


DEPARTMENT OF CORRECTION 	POLICY MANUAL	POLICY NUMBER: 136	PAGE NUMBER: 1 of 12
		SUBJECT: Sentence Administration	Adopted: 01-1996 Reviewed: 05-19-04 Revised: 06-01-04

01.00.00. POLICY OF THE DEPARTMENT

It is the policy of the Board of Correction that the Department of Correction establish procedures and guidelines for the administration of the sentences of persons committed to the custody of the Board of Correction.

01.01.00. PURPOSE

The purpose of this policy is to provide authority for determining periods of retained jurisdiction, parole eligibility and full term release dates according to Idaho Code and Department of Correction policy.

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Idaho Code Sections 20-101A, 101B, 101D, 201, 223, 228, 233, 239, 18-309, 2050, 19-2505, 2513, 2514, 2520, 2520B, 2520C, 2520D, 2520E, 2520F, 2520G, 2601, and 37-2739.

Doan V. State of Idaho, 132 Idaho 796, 979 P.2d 1154 (1999).

04.00.00. DEFINITIONS

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Concurrent Sentences. Sentences which are served at the same time, but which may begin and end on different days.

Consecutive Sentences. Sentences which must be served one after the other to include all minimum terms and indeterminate terms.

Determinate Term. See minimum term.

Goodtime. Days credited for goodtime behavior, which reduce the length of the sentence as specified by Idaho Code Section 20-101A.

Indeterminate Term. That portion of a sentence during which the offender is eligible for parole consideration by the Commission of Pardons and Parole.

Institutional Parole. Parole granted from a pre-unified sentence to a consecutive sentence being served in prison.

Jail Credit. A period of time which is credited towards the imposed sentence for time spent incarcerated prior to the date of sentencing as specified in the official order issued by the sentencing court consistent with Idaho Code Section 18-309.

Minimum Term. That portion of a sentence imposed on a crime during which the offender is not eligible for parole consideration.

Mittimus. The judgment of commitment.

Parole Eligibility Date. The date upon which the inmate becomes eligible for consideration for parole by the Commission of Pardons and Parole.

Sentence Effective Date. The date the offender was sentenced unless the judge delays the commencement of the sentence.

05.00.00. SCOPE

The offender's sentence and length of supervision under the authority of the Department of Correction and Commission for Pardons and Parole is affected by Policy 136, Sentence Administration.

06.00.00. RESPONSIBILITY

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The Inmate Placement/Records Bureau sentencing staff shall have sole responsibility for the sentence calculation of all offenders sentenced to incarceration.

Amendments to the sentence shall fall under the jurisdiction of the sentencing courts or the Commission for Pardons and Parole.

The director of the Department of Correction shall be solely responsible for any adjustment to the sentence in the cases of meritorious or industrial goodtime as defined in Idaho Code Section 20-101D.

07.00.00. PROCEDURE

07.01.00. Sentence Calculation

Sentence Calculation. Sentences must be calculated for each offender to determine the date the sentence begins, the date that parole eligibility begins, and the date the offender is entitled to discharge from commitment to the custody of the Board of Correction. Sentence calculation is affected by various adjustments to the sentence. Adjustments are credits reducing the sentence and forfeitures that increase the sentence.

Commitments. The judgment of commitment, otherwise known as a mittimus, entered by the clerk of the court and signed by the sentencing judge is the document which pronounces the sentence and which sets forth what sentence the offender will serve. The sentence effective date is the date the sentence begins unless it is consecutive to another sentence.

The records bureau shall make every reasonable effort to interpret the terms of the judgment of commitment consistent with the sentencing laws of the State of Idaho. Sentences will be calculated according to the sentence imposed on the face of the judgment of conviction.

Whenever it appears from the order of commitment that the court may have imposed an unlawful sentence, the records bureau shall notify the sentencing court, in writing. Notification shall specify in what manner the records bureau feels the sentence is unlawful.

If the court does not otherwise specify and if there is no sentencing law requiring a different result, all sentences imposed will be calculated as being concurrent to each other.

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If the court specifies that a sentence is to be served consecutively but does not specify a particular sentence to which the new sentence is consecutive, it will be considered to be consecutive to whichever sentence was being served at the time the new sentence was imposed.

