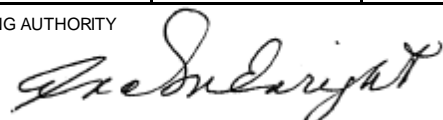
 Corrections and Community Supervision DIRECTIVE	TITLE		NO. 9221
	Merit Termination of Sentence and Discharge from Presumptive Release, Parole, Conditional Release and Post-Release Supervision (PRS)		DATE 11/29/2018
SUPERSEDES DIR# 9221 Dtd. 09/07/2017	DISTRIBUTION A B	PAGES PAGE 1 OF 13	DATE LAST REVISED
REFERENCES (Include but are not limited to) NYS Correction Law §205, Article 6C; NYS Penal Law §70.02, Articles 130, 220, 230, 263, 485.05, 490: ACA Expected Practice 4-APPFS-2A-14	APPROVING AUTHORITY 		

- I. **PURPOSE:** To provide Department of Corrections and Community Supervision (DOCCS) personnel with instructions for reviewing case records, determining eligibility, processing required documents, and rendering decisions on parolees eligible for discharge consideration under New York State Correction Law §205 (Merit Termination of Sentence and Discharge from presumptive release, parole, conditional release, and release to post-release supervision).
- II. **POLICY:** DOCCS may grant, to an eligible parolee, a merit termination of sentence from presumptive release, parole, conditional release, or release to post-release supervision prior to the expiration of the full term or maximum term of the sentence. The Department must determine that such merit termination of sentence is in the best interests of society and the parolee has made a favorable adjustment to parole or the period of post-release supervision. (Eligibility is defined in Section III-B of this directive.)
- III. **DEFINITIONS**
- A. Merit Termination of Sentence: Merit termination of sentence, as granted by the Department, shall constitute a termination of the sentence with respect to which it was granted. Once granted, the sentence shall be terminated and the parolee will no longer be under the jurisdiction of DOCCS.
- B. Eligible Parolee: DOCCS may grant a merit termination of sentence from presumptive release, parole, conditional release, or release to post-release supervision prior to the expiration of the full term or maximum term, provided it is determined by DOCCS that such merit termination of sentence (to include, where applicable, a period of post-release supervision) is in the best interests of society, such person is not required to register as a sex offender pursuant to Article 6C of Correction Law, and such person is not on presumptive release, parole, conditional release, or post-release supervision from a term of imprisonment for any of the following offenses, or an attempt to commit any of the following offenses:
1. A violent felony offense as defined in section 70.02 of NYS Penal Law (see Attachment A);
 2. Murder 1st or Murder 2nd;
 3. An offense defined in Article 130 (Sex Offenses) of the Penal Law;
 4. Unlawful Imprisonment 1st, Kidnapping 1st, or Kidnapping 2nd, in which the victim is less than 17 years old and the offender is not the parent of the victim;

5. An offense defined in Article 230 (Prostitution Offenses) of the Penal Law involving the prostitution of a person less than 19 years old;
 6. Disseminating Indecent Material to Minors 1st or Disseminating Indecent Material to Minors 2nd;
 7. Incest;
 8. An offense defined in Article 263 (Sexual Performance by a Child) of the Penal Law;
 9. An offense defined in Article 485.05 (Hate Crimes) of the Penal Law; or
 10. An offense defined in Article 490 (Terrorism) of the Penal Law.
- C. Eligibility Period: A merit termination of sentence may be granted after two years of presumptive release, parole, conditional release, or post-release supervision to a parolee serving a sentence for a Class “A” Felony offense as defined in Article 220 of the New York State Penal Law. A merit termination of sentence may be granted to all other eligible parolees after one year of presumptive release, parole, conditional release, or post-release supervision. Parolees serving an indeterminate sentence shall not receive a merit termination of sentence until the minimum portion of the court imposed sentence has been satisfied.
- D. Community Supervision: For an eligible parolee serving a sentence for a Class “A” Felony offense, as defined in Article 220 of the Penal Law, community supervision shall be defined as 24 months of uninterrupted or unrevoked parole or post-release supervision, and for all other eligible parolees community supervision shall be defined as 12 months of uninterrupted or unrevoked parole or post-release supervision.
- E. Supervision Credit Date: For purposes of determining eligibility for a merit termination of sentence and discharge, the supervision credit date shall be defined as follows:
1. Release (presumptive release, parole, conditional release, or release to post-release supervision) from a NYS DOCCS facility, the supervision credit date shall be the date of release to parole or post-release supervision;
 2. Release from a DOCCS facility to other custody (Federal or another state’s sentence and commitment order), the supervision credit date shall be the actual date of release to community supervision (parole or post-release supervision) in New York State or supervision under the Interstate Compact;
 3. Release from a DOCCS facility or release from a local correctional facility following a revocation of parole or post-release supervision, the supervision credit date shall be the date of re-release (time assessment expiration date) to parole or post-release supervision;
 4. Release following a revoke and restore decision, the supervision credit date shall be the date of the Administrative Law Judge’s decision (in most instances the date of decision is also the date of the final revocation hearing);

