



Change Notice

DIRECTIVE AFFECTED: 5880.28
CHANGE NOTICE NUMBER: 7
DATE: 7/20/99

1. **PURPOSE AND SCOPE.** This Change Notice incorporates revisions to the **Sentence Computation Manual-CCCA** and provides instruction on the manner in which to calculate New Law sentences pursuant to **Title 18, United States Code § 924(c)(1)** in accordance with **United States vs. Gonzales, 117 S.Ct 1032, 137 L.Ed 132 (1997)** as it pertains to the application of the firearm penalty provisions.

This change will amend aggregation practices/procedures for **§ 924 (C) (1)** and non **§ 924(C) (1)** counts (hereinafter referred to as **924/non-924** sentence).

2. **SUMMARY OF CHANGES.** Chapter 1, Page 37a - 37g. Sentence computation instructions are added for those sentences that include **924/non-924** counts and are affected by **U.S. v. Gonzales, 117 S.Ct 1032, 137 L.Ed. 132 (1997)**.

3. TABLE OF CHANGES

Remove	Insert
Chapter 1, Table of Contents	Chapter 1, Table of Contents Chapter 1, Pages 1-37a - 37g

4. **ACTION.** File this Change Notice in front of PS 5880.28, the Sentence Computation Manual (CCCA of 1984).

/s/
Kathleen Hawk Sawyer
Director



Change Notice

DIRECTIVE AFFECTED: 5880.28
CHANGE NOTICE NUMBER: 6
DATE: 7/19/99

1. **PURPOSE AND SCOPE.** To revise **Chapter I, paragraph 6, Computation of Foreign Treaty Sentence**, and all subparagraphs therein, of the **Sentence Computation Manual-CCCA of 1984**.

2. **SUMMARY OF CHANGES**

a. Updates American Correctional Association Standards Referenced and MCC/MDC/FDC/FTC Procedures.

b. Revises Chapter I, paragraph 6, for changes in terminology to satisfy Circuit Court opinions and improving the format for easier reading and understanding of policy instructions.

3. **TABLE OF CHANGES**

Remove

Program Statement
Pages 1-91 thru 1-94I

Insert

Program Statement
Pages 1-91 thru 1-94F

4. **ACTION.** File this Change Notice in front of PS 5880.28, **Sentence Computation Manual-CCCA of 1984**.

/s/
Kathleen Hawk Sawyer
Director



Change Notice

DIRECTIVE AFFECTED: 5880.28
CHANGE NOTICE NUMBER: 5
DATE: 12/31/98

1. PURPOSE AND SCOPE. To update the **Sentence Computation Manual-CCCA of 1984** with instructions for implementing the sentencing provisions of the **Violent Crime Control and Law Enforcement Act (VCCLEA) of 1994** and the **Prison Litigation Reform Act of 1995 (PLRA)** and with information and instructions concerning Supervised Release, fines, assessments, and restitution and submission of forms to the FBI.

2. SUMMARY OF CHANGES. This Change Notice implements amendments to **18 U.S.C. § 3624 (b), Credit toward service of sentence for satisfactory behavior**, for the VCCLEA and PLRA, and to **18 U.S.C. § 4046 (c), Shock incarceration program**, for reduction of sentence based upon the successful completion of the program. It also eliminates the requirement for completion of the Forms I-12 (Wanted -Flash Cancellation notice and R-84 (Final Disposition Report)).

In addition, the entire supervised release paragraph 3.i., Chapter I, is updated to remove instructions for tasks ISM no longer requires, to improve instructions and language for the remaining tasks, and to incorporate changes initiated by the VCCLEA and the PLRA.

Further changes are being implemented to remove fine information from the supervised release paragraph by adding a new paragraph 3.o. Information concerning submission of forms to the FBI in Chapter I, paragraph 7, is being removed since the forms are no longer required.

3. TABLE OF CHANGES

<u>Remove</u>	<u>Insert</u>
Chapter I: Table of Contents	Chapter I: Table of Contents
Pages 1 - 65 through 1 - 75	Pages 1 - 65 through 1 - 70
Page 1 - 78I	Pages 1 - 78I through 1 - 78DD
Pages 1 - 106 and 1-107	Page 1 - 106

4. ACTION. File this Change Notice in front of PS 5880.28,
Sentence Computation Manual-CCCA of 1984.

/s/
Kathleen Hawk Sawyer
Director



U.S. Department of Justice
Federal Bureau of Prisons

Change Notice

DIRECTIVE BEING CHANGED: 5880.28

CHANGE NOTICE NUMBER: CN-04

DATE: June 30, 1997

1. PURPOSE AND SCOPE. To provide instructions for implementation of 18 U.S.C. § 3621(e) (2) (B) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).

2. SUMMARY OF CHANGES. This change notice implements 18 U.S.C. § 3621(e) (2) (B), **period of custody**, as it pertains to the information and procedures necessary to effect a sentence reduction for that provision.

3. TABLE OF CHANGES

Remove

Table of Contents,
Chapter I

Insert

Table of Contents,
Chapter I
Pages 1 - 78A through
1 - 78I

4. ACTION File this Change Notice in front of PS 5880.28, Sentence Computation Manual (CCCA of 1984).

\s\
Kathleen M. Hawk
Director



Change Notice

DIRECTIVE BEING CHANGED: 5880.28

CHANGE NOTICE NUMBER: CN-03

DATE: February 14, 1997

1. PURPOSE AND SCOPE. To update certain sections of the **Sentence Computation Manual-CCCA** pertaining to the **Sentencing Reform Act of 1984** implementation procedures.

2. DIRECTIVE RESCINDED

OM 069-96 (5880) Date of Offense for ("New Law")
Supervised Release/Probation Violators
(06/11/96)

3. SUMMARY OF CHANGES

a. **Pages 1 - 8 through 9A.** A new penalty provision **((c) (1))** has been added to 18 U.S.C. § 3559 by the VCCLEA.

b. **Pages 1 - 11 through 11C.** Implementation instructions for new 18 U.S.C. § 3561 **(a) (3)**, which authorizes imposition of a "split sentence" for a petty offense, are provided.

c. **Pages 1 - 14 through 14A.** Reference to a rescinded Program Statement was removed and more definitions were added.

d. **Pages 1 - 14B through 14C.** Language was added to clarify the date of offense determination criteria for an escapee.

e. **Pages 1 - 14C through 16.** Clarification language for making date of offense determinations is added; the "official detention" definition is reinforced and further explained.

f. **Pages 1 - 16A through 16B.** Instructions for determining 18 U.S.C. § 3585(b) (1) credit are expanded.

g. **Pages 1 - 17 through 19.** Clarification language about vacated sentences is added.

PS 5880.28

h. **Page 1 - 21 through 23.** The title of the official document to be used for making 18 U.S.C. § 3585(b)(2) determinations was added and "Willis" and "Kayfez" determination instructions were expanded.

i. **Pages 1 - 23A through 25.** Date of offense for a probation sentence is further explained.

j. **Pages 1 - 26 through 27.** Redundant information removed.

k. **Pages 1 - 31 through 37A.** Implementation instructions for the court's authority to impose a federal sentence to be served concurrently with, or consecutively to, an existing non-federal sentence and a clarification about the differences between sentences imposed at the same or different times is added.

l. **Pages 41 through 44A.** Instructions about the disallowance of GCT outside the time limit are amended.

m. **Page 50.** A change is made to allow staff to officially award GCT at any time within the 15 days following the anniversary date or the last six weeks of a sentence as authorized by statute rather than requiring the official act to take place on the last possible day to "vest."

n. **Page 52.** This change reiterates the amendment made to Page 50.

o. **Pages 61A through 61B.** A guide to monitoring GCT awards has been added.

p. **Pages 69 through 69A.** Information about fines as applied to supervised release violators is added.

q. **Pages 1 - 73 through 74.** Information is provided about the court's authority to impose a term of supervised release to follow a sentence for revocation of supervised release.

4. TABLE OF CHANGES

<u>Remove</u>	<u>Insert</u>
Pages 1 - 8 and 1 - 9	Pages 1 - 8 - 1 - 9A (CN-03)
Page 1 - 11	Pages 1 - 11 - 1 - 11C (CN-03)
Pages 1 - 14 - 1 - 16A (CN-02)	Page 1 - 14 - 1 - 16A (CN-03)
Pages 1 - 17 - 1 - 19	Pages 1 - 17 - 1 - 19 (CN-03)
Pages 1 - 21 - 1 - 24D (CN-02)	Pages 1 - 21 - 1 - 24D (CN-03)

Remove

Pages 1 - 25 - 1 - 27
Pages 1 - 31 - 1 - 37

Pages 1 - 41 - 1 - 44

Page 1 - 50
Page 1 - 52

Page 1 - 69 (CN-02)

Pages 1 - 73 and
1 - 74 (CN-02)

Insert

Pages 1 - 25 - 1 - 27 (CN-03)
Pages 1 - 31 - 1 - 37
(CN-03)
Pages 1 - 41 - 1 - 44A
(CN-03)
Page 1 - 50 (CN-03)
Page 1 - 52 (CN-03)
Pages 1 - 61A and 1 - 61B
(CN-03)
Pages 1 - 69 and 1 - 69A
(CN-03)
Pages 1 - 73 - 1 - 74
(CN-03)

5. ACTION. File this Change Notice in front of PS 5880.28, the Sentence Computation Manual (CCCA of 1984).

\s\
Kathleen M. Hawk
Director



Change Notice

DIRECTIVE BEING CHANGED: 5880.28

CHANGE NOTICE NUMBER: CN-02

DATE: July 29, 1994

1. PURPOSE AND SCOPE. This Change Notice includes more definitive and broader instructions for the implementation of the Sentencing Reform Act of 1984 and the adoption of U.S. Courts of Appeals decisions.

2. DIRECTIVES RESCINDED

O.M. 284-93 Computing Foreign Treaty Sentences
Established by the United States Parole
Commission (12/17/93)

O.M. 035-94 Prior Custody Credit for Ninth Circuit
Guideline Sentences (03/11/94)

3. SUMMARY OF CHANGES

a. **Pages 1 - 3.** The first paragraph was expanded to include additional offenses that should be treated the same as a conspiracy offense for date of offense purposes.

b. **Pages 1 - 12 and 12A.** The instructions for a "full day served on the sentence" were expanded.

c. **Pages 1 - 14 through 14I.** A definition for "Date of Offense" and implementing instructions were added.

d. **Pages 1 - 15 through 16A:** The "Official Detention" definition was broadened to provide more information for defining "Official Detention."

e. **Pages 1 - 20 through 21.** The instructions for awarding presentence/prior custody time to concurrent "Old Law" and SRA sentences were clarified.

f. **Page 1 - 22.** An additional reason for awarding state presentence time credit was added.

g. **Pages 1 - 22A through 23.** A Seventh Circuit U.S. Court of Appeals decision that requires the awarding of additional state presentence time credit in specific circumstances was adopted for nationwide application.

h. **Pages 1 - 23A through 24.** A Ninth Circuit Court of Appeals decision that requires the award of time spent in a community facility under certain circumstances was adopted for only those prisoners sentenced in the Ninth Circuit.

i. **Pages 1 - 24D.** The effect of a civil contempt sentence in relation to other sentences is discussed.

j. **Pages 1 - 66.** Instructions for the processing and handling of the Probation 7A form (Conditions of Probation and Supervised Release) were eliminated.

k. **Pages 1 - 67.** Clarifying language as to the treatment of a special assessment or an order of restitution in relation to a fine was added.

l. **Pages 1 - 68.** Language was added about processing fines.

m. **Pages 1 - 70 and 71.** Information was added to provide instructions for supervised release (SR) terms in multiple count or sentence situations and the treatment of the SR term in a combination of "Old Law" and SRA sentences. A reference to the instructions for an "Old Law" SR term was also added.

n. **Pages 1 - 74.** The amendment to this page adds a statement about the treatment of prior custody time, that was not awarded on the originally imposed sentence, in relation to an SR revocation term.

o. **Pages 1 - 75.** A SENTRY code is established for a "Supervised Release Violator."

p. **Pages 1 - 90.** Revised instructions for the award of jail time credit to an SRA Anniversary Date was added.

q. **Pages 1 - 92 through 94I.** This section, pertaining to the calculation of foreign treaty sentences, was amended to reflect the adoption of a similar decision from three U.S. Courts of Appeals.

4. TABLE OF CHANGES

Remove

Table of Contents
Pages 1 - 3

Insert

Table of Contents
Page 1 - 3 (CN-2)

Remove

Pages 1 - 12
Pages 1 - 14

Pages 1 - 15
Pages 1 - 16
Pages 1 - 20.1 (CN-1)
and 1 - 20.2 (CN-1)
Pages 1 - 21
Pages 1 - 22.1 (CN-1) and
1 - 22.2 (CN-1)

Pages 1 - 23
Pages 1 - 24

Pages 1 - 66, 1 - 67, 1 - 68,
1 - 69, 1 - 70, 1 - 71,
1 - 72, 1 - 73, 1 - 74
and 1 - 75
Pages 1 - 90
Pages 1 - 92 (CN-1) and
1 - 93 (CN-1)
Pages 1 - 94.1 (CN-1),
1 - 94.2 (CN-1), 1 - 94.3
(CN-1), 1 - 94.4 (CN-1) and
1 - 94.5 (CN-1)

Foreign Release and
Supervision Tab
Pages 1 - 95 and 1 - 96

Insert

Pages 1 - 12 and 1 - 12A
(CN-2)
Pages 1 - 14, 1 - 14A,
1 - 14B, 1 - 14C,
1 - 14D, 1 - 14E,
1 - 14F, 1 - 14G,
1 - 14H and 1 - 14I
(CN-2)
1 - 15 and 1 - 15A (CN-2)
1 - 16 and 1 - 16A (CN-2)
Pages 1 - 20, 1 - 20A and
1 - 20B (CN-2)
Page 1 - 21 (CN-2)
Pages 1 - 22, 1 - 22A,
1 - 22B and 1 - 22C
(CN-2)
Pages 1 - 23 and 1 - 23A
(CN-2)
Pages 1 - 24, 1 - 24A,
1 - 24B, 1 - 24C and
1 - 24D (CN-2)
Pages 1 - 66, 1 - 67,
1 - 68, 1 - 69, 1 - 70,
1 - 71, 1 - 72, 1 - 73,
1 - 74 and 1 - 75 (CN-2)
Pages 1 - 90 (CN-2)
Pages 1 - 92 and 1 - 93
(CN-2)
Pages 1 - 94, 1 - 94A,
1 - 94B, 1 - 94C,
1 - 94D, 1 - 94E,
1 - 94F, 1 - 94G,
1 - 94H and 1 - 94I
(CN-2)

Pages 1 - 95 and 1 - 96
(CN-2)

5. ACTION. File this Change Notice in front of the Program Statement which accompanies the Sentence Computation Manual (CCCA of 1984).

\s\
Kathleen M. Hawk
Director



Change Notice

DIRECTIVE BEING CHANGED: 5880.28

CHANGE NOTICE NUMBER: CN-01

DATE: January 5, 1993

1. PURPOSE: To clarify the language in the Sentence Computation Manual (SCM) (CCCA of 1984) pertaining to the application of presentence/prior custody time credits to "old law" and Sentencing Reform Act (SRA) terms; the order in which inoperative and prior custody time are applied to a sentence; and computation of a foreign treaty sentence.

2. SUMMARY OF CHANGES: This Change Notice clarifies the application of presentence/prior custody time credits to concurrent "old law" and Sentencing Reform Act terms. It also specifies when non-federal time does not apply to a federal sentence. Further, the **order** in which inoperative time and prior custody time credit is applied to a sentence is restated to reflect the proper order. The CN clarifies the application of Good Conduct Time credits, under the provisions of **18 USC § 3624(b)**, as referred to in **18 USC § 4205(c) (1), (2) and (3)**, for foreign treaty sentences when the offense occurred on or after November 1, 1987. These changes provide broader and more definitive instructions for computing SRA sentences.

3. TABLE OF CHANGES: Replace and insert the following pages:

<u>Remove</u>	<u>Insert</u>
P.S. 5880.28, Pages 1 - 20 and 1 - 22	P.S. 5880.28 (CN-1), Pages 1 - 20.1, 1 -20.2, 1 - 22.1 and 22.2
P.S. 5880.28, Page 1 - 30	P.S. 5880.28 (CN-1), Page 1 - 30
P.S. 5880.28, Pages 1 - 92 through 1 - 94	P.S. 5880.20, CN-1, Pages 92 through 1 -94.5

4. ACTION: File this Change Notice in front of the Program Statement which accompanies the SCM (CCCA of 1984).

/s/
Kathleen M. Hawk
Director



Program Statement

OPI: CPD
NUMBER: 5880.28
DATE: CN-06, 7/19/99
SUBJECT: Sentence Computation
Manual (CCA of 1984)

1. **PURPOSE AND SCOPE.** This Program Statement transmits the "Sentence Computation Manual" which establishes the policies and procedures for the computation of sentences imposed for violations of the United States Code under the statutes of the Comprehensive Crime Control Act of 1984 (CCCA).

On October 12, 1984, President Reagan signed the Comprehensive Crime Control Act of 1984 (CCCA) into law. Two major components of this law, the Sentencing Reform Act of 1984 (SRA) and the Insanity Reform Act of 1984, completely restructured the sentencing guidelines and policies of the United States Courts.

After the effective date of the SRA on November 1, 1987, a number of United States Court decisions found all or parts of the SRA unconstitutional. As a result, the SRA was implemented nationally in various ways.

On January 18, 1989, in Mistretta v. U.S., the Supreme Court considered the constitutionality of the sentencing guidelines and ruled that the guidelines were constitutional. This Manual provides instructions for computing sentences imposed under the CCCA both before and after the **Mistretta** decision.

2. **DIRECTIVES AFFECTED**

- a. **Directives Rescinded.** None.
- b. **Directives Referenced.** None.

3. **STANDARDS REFERENCED**

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

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

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

d. American Correctional Association 3rd Edition Standards for Adult Boot Camp Programs: 1-ABC-1E-09

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

5. **DISTRIBUTION.** At a minimum, a copy of this Manual will be placed with the Regional Inmate Systems Manager, each Community Corrections Manager, the Inmate Systems Manager and all other staff having responsibility for sentence computation.

/s/

Kathleen Hawk Sawyer
Director

CHAPTER I--SENTENCING REFORM ACT OF 1984

1.	INTRODUCTION	1-1	
2.	COMMITMENT TO THE CUSTODY OF THE BUREAU OF PRISONS	1-4	
3.	COMPUTATION OF SENTENCE	1-5	
	a. Classification of Offenders and Terms of Imprisonment	1-8	
	b. Commencement (Beginning Date) of Sentence	1-12	
	c. Prior Custody Time Credit	1-14	
	d. Inoperative Time	1-28	
	e. Multiple Sentences of Imprisonment	1-31	
*	e-1 Implementation of Firearm Penalty, 18-924(c)(1). . . .	1-37a	*
	f. Release Authority and Release on Other Than a Weekend or Holiday	1-38	
	g. Good Conduct Time	1-40	
	h. Six Month/Ten Percent Period	1-62	
	i. Supervised Release	1-65	
	j. One Count Detention and Community Confinement/Home Detention Sentence	1-76	
	k. Implementation of the amendment to 18 U.S.C. § 3621 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322)	1-78A	
4.	COMPUTATION OF STUDY	1-79	
5.	PRE- AND POST-MISTRETТА SRA SENTENCE COMPUTATION INSTRUCTIONS	1-82	
	a. Pre-Mistretta Period	1-83	
	b. Post-Mistretta Period	1-89	
6.	COMPUTATION OF FOREIGN TREATY SENTENCE	1-91	
	a. Sentence Computation	1-92	
7.	PROBATION CUSTODY	1-97	

CHAPTER I--SENTENCING REFORM ACT OF 1984

1. INTRODUCTION

The Sentencing Reform Act of 1984 (SRA) (Public Law 98-473, Chapter II of the Comprehensive Crime Control Act of 1984 (CCCA)) was enacted into law when then President Reagan signed the CCCA on October 12, 1984. The SRA was to become effective on November 1, 1986. As a result, however, of the Sentencing Reform Amendments Act of 1985 (Public Law 99-217, enacted on December 26, 1985), the effective date of the SRA was extended to November 1, 1987.

Since passage of the Sentencing Reform Amendments Act of 1985, the following acts have modified, amended, corrected or added to the SRA; the Anti-Drug Abuse Act of 1986 (Public Law 99-570, enacted on October 27, 1986); the Coast Guard Authorization Act of 1986 (Public Law 99-640 enacted on November 10, 1986); the Criminal Law and Procedure Technical Amendments Act of 1986 (Public Law 99-646, enacted on November 10, 1986); the Sentencing Act of 1987 (Public Law 100-182, enacted on December 7, 1987); the Criminal Fine Improvements Act of 1987 (Public Law 100-185, enacted on December 11, 1987); the Anti-Drug Abuse Act of 1988 (Public Law 100-690, enacted on November 18, 1988); and the Crime Control Act of 1990 (Public Law 101-647, enacted on November 29, 1990).

After the effective date of the SRA on November 1, 1987, a number of United States District and Appellate Court decisions found all or some parts of the SRA to be unconstitutional. As a result of those court decisions, the SRA was implemented nationwide in various ways. Because of the numerous different, and sometimes conflicting, court decisions, the Supreme Court considered the constitutionality of the sentencing guidelines in late 1988 and early 1989. On January 18, 1989, in Mistretta v. U.S., 109 S.Ct. 647, 488 U.S. 361, the Supreme Court ruled that the guidelines are constitutional.

For offenses that were committed on or after November 1, 1987 but prior to January 18, 1989, special instructions were issued by the Bureau of Prisons (BOP) for computation of those sentences affected by court decisions that found the SRA to be unconstitutional in some way. Those instructions have been consolidated and are more fully explained in Chapter I, Part 5.

For an offense that occurred on or after November 1, 1987, that resulted in a sentence not affected by a court decision, an SRA sentence is implemented in accordance with the instructions contained in Chapter I, Part 3.

* An offense that began prior to, but not completed until on or after November 1, 1987, is subject to the SRA. (See Statement By President Ronald Reagan Upon Signing S. 1822 (Public Law 100-182, 101 Stat. 2135-2136, dated December 14, 1987).) The BOP treats conspiracy and escape offenses and absconding from bail/bond/Own Recognizance or an order to appear in court in the same manner. Additionally, the last act of misconduct in a single "specification" or "violation" that causes a term of supervised release or probation to be revoked shall also be treated in the same manner. (See para. 3.c. for definition of date of offense.) *

A sentence imposed for an offense that occurred prior to November 1, 1987 ("old law" sentence) cannot be aggregated with a sentence imposed for an offense that occurred on or after November 1, 1987 (SRA or "new law" sentence).

If a multi-count indictment contains an offense(s) that was completed before November 1, 1987, and an offense(s) that was completed on or after November 1, 1987, then those pre and post SRA counts shall be treated separately (not aggregated) and the sentences shall be computed in accordance with the sentencing laws in affect at the time of the completion of those offenses. If one or more of the counts in the indictment is consecutive, then the consecutive count shall be placed as a detainer until release from the preceding sentence occurs.

2. COMMITMENT TO THE CUSTODY OF THE BUREAU OF PRISONS

Under 18 USC § 3621, the BOP is required to provide the custody and to determine the place of imprisonment for all sentenced federal prisoners. (See the Program Statement on Security Designation and Custody Classification.)

Subsection (a) of Section 3621 states in part, "A person who has been sentenced to a term of imprisonment . . . shall be committed to the custody of the Bureau of Prisons until the expiration of the term imposed, or until earlier released for satisfactory behavior pursuant to the provisions of section 3624."

Subsection (b) of Section 3621 states in part, "The Bureau of Prisons shall designate the place of the prisoner's imprisonment."

3. COMPUTATION OF SENTENCE

For an offense that occurred on or after November 1, 1987, that resulted in a sentence not affected by a court decision, an SRA sentence shall be implemented in accordance with the instructions contained in this part.

An offense that began prior to, but not completed until on or after November 1, 1987, is subject to the SRA. (See Statement By President Ronald Reagan Upon Signing S. 1822 (Public Law 100-182, 101 Stat. 2135-2136, dated December 14, 1987).) The BOP treats a conspiracy offense in the same manner.

A sentence imposed for an offense that occurred prior to November 1, 1987 ("old law" sentence) shall not be aggregated with a sentence imposed for an offense that occurred on or after November 1, 1987 (SRA or "new law" sentence).

If a multi-count indictment contains an offense(s) that was completed before November 1, 1987, and an offense (s) that was completed on or after November 1, 1987, then those pre- and post-SRA counts shall be treated separately (not aggregated) and the sentences shall be computed in accordance with the sentencing laws in affect at the time of the completion of those offenses. If one or more of the counts in the indictment is consecutive, then the consecutive count

shall be placed as a detainer until release from the preceding sentence occurs.

There are several different documents that may be reviewed to determine the date of the offense and they are the federal judgment and commitment (J&C), the indictment and the Presentence Investigation (PSI) report. If none of the documents contain the date of the offense, or if there is a conflict among the documents about the date of the offense, or if the inmate challenges the date of offense (See U.S. v. Bloom, 945 F.2d 14 (2d Cir., 1991)) as determined by ISM staff, then, in accordance with the procedures set forth in the Inmate Systems Management Manual, the court shall be contacted to ascertain the correct offense date. These procedures apply to any situation where it is necessary to obtain a correct date of offense for sentence monitoring purposes.

The Sentence Procedure Code (SPC) and narrative for a sentence imposed under the SRA is:

SPC = 0080 3559 SRA Sentence

A number of sections are activated when a sentence under the SRA is imposed and those sections are discussed in this manual.

Any Judgment and Commitment or other court order that requires a sentence to be computed in a manner not consistent with the instructions contained in this manual shall be referred to the appropriate Regional Inmate Systems Administrator.

a. Classification of Offenders and Terms of Imprisonment. The SRA contains two sections that pertain to the classification of offenses and the terms of imprisonment that can be imposed depending upon the offense classification. Those two sections are 18 U.S.C. § 3559 and 18 U.S.C. § 3581 and they are presently in conflict in a number of letter grade classifications. While this conflict presents no special offense classification or computation problem, the differences between the two sections need to be pointed out.

*

18 U.S.C. § 3559 states,

(a) Classification.-- An offense that is not specifically classified by a letter grade in the section defining it, is classified if the maximum term of imprisonment authorized is--

(1) life imprisonment, or if the maximum penalty is death, as a Class A felony;

(2) twenty-five years or more, as a Class B felony;

(3) less than twenty-five years but ten or more years, as a Class C felony;

(4) less than ten years but five or more years, as a Class D felony;

(5) less than five years but more than one year, as a Class E felony;

(6) one year or less but more than six months, as a Class A misdemeanor;

(7) six months or less but more than thirty days, as a Class B misdemeanor;

(8) thirty days or less but more than five days, as a Class C misdemeanor; or

(9) five days or less, or if no imprisonment is authorized, as an infraction.

18 U.S.C. § 3559(c) (1) states further,

(1) MANDATORY LIFE IMPRISONMENT.--
Notwithstanding any other provision of law, a person who is convicted in a court of the United States of a serious violent felony shall be sentenced to life imprisonment if--

(A) the person has been convicted (and those convictions have become final) on separate prior occasions in a court of the United States or of a State of--

(i) 2 or more serious violent felonies; or

(ii) one or more serious violent felonies and one or more serious drug offenses; and

(B) each serious violent felony or serious drug offense used as a basis for sentencing under this subsection, other than the first, was committed after the defendant's conviction of the preceding serious violent felony or serious drug offense.

18 U.S.C. § 3581 establishes the classes of offenses and the authorized terms of imprisonment for each. Section 3581 states,

(a) In general.-- A defendant who has been found guilty of an offense may be sentenced to a term of imprisonment.

(b) Authorized terms.-- The authorized terms of imprisonment are--

(1) for a class A felony, the duration of the defendant's life or any period of time;

(2) for a Class B felony, not more than twenty-five years;

(3) for a Class C felony, not more than twelve years;

(4) for a Class D felony, not more than six years;

(5) for a Class E felony, not more than three years;

(6) for a Class A misdemeanor, not more than one year;

(7) for a Class B misdemeanor, not more than six months;

(8) for a Class C misdemeanor, not more than thirty days; and

(9) for an infraction, not more than five days.

*

The following comparison chart points up the penalty differences between Sections 3559 and 3581:

<u>3559</u>	<u>3581</u>
(1) Class A felony, life or death.	(1) Class A felony, life or any period of time.
(2) Class B felony, 25 years or more.	(2) Class B felony, not more than 25 years.
(3) Class C felony, less than 25 years but 10 or more years.	(3) Class C felony, not more than 12 years.
(4) Class D felony, less than 10 years but 5 or more years.	(4) Class D felony, not more than 6 years.
(5) Class E felony, less than 5 years but more than 1 year.	(5) Class E felony, not more than 3 years.
(6) Class A misdemeanor, 1 year or less but more than 6 months.	(6) Class A misdemeanor, not more than 1 year.
(7) Class B misdemeanor, 6 months or less but more than 30 days.	(7) Class B misdemeanor, not more than 6 months.
(8) Class C misdemeanor, 30 days or less but more than 5 days.	(8) Class C misdemeanor, not more than 30 days.
(9) Infraction, 5 days or less if no imprisonment authorized.	(9) Infraction, not more than 5 days.

As of the publication date of this manual, all sentence classifications continue to be determined by 18 USC § 3559 since those offenses that result from laws enacted since November 1, 1987, the effective date of the SRA, do not include a letter grade that identifies the offense classification under 18 USC § 3581. Penalties for the violation of laws enacted since the effective date of the SRA

are still being included in the same manner as the pre-SRA and; therefore, must be classified under the provisions of 18 U.S.C. § 3559.

If offenses begin to include a letter grade classification sometime in the future, then a Sentence Procedure Code for 18 U.S.C. § 3581 will be established at that time.

★

The court may, in addition to a term of imprisonment for a petty offense, include a period of probation as authorized under 18 U.S.C. § 3561(a) (3) which states in part,

(a) In general.--A defendant who has been found guilty of an offense may be sentenced to a term of probation unless-- . . .

(3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense that is not a petty offense.

(Note: A term of supervised release may not be imposed for a petty offense (18 U.S.C. § 3583(b) (3).)

A petty offense is defined under 18 U.S.C. § 19 and states,

As defined in this title, the term "petty offense" means a Class B misdemeanor, a Class C misdemeanor, or an infraction, for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b) (6) or (7) in the case of an individual or section 3571(c) (6) or (7) in the case of an organization.

The imprisonment terms that may be imposed for a petty offense under 18 U.S.C. § 3559(a) states in part,

(7) six months or less but more than thirty days, as a Class B misdemeanor,

(8) thirty days or less but more than five days, as a Class C misdemeanor, or

(9) five days or less, or if no imprisonment is authorized, as an infraction.

18 U.S.C. § 3561 further reads in part,

(b) Authorized terms.--The authorized terms of probation are-- . . .

(2) for a misdemeanor, not more than five years; and

(3) for an infraction, not more than one year.

Based on the definition of a petty offense in 18 U.S.C. § 19, the maximum term of imprisonment that may be imposed under 18 U.S.C. § 3559(a), subsections (7), (8) and (9), is six months and the maximum period of probation that may be imposed under 18 U.S.C. § 3561(b), subsections (2) and (3), is five years.

Any term of imprisonment imposed for a petty offense shall be treated in the same manner as any other sentence imposed under the SRA and shall be entered into SENTRY under the SPC of **0080 3559 SRA Sentence**. The period of probation imposed shall be entered into the SENTRY field provided for that purpose. The period of probation is, of course, under the jurisdiction of the sentencing court and the supervising U.S. Probation Office. The prisoner shall be referred to the supervising U.S. Probation Office for any questions about the manner in which the term of probation is to be served or implemented. A sentence imposed for probation revocation under 18 U.S.C. § 3565(a) states in part that the court may--

(2) revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of initial sentencing.

(Note: Subchapter A, of Chapter 227--Sentences, provides the **General Provisions** for the imposition of sentences under the SRA.)

Any term of imprisonment imposed for a petty offense as the result of probation revocation shall be treated in the same manner as any other sentence imposed for probation revocation under the SRA and shall be entered into SENTRY under the SPC of **0080 3559 SRA Sentence**. The probation revocation sentence shall be computed as beginning on the date that the probation is revoked, provided the prisoner is in exclusive federal custody based on the probation violator warrant. If there is one or more sentences in operation at the time the probation revocation sentence is imposed, then the provisions of 18 U.S.C. § 3584 (Multiple sentences of imprisonment) shall apply.

Any prior custody time awarded to, or time spent serving the originally imposed imprisonment term for the petty offense, shall not be carried over to the probation revocation sentence. If the court, however, imposes a probation revocation sentence that, when added to the original term of imprisonment, exceeds the maximum for the offense, then ISM Staff, following the procedures set forth in the Inmate Systems Management Manual, shall notify the appropriate U.S. Attorney of the apparent excessive sentence and request assistance in resolving the matter. *

Each judgment and commitment must be carefully monitored to assure that a sentence imposed under 18 U.S.C. §§ 3559 or 3581 is within the time range of the violated statute. Any discrepancy as to the length of the imposed sentence should be referred to the U.S. Attorney as outlined in the Inmate Systems Management Manual.

The sentence of imprisonment is added to the commencement (beginning) date of sentence to arrive at a full term date of sentence. The full term date can be affected by prior custody time credit and inoperative time as well as the imposition of concurrent or consecutive terms, all of which are covered in this Manual.

b. Commencement (Beginning Date) of Sentence. 18

U.S.C. § 3585(a) establishes the rule for commencement of sentence and states, "(a) Commencement of sentence.-- A sentence to a term of imprisonment commences on the date the defendant is received in custody awaiting transportation to, or arrives voluntarily to commence service at, the official detention facility at which the sentence is to be served." If the prisoner is serving no other federal sentence at the time the sentence is imposed, and is in exclusive federal custody (not under the jurisdiction of a federal writ of habeas corpus ad prosequendum) at the time of sentencing on the basis of the conviction for which the sentence is imposed, the sentence commences on the date of imposition, even if a state sentence is running along concurrently. If the prisoner is, however, serving another federal sentence at the time a new sentence is imposed, then 18 U.S.C. § 3584 (Multiple sentences of imprisonment) must be followed as discussed in paragraph e. of this chapter.

★

The Bureau of Prisons calculates any part of a day in custody serving sentence as a **full day** served on the sentence (See Chapter I, paragraph 3.d., third subparagraph) and any part of a day in official detention as a **full day** for prior custody time credit purposes (See Chapter I, paragraph 3.c.(1)). In those cases, however, when the court imposes a sentence for a term of hours, the exact number of hours imposed must be served, regardless of whether the sentence is for more or less than 24

hours and regardless of whether the number of hours imposed crosses one or more midnights. For example, if a sentence of six hours is imposed and that sentence commences at 11:00 PM, then the sentence would not terminate until 5:00 AM the next day.

A sentence that is imposed in the form of hours commences at the time it is imposed, provided the person is in exclusive federal custody. If another U.S. Code or D.C. Code sentence is in operation, then 18 U.S.C. § 3584 (See Chapter I, paragraph e.) would, of course, apply. If the person is ordered to voluntarily surrender, then the sentence would not commence until that person arrived at the designated facility to serve the sentence (See Chapter I, paragraph 3.b., third subparagraph). *

If the prisoner is released from physical custody pending appeal on the same day that the sentence is imposed, and no other sentence is involved, then the sentence shall be stayed (shall not begin to run) until the prisoner enters custody for service of that sentence. (See Rule 38 of the Federal Rules of Criminal Procedure.) If the prisoner is released pending appeal subsequent to the day of sentencing, then the sentence shall begin to run on the date of sentencing and shall become inoperative the day after the prisoner is physically released.

If the court authorizes a prisoner to voluntarily surrender, as described in the Program Statement on Unescorted Trips and Voluntary Surrenders, to the detention facility at which the sentence is to be served, then the sentence does not commence until the prisoner arrives at the designated facility. If the prisoner is retained in federal custody after sentencing for any days prior to departure for voluntary surrender to the designated facility, then that time, including the date of sentencing, shall be treated as presentence time credit.

A prisoner who is in non-federal custody at the time of sentencing may begin service of the federal sentence prior to arriving at the designated federal facility if the non-federal facility is designated in accordance with the Program Statement on Designation of State Institution for Service of Federal Sentence and 18 USC § 3621 (Imprisonment of a convicted person). This type of designation is ordinarily made only upon the recommendation of the sentencing court.

In no case can a federal sentence of imprisonment commence earlier than the date on which it is imposed.

c. Prior Custody Time Credit. The SRA includes a new statutory provision, 18 U.S.C. § 3585(b), that pertains to "credit for prior custody" and is controlling for making time credit determinations for sentences imposed under the SRA. Title 18 U.S.C. § 3568, repealed effective November 1, 1987, as implemented by the "Old Law" Sentence Computation Manual, remains the controlling statute for all sentences imposed for offenses that occurred on or after September 20, 1966 up to November 1, 1987.

*

Statutory Authority: Prior custody time credit is controlled by 18 U.S.C. § 3585(b), and states, **"A defendant shall be given credit toward the service of a term of imprisonment for any time he has spent in official detention prior to the date the sentence commences--**

(1) as a result of the offense for which the sentence was imposed; or

(2) as a result of any other charge for which the defendant was arrested after the commission of the offense for which the sentence was imposed;

that has not been credited against another sentence."

Definitions:

Raw EFT: The Raw EFT for both a federal and non-federal sentence is determined by adding the total length of the sentence to be served to the beginning date of the sentence resulting in a full term date of sentence (**Raw EFT**) that does not include any time credit, e.g., presentence or prior custody time or good time. (Inoperative time that may affect either the state or federal **Raw EFT** shall be referred to the RISA for assistance.)

Qualified non-federal presentence time: Time spent in non-federal presentence custody from the date of the federal offense, that does not overlap any other authorized prior custody time credits, to the date the first sentence begins to run, federal or non-federal, is **qualified non-federal presentence time**.

Date of offense:

(1) **The date of offense for a new conviction** (as shown on the judgement and commitment) is the date on which the criminal act takes place, or the date on which the ongoing * criminal activity ends, as charged in a single count. In a multiple count judgment and commitment, the earliest date of offense for the multiple counts shall be controlling for prior custody time credit determinations. Some examples follow:

(a) Bank robbery. The date of the bank robbery is the date of offense regardless of when the identity of the offender is discovered or when the arrest occurs.

(b) Bank fraud. Bank fraud may be a single criminal event, such as a bank robbery, or it may be a continuing type of offense that will span several days, months or years. In a continuing offense that involves more than one episode of bank fraud, as charged in one count, the date of offense is the date on which the criminal activity ends for that count.

