

FILED IN THE CLERK'S OFFICE
OF THE CIRCUIT COURT OF THE
ALBEMARLE CIRCUIT COURT
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VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF ALBEMARLE

JON ZUG ,CLERK

ANTOINETTE ANDERSON,

Petitioner

TESTE: _____
CLERK/DEPUTY CLERK

v.

Case No. _____

**HAROLD CLARKE, in his official capacity
as Director of the Virginia Department of Corrections**

and

**KEMSY BOWLES, in his official capacity
as Warden of Coffewood Correctional Center**

Respondent

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW the Petitioner, Antione Anderson¹, State ID # 1338026, by and through counsel, and respectfully submits his Petition for a Writ of Habeas Corpus seeking relief from his unlawful detention, having been wrongfully denied earned sentence credits that, if awarded, would result in his immediate release from incarceration. In support of his petition, Mr. Anderson states the following:

INTRODUCTION

1. This action arises out of the Virginia Department of Corrections' (VDOC) unlawful interpretation of Budget language passed by Virginia's General Assembly in June 2022. By virtue of the 2020 legislative expansion of the earned sentence credit program, Mr. Anderson has earned sufficient sentence credits during his incarceration to be released from VDOC custody no later than August 30, 2022. However, as a result of the VDOC's

¹ Mr. Anderson's legal first name is "Antoine," but it is mistakenly spelled "Antinne" on the records from this Court and some VDOC records. This filing uses the correct spelling of his first name.

misapplication of the 2022 Budget language, the Petitioner is facing an additional 22 months of imprisonment, and VDOC now calculates his release date as April 2024.

2. As a result of VDOC’s misapplication of the law, Mr. Anderson will miss out on family milestones and precious time with relatives who may not have much time left. Mr. Anderson expected to help his daughter – whom he has never seen outside of prison – move into her dorm when she started college this fall. He planned to spend time with his 83-year-old father, who has cancer and is in poor health. His fiancée had planned a romantic vacation that they had to cancel.

3. This cause of action accrued on July 1, 2022, the date on which Mr. Anderson was to have received his earned sentence credits. This Petition presents no disputed material facts and a purely legal question, and thus, this Court may make a determination on the merits on the basis of the record. *See* Va. Code § 8.01-654(B)(4) (“In the event the allegations of illegality of the petitioner's detention can be fully determined on the basis of recorded matters, the court may make its determination whether such writ should issue on the basis of the record.”).

FACTUAL BACKGROUND

4. Petitioner, Mr. Antoine Anderson, is currently incarcerated at Coffeewood Correctional Center in Mitchells, Virginia. He is serving an active sentence on convictions entered in the Circuit Court of Albemarle County as follows:

Case Number	Offense	Code Section	Sentence
CR04017427-00	Attempted Escape	18.2-478	One year
CR04017428-00	Abduction	18.2-48.1	Five years
CR04017429-00	Assault on Corrections Officer	18.2-57	Two years
CR04017513-00	Assault on Corrections Officer	18.2-57	Five years

Those sentences run consecutively, and no time was suspended. A true and correct copy of Mr. Anderson's sentencing order is attached as Exhibit A.

5. Respondent Harold Clarke is the Director of the Virginia Department of Corrections and is named in his official capacity. Director Clarke is ultimately responsible for the policies and procedures of the VDOC regarding the implementation of the earned sentence credit program. Respondent Kemsy Bowles is the Warden of the Coffeewood Correctional Center and is named in his official capacity. Warden Bowles is ultimately responsible for the implementation of the earned sentence credit program as to individuals incarcerated at the Coffeewood Correctional Center.

6. Venue is proper in this Court under Va. Code § 8.01-654(B)(1). Mr. Anderson has not previously filed any habeas petitions challenging the convictions listed above or the conditions of his confinement.

7. Mr. Anderson was arrested in Virginia on federal drug charges in March 2004, and was held at the Albemarle-Charlottesville Regional Jail pending resolution of those charges. In August, 2004, Mr. Anderson was charged with the offenses of which he was ultimately convicted in this Court, based on events that occurred in the jail. He was tried in this Court in June 2005, and was sentenced on July 22, 2005. He was then transferred to federal custody to serve his federal sentence in April 2006. He remained in the custody of the Federal Bureau of Prisons until January 18, 2013, when he was transferred to the VDOC to begin serving his sentence for the convictions listed in above.

8. During his incarceration in the Federal Bureau of Prisons, Mr. Anderson completed drug treatment programs, an anger management program, parenting classes,

commercial driver training, and obtained OSHA certification and a certificate for umpiring baseball.

9. In his nearly ten years of incarceration in VDOC, Mr. Anderson has only been found guilty of two relatively minor disciplinary infractions, neither of which resulted in any loss of earned sentence credits or a reduction in his classification level. While incarcerated at Buckingham Correctional Center for eight years, he was consistently employed, including for six years as a utility worker, where he was responsible for a variety of tasks in all areas of the facility. He was transferred to Coffeewood Correctional Center in 2020. He is currently working towards completing his GED, and has signed up to take a small engine repair class. He recently obtained employment as a sanitation worker. He regularly attends church services, and maintains close relationships with his daughter, his father, his brother, and his fiancée.

10. Most incarcerated individuals in VDOC custody are eligible to earn reductions in their original sentence for demonstrating good behavior and participating in certain rehabilitative programs. Va Code. § 53.1-202.3. Prior to July 1, 2022, an incarcerated person could earn a maximum of 4.5 “earned sentence credits”² for every 30 days served. *Id.* This system applied to anyone convicted of a felony offense committed on or after January 1, 1995.

11. In 2020, Virginia’s General Assembly amended the earned sentence credit program to provide greater incentives for incarcerated people to pursue opportunities for growth and personal improvement, and to reward those who had already done so during their sentences. H.B. 5148 (2020) (hereinafter “H.B. 5148”). Under the new law, many incarcerated people are

² The terms “sentence credit” and “earned sentence credit” are defined as “deductions from a person’s term of confinement earned through adherence to rules prescribed pursuant to § 53.1-25, through program participation as required by §§ 53.1-32.1 and 53.1-202.3, and by meeting such other requirements as may be established by law or regulation. One earned sentence credit shall equal a deduction of one day from a person’s term of incarceration.” Va. Code § 53.1-202.2(A).

eligible for significantly increased earned sentence credits. Eligibility for increased credits is determined based on one's conviction: individuals serving sentences for certain enumerated felony convictions remain eligible for a maximum of 4.5 earned sentence credits for every 30 days served. Va. Code § 53.1-202.3(A). Individuals serving sentences for any other conviction are now eligible to earn as many as 15 sentence credits for every 30 days served. Va. Code § 53.1-202.3(B). The rate at which all individuals earn sentence credits is based on a classification scheme³ that reflects the individual's actions while incarcerated. *Id.*

12. These provisions became effective on July 1, 2022. However, the General Assembly explicitly applied the law retroactively, so that those currently incarcerated would have the benefit of these increased earned sentence credits for the totality of their sentences prior to the effective date of the law. The enactment clause to H.B. 5148 provides:

That the provisions of § 53.1-202.3 of the Code of Virginia, as amended by this act, ***shall apply retroactively to the entire sentence*** of any person who is confined in a state correctional facility and participating in the earned sentence credit system on July 1, 2022. If it is determined that, upon retroactive application of the provisions of § 53.1-202.3 of the Code of Virginia, as amended by this act, the release date of any such person passed prior to the effective date of this act, the person shall be released upon approval of an appropriate release plan and within 60 days of such determination unless otherwise mandated by court order.

H.B. 5148(1)(D) (emphasis added). The delay between the enactment of the law and the effective date was intended to give VDOC time to implement the new system and re-calculate the sentences of those eligible for additional sentence credits.