Any sentence of confinement for an escape must be consecutive to other sentences imposed. See Idaho Code Section 19-2520.

If a person commits a felony while incarcerated in the Department of Correction, any sentence of confinement for said felony must be consecutive to the confinement imposed for the underlying sentence. See Idaho Code Section 19-2520F.

Final Release Date. The final release date is calculated by taking the sentence begin date, adding the number of years, months, and days of the sentence, taking into account any adjustments to the sentence and arriving at the day the offender will be released from commitment to the custody of the Board of Correction.

Adjustments. Adjustments are additions to the length of the sentence for days forfeited, or subtractions from the length of the sentence for days credited.

Additions are:

Parole forfeits. If an offender is released on parole and thereafter violates that parole, time spent on parole is forfeited at the discretion of the Commission of Pardons and Parole and added to the sentences upon which the offender was paroled as an adjustment to the final release date per Idaho Code Section 20-228;

The Commission of Pardons and Parole is the sole authority to determine the date ranges for time forfeited while on parole;

If the offender is granted an institutional parole and violates the parole after being released from custody, time forfeited while on parole is added to all sentences paroled from with credit given for time served in the institution on the consecutive sentence.

Escape/Absent Without Leave (AWOL). Time spent outside the custody of the Department of Correction while on escape will be added to the sentence being served at the time of escape or AWOL as an adjustment. Calculation of the sentence will reflect Idaho Code Section 18-2505.

Time out of custody. Time spent out of the custody of the Department of Correction while on bond or other court ordered releases or furloughs will be added to

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the length of the sentence as an adjustment. Time out on court ordered release is added to the term being served when the release was ordered.

Goodtime. Any credits earned but forfeited because of a disciplinary offense will be added as an adjustment to the final release date as reflected in Idaho Code Section 20-101A.

Subtractions are:

Jail Credits. Jail credits shall only be calculated based on an award of credit specified in an order of the sentencing court consistent with Idaho Code Section 18-309.

Jail credits are calculated by subtracting the number of days credit from the end of the minimum term or from the final release date if no minimum term applies to the sentence;

If the offender questions jail credits for presentence incarceration, it is the offender's responsibility to contact the sentencing court for resolution.

Retained Jurisdiction. Any time served in the custody of the Department of Correction prior to a return for a probation violation on the same sentence is subtracted from the minimum term, or from the final release date if no minimum applies.

Goodtime. Goodtime, statutory or meritorious, is awarded in compliance with this policy and procedure and is subtracted from the final release date.

Institutional Parole. Time served on a sentence while on institutional parole from another sentence is given as credit for time served on the sentence paroled to if a violation occurs after being released from custody.

07.02.00. Sentence Calculation Rules

All sentences will be calculated to begin on the sentence effective date and the rules for additions and subtractions as discussed above apply. Parole eligibility is determined by the type of sentence. Most sentences fall into two (2) categories - Pre-Unified Sentencing Act Sentences and Unified Sentences.

Pre-Unified Sentencing Act Sentences. Crimes committed prior to February 1, 1987, regardless of the date of sentencing, may be wholly fixed (no parole possible) or wholly indeterminate. Unlike unified sentences, an offender must serve any consecutive sentence in its entirety. Both the fixed and indeterminate terms must be served, unless

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the sentence is commuted or the offender is institutionally paroled from the sentence to a consecutive sentence. An offender is parole eligible on a wholly indeterminate sentence from the sentence effective date except as noted below:

Sentenced after July 1, 1971 but prior to July 1, 1980:

No person serving a life sentence is eligible for parole until ten (10) years of the sentence have been served;

No person serving any sentence for homicide in any degree, treason, rape where violence is an element of the crime, robbery of any kind, kidnapping, burglary when armed with a dangerous weapon, assault with intent to kill, or murder in the second degree is eligible until one-third (1/3) of the sentence has been served; and;

No person serving any sentence for rape, incest, crime against nature, lewd act upon a minor, or any attempt or assault with intent to commit any of said crimes, or serving a sentence enhanced as a habitual offender is eligible for parole until one-third (1/3) or five (5) years of the sentence, whichever is less, has been served.

