

**U.S. DEPARTMENT OF JUSTICE
Federal Bureau of Prisons**



**PROGRAM STATEMENT
Categorization of Offenses**

Approved by	 William K. Marshall III Director, Federal Bureau of Prisons
DPI	OGC
Number	5162.06
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Summary of Changes

<i>Program Statement Rescinded:</i> <ul style="list-style-type: none">▪ 5162.05 Categorization of Offenses (3/16/2009)
<i>Changes:</i> <ul style="list-style-type: none">▪ Updates the list of statutory offenses.▪ Modifies examples for clarity and accuracy.

1. PURPOSE AND SCOPE

To assist in the implementation of various Bureau of Prisons (Bureau) policies and programs (e.g., Program Statements **Notification Requirements Upon Release of Sex Offenders, Violent Offenders, and Drug Traffickers; Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C. §§ 3582 and 4205(g); Early Release Procedures Under 18 U.S.C. § 3621(e); First Step Act of 2018 - Time Credits: Procedures for Implementation of 18 U.S.C. § 3632(d)(4); Inmate Furloughs; and Correctional Services Procedures Manual**). Section 3 of this program statement lists offenses the Bureau categorizes as “crimes of violence” as that term is used in various statutes. In addition, Section 4 lists offenses that in the Bureau Director's discretion preclude an inmate from receiving certain Bureau program benefits.

a. Program Objective.

Consistent with statutory law and federal regulations, certain program benefits, such as eligibility for a furlough or early release under 18 U.S.C. § 3621(e), are not appropriate for inmates who have committed a crime of violence or offenses the Bureau’s Director has identified to preclude eligibility for those benefits.

b. **Institution Supplement.** None.

2. APPLICATION

Criminal offenses defined throughout the United States Code (U.S.C.) that constitute crimes of violence preclude an inmate from receiving certain Bureau program benefits and are listed in Section 3 of this Program Statement. Section 4 of this program statement lists offenses not categorized as crimes of violence that would still preclude an inmate from receiving certain Bureau program benefits at the Director's discretion.

If staff believe an inmate's crime might preclude them from receiving certain Bureau program benefits but it is not listed in this program statement, they must contact the Office of General Counsel's Legislative and Correctional Issues Branch for clarification.

Some of the U.S.C. sections may be listed in more than one section below; such duplication is indicated by an asterisk. In these cases, staff are to check subsequent sections of the program statement to determine whether the offense is a crime of violence or an offense that would otherwise preclude an inmate from receiving certain Bureau program benefits.

3. OFFENSES CATEGORIZED AS CRIMES OF VIOLENCE

a. Criminal offenses are crimes of violence in all cases.

Any felony conviction for an offense listed below is categorized as a crime of violence.

18 U.S.C. § 32	Destruction of aircraft
18 U.S.C. § 33	Destruction of motor vehicles or motor vehicle facilities
18 U.S.C. § 34	Penalty when death results
18 U.S.C. § 35(b)	Conveying false information that harms human life
18 U.S.C. § 36	Firing weapons into group of persons (VCCLEA addition)
18 U.S.C. § 37	Violence at international airports (VCCLEA addition)
18 U.S.C. § 43	Force, violence, and threats involving animal enterprises
18 U.S.C. § 81	Arson w/in maritime jurisdiction
18 U.S.C. § 111	Assaulting officers of the United States
18 U.S.C. § 112(a)	Assaulting foreign officials
18 U.S.C. § 113	Assaults w/in maritime jurisdictions
18 U.S.C. § 114	Maiming w/in maritime jurisdiction
18 U.S.C. § 115	Threatening family member of a federal official
18 U.S.C. § 116	Female genital mutilation
18 U.S.C. § 117	Domestic assault by an habitual offender
18 U.S.C. § 175	Biological weapons

