/17/15 to 44 to 45 days work crew. On this same date, he or she also receives a sentence of 14 days to 1 year, concurrent, but the date the incarcerative sentence began was 10/05/15. The offender went to the correctional facility on 10/05/15. The combination of these sentences became 44 days to 1 year. After 14 days, this offender was eligible to be released to CR, at which time he or she had 30 days remaining on the minimum sentence to complete on work crew.

EXAMPLE

The offender is serving a 25 to 30 day work crew sentence, and receives a concurrent sentence of 40 days to serve in a correctional facility. The work crew melds into the 40-day sentence, the work crew time stops, and the offender serves time in a facility.

If credit research results in the 40-day incarcerative sentence being reduced by more than the number of days remaining to serve on work crew, the work crew sentence continues, and the incarcerative time melds into the work crew sentence. However, the offender will still serve the ordered 40-days of incarcerated time, minus any credit, in a correctional facility before being released to complete any remaining days on work crew.

EXAMPLE

The offender was sentenced to 40 days and has 30 days credit, so he or she owes 10 days. The work crew has a balance remaining of 15 days. The offender will serve the 10 days in jail, and upon release will only owe 5 days of work crew.

EXAMPLE

The offender received four concurrent 10-day work crew sentences. The offender will only serve 10 days on work crew because the sentences are concurrent.

If the four 10-day sentences were ordered consecutive, the offender would serve 40 days on work crew.

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EXAMPLE

The offender is sentenced to serve 20 days work crew on one docket, and 3 months later, receives another 5-day concurrent work crew sentence on another docket. If no time had been served on the 20-day sentence when the 5-day sentence was received, the 20-day sentence would remain controlling. The offender would not have to complete an additional 5 days of work crew, because the sentences were concurrent, and the balance of time to serve on the 20-day sentence is greater than the 5 day sentence imposed.

EXAMPLE

The offender received a sentence of 1 to 2 years, all suspended but 30 days work crew, on 10/07/08. On 10/12/08, the offender received a consecutive 16 day to 2 year incarcerative sentence. The sentence becomes 46 days to 2 years, 30 days.

If the offender had not served any work crew time between the two sentencing dates, the sentence computation would have to be adjusted for the number of days between those two dates. This is because the “sentence to commence date” is always the oldest date for consecutive sentences. In this example, the release dates would be adjusted by 5 additional days. (10/07/08 to 10/12/08 = 5 days)

If the offender had served 2 days of work crew prior to the start of the incarcerative sentence, the sentence computation would only be adjusted by three days. In this example, the offender could be released to CR after serving 16 days in jail.

SENTENCE CALCULATION

RESEARCH NECESSARY TO PERFORM A SENTENCE CALCULATION

Upon receipt of a sentencing mittimus, the SCU shall perform the following steps to thoroughly research and prepare the necessary information:

1. Review the sentencing mittimus(es) received from the SLA.
2. Log into VCAS, and:
 - a. Look up the docket number(s) and read through the DDR to:
 - i. Find the offense date and arraignment date; and



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- ii. Ensure that the DDR and mittimus reflect the same information. If any information on the mitt is incorrect or missing, email and ask the SLA that sent the mitt to contact the court for a correction or clarification.
 - b. Review recent DDRs for other dockets. This will help identify any missing mittimuses that the site did not receive or neglected to send.
3. Look the offender up in OMS. To ensure the offender is only in the database under one jacket number and that the correct booking episode is used:
 - a. Click on “Advanced Search;”
 - b. Search by the offender’s name, as follows:
 - i. Enter partial name for both the offender’s first and last name;
 - ii. Select “All Agencies;” and
 - iii. Select “(Select All)” under “Incarceration Status;” and
 - c. Open the active record, which is the record with no release date.
4. Research credit for the charge, as described in the [Researching Credit section](#) of this document.
5. Open the SC Manual folder on the S: Drive.
 - a. If the offender does not already have a subfolder in the SC Manual, create using the following naming convention (with no punctuation): the offender’s LAST NAME; first name; date of birth; and jacket number (e.g., DOE John 121066 123456789). If the offender already has a subfolder in the SC Manual, do not create a new folder.
 - b. Enter information into Credit Verification Worksheet (see Sentence Computation Sample Form A) and, if the offender is serving more than one sentence, the Sentence Comp Tally Sheet (see Sentence Computation Sample Form B).
 - i. In cases when the offender is already serving a sentence when he or she is sentenced for the new offense, open the existing Credit Verification Worksheet and Sentence Comp Tally Sheet and save them as new versions (numbered sequentially). Then add all new information to it.
 - a. When using an existing spreadsheet, be sure to update the top of the spreadsheet.
 - b. In cases when the existing spreadsheet are not in the offender’s subfolder in the SC Manual, check to see if the information has been uploaded to the offender’s record in OMS or contact the office with the offender’s historic core file and have the information scanned and e-mailed.
 - ii. If the offender was not already serving a sentence, create a new Credit Verification Worksheet and Sentence Comp Tally Sheet.