Sentenced after July 1, 1980, but prior to February 1, 1987:

No person serving a sentence of life or a term of more than thirty (30) years is eligible for parole until ten (10) years of the sentence has been served; and

No person serving a lesser sentence for homicide in any degree; treason; rape by force or threat of bodily harm; incest; crime against nature; lewd act upon a minor; robbery of any kind; kidnapping; burglary when armed with a dangerous weapon; an attempt or assault with intent to commit any of the above crimes, or as an habitual offender is eligible for parole until one-third (1/3) or five (5) years of the sentence, whichever is less, has been served.

If an offender receives an institutional parole and is later paroled from the institution, the balance of the consecutive indeterminate sentences shall run at the same time. If the offender violates said parole, the time forfeited shall be added equally to all sentences paroled from with credit for time served on the consecutive sentence.

Unified Sentencing Act Sentences. All crimes committed on or after February 1, 1987, fall under the Unified Sentencing Act. A unified sentence is a sentence containing a minimum term of confinement. For all crimes committed on or after February 1, 1987, the court must specify a minimum term of confinement. The difference between the minimum term imposed and the maximum term imposed, if any, is the indeterminate term, which is the term during which the inmate is eligible for parole on that sentence.

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All minimum terms must be fully served before an offender is parole eligible on any sentence.

Where the court specifies that the minimum term of confinement is the same as the maximum term of confinement, thereby making the sentence a wholly fixed sentence with no indeterminate terms, it will be considered to be a minimum term of confinement for purposes of parole eligibility.

If an offender is currently serving the indeterminate portion of any sentence, and receives an additional sentence with a minimum term of confinement specified, that minimum term of confinement must be served prior to the inmate again being parole eligible on any sentence.

Sentences imposed to run consecutively must be served consecutively according to these rules:

Minimum terms of confinement must be served one (1) after the other and cannot be served at the same time. An offender becomes parole eligible on all sentences when all minimum terms of confinement have been served.

Indeterminate terms of consecutive sentences must also be served consecutively and cannot be served at the same time. Indeterminate portions of consecutively imposed sentences are served consecutively whether in the institution or on parole until discharged according to law.

If the offender has served all minimum terms and is paroled out of the institution, all remaining indeterminate terms are still to run consecutively and must be served one (1) at a time on parole until discharged according to law.

As of May 24, 1999, all escape sentences are calculated per the Unified Sentencing Act. (Doan v. State of Idaho, 132 Idaho 796, 979 P.2d 1154 (1999)).

Unified And Pre-Unified Sentence Combinations. The following procedures are used to calculate consecutive sentences when administering multiple sentences that fall under both the Pre-Unified and Unified Sentencing Acts:

When an offender is sentenced to a consecutive sentence under the Unified Sentencing Act while serving an indeterminate sentence under the Pre-Unified Act, the unified sentence will begin on its sentence effective date and continue until its determinate portion is satisfied. The pre-unified sentence will be suspended during this time. It will resume upon completion of the determinate portion of the consecutive unified sentence and continue to run until the total imposed sentence is completed.

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When the pre-unified sentence is satisfied, the indeterminate portion of the unified sentence will resume and run until it is completed.

If the unified sentence is wholly determinate, then the entire sentence will be served before returning to the pre-unified sentence for completion of the indeterminate sentence.

Under former Idaho Code Section 20-223, certain crimes required a minimum portion of time to be served before parole eligibility. In the case where the pre-unified sentence has a minimum portion to serve before parole eligibility, that portion must be satisfied before passing to the determinate portion of the consecutive unified sentence.

All determinate or mandatory minimums must be served before the offender is parole eligible.

Sentence Enhancements. Charges of use of a firearm, Idaho Code Section 19-2520; infliction of great bodily injury, Idaho Code Section 19-2520B; repeated sex offenses, Idaho Code Section 19-2520C; controlled substances, Idaho Code Section 37-2739; and persistent violator Idaho Code Section 19-2514, are sentence enhancements.

Case law has determined that an enhancement is not a separate sentence but an extension of the underlying sentence. Whether the enhancement is fixed or indeterminate is to be specified by the sentencing court. Enhancements extend the term of imprisonment by increasing the maximum sentence. (Idaho Code Section 19-2520; 19-2520A-G).

