

GENERAL DISTRIBUTION

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**WEST VIRGINIA
DIVISION OF CORRECTIONS
& REHABILITATION**

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DATE: 29 October 2021 **OFFICE OF WEST VIRGINIA
SECRETARY OF STATE**

**SUBJECT: MANDATORY POST-RELEASE
SUPERVISION**

POLICY DIRECTIVE

PURPOSE:

To maintain a mechanism that facilitates the timely release of inmates to one (1) year mandatory post-release supervision in accordance with WV Code §15A-4-17.

REFERENCE:

WV Code §§15A-4-17; 62-12-17; 62-12-19 and 62-13-2.

RESPONSIBILITY:

No additional written instructions on this subject are required.

CANCELLATION:

All previous written instructions on this subject including DCR Policy Directive 151.03, dated 15 June 2019.

APPLICABILITY:

All facilities and work units within the Division of Corrections and Rehabilitation (DCR) that have custody of or supervise adult offenders. This Policy is available for general distribution and is to be made available for inmate/offender review.

DEFINITIONS:

Case Supervisor: The DCR staff member assigned by the Superintendent or Unit Manager to manage the caseload of a particular inmate or group of inmates (e.g., Corrections Case Manager, Reentry Coordinator, Corrections Program Specialist, or Correctional Counselor).

Good Time: A day-for-day commutation for each day of physical incarceration, which is credited to an inmate's sentence(s) as imposed by the appropriate court of jurisdiction.

Minimum Discharge Date (MDD)/Final Release Date: The inmate's scheduled date of release from his/her sentence provided the inmate remains continuously incarcerated and does not lose any good time.

POLICY:

- I. Pursuant to WV Code §15A-4-17, an inmate sentenced for a felony crime of violence against the person, a felony offense where the victim was a minor child or a felony offense involving the use of a firearm on or after July 1, 2013, shall upon reaching his/her calculated discharge date serve one (1) year (or less) of mandatory post-release supervision.
- II. Inmates sentenced as young adults, and those inmates serving a sentence in another state or federal custody who discharge their West Virginia term prior to release from the other jurisdiction; or those inmates who have a federal detainer or a detainer from another state to serve a consecutive sentence, life term, or a long concurrent term do not qualify for mandatory post-release supervision.
- III. Upon receipt of the court order sentencing an inmate on any of the applicable crimes (**Attachment #1**), the DCR Director of Records & Interstate Compact or designee shall work in conjunction with the facility's Records Supervisor and Reentry Coordinator to ensure the following.
 - A. The inmate shall be supplied a time sheet reflecting his/her current Minimum Discharge Date (MDD). One (1) year of good time will be deducted at the time of his/her MDD. If the inmate does not have a year of good time earned, the good time accumulated up to inmate's MDD will be deducted to serve for his/her period of mandatory post release supervision.
 - B. Appropriate notations are made in the Offender Information System (OIS) to indicate the applicable inmates.
 - C. A procedural letter (**Attachment #2**) will be provided to the inmate with his/her time sheet explaining that good time will be deducted on his/her MDD to facilitate the mandatory post-release supervision.
 - D. The DCR Director of Records & Interstate Compact/designee will provide an Order of Release on Mandatory Post-Release Supervision (**Attachment #3**) including the Discharge Date from Supervision to the Reentry Coordinator prior to the inmate's MDD. The original shall be placed in the inmate's legal/booking file and uploaded to the appropriate file in OIS.
 - E. Parole release plans for each inmate should be submitted in OIS one-hundred and twenty (120) days prior to the calculated MDD by the Case Supervisor. If a court order

is not received prior to that time, the Case Supervisor shall work in conjunction with the Parole Officer to meet the criteria in this section as quickly as possible.

