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<b>Scott Crow, Director</b> <b>Oklahoma Department of Corrections</b>	<b>Signature on File</b>		

## Sentence Administration

The Oklahoma Department of Corrections (ODOC) is required to administer sentences in accordance with the Judgment and Sentence issued by the District Courts (22 O.S. 978, 979). All inmates/offenders remanded to the custody or supervision of the ODOC are confined or supervised in accordance with the order of the sentencing court and statutory

authority. Unless clearly stated otherwise, the law to be applied to a sentence is the law that was in effect on the date of the commission of the crime. Any amendments or changes in the laws governing sentence administration that are reflected in this Operating Procedure shall apply to those inmates who committed the crime on or after the effective date of the amendment or change in the law, unless clearly stated otherwise in this Operating Procedure. For crimes that were committed during a period of time lasting longer than one day, a new or amended law should be applied to the sentence if the effective date of the law/amendment occurred prior to the last date of the commission of the crime. The manager of Sentence Administration is the final departmental authority in all matters of inmate release dates, commitment technicalities and time calculations. The following procedures are established for Sentence Administration. (2-CO-1E-05, 2-CO-1E-09, 5-ACI-1E-03)

I. Procedures for Handling a Questionable Reception

A. Reception for Incarceration

If the assessment and reception center initial records supervisor believes the reception of an inmate is questionable, the manager of Sentence Administration will be contacted for a decision. If the manager of Sentence Administration agrees the potential reception is not to be accepted, the director of Classification and Population will be informed.

B. Reception for Probation

If a deputy director believes the sentencing order of the court is questionable, the deputy director will contact the manager of Sentence Administration for a decision. If the manager of Sentence Administration agrees the sentencing order is not to be accepted, the sentencing court will be informed.

C. Legal Issues Involving a Judgment and Sentence or Sentencing Document

If the manager of Sentence Administration or the director of Classification and Population believe that a Judgment and Sentence or other sentencing document does not comply with Oklahoma law, the manager of Sentence Administration or the director of Classification and Population may submit a request for the General Counsel to review and provide a legal opinion.

II. Procedures for the Application of Time Credits (2-CO-1E-05, 5-ACI-1E-13, 5-ACI-7A-13)

In order to establish and maintain accurate release dates for inmates confined within ODOC facilities, it is necessary to become familiar with several kinds of time credit systems utilized both presently and in the past. The amount and type of credit awarded to inmates has varied, depending on changes in effective legislation and procedures for implementation.

Sentences to be served by an inmate in ODOC are calculated by first establishing a beginning release date which is the term of incarceration, as designated by the

commitment document, added to the reception date. This date is converted to the total days to be served. At least once a month thereafter, the days remaining to be served are updated based upon the number of credits earned or lost and the number of days served (57 O.S. 138(I)). When the days remaining to be served reaches zero, the inmate has completed the sentence.

Under the provisions of 57 O.S. Section 138(A), if the sentencing court imposes a maximum and minimum term of imprisonment, the deduction of time credits applies only to the maximum term.

A. Pre-sentencing Jail Time

The sentencing judge in Oklahoma has the discretion to decide whether to allow a defendant credit for time served in a county jail before sentencing. Holloway v. State, 182 P.3d 845, 2008 OK CR 14 and Luna-Gonzales v. State, 2019 OK CR 11. A deduction for time served in a county jail before sentencing is almost always ordered. Consequently, all inmates will receive a deduction from the term of incarceration equal to the number of days held by the county jail prior to sentencing unless the sentencing judge orders that an inmate not receive credit for jail time or credit for time served. If the Judgment and Sentence or other sentencing documents include a specific number of days as credit for time served, said number of days is to be calculated as pre-sentencing jail time.

1. Upon receipt of proper documentation, all inmates will be granted pre-sentencing jail time. Proper documentation means the Judgment and Sentence or other sentencing documents. If the Judgment and Sentence or sentencing document does not specify the amount of pre-sentencing jail time an inmate is to receive, then a statement from the sentencing county will be used to determine the amount of pre-sentencing jail time to be granted.
2. Statements from county jails used to determine jail time will be received directly from the court clerk or detaining agency in the county or counties where the inmate was detained and will be signed. Such statements are not acceptable if provided through other sources.
  - a. When more than one statement is received, the statements will be compared in order to determine if a pre-sentencing deduction has previously been applied.
  - b. Unless the Judgment and Sentence or other sentencing document dictate otherwise, when a single statement is received with reference to several case numbers of which one or more is consecutive, the pre-sentencing jail time will be applied to the case to be served first (57 O.S. 332.7.(H)). The records officer will note, in ink, on the statement from the county the case to which the pre-sentencing jail time has been applied.

- c. Unless the Judgment and Sentence or sentencing document dictate otherwise, when a statement is received with reference to more than one case number to be served concurrently, the pre-sentencing jail time will be applied according to the jail time served in each case.
- d. Unless the Judgment and Sentence or sentencing document dictate otherwise, when discrepancies exist between dates spent in a county jail and the total days reflected on the jail time statement from the county jail, the records officer will apply pre-sentence jail time deductions based upon the dates spent in a county jail, and the statement from the county jail will be noted to reflect this change.
- e. Unless the Judgment and Sentence or sentencing document dictate otherwise, time spent in jail on a writ prior to sentencing is not deducted because the inmate is being credited with time served and earned credits on his current sentence(s) while in jail on the writ. If a statement from the county reflects such time spent in jail, the records officer will disallow credit of such time and document the reason for exclusion of such credits on the statement from the county.
- f. Unless the Judgment and Sentence or sentencing document dictate otherwise, time spent on bond will not be credited as pre-sentence jail time. If a statement from the county reflects such time spent in jail, the records officer will disallow credit of such time and document the reason for exclusion of such credits on the statement from the county.
- g. When deducting jail time from a revoked suspended sentence which originally included time to serve in a county jail, it will be determined what portion of time served in jail was credited toward the county jail incarceration. This period will not be deducted from ODOC incarceration. Generally, the county jail incarceration immediately preceding and after the date on the original Judgment and Sentence will be considered as having satisfied the county jail sentence. Subsequent post-sentence jail time on that case number will be deducted from ODOC incarceration in accordance with Section II. item B. of this procedure.
- h. Pre-sentencing jail time served out-of-state on any Oklahoma warrant may be applied toward a specific Judgment and Sentence if incarceration in the Oklahoma Department of Corrections later occurs. However, unless the Judgment and Sentence or sentencing document dictates otherwise, out-of-state jail time is applicable only if the inmate was held by the

other jurisdiction solely on an Oklahoma warrant and not on charges brought by the foreign jurisdiction.

If the out-of-state jurisdiction arrests and holds the subject on their warrant, which is subsequently dropped or otherwise resolved, it will be determined on what date the inmate satisfied the interest of the foreign jurisdiction. Jail time to be applied to the Oklahoma Department of Corrections' sentence will commence on that date unless the Judgment and Sentence or sentencing document dictate otherwise.

3. Mental Health Facilities

Time spent in mental health facilities, as directed by the court, is treated the same as pre-sentencing jail time and must be properly documented. Proper documentation means the Judgment and Sentence. If the Judgment and Sentence does not specify the amount of time spent in a mental health facility to be credited, then a statement from the director of Classification and Population or designated record custodian of the mental health facility will be requested to certify in writing the amount of time spent in that facility.

4. Community Sentence

22 O.S. Section 988.19 provides that when a community sentence is revoked to state imprisonment, the court shall give a day-for-day credit for any term of incarceration actually served as community punishment.

5. Youthful Offenders Bridged to the Department of Corrections

10A O.S. Section 2-5-210 provides that when the sentence of a youthful offender is bridged to the custody of ODOC, the inmate will be given credit for all days spent in the custody or under the supervision of the Office of Juvenile Affairs.

B. Post-sentencing Jail Time

57 O.S. Section 138(G) provides that all inmates sentenced to the Oklahoma Department of Corrections to a term of incarceration are entitled to a deduction from the term of incarceration equal to the number of days held by the county beginning on the date of sentencing. Luna-Gonzales v. State, 2019 OK CR 11.

1. Proper documentation for determining post-sentence jail time shall be the jail time statement(s). Time spent in a county jail post-sentencing will be credited as time served, day-for-day. An inmate shall not receive any post-sentencing jail time for any period that the inmate was released from jail on an appeal bond or a court-ordered release as referenced in Section V. item B. of this procedure.

2. Post-sentencing jail time shall be awarded regardless of whether the inmate is transferred to another county jail prior to reception at an ODOC reception facility.
  - a. In the event an inmate is held in a county jail after being sentenced in more than one case and said sentences are to be served consecutively, the post-sentencing jail time shall only apply to the sentence to be served first.
3. Time spent in jail while on escape status will not be deducted in accordance with Section V. item A. of this procedure. If a statement from the county reflects such time spent in jail, the records officer will not deduct such time and document the reason for exclusion of such time on the statement from the county.
4. Deferred Reception Credits (DRC)

Effective September 1, 1993, inmates sentenced to imprisonment in ODOC, but detained in the county jail as a result of the agency's reception scheduling procedure, will be awarded earned credits at the rate of Class Level 2 beginning the date of sentencing through the date of reception (57 O.S. 138(G)). *Luna-Gonzales v. State*, 2019 OK CR 11. The amount of credit will be determined by multiplying the number of days by .73. The credit will normally be applied at reception and is referred to as deferred reception credit.

- a. The credit will not be awarded to any inmate convicted of a misdemeanor or felony offense committed in the jail while awaiting transportation (57 O.S. 138(G)). If subsequent to sentencing in Oklahoma the inmate has been in the custody of another jurisdiction, the credit will be awarded from the date the inmate is available to be delivered.
- b. A jail-time statement(s) shall be used to determine the number of days to be used in determining the amount of credit to be applied.
- c. Effective November 1, 2002, deferred reception credits will be calculated beginning the date of the Judgment and Sentence through the day prior to reception.

C. Earned Credit Class (5-ACI-7A-13)

Effective November 1, 1988, 57 O.S. Section 138, except as otherwise provided by law, provides that every inmate of a state correctional institution will have his term of imprisonment reduced monthly based upon the class level to which he is assigned. Each inmate will be assigned to one of four class levels. Class assignments are determined by the adjustment review committee/unit treatment team based upon the desired behavior of the

inmate in all areas of institutional life: work attendance and productivity, conduct record, program participation, cooperative general behavior, and appearance of self and living area.

Effective November 1, 2001, 57 O.S. 138(D)(2)(c), provides for two enhanced levels of credit for inmates who have never been convicted as an adult or a youthful inmate or adjudicated delinquent as a juvenile for any of the felony crimes listed on [Attachment O](#) (attached) (57 O.S. 138(E)). When an eligible inmate is placed on Level 3 they will receive 45 earned credits a month, and when placed on Level 4, 60 credits per month. Inmates who have ever been convicted of any of the crimes on [Attachment O](#) entitled "List of Ineligible Offenses" are not eligible for the enhanced credits. Eligibility is determined through review of ODOC's history, NCIC, OSBI, FBI, and JOLTS rap sheets, and will be documented on the "Eligibility For Enhanced Level 3 and 4 Credits" ([DOC 060211P](#), attached).

The class levels and their corresponding credits are as follows:

Class Level 1 – 0 credits per month

Class Level 2 – 22 credits per month

Class Level 3 – 33 credits per month

Class Level 4 – 44 credits per month

Enhanced Class Level 3 - 45 credits per month

Enhanced Class Level 4 - 60 credits per month

1. The assignment of an inmate to an earned credit class level is a classification and case management function in accordance with [OP- 060107](#) entitled "Systems of Incarceration."
2. At least once every four months, the adjustment review committee/unit treatment team will evaluate each inmate's class level status and overall performance to determine if the class level should change or remain the same (57 O.S. 138(F)). This evaluation will be documented by an "Earned Credit Class Report" ([DOC 060211L](#), attached) or "Adjustment Review" ([DOC 060203A](#)) reflecting the justification and effective date.
  - a. Should a change occur in an inmate's class level, the "Earned Credit Class Report" ([DOC 060211L](#)) will be submitted to the facility records officer who will enter the pertinent data into the computer. The records officer will then either place the document in the inmate's field file or forward it to the unit for inclusion in the field file.

- b. This does not preclude a facility from developing an alternative method of submitting class level assignments to the records officer, such as a list or roster.
  
3. Inmates transferring laterally or to lower security will normally remain at the same earning rate. From November 1, 1988, to November 1, 1990, lateral or lower security transfers resulted in automatic assignment to Class Level 2.
  
4. Effective November 1, 1988, to November 1, 1990, inmates transferred to house arrest or pre-parole conditional supervision were placed on Class Level 2.
  
5. Effective May 1, 1992, inmates assigned to pre-parole conditional supervision (PPCS), specialized supervision program (SSP), electronic monitoring program (EMP), or house arrest will be placed on Class Level 4 or the highest earned credit level for which they meet the time criteria.
  - a. Facility records officers will ensure assignment to the highest eligible class level upon transfer to one of these programs.
  - b. Probation and parole records officers will ensure inmates are promoted in level as they reach the time criteria.
  - c. Prior to November 1, 2014, any inmate assigned to one of these programs and subsequently placed in a city/county jail will automatically be assigned to Class Level 1.
  - d. Effective November 1, 2014, earned credit levels may be reduced to address non-compliant behavior.
  
6. Inmates assigned to the Global Positioning Satellite (GPS) program will be assigned to Class Level 4 or the highest earned credit level for which they are eligible. Earned credit levels may be reduced to address non-compliant behavior. The 120-day "Adjustment Review" is waived for inmates in the GPS program assigned to Class Level 4.
  
7. Any time an inmate completes a month without an earned credit class change, the corresponding credit will be applied. When changes do occur during the month, it becomes necessary to prorate the credits through each change and total the credits. The computerized inmate system prorates the credits on the following schedule:

**PRORATING CREDITS FOR 28, 29, 30, and 31 DAY MONTHS**

MONTH	28 DAY MONTH	29 DAY MONTH	30 DAY MONTH	31 DAY MONTH
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Class Level 1—Multiply Number of Days By—	0	0	0	0
Class Level 2—Multiply Number of Days By—	.79	.76	.73	.71
Class Level 3—Multiply Number of Days By—	1.18	1.14	1.10	1.06
Class Level 4—Multiply Number of Days By—	1.57	1.52	1.47	1.42
Enhanced Level 3- Multiply Number of Days By-	1.61	1.55	1.50	1.45
Enhanced Level 4-Multiply Number of Days By-	2.14	2.07	2.00	1.94
Ekstrand 5	1.00	1.00	1.00	1.00
Ekstrand 6	2.00	2.00	2.00	2.00
Ekstrand 7	3.00	3.00	3.00	3.00

When prorating credits with a calculator, and the calculation results in a fraction, round up if .51, down if .50. The computerized inmate system is programmed to do the same.

8. The following rates are used to establish a projected release date:

Class Level 2 – Multiply days remaining by .58

Class Level 3 – Multiply days remaining by .48

Class Level 4 – Multiply days remaining by .41

Enhanced Level 3-Multiply days remaining by .40

Enhanced Level 4-Multiply days remaining by .34

Ekstrand Level E5-Multiply days remaining by .50

Ekstrand Level E6-Multiply days remaining by .30

Ekstrand Level E7-Multiply days remaining by .25

Projected release dates are for the purpose of planning and are not to be used to affect the discharge or rebill of a sentence. The discharge date should be established through the calculation of the number of days served and credits earned in the last month of the sentence.

D. Conditions Where Credits Are Restricted or Not Awarded

1. Offenses in which the law requires an inmate serve a minimum portion of the sentence before being eligible for release.
  - a. Effective November 1, 1988, inmates convicted of Racketeering Activities under 22 O.S. Section 1401, the Oklahoma Corrupt Organizations Act, must serve one-half (1/2) of their sentence before becoming eligible for work release, house arrest, PPCS, parole, or release from confinement on any other basis. Sentencing under this act can be identified by a Judgment and Sentence utilizing the language "racketeering" of "racketeering activity."
  - b. Effective November 1, 2018, inmates convicted of Trafficking in Illegal Drugs under 63 O.S. Section 2-415 must serve fifty percent (50%) of their sentence of imprisonment and shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of sentence to less than 50% of the sentence imposed. For inmates convicted of Trafficking who committed the crime prior to November 1, 2018, see Section II.D.3.e.
  - c. Effective March 1, 2000, 21 O.S., Section 13.1 provided that inmates who are convicted of certain crimes must serve eighty-five percent (85%) of their sentence of imprisonment before becoming eligible for parole consideration and shall not be eligible for earned credits or any other type of credits which have the effect of reducing the length of the sentence to less than 85% of the sentence imposed. Therefore inmates serving a sentence for any of the crimes listed below committed on or after March 1, 2000 are eligible to earn credits during the first 85% percent of the sentence; however, said credits will not be applied towards the sentence until the inmate has served 85% of said sentence. The affected crimes are:

Abuse of a vulnerable adult who is a resident of a nursing facility, 43A O.S. Section 10-103 (eff. 3/8/2002).

Aggravated assault and battery upon any person defending another person from assault and battery (eff. 11/1/2011).