Retained Jurisdiction. Authority for calculating the period of retained jurisdiction is under Idaho Code Section 19-2601 (4). The court shall retain jurisdiction over the prisoner for the first one-hundred eighty (180) days or if the prisoner is a juvenile, until the juvenile reached twenty-one (21) years of age.

07.03.00. Goodtime Credits

Statutory Goodtime Credits. Statutory goodtime is used to reduce the maximum term of an inmate's sentence for those who are eligible. It is a subtraction from the final release date. The rate is specified by Idaho Code Section 20-101A. Statutory goodtime is available only for sentences on crimes committed before July 1, 1986, regardless of when the sentence was imposed. No statutory goodtime reduction is allowed for sentences on crimes committed after July 1, 1986.

Statutory goodtime credits are computed as follows:

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Five (5) days for each month, if the sentence is not less than six (6) months and not more than one (1) year;

Six (6) days for each month, if the sentence is more than one (1) year and less than three (3) years;

Seven (7) days for each month, if the sentence is not less than three (3) years and less than five (5) years;

Eight (8) days for each month, if the sentence is not less than five (5) years and less than ten (10) years; and

Ten (10) days for each month, if the sentence is ten (10) years or more; or

When two (2) or more consecutive sentences are imposed, goodtime credit is based on the aggregate sentence.

Statutory goodtime credits are computed and awarded in a lump sum at the beginning of the sentence. Goodtime is considered accrued and subject to forfeiture as of that date. Goodtime, however as noted above, is subtracted from the final release date.

Goodtime may be forfeited as punishment for a disciplinary infraction. The forfeiture may be made upon a finding of guilty by a disciplinary hearing officer. Goodtime will be forfeited from all sentences being served at the time of the infraction.

An eligible offender may petition the director of correction for restoration of goodtime forfeited. Restoration of goodtime is at the nonreviewable discretion of the director and may be granted when:

The applicant demonstrates one (1) year of disciplinary-free behavior;

The infraction which resulted in forfeiture of goodtime was not for the offenses of participating in a riot, battery, coercion, extortion, menacing, or escape;

All work reports for the prior twelve (12) months are above average in all categories; and

The applicant is within six (6) months of release.

Industrial Goodtime. Industrial goodtime is made to inmates who meet the following criteria and who are outstanding in comparison to their peers: Industrial goodtime may be awarded at a rate not to exceed five (5) days per month. Awards will be limited to not more than one percent (1%) of the total facility population. Industrial goodtime may be

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awarded by the facility head with approval of the director. Industrial goodtime may be awarded when:

The offender applying for the award:

Is in medium or lower custody;

Has been disciplinary infraction free for more than twelve (12) months;

Has received work evaluations of above average rating in all categories for a period of six (6) months;

The work supervisor certifies that the offender is the most outstanding worker under work supervision for the month in which the award is to be made;

The offender has made application to the delegated facility staff within fifteen (15) days of the end of the month for which the offender is requesting an award, and;

The delegated staff has reviewed the request with the work supervisor and recommended to the facility head that the award should be made.

Meritorious Goodtime. Exceptional, meritorious or outstanding service goodtime may be awarded in a lump sum by the director of the Department of Correction per Idaho Code Section 20-101D. The award shall not exceed the maximum, which could have been granted as statutory goodtime. The director may make the award when an offender performs an extraordinary act of heroism at the risk of the offender's own life or for outstanding service to the state of Idaho resulting in the saving of lives, prevention of destruction or major property loss during a riot, or the prevention of an escape from a secure facility. The offender must make application to the director within three (3) months of the act.

Any award of exceptional, meritorious or outstanding goodtime credits may be forfeited at the discretion of the director upon a subsequent finding of guilt for a disciplinary violation.

All changes to an offender's goodtime credits must be submitted to the records bureau for inclusion in the formal record.

