
Statewide Misdemeanant Confinement Program

Preparing for the Housing of DWIs



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Discussion and Decisions for the Housing of DWIs

Background

Change in the Law

Senate Bill 744, Appropriations Act of 2014, included a provision which provides that all misdemeanants are to be housed through the Statewide Misdemeanant Confinement Program (SMCP). This expands the current population of those inmates sentenced under Structured Sentencing from 91 to 180 days to all misdemeanants sentenced under Structured Sentencing and all misdemeanor levels of those convicted of a DWI. The effective date for housing is October 1, 2014 for those sentenced under Structured Sentencing and January 1, 2015 for DWIs. It is expected that the average daily population of the SMCP will expand from an average daily population of 600 to 1,600 with perhaps as many as 700 of those having been sentenced for a DWI.

Session Law 2014-100

Sentencing of DWIs

Misdemeanants DWIs are sentenced under “old law”, meaning they are not under the determinant sentencing (specific minimum and maximum sentence to be served) of Structured Sentencing but have an indeterminate sentence and are eligible for parole by the Parole and Post Release Supervision Commission. DWIs may be sentenced for up to 24 months on a Level 1 conviction but may be eligible to be considered for parole after serving a statutory mandatory minimum sentence, a statutory one third of their sentence (30 days to 18 months) or they may have to serve a court imposed minimum if the court imposed a longer minimum than the statutory minimum. For example, a Level 1 DWI could be sentenced to 24 months and would have to serve a 30 day minimum but could have to serve a court imposed minimum sentence of six months, nine months or any number of months in the discretion of the sentencing judge. A judge could also set the minimum and maximum as the same thereby negating parole eligibility. DWIs can also be sentenced to a term of special probation or a “split sentence”. Those convicted of a Level 1 Aggravated DWI are not eligible for parole.

G.S. 15A-1371; G.S. 20-179 (f3)

Sentence Reduction Credits

In addition to being parole eligible, DWIs can also earn and be awarded sentence reduction credits which reduce their maximum sentence, their minimum sentence and their parole eligibility date. Sentence reduction credits are provided for by statute but must be adopted in policy by the Secretary of the Department of Public Safety (DPS). Sentence Reduction credits for DWIs may come in the form of:

- Good Time Credits – reduces the maximum and minimum time to be served on a sentence by one day for every day served in custody without an infraction. This credit is awarded and in effect reduces the court ordered sentence by one half. For example, an inmate with a two year sentence for a Level 1 DWI would only serve one year with the awarding of Good Time Credits.
- Gain Time Credits – reduces the maximum and minimum time to be served on a sentence by a proscribed number of days per month for participation in rehabilitative programs or work. Gain Time Credits are first earned and then awarded. For example, an inmate participating in a work or program assignment on a regular basis may earn and be

awarded up to a set number of days credit towards time served per month at the end of the month of participation.

- Merit Time Credits – reduces the maximum and minimum time to be served on a sentence by a proscribed number of days per event for completion of a rehabilitative program or working in an emergency, dangerous or inclement setting. For example, an inmate may earn and be awarded up to a set number of days credit towards time served for successfully completing a rehabilitative program or working during a hurricane or other natural disaster.

Good Time Credits may not be used to reduce the statutory mandatory minimum sentence imposed on those convicted of a DWI. DWIs sentenced to a term of special probation under G.S. 15A-1351(a) are not eligible for Sentence Reduction Credits.

G.S. 15A -1355(c), (d); G.S. 20-179(p); G.S 148-13(b)(e)(f)

Data Needs

The Division of Adult Correction (DAC) can provide information on the numbers of DWIs that have been admitted to prison for the past several years. The DAC should be asked to provide the following information for the past three years:

- The number of DWIs sentenced to an active sentence in prison by month and county of admission and with the DWI level of conviction.
- The type of admission (from court, probation or parole violation or CRV).
- The number of months of the active sentence by DWI level by type of admission.
- The average time served by DWI level.

This information would allow SMCP staff to more accurately project beds needed on a monthly and location basis and to accurately project time served in order to ensure bed availability.