(Revision-01 dated 01/05/2021) Aggravated Trafficking 63 O.S. 2-415 (For crime committed prior to 11/1/2018, See Section II.D.2.e of this Operating Procedure) (eff. 11/1/2018)

pursuant to Laws 2018, SB 793, c. 130, § 2)  
Arson I, 21 O.S. § 1401 (eff. 3/1/2000)  
Assault and Battery with a Deadly Weapon, 21 O.S. § 652 (eff. 7/1/2001)  
Assault with Intent to Kill, 21 O.S. § 653 (eff. 7/1/2001)  
Bombing, 21 O.S. § 1767.1 (eff. 3/1/2000)  
Burglary I, 21 O.S. § 1436 (eff. 3/1/2000)  
Any crime against a child provided in 21 O.S. § 843.5 or 10 O.S. § 7115 (eff. 3/1/2000)  
Child Pornography, 21 O.S. §§ 1021.2, 1021.3, 1024.1, 1024.2 or 1040.12a (eff. 3/1/2000)  
Child Prostitution, 21 O.S. § 1030; (eff. 3/1/2000)  
Conjoint Robbery, 21 O.S. § 800 (eff. 7/1/2001)  
Forcible Sodomy, 21 O.S. § 888 (eff. 3/1/2000)  
Lewd Molestation of a Child, 21 O.S. § 1123 (eff. 3/1/2000)  
Manslaughter I, 21 O.S. § 711 (eff. 7/1/2001)  
Murder I, 21 O.S. § 701.7 (eff. 3/1/2000)  
Murder II, as defined in 21 O.S. § 701.8 (eff. 7/1/2001)  
Parental Consent to Child Pornography, 21 O.S. § 1021.3 (eff. 3/1/2001)  
Poisoning with Intent to Kill, 21 O.S. § 651 (eff. 7/1/2001)  
Rape I, 21 O.S. § 1111, 1114 or 1115 (eff. 3/1/2000)  
Rape by Instrumentation 21 O.S. 1111.1 (eff. 11/1/2017)  
Robbery I, 21 O.S. § 797 (eff. 7/1/2001)  
Robbery with a Dang. Weapon, 21 O.S. § 801 (eff. 3/1/2000)  
Shooting with Intent to Kill, 21 O.S. § 652 (eff. 7/1/2001)  
Use of a Vehicle to Facilitate Use of a Firearm, Crossbow or other Weapon, 21 O.S. § 652 (eff. 7/1/2001)

Inmates whose Judgment and Sentences reflect they have been convicted of an “attempt” to commit an 85% crime are not subject to the 85% restriction and are eligible to earn credits toward the service of their entire sentence. (Robertson v JCCC, HC-2005-768 (OCCA 2006); Day v State, F-2007-526 (OCCA 2008) unpublished However, this does not apply to the crimes of: Attempt to Kill, 21 O.S. § 652; and attempts to damage, injure, or kill with the Possession, Use, Manufacturing or Telephone Threat of Incendiary Device or Bomb, 21 O.S. § 1767.1, as these statutes describe crimes in which the term “attempt” is an element of the crime.

- d. Effective April 16, 1982, inmates sentenced in violation of 21 O.S. Section 801, serving at least their third separate and distinct felony conviction for 21 O.S. Section 801 Robbery or Attempted Robbery With a Dangerous Weapon or Imitation Firearm, will not be eligible for any sentence reduction credits for a period of ten years from reception, minus jail time.

Section 801 contains two paragraphs. The first paragraph describes the crime and its punishment; the second paragraph provides for an enhanced sentence with no earned credits for ten years. Unless the commitment document specifies sentencing under the enhancement provision of the statute, the sentence will fall under the first paragraph. To determine enhancement under Section 801, the commitment document will be reviewed for any of the following:

- (1) A statement indicating enhancement under 21 O.S. Section 801;
- (2) A statement that no earned credits are to be received for ten years; or
- (3) The term "After Former Conviction of Two or More Robbery Convictions" or similar language.

If, based on the inmate's prior record, it appears enhancement under 21 O.S. Section 801 should have applied but the commitment document is not clear, the sentencing county will be contacted for clarification.

- e. For those sentences which require a minimum portion of the sentence to be served before being eligible for release, a record of credits will be maintained in the same manner as a life sentence. Upon the inmate serving the minimum portion of the sentence required by law with jail time included, all credits earned and time served will be applied to the full sentence. If immediate discharge does not occur, credits and time served will be applied on a monthly basis from that point forward. The Consolidated Record Card for these sentences will have the following statements noted on the face and back: "Credits, work release, and parole restricted by law," and "Apply all time served and earned beginning (Date)." Upon occurrences of non-creditable time as found in Section V. of this procedure, the date will be adjusted accordingly.
2. Offenses in which the law requires an inmate serve a minimum portion of the sentence before being eligible to begin earning credits.
    - a. Pursuant to Title 63, Section 2-418 of the Oklahoma Statutes, effective May 19, 1989, inmates convicted of **distributing a controlled dangerous substance** within 1,000 feet of a public or private elementary or secondary school, public vocational school, or a public or private college or university must serve fifty percent (50%) of the sentence prior to

becoming eligible for state correctional institutional earned credits toward completion of said sentence. Inmates convicted a second or subsequent time of this offense must serve ninety percent (90%) of the sentences prior to becoming eligible for state correctional institutional earned credits toward completion of said sentence.

- b. Pursuant to Title 63, Section 2-401, effective September 1, 1992, inmates **convicted of distributing or possessing with intent to distribute a Controlled Dangerous Substance** within 1,000 feet of a public or private elementary or secondary school, public vocational school, public or private college or university or other institution of higher education, recreation center, public park, including state parks and recreation areas, housing project (added June 7, 1994), child care facility (added July 1, 2003) must serve fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institutional earned credits toward the completion of said sentence. Inmates convicted a second or subsequent time of this offense must serve ninety percent (90%) of the sentence prior to becoming eligible for state correctional institutional earned credits toward completion of said sentence.
- (1) This provision was amended, effective June 7, 1994, to include "transporting with intent to distribute or dispense" a controlled dangerous substance within 1,000 feet.
  - (2) This provision was amended, effective November 1, 1999, and the amendment changed the distance from 1,000 feet to 2,000 feet.
  - (3) This provision was amended, effective July 1, 2001, and the amendment was that for a second or subsequent conviction under this statute, the inmate must serve eighty-five percent (85%) (and no longer 90%) of the sentence prior to becoming eligible for state correctional institutional earned credits toward completion of said sentence and eligible for parole.
  - (4) This provision was amended, effective April 25, 2003, to include manufacture or attempt to manufacture a controlled dangerous substance within 2,000 feet.
  - (5) This provision was amended, effective November 1, 2018, and the amendment resulted in the removal from statute the percentages (50% for a first conviction and 85% for a second and subsequent conviction) of the

sentence imposed in which an inmate must serve before becoming eligible for state correctional institutional earned credits for convictions under this provision.

- c. Pursuant to Title 63, Section 2-402, effective September 1, 1992, inmates convicted of **possessing or purchasing a controlled dangerous substance** within 1,000 feet of a public or private elementary or secondary school, public vocational school, public or private college or university or other institution of higher education, recreation center, or public park, including state parks and recreation areas must serve fifty percent (50%) of the sentence received prior to becoming eligible for state correctional institutional earned credits toward the completion of said sentence. Inmates convicted a second or subsequent time under this statute must serve ninety percent (90%) of the sentence prior to becoming eligible for state correctional institutional earned credits toward completion of said sentence.
- (1) Effective June 7, 1993, 63 O.S. Section 2-402, was amended to include the Possession or Purchase of a Controlled Dangerous Substance in the Presence of any Child Under 12 Years of Age.
  - (2) This provision was amended, effective July 1, 2017, and the amendment resulted in the act of possessing or purchasing a controlled dangerous substance within 1,000 feet of a public or private elementary or secondary school, public vocational school, public or private college or university or other institution of higher education, recreation center, or public park to no longer being a crime distinct from possession or purchasing a controlled dangerous substance, which is now a misdemeanor.
- d. Pursuant to Title 63, Section 2-401, effective July 1, 2001, inmates convicted of the crime of **Aggravated Manufacture of CDS** must serve eighty-five percent (85%) of the sentence received prior to becoming eligible for state correctional earned credits toward completion of the sentence or eligible for parole.
- e. Pursuant to Title 63, Section 2-415, effective November 1, 2007, inmates convicted of **Aggravated Trafficking** shall serve eighty-five percent (85%) of the sentence before being eligible for parole consideration or any earned credits.

- (1) (Revision-01 dated 01/05/2021) Effective November 1, 2018, 63 O.S. Section 2-415 was amended, causing sentences for Aggravated Trafficking to be calculated as an eighty-five percent (85%) as provided for in Section II.D.1.e of this Operating Procedure.
  - f. Pursuant to Title 21, Section 748, effective November 1, 2014, inmates convicted of **Human Trafficking** shall serve eighty-five percent (85%) of the sentence before being eligible for parole consideration or any earned credits. Effective November 1, 2014, inmates convicted of Human Trafficking are not eligible for earned credits for the duration of the sentence. Achievement credits may be awarded after the inmate has served eighty-five percent (85%) of the sentence if the inmate is in compliance with the statutory standards for Class Level 2.
  - g. For those sentences which the law requires an inmate serve a minimum portion of the sentence before being eligible to begin earning credits, a record of credits will be maintained in the same manner as a life sentence. The Consolidated Record Card for these convictions should have the following statements noted on the face and back: "Earned credits restricted by (statute); and "Eligible to earn credits beginning (Date)." Emergency time credit eligibility is not affected, and meritorious credit may be awarded. Upon occurrences of non-creditable time as found in Section V. of this procedure, the date of eligibility to earn credits will be adjusted accordingly.
3. Inmates will not receive credits under the following conditions:
- a. While under sentence of death.
  - b. While serving a sentence of life imprisonment (57 O.S. 138(A)).
    - (1) A record of earned credits will be maintained for record keeping purposes. Should the sentence be commuted to a specified number of years by the Governor or modified to a specified number of years by a court, the recorded credit will be applied.
    - (2) A complete record of the inmate's participation in work, school, vocational training, or other approved program shall be maintained by the agency for consideration by the paroling authority.
    - (3) Beginning November 1, 1987, the Governor has the discretion to revoke all or part of a parole. In those

instances where only a portion of a life sentence is revoked, the entire portion will be served day for day, minus jail time.

- (4) When an inmate is sentenced to life suspended except for a term of incarceration (split life sentence), the term of incarceration shall not be subject to this subsection; however, if a life suspended sentence is revoked in full, then the life incarceration shall be subject to this subsection.
- c. Inmates on escape status will receive no earned credits until returned to custody and reclassified by the unit treatment team/facility classification committee and assigned to an earned credit class level;
  - d. When incarcerated under the delayed sentencing statute prior to sentencing;
  - e. Effective November 1, 1989, inmate sentenced under the 1989 amendment to 63 O.S. Section 2-415, Trafficking in Illegal Drugs Act or 63 O.S. Section 2-408 Endeavoring and Conspiracy to Traffic in Illegal Drugs, will not be eligible for earned credits for the duration of their sentences. Achievement credits may be awarded if the inmate is in compliance with the statutory standards for Class Level 2. Emergency time credit eligibility is not affected. Deferred reception credits may be awarded. Sentencing under this act is normally indicated by use of the word "trafficking" in the offense title of the Judgment and Sentence. The Consolidated Record Card ([DOC 060211H](#), attached) for this conviction should have the following statement noted on the top of the face and back: "Not eligible for class level credits per 63 O.S. Section 2-415";
    - (1) (Revision-01 dated 01/05/2021) Effective November 1, 2018, 63 O.S. Section 2-415 was amended causing the earned credit restriction for the duration of the sentence to be removed from statute and the limitation of being in compliance with the statutory standards for Class Level 2 to earn achievement credits to be removed from statute. The November 1, 2018 amendment also caused sentences for Trafficking to be calculated as fifty percent (50%) sentences as provided for in Section II.D.1.e. of this Operating Procedure.
  - f. Pending revocation of parole by the Governor per 57 O.S. Section 516(A); or

- g. Effective November 1, 2004, 57 O.S. Section 138(A), provides that no earned credit deductions shall be credited or recorded for any inmate serving any sentence for a criminal act which resulted in the death of a police officer, a law enforcement officer, an employee of ODOC, or an employee of a private prison contractor and the death occurred while the police officer, law enforcement officer, employee of ODOC, or employee of a private prison contractor was acting within the scope of their employment.

The Consolidated Record Card for such a conviction will have the following statement noted on the face and back: "Not eligible for sentence reduction credits per 57 O.S. Section 138(A)."

- h. 22 O.S. 991b, provides an intermediate sanction process for probationers who commit technical violations of their supervision. Effective November 1, 2012, such inmates may be sanctioned with a term of confinement of six (6) months in ODOC. 57 O.S. 138(A) provides that no earned credit deductions will be credited or recorded for an inmate serving an intermediate revocation sanction. Jail time served pursuant to the warrant and imposition of the intermediate revocation sanction will normally be applied toward the sanction term.
4. Inmates are restricted in their ability to earn credits under the following conditions:
- a. Inmates serving concurrent Oklahoma sentences or parole revocations in the physical custody of other states or the Federal Bureau of Prisons will not receive credit awards earned in such custody. Only time served beginning the date the concurrent Oklahoma case was rendered or revoked will be credited.

Inmates serving their Oklahoma sentences in other states, or the Federal Bureau of Prisons under the provisions of the Interstate Corrections Compact, will receive earned credit awards in accordance with [OP-060206](#) entitled "Corrections Compact Transfers."

#### E. Achievement Credits

Effective November 1, 1988, "additional achievement earned credits" will be awarded for successful completion of agency approved programs or for attaining goals or standards set by the agency (57 O.S. 138(H)). For a list

of approved programs, refer to [OP-090101](#) entitled “Standards for Inmate Programs.”

1. Achievement credits for programs will be approved in accordance with [OP-090101](#) entitled “Standards for Inmate Programs.” Achievement credits are subject to loss and restoration in the same manner as earned credits. Prior to July 1, 2001, no inmate could receive more than 90 achievement credits per calendar year. Effective July 1, 2001, 57 O.S. Section 138 was amended by eliminating the limit of 90 achievement credits per year.
2. Achievement credits will be awarded regardless of the inmate’s class level designation except for those crimes restricted by statute. The awarding of achievement credits will be documented by a memorandum from the inmate’s case manager/officer to the records officer detailing the program, completion date, and number of credits due; by the completion of an “Intra-Facility Assignment Form” ([DOC 060203B](#)) with the same information; or by a copy of the respective program’s completion certificate noting how many credits are to be awarded. Probation and parole regions may document achievement credits for inmates under their supervision by utilizing a special report.
3. Achievement credits will normally be awarded at the facility/Probation and Parole region where the credit is earned. The inmate’s supervising case manager/officer will ensure the affected records officer is provided with documentation prior to transfer to another facility/Probation and Parole region.
4. Except for achievement credits awarded for the continued good conduct program and the reentry program (formally work release program), achievement credits will not be awarded more than one time for subsequent completions of the same program during the same period of incarceration.
5. The goal and expected standard of the agency is that inmates demonstrate and maintain good conduct.

Upon documentation by the case manager, good conduct achievement credits will be granted to inmates meeting the following conditions:

- a. Effective September 1, 2009 through June 30, 2014, beginning upon reception, all eligible inmates, to include those currently incarcerated, will be awarded 30 achievement credits for every four months of continued good conduct.

Good conduct is defined as no misconduct convictions or pending misconduct.

- b. Effective September 1, 2009 through June 30, 2014, good conduct achievement credits will not be awarded to inmates serving a conviction during the current incarceration who have committed or attempted to commit:

- (1) Any sex offense in accordance with [OP-020307](#) entitled "Sex and Violent Crime Offender Registration;"
- (2) Any offense involving a child in accordance with [OP-060104](#), [Attachment A](#) entitled "Crimes Against Children;" or
- (3) Any of the following violent offenses:

Abuse of a Vulnerable Adult (who is a resident of a nursing facility)

Arson I

Assault with Intent to Kill

Bombs and Explosives Violations

Burglary I

Child Abuse

Child Pornography

Child Prostitution

Conjoint Robbery

Forcible Sodomy

Lewd Molestation of a Child

Manslaughter I

Murder I

Murder II

Parental Consent to Child Pornography

Poisoning with Intent to Kill

Rape I

Robbery I

Robbery with a Dangerous Weapon

Shooting with Intent to Kill, Assault and Battery with Deadly Weapon, Use of a Vehicle to Facilitate Use of a Firearm, Crossbow or other Weapon

- c. (Revision-01 dated 01/05/2021) Effective July 1, 2014 through October 31, 2020, beginning upon reception, all eligible inmates to include those currently incarcerated, will be awarded 15 achievement credits every month of continued good conduct. Good conduct is defined as no misconduct convictions.

- d. Good conduct achievement credits will not be awarded to inmates who are serving a sentence for a crime that the law requires the inmate to serve a minimum amount of the sentence before being eligible to receive achievement credits; however, when the law permits an inmate to begin receiving achievement credits, the inmate shall begin receiving achievement credits for continued good conduct pursuant to this subsection.
  - e. Inmates returned from escape status shall begin accruing good conduct on the date of the escape misconduct hearing, if found guilty, or if no misconduct is issued, the date the inmate is returned to ODOC custody.
  - f. The “Intra-Facility Assignment Form” ([DOC 060203B](#)) is not required for continued good conduct achievement credits.
  - g. (Revision-01 dated 01/05/2021) Effective November 1, 2020 the awarding of good conduct achievement credits was ended and are no longer awarded.
6. (Revision-01 dated 01/05/2021) Effective January 1, 2016 through October 31, 2020, inmates placed in the reentry programs identified in [Attachment U](#) entitled “Reentry Programs” (attached), will be awarded 30 achievement credits for every calendar month in the reentry program. The reentry achievement credits will only be awarded on the first of every month.
- a. Inmates who escape from a reentry program (GPS, CSP, EMP, PPCS) upon notification of apprehension as described in Section V. Paragraph A Escape, will continue to be awarded 30 reentry achievement credits while awaiting transfer to higher security from the county jail, TDU or another jurisdiction’s county jail. If out of state apprehension results in incarceration in another jurisdiction, reentry achievement credits will discontinue to be awarded as of the date of sentencing in the other jurisdiction.
  - b. (Revision-01 dated 01/05/2021) Effective November 1, 2020 the awarding of 30 achievement credits for inmates placed in reentry programs in accordance with this subsection is ended and no longer awarded.
- F. Earned Credits—September 8, 1976, to October 31, 1988

Effective September 8, 1976, each inmate involved in a qualifying activity will be granted deductions from his/her sentence for each day of

participation. For the purpose of awarding earned credits, a day of participation will be considered as satisfactory participation in the qualifying activity to which the inmate is assigned as verified and documented by the "Monthly Inmate Evaluation and Time Credit Report" ([DOC 060211M](#), attached). No fractions of a day's credit will be submitted or recorded. Inmates who do not actually participate for any part of the day in a qualifying activity will not receive earned credits.