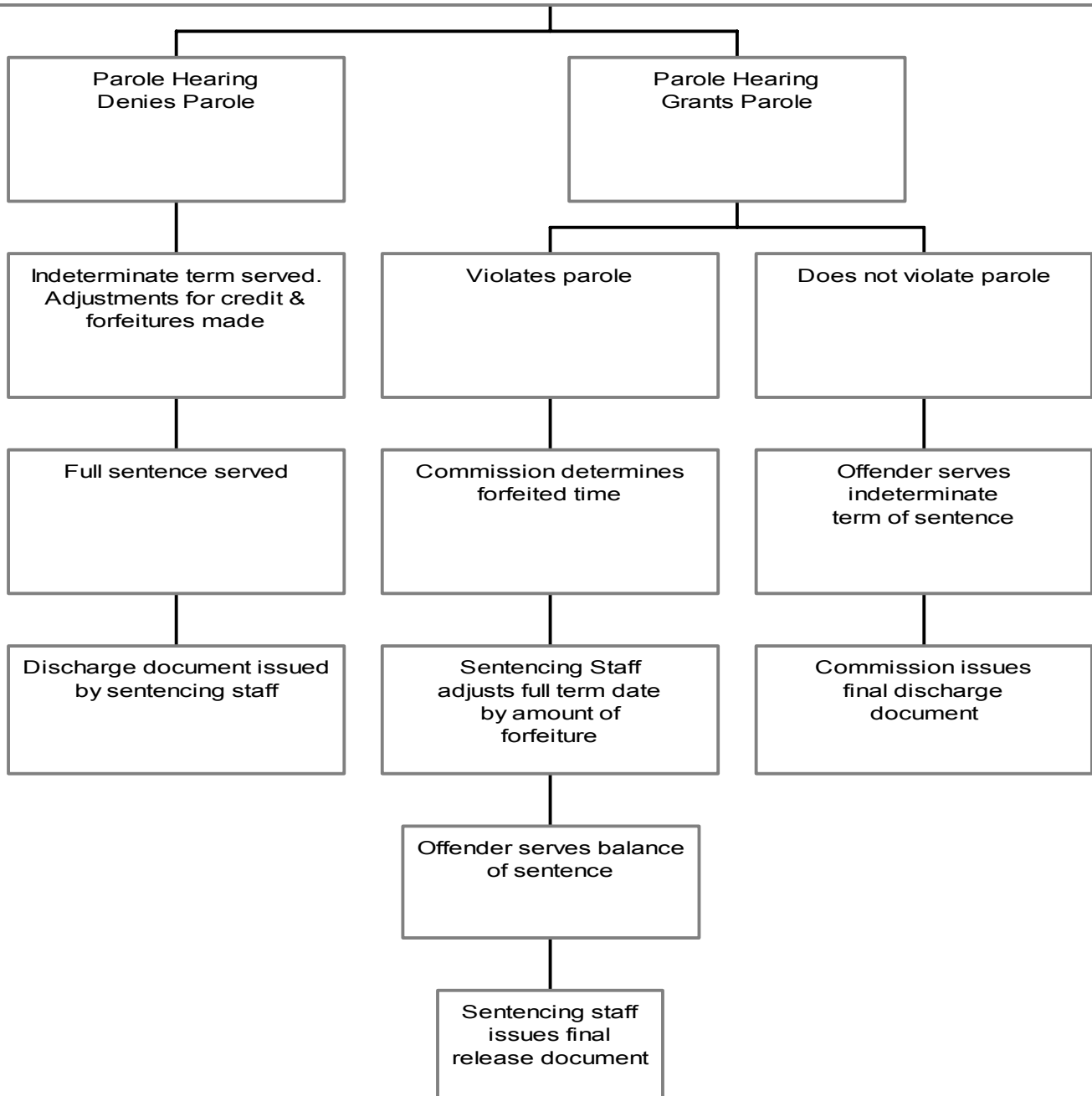
08.00.00. FLOWCHART

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SENTENCE ADMINISTRATION

1. Court generates judgment of commitment to IDOC incarceration.
2. Sentence data entered into electronic data base by sentencing staff per court ordered sentence.
3. Adjustments for credits, forfeitures, and court ordered amendments are made by sentencing staff.
4. Offender serves minimum sentence.



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09.00.00. SIGNATURE

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Director, Department of Correction

Date

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