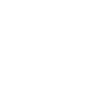
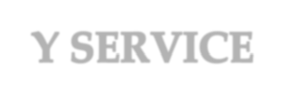
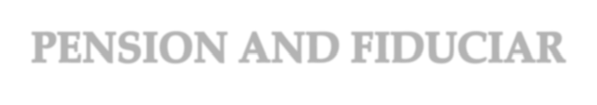
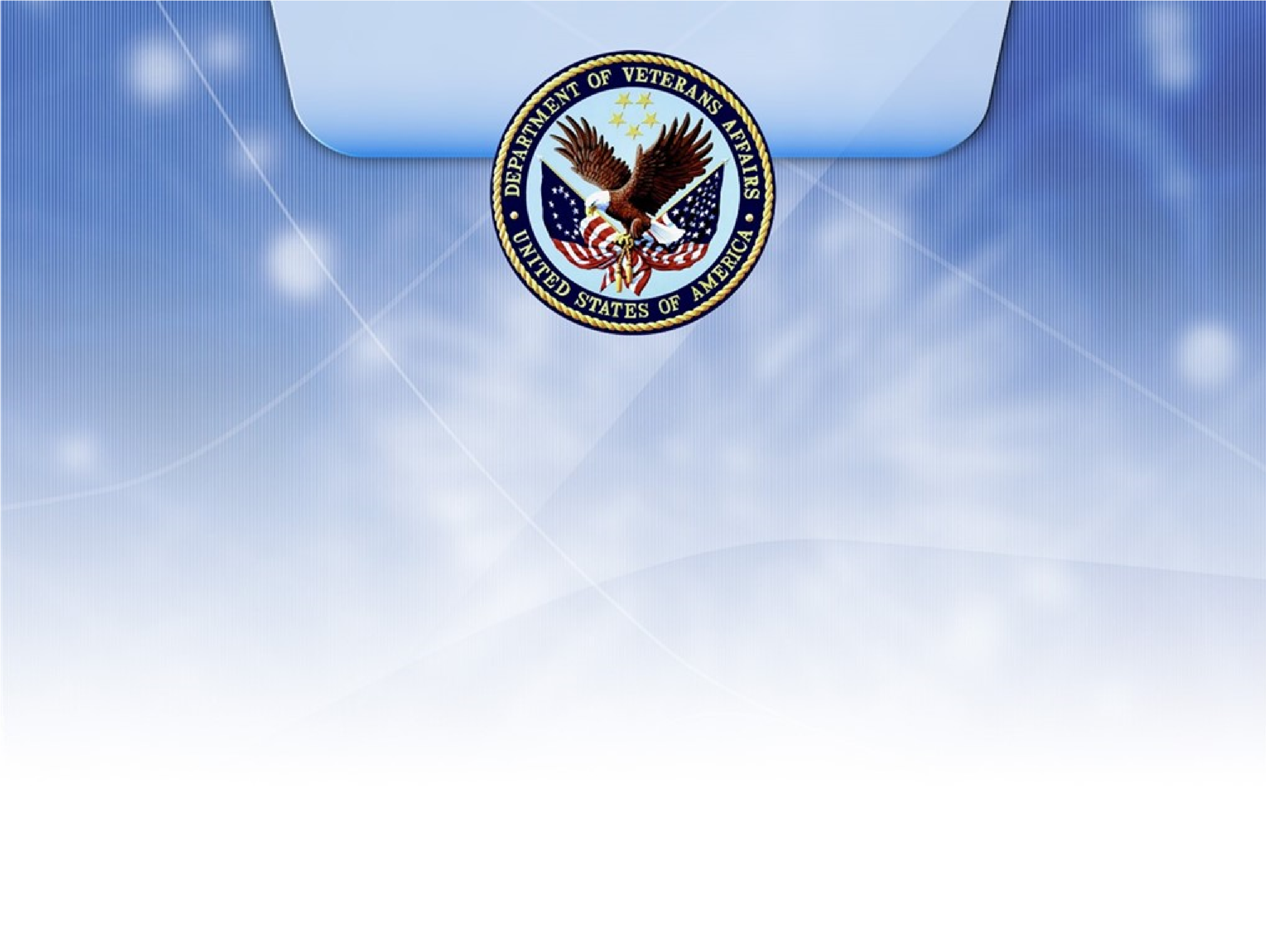
**Introduction to Fugitive Felon Adjustments**



