

## **New/Revised ECRM Additions**

### **LAB AUDIT – 2023 – Recommendations #10 - #14**

**Lead contact/requestor:** Policy Committee / LAB Audit

**Date of project start:** Spring 2023

**Goal date to implement in ECRM:** August 21<sup>st</sup>, 2023

**Reviewed with Policy Committee:** 7/11/23 – Pre-ELM 7/27/23 (Approved) / Approved at ELM (8/1/23) w/ edits.

**ECRM sections with revisions (per this document):**

- 1) ECRM > SUPERVISION > DCC > SUPERVISION PROCESS > REVOCATION > .15 REINCARCERATION RECOMMENDATIONS**
- 2) ECRM > SUPERVISION > DCC > SUPERVISION PROCESS > REVOCATION > .16 PENALTY SCHEDULE**
- 3) ECRM > SUPERVISION > DCC > SUPERVISION PROCESS > REVOCATION > .17 OVERRIDES TO THE PENALTY SCHEDULE**

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### **REVISION #1**

#### **ECRM > SUPERVISION > DCC > SUPERVISION PROCESS > REVOCATION > .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 in the [DOC-4000](#). The [DOC-2132](#) may also be completed manually. 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 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. **If the client does not admit to a violation in a signed statement, a sanction cannot be utilized because it requires a signed statement from the client. The agent will proceed with revocation in these situations. If there is less than one year available, the agent will recommend 100% of the time available. Regional Chief or Assistant Chief approval is not required for this recommendation.** If there is more than a year available and the recommendation is greater than one year, follow the normal override process.

In certain **other** 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.

**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, **time available and time recommended per the applicable category must first be reviewed for all cases prior to determining the appropriate recommendations.** The sentence with the most time is controlling **and all other recommendations will be guided by the amount of time determined for that case.** Calculate the time on the case with the most time available and **recommend the same amount of time for all other concurrent cases, unless there is not that amount of time available.** If **any other concurrent** 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.

## **REVISION #2**

### **ECRM > SUPERVISION > DCC > SUPERVISION PROCESS > REVOCATION > .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 or Multiple OWI's (5+)
Simple Drug Possession for Personal Use or Use	Assaultive Misdemeanors	Homicide, Manslaughter
Program /Treatment Termination	Possession of Drugs (not for personal use) or Possession with Intent to Deliver	Homicide by Intoxicated Use of Motor Vehicle
Non-Criminal Threats	Failure to Comply with SOR	Sexual Assault
Resisting/Obstructing	GPS Tamper/Removal Felony Behavior not otherwise listed Absconding (charges not required)	Arson
Bail Jumping		Possession of Child Pornography
Possession of Drug Paraphernalia		Felon in Possession of a Firearm

**ECRM > SUPERVISION > DCC > SUPERVISION PROCESS > REVOCATION > .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.
- There may be unique situations or violations without an aggravating factor that pose a risk to public safety, or demonstrate a pattern of dangerous or threatening behavior, including situations that do not include aggravating factors. In these circumstances, 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.

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 **behaviors** during current period of supervision;
5. Violation behavior involved loss of life
6. Prior convictions require Special Bulletin Notification
7. **Failed an ATR**