### 1. Qualifying Activities

Each inmate assigned as described below will be granted earned credits as defined by this procedure.

- a. Work: A job assignment in accordance with facility procedure including work release, house arrest, and the prisoner public works programs.
- b. Program: Assignment to, and satisfactory participation in, a recommended program.

### 2. Standards for Satisfactory Performance

- a. All earned credit is contingent upon satisfactory performance in work or a program during the day for which credit is awarded. Because an inmate shows up for work or works for a specific period of time does not ensure that credit be awarded.
- b. There is no specific amount of time which constitutes satisfactory performance. The inmate is expected to arrive at and depart from the job or program assignment as instructed.
- c. The inmate may receive earned credit even if absent for part of the day as long as the absence is legitimate and work was performed for at least part of the day.
- d. If the inmate does properly report for work, satisfactory performance is at the discretion of the supervisor. The supervisor will establish minimum standards of acceptability for quality or quantity. The supervisor will establish rules of conduct and performance. The standards, rules, and expectations should be specified in writing and reviewed by the inmate. At a minimum, the inmate will be verbally informed.

### 3. Non-qualifying Activities

Inmates are not entitled to earned credits in the following situations:

- a. Visits or passes;
- b. Recreational activities;
- c. Assignment to facility orientation;
- d. Self-improvement programs (other than assigned vocational or educational) and orientation programs; or
- e. Absences resulting from illness or injury (sick call status). However, the inmate may be eligible for administrative good time as described later in this procedure.

4. Conditions Where Earned Credits Are Not Awarded

Inmates will not receive earned credits under the following conditions:

- a. While under sentence of death;
- b. Removed from a work or program assignment due to nonperformance until assigned to another job or program by the unit treatment team/facility classification committee;
- c. While assigned to disciplinary segregation status, the first and last days on disciplinary status will be counted as time served under that status;
- d. While assigned to administrative segregation;
- e. While under a life sentence a record of earned credits will be maintained for record keeping purposes. Should the sentence be commuted to a specified number of years by the Governor or modified to a specified number of years by an appellate court, the recorded credit will be applied;
- f. While housed under protective custody, unless they are engaged in a qualifying activity;
- g. While assigned to medical lay in status. Inmates may be eligible for administrative good time credits as described later in this procedure;
- h. While out to court;

- i. While out to law libraries; and
- j. State approved holidays, unless work is actually performed.

5. Earned Credit Rates

- a. Effective September 8, 1976, every inmate of a state correctional facility who satisfactorily engages in work or attends school, as approved or provided by the agency, will have one day deducted from his/her sentence for each day they engage in any such activity.
- b. Effective November 1, 1984, inmates who satisfactorily participate in work for Oklahoma Correctional Industries (OCI), private prison industries, agricultural production, or as a student in a vocational training program approved or provided by ODOC will be granted two days deduction from their sentences for each day of documented participation. Primary assignment to any of these programs will be required before two-for-one credits may be granted. Extracurricular activities in any of these areas will not qualify.
- c. Effective April 7, 1980, inmates assigned to a county or municipality for work projects will be awarded three earned credits for each day of documented participation. Effective October 1, 1981, this credit was also granted to inmates assigned to state agencies other than ODOC for work projects.
- d. From July 30, 1980, through July 11, 1984, inmates who were available for transportation to ODOC and were detained in the county jail as a result of the reception scheduling procedure were awarded earned credits at the rate of one credit for each week day spent in such status beginning with the date of the Judgment and Sentence through the day prior to reception. These credits were referred to as deferred earned credits.
- e. Effective December 1, 1986, until October 31, 1988, inmates assigned to house arrest and PPCS will receive credit at the rate of five days per week. The facility head will ensure that, prior to transfer to house arrest, the inmate receives a projected release date based upon a five for seven earned credit rate. The transferring facility will establish the days remaining to serve as of the date of transfer. The figure will be multiplied by .58 to establish the number of days remaining which would actually be observed at the rate of five for seven. Once established, this date will not be revised unless the

inmate receives emergency time credit, loses credit through the disciplinary process, is granted restoration of credit, or it can be established that the original date was incorrect. When such a revision is necessary, it is the responsibility of the probation and parole region to establish the revised release date.

6. Ekstrand Ruling/Pre-November 1, 1988, Earned Credit

On April 4, 1990, the Oklahoma Court of Criminal Appeals ruled in Ekstrand v. State, 791 P.2d 92, 1990 OK CR 21, that the November 1, 1988, amendment to 57 O.S. Sections 138 and 224 was an ex post facto law. In the ruling, the court held that “petitioner, and other similarly situated inmates who are disadvantaged by the amended statute, will be entitled to the credits allotted under the statute effective on the date their crime was committed.” An inmate is entitled to earned credit as it existed under the law during the period beginning September 8, 1976, and ending October 31, 1988, on sentences in which the crime was committed prior to November 1, 1988. An inmate must be disadvantaged by the 1988 amendment. If an inmate would earn more credit under the old earned system than under the class level system, the inmate is entitled to credit under the pre-November 1, 1988, system.

- a. The pre-November 1, 1988, credit rates, their computer code designations, and work/program assignments are:

Credit Rate	Code	Work/Program Assignment
1 for 1	E5	All other assignments, such as food service, maintenance, education, etc.
2 for 1	E6	Oklahoma State Industries, private prison industries, agricultural production, vo-tech training
3 for 1	E7	Prisoner public works

- b. Prior to August 1, 1993, the pre-November 1, 1988 credit was applied to an inmate’s sentence only when application would result in immediate discharge. Beginning August 1, 1993, the pre November 1, 1988, credit is applied to eligible inmates as it is earned. Unit/case management staff will continue to assign all inmates to one of four class levels in accordance with [OP-060107](#) entitled “Systems of Incarceration.”

Documentation of work/program assignment and changes in work/program status will be forwarded to the records office. Upon receipt of work/program assignment documentation, the records officer will determine if an eligible inmate should be placed on a pre-November 1, 1988, credit rate or left on their class level. The inmate(s) should be given the credit most advantageous to them.

- c. The credit rates will be calculated in the same manner as class levels. In other words, credit will be granted for each day the inmate is assigned to the credit rate.
- d. Class level changes are to be posted to the CRC even when they will not affect time calculation. For example, if an inmate on a public works job (E7) is promoted from class level 3 to class level 4, the comment on the card would be "level 4/E7, (Date)."

The purpose is twofold:

- (1) All eligible inmates are required by law to be assigned to a class level; and
- (2) If the inmate were to lose the public works job, it would not be necessary to go to the file to determine the current class level.

The "Level/Rate" comment will indicate that although a level change occurred, the time is being calculated by the rate. There are to be no variations of this comment.

- e. On concurrent (cc) cases of both Ekstrand eligible and non-eligible sentences, it is not necessary to always maintain separate CRC's. If the granting of Ekstrand credits to a concurrent case will not affect the overall length of incarceration, it is not necessary to maintain separate cards.
- f. The retroactive granting of Ekstrand credit through July 31, 1993, can be lost through misconduct once they are posted. The granting of the credits does not change the amount of credit lost on prior misconducts.
- g. On the date of transfer, an inmate receiving an Ekstrand rate will be placed on their assigned class level.

G. Administrative Good Time

Beginning July 11, 1984 until October 31, 1988, inmates designated by ODOC as being physically or mentally disabled for work are eligible for administrative good time credit awards of up to 260 days per year, under the following conditions:

1. Will be designated as physically or mentally disabled for work by the appropriate medical authority.
2. Inmates receiving good time credits are not eligible for earned credit awards. Good time credits will not commence until an inmate has missed five consecutive days of work due to becoming physically or mentally disabled. Credits will be applied beginning the sixth day of approved status.
3. Good time credits will be documented, posted, applied, and subject to loss in the same manner as earned credits. Procedures prior to September 1, 1985, dictated that this credit could not be taken as a disciplinary measure. Beginning September 1, 1985, this credit may be taken, regardless of when it was credited.
4. Good time credits will be counted as weekdays only with an earning rate of five days for every seven days served. Administrative good time will not be granted for state observed holidays.
5. Inmates assigned to administrative or disciplinary segregation will not be eligible for the awarding of administrative good time credits.

H. Meritorious Earned Credits

Effective October 19, 1981, inmates confined in state correctional facilities, or facilities under contract with the Oklahoma Department of Corrections, may be entitled to a deduction up to 100 credits for each meritorious act performed.

1. The following acts warrant meritorious credit consideration:
  - a. Rendering aid to another to prevent loss of life or injury or actions which alert or prevent a breach of security which could threaten the safety of the public, the employees, or the inmates; or
  - b. Actions which prevent or minimize property loss which would pose a risk to the public, the employees, or the inmates.

2. The facility/Probation and Parole region or private prison head will review all reports received and will forward those warranting meritorious credit consideration to the appropriate regional director no later than 60 days after the act. Reports will include work supervisor or witnessing staff's report and facility/deputy director's recommendation.
3. The following are maximum credit amounts to be awarded for each approved meritorious act:

ACT	MERITORIOUS CREDIT
Matters of life, safety, or security	100
Property preservation	75

I. Emergency Time Credit

This credit was mandated per 57 O.S. Section 570, the "Oklahoma Prison Overcrowding Emergency Powers Act," and was in effect from April 4, 1984 until its repeal effective July 1, 2001. Upon declaration by the Governor that a state of emergency exists within the penal system, the director of the Oklahoma Department of Corrections authorized each facility to grant 60 days emergency time credit to all eligible inmates. An emergency existed whenever the inmate population exceeded 95 percent of the Board of Corrections' rated capacity. Once an emergency was declared, the director of ODOC was authorized to grant the credit every 60 days for as long as the emergency existed. Eligibility for emergency time credits is determined by the following criteria.

1. Currently classified as medium security or lower in accordance with the agency's approved classification system.  
  
Any inmate assigned to the Lexington Assessment and Reception Center, Oklahoma State Penitentiary, or Mabel Bassett Correctional Center classified medium security or lower and awaiting transportation to lower security was eligible for the credit. Any inmate at the Oklahoma State Penitentiary in medium or lower security programs or units, or on the Talawanda Heights Unit was also eligible for the credit. Inmates on escape status are considered as maximum security until apprehended and reclassified.
2. Incarcerated for nonviolent offense. A nonviolent offense for the purpose of determining emergency time credits is defined as any offense not included in the following listing:

- a. Assault, Battery, or Assault and Battery With a Dangerous Weapon
- b. Aggravated Assault and Battery on a Police Officer, Sheriff, Highway Patrolman, or Any Other Officer of the Law
- c. Poisoning With Intent to Kill
- d. Shooting With Intent to Kill
- e. Assault With Intent to Kill
- f. Assault With Intent to Commit a Felony
- g. Assaults While Masked or Disguised
- h. Murder in the First Degree
- i. Murder in the Second Degree
- j. Manslaughter, First Degree
- k. Manslaughter, Second Degree
- l. Kidnapping
- m. Burglary in the First Degree
- n. Burglary With Explosives
- o. Kidnapping for Extortion
- p. Maiming
- q. Robbery
- r. Robbery in the First Degree
- s. Robbery in the Second Degree
- t. Armed Robbery
- u. Robbery by Two or More Persons
- v. Robbery With Dangerous Weapon or Imitation Firearm
- w. Child Beating
- x. Wiring Any Equipment, Vehicle, or Structure With Explosives;
- y. Forcible Sodomy
- z. Rape in the First Degree
- aa. Rape in the Second Degree

- bb. Rape by Instrumentation
  - cc. Lewd or Indecent Proposition or Lewd or Indecent Act With a Child
  - dd. Use of a Firearm or Offensive Weapon to Commit or Attempt to Commit a Felony
  - ee. Pointing Firearms
  - ff. Rioting
  - gg. Inciting to Riot
  - hh. Arson in the First Degree
  - ii. Injuring or Burning Public Buildings
  - jj. Sabotage
  - kk. Criminal Syndicalism
  - ll. Extortion
  - mm. Obtaining Signature by Extortion
  - nn. Seizure of a Bus, Discharging Firearm, or Hurling Missile at Bus
  - oo. Mistreatment of Mental Patient
  - pp. Any Attempts, Conspiracy, or Solicitation of any of the above referenced offenses.
3. Not incarcerated for a second or subsequent offense (21 O.S. Section 51 or 52. Such enhancements are generally identified by one of the following terms found subsequent to the cited offense on the face of the Judgment and Sentence):
- a. AFCF (After Former Conviction of a Felony)
  - b. Second Offense
  - c. Subsequent Offense
  - d. Second or Subsequent Offense
  - e. Second and Subsequent Offense
  - f. After Two or More Felony Convictions

Some counties use Judgment and Sentences with a statement about

enhancement that can be checked, marked, or noted to indicate the sentence has been enhanced.

4. Enhancement terminology used as a description for the offense rather than to identify an offense enhanced under provisions of 21 O.S. Section 51 or 52, will not prohibit application of emergency time credits. Examples would be offenses which would have been a misdemeanor were it not for previous convictions. The most notable such offense is Carrying a Firearm After Conviction of a Felony, found in 21 O.S. Section 1283. However, such crimes once filed as felonies may be enhanced under 21 O.S. Section 51 or 52 and thus become ineligible for emergency time credits.
5. Inmates incarcerated under Petit Larceny or Larceny of Merchandise offenses with enhancement terminologies AFCE, After Two or More Felony Convictions, or After Former Conviction of a Felony are not eligible to receive emergency time credits as these terminologies reflect enhancement under provisions of 21 O.S. Section 51 or 52. If incarcerated under Petit Larceny or Larceny of Merchandise offenses with other enhancement terminologies, the enhancement provision must be determined. If enhancement is determined to be under the provisions of 21 O.S. Section 1731, the inmate is eligible to receive emergency time credits. If enhancement is under the provisions of 21 O.S. Section 51 or 52, the inmate is not eligible to receive emergency time credits.
6. Inmates incarcerated for any drug offense with an enhancement provision indicated on the Judgment and Sentence document will have their offense researched to determine under what statute they were enhanced. All drug offenses are located in Title 63. Drug offenses may be enhanced under the provisions of either Title 63 or Title 21.
  - a. To determine the enhancement, it is necessary to obtain a copy of "page two" of the felony information sheet from the court clerk of the sentencing county.
  - b. If page two only references drug offenses, then enhancement is under the provisions of Title 63, and the offense is eligible to receive emergency time credits.
  - c. If both drug offenses and non-drug offenses are listed, the courts may choose to enhance under either Title 21 or Title 63. However, if non-drug felony offenses are listed and "page two" has not specified an enhancement, the enhancement is per Title 21, and the offense is not eligible for emergency time credits. If the terminology used to describe the enhancement is "Title of Drug Offense," After Former Conviction, "Title of

Drug Offense,” the offense has been enhanced under Title 63 and no research is necessary.

- d. For the drug offenses where research is necessary, no emergency time credit will be granted or removed until a copy of page two of the felony information sheet has been obtained.
7. Inmates sentenced under 47 O.S. Section 11-902, also known as the Drunken Driving Act, are exempt from enhancement under 21 O.S. Section 51 and are eligible to receive emergency time credits even if their sentences include AFCF or other enhancement terminology.
8. The first facility to receive the inmate from an assessment and reception center will identify emergency time credit eligibility. Inmates with a current sentence eligible under the criteria listed in this section will be identified by the addition of the letter “C” immediately following their departmental register number on the Consolidated Record Card (CRC). If an inmate receives a staggered concurrent sentence or modification of any sentences currently being served, the facility having custody of the inmate’s record will review eligibility and add or delete the letter “C” as necessary.
9. Emergency time credits will be applied to any active sentence(s) rendered by Oklahoma judicial districts as follows:
  - a. If the emergency time credit eligible sentence is greater in length than the ineligible sentence, then separate CRC’s must be maintained.
  - b. Separate CRC’s will not be maintained if the emergency time credit eligible sentence is equal to or less than in length to the ineligible sentence.
  - c. Active suspended sentences or paroles are not eligible for emergency time credits.
10. Effective July 1, 1989, 57 O.S. Section 574.1 provides for a mandatory parole review by the Pardon and Parole Board of all emergency time credit eligible inmates. Any inmate who is denied by the board at this review, waives consideration of this review, or is withdrawn under board administrative policy will not be eligible for further emergency time credits. Denial by the Governor does not affect eligibility.

Effective May 27, 1993, only a waiver of the mandatory parole review terminates emergency time credit eligibility. After this date, an inmate who is denied by the board, or is withdrawn under board policy, will

remain eligible for emergency time credits. Inmates who lost their eligibility as a result of a board denial or withdrawal, again become eligible for emergency time credits effective May 27, 1993.