PMC VSR Intermediate Core Course

Phase 5: Proficiency Development

Part 6: Award Adjustments Extension

Trainee Guide

July 2024

**Introduction to Fugitive Felon Adjustments**

# Lesson Overview

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| **Topic** | **Description** |
| Time Estimate: | 3 hours |
| Purpose of the Lesson: | Although positioned within the Intermediate Phase, this course remains an entry-level course and its purpose is to introduce trainees to fugitive felon adjustments. |
| Prerequisite  Training  Requirements: | Prior to taking the **Introduction to Fugitive Felon Adjustments** lesson, trainees must complete the entry-level course Phases 1-5.5. |
| Target  Audience: | This lesson is for entry-level PMC VSRs. |
| Lesson  References: | * 38 USC 5313B (Prohibition on Providing Certain Benefits with Respect to Persons who are Fugitive Felons) * 38 CFR 3.31 (Commencement of the Period of Payment) * 38 CFR 3.450 (General) * 38 CFR 3.451 (Special Apportionments) * 38 CFR 3.665 (Incarcerated Beneficiaries and Fugitive Felons – Compensation * 38 CFR 3.666 (Incarcerated Beneficiaries and Fugitive Felons – Pension) * 38 CFR 3.2500 (Review of Decisions) * M21-1 XIV.8.1 (Fugitive Felon Match) * M21-1 XIV.8.1.3. (NCIC Offense Codes and Descriptions) * M21-1 XIV.8.2.b. (Handling Fugitive Felon Cases that must be Processed Manually) * M21-1 XIV.8.3.a. (Evidence Required to Establish that a Beneficiary or Beneficiary’s Dependent is no Longer a Fugitive) * M21-1 XIV.8.3.c. (Verifying an Individual is No Longer a Fugitive) * M21-4 Appendix B End Products (EP) Codes |

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| **Topic** | **Description** |
| Technical  Competencies: | * Program Benefits and Eligibility (PMC VSR) * Processing Claims (PMC VSR) * VBA Applications (PMC VSR) * Income Counting and Net Worth |
| Knowledge Check: | Introduction to Fugitive Felon Adjustments Knowledge Check |
| Lesson  Objectives: | By the end of this lesson, you should be able to:   * Determine actions based on the source of the fugitive felon notification * Apply the correct development actions for the information/evidence missing * Decide the award action(s) * Create decision notice |
| **Topic** | **Description** |
| What You Need: | * Trainee Guide * Access to CPKM * Access to the Assessment Portal * Access to the following job aids from VSR Assistant: * **Incarceration/Fugitive Felon** job aid * **Processing an Award Adjustment** job aid * **Notification Language** job aid * **Prepare the Decision Notification** job aid * **Prepare Administrative Decision** job aid * **Annotate the Award Checklist** job aid * **Access** to **Appendix A – Identifying Fugitive Felons Practice Exercise** |

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| **PowerPoint Slides** | **Notes** |
| **Introduction to Fugitive Felon**  **Adjustments** |  |
| **Objectives**  By the end of this lesson, you should be able to:   * Determine actions based on the source of the incarceration notification * Apply the correct development actions for the information/evidence missing from claim * Decide the award action(s) * Create decision notice |  |
| **Why This Course Matters**   * The **Introduction to Fugitive Felon (FF) Adjustments** course is important because according to federal regulations, VA may ***not*** pay pension to the dependent(s) of an incarcerated Veteran if the Veteran is a fugitive felon, as defined in [**38 CFR 3.666(e)(2)**](http://www.ecfr.gov/cgi-bin/text-idx?SID=3d4e43cda96fe1f7bf2aad941a677861&mc=true&node=se38.1.3_1666&rgn=div8), or the dependent who is a fugitive felon. |  |