³ Under the old system, individuals classified as Level I are eligible for 4.5 ESCs for every 30 days served; those classified as Level II are eligible for 3 ESCs for every 30 days served; those classified as Level III are eligible for 1.5 ESCs for every 30 days served; and those classified as Level IV are eligible for 0 ESCs for every 30 days served. For those eligible for increased credits under the new scheme, individuals classified as Level I are eligible for 15 ESCs for every 30 days served; those classified as Level II are eligible for 7.5 ESCs for every 30 days served; those classified as Level III are eligible for 3.5 ESCs for every 30 days served; and those classified as Level IV are eligible for 0 ESCs for every 30 days served.

13. Mr. Anderson is eligible to earn up to 15 earned sentence credits per 30 days served on his convictions for attempted escape and assault and battery, because those offenses are not listed in Va. Code § 53.1-202.3(A). Because he is currently classified at Level I, and he has maintained classification at Level I throughout the period of his sentence on those convictions, he has in fact earned 15 sentence credits for every 30 days served on those convictions.⁴ *See* Exhibit C, Petitioner's Legal Update Sheets.

14. Pursuant to H.B. 5148, the Virginia Department of Corrections began recalculating the sentences of then-incarcerated individuals, such as Petitioner. These recalculations were expected to result in the release of thousands of people on or soon after July 1, 2022.

15. Indeed, during the first half of 2022, many incarcerated people, including Mr. Anderson, were notified that they had a new release date as a result of the implementation of the new system. Those people, including Mr. Anderson, completed home plans, pre-release medical evaluations, and re-entry programming, and fully expected to be home with their loved ones in a matter of weeks.

16. Specifically, on March 11, 2022, a VDOC counselor from Coffeewood called Mr. Anderson's fiancée and told her that he would be released in July or August 2022 as a result of the application of Va. Code § 53.1-202.3. On May 11, 2022, medical staff at Coffeewood completed Mr. Anderson's pre-release medical screening and told him that he would be released within 90 days. *See* Exhibit D, Petitioner's Medical Discharge Summary. A different VDOC

⁴ VDOC Operating Procedure 830.3 governs the implementation of the earned sentence credit program, and is attached as Exhibit B. VDOC must follow detailed procedures and specific criteria to determine someone's Class Level, which is reevaluated periodically. Within each Class Level, individuals earn the number of sentence credits specified by statute. Thus, there is little room for discretion in the administration of the program as to the majority of incarcerated people.

counselor at Coffeewood called Mr. Anderson's fiancée on May 20, 2022 to confirm that she would be present to pick up Mr. Anderson upon his release from VDOC custody. In early June, a VDOC counselor at Coffeewood notified Mr. Anderson that he would be released in the "first wave" of people released as a result of the application of Va. Code § 53.1-202.3. The counselor explained that the "first wave" was expected to be released between July 6-August 15, 2022. A third VDOC counselor from Coffeewood called Mr. Anderson's fiancée for a third time on June 18, 2022 to confirm his home plan. On June 27, 2022, VDOC employees helped Mr. Anderson complete a form to obtain a Virginia identification card from the Department of Motor Vehicles. He received this ID on July 5, 2022. *See* Exhibit E, Documentation of Petitioner's ID and SSN.

17. Meanwhile, on June 21, 2022, the Governor signed the Biennial Budget, directing the Commonwealth's appropriations from July 1, 2022 until June 30, 2024. Enacting Clause, Chapter 2, House Bill 30 (2022 Special Session I) ("An Act for all appropriations ... for the two years ending respectively on the thirtieth day of June, 2023, and the thirtieth day of June, 2024....") (hereinafter the "Budget"). In Budget Item 404(R), the General Assembly appropriated funds to the VDOC for the implementation of the new earned sentence credit system, but qualified its administration of the credit system in the following manner:

Notwithstanding the provisions of § 53.1-202.3, Code of Virginia, a maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence that is concurrent with or consecutive to a sentence for a conviction of an offense enumerated in subsection A of § 53.1-202.3, Code of Virginia.

18. VDOC erroneously applied this language retroactively to deny increased earned sentence credits to those who have already served time, prior to July 1, 2022, on convictions that qualify for them. As a result, several hundred people who had been given new release dates in July or August 2022 based on increased earned sentence credits had those increased credits

rescinded, and their release dates moved back by several months or even years. Mr. Anderson was one of them.

19. On June 18, 2022, Mr. Anderson was called to the main office of the prison and was told that he would not in fact be released during the summer of 2022 because of a change made by the Governor. The “change made by the Governor” clearly referred to Budget Item 404(R), which VDOC applied to Mr. Anderson because he was convicted of both offenses listed in Va. Code § 53.1-202.3(A) and offenses that are not. A few days later, the assistant principal of the educational program through which Mr. Anderson was completing his GED classes also confirmed that he had been on the list to be released in the first wave after July 1, 2022.

20. Mr. Anderson had a video call with his daughter on Father’s Day to tell her that he would not be coming home and could not take her to start college. His daughter was emotionally distraught and began crying. She later sent the Governor an email to explain the impact the Budget Item had on her and her father.

21. As a result of VDOC’s unlawful interpretation of Budget Item 404(R), Mr. Anderson has suffered a decline in his mental health. Immediately after being told he was not being released, he could not eat, he felt as if he went numb, and he fell into a depression. He sought mental health treatment and is still struggling to come to terms with his situation.

22. Mr. Anderson was incarcerated before his daughter was born and has never spent time with her outside of prison visitation. Mr. Anderson’s father – who Mr. Anderson describes as his hero – is 83 years old and has cancer. Mr. Anderson is afraid that his father will pass away before his release from prison. Mr. Anderson’s mother and grandmother passed away during his period of incarceration, and as a result, his daughter and father are his closest remaining family.

23. Mr. Anderson was 27 years old when he was arrested in 2004. He is now 45 years old and has changed and matured during his more than 18 years of incarceration. He looks forward to his release from prison so that he can prove that he is not the same person he was twenty years ago, and can be a productive member of society and a good father and husband.

CLAIM I

Mr. Anderson's Continued Detention is Unlawful Because Budget Item 404(R) Does Not Negate the Retroactivity of H.B. 5148

24. Each of the preceding paragraphs are incorporated and reiterated herein by reference. As set out more fully in the accompanying Memorandum of Law in Support of this Petition (also incorporated by reference), Budget Item 404(R) does not negate the retroactive application of Va. Code § 53.1-202.3, and thus cannot be interpreted to deny expanded earned sentence credits to those who have served time prior to July 1, 2022. Budget Item 404(R) cannot be applied retroactively under long-standing principles of statutory construction that have been stated and restated by the Virginia Supreme Court. Further, to apply Budget Item 404(R) retroactively would result in Constitutional infirmities under the Ex Post Facto clause and principles of Due Process.

25. Accordingly, this Court must find that the VDOC is required to award Mr. Anderson the sentence credits he has earned under Va. Code § 53.1-202.3 prior to July 1, 2022. Doing so will result in Mr. Anderson having served his entire active sentence, rendering his continued detention “without lawful authority”. Va. Code § 8.01-654(A)(1).

26. “*Habeas corpus* is a writ of inquiry granted to determine whether a person is illegally detained.... In other words, a prisoner is entitled to immediate release by habeas corpus if he is presently restrained of his liberty without warrant of law.” *Smyth v. Midgett*, 199 Va. 727, 730, 101 S.E.2d 575, 578 (1958). However, this Court’s jurisdiction is not limited to situations in

which immediate release is at issue; rather, habeas relief is available if “an order entered in the petitioner's favor will result in a court order that, on its face and standing alone, will directly impact the duration of the petitioner’s confinement.” *Carroll v. Johnson*, 278 Va. 683, 693, 685 S.E.2d 647, 652 (2009).

