

STATE OF OHIO



DEPARTMENT OF REHABILITATION
AND CORRECTION

SUBJECT: Determination of Lost Time	PAGE <u> 1 </u> OF <u> 7 </u> .
	SECTION: 100-APA-27
RULE/CODE REFERENCE: ORC 2929.14 to 2929.18 ORC 2967.15, ORC 2967.19, ORC 2967.191, OAC 5120:1-1-31	SUPERSEDES: 100-APA-27 dated 08/18/15
RELATED ACA STANDARDS:	EFFECTIVE DATE: August 25, 2016
	APPROVED: 

I. AUTHORITY

This policy is issued in compliance with Ohio Revised Code 5120.01 which delegates to the Director of the Ohio Department of Rehabilitation and Correction the authority to manage and direct the total operations of the Department and to establish such rules and regulations as the Director prescribes.

II. PURPOSE

The purpose of this policy is to establish a standard procedure for the calculation and determination of lost time pursuant to Administrative Rule 5120.1-1-31, Detainers for Offenders on Parole, Transitional Control, Treatment Transfer, Risk Reduction Releases or Post Release Control.

III. APPLICABILITY

This policy applies to all employees of the Ohio Department of Rehabilitation and Correction (DRC) and to offenders under the supervision of the Adult Parole Authority (APA).

IV. DEFINITIONS

Business Days - The days of the week, excluding Saturday, Sunday and any legal holiday.

Detainer - A request filed by a criminal justice agency with the institution in which a prisoner is incarcerated asking the institution either to hold the prisoner for the agency or to notify the agency when release of the prisoner is imminent.

Expiration of Definite Sentence (EDS) - The expiration of the definite sentence imposed by the sentencing judge after reduction of jail credit per ORC 2967.19.1 and good time per ORC 2967.19.

Expiration of State Term - The expiration of the stated term imposed by the sentencing judge after reduction of jail credit per ORC 2967.191.

Expiration of Supervision Term - The maximum period of time any community control or PRC offender remains under the control and / or supervision of the APA, as specified by the sentencing court's journal entry or parole board minutes.

Fugitive - An individual who is fleeing to avoid APA supervision, custody, or confinement after conviction.

In- Custody - An offender under the supervision of the APA who is being held in a jail, prison, or similar detention facility.

Lost Time - Pursuant to ORC 2967.15, lost time is the specific period of time during which an offender's period of supervision or prison term is tolled or not credited. Lost time can result from being declared a violator-at-large, violator in custody out-of-state, being unavailable for supervision, or other reasons. Lost time can modify an offender's end of stated term, maximum expiration of sentence, expiration of definite sentence, or close of supervision date.

Maximum Expiration Date - The last day of a period of incarceration or community supervision which signifies that the maximum sentence imposed by the court has been served in its entirety.

NOTE - A section in the Community Corrections Information System (CCIS) to record information regarding offender's activity while under supervision.

Parole - The release from confinement in any state penal or reformatory institution by the APA that is created by section 5149.02 of the Ohio Revised Code and under any terms and for any period of time that is prescribed by the APA in its published rules and official minutes. A parolee so released shall be supervised by the APA. Legal custody of a parolee shall remain in the DRC until a final release is granted by the APA, pursuant to section 2967.16 of the Ohio Revised Code. The above applies to all persons who have committed felonies prior to July 01, 1996.

Parole/ PRC in Custody (PIC) - An offender is declared PIC when he/she is in custody in another state or federal custody (in state or out of state) for an offense/charge that has been determined not to warrant extradition.

Parole Violator in Custody (PVIC) - An offender who has been arrested outside the State of Ohio or federal custody (in state or out of state) for an offense/violation that has been determined to warrant extradition, but who has not been declared a Violator at Large (i.e., offender leaves the state without permission and is subsequently arrested for a new criminal offense out of state).

Post Release Control - A period of supervision for an offender by the APA following release from imprisonment that includes one or more post release control sanctions imposed by the parole board pursuant to section 2967.28 of the Revised Code.

Risk Reduction (RR) - Offenders released per HB 86, that the court approved at time of sentencing could be released to DRC supervision once offender completed 80% of their prison sentence.

Supervision Term - The maximum period of time an offender remains under the control and/or supervision of the APA.

Toll - To suspend or stop temporarily. Thus to “toll time” means to stop counting against an offender’s sentence. Tolling is completed by the completion of special minutes and a STATI or FIREL entry.