1. If by the time of release, an inmate does not have an approved parole release plan, the inmate will be released to the assigned parole office on his/her calculated release date.
 2. The "assigned parole office" should be the area which best meets the needs of the inmate. It may not necessarily be the county of conviction.
- F. If the inmate also has consecutive extended supervision as mandated by WV Code §62-12-26, the facility Records Clerk, ninety (90) days prior to the release of the inmate, shall notify via email the Director of the Division of Probation Services or designee and provide the information as stipulated in DCR Policy Directive 457.11. The Reentry Coordinator or designee will also ensure the supervising Parole Officer is aware, so the Director of the Division of Probation Services or designee is notified in a similar manner when the offender discharges mandatory supervision.
- G. Inmates who have not completed Pre-Parole Orientation class within the previous twelve (12) months will complete the orientation prior to release.
- H. The Reentry Coordinator/designee will follow the guidelines for out-processing to parole supervision as contained in DCR Policy Directive 454.12 at least twenty-four (24) hours prior to the inmate reaching one hundred and eighty (180) days from his/her MDD.
- I. Inmates will be released in accordance with all guidelines as contained in DCR Policy Directive 457.02 and can be released any day of the week including non-business days.
- J. Upon the inmate's release, the Reentry Coordinator or designated staff will release the inmate in OIS according to established procedures and ensure the entry of the maximum parole discharge date.
- IV. Parole Services shall supervise offenders on Mandatory Supervision in accordance with DCR Policy Directive 700.00.
- A. In accordance with WV Code §15A-4-17, all offenders on Mandatory Supervision are subject to electronic or GPS monitoring for the entire period of supervision.
- B. Violations of the term(s) of his/her supervision may result in graduated sanctions.
1. If reasonable cause is found to exist that an offender has violated term(s) of his/her release;

2. Except in the case of absconding supervision, new criminal conduct other than minor traffic violations or simple possession of a controlled substance or a violation of a special condition of supervision designed to protect the public or the victim;
 3. After consultation with and written approval by the Director of Parole Services;
 - a. For the first offense, require the offender to serve a period of confinement up to sixty (60) days;
 - b. Or for the second violation, require the offender to serve a period of confinement up to one hundred twenty (120) days.
 4. If an offender on Mandatory Supervision fails to abide by the rules and regulations even after the afforded graduated sanctions, or if the offender has served both a sixty (60) day and one hundred twenty (120) day incarceration sanction and commits a new violation, the supervising Parole Officer will seek revocation.
- V. The DCR Director of Records and Interstate Compact/designee shall provide an Official Certificate of Discharge from mandatory post-release supervision to the supervising Parole Officer prior to the offender's discharge date and ensure the appropriate field in OIS is marked to indicate the offender has been discharged from supervision.
- VI. The following procedures will be followed when an offender receives a sanction to either waive or request a hearing by the Hearing Examiner:
- A. Written notice to the offender listing the specific condition(s) of release the offender is alleged to have violated, the date(s) the alleged violation(s) occurred, the nature of the violation(s), the date the offender received the sanction or was incarcerated as a sanction, and the date the offender was served with the written notice.
 - B. The written notice provided to the offender shall also be provided to the Hearing Examiner designated by the Commissioner to conduct the sanction hearings.
 - C. The offender shall have the right to request or waive the sanction hearing. This shall be documented by the Parole Officer or Hearing Examiner.
 1. If the inmate waives the sanction hearing, no further action is needed. The Parole Officer/Hearing Officer will send a copy of the signed waiver to the Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff, and Central Office Records for the offender's file.
 2. If the offender requests a sanction hearing, the Hearing Examiner will conduct the sanction hearing within the first forty-five (45) days of the sanction to determine if there is probable cause to believe the offender violated the conditions of his/her release and either uphold the sanction imposed or modify the sanction imposed by the Parole Officer.

3. Written notification of this decision will be provided to the offender, Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff and Central Office Records for the offender's file.

VII. The revocation process shall, at a minimum, have the following components:

- A. Written notice to the offender listing the specific condition(s) of release the offender is alleged to have violated, the date(s) the alleged violation(s) occurred, the nature of the violation(s), the date the offender was placed in jail pursuant to the revocation, and the date the offender was served with the written notice.
- B. The written notice provided to the offender shall also be provided to the Hearing Examiner designated by the Commissioner to conduct the preliminary/probable cause hearings.
 1. The inmate shall have the right to request or waive the preliminary/probable cause hearing; such waiver shall be signed by the inmate or, if the inmate refuses to sign, documented by the Parole Officer.
 - a. If the inmate waives the preliminary/probable cause hearing the Parole Officer shall provide written notification to the inmate, Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff, and the Hearing Examiner designated to conduct final revocation hearings.
 - b. If the inmate requests a preliminary/probable cause hearing the Parole Officer shall provide written notification to the inmate, Assistant Commissioner of the Bureau of Community Corrections, Central Office Parole Services staff, and the Hearing Examiner designated to conduct final revocation hearings. The Hearing Examiner will then cause a hearing to be scheduled to review the allegations within forty-five (45) days to determine if there is probable cause to believe that the inmate violated the conditions of his/her release.
 2. The Hearing Examiner designated by the Commissioner to conduct the final revocation hearings shall ensure that, at a minimum, the following elements are afforded.
 - a. The final revocation hearing shall be held within thirty (30) days of the date of the preliminary/probable cause hearing, or the waiver of such hearing, excluding continuances.
 - b. The inmate shall have the right to be represented by an attorney.
 - c. The inmate and the inmate's attorney (if any) shall be provided written notice of the final revocation hearing a minimum of five (5) days prior to the hearing.