11. The July 1, 1989, amendment to 57 O.S. Section 574 provided that no inmate receive more than 360 days of emergency time credit during a year.
12. The Tenth Circuit Court of Appeals, Arnold v. Cody, 951 F.2d 280 (10<sup>th</sup> Cir. 1991), ruled that the July 1, 1989, Amendments to 57 O.S. Section 574 and Section 574.1 did not apply to inmates whose crimes were committed prior to July 1, 1989. As a result, eligible inmates receive 120 emergency time credits every 60 days, and eligibility is not affected by mandatory parole review recommendations. To denote eligibility, "Double CAP" will be indicated on top of the front and back of the CRC, and the computerized inmate record system will be flagged.
13. If application of emergency time credits results in discharge, only the credits necessary to discharge will be granted. If application results in discharge and rebill, any remaining credits will not be credited to the rebill case.
14. Arson in the Fourth Degree, 21 O.S. Section 1404, is defined as an attempt to commit Arson in the First, Second, or Third Degree. In order to determine emergency time credit eligibility, it is necessary to research convictions of Arson in the Fourth Degree to determine which degree of Arson the attempt was made. An attempt to commit Arson in the First Degree is a violent crime not eligible for emergency time credits.

J. Statutory Good Conduct Credits—Credits Prior to September 8, 1976

1. Inmates who were sentenced for offenses committed prior to September 8, 1976, will be awarded statutory good conduct credits in accordance with the following schedule:

<u>Length</u>	<u>Amount</u>
1-2 years	2 months per year
3-4 years	4 months per year
5 years or more	5 months per year

2. Prior to June 1, 1967, statutory good conduct credits included an additional one month credit known as "expiration credits." Inmates received prior to this date will be allowed the application of statutory

good conduct credits to include this additional amount under the following chart:

**GOOD CONDUCT CREDITS—Prior to June 1967**

<u>SENTENCE</u>	<u>YEAR</u>	<u>MONTH</u>	<u>DAY</u>
1 Month	00	00	05
3 Months	00	00	15
6 Months	00	01	00
1 Year	00	03	00
1 ½ Years	00	04	00
2 Years	00	05	00
2 ½ Years	00	07	00
3 Years	00	09	00
3 ½ Years	00	11	00
4 Years	01	01	00
4 ½ Years	01	03	15
5 Years	01	06	00
6 Years	01	11	00
7 Years	02	04	00
8 Years	02	09	00
9 Years	03	02	00
10 Years	03	07	00
11 Years	04	04	00
12 Years	04	05	00
13 Years	04	10	00
14 Years	05	03	00
15 Years	05	08	00
16 Years	06	01	00
17 Years	06	06	00
18 Years	06	11	00
19 Years	07	04	00
20 Years	07	09	00
25 Years	09	10	00
30 Years	11	11	00
40 Years	16	01	00
50 Years	20	03	00
60 Years	24	05	00
99 Years	40	08	00

3. An opinion issued by the Office of the Attorney General instructed the agency to apply statutory good conduct credits in accordance

with the statute. Therefore, inmates received from June 2, 1967, until September 8, 1976, will be awarded statutory good conduct credits as follows:

**GOOD CONDUCT CREDITS from June 2, 1967  
through September 8, 1976**

<u>SENTENCE</u>	<u>YEAR</u>	<u>MONTH</u>	<u>DAY</u>
1 Month	00	00	05
3 Months	00	00	15
6 Months	00	01	00
1 Year	00	02	00
1 ½ Years	00	03	00
2 Years	00	04	00
2 ½ Years	00	06	00
3 Years	00	08	00
3 ½ Years	00	10	00
4 Years	01	00	00
4 ½ Years	01	02	15
5 Years	01	05	00
6 Years	01	10	00
7 Years	02	03	00
8 Years	02	08	00
9 Years	03	01	00
10 Years	03	06	00
11 Years	03	11	00
12 Years	04	04	00
13 Years	04	09	00
14 Years	05	02	00
15 Years	05	07	00
16 Years	06	00	00
17 Years	06	05	00
18 Years	06	10	00
19 Years	07	03	00
20 Years	07	08	00
25 Years	09	09	00
30 Years	11	10	00
40 Years	16	00	00
50 Years	20	02	00
60 Years	24	04	00
99 Years	40	07	00

4. Either a deferred or suspended sentence pertaining to an offense which occurred prior to September 8, 1976, and subsequently accelerated or revoked will have statutory good conduct credits applied.
5. When the date of offense of one case is prior to September 8, 1976, and the date of offense in a concurrent case has occurred after September 8, 1976, statutory good conduct credits will be applied only to the sentence for the offense which occurred prior to September 8, 1976. This may result in separate release dates.

K. Statutory Work Credits—Prior to September 8, 1976

The laws which provided for statutory good conduct credits also included a provision for the deduction of statutory work credits at a rate of two days for every six days of work performed. Credits were awarded for the total length of sentence only if the entire sentence was served before September 8, 1976, as follows:

**Statutory Work Time 1967-1976 Total Sentence Length Only**

**GOOD CONDUCT CREDITS**

<u>SENTENCE</u>	<u>YEAR</u>	<u>MONTH</u>	<u>DAY</u>
1 Month	00	00	05
3 Months	00	00	14
6 Months	00	00	29
1 Year	00	01	27
1 ½ Years	00	02	25
2 Years	00	03	23
2 ½ Years	00	04	16
3 Years	00	05	09
3 ½ Years	00	06	02
4 Years	00	06	25
4 ½ Years	00	07	15
5 Years	00	08	05
6 Years	00	09	14
7 Years	00	10	24
8 Years	01	00	03
9 Years	01	01	12
10 Years	01	02	22
11 Years	01	04	02
12 Years	01	05	12
13 Years	01	06	22
14 Years	01	08	02

**Statutory Work Time 1967-1976 Total Sentence Length Only**

**GOOD CONDUCT CREDITS**

<u>SENTENCE</u>	<u>YEAR</u>	<u>MONTH</u>	<u>DAY</u>
15 Years	01	09	12
16 Years	01	10	22
17 Years	02	00	02
18 Years	02	01	12
19 Years	02	02	22
20 Years	02	04	02
21 Years	02	05	12
22 Years	02	06	22
23 Years	02	08	02
24 Years	02	09	12
25 Years	02	10	22
30 Years	03	05	12
35 Years	04	00	02
40 Years	04	06	22
45 Years	05	01	00
50 Years	05	08	02
60 Years	06	09	12
75 Years	08	07	00
99 Years	11	00	19

1. If the application of statutory work credits as provided in the chart does not result in discharge of a sentence prior to September 8, 1976, the chart will not be used but rather statutory work credits will be calculated at a rate of eight days/month for the period of confinement prior to September 8, 1976, or as follows:

**STATUTORY WORK TIME – PRORATED BASIS**

<u>YEARS</u>		<u>MONTHS</u>		<u>DAYS</u>	
1 Year	96 Davs	1 Month	8 Davs	1-3 Davs	1 Dav
2	192	2	16	4-7	2
3	288	3	24	8-11	3
4	384	4	32	12-15	4
5	480	5	40	16-18	5
6	576	6	48	19-22	6
7	672	7	56	23-25	7
8	768	8	64	26 – 30	8

9	864	9	72
10	960	10	80
11	1056	11	88
12	1152	12	96
13	1248		
14	1344		
15	1440		
16	1536		
17	1632		
18	1728		
19	1824		
20	1920		

2. Statutory work credits will not be subject to forfeiture due to institutional rule violations.
3. No statutory work credits will be applied to sentences which began on or after September 8, 1976.

L. Credit for Blood Donations

Inmates donating blood to approved programs prior to November 1, 1988, were allowed deductions of time from their sentence length for such activity.

1. Prior to March 3, 1961, credits for blood donations were applied, per documentation, not to exceed five days for each pint of blood donated.
2. Effective March 3, 1961, credit for blood donations were awarded at the rate of 20 days per pint.
3. On and after May 17, 1973, credits for blood donations were restricted to no more than four donations in any 12 month period. An inmate will not receive blood time credits for donations in excess of this amount.
4. All blood donations will be supported by documentation from the appropriate agency. Effective September 1, 1985, to be eligible for this credit, all donations required approval by the medical services manager of Classification and Population or designee.
5. Effective November 1, 1988, credit for blood donations no longer exists under state law.

M. Seven Day Work Credits—Prior to September 8, 1976

1. Credit was granted to those inmates incarcerated on or before June 1, 1967, and involved in work seven days a week at a rate of two days for every six additional days worked or 1½ days per month.
2. Those inmates, whose incarceration began after June 1, 1967, were awarded three additional credits per month for the performance of work seven days per week.
3. Such credits must be supported by proper documentation.

N. Incentive Work Credits—Prior to September 8, 1976

Effective May 17, 1973, an amendment to 57 O.S. Section 138 provided for additional work credits to be awarded to those inmates who participated in certain qualifying programs.

1. Participants in prison industries training programs were allowed credits under the following provisions based on skill level:
  - a. Inmates with no prior training were assigned to the program as apprentices and were allowed a deduction of three days for each month served in this classification. A minimum of three months assignment to this status was required. At the expiration of such period, reviews were granted and could result in the awarding of a work classification at the journeyman level, if such work skills were demonstrated.
  - b. Inmates classified as journeymen received four days/month credits and were required to serve in such classification for a period not less than four months. Promotion to the classification of craftsman could be granted upon demonstration of such skill.
  - c. Inmates classified as craftsmen were awarded incentive work credits at the rate of five days per month.
  - d. Such credit will be supported by proper documentation.
2. Inmates assigned to work, treatment, or personal improvement programs other than those described previously were also eligible to receive incentive work credits at the rate of two days for the first two months, three days for each of the next three months, and five days per month thereafter as long as satisfactory progress was being made, as evidenced by documentation within the inmate file.

O. Exemplary Credits

Prior to September 8, 1976, inmates deemed to be outstanding workers or who had carried out special assignments were occasionally awarded extra credits by the facility head.

III. Loss of Credits

Inmates found guilty of violations of facility rules or sanctioned by the courts for filing frivolous lawsuits may be subject to deduction of credits as a sanction for such violations.

A. Earned Credits/Earned Credit Class/Achievement Credits/Deferred Reception Credits

Effective September 8, 1976, earned credits will be deducted for disciplinary infractions in accordance with the following procedures:

1. Credits will be taken only as a documented sanction and in accordance with proper disciplinary procedure and due process.
2. Credits taken as a result of disciplinary procedures will not exceed the documented amount accrued through and as of the date of the hearing. Prior to November 1, 2015 credits taken will not exceed the documented amount accrued through and as of the date of the infraction and may be taken only from the case active at the time of the infraction.
3. Inmates incarcerated as parole violators will be subject to lose credits on their sentence, including those earned prior to parole.
4. Properly awarded jail time, meritorious credits, emergency time credits, and blood donation credits will not be revoked or otherwise taken away from the inmate under any circumstances.

B. Statutory Good Conduct Credit

1. Assignment to "Third Class" status (disciplinary segregation) resulted in a deduction of six statutory good conduct credits for each 30 day period spent in this section.
2. Direct deduction of statutory good conduct credits as punishment for rule violations resulted in a reduction equivalent to the penalty imposed but not in excess of credit accrued.

C. Statutory Work Credit

1. Inmates assigned to "Third Class" status (disciplinary segregation) prior to September 8, 1976, relinquished statutory work credits at the rate of eight statutory work credits per month for the duration of such assignment.
2. Prior to September 8, 1976, assignment to administrative segregation resulted in a loss of eight statutory work credits per month for the duration of such assignment.

D. Frivolous Lawsuit Sanctions

1. Effective November 1, 1995, 57 O.S., Section 566 provides the courts with authority to sanction inmates who file frivolous or malicious lawsuits. The court may order ODOC to revoke up to 720 earned credits accrued by the inmate. These revoked credits are not subject to restoration.
2. Effective July 1, 2002, 57 O.S., Section 566 was amended to provide that in any case in which an inmate submits any "frivolous or malicious claim, or one that is intended solely or primarily for delay or to harass the party filed against, or testifies falsely or otherwise presents false evidence or information to the court in depositions or in a notarized statement to the court or commits a fraud upon the court, the prisoner shall suffer a loss of earned credits. The earned credits shall be deducted upon a finding of fact and an order of the court." The statute is further amended to allow ODOC to hold a misconduct hearing and sanction the inmate with a loss of credits in any case in which the court does not impose such an order.

IV. Restoration of Credits

Title 57, Section 138(C) provides that earned credits removed for misconduct, nonperformance or disciplinary action may be restored. This provision applies only to credits removed on or after September 8, 1976. Inmates are not entitled to restoration of credits.

A. Restoration by Facility/Deputy Director

1. Credits may be restored only to the sentence(s) under which they were removed. Credit removed on a completed sentence may not be restored to that sentence or any other.
2. Inmates meeting one or more of the following will not be considered:
  - a. Class X misconducts during this incarceration for:
    - (1) Killing another person.
    - (2) Participating in activity that directly results in the



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- (2) If the inmate has a conviction during the current incarceration for having committed or attempted to commit any sex offense or violent offense in accordance with [OP-020307](#) entitled, "Sex and Violent Crime Offender Registration," or any offense involving a child in accordance with [OP-060104](#), [Attachment A](#) entitled "Crimes Against Children," the inmate must be releasing to a detainer or supervision; and
  - (3) Will immediately release from ODOC custody or discharge and rebill to a consecutive sentence with restoration of some or all earned credits.
- c. Inmates with 365 or fewer days remaining who:
- (1) Have no more than one active Class X misconduct other than those listed in Section IV. A. 2. item a. above; and
  - (2) Will immediately release from ODOC custody or discharge and rebill to a consecutive sentence with restoration of some or all earned credits.
5. Within 30 days of an inmate meeting the above listed criteria, Case Managers will complete the "Restoration of Earned Credit Checklist" ([Attachment S](#)). The facility head or manager of Sentence Administration, Offender Records and Registries will review the following:
- a. The "Restoration of Earned Credit Checklist" ([Attachment S](#)). The inmate and official version of the crimes contained in the Offender Management System;
  - b. The offense report(s) for inmates with pending misconducts; and
  - c. The description(s) of the offenses contained in Offender Management System for inmates with active misconducts.
6. The facility head or manager of Sentence Administration, Offender Records and Registries will ensure that the appropriate facility staff make sure all applicable discharge planning and release preparations (medical, mental health, release to detainer, sex/violent inmate registration in accordance with [OP-020307](#) entitled "Sex and Violent Crime Offender Registration," [OP-060901](#) entitled "Pre-Release Planning and Reentry Process," and this procedure) are completed prior to release.

B. Restoration by Administrative Review Authority

Credits restored through the action of the Administrative Review Authority will be applied to the sentence under which they were removed. Should a discharge and rebill occur between the removal of credits and their restoration, such rebill date will be adjusted to reflect the restoration of these credits.

1. Prior to July 11, 1984, when a misconduct was reversed and expunged, credit unearned due to disciplinary service or loss of job was granted at the earning rate in effect at the time the misconduct occurred.
2. From July 11, 1984 through October 31, 2013, if a misconduct which had resulted in the loss of earned credit was reversed and expunged, only earned credit which had been taken as the result of the misconduct was restored. Credit unearned due to disciplinary service or loss of job was not subject to restoration.
3. Effective November 1, 2013, when a misconduct is dismissed or reversed and expunged, credit unearned due to reduction in level or disciplinary service will be restored at the earning rate in effect on the date the misconduct occurred.

V. Non-creditable Time

The following situations in which the inmate is outside the custody of ODOC will not normally be credited toward completion of a sentence.

A. Escape

The period of time during which the inmate is on escape status will not be credited toward completion of a sentence. Non-creditable time in this situation will be calculated as that time beginning the date of escape as specified by felony information sheet, misconduct report, incident report, or other appropriate documentation such as PPCS/EMP/SSP/GPS revocation paperwork, and ending the day ODOC receives written notification from a county jail that the inmate has been incarcerated, the director of Fugitive Apprehension and Investigations (FAI) receives Interstate Identification Index (III) notification, ODOC assumes physical custody of the inmate or ODOC serves the inmate with a misconduct report/PPCS/EMP/SSP/GPS revocation paperwork, whichever occurs first.

B. Appeal Bond and Court Ordered Releases

Time spent outside the agency's custody as a result of such actions will not be credited toward completion of a sentence.

VI. Consolidated Record Card and Monthly Credit Posting (2-CO-1E-01, 2-CO-1E-02, 2-CO-1E-05, 5-ACI-1E-01, 5-ACI-1E-03, 4-ACRS-6A-13, 4-APPFS-3D-28)

To ensure ongoing, current information regarding work record, credit status, and release dates of each inmate confined in the ODOC and in order to comply with state statutes, the following procedures are established:

A. Consolidated Record Card (CRC)

The "Consolidated Record Card" ([DOC 060211H](#)) will be the official document used to record the earned credit history and all actions effecting the release date of any inmate remanded to the custody of the agency.

A "Consolidated Record Card" (CRC) will be created upon the reception of each inmate, upon receipt of a Judgment and Sentence concurrent but resulting in a different release date, or upon rebill. If the inmate resumes a sentence as a parole violator, the CRC will be reactivated. The following initial information will be posted on the CRC.

1. Face of the Consolidated Record Card

- a. All information will be completed.
- b. One inmate photograph will be attached to the upper right hand corner of the card.
- c. All sentencing information will be entered where indicated in proper form and order.

2. Back of the Consolidated Record Card

All credit data will be posted in the appropriate column of the month during which the data is received.

B. Multiple Consolidated Record Cards

Preparation of a second or subsequent CRC will be completed under the following circumstances:

1. If the inmate has an original Judgment and Sentence dated prior to September 9, 1976, and a concurrent case with a Judgment and Sentence dated after September 8, 1976.
2. When an inmate already under custody of the agency receives a new sentence that is to be considered concurrent, an additional CRC will be created and maintained.
3. Whenever specifically required by state statute, court ruling, policy,

or administrative memorandum. Second and subsequent CRC's normally will not be made for concurrent sentences that will expire before the longest running sentence.