STEPS FOR CALCULATING A SENTENCE

After researching and preparing the necessary information, the SCU shall complete sentence computations in OMS, as follows:

1. On the Arrest Charges tab in OMS, change the filter to “No Status” (it will display “{Filter Status},” and check the “Not Equal To” box. This allows a view of all charges in an offender record.
2. Determine if the charge from the sentencing mittimus is in the system.
 - a. If the charge is not in OMS, enter it.
 - b. If the charge is already in OMS, update the charge status accordingly, if necessary.



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3. Double click on the charge to open it. Enter the following information into the “Charge Details” tab of the “Criminal Charges” box:
 - a. Status/Disposition;
 - b. Status Date – enter the date of sentencing;
 - c. Offense Date;
 - d. Court Name;
 - e. Charge; and
 - i. The “Arrest Code” and “Statute” fields will auto-populate once the charge is selected.
 - ii. In cases when the arrest charge code is unknown:
 - a) Click on the “Search” button in the “Criminal Charges” box. This will open a “Charge Search” pop-up box;
 - b) Click the “Clear” button to remove any information listed;
 - c) Type a portion of the name of the charge into the “Charge Description” field;
 - d) Click the “Search” button or hit enter. This will generate a list of offenses containing the word(s) entered in in the “Charge Description” field;
 - e) Select the correct charge from the list; and
 - f) Click “OK” (or double click on the selected charge).
 - iii. In cases when the charge is not listed in OMS, submit a LANDesk ticket to have the charge added to the system and attach a copy of the court document.
 - f. Comments;
 - i. Use standard [SCU phraseology](#).
 - ii. **Do not** delete any comment already in the comments field. Any existing information shall remain, and new information shall be entered on the top line above it.
4. If there is any bond information listed in the “Criminal Charges” box, use the drop down to select N/A and zero out any bond amount.
5. Click “Save.”
6. Click “Cancel” to close the “Criminal Charges” box.
7. While still in the Arrest Charges tab, select Sentence View.
8. In cases when the offender is already serving a sentence when he or she is sentenced for the new offense, check to see if the minimum and maximum release dates at the bottom of the screen match the dates under the offender’s picture. If the dates do not match, rebuild the sentence computation from past information before entering or saving the newest sentence information.
9. Enter the following fields with the sentence information for the appropriate docket(s):
 - a. Official Sent Dt. – enter the date the court orders the sentence to commence;
 - b. Days Credit – enter the number of days credit applicable to the minimum release date, if any;
 - c. Sentence Type – select the appropriate type of sentence from the drop-down box;
 - d. Sentence Yrs – enter the minimum years to serve;
 - e. Sentence Mths – enter the minimum months to serve;
 - f. Sentence Days – enter the minimum days to serve;
 - g. Sentence Hrs – enter the minimum hours to serve;
 - h. MAX days credit - enter the number of days credit applicable to the maximum release date, if any;