Transitional Control (TRC) - Inmates approved for release up to 180 days prior to the expiration of their prison sentence or release on parole or post release control supervision under closely monitored supervision and confinement in the community, such as a stay in a licensed halfway house or restriction to an approved residence on electronic monitoring in accordance with section 2967.26 of the Ohio Revised Code.

Treatment Transfer (TT) - A prison transfer program authorized by ORC section 5120.035 that provides substance use disorder assessment and treatment through licensed community treatment providers to help reduce substance use relapse and recidivism for prisoners convicted of felony level 4 and 5 non-violent offenses. Eligible inmates may be transferred from state correctional facilities to the community facilities for up to 365 days prior to the expiration of their prison sentences. The inmates transferred will be under closely monitored supervision and confinement in the community, such as a stay in a licensed halfway house or restriction to an approved residence on electronic monitoring.

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) that an offender, who has for a period of time failed to abide by the conditions of parole/Transitional Control (TRC) or post release control (PRC) by being unavailable for supervision, have their end of stated term or close of supervision date extended.

VI. PROCEDURES

A. Violator At Large (VAL)

1. In-State Arrests - If an offender has been determined to be a Violator At Large (VAL), the Fugitive Section shall issue Special Minutes – Violator at Large (DRC3148) and the supervision period shall be automatically tolled. If the offender is arrested within the state of Ohio, the time between the VAL date and when the offender is arrested shall be considered lost time.
2. Out-Of-State Arrest - If the offender is arrested out of state, the time between the VAL date and when the offender is returned to custody in the State of Ohio under the immediate control of the APA shall be considered lost time.
3. Restoration without Arrest – If an offender is declared VAL and restored without being arrested, the time between the VAL date and when the offender is restored shall be considered lost time.
4. Upon restoration of supervision, the fugitive section shall calculate lost time and complete Special Minutes – R/W/A/L Parole/TRC/TT (DRC3535) of for PRC cases Special Minutes – R/W/A/L PRC (DRC3534).

B. Parole Violator in Custody (PVIC)

1. If an offender has been arrested outside of Ohio or is in federal custody (in state or out of state) for committing a new offense/violation and a detainer is placed against him/her, the time between when an offender is arrested and when the offender is returned to custody in the State of Ohio under the immediate control of the APA shall be considered lost time.
 - a. When the offender is determined to be a Parole Violator in Custody (PVIC), the unit shall then contact the fugitive coordinator within two (2) business days of knowledge via email and supply the following information:
 - i. Date of arrest;
 - ii. Arresting agency;
 - iii. Pending charges;
 - iv. Location being held;
 - v. Copy of conditions of supervision.
 - b. The fugitive section shall then issue Special Minutes – Parole Violator in Custody (PVIC) (DRC3481), toll the offender’s time with a STATI entry and lodge a detainer with the holding agency. Upon availability, the fugitive section shall make arrangements for the offender’s return to Ohio.
 - c. The supervising unit shall track the pending case until the offender is sentenced. Following sentencing the case will be transferred to the fugitive section for tracking.
 - d. Upon the offender’s return to Ohio, the fugitive section shall notify the supervising unit of the offender’s arrival date and availability.

C. Parolee/PRC in Custody (PIC)

1. If an offender is in custody in another state or federal custody (in state or out of state) for an offense/charge that has been determined not to warrant extradition, the offender will be declared PIC. The time between when the offender is arrested and when the offender returns to supervision in Ohio or is accepted for transfer to another state shall be considered lost time.
2. When an offender is determined to be parolee/PRC in Custody (PIC), the fugitive section shall issue Special Minutes – Parole Violator in Custody (PIC) (DRC3533) and toll the offender’s time with a STATI entry.
3. Lost time shall be accrued from the date the offender was arrested until the date they are returned to supervision in Ohio or are accepted for transfer to another state.
4. Within five (5) business days of discovering that the offender is in custody the supervising unit shall forward an Offender Notify (DRC3540) to the facility in which the offender is being held via fax or email and request that the facility have the offender sign and return it to the unit via fax or email. The original fax receipt or email and signed Offender Notify shall be placed in the offender’s file. The supervising unit shall notify the fugitive section within fourteen (14) days from the date of knowledge of the offender

being sentenced. If the offender is sentenced to an out of state or federal institution, the case will be assumed by the fugitive section and a fugitive coordinator shall forward an Offender Notify (DRC3540) to the institution in which the offender was sentenced via fax or email with a request to have the offender sign and return the document to the appropriate fugitive coordinator within thirty (30) days of sentencing.