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| **PowerPoint Slides** | **Notes** |
| **Definitions**   * A ***fugitive felon***, is a person who is fleeing to avoid prosecution, or custody or confinement after conviction, for an offense, or an attempt to commit an offense, which is a felony, or considered a fugitive because they violated a condition of probation or parole imposed for commission of a felony. * **Lodging the warrant** is when a fugitive felon is incarcerated for reasons unrelated to the warrant that was the subject of the fugitive felon referral, and the warrant agency may file notice of the warrant at the prison facility. |  |

| **PowerPoint Slides** | **Notes** |
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| **Fugitive Felon: Prohibited Payment**   * [38 USC 5313B](https://www.law.cornell.edu/uscode/text/38/5313B) prohibits the payment of VA benefits to a beneficiary or apportionee while the beneficiary is a fugitive felon, and the dependent(s), to include apportionees of a Veteran while the *Veteran* is a fugitive felon, and *additional* VA benefits to a beneficiary for a *dependent* who is a fugitive felon. * Dependent children of a fugitive surviving spouse may continue to receive benefits in their own right. |  |

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| **PowerPoint Slides** | **Notes** |
| **Form FFP-3 VA Investigative Summary Form – Codes Provided**   * The Office of Inspector General (OIG) is responsible for referring matched cases, electronically, to the VA, on *Form FFP-3* on which one of the seven offense codes or corresponding descriptions are listed in order to classify the individual as an FF and are an indicator that the individual with the felony arrest warrant is/was fleeing or has violated the conditions of probation or parole. |  |
| **Fugitive Felon: Documentation from Other Sources**   * Upon receipt or discovery of documentation from a source other than OIG that suggests a beneficiary or a beneficiary’s dependent might be or might have been a fugitive felon   + document on [***VA Form 27-0820, Report of General Information***](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-27-0820-ARE.pdf), the circumstances surrounding receipt or discovery of the documentation   + prepare and send an e-mail that describes the substance of the documentation to the local PMC Fugitive Felon Coordinator who will then submit a corresponding e-mail to OIG ([**OIG51FugitiveFelonHQ@va.gov**](mailto:OIG51FugitiveFelonHQ@va.gov)), including [**VAVBAWAS/CO/P&F TNG QUAL OVRST**](mailto:VAVBAWAS/CO/P%26F%2520TNG%2520QUAL%2520OVRST%2520%253cPFTNGQUALOVRST.VBACO@va.gov%253e) in the Cc line (PMCs only), and take no further action until P&F Service or OIG responds to the e-mail with instructions for handling the documentation |  |
| **Form FFP-3 Investigative Summary Form – Codes NOT Provided**  If the offense code and/or description is not provided, and the PMC is processing the case take the following actions:   * + notify OIG of the finding by e-mail ([**OIG51FugitiveFelonHQ@va.gov**](mailto:OIG51FugitiveFelonHQ@va.gov))     - * requesting clarification, and       * including Pension and Fiduciary (P&F) Service ([**VAVBAWAS/CO/P&F TNG QUAL OVRST**](mailto:VAVBAWAS/CO/P%26F%2520TNG%2520QUAL%2520OVRST%2520%253cPFTNGQUALOVRST.VBACO@va.gov%253e)) in the carbon copy (Cc) line, and   + take no further action on processing the *Form FFP-3* until clarification is received from OIG |  |

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| **PowerPoint Slides** | **Notes** |
| **Handling Form FFP-3 AFTER OIG Issues It (1 of 2)**   * VA is responsible for controlling each Form FFP-3 it receives from OIG   + providing notice of proposed adverse action to the affected beneficiary   + determining whether it is more likely than not that the individual named on *Form FFP-3* fled from justice, or violated a condition of probation or parole   + stop or reduce the beneficiary’s award during the period(s) when the beneficiary or beneficiary’s dependent is/was in a fugitive-felon status   + notify the beneficiary of the decision, whether favorable or unfavorable, and   + resuming benefits upon receipt of adequate evidence showing the beneficiary or beneficiary’s dependent is no longer a fugitive felon |  |