5. Release following a revoke and restore to Willard Drug Treatment Campus (DTC) decision, the supervision credit date shall be the date of the Administrative Law Judge's decision (in most instances the date of decision is also the date of the final revocation hearing);
 6. Release following a judicial sanction to the Willard DTC, the supervision credit date shall be the date the parolee was sentenced;
 7. Release following revocation and completion of a 90 day or "ALT 90" appropriate program under the direction of DOCCS, the supervision credit date shall be the date of re-release to parole or post-release supervision;
 8. Release from the DOCCS Edgecombe Correctional Facility (CF) 45 day treatment program following imposition of a special condition of release, the supervision credit date shall be the supervision date that existed prior to admission and completion of the Edgecombe Program;
 9. Release from the DOCCS Parole Diversion Program (PDP) following warrant admission and cancellation of delinquency, the supervision credit date shall be the supervision credit date that existed prior to admission and completion of the treatment program; or
 10. Release from the DOCCS Edgecombe CF Parole Diversion Program (PDP) following a revocation of parole or post-release supervision and completion of the 45 day or "ALT 45" program, the supervision credit date shall be the date of re-release from the Edgecombe CF.
- F. Merit Termination of Sentence Eligibility Date: The merit termination of sentence eligibility date is the date on which the parolee has accrued either 24 months or 12 months of uninterrupted or unrevoked parole or post-release supervision. This date is posted on the "Parole Access Records Management Information Services (PARMIS) Conviction Inquiry" screen and on the "Merit Termination Worksheet and Decision" (MTRNR) form.
- G. Deferral: A deferral determination may only be made by the Regional Director and the deferral period may not exceed 12 months. For cases assigned to the Department's Interstate Bureau, a determination to defer and maintain supervision may be made at the Area Supervisor (Bureau Chief) level under the direction of the Regional Director. A deferral to the maximum expiration date or the post-release supervision maximum expiration date may only be made if 12 months or less remain on the sentence or period of post-release supervision.
- H. Interstate Compact Cases: Parolees under community supervision via the authority of the Interstate Compact are eligible for consideration as defined in Section III-B, "Eligible Parolee," Section III-D, "Community Supervision," and Section III-E, "Supervision Credit Date," of this directive (see above). The MTRNR form must be completed by the New York State Parole Officer (PO) and Senior Parole Officer (SPO) assigned to the case, and the Interstate Area Supervisor (Bureau Chief) will make the final decision to grant a merit termination of sentence or to defer the case for an additional period of supervision.

The New York State Interstate Parole Officer is required to obtain input and appropriate documentation from the officer responsible for supervision of the case in the other state, and this contact and receipt of information must be memorialized in the case record of the parolee.