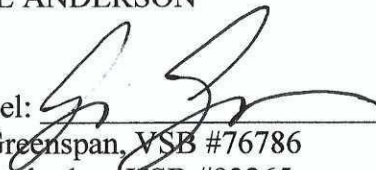
27. The VDOC’s erroneous application of Budget Item 404(R) directly impacts the duration of Mr. Anderson’s confinement. Thus, this Court should grant the relief requested herein.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Antoine Anderson moves this Court to grant him relief as follows:

- A. Order Respondent to Show Cause why the relief requested herein should not be granted;
- B. Order the VDOC to award him earned sentence credits as provided in Va. Code § 53.1-202.3(B);
- B. Grant his petition for a writ of habeas corpus and order his immediate release; and
- C. Order any other relief and may be just and proper.

RESPECTFULLY SUBMITTED
ANTOINE ANDERSON

By Counsel: 
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Vishal Agraharkar, VSB #93265
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CITY/COUNTY OF Curpeau

The Petitioner being first duly sworn, says:

1. He has reviewed the foregoing petition for writ of habeas corpus.
2. The facts stated in the petition are true to the best of his information and belief.

Robert Anderson
Signature of Petitioner

Subscribed and sworn to before me this 11 day of August 2022

[Signature]
Notary Public

My commission expires 2/28/25





VIRGINIA: IN THE CIRCUIT COURT OF THE COUNTY OF ALBEMARLE ON THE CRIMINAL SIDE THEREOF, HELD ON JUNE 28, 2005.

PRESENT: HON. JAMES KULP

COMMONWEALTH OF VIRGINIA

VS.

ANTINNE ANDERSON

SSN: 067-62-3765

Sex: male

DOB: 03/24/1977

Race: black

STATUS: jail

Case Number	Offense	F/M	Offense Date	Virginia Code Section
17,427	Attempted Escape VCC ESC-4911-A9	F	08/14/2004	18.2-478 18.2-26
17,428	Abduction (Woodson) VCC KID-1016-F3	F	08/14/2004	18.2-48.1
17,429	Assault Law Enforcement Officer (Woodson) VCC ASL-1342-F6	F	08/14/2004	18.2-57
17,513	Assault Law Enforcement Officer (Terry) VCC ASL-1342-F6	F	08/14/2004	18.2-57

Attorney for the Commonwealth: James L. Camblos, III

Attorney for the Defendant: Charles Weber

The defendant was present with his attorney.

On March 17, 2005 the defendant was found guilty as charged above.

The pre-sentence report was considered and ordered filed as a part of the record in this case in accordance with the provisions of Virginia Code Section 19.2-299.

The Attorney for the Commonwealth and the defendant were given

(57)

the opportunity to present evidence pertaining to sentencing.

Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reasons why judgment should not be pronounced.

The Court SENTENCED the defendant to incarceration with the Virginia Department of Corrections for the term of **one year; five years; two years; and five years, respectively.**

SENTENCING SUMMARY:

TOTAL SENTENCE IMPOSED: thirteen years

TOTAL SENTENCE SUSPENDED: none

COURT COSTS. The defendant shall pay Court costs.

These sentences shall run **consecutively** to each other and to any other sentences imposed. *The Court appoints Charles Weber for any appeal.*
The Court certifies that at all times during the trial of this case the defendant was personally present and counsel for the defendant was personally present.

ENTER: James E. Kuly
JUDGE

DATE: 7/22/05

e



Virginia Department of Corrections

Offender Management and Programs

Operating Procedure 830.3

Good Time Awards

Authority:

Directive 830, *Classification Management*

Effective Date: July 1, 2022

Amended:

Supersedes:

Operating Procedure 830.3, March 1, 2019

Access: Restricted Public Inmate

ACA/PREA Standards: 5-ACI-1E-03, 5-ACI-5B-03, 5-ACI-7A-13; 2-CO-1E-05; 2-CI-4A-8; §115.78

Content Owner:	James Parks Director of Offender Management Services	<i>Signature Copy on File</i>	5/25/22
		Signature	Date
Reviewer:	Jermiah Fitz, Jr. Corrections Operations Administrator	<i>Signature Copy on File</i>	5/26/22
		Signature	Date
Signatory:	A. David Robinson Chief of Corrections Operations	<i>Signature Copy on File</i>	5/26/22
		Signature	Date

REVIEW

The Content Owner will review this operating procedure annually and re-write it no later than three years after the effective date.

COMPLIANCE

This operating procedure applies to all units operated by the Virginia Department of Corrections. Practices and procedures must comply with applicable State and Federal laws and regulations, ACA standards, PREA standards, and DOC directives and operating procedures.



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DEFINITIONS

Annual Review - A uniform yearly review of an inmate's classification, needs, and objectives. The Initial Classification Date (ICD) is used to establish the review date for an inmate received on or after February 1, 2006. The Custody Responsibility Date (CRD) is used to establish the review date for an inmate received prior to February 1, 2006.

Custody Responsibility Date (CRD) - The date on which an inmate becomes state responsible whether located in a jail or a DOC institution.

Earned Sentence Credit (ESC) - Time earned in accordance with COV §53.1-202.3, *Rate at which sentence credits may be earned; prerequisites*, in one of four levels with rates ranging from 0 to 4.5 days earned per 30 days served for ESC-1 or 0 to 15 days earned per 30 days served for ESC-2, which will be applied to reduce the inmate's maximum term of incarceration. ESC-1 and ESC-2 apply to those inmates whose felony offenses were committed on or after January 1, 1995.

Extraordinary Good Time (EGT) - Time earned in accordance with COV §53.1-197, *Credit allowed for career and technical educational or other educational training* at a rate ranging from 1 to 5 days earned per month served for those inmates whose offenses were committed prior to July 1, 1981, who do not elect to participate in the Good Conduct Allowance System (GCA). All such time earned will reduce the term of imprisonment from which parole eligibility is computed.

Good Conduct Allowance (GCA) - Time earned in accordance with COV §53.1-198, *Certain persons to choose good conduct system* to COV §53.1-202.1, *Limitation upon applicability of this article* in one of four classes with rates ranging from 0 to 30 days earned per 30 days served which will be applied to reduce the inmate's maximum term of imprisonment. GCA applies to those inmates whose felony offenses were committed on or after July 1, 1981 and before January 1, 1995 or who have opted into GCA from GCT. Misdemeanor convictions committed on or after July 1, 1981, will continue to be calculated under the GCA System. One-half of the credit should be applied to reduce the parole eligibility date. Misdemeanor convictions committed after July 1, 2008 are not eligible for parole in accordance with COV §53.1-153, *Eligibility of persons sentenced to jails for more than twelve months*.

Good Conduct Time (GCT) - Time earned in accordance with COV §53.1-196, *Good conduct credits of persons convicted after October 1, 1942; effect of credit upon eligibility for parole* at a constant rate of 10 days earned per 20 days served only by those inmates whose offenses were committed prior to July 1, 1981, who do not opt to participate in the Good Conduct Allowance (GCA) system. All such time earned will reduce the term of imprisonment from which parole eligibility is computed.

ICA Hearing - An inmate case review conducted by the Institutional Classification Authority or Multi-disciplinary Team; these hearings may be either formal due process or informal hearings depending on the purpose of the review

Initial Classification Date (ICD) - The date on which the inmate was initially assigned to a security level.

Inmate - A person who is incarcerated in a Virginia Department of Corrections facility or who is Virginia Department of Corrections responsible to serve a state sentence.

Institutional Classification Authority (ICA) - The institutional employee designated to conduct inmate case review hearings.

Interim Review - A review of an inmate's good time earning level that covers the last 12 month period and is conducted at a time prior to the inmate's next scheduled annual review.

Override - Assignment to an earning level that is either higher or lower than indicated by the Class Level score.

Restorative Housing Unit - A general term for special purpose bed assignments including general detention, restorative housing, and step-down statuses; usually a housing unit or area separated from full privilege general population.

- **Restorative Housing (RHU)** - Special purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of inmates.