C. Posting Other Information on the Consolidated Record Card

1. Face of the Consolidated Record Card

a. Movement History

The facility or Probation and Parole region will record each inter-facility movement including the date of such movement, the sending facility, and the receiving facility. Escape or transfer from the facility for court proceedings or for any other reason will also be recorded in this section.

b. Job Record Section

The facility may record information regarding all job assignments made by the facility classification committee on the CRC or the inmate computer system. Job assignments do not need to be maintained on both.

c. Disciplinary Record Section

The facility or Probation and Parole region will record information regarding misconduct reports for which the inmate was found guilty. This information will include the date of violation, title of violation, punishment, class of violation, and offense code.

d. Additional Cases and Detainers/Concurrent Cases

The facility or Probation and Parole region will record any information such as any additional Judgment and Sentences or detainers received subsequent to the creation of the CRC, including concurrent cases from foreign jurisdictions.

The discharge date will be noted in writing on the face of the card for concurrent sentences that expire prior to the longest running sentence.

e. Modifications

Modifications of any prior entry of information on the CRC will be initialed and dated in ink by the person entering the modification.

## 2. Back of the Consolidated Record Card

This section will contain all information regarding the inmate's accrued or lost credits calculated and posted on a monthly basis as follows:

### a. Time Served

This section will reflect the incarcerated time served during the designated month. Unless non-creditable time has occurred during the month, this figure will be the total number of days of the designated month.

### b. Earned

This section will reflect the total sum of credits earned during the designated month.

### c. Lost

This section will reflect any earned credits lost through the disciplinary process as documented by a misconduct report, or a court ordered sanction as a result of a frivolous lawsuit. Such credit will be posted during the month documentation is received by the records office. Only credit lost through the disciplinary process or court sanction will be posted in this column.

### d. Other

Other credit will include jail time, achievement credit, meritorious credit, emergency time credit, and blood donation credit. This section will also include lost credit restored under the provisions established in this procedure. Also included in this section is "street time" as granted by the Governor for returning parole violators. Any modifications of any type of credit for preceding months discovered through the audit process will be posted in the other column of the month through which the audit is performed. If a modification results in taking of credit previously posted, the credit will be preceded and followed by brackets ( ) indicating a negative credit.

### e. Month Net

This section will be the net total sum of time served, earned credit, lost credit, and other credit, posted during the designated month. Should this figure reflect a loss of credit,

the total should be preceded and followed by brackets ( ) indicating a negative credit.

The monthly net figure will be subtracted, or if a negative figure added, to/from the preceding months days remaining total to establish the days remaining to serve for the designated month.

f. Identification of Comment Entries

The first entry identified within a calendar year will be identified with a capital letter A, the second entry with a B, and so forth. Each time an identification letter is used, the letter will be noted in the comments section followed by an explanation. All explanations should be as brief as possible. The first explanation will be entered at the top of the comments column followed in chronological order by subsequent entries.

- (1) When a modification occurs, only the net figure will be identified. If the net figure involves multiple modifications, the individual modification will be identified in the comments section.
- (2) When the days remaining to serve are modified, draw a line through the posted figure and indicate an identification letter. The identification letter will then be posted in the comments section followed by the correct figure and an explanation.

D. General Provisions

When beginning a four-year Consolidated Record Card, the upper left hand calendar year will be utilized first, followed by the lower left hand calendar year, then the upper right hand calendar year, and finally the lower right hand calendar year.

E. Expungement (5-ACI-3C-21)

When the disposition of a misconduct report has been ordered expunged by the facility head or Administrative Review Authority, the facility or Probation and Parole region will line through in red ink any reference to the disposition which is posted on the front of the CRC and include expunged or dismissed and the date and remove the misconduct from the file. This excludes the movement history regarding an escape, as this information is necessary to determine non-creditable time.

F. Inmate Inter-Facility Transfer

For an inter-facility inmate transfer, the transferring facility will post all of the inmate's earned and lost credits through the date of transfer, but time remaining to serve (as of the date of transfer) will be left blank and posted by the receiving facility at the end of the month. Beginning November 1, 1988, earned credit totals through the date of transfer are not posted.

G. Storage of the Consolidated Record Card

Original CRC's will be stored in a secure, fireproof cabinet accessible only to authorized personnel.

H. Continuation of the Consolidated Record Card

After a card has been completed, a new card will be prepared by the confining facility and attached to the preceding card.

I. Resumption of the Consolidated Record Card

If an inmate resumes a sentence after returning from appeal bond, escape status, or as a parole violator, the original card will be used.

J. Termination of Sentence or Confinement

The information posted on the Consolidated Record Card upon the inmate's termination of sentence or confinement will be as follows:

1. Discharge

Upon the inmate's release by discharge, the word discharge and date of discharge will be noted on the front and back of the card. The card will be placed in the inmate's field file. The field file will be forwarded to the Closed Records Unit. Should the inmate discharge to a suspended portion of the sentence, the field file will be forwarded to the appropriate probation and parole region. If the discharge is due to a court ordered modification with the balance of sentence suspended, post and total all accrued credits and provide probation and parole with a current release date.

2. Death

Upon the death of an inmate, the word "death" and the date of death will be noted on the front and back of the card.

### 3. Parole

Upon the inmate's release by parole, the word "paroled" and date of parole will be recorded on the front and back of the card. All of the inmate's accrued credits and the calculated current release date will be posted on the back of the card. If the inmate is re-incarcerated for a parole violation, it will be necessary to reopen the closed CRC and determine the new release date. The new release date is determined by taking the days remaining to serve at the time of parole, subtracting street time (if ordered by the Governor) and subtracting new jail time (if any). If there is not enough room on the card to indicate the proper year of revocation, a new card will be prepared and attached to the preceding card.

### 4. Rebill

Upon the inmate's rebill to a consecutive case, the old CRC will be closed. The word "rebill" and the date of rebill will be recorded on the face of the card. All accrued credits and the release date will be posted on the back of the card. A new CRC will be prepared for the rebilled inmate. The new card will be updated with pertinent information from the current incarceration, such as, sex inmate registration requirement, reporting instructions, court cost holds, detainers, and victim notification flag.

## K. Monthly Posting of Credits—Prior to November 1, 1988

1. The "Monthly Inmate Evaluation and Time Credit Report" will be completed on a monthly basis and submitted to the appropriate personnel as designated by the facility head no later than the fifth of the subsequent month.
  - a. If the inmate was not assigned to the supervisor for the entire month, the date of initial assignment or departure will be noted in the comments section and credit indicated for those days the inmate was assigned. Otherwise, credit will be reflected for the entire month.
  - b. The dates of the designated month will be entered in the upper left corner of the daily calendar boxes. Each calendar day will have an appropriate entry, either a zero, one, two, or three. The supervisor will total the credit for the month covered and enter this figure as the total credit. It is the supervisor's responsibility to ensure that this total is correct.
  - c. The supervisor will review the total credit with the inmate and

have the inmate sign where indicated. If the inmate transfers to another facility, an attempt should be made to review the report and obtain a signature prior to transfer. If this is not possible, the supervisor should so note and forward to the appropriate personnel, as designated by the facility head, on the date of transfer.

- d. If the inmate refuses to sign, the supervisor will so note and forward to the appropriate personnel. The supervisor will inform the inmate that if they wish to contest the total credit indicated they may do so in the form of a grievance as outlined in [OP-090124](#) entitled "Inmate/Offender Grievance Process."

## 2. Posting to Consolidated Record Card

Designated personnel will transfer the total days worked from the monthly credit report to the appropriate section and month of the Consolidated Record Card. Days credited will be entered onto the CRC in accordance with procedures previously stated.

## L. Current Release Date Report

Facility heads will ensure all inmates assigned to their facility receive a monthly current release date report. This report will include all data which effected their release date during the monthly reporting period.

## VII. Service of Sentences, Sequencing, and Court-Ordered Modifications

### A. Consecutive Cases

When any person is convicted of two (2) or more crimes in the same proceeding or court or in different proceedings or courts, and the judgment and sentence for each conviction arrives at DOC on different dates, the sentence which is first received shall commence and be followed by those sentences which are subsequently received, in the order in which they are received, regardless of the order in which the judgments and sentences were rendered, unless a judgment and sentence provides that it is to run concurrently with another judgment and sentence. 21 O.S. § 61.1.

1. The sentencing document will be used to determine if sentences are consecutive or concurrent.
  - a. Unless the commitment document specifies that it is concurrent to another sentence, it will be served consecutively 21 O.S. § 61.1. A court may amend or modify a sentence that was originally consecutive to be concurrent to another sentence at any time. Moss v. Department of Corrections, 403 P.3d 379, 2016 OK CR 23.

- b. A sentence cannot be ordered concurrent to a sentence that does not yet exist.
  - c. When a single Judgment and Sentence document contains multiple counts, but only one sentence term is stated, the counts are to be served concurrently unless they are specifically ordered consecutive.
    - (1) If the multiple counts each state a sentence term, the counts are to be served consecutively unless ordered by the judge to be concurrent.
    - (2) If the counts are on separate documents and sequencing is not specified, they are to be served consecutively.
2. New receptions at an assessment and reception center or probation region, who have one or more consecutive cases received at the time of reception, will serve their sentences in sequence based upon the following criteria without regard to length of sentence or severity of offense, except for sentence of death which takes precedence over any other case.
- a. The earliest dated Judgment and Sentence, order of revocation of suspended sentence, or executive revocation of parole will be considered the controlling case. Other sentences of consecutive status will be sequenced in chronological order, from the earliest dated to the most recent. For purposes of sequencing consecutive cases, the date of revocation of probation or parole (as recorded on revocation orders from the district court or the Governor's office) will be considered the date of sentencing.
  - b. If multiple sentences are consecutive and dated identically, service will be determined by the lowest district court docket number (i.e., CF2004-501 followed by CF2004-502). Should one docket number have separate counts that are consecutive, count one would precede count two, and so on.
  - c. The above criteria will be superseded only by a court order that defines a specific interrelationship between separate sentences. This may be located either on the Judgment and Sentence document or the order of revocation, or may be directed at a later date in a separate order (including Order Nunc Pro Tunc) from the court.

B. Concurrent Cases (22 O.S. § 976)

1. Inmates received at the assessment and reception center who have sentences which are concurrent to their controlling case will commence service of the concurrent case upon reception. Cases concurrent to consecutive sentences will commence upon rebill to the respective consecutive case. Unless directed otherwise by the court, the longest running concurrent sentence will be the controlling case. Prior to July 1, 2001, when an emergency time credit eligible sentence and an emergency time credit ineligible sentence are concurrent and of the same length, the ineligible sentence is considered the controlling sentence.
2. Sentences concurrent to the controlling case, which were rendered prior to reception but were not received by ODOC until a later date, will be considered as having commenced on the date of the reception of the controlling case.
3. Sentences concurrent to the controlling case, which were rendered after the inmate's reception, will commence upon the date the Judgment and Sentence is rendered.
4. Suspended sentences ordered concurrent to each other, remain concurrent if revoked even if the order of revocation states that it is to be served consecutively. (*Wyles v. State*, RE-2005-355 OCCA unpublished). When a sentence of incarceration is ordered concurrent to an existing suspended sentence, any subsequent revocation of the suspended term will be served concurrent to that sentence.

C. Parole Violators/Revocations

1. 57 O.S. Section 516(A) provides that no sentence reduction credits will be awarded or accrued during the period of time a parole violator is incarcerated pending revocation action by the Governor. This includes emergency time credits and only applies to the paroled sentence pending revocation.
  - a. No action concerning the calculation of the sentence can occur until the Governor orders the revocation. If upon revocation, a parole violator has enough time served credit to discharge, then discharge should occur.
  - b. Time spent in jail pursuant to a parole violation warrant will be applied to the subsequent revocation unless ordered otherwise in the order of revocation. The jail time may be documented by parole officer chronological record entries, the "Street Time Credit Review" form, a jail time statement or the order of revocation.

2. An inmate received at the assessment and reception center with a new conviction and a pending parole revocation will be billed to the new conviction. The pending parole revocation will be treated as a hold or detainer; however, time billed to the new conviction will be included as credit for time served toward the parole revocation unless the order of revocation states otherwise.

Upon revocation, the Governor's order and existing sentences will determine if the parole revocation sentence is to run consecutive or concurrent to the new conviction.

- a. If either the new conviction or order of parole revocation states concurrence to the other, the parole revocation will be served concurrently. If the new conviction is ordered concurrent to a paroled sentence, the Governor cannot order that the parole revocation be served consecutively (Williams v. State, 2004 OK CR 8, 87 P.3d 620). As a result, the parole revocation will be served concurrently even if the order of revocation states that it is to be served consecutively.

- (1) If the parole revocation is to be served concurrently, time served will be awarded when the order of revocation is rendered. Time billed to a new conviction will be included as credit for time served toward the parole revocation unless the order of revocation states otherwise.

- (2) Earned credit awards may begin upon the date of the order of revocation (57 O.S. 516(A)).

- b. If neither the new conviction nor the order of revocation states concurrence to the other, the parole revocation will be served consecutively. If the parole revocation is to be served consecutively, the inmate will be rebilled to the revocation upon parole or completion of the new conviction. There is no credit for time served to be applied upon rebill unless the order of revocation states otherwise.

- c. In cases where the paroled sentence is revoked prior to reception and is concurrent to a new conviction, time served will be awarded when the order of revocation is rendered unless the order of revocation states otherwise. Documentation of the time served will be the jail time statement of the concurrent new conviction unless the order of revocation states otherwise.

3. No calculation of the sentence will occur for a parole violator received at the assessment and reception center solely for the purpose of a

pending revocation. Upon revocation of the parole, applicable time served will be granted and earned credit awards may begin.

If, after reception and prior to the revocation of parole, it is determined that a new conviction exists, the new conviction will be considered as follows:

- a. If the new conviction was rendered prior to reception, it will be considered to have commenced on the date of reception; however pre and post sentencing jail time shall be awarded pursuant to Section II of this procedure and in accordance with the sentencing document, as well as deferred reception credits, if applicable.
  - b. If the new conviction was rendered after reception, it will commence on the date of Judgment and Sentence.
4. To determine days remaining on a parole violator that paroled prior to June 30, 1986, the current release date is to be converted, as of the date of parole, to days remaining.
  5. Time Spent Under Parole Supervision (Street Time). Parole street time is the period of time which lapses while an inmate is out on parole (Higgins v. Branam, 137 P.3d 1240, n.1, 2006 OK CR 23, n. 1.). Parole street time is a deduction that may be awarded through an order of revocation (57 O.S. 350). The amount of street time available for credit will begin upon the date of parole and will terminate upon issuance of the parole violation warrant or upon the inmates reception at ODOC, whichever is earlier.
  6. Upon receipt of a "Certificate (order) of Revocation," first determine whether street time has been awarded, then take the following steps:
    - a. If street time has been awarded, calculate the number of days from the date of parole through the date of the parole violation warrant or upon the inmate's reception at ODOC, whichever is earlier. Deduct these days from the days remaining at the time of parole (57 O.S. § 350(A)).
    - b. Calculate the number of days the inmate was in custody following the issuance of the parole violation warrant through the date of the order of revocation, including any applicable jail time. Deduct these days from the term of revocation, unless ordered otherwise.
    - c. Deduct any additional credit awarded in the order of revocation from the term of revocation.
    - d. Calculate and deduct any post-revocation jail time toward the

term of revocation.

- e. If the parole is revoked in full, all remaining days after the above calculations are performed will be served. If the parole is revoked in part, when the revoked portion is complete the remainder of the sentence will be served on parole.
- f. If the parole is revoked to “time served,” take the following steps:
  - (1) If street time is awarded, calculate the number of days from the date of parole through the date of the parole violation warrant or upon the inmate’s reception at ODOC, whichever is earlier. Deduct these days from the days remaining at the time of parole.
  - (2) Calculate the number of days the inmate was in custody following the issuance of the parole violation warrant through the date of the revocation, including any applicable jail time. Deduct these days from the days remaining at the time of parole.
  - (3) The inmate will be released to serve the remainder of the sentence, if any, on parole.
    - (a) Although an order of revocation may not be received by the agency for several days, use the date of the order of revocation, not the date of receipt of the order.

D. Vacated or Modified Cases

1. Upon receipt of a modified or amended Judgment and Sentence, the facility/contract facility record’s officer will verify the validity of the document by telephone with the county court clerk, the sentencing judge or through online court systems, to include the Oklahoma State Courts Network (OSCN) or On Demand Court Records (ODCR).
2. When a conviction is set aside, the inmate is retried, convicted of the same offense, and returned to ODOC custody, the time served and credit earned and lost under the voided conviction must be credited toward the subsequently imposed sentence (Floyd v. State, 540 P.2d 1195, 1975 OK CR 162.).
3. When an inmate serving consecutive sentences on several convictions succeeds in having one of the sentences invalidated after it has been fully or partially served, any time served, earned, or lost on the voided sentence will be credited to the remaining sentences. If the remaining sentence(s) is dated later than the voided

sentence, the time served and earned will apply beginning the Judgment and Sentence date and not before, unless specifically ordered otherwise by the court. A memorandum will then be prepared and placed in the field record detailing the action and the reason for it. Additionally, the court order ruling the original sentence invalid will be placed in the inmate's field record (Floyd v. State, 540 P.2d 1195, 1975 OK CR 162.).

4. When an inmate's instant case is ruled invalid and the inmate does not have a consecutive case for rebill, a memorandum will be prepared and filed indicating the action taken in relation to the discharge of the inmate.

