

DOC and Sentence Calculations

SPRING 2023



Introduction

Department of Corrections

- Dianne Ashlock, Senior Director
 - Records, Hearings, Resentence

Agenda

- Overview of the DOC
- Review of DOC calculations
 - Determination of release dates
- Review of Judgment and Sentence
- Review of DOC requests for clarifications/corrections for court orders
- Review of Resentence
- DOC Contact Information

Mission Statements

- Agency Mission Statement:
 - To improve public safety by positively changing lives
- Records Division Mission Statement
 - To accurately apply legal court documents to establish DOC jurisdiction for those in our care/custody and for those in the community.

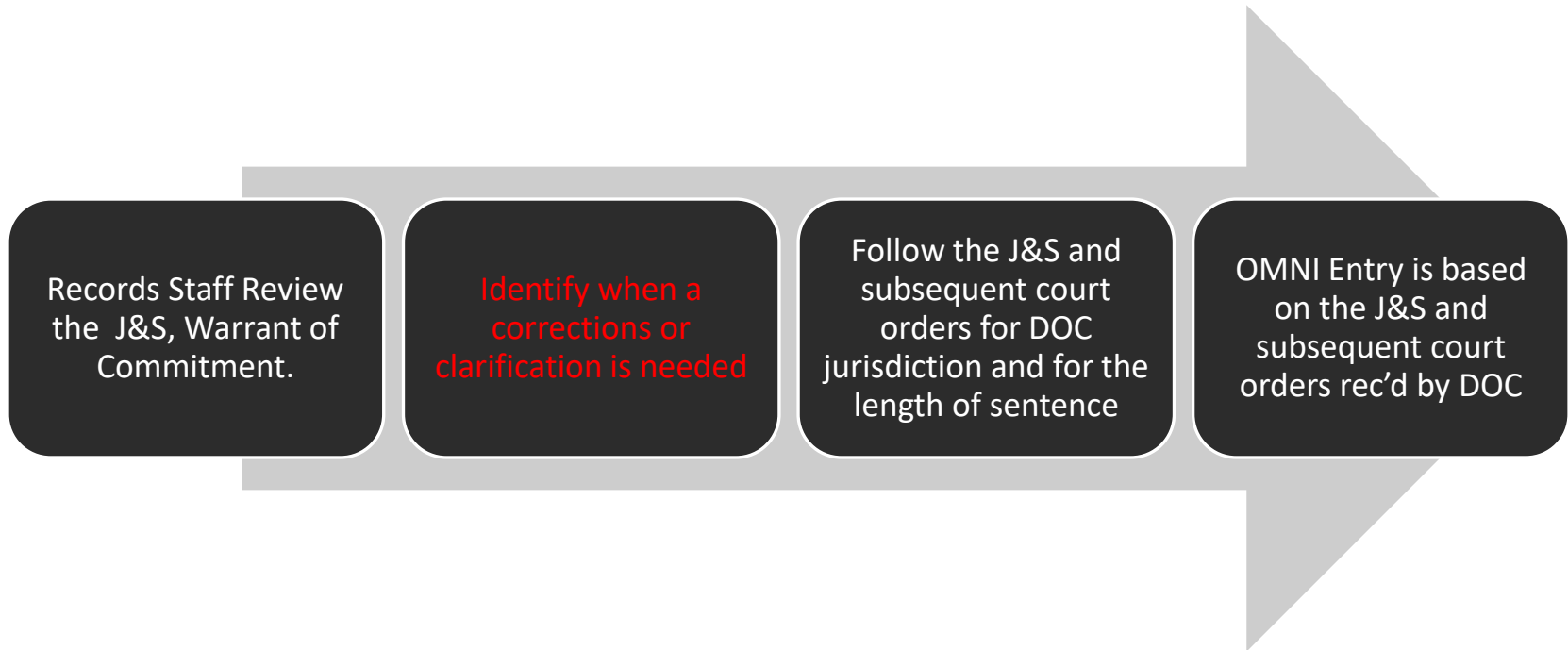


Judgment and Sentence

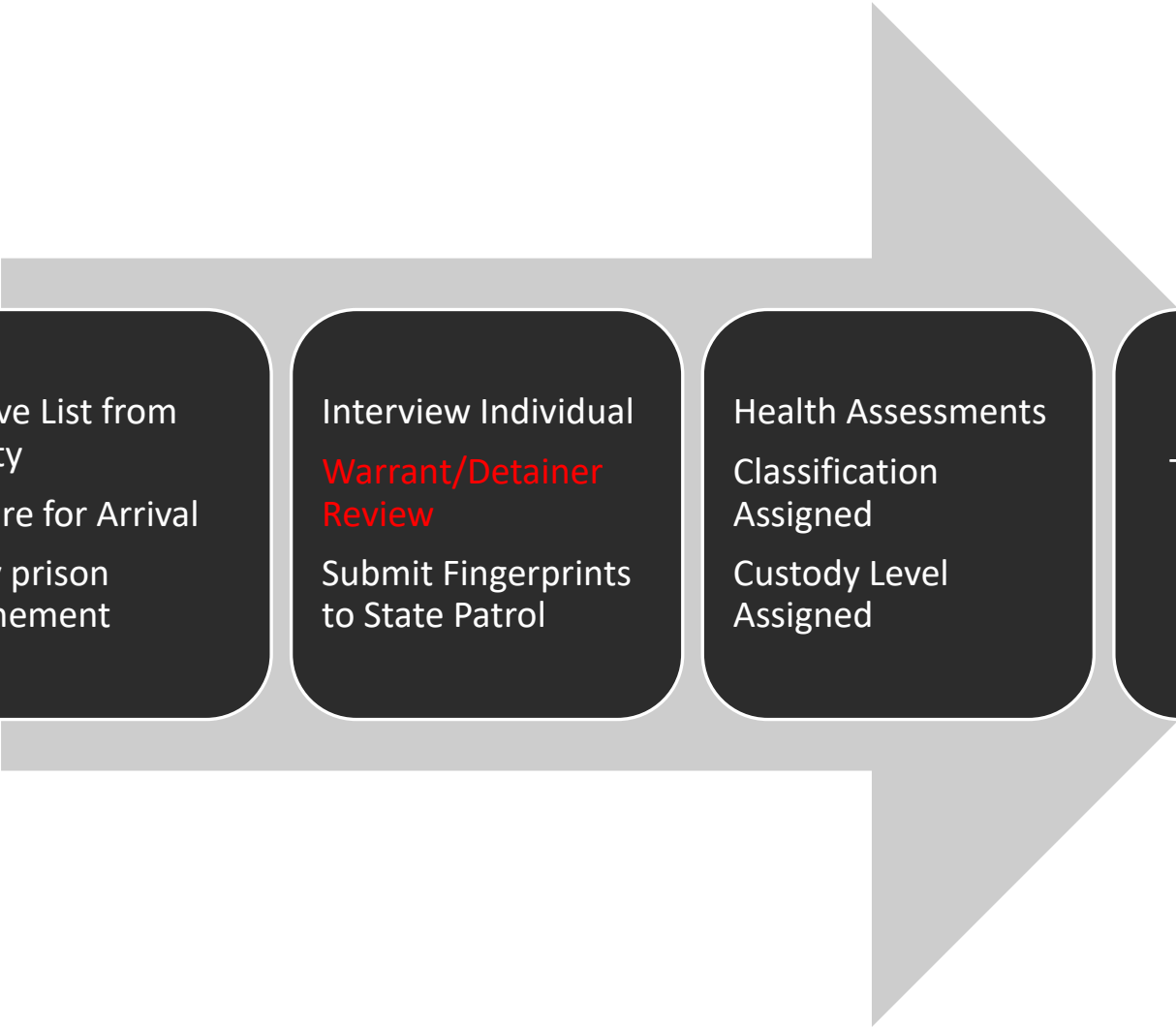
- Establishes DOC Jurisdiction to Confine and/or Supervise an individual
- Our focus today is on prison sentences for time calculations.