- **RH Step-Down 1 (SD-1), RH Step-Down 2 (SD-2)** - General population bed assignments operated with increased privileges above restorative housing but more control than full privilege general population.

Sentence Reduction - A specific amount of time credited to an inmate's sentence in cases of injuries to or extraordinary services performed by the inmate.

Sentence Reduction Review Committee - A committee appointed by the Chief of Corrections Operations to meet as needed to review sentence reduction recommendations.

Unclassified Inmate - New intakes into the Department of Corrections (DOC) who do not have a Custody Responsibility Date (CRD) and Parole Violators before their revocation date.

PURPOSE

This operating procedure establishes a process for administering good time awards to inmates housed in Department of Corrections (DOC) institutions or local jails and provides guidance for submitting and reviewing recommendations for a sentence reduction for inmates housed in institutions.

PROCEDURE

I. Good Time Awards

A. All inmates are eligible for recognition under one or more of the following good time award systems:

1. Good Conduct Time (GCT) applies to those inmates whose offenses were committed prior to July 1, 1981, and who do not opt to participate in the Good Conduct Allowance (GCA) system.
 - a. Inmates under the GCT system are awarded good time at a constant rate of 10 days earned per 20 days served.
 - b. Based on evaluations of inmate behavior and performance, inmates under the GCT system can earn additional Extraordinary Good Time (EGT) at a rate ranging from 1 to 5 days earned per month served.
2. GCA applies to those inmates whose offenses were committed on or after July 1, 1981 and felony offenses before January 1, 1995.
 - a. Inmates under GCT also have the opportunity to opt into the GCA system.
 - b. Inmates under the GCA system are awarded from 0 to 30 days of good time for each 30 days served.
3. Earned Sentence Credit (ESC) applies those inmates whose felony offenses were committed on or after January 1, 1995.
 - a. Inmates under the ESC-1 system are awarded from 0 to 4.5 days of good time for each 30 days served based on evaluations of inmate behavior and performance.
 - b. Inmates under the ESC-2 system are awarded from 0 to 15 days of good time for each 30 days served, based on evaluations of inmate behavior and performance.

B. Loss of Good Time and Restoration of Lost Good Time

1. Loss of Good Time

- a. Inmates convicted of specific disciplinary offenses may be subject to a loss of good time up to and including all accumulated GCA, ESC-1, and ESC-2 earnings.
 - i. A loss of 30 days GCA is equivalent to a loss of 4.5 days of ESC-1 and 15 days of ESC-2.
 - ii. Staff should impose the loss of good time in increments of GCA earnings.
 - iii. The loss of GCA, ESC-1 and ESC-2 earnings is computed automatically upon the inmate's disciplinary conviction.
- b. The loss of good time does not apply to GCT sentences, conviction of any disciplinary offense can prevent a GCT sentence from earning 10 days for the 20 days served and the inmate may be ineligible for EGT.
- c. The Chief of Corrections Operations must review and approve any disciplinary penalty for loss of earnings in excess of 180 days GCA, 27 days ESC-1 and 90 days ESC-2.

2. Restoration of Lost Good Time

- a. An inmate can only request a restoration of their lost good time for the following disciplinary convictions:
 - i. Offense Code 116a, *Refusal to provide sample for DNA analysis (First Refusal)*
 - ii. Offense Code 116b, *Refusal to provide sample for DNA analysis (Second Refusal)*
 - iii. Offense Code 116c, *Refusal to provide sample for DNA analysis (Third and Subsequent Refusals)*



- iv. Offense Code 119a, *Refusal to participate in testing, classification, or reentry preparation - Preventative/prophylactic therapies and/or treatment for contagious diseases which are determined by the medical authority or state/federal law or regulation to present a public health risk.*
- b. After the inmate complies with the requirement that resulted in the disciplinary conviction for Offense Codes 116a, 116b, 116c, and 119a, the inmate must submit a request for good time restoration to their Counselor.
- c. The Counselor will review the circumstances of the inmate's refusal and subsequent compliance and will schedule a formal ICA hearing in VACORIS to review the inmate for good time restoration; see Operating Procedure 830.1, *Inmate Classification Management*.
- d. The Counselor must notify CCS and Court and Legal Services to update the inmate's time calculation.
- e. The Counselor will print a copy of the *Institutional Classification Authority Hearing* report showing final approval or disapproval of the ICA action and provide it to the inmate.
- f. Any inmate not satisfied with the good time restoration decision can address their concerns through the *Offender Grievance Procedure*; see Operating Procedure 866.1, *Offender Grievance Procedure*.

II. Class Level Evaluation Procedures

A. Class Level Advancement

1. Advancement of an inmate's Class Level should occur only by action of the ICA with approval of the Facility Unit Head; see Operating Procedure 830.1, *Institution Classification Management*.
2. The ICA may review an inmate's Class Level for advancement:
 - a. During the inmate's annual review
 - b. During an interim review conducted by administrative request once appropriate staff has screened the request for advancement and recommended an ICA review due to significant progress noted in one or more area of evaluation.

B. Class Level Reduction

1. Reduction of an inmate's Class Level will occur only by:
 - a. ICA action with approval of the Facility Unit Head; see Operating Procedure 830.1, *Institution Classification Management*
 - b. An inmate's special status; see the *Criteria and Restrictions for Special Status Inmates* section of this operating procedure.
2. The ICA may review an inmate's Class Level for reduction:
 - a. During the inmate's annual review
 - b. Upon receipt of a referral from the Hearings Officer based on one or more disciplinary infractions
 - c. Upon an administrative request for review after appropriate staff note significant decline in one or more areas of evaluation.

C. Regardless of the type of Class Level review, clear justification should be required to advance or reduce an inmate's Class Level based on:

1. A significant improvement in the inmate's evaluations in any area of performance and responsibility related as indicated by the appropriate Class Level point range or a recommended override, or a significant decline in any area of performance and responsibility where the inmate has clearly failed to maintain the behaviors that advanced them to their present Class Level.
2. The criteria and restrictions that affect the inmate in an administrative placement, special status, or with special needs as set forth in this operating procedure.
3. Input of the inmate's counselor, work supervisor, building officer, and other staff knowledgeable of

the inmate's progress towards attainment of treatment objectives on the inmate's *Re-entry Plan*. (5-ACI-5B-03) See Operating Procedure 820.2, *Inmate Re-entry Planning*.

D. Staff must complete good time award evaluations based on the inmate's performance during the entire preceding year in the areas of performance and responsibility as follows:

1. Infractions - 0-40 points available; see Operating Procedure 861.1, *Offender Discipline, Institutions*
 - a. A maximum score of 40 points will be awarded to inmates with no disciplinary convictions
 - b. Deduct 40 points (award 0 points) for any conviction of offenses numbered 100 through 108.
 - c. Deduct 20 points for each conviction of other Category I (100 series) offenses.
 - d. Deduct 10 points for each conviction of Category II (200 series) offenses.
2. Re-entry Plan, Annual Goals - 0-40 points available; see Operating Procedure 820.2, *Inmate Re-entry Planning*
 - a. Award points based on the inmate's achievement of goals established at the beginning of the review year in one or more of the following areas:
 - i. Educational
 - ii. Program
 - iii. Vocational
 - iv. Other
 - b. Goals should be achievable in the inmate's current situation, related to identified criminogenic factors, and represent progress toward the inmate's Re-entry Preparation Goals.
 - c. Points should be allocated based on the number of goals set for the year i.e., for two goals - up to 20 points could be awarded for achievement of each goal.
 - d. Staff should recognize inmates for making reasonable efforts to achieve their goals.
3. Work - 0-20 points available (5-ACI-7A-13; 2-CI-4A-8)

The score for work should be prorated based on the percentage of the year that the inmate was employed.
4. VACORIS provides a tentative point score based on the inmate's current disciplinary convictions, progress toward re-entry plan goals, and work assignment.
 - a. Counselors should not penalize to include lowering an inmate's classification level due to the unavailability of educational, program, vocational, or work opportunities if the inmate can document consistent, reasonable efforts to achieve the goal.
 - b. Counselors should not award inmates for lack of consistent, reasonable efforts even though they may be meeting the goal at the time of the review.
 - c. Counselors should consider, either through point scores or through use of an override, the impact of changed goals or the achievement of goals on inmates who moved from one institution to another during the year.
 - i. The Counselor and the ICA may adjust tentative point scores or recommend overrides as needed to reflect accurately the inmate's overall performance and progress for the entire review period.
 - ii. The Counselor or ICA should justify and document each adjustment or override in the "Comments" section of the *Class Level Evaluation*; see Attachment 1 for sample.