#### E. Delayed Sentencing Cases

1. When an inmate is initially received under the Delayed Sentencing Program, a Consolidated Record Card will be created, except that no release date will be established. Only a record of time served will be maintained on the CRC.
2. If the inmate is subsequently sentenced to probation, the CRC utilized during the delayed period will be filed in the inmate's field record. If the inmate receives a probation sentence, the period of incarceration will not be applied toward the reduction of supervision. If the probation sentence is subsequently revoked, the prior delayed period of incarceration will be applied as a sentence reduction.
3. If the inmate is sentenced to a determinate term of incarceration, the delayed period of incarceration will be applied as a sentence reduction. Only time served, beginning the date received under the Delayed Sentencing Program until the release of the inmate to the sentencing county, will be applied. Any time spent in the custody of the sentencing county prior to the inmate's return to ODOC custody, will be applied under established jail time procedures.
4. If, during the delayed period of incarceration, a delayed sentence inmate escapes or goes out to court and returns with a new determinate sentence, the determinate sentence becomes the controlling case. If the delayed sentence is subsequently rendered for incarceration, it must be served consecutively unless ordered concurrent by the court.

#### F. Compliance With Court Orders

1. Orders issued by district courts and appellate courts will be receipted and acknowledged by completion and return of "Receipt for Prisoner/Documents/Detainer" ([DOC 060211B](#), attached). Orders modifying sentence lengths will be reported to the OSBI within 72 hours of receipt by the agency. The report will be made by

completing a final disposition report (FBI Form R-84) and submitting the original to the Oklahoma State Bureau of Investigation (OSBI).

2. Unless serious problems exist within the action mandated by the court order, the facility or Probation and Parole region will comply immediately with any instruction found therein. If a serious legal or administrative problem does exist, the facility or Probation and Parole region will immediately request assistance from the manager of Sentence Administration, and/or communicate with the court in an attempt to resolve any technical difficulties. If the manager of Sentence Administration or the director of Classification and Population believe that a Judgment and Sentence or other sentencing document does not comply with Oklahoma law, the manager of Sentence Administration or the director of Classification and Population may submit a request for the General Counsel to review and provide a legal opinion.

#### G. Suspended Sentence Expiration Dates

On February 5, 1998, the Oklahoma Court of Criminal Appeals ruled that: "a suspended sentence may not be shortened by intervening revocations. So long as there remains an unrevoked portion of the suspended sentence, the district court's power and authority to revoke all or part of it does not end until the expiration of the original term of sentence." (Hemphill v. State, 954 P.2d 148, 1998 OK CR 7.). Suspended sentence release dates are determined as follows:

1. A suspended sentence expiration date is the sentencing date, plus the length of the sentence, minus one day. This applies to all sentences that are fully or partially suspended.
2. If a partial revocation of a suspended sentence occurs, the suspended sentence expiration date remains the expiration date of the original sentence.
3. To determine a suspended sentence expiration date for a sentence ordered to be served consecutively, the date the sentence actually begins is utilized. Examples:
  - a. Sentence A is five years incarceration and Sentence B is three years suspended consecutive to Sentence A. When Sentence A is completed, Sentence B begins and the suspended expiration date is calculated from that beginning date rather than the original sentencing date.
  - b. On 5/5/2015, a ten year sentence with all but the first five years suspended (5 in/5 out) is ordered in Sentence A,

which will end 5/4/2025. On 5/5/2015, a five year sentence with all but the first two years suspended (2 in/3 out) is ordered in Sentence B, and Sentence B is ordered to run consecutive to Sentence A. The two years of incarceration on Sentence B would begin when the five year incarceration of Sentence A was completed. The end date of Sentence B would be 5/3/2030.

- c. On 6/1/2018, a ten year sentence with all but the first five years suspended (5 in/5 out) is ordered in Sentence A, which will end 5/31/2028. On 7/15/2018, a five year suspended sentence is ordered in Sentence B. Sentence B is ordered to run consecutive to Sentence A. The end date of Sentence B would be 5/30/2033.
- d. On 9/4/2018, a 10 year sentence with all but the first five years suspended (5 in/5 out) is ordered in Sentence A, which will end 9/3/2028. On 10/1/2018, a twenty year incarcerated sentence is ordered in Sentence B. Sentence B is ordered to run consecutive to Sentence A. Assuming Sentence B discharges after 9/3/2028, when the inmate discharges Sentence B, he will have no time remaining in Sentence A to serve on probation.

4. When an inmate escapes from the incarcerated portion of a split sentence, time is tolled while the inmate is on escape status. This time is to be added to the original suspended expiration date. As an example, an inmate serving a five year sentence (two years suspended) escapes and is out of ODOC custody for six months. The six months of escape time will be added to the original expiration date.
5. Supervision of suspended sentences will be administered in accordance with OP-160201 "Opening, Closing and Transferring Cases Under Supervision."

#### H. Post-imprisonment Supervision

a Effective November 1, 2012, 22 O.S. 991a-21 provides that the court include a term of post-imprisonment supervision for inmates convicted and sentenced to a term of incarceration on or after November 1, 2012. The post-imprisonment supervision shall be for a period of not less than nine (9) months nor more than one (1) year. Inmates who fail to comply with the post-imprisonment supervision may be sanctioned by the court with an intermediate revocation term of confinement of six (6) months in ODOC.

- c. Effective November 1, 2007, 22 O.S. 991a provides that the court

may include a term of post-imprisonment community supervision for not less than three years for inmates convicted and sentenced to a term of incarceration on or after November 1, 2007 for a violation of Section 7115 of Title 10 when the offense involved sexual abuse or sexual exploitation, Section 843.5, 681, 741 and 843.1 of Title 21 when the offense involved sexual abuse or sexual exploitation, and Sections , 865 et seq, 885, 886, 888, 891, 1021, 1021.2, 1021.3, 1040.13a, 1087, 1088,. of Title 21.

- d. Effective May 19, 2009, 22 O.S. § 991a was amended to add Sections 1111.1, 1115 and 1123 of Title 21 to the list of crimes in which the court can order post-imprisonment community supervision
- e. Effective March 3, 2010, 22 O.S. § 991a was amended to substitute Section 843.5 of Title 21 when the offense involved sexual abuse or sexual exploitation for Section 7115 of Title 10 when the offense involved sexual abuse or sexual exploitation.

#### VIII. Audits of Inmate Time Calculations and Inmate Files (2-CO-1E-09)

##### A. Audit Procedures and Responsibilities of Departmental Facilities

- 1. Appropriate designated personnel will conduct time calculation audits of inmate files and “Consolidated Record Cards” utilizing “Time Calculation Audit Form Prior to July 1986” ([DOC 060211C](#), attached) or “Time Calculation Audit Form” ([DOC 060211D](#), attached). Audits will be performed in the following situations:
  - a. Receptions from the assessment and reception center.
  - b. On all other inter-facility receptions, audits will be performed at the records officer’s discretion based upon the significant changes that have occurred to the record. Significant changes would include extensive misconduct history, extensive class level and job changes, escapes, parole violations, and returns from PPCS, EMP, SSP and GPS.
  - c. 365 days prior to discharge and again at 30–60 days prior to discharge. Errors found during the 30–60 days prior to discharge audit must be reviewed by the manager of Sentence Administration. The review may be conducted by telephone, fax or e-mail.
  - d. Paroles and parole revocations.
  - e. Rebills, closing case and new case.
  - f. Modification of term either by executive order or court order.

2. Time calculation audits of inmates transferred into a facility will only be conducted from the last Sentence Administration audit of the specific case, as reflected by "Time Calculation Audit Form Prior to July 1986" and "Time Calculation Audit Form" signed by a Sentence Administration field auditor. An audit of the period preceding an audit by Sentence Administration will be conducted only when necessary to respond to a court inquiry, to address a grievance, or upon instruction by the manager of Sentence Administration. Permission to change the results of a Sentence Administration audit must be obtained from the manager of Sentence Administration.
3. All facility audits will be typed and recorded on "Facility Audit Log Sheet" ([DOC 060211F](#), attached). The results of all audits performed by a facility will be reported by completing "Facility Audit Report" ([DOC 060211A](#), attached). These two forms will be forwarded monthly to the manager of Sentence Administration for reporting purposes.
4. Time calculation audits will include the following:
  - a. Review time calculation records for accuracy and completeness using the Time Calculation Audit Forms;
  - b. Review all sentencing documents to ensure correct sentence sequencing and accuracy;
  - c. Review for documentation of any modification of the CRC;
  - d. Review all detainers to ensure proper posting;
  - e. Compare the field record against the CRC for consistency and accuracy;
  - f. Review all record entries; and
  - g. Review commitment/field file to ensure proper maintenance and organization.
5. The "Time Calculation Audit Form" is to be completed as follows:
  - a. The controlling case is normally the longest running sentence being served. For the purpose of a time calculation audit, the controlling case listed on the form will be for the sentence being audited.
  - b. All applicable information should be checked and entered under Audit Checklist.

- c. Date of Reception/Rebill is the beginning date of the sentence being audited. Add the sentence length to determine the Beginning Release Date. The Release Date Conversion is the total number of days to be served on the sentence.
- d. Enter applicable time served and credits after determining compliance with statutory and policy requirements. The Net Total is subtracted from the Release Date Conversion days to serve to determine the Days Remaining. Audits are normally conducted through the end of the previous month.
- e. Notes should be used to explain errors found and corrected and document any other applicable issue.

**B. Facility Audits by Sentence Administration Auditors**

1. Sentence Administration auditors will ensure that each facility's field records conform with established procedures concerning time computation, document interpretation, and file maintenance. On a regularly scheduled basis, Sentence Administration auditors will audit inmate files at each facility and probation and parole region.
2. It will be the responsibility of the facility or region to provide an adequate working area for the auditor, preferably in close proximity to the records office. In facilities where unit management is utilized, it will be the responsibility of the unit manager to provide the Sentence Administration auditor with field files for auditing purposes.
3. Facility audits will cover the period subsequent to the preceding Sentence Administration audit. Sentence Administration auditors will be responsible for any errors committed during the period of their audit not corrected by the audit.
4. Upon completion of the audit, the Sentence Administration auditor will provide the facility/deputy director and manager of Sentence Administration with the findings of the audit.
5. On a monthly basis, the manager of Sentence Administration will compile a monthly audit report.

**C. Authority of Manager of Sentence Administration**

The manager of Sentence Administration will be the departmental authority in matters of time calculation, sentence interpretation, and inmate release dates. No change in an inmate's record audited by a Sentence Administration auditor may be altered by field personnel without the approval of the manager of Sentence Administration. The manager of Sentence Administration may authorize unannounced audits of facilities or regions when necessary. Any perceived error made by a Sentence

Administration auditor will be brought to the attention of the manager of Sentence Administration.

D. Audits by Probation and Parole Audit Teams

Field records of probationers and parolees will conform to quality review procedures as specified in [OP-160501](#) entitled "Community Corrections Skill Building Review Process." Field records of inmates serving sentences of incarceration under the supervision of probation and parole will be audited on a regular basis by Sentence Administration auditors.

IX. Document Examination

A. Minimum Standards of Acceptability (4-ACRS-6A-10)

It is the responsibility of Probation and Parole region and facility heads to ensure that appropriate personnel are designated to determine the accuracy and validity of each new Judgment and Sentence document received by their Probation and Parole region or facility. At a minimum, each new commitment/supervision document will contain the following information:

1. Name of inmate;
2. District court docket (case) number;
3. Offense;
4. Date of sentencing;
5. Length of term of confinement or supervision;
6. Signature of sentencing judge; and
7. Sealed and certified by court clerk.

Effective July 1, 2004, 57 O.S. Section 95 was amended to provide for the receipt of certified sentencing documents by electronic mail from county court clerks with such capability. Such documents must include an electronic signature page certified by the state Supreme Court.

B. Unacceptable Documents

Should any of the above referenced elements be absent from the newly received document or should the sentence appear improper, the court of conviction will be immediately contacted by the appropriate facility or Probation and Parole region staff, who will request a corrected or amended copy of the document in question. If no resolution can be reached between county and facility/ Probation and Parole region personnel, the manager of

Sentence Administration will be contacted in order to intercede on behalf of the Oklahoma Department of Corrections. Should any of the above referenced elements be absent from commitment documents accompanying an incoming inmate from a county jail to the assessment and reception center, reception staff will normally refuse acceptance of said inmate until properly completed documentation is produced. Questions in this regard will be addressed to the manager of Sentence Administration.

C. Orders Revoking Suspended Sentences

Orders of revocation of suspended sentences, whether in full or in part, will be subject to all provisions as specified previously. Additionally, both the date of original suspended sentencing and the date of revocation will be referenced.

D. Parole Violators

Inmates returning as parole violators will be accompanied by one of the following documents:

1. A properly executed executive revocation of parole;
2. A letter of proper authority from a probation and parole region stating intention to seek revocation and authority to detain the parolee pending final revocation; or
3. A copy of the "Notice of Finding of Probable Cause" ([DOC 160901B](#)) stating probable cause has been found to believe the parolee has committed a violation of the conditions of parole.

E. Writs of Habeas Corpus Ad Prosequendum and Writs of Habeas Corpus Ad Testificandum

These writs will reference the following:

1. Name of inmate desired for temporary custody;
2. Court docket number;
3. Addressed to director of ODOC, head of confining facility, manager of Sentence Administration, or their designees. If received by a facility which does not house the inmate, the appropriate facility or Probation and Parole region will be notified as well as the judge issuing the writ;
4. Signature of the judge or appropriate authority;

5. Filing and certification by court clerk; and
6. When the writ involves a state criminal matter, it should contain a directive to a county sheriff to take custody of the inmate at the confining facility and to return the inmate to the confining facility unless the sentence is reversed and remanded for new trial (one-way writ). Transportation of inmates on state criminal writs is normally the responsibility of the sheriff.
7. When the writ involves a state civil matter the inmate is a party to, the court may order ODOC to transport the inmate to any court hearing regarding the civil matter. Under 12 O.S. Section 397, effective September 1, 1993, the inmate is required to reimburse the agency for the cost of the transportation:
  - a. Effective November 1, 2004, 12 O.S. Section 397 requires that the custodian be given notice of the application for a writ and 15 days to respond prior to a decision by the court. Any facility receiving an application for a writ will immediately fax the application to the legal division for response. If the court grants the writ, it must be delivered to the custodian at least 15 days prior to the date of transportation. Any writ not meeting these requirements, including a writ issued without the prior notice, is void and unenforceable. Writs issued without notice should be immediately faxed to the legal division for response.
  - b. A proper writ will order that the custodian be paid for the costs of the transportation by the inmate or other appropriate party. When a writ is issued, the facility will calculate the costs of transportation and provide notice to the inmate using "Notice of Transportation Costs" ([Attachment P](#), attached). The court will be provided notice at the hearing by the transporting officer(s) by an "Affidavit" of costs ([Attachment Q](#), attached) and an "Order" for payment ([Attachment R](#), attached). When the judge signs the "Order" as to costs, the transporting officer will file the "Order" with the court clerk before leaving the court house. If a court refuses to order the inmate or other party to pay costs, or waives the costs, the order will be immediately faxed to the legal division for action.
8. When the writ involves a federal criminal matter, the writ should contain a directive to the U.S. Marshal or federal law enforcement agency to take custody of the inmate at the confining facility and to return the inmate to the confining facility.
9. When the writ involves a federal civil matter, the writ may order

ODOC to transport the inmate to a U.S. District Court anywhere in the Country.

F. Writ Review Process

1. Upon receipt of a Writ of Habeas Corpus Ad Prosequendum from any county, the case number(s) on the writ will be researched to determine:
  - a. If they are for a case(s) in which the inmate is currently serving a sentence; or
  - b. For a new case(s) in which either the inmate has not been adjudicated or there is no record of the case in the inmate's records.
2. If the writ is for a new case(s) that have not been adjudicated or there is no record of the case number(s) in the inmate's file, each case number will be researched to determine the crime(s) that the inmate is charged with in the case. The "Consolidated Record Card" (CRC) ([DOC 060211H](#)) will be annotated to reflect all pending charges. In addition, the records officer will ensure that appropriate entries have been made in the OMS Alerts Screen.
3. Once the crime(s) for each case has been determined, the case manager supervisor and the inmate's case manager will be immediately contacted and the information provided to them so that they can review the inmate's custody level. The findings of this review will be documented in the inmate's case notes on the Offender Management System (OMS).
4. Any cases that present any security concerns will be immediately communicated by the case manager supervisor to the warden/deputy director and chief of security.
5. Any cases that result in a change in the inmate's custody level will be immediately communicated by the unit manager/case manager supervisor to the warden/deputy director and chief of security.
6. As needed, packets will be prepared and submitted to Population Office for inmates who require movement to higher security.
7. Once disposition is determined, the CRC and Alerts Screen will be updated and a case note will be entered on OMS.
8. If the inmate has not been returned within 30 days, the facility will contact the county to obtain a progress update. Subsequent contacts will be made every 30 days until the inmate is returned.

X. Procedures for Discharge/Release of Inmates Confined in a ODOC Facility (5-ACI-5F-05-13, 4-ACRS-6A-13)

A. Interstate Compact Transfer

If the inmate is discharging to a suspended portion of a split sentence, an unrevoked suspended sentence, or paroling and has an out-of-state address, the following procedures will be implemented:

1. Ninety days prior to the discharge date, the confining facility will submit a request for interstate investigation request as outlined in [OP-160108](#) entitled "Interstate Compact for Probation/Parole."
2. One week prior to discharge, the inmate will be given reporting instructions as outlined in [OP-160108](#) if an approved "Reply to Transfer Request" has been received. A copy of the approved "Reply to Transfer Request" will be placed in the field file.
3. If, by one week prior to discharge, acceptance from the receiving state has not been received, the Interstate Compact officer will be contacted to obtain reporting instructions.
4. Upon release, the field file will be forwarded to the interstate compact office.