- d. The inmate shall have the right to waive the final revocation hearing.
- e. The inmate or their attorney shall have the right to call witnesses and offer testimony on their own behalf.
- f. The inmate or their attorney shall have the right to cross-examine witnesses against them.
- g. The inmate or their attorney shall have the right to request a continuance, which shall be the Hearing Examiner's discretion to grant or deny.
- h. The Hearing Examiner shall consider the facts presented and determine if there is a preponderance of evidence to indicate that the alleged violations occurred. If a preponderance of evidence supporting the allegations is found, the Hearing Examiner shall determine, based on mitigating, extenuating, or aggravating circumstances, if the inmate should be returned to Mandatory Release supervision or if the inmate should be re-incarcerated in a DCR facility.
- i. The Hearing Examiner shall formulate a detailed, written report of his/her findings and recommendations, and provide the report to the Commissioner or designee for final review and approval.
- j. The Commissioner/designee shall approve or disapprove the recommendations of the Hearing Examiner.
- k. Written notice of the Commissioner's/designee's decision shall be provided to the inmate, the inmate's attorney (if any), the Hearing Examiner, Central Office Parole Services staff, and the Director of Records & Interstate Compact.
- l. If the inmate is to be returned to Mandatory Release supervision, the supervising Parole Officer shall ensure the inmate is released from jail and placed under mandatory supervision.
- m. If the inmate is to be re-incarcerated in a DCR facility, the inmate's minimum discharge date will be recalculated, and a new time sheet generated and distributed, as appropriate.

ATTACHMENT(S):

- #1 List of Applicable Crimes (4 pages)
- #2 Procedural Letter to Inmate
- #3 Order of Release on Mandatory Post-Release Supervision

APPROVED SIGNATURE:


Betsy C. Jividen, Commissioner

10-15-21
Date

APPLICABLE CRIMES

CRIMES AGAINST THE PERSON

- 61-2-1 First and Second Degree Murder Defined; Allegations in Indictment for Homicide
- 61-2-2 Penalty for Murder of First Degree
- 61-2-3 Penalty for Murder of Second Degree
- 61-2-4 Voluntary Manslaughter
- 61-2-5a Concealment of Deceased Human Body
- 61-2-6 Homicide Punishable Within State if Injury Occurs Within and Death Without, or Vice Versa
- 61-2-7 Attempt to Kill or Injure by Poison
- 61-2-8 Abortion
- 61-2-9 Malicious or Unlawful Assault; Assault; Battery
- 61-2-9a Stalking; Harassment
- 61-2-9b Penalties for Malicious or Unlawful Assault or Assault of a Child Near a School
- 61-2-9c Wanton Endangerment Involving the Use of Fire
- 61-2-9d Strangulation; Suffocation and Asphyxiation
- 61-2-10 Assault During Commission of or Attempt to Commit a Felony
- 61-2-10a Violent Crimes Against the Elderly; Sentence Not Subject to Suspension or Probation
- 61-2-10b Malicious Assault; Unlawful Assault; Battery and Assault on Governmental Representatives, Health Care Providers, Utility Workers, Law-Enforcement Officers, Correctional Employees and Emergency Medical Service Personnel; Definitions
- 61-2-12 Robbery or Attempted Robbery
- 61-2-13 Extortion or Attempted Extortion by Threats
- 61-2-14 Abduction of Person; Kidnapping or Concealing Child
- 61-2-14a Kidnapping
- 61-2-14b Venue of Offenses under 61-2-14 and 61-2-14a
- 61-2-14c Penalty for Threats to Kidnap or Demand Ransom
- 61-2-14d Concealment or Removal of Minor Child from Custodian or from Person entitled to Visitation
- 61-2-14e One Aiding or Abetting in Offense under 61-2-14, 61-2-14a, 61-2-14c, 61-2-14d Guilty as Principal Venue
- 61-2-14f Penalties for Abduction of a Child Near a School
- 61-2-14h Prohibition of Purchase or Sale of Child
- 61-2-16a Malicious Assault; Unlawful Assault; Battery and Recidivism of Battery; Assault on a Driver, Conductor, Motorman, Captain, Pilot or other Person in Charge of Any Vehicle Used for Public Conveyance
- 61-2-28 Domestic Violence – Criminal Acts