E. Mitigating Factors

1. Staff should consider additional criteria for inmates who, because of medical needs or limitations, mental health needs or limitations, or other special treatment needs or limitations, cannot be evaluated appropriately solely in the areas of performance and responsibility as set forth in this operating procedure.
2. An inmate, who cannot be evaluated properly due to their needs or limitations, should be placed in a Class Level based on the areas of performance and responsibility, which would not penalize the

inmate due to their special need or limitation.

3. When an inmate cannot participate in a work, vocational or educational program due to medical considerations, the inmate's Class Level should be determined as follows:
 - a. Staff should incorporate any treatment or therapy program prescribed by attending health care staff into the inmate's *Re-entry Plan, Annual Goals*, which are subject to review for Class Level purposes.
 - b. Staff may assign a score of 17 points on the *Class Level Evaluation* in the area of work.
4. When an inmate cannot participate in a work, vocational or educational program assignment due to mental health or other special treatment considerations, the inmate's Class Level should be determined as follows:
 - a. Staff should incorporate any treatment or therapy programs prescribed by attending psychologists, psychiatrists or other special treatment staff into the inmate's *Re-entry Plan, Annual Goals*, which are subject to review for Class Level purposes.
 - b. Staff may assign a score of 17 points to the *Class Level Evaluation* in the area of work.
 - c. These requirements may apply to an inmate assigned to a mental health acute care unit; see Operating Procedure 730.3, *Mental Health Services: Levels of Service*.
 - d. Staff should consider the class level of any inmate returning to a correctional institution from a non-DOC mental health facility at the inmate's next annual review. The ICA should review the inmate's suitability for a class level based on psychological progress reports during the transfer period and the inmate's institutional adjustment.

III. Class Level Evaluations

- A. Counselors should determine the appropriate Class Level based on the total points scored by the inmate on the *Class Level Evaluation* in VACORIS. Class Level point ranges are as follows:
 1. Class Level I 85 to 100 points
 2. Class Level II 65 to 84 points
 3. Class Level III 45 to 64 point
 4. Class Level IV 44 points or below
- B. Prior to the inmate's annual or interim review, the Counselor should review the inmate's point score in VACORIS and determine if the inmate is currently in the appropriate Class Level.
 1. When the Counselor determines at the inmate's annual review that the inmate is currently in the appropriate Class Level, the Counselor should document in VACORIS that they recommend no change to the inmate's Class Level, subject to ICA action and Facility Unit Head review.
 2. When the Counselor determines at the inmate's annual review that the inmate is not currently in the appropriate Class Level at their annual review, the Counselor should complete the *Class Level Evaluation* in VACORIS to change the inmate's Class Level which is subject to ICA action and Facility Unit Head review.
- C. For a change in Class Level, staff must conduct an ICA hearing so the ICA can consider the appropriate Class Level assignment; see Operating Procedure 830.1, *Institution Classification Management*.
 1. The ICA should review the point score and any supporting documentation to ensure proper scoring and to determine if an override is necessary to place the inmate in the appropriate Class Level.
 2. The ICA should record the recommended Class Level and any override required in VACORIS.
 3. For annual review changes in Class Level, the effective date for the change should be the anniversary of the ICD or CRD, as applicable.
- D. Staff can reject an inmate's Class Level point score and subsequent Class Level assignment based on one or more of the approved overrides listed below.

Override	Override Reason
#1	A point score in one area of evaluation is inordinately high or low affecting the Class Level
#2	Seriousness or number of institutional infractions warrants a lower Class Level.
#3	A significant recent decrease in an area of evaluation warrants a lower Class Level.
#4	Extraordinary improvement in one or more areas of evaluation warrants a higher Class Level.
#5	Lack of program availability inordinately affects Class Level.
#6	More information needed (i.e. under investigation, longer period of adjustment needed).
#7	Refusal of or removal from any required educational, program, vocational, or work assignment must result in an automatic override to Class Level IV.
#P	Inmate has reentered all required educational, program, vocational, or work assignments that resulted in the use of override #7

1. Staff will use overrides #7 and #P to place an inmate in the Class Level IV, upon their conviction of one of the applicable disciplinary offense listed below, when an inmate:
 - a. Refuses to comply with COV §19.2-310.2, *Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes*; fee by refusing to provide a DNA sample. Staff will charge the inmate with the appropriate Offense Code 116, *Refusal to provide sample for DNA analysis*; see DNA Sampling attachments to Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*.
 - b. Refuses to participate in any part of an initial or annual screening for TB, or chest x-ray if ordered. Staff will charge the inmate with Offense Code 119a, *Refusal to participate in testing, classification, or reentry preparation violation, Preventative/prophylactic therapies and/or treatment for contagious diseases which are determined by the medical authority or state/federal law or regulation to present a public health risk*; see Operating Procedure 740.1, *Infectious Disease Control*.
 - c. Refuses to take the TABE and/or HSE Practice Test. Staff will charge the inmate with Offense Code 119b, *Diagnostic, educational, psychological, or other required evaluation*; see Operating Procedure 601.4, *Educational Testing*.
 - d. Refuses to obtain their official birth certificate or refuse to make a reasonable effort. Staff will charge the inmate with Offense Code 119c, *Refusal to participate in reentry planning or preparation, or removal from a reentry program*; see Operating Procedure 820.2, *Inmate Re-entry Planning*.
 - e. Refuses to obtain a DMV Identification Card or refuses to complete the *Registration Form* for Selective Service registration. Staff will charge the inmate with Offense Code 119c, *Refusal to participate in reentry planning or preparation, or removal from a reentry program*; see Operating Procedure 820.2, *Inmate Re-entry Planning*.
 - f. Refuses to comply with the Sex Offender and Crimes against Minor’s registration requirements. Staff will charge the inmate with offense code 119d, *Refusal to participate in required sex offender/crimes against minors registration*; see Operating Procedure 735.1, *Sex Offender and Crimes against Minors Registration*,
 - g. Does not comply with the requirements to participate in or is removed from a residential cognitive community program for non-compliant or disruptive behavior. Staff will charge the inmate with Offense code 119e, *Refusal to participate in or removal from a residential cognitive community program*; see Operating Procedure 841.1, *Inmate Programs*.
 - h. Enroll in or attend, or is removed due to disruptive, non-participatory, or non-compliant behaviors, from any educational, program, vocational, or work assignment required on the inmate’s *Re-entry Plan*. Staff will charge the inmate with Offense Code 200, *Refusing to work or refusing to attend school or other program assignments mandated by procedure or by law, or failure to perform work or program assignment as instructed*.
 - i. Does not comply when identified as a High Risk Sexual Aggressor (HRSA) with therapy, counseling, or other interventions designed to address and correct underlying reasons or