18 U.S.C. § 229	Prohibited activities (chemical weapons)
18 U.S.C. § 231	Civil disorders
18 U.S.C. § 245	Federally protected activities
18 U.S.C. § 247	Damage to religious property; obstruction of persons in the free exercise of religious beliefs
18 U.S.C. § 248	Freedom of access to clinic entrances
18 U.S.C. § 249	Hate crime acts
18 U.S.C. § 351	Assassination of cabinet and congress members
18 U.S.C. § 373	Soliciting to commit a violent act
18 U.S.C. § 521(c)(2)	Criminal street gangs
18 U.S.C. § 594	Intimidation of voters (includes misdemeanor conviction)
18 U.S.C. § 753	Rescue of an inmate to prevent execution
18 U.S.C. § 832	Participation in nuclear and weapons of mass destruction threats to the United States
18 U.S.C. § 842	Explosive materials
18 U.S.C. § 844	Penalties
18 U.S.C. § 871	Threats against the President
18 U.S.C. § 875(a)(b)(c)	Interstate communications
18 U.S.C. § 878	Threats against foreign officials
18 U.S.C. § 879	Threats against former presidents
18 U.S.C. § 922 (a)(2), (a)(3),(a)(4), (a)(5),(a)(7), (a)(8),(a)(9), (b)(2),(b)(3), (b)(4),(b)(5), (c),(d)(1), (d)(2),(d)(4), (d)(8),(d)(9), (k),(n), (o),(p),(q)(2), (q)(3),(r), (s)(1),(t)(1), (u),(x)(1)(A), (x)(2)(A), & (z)(1)	Firearms violations
18 U.S.C. § 924(c)	Firearms used in violent or drug trafficking crimes
18 U.S.C. § 924(j)	Murder in the course of carrying, using, and discharging a firearm in relation to a drug trafficking crime
18 U.S.C. § 929	Use of restricted ammunition
18 U.S.C. § 930(a)(b)(c),	Possession of firearms and dangerous weapons in Federal facilities (felony only)
18 U.S.C. § 956	Conspiracy to kill, kidnap, maim, or injure persons or damage property in a foreign country
18 U.S.C. § 970(a)	Damage of property owned by foreign governments
18 U.S.C. § 1091	Genocide
18 U.S.C. § 1111	Murder
18 U.S.C. § 1112	Manslaughter (voluntary only)
18 U.S.C. § 1113	Attempt to commit murder or manslaughter
18 U.S.C. § 1114	Murder of officers

18 U.S.C. § 1116	Murder of foreign officials
18 U.S.C. § 1117	Conspiracy to murder
18 U.S.C. § 1118	Murder in correctional institution (VCCLEA addition)
18 U.S.C. § 1119	Foreign murder of US national (VCCLEA addition)
18 U.S.C. § 1120	Murder by escaped prisoner (VCCLEA addition)
18 U.S.C. § 1121	Murder of state or local officer (VCCLEA addition)
18 U.S.C. § 1201	Kidnapping
18 U.S.C. § 1203	Hostage taking
18 U.S.C. § 1204	International parental kidnapping
18 U.S.C. § 1363	Buildings or property within special maritime and territorial jurisdiction
18 U.S.C. § 1364	Interference with foreign commerce by violence
18 U.S.C. § 1365	Tampering with consumer products except 1365(b),(c)
18 U.S.C. § 1366	Destruction of an energy facility
18 U.S.C. § 1368	Harming animals used in law enforcement
18 U.S.C. § 1369	Destruction of veterans' memorials
18 U.S.C. § 1512(a)	Killing witness or victim
18 U.S.C. § 1513	Retaliation against witness or victim
18 U.S.C. § 1531	Partial-birth abortions prohibited
18 U.S.C. § 1581	Peonage
18 U.S.C. § 1583	Enticement into slavery
18 U.S.C. § 1584	Sale into servitude
18 U.S.C. § 1585	Slave trading
18 U.S.C. § 1587	Possession of slaves aboard a vessel
18 U.S.C. § 1588	Transporting slaves
18 U.S.C. § 1589(a)(1)(2)	Forced labor
18 U.S.C. § 1590(a)	Trafficking with respect to peonage, slavery, involuntary servitude, or forced labor
18 U.S.C. § 1591	Sex trafficking of children or by force, fraud, or coercion
18 U.S.C. § 1594(a)	Attempt to commit sex trafficking of minors
18 U.S.C. § 1594(c)	Conspiracy to commit sex trafficking of children
18 U.S.C. § 1651	Piracy
18 U.S.C. § 1652	Citizens as pirates
18 U.S.C. § 1653	Aliens as pirates
18 U.S.C. § 1655	Assault on commander as pirates
18 U.S.C. § 1659	Attack to plunder a vessel
18 U.S.C. § 1661	Robbery ashore
18 U.S.C. § 1751	Assassination of president or staff
18 U.S.C. § 1752(a)(5)	Restricted building or grounds
18 U.S.C. § 1792	Mutiny or riot
18 U.S.C. § 1841	Protection of unborn children
18 U.S.C. § 1855	Timber set afire