DOC Jurisdiction-Prison Commitment



New Prison Admission-Overview



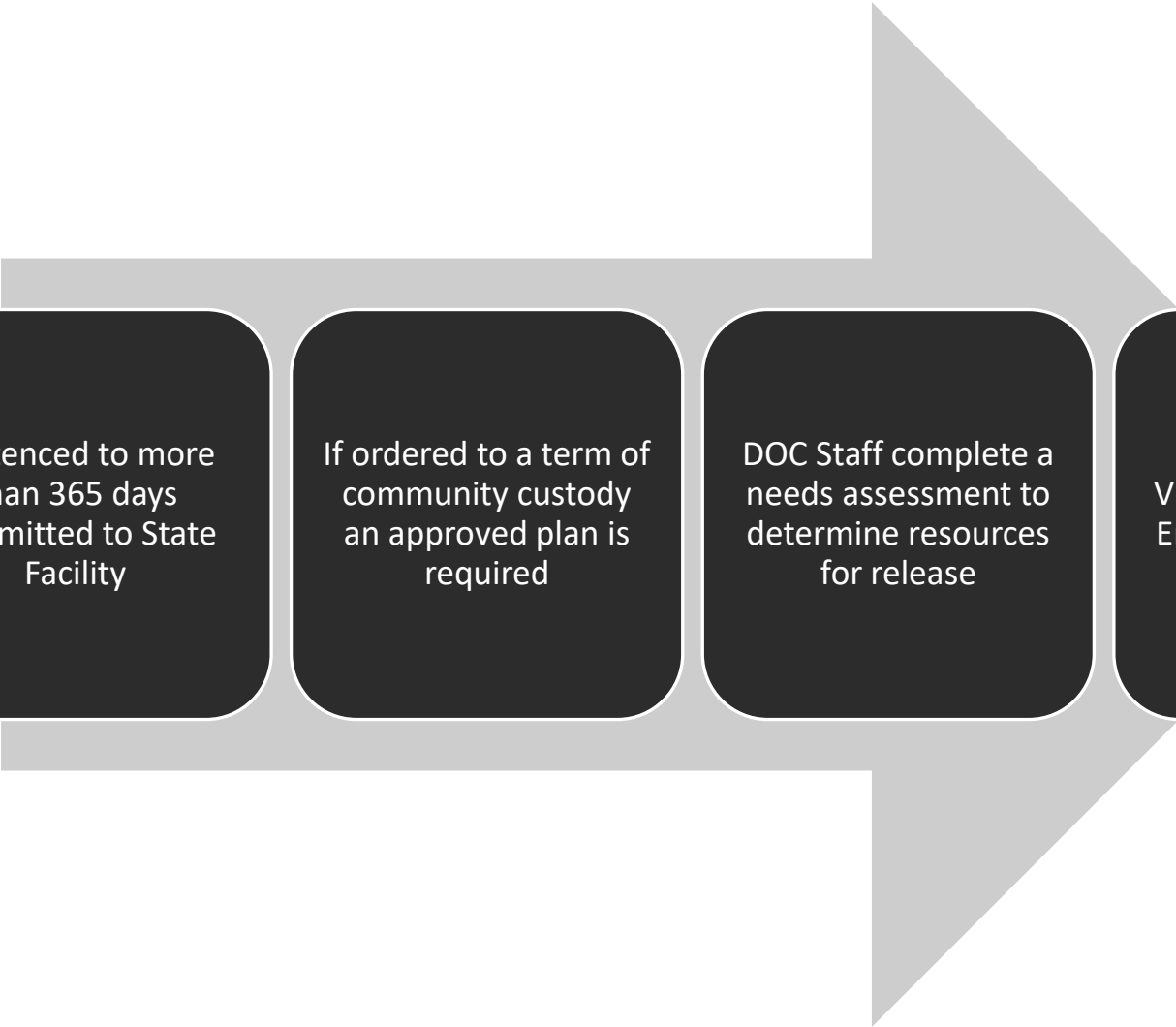
Receive List from
County
Prepare for Arrival
Verify prison
confinement

Interview Individual
**Warrant/Detainer
Review**
Submit Fingerprints
to State Patrol