- motivations for the abuse. Staff will charge the inmate with Offense Code 200, *Refusing to work or refusing to attend school or other program assignments mandated by procedure or by law, or failure to perform work or program assignment as instructed*; see Operating Procedure 735.2, *Sex Offender Treatment Services (Institutions)*. (§115.78[d])
2. Upon conviction of the disciplinary offense, staff must refer the inmate to the ICA who will conduct an ICA hearing and place the inmate in Class Level IV effective the date staff wrote the *Disciplinary Offense Report*.
 - a. Staff must use override #7 regardless of the inmate's Class Level score.
 - b. The override #7 will flag the inmate's file so that the inmate does not earn good time until meeting the specified requirements.
 - c. Staff may use the override #7 for Class Level reviews related to enhanced penalties for repeated violations of Category I offenses such as Offense Code 116 or 119, not allowing an inmate to earn good time for a period in excess of one year or until the inmate complies with some requirement.
 3. Once staff determine an inmate is sincere and actively participating in the specified requirement, the staff member should refer the inmate to the ICA for an ICA hearing to review the inmate's Class Level. Time spent on a waiting list does not count as participation.
 - a. As an incentive, staff may review inmate's participating in an Intensive Re-entry Cognitive Community program who are in Class Level IV due to removal from a Cognitive Therapeutic Community, for an advancement in their Class Level.
 - i. Inmates assigned to an Intensive Re-entry Cognitive Community can receive a good time Class Level review at 90 days in the program.
 - ii. At the discretion of staff, an inmate who has adequately participated for a minimum of 90 consecutive day period can advance to the appropriate Class Level effective the date they entered into the Cognitive Community.
 - (a) The inmate's good time Class Level can advance one level, only.
 - (b) The effective date of the Class Level change must be at six months or less, prior to the inmate's Good Time Release Date (GTRD).
 - (c) Staff must submit the Class Level change no more than 90 days and no less than 60 days, prior to the inmate's release.
 - (d) Staff may utilize an inmate's adjusted days to allow adequate time to process the inmate's release.
 - iii. Once an inmate advances to a higher Class Level, staff will monitor the inmate to determine if the inmate's behavior continues to warrant the current Class Level or if they need to adjust the inmate's Class Level at any time for non-compliant behavior or disciplinary convictions.
 - iv. Any inmate removed from the Intensive Re-entry Cognitive Community will forfeit any good time awarded under this provision.
 - b. Staff must use an override #P to move an inmate out of Class Level IV when an override #7 reduced the inmate to Class Level IV. Any change in good time Class Level should be retroactive to the date the inmate met the specified requirement.
 4. All overrides must be justified with override numbers and supporting comments noted on VACORIS.
- E. VACORIS will generate a notification to the Facility Unit Head to review the ICA's action and approve or disapprove it.
1. An inmate's Class Level will be changed with Facility Unit Head approval of ICA action in VACORIS only.
 2. Staff will print a copy of the *Class Level Evaluation* or *Institutional Classification Authority Hearing* report showing Facility Unit Head approval or disapproval of the ICA action and provide it to the inmate.

3. Facility Unit Head approval of ICA action to change an inmate's Class Level will generate a notification in VACORIS to Court and Legal Services staff to update the inmate's time calculation.
- F. Staff should not change an inmate's Class Level and award EGT when an inmate is within 60 days of their expected discharge date.

IV. Good Conduct Time (GCT) System

A. To be eligible for the GCT System and EGT, an inmate must:

1. Have committed their offense prior to July 1, 1981
2. Have not elected to enter the GCA system

B. Inmates under the GCT system are awarded GCT at the rate of 10 days per 20 days served.

C. Extraordinary Good Time (EGT) Eligibility and Restrictions

1. In addition to GCT, the ICA can make an EGT award of from 1 to 5 days per month served as determined by the inmate's Class Level on the Class Level Evaluation. The Class Level will also be used for recognition purposes.
2. After staff complete a *Class Level Evaluation* for assignment to Class Level I in VACORIS and only by action of the ICA with approval of the Facility Unit Head will an inmate be awarded EGT.
3. The ICA should review an inmate for EGT eligibility based on their annual review date.
 - a. The ICA will certify the inmate is eligible for EGT after review of the inmate's performance during the previous 12 months and will recommend at what rate EGT should be awarded to the inmate.
 - b. The ICA should record the recommended EGT award in VACORIS.
 - c. Staff are required to provide clear justification to award EGT to an inmate taking into consideration:
 - i. The inmate's total point score on the *Class Level Evaluation*
 - ii. Any criteria and restrictions that affect the inmate in an administrative placement, special status or with special needs as set forth in this operating procedure
 - iii. Input of the inmate's counselor, work supervisor, building officer, and other staff knowledgeable of the inmate's progress towards attainment of treatment objectives in the inmate's *Re-entry Plan*.
4. VACORIS will generate a notification to the Facility Unit Head to review the ICA action and approve or disapprove it. The Facility Unit Head may
 - a. Approve the EGT request in total
 - b. Approve the EGT with a reduction in the rate and/or total days EGT
 - c. Disapprove the request in total
5. Staff should print the *Class Level Evaluation* showing Facility Unit Head approval or disapproval of the ICA action from VACORIS and provide it to the inmate.
6. Facility Unit Head approval of ICA action will generate a notification to Court and Legal Services to update the inmate's time calculation.
7. Once VACORIS credits the EGT to an inmate, the loss of EGT awards are not available as a disciplinary penalty.

D. Criteria and Restrictions for Special Status Inmates:

1. Parole Violations

- a. Upon return to confinement for alleged parole violation(s), an inmate's eligibility for EGT should not resume until the Parole Board revokes the inmate's parole.
- b. At the time of an inmate's revocation, EGT consideration for the inmate will be retroactive to the

date of the inmate's return to a local jail facility or an institution in the absence of any new conviction related to the revocation.

- c. Upon transfer to a local jail facility, the inmate's EGT eligibility status should not be affected.
- 2. Commission of a Felony or Misdemeanor
 - a. Any inmate who commits a felony or misdemeanor while in confinement or in parole revocation status automatically becomes ineligible for EGT.
 - b. The inmate's eligibility for EGT award consideration resumes at the next annual review cycle following the inmate's conviction of the offense.
- 3. Escape
 - a. Any escapee returned to confinement automatically becomes ineligible for EGT.
 - b. The inmate's eligibility should resume the next annual review cycle following the inmate's conviction of the offense.
- 4. Restorative Housing
 - a. Upon assignment to a Restorative Housing Unit for behavioral management, the inmate will not be eligible for EGT beginning the month this assignment begins. Eligibility for EGT consideration will resume the next annual review cycle date following the inmate's release from restorative housing status.
 - b. Upon assignment to the Restorative Housing Unit on general detention for protective custody, the inmate should be eligible for EGT if:
 - i. The inmate is complying with their *Re-entry Plan, Annual Goals* and has an institutional work assignment.
 - ii. The inmate scores in point range for Class Level I on their *Class Level Evaluation*.
 - c. When an inmate assigned to the Restorative Housing Unit on general detention has also received a disciplinary offense, staff should suspend the inmate's eligibility for EGT until the Hearings Officer has conducted the disciplinary hearing and rendered a decision on innocence or guilt and the Facility Unit Head or designee has approved the decision.
 - i. If the inmate is convicted of a 100 series disciplinary offense, the inmates eligibility for EGT consideration resumes the next annual review cycle date following conviction of the offense.
 - ii. If the inmate is not convicted of a 100 series disciplinary offense, the inmate's EGT eligibility is unaffected by the assignment to general detention.