18 U.S.C. § 1859	Surveys interrupted
18 U.S.C. § 1864	Hazardous devices on federal lands
18 U.S.C. § 1958	Use of interstate commerce in murder for hire
18 U.S.C. § 1959	Violent crimes aiding racketeering
18 U.S.C. § 1991	Entering train to commit crime
18 U.S.C. § 1992	Wrecking trains
18 U.S.C. § 2101	Riots
18 U.S.C. § 2111	Special maritime jurisdiction
18 U.S.C. § 2113(d), (e)	Bank robbery and incidental crimes
18 U.S.C. § 2114	Assault of person carrying mail
18 U.S.C. § 2115	Breaking into post office
18 U.S.C. § 2116	Railway or steamboat post office
18 U.S.C. § 2118(a), (b),(c)	Robberies and burglaries involving controlled substances
18 U.S.C. § 2119	Crimes involving motor vehicles
18 U.S.C. § 2191	Cruelty to seamen
18 U.S.C. § 2231(b)	Assault or resistance
18 U.S.C. § 2232(a)	Destruction of property to prevent seizure
18 U.S.C. § 2233	Rescue of seized property
18 U.S.C. § 2241	Aggravated sexual abuse
18 U.S.C. § 2242	Sexual abuse
18 U.S.C. § 2243(a)	Sexual abuse of a minor or ward
18 U.S.C. § 2244(a),(c)	Abusive sexual contact
18 U.S.C. § 2245	Sexual abuse resulting in death (VCCLEA addition)
18 U.S.C. § 2251	Sexual exploitation of children
18 U.S.C. § 2251A	Selling or buying of children
18 U.S.C. § 2260(a)	Production of sexually explicit depictions of a minor for importation into the United States
18 U.S.C. § 2261	Interstate domestic violence (VCCLEA addition)
18 U.S.C. § 2271	Conspiracy to destroy vessels
18 U.S.C. § 2272	Destruction of vessel by owner
18 U.S.C. § 2273	Destruction of vessel by nonowner
18 U.S.C. § 2275	Firing or tampering with vessels
18 U.S.C. § 2276	Breaking and entering vessels
18 U.S.C. § 2277(a)	Explosives or dangerous weapons aboard vessels
18 U.S.C. § 2280	Violence against maritime navigation (VCCLEA addition)
18 U.S.C. § 2281	Violence against fixed platforms (VCCLEA addition) (other than subsection (A))
18 U.S.C. § 2283	Transportation of explosive, biological, chemical, or radioactive or nuclear materials
18 U.S.C. § 2284	Transportation of terrorists
18 U.S.C. § 2291	Destruction of vessel or maritime facility (other than subsections

