

PS 5140.33 CIVIL CONTEMPT OF COURT COMMITMENTS



Program Statement

OPI: CPD
NUMBER: 5140.33
DATE: 5/26/2000
SUBJECT: Civil Contempt of Court
Commitments

1. [**PURPOSE AND SCOPE** §522.10. Occasionally federal civil commitments for contempt of court may be referred to the Bureau of Prisons. These cases are not regular commitments to the custody of the Attorney General and are not convictions for any offense against the laws of the United States. The Bureau of Prisons cooperates with the federal courts in implementing the sentence by making its facilities and resources available. The confinement of civil contempt inmates shall terminate when the Bureau of Prisons receives notification from the court that the reason for the contempt commitment has ended or that the inmate is to be released for any other reason.]

2. **SUMMARY OF CHANGES.** This Program Statement has been revised to specify that inmates incarcerated under a civil contempt of court commitment and subsequently receiving a term of imprisonment for offenses committed on or after November 1, 1987, the criminal sentence will run consecutive to the contempt order unless the judge orders otherwise. This change is found in Section 8.e.

3. **PROGRAM OBJECTIVE:** The expected result of this program is:

Inmates confined as a result of civil contempt will be managed in accordance with standard correctional practice.

[**Bracketed Bold - Rules**]

Regular Type - Implementing Information

4. DIRECTIVES AFFECTED

a. Directive Rescinded

PS 5140.31 Civil Contempt of Court Commitments
(10/14/98)

b. Directive Referenced

PS 5140.29 Transfer of Offenders to or from Foreign
Countries (5/21/97)
PS 5880.28 Sentence Computation Manual (CCCA of 1984)
(2/21/92)
PS 5880.30 Sentence Computation Manual (Old Law, Pre-
CCCA of 1984) (7/16/93)
PS 7331.03 Pretrial Inmates (11/22/94)

c. Rules cited in this Program Statement are contained in 28
CFR 522.10-11.

5. STANDARDS REFERENCED

a. American Correctional Association 3rd Edition Standards for
Adult Correctional Institutions: 3-4094

b. American Correctional Association 3rd Edition Standards for
Adult Local Detention Facilities: 3-ALDF-1E-03

c. American Correctional Association Standards for Adult
Correctional Boot Camp Programs: 1-ABC-1E-09

d. American Correctional Association 2nd Edition Standards for
the Administration of Correctional Agencies: 2-CO-1E-05

6. **MCC/MDC/FDC/FTC APPLICATION.** Procedures in this Program
Statement apply to pre-trial and holdover inmates as indicated in
subsequent sections.

7. **CIVIL CONTEMPT OF COURT STATUTES.** There are two civil
contempt statutes.

a. (1) Title 28, U.S.C., § 1826 provides:

*"Whenever a witness in any proceeding before or ancillary to
any court or grand jury of the United States refuses
without just cause shown to comply with an order of the
court to testify or provide other information, including
any book, paper, document, record, recording or other
material, the court, upon such refusal, or when such*

refusal is duly brought to its attention, may summarily order his confinement at a suitable place until such time as the witness is willing to give such testimony or provide such information. No period of such confinement shall exceed the life of--

(1) the court proceeding, or

(2) the term of the grand jury, including extensions, before which such refusal to comply with the court order occurred, but in no event shall such confinement exceed eighteen months."

(2) A civil contempt sentence under this section may end in any one of the following four ways, the actual manner dependent upon which circumstance occurs first.

- ! The person purges himself of contempt by cooperating with the court.
- ! The court proceedings terminate.
- ! The term imposed by the court (not to exceed 18 months) expires.
- ! The term of the grand jury expires.

b. (1) Title 18 U.S.C. § 401 provides:

"A court of the United States shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other as--

- (1) Misbehavior of any person in its presence or so near thereto as to obstruct the administration of Justice;*
- (2) Misbehavior of any of its officers in their official transaction;*
- (3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command."*

(2) A civil contempt sentence under this section is under the sole jurisdiction of the court and has no time limit. The sentence will not terminate until the inmate purges himself or herself of the contempt or until the court orders the sentence terminated.

8. PROCEDURES §522.11

[a. The U.S. Marshal's Service has primary jurisdiction in federal civil contempt commitments.

b. When a U.S. Marshal requests designation from the Bureau of Prisons for a federal civil contempt commitment because local jails are not suitable, due to medical, security or other reasons, staff may designate the nearest Bureau institution having the necessary facilities.]

(1) A designation to a Bureau institution may be made after the U.S. Marshals Service (USMS) has exhausted all its resources.

(2) For statistical purposes, these commitments to Bureau institutions will be listed as unsentenced holdovers. Receiving and discharge procedures for an inmate serving only a civil contempt sentence will be consistent with their unsentenced prisoner status.

[c. When the committing court specifies a Bureau of Prisons institution as the place of incarceration in its contempt order, the Bureau of Prisons shall designate that specified facility in accordance with the judicial wishes, unless there is a reason for not placing the inmate in that facility, in which case the matter shall be called to the attention of the court and an attempt made to arrive at an acceptable place of confinement with the agreement of the committing court.

d. If a federal criminal sentence of imprisonment (including a Narcotic Addict Rehabilitation Act or Youth Corrections Act commitment) exists when a civil contempt commitment is ordered, credit towards service of the criminal sentence is delayed or suspended for the duration of the contempt commitment unless the committing judge orders otherwise.

e. (1) If a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed under 18 U.S.C. Chapter 227 (as applicable to offenses committed before November 1, 1987), the criminal sentence runs concurrently with the commitment order unless the sentencing judge orders otherwise.

(2) If a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed under 18 U.S.C. Chapter 227 (as applicable to offenses committed on or after November 1, 1987), the criminal sentence runs consecutively to the commitment order unless the sentencing judge orders otherwise.

f. An inmate serving a civil contempt sentence in a Bureau institution will be treated the same as a person awaiting trial; where the inmate is serving a civil contempt sentence and a concurrent criminal sentence, the inmate will be treated the same as a person serving a criminal sentence.

g. An inmate is not entitled to statutory or extra good time credits under 18 U.S.C. 4161-62 while only the civil contempt sentence is in effect. Nor is an inmate entitled to good conduct time credits under 18 U.S.C. 3624(b). Time spent serving only a civil contempt sentence is not considered jail time under 18 U.S.C. 3568 or 18 U.S.C. 3585(b).]

h. The status of criminal sentences being served at the time citation for civil contempt occurs, or the release date status of prisoners held solely for civil contempt, must be monitored carefully. Bureau institutions will review the status of all such cases with the appropriate U.S. Marshal periodically.

/s/

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Director