V. Good Conduct Allowance (GCA)

- A. Inmates who committed their felony offenses on or after July 1, 1981 but prior to January 1, 1995 automatically enter the GCA system for the duration of all such felony sentences.
 - 1. There are four Class Levels in the GCA system; the amount of GCA awarded per 30 day period served is based on the inmate's assigned Class Level as follows
 - a. Class Level I - Inmate earns 30 days GCA for every 30 days served.
 - b. Class Level II - Inmate earns 20 days GCA for every 30 days served.
 - c. Class Level III - Inmate earns 10 days GCA for every 30 days served.
 - d. Class Level IV - Inmate earns no days GCA.
 - 2. The entire GCA earned reduces the time the inmate must serve to satisfy the sentence.
 - 3. One-half of the GCA earned reduces the inmate's discretionary parole eligibility date (DPED).
- B. Those inmates who committed their offense prior to July 1, 1981 may request to enter the GCA system by action of the ICA with approval of the Facility Unit Head; see Operating Procedure 830.1, *Institution Classification Management*. For these inmates:
 - 1. Entrance into the GCA system may take place only after:
 - a. Appropriate staff explains the GCA system to the inmate

- b. The inmate understands that the decision to enter the GCA system cannot later be reversed
 - c. The inmate signs a *Good Conduct Allowance Opt-In 830_F3* indicating their understanding of the GCA system and documenting their informed consent
2. If appropriate staff determine that an inmate is not capable of making an informed decision on entry into the GCA system due to their mental health condition or other limitations, the Facility Unit Head or designee is responsible for referring the inmate to court-appointed or other appropriate legal counsel to facilitate an informed decision.
 3. The effective date of entry into the GCA system is the date the inmate signed the *Good Conduct Allowance Opt-In 830_F3*.
 4. The ICA, with the approval of the Facility Unit Head, will determine the inmate's GCA Class Level at entry into the system in accordance with the evaluation and scoring process provided in this operating procedure.
- C. Inmates who committed misdemeanor offenses on or after July 1, 1981 will automatically enter the GCA system for the duration of those misdemeanor sentences.
- D. Inmates serving one or more life sentences or sentences for certain violent offenses will not exceed the earning rate of the GCA Class Level III on those sentences.

VI. Earned Sentence Credit (ESC)

- A. Inmates who committed their felony offense(s) on or after January 1, 1995, automatically enter the ESC system for the duration of all such felony sentences.
- B. Whether an inmate is awarded good time under ESC-1 or ESC-2 is determined by the offense or underlining offense as outlined in COV §53.1-202.3 A:1-17 and B, *Rate at which sentence credits may be earned; prerequisites*.
1. There are four Class Levels in the ESC-1 system; the amount of ESC-1 awarded per 30 day period served is based on the inmate's assigned Class Level as follows:
 - a. Class Level I - Inmate earns 4.5 days ESC-1 for every 30 days served.
 - b. Class Level II - Inmate earns 3 days ESC-1 for every 30 days served.
 - c. Class Level III - Inmate earns 1.5 days ESC-1 for every 30 days served.
 - d. Class Level IV - Inmate earns 0 days ESC-1.
 2. There are four Class Levels in the ESC-2 system; the amount of ESC-2 awarded per 30 day period served is based on the inmate's assigned Class Level as follows:
 - a. Class Level I - Inmate earns 15 days ESC-2 for every 30 days served.
 - b. Class Level II - Inmate earns 7.5 days ESC-2 for every 30 days served.
 - c. Class Level III - Inmate earns 3.5 days ESC-2 for every 30 days served.
 - d. Class Level IV - Inmate earns 0 days ESC-2.
 3. The entire ESC reduces the time the inmate must serve to satisfy the sentence.
- C. Inmates serving one or more life sentences are not eligible to earn ESC, but staff should award Class Levels L-I, L-II, L-III or L-IV for recognition purposes.
- D. Misdemeanor sentences are calculated under GCA.
- E. No ESC earned can be applied to reduce the DPED or mandatory parole eligibility date (MPRD).

VII. Initial Administrative Assignment of Class Level

- A. Unclassified inmates are awarded good time at the rate of 15 days for each 30 days served on parole eligible sentences under GCT or GCA and at the rate of 2.25 days for each 30 days served on sentences under ESC-1 and ESC-2. For work or program participation, jail staff can award unclassified inmates

an additional 5 days good time (a maximum of 2.25 days applied for ESC-1 and 5 days applied for ESC-2) per 30 days served prior to their CRD.

B. Staff will administratively assign new intakes to Class Level I on their CRD.

1. The inmate will begin to receive good time awards at the Class Level I rate.
2. Inmates received prior to January 1, 2003 were administratively assigned to Class Level II at the time of the inmate's initial sentence computation.

C. Staff will administratively assign Parole Violators to Class Level II on their parole revocation date.

1. Parole Violators will receive good time awards at the Class Level II rate.
2. Parole Violators are not eligible for assignment to Class Level I for 12 months.

D. Initial Class Level I or II Assignment Exceptions:

1. Any inmate convicted of certain violent offenses or sentenced to life imprisonment under GCA will not earn at a rate higher than GCA Class Level III on related sentences.
2. Inmates sentenced to life imprisonment under ESC will not earn good time.

VIII. Class Level Reviews

A. When an inmate is convicted of a disciplinary offense during the reception and classification process or the inmate's jail records document disciplinary problems at a local jail facility while the inmate was awaiting transfer to a DOC institution, staff may consider the severity of the infraction(s) and reduce the inmate's initial administrative Class Level.

1. Staff should conduct a formal due process ICA hearing; see Operating Procedure 830.1, *Institution Classification Management*.
2. The effective date of the Class Level reduction should be the date the inmate physically arrived at the institution for any offense that occurred in the jail and the actual date of the offense for any offense that occurred in the institution.

B. If an inmate who refuses to comply with the DOC intake and initial classification process, staff must conduct a formal ICA hearing and reduce the inmate to a Class Level IV.

1. The inmate will remain Class Level IV until the intake and initial classification process been completed.
2. Upon confirmation of compliance, the ICA should administratively review the inmate for the appropriate Class Level assignment effective on the date the process was completed.

C. Staff should review each inmate's Class Level during the inmate's annual review; see Operating Procedure 830.1, *Institution Classification Management*.

1. Staff will conduct an inmate's annual review within 30 days after the anniversary of the inmate's Initial Classification Date (ICD); i.e. first assigned a Security Level.
2. Inmates who have had one or more annual reviews based on their CRD will continue to have annual reviews based on the CRD.

D. Staff may administratively review an inmate's Class Level any time it appears the inmate is no longer eligible or suitable for their current Class Level.

E. Staff must properly conduct and document each Class Level review so the inmate's time is accurately computed and recorded in conformance with applicable statutes and regulations. (5-ACI-1E-03; 2-CO-1E-05)

F. An inmate may appeal any decision related to their good time awards in accordance with Operating Procedure 866.1, *Offender Grievance Procedure*.

IX. Criteria and Restrictions for Special Status Inmates:

- A. An inmate's good time award eligibility status should not be affected upon the inmate's transfer back to a local jail facility.
- B. Restorative Housing Unit Assignment
1. Inmates assigned to a Restorative Housing Unit are not eligible for advancement to Class Level I.
 2. If an inmate assigned to restorative housing (RHU) is Class Level I, the ICA should conduct a formal review within 90 days to determine if that Class Level is still appropriate.
 3. An inmate on RHU status should be ready to return to general population upon their advancement to Class Level II.
- C. Felony and Misdemeanor Conviction Class Level Restrictions
1. Any inmate who commits a felony or misdemeanor (except escape convictions) while in confinement will automatically be reduced to Class Level IV effective the conviction date.
 - a. The inmate will not become eligible for an advancement in their Class Level for 12 months from the conviction date.
 - b. If the inmate is presently serving a sentence under the GCT system, the new consecutive sentence, or any new concurrent sentence extending the release date established under COV §53.1-159, *Mandatory release on parole* will be served under the GCA or ESC system after their GCT sentence has been satisfied.
 2. Any inmate convicted of a felony, misdemeanor, or a disciplinary offense for escape should automatically be reduced to Class Level IV effective the date of the conviction. The inmate will not be eligible for advancement in Class Level for 12 months from the date of their assignment to Class Level IV.
 3. Any inmate with an offense date of July 1, 1993 or later, and prior to January 1, 1995 for first degree murder, rape, forcible sodomy, animate or inanimate object sexual penetration, or aggravated sexual battery will not exceed the good conduct earning rate of GCA Class Level III on those sentences; see COV §53.1-199, *Eligibility for good conduct allowance; application*.
 - a. Any subsequent reduction in an inmate's Class Level requires formal ICA action and Facility Unit Head approval.
 - b. Staff will administratively assign the inmate to GCA Class Level III at the time of the inmate's initial sentence computation.
 - c. Staff may recognize these inmates for individual adjustment and performance that is representative of a higher GCA Class Level as follows.
 - i. The ICA will review the inmate and upon determining that the inmate's individual adjustment and performance are representative of Class I or Class II, staff may award the inmate with that level for recognition purposes only by designating the Class Level as Class Levels V-I or V-II, respectively.
 - (a) The GCA Class Level designations V-I and V-II will be the same earning level as Class III for sentence computation purposes.
 - (b) Class level V-I will be the same as Class Level I and Class Level V-II will be the same as Class Level II for recognition purposes.
 - ii. Any subsequent in an inmate's recognition Class Level requires ICA action and Facility Unit Head approval.
 4. Any inmate serving life imprisonment or two or more life sentences will not exceed the GCA earning rate of Class Level III; see COV §53.1-199, *Eligibility for good conduct allowance; application*.
 - a. Any subsequent reduction in an inmate's Class Level requires formal ICA action and Facility Unit Head approval.