(c) Conspiracy. A conspiracy is a continuing type of criminal activity that ends when the conspiracy discontinues or when an individual who is participating in a conspiracy terminates participation in the conspiracy.

(d) Escape. An escape is a continuing type of criminal offense that continues until the escapee is apprehended. The date of offense, therefore, for a person who escapes from service of a sentence, is the date on which the escapee is apprehended by federal agents for the escape or for another federal offense. Since the sentence from which the prisoner escaped resumes immediately upon federal apprehension, regardless of the reason, there will be no official detention time to award under 18 U.S.C. § 3585(b)(1). In the unlikely event that a person avoids detection as an escapee after arrest on another federal charge and is released from that charge without being taken into federal custody as an escapee, then the date of offense **will not** be the date on which that arrest occurred.

If an **escapee** is arrested by a **non-federal agency**, the **date of offense for any subsequent charge of escape will be the date on which the escapee is apprehended** for the non-federal offense, regardless of the date on which federal authorities learn that the escapee was in non-federal custody, provided the knowledge is acquired while the escapee is still in non-federal custody. Verification that federal authorities had * knowledge that the escapee was in non-federal custody can be substantiated if a U.S. Marshal filed a detainer or if the U.S. Marshal takes custody of the person immediately upon release from the non-federal agency.

Credit for time spent in non-federal official detention, for which the non-federal agency gave **no** time credit (18 U.S.C. § 3585(b)(2)) after the date of offense for the escape, shall be given only on the sentence imposed for the escape. Any escape sentence that results will be ordered to run consecutively to the sentence from which the escape occurred (§5G1.3(a), U.S. Sentencing Commission Guidelines Manual). If no federal sentence results from the escape, then any time credit that the state failed to award on its sentence shall not be *
awarded towards the original federal sentence from which the

*
inmate escaped since the non-awarded state time would have occurred after the date that the federal sentence commenced. The federal sentence from which the escape occurs shall remain inoperative until the prisoner is returned to exclusive federal custody, unless the Regional Director designates the state institution as the place to continue service of the federal sentence.

A person who **escapes** from a sentence imposed prior to November 1, 1987 (an "**Old Law**" sentence) and who is apprehended on or after November 1, 1987, will be sentenced (if convicted for escape) under the **SRA** since the date of offense, for this continuing type of offense, will have occurred on or after November 1, 1987.

* (2) **The date of offense for a prisoner whose supervised release or probation has been revoked** shall be the date of the offense which led to the original sentence. Inmates shall be given prior custody time credits for time spent in

official detention regardless of whether such detention predated the conduct that led to the revocation. Any time spent in official detention prior to the beginning date of the original sentence that was not awarded to the original sentence or any other sentence shall be given to the revocation term. If a prisoner is released late ("past due") because of staff error, a court order or executive clemency and is later returned as a supervised release or probation violator, the late release time shall be awarded on the supervised release or probation violator term.

(3) **The date of offense for a person who commits the offense of Failure to Appear (also termed Bail Jumping), as a result of absconding,** and who is arrested by a federal agency, will be the date on which the absconder is apprehended, regardless of whether the apprehension was for absconding or for another federal offense. (In the unlikely event that a person avoids detection as an absconder after arrest on another federal charge and is released from that charge without being taken into federal custody as an absconder, then the date of offense will not be the date on which the arrest occurred.)

If a **Failure to Appear** absconder is arrested by a **non-federal agency**, the **date of offense will be the date on which the absconder is apprehended** for the non-federal offense, regardless of the date on which federal authorities learn that the absconder was in non-federal custody, provided the knowledge is gained while the absconder is still in non-federal custody.

Verification that federal authorities had knowledge that the absconder was in non-federal custody can be substantiated if a U.S. Marshal filed a detainer or if the U.S. Marshal takes custody of the person immediately upon release from the non-federal agency.

If the person is subsequently convicted and sentenced for **Failure to Appear**, then the date of apprehension as an absconder will be the date of offense for the sentence imposed as a result of the **Failure to Appear** offense. Any time spent in non-federal official detention for which the non-federal agency gave **no** time credit after the date of the offense (18 U.S.C. § 3585(b)(2)) shall be given on the **Failure to Appear** sentence. Any time spent in federal official detention after the date of offense shall, of course, be given under the provisions of 18 U.S.C. § 3585(b)(1). *

The absconder date of offense has a special significance for a person admitted to **bail** prior to November 1, 1987 or for the person who failed to **appear** in court on a certain date prior to November 1, 1987. In those situations, if the absconder's date of offense, i.e., the date of offense for the **Failure to Appear** offense, is prior to November 1, 1987, then "**Old Law**" sentencing provisions will apply but if the absconder's date of offense is on or after November 1, 1987, then **SRA** sentencing provisions shall apply. This position is based on the rationale that a **Failure to Appear** offense is a continuing type of crime that, once begun, does not terminate or end until the

person (absconder) is apprehended. This offense, therefore, is treated in the same manner as a conspiracy offense.

Official detention. "Official detention" is defined, for purposes of this policy, as time spent under a federal detention order. This also includes time spent under a detention order when the court has recommended placement in a less secure environment or in a community based program as a condition of *presentence detention. In addition, on occasion it is necessary for the court to order placement in a less secure environment or in a community based program (including D.C. Department of Corrections' programs such as work release) because of overcrowding in the local place of detention. A person under these circumstances remains in "official detention", subject to the discretion of the Attorney General and the U.S. Marshals' * Service with respect to the place of detention. Those defendants placed in a program and/or residence as a condition of detention are subject to removal and return to a more secure environment at the discretion of the Attorney General and the U.S. Marshals' Service, and further, remain subject to prosecution for escape from detention for any unauthorized absence from the

* program/residence. (If there is any question as to whether such a defendant was in fact under the jurisdiction of the U.S. Marshals' Service, i.e., in the custody of the Attorney General, staff shall contact the appropriate U.S. Marshal for verification.) Such a defendant is not eligible for any credits while released from detention.

In Reno v. Koray, 115 S.Ct 2021 (1995), the U.S. Supreme Court held that time spent under restrictive conditions of release (including time spent in a community treatment center (CCC) or similar facility) was not official detention entitling an inmate to prior custody time credit under 18 U.S.C. § 3585(b). The court found that the interaction of the Bail Reform Act and 18 U.S.C. § 3585(b) supported the Bureau of Prisons' interpretation that a defendant is **either released** (with no credit for time under conditions of release) **or detained** (with credit for time in official detention).

Koray has also overruled Brown v. Rison, 895 F.2d 895 (9th Cir. 1990). As a result, the awarding of presentence time credit under 18 U.S.C. § 3568 for time spent under restrictive conditions shall also be discontinued. Brown is the Ninth Circuit case that required the Bureau of Prisons to give time credit to a sentence for time spent in a CCC or similar facility.

The Koray decision means, therefore, that time spent in residence in a CCC or similar facility as a result of the Pretrial Services Act of 1982 (18 U.S.C. § 3152-3154), or as a result of a condition of bond or release on own recognizance (18 U.S.C. § 3141-3143, former 3146), or as a condition of parole, probation or supervised release, is not creditable to the service of a subsequent sentence. In addition, a release condition that is "highly restrictive," and that includes "house arrest", "electronic monitoring" or "home confinement"; or such as requiring the defendant to report daily to the U.S. Marshal,

U.S. Probation Service, or other person; is not considered as time in official detention. **In short, under Koray, a defendant is not entitled to any time credit off the subsequent sentence, regardless of the severity or degree of restrictions, if such release was a condition of bond or release on own recognizance, or as a condition of parole, probation or supervised release.**

Any sentence computed for the first time before June 5, 1995, and that sentence reflects an award of prior custody time credits for time spent in a CCC or similar facility **shall** retain any credits applied, regardless of any sentence recomputation (e.g., for an addition or loss of prior custody time credits or modification of sentence, or as the result of a vacated sentence, including a sentence that was imposed after a retrial) that occurs on or after June 5, 1995.

Any sentence, computed for the first time on or after June 5, 1995, which reflects an award of prior custody time credits for time spent in a CCC or similar facility under conditions of release, that was not the result of a court order, shall be recomputed to void such credit.

If it is discovered during a sentence recomputation on or after June 5, 1995, that time was spent in a CCC or similar facility that should have been awarded as the result of a sentence computation performed prior to June 5, 1995, but was not awarded, such time **shall not** be given on the recomputation unless the court had ordered that such credit be given.

CCC or similar facility time that was awarded to a sentence that was calculated for the first time prior to June 5, 1995 because the inmate was committed to the Bureau of Prisons in error (e.g., premature release from non-federal custody or U.S. Marshals' failure to return an inmate to the proper non-federal jurisdiction after release on a writ) shall be canceled if the subsequent recomputation occurs on or after June 5, 1995, unless the court had ordered that such credit be given.

Any court order, regardless of when it was issued, that awards prior custody time credits for time spent in a CCC or similar facility, or for time spent under other forms of restrictive conditions of release, for a sentence computed for the first time on or after June 5, 1995, shall be referred to the RISA. The RISA and the Regional Counsel shall contact the Assistant U.S. Attorney who prosecuted the case and request that a Motion for Reconsideration or an appeal be filed based on the decision in Koray. The inmate shall retain the credit as long as the court order remains in effect.

The USM-129 will on occasion show that a defendant was in custody for one day. In such a case, staff may credit that one day without further verification.

If an inmate states that he was in prior custody for a day, or days, that was not shown on the USM-129, then staff shall attempt to verify the inmate's claim with the arresting agency even if the PSI substantiates the claim. These situations usually arise when a defendant is issued a summons to appear before the court in a criminal matter. After the hearing, if the

defendant returns to the community **without** being placed on bail or on "own personal recognizance," then that defendant is not entitled to that day in court as a day in "official detention" on a subsequent sentence even if required to report to the U.S. Marshals' Service for processing (fingerprinting, photographing, etc.). If the defendant is released on bail or on "own personal recognizance" then that day is treated as a day in official detention and shall be awarded as a day of prior custody time credit. *

Official detention does not include time spent in the custody of the U.S. Immigration and Naturalization Service (INS) under the provisions of 8 U.S.C. § 1252 pending a final determination of deportability. An inmate being held by INS pending a civil deportation determination is not being held in "official detention" pending criminal charges. (See Ramirez-Osorio v. INS, 745 F.2d 937, rehearing denied 751 F.2d 383 (5th Cir. 1984); Shoae v. INS, 704 F.2d 1079 (9th Cir. 1983); and Cabral-Avila v. INS, 589 F.2d 957 (9th Cir. 1978), cert. denied 440 U.S. 920, 99 S.Ct 1245, 59 L.Ed2d 472 (1979).)

A sentence imposed by a court for "**Time Served**," means that all time spent in official detention (prior custody time), as a result of the offense for which sentence was imposed, is included in the "Time Served" sentence which the court imposed and cannot be awarded to any other sentence.

Time spent serving a **civil contempt** sentence prior to trial and/or sentencing **does not** constitute presentence time credit toward the sentence that is eventually imposed.

Time spent serving a **civil contempt** sentence **does not** constitute presentence time credit toward any criminal sentence that has been interrupted by, or that is running along concurrently with, or that is to be served consecutively to, the criminal sentence.

Official detention does not include any time in a release status even though the defendant is considered "in custody" for purposes of pursuing a habeas corpus petition with the court, as cited by the U.S. Supreme Court in Hensley v. Municipal Court, 411 U.S. 345 (1973) (see also Cochran v. U.S., 489 F.2d 691 (5th Cir. 1974); Villaume v. United States, 804 F.2d 498 (8th Cir. 1986) (per curiam), cert. denied, 481 U.S. 1022 (1987)).

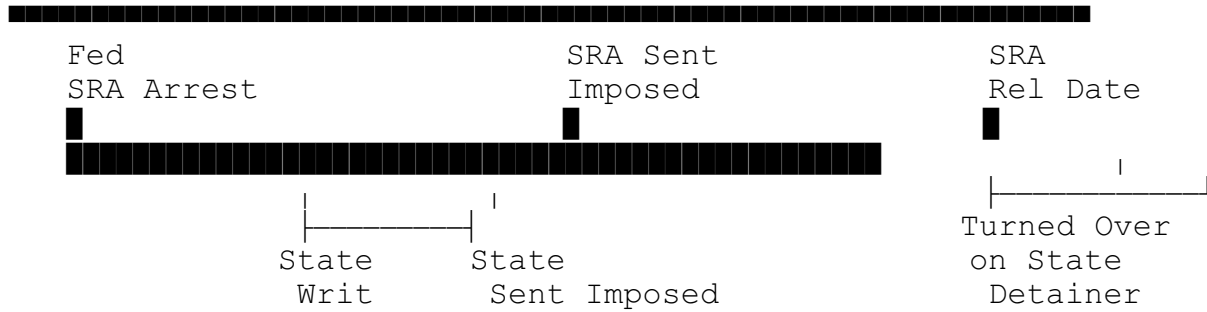
(1) Any part of a day spent in official detention equals one day for credit purposes. Prior custody time credit shall be applied in the following manner for the following situations:

(a) Credit related to 18 U.S.C § 3585(b)(1).

1 Credit will be given for time spent in official detention as a direct result of the federal offense for which the federal sentence was imposed (and not as a result of a writ from another jurisdiction), provided it has not been credited against another sentence. (See Example: 1)

*

Frequently, the date on which the person is arrested for the charge on which the subsequent sentence is imposed is earlier than the "date offense concluded" as shown on



In this example, the time spent in official detention is the direct result of the federal offense, and the state has merely borrowed the prisoner on writ and imposed sentence. All time spent in custody must be applied to the federal computation, regardless of any action taken by the state.

Example: 1

the judgment and commitment. There are a variety of reasons for this anomaly. Some courts have used the date of the indictment, others have used the date a conspiracy or fraud ends (even though the person was arrested for participation prior to that date), and on occasion the date was simply incorrect. If it can be verified that a person was in official detention on the charge for which the sentence was imposed prior to the "date offense concluded" as shown on the judgment and commitment, then such time shall be awarded regardless of the date of offense on the judgment and commitment order.

Credit shall **not** be given off a **Failure to Appear** sentence for time in official detention that occurred prior to the sentence that led to the **Failure to Appear** sentence because any such time would have occurred prior to the **Failure to Appear** date of offense. Time spent in official detention after

arrest for Failure to Appear shall, of course, be given off the Failure to Appear sentence. *

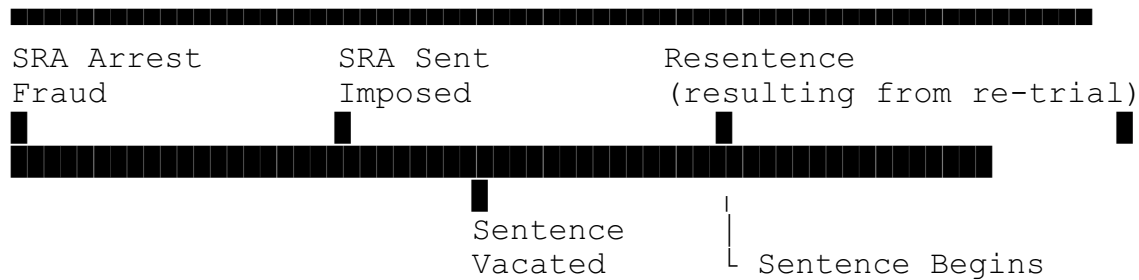
2 Credit will not be given for any portion of time spent serving another sentence regardless of whether the sentence is federal, state, or foreign. The following exceptions apply:

a Time spent serving another foreign or state sentence that is vacated may be creditable as prior custody time credit provided the sentence was not vacated merely for resentencing. Any such time which is credited must be time spent after the commission of the federal offense. If a vacated state or foreign sentence results in a re-trial and subsequent resentencing, any credit applied to that resentencing must be removed from the federal sentence computation, provided the inmate has not yet been released from that sentence.

b Time spent serving another federal, foreign or state sentence that is vacated merely for resentencing shall not have any effect on the SRA sentence computation until such time as the inmate is resentenced. If the resentencing results in a term which is less than the time the inmate has already served on the vacated sentence, the excess time not now credited to any other sentence shall be credited to the SRA term provided it was time spent after the commission of the federal offense.

* 3 If an SRA term is vacated solely for the purposes of a resentencing, then the date the sentence begins will be the same as the original computation. Any time spent in the community as the result of an appeal bond shall be treated as **inoperative** time.

 If a vacated sentence results in a re-trial and subsequent resentencing, the date the sentence will begin is based on the final judgement, and any previous creditable time shall be applied as prior custody time credits. Any time spent in the community as the result of an appeal bond **shall not** be credited (See Example: 2). *

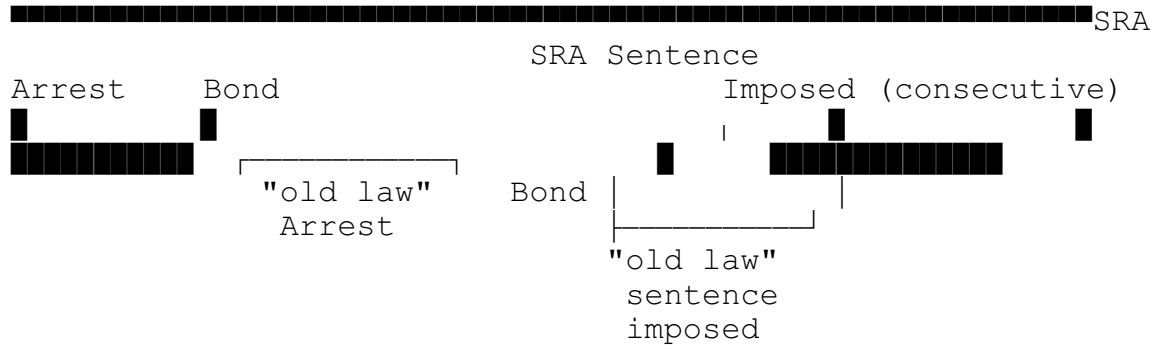


 In this example, all time spent prior to the date the new term began is credited as "prior custody credit".

Example: 2

4 Prior Custody Credits for consecutive sentences imposed on separate indictments, which include "old law" and SRA sentences, will be evaluated based on the merits relative to the individual sentences and their corresponding statutory provisions for credits. Any credit towards satisfaction of the "old law"

 sentence is explained in the "old law" Sentence Computation Manual (see Example: 3). *



Period from SRA arrest to first bond release must be credited on SRA sentence only. "Old law" presentence custody will be applied to the "old law" comp. SRA term begins on the date of release from the "old law" sentence.

Example. 5

★

5. As stated in Chapter I, paragraph 1, page 1 - 3, second and third paragraphs, "old law" and SRA sentences may not be aggregated. This non-aggregation of "old law" and SRA sentences creates an undesirable presentence (18 U.S.C. § 3568) and prior custody (18 U.S.C. § 3585(b)) time credit inequity between that group of prisoners who receive concurrent aggregated "old law" or concurrent aggregated SRA sentences and the group of prisoners who receive concurrent "old law" and SRA sentences that cannot be aggregated.

For example, if a prisoner receives two concurrent "old law" sentences or two concurrent SRA sentences, those sentences would be aggregated and the presentence or prior custody time would be combined and subtracted from the single aggregate EFT dates (and PE date in the case of an "old law" sentence aggregate). This practice allows the prisoner to receive the full benefit for all time spent in jail prior to sentencing. To the contrary, if a prisoner receives concurrent "old law" and SRA sentences (which cannot be aggregated), and, if the presentence or prior custody time credits due each are subtracted from the individual sentences, then, full credit for all time spent in jail will result in a period of "**dead time**", i.e., a period of jail time for which no benefit is received on the sentence that is controlling for actual release from confinement purposes.

Stating this inequitable consequence another way, the **non-combination** of all jail time **causes** the credit for the jail time for one of the sentences to be **ineffectual** because the sentence that is controlling for release purposes will not receive the benefit of the jail time from the other sentence.

As a result, in order to assure that those prisoners who receive concurrent "old law" and SRA sentences, regardless of the order in which they are to be served, shall receive the same time credit benefit (presentence and prior custody time) that other prisoners receive when concurrent like sentences are aggregated, **the rule is established that presentence and prior custody time credits shall be combined and subtracted from the EFT of each sentence (and the PE date in the case of an "old law" sentence) to achieve the same result as if they had been aggregated.**

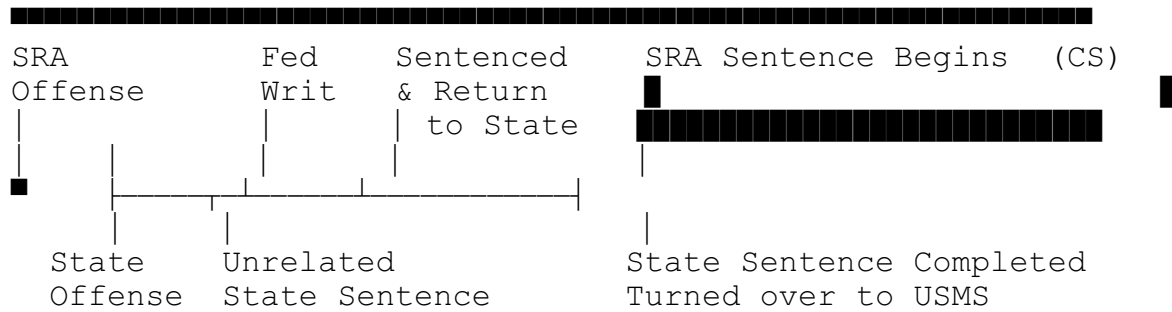
If a calculation of the first sentence to commence, utilizing the jail time credit applicable only to the first sentence, results in an SRD that is earlier than the DCB of the second sentence, then the rule will not apply since termination of the confinement portion of the first sentence will have occurred prior to the commencement (DCB) of the second sentence.

In the event that application of the combined presentence or prior custody time credit of a concurrent second sentence causes the SRD of the first sentence

to be earlier than the DCB of the second sentence, then the combined jail time credit shall continue to be applied in full to both sentences. Application of this rule is not intended to create a computation complication that would nullify the effect of the rule.

If the concurrent second sentence has an EFT that is less and an SRD that is later (after application of any jail time credit belonging to the second sentence only) than the first sentence to commence (after application of any jail time credit belonging to the first sentence only), then the rule shall not apply and each sentence shall remain the same as if the other sentence did not exist and shall be treated as "standing alone." *

6 Time spent in custody under a writ of habeas corpus from non-federal custody will not in and of itself be considered for the purpose of crediting presentence time. The primary reason for "writ" custody is not the federal charge. The federal court merely "borrows" the prisoner under the provisions of the writ for secondary custody. (See Example: 4).



In the above example, the time spent on writ is not creditable as the underlying basis for custody is the state offense and all time is credited to the state offense.

Example: 4

(b) Credit related to 18 U.S.C. § 3585(b)(2).

1 Prior Custody Credit will be given for time spent in official detention as the result of any federal, state or foreign arrest which is not related to, yet occurred on or after the date of the federal offense **(as**

shown on the judgment and commitment) for which the SRA sentence was

*

imposed; provided it has not been credited to another sentence.

The language in this Section eliminates any need for a federal detainer to be on file or for bail to be set on the state or foreign charges as a prerequisite for applying such prior custody time credit toward the federal sentence. Relevant prerequisites are:

a The non-related official detention must have occurred on or after the date of the federal offense for which the SRA sentence was imposed.

b The non-related official detention must not have been granted on another sentence. If it was applied on a state or foreign sentence, then credit is not applicable to the SRA sentence.

★

2 Failure by the non-federal government to grant official detention credit (or the credit granted was of no benefit) on a non-federal sentence, can be determined if:

★

a the non-federal charges were dismissed.

b non-federal probation was granted.

★

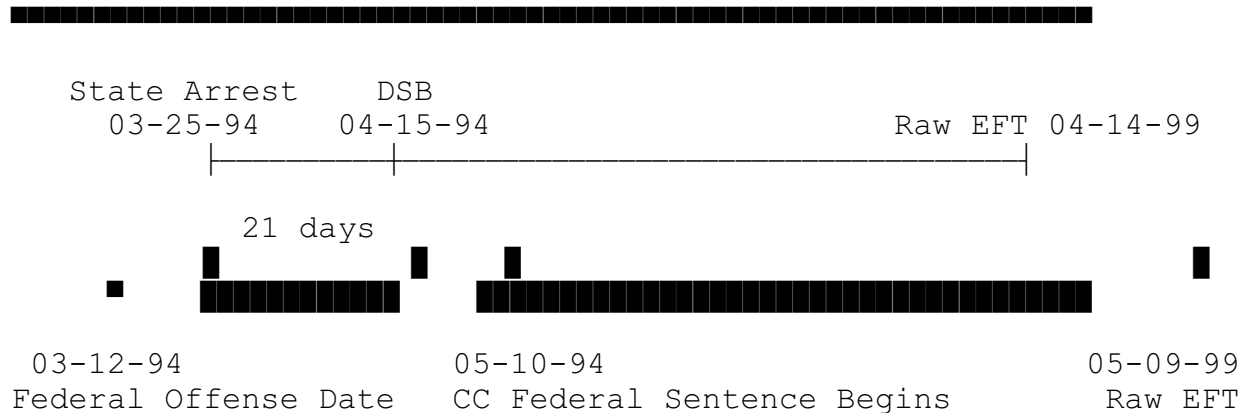
c the federal and non-federal terms are concurrent and the Raw EFT of the non-federal term is equal to or less than Raw EFT of the federal sentence. Prior custody credits shall be given for any time spent in non-federal presentence custody that begins on or after the date of the federal offense up to the date that the first sentence begins to run, federal or non-federal. These time credits are known as **Willis** time credits (See **Willis v. U.S.**, 449 F2d 923 (CA 5, 1971)). Credit shall not be given for any time spent in non-federal presentence custody prior to the date of the SRA offense. Further, if the release from the non-federal sentence occurs prior to the commencement of the federal sentence, then any non-federal presentence time awarded on the state sentence shall not be applied to the federal sentence. Any other existing prior

custody time credits shall be deducted from the federal EFT after application of the Willis time credits. The following examples are based on the Raw EFT of the non-federal sentence being equal to or less than the Raw EFT of the federal sentence:

Example No. 5

Date of Federal Offense = 03-12-1994
Date Arrested by State = **03-25-1994**
Date State Sentence Begins = **04-15-1994**
Date Concurrent Federal Sentence Begins = 05-10-1994

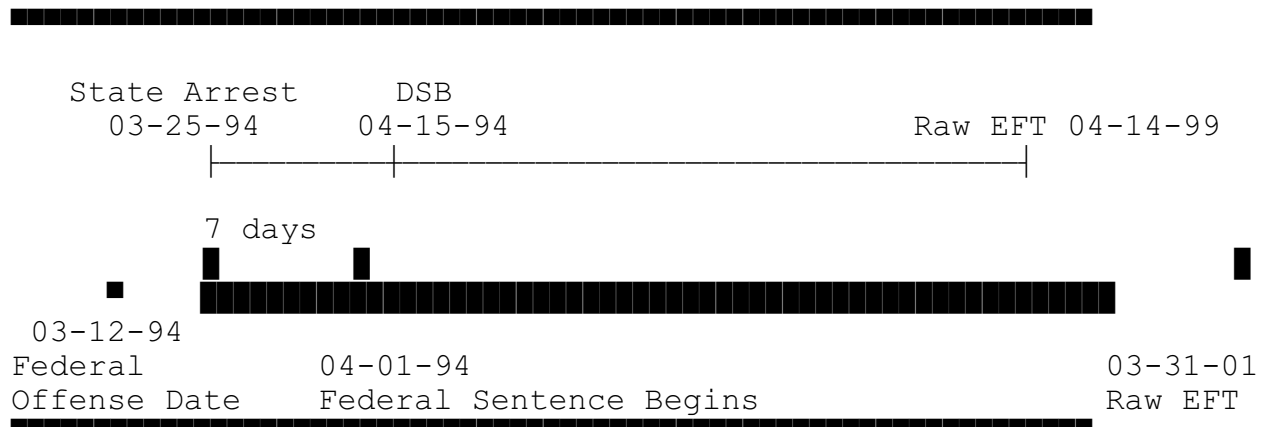
Time to award off the federal sentence is from **03-25-1994 through 04-14-1994** which equals **21** days.



Example No. 6

Date of Federal Offense = 03-12-1994
Date Arrested by State = **03-25-1994**
Date Federal Sentence Begins = **04-01-1994**
Date Concurrent State Sentence Begins = 04-15-1994

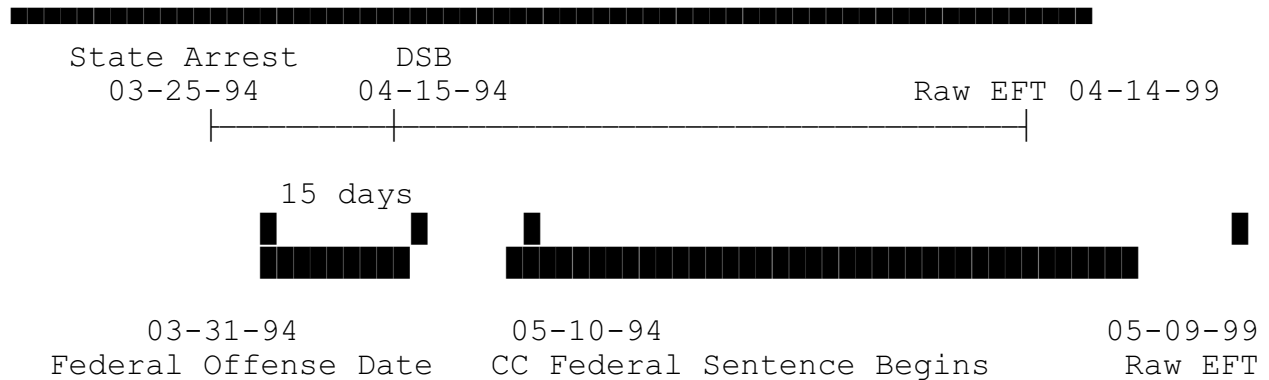
Time to award off the federal sentence is from **03-25-1994 through 03-31-1994** which equals **7** days.



Example No. 7

Date Arrested by State = 03-25-1994
Date of Federal Offense = **03-31-1994**
Date State Sentence Begins = **04-15-1994**
Date Concurrent Federal Sentence Begins = 05-10-1994

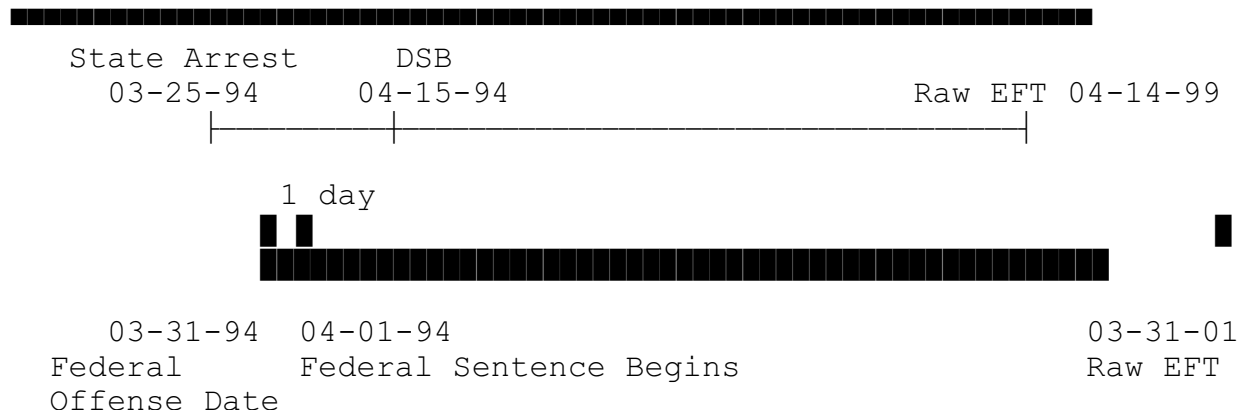
Time to award off the federal sentence is from
03-31-1994 through 04-14-1994 which equals **15** days.



Example No. 8

Date Arrested by State = 03-25-1994
Date of Federal Offense = **03-31-1994**
Date Federal Sentence Begins = **04-01-1994**
Date Concurrent State Sentence Begins = 04-15-1994

Time to award off the federal sentence is from
03-31-1994 through 03-31-1994 which equals **one** day.



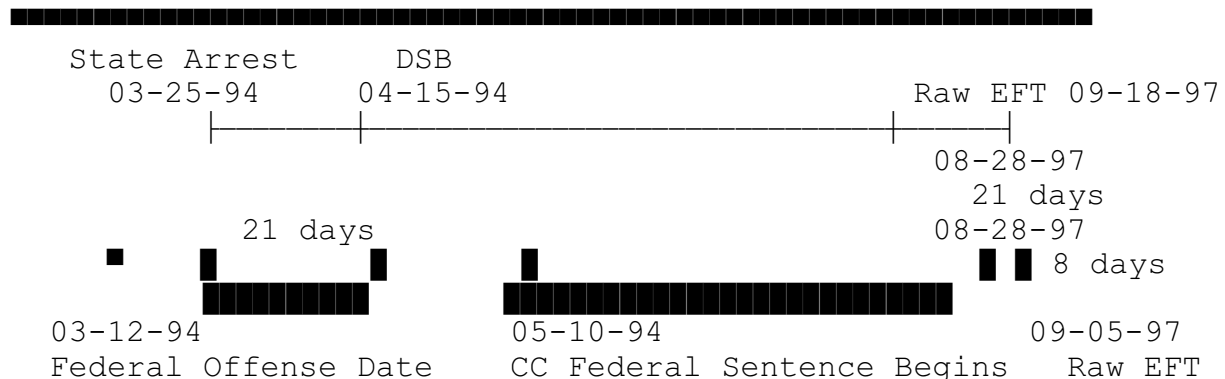
d If the **non-federal and federal sentences are concurrent**, the Raw EFT of the non-federal term is greater than the Raw EFT of the federal term, and if the non-federal Raw EFT, after application of **qualified** non-federal

presentence time, is reduced to a date that is earlier than the federal Raw EFT, then a **Kayfez** (See **Kayfez v. Gasele, 993 F.2d 1288 (7th Cir. 1993)**) situation exists. In such a situation, the amount of **qualified** non-federal presentence time, i.e., the amount of time in non-federal presentence time after the date of the federal offense to the date that the non-federal or federal sentence commenced, whichever is earlier, shall be applied to the non-federal Raw EFT. The federal Raw EFT shall then be reduced to equal the reduced non-federal EFT. Any other existing prior custody time credits shall be deducted from the federal EFT after application of the **Kayfez** time credits. Following are some examples that demonstrate the process:

Example No. 9

Non-Federal Raw EFT	= 09-18-1997
Federal Raw EFT	= 09-05-1997
Date of Federal Offense	= 03-12-1994
Date Arrested by Non-Federal Agency	= 03-25-1994
Date Non-federal Sentence Begins	= 04-15-1994
Date Concurrent Federal Sentence Begins	= 05-10-1994

Qualified non-federal presentence time is from **03-25-1994 through 04-14-1994** which equals **21** days. The non-federal Raw EFT shall be reduced by the 21 days to August 28, 1997 and the federal Raw EFT shall be reduced to that date resulting in an award of **8** days of prior custody time credits.

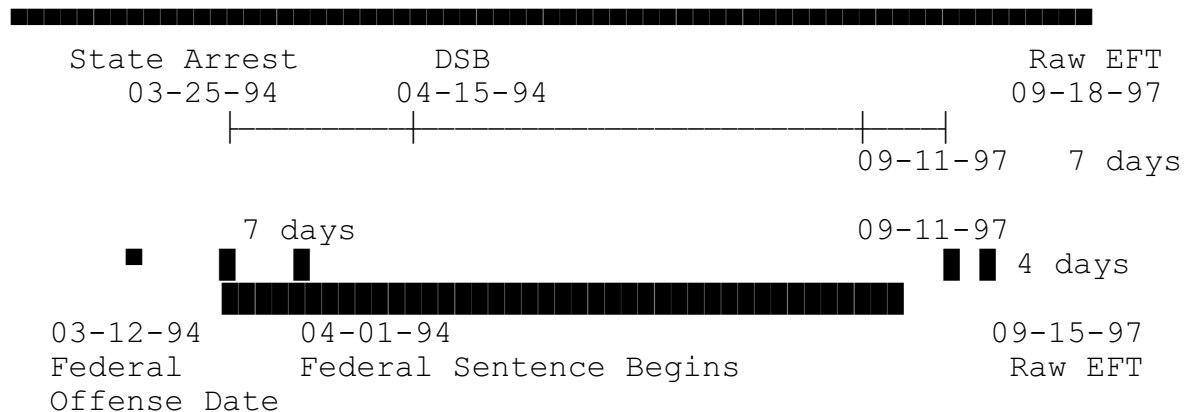


Example No. 10

Non-Federal Raw EFT = 09-18-1997
Federal Raw EFT = 09-15-1997

Date of Federal Offense = 03-12-1994
Date Arrested by Non-Federal Agency = **03-25-1994**
Date Federal Sentence Begins = **04-01-1994**
Date Concurrent Non-Fed Sentence Begins = 04-15-1994

Qualified non-federal presentence time is from **03-25-1994 through 03-31-1994** which equals **7** days. The non-federal Raw EFT shall be reduced by the 7 days to September 11, 1997 and the federal Raw EFT shall be reduced to that date resulting in an award of **4** days of prior custody time credits.