B. Final Audit

The facility will conduct a final audit 365 days prior to discharge and again at 30–60 days prior to discharge/release.

C. Probation/Parole Reporting Instructions

If the inmate is discharging to unrevoked probation, the suspended portion of a split sentence, court ordered post-imprisonment supervision, or paroling, the confining facility will provide the inmate with written reporting instructions to the probation and parole office (including sub-offices) nearest the inmate's home address by utilizing the "Certificate of Release" ([DOC 060211N](#), attached).

1. A copy of the signed and witnessed reporting instructions "Certificate of Release" ([DOC 060211N](#)) and "Pre-release Plan" ([OP-060901, Attachment A](#)) will be faxed by the facility records officer to the appropriate Probation and Parole region office, then placed in the field file.
2. The field file will be forwarded to the appropriate Probation and Parole region office governing the county of residence within five (5) days.

3. The field files of inmates with probation or parole supervision released to other states to live, or to the custody of other jurisdictions, will be forwarded to the Probation and Parole region office governing the inmate's county of conviction within five (5) days.

D. Roberson v. State, 560 P.2d 1039, 1977 OK CR 74

If the inmate is discharging a revoked suspended sentence to remaining supervision, the period of supervision cannot exceed the original expiration date.

E. Discharge/Release to Detainer Within the State or to a Federal Agency

1. If an inmate is to be released to a detainer within the state of Oklahoma or to a federal agency, the sheriff of the requesting county, or federal agency will normally be notified of the date of release at least one week in advance. The detaining sheriff or federal agent may make arrangements with the local sheriff to take custody of the inmate.
2. If the inmate is to return to the sentencing court for a Rule 8 (court costs) hearing, the notification process in [OP-090131](#) entitled "Inmate Financial Responsibility Program" will normally be utilized. Any exceptions to the notification process will be addressed through administrative memoranda.
3. Title 8, Section 287.7 of the Code of Federal Regulations allows a custodial agency to hold an inmate with an immigration detainer past their discharge date if Immigration and Customs Enforcement (ICE) cannot pick them up on the scheduled release date. The time frame for holding the inmate cannot exceed 48 hours, excluding weekends and holidays. This provision applies only to ICE detainees and does not apply to other federal detainees. Other federal detainees, carried out primarily by the US Marshals Service, are to be executed no later than the day of release.

F. Discharge/Release to Out of State Detainer

If the inmate is to be released to an out-of-state detainer, the following procedures will be implemented:

1. In order to comply with the Uniform Act on Criminal Extradition and state law, any person in the custody of the Oklahoma Department of Corrections will be notified of any impending act of extradition against them. The affected inmate will be taken before a judge of the court of record in the county in which they are incarcerated for the purpose of a mandatory Habeas Corpus hearing, during which the inmate may choose to waive their right to the extradition process, unless already waived.

2. The confining facility will notify the requesting jurisdictions at least 120 days before projected discharge of the affected inmate. The requesting jurisdiction will be advised as to whether the inmate will sign a formal waiver of extradition and, if not, to begin the extradition process upon a date identified as being 90 days prior to his/her projected discharge.
3. The confining facility will again notify the requesting jurisdiction of the approaching discharge date 30 days prior to projected discharge.
4. If no response from the requesting jurisdiction has been received two days prior to the discharge date of the affected inmate, the facility will notify the requesting jurisdiction by telephone and will state that, if the required paperwork relating to the extradition is not received by ODOC and if agents of the requesting jurisdiction have not given notification of intent to arrive at the facility upon the projected date of discharge, the inmate will be released. The requesting jurisdiction may make arrangements with the sheriff of the county within which the incarcerating facility is located to have the sheriff assume custody until their arrival.
5. Copies of the extradition material and any related documentation will be provided to the county sheriff upon transfer of custody.

G. Day of Discharge/Release

1. An inmate will be considered as eligible for discharge when the sum of credits, jail time, street time awarded (if applicable), and service time equals the total sentence length. The following exceptions will be noted:
  - a. When the discharge date falls upon a Saturday or a Sunday, the discharge will be performed on the preceding Friday. If rebilling to another sentence, the true date of discharge will be used.
  - b. When the discharge date falls upon a holiday, the discharge will be performed on the last working day prior to the holiday. If rebilling to another sentence, the true date of discharge will be used.
  - c. When mathematical deduction of credit results in a discharge date which is one or more days away and when the service of the extra days would result in a mathematically late discharge, the facility will discharge the inmate on the last date which does not calculate as being late. If rebilling to another sentence, the date of rebill will be credited as a day served to

both the sentence discharged and the sentence to which the inmate rebills.

2. Discharges will normally occur on the morning of the appropriate day, with that day's credit being granted automatically. The Consolidated Record Card, front and back, will be brought up to date.
3. Release by parole will occur as defined by OP-161001 entitled "Specialized Programs Case Management."
4. Prior to release, the head of the confining facility/ Probation and Parole region will authorize release by signing "Certificate of Release" ([DOC 060211N](#), attached). The inmate will then sign and date the certificate to indicate receipt of same. At that time, the form will be witnessed by facility personnel.

The original of the certificate will be retained by the discharging inmate, with a copy being placed in the field file.

#### H. Early Release to Immigration Deportation Order

1. Effective June 5, 2009, the Oklahoma Criminal Illegal Alien Rapid Repatriation Act of 2009, 57 O.S. 530.4, provides for the release of inmates to the custody of the United States Immigration and Customs Enforcement (ICE) who meet the following criteria:
  - a. Has a current ICE detainer due to a deportation order and all other detainers are satisfied;
  - b. Has served through a combination of jail time, time served, and credits, at least one-third of their total term of incarceration, considering all concurrent and consecutive sentences; and
  - c. Is not serving a current conviction for any of the following crimes:
    - Abuse of a Vulnerable Adult who is a resident of a nursing facility
    - Aggravated Trafficking
    - Arson I
    - Assault with Intent to Kill
    - Bombs and Explosives Violations
    - Burglary I
    - Child Abuse
    - Child Pornography
    - Child Prostitution
    - Conjoint Robbery
    - Forcible Sodomy

Lewd Molestation of a Child  
Manslaughter I  
Murder I  
Murder II  
Parental Consent to Child Pornography  
Poisoning with Intent to Kill  
Rape I  
Robbery I  
Robbery with a Dangerous Weapon  
Shooting with Intent to Kill, Assault and Battery with a Deadly  
Weapon, Use of a Vehicle to Facilitate Use of a Firearm,  
Crossbow or other Weapon

2. When the inmate reaches the one-third point of their longest sentence, the confining facility will notify the manager of Sentence Administration. The manager of Sentence Administration will notify ICE for release of the inmate to the deportation detainer. Upon release to the custody of ICE, the releasing facility will maintain the inmate's records until the term of incarceration expires or upon the inmate's illegal return to the United States. The inmate will be placed on Class Level 1 and may not earn or accrue any earned or achievement credits. Upon completion of the sentence(s), the field record will be closed in accordance with established procedures.
3. The facility will conduct an annual criminal history check via NCIC while the sentence is active, with a final check 30 days prior to final discharge. If an inmate illegally returns to the United States before completion of their Oklahoma term of incarceration, and upon notification that the inmate is incarcerated, the facility will request issuance of a ODOC warrant for the purpose of revoking the inmate's release. A warrant request will be sent to the manager of Sentence Administration and Inmate Records with the following attachments:
  - a. A copy of Consolidated Record Card(s) ([DOC 060211H](#));
  - b. Documentation relating to the date of arrest for illegal entry, any new charges or convictions, and the inmate's current place of confinement; and
  - c. A copy of the "Acknowledgment of Release to Deportation Order" ([DOC 060211Q](#), attached).
4. The manager of Sentence Administration and Inmate Records will submit a warrant request to the director of ODOC for revocation of the inmate's release. The warrant will include the following information:
  - a. Inmate's name, with any known alias names, and DOC number;

- b. Race, gender, and date of birth; and
  - c. Physical description (height, weight, hair color, eye color, etc.).
5. Upon issuance of the warrant, time ceases to run on the inmate's sentence(s), an "Offense Report" ([DOC 060125A](#)) will be written for a 17-1, Law Violation, and a detainer will be placed with the inmate's current place of confinement. A Program Removal Hearing will be held in accordance with [OP-060125](#) entitled "Inmate/Offender Disciplinary Procedures." If the inmate is found to have illegally returned to the United States, upon revocation of the release, the inmate will be required to serve the total days remaining on the date of release to ICE custody. The remaining sentence of incarceration must be completed without the possibility of parole.
  6. If a warrant is not issued, a letter of denial will be sent to the requesting facility by the manager of Sentence Administration and Inmate Records listing the reason(s) for denial.

## XI. Entering Detainers on Behalf of Foreign Jurisdictions

### A. Determining if a Detainer Exists

All field files for newly received inmates at the agency's assessment and reception centers, or other authorized reception location, will be routinely examined for additional criminal charges during the initial audit process. If an entry is located which references other possible criminal charges, reception staff will contact that jurisdiction and notify appropriate authorities of the subject's reception into agency custody. In the event the jurisdiction wishes to file a detainer, they will be advised that any necessary documentation may be forwarded to the Inmate Records Unit for appropriate routing, since transfer to another facility will be pending in the near future.

### B. Receipting Detainer Request

Upon receipt of a proper detainer request from another jurisdiction, the confining facility will acknowledge receipt by completing "Receipt for Prisoner/Documents/Detainers" ([DOC 060211B](#), attached). The original form will be returned to the requesting jurisdiction, the first copy to the inmate, and the second copy to the field record (attached to the original detainer request). Requests for detainer placement will be accompanied by a certified copy of the warrant, indictment, and proper identification of the inmate.

### C. Detainer for Untried Indictment

If a request for detainer references an untried indictment, Section XII. of this procedure entitled "Procedures for Handling Interstate Agreement on Detainers" ([DOC 060211B](#)) will be referred to.

D. Recording Detainers

All detainers will be recorded on the inmate's computer record under Alerts and on the Consolidated Record Card.

E. Detainer Withdrawals/Deaths

Letters which withdraw detainers will be received directly from the jurisdiction as indicated by agency letterhead or official correspondence. Withdrawals received from inmates or other sources outside ODOC will not be honored or processed. Distribution of the detainer withdrawal letter is accomplished by use of "Receipt for Prisoner/ Documents/Detainers" ([DOC 060211B](#)).

In the case of an inmate's death, the detainer will be returned to the requesting jurisdiction.

F. Detainers From Multiple Jurisdictions

When multiple detainers have been filed against an inmate, each jurisdiction that has filed a detainer will be notified of the additional detainers. The agency will normally release the inmate to the jurisdiction that placed the first detainer. The exception will be for in-state felony warrants and/or detainers. When multiple detainers are on file and the inmate is released to one of the jurisdictions, copies of the remaining detainers will be provided to the transporting officers and the remaining jurisdictions will be notified of the release and of the jurisdiction that assumed custody.

XII. Procedures for Handling Interstate Agreement on Detainers

A. General Provisions

All inmates in custody will be notified of all detainers lodged against them from any of the interstate agreement participating states.

1. When a request for detainer references an untried indictment, the facility will prepare Form I, "Notice of Untried Indictment Information or Complaint and of Right to Request Disposition" ([Attachment B](#), attached) under the interstate agreement on detainers, and notify the inmate of the new detainer.
2. The detaining jurisdiction will be notified of this action by sending them a copy of Form I and Form III, "Certificate of Inmate Status" ([Attachment D](#), attached).

3. A properly executed Form V, "Request for Temporary Custody" ([Attachment F](#), attached) may be considered as a valid detainer request if accompanied by certified copies of warrants, indictments, and proper identification of the inmate.

B. Forms Used When Proceeding Through the Interstate Agreement on Detainers and Their Purpose

All forms utilized in conformity to the agreement are summarized as follows:

1. Form I of the Agreement on Detainers ([Attachment B](#))

The purpose of Form I is to advise the inmate that a detainer has been lodged against him/her and to advise the inmate that he/she has a right to a "speedy trial."

2. Form II of the Agreement on Detainers ([Attachment C](#), attached)

The purpose of Form II ([Attachment C](#)) is to allow the inmate to waive his right to an extradition hearing by the detaining authority. The execution of Form II by the inmate simply means he/she is willing to go to the detaining jurisdiction for trial without an extradition proceeding.

3. Form III of the Agreement on Detainers ([Attachment D](#))

The purpose of Form III is to advise the detaining jurisdiction of the correctional status and current location of the inmate.

4. Form IV of the Agreement on Detainers ([Attachment E](#), attached)

The purpose of Form IV is to offer temporary custody of the inmate to the detaining jurisdiction for the purpose of "speedy trial."

5. Form V of the Agreement on Detainers ([Attachment F](#))

The purpose of Form V is for the requesting (detaining) state to obtain temporary custody of the inmate for trial.

6. Form VI of the Agreement on Detainers ([Attachment G](#), attached)

The purpose of Form VI is to receipt the inmate into the receiving state's (detaining state's) custody.

Form VI also provides a date and time of pickup of the inmate by the detaining state.

7. Form VII of the Agreement on Detainers ([Attachment H](#), attached)

The purpose of Form VII is to accept temporary custody of the inmate for trial if the inmate requests a speedy trial in the detaining jurisdiction.

8. Form VIII of the Agreement on Detainers ([Attachment I](#), attached)

The purpose of Form VIII is to transfer the inmate within a detaining state's jurisdictional boundary for purpose of trial in the judicial subdivisions of the state.

9. Form IX of the Agreement on Detainers ([Attachment J](#), attached)

The purpose of Form IX is to state the disposition of the charge.

C. When The Inmate Initiates The Process

1. Any inmate may respond to Form I by requesting a final disposition of the untried case or cases referenced thereon.
  - a. The inmate will initiate this action by completing an Agreement on Detainer Form II. A signature from the inmate will be required to complete Form II.
  - b. Completion and signing of Form II constitutes a waiver of extradition.
  - c. The facility has a duty and responsibility to assist the inmate in filling out any of the forms.
2. After completion of Form II, "Inmate's Notice of Place of Imprisonment and Request for Disposition of Indictments Information, or Complaints"; Form III, "Certificate of Inmate Status"; and Form IV, "Offer to Deliver Temporary Custody" will be completed by the facility. Distribution will be as follows:
  - a. Original—district attorney in requesting jurisdiction, certified mail;
  - b. Inmate;
  - c. Field record;
  - d. Administrator of interstate agreement, by certified mail; and
  - e. Court clerk of requesting jurisdiction, by certified mail.

All processing and mailing will be performed by the facility.

3. Once Forms II, III, and IV have been mailed to prosecuting officials of the requesting jurisdiction, that jurisdiction has 180 days from receipt of the documents to try the inmate. The prosecuting official should send back a Form VII and a Form VI.
  - a. Form VII is the requesting jurisdiction's acceptance of temporary custody of the inmate. This form is only used as a result of an inmate's request for disposition of a detainer.
  - b. Form VI is evidence of the agent's authority to act for the requesting state and take the inmate into custody. Form VI must be completed with original signatures and not just as copies. When the requesting state's agent arrives with a properly completed Form VI, they may take custody of the inmate, at their expense, not at the expense of the state of Oklahoma.
4. Detainer Action When Requesting Jurisdiction Does Not Respond:
  - a. Once the institution receives Form VII, "Prosecutor's Acceptance of Temporary Custody," from the requesting jurisdiction, the inmate will be notified. If, however, within 90 days of an inmate's request for disposition no reply is received and if no reply is received from any other letters of notification sent to other jurisdictions which have detainers lodged from said state, the facility will notify the Oklahoma administrator of the Interstate Agreement on Detainers and request assistance from the other involved state's administrator.
  - b. If the inmate is not tried within 180 days from the time he/she requests a disposition and no continuance is granted, upon written notification from the Oklahoma administrator of Interstate Agreement on Detainers, all detainers listed on Form IV become invalid as related to ODOC custodial responsibility. The effected detainers will be so noted and will be removed from the CRC and disregarded as they are no longer valid. If there is some uncertainty as to whether or not a court continuance was granted, the facility will make an inquiry to the involved prosecuting official.

D. When the Prosecutor Initiates the Process

1. Upon receipt of Form V, "Request for Temporary Custody" from an out-of-state prosecuting official, the facility will advise the affected inmate and furnish him with a copy of Form V. The facility should acknowledge receipt by preparing a Form III and sending to the prosecutor. At the same time, the facility will notify the Oklahoma administrator of the Interstate Agreement on Detainers by sending a

copy of Form V. The inmate should be offered the opportunity to invoke his rights to a speedy trial by signing Form II. If the inmate does not sign Form II, he should be given a copy of "Explanation of Inmate's Rights Under Article IV of the Agreement on Detainers" ([Attachment M](#), attached).

2. Once a facility receives Form V, under the terms of the compact, the inmate has 30 days to protest upon his own motion, or the Governor may intercede and deny the request. The inmate cannot be returned under the compact until the 30 day time period has lapsed. The inmate may at any time, however, sign a Form II waiving extradition and invoking his rights under the compact.
3. If the Governor denies the request for temporary custody, the facility will immediately notify all involved officials. Notification of the Governor's denial will come from the Oklahoma administrator of the Interstate Agreement on Detainers. If, after 30 days no letter has been received, it may be assumed that the Governor is taking no action.
4. If the Governor or inmate takes no action on the request within 30 days, the inmate will be taken before a local district judge for a pre-transfer hearing so that the inmate's rights in the matter can be explained.
  - a. The facility should provide the court with a copy of Form V, any supporting documents, and Form V-B, "Prisoner's Agreement to Temporary Transfer of Custody" ([Attachment N](#), attached).
5. If at the pre-transfer hearing the inmate wishes to waive his rights and agree to the transfer, he does so by signing Form V-B. Copies of Forms III, IV, and V-B (if applicable) will be sent to the requesting prosecutor and any other prosecuting officials in that state who have lodged detainers against the inmate, to the inmate, to the field file, and to the administrator of the interstate agreement.
  - a. Copies are sent to other prosecutors with detainers so they may take action on the inmate while he/she is in their state's custody.
6. Once the 30 days has lapsed and the inmate has not protested, the prosecutor may then forward Form VI. The prosecutor must send all copies of Form VI to the compact administrator in the Attorney General's office. The administrator will sign the forms and send at least one copy to the facility and two copies to the prosecutor.
7. On the appointed date, the requesting state's agent arrives to take custody; the facility will request the agent to present a signed copy

of Form VI and other appropriate identification prior to surrendering physical custody.