Discussion

Managing DWIs and Time Served

There are a number of decisions to be made prior to accepting DWIs into the SMCP. This section will outline items that need to be discussed before decisions are made.

Discussion Point 1. Managing the DWI Population

For the first time in modern history, inmates will be serving sentences in lengths of up to three years in a county jail. Many of these inmates will be parole eligible and information must be provided to the Parole and Post Release Supervision Commission. How to effectively manage these inmates in county jails is of paramount importance to avoid litigation and to minimize the liabilities of housing inmates for months and years post conviction. Management issues include:

- What programs and work opportunities are available or can be initiated in order to actively manage inmates to avoid idleness and allow for the opportunity to earn Sentence Reduction Credits and parole eligibility?
- What level of Sentence Reduction Credits (Gain Time Credits and Meritorious Credits) should be awarded to DWI inmates and how should the awards relate to Sentence Reduction Credits earned by other misdemeanants sentenced to the SMCP (Earned Time Credits and Meritorious Credits)?
- Can SMCP money be used to pay for programs?

- Can drug treatment or other rehabilitative programs be offered in every receiving county jail?
- Should DWIs be regionalized in selected county jails in order to facilitate the offering of programs like drug treatment?

Discussion Point 2. Drug Treatment versus Work

- DWIs generally are considered to be one of the highest risks to recidivate of inmates serving active sentences. Should these inmates be encouraged to participate and complete a drug treatment program while incarcerated?
- What type of drug treatment program can be effectively delivered in a jail setting?
- Are drug and risk assessments needed?
- Do county jails have sufficient work opportunities for DWIs to participate and earn Sentence Reduction Credits?
- What other means do county jails have to manage behavior of a DWI inmate in lieu of programs or work?

Discussion Point 3. Parole versus Max Outs

- Should DWI inmates (Level 1 Aggravated inmates are not eligible for parole consideration) be encouraged to participate in drug treatment programs with an agreement for parole after successful completion?
- Should DWI Level 1 Aggravated inmates be encouraged to participate in drug treatment programs in order to earn Sentence Reduction Credits towards their maximum sentence and post release supervision period?
- Should DWI inmates be encouraged to be paroled to the DART program if they are admitted to prison on a probation violation that involves drinking?
- Should these high risk inmates have a home and work plan prior to being released?
- Should these high risk inmates be routinely supervised when they are released?
- If a DWI inmate is released after serving their maximum sentence and reoffend, is the sheriff likely to be blamed for an early release?

Discussion Point 4. Miscellaneous Issues

- Should DWI Level 1 Aggravated inmates earn Sentence Reduction Credits? [By law they are not parole eligible but there is no prohibition on earning Sentence Reduction Credits however the DAC currently does not award credits. These inmates will be the longest serving inmates in the county jail.]
- Should receiving counties that are housing DWI inmates be paid a higher per diem rate than those housing the Structured Sentencing misdemeanors?
- What programs, if any, should be provided for DWI Confinement in Response to Violations (CRVs) inmates who must serve 90 days and cannot be credited with Sentence Reduction Credits?
- If DWIs are held regionally, should the CRV admissions be sent to the regional facilities or stay in their home county if it is a receiving county?
- What else should be done to minimize liability and risk of litigation in housing DWI inmates?

Decisions

- Regionalize DWI inmates?
- Contract for drug treatment programming using SMCP money?
- Strongly encourage DWI inmates to go to drug treatment?
- Work with the Parole and Post Release Supervision Commission to parole DWIs under certain proscribed conditions (completion of drug treatment program along with work and home plans or agreement to go to DART)?
- DWI Level 1 Aggravated inmates to earn Sentence Reduction Credits?
- Adopt criteria for Sentence Reduction Credits to recommend to the Secretary of the Department of Public Safety for his adoption?
- Where to house CRV admissions?
- Pay counties more for housing DWI inmates?

**Proposed Sentence Reduction Credit Policy
for the Statewide Misdemeanant Confinement Program**
(To be adopted by the Secretary of the Department of Public Safety)

.01XX STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM SENTENCE CREDITS

This policy establishes the rules and methodology for computing sentence credits for inmates confined through the Statewide Misdemeanant Confinement Program.