D. Release to Detainer

1. If a parole offender is released from an Ohio institution to an out-of-state detainer or to federal authorities, their sentence shall continue to run. In this situation, there is no lost time whether it is an in-state, out-of-state, or federal detainer.
2. If a PRC offender is released to an immigration, federal, or out-of-state detainer, the time between when the offender is released to the detainer and when they are released from the detaining authority shall be considered lost time. For those PRC offenders who are deported by ICE and re-screened by the parole board to Monitored Time Supervision, the Monitored Time Supervision will become active effective the date of the deportation. In a case where the APA does not receive notice of the offender's release from the out-of-state detainer, lost time shall continue to accrue until either the APA is made aware of the offender's release, or when the offender notifies his/her supervising officer of their release. In this circumstance, lost time is calculated by the APA unit and all calculations shall be documented in NOTEC.
3. To calculate lost time, the DAYSC screen shall be utilized. The date of release to the detaining authority shall be entered as the start date and the date of release from the detaining authority shall be entered as the end date. In a case where the APA does not receive notice of the offender's release from the out-of-state detainer, lost time shall continue to accrue until either the APA is made aware of the offender's release, or when the offender notifies his/her supervising officer of their release. The screen generates the total; one (1) day shall be SUBTRACTED from the total to arrive at the number of days lost time.

E. Ohio Interstate Compact Cases

1. If an Ohio offender on compact supervision to another state is declared VAL and gets arrested in the state they are compacted to, lost time runs from the VAL date until the date returned to Ohio and under the immediate custody and control of the APA.
2. If an Ohio offender on compact supervision to another state is declared VAL and gets arrested in Ohio, lost time runs from the VAL date until date arrested in Ohio.
3. If an Ohio offender on compact supervision to another state is declared VAL and gets arrested in another state outside of the state they were compacted to, lost time runs from the VAL date until the date returned to custody in Ohio under the immediate control of the APA.
4. The Ohio interstate compact analyst shall calculate the lost time and document all changes in NOTEC.

F. Prison Sanction

If, as the result of a violation hearing, a PRC offender is ordered by a hearing officer to complete a prison sanction, the prison sanction days shall be considered lost time. In these cases, the unit supervisor/designee shall calculate the new max expiration date by adding the number of prison sanction days ordered by the hearing officer to the current max expiration date. DAYSA shall be utilized to calculate the new max date. The "Start Date" shall be the current max date and "Days to be added" shall be the number of prison sanction days ordered by the hearing officer. The calculated date after adding the prison sanction days shall be the new max expiration date.

G. Calculation of Lost Time for PRC Cases that Failed to Serve Minimum Supervision Periods

For offenders who were sentenced on a new number prior to April 1, 2011 and then restored to supervision on their prior number, due to failing to fulfill the minimum period of supervision, lost time shall be calculated by utilizing the DAYSC screen. The admittance date of the new inmate number shall be entered as the start date and the release date shall be entered as the end date. The screen generates the total. All calculations shall be documented in NOTEC by the unit supervisor/ designee.

H. Calculation of Remaining Days on Supervision

1. When a PRC offender is admitted to DRC on a new number, the unit shall calculate the supervision days remaining for the current supervision period. This shall be calculated by using the DAYSC screen. The date the offender was admitted on the new number shall be entered as the start date and the current supervision max date (updated to include any lost time if necessary) as the end date. The total provided shall be the remaining days of supervision for the current period of PRC. The unit supervisor/designee shall document all calculations or changes in NOTEC.

I. Lost Time Calculation

1. For VAL, PVIC and PIC cases lost time for Parole/TRC/TT shall be determined by the fugitive section submitting a request to the Bureau of Sentence Computation (BOSC). BOSC shall then complete the request and provide the total number of lost time days to the fugitive section. The fugitive section shall forward the total number of lost time days to the Bureau of Community Sanctions (BCS) on all Transitional Control cases. The fugitive section shall document the lost time in NOTEC.
2. For PRC cases, the fugitive section shall calculate the lost time and document all calculations and changes in NOTEC.
3. To calculate lost time, the DAYSC screen shall be utilized. The declaration date shall be entered as the start date and the restore date shall be entered as the end date. The screen generates the total; one (1) day shall be SUBTRACTED from the total to arrive at the number of lost time days. The lost time total shall then be provided to the unit.

Related Department Forms:

Special Minutes – Parole Violator at Large	DRC3148
Special Minutes – Parole Violator in Custody (PVIC)	DRC3481
Special Minutes – Parole Violator at Large (PIC)	DRC3533
Special Minutes – R/W/A/L PRC	DRC3534
Special Minutes – R/W/A/L Parole/TRC/TT	DRC3535
Offender Notify	DRC3540