
 <p>Corrections and Community Supervision</p> <p>DIRECTIVE</p>	<p>TITLE</p> <p>Final Declaration of Delinquency</p>		<p>NO. 9070</p>
			<p>DATE 04/25/2019</p>
<p>SUPERSEDES</p> <p>DOP P&P Manual Item 9212.07</p>	<p>DISTRIBUTION</p> <p>A B</p>	<p>PAGES</p> <p>PAGE 1 OF 3</p>	<p>DATE LAST REVISED</p>
<p>REFERENCES (Include but are not limited to)</p> <p>NYS Executive Law 259-I (3) (d) (iii); NYS Court of Appeals Harris v. Sullivan Decision; Directives #9050, #9051</p>	<p>APPROVING AUTHORITY</p> 		

I. PURPOSE: To instruct Community Supervision staff in Final Declarations of Delinquency.

II. POLICY: Community Supervision staff will monitor and process, as appropriate, cases of inmates returned to the Department of Corrections and Community Supervision (DOCCS) custody following the imposition of a new felony sentence (PVNT).

III. DEFINITIONS

Final Declaration of Delinquency (Final DD): A Final Declaration of Delinquency is established when a parolee commits a new crime while under sentence or a period of post-release supervision, is convicted of a New York State felony, and receives a new indeterminate or determinate sentence, all prior to the completion of a Final Revocation Hearing.

IV. PROCEDURE

A. Identifying Cases

1. **Assigned Community Supervision Bureau Personnel:** Community Supervision staff will monitor cases of parolees who are incarcerated with pending felony charges and upon conviction, transfer the case folder/record as appropriate.
2. **Quality Control (QC) Staff:** The Final DD document (Form 3015) is system-generated based on a DOCCS system locator return for a new felony conviction. QC staff will then do the following:
 - a. Establish a delinquency date based on the new conviction. This is always the offense date of the new conviction unless there has been a sustained violation between the offense date and the sentence date of the new conviction. If this is the case, then the Final DD is the sentencing date for the new felony conviction.
 - b. Send four copies of the Final DD document (Form 3015) to the receiving DOCCS facility for signature by the Supervising Offender Rehabilitation Coordinator (SORC).
 - c. Send a system-generated memo to the Area Office (Bureau Chief) requesting the case folder/record be mailed to the receiving facility.
 - d. Upon receipt of the signed Form 3015 from the SORC, QC staff shall review for completeness, check the system for accuracy, and then send Form 3015 to the Central Files Unit.

- e. If the original Maximum Expiration (ME) or Post-Release Supervision Maximum Expiration (PRSME) date is prior to the offense date (i.e., absconder), an email is forwarded to the appropriate Chief of PVU, Deputy Chief of PVU, and the Parole Revocation Specialist (PRS), requesting either a revocation hearing to sustain delinquency or a written recommendation to the Board of Parole for a Cancel Delinquency by Maximum Expiration (CDME).
 3. Facility Guidance Staff:
 - a. Upon receipt of Form 3015 from QC, the SORC shall review the Final DD and sign all four copies.
 - b. After signing Form 3015, the SORC shall place one copy in the Community Supervision grey folder, distribute one copy to the Inmate Records Coordinator (IRC), and provide one copy to the inmate; the last copy shall be sent back to QC.
- B. Cases Necessitating a Final Hearing
 1. There are certain cases where DOCCS MAY proceed with a revocation hearing in order to establish a delinquency date that is earlier than the new offense date and in some cases DOCCS MUST proceed in order to preserve the Board of Parole's jurisdiction to revoke parole or post-release supervision.
 2. DOCCS MAY proceed with a revocation hearing when there is behavior pre-dating the new crime that constitutes a violation of the conditions of parole in an important respect.
 3. Failure to preserve the earlier delinquency date will result in reinstatement of the original ME or PRSME and termination of the sentence. For these purposes, original ME or PRSME means the date in effect at the time the Violation of Parole (VOP) was written. Once the ME or PRSME has passed, the Board loses jurisdiction and the case must be closed.
- C. Federal/Other State Felony Convictions: DOCCS must conduct a timely revocation hearing in order to establish a revocation of parole or post-release supervision based on a Federal conviction or a conviction in another state (Other State conviction).

NOTE: The New York Court of Appeals decision in Harris v. Sullivan, 74 N.Y.2d 821, 546 N.Y.S.2d 305 (10/17/89) PROHIBITS the Department from issuing a Final DD based on Federal or Other State felony convictions.
- D. Federal Concurrent Convictions
 1. Federal concurrent convictions are New York State felony convictions received while the inmate is serving a Federal or Other State conviction. In these instances, the violator is not returned to DOCCS, as he or she is incarcerated elsewhere, until he or she completes the Federal or Other State conviction.
 2. The processing of all Federal concurrent cases is done by QC staff as follows:
 - a. The Violator record is closed by a paper "revoke" using a "J" Department Identification Number (DIN) provided by DOCCS.
 - b. The Final DD papers are produced.
 - c. The delinquency date is established by QC staff following the same rules stated in subsection IV-A-2-a.

- d. Four copies of the Final DD document (Form 3015) are sent to the Interstate Bureau for signature by the Senior Parole Officer. Upon signature, one copy shall be kept in the Interstate file, one copy shall be sent to the Office of Sentencing Review, and one copy shall be sent to QC. The copy for the inmate shall be mailed to them at their present location.
- e. Upon completion of the Federal/Other State sentence, the violator is returned to either a DOCCS correctional facility if there is sentence time owed, or released directly to Community Supervision. QC staff then changes the "J" DIN to the current DIN that is assigned to the violator by DOCCS. If the individual reaches their conditional release date while in Federal custody and released to Community Supervision, they are assigned an F-DIN.