G.S. 148-11(a) and G.S. 148-13; G.S. 148-32.1(b1); G.S. 15A-1355; G.S. 20-179

Note that G.S. 148-13(e) is amended by S744 to include the secretary's regulations for Good Time credits in addition to earned time credits to be followed by jail administrators but the amendment did not include Gain Time credits.

.01XX DEFINITIONS

The following definitions apply whenever these terms are used in this section:

- (a) Sentence Credits - Time credits applied to the court-ordered sentence of any inmate for the purpose of reducing the amount of the maximum, and in the case of an inmate sentenced for a misdemeanor conviction of driving while impaired (DWI – all levels), minimum time to be served. These credits are designated as Good Behavior Time, Gain Time, Earned Time and Meritorious Time. Sentence Credits cannot be used to reduce the mandatory minimum term of imprisonment for DWIs nor can they be used to reduce the sentence of an inmate sentenced for a misdemeanor conviction under Structured Sentencing by more than four days per month for the number of months an inmate is in custody.
- (b) Good Behavior Time – Good Behavior Time is sentence credits awarded only to inmates sentenced for a misdemeanor conviction of driving while impaired (DWI – all levels).
- (c) Gain Time Credit - Gain Time is a sentence credit that is earned only by inmates sentenced for a misdemeanor conviction for driving while impaired (DWI – all levels) for participation in assigned work and/or rehabilitative program activities. Gain Time may be earned at the rate not to exceed four days per 30 days served in custody post sentencing. Gain time may be prorated.
- (d) Earned Time Credit - Earned Time Credit is a sentence credit awarded to inmates sentenced for a misdemeanor conviction under the Structured Sentencing Act for their participation in assigned work and/or rehabilitative program activities. Earned Time may be earned at the rate not to exceed four days per 30 days served in custody post sentencing and only reduces the maximum term of an inmate's sentence. Earned Time Credit may be prorated.
- (e) Meritorious Time - Meritorious Time is a sentence credit that is awarded to inmates for exemplary acts or for working under emergency conditions, working overtime, working in inclement weather and for achievements in educational or other approved programs.
- (f) Eligible Inmates - Inmates housed through the Statewide Misdemeanant Confinement Program are eligible to earn Sentence Credits as outlined in Sections .01XX, .01XX, .01XX, .01XX, .01XX, .01XX, and .01XX of this policy.

- (g) Ineligible Inmates – Inmates that are in custody pre trial, serving a term of confinement in response for violations (CRV), or sentenced to a term of special probation are ineligible to earn Sentence Credits.
- (h) Structured Sentencing Act – Sentencing law for all misdemeanors except those convicted of a driving while impaired (DWI) offense.
- (i) Disciplinary Infraction – violation of inmate conduct rules and/or disobedience to a lawful order.
- (j) Parole Eligibility Date - The date, provided by the North Carolina Post - Release Supervision and Parole Commission, by which an inmate sentenced for a misdemeanor conviction of driving while impaired (DWI – all levels) becomes eligible for parole or Post-Release Supervision.
- (k) Medically Unfit, Gain or Earned Credits – Inmates who are medically unfit but who have a recognized accommodation under the Americans with Disability Act (ADA) are eligible for Gain or Earned Time sentence credits as outlined in Sections .01XX and .01XX of this policy.

.01XX GOOD BEHAVIOR TIME

Inmates sentenced for a conviction of misdemeanor driving while impaired (all levels) are eligible for Good Behavior Time Credits.

- (a) Awarding of Good Behavior Credits: Good Behavior Time Credits are awarded at the rate of one day deducted from an inmate's sentence for each day spent in custody post conviction without a disciplinary infraction.
- (b) Eligible Inmates: inmates sentenced for a misdemeanor conviction of driving while impaired (DWI – all levels) are eligible to be awarded Good Behavior Time Credits.
- (c) Ineligible Inmates: inmates sentenced for a misdemeanor conviction under the Structured Sentencing Act and inmates sentenced to a term of special probation (split sentence) are not eligible to be awarded Good Behavior Time Credits.
- (d) Forfeiture of Good Time: Good Behavior Time is not subject to forfeiture.