	(a)(8)-(9))
18 U.S.C. § 2332	Penalties for homicide
18 U.S.C. § 2332a	Use of weapons of mass destruction (VCCLEA addition)
18 U.S.C. § 2332b	Acts of terrorism transcending national boundaries
18 U.S.C. § 2332f	Bombings of place of public use, government facilities, public transportation systems and infrastructure facilities
18 U.S.C. § 2339	Harboring or concealing terrorists
18 U.S.C. § 2339A	Providing material support to terrorists
18 U.S.C. § 2339B	Providing material support or resources to designated foreign terrorist organizations
18 U.S.C. § 2340A	Torture
18 U.S.C. § 2383	Rebellion or insurrection
18 U.S.C. § 2384	Sedition conspiracy
18 U.S.C. § 2385	Advocating the overthrow of the government
18 U.S.C. § 2389	Recruiting for service against U.S.
18 U.S.C. § 2390	Enlistment to serve against U.S.
18 U.S.C. § 2421	Transportation for illegal sexual activity
18 U.S.C. § 2422	Coercion into interstate travel for illegal sexual activity
18 U.S.C. § 2423	Transportation of minors for illegal sexual activity
18 U.S.C. § 2425	Use of interstate facilities to transmit information about a minor
21 U.S.C. § 841(d)	Boobytraps on Federal property
21 U.S.C. § 848(e)	Death penalty for criminal offenses
21 U.S.C. § 858	Endangering human life while manufacturing controlled substances
26 U.S.C. §§ 5861(a)-(l)	Firearms
42 U.S.C. § 2000(e)(13)	Killing of officer while enforcing Equal Employment Act
42 U.S.C. § 2283(a)	Protection of nuclear inspectors
42 U.S.C. § 2284(a)	Sabotage of nuclear facilities
42 U.S.C. § 3631	Interference with housing
49 U.S.C. § 46502	Aircraft piracy
49 U.S.C. § 46504	Interference with flight crew members
49 U.S.C. § 46505	Carrying a weapon or explosive on an aircraft
49 U.S.C. § 46507	False information and threats

b. Bank robbery and incidental crimes.

Title 18 U.S.C. § 2113(a) provides in part:

Whoever, by force and violence, or by intimidation, takes, or attempts to take, from the person or presence of another, or obtains or attempts to obtain by extortion any property or money or any other thing of value belonging to, or in the care, custody, control, management, or possession of, any bank, credit union, or any savings and loan association;

Shall be fined under this title or imprisoned not more than twenty years, or both.

This statute covers various offenses, including bank robbery but also embezzling bank funds, stealing bank property, and bank larceny.

Regarding the specific crime of bank robbery, the offense is considered to be a crime of violence because it involves the threatened use of force. For offenses pursuant to § 2113(a) other than bank robbery, see Section 4.e. in this program statement.

c. Conspiracy, attempt, and similar offenses that involve an underlying offense.

The statutes listed in this section cover conspiracy offenses (e.g., 18 U.S.C. § 371) when an individual has planned with others to commit a particular crime. Other listed statutes cover attempted offenses where an individual tried but did not succeed in committing the crime. In reviewing these types of offenses, it is necessary to examine what the inmate was conspiring to do or attempting to do: the “underlying offense.” If the underlying offense is categorized as violent in Section 3.a. or is listed in Section 3.b. of this program statement, then the attempt or the conspiracy to commit the offense is also violent. The underlying offense will be included in the Presentence Investigation Report (PSR) and may be noted on the Judgment and Commitment (J&C) Order.

Other statutes listed in this section do not criminalize behavior but set out penalties that result from violating other statutes. To determine whether the inmate’s current offense is violent, staff must assess whether the underlying offense is violent in accordance with Section 3.a. of this program statement. For example, 18 U.S.C. § 924(a)(1)(B) imposes penalties for violations of various subsections of 18 U.S.C. § 922. The J&C may indicate the sentence was imposed pursuant to the penalty provisions of Section 924(a)(1)(B) without indicating the conviction for the underlying offense. The PSR, however, notes the underlying conviction to be “Transporting a Destructive Device in Interstate Commerce,” in violation of 18 U.S.C. § 922(a)(4). When the underlying offense is violent, such as in this example, the inmate should be deemed violent.