8. Detainer action when requesting jurisdiction does not respond:
  - a. If no reply to Form IV, "Offer to Deliver Temporary Custody," is received within 60 days from the specific jurisdiction, the facility will notify the administrator of the interstate agreement in the Attorney General's office and request that he seek assistance from the other state's administrator.
  - b. If the prosecutor does take custody of the inmate, that jurisdiction has 120 days to try the inmate from the date custody is assumed. If the case is not disposed of within the 120 days, it should be dismissed with prejudice and upon written notification from the Oklahoma administrator of the interstate agreement, the detainer will become invalid as related to ODOC custodial responsibility.

E. Additional Considerations

1. Upon conclusion of the trial, the inmate must be returned to the facility from which they came. The prosecutor should send a Form IX stating the disposition of the charge.
2. If the inmate has not been returned within 60 days, the facility will contact the foreign jurisdiction to obtain a progress update. Subsequent contacts will be made every 30 days until the inmate is returned.
3. All signatures will be originals, especially on Form VI.
4. The compact does not apply to suspended sentences and paroles. In both situations, a formal Judgment and Sentence has been rendered. Likewise, the compact does not apply to probation or parole revocation actions. For inmates in these situations, custody should be obtained through the use of an extradition.
5. The compact does apply to a deferred sentence. Technically, a person with a deferred sentence is charged, but not formally sentenced.

XIII. Request From Foreign Jurisdictions for Inmate Testimony

22 O.S. Section 728, the "Oklahoma Uniform Act to Secure Rendition of Prisoners in Criminal Procedures," provides for the transfer of an Oklahoma inmate to another state for the purpose of testimony before a grand jury or other criminal proceeding.

A judge of a participating state must certify to an Oklahoma judge of the county of incarceration that the Oklahoma inmate's testimony is needed by the foreign jurisdiction. The Oklahoma judge will hold a hearing to determine if the inmate's testimony and attendance is required. If the testimony is determined to be necessary, the Oklahoma judge may issue a transfer order directing the inmate to attend and testify.

An agent of the requesting jurisdiction must come to Oklahoma to accept custody of the inmate, and the inmate must be returned to the same or other ODOC facility upon conclusion of their testimony. The requesting jurisdiction is responsible for all costs incurred in transporting and temporarily housing the inmate.

XIV. Placement of Detainers Against Escapees and Absconders in Custody of Other Jurisdictions

A. Placement of Detainer

In the event an escapee or absconder is incarcerated in another jurisdiction, ODOC will place a valid detainer against the subject. The facility records officer is responsible for placement of the detainer in the case of an escapee. The deputy director is responsible for placement of the detainer in the case of an absconder. Upon placement of the detainer, the following documents will be provided:

1. A certified copy of the commitment or supervision document;
2. A certified copy of the escape warrant or parole violation warrant (non-certified) whenever possible; and
3. A letter of request which states intent to eventually return subject to the custody of ODOC.

B. Probation Absconders

Probation absconders are the responsibility of the convicting county. Therefore, the assigned probation and parole officer is limited to notifying the district attorney of the county of conviction.

XV. Procedures for the Extradition of Inmates

22 O.S. Section 1141.1, "The Uniform Criminal Extradition Act," provides for the return to Oklahoma of inmates who have been convicted of a crime and have escaped or are not in compliance with the terms of parole.

A. Official Notification

Upon official notification that an inmate is in custody in another state and is refusing to waive extradition, the facility/deputy director will ensure an extradition packet is compiled and sent to the Governor's office within 30 days of the refusal notification.

B. Extradition Packet

An extradition packet will include the following:

1. “Application for Requisition for Parole Violator ([DOC 060211J](#), attached) and “Application for Requisition for Escaped Convict” ([DOC 060211K](#), attached)”;
2. Certified judgment and sentence on each case inmate is serving, including parole certificates, if applicable;
3. Certified copy of district attorney’s information sheet on escape;
4. Certified copy of warrant on escape or copy of parole violation warrant;
5. “Certificate of Authentication” ([Attachment K](#));
6. For escapees, an affidavit sworn before a district judge of the county where the escape charges are filed and containing the following information:
  - a. DOC number, case number, county, crime, sentence, and date inmate was received into ODOC.
  - b. Date inmate was received at the facility/region, date of escape, date charges were filed, and a statement that the inmate was not released by parole, pardon, or discharge.
  - c. Current location of the inmate, who notified the agency of arrest on an escape and when, and that the inmate refused to waive extradition.
7. For parole violators, an affidavit sworn before a notary public containing the following information:
  - a. DOC number, case number, county, crime, sentence, and date inmate was received into ODOC.
  - b. Date of parole, alleged violation(s) of parole, and date of issue of ODOC warrant and warrant number.
  - c. Current location of the parolee, who notified the agency of arrest on a parole violation warrant and when, and that the parolee refused to waive extradition.
8. An affidavit sworn before a notary public containing the following information:

- a. That the attached fingerprints belong to the parolee.
  - b. That the attached photograph is of the parolee.
  - c. A narrative physical description of the parolee.
9. For escapees, a copy of current Oklahoma Statutes on escape

Three original extradition packets must be compiled. Items 1, 5, 6, 7, and 8 must be original signatures in triplicate. Items 2, 3, and 4 must be certified by the court clerk in triplicate.

C. Distribution/Information

1. Three complete extradition packets will be sent to the Governor's office. A copy of the packet will be made for inclusion in the field file.
2. The packets should be sent with a cover letter that includes:
  - a. Name and DOC number of the inmate;
  - b. Where the inmate is currently in custody or out on bond;
  - c. When notification of the arrest on an escape or parole violation occurred;
  - d. Any pending charges in the holding state; and
  - e. Whom to notify when the extradition has been processed.
3. Questions concerning extradition should be directed to the manager of Sentence Administration and Inmate Records.

XVI. Preparation of Weekly Status Change Reports and Monthly Special Dockets

A. Inmate Status Change

The records officer at each facility will provide the Pardon and Parole Board executive director with the following information on all inmates on a weekly basis using "Notice of Inmate Status Change" ([DOC 060211O](#), attached):

1. The information reported will include:
  - a. Discharges;
  - b. Paroles;
  - c. Rebills, either discharge, or parole;

- d. Escapees returned to a facility and not returned through the assessment and reception center;
  - e. Court ordered modification of controlling, concurrent, or consecutive cases by amended Judgment and Sentence, Order Nunc Pro Tunc, post conviction relief action, or any other appropriate order;
  - f. Additional jail time;
  - g. Deaths;
  - h. New sentences (including probation);
  - i. New detainees;
  - j. Release of inmate to Immigration and Customs Enforcement under the Oklahoma Criminal Illegal Alien Rapid Repatriation Act of 2009;
  - k. Changes in sentence sequence;
  - l. Changes resulting from correction of administration or calculation errors;
  - m. Post-conviction relief or reversal of conviction;
  - n. Escapes;
  - o. Commutation of sentence granted by the Governor; and
  - p. Next scheduled parole docket.
2. A duplicate form will be furnished to the parole investigator assigned to the facility.

**B. Monthly Special Parole Dockets**

State law mandates that the Pardon and Parole Board consider certain nonviolent inmates who are within six months of release whenever the population exceeds the agency capacity (57 O.S. Section 37). Upon instructions from the director of Classification and Population, the records officer will submit a list of inmates qualified for the special parole docket according to the following criteria established by the Board and state statute:

1. Will be serving a nonviolent offense, which applies to the controlling

case and any concurrent or delayed concurrent cases. This excludes any degree of the crimes listed in Section II. H. item 2. of this procedure or any form of accessory, attempt, conspiracy to commit, or solicitation of any of the following offenses:

Aiding/Abetting in Suicide;  
Aiding or Involving a Minor in Obscenity (all forms);  
Arson II, III, IV;  
Child Abuse;  
Child Stealing;  
Crime Against Nature/Sodomy;  
Incest; and  
Possession of Weapon Where Prisoners Are Kept.

2. Will have a projected release date within six months in accordance with the schedule issued by the director of Classification and Population which applies to the controlling case and all concurrent or delayed concurrent cases.
3. May have detainers, including Oklahoma parole revocations, where no final disposition has been made (pending parole revocations cannot be controlling case as indicated below).
4. Will not have a consecutive case.
5. Will not be subject to the minimum mandatory sentence law until the inmate reaches the exact 1/3 month shown on the docketing worksheet and "Inmate Notification Form" denoted by the language "1/3 per 57 O.S. Section 332.7 B."
6. Will not have a regular parole docket in the same month even if the inmate has waived the regular docket.
7. Will not have been considered by the board on a previous special parole docket on the current sentence.
8. Will not have a pending parole recommendation or a pending parole revocation on the controlling case.

#### XVII. Daily Facility Count Procedures

The director of Classification and Population will ensure the compiling, reconciling, and distributing of the daily count sheet each working day. The Population Office in the Classification and Population division will coordinate with each facility and Probation and Parole region office to ensure ongoing accuracy of the report.

- A. Each facility and Probation and Parole region office will verify and report its respective inmate count to the Population Office each working day by a time established by the Population Office. This count will be reconciled as of 8:00

am the current day. Facility and Probation and Parole region office verification will include comparison of records office, control room, and inmate count logs or records. The reported count will include at-facility inmates by count unit and total and out-count inmates by status and total.

- B. Activities affecting the count such as number discharged, number paroled, transfers in or out, etc., will also be explained. Scheduled inmate transfers which did not take place will be fully explained. Discharges and paroles will be entered into OMS prior to 5:00 pm on the day of the discharge or parole.
- C. Any changes affecting the capacity of a facility must be submitted in writing to the population office with approval from the facility head and director of Institutions/division head as well as the director of Classification, Population, Sentence Administration and PREA Compliance.

#### XVIII. References

Policy Statement No. P-060100 entitled "Classification and Case Management of Inmates/Offenders"

OP-020307 entitled "Sex and Violent Crime Offender Registration"

OP-060107 entitled "Systems of Incarceration"

OP-060125 entitled "Inmate/Offender Disciplinary Procedures"

OP-060205 entitled "Parole Process Procedures"

OP-060206 entitled "Corrections Compact Transfers"

OP-090101 entitled "Standards for Inmate Programs"

OP-090124 entitled "Inmate/Offender Grievance Process"

OP-090131 entitled "Inmate Financial Responsibility Program"

OP-160108 entitled "Interstate Compact for Probation/Parole"

OP-160201 entitled "Opening, Closing and Transferring Cases Under Supervision"

OP-160501 entitled "Community Corrections Skill Building Review Process"

OP-161001 entitled "Specialized Programs Case Management"

A.G. Opin. No. 83-301

Oklahoma State Statute Titles, 10A, 12, 21, 22, 47, 57, and 63

8 C.F.R. § 287.7

22 O.S. § 976

Arnold v. Cody, 951F.2d 280 (10<sup>th</sup> Cir. 1991)

Day v. State, F-2007-526 (OCCA 2008) unpublished

Ekstrand v. State, 791 P.2d 92, 1990 OK CR 21

Floyd v. State, 540 P.2d 1195, 1975 OK CR 162

Hemphill v. State, 954 P.2d 148, 1998 OK CR 7

*Luna-Gonzales v. State*, 2019 OK CR 11.

*Moss v Department of Corrections*, 403 P.3d 379, 2016 OK CR 23

Roberson v. State, 560 P.2d 1039, 1977 OK CR 74

Robertson v. JCCC, HC 2005-768 (OCCA 2006)

Holloway v. State, 182 P.3d 845, 2008 OK CR 14

Higgins v. Branam, 137 P.3d 1240, 2006 OK CR 23

Williams v. State, 87 P.3d 620, 2004 OK CR 8

XIX. Action

The director of Institutions, appropriate facility head/deputy director is responsible for compliance with this procedure.

(Revision-01 dated 01/05/2021) The director of Health and Offender Services and the General Counsel is responsible for the annual review and revisions.

Any exceptions to this procedure will require prior written approval from the agency director.

This procedure is effective as indicated.

Replaced: Operations Memorandum No. OP-060211 entitled "Sentence Administration" dated July 18, 2017

Distribution: Policy and Operations Manual  
Agency Website

<u>Referenced Forms</u>	<u>Title</u>	<u>Location</u>
<a href="#">DOC 060125A</a>	"Offense Report"	<a href="#">OP-060125</a>
<a href="#">DOC 060203A</a>	"Adjustment Review"	<a href="#">OP-060203</a>
<a href="#">DOC 060203B</a>	"Intra-Facility Assignment Form"	<a href="#">OP-060203</a>
<a href="#">DOC 060211A</a>	"Facility Audit Report"	Attached
<a href="#">DOC 060211B</a>	"Receipt for Prisoner/Documents/Detainer"	Attached
<a href="#">DOC 060211C</a>	"Time Calculation Audit Form Prior to July 1986"	Attached
<a href="#">DOC 060211D</a>	"Time Calculation Audit Form"	Attached
<a href="#">DOC 060211E</a>	"Records Management Audit Report"	Attached
<a href="#">DOC 060211F</a>	"Facility Audit Log Sheet"	Attached
<a href="#">DOC 060211G</a>	"Application for Compact Services (Form V)"	Attached
<a href="#">DOC 060211H</a>	"Consolidated Record Card"	Attached
<a href="#">DOC 060211I</a>	"Interstate Investigation Request"	Attached
<a href="#">DOC 060211J</a>	"Application for Requisition for Parole Violator"	Attached
<a href="#">DOC 060211K</a>	"Application for Requisition for Escaped Convict"	Attached
<a href="#">DOC 060211L</a>	"Earned Credit Class Report"	Attached
<a href="#">DOC 060211M</a>	"Monthly Inmate Evaluation Time Credit Report"	Attached
<a href="#">DOC 060211N</a>	"Certificate of Release"	Attached
<a href="#">DOC 060211O</a>	"Notice of Inmate Status Change"	Attached
<a href="#">DOC 060211P</a>	"Eligibility For Enhanced Level 3 and 4 Credit Effective November 1, 2001"	Attached
<a href="#">DOC060211Q</a>	"Acknowledgement of Release to Deportation Order"	Attached
<a href="#">DOC 160901B</a>	"Notice of Finding of Probable Cause"	<a href="#">OP-160901</a>
<u>Attachments</u>	<u>Title</u>	<u>Location</u>
<a href="#">Attachment B</a>	"Case Plan"	<a href="#">OP-060102(M)(F)</a>

<a href="#">Attachment A</a>	“Crimes Against Children”	<a href="#">OP-060104</a>
<a href="#">Attachment A</a>	“Application for Pre-November 1, 1988 Credit”	Attached
<a href="#">Attachment B</a>	“Agreement on Detainers: Form I Notice of Untried Indictment Information or Complaint and of Right to Request Disposition”	Attached
<a href="#">Attachment C</a>	“Agreement on Detainers Form II Inmates’ Notice of Place of Imprisonment and Request For Disposition of Indictments, Information and Complaints”	Attached
<a href="#">Attachment D</a>	“Agreement on Detainers Form III Certificate of Inmate Status”	Attached
<a href="#">Attachment E</a>	“Agreement on Detainers Form IV Offer to Deliver Temporary Custody”	Attached
<a href="#">Attachment F</a>	“Agreement on Detainers Form V Request for Temporary Custody”	Attached
<a href="#">Attachment G</a>	“Agreement on Detainers Form VI Evidence of Agent’s Authority to Act for Receiving State”	Attached
<a href="#">Attachment H</a>	“Agreement on Detainers Form VII Prosecutor’s Acceptance of Temporary Custody Offered in Connection with Prisoner’s Request for Disposition of a Detainer”	Attached
<a href="#">Attachment I</a>	“Agreement on Detainers Form VIII Prosecutor’s Acceptance of Temporary Custody Offered in Connection with Another Prosecutor’s Request for Disposition of a Detainer”	Attached
<a href="#">Attachment J</a>	“Agreement on Detainers Form IX Prosecutor’s Attached Report on Disposition of Charges”	
<a href="#">Attachment K</a>	“Certificate of Authentication”	Attached
<a href="#">Attachment L</a>	“Sentence Administration Audit Log Sheet”	Attached
<a href="#">Attachment M</a>	“Explanation of Inmate’s Rights Under Article IV of the Agreement on Detainers”	Attached
<a href="#">Attachment N</a>	“Prisoner’s Agreement to Temporary Transfer of Custody”	Attached

<a href="#">Attachment O</a>	“List of Ineligible Offenses”	Attached
<a href="#">Attachment P</a>	“Notification of Transportation Costs”	Attached
<a href="#">Attachment Q</a>	“Affidavit of Costs”	Attached
<a href="#">Attachment R</a>	“Order”	Attached
<a href="#">Attachment S</a>	“Restoration of Earned Credit Checklist”	Attached
<a href="#">Attachment T</a>	“Restoration of Earned Credits Monthly Report”	Attached
(Revision-01 effective 01/05/2021) <a href="#">Attachment U</a>	“Reentry Programs”	Attached