Health Assessments
Classification
Assigned
Custody Level
Assigned

Transfer to Parent
Facility, if
appropriate

Release Planning



Sentenced to more
than 365 days
committed to State
Facility

If ordered to a term of
community custody
an approved plan is
required

DOC Staff complete a
needs assessment to
determine resources
for release

DOC must notify
Victims/Witness/Law
Enforcement prior to
Release

Authority to Release

- Indeterminate Sentence Review Board:
 - For offenses committed prior to July 1, 1984
 - Certain sex offenses committed on/after September 1, 2001
 - Certain offenses committed prior to the individual's 18th birthday and were sentenced as adults
- DOC
 - For offenses committed after July 1, 1984, DOC calculates individual release dates.
 - Examples of items that impact release dates:
 - Date of crime(s) determines earned time %.
 - Mandatory sentences
 - Enhancements
 - Jail credits.
 - Consecutive/Concurrent relationships

DOC Records Responsibility

- Calculate the sentence and determine release dates for all active judgments
 - Includes a review of whether the individual was already serving a sentence and how those sentences are served (consecutive/concurrent).
 - DOC has the authority to modify the jail time certified so that the days being credited are accurate.
 - DOC assumes the risk for the sentence calculation

DOC Release Dates

- Earned Release Date (ERD)
 - Estimation of the earliest release date.
 - Important elements:
 - Must be earned by good behavior and programming.
 - May be lost for infractions and failure to program.
 - Lost earned time can be restored.
 - May be required to have an approved plan to release.
- Maximum Expiration Date (Max Ex)
 - Final release date from DOC confinement, based on the confinement term ordered without any earned time.
- Statutory Maximum Date (Stat Max)
 - Jurisdiction end for DOC based on the felony class of the convicted offense for both confinement and term of supervision.

DOC Identifies a Concern



Top Reasons Why DOC Writes Emails

Concern Type	07.01.2018-07.01.2019 State #	07.01.2021-07.01.2022 State #
Community Custody	392	521
Confinement	72	126
Jail Credits	64	154
Clarification/ Other	134	367
Total Identified Concerns	715	1278

DOC Steps When Concern Is Identified

- DOC sends email to the court, DPA of record, and defense counsel of record to identify the sentencing concerns or need for clarification of the sentence.
- If no response is received or if the court, DPA, or defense counsel disagree with DOC, DOC refers the matter to the AG's Office
- AG's Office follows up with the court, the DPA, and defense counsel
- If no agreement is reached, or no response is received, AG's Office files post-sentence petition (PSP) pursuant to RCW 9.94A.585(7) and RAP 16.18 in court of appeals
 - Must file within 90 days from DOC's receipt of J&S
- Once PSP is filed, indigent inmates will be assigned counsel (RAP 16.18(c))

J&S Elements Important to DOC

Individual

- Name, DOB, SID#

Cause

- Cause #, County, Date of Sentence, Judge, Supervision Type
- Cause Credits
- Conditions, LFOs

Conviction

- Date of offense(s), RCW#/Description(s), Offender Score, Felony Class, Statutory Maximum, Finding Type, Anticipatory(s), Enhancement Type
- Confinement Length(s), Alternative Sentence, Enhancement(s), Supervision Length(s), Mandatory(s)

J&S-Critical Sections for Time Calculations

1. Exceptional Sentence
- 2. Confinement Over One Year**
3. Enhancement Terms/Mandatory Minimum Terms
4. Total Confinement Term Imposed
- 5. Credit for Time Served**
- 6. Community Custody**

*Bold font indicates a top reason why DOC writes when a concern is identified

Exceptional Sentence

- Exceptional Sentence
 - Informs DOC to a confinement term length or community custody term length that is not within the standard range or defined by statute.
 - Or as a condition of confinement for an individual sentenced under the Special Sex Offender Sentencing Alternative for more than 365 days.