The following offenses may be violent depending on the underlying offense:

18 U.S.C. § 2	Aiding and abetting
18 U.S.C. § 241	Conspiracy against rights
18 U.S.C. § 371	Conspiracy to commit offense/fraud against U.S.
18 U.S.C. § 372	Conspiracy to impede or injure officer
18 U.S.C. § 924	Penalties for firearms violations
18 U.S.C. § 1962	Racketeering

4. OFFENSES THAT AT THE DIRECTOR'S DISCRETION PRECLUDE AN INMATE FROM RECEIVING CERTAIN BUREAU PROGRAM BENEFITS

For certain Bureau programs, an inmate may be denied program benefits if they were convicted of an offense listed in either this section or Section 3 of this program statement. If an inmate is denied the benefit of such a program, staff must carefully describe the basis for the denial. For example, if an inmate is convicted of an offense listed in this section, the inmate shall be denied a program benefit because they committed an offense identified at the Director's discretion, rather than a crime of violence.

Based on the Director's discretion, an inmate currently serving a sentence for a felony offense that contains at least one of the following factors is precluded from receiving certain Bureau program benefits:

- The current offense has an element of the actual, attempted, or threatened use of physical force against the person or property of another;
- The current offense involved the carrying, possession, or use of a firearm or other dangerous weapon or explosives (including any explosive material or explosive device);
- The current offense presents a serious potential risk of physical force against the person or property of another by its nature or conduct; or
- The current offense involves sexual abuse offenses committed against children by its nature or conduct.

a. Criminal offenses with an enhanced base offense level.

Convictions for an offense listed below may or may not satisfy the standard listed in the introductory portion of Section 4 of this program statement. At the time of sentencing, the court makes a finding in its Statement of Reasons to document whether an offense listed below involved the use of force, as reflected in the PSR section entitled "Offense Computation." For example, 18 U.S.C. § 241 prohibits "two or more persons conspiring to injure, oppress, threaten, or intimidate any person... in the free exercise or enjoyment of any right or privilege..." This crime may or may not be committed through the use of force or threatened use of force, since one can be oppressed through means other than force. Pursuant to U.S. Sentencing Guideline Section § 2H2.1, the base offense level will either be 18 if the offense behavior included use of force or threat of force against persons or property, but the base offense level will be 12 if the conduct did not involve the use or threatened use of force.

If an offender was convicted of an offense listed below, staff must examine the base offense level to determine whether the offense would preclude the inmate from receiving certain Bureau

program benefits. If the PSR does not include an explanation as to the reason for assigning a specific base offense level, staff may need to examine the particular Sentencing Guideline referenced.

Some of the offenses listed below may correspond to more than one Sentencing Guideline, only one of which includes a base level adjustment for the use or threatened use of force. Accordingly, it is possible that an examination of the Offense Computation section of the PSR may reveal no mention of the use or threatened use of force. When the PSR fails to explain the reason for assigning a particular base offense level, staff must examine the particular Sentencing Guideline referenced to determine whether the court found that the use of force was implicated in the offense.

Staff may contact the Office of General Counsel, Legislative and Correctional Issues Branch if they have questions regarding this section of this program statement. At the Director's discretion, inmates with current offenses listed below require review of base offense levels and may be precluded from receiving certain Bureau program benefits.

18 U.S.C. § 241	Conspiracy against rights (for other than conspiracy)
18 U.S.C. § 242	Deprivation of rights under color of law
18 U.S.C. § 592	Putting troops at polls
18 U.S.C. § 593	Interference by armed forces
18 U.S.C. § 1791	Possessing contraband in prison
18 U.S.C. § 2231(a)	Assault on persons executing search warrant
18 U.S.C. § 2381	Treason

b. Criminal offenses with a Specific Offense Characteristic (SOC) enhancement.

Convictions for an offense listed below, like those listed in Section 4.a., may or may not satisfy the standard listed in the introductory portion of Section 4 of this program statement.

At the time of sentencing, the court makes a finding of whether the offense involved the use or threatened use of force, and this finding is reflected in the PSR section entitled "Offense Computation." This section references a particular Sentencing Guideline that provides for an increase in the Total Offense Level if the criminal violation was committed with force.