.01XX GAIN TIME

Inmates sentenced for a conviction of misdemeanor driving while impaired (all levels) are eligible to earn and be awarded Gain Time Credits.

- (a) Awarding of Gain Time Credits: Gain Time Credits are earned by inmates for participation in work and/or rehabilitative program activities and are awarded at a rate not to exceed four days per month. Gain Time Credits may be prorated. Gain Time shall be administered and assigned as follows:
 - (1) Gain Time I: inmates who perform part-time work assignments earn two days per month deducted from their maximum sentence.
 - (2) Gain Time II: inmates who perform full-time work assignments earn three days per month deducted from their maximum sentence.
 - (3) Gain Time III: inmates who participate in rehabilitative programs earn four days per month deducted from their maximum sentence.
- (b) Eligible Inmates: inmates sentenced for a misdemeanor conviction of driving while impaired (DWI – all levels) are eligible to earn and be awarded Gain Time Credits.

- (c) Ineligible Inmates: inmates sentenced for a misdemeanor conviction under the Structured Sentencing Act and inmates sentenced to a term of special probation (split sentence) are not eligible to be awarded Gain Time Credits.
- (d) Forfeiture of Gain Time: Gain Time shall be subject to forfeiture when an inmate is found guilty of violating inmate conduct rule. The amount of Gain Time lost for a guilty finding for a violation of conduct rules shall not exceed the amount of good time the inmate has earned to date.
- (e) Restoration of Forfeited Good Time: Gain Time that is forfeited by an inmate may be restored to the inmate as set-forth in Section .01XX of this policy. shall not be subject to forfeiture.

.01XX EARNED TIME CREDITS

Inmates sentenced for a misdemeanor conviction under the Structured Sentencing Act are eligible to earn and be awarded Earned Time Credits.

- (a) Awarding of Earned Time Credits: Earned Time Credits are earned by inmates for participation in work and/or rehabilitative program activities and are awarded at a rate not to exceed four days per month against their maximum sentence. Gain Time Credits may be prorated. Gain Time shall be administered and awarded as follows:
 - (1) Earned Time I: inmates who perform part-time work assignments earn two days per month deducted from their maximum sentence.
 - (2) Earned Time II: inmates who perform full-time work assignments earn three days per month deducted from their maximum sentence.
 - (3) Earned Time III: inmates who participate in rehabilitative programs earn four days per month deducted from their maximum sentence.
- (b) Limitations on Awarding of Earned Time Credits: inmates may not be awarded more than four days of Earned Credits per month and the total award may not exceed four days per month per month for the number of months an inmate is in custody.
- (c) Eligible Inmates: all inmates in custody in the Statewide Misdemeanor Confinement program are eligible to earn and be awarded Meritorious Time Credits.
- (d) Ineligible Inmates: inmates sentenced to a term of special probation (split sentence) are not eligible to earn or be awarded Meritorious Time Credits.
- (e) Forfeiture of Earned Time Credit shall be subject to forfeiture when an inmate is found guilty of violating an inmate conduct rule. The amount of Earned Time Credit lost for a guilty finding for a violation of conduct rules shall not exceed the amount of Earned Credit Time the inmate has earned to date.
- (f) Restoration of Forfeited Earned Time Credit: Earned Time Credit that is forfeited by an inmate may be restored to the inmate as set-forth in Section .01XX of this policy.

.01XX MERITORIOUS TIME

Inmates sentenced for a misdemeanor conviction under the Structured Sentencing Act and inmates sentenced for a misdemeanor conviction for driving while impaired (DWI – all levels) are eligible to earn and be awarded Meritorious Time Credits.