Confinement Over One Year

- Please **TRY** to print legible
- Document your agreements so that DOC can carry out the sentence.
 - We are not in court to hear the discussions.
- Ensure each count is addressed with a length in either months or days
- Indicate if the count confinement terms are consecutive or concurrent
- Indicate if the sentence runs consecutively/concurrent to any previously imposed sentence
 - For sentences that are concurrent, the credits for time served are determined independent of the other sentence

Enhancement/Mandatory Minimum Terms

- Deadly Weapon/Firearm/Sexual Motivation Enhancements for crimes committed after 6/10/1998 run consecutive to each other and to the base terms within the cause and to any other cause.
 - Include a total for the sentence and for when the enhancements run consecutive to another cause
 - See next slide for an example.
- Ensure that your J&S has template language to order a Mandatory Minimum

☐ On the conviction for aggravated murder in the first degree, the defendant was under 18 at the time of that offense. Having considered the factors listed in RCW 10.95.030, a minimum term of _____ years of total confinement and a maximum term of life imprisonment is imposed.

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing: ☒ immediately; ☐ (Date): _____ by _____ m.

411 months/days on count I; 60 months/days on count IV; _____ months/day on count _____
116 months/days on count II; _____ months/days on count _____; _____ months/day on count _____

The above terms for counts I, II, & IV are ~~consecutive~~ concurrent.

The above terms shall run ☐ CONSECUTIVE ☒ CONCURRENT to cause No.(s) 04-1-13296-3 SEA

The above terms shall run ☒ CONSECUTIVE ☐ CONCURRENT to any previously imposed sentence not referred to in this order.

☒ In addition to the above term(s) the court imposes the following mandatory terms of confinement for any special **WEAPON** finding(s) in section 2.1: 60 MONTHS FIREARM ENHANCEMENT
ON COUNT I

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98)

☐ The enhancement term(s) for any special **WEAPON** findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles)

The **TOTAL** of all terms imposed in this cause is 471 months. (+60 months consecutive for firearm enhancement)

Credit is given for ☐ _____ days served ☒ days as determined by the King County Jail, solely for ON confinement under this cause number pursuant to RCW 9.94A.05(6). total 531 months 04-1-13296-3

4.5 **NO CONTACT:** For the maximum term of LIFE years, defendant shall have no contact with LEENA FOXNER,
USA DEROY, DON YERRY, STEVEN HILLS, TRACY BROWN,
STEPHANIE LEWIS, A-1 MOTEL, KIMBERLY E LIPMAN

Total Confinement Term Imposed

- Check your math, does the total match for the confinement, enhancement, and mandatory.
- If the parties agree that confinement time has been served in full:
 1. Strike the template language “in the custody of the Department of Corrections as follows, commencing immediately”
 2. State that the confinement term is completed.

4.4 **CONFINEMENT OVER ONE YEAR:** Defendant is sentenced to a term of total confinement ~~in the custody of the Department of Corrections as follows, commencing immediately:~~

Credit for Time Served

- J&S template: either indicate the number of days served or defer to the jail to determine the presentence days.
 - Did the individual serve solely on this cause in another jurisdiction pending extradition?
 - If yes, name the detaining facility and location.
 - If indicating the number of days, DOC will compare the credits with the Warrant of Commitment and the jail certification.
 - Best Practice-indicate on the J&S the dates of confinement for the specified # of days.
 - For example: 56 days from 3/17/2021 to 5/12/2021
 - DOC will follow the J&S and apply the specific # of days for presentence time.
 - DOC will apply the jail good time based on the time served solely on the charge.

Community Custody

- Is the offense eligible for a term of community custody?
- Indicate which counts have a term of community custody and the length of the term.
- Exceptional sentence may only adjust the length of the term.
 - Does not make an offense eligible for a term of community custody.
- DOSA-Is the offense eligible for an additional term of community custody if reclassified to serve the confinement term?

Top Concern from Incarcerated Individuals

- Following admission to DOC, some defendants disagree with DOC's calculation of the Earned Release Date (ERD).
 - "You are not calculating my time correctly."
- DOC asks that you please do not create an expectation of release on a specific date.
 - DOC staff rely solely on the court/jail documentation and are not privy to the courtroom discussions.
 - DOC sanctions may impact when the subsequent sentence will start.
 - This information may not be known at time of sentencing.