IV. PROCEDURE

A. Eligibility Determination, Case Processing, and Discharge Decisions

1. Supervising Offender Rehabilitation Coordinator and Offender Rehabilitation Coordinator
 - a. In preparation for release, facility staff will ensure that the Community Supervision case file is complete and accurate, and that the file includes all required documents and relevant information consistent with the requirements of established procedure (Case Folder and Records Organization).
 - b. Where applicable, facility staff will ensure that victim impact information and confidential information is made available to assigned field staff in accord with operating procedures.
 - c. The Supervising Offender Rehabilitation Coordinator and the Offender Rehabilitation Coordinator are responsible for providing information regarding the eligibility requirements for a merit termination of sentence, as well as other opportunities for discharge and sentence termination with offenders during the pre-Parole Board interview process, parole and post-release supervision orientation, the community preparation phase, and in response to requests for information received from offenders in state custody.
2. Office of Information Technology Services (ITS)
 - a. ITS maintains an automated mainframe program that identifies parolees eligible for a merit termination of sentence case review to be performed by assigned field supervision staff.
 - b. The automated program subroutine produces the MTRNR forms package (Attachment B) via the On-line Print System (OPS). The MTRNR package is generated 30 days in advance of the merit termination of sentence eligibility date and is made available to the Area Office/Bureau of assignment via the report print function (OPS). The MTRNR report package (Attachment B) includes the following documents:
 - (1) Cover page memorandum (where applicable, this memorandum will include the Alien Registration Number of the parolee and a statement indicating that a letter has been sent to Immigration and Customs Enforcement (ICE) under the direction of the Assistant Commissioner for Community Supervision);
 - (2) "Parolee Profile" page that includes case identification, field assignment, three year discharge date, maximum expiration date, crime(s), arrest information, and drug testing information;
 - (3) "Merit Termination of Sentence Worksheet and Decision" form that includes the merit termination of sentence eligibility date; and

- (4) Letter to Immigration and Customs Enforcement (produced only where an Alien Registration Number has been identified).
 - c. ITS staff is responsible for maintaining eligibility information on the "PARMIS Conviction Inquiry" screen to include the "Merit Termination Eligibility" indicator, "Merit Termination Status," and the "Merit Termination Eligibility Date."
 - d. ITS staff is responsible for maintaining the PARTNER/PRESS inquiry programs, "Outstanding Merit Term Decisions," and "Merit Term Review Results."
3. Central Office Community Supervision Operations Staff (Internal Operations): If an eligible parolee has an Alien Registration Number, the appropriate notification letter will be sent to ICE by Operations staff on behalf of the Director of Internal Operations for Community Supervision (Central Office Community Supervision Operations function). The purpose of this communication is to determine whether or not the parolee is a deportable alien. The copy of the ICE letter, generated via the OPS to assigned field staff, is intended to be a copy for the Community Supervision case file. A copy of the original letter, by the Director of Internal Operations for Community Supervision, will be placed in the Community Supervision central file of the parolee. The letter from the Director of Internal Operations will be sent to ICE 30 days in advance of the merit termination of sentence eligibility date. If a written response is received from ICE, the information will be provided to assigned field staff as soon as practicable.
4. Field Community Supervision Staff
 - a. The Area Supervisor (Bureau Chief) is responsible for monitoring receipt of the MTRNR report packages generated via the Department's OPS. The Area Supervisor will establish appropriate controls to ensure that MTRNR report activity is monitored on a daily basis, and that the report packages are distributed to the Senior Parole Officers and Parole Officers responsible for supervision of the identified parolees.
 - b. Upon receipt of the MTRNR report package, the Senior Parole Officer and Parole Officer assigned to the case will confirm the accuracy of the documents and proceed with the case review. Prior to completing the Merit Termination Worksheet and Decision document, the Parole Officer must: 1) ensure that the CMS (Case Management System) record of the parolee is up to date, 2) perform a thorough examination of the case file, and 3) request and review an up-to-date New York State Criminal History Profile to include a review of the Triple III report.
 - c. The Parole Officer must complete the Merit Termination Worksheet and Decision document, and submit the report package and case file to the Senior Parole Officer. The Parole Officer must sign the worksheet and make a recommendation to either grant a merit termination of sentence, or defer for an additional period of supervision.

Completion of the worksheet and submission of the report package and case file to the Senior Parole Officer is to be recorded, via case entry, in the CMS record of the parolee.