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- i. Sentence Yrs MAX – enter the maximum years to serve;
 - j. Sentence Mths MAX – enter the maximum months to serve;
 - k. Sentence Days MAX – enter the maximum days to serve; and
 - l. Sentence Hrs MAX – enter the maximum hours to serve.
10. Update the “Serve Type” field for the relevant charges.
- a. If charge is concurrent, OMS automatically enters concurrent.
 - b. If charge is consecutive, click and hold on the charge, and manually drag it to the charge it is consecutive too.
11. After all sentences have been entered, make any necessary adjustments to the sentence.
- a. These adjustments may include:
 - i. ART/ERT/CERT;
 - ii. Consecutive sentences with no credit applied;
 - iii. Early release;
 - iv. Escape or parole abscond; and
 - v. Reporting late to serve sentence.
 - b. To enter an adjustment:
 - i. Right click on the charge in the Sentence View screen;
 - ii. Select “New” and then “Time Credit;”
 - iii. Choose the “Manual Credit” box and the credit type;
 - iv. Enter a space in the “Date” field, which will populate the current date;
 - v. Add any appropriate comments to the comments field; and
 - vi. Enter the number of days to add or subtract from the release date.
12. Open the Excel “Sentence Calculator” from the SC Manual folder on the S: Drive, and use it to double check the release dates. Manually rectify any errors in OMS.
13. Click “Save To Scheduled Release.” The updated minimum and maximum release dates will then show under the offender’s picture and at the bottom of sentence view.

SENTENCE CALCULATION RECORDKEEPING

1. Save the court documents in the “Court Paperwork” folder of the offender’s subfolder in the SC Manual in the S drive.
2. Create a new Sentence Calculation Notification Form (SNF) (see Sentence Computation Sample Form C), as outlined in the [Steps for Completing Sentence Calculation Notification Form \(SNF\) section](#) of this document.

SENTENCE NOTIFICATION

[13 V.S.A. § 7044](#) states:

- (a) Within 30 days after sentencing in all cases where the court imposes a sentence which includes a period of incarceration to be served, the commissioner of corrections shall provide to the court and the office of the defender general a calculation of the potential shortest and longest lengths of time the defendant may be incarcerated taking into account the

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provisions for reductions of term pursuant to [28 V.S.A. Section 811](#) based on the sentence or sentences the defendant is serving, and the effect of any credit for time served as ordered by the court pursuant to [13 V.S.A. Section 7031](#). The commissioner's calculation shall be public record.

(b) In all cases where the court imposes a sentence which includes a period of incarceration to be served, the department of corrections shall provide the defendant with a copy and explanation of the sentence calculation made pursuant to subsection (a) of this section.

The DOC requires that a sentence calculation be completed by the Sentence Computation Unit within three days of receiving a mittimus.

The Sentence Computation Unit shall complete a Sentence Calculation Notification Form (SNF) (see Sentence Computation Sample Form C) for every sentencing or amended mittimus received for an offender. This shall include all new, amended, or corrected mittimuses received by DOC. Upon completion, the form shall be forwarded to all parties to the case.

1. The statute requires a sentence notification within thirty days of sentencing. A sentence notification is not required if the calculation is completed more than thirty days after the sentencing date.
2. A new notification is also not required when adjustments are made to a sentence computation.
3. For instances of a dual status sentence (e.g., 60 hours in a correctional facility, then 20 days work crew), the Sentence Computation Unit shall complete the SNF by listing the minimum and maximum release dates for the incarcerative portion of the sentence.
 - a. The number of work crew days to serve shall be listed in the box below the maximum release date.
 - b. Once the offender has been released to the field to complete the work crew portion, another SNF is not necessary.

STEPS FOR COMPLETING SENTENCE CALCULATION NOTIFICATION FORM (SNF)

The Sentence Computation Unit shall follow these procedures when completing a Sentence Calculation Notification Form (SNF) (see Sentence Computation Sample Form C):

1. Open a blank SNF from the SC Manual folder on the S: Drive.

NOTE: Do not retrieve a previously completed sentencing notification form from the SC Manual folder to update, unless it is for a corrected notification.

2. Fill in the blanks as indicated on the form. This form is a protected document, and information can only be entered into the gray cell areas.
3. List all new docket numbers. There may be several docket numbers, as well as more than one court involved.