Earned Release Date (ERD)

Myth: Apply the Earned Time % to the total confinement term to determine the earned release date from the date confined at the jail.

This method of calculation will provide an incorrect earned release date, which will be earlier than the date DOC will calculate.

Why: DOC follows WAC 137-03-060 to determine release dates.

- For a determinate sentence, the jail time and jail earned release time are deducted from the total sentence.
- DOC earned time is applied to the adjusted sentence.

Myth vs DOC Calculations

	Common Error in Calculating	Calculating per WAC
Confinement Term 90 months converted to 2738 days	2738	2738
Presentence credits (219 days) and jail good time credits (109 days)		328
Days to serve	2738	2410
Earned time rate	33 1/3%	33 1/3%
Earned Time days	913	804
Time to Serve at DOC		1606
Time Start/Arrival at DOC	5/24/2017 (date confined at jail)	1/19/2018 (date arrived at DOC)
Earned Release Date (ERD)	5/23/2022	6/13/2022

Belief that the Confinement Term is Satisfied

- DOC does not estimate release dates pre-sentence.
- With the sentencing documents, post sentence/revoke, upon request DOC can review the sentence and provide estimated release dates.
- **If community custody is also ordered**, a transport to DOC may be necessary as an approved plan is required prior to release.
- For a new sentence: Send FILED sentencing documents and jail certification to docdlwccrecords@doc1.wa.gov
- For a Residential DOSA Revocation: Send court documents and jail certification to docrevokereturn2@doc1.wa.gov

Resentence



Preparation for Resentence

- Request DOC records/documents through the portal and attorney requests will be expedited
 - [https://washingtondoc.govqa.us/WEBAPP/_rs/\(S\(ykhsgqcbmq20as4hh2zyzoao\)\)/login.aspx](https://washingtondoc.govqa.us/WEBAPP/_rs/(S(ykhsgqcbmq20as4hh2zyzoao))/login.aspx)

What information can DOC provide via email:

- Information about other sentences that are also being served or consecutive sentences
 - Confinement time start date, earned release date, and maximum expiration date
 - Earned time losses
 - Information about community supervision
- Email request to docresentencing@doc1.wa.gov

Immediate Release After a Resentence

- If the individual will be an immediate release from DOC:
 - Send email to DOC so that release planning can begin.
 - DOCresentenceplanning@doc1.wa.gov

Considerations for any Resentence

- Reconcile the original J&S to the Resentence J&S
 - Are all counts being addressed?
 - Which counts should have a term of community custody?
 - Why is this important?
 - DOC will write seeking correction/clarification.
- Are other sentences being served or consecutive to this sentence?
 - Why is this important?
 - You will want to understand how the sentences relate to each other for time calculations.
- Does a mandatory minimum apply?
 - Why is this important?
 - IF the J&S is silent, DOC will follow the statute.

Considerations for a Blake Resentence

- Has the court vacated convictions for simple controlled substance?
 - Why is this important?
 - Vacates will impact the individual's criminal history scored by DOC that determines the risk level classification.
 - Risk level classification is a factor that is considered when determining supervision eligibility for some convictions and sentence types (RCW 9.94A.501).

Example of Community Custody

2.1, Current Offenses: The defendant is guilty of the following offenses, based upon

☒ guilty plea 4/17/2015 ☐ jury-verdict ☐ bench trial :

Count	Crime	RCW (w/subsection)	Class	Date of Crime
01	ATTEMPTING TO ELUDE A PURSUING POLICE VEHICLE	46.61.024(1)	FC	1/6/2015
02	POSSESSION OF A CONTROLLED SUBSTANCE - METHAMPHETAMINE	69.50.4013(1)	FC	1/6/2015

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C).

4.2 Community Custody. RCW 9.94A.505, .702.

(A) The defendant shall serve 12 months (up to 12 months) in community custody.

Recommended language for clarifying community custody when a count is not eligible for community custody:

"...striking community custody from this judgment and sentence as a result of Count 2-Possession of Controlled Substance-being dismissed and vacated pursuant to State v. Blake. The only remaining felony count is for Attempting to Elude a Pursuing Police Vehicle which is not eligible for community custody.