- d. The Senior Parole Officer will review the worksheet and case file, make a recommendation to either grant or defer the case, and sign the worksheet prior to submission to the Area Supervisor (Bureau Chief). It is the responsibility of the Senior Parole Officer to ensure that the record is complete and accurate. Submission of the report package and case file to the Area Supervisor is to be recorded via case entry in CMS.
- e. The Area Supervisor (Bureau Chief) will review the report package prepared by the Parole Officer and Senior Parole Officer as well as the case file. Subsequent to a review of the case file and required documents, the Area Supervisor will render a decision to grant merit termination of sentence (worksheet reference "no deferral" indicator) or defer the case for an additional period of supervision not to exceed a period of 12 months. If the Area Supervisor recommends deferral to the maximum expiration date or the post-release supervision maximum expiration date, there must be 12 months or less remaining on the sentence or period of post-release supervision. If deferred, the Area Supervisor must provide the rationale for such action on the worksheet. The Area Supervisor will sign the worksheet prior to submission to the Regional Director.
- f. The Regional Director is responsible for the supervision of the merit termination of sentence process throughout the Region. The Regional Director will ensure that the Parole Officers, Senior Parole Officers, and Area Supervisors are completing the case reviews and preparing the required documentation for all eligible cases in a timely manner. The Regional Director is authorized to either grant a merit termination of sentence or defer the case for an additional period of supervision not to exceed 12 months. The Regional Director will review the report package and case file of the eligible parolee and record the decision on the worksheet. If the parolee has an Alien Registration Number and a letter has been sent to ICE, the Regional Director will allow sufficient time for a response and further direction, not to exceed 30 days unless otherwise instructed by the Deputy Commissioner or Assistant Commissioner for Community Supervision. If deferred, the Regional Director must provide the rationale for such action on the worksheet. The completed worksheet, to include the required signatures, will be submitted by the Region to the Department's Community Supervision Quality Control (QC) Unit for final processing and record entry.
- g. Following submission of the worksheet to the QC Unit, it is the responsibility of the assigned Parole Officer to track the case status via PARMIS inquiry. If granted a merit termination of sentence, the Parole Officer is responsible for notifying the parolee, and making the appropriate case entry in CMS. The Senior Parole Officer will confirm that the parolee has been notified of the discharge action via case entry in CMS.

Violent Felony Offense List

Violent Felony Offense: A violent felony offense is a class B violent felony offense, a class C violent felony offense, a class D violent felony offense, or a class E violent felony offense, defined as follows:

N.Y. Penal Law §70.02 Class B Violent Felony Offenses:

An attempt to commit the class A-1 felonies of:

Murder 2nd degree – PL 125.25
Kidnapping 1st degree – PL 135.25
Arson 1st degree – PL 150.20
Manslaughter 1st degree – PL 125.20
Aggravated Manslaughter 1st degree – PL 125.22
Rape 1st degree – PL 130.35
Criminal Sexual Act 1st degree – PL 130.50
Aggravated Sexual Abuse 1st degree – defined 130.70
Course of Sexual Conduct Against a Child 1st degree – PL 130.75
Assault 1st degree – PL 120.10
Kidnapping 2nd degree – PL 135.20
Burglary 1st degree – PL 140.30
Arson 2nd degree – PL 150.15
Robbery 1st degree – PL 160.15
Incest 1st degree – PL 255.27
Criminal Possession of a Weapon 1st degree – PL 265.04
Criminal Use of a Firearm 1st degree – PL 265.09
Criminal Sale of a Firearm 1st degree – PL 265.13
Aggravated Assault upon a Police Officer or a Peace Officer – PL 120.11
Gang Assault 1st degree – PL 120.07
Intimidating a Victim or Witness 1st degree – PL 215.17
Hindering Prosecution of Terrorism 1st degree – PL 490.35
Criminal Possession of a Chemical Weapon or Biological Weapon 2nd degree – PL 490.40
Criminal Use of a Chemical Weapon or Biological Weapon 3rd degree – PL 490.47

N.Y. Penal Law § 70.02 Class C Violent Felony Offenses:

An attempt to commit any of the class B felonies:

Aggravated Criminally Negligent Homicide – PL 125.11
Aggravated Manslaughter 2nd degree – PL 125.21
Aggravated Sexual Abuse 2nd degree – PL 130.67
Assault on a Peace Officer, Police Officer, Fireman or Emergency Medical Services Professional – PL 120.08
Gang Assault 2nd degree – PL 120.06
Burglary 2nd degree – PL 140.25
Robbery 2nd degree – PL 160.10
Criminal Possession of a Weapon 2nd degree – PL 265.03
Criminal Use of a Firearm 2nd degree – PL 265.08
Criminal Sale of a Firearm 2nd degree – PL 265.12