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- a. List each count for the docket number.
- b. Only list docket numbers for which a new sentencing mittimus has been received. Docket numbers the offender was serving before he or she received the new sentence are not listed.
4. Select the Notification Type, as follows:
 - a. For new notifications, select “New Mittimus;”
 - b. For notifications resulting from amended Mittimuses, select “Amended Mittimus;” or
 - c. In cases when the SCU is correcting an error discovered on the originally completed SNF, select “Corrected Notification.”
5. If the offender is already serving a sentence when he or she is sentenced for the new offense, enter the information for the sentence the offender was already serving in the “Prior effective sentence information” fields. If the offender is not serving a current sentence, leave this section blank.
6. After computing the new [effective sentence](#), enter the sentence, release dates, and any credit applied under the “New effective sentence information.”
 - a. If there is no change from the prior effective sentence, enter the same information under new effective sentence.
 - b. If the sentence is work crew only, leave the minimum and maximum release date fields blank.
 - c. If the offender is serving furlough and receives a work crew sentence, enter the release dates as well as the balance of work crew days owed.
7. Check the appropriate box for the incarceration type.
 - a. If more than one incarceration type applies, check all that apply.
 - b. In cases of a split or interrupted sentence, indicate the sentence.
8. Enter all of the following information regarding credit:
 - a. Enter the amount of credit ordered on the mittimus in the “Court Ordered Credit” field; and
 - b. Enter the amount of credit to which research indicated the offender was statutorily entitled in the “DOC researched credit” field.
9. Use the “Comments” section to document any additional information that may be necessary in order to further explain the calculation of the sentence.
10. All parties to the case shall be notified of each sentence calculation performed as the result of a new, amended, or corrected mittimus. This notification shall be made even if a new sentence calculation does not result in a change to the offender’s previous effective sentence. Notify all parties of the sentence calculation as follows:
 - a. E-mail the completed SNF to the court, the designated State’s Attorney recipient, Defense Attorney, and Defender General. The subject line of the email shall be “Sentence Notification.” In cases when there are multiple courts involved, the form shall be sent to each court and State’s Attorney.
 - b. E-mail the completed SNF and all accompanying documents to the SLA, who shall upload them as an attachment to the offender’s file in OMS, provide a hard copy of the SNF to the offender, and file a hard copy of the document in the offender’s local record.

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MISCELLANEOUS SENTENCE COMPUTATION ADJUSTMENTS

NO SHOW AND FAILURE TO REPORT PROCEDURE

Mittimuses are sometimes received by a correctional facility or field office prior to the date the offender is ordered to report. In such cases, the SCU shall calculate the sentence computation upon receipt of the mittimus, which shall be placed at Admissions prior to the offender's reporting date. If the offender is not under DOC supervision at the time, the sentencing information cannot be entered into OMS until the offender has been booked onto a headcount in OMS.

Some offenders may also report with their mittimuses in hand. In such cases, the DOC may not have prior knowledge of the offender reporting until he or she reports to a facility.

If an offender reports to serve their sentence on a date later than the court ordered "sentence to commence date," the SCU shall be notified, and shall adjust the offender's release dates in OMS to reflect the date the offender started serving the sentence.

In cases when an offender fails to report to serve his or her sentence, the Superintendent shall ensure that an affidavit notifying the court and State's Attorney's Office is prepared and sent.

In cases when an offender reports to serve an hourly sentence on the correct date, but later than the time ordered by the court, the correctional facility shall release the offender after serving the number of hours indicated on the [Sentence Calculation Notification Form](#) (SNF) (see Sentence Computation Sample Form C).

EXAMPLE

The offender is ordered to report 07/21/17 at 5 p.m. to serve 96 hours.

If the offender reports at that date and time, he or she can be released 07/25/17 at 5 p.m.

If he or she reports to serve this sentence 2 hours late, the release time would be adjusted by facility staff, by adding the 2 hours he or she was late onto the release time. The offender's new release time would be 7 p.m., instead of 5 p.m.

REFUSE TO ADMIT

Occasionally, offenders who self-report to a correctional facility are refused admittance because they do not have personal identification or their sentencing mittimus.