Court Orders

- Ensure that the agreements for resentence are clearly written on the J&S.
 - Review all court documents to ensure consistency between the documents.
- Review recent example



4.4 CONFINEMENT OVER ONE YEAR: Defendant is sentenced to a term of total confinement in the custody of the Department of Corrections as follows, commencing immediately:

CFTS as determined by DOC
 months days on count I; months days on count ____; months days on count ____;

49 months days on count II; months days on count ____; months days on count ____;

The above terms for counts I and II are ☐ consecutive ☒ concurrent.

The above terms shall run ☐ consecutive ☐ concurrent to cause No.(s) _____

The above terms shall run ☐ consecutive ☐ concurrent to any previously imposed sentence not referred to in this order.

☒ ~~enhancement is satisfied~~ The court deems Mr. [REDACTED] sentence satisfied.

☐ The defendant was under the age of 18 when these crimes were committed and is now under the age of 25, and shall be initially transferred to and placed in a facility operated by the Department of Children, Youth, and Families pursuant to RCW 72.01.410.

☒ The court is exercising its discretion to impose no additional time on the two firearm enhancements in addition to the above term(s) the court imposes the following mandatory terms of confinement for any special WEAPON finding(s) in section 2.1: Count I is 60 months and Count II is 60 months

which term(s) shall run consecutive with each other and with all base term(s) above and terms in any other cause. (Use this section only for crimes committed after 6-10-98.)

☐ The enhancement term(s) for any special WEAPON findings in section 2.1 is/are included within the term(s) imposed above. (Use this section when appropriate, but for crimes before 6-11-98 only, per In Re Charles.)

☐ On the conviction for aggravated murder in the first degree, the defendant was under 18 at the time of that offense. Having considered the factors listed in RCW 10.95.030, a minimum term of _____ years of total confinement and a maximum term of life imprisonment is imposed.

☐ Motor vehicle felonies sentence alternative. As to Count(s) _____, which are Theft (or Attempted Theft) of a Motor Vehicle (RCW 9A.56.065), Possession (or Attempted Possession) of a Stolen Vehicle (RCW 9A.56.068), or Taking a Motor Vehicle Without Permission in the First or Second Degree, occurring on or after 7-28-2019, the midpoint of the the standard sentence range is greater than one year, and the court imposes sentence on this/ these count(s) pursuant to RCW 9.94A.711. (Confinement may not exceed the midpoint of the standard range reduced by one-third of the ordered term of community custody.) As to these counts, the defendant is not eligible for earned release time under RCW 9.94A.729 in excess of one-third of the total sentence on that count.

The TOTAL of all terms imposed in this cause is CFTS as determined by DOC months.

Credit is given for time served in King County Jail or EHD solely for confinement under this cause number pursuant to RCW 9.94A.505(6): ☐ day(s) or ☒ days determined by the King County Jail.

Findings of Fact and Conclusion

Based on the foregoing, the Court's sentence will be as follows:

As to Count 1, Murder in the First Degree, the Court will sentence Mr. [REDACTED] to credit for time served, which amounts to approximately 16.7 years, and this time includes the firearm enhancement.

As to Count 2, Assault 1, the Court will sentence Mr. [REDACTED] to 99 months, with credit for time served, and this time will include the firearm enhancement.

Clerk's Minutes

As to Felony Count(s) Ct 1: Murder in the 1st Degree; Ct 2: Assault in the 1st Degree:

Sentences Defendant to serve a term of confinement as follows: Ct 1: 16.7 years; Ct: 99 months

To begin immediately;

In Dept. of Corrections with credit for time served as determined by DOC

Counts 1 & 2 are concurrent

The Court deems Mr. [REDACTED] sentence satisfied.