Example No. 11

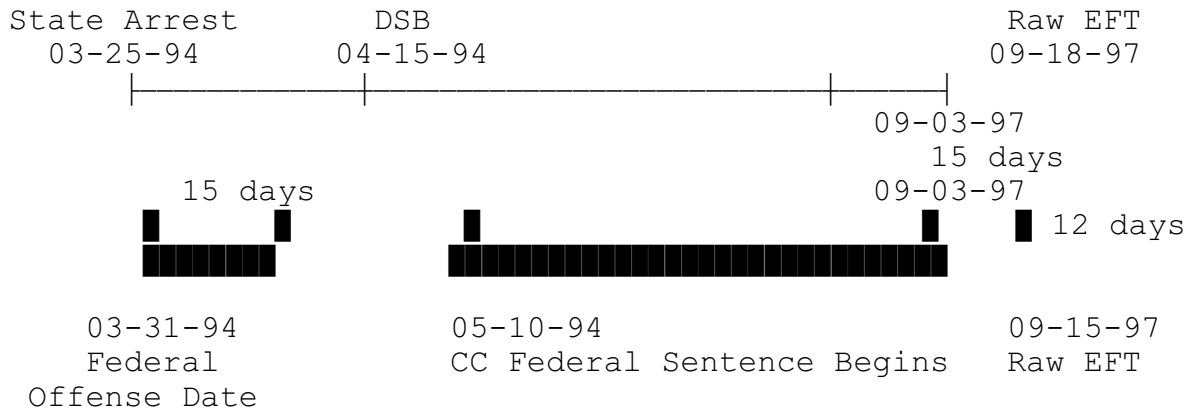
Non-Federal Raw EFT = 09-18-1997
Federal Raw EFT = 09-15-1997

Date Arrested by Non-Federal Agency = 03-25-1994
Date of Federal Offense = **03-31-1994**
Date Non-Federal Sentence Begins = **04-15-1994**
Date Concurrent Federal Sentence Begins = 05-10-1994
Date Arrested by Non-Federal Agency = 03-25-

1994

Date of Federal Offense = **03-31-1994**
Date Non-Federal Sentence Begins = **04-15-1994**
Date Concurrent Federal Sentence Begins = 05-10-1994

Qualified non-federal presentence time is from **03-31-1994 through 04-14-1994** which equals **15** days. The non-federal Raw EFT shall be reduced by the 15 days to September 3, 1997 and the federal Raw EFT shall be reduced to that date resulting in an award of **12** days of prior custody time credits.

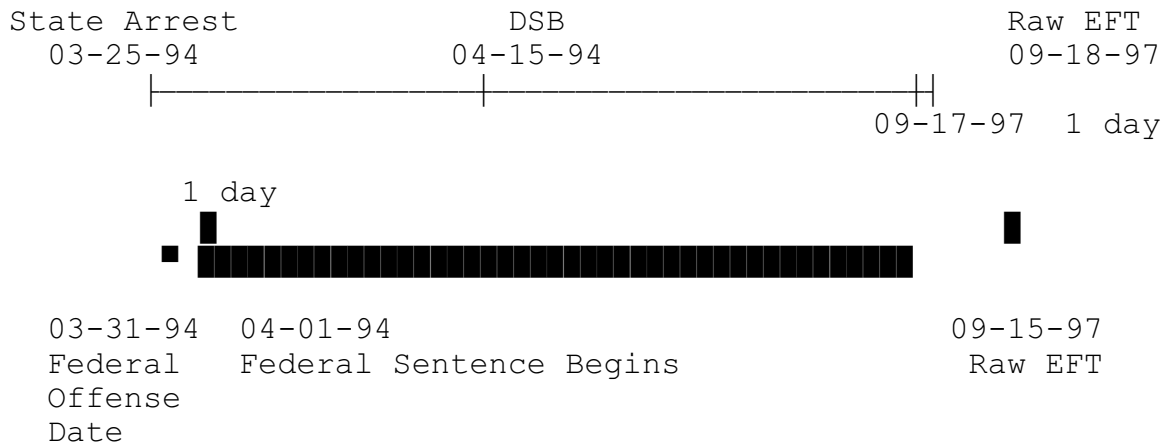


Example No. 12

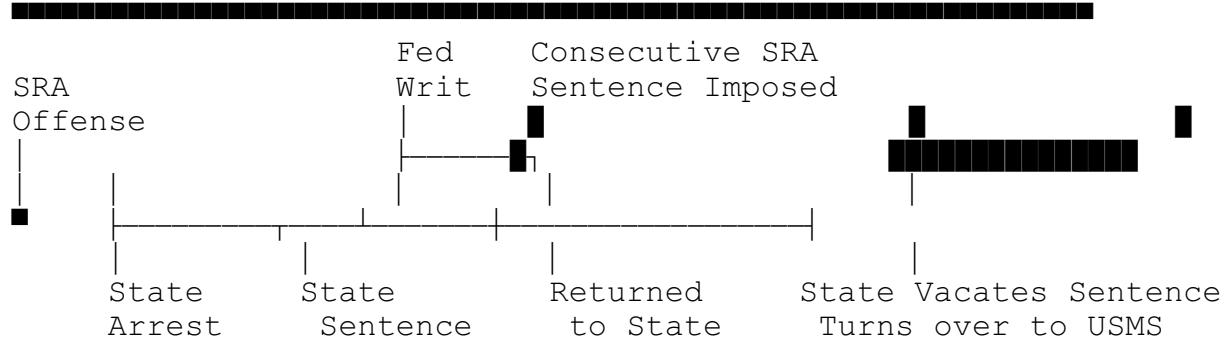
Non-Federal Raw EFT = 09-18-1997
Federal Raw EFT = 09-15-1997

Date Arrested by Non-Federal Agency = 03-25-1994
Date of Federal Offense = **03-31-1994**
Date Federal Sentence Begins = **04-01-1994**
Date Concurrent Non-Fed Sentence Begins = 04-15-1994

Qualified non-federal presentence time is from **03-31-1994 through 03-31-1994** which equals **1** day. The non-federal Raw EFT shall be reduced by the 1 day to September 17, 1997 and the federal Raw EFT shall remain the same since the reduced non-federal EFT is still greater than the federal Raw EFT resulting in no prior custody time credit off the federal sentence.



e The state sentence is vacated with further prosecution deferred, thereby effectively vacating the non-federal credit (See Example: 13).



While serving a state sentence, the state conviction is vacated. All time spent in state custody is credited to SRA term, which begins on the date received, in accordance with 18 USC § 3585(a).

Example: 13

f Ordinarily, if a state sentence is imposed, either before or after the time that the federal sentence commences, it is presumed that the state has awarded, or will award, presentence time off the state sentence for time spent in state custody in connection with the state offense and ISM staff need make no further inquiry about it unless the inmate claims that no state credit was, or will be, given. In such a case, ISM staff shall follow the instructions in subparagraphs c.(2), (a) and (c). *

(c) Credit related to a probation sentence under 18 U.S.C. § 3563(b)(11) or (12).

1 Time accrued prior to the beginning of the probation sentence shall not operate to reduce the time to serve in a Community Corrections Center or in custody of the Bureau of Prisons as a condition of probation.

2 Time spent in the intermittent custody of the Bureau of Prisons or in a Community Corrections Center as a condition of probation under subsection (11) or (12) is not creditable as prior custody time credit on a subsequent sentence received as a result of a revocation of the probation. * Time spent serving a term of probation is not official detention as to a sentence of imprisonment.

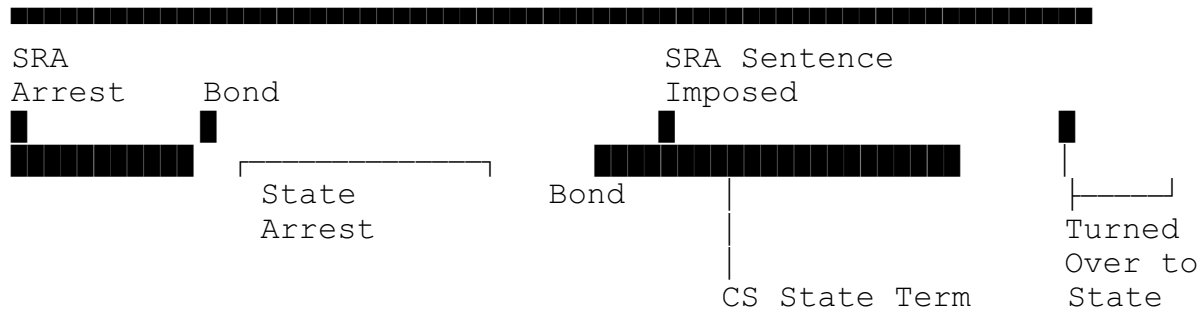
3 Prior custody time accrued after the date of offense for the original sentence (not awarded to any other sentence) that led to the probation sentence and any prior custody time accrued after arrest as an alleged probation violator, shall be applied to the subsequent sentence of

imprisonment imposed as a result of the probation revocation, pursuant to the guidelines previously discussed in this policy. The date of offense for the probation revocation term is the same as the date of offense for the original sentence that led to the probation sentence. *

(d) Credit previously awarded which must be withdrawn later.

In the event periods of state (or foreign) credit unrelated to the SRA offense are applied to an SRA sentence, and the state (or foreign country) later convicts and sentences the individual to a term of imprisonment, the credit given by the state will be withdrawn from the federal computation provided the time in question does not convert to "Willis" or "Kayfez" type of time credit as previously discussed. Should the state grant credit for time in federal custody, the time will not be withdrawn (provided it is directly related to the SRA Offense and not another federal charge) (see Example: 14).

Occasionally, while serving a criminal sentence, a prisoner will receive a civil contempt sentence which shall interrupt the service of that criminal sentence. Prior custody time credit is not accrued toward any other sentence during service of a civil contempt sentence even if the service of the civil contempt sentence is before trial and/or sentence on the



Initially, the period of state presentence custody would be applied, as it was not credited to another sentence; once a state consecutive term is imposed the state custody time is withdrawn. Exclusive federal prior custody time will **not** be withdrawn, regardless of the state computation.

Example: 14

criminal sentence to which it pertains. There are **two** civil contempt sections. **18 U.S.C. § 401** states,

A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as--

- (1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;**
- (2) Misbehavior of any of its officers in their official transactions;**
- (3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command.**

A civil contempt sentence under **18 U.S.C. § 401** is under the sole jurisdiction of the court and has **no** time limit. The sentence will not terminate until the prisoner purges himself of the contempt or until the court orders the sentence terminated. **28 U.S.C. § 1826** states,

(a) Whenever a witness in any proceeding before or ancillary to any court or grand jury of the United States refuses without just cause shown to comply with an order of the court to testify or provide other information, including any book, paper, document, record, recording or other material, the court, upon such refusal, or when such refusal is duly brought to its attention, may summarily order his confinement at a suitable place until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of--

- (1) the court proceeding, or
- (2) the term of the grand jury, including extensions,

before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed eighteen months.

(b) No person confined pursuant to subsection (a) of this section shall be admitted to bail pending the determination of an appeal taken by him from the order for his confinement if it appears that the appeal is frivolous or taken for delay. Any appeal from an order of confinement under this section shall be disposed of as soon as practicable, but no later than thirty days from the filing of such appeal.

(c) Whoever escapes or attempts to escape from the custody of any facility or from any place in which or to which he is confined pursuant to this section or section 4243 of title 18, or whoever

rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to imprisonment for not more than three years, or a fine of not more than \$10,000, or both.

A civil contempt sentence under **28 U.S.C. § 1826** may be ended in any one of **four** ways, the actual manner dependent upon which circumstance occurs first, and they are: **1)** The prisoner purges himself of contempt by cooperating with the court; **2)** the court proceedings terminate; **3)** the term imposed by the court (not to exceed 18 months) expires; and **4)** the term of the grand jury expires.

Unless the court orders otherwise, a civil contempt sentence shall **interrupt** the service of a criminal sentence for the duration of the civil contempt sentence. As a result, in the case of a civil contempt sentence that is ordered to commence on the date that it is imposed, the criminal sentence will become inoperative on the day after the civil contempt sentence begins and shall resume running on the day that the contempt sentence ends, providing that the prisoner is in federal custody for service of the criminal sentence.

If the civil contempt sentence is ordered to begin some date in the future, then the criminal sentence will become inoperative **on the day** that the contempt sentence begins and shall resume running on the day that the contempt sentence ends, providing that the prisoner is in federal custody for service of the criminal sentence.

If a civil contempt sentence is in effect when a criminal sentence is imposed, and the prisoner is available for service of the sentence, the just imposed criminal sentence runs concurrently with the civil contempt sentence **unless** the court specifically orders the criminal sentence to be served consecutively to preserve the intended effect of the civil contempt sentence.

(2) DOCUMENTATION. Prior custody credit will be given only with proper documentation indicating that the prisoner was in official detention within the application of paragraph 5. Proper documentation will consist of written documentation, for placement in the prisoner's Judgment and Commitment File, from any law enforcement agency (including probation officers). This includes verified phone, fax, or teletype messages, PSI, Rap Sheet, Booking Sheets, SENTRY, USM Form 129, etc.

(a) No credit shall be given based solely on documents or information received from a prisoner, a defense attorney, or other person or organization acting on the behalf of the inmate. Information from such sources shall be thoroughly investigated and verified before credit may be given. The verification effort will consist of one communication (with written documentation that contact was made, either in the form of a copy of the letter, fax, or teletype message, or by documenting the phone call) and one following communication if no response is received. If the follow-up communication produces no

response, the matter should be referred to the appropriate Regional Inmate Systems Administrator.

(b) Should the Judgment and Commitment order make a **recommendation** that a period of time credit be awarded to the sentence that is not authorized, the recommendation may be treated as surplusage and the credit will not be allowed. No letter need be written to the court that the time was not awarded. If the court, however, **orders** that a period of time be awarded that is not authorized, a letter must be sent to the appropriate U.S. Attorney requesting assistance in resolving the problem (Follow the instructions in the **Inmate Systems Manual** for communicating with the U.S. Attorney and the **Reno v. Koray** instructions beginning on page 1 - 14F, if applicable). Pending resolution of the problem, the sentence shall be computed as reflected on the Judgment and Commitment. *

(3) QUESTIONABLE SITUATIONS. Questions or problems that arise as to the applicability of any of the provisions of this policy shall be referred to the Regional Inmate Systems Administrator. Any resolution of a question or problem that may require a decision outside of, or contrary to, this policy or that may require a precedent setting decision, shall be referred to the Chief of Inmate Systems in the Central Office for review.

d. Inoperative Time. Once a sentence has begun to run, it may become "inoperative" (stop running) for a number of reasons, such as, escape, civil contempt, and release pending appeal. The reason a sentence becomes inoperative as a result of the aforementioned reasons is because the prisoner is no longer in official detention, i.e., the prisoner is not in the custody of the Attorney General or the Bureau of Prisons.

There is no statute that refers specifically to the term inoperative and there is no statute that states a sentence "stops running" when a prisoner causes himself to be removed from official detention. Under 18 USC § 3585, however, a prisoner must be in official detention before the sentence commences, or before the prisoner may receive presentence time credit that can be applied to the sentence. Therefore, the sentence cannot run, or must stop running, whenever the prisoner is not in official detention. The BOP has no authority to grant time credit toward the service of a sentence when a prisoner is not in official detention.

For example, a prisoner becomes an escapee upon departure from official detention (without official authorization or permission), and the sentence becomes inoperative beginning the next day and remains inoperative through the day before the prisoner is either recaptured or returns to official detention voluntarily. In other words, the prisoner receives a day of credit

for the date of escape and a day of credit for the date of return to official detention.

Another example of return to physical custody would result if the prisoner, while in escape status, is arrested on a new federal charge. In such a case, the sentence from which the escape occurred would begin running on the date of the new arrest. This restarting of the escape sentence would, of course, nullify any presentence time credit toward a future sentence that results from the new arrest, provided that the new sentence and the escape sentence are aggregated.

If the escapee is arrested by state authorities for a state charge, then the federal sentence would not resume running until the prisoner was turned over to exclusive federal custody. Production of the prisoner in federal court on the basis of a federal writ of habeas corpus ad prosequendum from state custody does not constitute a return to federal custody for the purpose of restarting the sentence from which the prisoner escaped. (Also see the Program Statement on Escape From Extended Limits of Confinement.

Federal custody of the prisoner could be effected for an escapee in state custody by designating state custody as the place to serve the remainder of the sentence from which the prisoner had escaped. (See the Program Statement on Designation to State Institution for Service of Federal Sentence.)

Following are some rules regarding the application of inoperative time.

*

(1) Inoperative time is applied to the sentence **before** jail time is deducted. *

(2) Inoperative time is added to the full term date of the sentence that is running at the time the inoperative time occurs. If a subsequent concurrent sentence is imposed, then the inoperative time would have no effect on the full term date of the subsequent new concurrent sentence.

(3) The Anniversary Date, and thus the Vested Date, must always be adjusted as the result of inoperative time.

e. Multiple Sentences of Imprisonment. The statute that governs the manner in which multiple sentences of imprisonment may be imposed is 18 U.S.C. § 3584.

*

(1) Subsection (a) of Section 3584 states,

(a) Imposition of concurrent or consecutive terms.--If multiple terms of imprisonment are imposed on a defendant at the same time, or if a term of imprisonment is imposed on a defendant who is already subject to an undischarged term of imprisonment, the terms may run concurrently or consecutively, except that the terms may not run consecutively for an attempt and for another offense that was the sole objective of the attempt. Multiple terms of imprisonment imposed at the same time run concurrently unless the court orders or the statute mandates that the terms are to run consecutively. Multiple terms of imprisonment imposed at different times run consecutively unless the court orders that the terms are to run concurrently.

The Bureau of Prisons interprets the phrase, "an undischarged term of imprisonment," as applying to any lawfully imposed federal or state, local or foreign (non-federal) sentence or revocation of a conditional release term (probation, supervised release, parole, etc.). *

The legislative history for this subsection states that,

. . . if the court is silent as to whether terms of imprisonment imposed at the same time (emphasis added) are concurrent or consecutive, the terms run concurrently unless a statute requires that they be consecutive. If, on the other hand, multiple terms of imprisonment are imposed at different times (emphasis added) without the judge specifying whether they are to run

**concurrently or consecutively, they will run
consecutively unless the statute specifies
otherwise.**

This subsection allows the court flexibility in sentencing when multiple terms of imprisonment are imposed and codifies the rules to follow if the court remains silent.

*

Sentences that are imposed as the result of a single trial on the counts within a single indictment are considered to have been imposed at the same time, regardless of whether they are imposed at different times on the same date or on a later date.

Sentences that are imposed on the same date, or on different dates, based on convictions arising out of different trials, are considered to have been imposed at different times even if the trials arose out of the same indictment.

The court's sentencing flexibility, in addition to applying to federal undischarged terms of imprisonment, also extends to those prisoners who have non-federal undischarged terms of imprisonment.

The court may, for a prisoner who is serving a non-federal undischarged term of imprisonment while "on loan" to the federal government under the jurisdiction of a federal writ of habeas corpus ad prosequendum, impose the federal sentence to run concurrently with, or consecutively to, the other undischarged term of imprisonment. Upon receipt of the judgment

and commitment from the U. S. Marshals' Service that orders the federal sentence to be served concurrently with the non-federal sentence, the RISA shall, in accordance with 18 U.S.C. § 3621(b), designate the non-federal facility as the place to serve the federal sentence and complete the other procedures required by the Program Statement on Designation of State Institution for Service of Federal Sentence, for executing this type of concurrent sentence.

On occasion, a federal court will order the federal sentence to run concurrently with or consecutively to a not yet imposed term of imprisonment. Case law supports a court's discretion to enter such an order and the federal sentence shall be enforced in the manner prescribed by the court. If the just imposed federal sentence is ordered to run concurrently with a non-existent term of imprisonment, then the RISA shall designate the non-federal place as the place to serve the federal sentence as of the date that the federal sentence was imposed. If the federal sentence is silent, or ordered to run consecutively to the non-existent term of imprisonment, then the federal sentence shall not be placed into operation until the U.S. Marshals' Service or the Bureau of Prisons gains exclusive custody of the prisoner.

Regardless of whether the court orders the federal sentence to be served consecutively to, or concurrently with, the non-federal non-existent or undischarged term of

imprisonment, the prisoner shall be returned to the non-federal jurisdiction until the prisoner is released (completes the undischarged term of imprisonment) from the non-federal term.

Federal courts sometime order a **portion** of the federal sentence to run concurrently with or consecutively to another federal sentence or a non-federal sentence. The Bureau of Prisons will attempt to accommodate a court's intent as fully as possible. Since the possible number of ways of imposing a **portion** of a sentence concurrently with or consecutively to another sentence are numerous, staff should refer such sentences to the RISA for assistance. *

(2) Subsection (c) of Section 3584 provides the rules for the treatment (calculation) of multiple sentences and states,

Multiple terms of imprisonment ordered to run consecutively or concurrently shall be treated for administrative purposes as a single, aggregate term of imprisonment.

* This statement means that SRA sentences, including a term of imprisonment that results from a revocation of supervised release or probation, shall be aggregated to form a single sentence for computation purposes. Those sentences that were imposed, however, on or after November 1, 1987 (the effective date of the SRA) but prior to the Supreme Court decision in Mistretta January 18, 1989 (during which some courts held that some or all of the SRA was unconstitutional, shall not be aggregated with valid SRA sentences. A sentence that is, or was, imposed for an offense that occurred prior to

November 1, 1987 ("Old Law" offense), shall not be aggregated with a valid or invalid SRA sentence. *

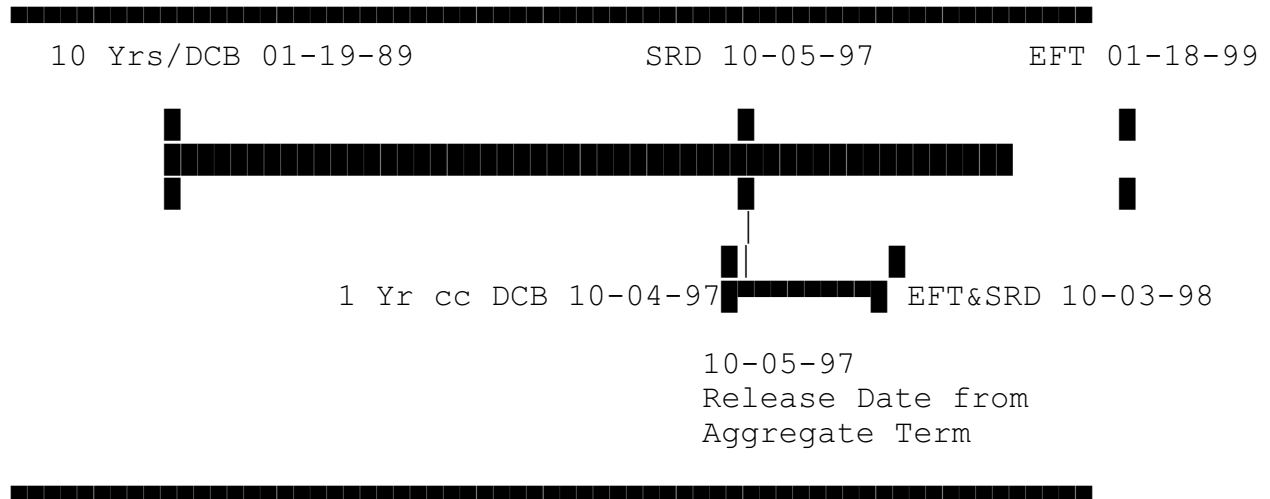
(3) If a multi-count indictment in a single judgment and commitment contains an offense(s) that was completed before November 1, 1987, and an offense(s) that was completed on or after November 1, 1987, then those pre and post SRA counts shall be treated separately (not aggregated) and the sentences shall be computed in accordance with the sentencing laws in effect at the time of the completion of those offenses. If a count is ordered to be served consecutively to a count with which it cannot be aggregated, then the consecutive count shall be held as a detainer until release from the preceding count occurs.

(4) The concurrent sentence aggregation requirement discussed in paragraph e.(2) of this Chapter, could create a set of circumstances that would allow a concurrent sentence to be served in a shorter period of time than if it were standing alone.

For example, a sentence of ten years that began on January 19, 1989 would expire with good conduct time (432 days) on October 5, 1997 and a concurrent one year sentence that begins on October 4, 1997 (the day before the release date on the ten year sentence) would, if standing alone, expire on October 3, 1998 (no GCT is earned on a sentence of one year, so both the release date and full term date occur on the same date).

You will note in this example that the concurrent one year sentence has a beginning date that is later

than the beginning date of the ten year sentence but the full term date and the release date for the one year sentence, if standing alone, would be less than the full term date of the ten year sentence. Because of the language of 18 U.S.C. § 3584(c) that requires that multiple terms of imprisonment be treated as a single, aggregate term, then the one year sentence would have the same date of release as the ten year sentence of October 5, 1997 as shown in the following diagram:



As a result of this interpretation of the statute, in the above example the prisoner would serve only two days on the one year sentence and gain a "windfall" of 363 days thereby avoiding serving the major portion of the one year sentence. This "problem" sentencing result will occur each time that a concurrent sentence has the following conditions:

- a. The concurrent sentence has a beginning date that falls on, or is later than, the beginning date of the first sentence.

b. The concurrent sentence has a full term date that falls on, or is earlier than, the full term date of the first sentence.

c. The concurrent sentence has a release date that is later than the release date of the first sentence.

Subsection (c), while probably not contemplating the type of "windfall" situation described above is, nonetheless, clear and unequivocal about the treatment of concurrent terms (as well as consecutive terms) as a single term of imprisonment for administrative purposes.

The "windfall" situation is avoided in concurrent sentence situations when both the beginning date and full term date fall within those dates on the first sentence, providing the release date of the concurrent sentence is earlier than the release date of the first sentence.

Again, the "windfall" condition is avoided when the beginning date of the concurrent sentence (regardless of length - could be shorter or longer than the first sentence) falls on, or begins later than the first sentence, but the full term date of the concurrent sentence is longer than the first sentence. For example, a sentence of ten years (the first sentence) that began on January 19, 1989 has a full term date of January 18, 1999. A twelve year concurrent sentence imposed on March 12, 1990 has a full term date of March 11, 2002. The sentences are aggregated as required by 18 U.S.C. § 3584(c) and result in a beginning date of January 19, 1989 and a full term

date of March 11, 2002, for a total aggregate term of thirteen years, one month, and twenty-one days and a release date of July 1, 2000 (618 days) as shown below:

EFT Date of Concurrent Sentence	=	2002-03-11
EFT Date of First Sentence	=	<u>-1999-01-18</u>
Overlap (3 Yrs, 1 Mo, 21 Dys)	=	3-01-21
Length of First Sentence (10 Yrs)	= +	<u>10-00-00</u>
Length of Aggregate (13 Yrs, 1 Mo, 21 Dys)=		13-01-21

EFT Date of Aggregate	=	2002-03-11	=	23081
GCT on Aggregate (618 Dys)	=		=	<u>- 618</u>
SRD of Aggregate	=	2000-07-01	=	22463

- * **e-1. Implementation of the Firearm Penalty Provision Under 18 U.S.C. § 924(c)(1), as Outlined in U.S. v. Gonzales.**
Effective October 12, 1984, P.L. 98-473 amended **§ 924(c)(1)**, for firearm offenses committed on or after that date, to read in part,

"Notwithstanding any other provision of law, . . . nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment [emphasis added] including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried."

The Bureau issued policy instructions that required the **924** count to be served **first** and the **non-924** count(s) **subsequent**, regardless of the order in which the counts were imposed in a single J&C order. The **Gonzales** decision, however, held that a court may apply a sentence containing both a **924** count and a **non-924** count, or counts, in a different way than Bureau policy had previously explained.

a. **General 18 U.S.C. § 924(c)(1) Policy For New Law Sentences.**

(Note: In the policy that follows, the use of the term **sentence** means a **new law federal** sentence, unless otherwise specified.)

- ◆ All counts in a single J&C shall be served in the order imposed by the court.
- ◆ Unless otherwise specified, reference to a **924/non-924** sentence, in a single J&C, means that the counts have been **aggregated** into a single sentence for that J&C, as required by **18 U.S.C. § 3584(c)**.
- ◆ A **924/non-924** sentence that is ordered to run consecutively to an existing **federal** sentence shall be **added** to the existing **federal** sentence and calculated as an **aggregate**, provided there is nothing to prevent the aggregate, i.e., **old law** and **new law** sentence combination or **SRA/VCCLEA** and **PLRA** combination.
- ◆ A **924/non-924** sentence that is ordered to run consecutively to a **non-federal** or **old law** sentence, but cannot be aggregated with it, shall be calculated as beginning on the date of release from the **non-federal** or **old law** sentence.

- ◆ A sentence imposed after a **924/non-924** sentence may be imposed in any manner the court deems appropriate, i.e., concurrent or consecutive.

b. Calculation of New Law Sentences Which Include An
18 U.S.C. § 924(c)(1) Count

(Note: In the examples that follow, one day is added to the subtraction calculation, as if the term commenced on the DCB. Also, the "raw" Expiration Full Term (EFT) date is without application of jail credit.)

- ◆ If a **non-federal** or **old law** sentence exists at the time the **924/non-924** sentence is imposed, the **924** count shall be served consecutively to the existing **non-federal** or **old law** sentence. The **non-924** counts may be served concurrently with the existing **non-federal** or **old law** sentence, if so ordered by the court. Assuming that the **non-924** counts are ordered to run concurrent with the existing sentence, this non-aggregate calculation shall be performed as follows:

- 1) Determine the **non-federal** or **old law** release date.
- 2) Add the consecutive **924** term to the **non-federal** or **old law** release date to establish a "raw" **EFT** date.
- 3) Subtract the total term of the **924/non-924** sentence from the just established "raw" **EFT** date to arrive at a **DCB**.
- 4) Calculate the **924/non-924** sentence.

If the **DCB** is on or after the date the **924/non-924** sentence was imposed, use the established **DCB** to calculate the **924/non-924** sentence. (See Example No. 1)

Example No. 1: The **first** J&C is a 5-year **non-federal** or **old law** sentence imposed on 06-15-1988, with an SRD of 02-20-1992. The **second** J&C is an 84 month, **924/non-924** sentence, imposed on 06-18-1988, with the 24-month **non-924** count to run concurrently with the **first** sentence and the 60-month **924** count to run consecutively. The 60-month **924** count is added to the SRD (02-20-1992) of the **first** sentence, resulting in a "raw" **EFT** date of 02-19-1997. The 84-month sentence is then subtracted from the "raw" **EFT** date of 02-19-1997, causing a **DCB** of 02-20-1990 for the **second** sentence,

which is later than the date of imposition (06-18-1988). The **second** sentence of 84 months shall, therefore, commence on the **DCB** of 02-20-1990.

Calculation for Example No. 1:

Step 1:		Step 2:	
First sentence		Second sentence (c/s 924	
1988-06-15		1992-02-20	
+ 5		+ 5	
1993-06-14* (Raw EFT)		1997-02-19* (Raw EFT)	
1992-02-20 (SRD)			
Step 3:		Step 4:	
1997-02-19		1990-02-20	
- 7		+ 7	
1990-02-19		1997-02-19* (Raw EFT of	
+ 1		924/non-924	
1990-02-20 (DCB - later		Sentence)	
than 06-18-1988)			

If the **DCB** is earlier than the date of imposition of the **924/non-924** sentence, calculate by using the date of imposition of the **924/non-924** sentence. (See Example No. 2)

Example No. 2: The **first** J&C is a 5-year **non-federal** or **old law** sentence imposed on 06-15-1988 with an SRD of 02-20-1992. The **second** J&C is an 84-month **924/non-924** sentence imposed on 12-15-1990, with the 24-month **non-924** count to run concurrently with the **first** sentence and the 60-month **924** count to run consecutively. The 60-month **924** count is added to the SRD (02-20-1992) of the **first** sentence, resulting in a "raw" **EFT** of 02-19-1997. The 84-month sentence is then subtracted from the "raw" **EFT** of 02-19-1997, causing a **DCB** of 02-20-1990 for the **second** sentence, which is earlier than the date of imposition (12-15-1990). The **second** sentence of 84 months shall, therefore, commence on the date of imposition of 12-15-1990.

Calculation for Example No. 2:

Step 1:		Step 2:	
First sentence		Second sentence (c/s 924 count)	
1988-06-15		1992-02-20	
+ 5		+ 5	
1993-06-14*	(Raw EFT)	1997-02-19*	(Raw EFT)
1992-02-20	(SRD)		
Step 3:		Step 4:	
1997-02-19		1990-12-15	
- 7		+ 7	
1990-02-19		1997-12-14*	
+ 1		(Raw EFT of 924/non-924 Sentence)	
1990-02-20	(DCB - earlier than 12-15-1990)		

- ◆ If a **new law** sentence exists at the time the **924/non-924** sentence is imposed and the **924** count is to be served consecutively to the other counts in that J&C and to the existing **new law** sentence, then the **non-924** count may be served concurrently with the existing sentence, if so ordered by the court.

When the **non-924** count is concurrent, the aggregate calculation shall be performed as follows:

- 1) Add the **924** term to the existing **new law** term, for a total aggregate term.
- 2) Add the aggregate term to the **DCB** of the first sentence to establish a "raw" **EFT** date.
- 3) Subtract the total term of the **924/non-924** sentence from the just established "raw" **EFT** date to arrive at a **DCB**.
- 4) Calculate the aggregate sentence.

If the **DCB** is on or after the date the **924/non-924** sentence was imposed, add the term of the **924** count to the term of the existing **new law** sentence for a total aggregate term. Calculate the aggregate sentence using the **DCB** of the **first** sentence. (See Example No. 3)

Example No. 3: The **first** J&C is a 60-month **new law** sentence imposed on 06-15-1988. The **second** J&C is an 84-month **924/non-924** sentence imposed on 06-18-1988, with the 24-month **non-924** count to run concurrently with the **first** sentence and the 60-month **924** count to run consecutively. The 60-month **924** count is added to the **first** sentence of 60 months, for a total term of 120 months, and, a "raw" **EFT** of 06-14-1998. The 84-month sentence is then subtracted from the aggregate "raw" **EFT** of 06-14-1998 causing a **DCB** of 06-15-1991, for the **second** sentence, which is later than the date of imposition (06-18-1988). The 120-month aggregate sentence shall, therefore, commence on the **DCB** of the **first** sentence, 06-15-1988.

Calculation for Example No. 3:

<u>Step 1:</u>		<u>Step 2:</u>	
First sentence:	60 months	1988-06-15	
924 term:	+ 60 months	+ 10	
Total term:	120 months	1998-06-14*	(Raw EFT)
<u>Step 3:</u>		<u>Step 4:</u>	
1998-06-14		1988-06-15	
- 7		+ 10	
1991-06-14		1998-06-14*	(Raw EFT of
+ 1			Aggregate
1991-06-15	(DCB - later		Sentence)
	than 06-18-1988)		

If the **DCB** is earlier than the date of imposition of the **924/non-924** sentence, subtract the "raw" **EFT** of the **first** sentence from the "raw" **EFT** of the **second** sentence to determine the concurrent overlap. Add the concurrent overlap, with the term of the **first** sentence, to establish the total aggregate term. (See Example No. 4)

Example No. 4: The **first** J&C is a 60-month **new law** sentence imposed on 06-15-1988. The **second** J&C is an 84-month **924/non-924** sentence imposed on 02-15-1992, with the 24-month **non-924** count to run concurrently with the **first** sentence and the 60-month **924** count to run consecutively. The 60-month **924** count is added to

the **first** sentence of 60 months, for a total term of 120 months, and, a "raw" **EFT** of 06-14-1998. The 84-month sentence is then subtracted from the aggregate "raw" **EFT** of 06-14-1998 causing a **DCB** of 06-15-1991, for the **second** sentence, which is earlier than the date of imposition (02-15-1992).

The "raw" **EFT** of the **first** sentence is 06-14-1993. The "raw" **EFT** of the **non-924** term is 02-14-1994. By subtracting 06-14-1993 from 02-14-1994, the concurrent overlap is eight (8) months. Add the overlap of eight (8) months, the **first** sentence term of 60 months, and the **924** term of 60 months to establish the aggregate term of 128 months, to commence on the **DCB** of the **first** sentence (06-15-1988). (See Example No. 4)

Calculation for Example No. 4:

<u>Step 1:</u>		<u>Step 2:</u>	
First sentence:	60 months	1988-06-15	
924 term:	+ 60 months	+ 10	
Total term:	120 months	1998-06-14*	(Raw EFT)
<u>Step 3:</u>		<u>Step 4:</u>	
1998-06-14		1988-06-15	
- 7		+ 5	
1991-06-14		1993-06-14*	(Raw EFT of
+ 1			First
1991-06-15	(DCB - earlier		Sentence)
	than 02-15-1992)		
<u>Step 5:</u>		<u>Step 6:</u>	
1992-02-15		1999-02-14	
+ 7		- 1993-06-14	
1999-02-14*	(Raw EFT of	5y 8m	
	Second		
	Sentence)		
<u>Step 7:</u>			
First sentence:	60 months		
Concurrent Overlap:	+ 68 months	(5 years 8 months)	
Aggregate Term:	128 months	(10 years 8 months)	

6. INMATE REQUEST FOR 924/NON-924 SENTENCE COMPUTATION REVIEW.

Any inmate may request a review of the sentence computation pursuant to an **Inmate Request to Staff Member (BP-148)** to learn if a pre-**Gonzales** computation may have been implemented contrary to **Gonzales**.

7. PROCEDURES FOR REVIEWING PRE-GONZALES 924/NON-924 SENTENCES

During any required audit of a sentence computation, e.g., initial audit, pre-release audits, disallowance-forfeiture-restoration of good time, etc., ISM staff shall review the existing computation to determine if a pre-**Gonzales** issue is present. Following are several situations that may be present that would require ISM action of some nature.

- ◆ The inmate is in primary federal custody, a **non-federal** or **federal** sentence is in existence, a **NL 924/non-924** sentence is imposed with the **non-924** count to run concurrent and the **924** count to run consecutive to the existing sentence. In some cases, ISM has calculated the entire sentence as running consecutively to the existing sentence.

If the **924** count was ordered to run consecutively to the other counts in the J&C, ISM shall recalculate the sentence to show the **non-924** counts as running concurrently with the existing sentence and the **924** count as running consecutively.

- ◆ If ISM staff advised a court that a sentence was improper based on pre-**Gonzales** policy and the court entered an order to correct or modify the sentence based on that advice, then communication to the court through the appropriate U.S. Attorney must be initiated that puts the court on notice of the prior improper advice. The communication should include a request that the institution be advised of any action that the court may deem appropriate. ISM staff shall devise local procedures to follow up on every case brought to the attention of the court.
- ◆ If a situation arises that prevents the calculation of a **924/non-924** sentence, contact the Regional Inmate Systems Administrator (RISA) for assistance. *

f. Release Authority and Release on Other Than a Weekend or Holiday. After a prisoner has been sentenced to a term of imprisonment, 18 USC § 3624(a) provides that such ". . . prisoner shall be released . . . on the date of the expiration of his term of imprisonment, less any time credited toward the service of his sentence . . ." for good conduct as authorized in "subsection (b)." This section is very important to the Bureau of Prisons since it both authorizes and requires that the prisoner be released at the end of the sentence (release date). (Certifying the judgment and commitment with a statement about GCT deductions the prisoner earned during confinement or with a statement that the prisoner was released on a certain date is not a requirement under the SRA. The certification requirement (See 18 USC § 4163. Discharge) for "old law" releases is still required.)