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1. In cases when the offender returns the next calendar day with the proper documents, the SCU shall not add any time to his or her release date.
2. The SCU shall add the missing time to the offender’s sentence, in cases when the offender:
 - a. Returns to the correctional facility more than one day after his or her report date; or
 - b. Is returned to the correctional facility by law enforcement authorities.

SCHEDULING REPORT DATES

There are times when an offender is ordered by the court to serve an incarcerative sentence at a later date. In cases when the SCU receives a sentencing mittimus ordering the offender to report on a later date, the SCU shall schedule the offender’s report date in OMS, if the offender has an open, active booking episode, using the following procedures:

1. Click on the Facility Tab on the top ribbon in OMS.
2. Click “View/Edit Scheduled Events.”
3. Select the date on which the offender is ordered to report on the calendar. (The “Event Type” defaults to “Offenders.” Do not change this selection.)
4. Click on any blank space on the calendar. (The time does not matter. Do not click on an event that is already scheduled.) A box titled “Create/Edit Event” will open.
5. Select “Offenders” in the “Attendance Type” field.
6. Fill in the following fields:
 - a. Start Date/Time, if the sentence has a commence time.
 - b. End Date/Time – Release date and time will be known after the [sentence has been calculated](#).
 - c. Subject – Enter the offender’s sentence, report date and time, and release date and time.

EXAMPLE

60h to serve. Report 08/01/15 at 1800. Release 08/04/15 at 0600

7. Click “Last Name” in the “Available” field, search for the offender, and click “Go.”
8. Select the offender’s name, and click the “>” button.
9. Click “OK.”
10. Close the Scheduling Tab and the tab with the offender’s name.
11. Return to the Search Tab and click on the offender’s name again. This opens the Quick Summary Tab. At the bottom of the screen, the report date and information entered should appear in the “Upcoming Scheduled Events” area.

Upcoming Scheduled Events			
Appointment Type	Subject	StartTime	EndTime
General	60h to serve. Report 07/10/15 at 1700. Release 07/13/15 at 0500.	07-10-2015 15:00	07-13-2015 05:00

In cases when the offender is not on a headcount, the SCU cannot enter the sentencing information into OMS until the offender is booked onto a headcount.

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INTERRUPTED SENTENCES

The SCU shall calculate sentence computations for offenders ordered by the court to serve an incarcerative sentence on an interrupted basis (e.g., weekends only, every Tuesday, once a month).

1. Upon receipt of the sentencing mittimus ordering an interrupted sentence, the SCU shall follow the [steps for calculating a sentence](#).
2. The SCU shall complete an Interrupted Sentence Worksheet (see Sentence Computation Sample Form K). The worksheet identifies the specific days an offender will be serving his or her sentence.
3. The SCU shall list the specific time periods the offender is to serve in the “Comments” field of the “Criminal Charges” pop-up box for the specific charge, on the Arrest Charges tab in OMS. These sentences may take various forms. The court may:
 - a. Specify which weekends or time periods the inmate is to serve;
 - b. Order a specified number of days, to be served on consecutive weekends, from a specified time on Friday, to a specified time on Sunday (e.g., 30 days to be served on consecutive weekends from Friday 6 p.m. to Sunday 6 p.m.); or
 - c. Order any other combination for serving an interrupted sentence.
4. The SCU shall update the minimum and maximum release dates in OMS to reflect the last period of time the offender is scheduled to serve. The maximum release date shall be the last day to be served.
5. The SCU shall forward all documents to the Facility SLA. Upon receipt of the documents, the SLA shall schedule events for the offender for each separate period of time the offender is to report.
6. In cases when the offender fails to report for a scheduled incarceration period:
 - a. The Facility SLA shall notify the SCU;
 - b. The SCU shall adjust the Interrupted Sentence Worksheet and OMS to reflect the new end date of the sentence; and
 - c. All other relevant steps outlined under the [No Show and Failure to Report Procedure heading of this document](#) shall be followed.