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| **PowerPoint Slides** | **Notes** |
| **Handling Form FFP-3 AFTER OIG Issues It (2 of 2)**  For each fugitive felon case that meets the criteria for automated processing, a VBA computer application   * + - establishes an EP600     - generates a notice of proposed adverse action, and     - sends the notice to the affected beneficiary (and apportionee, if the individual named on *Form FFP-3* is an apportionee)   For each fugitive felon case that does *not* meet the criteria for automated processing, the computer application generates an EP290 labeled Fugitive Felon.  **NOTE**: VBA does *not* usually upload *Form FFP-3*if the warrant for which the form was generated was cleared within 30 days of issuance. |  |

| **PowerPoint Slides** | **Notes** |
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| **Scenario 1: Fugitive Felon (Questions)**   * Marshall Veteran, who is receipt of VA benefits, has a dependent child named Goldie, who is receiving benefits. However, Marshall recently became a fugitive felon, and the law prohibits the payment of benefits to him and his dependents while he remains a fugitive felon.   **Based on the scenario and in accordance with 38 USC 5313B, respond to the following:**   1. Under 38 USC 5313B, John can/cannot received VA benefits while he is a fugitive felon. 2. Can Sarah, John’s dependent child, continue to receive benefits while John is a fugitive felon 3. If Sarah becomes a fugitive felon herself, will she still be eligible to receive benefits as a dependent child? |  |

| **PowerPoint Slides** | **Notes** |
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| **PowerPoint Slides** | **Notes** |
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| **Form FFP-4, VA Feedback Form**   * No  recurring report is required on fugitive felon cases. * PMCs must respond to requests from CO for information about specific fugitive felon cases. * If *Form FFP-4, VA Feedback Form*, was attached to *Form FFP-3*,   + complete *Form FFP-4*   + send an e-mail to [**VAVBAWAS/CO/P&F TNG QUAL OVRST**](mailto:VAVBAWAS/CO/P%26F%2520TNG%2520QUAL%2520OVRST%2520%253cPFTNGQUALOVRST.VBACO@va.gov%253e) that requests the address to which the *Form FFP-4* should be sent, and   + send the form by regular mail to the address P&F Service provides in response to the e-mail |  |
| **End Product (EP) Control and Claim Labels & Codes**  Use the following claim label and codes for fugitive felon cases:   * PMC - Fugitive Felon   + EP290   + Code: 290 PFF * PMC-Fugitive Felon Case   + EP600   + 600PFFC * 840P PMC Fugitive Felon   + 840   + 840FFPMC |  |
| **Manually Processing Fugitive Felon Cases (1 of 2)**   * PMCs become involved in the processing of fugitive felon cases that initially met the criteria for automated processing under the following circumstances:   + the beneficiary (and/or apportionee, if the individual named on *Form FFP-3* is an apportionee) responds to the notice ofproposed adverse action within 65 days, or the beneficiary (and/or apportionee, if applicable) does *not* respond to the notice of proposed adverse action within 65 days, *and*     - the beneficiary is currently receiving no benefits     - there is a history of an award override     - an award withholding is in place (to include a withholding for an apportionment)     - an award adjustment is pending authorization, or     - new documents were recently uploaded into the beneficiary’s eFolder |  |
| **Manually Processing Fugitive Felon Cases (2 of 2)**   * If it is determined that the name, date of birth, and Social Security number (SSN) that is printed on *Form FFP-3* matches the beneficiary or dependent in receipt of pension take the following steps:   + Establish EP 600,using the current date as the date of claim, and adding *Potential Under/Overpayment*as a special issue   + Prepare and issue to the beneficiary (*and* apportionee, if the individual named on *Form FFP-3* is an apportionee) the notice of proposed adverse action in the *Fugitive Felon Due Process Letter*.   + If an arrest date or “warrant invalid date” is shown on *Form FFP-3* (under the *INVESTIGATIVE SUMMARY* heading), the notice to the beneficiary (and apportionee, if applicable) should also inform them that VA will resume the award effective that date. |  |

| **PowerPoint Slides** | **Notes** |
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| **Manually Processing Fugitive Felon Cases – Notice to Beneficiary/Apportionee (1 of 2)**   * The notice to the beneficiary and/or apportionee must cite the date VA proposes to reduce or stop benefits. * This date is the *later* of the following dates:   + the date of the warrant (the warrant date appears near the top of *Form FFP-3*, under the heading *WARRANT INFORMATION*), or   + December 27, 2001 (the date [**38 U.S.C. 5313B**](https://www.law.cornell.edu/uscode/text/38/5313B) went into effect |  |