- (a) Awarding of Meritorious Time Credits: inmates may be awarded Meritorious Time credit for: rehabilitative program achievements; working overtime; working during emergency conditions; working in inclement weather; and, for exemplary acts.
 - (1) Meritorious Time Credit for rehabilitative program achieve: inmates may earn and be awarded 4 days of Meritorious Time Credit for the successful completion of a rehabilitative program such as substance abuse treatment, GED, vocational training, or cognitive behavior.
 - (2) Meritorious Time Credit for working overtime: inmates may be awarded one day per month for working overtime when conditions necessitate overtime.
 - (3) Meritorious Time Credit for working during emergency conditions: inmates may be awarded two days per month for working in emergency conditions resulting from such events as catastrophic weather, pandemic, or fire.
 - (4) Meritorious Time Credit for working inclement weather: inmates may be awarded two days per month for working in extreme weather conditions.
 - (5) Meritorious Time Credit for exemplary acts: inmates may be awarded three days per month for exemplary acts such as heroism or aiding law enforcement.
- (b) Limitations on Awarding of Meritorious Time Credits: inmates may not be awarded more than four days of Meritorious Time Credits per month.
- (c) Eligible Inmates: inmates sentenced for a misdemeanor conviction under Structured Sentencing are eligible to earn and be awarded Earned Time Credits.
- (d) Ineligible Inmates: inmates sentenced for a conviction of driving while impaired (DWI – all levels) and inmates sentenced to a term of special probation (split sentence) are not eligible to earn or be awarded Earned Time Credits.
- (e) Forfeiture of Meritorious Time Credit shall be subject to forfeiture when an inmate is found guilty of violating an inmate conduct rule. The amount of Meritorious Time Credit lost for a guilty finding for a violation of conduct rules shall not exceed the amount of Earned Credit Time the inmate has earned to date.
- (f) Restoration of Forfeited Earned Time Credit: Earned Time Credit that is forfeited by an inmate may be restored to the inmate as set-forth in Section .01XX of this policy.

.01XX RESTORATION OF FORFEITED GOOD TIME, EARNED TIME, AND MERITORIOUS TIME

Sentence Credits that are forfeited due to inmate rule violations may be restored based upon demonstrated improved behavior by the inmate and will be based on an inmate remaining infraction free for a specific period of time.

- (a) The total amount of restored time shall not exceed the number of days lost as a result of being found guilty of an infraction of conduct rules.
- (b) No restorations of sentence credits shall occur that will reduce an inmate's release date to less than 30 days from the date the time is being restored.
- (c) Time lost during one period of incarceration cannot be restored during a subsequent period of incarceration.
- (d) Time lost during a period of incarceration for consecutive sentences can only be restored during that period of incarceration.

.01XX PROCEDURES FOR AWARDING AND CREDITING TIME

To be developed.

.01XX MEDICALLY UNFIT GAIN AND EARNED TIME CREDIT

All inmates serving time in the Statewide Misdemeanant Confinement Program who are medically unfit may earn Gain Time or Earned Time Credits.

- (a) If a determination is made that an inmate with a disability under the American with Disability Act (ADA) who is housed in regular population or protective control can not be given a reasonable accommodation to enable him or her to participate in a Gain or Earned Time job, or program, activity or service the inmate will receive Medically Unfit Gain or Earned Time Sentence Credits awarded at the rate of 4 days per month so long as the inmate is unable to participate or unable to be given a reasonable accommodation.
- (b) The following inmate behaviors and/or statuses are not eligible for awarding Medically Unfit Sentence Credits:
 - (1) An inmate who refuses to participate in jobs, programs, activities or services that has been determined to be appropriate for his or her medical and/or mental health condition or physical disability.
 - (2) An inmate whose medical and/or mental health condition or physical disability is the result of self-injurious behavior while in prison.
 - (3) Inmate on a control or segregation status (other than Protective Control).

Sentence Reduction Credits As Applied to DWI Offenders By the Division of Adult Correction

State Law:

§ 15A-1355. Calculation of terms of imprisonment.

(c) Earned Time; Credit for Good Behavior for Impaired Drivers. - Persons convicted of felonies or misdemeanors under Article 81B of this Chapter may, consistent with rules of the Division of Adult Correction of the Department of Public Safety, earn credit which may be used to reduce their maximum terms of imprisonment as provided in G.S. 15A-1340.13(d) for felony sentences and in G.S. 15A-1340.20(d) for misdemeanor sentences.