For example, 21 U.S.C. § 841 makes it a crime to manufacture, distribute, or possess with the intent to distribute drugs. If a dangerous weapon was possessed during commission of the offense, the court would increase the defendant's base offense level by two levels. This particular SOC, possession of a dangerous weapon during the commission of a drug offense, poses a serious potential risk that force may be used against persons or property. As a result, an inmate who was convicted of violating 21 U.S.C. § 841 and received a two-level SOC enhancement for possession of a firearm has been convicted of an offense that will preclude the inmate from

receiving certain Bureau program benefits.

When the PSR is unclear whether force was used, staff must examine the particular Sentencing Guideline referenced to determine if the court found force was implicated in the offense. For example, a PSR states, “SOC 3C1.2, increase 2 levels.” If the PSR does not further affirm the offense involved the reckless risk of another’s death or serious bodily injury, staff may have to examine U.S.S.G. § 3C1.2, which reflects the only basis for this particular increase is a finding the offense included the risk of death or serious bodily injury while fleeing from law enforcement. The inmate would then be precluded from receiving certain Bureau program benefits referenced in this program statement.

Staff may contact Office of General Counsel, Legislative and Correctional Issues Branch if they have questions regarding this section of this program statement.

Below is a list of offenses for which there could be an SOC enhancement for the use of force:

16 U.S.C. § 773e(1)(B), (C),(D),(F)	Violation of Northern Pacific Halibut Act
16 U.S.C. § 773g	Violation of Northern Pacific Halibut Act
16 U.S.C. § 1857(1)(D), (E),(F),(H)	Violation of National Fishery Management Program
16 U.S.C. § 1859	Violation of National Fishery Management Program
16 U.S.C. § 2435(4),(5), (6),(7)	Violation of Antarctic Marine Living Resources Convention
16 U.S.C. § 2438	Violation of Antarctic Marine Living Resources Convention
16 U.S.C. § 3606	Violation of North Atlantic Salmon Fishing
16 U.S.C. § 3637(a)(2), (3),(4),(6)	Violation of Pacific Salmon Fishing
16 U.S.C. § 5009(5),(6), (7),(8)	Violation of North Pacific Anadromous Stock Convention
18 U.S.C. § 755	Officer permitting escape
18 U.S.C. § 757	Procuring escape for prisoner of war
18 U.S.C. § 874	Kickbacks from public works employees
18 U.S.C. § 894	Extending credit through extortionate means
18 U.S.C. § 1163	Embezzlement/theft from Indian organizations
18 U.S.C. § 1503	Influencing or injuring officer or juror
18 U.S.C. § 1505	Obstruction of proceedings before departments or agencies
18 U.S.C. § 1511	Obstruction of state or local law enforcement
18 U.S.C. § 1516	Obstruction of a federal audit
18 U.S.C. § 1517	Obstructing financial examination
18 U.S.C. § 1951	Interference with commerce by threats/violence

18 U.S.C. § 2112	Robbery of personal property of United States
21 U.S.C. § 841	Controlled substance violation (other than (e))
21 U.S.C. § 846	Attempt and conspiracy
26 U.S.C. § 7212	Attempt to interfere with revenue laws
26 U.S.C. § 7214	Unlawful acts by employees of the IRS
30 U.S.C. § 1461(4),(5)	Resisting officers for violations under Deep Seabed Mineral Resources Act
30 U.S.C. § 1463	Violations of Deep Seabed Mineral Resources Act
40 U.S.C. § 5104(e)(1)	Security of Capitol grounds and buildings
42 U.S.C. § 2283(b)	Protection of nuclear inspectors
42 U.S.C. § 9151(2),(3), (4),(5)	Violation of Ocean Thermal Energy Conversion Act
42 U.S.C. § 9152(d)	Violation of Ocean Thermal Energy Conversion Act
46 U.S.C. § 70503	Manufacture, distribution, or possession with intent to manufacture controlled substances
49 U.S.C. § 46505(b)	Carrying a weapon on an aircraft
52 U.S.C. § 10501	Application of prohibition to other States
52 U.S.C. § 10502	Residence requirements for voting
52 U.S.C. § 10503	Bilingual election requirements
52 U.S.C. § 10505	Penalty
52 U.S.C. § 10701	Enforcement of twenty-sixth amendment
52 U.S.C. § 20511	Criminal penalties

c. Criminal offenses that may preclude an inmate from receiving certain Bureau program benefits.