| **PowerPoint Slides** | **Notes** |
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| **Manually Processing Fugitive Felon Cases – Notice of Beneficiary/Apportionee (2 of 2)**   * The proposed adverse action letter must also include the following information about the warrant:   + name and telephone number of the warrant agency   + warrant number   + date of warrant, and   + warrant offense description and/or code |  |
| **Determining Actions to Take After 65 Days (1 of 2)**   * If the beneficiary or apportionee acknowledges the validity of the warrant that resulted in generation of *Form FFP-3*, **or** fails to respond to the notice of proposed adverse action:   + **stop** (if the beneficiary is the fugitive felon) or **reduce** (if the beneficiary’s dependent is the fugitive felon) the beneficiary’s award under the pending EP600 effective the date proposed in the notice of proposed adverse action, and   + notify the beneficiary and/or apportionee of the action taken, using the *Fugitive Felon Final Decision Letter* |  |

| **PowerPoint Slides** | **Notes** |
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| **Determining Actions to Take After 65 Days (2 of 2)**   * If the apportionee is the fugitive felon,   + **stop** the apportionee’s award * If the beneficiary is the fugitive felon, and VA is paying benefits to an apportionee,   + **stop** the corresponding apportionment(s) |  |
| **Fugitive Felon: Pending Claims**   * After stopping a beneficiary’s award because the *beneficiary* is a fugitive felon,   + discontinue development on and cancel any pending claims or requests for higher-level review (HLR)   + disallow any claims for increased benefits, *but* continue processing any pending legacy appeals * If a former beneficiary files a claim or requests an HLR while in a fugitive felon status, take no action *except* to cancel any associated EP, if one was established. |  |
| **Development for a Misdemeanor Warrant**   * VA benefits may be discontinued because of fugitive-felon status only if there is a valid *felony* warrant. * If a beneficiary or apportionee alleges that the warrant in question was for a misdemeanor, undertakedevelopment to determine whether there was a valid felony warrant by:   + distinguishing between the warrant and resolution of the criminal case in a situation where an individual has been convicted of an offense   + considering the fact that an individual was not convicted of a felony is not relevant to resolution of a fugitive felon issue, and   + considering the fact that an individual wascharged with a felony but later pleads down to a misdemeanor does not change the fact that the warrant was a felony warrant. |  |
| **Practice Exercise: Identifying Fugitive Felons**   * **Instructions:**   + Divide into groups of 4   + Access Appendix A – Identifying Fugitive Felons   + Read each scenario and match the individual to the appropriate code   + Discuss the impact of 38 USC 5313B on their benefits.   + Be prepared to share your group’s responses and rationale. * **Time Allowed**: **20 minutes** |  |
| **Practice Exercise: Identifying Fugitive Felons (Q&A)- 1 of 2**  **Scenario 1**  Mary is receiving VA benefits as a spouse of a Veteran. Her husband, Keith Veteran, has been convicted of a felony and is currently on the run from law enforcement. Would Mary’s benefits be affected? Discuss impact and actions.  **Scenario 2**  Tom Veteran receives pension benefits. His dependent son, Roger has been convicted of a felony and is evading arrest. Will Tom’s benefits be impacted by his son’s legal situation? Discuss impact and actions. |  |

| **PowerPoint Slides** | **Notes** |
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| **Practice Exercise: Identifying Fugitive Felons (Q&A)- 2 of 2**  **Scenario 3**  Macy is the spouse of Michael Veteran. She receives benefits as a dependent. Michael is currently on probation for a misdemeanor but has violated the terms of his probation and is now on the run from law enforcement. Discuss impact and actions.  **Scenario 4**  Emma is the surviving spouse of Jack Veteran. Her adult son, Oliver is on probation for a felony offence. Oliver has fled the state to avoid facing charges in court. Discuss impact and actions. |  |

| **PowerPoint Slides** | **Notes** |
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| **Resuming the Beneficiary’s Award (1 of 2)**   * Resume an award that was stopped or reduced because a beneficiary or a beneficiary’s dependent was a fugitive felon effective the date the fugitive-felon status ended, which is the *earlier* of the following dates:   + the date of arrest for the particular warrant that resulted in the generation of *Form FFP-3*, **or**   + the date the warrant is determined to be invalid by the warrant agency, a court, or OIG * **DO NOT** retroactively resume a beneficiary’s or apportionee’s award from the date the award was originally stopped or reduced *unless* the evidence of record shows the warrant was cleared within 30 days, issued in error, issued for a different person, or vacated by the issuing court. |  |