ESCAPES AND PAROLE ABSCONSIONS**Calculating Escape or Parole Absconcion**

When adjusting a sentence computation after an escape or parole absconcion, the SCU shall follow these procedures:

1. Escape or parole absconcion time is always added to the maximum release date.
2. The days on escape or parole absconcion shall be added to the minimum sentence only when the minimum had not yet been served at the time of the escape or parole absconcion. If the offender has a zero minimum, or is past his or her minimum, the number of days on escape or parole absconcion shall be added to the maximum release date only.
3. When calculating the number of days to add for escape or parole absconcion, **DO NOT** include the date of escape or absconcion, or the date returned from escape or absconcion. **If**

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an offender escapes or absconds one day and returns the next, the release dates do not change because of his or her escape or absconion.

4. In cases where an offender serving a Vermont sentence escapes or absconds from parole and is later arrested and jailed in another state, the days spent in the other state’s custody shall only count toward his or her underlying sentence if, on return to Vermont, the offender can show the other state held him or her only on the Vermont detainer, and not on any of its own charges.

OMS Entries for Escapes or Parole Absconcion

1. Immediately upon notice of escape or parole absconion, the SLA shall make an entry in the Controlling Sentence Arrest charge to reflect the offender is now on escape or absconion status. No calculations shall be made to the sentence computation until offender is returned to custody.
2. The SLA shall notify the SCU when the offender is returned to custody. Once notified the SCU shall calculate the number of days on escape or parole absconion, using the Excel “Sentence Calculator” in the SC Manual folder on the S: Drive. Remember, do not include the day of escape or absconion, nor the day returned. Enter the number of days into OMS under the controlling docket/sentence. In the example below the offender escaped on January 5, 2016 and returned February 15, 2016.

Days Between (Inclusive)		
From	1/6/2016	40 days (inclusive)
To	2/14/2016	

3. Double click on the appropriate charge on the Arrest Charges tab in the offender’s file in OMS. Enter the date the offender was placed on escape or parole absconion and the date the offender returned in the “Comments” field of the “Criminal Charges” box.

The screenshot shows the OMS Charge Details form for a 'BAD CHECK' charge. The 'Comments' field is highlighted with a red box and contains the following text: '02/15/16 - Returned from Escape Status', '01/05/16 - Placed on Escape Status', and '72d/ct1/3-5y to serve, concurrent'. Other fields include Status/Disposition (Sented), Status Date (09/02/2016 13:3), Offense Date, US State Of Charge, Arrest Code (BC), Statute (13V2022), Crime Type (M), Counts (1), Severity (8), Severity2 (1), and Offense Type (PR). The Bond Information section shows Bond/Fine Type and Amount as \$0.00.

4. In Sentence view, enter a time credit adjustment to add the time on escape or parole absconion to the sentence.
 - a. When adding time to a sentence, enter it as a negative number of days.
 - b. To enter the time credit adjustment, the SCU shall:

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- i. Locate the offender in OMS and click on the Arrest Charges tab.
- ii. Check "Sentence View" box to open the Sentence Information Sheet.
- iii. Right click on the charge that is part of the effective sentence to which the escape time is to be added.
- iv. Choose "New," and then "Time Credit."
- v. Under "Manual Credit," choose "Escape" for the "Credit Type."
- vi. Enter the date the adjustment is made into the "Credit Date" field.
- vii. Enter "Escape or Parole Abscond" and the dates the offender was on escape or parole absconsion status in the "Comments" field.
- viii. Enter a minus sign and then the number of days in the "Amount" field.
- ix. In cases when the minimum had expired at the time of the escape, apply this time only to the maximum. In cases when the minimum has not expired, add the escape or parole absconsion time to both release dates.
- x. Click "OK," and the days will be added to the offender's release dates.
- xi. After verifying the dates are accurate, click on the "Save to Scheduled Release" box to update the release dates.

EXAMPLE

Minus 40 days will add 40 days to the release dates.

The screenshot shows a software interface titled "Time Credits (BAD CHECK)". It is divided into two main sections: "Credit Rule" and "Manual Credit".