- 61-2-29 Abuse or Neglect of Incapacitated Adult
- 61-2-29a Death of an Incapacitated Adult by Caregiver
- 61-2-29b Financial Exploitation of an Elderly Person, Protected Person or Incapacitated Adult

CRIMES AGAINST PROPERTY (WHERE AN INDIVIDUAL IS PHYSICALLY LOCATED AT TIME OF OFFENSE)

- 61-3-1 Burning, etc., of a Dwelling or Outbuilding; First Degree Arson
- 61-3-4 Attempt to Commit Arson; Fourth Degree Arson (only applicable if a residence and when a person is physically located at the residence)
- 61-3-7 Causing Injuries During an Arson-Related Crime (only applicable if a residence and when a person is physically located at the residence)
- 61-3-11 Burglary; Entry of Dwelling or Outhouse (only applicable if a residence and when a person is physically located at the residence)

OFFENSES INVOLVING EXPLOSIVES

- 61-3E-3 Illegal Possession of Destructive Devices, Explosive Materials or Incendiary Devices
- 61-3E-4 Criminal Use of Destructive Device, Explosive Material or Incendiary Devices
- 61-3E-5 Causing Death or Injury
- 61-3E-6 Causing Death or Injury to an Explosives Detention Animal
- 61-3E-7 Manufacture, Purchase, Sale, Advertising for Sale, Transporting or Possession or Use of Hoax Bomb; Possession or Use in Commission of a Felony
- 61-3E-8 Theft of Explosive Material from Storage Magazines or Buildings
- 61-3E-9 Receipt, Possession, Storage, Sale or Transportation of Stolen Explosive Material;
- 61-3E-10 Wanton Endangerment Involving Destructive Devices, Explosive Materials or Incendiary Devices

CRIMES AGAINST CHASTITY, MORALITY AND DECENCY (WHERE VICTIM WAS A MINOR CHILD)

- 61-8-1 Bigamy
- 61-8-6 Detention of Person in Place of Prostitution
- 61-8-7 Procuring for House of Prostitution; Penalty; Venue; Competency as Witness; Marriage No Defense
- 61-8-8 Receiving Support from Prostitution; Pimping; Penalty; Prostitute May Testify
- 61-8-9 Indecent Exposure
- 61-8-12 Incest
- 61-8-14 Disinterment or Displacement of Dead Body or Part Thereof; Damage to Cemetery or Graveyard
- 61-8-19 Cruelty to Animals

- 61-8-19a Animal Fighting Ventures Prohibited
- 61-8-19b Attendance at Animal Fighting Ventures Prohibited
- 61-8-19c Wagering at Animal Fighting Venture Prohibited
- 61-8-28 Criminal Invasion of Privacy
- 61-8-28a Nonconsensual Disclosure of Private Intimate Images
- 61-8-29 Criminal Loitering by Persons on Supervised Release
- 61-8-31 Therapeutic Deception

PREPARATION, DISTRIBUTION OR EXHIBITION OF OBSCENE MATTER TO MINORS
(WHERE VICTIM WAS A MINOR CHILD)

- 61-8A-2 Distribution and Display to Minor of Obscene Matter
- 61-8A-4 Use of Obscene Matter with Intent to Seduce Minor
- 61-8A-5 Employment or Use of Minor to Produce Obscene Matter or Assist in Doing Sexually Explicit Conduct