Criminal Sale of a Firearm with the Aid of a Minor – PL 265.14
Soliciting or Providing Support for an Act of Terrorism 1st degree – PL 490.15
Hindering Prosecution of Terrorism 2nd degree – PL 490.30
Criminal Possession of a Chemical Weapon or Biological Weapon 3rd degree – PL 490.37
Assault on a Judge – PL 120.09
Strangulation 1st degree – PL 121.13
Aggravated Criminal Possession of a Weapon – PL 265.19

N.Y. Penal Law §70.02 Class D Violent Felony Offenses:

An attempt to commit any of the class C felonies:

Reckless Assault of a Child – PL 120.02
Assault 2nd degree – PL 120.05
Menacing a Police Officer or Peace Officer – PL 120.18
Stalking 1st degree – defined in subdivision one of section 120.60
Rape 2nd degree – PL 130.30
Criminal Sexual Act 2nd degree – PL 130.45
Sexual Abuse 1st degree – PL 130.65
Course of Sexual Conduct against a Child 2nd degree – PL 130.80
Aggravated Sexual Abuse 3rd degree – PL 130.66
Facilitating a Sex Offense with a Controlled Substance – PL 130.90
Criminal Possession of a Weapon 3rd degree – defined in subdivision five, six, seven, eight, nine, or ten of section 265.02
Criminal Sale of a Firearm 3rd degree – PL 265.11
Intimidating a Victim or Witness 2nd degree – PL 215.16
Soliciting or Providing Support for an Act of Terrorism 2nd degree – PL 490.10
Making a Terroristic Threat – PL 490.20
Falsely Reporting an Incident 1st degree – PL 240.60
Placing a False Bomb or Hazardous Substance 1st degree – PL 240.62
Placing a False Bomb or Hazardous Substance in a Sports Stadium or Arena, Mass Transportation Facility, or Enclosed Shopping Mall – PL 240.63
Aggravated Unpermitted Use of Indoor Pyrotechnics 1st degree – PL 405.18
Strangulation 2nd degree – PL 121.12

N.Y. Penal Law §70.02 Class E Violent Felony Offenses:

An attempt to commit any of the felonies of:

Criminal Possession of a Weapon 3rd degree – defined in subdivision five, six, seven, or eight of section 265.02 as a lesser included offense of that section – PL 220.20 of the Criminal Procedure Law
Persistent Sexual Abuse – PL 130.53
Aggravated Sexual Abuse 4th degree – PL 130.65-a
Falsely Reporting an Incident 2nd degree – PL 240.55
Placing a False Bomb or Hazardous Substance 2nd degree – PL 240.61

MTRNR

STATE OF NEW YORK PAGE: 1
DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION
THE HARRIMAN STATE OFFICE CAMPUS - BUILDING 2
1220 WASHINGTON AVENUE
ALBANY, NEW YORK 12226-2050

M E M O R A N D U M

TO: A/S: AREA SUPERVISOR NAME SPO: SPO NAME PO: PO NAME
FROM: DIRECTOR OF INTERNAL OPERATIONS FOR COMMUNITY SUPERVISION
RE: PAROLEE NAME
NYSID: 01234567Z
DIN: 99X9999
DATE: 06/01/2014

PAROLEE XXXXXXXX, XXXXXXXX, NYSID 01234567Z, DIN 99X9999, HAS BEEN DETERMINED TO BE ELIGIBLE FOR DISCHARGE BY REASON OF MERIT TERMINATION OF SENTENCE. A MERIT TERMINATION OF SENTENCE REVIEW MUST BE CONDUCTED OVER THE NEXT THIRTY (30) DAYS AND A COMPLETED MERIT TERMINATION OF SENTENCE DECISION FORM SUBMITTED TO THE CENTRAL OFFICE COMMUNITY SUPERVISION QUALITY CONTROL UNIT THIRTY (30) DAYS FROM THE MERIT TERMINATION OF SENTENCE ELIGIBILITY DATE.

NOTE THAT THIS SUBJECT HAS BEEN DETERMINED TO BE AN ALIEN (WITH REGISTRATION NUMBER 123456789). A LETTER HAS BEEN SENT FROM CENTRAL OFFICE COMMUNITY SUPERVISION OPERATIONS TO IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) TO DETERMINE DEPORTATION STATUS.