Credit Rule Section:

- Credit Type:** A dropdown menu with a red arrow icon.
- Start Date:** A date input field with a red arrow icon.
- Stop Date:** A date input field with a red arrow icon.

Manual Credit Section:

- Credit Type:** A dropdown menu with "Escape" selected and a red arrow icon.
- Credit Date:** A date input field with "2/15/2016" entered and a red arrow icon.
- Comments:** A text input field containing "Escape 01/05/16 - 02/15/16".
- Amount:** A text input field containing "-40.0000".

Bottom Section:

- Sentence Type To Apply:** Three radio buttons labeled "Both", "Min", and "Max". The "Both" button is selected.
- Buttons:** "OK" and "Cancel" buttons.

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EXAMPLE

Minus 175 days will add 175 days to the release dates.

Time Credits (0043-01-00 Oscr - AGGRAVATED SEXUAL ASSAULT)

Credit Rule

Credit Type

Start Date Stop Date

Manual Credit

Credit Type Credit Date

Escape 7/14/2017

Comments Amount

Parole Abscond time 01/05/2017 to 06/30/2017 -175.0000

Sentence Type To Apply: Both Min Max

OK Cancel

PAROLE VIOLATIONS (VOPAR)

In cases when an offender’s parole is revoked by the Parole Board (see Sentence Computation Sample Form L), the SLA shall notify the SCU of the revocation. When notified, the SCU shall verify the accuracy of the offender’s release dates. In cases when a discrepancy is found, the SCU shall rebuild the sentence computation from past information.

JULIAN CALENDAR

The Julian calendar is a tool that was utilized before computers to calculate an offenders release date. Since DOC employed the use of computers, sentences have been calculated using a combination of automatic database functions and the Excel “Sentence Calculator.”

With the new 2005 law, use of the Julian calendar is becoming obsolete; however, it is still occasionally utilized for sentence computations, in cases when an offender was paroled or released on CR before 2005. An Excel spreadsheet with a copy of this calendar has been placed in the SC Manual folder on the S: Drive.

At the bottom of the spreadsheet is a list of years. Each year is represented on a separate worksheet.

2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
------	------	------	------	------	------	------	------	------	------	------	------	------	------	------	------

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When using the Julian calendar to perform a sentence computation, it may be necessary to use one or more of the following forms:

1. Conditional Reentry/Parole Expiration Date Computation (see Sentence Computation Sample Form M) – This form was used prior to July 1, 2005, when an incarcerated offender was released on furlough or parole. The purpose of the form is to remove the ART that was initially awarded at the beginning of the sentence, for the time period from the date the offender was released on furlough or parole until the maximum release date;
2. Conditional Reentry/Parole Revocation Worksheet (see Sentence Computation Sample Form N) – This form is used in cases when an offender’s furlough or parole is revoked. The purpose of the form is to restore ART for the time period from the date the offender’s furlough or parole was revoked until the maximum release date;
3. Sentence Comp Tally Sheet (see Sentence Computation Sample Form B) – This form is used when an offender is serving more than one sentence, to assist in determining which sentence (or combination of sentences) will become the overall effective sentence;
4. Supervised Community Sentence Computation Worksheet (see Sentence Computation Sample Form O) – This form was used prior to July 1, 2005, for any offender sentenced directly to SCS. The purpose of the form was to remove any ART from the Sentence;
5. Sentence Computation Worksheet (see Sentence Computation Sample Form P) – This form was used prior to January 2004, when the calculations were completed by hand, before the computerized database calculations;
6. Number of Days to Serve Worksheet (see Sentence Computation Sample Form Q) – This form was used prior to January 2004, when the calculations were completed by hand, before the computerized database calculations;
7. Worksheet for Effective Maximum Sentence for Sentences Consecutive to Conditional Reentry/Parole Revocation (see Sentence Computation Sample Form R) – This form was utilized when an offender had his or her parole revoked and received a new sentence consecutive to the parole revocation; and
8. Offender Sentence Computation (see Sentence Computation Sample Form S) – This form was used prior to January 2004, when the calculations were completed by hand, before the computerized database calculations.

These forms are all located in the SC Manual folder on the S: Drive.