For sentences of imprisonment imposed for convictions of impaired driving under G.S. 20-138.1, the Division of Adult Correction of the Department of Public Safety may give credit toward service of the maximum term and any minimum term of imprisonment and toward eligibility for parole for allowances of time as provided in rules and regulations made under G.S. 148-11 and 148-13.

Note: Sentencing law provides for credit for good behavior towards service of the maximum and any minimum sentence and eligibility as provided for in rules issued by the Secretary of the Department of Public Safety (DPS).

§ 148-11. Authority to adopt rules; authority to designate uniforms.

(a) The Secretary shall adopt rules for the government of the State prison system. The Secretary shall have the rules that pertain to enforcing discipline read to every prisoner when received in the State prison system and a printed copy of these rules made available to the prisoners.

§ 148-13. Regulations as to custody grades, privileges, gain time credit, etc.

(a1) The Secretary of Public Safety shall adopt rules to specify the rates at, and circumstances under, which earned time authorized by G.S. 15A-1340.13(d) and G.S. 15A-1340.20(d) may be earned or forfeited by persons serving activated sentences of imprisonment for felony or misdemeanor convictions.

(b) With respect to prisoners who are serving prison or jail terms for impaired driving offenses under G.S. 20-138.1, the Secretary of Public Safety may, in his discretion, issue regulations regarding deductions of time from the terms of such prisoners for good behavior, meritorious conduct, work or study, participation in rehabilitation programs, and the like.

(e) The Secretary's regulations concerning earned time credits authorized by this section shall be distributed to and followed by local jail administrators with regard to sentenced jail prisoners.

Note: the Secretary of DPS has full discretion to issue regulations regarding deductions of time from the terms of DWIs for good behavior, meritorious conduct, work or study and participation in rehabilitation programs.

Department of Public Safety/Division of Adult Correction Policy and Procedure:

.0109 SCOPE

This policy establishes the rules and methods for computing sentence credits in the form of Good Time, Gain and Earned Time, and Meritorious Time. These rules apply to offenders sentenced to the custody of the Department of Public Safety who are housed in jail, private or North Carolina

Prison facilities. This policy is not applicable to parole or post-release supervision release eligibility.

.0110 DEFINITIONS

The following definitions apply whenever these terms are used in this policy:

- (a) Sentence Credits - Time credits applied to the court-ordered term-of-years sentence of any inmate for the purpose of reducing the amount of time to be served. These credits are called Good Time, Gain Time, Earned Time and Meritorious Time.
- (b) Good Time – Good time is sentence credit awarded at the rate of one day deducted for each day served in custody for good behavior and/or without an infraction of inmate conducts rules, to eligible inmates sentenced for crimes committed prior to October 1, 1994. Inmates convicted of Driving While Impaired, regardless of offense date, are eligible for good time on that component of their sentence only. For inmates sentenced under the Fair Sentencing Act, Good Time reduces only the time required to be served for unconditional release from prison.

Note: no other misdemeanor offenders are eligible for Good Time other than DWI offenders due to limitation of: (i) must have been sentenced prior to October 1, 1994; and (ii) Fair Sentencing Act only applied to those convicted of a felony.

- (c) Gain Time Credit- Gain Time is a sentence credit that is awarded to eligible inmates sentenced for crimes committed prior to October 1, 1994, for their participation in approved work and/or program activities.

Note: DWIs sentenced after October 1, 1994 are not eligible for Gain Time under this policy.

- (d) Earned Time Credit- Earned Time Credit is a sentence credit awarded to eligible inmates, who are sentenced for crimes committed on or after October 1, 1994, or who are sentenced under the Structured Sentencing Act, for their participation in full time work and program activities. Earned Time reduces only the maximum term of an inmate's sentence imposed by the court.

Note: policy states eligible inmates sentenced for crimes committed on or after October 1, 1994 can be awarded Earned Time Credits. Eligible inmates defined later in the policy.

- (e) Meritorious Time - Meritorious Time is a sentence credit that is awarded to eligible inmates for their exemplary acts or for working under emergency conditions, working overtime, working in inclement weather and for achievements in apprenticeship training, educational or other type programs.