In addition to Sections 4.a. and 4.b. above, an inmate may be precluded from receiving certain Bureau program benefits based on an offense listed in this section. For the offenses listed below, the Sentencing Guidelines may provide little insight into the court’s findings. Rather than reviewing only the base offense level or SOCs, staff must examine the entire Offense Computation section of the PSR and, if necessary, the Offense Conduct section. If the offense satisfies the standard listed in the introductory portion of Section 4 of this program statement, the inmate is precluded from receiving certain Bureau program benefits.

The following offenses may preclude an inmate’s receiving certain Bureau program benefits based on a variety of factors:

7 U.S.C. § 473c-1	Offenses in relation to sampling of cotton
16 U.S.C. § 5106(e)(5), (6),(7),(9),(f)(2)	Violation of Atlantic Coast Fisheries Cooperative Management
18 U.S.C. § 13	Laws of states adopted for areas within federal jurisdiction
18 U.S.C. § 700	Desecration of the flag of the United States

18 U.S.C. § 751	Escape from federal prison
18 U.S.C. § 752	Instigating/assisting escape from federal prison
18 U.S.C. § 831	Prohibited acts involving nuclear materials
18 U.S.C. § 876	Mailing threatening communications
18 U.S.C. § 877	Mailing threatening communications from foreign country
18 U.S.C. § 922(a)(1)	Engage in business of importing, manufacturing, or dealing in firearms or ammunition
18 U.S.C. § 1112	Manslaughter (voluntary only)
18 U.S.C. § 1153	Offenses within Indian Country
18 U.S.C. § 1512(b)	Tampering with a witness/victim/informant
18 U.S.C. § 1708	Theft or receipt of stolen mail
18 U.S.C. § 1792	Mutiny and riot in prison
18 U.S.C. § 1952	Transporting items in aid of racketeering
18 U.S.C. § 1956	Money laundering
18 U.S.C. § 1962	Racketeering
18 U.S.C. § 2117	Breaking into carrier facilities
18 U.S.C. § 2152	Destruction of submarine and torpedo works
18 U.S.C. § 2153	Destruction of war materials
18 U.S.C. § 2154	Production of defective war material
18 U.S.C. § 2155	Destruction of national defense materials
18 U.S.C. § 2156	Production of defective national defense material
18 U.S.C. § 2192	Incitation of seamen to revolt
18 U.S.C. § 2193	Mutiny
18 U.S.C. § 2247	Repeat offenders
18 U.S.C. § 2261A	Stalking
18 U.S.C. § 2387	Activities involving armed forces
40 U.S.C. § 5104(e)(1),(2)	Security of Capitol grounds and buildings

d. Conspiracy, Attempt, and other offenses that involve an underlying offense.

Some of the statutes listed in this section cover conspiracy offenses (e.g., 21 U.S.C. § 846) when an individual has planned with others to commit a particular crime. Other listed statutes cover attempted offenses (e.g., 21 U.S.C. §§ 846 and 963) when an individual tried but did not succeed in committing the crime. In reviewing these types of offenses, it is necessary to examine the “underlying offense,” i.e., what the defendant was conspiring to do or attempting to do. If the underlying offense would preclude the inmate from receiving certain Bureau program benefits based on any of the other portions of Section 4 of this program statement, the conspiracy or the attempt offense precludes the inmate from receiving the same benefits. The underlying offense will be included in the PSR and may be noted on the J&C.

