

SUPERVISION\DCC\SUPERVISION PROCESS\REVOCATIONS

.15 REINCARCERATION RECOMMENDATIONS

It is recommended agents ensure a current DOC-416, Revocation Information Request is in the file or request the DOC-416 if one is not available, as soon as a violation potentially serious enough for revocation is alleged. If revocation is recommended, the agent shall serve the DOC-414, to include the time available and recommended reincarceration time for each case. If the DOC-416 is not received prior to the client being served the DOC-414, the client shall be re-served with the time available and time recommended for each case if revocation is still being pursued.

The agent must first refer to the penalty schedule below to determine the applicable category for the most serious allegation. The recommended reincarceration time is then calculated using the time available (as documented on the DOC-416) and applying the percentage of time allowed for the category selected on the DOC-2132. The Regional Chief or Assistant Regional Chief must approve any reincarceration recommendation in excess of 5 years. All requests to exceed the reincarceration recommendations as recommended by the specific time for the category on the DOC-2132 shall be approved by the Regional Chief or Assistant Regional Chief. (See Overrides to Penalty Schedule [\(link\)](#)).

The agent's final recommendation shall not be less than one year. For Category I and II violations, if there is less than one year available, or the total recommended forfeiture amount calculation equals less than one year, the agent will implement a short term sanction of not more than 90 days, unless the client does not admit to a violation in a signed statement. In certain circumstances, it may be appropriate to move forward with revocation when there is less than one year remaining. Careful consideration should be given to the efficacy of this response and Regional Chief or Assistant Regional Chief approval is needed. In these situations all time should be recommended. Refer to .17 Overrides to the Penalty Schedule for procedure.

If the client does not admit to a violation in a signed statement, the agent will proceed with revocation. If there is less than one year available, the agent will recommend 100% time available, and Regional Chief or Assistant Chief approval is not required for this recommendation.

When dealing with multiple, consecutive cases, do not recommend the minimum on each case. It is only required that the final recommendation be a total of at least one year. When dealing with multiple concurrent cases, the sentence with the most time is controlling. Calculate the time on the case with the most time available and take the same from the remaining case. If one case has less than the calculated amount, the recommendation shall be 100% time available. Regional approval is not needed when exhausting cases under these circumstances.

.16 PENALTY SCHEDULE

A filed criminal charge or conviction for the behavior from the category is required to consider a Category II & III Penalty Schedule recommendation, with the exception of absconding.

Up to 15% of time available	Up to 35% of time available	Up to 70% of time available
CATEGORY I	CATEGORY II*	CATEGORY III*
Rules Violations, Including SO	Misdemeanor Theft	Assaultive Felonies
EMP Violations	OWI	OWI-Cause Injury
Drug Possession or Use	Assaultive Misdemeanors	Homicide, Manslaughter
Program /Treatment Termination	Felon in Possession of a Firearm	Homicide by Intoxicated Use of Motor Vehicle

Non-Criminal Threats	Possession with Intent to Deliver	Sexual Assault
Resisting/Obstructing		Arson
Bail Jumping	Failure to Comply with SOR	Possession of Child Pornography
Possession of Drug Paraphernalia	GPS Tamper/Removal Felony Behavior not otherwise listed Absconding (charges not required)	

.17 OVERRIDES TO THE PENALTY SCHEDULE

Deviations from the Recommended Reincarceration Time

- Exceptions to the calculated recommendation, based on mitigating or aggravating circumstances, may be granted but require the approval of the Regional Chief or Assistant Regional Chief. Overrides to the time forfeiture calculation allow for an increased or decreased amount of time for the existing category (such as in excess of 15% for Category I) and do not result in a category change (from Category I to II).

- In order for a deviation from the calculated time recommendation to be approved, there must be the presence of at least one or more mitigating factor (for lower recommendations) or aggravating factor (for overrides), as identified below. If an aggravating factor applies, up to 100% of remaining time available may be recommended.

Mitigating Factors:

1. Recognition should be given to lengthy periods of supervision served crime free;
2. Violation and crime free preceding present revocation;
3. Completion or amenable to treatment program(s);
4. Pattern of stable and responsible behaviors in the community;
5. Involvement in current violation is minimal or client is follower;
6. Victim(s) statements(s);
7. Original imprisonment portion of sentence is less than 33% of ES available for reincarceration.

