

Tool 6 – Exceptions to Incarceration Caps

To be exercised by the Court or BOPP only with a hearing and upon entry of appropriate findings. The use of exceptions are dependent upon the nature of each violation, not the number of hearings. **In addition to these exceptions, House Bill 28 of the 2022 legislative session also authorized courts and the Board of Pardons and Parole to deviate from the guidelines as long as an explanation is provided on the record.** See U.C.A. 77-18-108(4)(b) and 77-27-11(6)(c).

PROBATION	PAROLE
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Finding that conduct presents a substantial risk to public safety that cannot be addressed through behavior modification sanctions. Substantial risks to public safety include, but are not limited to:

- A. “Per Se” Violations:** e.g. dangerous weapons, fleeing via high speed chase, violent arrest behavior, new person crime allegations, high priority CCC walkways;
- B. “Crime of Commitment Dependent” Violations:** e.g. sex offense in cycle, repeat DUI violations, person crime absconder, mental health instability that negatively impacts a criminogenic risk factor, repeat domestic violence offenses, serious financial crimes.

Repeat violations: after three or more probation or parole revocations, subsequent violations are excepted from the incarceration caps.

Jurisdiction over new criminal conviction with new guideline recommendations from Forms 1-5 attached.

<p>Finding that execution of sentence previously imposed is warranted pursuant to 77-18-108(4)(b)(iv)</p>	<p>Revocation of parole for lying or engaging in criminal conduct prior to parole pursuant to 77-27-10(1)(b),</p> <p>Including when individual engaged in criminal conduct prior to release and BOPP was unaware of conduct at the time it made decision to release; or individual lied prior to release and that lie led to BOPP decision to release.</p>
	<p>Guilty and Mentally Ill compliance pursuant to 77-16a-205,</p> <p>Including when the BOPP is required by statute to conduct a formal review of an individual who plead guilty and mentally ill before considering release. The time required to conduct this review could exceed the caps.</p>
	<p>Parole Violation Hearing continued pursuant to Admin. Rule R671-204,</p> <p>Including when new charges are pending; an evidentiary hearing is required; competency or mental illness needs of the individual; to allow victim participation; or individual requests continuance.</p>
	<p>Rescission pursuant to Administrative Rule R671-310,</p> <p>Including when the BOPP decides to rescind a parole date that was previously granted because individual engaged in major misconduct in prison or was convicted of further criminal conduct.</p>