| **PowerPoint Slides** | **Notes** |
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| **Resuming the Beneficiary’s Award (2 of 2)**   * An individual named on *Form FFP-3* might have multiple warrants.  Do not resume a beneficiary’s or apportionee’s award without determining that the warrant that was cleared is the same warrant for which the *Form FFP-3* was generated. * Do *not* defer resumption of a beneficiary’s award or apportionee’s award until the first of the month following the date the fugitive-felon status ended.   + In this case, the resumption of benefits is considered an adjustment per [**38 CFR 3.31(c)**](http://www.ecfr.gov/cgi-bin/text-idx?SID=bd7b768b412b98b51dde836a809c124c&mc=true&node=se38.1.3_131&rgn=div8), which is an exception to the general provisions of [**38 CFR 3.31**](http://www.ecfr.gov/cgi-bin/text-idx?SID=bd7b768b412b98b51dde836a809c124c&mc=true&node=se38.1.3_131&rgn=div8).   **NOTE**: If VA does not receive notice within the one-year time frame, the effective date for resuming benefits is the first of the month following the date VA receives the notice, per [**38 CFR 3.31**](http://www.ecfr.gov/cgi-bin/text-idx?SID=bd7b768b412b98b51dde836a809c124c&mc=true&node=se38.1.3_131&rgn=div8). |  |
| **Restoring Benefits (Effective Dates)**   * Prior to the release of [*VBA Letter 20-14-09*](http://vbaw.vba.va.gov/usb/letters/2014/vba-letter-20-14-09.docx), on June 23, 2014, it was VBA’s policy to adjust a beneficiary’s or apportionee’s award if the beneficiary or one of their dependents was the subject of any felony arrest warrant. * If evidence is obtained confirming the subject of the felony arrest warrant does not meet the definition of a fugitive felon, restore benefits based on the following effective dates: |  |

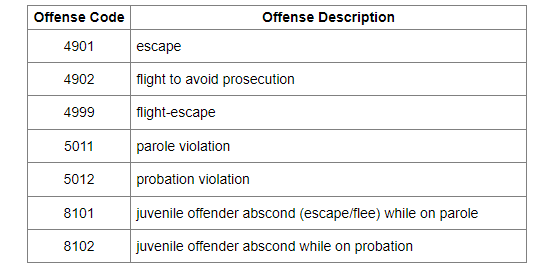
| **PowerPoint Slides** | **Notes** |
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| **Evidence Fugitive Felon Status is Cleared**   * A beneficiary (or apportionee, if applicable) may establish that the individual or a dependent is no longer a fugitive by either   + submitting official documentation such as a court order or letter from the warrant agency, or   + providing the name, title, and address, or name, title, and telephone number, of an official who can verify that the individual is no longer a fugitive * VA will make **one attempt** to contact by telephone the official referenced in the preceding bullet to establish that the beneficiary or dependent is no longer a fugitive. |  |

| **PowerPoint Slides** | **Notes** |
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| **Verification Individual is No Longer a Fugitive**   * If an official confirms the fugitive status has ended:   + make sure the official provides the date the warrant was cleared, and   + document the official’s statement on [***VA Form 27-0820***](http://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-27-0820-ARE.pdf) * If it is not possible to contact the official using the information the beneficiary (or apportionee) provided, or obtain a better address/telephone number from other sources   + advise the beneficiary (or apportionee) of this fact, and   + remind them that benefits may not be resumed until VA receives proof that the fugitive status has ended |  |

| **PowerPoint Slides** | **Notes** |
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| **Knowledge Check: Lesson Summary Review**    Time Allowed: 15 minutes |  |
| **What’s Next**   * Complete Introduction to Fugitive Felon Adjustments evaluation course: **TMS ID: 4649160** |  |

# Appendix

**Form FFP-3 VA Investigative Summary Form – Codes Provided**



**Restoring Benefits (Effective Date)**