Aggravating Factors include:

1. Special vulnerability of victim(s) (including age, disability, state of intoxication, etc.);
2. Extreme physical injury;
3. Cruelty to victim(s) – evidence of sadism;
4. 3 or more prior High or Very High level violations during current period of supervision;
5. Violation behavior involved loss of life
6. Prior convictions require Special Bulletin Notification

For unique situations or violations that pose a risk to public safety, but do not have any applicable aggravating factors, the Administrator may approve additional confinement time that exceeds the grid recommendation. The request shall be reviewed

by the Regional Chief/Assistant Regional Chief and forwarded to the administrator. If approved the agent shall document the decision in COMPAS notes and the revocation summary.

Consecutive Sentences

Consecutive periods of incarceration/reconfinement time are served as one continuous sentence. Clients serve consecutive periods of parole/ES as one continuous sentence upon release from prison. Consecutive parole/ES cases discharge upon completion of that sentence. Thus, the time on the discharged cases is no longer available for reconfinement if the client is revoked. The [DOC-416](#) will list the time available for each active count or case separately. Cases which have discharged will be noted in the center box of the [DOC-416](#) and no credit should be given prior to that date. A recommendation should be made on each case/count for which the agent is requesting revocation. Agents are not required to revoke all active consecutive cases/counts.

Consecutive cases/counts are not required to be revoked in the order they were sentenced. An agent may request revocation of the second case/count in a string while leaving the first case/count unrevoked.

- Agents should determine the total amount of reincarceration time recommended for reconfinement so that the case(s)/count(s) with the smallest amount of time available are exhausted first.
- If there are no cases/counts that could be completely exhausted, the time may be applied evenly to all cases/counts being revoked.
- Any active consecutive cases/counts not revoked will pause while the client is serving time on the revoked cases/counts. The unrevoked count/case will begin running and a new maximum discharge date will be calculated for the unrevoked case/count once the client is released from prison.
- Any active concurrent cases/counts will continue to run while the client is serving time on the revoked case/count. There will be no change to the maximum discharge date for those unrevoked cases/counts. Any active probation cases not revoked will

continue to run while the client is incarcerated on the revoked cases/counts. There will be no change to the discharge date for any unrevoked probation cases.

Consecutive Prison Counts on a Judgment of Conviction

- As parole/ES time is served, consecutive prison counts, on one Judgment of Conviction, will be classified as “*no longer active or expired,*” and the time on that count will no longer be included in the reincarceration time reported on the [DOC-416](#).
- Because the multiple counts are under one active Judgment of Conviction, the counts cannot be discharged the way consecutive cases discharge.
- The time on these multiple count cases will be reported on the [DOC-416](#) as one number, broken down by years months and days.
- If a count is “*no longer active or expired,*” there will be a date in the center box of the [DOC-416](#), and no custody credit shall be given prior to the date in that box.
- In multiple consecutive count Judgment of Convictions, staff need to ensure jurisdiction has been preserved when reporting older violation dates for revocation. Older violation dates, *such as absconding*, will allow for earlier counts to be active as long as jurisdiction has been preserved through the stop time process.
- Older violations which the agent learns about years later may be used to revoke active counts. However, earlier counts may have “expired” and that reconfinement time would not be included on the [DOC-416](#).
- Institution-based Alternative to Revocation (ATR) placements are not sentences and a count may “expire” while the client is serving the ATR. In these circumstances, the time served in the ATR up to the discharge of the earliest count will no longer be available for reincarceration if the supervision is later revoked.

.18 UPDATING THE COMPAS ASSESSMENT FOLLOWING REVOCATION DECISION

The static portion (Question 1-30) of the COMPAS Core assessment must be updated, following the decision to revoke when:

- A new criminal arrest prompted one of the allegations, and

- The client is facing or has the potential to face prison confinement. For example, a client with an imposed and stayed prison sentence who also has a new criminal arrest prompting one of the allegations, the static portion of the Core should be completed. If a client has a withheld felony sentence and also has a new criminal arrest prompting one of the allegations, the static portion of the Core should be completed.
- Formal Institution ATR's where a new criminal arrest resulted in the ATR.

Updating is done by using the Create function. If the previous assessment completed was a WPN or Reentry, the agent should use the create function to forward and update the static information into a new CORE - Incarcerated Language assessment. The Create function copies only the static information from the official records section. In the Reason for Assessment field, the agent should choose "revocation update required".

The updated assessment must be completed within thirty days of the service of the [DOC-414](#).

The assessment will show as "incomplete". An assessment note must be entered for all cases where the client is facing or has the potential to face prison confinement. This note will make it clear for DAI the reason an assessment was or was not done.

For example:

- Assessment not updated: no new criminal arrest.
- Assessment updated: new criminal arrest.

If the client is revoked, DAI will complete the assessment with the client in the institution.

If the client is not revoked, the agent will complete the remaining sections of the Core assessment within 60 days of the decision not to revoke.