Note: policy states eligible inmates may be awarded Meritorious Time. Eligibility is defined later in the policy.

.0111 GOOD TIME

This section applies to inmates sentenced as felons for crimes they committed prior to October 1, 1994 and inmates convicted of Driving While Impaired, regardless of offense date.

- (a) Inmates are awarded Good Time at the rate of one day deducted from their prison or jail term for each day they spend in custody without a conviction through the Disciplinary Process of a violation of inmate conduct rules.

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- (d) Ineligible Inmates: Inmates with sentences characterized as follows are not eligible for Good Time for the purpose of reducing their confinement or calculating an unconditional release date:

- (1) Inmates sentenced under the Structured Sentencing Act;

Note: No misdemeanors other than DWIs are eligible for Good Time as misdemeanors sentenced under Structured Sentencing are specifically ineligible under this policy.

.0112 GAIN TIME

- (a) Gain Time is sentence credit awarded to eligible inmates, who are serving sentences for crimes they committed prior to October 1, 1994, for their participation in work and/or program activities. Inmates who work full-time, or participate in full-time programs or sentence credits rated programs that will assist their productive re-entry into the community, shall earn Gain Time Sentence Credits which shall be regulated as Gain Time I, II, or III.

Note: DWIs sentenced for offenses they committed after October 1, 1994 are not eligible for Gain Time under this policy.

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- (c) Ineligible Inmates: Inmates with sentences characterized as follows are not eligible for Gain Time for the purpose of reducing their confinement or calculating an unconditional release date:

- (1) Inmates sentenced under the Structured Sentencing Act;

Note: Misdemeanors sentenced under Structured Sentencing are also not eligible for Gain Time under this policy.

.0113 EARNED TIME CREDITS

- (a) Earned Time Credit is a sentence credit awarded to eligible inmates sentenced for crimes committed on or after October 1, 1994, except those sentenced on or after October 1, 1994, under G. S. 20-138.1 for impaired driving. Eligible inmates are those who work full-time, participate in full-time programs or sentence credits rated programs that would assist their productive re-entry into the community. In addition, eligible inmates are those inmates who have completed diagnostic processing and are in an Assignment Pending or Protective Control Eligible inmates shall be awarded Earned Time Sentence Credits that shall be regulated as either Earned Time Credit Level I, II, or III.

Note: DWIs are specifically not eligible for Earned Time Credits under this policy.

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- (f) Ineligible Inmates: Inmates with characterized structured as follows are not eligible for Earned Time for the purpose of reducing their confinement or calculating an unconditional release date:

- (7) Inmates convicted of DWI

Note: policy again states DWIs are ineligible for Earned Time.

.0114 MERITORIOUS TIME

- (a) All inmates who are eligible for Gain or Earned Time Sentence Credit are also eligible for Meritorious Time Sentence Credit awards.

Note: DWIs are not eligible for Meritorious Time because they are not eligible for Gain Time under .0112 (must have been sentenced prior to October 1, 1994) or Earned Credits under .0113 (specifically noted as ineligible in two places in the policy).

Summary

- According to the General Statutes of North Carolina, DWIs at the discretion of the Secretary of the Department of Public Safety, could be awarded and/or earn Good Behavior Time, Gain Time and Meritorious Time.
- According to Chapter B, Section .0100, Sentence Credits *Policy and Procedure* of the Department of Public Safety issued 09/05/13, DWIs are eligible for sentence credits as follows:
 - Good Time: allowed under .0110 (b) and .0111 at the rate of 1 day deducted for each day spent in confinement.
- According to the same policies, DWIs are not eligible for sentence credits as follows:
 - Gain Time: not allowed under .0110 (c) and .0112 because in both cases the only eligible inmates are those serving sentences for crimes committed prior to October 1, 1994.
 - Earned Time Credits: not allowed under .0113 (a) and (f) (7) by specific exceptions (and also not provided for under G.S. 15A-1355).
 - Meritorious Time: not allowed under .0114 because inmate must be eligible for Gain Time or Earned Credits to earn Meritorious Time and as noted above DWIs are not eligible for either of those sentence credits.