In addition, Subsection (a) further states, "If the date for a prisoner's release falls on a Saturday, a Sunday, or a legal holiday at the place of confinement, the prisoner may be released by the Bureau on the last preceding weekday." The BOP's authority to utilize this section is discretionary and is not mandatory. For example, if a prisoner with a detainer on file has a release date that occurs on a weekend or holiday and the authority that placed the detainer is unable to take custody on any other day but the release date that falls on the weekend or holiday, then the early release provisions of this section should not be used.

When a prisoner is released on the last preceding weekday before a weekend or holiday, any term of supervised release shall begin on the day the inmate is actually released from custody. (See the Program Statement on Release Of Inmates Prior To A Weekend Or Legal Holiday and paragraph i. of this chapter for more information on supervised release.)

The Inmate Systems Manager is responsible for assuring that routine consideration is given to those prisoners that have release dates that occur on a weekend or holiday.

Community Corrections Managers are responsible for making weekend or holiday early release decisions for community corrections centers.

g. Good Conduct Time. Subsection 3624(b) states, "(b) Credit toward service of sentence for satisfactory behavior.-- A prisoner who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of his life, shall receive credit toward the service of his sentence, beyond the time served, of fifty-four days at the end of each year of his term of imprisonment, beginning at the end of the first year of the term, unless the Bureau of Prisons determines that, during that year, he has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. If the Bureau determines that during that year, the prisoner has not satisfactorily complied with such institutional regulations, he shall receive no such credit toward service of his sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Such credit toward service of sentence vests at the time it is received. Credit that has been vested may not later be withdrawn, and credit that has not been earned may not later be granted. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence."

For computation purposes, it is necessary to remember the following about subsection 3624(b):

(1) 54 days of GCT may be earned for each full year served on a sentence in excess of one year, with the GCT being

prorated for the last partial year. No GCT can be earned on, or awarded to, a sentence of one year or less.

(2) The BOP has 15 days after the end of each full year served to make a determination as to the amount of the 54 days that shall be awarded. If the BOP makes no decision about the amount of GCT to award in the 15 days at the end of the year just served, then the entire 54 days will be automatically credited to the sentence on the Vested Date. Therefore, before awarding any GCT on the Vested Date, staff shall review the SENTRY disciplinary log to determine if any GCT had been disallowed during the preceding anniversary period. If no GCT was disallowed during the preceding anniversary period, then the GCT SENTRY data base shall be updated with the total amount of GCT possible to earn and a copy of the disciplinary log, as well as a copy of the GCT record (both signed and dated by the ISM staff member making the change and the auditor), shall be placed in the Judgment and Commitment File. *

If some or all of the GCT had been disallowed during the preceding anniversary period and no BP-448 (Good Conduct Time Action Notice) has been received by the Vested Date that matches the disciplinary log record, then the disciplinary log shall be used as the official record for disallowing GCT on the Vested Date. A copy of the disciplinary log shall be placed in the Judgment and Commitment File pending receipt of a BP-448 that matches the information on the disciplinary log. After receipt of the BP-448 the disciplinary log copy shall be destroyed. Again, an updated copy of the

SENTRY GCT record (signed and dated by the ISM staff member making the change and the auditor) shall be placed in the Judgment and Commitment File.

*

Once GCT has been credited, it vests and may not later be disallowed. If good cause exists (e.g., riot, food strike, work stoppage, etc.) or the prisoner commits an act of misconduct (See Program Statement on Inmate Discipline and Special Housing Units) that occurred during the prior year but does not become known until after the 15 day time limit has expired, however, then the GCT may be disallowed even though the time limit has been exceeded. In addition, if an act of misconduct is referred to the Discipline Hearing Officer (DHO) and the DHO is unable to dispose of the referral in the manner prescribed by the Program Statement on Inmate Discipline and Special Housing Units within the 15 days allowed, then the official award or disallowance of the GCT may be delayed for the period of time necessary to comply with that Program Statement.

In any case not covered in the preceding paragraph in which GCT is not disallowed within the proper time limit, the RISA should be contacted for instructions. *

(3) GCT that is disallowed and that is not awarded from the maximum possible to award during the 15 day time limit, may not be awarded at a later time. If a disallowance of GCT is successfully appealed, or if the BOP has for some reason erroneously disallowed GCT, then the GCT may be credited at that time.

(4) The BOP has six weeks before the end of the sentence to make a determination about how much of the prorated GCT to award for the last portion of a year of the term of imprisonment. If the BOP makes no decision about the amount of GCT to award in the last six weeks of the sentence, then the entire amount possible to award for that period of time will be automatically credited to the sentence on the last day of the sentence (date of release and Vested Date). Therefore, before awarding any GCT on the Vested Date, staff shall review the SENTRY disciplinary log to determine if any GCT had been disallowed during the preceding anniversary period. If no GCT was disallowed during the preceding anniversary period, then the GCT SENTRY data base shall be updated with the total amount of GCT possible to earn and a copy of the disciplinary log, as well as a copy of the GCT record (signed and dated by the ISM staff member making the change and the auditor), shall be placed in the Judgment and Commitment File.

If some or all of the GCT had been disallowed during the preceding anniversary period and no BP-448 has been received by the Vested Date that matches the disciplinary log record, then the disciplinary log shall be used as the official record for disallowing GCT on the Vested Date. A copy of the disciplinary log shall be placed in the Judgment and Commitment File pending receipt of a BP-448 that matches the information on the disciplinary log. After receipt of the BP-448
* the disciplinary log copy shall be destroyed. Again, an updated

copy of the SENTRY GCT record (signed and dated by the ISM staff member making the change and the auditor) shall be placed in the Judgment and Commitment File. *

(5) An action to delay, disallow or suspend the award of some or all of the GCT for a decision at a later time that is not within the 15 day, or six week, consideration time periods is not authorized.

For release purposes, subsection 3624(b) is the most important provision in the computation process since the proper application of that subsection determines the actual statutory date of release for the prisoner. The release date is determined, of course, by subtracting the total amount of GCT awarded during the term of the sentence from the full term date of the sentence. The total amount of GCT awarded during the term of a sentence is found by adding the amount of GCT awarded at the end of each year to the amount of GCT awarded for the last portion of a year.

As noted in (1) above, 54 days of GCT may be awarded for each full year served on a sentence in excess of one year. Since 54 days of GCT per year cannot be divided evenly into one year, or 12 months, or 52 weeks, or 365 days, determining the amount of GCT that may be awarded for the last portion of a year on the sentence becomes arithmetically complicated. The BOP has developed a formula (hereinafter called the "GCT formula") that

best conforms to the statute when calculating the maximum number of days that may be awarded for the time served during the last portion of a year on the sentence.

The GCT formula is based on dividing 54 days (the maximum number of days that can be awarded for one year in service of a sentence) into one day which results in the portion of one day of GCT (continued on next page)

that may be awarded for one day served on a sentence. 365 days divided into 54 days equals .148. Since .148 is less than one full day, no GCT can be awarded for one day served on the sentence. Two days of service on a sentence equals .296 (2 x .148) or zero days GCT; three days equals .444 (3 x .148) or zero days GCT; four days equals .592 (4 x .148) or zero days GCT; five days equals .74 (5 x .148) or zero days GCT; six days equals .888 (6 x .148) or zero days GCT; and seven days equals 1.036 (7 x .148) or 1 day GCT. The fraction is always dropped.

Since, in accordance with the statute (18 USC § 3624(b)), no GCT can be awarded to a sentence of one year or less, then the very shortest sentence that can be awarded GCT is a sentence of 1 year and 1 day. Because a prisoner would accrue GCT while serving a sentence of 1 year and 1 day and, therefore, serve something less than the full sentence, it would be impossible to accrue the full 54 days of GCT for a sentence of 1 year and 1 day. As a result, the GCT formula previously discussed must be utilized as shown below to determine the amount of GCT to award for a partial year. This method of calculating the GCT possible to award for the last portion of a year of a sentence to be served must be followed in all partial year calculations. (For the purpose of this demonstration, the sentence of 1 year and 1 day equals 366 days.)

Step No. 1

Sentence = 366 - 54 = 312 days

312 days served does not equal 54 days of GCT but does equal 46 days.

Step No. 2

Days Served = $312 \times .148 = 46.176 = 46$ days GCT

Subtracting 46 days from the sentence of 366 days results in 320 days to be served.

Step No. 3

Sentence = $366 - 46 = 320$ days

46 days of GCT is not enough because 46 plus 312 days to be served equals a sentence of 358 days, 8 days short of a sentence of 366 days (1 year and 1 day).

Step No. 4

Time Served = $312 + 46 = 358$ days

Comparing 320 days to serve, which is too much time to serve, with 312 days to serve, which is not enough time to serve, reveals that the amount of GCT that can be earned must fall somewhere between 54 and 46 days. As a result, the next step is to determine how much GCT can be earned on 320 days served.

Step No. 5

Time Served = $320 \times .148 = 47.36 = 47$ days GCT

Subtracting 47 days from the sentence of 366 days (1 year and 1 day) results in 319 days to be served.

Step No. 6

Sentence = $366 - 47 = 319$ days

Utilizing the GCT formula, it is learned that 319 days served equals 47 days GCT.

Step No. 7

Time Served = $319 \times .148 = 47.212 = 47$ days GCT

Adding 319 days time served to 47 days GCT does equal a sentence of 366 days (1 year and 1 day).

Step No. 8

Time Served = 319 + 47 = 366 days

The amount of GCT that can be awarded for a sentence of 366 days (1 year and 1 day) is 47 days.

The steps that were followed in the preceding example must be followed in every instance when it is necessary to determine the amount of GCT that can be awarded for a partial year served on a sentence. A short version of the preceding eight steps is shown below.

$$\begin{aligned} 366 \times .148 &= \underline{54}.168 & (366 + 54 = 420) \\ 366 - 54 &= 312 \times .148 = \underline{46}.176 & (312 + 46 = 358) \\ 366 - 46 &= 320 \times .148 = \underline{47}.36 & (320 + 47 = 367) \\ 366 - 47 &= 319 \times .148 = \underline{47}.212 & (319 + 47 = 366) \end{aligned}$$

Thus--319 days actually served plus 47 days of GCT equals 366 days, or a sentence of 1 year and 1 day.

There is one exception to the "fraction is always dropped" rule. For instance, if the partial year remaining on a sentence equals 7 days and if the full 7 days were served, then 1 day of GCT credit ($7 \times .148 = 1.036 = 1$ day) could be awarded. If the 1 day is awarded, however, then only 6 days would actually be served on the final 7 days and for 6 days served no GCT ($6 \times .148 = .888 = 0$ days) would be authorized. This arithmetical conflict occurs each time that the actual time to serve plus the GCT equals 1 day less than that final portion of the year remaining on the sentence. For example, applying the GCT formula to a final portion of a year of 294 days results in the following calculation.

$$\begin{aligned}294 \times .148 &= \underline{43.512} \quad (294 + 43 = 337) \\294 - 43 &= 251 \times .148 = \underline{37.148} \quad (251 + 37 = 288) \\294 - 37 &= 257 \times .148 = \underline{38.036} \quad (257 + 38 = 295) \\294 - 38 &= 256 \times .148 = \underline{37.888} \quad (256 + 37 = 293)\end{aligned}$$

As you can see from above, the GCT formula does not produce a result that will allow the number of days actually served plus the GCT to equal 294 days. Since it is to the advantage of the prisoner to award an additional full day for 37.888 days (38 days instead of 37 days) of GCT in such a situation, the BOP will award that additional 1 full day even though the time served results in a fraction (.888 in this case) short of a full day. (See Good Conduct Time Chart)

It is essential to learn that GCT is not awarded on the basis of the length of the sentence imposed, but rather on the number of days actually served. In other words, when the GCT awarded plus the number of days actually served equals the days remaining on the sentence, then the prisoner shall be released on the date arrived at in the computation process (days remaining on sentence - (GCT + days served) = release date). The following example demonstrates the computation process for determining a final release date on a sentence with 355 days remaining and that has a 10-10-91 date of release prior to the award of GCT.

$$\begin{aligned}355 \times .148 &= \underline{52.54} \quad (355 + 52 = 407) \\355 - 52 &= 303 \times .148 = \underline{44.844} \quad (303 + 44 = 347) \\355 - 44 &= 311 \times .148 = \underline{46.028} \quad (311 + 46 = 357) \\355 - 46 &= 309 \times .148 = \underline{45.172} \quad (309 + 45 = 354) \\355 - 45 &= 310 \times .148 = \underline{45.88} \quad (310 + 45 = \underline{355})\end{aligned}$$

$$\begin{aligned}\text{Release Date} &= 10-10-91 = 19276 \\ \text{GCT} &= \underline{-00045} \\ \text{Final Release Date} &= 08-26-91 = 19231\end{aligned}$$

Based on the partial year formula, any sentence that equals 418 days (e.g., 1 year, 1 month and 21 days) through 425 days (e.g., 1 year, 1 month and 29 days), can receive 54 days of GCT. Beginning with sentences that equal 426 days, more than 54 days of GCT can be awarded. As a result, any sentence that exceeds 425 days will require an Anniversary Date and a prorated year computation.

Now that the method for finding the release date for a partial year has been shown, the following example demonstrates the calculation of a sentence of 1 year and 1 month with no jail time credit or inoperative time.

Date Sentence Began	90-06-23	
Sentence Length	= +01-01-00	
Full Term Date	91-07-22*	= 19196
Date Sentence Began	90-06-22*	= -18801
Days Remaining		395

395 x .148 =	<u>58.46</u>	(395 + 58 = 453)
395 - 58= 337 x .148 =	<u>49.876</u>	(337 + 49 = 386)
395 - 49= 346 x .148 =	<u>51.208</u>	(346 + 51 = 397)
395 - 51= 344 x .148 =	<u>50.912</u>	(344 + 50 = 394)
395 - 50= 345 x .148 =	<u>51.06</u>	(345 + 51 = <u>396</u>)

You will note that the GCT formula does not allow the GCT plus the days served (344 + 50 = 394 and 345 + 51 = 396) to equal the days remaining on the sentence (395). As a result, in accordance with the exception to always "dropping the fraction" rule, 51 days of GCT is awarded for the partial year rather than 50 days.

More examples follow at the end of this chapter that demonstrate all the elements of a sentence that can result from a sentence to a term of imprisonment.

The next step in the calculation process of a sentence is to determine the "Vested Date", sometimes incorrectly referred to as the "Anniversary Date." The Anniversary Date is the date after one full year has been served on a sentence. The Vested Date is the date that is 15 days beyond the last day served on a full year and, in the case of a partial year, the last day of the sentence. As noted in 18 U.S.C. § 3624(b) (quoted in its entirety above), the BOP has 15 days after the end of each full year served on the sentence to decide how much of 54 days GCT shall be awarded and six weeks before the end of the sentence to determine the prorated amount of GCT that shall be awarded.

* Staff shall review appropriate documentation and award the proper amount of GCT accordingly within the 15 day or last six weeks consideration period.

Staff may enter any number of days desired into the SENTRY data base at any time, except on the Vested Date, to learn a prisoner's projected release date for release planning purposes. This type of entry into the SENTRY data base does not constitute a vested award of GCT. *

In order to determine the Vested Date, the release date with the maximum possible amount of GCT to award must be learned. Learning (continued on next page)

this information is necessary to make a determination about whether the fifteen days or the six weeks, or both, need to be known to decide the amount of GCT to award.

Beginning with a sentence that is 7 days longer than the last full year that is served on a sentence that is eligible for GCT through a sentence that is 65 days longer than the last full year served on a sentence that is eligible for GCT, there is, or needs to be an overlapping of the 15 days and six weeks GCT consideration time. In other words, during such times, and sometimes at the same time, consideration must be given for both the amount of GCT to award for one full year of service on the sentence and for a partial year. For example, a sentence of 1 year, 2 months and 2 days imposed on 01-10-88 would have a full term date of 03-11-89. If the full 15 days were used to decide that 54 days GCT should be awarded, the 15 days (Vested Date) would expire on 01-24-89. The release date would be 01-16-89, 8 days before the award could be made. In addition, no consideration would have been given for the 7 days served over one year for which 1 day of GCT could be awarded, thus frustrating and nullifying the very reason for which the six week consideration period of time was statutorily devised. Remember, failure to award an amount of GCT less than the amount that can be awarded on the Vested Date then requires that the full amount possible to award must be credited.

In order to overcome the problem just described and to give staff ample time to make proper decisions about the amount of time to award,

a system that accommodates both the 15 days and six weeks, called "overlapping" has been developed.

*

Considering the amount of time to award can begin at any time, but the official award must be made within the time frame (15 days or six weeks) required by the statute. As stated earlier, the official award of GCT need not be made until the last possible day to make the award allowed by statute. If ISM staff follow this practice, it will allow time to change the proposed amount to award up to and including the final day that the award can be made, including the date of release for a partial year. If, of course, any GCT is disallowed during the partial year, then it is necessary to make the actual award of the balance of the GCT to be awarded **on** the original date calculated for release. **No GCT** may be disallowed during the service of the disallowed GCT. **No GCT** shall be awarded for the time spent serving the disallowed GCT.

*

Following are some examples that demonstrate overlapping situations.

EXAMPLE NO. 1

Sentence = 1 Yr 2 Mos 1 Dy DSB = 01-10-89 Full Term Date = 03-10-90

Anni- Consid- Maximum Release
versary eration Vested to Actual Running Date
Date Begins Date Award Award Total 03-10-90

01-10-90 12-05-89 01-15-90 54 54 54 01-15-90

In the above example, the sentence is 1 year, 2 months and 1 day. The statutory six weeks consideration period is used since to use the full 15 days (01-10-90 (Anniversary Date) through 01-24-90) after one full year of service on the sentence would result in a release date (01-15-90) that would be ten days before the final date of the 15 days (01-24-90). Since there is no preceding year on which GCT was eligible to be awarded, only one Vested Date (01-15-90) needs to be established. When six weeks are used, the last day of the six weeks (Vested Date) will always be the award date and the award will always be the release date as long as the full amount possible to award is given.

EXAMPLE NO. 2

Sentence = 1 Yr 2 Mos 2 Dys DSB = 01-10-89 Full Term Date = 03-11-90

Anni- Consid- Maximum Release
versary eration Vested to Actual Running Date
Date Begins Date Award Award Total 03-11-90

01-10-90	12-05-89	01-15-90	54	54	54	01-16-90
	12-05-89	01-15-90	1	1	55	01-15-90

In the above example, the sentence is 1 year, 2 months and 2 days. This example demonstrates the very first sentence where overlapping occurs. It shows that consideration for the full 54 days and 1 day of GCT as beginning six weeks before the anticipated release date. If the full 15 days (01-10-90 through 01-24-90) for the 54 days were used, then the release date would have passed (01-16-90) before the award would have been made on 01-24-90. Of course, consideration to award the 54 days could have been accomplished during 01-10-90 through 01-15-90 with the award being made on 01-15-90, and the 1 day of GCT could have been considered during the same time period with the actual award being made on 01-15-90. There is no reason to limit the consideration period to such a short time frame. That short period of time is the reason for calculating the "Consideration Begins" date far enough in advance to allow staff ample time to consider the award without undue pressure from a shrinking release date. This system gives staff the optimum amount of time to consider and reconsider whether to award all or part of the maximum possible GCT that can be awarded.

EXAMPLE NO. 3

Sentence = 1 Yr 2 Mos 10 Dys DSB = 01-10-89 Full Term Date = 03-19-90

Anni- Consid- Maximum Release
versary eration Vested to Actual Running Date
Date Begins Date Award Award Total 03-19-90

01-10-90	12-12-89	01-22-90	54	54	54	01-24-90
----------	----------	----------	----	----	----	----------

	12-12-89	01-22-90	2	2	56	01-22-90
--	----------	----------	---	---	----	----------

In the above example, the sentence is 1 year, 2 months and 10 days. This example again shows the "Consideration Begins" date as being six weeks in advance of the release date to give consideration for the 2 days of GCT. You will note from this example that by using the same "Consideration Begins" date for the 54 days that more than six weeks exists. In order to give staff a full six weeks in which to award and consider the amount of prorated GCT to award on the partial year at the end of the sentence, it is necessary to expand the consideration time for the 54 days that can be awarded for the year just passed. The consideration time for the year just passed will continue to expand until such time that the full 15 days provided by statute can be utilized without cutting into the six weeks that is statutorily authorized for the partial year at the end of the sentence (Example No. 7).

EXAMPLE NO. 4

Sentence = 1 Yr 2 Mos 13 Dys DSB = 01-10-89 Full Term Date = 03-22-90

Anni- Consid- Maximum Release
versary eration Vested To Actual Running Date
Date Begins Date Award Award Total 03-22-90

01-10-90 12-15-89 01-24-90 54 54 54 01-27-90

 12-15-89 01-25-90 2 2 56 01-25-90

In the above example, the sentence is 1 year, 2 months and 13 days. This example shows that there is now actually enough time to utilize the full 15 days (01-10-90 through 01-24-90) to award 54 days for the year just passed without interfering with the eventual release date, but if no consideration time is given for the 2 days of GCT until after the 54 days is awarded on 01-24-90, then there would only be one day (01-25-90) in which to consider and award the 2 days of GCT for the partial year. Since the statute allows six weeks in which to award the final 2 days of GCT for the partial year, a "Consideration Begins" date that is six weeks in advance of the earliest potential release date has been established for both the 54 days and 2 days to, again, give staff ample time to make a proper decision about the GCT and to put off making the actual award until the very latest possible date. Putting off the award to the last possible moment, as stated earlier, provides staff with the time to reconsider the amount of GCT to award up to the maximum date possible (01-24-90 for the 54 days and the release date of 01-25-90 for the 2 days). So, beginning with sentences of 1 year, 2 months and 13 days, the amount of time for consideration of the 54 days begins to diminish since the maximum date to award expires on 01-24-90, i.e., one full year of service of the sentence beyond one year expires on 01-09-90 and the statute authorizes 15 days (01-10-90 through 01-24-90) after that year is over to award the GCT, some or all of it.

EXAMPLE NO. 5

Sentence = 1 Yr 3 Mos 14 Dys DSB = 01-10-89 Full Term Date = 04-23-90

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 04-23-90
--------------------------	------------------------------	----------------	------------------------	-----------------	------------------	-----------------------------

01-10-90	01-10-90	01-24-90	54	54	54	02-28-90
----------	----------	----------	----	----	----	----------

	01-12-90	02-22-90	6	6	60	02-22-90
--	----------	----------	---	---	----	----------

In the above example, the sentence is 1 year, 3 months and 14 days. This example shows that the "Consideration Begins" date for the year just passed and the final partial year are now two days different. This difference is so because the time period to award GCT for the year just passed begins the day after (01-10-90) and runs through the 15th day after (01-24-90) and the time period to award GCT for the partial year begins six weeks in advance (01-12-90) of the release date and runs through the date of release of 02-22-90. Since these time periods overlap, staff can consider how much of the 54 days and the 6 days to award on the Vested Dates during the time in which the consideration time overlaps, or staff can consider each separately during the dates shown.

EXAMPLE NO. 6

Sentence = 1 Yr 3 Mos 26 Dys DSB = 01-10-89 Full Term Date = 05-05-90

Anni- Consid- Maximum Release
versary eration Vested To Actual Running Date
Date Begins Date Award Award Total 05-05-90

01-10-90 01-10-90 01-24-90 54 54 54 03-12-90

 01-22-90 03-04-90 8 8 62 03-04-90

In the above example, the sentence is 1 year, 3 months and 26 days. This example demonstrates that as the sentence length for the partial year at the end of the sentence becomes longer, the overlap of the 15 days and the six weeks becomes shorter. In this example, the overlap period is only three days. Staff must keep in mind that if consideration for the 54 days and 8 days is made at the same time, then there would only be three days (01-22-90 through 01-24-90) in which to award the 54 days, or some part thereof. It should also be borne in mind that the last 8 days, and the time period in which to consider it, only becomes valid after the preceding action for the 54 days is complete. If any amount of GCT less than the 54 days is awarded in the preceding year, then the dates, and possibly the amount of GCT, for the final partial year will change.

EXAMPLE NO. 7

Sentence = 1 Yr 3 Mos 29 Dys DSB = 01-10-89 Full Term Date = 05-08-90

Anni- Consid- Maximum Release
versary eration Vested To Actual Running Date
Date Begins Date Award Award Total 05-08-90

01-10-90 01-10-90 01-24-90 54 54 54 03-15-90

 01-25-90 03-07-90 8 8 62 03-07-90

In the above example, the sentence is 1 year, 3 months, and 29 days. This example shows that beginning with sentences that have 65 days remaining to be served on the final partial year after GCT has been awarded for the year just passed, that there is no overlap of the 15 days for the preceding year and the six weeks for the partial year. The award for the 54 days can be made at any time from 01-10-90 through 01-24-90, but the award for the 8 days should not be made until the actual release date so that staff can reconsider how much, if any, of the 8 days to award up to, and including, the date of release. Remember, once official action is taken to award the GCT, it cannot be revoked, modified, reduced, suspended, or otherwise altered or changed in any way.

EXAMPLE NO. 8

Sentence = 4 Yrs DSB = 01-10-89 Full Term Date = 01-09-93

Anni- Consid- Vested Maximum Actual Running Release
versary eration Date To Award Total Date
Date Begins Date Award 01-09-93

01-10-90	01-10-90	01-24-90	54	54	54	11-16-92
01-10-91	01-10-91	01-24-91	54	54	108	09-23-92
01-10-92	01-10-92	01-24-92	54	54	162	07-31-92
	05-25-92	07-05-92	26	26	188	07-05-92

In the above example, the sentence is 4 years. This example shows a sentence with a number of Vested Dates with no overlapping of the 15 days at the end of the service of a full year and the six weeks at the end of the sentence.

EXAMPLE NO. 9

Sentence = 7 Yrs DSB = 01-10-89 Full Term Date = 01-09-96

```
*****
Anni-      Consid-      Vested      Maximum      Actual      Running      Release
versary    eration    Date      To      Award      Total      Date
Date      Begins      Date      Award
01-10-90   01-10-90   01-24-90   54      54         54         11-16-95
01-10-91   01-10-91   01-24-91   54      54         108        09-23-95
01-10-92   01-10-92   01-24-91   54      54         162        07-31-95
01-10-93   01-10-93   01-24-93   54      54         216        06-07-95
01-10-94   01-10-94   01-24-94   54      54         270        04-14-95
          01-04-95   01-24-95   54      54         324        02-19-95
          01-04-95   02-14-95   5       5         329        02-14-95
*****
```

In the above example, the sentence is 7 years. This example shows a sentence with a number of Vested Dates and with an overlapping of the consideration time for the 54 days and 5 days of GCT. This overlapping of consideration time, explained before and shown in previous examples, results from the fact that there is 41 days (which falls in the 7 through 65 days range) left to be served on the final partial year of the sentence to be served before the award of the 5 days of GCT is made.

The above system administratively establishes a method that accommodates the statutory provisions in 18 USC § 3624(b) and allow staff the consideration time necessary to make proper awards of GCT.

* The following is a guide to assist in monitoring Good Conduct Time Awards.

a. Disallowance of GCT is determined by the DHO based on a finding that an inmate committed a prohibited act. The DHO's decision is final and subject only to procedural review by the Warden and inmate appeal through the Administrative Remedy procedures.

b. The DHO will forward the completed Good Conduct Time Action Notice (BP-448) to the Warden for procedural review. After review, the form will be distributed as follows: original to ISM for action and filing in the Judgment and Commitment file, and one copy to the inmate's Unit Manager for filing in the Central File.

c. Prior to the beginning of each month, ISM staff will execute a SENTRY Population Monitoring Transaction to identify all inmates who have a Vested Date during the following month. The ISM staff member keying in the information will sign the Good Time Data Sheet.

d. During the 15 days after the Anniversary Date, ISM staff will review the J&C File for any GCT disallowances during the previous year. ISM staff will determine the actual number of days to be awarded by subtracting any GCT disallowances from the maximum amount of 54 GCT days. ISM staff should also determine if there are any pending DHO decisions which may result in GCT disallowances for the previous year. Normally, ISM staff will

enter the number of days of Good Conduct Time into SENTRY on the Vested Date, or the last normal work day prior to the Vested Date.

e. If a Good Conduct Time Action Notice (BP-448) has not been received by the Vested Date, then the Disciplinary Log shall be used as the official record for disallowing GCT on the Vested Date. A copy of the disciplinary log shall be placed in the J&C File pending receipt of a BP-448 that matches the information on the disciplinary log. After receipt of the BP-448, the disciplinary log copy shall be destroyed.

f. For partial year awards, ISM staff will enter the final GCT award into SENTRY on the inmate's release date prior to the final satisfaction of the sentence. The final GCT award should be made on the inmate's release date, or the work day preceding the release date since awards of GCT are vested and may not later be disallowed. If the time remaining on the sentence is less than a year, a prorated amount of Good Conduct Time will be entered into SENTRY. This also includes shorter sentences up to and including a sentence of 417 days (usually equaling 1 year, 1 month and 1 day), which do not earn the full amount of 54 GCT days, but earn a lesser prorated amount. Inmates serving SRA sentences are not eligible for lump sum awards of GCT.

g. Community Corrections staff will perform the above procedures for prisoners in community correction centers. The Disciplinary Log need not be produced for prisoners who are boarded out to state facilities or who are serving their sentences concurrently in a state facility.

*

h. Six Month/Ten Percent Period. The BOP is required, to the extent practicable, to assist prisoners in their re-entry into the community near the end of the sentence. In order to achieve this re-entry, 18 USC § 3624(c) specifies that, "The Bureau of Prisons shall, to the extent practicable, assure that a prisoner serving a term of imprisonment spends a reasonable part, not to exceed six months, of the last 10 percentum of the term to be served under the conditions that will afford the prisoner a reasonable opportunity to adjust to and prepare for his re-entry into the community."

The last ten percent of a sentence, not to exceed six months, is not based on the total sentence imposed but rather on the total amount of time that the prisoner is required to serve in confinement. For instance, based on the sentence calculation demonstrated in paragraph "g.", Example No. 1, for a sentence of 1 year, 2 months and 1 day, the "preparation for re-entry into the community," or pre-release time, would be 37 days. The 37 days would be subtracted from the release date to arrive at a "6 Months/10 Per Centum Date." The ten percent time period (37 days) is used as required by statute rather than six months because the 37 days are less than six months.

The time period of 37 days was determined by finding ten per cent of the total number of days to be served on the sentence of 1 year, 2 months and 1 day which amounted to 371 days (425 days (1 year, 2 months and 1 day) minus 54 days GCT). Ten percent of 371 equals

37.1 (fractions are dropped). The prisoner could spend 37 days in pre-release custody of some form.

Beginning with time served in confinement of 1810 days (1810 days x 10 per cent = 181 days) through 1839 days (1839 days x 10 per cent = 183 days), both the 10 percent and six month date need to be determined so that a comparison of the two dates can be made to assure that no more than six months will be spent in pre-release custody. Six months always equals more than 180 days and never 184 days or more. Therefore, if ten percent of the time to be served in confinement is 180 days or less, no comparison with the six month date need be made since the 180 days is less than six months. If ten percent of the confinement time is 184 days or more, then only the six month date need be determined since 184 days is always more than six months. If ten percent of the confinement time equals 181, 182 or 183 days, then a comparison of the ten per cent and six month date must be made. For example, if 1824 days are to be served in confinement on a sentence, the ten percent pre-release time equals 182 days ($1824 \times 10\% = 182.4$ (fractions are dropped)). If the tentative release date is January 6, 1993, then subtracting 182 days from that date equals July 8, 1992, resulting in a ten per cent date of July 9, 1992 (July 9th is used instead of July 8th, since July 8th would be one day more than 182 days). Six months subtracted from the release date of January 6, 1993 is July 6, 1992, resulting in a six month date of July 7, 1992 (July 7th is used rather than July 6th, since July 6th would be one day more than six months). Since, in this case, ten percent of the time to serve is less than six months, then the ten percent date of

July 9, 1992 would be the very earliest date on which pre-release custody could begin.

As you can see, once the anticipated release date is known, then the "6 Month/10 Per centum Date" is easily calculated.

i. **Supervised Release.**

(1) **Statutory provision.** 18 U.S.C § 3583(a) and (b) authorizes the court to impose a term of supervised release that will follow imprisonment and states,

(a) **In general.--**The court, in imposing a sentence to a term of imprisonment for a felony or a misdemeanor, may include as a part of the sentence a requirement that the defendant be placed on a term of supervised release after imprisonment, except that the court shall include as a part of the sentence a requirement that the defendant be placed on a term of supervised release if such a term is required by statute or if the defendant has been convicted for the first time of a domestic violence crime as defined in section 3561(b) .

(b) **Authorized terms of supervised release.--**Except as otherwise provided, the authorized terms of supervised release are--

(1) for a Class A or Class B felony, not more than five years;

(2) for a Class C or Class D felony, not more than three years; and

(3) for a Class E felony, or for a misdemeanor (other than a petty offense), not more than one year.

* (Note: In the policy that follows, the use of the term **sentence** means a **federal** sentence unless otherwise specified.) *

There are certain other sections in the **United States Code**, primarily those penalty sections pertaining to offenses involving controlled substances and the use of firearms and explosives or destructive devices, that authorize, and in many cases mandate, terms of supervised release that exceed the maximums set forth in **18 U.S.C. § 3583(b)** .

The legislative history states in part,

This section permits the court . . . to include as part of the sentence a requirement that the defendant serve a term of supervised release after he has served the term of imprisonment. Unlike current parole law, the question

whether the defendant will be supervised following his term of imprisonment is dependent on whether the judge concludes that he needs supervision, rather than on the question whether a particular amount of his term of imprisonment remains. The term of supervised release would be a separate part of the defendant's sentence, rather than being the end of the term of imprisonment.

(2) Release to supervision of a probation officer. 18 U.S.C. § 3624(e) states in part,

A prisoner whose sentence includes a term of supervised release after imprisonment shall be released by the Bureau of Prisons to the supervision of a probation officer who shall, during the term imposed, supervise the person released to the degree warranted by the conditions specified by the sentencing court.

For each judgment and commitment (J&C) that contains a period of supervised release, the U.S. Probation Service (USPS) will complete a probation form **7A (Conditions of Probation and Supervised Release)** that sets forth the supervised release period, conditions and fine information. On occasion the USPS may cause the **7A** to be attached to the J&C or to the presentence investigation report, or the USPS could send it to the institution. Whenever ISM receives the **7A** all copies shall be sent to the inmate's unit team. Do not place a copy in the J&C file.

(3) Commencement, calculation and running of a supervised release term. For calculation purposes, the term of supervised release commences on the day that the prisoner is released from imprisonment, except in certain unpaid fine situations (See Chapter I, paragraph o.), as required by 18 U.S.C. § 3624(e) which states in part,

The term of supervised release commences on the day the person is released from imprisonment and runs concurrently with any Federal, State, or local term of probation or supervised release or parole for another offense to which the person is subject or becomes subject during the term of supervised release. A term of supervised release does not run during any period in which the person is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than 30 consecutive days.

As noted, the commencement date for the term of supervised release will begin on the final day of the sentence, or on the final day of an aggregate sentence, even if that final day is the result of a weekend or holiday release.

If a combination of New Law (NL) sentences and/or Old Law (OL) sentences must be served, the supervised release term for the NL sentence, or sentences, shall begin to run on the final day of imprisonment for all sentences.

The Bureau does not, however, officially determine the date on which a term of supervised release commences. The United States Courts have the authority and responsibility for determining the commencement of, or tolling of, the term of supervised release. For the foregoing reasons, the Bureau does not calculate an expiration date for the supervised release term.

Because of the language in **§ 3624(e)** that requires the term of supervised release to run "concurrently" with any federal term of supervised release, it is the Bureau's interpretation that a court cannot order supervised release terms to run consecutively to one another in multiple count or multiple sentence situations.

In view of the above, for a single J&C with two or more counts, ISM staff shall consider the longest supervised release term as the supervised release term for that J&C. Likewise, if two or more J&C's are involved for sentences that can be aggregated, the longest supervised release term for the aggregate shall be considered the supervised release term for the aggregated computation.

If a court orders two or more supervised release terms to be served consecutively, follow the order. It is not necessary to notify the U.S. Attorney or USPS that the Bureau considers the order to be improper since the Bureau has no authority or responsibility for enforcing a term of supervised release.

(Note: For certain drug offenses that occurred on or after October 27, 1986 but prior to November 1, 1987, the court is, because of the **Anti-Drug Abuse Act of 1986** (P.L. 99-570), required to impose an SR term even though the regular sentencing provisions are under OL. See the OL **Sentence Computation Manual**, Chapter VII, Page 53, paragraph 13.c. for more information about these cases.)

If there is no period of supervised release to follow the term of imprisonment, then a prisoner with a fine shall be released on the release date without regard to the status of the fine.

A prisoner, with a term of supervised release to follow, who has a fine or restitution shall be released in accordance with the instructions contained in Chapter I, paragraph o.

(4) Revocation of a term of supervised release. The court, in imposing a period of supervised release, sets the conditions (**18 U.S.C. § 3583(d)**) that the prisoner must observe while under supervision, and, if the prisoner fails to abide by those conditions, then the court may, under **18 U.S.C. § 3583(e)**

(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on post-release supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a person whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or

As noted above, the court, upon revocation of a term of supervised release may impose a term of imprisonment. In addition to the term of imprisonment, the court may also impose another period of supervised release to follow as authorized under **18 U.S.C. § 3583(h)** which states,

(h) Supervised release following revocation.--When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by the statute for the offense that resulted in

the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

18 U.S.C. § 3583(h) became effective on September 13, 1994 as a result of the VCCLEA. As noted, a new period of supervised release may be imposed upon revocation of the current term of supervised release, regardless of the date of offense, provided the criteria as set forth in **§ 3583(h)** is met. Contrary to the Bureau's interpretation of this provision, some circuit and district courts have held that **§ 3583(h)** applies only to offenses that occur on or after the effective date of the act. It is not necessary, however, for ISM staff to monitor the appropriateness of a supervised release term imposed in connection with a revocation term. The Bureau has no authority or responsibility for enforcing a term of supervised release.

A revocation of a term of supervised release cannot begin to run, or commence, any earlier than the date on which it is revoked. A supervised release revocation term, for calculation purposes, shall be treated the same as any other NL sentence and may be aggregated with other NL sentences following the same aggregation policy as discussed in Chapter I, paragraphs l. and m., of this Manual.

Any prior custody time spent in official detention after the date of offense that was not awarded to the original sentence or elsewhere shall be awarded to the revocation term. (See Chapter I, 3.c. for detailed prior custody time determination information.)

It is possible that an inmate about to be released may be finishing a combination of sentences such as SRA, VCCLEA violent and non-violent and PLRA, each with its own period of supervised release to follow. It is also possible that a prisoner about to be released may be finishing a combination of sentences with supervised release attached to one or several, but not all, of the sentences just completed.