For example, a J&C may indicate a conviction for Attempt and Conspiracy under 21 U.S.C. § 846. The accompanying PSR will reference the underlying crime, which in many cases will be

“Possession with Intent to Distribute a Controlled Substance,” 21 U.S.C. § 841. Staff must review the underlying offense - in this example, possession of controlled substance - to determine whether it satisfies the standard listed in the introductory portion of Section 4 of this program statement. As noted in the example in Section 4.b, if the PSR indicates the defendant received a two-level increase for possessing a dangerous weapon, then the offense should preclude the inmate from receiving certain Bureau program benefits. If no such enhancement was given, the offense should not preclude the inmate from receiving such benefits.

18 U.S.C. § 241	Conspiracy to deprive civil rights (if conspiracy)
18 U.S.C. § 371	Conspiracy to commit offense/fraud
18 U.S.C. § 372	Conspiracy to impede or injure officer
18 U.S.C. § 924	Penalties for firearms violations
18 U.S.C. § 2118(d)	Robberies involving controlled substances
21 U.S.C. § 846	attempt and conspiracy
21 U.S.C. § 848	Controlled substances violations as criminal enterprise
21 U.S.C. § 963	Conspiracy or attempt to violate controlled substance laws

e. Special Circumstances.

18 U.S.C. § 922(g). All offenses under 18 U.S.C. § 922(g) shall preclude an inmate from receiving certain Bureau program benefits.

*18 U.S.C. § 2113(a). Excluding bank robbery (see Section 3.b. above), other offenses covered by 18 U.S.C. § 2113(a), (for example, bank larceny), will be reviewed similarly to offenses in Section 4.b of this program statement. Defendants may receive an SOC enhancement that will result in an increase in the base offense level. Such enhancements provide for an increase in the defendant's base offense level if:

- a firearm was discharged;
- a firearm or other dangerous weapon was brandished, displayed, possessed, or used; or
- an express or implied threat of death was made (U.S.S.G. § 2B3.2(b), Application Notes 2 and 6).

If a defendant received such an enhancement, or one of the other enhancements involving the use or threatened use of force, the offense precludes the inmate from receiving certain Bureau program benefits.

18 U.S.C. § 2243. A conviction for sexual abuse of a minor or ward shall preclude an inmate from receiving certain Bureau program benefits.

5. OFFENSES COMMITTED BEFORE NOVEMBER 1, 1987 (“OLD LAW”)

The U.S. Sentencing Guidelines are generally not applicable for “old law” offenses, which are those committed before November 1, 1987. Accordingly, for offenses identified in Section 4 or offenses similar to those listed in Section 4 of this program statement that were committed before this date, staff must make a determination, based on the narrative description of the crime contained in the PSR, whether the offense involved:

- the use, attempted use, or threatened use of force;
- the use, carrying, or possession of a dangerous weapon;
- a serious potential risk that force might be used against the person or property of another; or sexual abuse committed against children.

Offenses listed in Section 3, Crimes of Violence, or offenses similar to those listed in Section 3 of this program statement, which were committed before November 1, 1987, will be treated in the same manner as “new law” offenses.

REFERENCES

Program Statements

Compassionate Release/Reduction in Sentence: Procedures for Implementation of 18 U.S.C §§ 3582 and 4205(g)

Correctional Services Procedures Manual

Early Release Procedures Under 18 U.S.C. § 3621(e)

First Step Act of 2018 - Time Credits: Procedures for Implementation of 18 U.S.C. § 3632(d)(4)

Inmate Furloughs

Notification Requirements Upon Release of Sex Offenders, Violent Offenders, and Drug Traffickers

ACA Standards

Performance-Based Standards and Expected Practices for Adult Correctional Institutions (5th Edition): 5-ACI-3C-01, 5-ACI-3C-06

Performance-Based Standards and Expected Practices for Adult Local Detention Facilities (5th Edition): 5-ALDF-3A-01, 5-ALDF-6C-02

Records Retention Requirements

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on the Bureau's intranet site.