



# Program Statement

OPI: CPD/ISM  
NUMBER: 5140.38  
DATE: 7/1/2004  
SUBJECT: Civil Contempt of Court  
Commitments

1. **PURPOSE AND SCOPE.** §522.10 [What is the purpose of this subpart?

a. This subpart describes the procedures for federal civil contempt of court commitments (civil contempt commitments) referred to the Bureau of Prisons (Bureau). These cases are not commitments to the custody of the Attorney General for service of terms of imprisonment following criminal convictions.

b. We cooperate with the federal courts to implement civil contempt commitments by making our facilities and resources available. When we receive notification from the federal court that the reason for the civil contempt commitment has ended or that the inmate is to be released for any other reason, we will terminate the inmate's civil contempt commitment.]

2. **SUMMARY OF CHANGES.** This Program Statement and rules have been revised to include relevant D.C. Code provisions regarding civil contempt commitments and to clarify existing rule provisions by using a question and answer format. Rules relating solely to internal agency practices and procedures were removed.

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 practices.

[Bracketed Bold - Rules]

Regular Type - Implementing Information

4. **DIRECTIVES AFFECTED**

a. **Directive Rescinded**

P5140.33 Civil Contempt of Court Commitments (5/26/00)

b. **Directives Referenced**

P5140.34 Transfer of Offenders to or from Foreign Countries  
(9/21/00)

P5800.12 Receiving and Discharge Manual (12/31/97)

P5880.28 Sentence Computation Manual (CCCA of 1984)  
(2/21/92)

P5880.30 Sentence Computation Manual (Old Law, Pre-CCCA of  
1984) (7/16/93)

P5880.32 District of Columbia Sentence Computation Manual  
(1/23/01)

P7331.04 Pretrial Inmates (1/31/03)

c. Rules cited in this Program Statement are contained in  
28 CFR 522.10-15.

5. **STANDARDS REFERENCED**

a. American Correctional Association (ACA), Adult Correctional  
Institutions Standards, 4th Edition: 4-4097

b. American Correctional Association (ACA), Adult Local  
Detention Facilities Standards, 3rd Edition: 3-ALDF-1E-03

c. American Correctional Association (ACA), Administration of  
Correctional Agencies Standards, 2nd Edition: 2-CO-1E-05

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

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

a. 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."*

A civil contempt commitment 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 period of imprisonment (not to exceed 18 months) expires.
- The term of the grand jury expires.

b. 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 transactions;*

*(3) Disobedience or resistance to its lawful writ, process, order, rule, decree, or command."*

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

8. **PLACEMENT IN BUREAU CUSTODY. §522.11** [How do inmates come into Bureau custody for civil contempt commitments?

Inmates can come into Bureau custody for civil contempt commitments in two ways:

a. The U.S. Marshals Service may request a designation from the Bureau for a civil contempt commitment if local jails are not suitable due to medical, security or other reasons; or

b. The committing court may specify a Bureau institution as the place of incarceration in its contempt order. The Bureau will consider the court's recommendation and attempt to satisfy it when consistent with Bureau of Prisons policy.]

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

(2) Receiving and discharge procedures for an inmate serving only a civil contempt commitment will be consistent with their prisoner status. (Refer to section 11 of this program statement)

9. **INMATES WITH CIVIL CONTEMPT COMMITMENTS AND U.S. OR D.C. CODE SENTENCES. §522.12** [What happens if a criminal sentence imposed under either the U.S. or D.C. Code exists when a civil contempt commitment is ordered?

If a criminal sentence imposed under the U.S. Code or D.C. Code exists when a civil contempt commitment is ordered, we delay or suspend credit towards service of the criminal sentence for the duration of the civil contempt commitment, unless the committing judge orders otherwise.]

10. **INMATES WITH CIVIL CONTEMPT COMMITMENTS WHEN A U.S. OR D.C. CODE SENTENCE IS IMPOSED §522.13** [What happens if a civil contempt commitment order is in effect when a criminal sentence is imposed under U.S. or D.C. Code?

a. Except as stated in (b), if a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed under U.S. or D.C. Code, the criminal sentence runs consecutively to the commitment order, unless the sentencing judge orders otherwise.

b. For federal criminal sentences imposed for offenses committed before November 1, 1987, under 18 U.S.C. Chapter 227:  
If a civil contempt commitment order is in effect when a criminal sentence of imprisonment is imposed, the criminal sentence runs concurrent with the commitment order, unless the sentencing judge orders otherwise.

11. **MANAGING INMATES WITH CIVIL CONTEMPT COMMITMENTS. §522.14**  
[How does the Bureau manage inmates serving civil contempt commitments?

We manage inmates serving civil contempt commitments in Bureau institutions the same as pretrial inmates. Inmates who are serving a civil contempt commitment and a concurrent criminal sentence, are managed the same as a person serving a criminal sentence.]

Detainees charged with misdemeanors, committed for civil contempt (without also serving a concurrent criminal sentence) or held as material witnesses may not be searched visually unless there is reasonable suspicion that he or she may be concealing a weapon or other contraband. See the Program Statement, Receiving and Discharge Manual, for detailed procedures concerning visual searches of this group of detainees.

12. **GOOD TIME CREDITS. §522.15** [Do inmates serving only civil contempt commitments receive good time credits?

No. While serving only the civil contempt commitment, an inmate is not entitled to good time sentence credit.]

13. **MONITORING CASE STATUS.** On the inmate's arrival, institution staff will review the status of all civil contempt cases with the appropriate U.S. Marshal, to include

- The status of criminal sentences being served when the citation for civil contempt occurs; or
- The release date status of prisoners held solely for civil contempt.

/s/  
Harley G. Lappin  
Director