If there is more than one period of supervised release to follow, supervision in the community is consolidated and if the supervised release is revoked it is revoked for all sentences involved, ordinarily making it impossible to tie the revocation term to one of the sentences from which released. If the court specifies the sentence or count to which the revocation term applies, then the revocation term shall be treated in accordance with the same sentencing provision as the sentence from which released.

The following instructions apply upon revocation of a supervised release term.

(Note: If on file, the original **BP-S613 (Determination of Violent/Non-Violent Status)** form shall suffice as appropriate documentation for the VCCLEA violent or non-violent determination.)

- If the revocation term flows from a single count on a single judgment, treat the revocation term the same as the single count.
- If the revocation term flows from multiple counts and the court identifies a count for which the revocation term was imposed, treat the revocation term the same as the single count.
- If multiple count supervised release terms of equal length are involved and if it cannot be determined to which count the revocation term applies, the instructions below apply.
 - If the sentences from which released include a combination of SRA, VCCLEA violent and non-violent, and **PLRA** sentences, treat the revocation term the same as a **PLRA** sentence.
 - If the sentences from which released include SRA and **VCCLEA violent** and non-violent sentences, treat the revocation term the same as a **VCCLEA violent** sentence.
 - If the sentences from which released include **VCCLEA violent** and non-violent sentences, treat the revocation term the same as a **VCCLEA violent** sentence.
 - If the sentences from which released include SRA and **VCCLEA non-violent** sentences, treat the revocation term the same as a **VCCLEA non-violent** sentence.
- If the supervised release terms for multiple counts are not the same length, then the count with the longest term shall control for determining the manner in which the revocation term shall be treated. *

j. One Count Detention and Community Confinement/Home Detention Sentence. On occasion, the court may impose a term of imprisonment **on one count** that includes a period of detention plus a period of community confinement or home detention. In such a case, the sentence shall be computed based on the stated **term of imprisonment** and shall be interpreted as the total term in effect. If the court, however, indicates that a portion of the term be served in community confinement or home detention as a condition of supervised release, then the sentence shall be computed to reflect only the imprisonment portion of the sentence. For example:

(1) The Judgment and Commitment Order directs that the "defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 10 months - five months in a correctional facility and five months community confinement."

The term of imprisonment in this example is ten months. The five months of community confinement shall be treated as a judicial recommendation. The inmate will be considered for placement in a community corrections center or for home detention after service of the first five months of the sentence. Placement will be made in accordance with Bureau of Prisons policy.

(2) The Judgment and Commitment Order directs that the "defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 10 months - five

months in a correctional facility and five months community confinement." Following the sentence, usually on another page, the statement appears that the five months of community confinement or home detention is to be served as a condition of supervised release.

The sentence of imprisonment in this example shall be computed as five months. After service of the five months of imprisonment in a Bureau of Prisons or contract facility, the inmate shall be released and placed on supervised release in community confinement or on home detention for the remaining five months, providing that any fine that may have been imposed has been properly processed prior to release.

If the inmate's eventual release is to a detainer, the United States Probation Officer will handle the placement of the inmate for the community confinement or home detention portion of the period of supervised release upon release from the detaining authority. It is imperative, therefore, that the United States Probation Officer be notified of the inmates release status at the end of the imprisonment portion of the sentence.

For cases that fall outside the situations discussed above, correspondence shall be sent to the Assistant United States Attorney requesting that their office convey to the sentencing judge our interpretation of the Judgment and Commitment. The Inmate Systems Manager will normally be responsible for preparing the letter under the signature of the Chief Executive Officer. The Community

Corrections Manager should accomplish this requirement for computations at community correctional facilities.

The letter should contain the inmate's name, applicable docket number, and other pertinent information relating to the case. All concerns should be addressed in a courteous manner. It should be conveyed that the Bureau of Prisons is seeking assistance in properly carrying out the order of the court and a response is desired for clarification only.

A copy of the letter shall be forwarded to the Regional Inmate Systems Administrator for comment prior to submission to the Assistant United States Attorney. A copy of the letter shall be placed in the inmate's Judgment and Commitment File for documentation. Whenever appropriate, the Regional Inmate Systems Administrator will discuss the issue with the Regional Counsel or other appropriate staff members.

If time is not permitted for the above procedures, a telephone call to the Assistant United States Attorney or United States Probation Officer that requests a clarification of the court's intent may be made and then documented in the inmate's Judgment and Commitment File.

*

k. **Implementation of the amendment to 18 U.S.C. § 3621 of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).** The Violent Crime Control and Law Enforcement Act (VCCLEA) was enacted on, and became **effective on, September 13, 1994** and added subsection **(e)** to § 3621. That amendment adds a new method of early release for those qualified prisoners who successfully complete a treatment program as specified by the Bureau of Prisons (Bureau). Only the portion of the amendment which pertains to ISM sentence calculation responsibilities and sentence monitoring functions will be discussed.

An order from a court that conflicts with the instructions contained herein for implementation of the **§ 3621(e)** provisions shall be referred to the Regional Inmate Systems Manager who shall notify the Central Office Inmate Systems Administrator so that a joint course of action may be discussed.

(1) 18 U.S.C. § 3621(e). The new subsection **(e)** that was added to **18 U.S.C. § 3621** by **VCCLEA** has a **retroactive** effect and applies to all qualified prisoners whose date of offense occurred on or after **November 1, 1987**, the effective date of the **Sentence Reform Act (SRA)**. It also applies prospectively to the **Prison Litigation Reform Act (PLRA) of 1995 (P.L. 104-134)**, **effective on April 26, 1996**.

An **old law** sentence means a sentence that was imposed for an offense that occurred prior to November 1, 1987 and a **new law** (includes SRA, VCCLEA and PLRA) sentence means a sentence that was imposed for an offense that occurred on or after November 1, 1987.

Only a nonviolent **new law** offender may receive a sentence reduction benefit under **§ 3621(e) (2) (B)**.

The portion of **§ 3621(e)** which applies to ISM functions, subsection **(2) (B)**, states:

(2) Incentive for prisoners' successful completion of treatment program.--

(B) Period of custody.--The period a prisoner convicted of a nonviolent {emphasis added} offense remains in custody after successfully completing a treatment program may be reduced by the Bureau of Prisons, but such reduction may not be more than one year from the term the prisoner must otherwise serve.

(a) The 18 U.S.C. § 3621(e) effective date. The

Bureau has established programs to implement **18 U.S.C. § 3621(e)** as set forth in the Program Statement, **Inmate Drug Abuse Programs Manual**, (DAPS Manual). (Also see **28 CFR §§ 550.50-550.60**).

- The effective date for **§ 3621(e)** the Bureau established in the DAPS Manual was **June 26, 1995**. No prisoner could be released under this provision prior to that date.
- Prisoners who began participating in the unit-based portion of the comprehensive program on or before **August 17, 1995** that could lead to a **3621(e) Release Date**, and who had a **detainer** (including an INS detainer) **on file**, or who had a detainer filed after participation in the unit-based portion of the comprehensive program began must be released directly from the institution to the authority (or the official acting in their behalf) who placed the detainer. These prisoners are required to participate in institution transitional services for at least 180 days before release to the detainer.

(b) DAPS program determinations and eligibility.

ISM staff do not make determinations regarding prisoner eligibility for a sentence reduction under **§ 3621(e)**. They should, however, be aware of the eligibility requirements in order to provide the DAP Coordinator and Unit Manager with information received through ISM functions that may affect prisoner eligibility for a sentence reduction under **§ 3621(e)**.

Only a **new law** prisoner is **eligible for an early release under § 3621(e)**. Prisoners **not eligible** for the early release provisions of **§ 3621(e)** include:

- A prisoner with a detainer on file (including a consecutive old law sentence detainer and an INS detainer) who was not in a unit-based portion of the comprehensive program on or before **August 17, 1995**.
- A prisoner whose current offense was a crime of violence as defined in the Program Statement on **Definition of Term, "Crimes of Violence."**
- A prisoner who has a prior conviction for homicide, forcible rape, robbery or aggravated assault.
- An INS detainee.
- A pretrial prisoner including a presentenced prisoner.
- A contract state prisoner.

- A District of Columbia Code prisoner.
- An old law prisoner (date of offense occurred prior to November 1, 1987).
- A military prisoner (includes Coast Guard).

It is important that ISM and unit staff thoroughly research and investigate any information that might lead to the placement or removal of a detainer.

(c) The § 3621(e) (2) (B) sentence reduction.

Under § 3621(e) (2) (B), a prisoner may receive a sentence reduction **"but such sentence reduction may not be more than one year from the term the prisoner must otherwise serve."**

The Bureau interprets the statutory language to mean that any sentence reduction of **one year** or **less** shall be deducted from the projected SRD of the sentence. No sentence reduction greater than one year is authorized. The **date** produced as a result of the tentative sentence reduction shall be termed the **3621(e) Release Date**.

(d) Tentative sentence reduction. ISM staff make a tentative sentence reduction **only** after receiving a **NOTIFICATION OF INMATE § 3621E ELIGIBILITY** form (**Attachment H** to the DAPS Manual) that has been signed by the DAP Coordinator and the Warden. No tentative sentence reduction shall be awarded without the signatures of the DAP Coordinator and Warden on **Attachment H**.

A properly executed **Attachment H** is ISM's authority to calculate the tentative sentence reduction. **Attachment H** shall be placed in the Judgment and Commitment File on top of the judgment and commitment document.

The SENTRY **3621E Release Date** calculation is activated when the **Attachment H** date in the sentence that reads, **"He/she is expected to complete** the requirements of the residential program on (blank) date," is entered into the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen. This date shall be referred to as the **3621E CRPS** date.

The formula for computing a tentative **3621E Release Date**, based on the tentative one year sentence reduction, is a simple arithmetical calculation.

The formula is: **Projected SRD minus one year =
Tentative 3621E Release Date.**

SENTRY is programmed to subtract one year from the projected SRD to produce the tentative **3621E Release Date**. SENTRY may produce a date that is earlier than the date on which the calculation is performed but will not produce a date that is earlier than the **3621E CRPS** date since no sentence reduction may occur any earlier than the completion date of the unit-based portion of the DAPS residential program.

The SENTRY program will default to the **3621E CRPS** date if it is less than one year from the projected SRD and that date will become the tentative **3621E Release Date**.

Definitive SENTRY instructions follow:

- Enter the access transaction code which will produce the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen.
- In the **3621E CRPS MN** field, enter the **3621E CRPS** date.
- **RPC** the computation. This transaction will produce the **3621E REL DT**, the **PROJ SAT DT** and the **PROJ SAT METH** of **3621E CMPL**. If the **3621E CRPS** date is less than one year from the **projected SRD**, then **SENTRY** will default to the **3621E CRPS** date and that date will become the **3621E Release Date**.

(e) Notification of CCC placement date.

Following receipt of **Attachment H**, ISM will receive a **NOTIFICATION OF CCC PLACEMENT DATE** form (**BP-S628**) if the institution is unable to transfer the prisoner to a CCC for Completion of the Community Program for Substance (CCPS) Abuse as approved by the CEO. In other words, if some of the required CCC time encroaches into the full one year sentence reduction, then the Unit Manager shall forward the **BP-S628** to ISM which will include the **3621E CRPS** date, the date on which the prisoner will be placed in a CCC, and the number of days the prisoner will be required to remain in the CCC for the CCPS Abuse.

ISM staff shall enter the information from form **BP-S628** into SENTRY which will produce the final **3621E Release Date**. ISM staff must manually calculate a **3621E CCPS** date as explained below. (ISM staff may wish to use the **INDEPENDENT SENTENCE COMPUTATION** transaction to assist in the calculation of the **3621E CCPS** date.)

Definitive SENTRY instructions follow:

- From form **BP-S628**, following the instructions in the second sentence that states, "**He/she will be placed in a community-corrections center on (blank) date for (blank) days,**" add the number of days to be spent in a community corrections center (CCC) to the date on which the prisoner will be furlough transferred to the CCC (back up one day). This calculation will produce a Completion of Community Program for Substance Abuse date or **3621E CCPS** date.
- Enter into SENTRY the access transaction code which will produce the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen.
- In the **3621E CRPS MN** field, enter the **3621E CRPS** date from form **BP-S628**.
- In the **3621E CCPS MN** field, enter the **3621E CCPS** date that was manually calculated.
- **RPC** the computation. This transaction will produce the **3621E REL DT**, the **PROJ SAT DT** and the **PROJ SAT METH** of **3621E CMPL**.

(f) **Removal of a 3621E Release Date.** In "short" sentence cases, the possibility exists that the **3621E Release Date** may be on, or so close to, the **3621E CRPS** date that transfer to a CCC cannot be effected on or before arrival of the **3621E Release Date**. As a result, the **3621E Release Date** shall be removed pending further action by the Unit Staff.

If a sentence is reduced, or additional prior custody time credit is awarded, and causes the **3621E Release Date** to be on or earlier than the date on which the calculation is performed, then the **3621E Release Date** shall be removed.

If a sentence becomes inoperative (e.g., escape, civil contempt, appeal bond release, etc.) prior to the **3621E Release Date**, then the **3621E Release Date** shall be removed.

Whenever ISM staff remove a **3621E Release Date**, **Attachment H** remains in the Judgment and Commitment File and a memorandum shall be promptly sent to the Unit Manager (copy to the DAP Coordinator) that explains the removal.

If the **3621E Release Date** is removed as the result of the reasons just discussed in the preceding paragraphs, ISM should anticipate (except in cases of inoperative time) receiving a form **BP-S628** that will cause a new **3621E Release Date** to be recalculated as discussed in paragraph (e) above. Local procedures should be established to monitor these situations.

Definitive SENTRY instructions follow for removal of the **3621E Release Date**:

- Enter the access transaction code which will produce the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen.
- Delete (space through) the date in the **3621E CRPS MN** field.
- **RPC** the computation. This transaction will eliminate the **3621E Release Date** and produce a **projected SRD** based on current sentence data.

(g) **Attachment C, SRD reinstatement.** For a community-based program failure with a **3621E Release Date**, the Community Corrections Manager (CCM) shall execute **CHANGE IN DRUG ABUSE TREATMENT PROGRAM STATUS MEMORANDUM (Attachment C)** and forward it to the appropriate institution ISM. If the form is not received by the time the inmate is returned to an institution, ISM staff shall promptly contact the appropriate CCM and request that the form be sent via fax.

When Attachment C is received, ISM staff shall remove the **3621E Release Date** and cause a recalculation of sentence, as described above, to produce a new **projected SRD**.

Attachment C shall be placed in the Judgment and Commitment File on top of any prior **§ 3621(e)** document.

(h) **Notification procedures for 3621E Release Date new information or changes.** For each prisoner who has a **3621E Release Date**, ISM staff shall promptly notify the Unit Manager (copy to the DAP Coordinator) via memorandum whenever a sentence change occurs as a result of a court action or imposition of a new sentence, or a change in prior custody time credits.

The memorandum shall include:

- An explanation of the change,
- Effect on the **3621E Release Date** and,

- A request that ISM be promptly notified as to any action that is taken with regard to the **3621E Release Date**.

A copy of any memorandum sent or received shall be filed in the Judgment and Commitment file on top of any prior **§ 3621(e)** document.

If a detainer is received, ISM staff shall forward a copy of form **DETAINER ACTION LETTER C (BP-S394)** to the DAP Coordinator in addition to the copy routinely sent to the Unit Manager. ISM staff shall note the Judgment and Commitment file copy of the form **BP-S394** that a copy has been sent to the DAP Coordinator.

(i) **3621E Release Date restorations.** ISM staff shall restore a **3621E Release Date** that was removed **only** upon receipt of a new **Attachment H** or of a **NOTIFICATION OF CCC PLACEMENT DATE** form **BP-S628**. For a **3621E Release Date** restoration based on the receipt of a new **Attachment H**, follow the SENTRY instructions in subparagraph (e) above. For a form **BP-S628** restoration, follow the instructions in paragraph (e) above.

(j) **Disallowed and forfeited GCT.** For disallowed or forfeited GCT, the following information and procedures apply:

- If the **3621E Release Date** is one year earlier than the projected SRD, then SENTRY will automatically make that date later by the exact number of days disallowed or forfeited.
- If the **3621E Release Date** is less than one year earlier than the projected SRD, then the number of days disallowed or forfeited must manually be added to the **3621E Release Date** to arrive at a new date. The new date must be manually entered into the **3621E CCPS MN** field on the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen and recalculated (RPC). SENTRY will produce the **3621E REL DT**, the **PROJ SAT DT** and the **PROJ SAT METH** of **3621E CMPL**.

(k) **ISM procedures in a CCC.** After the prisoner arrives in a CCC for the community-based treatment program, the **3621E Release Date** may be **extended** in limited circumstances (see Drug Abuse Program Manual). No **extension** can be made to the **3621E Release Date** by the ISM (or someone acting in that capacity) without receipt of a form **NOTICE TO INMATE THE PREVIOUSLY SCHEDULED RELEASE DATE IS BEING DELAYED (Attachment F**

from the Program Statement on **Intensive Confinement Center Program (ICCP)**). The CCM must sign **Attachment F** for an extension of the **3621E Release Date** which will usually be for a period of time not to exceed 30 days.

If time constraints prevent the CCM from extending the **3621E Release Date** prior to a prisoner's return to an institution, then institution ISM staff shall make the change. If the **Attachment F** does not accompany the prisoner to the institution, ISM staff shall contact the CCM and request that the **Attachment F** be sent via a fax.

Attachment F shall be placed in the Judgment and Commitment File on top of any prior **§ 3621(e)** document. When ISM receives an **Attachment F**, the following instructions apply:

- Enter into SENTRY the access transaction code which will produce the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen.
- In the **3621E CCPS MN** field, enter from **Attachment F** from the first sentence on the form the "**has been delayed until (Blank)**" date.
- **RPC** the computation. This transaction will produce the new **3621E REL DT**, the **PROJ SAT DT** and the **PROJ SAT METH** of **3621E CMPL**.

(1) New law and old law sentence combinations.

Three basic guidelines have been established for making a **§ 3621(e)** eligibility determination when a prisoner has a combination of new law and old law sentences.

- A new law sentence followed by a consecutive old law sentence is not eligible for the **§ 3621(e)** early release benefit. (Note: If the prisoner's participation in the unit based portion of the comprehensive program began on or before **August 17, 1995**, and a consecutive old law sentence was on file as a detainer upon completion of the program, then the prisoner would be eligible for the **§ 3621(e)** early release benefit without participating in the transitional portion of the program in a CCC.)
- A new law sentence that is consecutive to an old law sentence and that qualifies is eligible for the **§ 3621(e)** early release

benefit providing that the time required to serve in a CCC is accomplished solely during the service of the new law sentence.

- A new law sentence that is served concurrently with an old law sentence, and that qualifies, is eligible for the **§ 3621(e)** early release benefit. If the final **3621E Release Date** is earlier than the SRD or Presumptive Parole Date of the old law sentence, then the final **3621E Release Date** shall be adjusted to match the later old law release date using the following instructions:
 - Enter into SENTRY the access transaction code which will produce the **SENTENCE MONITORING CALC/UPDATE COMPUTATION** screen.
 - In the **3621E CRPS MN** field, enter the **3621E CRPS** date from form **BP-S628**.
 - In the **3621E CCPS MN** field, enter the old law final release date.
 - **RPC** the computation. This transaction will produce the **3621E REL DT**, the **PROJ SAT DT** and the **PROJ SAT METH** of **3621E CMPL**.

Any combination of new law and old law sentences that does not meet the above criteria shall be referred to the Central Office Chief of Operations for assistance.

(m) Release verification for an inmate with a 3621E Release Date. Prior to releasing an inmate with a **3621E Release Date**, ISM staff shall verify that a properly executed **Attachment K** (Final Review of Inmate's Provisional Release) and Central Office approval have been received and are included as part of the inmate's release paperwork. (Note: The **Attachment K** and Central Office approval must be on file in the Judgment and Commitment File prior to release in the detainer exception cases or prior to furlough transfer to a CCC.)

*

1. **Implementation of amendments to 18 U.S.C. § 3624(b) of the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322).** The Violent Crime Control and Law Enforcement Act (VCCLEA) provisions that amended § 3624(b) became effective on September 13, 1994 and applies to offenses committed on or after that date but before April 26, 1996. VCCLEA sentences of more than one year, other than a term of life, are authorized to receive credit of up to 54 days good conduct time (GCT) at the end of each year of imprisonment, provided the inmate satisfactorily complies with the provisions of amended § 3624(b). Credit for the last partial year is prorated.

An **Old Law** (OL) sentence refers to a sentence imposed for an offense that occurred prior to November 1, 1987. A Sentencing Reform Act of 1984 (SRA) sentence refers to a sentence imposed for an offense that occurred on or after November 1, 1987 but before September 13, 1994; a VCCLEA sentence refers to a sentence imposed for an offense that occurred on or after September 13, 1994 but before April 26, 1996; and a Prison Litigation Reform Act of 1995 (PLRA) sentence refers to a sentence imposed for an offense that occurred on or after April 26, 1996.

Under the VCCLEA, amended § 3624(b), states,

(1) A prisoner (other than a prisoner serving a sentence for a crime of violence) [emphasis added] who is serving a term of imprisonment of more than one year, other than a term of imprisonment for the duration of the prisoner's life, shall receive credit toward the service of the prisoner's sentence, beyond the time served, of fifty-four days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, unless the Bureau of Prisons determines that, during that year, the prisoner has not satisfactorily complied with such institutional disciplinary regulations as have been approved by the Attorney General and issued to the prisoner. A prisoner who is serving a term of imprisonment of more than 1 year for a crime of violence, [emphasis added] other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with such institutional disciplinary regulations [emphasis added]. If the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such

institutional regulations, the prisoner shall receive no such credit toward service of the prisoner's sentence or shall receive such lesser credit as the Bureau determines to be appropriate. The Bureau's determination shall be made within fifteen days after the end of each year of the sentence. Credit that has not been earned may not later be granted [emphasis added]. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence.

(2) Credit toward a prisoner's service of sentence shall not be vested unless the prisoner has earned or is making satisfactory progress toward a high school diploma or an equivalent degree.

(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent.

(4) Exemptions to the General Educational Development requirement may be made as deemed appropriate by the Director of the Federal Bureau of Prisons.

(Note: In the policy that follows, the use of the term **sentence** means a **federal** sentence unless otherwise specified.)

The VCCLEA amendments to **§ 3624(b)** create distinctions between violent and non-violent offenders and inmates who have, or do not have, a high school diploma or equivalency. These distinctions can affect the awarding, disallowance, and forfeiture of GCT and the aggregation of VCCLEA sentences with other sentences.

The following policy and information is provided for the enforcement of the new VCCLEA amendments.

Because of the non-aggregation and de-aggregation possibilities that may occur as a result of the various sentencing laws, a **future date computation began** (DCB) policy has been established that will allow both staff and inmates to know the projected SRD for all sentences to serve. This policy will assist staff and inmates for programing and release planning purposes.

- If one or more sentences, or one or more counts in a single J&C, is consecutive and cannot be aggregated with the other sentences or counts, then the consecutive sentence shall be placed into operation by keying a future DCB for the consecutive sentence. If one or more sentences or counts in an aggregated sentence is consecutive, and de-aggregation is required, the consecutive count/sentence shall be put into operation by keying a future DCB for the consecutive sentence. The future DCB of the consecutive sentence shall be the SRD of the sentence to which the consecutive sentence was ordered to follow. The same rule applies if a new consecutive sentence is imposed that cannot be aggregated with an existing sentence. The J&C shall be executed upon its receipt.

The same rules just discussed also apply to a sentence ordered to run concurrently at some future time. The DCB will be the date on which the future concurrent sentence is ordered to begin. If part of the sentence is ordered to be served consecutively and part of the sentence concurrently, then the future sentence shall be calculated as beginning on the DCB determined to best accommodate the court's intent for service of the partially concurrent/consecutive sentence.

- A parole violation term shall be treated in the same manner for future DCB purposes when the Parole Commission Notice of Action (NOA) has revoked the parole and ordered the violation term to be served consecutively to the current sentence. The warrant, however, **shall not** be executed until the actual DCB of the violator term. Pending receipt of the NOA, the warrant shall be held as a detainer even though it may adversely affect the prisoner's security classification.
- Whenever an action is initiated that affects the SRD of the current sentence, it is necessary to manually adjust the DCB of the consecutive sentence.

(Note: Whenever it becomes necessary to de-aggregate or re-aggregate sentences, or to change a sentence to a vesting or non-vesting status, each affected computation must be RPC'd.)

(1) **General Provisions**

- Arithmetically, a VCCLEA sentence is calculated the same as an SRA sentence and a VCCLEA disallowance is calculated the same as an SRA disallowance. (See Chapter I, paragraph g.)
- A VCCLEA prisoner may earn and have vested up to 54 days of GCT at the end of each anniversary year.
- A VCCLEA inmate in prior custody time (a.k.a.: presentence time, pretrial time and jail time) status is not required to participate in the Literacy Program. If the inmate completes a full anniversary year in a prior custody time status, up to 54 days of GCT will automatically vest for that year as well as any subsequent full anniversary year or years in prior custody time status. The GCT would be reduced by any GCT that was disallowed during the anniversary year in which it occurs. (See the Program Statement on **Literacy Program (GED Standard)** for other inmates who are exempted from participating in the program.)

If the inmate completes a full anniversary year that includes a combination of prior custody time credit and time spent serving the sentence, then up to 54 days of GCT will automatically vest for that year. The GCT would be reduced by any GCT that was disallowed during that period.

Prior custody time credit shall be applied in accordance with the **Sentence Computation Manual (CCCA of 1984)**. The same principles for applying prior custody time credits for concurrent/consecutive SRA and "OL" sentences shall apply to concurrent/consecutive SRA, VCCLEA and PLRA sentences.

- ISM staff shall make a preliminary determination as to the violent/non-violent status for VCCLEA sentences (see the Program Statement on **Definition of Term, Crimes of Violence**). This preliminary determination allows ISM staff to meet the required time frame for computation of sentence as established in the **Inmate Systems Management Manual**.

Unit Management staff make the final determination as to the violent/non-violent status of each VCCLEA sentence for sentence computation purposes and are required to send the signed original of the **BP-S613** to ISM within five days after initial classification.

- VCCLEA non-violent and violent sentences shall be aggregated and shall not be de-aggregated.

An exception to the preceding paragraph results if two or more non-violent/violent VCCLEA sentences, or counts, are part of an aggregate that includes an intervening SRA sentence (the SRA sentence is between the two VCCLEA sentences--a VCCLEA sentence first, a consecutive SRA sentence second, and third, a VCCLEA sentence that is concurrent with or consecutive to the SRA sentence) that must be de-aggregated from the VCCLEA sentences because of placement in a **PENDING UDC** or **GED UNSAT** status. Then, the three sentences--a VCCLEA sentence, an SRA sentence and another VCCLEA sentence--would be served independently, unless re-aggregation was required.

- A VCCLEA sentence that acquires an Education Development Information (EDI) assignment of **GED UNSAT** shall be placed in a non-vesting status. This is the only EDI status in which a VCCLEA sentence cannot vest GCT. A VCCLEA sentence that is returned to a **non-GED UNSAT** status shall be returned to a vesting status.

If an inmate's EDI assignment changes from a vesting to a **GED UNSAT** status, the GCT already vested in a prior anniversary year, or years, remain vested. The GCT for the current year and subsequent years will not vest. When an EDI assignment changes from a **GED UNSAT** status to a **non-GED UNSAT** status, all GCT for prior years currently not vested will vest.

- ISM staff shall destroy notices from Education staff that report an inmate's entry into or out of a **GED UNSAT** status if the inmate is serving a non-VCCLEA or non-PLRA sentence, or any sentence, or combination of sentences, of one year or less.

If a future computation exists for a VCCLEA or PLRA sentence greater than one year, then ISM shall retain and file the **Specialized Daily Log Verification Notification** form, in the **Judgment and Commitment File**.

- Since there is only one EDI assignment per inmate, that EDI assignment will be the same for concurrent and consecutive sentences, regardless of whether the sentences are aggregated or imposed on a date later than the initial sentence, as long as the sentences overlap for some of the time. (A non-aggregated consecutive sentence that commences on the last day of a preceding sentence retains the EDI assignment of the preceding sentence.)
- SRA and VCCLEA sentences shall be aggregated until an inmate goes into a **PENDING UDC** status or **GED UNSAT** status at which time the sentences shall be de-aggregated.
- Aggregated SRA and VCCLEA sentences that were de-aggregated because of placement in a **GED UNSAT** status shall not be re-aggregated if, or when, a **non-GED UNSAT** status is obtained. (As noted in a preceding paragraph, a VCCLEA sentence that is returned to a **non-GED UNSAT** status shall be returned to a vesting status.)
- If the UDC waives sending an incident report to the DHO or finds the inmate guilty and issues a sanction, the previously de-aggregated SRA and VCCLEA sentences shall be re-aggregated.
- If the UDC sends an incident report to the DHO and there is a finding of not guilty, previously de-aggregated SRA and VCCLEA sentences shall be re-aggregated. If there is a finding of guilty by the DHO, the sentences shall remain de-aggregated.
- Daily, ISM staff shall prepare an **Inmate Discipline Daily Log** to identify inmates pending UDC hearings to determine if any SRA and VCCLEA sentences require de-aggregation or re-aggregation. ISM staff may maintain the log, if desired, based on their own procedures. The log may not be maintained less than, but not more than, two years. This log shall also be used to determine sanctions imposed by the DHO.

When a determination has been made that a disallowance or forfeiture occurred, ISM staff shall print an **Inmate Chronological Disciplinary Record**. This record will be used to support the sanction of disallowance/forfeiture of GCT and shall be signed and dated by the staff member who keys the transaction into SENTRY. The form shall be filed on the right side of the J&C file along with other GCT forms.

- Whenever ISM staff update a computation based on the receipt of a **Specialized Daily Log Verification Notification** form sent to ISM by Education staff, the form shall be signed (by a supervisor of Education), dated and filed on the right side of the J&C file, in chronological order, above GCT Action Notices.

(2) **Satisfactory progress toward a high school diploma or an equivalent degree.** As required by § 3624(b) (2), a VCCLEA inmate, who does not have a high school diploma or equivalent degree, must make satisfactory progress toward achieving a diploma or degree before any earned GCT may be vested.

- Education staff shall notify ISM staff within five working days (excluding the day in which the action occurs) each time the EDI assignment of **GED UNSAT** is entered or removed, via a signed copy of the **Specialized Daily Log Verification Notification**.
- ISM staff, via memorandum (LAN), must notify Education staff whenever an inmate, who is serving an OL or SRA sentence, receives a VCCLEA or PLRA sentence greater than one year.

(3) **Procedures followed by the Discipline Hearing Officer (DHO).** The DHO must impose disciplinary sanctions as authorized by the **Discipline and Special Housing Units** policy.

- If an inmate is serving concurrent non-aggregated sentences, the DHO shall clearly identify GCT sanctions imposed against each sentence (e.g., OL, SRA, VCCLEA or PLRA sentences) via the **Inmate Chronological Disciplinary Record**. These sanctions shall be identified by Computation Number and the action taken with regard to each sentence.

(Example: Computation 010 (SRA), disallow 15 days GCT; Computation 020 (VCCLEA), disallow 15 days GCT, Computation 030 (PLRA), disallow 15 days GCT).

- DHO sanctions shall not be applied to a sentence that has a future DCB.
- ISM staff, via memorandum, shall notify the DHO of any change that affects a start/stop date, and the circumstance that caused the change, if a DHO sanction was applied during the affected period. In order to give the DHO a full explanation of the effect a change to a start/stop date may have had on a previous sanction, a copy of the original and revised Good Time Data Sheets shall also be forwarded. The DHO is responsible for taking any action deemed necessary.
- The DHO may take the following actions for the various sentence types.

For an SRA sentence and a non-GED UNSAT VCCLEA sentence.

- o Disallowance for the current year.

For a GED UNSAT VCCLEA sentence and a PLRA sentence.

- o Disallowance for the current year.
- o Forfeiture for all prior years not vested.

For a VCCLEA sentence that changes from a GED UNSAT to a non-GED UNSAT status.

- o Disallowance for the current year.
- o No forfeiture for prior years.

(4) Unit Management Procedures. When an inmate is placed in either a **GED UNSAT** or a **PENDING UDC** status, and a form **BP-S613** has not been prepared, Unit Management staff shall complete and forward the signed original **BP-S613** immediately to ISM.

When the Unit Disciplinary Committee (UDC) waives sending an incident report to the DHO, a copy of the report shall not be sent to ISM. ISM staff shall use the Inmate Discipline Daily Log to determine UDC actions and dispositions.

m. Implementation of amendments to 18 U.S.C. § 3624(b) and the new provision of 28 U.S.C. § 1932 of the Prison Litigation Reform Act of 1995 (P.L. 104-134). The Prison Litigation Reform Act (PLRA) provisions that amended 18 U.S.C. § 3624(b) and that enacted 28 U.S.C. § 1932 became effective on April 26, 1996 for offenses committed on or after that date.

An **Old Law** (OL) sentence refers to a sentence imposed for an offense that occurred prior to November 1, 1987. An SRA sentence refers to a sentence imposed for an offense that occurred on or after November 1, 1987 but before September 13, 1994; a VCCLEA sentence refers to a sentence imposed for an offense that occurred on or after September 13, 1994 but before April 26, 1996; and a PLRA sentence refers to a sentence imposed for an offense that occurred on or after April 26, 1996.

(1) Information, instructions and procedures for implementation of the PLRA amendments to § 3624(b). Under the PLRA, amended § 3624(b), states,

(1) Subject to paragraph (2), a prisoner who is serving a term of imprisonment of more than 1 year, other than a term of imprisonment for the duration of the prisoner's life, may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 54 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Bureau of Prisons that, during that year, the prisoner has displayed exemplary compliance with institutional disciplinary regulations. Subject to paragraph (2), if the Bureau determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, the prisoner shall receive no such credit toward service of the prisoner's sentence or shall receive such lesser credit as the Bureau determines to be appropriate. In awarding credit under this section, the Bureau shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree. Credit that has not been earned may not later be granted. Subject to paragraph (2), credit for the last year or portion of a year of the term of imprisonment

shall be prorated and credited within the last six weeks of the sentence.

(2) Notwithstanding any other law, credit awarded under this subsection after the date of enactment of the Prison Litigation Reform Act shall vest on the date the prisoner is released from custody.

(3) The Attorney General shall ensure that the Bureau of Prisons has in effect an optional General Educational Development program for inmates who have not earned a high school diploma or its equivalent,

(4) Exemptions to the General Educational Development requirement may be made as deemed appropriate by the Director of the Federal Bureau of Prisons.

The PLRA amended **18 U.S.C. § 3624(b)** to hold **all inmates** to an "exemplary compliance" standard for violations institutional rules and regulations violations. In addition, the amendment further requires the Bureau to consider educational progress toward earning a high school diploma or an equivalent degree in awarding GCT credits. The PLRA also specifies that GCT shall vest on the date the inmate is released from custody.

This means that all earned GCT for the year, or years, preceding the current or final partial year, is available for forfeiture throughout service of the sentence. Some or all GCT earned during the current or final partial year may be disallowed (not forfeited).

Because of the non-aggregation and de-aggregation possibilities that may occur as a result of the various sentencing laws, a **future date computation begins** (DCB) program has been established as policy as previously explained in Chapter I, paragraph 1.

(Note: In the policy that follows, the use of the term **sentence** means a **federal** sentence unless otherwise specified. Whenever it becomes necessary to change a sentence to a **GED UNSAT** status or to a **non-GED UNSAT** status or to update a computation, each affected computation must be RPC'd.)

- PLRA sentences shall be aggregated with each other but shall not be aggregated with **any** other sentence because of the statutory differences

between the manner in which a PLRA sentence must be treated in relationship to other sentences (**18 U.S.C. § 3584(c)**).

- Arithmetically, a PLRA sentence is calculated the same as an SRA sentence and a PLRA disallowance is calculated the same as an SRA disallowance (see Chapter I, paragraph 3.g., of this Manual).
- The PLRA provides that GCT shall vest on the date the inmate is released from custody. As a result, all GCT earned in the year or years preceding the current or final partial year is available for forfeiture for acts of misconduct. GCT for the current or final partial year may be disallowed (not forfeited).
- A PLRA inmate in a **non-GED UNSAT** status earns 54 days of GCT per year and 42 days per year while in a **GED-UNSAT** status.

The **GED** status on the stop date of the anniversary year determines whether 54 or 42 days of GCT, minus any disallowance, will be earned for that year. A change in **GED** status in the current year or final partial year has no retroactive effect on a preceding year or years.

For a partial year when time was spent in both the 54 and 42 day rates, SENTRY automatically calculates the GCT for the final partial year for each status period and add them together for a final GCT amount for the partial prorated year.

- PLRA policy is the same as the VCCLEA policy in Chapter I, paragraph 1., for the following matters:
 - The **Specialized Daily Log Verification Notification, Inmate Discipline Daily Log** and the **Inmate Chronological Disciplinary Record** and any notifications or memoranda ISM furnishes to other departments.
 - Actions to be taken by the Education Department in relation to **GED** status and the effect of the EDI assignment when more than one computation is involved.

- o Actions taken by the UDC or DHO in relation to GCT.
- o Prior custody time.

(2) **Revocation of Good Conduct Time By a Court.** Under 28 U.S.C. § 1932, a court may order the revocation of good time credit. § 1932 states,

In any civil action brought by an adult convicted of a crime and confined in a Federal correctional facility, the court may order the revocation of such earned good time credit under section 3624(b) of title 18, United States Code, that has not vested, if, on its own motion or the motion of any other party, the court finds that --

- (1) the claim was filed for a malicious purpose;
- (2) the claim was filed solely to harass the party against which it was filed; or
- (3) the claimant testifies falsely or otherwise knowingly presents false evidence or information to the court.

The Bureau interprets this section to mean that a court, who finds that an inmate has violated one or more conditions of this section, may **forfeit** (revoke) good conduct time credit for a VCCLEA or PLRA inmate whose civil action was filed with the court on or after April 26, 1996.

- For calculation purposes, the court may forfeit all available non-vested good conduct time earned up to the start date of the current anniversary or final partial year. The court may not disallow good conduct time.
- All court ordered forfeitures shall be referred to the RISA for review and instructions as to the manner in which a forfeiture shall be applied to an inmate's sentence or sentences. Even an order that appears to be improper on its face shall be referred to the RISA. The RISA shall consult with the Central Office ISM Chief of Operations prior to authorizing implementation of a court ordered forfeiture.

n. **Shock incarceration program.** The statutory provisions of the shock incarceration program (18 U.S.C. § 4046(c)) of the **Violent Crime Control and Law Enforcement Act (VCCLEA) of 1994** became effective on **May 28, 1996** with the issuance of the Program Statement on the **Intensive Confinement Center Program**. This Program Statement establishes the eligibility requirements and program participation necessary to become eligible for a reduction of the time to serve on his or her sentence.