MTRNR MERIT TERMINATION REVIEW PAGE: 2
PAROLEE PROFILE

NAME: XXXXXXXX,XXXXXXXXX AREA: BROOKLYN X
NYSID: 01234567Z SENIOR: SPO NAME
DIN: 99X9999 PO: PO NAME
RELEASE DATE: 07/08/2012
3 YEAR/DEFER DATE: NONE
ME DATE: 04/09/2015

--CRIME(S)-----AFTP--CL--MIN--MAX--CNTS--TYPE--HATE-VFO
GRAND LARCENY - NOT AUTO 3RD (REV 11/86) YES E 0106 0400 1 N NO

--ARREST(S)-----DATE-----AGENCY-----
GRAND LARCENY - NOT AUTO 3RD (REV 11/86) 12/13/2013 NYCPD PCT 009
INTERIM BY: NO DD PENDING COURT
INTERIM DATE: 02/06/2014

--DRUG TEST(S)---COC--OPS--THC--PCP--AMP--BAR--ALC--MET--OTH--TESTED-BY
05/27/2013 N N N N BROOKLYN X

MTRNR - MERIT TERMINATION WORKSHEET & DECISION - Eligibility Date: 07/01/2014

NAME: XXXXXXXX,XXXXXXXX NYSID: 01234567Z PON: BK10-9999-9999

CMS Updated & Reviewed: ___ YES Folder Reviewed: ___ YES RAP & III: ___ YES
___ NO ___ NO ___ NO

The parolee has maintained a stable, verifiable residence: YES() NO()

The parolee has remained drug free and/or has completed any required treatment and is currently drug free: YES() NO()

The parolee is employed, or has made good faith efforts to find employment, or has a verifiable source of income: YES() NO()

The parolee has complied with special conditions: YES() NO()

The parolee, while under supervision, has not violated an order of protection or engaged in violent behavior: YES() NO()

The parolee has a prior history of threatening or violent behavior and/or violating an order of protection but discharge would not be contrary to the best interest of society: YES() NO()

The parolee has made a good faith effort to pay Supervision Fees, Restitution, Mandatory Surcharges, and/or Sex Offender Fees: YES() NO()

PO Signature _____ Defer _____ No Deferral _____

SPO Signature _____ Defer _____ No Deferral _____

No Deferral: ___ Defer: ___ months (may NOT exceed 12 months)

Defer to Max Exp. or Post-Release Supervision Max Exp: ___ (ONLY if 12 months or less remain on sentence)

If deferred, details: _____

Area Supervisor _____ Date _____

No Deferral: ___ Defer: ___ months (may NOT exceed 12 months)

Defer to Max Exp. or Post-Release Supervision Max Exp: ___ (ONLY if 12 months or less remain on sentence)

If deferred, details: _____

Regional Director _____ Date _____

June 01, 2014

Mr. Timothy Nevin
Supervisory Deportation Officer
U.S. Department of Homeland Security
Immigration and Customs Enforcement
P.O. Box 639
Glenham, NY 12527

Re: PAROLEE NAME (NYSID 012345678Z 000000000)

Dear Mr. Nevin:

The above referenced individual is presently under the jurisdiction of the New York State Department of Corrections and Community Supervision (DOCCS). Pursuant to New York State Correction Law Section 205, this parolee may be granted a Merit Termination of Sentence unless Immigration and Customs Enforcement informs us that the parolee is a deportable alien.

As part of our review process, we are requesting that you provide us with written verification no later than July 01, 2014 of your intention to deport this individual. If our Department does not receive a response from your office prior to the aforementioned date, indicating that the deportation process is to be initiated, we will proceed with the Merit Termination of Sentence process provided a termination of sentence is in the best interest of society.

Please send your response to my attention at the New York State Department of Corrections and Community Supervision, The Harriman State Office Campus - Building 2, 1220 Washington Avenue, Albany, NY 12226-2050.

If you have any questions or would like further information regarding the Merit Termination of Sentence process, please call our Community Supervision Office at (518) 473-5421.

Thank you for your attention and assistance in this matter.

Very Truly Yours,

Timothy O'Brien
Director of Internal Operations
Community Supervision Operations

cc: Community Supervision Central Files
Area Supervisor (Bureau Chief)