Defendant shall be on community custody as ordered by the court Maximum time allowed by law and on community custody as ordered by the Court. Maximum time allowed by law

Important Resentence Documentation for DOC

- Term of confinement per count with an overall total term of confinement for the sentence
- Mandatory Minimums/Enhancements
 - Indicate if Court is exercising discretion to not impose
- Concurrent/Consecutive
 - Include a time start date if changed from consecutive to concurrent
- Credits Consider not writing Credit for Time Served
 - The jail shall calculate time the defendant has served in its custody on this matter prior to the date of this amended judgment and sentence. The Department of Corrections shall calculate the time the defendant has served in its custody on this matter prior to the date of this judgment and sentence. RCW 9.94A.505(6) (former RCW 9.94A.120).
- State when the next confinement term is to begin
 - Start sentence "B" on the adjusted ERD for sentence "A"
 - Important when the earned release date will be in the past.
- If the intent is that the sentence is served in full:
 - State "Defendant has fully served the sentence and is to be released" (can give a date)

Resentence Example

- Multiple counts within a Judgment and Sentence.
- Address each count and provide a total.
- Blake Orders, write in a total if there is not a line provided.

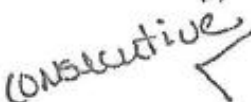
IV. Sentence And Order

IT IS ORDERED:

AMENDED 5/17/2021

4.1 Confinement. The court sentences the defendant to total confinement as follows:

(a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

consecutive 

67 (months) on Count No. I;

51 (months) on Count No. II;

_____ (months) on Count No. _____

☐ The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

☐ The confinement time on Count _____ includes _____ months as enhancement for ☐ firearm ☐ deadly weapon ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: 118 months

Court Orders-What to Avoid

- Orders to vacate the **sentence** while confined at DOC when there are no other sentences being served.
 - Sentence is what authorizes DOC to confine.
- Orders that credit excess confinement time for application to the community custody term.
 - *State v. Jones*, 172 Wn.2d, 257 P.3d 616

Amended J&S

- DOC will recalculate the release dates based on the amended confinement term.
 - DOC will consider the following for sentence and time calculations:
 - Pre-sentence credits and credits for jail good time
 - Time served at DOC prior to the resentencing (already calculates)- **Does not apply if the J&S was vacated**
 - Loss of DOC Earned/Good Time
 - Time served for a DOC sanction or other matters
 - Escape time
 - DOC will calculate an adjusted Earned Release Date (ERD) and an adjusted Maximum Expiration Date (Max Ex)

Vacated J&S

- DOC Impacts if a Vacate is entered
 - DOC will release if no other sentence is being served
 - New Time Start on the resentence
 - Court will need to clarify the credits that need to be applied to the sentence that was served after initial sentence to the vacate date.
- Individual Impacts if a Vacate is entered and they are released from DOC (transferred to County Jail)
 - Personal Property is returned.
 - Must purchase personal hygiene items and hobby items again.
 - Money in DOC Trust is released.

Preparing for Release

- Was a term of community custody ordered?
 - If yes, RCW 9.94A.729 (5) (a), an approved release is required to release in lieu of earned release time.
 - If unable to have an approved address, will release on Maximum Expiration Date.
 - If no, individual releases on ERD
- Up to 10 day early release from ERD (RCW 9.94.728)
- Notifications (RCWs 72.09.712 and 72.09.710)
 - Victim Witness
 - Law Enforcement
- Civil Commitment (Mental Health Restorations or Sexually Violent Predator) RCWs 71.05 and 71.09
- Health Services Transition
 - Medication (30 day supply at release), Medical Equipment, WA Apple Health/Medicaid Enrollment prior to release

Contact Information

- Dianne Ashlock, Senior Director
 - dianne.ashlock@doc.wa.gov
 - 360-507-6040
- Resentence Questions
 - docresentencing@doc1.wa.gov
- Sentence Calculation Questions-Post Sentence
 - doccalculations@doc.wa.gov
- Updated Court Orders to DOC
 - docamendedorders@doc.wa.gov

If Confinement Term Served at Time of Sentencing or Revoke

- For a new sentence:
 - Send sentencing documents and jail certification to docdlwccrecords@doc1.wa.gov
- For a Residential DOSA Revocation:
 - Send court documents and jail certification to docrevokereturn2@doc1.wa.gov
- Please only request these reviews when you believe the term has been satisfied.

Time Calculation Video