(1) 18 U.S.C. § 4046 states,

(a) The Bureau of Prisons may place in a shock incarceration program any person who is sentenced to a term of imprisonment of more than 12, but not more than 30, months, if such person consents to that placement.

(b) For such initial portion of the term of imprisonment as the Bureau of Prisons may determine, not to exceed 6 months, an inmate in the shock incarceration program shall be required to--

(1) adhere to a highly regimented schedule that provides the strict discipline, physical training, hard labor, drill, and ceremony characteristic of military basic training; and

(2) participate in appropriate job training and educational programs (including literacy programs) and drug, alcohol, and other counseling programs.

(c) An inmate who in the judgment of the Director of the Bureau of Prisons has successfully completed the required period of shock incarceration shall remain in the custody of the Bureaus for such period (not to exceed the remainder of the prison term otherwise required by law to be served by that inmate), and under such conditions, as the Bureau deems appropriate.

(2) **SENTRY Information**. The following information applies only to Inmate Systems Management responsibilities for **§ 4046(c)**. The specific duties for other institution staff are discussed in the Program Statement on **Intensive Confinement Centers**.

There are three SENTRY fields and a release method that have been developed that are on the Sentence Monitoring Calc/Update Computation screen. A description of each is provided below:

- **4046C IC MAN:** The "IC MAN" represents the institution completion (graduation) date for the Intensive Confinement Center program (ICCP). This is a field into which ISM staff shall enter the graduation date as provided by the ICC Administrator. SENTRY automatically calculates a 4046C REL DT based upon the length of sentence and the amount of the approved reduction from the already established projected SRD.
- **4046C CC MAN:** The "CC MAN" represents the community completion date. This field is used to override the automatically calculated 4046C REL DT when the inmate's date is to be retarded (as determined by Community Corrections staff). ISM staff are to compute this date manually by adding the amount of time the inmate is required to spend in a Community Corrections program or by adding the amount of time to the already established 4046C REL DT as determined by Community Corrections staff.
- **4046C REL DT:** After a date has been entered into the **4046C IC MAN** field or the **4046C CC MAN** field, the 4046C REL DT field will reflect the inmate's new release date based on a reduction of up to six months off the projected SRD date. SENTRY calculates this date automatically.
- **4046C CMPL:** This is the satisfaction method resulting from a reduction in time to serve for satisfactory completion of all ICC program phases.

(3) Procedures

(a) Institution Staff. The attachments referenced in this section are located in the Intensive Confinement Center Program Statement.

Upon receiving the Notification of ICC Sentence Reduction (Attachment D) from the ICC Administrator, ISM staff shall enter the graduation date from the institution ICCP in the **4046C IC MAN** field and re-calculate the computation.

Based upon the term in effect, SENTRY will reduce the SRD by the appropriate number of months as described in the Program Statement on Intensive Confinement Center program and establish the **4046C REL DT**.

The projected **4046C REL DT** SENTRY calculates can be no earlier than the ICCP graduation date, since no sentence reduction may occur any earlier than the completion date of the ICC program. If the graduation date and the **4046C REL DT** are the same, ISM staff shall notify the ICC Administrator via a memorandum. The ICC Administrator shall complete the Notice to Inmate that Previously Scheduled Release is Being Delayed (Attachment F) and forward a copy to ISM. If the **4046C REL DT** is to be retarded (as determined by the ICC Administrator), the date that the **4046C REL DT** is to be delayed to will be indicated on the Notice to Inmate that Previously Scheduled Release is Being Delayed form. ISM staff will key this date into SENTRY in the **4046C CC MAN** field and re-calculate the computation. These actions are performed to ensure that eligibility requirements outlined in the ICC program statement are met.

If an inmate receives a detainer, declines, withdraws, is expelled, or fails the ICCP and consequently becomes ineligible for the early release consideration, the ICC Administrator shall notify ISM using Attachment E, Change in ICC Sentence Reduction Status. ISM staff shall then remove any data keyed into the **4046C IC MAN** or **4046C CC MAN** fields and re-calculate the computation.

ISM staff shall file the completed attachments on the left hand side of the J&C file above the Judgment & Commitment Orders.

(b) Community Corrections Staff. After the inmate completes the institution ICCP and is participating in the community-based program, the Community Corrections Manager (CCM) may retard the inmate's **4046C REL DT** under certain circumstances. The Notice to Inmate That Previously Scheduled Release is Being Delayed (Attachment F) is to be used for these purposes. If the date is to be retarded, CCM staff shall key the new projected **4046C REL DT** indicated on (Attachment F) into the **4046C CC MAN** field and re-calculate the computation. SENTRY sets the **4046C REL DT** equal to the **4046C CC MAN** date as long as the **4046C CC MAN** date is prior to the originally computed projected release date. If the inmate is determined ineligible for early release consideration, CCM staff shall remove all data entered in the **4046C IC MAN** and **4046C CC MAN** fields and re-calculate the computation.

o. **Fines, Assessments, and Restitution.**

(1) **Release from imprisonment.** 18 U.S.C. § 3624(e), states in part,

No prisoner shall be released on supervision unless such prisoner agrees to adhere to an installment schedule, not to exceed two years except in special circumstances, to pay for any fine imposed for the offense committed by such prisoner.

- A prisoner with a fine shall be released on the release date without regard to the status of the fine if there is no period of supervised release to follow.
- A prisoner with a fine shall be released on the release date without regard to the status of the fine if release is to a detainer that requires the service of a sentence of 30 days or more (including a non-federal parole violator term) without regard to whether there is a period of supervised release to follow.
- A prisoner with a fine, and a detainer (including a USINS detainer) on file that does not require service of a sentence of 30 days or more, shall be treated as though the detainer did not exist and shall be processed under **§ 3624(e)**.

The statutory provision that authorizes a court to impose a fine is **18 U.S.C. § 3571, Sentence of fine**, and it states in pertinent part for ISM purposes,

(a) In general.--A defendant who has been found guilty of an offense may be sentenced to pay a fine.

(b) Fines for individuals.--Except as provided in subsection (e) of this section, an individual who has been found guilty of an offense may be fined not more than the greatest of--

(1) the amount specified in the law setting forth the offense;

(2) the applicable amount under subsection (d) of this section;

(3) for a felony, not more than \$250,000;

(4) for a misdemeanor resulting in death, not more than \$250,000;

(5) for a Class A misdemeanor that does not result in death, not more than \$100,000;

(6) for a Class B or C misdemeanor that does not result in death, not more than \$5,000; or

(7) for an information, not more than \$5,000.

§ 3571 states further,

(e) Special rule for lower fine specified in substantive provision.--If a law setting forth an offense specifies no fine or a fine that is lower than the fine otherwise applicable under this section and such law, by specific reference, exempts the offense from the applicability of the fine otherwise applicable under this section, the defendant may not be fined more than the amount specified in the law setting forth the offense.

18 U.S.C. § 3013(b) and (c), about an assessment states,

(b) Such amount so assessed shall be collected in the manner that fines are collected in criminal cases.

(c) The obligation to pay an assessment ceases five years after the date of the judgment. This subsection shall apply to all assessments irrespective of the date of imposition.

A special assessment imposed under the provisions of 18 U.S.C. § 3013 or an order of restitution imposed under the various restitution statutes are not treated the same as a fine for release on supervision purposes, i.e., an inmate shall not be held beyond the release date because of an assessment or restitution order, unless specifically ordered by the court.

(Note: In the policy that follows, the use of the term **sentence** means a **federal** sentence unless otherwise specified.)

In OL and NL situations when sentences are running along concurrently and release from one is later than the other, or when the sentences are consecutive to each other regardless of the order of service, all OL and NL fine matters shall be resolved toward the end of the confinement portion of the multiple sentences as discussed post. The same rule applies to NL concurrent and consecutive sentences that cannot be aggregated.

Immediately after publication of the 90 day SENTRY-generated **Ensuing Release List**, ISM staff shall review the J&C

File of each inmate who has a period of supervised release to follow to determine the fine status of each inmate on the list.

If, during the review process, ISM staff learn that an inmate has an unpaid fine, then Unit staff shall be contacted to ascertain the status of the fine.

If it is learned, or if the inmate claims, that a fine has been paid in full but there is no confirmation, then ISM staff shall request that Unit staff acquire a written proof of payment document from the court to place in the J&C File. After receiving documentation (telephonic or other electronic form of communication initiated at the request of Bureau staff will suffice until the written documentation arrives) verifying the fine has been paid in full, then the inmate may be released on the scheduled release date.

If the fine has not been paid in full but the inmate agrees, in writing, to adhere to an installment schedule after release, then the inmate may be released on the scheduled release date. (See the Program Statement on Inmate Financial Responsibility Program and **Attachment A (Installment Schedule Agreement For Unpaid Fines)**.) The Bureau does not schedule installment payments for fines. Only the court is authorized to schedule installment payments as authorized under **18 U.S.C § 3572(d)** (See **United States v. Workman**, **110 F.3d 915 (2d Cir. 1997)**.).

The inmate shall not be released on supervised release and shall remain confined in an A-Des status until the inmate pays the fine in full or agrees to adhere to an installment schedule.

Whenever an inmate is not released on the scheduled date of release as the result of a fine problem, ISM staff shall contact Unit staff frequently to learn the progress being made to resolve the fine issue. Every effort possible should be undertaken to assure that the inmate is not confined past the release date any longer than necessary.

A fine carries over to a supervised release revocation term regardless of how many times the inmate is recommitted as a supervised release violator, provided the fine, or any portion thereof, remains unpaid or unless the court enters an order affecting the status of the fine, e.g., the 20 year period of liability to pay the fine has terminated (see **18 U.S.C. § 3613(b)**). The same procedures as discussed above apply for release to supervised release from a supervised revocation term.

Assessment information from the original sentence will carry over to the supervised revocation term regardless of how many times the prisoner is recommitted as a supervised release violator.

ISM staff shall notify the U.S. Attorney, in the district in which the inmate was sentenced and in the destination district, if different from the sentencing district, via the **Notice To U.S. Attorney Of Release Of Inmate With Criminal Fine Judgment (BP-384(58))**, of any inmate released with a fine that has not been paid in full. Unit staff shall notify the U.S. Probation Officer in the district in which the inmate was sentenced and in the destination district, if different from the sentencing district, of the inmate's destination at the time of release and the inmate shall be notified that any unpaid portion of a fine or restitution remains to be paid.

(2) Effect of default on a payment of a fine or restitution (18 U.S.C. § 3613A). This statutory provision states,

(a) (1) Upon a finding that the defendant is in default on payment of a fine or restitution, the court may, pursuant to section 3565, revoke probation or a term of supervised release, modify the terms or conditions of probation or a term of supervised release, resentence a defendant pursuant to section 3614, hold the defendant in contempt of court, enter a restraining order or injunction, order the sale of property of the defendant, accept a performance bond, enter or adjust a payment schedule, or take any other action necessary to obtain compliance with the order of a fine or restitution.

As noted, the court has a number of options upon finding that a person is in default. Regardless of the option chosen, the date of offense for the original sentence leading to the fine or restitution sentence (including supervised release or probation revocation) is controlling for sentence procedure determination and prior custody time considerations. These options are discussed below.

(a) Revocation of probation. A person who defaults on payment of a fine or restitution may have the probation revoked pursuant to **18 U.S.C. § 3565**.

(b) Revocation of supervised release. A person who defaults on payment of a fine or restitution may have the supervised release revoked pursuant to **18 U.S.C. § 3583**.

(3) Resentencing upon failure to pay a fine or restitution (18 U.S.C. § 3614). A person sentenced to pay a fine or restitution (no term of imprisonment) and who fails to pay the fine or restitution, may be resentenced to a term of imprisonment and supervised release. The court may also include the fine or restitution that has not been paid in the new J&C and the procedures for resolution shall be the same as described in this paragraph, subparagraph (1).

18 U.S.C. § 3614 states,

(a) Resentencing.--Subject to the provisions of subsection (b), if a defendant knowingly fails to pay a delinquent fine or restitution the court may resentence the defendant to any sentence which might originally have been imposed.

(b) Imprisonment.--The defendant may be sentenced to a term of imprisonment under subsection (a) only if the court determines that--

(1) the defendant willfully refused to pay the delinquent fine or had failed to make sufficient bona fide efforts to pay the fine; or

(2) in light of the nature of the offense and the characteristics of the person, alternatives to imprisonment are not adequate to serve the purposes of punishment and deterrence.

(c) Effect of indigency.--In no event shall a defendant be incarcerated under this section solely on the basis of inability to make payments because the defendant is indigent.

As the language of this statutory provision explains, a court may resentence a person to any sentence, including a period of supervised release, that might have originally been imposed. It is anticipated that any fine or restitution information that was originally imposed would be included in the resentencing J&C, unless otherwise ordered by the court. If the fine or restitution information is not included in the resentencing J&C and there is no other information about the status of the fine or restitution, then ISM staff shall initiate correspondence to the appropriate Assistant U.S. Attorney requesting a clarification.

It is the Bureau's interpretation of this statutory provision that a person who has served a term of imprisonment for an offense to which a fine or restitution was, may not be resentenced to another term of imprisonment under **§ 3614** for failure to pay the fine or restitution. Because of the court's authority to revoke supervised release for failure to pay a fine or restitution and the court's authority to sentence a person under the provisions of **18 U.S.C. § 3615** for criminal default (See subparagraph (3) below.) when no period of supervised release follows the term of imprisonment, resentencing under **§ 3614** would not be appropriate.

Any J&C that represents a resentencing of a person, after completing a term of imprisonment, to an additional term of imprisonment for the same offense because of a failure to pay a fine or restitution shall be referred to the RISA for review.

(4) Criminal default (18 U.S.C. § 3615). A person who is sentenced to a term of imprisonment with no supervised release to follow and who subsequently fails to pay a fine may be sentenced for criminal default.

18 U.S.C. § 3615 states,

Whoever, having been sentenced to pay a fine, willfully fails to pay the fine, shall be fined not more than twice the amount of the unpaid balance of the fine or \$10,000, whichever is greater, imprisoned not more than one year, or both.

It is the Bureau's analysis of the various fine statutory provisions that a sentence, plus a period of supervised release, may be imposed under **§ 3615** only after serving a term of imprisonment with no supervised release to follow and only when the person has willfully failed to pay a fine. No sentence may be imposed for a failure to pay restitution under this provision.

The court may also include the fine in the new J&C and the procedures for resolution shall be the same as described in this paragraph, subparagraph (1). *

4. COMPUTATION OF STUDY

The court may impose a study, prior to final sentencing, that is to be conducted in accordance with 18 USC § 3552(b). The SPC and narrative for a study imposed under the SRA is:

SPC = 0082 3552(b) SRA Study

Under 18 USC § 3552(b), "If the court . . . desires more information than is otherwise available to it as a basis for determining the sentence to be imposed on a defendant found guilty of a misdemeanor or felony, it may order a study of the defendant . . . The period of the study shall take no more than sixty days . . . Such an order shall be treated for administrative purposes as a provisional sentence of imprisonment for the maximum term authorized by section 3581(b) for the offense committed . . . The period of the study may, in the discretion of the court, be extended for an additional period of not more than sixty days. By the expiration of the period of the study, or by the expiration of any extension granted by the court, the United States Marshal shall return the defendant to the court for final sentencing. After receiving the report and recommendation "from the BOP" the court shall proceed finally to sentence the defendant in accordance with the sentencing alternatives and procedures available under this Chapter."

18 USC § 3552(b) allows the court to obtain more information about the defendant prior to sentencing. If the court commits the

defendant to the BOP, then the BOP has sixty days in which to complete the study. The BOP may request an additional sixty days (See the Program Statement on Study, Observation, Competency Commitments) to accomplish the study, if necessary.

The study period shall be treated the same as if the defendant was serving the maximum sentence that could be imposed and all study time will count as time on the sentence when the final sentence is determined by the court, i.e., the date the sentence begins will be the date on which the court imposed the study, provided the defendant was in exclusive federal custody for the purpose of the study.

If the defendant is in federal custody for other charges or offenses, in either a sentenced or non-sentenced status, at the time the study is imposed and begins to run, then the final sentence that is imposed will run consecutively to the other federal matter(s) unless the court orders the final sentence to run concurrently. If the final sentence is concurrent, then it shall be computed as beginning on the date the study was imposed and shall be aggregated with other non-exception SRA sentences (paragraph e., this chapter). If the final sentence is consecutive, then no study time shall be credited.

If the defendant is in state custody, in either a sentenced or non-sentenced status, and is committed for a study while under the jurisdiction of a federal writ of habeas corpus ad prosequendum from state custody, then none of the study time will count on the final

sentence if that sentence is consecutive to the state matters. If the final sentence is concurrent, then it shall be computed as beginning on a date (no earlier than the date the sentence was imposed) determined by the BOP that will be included in the order that designates the state institution as the place to serve the federal sentence.

Presentence time credit shall not be used to diminish the study time period.

If the defendant escapes during the study period and is returned to the institution without further order from the court, then the Warden, or Superintendent, shall be so advised and the procedures set forth in the Program Statement on Study, Observation, Competency Commitments, shall be followed.

Any inoperative time in an escape status from the study, or other forms of inoperative time during the study, shall apply to the sentence if the final sentence that is determined begins on a date that precedes the inoperative time.

**5. PRE- AND POST-MISTRETТА SRA SENTENCE COMPUTATION
INSTRUCTIONS**

Prior to, and after, Mistretta (known as the "pre-Mistretta" or "post-Mistretta" periods) the BOP issued separate computation instructions for sentences imposed in each court that found the SRA to be unconstitutional in some way. Those instructions have been consolidated and shall be implemented as shown in the following sections. (If a court made no determination about the constitutionality of the SRA, or made a finding that the SRA was constitutional, then any sentence imposed on or after November 1, 1987 for an offense that occurred on or after November 1, 1987, shall be computed in accordance with SRA sentencing laws. Those courts are not listed in the following sections.)

a. Pre-Mistretta Period.

SECOND CIRCUIT

District of Connecticut: For sentences that were imposed by the following judges, beginning on the date indicated but prior to January 18, 1989, compute all sentences in accordance with pre-SRA sentencing laws ("old law" sentencing laws).

Judge Ellen Bree Burns: Date of Sentence was on/or after May 5, 1988 but prior to January 18, 1989.

Judge Jose A. Crabranes: Date of Sentence was on/or after May 6, 1988 but prior to January 18, 1989.

Judge T. F. Gilroy Daly: Date of Sentence was on/or after May 16, 1988 but prior to January 18, 1989.

Judge Alan H. Nevas: Date of Sentence was on/or after May 24, 1988 but prior to January 18, 1989.

Judge Peter C. Dorsey: Date of Sentence was on/or after June 20, 1988 but prior to January 18, 1989.

SPC = (Use Appropriate pre-SRA SPC)

Eastern District of New York: Compute all sentences imposed by

Judge I. Leo Glasser in accordance with pre-SRA sentencing laws ("old law" sentencing laws) for all sentences imposed prior to January 18, 1989.

SPC = (Use appropriate pre-SRA SPC)

SIXTH CIRCUIT

Western District of Tennessee: For sentences that were imposed by **Judge Odell Horton** beginning on/or after June 7, 1988 but prior to January 18, 1989, compute all sentences in accordance with pre SRA sentencing laws ("old law" sentencing laws).

SPC = (Use appropriate pre-SRA SPC)

EIGHTH CIRCUIT

Eastern District of Arkansas: For sentences that were imposed on/or after May 27, 1988 but prior to January 18, 1989, for all judges except **Judge Stephen Reasoner**, compute sentences in accordance with pre-SRA sentencing laws ("old law" sentencing laws).

SPC = (Use appropriate pre-SRA SPC)

NINTH CIRCUIT

All Districts: For sentences that were imposed on/or after August 23, 1988 but prior to January 18, 1989 and:

a. The judgment and commitment was silent, compute in accordance with pre-SRA sentencing laws ("old law" sentencing laws).

SPC = (Use appropriate pre-SRA SPC)

b. The judgement and commitment includes a "conditional guideline" sentence with language such as "It is the judgment of this court that, having found the sentencing guidelines unconstitutional, the following sentence is imposed: The defendant is committed to the custody of the Attorney General for a period of six years. If however, at a later date, the Supreme Court declares the sentencing guidelines to be constitutional, then, in lieu of the above sentence, the defendant is committed for a period of forty-eight months, plus a period of three years supervised release" manually compute as follows:

(1) Presentence time and time spent serving the sentence prior to January 18, 1989, shall count as presentence time credit and shall be subtracted from the full term date based on the forty-eight month sentence. SGT and EGT, if any, earned on or after August 23, 1988 but prior to January 18, 1989, shall be subtracted from the full term date just established as a result of presentence time credit, to establish a "Statutory Release Date." (The SGT rate for the period of time from August 23, 1988 through January 17, 1989, shall be based on the length of the total sentence in accordance with

"Old Law" 18 USC § 4161; i.e., 0 time to 6 months = 0 days; 6 months through 1 year = 5 days per month; 1 year and 1 day to 3 years = 6 days per month; 3 years to 5 years = 7 days per month; 5 years to 10 years = 8 days per month; and 10 years plus = 10 days per month.)

(2) Using January 18, 1989 as the "Date Computation Began" and the "Statutory Release Date" just determined, manually compute the balance of the term as an SRA sentence and do not use the presentence time credit to establish the Anniversary Date. (Figure 1.)

SPC = 0097 SRA & 4161 SGT & 4162 EGT

TENTH CIRCUIT

District of Colorado: Compute all sentences in accordance with pre- SRA sentencing laws for all sentences imposed prior to January 18, 1989.

SPC = (Use appropriate pre-SRA SPC)

Eastern District of Oklahoma: Compute all sentences by **Judge Frank H. Seay** that were imposed on or after May 26, 1988 but prior to January 18, 1989 in accordance with pre SRA sentencing laws ("old law" sentencing laws).

SPC = (Use appropriate pre-SRA SPC)

District of Utah: Compute all sentences imposed on or after July 18, 1988 but prior to January 18, 1989, in accordance with pre-SRA sentencing laws ("old law" sentencing laws).

SPC = (Use appropriate pre-SRA SPC)

ELEVENTH CIRCUIT

Southern District of Florida: For a sentence that was imposed on or after June 30, 1988 but prior to January 18, 1989, compute in accordance with SRA sentencing laws and parole eligibility in accordance with pre-existing SRA laws ("old law" sentencing laws) as follows:

18 USC § 4205(a)

SPC = 0099 SRA GCT & Parole Eligibility

(Automatically calculates SRA GCT and parole eligibility in accordance with 4205(a).)

18 USC § 4205(b)(1) & (b)(2)

SPC = 0099 SRA GCT & Parole Eligibility

(Automatically calculates SRA GCT and parole eligibility in accordance with 4205(a). Manually compute and enter the parole eligible date for a 4205(b)(1) case and enter "Commission's Discretion" for a 4205(b)(2) case.)

No 4205 or 4206 Parole

SPC = 0098 SRA GCT-No 4205 or 4206 Par.

(Automatically calculates SRA GCT but does not calculate parole eligibility.)

b. Post-Mistretta Period.

ALL CIRCUITS

For sentences that were imposed from November 1, 1987, but prior to January 18, 1989, and that were (or subsequently are) successfully appealed as a result of Mistretta; the resulting re-sentencing shall be computed as follows:

(1) If the re-sentencing order indicates that the present sentence is imposed retroactively or "Nunc Pro Tunc" (now for then), compute the sentence as beginning on the date that the invalid non-SRA, or "partial" SRA sentence was imposed. This computation will result as a "normal" SRA Sentence, thereby nullifying any previous SGT or EGT awards, parole eligibility, and all parole actions.

SPC = 0080 3559 SRA Sentence

(2) If the sentencing order is silent as to a beginning date and the prior invalid sentence was computed as an SRA sentence for GCT purposes, but as a pre-SRA sentence for parole purposes (0098 SRA GCT-No 4205 or 4206 Parole; or 0099 SRA GCT & Parole Eligibility), compute as beginning on the date of the re-sentencing order, thereby nullifying parole eligibility and all prior parole actions. All prior presentence time credit and time served on the invalid sentence shall count as jail time credit on the new sentence.

SPC = 0080 3559 SRA Sentence

(3) If the sentencing order is silent as to a beginning date, and the prior invalid sentence was computed in accordance with pre-SRA sentencing laws in every respect, presentence time credit and time spent serving the invalid sentence shall count as presentence time credit and shall be subtracted from the originally established full term date. SGT and EGT, if any, earned on or after November 1, 1987, but prior to January 18, 1989, shall be subtracted from the full term date just learned, as a result of applied presentence time credit, to establish a "Statutory Release Date." (The SGT rate shall be based on the length of the total sentence in accordance with 18 U.S.C. § 4161; i.e., **0 time to 6 months = 0 days; 6 months through 1 year = 5 days per month; 1 year and 1 day to 3 years = 6 days per month; 3 years to 5 years = 8 days per month; 5 years to 10 years = 8 days per month; and 10 years plus = 10 days per month.**)

★

Using the re-sentencing date as the "Date Computation Began" and the "final" full term date just determined, compute the balance of the SRA term as an SRA sentence. The jail time credit awarded to the invalid sentence and the time spent serving the invalid sentence up to January 18, 1989, shall not be used to calculate the Anniversary Date but any time thereafter, up to the re-sentencing date (DCB), shall be used.

★

SPC = 0097 SRA & 4161 SGT & 4162 EGT

6. COMPUTATION OF FOREIGN TREATY SENTENCE

Pursuant to treaty, an offender sentenced in the court of one country may be transferred to their country of origin or citizenship for the purpose of serving the sentence. Statutes governing the computation of foreign treaty sentences are **18 U.S.C. § 4105-4106A.**

When a foreign treaty prisoner is received, ISM staff are to ensure the following is received:

- A foreign judgment and commitment order (certified copy);
- Documentation showing the amount of remission, qualified presentence, labor/work credit, or good conduct/behavior time credit awarded while in official detention in the foreign country; and,
- Documentation showing any other factors relevant to the enforcement of the sentence.

a. GENERAL INFORMATION. **18 U.S.C. § 4105 and 4106A** authorizes the Bureau of Prisons (BOP) and the U.S. Parole Commission (USPC) to carry out foreign treaty sentences. The USPC establishes the term of imprisonment and supervised release. The BOP calculates the sentence.

b. U.S. PAROLE COMMISSION. The following subsections of **18 U.S.C. § 4106A** are relevant to ISM staff:

- (b)(1)(A) The United States Parole Commission shall, without unnecessary delay, determine a release date and a period and conditions of supervised release for an offender transferred to the United States to serve a sentence of imprisonment, as though the offender were convicted in a United States district court of a similar offense.
- (b)(1)(C) The combined period of imprisonment and supervised release that result from such determination shall not exceed the term of imprisonment imposed by the foreign court on that offender.
- (c) This section shall apply only to offenses committed on or after November 1, 1987.

The statute directs the USPC to determine a release date. The USPC actually determines the overall term of imprisonment the inmate will serve. This is supported by three U.S. Courts of Appeal decisions, which ruled the USPC release date replaces that of the foreign sentence. (See Asare v. United States Parole Commission, 2 F.3d 540 (4th Cir. 1993); Ajala V. U.S. Parole Commission, 997 F.2d 651 (9th Cir. 1993); and Trevino-Casares V. U.S. Parole Commission, 992 F.2d 1068 (10th Cir. 1993).) The USPC and BOP have adopted these decisions on a nationwide basis and do not interpret the "release date" as a release from imprisonment date. For example, BOP will not treat the USPC release date as an SRD. The USPC's release date determination is the equivalent to an Expiration Full Term (EFT) date, as shown below.

The USPC follows the **United States Sentencing Commission Guidelines Manual** (USSCGM) to establish a "term of imprisonment" release date for a transferred offender. This is done **as though the offender was convicted of a similar offense in a U.S. District Court.**

The calculation is:

- **Date Comp Begins** (DCB) + **USPC Time to Serve** (Term of Imprisonment) - **Presentence Time** = **Release Date** (Equivalent EFT)

The USPC calculation of a release date (equivalent EFT) may not always be correct because the BOP has the official documentation necessary to calculate the release date, i.e., date sentence imposed, date sentence begins, presentence time credit, inoperative time, etc.

The USPC transmits the release date and USPC Time to Serve information to the BOP via a **Transfer Treaty Determination Pursuant to 18 U.S.C. § 4106A (USPC Treaty Notice)**. This notice normally contains the following statement:

"Pursuant to 18 U.S.C. § 4106A it is ordered that the transferee be released on (MM-DD-YYYY), after service of (XX) months. It is further ordered that the transferee, immediately upon release from incarceration, serve a (XX)-month term of supervised release, or until the expiration of the Foreign Full Term Date, whichever is earlier."

In summary, the USPC release date is not an SRD. It is the equivalent of an EFT but shall not be relied upon by ISM for calculation purposes. The USPC Time to Serve period shall be treated the same as if it were a sentence of imprisonment imposed in this country and will be calculated according to statutory and policy instructions.

c. **BUREAU OF PRISONS.** The BOP enforces the provisions of 18 U.S.C. § 4105 for U.S. citizens transferred to the U.S. for service of the foreign treaty sentence. **Section 4105** states,

(a) Except as provided elsewhere in this section, an offender serving a sentence of imprisonment in a foreign country transferred to the custody of the Attorney General shall remain in the custody of the Attorney General under the same conditions and for the same period of time as an offender who had been committed to the custody of the Attorney General by a court of the United States for the period of time imposed by the sentencing court.

(b) The transferred offender shall be given credit toward service of the sentence for any days, prior to the commencement of sentence, spent in custody in connection with the offense or acts for which the sentence was imposed.

(c)(1) The transferred offender shall be entitled to all credits for good time, for labor, or any other credit toward the service of the sentence which had been given by the transferring country for time served as of the time of transfer. Subsequent to the transfer, the offender shall in addition be entitled to credits toward service of sentence for satisfactory behavior, computed on the basis of the time remaining to be served at the time of the transfer and at the rate provided in section 3624(b) of this title for a sentence of the length of the total sentence imposed and certified by the foreign authorities. These credits shall be combined to provide a release date for the offender pursuant to section 3624(a) of this title.

(2) If the country from which the offender is transferred does not give credit for good time, the basis of computing the deduction from the sentence shall be the sentence

imposed by the sentencing court and certified to be served upon transfer, at the rate provided in section 3624(b) of this title.

(3) Credit toward service of sentence may be withheld as provided in section 3624(b) of this title.

(4) Any sentence for an offense against the United States, imposed while the transferred offender is serving the sentence of imprisonment imposed in a foreign country, shall be aggregated with the foreign sentence, in the same manner as if the foreign sentence was one imposed by a United States district court for an offense against the United States.

d. **GENERAL SENTENCE COMPUTATION PROCEDURES (Foreign Offenses Occurring on or After November 1, 1987).** 18 U.S.C. § 4105, **Transfer of offenders serving sentence of imprisonment**, governs the way foreign treaty sentences will be carried out in the U.S. 18 U.S.C. § 4105, is under the provisions of the **Sentencing Reform Act (SRA) of 1984** and its amendments; **Violent Crime Control and Law Enforcement Act (VCCLEA) of 1994**; and **Prison Litigation Reform Act (PLRA) of 1995**; called **New Law (NL)** sentences.

When the prisoner is received at the facility where the USPC will conduct its determination hearing, ISM staff will do a manual calculation, based on the sentence imposed in the foreign country, and enter that data into SENTRY. This will assist the USPC in determining the USPC Time To Serve. (See Section (g) below for specific calculation and keying instructions.)

If the USPC determines that the inmate should serve the foreign sentence as imposed, and is silent as to the term of supervised release, then no change needs to be made to the original computation, other than adding the "basis of change" code. (See Section (g)). **ISM staff must verify with the USPC that the intent is for the prisoner to serve the balance of the original treaty sentence, (SRD through the original foreign EFT), on supervised release.** The USPC cannot establish a supervised release term that, when added to the SRD, exceeds the original foreign EFT. **If the supervised release term imposed by the USPC does exceed the original foreign EFT, ISM staff will adjust the term to equal the time from and including the SRD through the original foreign EFT.**

e. GOOD CONDUCT TIME. Any foreign sentence imposed in a foreign country that is greater than one year will receive **GCT** credit on the balance of the sentence served in the U.S. For example, if a prisoner has a **C1** sentence (See Section (f) below), greater than one year, and, nine months remain to serve after transfer to this country, the prisoner would earn **GCT** credit on the nine-month balance.

For a similar **C2A** or **C2B** sentence, the prisoner is entitled to earn **GCT** credit on the entire sentence that is greater than one year. (**NOTE: If the application of GCT results in a sentence that is past due for satisfaction, contact the USPC for direction.**)

GCT credit applied to foreign sentences may be withheld or forfeited, provided the **GCT** is earned pursuant to 18 U.S.C. § 3624(b).

f. CALCULATION METHOD TYPES. Pursuant to 18 U.S.C. § 4105, the BOP has developed three calculation methods for foreign treaty sentences. Before any foreign treaty sentence can be calculated, ISM staff must determine the following:

- The date of the offense (Offense must have occurred on or after November 1, 1987);
- The foreign sentence imposed;
- The date that the foreign sentence was imposed; and
- The DCB (usually the date on which the sentence was imposed).

The three types of foreign treaty calculations are **C1**, **C2A** and **C2B**. The criteria for selecting the appropriate calculation method and the instructions for each are explained below.

(1) C1 Sentence (18 U.S.C. § 4105(c)(1)). A **C1** sentence is a foreign treaty sentence that was entitled to earn good conduct time credits and labor/work time credits in the foreign country and is entitled to earn **GCT** credits (**18 U.S.C. § 3624(b)**) on the balance of the sentence remaining to be served from the date of transfer to the United States.

If some or all good conduct time credits earned in the foreign country were forfeited or lost, prior to transfer to the U.S., then **GCT** will be awarded for any time spent in the foreign country.

(2) **C2A Sentence (18 U.S.C. § 4105(c)(2))**. A **C2A** sentence is a foreign treaty sentence that was not entitled to earn good conduct time in the foreign country and earned no labor/work time credits in the foreign country. A **C2A** sentence is entitled to earn **GCT** credit on the total sentence, as imposed in the foreign country, and shall be computed the same as if it were a U.S. Code sentence.

(3) **C2B Sentence (18 U.S.C. § 4105(c)(2))**. A **C2B** sentence is a foreign treaty sentence that earned one or more days of labor/work time credits while in the foreign country, but, was not entitled to earn good conduct time in the foreign country. A **C2B** sentence is entitled to earn **GCT** credit on the total sentence as imposed in the foreign country. Additionally, labor/work time credits earned in the foreign country will be deducted from the SRD.

g. SPECIFIC SENTENCE CALCULATION AND SENTRY KEYING INSTRUCTIONS.

Due to the unique nature of foreign treaty sentences, specific steps are outlined below for calculating each sentence type. If a problem arises in calculating a foreign treaty sentence, contact the RISA or the Central Office, Operations Section, for assistance. **All requests for foreign jail credit are to be referred to the Central Office, Operations Section.**

SENTRY has been programed to allow staff to key all information on foreign sentences into the existing fields of the SENTRY computation screens. (Refer to the SENTRY Technical Reference Manual for specific How Committed and Sentence Procedure Codes.)

(1) **C1 SENTENCES:**

a. The following steps are to be followed when computing a **C1** sentence, prior to receiving the USPC Treaty Notice.

- Add the term of the sentence imposed in the foreign court to the DCB to establish the unadjusted foreign EFT. (The DCB will normally be the day the foreign sentence was imposed.)
- Determine the appropriate inoperative and prior custody time credit, if any, as outlined in 18 U.S.C. § 3585, and add or subtract from the unadjusted foreign EFT, to arrive at the final foreign EFT. (**NOTE:** If jail credit exists that was not applied by the foreign country, forward copies of source documents to the Operations Section, Central Office, for verification.)

- Total the foreign behavior and labor/work time credits earned in the foreign country prior to the date of transfer to the U.S., and, subtract them from the final foreign EFT, to arrive at the tentative SRD. (**NOTE:** Key the foreign behavior and labor/work credit amounts on the SENTRY Computation Remarks screen prior to completing the computation).
- Calculate the GCT anniversary dates using the **date of arrival** in the U.S. Do not apply any prior custody time.
- Calculate the balance of GCT to be earned for the remainder of the sentence, using the **date of arrival** in the U.S. and the anniversary dates just established. Subtract the GCT amount from the tentative SRD to arrive at the final SRD.
- Calculate the supervised release term which is the difference between the final SRD and the final foreign EFT.
- The Six Month/10% Date is based on confinement time actually to serve.

b. When the USPC Treaty Notice is received:

- Key the USPC term of imprisonment in the New Sentence Imposed SENTRY field. Use the Basis for Change Code of 30.
- Adjust the GCT anniversary periods for the remainder of the USPC sentence term to establish a new final SRD. (**NOTE:** The DCB, inoperative, and prior custody credits will remain the same as calculated for the original foreign sentence).
- Compare the USPC supervised release term to the time remaining to serve from the new final SRD to the original foreign EFT. The supervised release period is the shorter of the two periods.
- The six Month/10% date will be based on the confinement time actually to serve.

- Key the original foreign EFT date on the SENTRY Computation Remarks Screen prior to completing the computation.
- Compute this sentence manually in SENTRY.

(2) **C2A SENTENCES:**

a. The following steps are to be followed when computing a **C2A** sentence, prior to receiving the USPC Treaty Notice:

- Add the term of the sentence imposed in the foreign court to the DCB to establish the unadjusted foreign EFT. (The DCB will normally be the day the foreign sentence was imposed.)
- Determine the appropriate inoperative and prior custody time credit, if any, as outlined in 18 U.S.C. § 3585, and add or subtract from the unadjusted foreign EFT, to establish the final foreign EFT and SRD. (**NOTE:** If jail credit exists that was not applied by the foreign country, forward copies of source documents to the Operations Section, Central Office, for verification.)
- Calculate the supervised release term which is the difference between the final SRD and the final foreign EFT.

b. When the USPC Treaty Notice is received:

- Key the USPC term of imprisonment in the New Sentence Imposed SENTRY field. Use the Basis for Change Code of 30.
- Adjust the GCT anniversary periods for the remainder of the USPC sentence term to establish a new final SRD. (**NOTE:** The DCB, inoperative and prior custody credits will remain the same as was calculated for the original foreign sentence).
- Compare the supervised release term set by the USPC to the time remaining to serve from the new final SRD to the original foreign EFT. The supervised release period will be the shorter of the two periods.
- The six Month/10% date will be based on the confinement time actually to serve.