SEXUAL OFFENSES

- 61-8B-3 Sexual Assault in the First Degree
- 61-8B-4 Sexual Assault in the Second Degree
- 61-8B-5 Sexual Assault in the Third Degree
- 61-8B-7 Sexual Abuse in the First Degree
- 61-8B-8 Sexual Abuse in the Second Degree – ONLY IF PREVIOUSLY CONVICTED OF SEXUALLY VIOLENT OFFENSE AS DEFINED IN 15-12-2
- 61-8B-9b Enhanced Penalties for Subsequent Offenses Committed by Those Previously Convicted of Sexually Violent Offenses Against Children
- 61-8B-10 Imposition of Sexual Acts on Persons Incarcerated or Under Supervision

FILMING OF SEXUALLY EXPLICIT CONDUCT OF MINORS (WHERE VICTIM WAS A MINOR CHILD)

- 61-8C-2 Use of Minors in Filming Sexually Explicit Conduct Prohibited
- 61-8C-3 Distribution and Exhibiting of Material Depicting Minors Engaged in Sexually Explicit Conduct Prohibited

CHILD ABUSE

- 61-8D-2 Murder of a Child by Parent, Guardian or Custodian or Other Person by Refusal or Failure to Supply Necessities, or by Delivery, Administration or Ingestion of a Controlled Substance
- 61-8D-2a Death of a Child by a Parent, Guardian, or Custodian or Other Person by Child Abuse
- 61-8D-3 Child Abuse Resulting in Injury; Child Abuse Creating Risk of Injury
- 61-8D-3a Female Genital Mutilation

- 61-8D-4 Child Neglect Resulting in Injury, Child Neglect Creating Risk of Injury
- 61-8D-4a Child Neglect Resulting in Death
- 61-8D-5 Sexual Abuse by A Parent, Guardian, Custodian or Person in a Position of Trust to a Child; Parent, Guardian, Custodian or Person in a Position of Trust Allowing Sexual Abuse to be Inflicted Upon a Child; Displaying of Sex Organs by Parent, Guardian, or Custodian
- 61-8D-6 Sending, Distributing, Exhibiting, Possessing, Displaying or Transporting Material by Parent, Guardian, or Custodian, Depicting a Child Engaged in Sexually Explicit Conduct



STATE OF WEST VIRGINIA
DEPARTMENT OF HOMELAND SECURITY
DIVISION OF CORRECTIONS
AND REHABILITATION



BETSY C. JIVIDEN
COMMISSIONER

JEFF S. SANDY, CFE, CAMS
CABINET SECRETARY

Office of the Commissioner
1409 Greenbrier Street
Charleston, WV 25311
304-558-2036 – Telephone
304-558-5367 – Fax

Date

{Inmate Name}, OID# {}

{Facility Name}

{Facility Address -1}

{Facility City}, WV {Zip Code}

Dear {Inmate Name}:

The attached time sheet has your controlling minimum discharge date listed. Please be advised that based on WV Code §15A-4-17, you may fall under the one-year mandatory post-release supervision given the nature of your crime. Under the above-mentioned state code, up to 365 days of your accumulated good time will be utilized to facilitate your time that you will be under supervision. If you do not have 365 days of good time available at the time of your release to supervision, then what days you have accumulated will be taken to be used for your days under mandatory supervision. A copy of the state code along with a list of offenses that falls under the category of your crime are enclosed.

Sincerely,

Director of Records & Interstate Compact



STATE OF WEST VIRGINIA

**DIVISION OF CORRECTIONS AND REHABILITATION
CHARLESTON, WEST VIRGINIA**

ORDER OF RELEASE ON MANDATORY POST-RELEASE SUPERVISION

KNOW ALL MEN BY THESE PRESENTS: That on ____ day of _____, 20____, ____ days of good time is being deducted to facilitate the release of _____, OID No. _____, a prisoner of the State of West Virginia, confined at _____, as required by WV State Code §15A-4-17 to provide for ____ days of mandatory post-release supervision. _____ will be released on ____ day of _____, 20____. _____ intends to lead an orderly and law abiding life as a worthwhile and useful citizen, and that the release of the above stated person will be compatible with the best interests and welfare of society, The Commissioner of the Division of Corrections and Rehabilitation doth hereby order that the said person be released and is hereby granted a release on mandatory post-release supervision in accordance with the laws of West Virginia and subject to the rules and regulations prescribed by the Commissioner of the Division of Corrections and Rehabilitation regarding release from the institution, and subject to the rules and regulations governing supervision made in pursuance thereof.

Done this the _____ day of _____, 20____.

Commissioner

Director of Records & Interstate Compact

DISCHARGE DATE FROM SUPERVISION: _____