- Key the original foreign EFT date on the SENTRY Computation Remarks Screen prior to completing the computation.
- This sentence can be computed automatically in SENTRY.

(3) **C2B SENTENCES:**

a. The following steps are to be followed when computing a **C2B** sentence, prior to receiving the USPC Treaty Notice:

- Add the term of the sentence imposed in the foreign court to the DCB to establish the unadjusted foreign EFT. (The DCB will normally be the day the foreign sentence was imposed.)
- Determine the appropriate inoperative and prior custody time credit, if any, as outlined in 18 U.S.C. § 3585, and add or subtract from the unadjusted foreign EFT, to establish the final foreign EFT. (**NOTE:** If jail credit exists that was not applied by the foreign country, forward copies of source documents to the Operations Section, Central Office, for verification.)
- Total the foreign labor/work time credits earned in the foreign country prior to the date of transfer to the U.S., and, subtract them from the final foreign EFT, to arrive at the tentative SRD. (**NOTE:** Key the foreign behavior and labor/work credit amounts on the SENTRY Computation Remarks screen prior to completing the computation).
- Calculate the GCT anniversary dates in the same manner as a U.S. Code sentence. Use the **DCB of the foreign sentence** and calculate to the tentative SRD just established.
- Calculate the GCT to be earned for the sentence and subtract it from the tentative SRD to arrive at the final SRD.
- Calculate the supervised release term which is the difference between the final SRD and the final foreign EFT.
- The Six Month/10% Date shall be based on the confinement time actually to serve.

b. When the USPC Treaty Notice is received:

- Key the USPC term of imprisonment in the New Sentence Imposed SENTRY field. Use the Basis for Change Code of 30.
- Adjust the GCT anniversary periods for the remainder of the USPC sentence term to establish a new final SRD.
(NOTE: The DCB, inoperative and prior custody credits will remain the same as was calculated for the original foreign sentence).
- Compare the supervised release term set by the USPC to the time remaining to serve from the new final SRD to the original foreign EFT. The supervised release period will be the shorter of the two periods.
- The six Month/10% date will be based on the confinement time actually to serve.
- Key the original foreign EFT date on the SENTRY Computation Remarks Screen prior to completing the computation.
- Compute this sentence manually in SENTRY.

(d) The "**TERM OF SUPERVISION**" shall be the amount of time between the SRD of the newly computed sentence through the **original foreign full term date**. (See "g." below.)

(e) Using the PSSC Screen - Since foreign sentences are computed manually, certain information and dates must be entered on the PSSC screen manually.

(f) **TIE** will be the PCD "period of months."

(g) **SUPV TERM** shall be the period of supervised release as calculated above in the term of supervision. (See "b." above.)

(h) **CURRENT SRD** shall be the EFT (based on the PCD "period of months") less foreign labor credits and any vested GCT.

(i) **PROJECT SRD** is the **SRD** as calculated in the C1, C2A and C2B steps above (all projected GCT).

(j) A **6 MO/10% DT** is calculated for each sentence.

(k) The **REL SUPV MAN** shall be the **Original Foreign Full Term Date**.

(l) The **EFT** (based on the PCD "period of months") will be the EFT as calculated in the C1, C2A and C2B steps above.

(m) The **SRA PCD MAN** enter: / when Basis for Change is utilized.

(n) The **GCT PROJ MAN** shall be the GCT as calculated in the C1, C2A and C2B steps above.

(o) The **FN LAB CR MAN** shall be the amount of foreign labor credits earned in the sending country.

(p) The **FN BEH CR MAN** shall be the amount of foreign behavior credits earned in the sending country. *

7. PROBATION CUSTODY

The SPC and narrative for probationers committed to the custody of the BOP is:

SPC = 0084 3563(b)(11) Probation Condition

A defendant may be sentenced to a term of probation under the provisions of 18 USC § 3561(a) unless, ". . . (1) the offense is a Class A or Class B felony and the defendant is an individual; (2) the offense is an offense for which probation has been expressly precluded; or (3) the defendant is sentenced at the same time to a term of imprisonment for the same or a different offense."

Subsection (b) of 18 USC § 3561 sets forth the authorized terms of probation and they are, ". . . (1) for a felony, not less than nor more than five years; (2) for a misdemeanor, not more than five years; and (3) for an infraction, not more than one year."

18 USC § 3562(b) provides that, "Notwithstanding the fact that a sentence of probation can subsequently be--(1) modified or revoked pursuant to the provisions of section 3564 or 3565; (2) corrected pursuant to the provisions of rule 35 of the Federal Rules of Criminal Procedure and section 3742; or (3) appealed and modified, if outside the guideline range, pursuant to the provisions of section 3742; a judgment of conviction that includes such a sentence constitutes a final judgment for all other purposes."

Under 18 USC § 3563(b)(11), the court may impose a probation sentence that requires a defendant to "remain in the custody of the Bureau of Prisons during nights, weekends, or other intervals of time, totaling no more than the lesser of one year or the term of imprisonment authorized for the offense, during the first year of the term of probation." This provision means that the court may, during, and within, the first year of probation, require the probationer to spend certain amounts of time in the custody of the BOP, the aggregate total of which may not exceed one year and which is limited to the first year of probation.

The legislative history of this subsection indicates that the custody provision was meant to permit ". . . short periods of commitment to a training center or institution as part of a rehabilitative program. Flexibility is provided by permitting confinement in split intervals, thus authorizing for example, weekend imprisonment with release on probation during the week for educational or employment purposes, or nighttime imprisonment with release for such purposes during working hours. This condition could be used only to deprive the defendant of his liberty to the extent 'reasonably necessary' for the purposes set forth in section 3553(a)(2). It could also be used, for example, to provide a brief period of confinement, e.g., for a week or two, during a work or school vacation. It is not intended to carry forward the split sentence of a few months in prison followed by probation. If such a sentence is believed appropriate

. . ., the judge can impose a term of imprisonment followed by a term of supervised release under section 3583 . . ."

No probationer may be required to remain in, or be committed to, the custody of the BOP as a condition of probation after the first year of probation and, under 18 USC § 3564(a), "A term of probation commences on the day that the sentence of probation is imposed, unless otherwise ordered by the court." The court could, for example, delay the beginning of probation if an appeal from the conviction or sentence is taken (Rule 38(d), Rules of Criminal Procedure). The language of the statute allows the court great latitude in the duration of the custody time that it may impose. For example, the court could require custody for a certain number of hours on a given day or days, as well as ordering commitment during nights and weekends. The custody period could also be continuous for a number of days or weeks (no releases or recommitments during that time).

The judgment and commitment should contain clear and concise language about the time that the probationer is to remain in the custody of the BOP. The date and time that the custody is to begin and end for each time period should be included in the judgment and commitment. If the language about the custody time is unclear or ambiguous, or if the sentence appears to be improper, then ISM staff shall contact the supervising United States Probation Officer for clarification or correction of the judgment and commitment. If they are unable to get a satisfactory response from the probation officer, they should consult with the RISA for further assistance. If necessary, the RISA will discuss the matter with the Regional Counsel to determine a course of action.

No GCT (18 USC § 3624(b)) or weekend/holiday time (18 USC § 3624(a)) may be applied to probationer custody time.

Presentence time credit (18 USC § 3585(b)) shall not be applied to probationer custody time.

If the custody period with the BOP becomes inoperative, e.g., absconding, release pending appeal, etc., the supervising United States Probation Officer shall be contacted to determine how the remainder of the custody time shall be enforced or carried out, after the probationer is returned to BOP custody.

Under 18 USC § 3564(b), "Multiple terms of probation, whether imposed at the same time or at different times, run concurrently with each other. A term of probation runs concurrently with any Federal, State, or local term of probation, supervised release, or parole for another offense to which the defendant is subject or becomes subject during the term of probation. A term of probation does not run while the defendant is imprisoned in connection with a conviction for a Federal, State, or local crime unless the imprisonment is for a period of less than thirty consecutive days."

If a probationer receives custody time on several counts in the same indictment, or on another indictment on the same date, such custody periods run independently of each other during the times specified by the court, except that no custody time may extend beyond

the first year of probation and the custody time on any one count may not exceed the maximum authorized for the offense.

If the probationer receives several probation sentences on different dates that include periods of custody, then such custody periods must be served during the first year of probation for each incidence, computed from the date on which the probation is imposed in each instance. Thus, if a defendant is convicted of mail theft and receives three years probation on December 5, 1989, and is required to remain in custody on all weekends for one year, the weekend custody for that offense would expire on December 4, 1990. If the same defendant is convicted of another mail theft offense and receives five years probation on March 12, 1990, and is ordered to remain in custody on all weekends during the first year of probation, the weekend custody for that offense would expire on March 11, 1991. As a result, the probationer would have to serve the entire amount of custody time and probation for each offense computed from the date of imposition for each conviction, i.e., different periods of custody time may not be aggregated and each period of custody time must be served independently of the other even though they may be running concurrently during some of the time.

Following are some examples of probationer BOP custody time.
(All computations are manual and were derived by using a
calendar.)

EXAMPLE NO. 1

01-16-90 (Tuesday) Sentenced to 5 years probation and "to
spend three hours in BOP custody from 6:00 PM to
9:00 PM on each Tuesday for 3 months."
01-16-90 (Tuesday) Custody time begins.
04-10-90 (Tuesday) Last day of custody.
13 Days = Total BOP custody time.

EXAMPLE NO. 2

01-19-90 (Friday) Sentenced to 3 years probation and "to
spend five hours in BOP custody from 6:00 PM to
11:00 PM on each Tuesday for four months."
01-23-90 (Tuesday) Custody time begins.
05-22-90 (Tuesday) Last day of custody.
18 Days = Total BOP custody time.

EXAMPLE NO. 3

01-24-90 (Wednesday) Sentenced to 4 years probation and "to
spend two nights per week in BOP custody from 7:00
PM Thursday to 7:00 AM Saturday for nine weeks."
01-25-90 (Thursday) Custody time begins.
03-24-90 (Saturday) Last day of custody.
27 Days = Total BOP custody time.

EXAMPLE NO. 4

01-24-90 (Wednesday) Sentenced to 2 years probation and "to
spend four nights per week in BOP custody from
6:30 PM Monday to 6:30 PM Friday for five weeks."
01-24-90 (Wednesday) Custody time begins.
02-28-90 (Wednesday) Custody time terminates after 6:30 AM
this date.
26 Days = Total BOP custody time.

EXAMPLE NO. 5

01-26-90 (Friday) Sentenced to 3 years probation and "to
spend four days in BOP custody."
01-26-90 (Friday) Committed to BOP custody at 2:00 PM and
custody time begins.
01-29-90 (Monday) Custody time terminates at normal
discharge time.
4 Days = Total BOP custody time.

EXAMPLE NO. 6

01-17-90 (Wednesday) Sentenced to 5 years probation and "to
spend forty-five days in BOP custody."
01-17-90 (Wednesday) Committed to BOP custody at 11:30 AM
and custody time begins.
03-02-90 (Friday) Custody time terminates at normal
discharge time.
45 Days = Total BOP custody time.

EXAMPLE NO. 7

01-15-90 (Monday) Sentenced to 2 years probation and "to
spend ten weekends in BOP custody from 9:00 PM
Friday to 6:00 AM Monday."

01-19-90 (Friday) Custody time begins.

03-26-90 (Monday) Custody time terminates at 6:00 AM.

40 Days = Total BOP custody time.

EXAMPLE NO. 8

01-15-90 (Monday) Sentenced to 3 years probation and "to
spend ten weekends in BOP custody from 12:05 AM
Saturday to 11:59 AM Sunday."

01-20-90 (Saturday) Custody time begins.

03-25-90 (Sunday) Custody time terminates at 11:59 PM. 20
Days = Total BOP custody time.

20 Days = Total BOP Custody time.

EXAMPLE NO. 9

01-17-90 (Wednesday) Sentenced to 4 years probation and "to spend two weeks in BOP custody."

01-17-90 (Wednesday) Committed to BOP custody at 4:00 PM and custody time begins.

01-30-90 (Tuesday) Custody time terminates at normal discharge time.

14 Days = Total BOP custody time.

EXAMPLE NO. 10

01-17-90 (Wednesday) Sentenced to 4 years probation and "to spend two weeks in BOP custody."

01-22-90 (Monday) Committed to BOP custody at 3:00 PM and custody time begins.

02-04-90 (Sunday) Custody time terminates at normal discharge time.

14 Days = Total BOP custody time.

Upon arrival at the designated institution, the probationer shall be processed through Receiving and Discharge, including photograph and fingerprints, the same as for any other inmate as set forth in the Inmate Systems Manual. Discharges, temporary and final, shall also be accomplished in accordance with the Inmate Systems Manual.

*

*

Detainers and requests for notification of release shall be processed without delay in accordance with the Program Statement on Detainers, Interstate Agreement on Detainers Act. A request by a probationer or a prosecutor that a detainer be processed under the terms of the Interstate Agreement On Detainers shall be accomplished in accordance with the Program Statement just cited.

The supervising U.S. Probation Officer shall be notified immediately whenever a detainer or notify request is received so that Unit staff and the probation officer can determine if increased or additional security precautions are necessary to avoid the flight of the probationer. The U.S. Probation Officer is responsible for committing the probationer to a more secure institution if necessary.

If a probationer is in the community at the time that a detainer or a notify request is received, the detainer or notify request shall be immediately given to the probation officer for further action.

A writ of habeas corpus that requires the production of a probationer in court, who is presently in BOP custody, shall be processed in the same manner as for other prisoners as set forth in the Inmate Systems Manual, except that the supervising United States Probation Officer shall be notified immediately upon receipt of the writ and provided with the details. The United States Marshal, or other agent, who takes custody shall be notified that the writ will keep the probationer in custody only for as long as he would be in the custody of the BOP. As a result, the United States Attorney, or other attorney, who caused the writ to be issued, shall be advised of the probationer's unique custody situation so that other arrangements for production of the probationer, such as by subpoena, can be considered. The sentencing court can order a probationer released from BOP custody at any time or modify the custody terms. ISM staff shall require a certified copy of the court order or other official document that may be issued. The document shall be verified for authenticity the same as required for any court issued document.

The sentencing court (and supervising court if jurisdiction has been transferred) and the supervising United States Probation Officer shall be notified immediately upon the escape or death of a probationer. Other notifications and follow-ups shall be accomplished

in accordance with the Program Statement on Escapes/Deaths Notification. Notification to the United States Marshal and other agencies about an escape or death and the procedures to follow shall be carried out in accordance with the Correctional Services Manual and the Inmate Systems Management Manual.

CHAPTER II--INSANITY DEFENSE REFORM ACT OF 1984

1. INTRODUCTION

The Insanity Defense Reform Act of 1984 (IDRA) (Public Law 98-473, Chapter IV of the CCCA) was enacted into law and became effective when President Reagan signed the CCCA on October 12, 1984.

On November 18, 1988, the Minor and Technical Criminal Law Amendment Act of 1988 (Public Law 100-690, Title VII of the Anti-Drug Abuse Act of 1988) was enacted into law and became effective. It made some minor and technical amendments to 18 USC § 4243.

2. COMMITMENT TO THE CUSTODY OF THE BUREAU OF PRISONS

This chapter is concerned only with Section 403 of the IDRA, which replaces old Chapter 313 on Mental Defectives, as it pertains to the commitment, release, discharge, and record keeping functions. New Chapter 313 is entitled, Offenders With Mental Disease or Defect.

a. 4241 Determination of Mental Competency to Stand

Trial. The SPC and narrative for a mental competency examination under 18 USC § 4241 is:

**SPC = 0220 4241 Determination of Mental Competency to
Stand Trial**

Under 18 USC § 4241, "At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the Government may file a motion for a hearing to determine the mental competency of the defendant." If the court grants the motion for the hearing, "the court may order that a psychiatric or psychological examination of the defendant be conducted and that a psychiatric or psychological report be filed with the court . . ." The report must, of course, be filed with the court prior to the date of the hearing. The time allowed under 18 USC § 4247(b) for a mental competency examination under 18 USC § 4241, is 30 days, with a 15 day extension if needed and approved by the court. The examination period begins on the date that the mental competency examination is ordered.

The examination time, as well as any other time in custody prior to the examination, shall be treated as presentence time credit if the prisoner serves a sentence for the offense that underlies the examination.

b. 4241 Hospitalization and Treatment. The SPC and narrative for hospitalization treatment under the provisions of 18 USC § 4241 is:

SPC = 0221 4241 Hospitalization and Treatment

After the hearing mentioned in a. above, if "the court finds by a preponderance of the evidence that the defendant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable facility--(1) for such a reasonable period of time, not to exceed four months, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and (2) for an additional reasonable period of time until--(A) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed; or (B) the pending charges against him are disposed of according to law; whichever is earlier."

As noted above, the court may commit a defendant to the custody of the Attorney General for hospitalization and treatment for four months and an additional reasonable period may be granted. This

period of time begins on the date of the court order. Such time, as well as any other time in custody prior to the hospitalization, shall be treated as presentence time credit if the defendant serves a sentence for the offense that underlies the hospitalization and treatment.

If, at the end of the time period specified for the hospitalization treatment, the defendant's mental condition has not so improved as to permit the trial to proceed, staff shall review the case prior to discharge to determine if an 18 USC § 4246 petition should be filed.

c. 4242 Determination of the Existence of Insanity at the Time of the Offense. The SPC and narrative for a determination of the existence of insanity at the time of the offense under 18 USC § 4242 is:

**SPC = 0222 4242 Determination of The Existence of
Insanity At The Time of The Offense**

"Upon the filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, that the defendant intends to rely on the defense of insanity, the court, upon motion of the attorney for the Government, shall order that a psychiatric or psychological examination of the defendant be conducted, and that a psychiatric or psychological report be filed with the court, pursuant to the provisions of section 4247(b) and (c)."

The examination time allowed under 18 USC § 4247(b) is 45 days, with a 30 day extension if needed and approved by the court. The examination period begins on the date of the order. Such time, as well as any other time in custody prior to the commitment, shall be treated as presentence time credit if the defendant serves a sentence for the offense that underlies the examination order.

The court may also, at this time, order an examination under 18 USC § 4241. If this order occurs, the institution may use the longer time period allowed under 18 USC § 4242 for completion of the combined report.

d. 4243 Determination of Present Mental Condition of Acquitted Person. The SPC and narrative for an examination of an acquitted person to determine present mental condition under 18 USC § 4243(b) and (c) is:

**SPC = 0223 4243 Determination of Present Mental
Condition of Acquitted Person**

Pursuant to 18 USC § 4243(a), "If a person is found not guilty only by reason of insanity at the time of the offense charged, he shall be committed to a suitable facility until such time as he is eligible for release pursuant to subsection (e)." As a result, under 18 USC § 4243(c), "A hearing shall be conducted pursuant to the provisions of section 4247(d) and shall take place not later than forty days following the special verdict."

The time period for this examination begins on the date the not guilty only by reason of insanity verdict is reached. As noted above, the examination time allowed is less than 40 days since the court is required to conduct a hearing based on the examination no later than 40 days following the insanity not guilty verdict. This 40 day time frame conflicts with the 45 days, and a 30 day extension, authorized by 18 USC § 4247(b). Unless otherwise ordered by the court, the time allowed by 18 USC § 4247(b) may be utilized.

e. 4243 Hospitalization and Treatment. The SPC and narrative for a commitment for hospitalization and treatment under 18 USC § 4243(a) is:

SPC = 0224 4243 Hospitalization and Treatment

If the court commits a person to the custody of the Attorney General after a verdict of not guilty by reason of insanity and after a hearing under 18 USC § 4243(c), "fails to find by the standard specified in subsection (d) of this section that the person's release would not create a substantial risk of bodily injury to another person or serious damage of property of another due to a present mental disease or defect, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the State in which the person is domiciled or was tried if such State will assume responsibility for his custody, care, and treatment. The Attorney General shall make all reasonable efforts to cause such a State to assume such responsibility. If, notwithstanding such efforts, neither such State will assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable facility . . . The Attorney General shall continue periodically to exert all reasonable efforts to cause such a State to assume such responsibility for the person's custody, care, and treatment."

This period of time begins on the date of the court order and is for an indefinite period of time.

Furloughs for persons committed for an indefinite period of time under 18 USC § 4243(e) may be granted in accordance with 18 USC § 4243(h).

**f. 4244 Determination of Present Mental Condition of
Convicted Defendant Prior to Sentencing.** The SPC and narrative a
mental condition determination under 18 USC § 4244 is:

SPC = 0225 4244 Determination of Present Mental

**Condition of Convicted Defendant Prior
to Sentencing**

The examination time allowed for a mental condition
determination, after conviction but prior to sentencing, is 30
days, with a 15 day extension if approved by the court. The
examination period begins on the date of the court order. This
examination time, as well as any other time in custody prior to
the examination, shall be treated as presentence time credit if
it qualifies. (See Chapter I, paragraph 2 (c).)

g. 4244 Hospitalization and Treatment. The SPC and narrative for a hospitalization and treatment commitment under 18 USC § 4244 is:

SPC = 0226 4244 Hospitalization and Treatment

If the court, after a hearing conducted under the provisions of 18 USC § 4244(c), finds that the defendant is suffering from a mental disease or defect that requires hospitalization for care or treatment in the custody of the Attorney General, such commitment shall be in lieu of a sentence to imprisonment but shall constitute a provisional sentence to the maximum term authorized by law for the offense. The provisional sentence shall be treated the same as a regular sentence of imprisonment, i.e., the computation shall be the same, and shall begin on the date the commitment was ordered. Any time spent in custody prior to the commitment order shall be treated as presentence time credit if it qualifies.

If the release date for the maximum sentence is reached before the defendant recovers, an 18 USC § 4246 determination may be accomplished prior to discharge. If the defendant recovers to such an extent that treatment is no longer necessary, the court should immediately be notified so that it proceed to final sentencing and may modify the provisional sentence.

**h. 4245 Determination of Present Mental Condition of
Imprisoned (Sentenced) Person.** The SPC and narrative for a
commitment to determine the present mental condition of a
sentenced person is:

**SPC = 0227 4245 Determination of Present Mental
Condition of Imprisoned (Sentenced)
Person**

After a person begins serving a sentence and the staff
believes that the person may be suffering from a mental disease
or defect for the treatment of which he is in need of custody for
care or treatment in a suitable facility, and the person objects
to such care or treatment, upon motion of an attorney for the
government, the court may order that a psychiatric or
psychological examination be conducted under the provisions of 18
USC § 4245(b).

The time allowed for an examination under 18 USC § 4245(b)
is 30 days, with a 15 day extension if approved by the court.
The examination period begins on the date of the court order.
Since the person is serving a sentence during the examination,
that period of time will ordinarily not count as presentence time
credit.

i. 4245 Hospitalization and Treatment. The SPC and narrative for a hospitalization and treatment commitment under 18 USC § 4245 is:

SPC = 0228 4245 Hospitalization and Treatment

Under 18 USC § 4245(d), if the court finds that a person is presently suffering from a mental disease or defect for the treatment which the person is in need of custody for care or treatment in a suitable facility, the court shall commit the person to the custody of the Attorney General. Commitment under this section continues until the person is no longer in need of care or treatment or until expiration of the sentence (for an SRA sentence, the release date with any GCT and for an "old law" sentence, the release date with any statutory and extra good time or release on parole), whichever occurs earlier. Such a commitment will change the person's status from one of imprisonment in a regular facility to "hospitalization and treatment" in a "suitable facility."

The date that the hospitalization and treatment begins is the date of the court order. If the person has not recovered by expiration of sentence (regardless of whether a voluntary or court ordered commitment), an 18 USC § 4246 determination will be accomplished prior to discharge. If the person recovers prior to expiration of sentence, the court will issue an order to that effect which will essentially return the person to the former regular sentence status.

j. 4246 Determination of Mental Condition of Person

Due for Release. The SPC and narrative for a commitment for a mental condition determination under 18 USC § 4246 of a person due for release:

**SPC = 0229 4246 Determination of Mental Condition of
Person Due For Release**

Under 18 USC § 4246(b), the court may order that a psychiatric or psychological examination be conducted to determine whether the person is suffering from a mental disease or defect as a result of which the release would create a substantial risk of bodily injury to another person or serious damage to property of another.

The time allowed for a psychiatric or psychological examination under 18 USC § 4246(b) is 45 days, with a 30 day extension if approved by the court. The examination period begins on the date of the court order.

k. 4246 Hospitalization and Treatment. The SPC and narrative for a hospitalization and treatment commitment under 18 USC § 4246 is:

SPC = 0230 4246 Hospitalization and Treatment

If, after a hearing, the court finds that the person is presently suffering from a mental disease or defect as a result of which release would create a substantial risk of bodily injury to another person or serious damage to property of another, the court shall commit the person to the custody of the Attorney General as authorized under 18 USC § 4246(d).

A commitment under 18 USC § 4246(d) begins on the date of the court order and is for an indefinite period of time that continues until a state will assume responsibility for the custody, care, and treatment of the person; or until the person's mental condition is such that the release, or conditional release under a prescribed regimen of medical, psychiatric, or psychological care or treatment would not create a substantial risk of bodily injury to another person or serious damage to property of another, whichever is earlier.

If the 18 USC § 4246(d) commitment follows an 18 USC § 4245 commitment, the two commitments will run concurrently until expiration of the sentence on the 18 USC § 4245 commitment and no presentence time credit will be accrued. If the 18 USC § 4246(d) commitment follows an 18 USC § 4241 or 4244 commitment, all time spent in custody as a result of the offense that may lead to a regular SRA or "old law"

sentence that has not been credited against another sentence
shall be treated as presentence time credit.

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 1

SENTENCE INFORMATION

01-31-89 Offense
02-01-89 Arrested
02-25-89 6 Month Sentence plus
1 Year Supervised Release

PRIOR CUSTODY TIME CALCULATION

DCB = 89-02-25 = 18319
Arrested = 89-02-01 = -18295
Prior Custody Time = 24 Days

EFT DATE CALCULATION

DCB = 89-02-25
Sentence = + 6 Months
Unaffected EFT Date = 89-08-24* = 18499
Prior Custody Time = -24 Days
EFT Date = 89-07-31 = 18475

SRD CALCULATION

No GCT can be earned on a sentence that is 1 year or less. In such cases, the EFT Date becomes the SRD.

SRD = 89-07-31

6 MONTHS/10% DATE CALCULATION

SRD = 89-07-31 = 18475
DCB = 89-02-24* = -18318
157 Days
Prior Custody Time = + 24 Days
Days To Be Served = 181 Days
10% = x .10
Pre-Release Custody = 18.1 Days

SRD = 89-07-31 = 18475
Pre-Release Custody = -18 Days
18475
+ 1 Day
10% Date (Less Than 6 Mos.) = 89-07-14 = 18458

EXAMPLE NO. 1 (continued)

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

SRD = 89-07-31
Supervised Release Term = + 1 Year
Supervised Release Expires = 90-07-30*

SUMMARY

Prior Custody Time = 24 Days
EFT = 07-31-89
SRD = 07-31-89
6 Months/10% Date = 07-14-89
Supervised Release Expires = 07-30-90

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 2

SENTENCE INFORMATION

12-15-88 Offense
01-10-89 1 Year, 1 Month and 22 Day Sentence Plus
1 Year Supervised Release

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 1 1 22 1 Year, 1 Month, 22 Days
EFT Date = **90-03-03***

ANNIVERSARY DATE CALCULATION

The 15 days after service of the first full year on the sentence (01-10-89 through 01-24-89) cannot be used to make a determination about how much GCT to award for that year since the full 54 days will reduce the EFT Date of 03-03-90 to an SRD of 01-08-90. You will note that the SRD is 2 days prior to the First Anniversary Date and 17 days prior to the Vested Date. Therefore, the partial year consideration time of 6 weeks must be utilized in order to make a timely decision about how much GCT to award for the year. As a result, a 6 Weeks Date (11-28-89) has been calculated for the example as shown below.

PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

EFT = 90-03-03 = 18690
DCB = 89-01-09* = -18272
Length of Sentence in Days = **418 Days**

418 x .148 = 61.864
418 - 61 = 357 x .148 = 52.836 + 357 = 409.836
418 - 52 = 366 x .148 = 54.168 + 366 = 420.168
418 - 54 = 364 x .148 = 53.872 + 364 = 417.872
418 - 53 = 365 x .148 = 54.02 + 365 = 419.02

54 Days GCT Awarded - Exception To Dropping Fraction Rule.

EFT = 90-03-03 = 18690
GCT = 54 Days
SRD = **90-01-08** = **18636**
6 Weeks Consideration Time = 41 Days
6 Weeks Date = **89-11-28** = **18595**

EXAMPLE NO. 2 (continued)

```

*****
Anni-      Consid-      Maximum      Release
versary    eration      To      Actual      Running      Date
Date       Begins      Date     Award     Award     Total      03-03-90
-----
          11-28-90      01-08-90      54              54      01-08-90
*****

```

6 MONTHS/10% DATE CALCULATION

```

SRD                      = 90-01-08 = 18636
DCB                      = 89-01-09* = -18272
Days To Be Served      = 365 Days
10%                     = x .10
Pre-Release Custody    = 36.50 Days

SRD                      = 90-01-08 = 18636
Pre-Release Custody      = - 36 Days
                        18600
                        + 1 Day
10% Date (Less than 6 Mos.) = 89-12-04 = 18601

```

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

```

SRD                      = 90-01-08
Supervised Release Term  = + 1 Year
Supervised Release Expires = 91-01-07*

```

SUMMARY

```

EFT Date                 = 03-13-90
GCT Days                 = 54 Days
SRD                      = 01-08-90
6 Month/10% Date        = 12-04-89
Supervised Release Expires = 01-07-91

```

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 3

SENTENCE INFORMATION

12-15-88 Offense
01-10-89 1 Year, 2 Months and 1 Day Sentence Plus
2 Years Supervised Release

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 1 2 1 1 Year, 2 Months, 1 Day
EFT Date = **90-03-10***

ANNIVERSARY DATE CALCULATION

The 15 days allowed for considering how much GCT to award at the end of the year just passed will not be used in this case because the SRD of 01-15-90 will have been passed before the final day of the 15 days (01-24-90) arrives. Waiting until the end of the 15 days to make the final decision about how much of the 54 days to award would make the prisoner past due for release by 10 days if the entire 54 days was awarded. Therefore, a 6 Weeks Date (12-05-89) was calculated, as shown below, to allow staff ample time to consider the amount of GCT to award.

PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

EFT = 90-03-10 = 18697
DCB = 89-01-09* = -18272
Sentence Length in Days = **425 Days**

425 x .148 = 62.9
425 - 62 = 363 x .148 = 53.724 + 363 = 416.724
425 - 53 = 372 x .148 = 55.056 + 372 = 427.056
425 - 55 = 370 x .148 = 54.76 + 370 = 424.76
425 - 54 = 371 x .148 = 54.908 + 371 = 425.908

EFT = 90-03-10 = 18697
GCT = 54 Days
SRD = **90-01-15** = **18643**
6 Weeks Consideration Time = 41 Days
6 Weeks Date = **89-12-05** = **18602**

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 03-10-90
01-10-90	12-05-89	01-15-90	54		54	01-15-90

EXAMPLE NO. 3 (continued)

6 MONTHS/10% DATE CALCULATION

SRD	=	90-01-15	=	18643
DCB	=	89-01-09*	=	-18272
Days To Be served			=	371 Days
10%			=	x .10
Pre-Release Custody			=	37.1 Days
SRD	=	90-01-15	=	18643
Pre-Release Custody	=		=	- 37 Days
				18606
				+ 1 Day
10% Date (Less Than 6 Mos.)	=	89-12-10	=	18607

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

SRD	=	90-01-15
Supervised Release Term	= + 2	Years
Supervised Release Expires	=	92-01-14*

SUMMARY

EFT Date	=	03-10-90
GCT Days	=	54 Days
SRD	=	01-15-90
6 Month/10% Date	=	12-10-89
Supervised Release Expires	=	01-14-92

Tentative SRD (54 GCT)	=	90-01-16	=	18644	
Prorated GCT for Partial Year			=	- <u>1</u>	Day
SRD	=	89-12-05	=	18643	
6 Weeks Consideration Time			=	- <u>41</u>	Days
6 Weeks Date	=	89-12-05	=	18602	

EFT Date	=	03-11-90
GCT Days	=	55 Days
SRD	=	01-15-90
6 Month/10% Date	=	12-10-89
Supervised Release Expires	=	01-14-91

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 5

SENTENCE INFORMATION

12-15-88 Offense
12-19-88 Arrested
01-10-89 1 Year, 2 Months and 10 Days Sentence Plus
3 Years Supervised Release

PRIOR CUSTODY TIME CREDIT

DCB = 89-01-10 = 18273
Arrested = 88-12-19 = -18251
Prior Custody Time = 22 Days

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 1 2 10 1 Year, 2 Months, 10 Days
Unaffected EFT Date = 90-03-19* = 18706
Prior Custody Time = - 22 Days
Final EFT Date = 90-02-25 = 18684

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
Anniversary Year = + 1 Year
Unaff. First Anniv. Date = 90-01-10 = 18638
Prior Custody Time = - 22 Days
First Anniversary Date = 89-12-19 = 18616

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 02-25-90
12-19-89	11-20-89**	12-31-89**	54		54	01-02-90

**Overlapping Situation. See 6 Weeks Date Below.

EXAMPLE NO. 5 (continued)

Tentative SRD (54 GCT) = 90-01-02 = 18630
Last Anniversary Date = 89-12-18* = -18615
Partial Year Remaining = 15 Days

15 x .148 = 2.22
15 - 2 = 13 x .148 = 1.924 + 13 = 14.924
15 - 1 = 14 x .148 = 2.072 + 14 = 16.924

Tentative SRD (54 GCT) = 90-01-02 = 18630
Prorated GCT for Partial Year = - 2 Days
SRD = 89-12-31 = 18628
6 Weeks Consideration Time = - 41 Days
6 Weeks Date = 89-11-20 = 18587

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 02-25-90
	11-20-89	12-31-89	2		56	12-31-89

6 MONTHS/10% DATE CALCULATION

SRD = 89-12-31 = 18628
DCB = 89-01-09* = -18272
356 Days
Prior Custody Time = + 22 Days
Days To Be Served = 375 Days
10% = x .10
Pre-Release Custody = 37.80 Days

SRD = 89-12-31 = 18628
Pre-Release Custody = - 37 Days
18591
+ 1 Day
10% Date (Less than 6 Mos.) = 89-11-25 = 18592

EXAMPLE NO. 5 (continued)

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

SRD = 89-12-31
Supervised Release Term = + 3 Years
Supervised Release Expires = 92-12-30*

SUMMARY

Prior Custody Time = 22 Days
EFT Date = 02-25-90
GCT Days = 56 Days
SRD = 12-31-89
6 Month/10% Date = 11-25-89
Supervised Release Expires = 12-30-92

Tentative SRD (54 GCT)	=	90-01-27	=	18655	
Prorated GCT for Partial Year			=	-	<u>2</u> Days
SRD	=	90-01-25	=	18653	
6 Weeks Consideration Time			=	-	<u>41</u> Days
6 Weeks Date	=	89-12-15	=	18612	

EXAMPLE NO. 6 (continued)

```

*****
Anni-      Consid-      Maximum      Release
versary    eration      To      Actual      Running      Date
Date      Begins      Date      Award      Award      Total      03-22-90
-----
                12-15-89      01-25-90      2                56      01-25-90
*****

```

6 MONTHS /10% DATE CALCULATION

```

SRD                      = 90-01-25 = 18653
DCB                      = 89-01-09* = -18272
Days To Be Served                = 381 Days
10%                      = x .10
Pre-Release Custody                = 38.1 Days

SRD                      = 90-01-25 = 18653
Pre-Release Custody      = - 38 Days
                        18615
                        + 1 Day
10% Date (Less Than 6 Mos.) = 89-12-19 = 18616

```

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

```

SRD                      = 90-01-25
Supervised Release Term  = + 6 Months
Supervised Release Expires = 90-07-24*

```

SUMMARY

```

EFT Date                  = 03-22-90
GCT Days                  = 56 Days
SRD                      = 01-25-90
6 Months/10% Date        = 12-19-89
Supervised Release Expires = 07-24-90

```

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 04-23-90
01-10-90	01-10-90	01-24-90	54		54	02-28-90

EFT Date	=	04-23-90
GCT Days	=	60 Days
SRD	=	02-22-90
6 Months/10% Date	=	01-14-90
Supervised Release Expires	=	02-21-92

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 8

SENTENCE INFORMATION

12-15-88 Offense
 01-10-89 1 Year, 3 Months and 26 Day Sentence Plus
 6 Months Supervised Release

EFT DATE CALCULATION

DCB = 89-01-10
 Sentence = + 1 3 26 1 Year, 3 Months, 26 Days
EFT = 90-05-05*

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
 Anniversary Year = + 1 Year
First Anniversary Date = 90-01-10

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 05-05-90
01-10-90	01-10-90	01-24-90	54		54	03-12-90

Tentative SRD (54) GCT = 90-03-12 = 18699
 Last Anniversary Date = 90-01-09* = -18637
Partial Year Remaining = 62 Days

62 x .148 = 9.176
 62 - 9 = 53 x .148 = 7.844 + 53 = 60.844
 62 - 7 = 55 x .148 = 8.14 + 55 = 63.14
 62 - 8 = 54 x .148 = 7.992 + 54 = 61.992

8 Days of GCT Awarded Instead of 7 - Exception To Dropping The Fraction Rule.

Tentative SRD (54 GCT) = 90-03-12 = 18699
 Prorated GCT for Partial Year = - 8 Days
SRD = 90-03-04 = 18691
 6 Weeks Consideration Time = - 41 Days
6 Weeks Date = 90-01-22 = 18650

EXAMPLE NO. 8 (continued)

```

*****
Anni-      Consid-      Maximum      Release
versary    eration      To      Actual      Running      Date
Date       Begins      Date     Award     Award     Total      05-05-90
-----
                01-22-90      03-04-90      8                62      03-01-90
*****
  
```

6 MONTHS/10% DATE CALCULATION

```

SRD                      = 90-03-04 = 18691
DCB                      = 89-01-09* = -18272
Days To Be Served                = 419 Days
10%                      = x .10
Pre-Release Custody                = 41.9 Days

SRD                      = 90-03-04 = 18691
Pre-release Custody      = - 41 Days
                        18650
                        + 1 Day
10% Date (Less Than 6 Mos.) = 90-01-23 = 18651
  
```

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

```

SRD                      = 90-03-04
Supervised Release Term  = + 6 Months
Supervised Release Expires = 90-09-03*
  
```

SUMMARY

```

EFT Date                  = 05-05-90
GCT Days                  = 62 Days
SRD                      = 03-04-90
6 Months/10% Date        = 01-23-90
Supervised Release Expires = 09-03-90
  
```

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 9

SENTENCE INFORMATION

12-15-88 Offense
01-10-89 1 Year, 3 Months and 29 Days Plus
3 Years Supervised Release

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 1 3 29 1 Year, 3 Months, 29 Days
EFT = 90-05-08*

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
Anniversary Year = + 1 Year
First Anniversary Date = 90-01-10

SRD	=	90-03-07	=	18694	
Pre-Release Custody			=	$-\frac{42}{18652}$	Days
				$+\frac{1}{18653}$	Day
10% Date (Less Than 6 Mos.)	=	90-01-25	=	18653	

EXAMPLE NO. 9 (continued)

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

SRD = 90-03-07
Supervised Release Term = + 3 Years
Supervised Release Expires = 93-03-06*

SUMMARY

EFT Date = 05-08-90
GCT Days = 62 Days
SRD = 03-07-90
6 Months/10% Date = 01-25-90
Supervised Release Expires = 03-06-93

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 10

SENTENCE INFORMATION

01-06-88 Offense
01-10-88 Second Offense
02-18-88 Arrested on Both Charges
03-12-88 Released on Bail on Both Charges
01-10-90 1 Year and 8 Months on First Offense Plus
 1 Year Supervised Release
04-10-90 1 Year and 3 Months Concurrent on Second
 Offense Plus 3 Years Supervised Release

AGGREGATION OF SENTENCES

DCB First Offense = 89-01-10
Sentence First Offense = + 1 8 1 Year, 3 Months
Unaffected First Off. EFT = **90-09-09***

DCB Second Offense = 90-04-10
Sentence Second Offense = + 1 3 1 Year, 3 Months
Unaffected Second Off. EFT = **91-07-09***

Unaffected Second Off. EFT = 91-07-09
Unaffected First Off. EFT = - 90-09-09
Overlap = **10 10 Months**
First Offense Sentence = + 1 8 1 Year 3 Months
Total Sentence = **2 6 2 Years, 6 Months**

PRIOR CUSTODY TIME CALCULATION

Released on Bail = 88-03-12 = 17969
Arrested = 88-07-17* = -17945
Prior Custody Time = **24 Days**

EFT DATE CALCULATION

DCB = 89-01-10
Total Sentence = + 2 6 2 Years, 6 Months
Unaffected EFT Date = 91-07-09* = 19183
Prior Custody Time = - 24 Days
Final EFT Date = **91-06-15 = 19159**

EXAMPLE NO. 10 (continued)

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
Anniversary Year = + 1 Year
Unaff. First Anniv. Date = 90-01-10 = 18638
Prior Custody Time = - 24 Days
First Anniversary Date = 89-12-17 = 18614

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 06-15-91
12-17-91	12-17-91	12-31-89	54		54	04-22-91
12-17-90	12-17-90	12-31-90	54		108	02-27-91

Tentative SRD (108 GCT) = 91-02-27 = 19051
Last Anniversary Date = 90-12-17 = -18979
Partial Year Remaining = 72 Days

72 x .148 = 10.656
72 - 10 = 62 x .148 = 9.176 + 62 = 71.176
72 - 9 = 63 x .148 = 9.324 + 63 = 72.324

Tentative SRD (108 GCT) = 91-02-27 = 19051
Prorated GCT for Partial Year = - 9 Days
SRD = 91-02-18 = 19042
6 Weeks Consideration Time = - 41 Days
6 Weeks Date = 91-01-08 = 19001

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 06-15-91
	01-08-91	02-18-91	9		117	02-18-91

EXAMPLE NO. 10 (continued)

6 MONTHS/10% DATE CALCULATION

SRD	=	91-02-18	=	19042
DCB	=	89-01-09*	=	<u>-18272</u>
				770
Prior Custody Time			=	+ <u>24</u> Days
Days To Be Served			=	794 Days
10%			=	x <u>.10</u>
Pre-Release Custody			=	79.4 Days
SRD	=	91-01-18	=	19042
Pre-Release Custody			=	- <u>79</u> Days
				18963
			=	+ <u>1</u> Day
10% Date (Less Than 6 Mos.)	=	90-12-02	=	18964

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

Even though there are two periods of supervised release to follow (1 year and 3 years, they will run along concurrently, as required by 18 USC § 3624(e), beginning on the day of release from the aggregate sentence.

SRD	=	91-02-18
Supervised Release Term	=	+ <u>3</u> Years
Supervised Release Expires	=	94-02-17*

SUMMARY

Total Sentence	=	2 Years, 6 Months
Prior Custody Time	=	24 Days
EFT Date	=	06-15-91
GCT Days	=	117 Days
SRD	=	02-18-91
6 Months/10% Date	=	12-01-90
Supervised Release Expires	=	02-17-94

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 11

SENTENCE INFORMATION

01-06-88 Offense
01-10-89 3 Years and 7 Months Plus
2 Years Supervised Release
01-11-89 Released on Appeal Bond
07-16-89 Returned to Custody

INOPERATIVE TIME

Returned to Custody = 89-07-16 = 18460
Released on Appeal Bond = 89-01-11 = -18274
186 Days
Do Not Count 07-16-89 = - 1 Day
Inoperative Time = 185 Days

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 3 7 3 Years, 7 Months
Unaffected EFT = 92-08-09* = 19580
Inoperative Time = + 185 Days
Final EFT Date = 93-02-10 = 19765

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
Anniversary Year = + 1 Year
Unaff. First Anniv. Date = 90-01-10 = 18638
Inoperative Time = + 185 Days
First Anniversary Date = 90-07-14 = 18823

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 02-10-93
	07-16-92	08-26-92	6		168	08-26-92

EXAMPLE No. 11 (continued)

6 MONTHS/10% DATE CALCULATION

SRD	=	92-08-26	=	19597
DCB	=	89-01-09*	=	-18272
				1325 Days
Inoperative Time	=	-	185	Days
Days To Be Served	=		1140	Days
10%	=	x	.10	
Pre-Release Custody	=		114	Days
SRD	=	92-08-26	=	19597
Pre-Release Custody	=	-	114	Days
				19483
			+	1 Day
10% Date (Less Than 6 Mos.)	=	92-05-05	=	19484

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

SRD	=	92-08-26
Supervised Release Term	=	+ 2 Years
Supervised Release Expires	=	94-08-25*

SUMMARY

Inoperative Time	=	185 Days
EFT Date	=	02-10-93
GCT Days	=	168 Days
SRD	=	08-26-92
6 Months/10% Date	=	05-05-92
Supervised Release Expires	=	08-25-94

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 12

SENTENCE INFORMATION

01-15-88 Offense
 02-18-88 Arrested
 03-12-88 Released on Bail
 01-10-89 4 Years Plus 2 Years
 Supervised Release

PRIOR CUSTODY TIME CREDIT CALCULATION

Released on Bail = 88-03-12 = 17969
 Arrested = 88-02-17* = 17945
Prior Custody Time = 24 Days

EFT DATE CALCULATION

DCB = 89-01-10
 Sentence = + 4 Years
 Unaffected EFT Date = 93-01-09* = 19733
 Prior Custody Time = - 24 Days
Final EFT Date = 92-12-16 = 19709

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
 Anniversary Year = + 1 Year
 Unaff. First Anniv. Date = 90-01-10 = 18638
 Prior Custody Time = - 24 Days
First Anniversary Date = 89-12-17 = 18614

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 12-16-92
12-17-89	12-17-89	12-31-89	54		54	10-23-92
12-17-90	12-17-90	12-31-90	54		108	08-30-92
12-17-91	12-17-91	12-31-91	54		162	07-07-92

SRD	=	92-06-11	=	19521	
Pre-Release Custody			=	-	$\frac{127}{19394}$ Days
				+	$\frac{1}{}$ Day
10% Date (Less Than 6 Mos.)	=	92-02-06	=	19395	

EXAMPLE NO. 12 (continued)

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

SRD = 92-06-11
Supervised Release Term = + 2 Years
Supervised Release Expires = 94-06-10*

SUMMARY

Prior Custody Time = 24 Days
EFT Date = 12-16-92
GCT Days = 188 Days
SRD = 06-11-92
6 Months/10% Date = 02-06-92
Supervised Release Expires = 06-10-94

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 13

SENTENCE INFORMATION

10-11-88 Offense
10-11-88 Arrested
01-10-89 4 Years and 3 Months Plus
2 Years Supervised Release

PRIOR CUSTODY TIME CALCULATION

DCB = 89-01-09* = 18272
Arrested = 88-10-10* = -18181
Prior Custody Time = 91 Days

INOPERATIVE TIME

Returned To Custody = 90-03-15* = 18702
Escaped = 90-03-04 = -18691
Inoperative Time = 11 Days

PRIOR CUSTODY TIME CREDIT AND INOPERATIVE TIME DIFFERENCE

Prior Custody Time = + 91 Days
Inoperative Time = - 11 Days
Prior Cust. Time Minus Inop. Time = + 80 Days

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 4 3 4 Years, 3 Months
Unaffected EFT Date = 93-04-09* = 19823
Prior Cust. Minus Inop. Time = -80 Days
Final EFT Date = 93-01-19 = 19743

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
Anniversary Year = + 1 Year
Unaffected Anniv. Date = 90-01-10 = 18638
Prior Cust. Minus Inop. Time = - 80 Days
First Anniversary Date = 89-10-22 = 18558

EXAMPLE NO. 13 (continued)

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

```

*****
Anni-      Consid-      Maximum      Release
versary    eration      To      Actual      Running      Date
Date       Begins      Date      Award      Award      Total      01-19-93
-----
10-22-89   10-22-89   11-05-89   54              54              11-26-92
-----
10-22-90   10-22-90   11-05-90   54              108             10-03-92
-----
10-22-91   10-22-91   11-05-91   54              162             08-10-92
*****

```


EXAMPLE NO. 13 (continued)

SUMMARY

Prior Custody Time	=	91 Days
Inoperative Time	=	11 Days
EFT Date	=	01-19-93
GCT Days	=	200 Days
SRD	=	07-23-92
6 Months/10% Date	=	02-20-92
Supervised Release Expires	=	07-02-94

MANUAL SRA SENTENCE COMPUTATION EXAMPLE NO. 14

SENTENCE INFORMATION

01-06-88 First Offense
01-10-88 Second Offense
02-18-88 Arrested on Both Charges
03-12-88 Released on Bail on Both Charges
01-10-89 3 Years on First Offense Plus
2 Years Supervised Release and
4 Year Consecutive Sentence on
Second Offense Plus 2 Years
Supervised Release

PRIOR CUSTODY TIME CALCULATION

Released on Bail = 88-03-12 = 17969
Arrested = 88-02-17* = -17945
Prior Custody Time = 24 Days

AGGREGATION OF SENTENCES

First Offense Sentence = 3 Years
CS Second Offense Sentence = +4 Years
Total Sentence = 7 Years

EFT DATE CALCULATION

DCB = 89-01-10
Sentence = + 7 Years
Unaffected EFT Date = 96-01-09* = 20828
Prior Custody Time = - 24 Days
Final EFT Date = 95-12-16 = 20804

ANNIVERSARY DATE CALCULATION

DCB = 89-01-10
Anniversary Year = + 1 Year
Unaffected Anniv. Date = 90-01-10 = 18638
Prior Custody Time = - 24 Days
First Anniversary Date = 89-12-17 = 18614

EXAMPLE NO. 14 (continued)

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 12-16-95
12-17-89	12-17-89	12-31-89	54		54	10-23-95
12-17-90	12-17-90	12-31-90	54		108	08-30-95
12-17-91	12-17-91	12-31-91	54		162	07-07-95
12-17-92	12-17-92	12-31-92	54		216	05-14-95
12-17-93	12-17-93	12-31-93	54		270	03-21-95
12-17-94	12-11-94**	12-31-94	54		324	01-26-95

**Overlapping Consideration Periods. See 6 Weeks Date Below.

Tentative SRD (324 GCT) = 95-01-26 = 20480
Last Anniversary Date = 94-12-16* = -20439
Partial Year Remaining = 41 Days

41 x .148 = 6.068
41 - 6 = 35 x .148 = 5.18 + 35 = 40.18
41 - 5 = 36 x .148 = 5.328 + 36 = 41.328

Tentative SRD (324 GCT) = 95-01-26 = 20480
Prorated GCT for Partial Year = -5 Days
SRD = 95-01-21 = 20475
6 Weeks Consideration Date = -41 Days
6 Weeks Date = 94-12-11 = 20434

EXAMPLE NO. 14 (continued)

```

*****
Anni-      Consid-      Maximum      Release
versary    eration      To      Actual      Running      Date
Date      Begins      Date      Award      Award      Total      12-16-95
-----
12-11-94  01-21-95      5              329      01-21-95
*****

```

6 MONTHS/10% DATE CALCULATION

```

SRD                      = 95-01-21 = 20475
DCB                      = 89-01-09* = -18272
                        2203
Prior Custody Time      = + 24 Days
Days To Be Served    = 2227
10%                     = x .10
Pre-Release Custody (More Than 6 Mos.) = 222.7 Days

```

```

SRD                      = 95-01-21
Pre-Release Custody      = - 6 Months
                        94-07-21 = 20291
                        + 1 Day
6 Months Date        = 94-07-20 = 20290

```

SUPERVISED RELEASE EXPIRATION DATE CALCULATION

Even though the 3 and 4 year sentences were ordered to run consecutively, the terms of supervised release (2 years on each sentence) run concurrently as required by 18 USC § 3624(e).

```

SRD                      = 95-01-21
Supervised Release Term  = + 2 Years
Supervised Release Expires = 97-01-21*

```

SUMMARY

```

Prior Custody Time      = 24 Days
EFT Date                = 12-16-95
GCT Days                = 329 Days
SRD                     = 01-21-95
6 Months/10% Date      = 07-20-94
Supervised Release Expires = 01-20-97

```

FOREIGN TREATY SENTENCE COMPUTATION EXAMPLE NO. 15

SENTENCE INFORMATION

03-04-89 Foreign Offense
03-04-89 Foreign Arrest
03-12-89 7 Year Foreign Sentence
12-05-90 Transferred to U.S.
105 Days Foreign Remission Time

PRIOR CUSTODY TIME CREDIT

DCB = 89-03-11* = 18333
Arrested = 89-03-03* = -18325
Prior Custody Time = 8 Days

BOP EFT DATE CALCULATION

DCB = 89-03-12
Foreign Sentence = + 7 Years
Unaffected EFT Date = 96-03-11* = 20890
Prior Custody Time = - 8 Days
Original EFT Date = 96-03-03 = 20882
Foreign Remission Time = - 105 Days
Final EFT Date = 95-11-19 = 20777

ANNIVERSARY DATE CALCULATION

Transfer to U.S. Date = 90-12-05
Anniversary Year = + 1 Year
First Anniversary Date = 91-12-05

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 11-19-95
12-05-91	12-05-91	12-19-91	54		54	09-26-95
12-05-92	12-05-92	12-19-92	54		108	08-03-95
12-05-93	12-05-93	12-19-93	54		162	06-10-95
12-05-94	12-05-94	12-19-94	54		216	04-17-95

DCB	=	89-03-12	
Foreign Sentence	=	+ <u>7</u>	Years
Unaffected EFT Date	=	96-03-11*	= 20890
Prior Custody Time			= - <u>8</u> Days
Original EFT Date	=	96-03-03	= 20882
SRD	=	- <u>95-03-31</u>	
Max. Superv. Release Term	=	11-01	= 11 Months 1 Day

EXAMPLE NO. 15 (continued)

SUMMARY

Prior Custody Time	=	8 Days
BOP EFT Date	=	12-05-95
GCT	=	233 Days
SRD	=	03-31-95
6 Months/10% Date	=	08-23-94
Max. Superv. Release Term	=	11 Months, 1 Day

MISTRETTA AFFECTED SENTENCE EXAMPLE NO. 16

Situation: Court declares SRA unconstitutional and imposes "old law" sentence of 6 years and conditional guideline sentence of 48 months.

SPC = 0097 SRA & 4161 SGT & 4162 EGT

SENTENCE INFORMATION

05-30-88 Offense
06-05-88 Arrested
06-15-88 OR Release
12-27-88 Re-Arrested
01-10-89 "Old Law" = 6 Years & Committed to Camp
01-18-89 DCB (Mistretta SRA Sentence) = 48 Months
Total Prior Custody Time = **33 Days**

4161 SGT CALCULATION

Pre Mistretta "Old Law" Time Earned From 06-05-88 Through 06-15-88 and From 12-27-88 Through 01-18-89 = **33 Days**.

Pre Mistretta "Old Law" Sentence = 6 Years = 8 Days SGT Per Month. **33** Days Times **8** Days SGT Per Month Divided by 30 = **8 Days SGT**.

4162 CGT CALCULATION

Under Pre Mistretta "Old Law", 1 Year or Less in an EGT Earning Status = 3 Days of GCT Per Month. Time in an Earning Status From 01-10-89 Through 01-17-89 = 8 Days.

8 Days in an Earning Status Times 3 Days GCT Per Month Divided by 31 (Number of Days in January) = **1 Day CGT**.

EXAMPLE NO. 16 (continued)

SRA EFT DATE CALCULATION

DCB (Mistretta SRA Sentence)	=	89-01-18	
SRA Sentence (48 Months)	=	+04-00-00	
	=	93-01-18	= 19742
Backed Up 1 Day to Include 01-18-89			= - <u>1</u>
Original EFT Date	=	01-17-93	= 19741
Prior SRA Custody Time (33 Days)			= - <u>33</u>
Original EFT Less 33 Days Prior Custody Time			= 19708
"Old Law" SGT (8 Days)			= - <u>8</u>
Original EFT Less 8 Days "Old Law" SGT			= 19700
"Old Law" CGT (1 Day)			= - <u>1</u>
SRA Final EFT Date	=	12-06-92	= 19699

ANNIVERSARY DATE CALCULATION

DCB for SRA Portion	=	89-01-18
Anniversary Year	= + <u>1</u> Year	
First Anniversary Date	=	90-01-18

YEARLY GCT/PARTIAL YEAR GCT/SRD/6 WEEKS DATE CALCULATIONS

Anni- versary Date	Consid- eration Begins	Vested Date	Maximum To Award	Actual Award	Running Total	Release Date 12-06-92
90-01-18	90-01-18	90-02-01	54		54	92-10-13
91-01-18	91-01-18	91-02-01	54		108	92-08-20
92-01-18	92-01-18	92-02-01	54		162	92-06-27

The SRA part of the term shall be computed by utilizing the **SRA Final EFT Date** of **12-06-92** as calculated above. The first 3 years of the sentence, as shown on the chart, earned 54 days of GCT at the end of each year, resulting in a total of 162 days GCT for the period and a tentative date of release of 06-27-92. The balance of the GCT to be earned on the SRA part of the term must be prorated and is based on the amount of time to be served between the last Anniversary Date (01-18-92) and the release date, as it stood (06-27-92) at that time, as shown in the following.

GOOD CONDUCT TIME CHART

Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served	Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served
1 Day	0 GCT	1 Day	43 Days	5 GCT	38 Days
2 Days	0 GCT	2 Days	44 Days	5 GCT	39 Days
3 Days	0 GCT	3 Days	45 Days	5 GCT	40 Days
4 Days	0 GCT	4 Days	46 Days	6 GCT	40 Days
5 Days	0 GCT	5 Days	47 Days	6 GCT	41 Days
6 Days	0 GCT	6 Days	48 Days	6 GCT	42 Days
7 Days	1 GCT	6 Days	49 Days	6 GCT	43 Days
8 Days	1 GCT	7 Days	50 Days	6 GCT	44 Days
9 Days	1 GCT	8 Days	51 Days	6 GCT	45 Days
10 Days	1 GCT	9 Days	52 Days	6 GCT	46 Days
11 Days	1 GCT	10 Days	53 Days	6 GCT	47 Days
12 Days	1 GCT	11 Days	54 Days	7 GCT	47 Days
13 Days	1 GCT	12 Days	55 Days	7 GCT	48 Days
14 Days	1 GCT	13 Days	56 Days	7 GCT	49 Days
15 Days	2 GCT	13 Days	57 Days	7 GCT	50 Days
16 Days	2 GCT	14 Days	58 Days	7 GCT	51 Days
17 Days	2 GCT	15 Days	59 Days	7 GCT	52 Days
18 Days	2 GCT	16 Days	60 Days	7 GCT	53 Days
19 Days	2 GCT	17 Days	61 Days	7 GCT	54 Days
20 Days	2 GCT	18 Days	62 Days	8 GCT	54 Days
21 Days	2 GCT	19 Days	63 Days	8 GCT	55 Days
22 Days	2 GCT	20 Days	64 Days	8 GCT	56 Days
23 Days	3 GCT	20 Days	65 Days	8 GCT	57 Days
24 Days	3 GCT	21 Days	66 Days	8 GCT	58 Days
25 Days	3 GCT	22 Days	67 Days	8 GCT	59 Days
26 Days	3 GCT	23 Days	68 Days	8 GCT	60 Days
27 Days	3 GCT	24 Days	69 Days	9 GCT	60 Days
28 Days	3 GCT	25 Days	70 Days	9 GCT	61 Days
29 Days	3 GCT	26 Days	71 Days	9 GCT	62 Days
30 Days	3 GCT	27 Days	72 Days	9 GCT	63 Days
31 Days	4 GCT	27 Days	73 Days	9 GCT	64 Days
32 Days	4 GCT	28 Days	74 Days	9 GCT	65 Days
33 Days	4 GCT	29 Days	75 Days	9 GCT	66 Days
34 Days	4 GCT	30 Days	76 Days	9 GCT	67 Days
35 Days	4 GCT	31 Days	77 Days	10 GCT	67 Days
36 Days	4 GCT	32 Days	78 Days	10 GCT	68 Days
37 Days	4 GCT	33 Days	79 Days	10 GCT	69 Days
38 Days	5 GCT	33 Days	80 Days	10 GCT	70 Days
39 Days	5 GCT	34 Days	81 Days	10 GCT	71 Days
40 Days	5 GCT	35 Days	82 Days	10 GCT	72 Days
41 Days	5 GCT	36 Days	83 Days	10 GCT	73 Days
42 Days	5 GCT	37 Days	84 Days	10 GCT	74 Days

GOOD CONDUCT TIME CHART

Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served	Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served
85 Days	11 GCT	74 Days	127 Days	16 GCT	111 Days
86 Days	11 GCT	75 Days	128 Days	16 GCT	112 Days
87 Days	11 GCT	76 Days	129 Days	16 GCT	113 Days
88 Days	11 GCT	77 Days	130 Days	16 GCT	114 Days
89 Days	11 GCT	78 Days	131 Days	17 GCT	114 Days
90 Days	11 GCT	79 Days	132 Days	17 GCT	115 Days
91 Days	11 GCT	80 Days	133 Days	17 GCT	116 Days
92 Days	11 GCT	81 Days	134 Days	17 GCT	117 Days
93 Days	12 GCT	81 Days	135 Days	17 GCT	118 Days
94 Days	12 GCT	82 Days	136 Days	17 GCT	119 Days
95 Days	12 GCT	83 Days	137 Days	17 GCT	120 Days
96 Days	12 GCT	84 Days	138 Days	17 GCT	121 Days
97 Days	12 GCT	85 Days	139 Days	18 GCT	121 Days
98 Days	12 GCT	86 Days	140 Days	18 GCT	122 Days
99 Days	12 GCT	87 Days	141 Days	18 GCT	123 Days
100 Days	13 GCT	87 Days	142 Days	18 GCT	124 Days
101 Days	13 GCT	88 Days	143 Days	18 GCT	125 Days
102 Days	13 GCT	89 Days	144 Days	18 GCT	126 Days
103 Days	13 GCT	90 Days	145 Days	18 GCT	127 Days
104 Days	13 GCT	91 Days	146 Days	18 GCT	128 Days
105 Days	13 GCT	92 Days	147 Days	19 GCT	128 Days
106 Days	13 GCT	93 Days	148 Days	19 GCT	129 Days
107 Days	13 GCT	94 Days	149 Days	19 GCT	130 Days
108 Days	14 GCT	94 Days	150 Days	19 GCT	131 Days
109 Days	14 GCT	95 Days	151 Days	19 GCT	132 Days
110 Days	14 GCT	96 Days	152 Days	19 GCT	133 Days
111 Days	14 GCT	97 Days	153 Days	19 GCT	134 Days
112 Days	14 GCT	98 Days	154 Days	19 GCT	135 Days
113 Days	14 GCT	99 Days	155 Days	20 GCT	135 Days
114 Days	14 GCT	100 Days	156 Days	20 GCT	136 Days
115 Days	14 GCT	101 Days	157 Days	20 GCT	137 Days
116 Days	15 GCT	101 Days	158 Days	20 GCT	138 Days
117 Days	15 GCT	102 Days	159 Days	20 GCT	139 Days
118 Days	15 GCT	103 Days	160 Days	20 GCT	140 Days
119 Days	15 GCT	104 Days	161 Days	20 GCT	141 Days
120 Days	15 GCT	105 Days	162 Days	21 GCT	141 Days
121 Days	15 GCT	106 Days	163 Days	21 GCT	142 Days
122 Days	15 GCT	107 Days	164 Days	21 GCT	143 Days
123 Days	15 GCT	108 Days	165 Days	21 GCT	144 Days
124 Days	16 GCT	108 Days	166 Days	21 GCT	145 Days
125 Days	16 GCT	109 Days	167 Days	21 GCT	146 Days
126 Days	16 GCT	110 Days	168 Days	21 GCT	147 Days

GOOD CONDUCT TIME CHART

Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served	Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served
169 Days	21 GCT	148 Days	211 Days	27 GCT	184 Days
170 Days	22 GCT	148 Days	212 Days	27 GCT	185 Days
171 Days	22 GCT	149 Days	213 Days	27 GCT	186 Days
172 Days	22 GCT	150 Days	214 Days	27 GCT	187 Days
173 Days	22 GCT	151 Days	215 Days	27 GCT	188 Days
174 Days	22 GCT	152 Days	216 Days	27 GCT	189 Days
175 Days	22 GCT	153 Days	217 Days	28 GCT	189 Days
176 Days	22 GCT	154 Days	218 Days	28 GCT	190 Days
177 Days	22 GCT	155 Days	219 Days	28 GCT	191 Days
178 Days	23 GCT	155 Days	220 Days	28 GCT	192 Days
179 Days	23 GCT	156 Days	221 Days	28 GCT	193 Days
180 Days	23 GCT	157 Days	222 Days	28 GCT	194 Days
181 Days	23 GCT	158 Days	223 Days	28 GCT	195 Days
182 Days	23 GCT	159 Days	224 Days	29 GCT	195 Days
183 Days	23 GCT	160 Days	225 Days	29 GCT	196 Days
184 Days	23 GCT	161 Days	226 Days	29 GCT	197 Days
185 Days	23 GCT	162 Days	227 Days	29 GCT	198 Days
186 Days	24 GCT	162 Days	228 Days	29 GCT	199 Days
187 Days	24 GCT	163 Days	229 Days	29 GCT	200 Days
188 Days	24 GCT	164 Days	230 Days	29 GCT	201 Days
189 Days	24 GCT	165 Days	231 Days	29 GCT	202 Days
190 Days	24 GCT	166 Days	232 Days	30 GCT	202 Days
191 Days	24 GCT	167 Days	233 Days	30 GCT	203 Days
192 Days	24 GCT	168 Days	234 Days	30 GCT	204 Days
193 Days	25 GCT	168 Days	235 Days	30 GCT	205 Days
194 Days	25 GCT	169 Days	236 Days	30 GCT	206 Days
195 Days	25 GCT	170 Days	237 Days	30 GCT	207 Days
196 Days	25 GCT	171 Days	238 Days	30 GCT	208 Days
197 Days	25 GCT	172 Days	239 Days	30 GCT	209 Days
198 Days	25 GCT	173 Days	240 Days	31 GCT	209 Days
199 Days	25 GCT	174 Days	241 Days	31 GCT	210 Days
200 Days	25 GCT	175 Days	242 Days	31 GCT	211 Days
201 Days	26 GCT	175 Days	243 Days	31 GCT	212 Days
202 Days	26 GCT	176 Days	244 Days	31 GCT	213 Days
203 Days	26 GCT	177 Days	245 Days	31 GCT	214 Days
204 Days	26 GCT	178 Days	246 Days	31 GCT	215 Days
205 Days	26 GCT	179 Days	247 Days	31 GCT	216 Days
206 Days	26 GCT	180 Days	248 Days	32 GCT	216 Days
207 Days	26 GCT	181 Days	249 Days	32 GCT	217 Days
208 Days	26 GCT	182 Days	250 Days	32 GCT	218 Days
209 Days	27 GCT	182 Days	251 Days	32 GCT	219 Days
210 Days	27 GCT	183 Days	252 Days	32 GCT	220 Days

GOOD CONDUCT TIME CHART

Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served	Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served
253 Days	32 GCT	221 Days	295 Days	38 GCT	257 Days
254 Days	32 GCT	222 Days	296 Days	38 GCT	258 Days
255 Days	33 GCT	222 Days	297 Days	38 GCT	259 Days
256 Days	33 GCT	223 Days	298 Days	38 GCT	260 Days
257 Days	33 GCT	224 Days	299 Days	38 GCT	261 Days
258 Days	33 GCT	225 Days	300 Days	38 GCT	262 Days
259 Days	33 GCT	226 Days	301 Days	38 GCT	263 Days
260 Days	33 GCT	227 Days	302 Days	39 GCT	263 Days
261 Days	33 GCT	228 Days	303 Days	39 GCT	264 Days
262 Days	33 GCT	229 Days	304 Days	39 GCT	265 Days
263 Days	34 GCT	229 Days	305 Days	39 GCT	266 Days
264 Days	34 GCT	230 Days	306 Days	39 GCT	267 Days
265 Days	34 GCT	231 Days	307 Days	39 GCT	268 Days
266 Days	34 GCT	232 Days	308 Days	39 GCT	269 Days
267 Days	34 GCT	233 Days	309 Days	39 GCT	270 Days
268 Days	34 GCT	234 Days	310 Days	40 GCT	270 Days
269 Days	34 GCT	235 Days	311 Days	40 GCT	271 Days
270 Days	34 GCT	236 Days	312 Days	40 GCT	272 Days
271 Days	35 GCT	236 Days	313 Days	40 GCT	273 Days
272 Days	35 GCT	237 Days	314 Days	40 GCT	274 Days
273 Days	35 GCT	238 Days	315 Days	40 GCT	275 Days
274 Days	35 GCT	239 Days	316 Days	40 GCT	276 Days
275 Days	35 GCT	240 Days	317 Days	40 GCT	277 Days
276 Days	35 GCT	241 Days	318 Days	41 GCT	277 Days
277 Days	35 GCT	242 Days	319 Days	41 GCT	278 Days
278 Days	35 GCT	243 Days	320 Days	41 GCT	279 Days
279 Days	36 GCT	243 Days	321 Days	41 GCT	280 Days
280 Days	36 GCT	244 Days	322 Days	41 GCT	281 Days
281 Days	36 GCT	245 Days	323 Days	41 GCT	282 Days
282 Days	36 GCT	246 Days	324 Days	41 GCT	283 Days
283 Days	36 GCT	247 Days	325 Days	42 GCT	283 Days
284 Days	36 GCT	248 Days	326 Days	42 GCT	284 Days
285 Days	36 GCT	249 Days	327 Days	42 GCT	285 Days
286 Days	37 GCT	249 Days	328 Days	42 GCT	286 Days
287 Days	37 GCT	250 Days	329 Days	42 GCT	287 Days
288 Days	37 GCT	251 Days	330 Days	42 GCT	288 Days
289 Days	37 GCT	252 Days	331 Days	42 GCT	289 Days
290 Days	37 GCT	253 Days	332 Days	42 GCT	290 Days
291 Days	37 GCT	254 Days	333 Days	43 GCT	290 Days
292 Days	37 GCT	255 Days	334 Days	43 GCT	291 Days
293 Days	37 GCT	256 Days	335 Days	43 GCT	292 Days
294 Days	38 GCT	256 Days	336 Days	43 GCT	293 Days

GOOD CONDUCT TIME CHART

Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served	Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served
337 Days	43 GCT	294 Days	379 Days	48 GCT	331 Days
338 Days	43 GCT	295 Days	380 Days	49 GCT	331 Days
339 Days	43 GCT	296 Days	381 Days	49 GCT	332 Days
340 Days	43 GCT	297 Days	382 Days	49 GCT	333 Days
341 Days	44 GCT	297 Days	283 Days	49 GCT	334 Days
342 Days	44 GCT	298 Days	384 Days	49 GCT	335 Days
343 Days	44 GCT	299 Days	385 Days	49 GCT	336 Days
344 Days	44 GCT	300 Days	386 Days	49 GCT	337 Days
345 Days	44 GCT	301 Days	387 Days	50 GCT	337 Days
346 Days	44 GCT	302 Days	388 Days	50 GCT	338 Days
347 Days	44 GCT	303 Days	389 Days	50 GCT	339 Days
348 Days	44 GCT	304 Days	390 Days	50 GCT	340 Days
349 Days	45 GCT	304 Days	391 Days	50 GCT	341 Days
350 Days	45 GCT	305 Days	392 Days	50 GCT	342 Days
351 Days	45 GCT	306 Days	393 Days	50 GCT	343 Days
352 Days	45 GCT	307 Days	394 Days	50 GCT	344 Days
353 Days	45 GCT	308 Days	395 Days	51 GCT	344 Days
354 Days	45 GCT	309 Days	396 Days	51 GCT	345 Days
355 Days	45 GCT	310 Days	397 Days	51 GCT	346 Days
356 Days	46 GCT	310 Days	398 Days	51 GCT	347 Days
357 Days	46 GCT	311 Days	399 Days	51 GCT	348 Days
358 Days	46 GCT	312 Days	400 Days	51 GCT	349 Days
359 Days	46 GCT	313 Days	401 Days	51 GCT	350 Days
360 Days	46 GCT	314 Days	402 Days	51 GCT	351 Days
361 Days	46 GCT	315 Days	403 Days	52 GCT	351 Days
362 Days	46 GCT	316 Days	404 Days	52 GCT	352 Days
363 Days	46 GCT	317 Days	405 Days	52 GCT	353 Days
364 Days	47 GCT	317 Days	406 Days	52 GCT	354 Days
365 Days	47 GCT	318 Days	407 Days	52 GCT	355 Days
366 Days	47 GCT	319 Days	408 Days	52 GCT	356 Days
367 Days	47 GCT	320 Days	409 Days	52 GCT	357 Days
368 Days	47 GCT	321 Days	410 Days	52 GCT	358 Days
369 Days	47 GCT	322 Days	411 Days	53 GCT	358 Days
370 Days	47 GCT	323 Days	412 Days	53 GCT	359 Days
371 Days	47 GCT	324 Days	413 Days	53 GCT	360 Days
372 Days	48 GCT	324 Days	414 Days	53 GCT	361 Days
373 Days	48 GCT	325 Days	415 Days	53 GCT	362 Days
374 Days	48 GCT	326 Days	416 Days	53 GCT	363 Days
375 Days	48 GCT	327 Days	417 Days	53 GCT	364 Days
376 Days	48 GCT	328 Days	418 Days	54 GCT	364 Days
377 Days	48 GCT	329 Days	419 Days	54 GCT	365 Days
378 Days	48 GCT	330 Days	420 Days	54 GCT	366 Days

GOOD CONDUCT TIME CHART

Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served	Days Remaining On Final Portion Of Sentence	Maximum GCT Available	Days Actually Served
421 Days	54 GCT	367 Days			
422 Days	54 GCT	368 Days			
423 Days	54 GCT	369 Days			
424 Days	54 GCT	370 Days			
425 Days	54 GCT	371 Days			

UNITED STATES COURTS OF APPEAL

District of Columbia Circuit: District of Columbia

First Circuit: Maine, Massachusetts, New Hampshire, Rhode Island, and
Puerto Rico

Second Circuit: Connecticut, New York, and Vermont

Third Circuit: Delaware, New Jersey, Pennsylvania, and Virgin Islands

Fourth Circuit: Maryland, North Carolina, South Carolina, Virginia,
and West Virginia

Fifth Circuit: Louisiana, Mississippi, and Texas

Sixth Circuit: Kentucky, Michigan, Ohio, and Tennessee

Seventh Circuit: Illinois, Indiana, and Wisconsin

Eighth Circuit: Arkansas, Iowa, Minnesota, Missouri, Nebraska, North
Dakota, and South Dakota

Ninth Circuit: Alaska, Arizona, California, Guam, Hawaii, Idaho,
Montana, Nevada, Northern Mariana Islands, Oregon, and Washington

Tenth Circuit: Colorado, Kansas, New Mexico, Oklahoma, Utah, and
Wyoming

Eleventh Circuit: Alabama, Florida, and Georgia

STATES/TERRITORIES AND CIRCUITS

Alabama (Eleventh)	Nebraska (Eighth)
Alaska (Ninth)	Nevada (Ninth)
Arizona (Ninth)	New Hampshire (First)
Arkansas (Eighth)	New Jersey (Third)
California (Ninth)	New Mexico (Tenth)
Colorado (Tenth)	New York (Second)
Connecticut (Second)	North Carolina (Fourth)
Delaware (Third)	North Dakota (Eighth)
District of Columbia (D.C.)	Northern Mariana
Florida (Eleventh)	Islands (Ninth)
Georgia (Eleventh)	Ohio (Sixth)
Guam (Ninth)	Oklahoma (Tenth)
Hawaii (Ninth)	Oregon (Ninth)
Idaho (Ninth)	Pennsylvania (Third)
Illinois (Seventh)	Puerto Rico (First)
Indiana (Seventh)	Rhode Island (First)
Iowa (Eighth)	South Carolina (Fourth)
Kansas (Tenth)	South Dakota (Eighth)
Kentucky (Sixth)	Tennessee (Sixth)
Louisiana (Fifth)	Texas (Fifth)
Maine (First)	Utah (Tenth)
Maryland (Fourth)	Vermont (Second)
Massachusetts (First)	Virgin Islands (Third)
Michigan (Sixth)	Virginia (Fourth)
Minnesota (Eighth)	Washington (Ninth)
Mississippi (Fifth)	West Virginia (Fourth)
Missouri (Eighth)	Wisconsin (Seventh)
Montana (Ninth)	Wyoming (Tenth)