- b. Staff may recognize these inmates for individual adjustment and performance that is representative of a higher GCA class as follows:
 - i. The ICA may review the inmate and upon determining that an inmate's individual adjustment and performance are representative of Class Level I or Class Level II, staff may award the inmate that level for recognition purposes only by designating the level as Class Levels L-I or L-II, respectively.
 - (a) The GCA Class Level designations L-I and L-II will be the same earning level as Class III for sentence computation purposes.
 - (b) Class Level L-I will be the same as Class Level I and Class Level L-II will be the same as Class Level II for recognition purposes.
 - ii. Any subsequent reduction in an inmate's recognition or earning level requires ICA action and Facility Unit Head approval
5. Any inmate serving life imprisonment cannot earn ESC but staff may recognize the inmate for individual adjustment and performance that is representative of an ESC level.
 - a. Staff may award the inmate that level for recognition purposes only by designating the Class Level as Class Levels L-I, L-II, L-III or L-IV.
 - b. Any subsequent reduction in an inmate's recognition level requires ICA action and Facility Unit Head approval.

X. Sentence Reduction

A. Eligibility

1. Sentence reductions may not be applied to any sentence imposed for a felony offense committed on or after January 1, 1995; see COV §53.1-191, *Credits allowed in cases of injuries to or extraordinary services performed by prisoners; nonforfeiture of credits hereunder*.
2. Staff may recognize an inmate under the ESC system in another manner, but staff cannot recommend a sentence reduction.

B. Institutional Level Recommendations

1. Every staff member can recommend any inmate that they deemed deserving, who the staff member observed performing any act defined as an extraordinary service or injurious based on one or more of the following criteria:
 - a. An inmate must have rendered effective and measurable assistance directly related to preventing an escape or in the apprehension of an escaped inmate.
 - b. Gives a blood donation to another inmate. In unusual circumstances, an inmate may receive credit for donating blood, under regulations prescribed by the Director, to blood banks licensed by or subject to regulations of the State Board of Health.
 - c. An inmate must have voluntarily, or at the instance of a corrections official, rendered other extraordinary services such as saving the life of any person, preventing serious bodily harm or substantial damage to state property.
 - d. An inmate must have suffered serious or debilitating bodily injury that was not the result of misconduct by the inmate and which was incurred by saving life or state property or in the performance of assigned job duties while in the corrections system.
2. When staff observe an inmate performing an extraordinary service or injurious act, the staff member observing the act should submit a written *Internal Incident Report* in VACORIS; see Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*.
3. The *Internal Incident Report* must include:
 - a. The inmate's name and number
 - b. The location, by facility and area where the incident occurred
 - c. The date and time of day

- d. A factual summary of what was observed
 - e. The name of the Reporting Officer and any others who may have witnessed the incident
4. Staff should submit the initial *Internal Incident Report* in VACORIS within one working day for review by their immediate supervisor who, if deemed appropriate, should submit an *Internal Incident Report* providing additional pertinent details.
 5. Staff should normally submit the *Internal Incident Reports* for review by the Facility Unit Head within three working days of the incident.
 6. Facility Unit Heads must review each sentence reduction recommendation submitted by staff for completeness and will approve or disapprove the *Internal Incident Reports* in VACORIS.
 - a. The Facility Unit Head will investigate the *Internal Incident Reports*, to verify all facts reported and will prepare a summary report to include:
 - i. Signed statements from witnesses
 - ii. Copies of all reports and supporting documentation received to include the following when appropriate:
 - (a) *Internal Incident Report*
 - (b) *Incident Report*
 - (c) Special Investigations Unit report
 - (d) Corrective action follow-up
 - (e) Medical report indicating extent of injury
 - (f) Other supporting documentation
 - iii. A Facility Unit Head statement regarding the impact of the inmate's action upon the operation of the institution as a whole.
 - b. A Special Investigations Unit investigation will be conducted when one or more of the following occur:
 - i. An extraordinary service or injurious act was not directly observed by a staff member
 - ii. An extraordinary service or injurious act results in criminal charges being brought against an individual
 - iii. Any act which indicates a serious breach of institution security
 - iv. Disclosure of a discovered weapon
 7. The Facility Unit Head may refer the *Internal Incident Reports* back to staff for additional information, disapproval, or to recommend another avenue of commendation.
 8. If the Facility Unit Head determines that the inmate's action does not warrant a recommendation for sentence reduction, the Facility Unit Head will normally notify the inmate in writing of their decision within seven working days of receipt of the initial *Internal Incident Reports*.
 9. If the Facility Unit Head determines the inmate's action warrants a recommendation for sentence reduction, the Facility Unit Head will forward the *Internal Incident Report* and the summary report package to the office of the Regional Administrator for further action within three working days after completing the summary report.
 10. Staff should process recommendations, supporting documentation, incident reports and summary reports in a manner that ensures appropriate confidentiality. There is no requirement for an institutional committee or reviewer other than the Facility Unit Head to review sentence reduction recommendations.
 11. Staff at the institutional level will not recommend the specific amount of credit to be given to an inmate under this operating procedure. The Sentence Reduction Committee will make the initial recommendation on the specific amount of credit to be given.
- C. Chief of Corrections Operations Level
1. The Regional Administrator or Regional Operations Chief will review all sentence reductions recommendations and associated documents regarding inmate extraordinary service or injuries acts

- received from institutions for content and approval.
- a. If approved, the Regional Operations Chief will forward the recommendation with a cover letter indicating their approval to the Chief of Corrections Operations.
 - b. If disapproved, the Regional Operations Chief will return the recommendation back to the sending institution for additional information, disapproval, rewrite or to recommend another avenue of commendation as an alternative to sentence reduction.
2. The Chief of Corrections Operations or designee may accept or reject the recommendation.
 - a. If accepted, the Chief of Corrections Operations will forward the recommendation and supporting documents to the Sentence Reduction Review committee.
 - b. If disapproved, the Chief of Corrections Operations will return the recommendation and supporting documents to the Regional Operations Chief.
 3. Sentence Reduction Committee
 - a. The Chief of Corrections Operations will appoint a Sentence Reduction Review Committee composed of representatives from institutions, Regional Offices, and the Offender Management Services Unit.
 - b. The Committee will of a minimum of three members who will be rotated periodically. The senior member of the Committee will serve as the Chairperson.
 - c. Additionally, the Director of Offender Management Services may designate a Sentence Reduction Review Coordinator to handle administrative work for the Committee.
 - d. The Committee may conduct an investigation into the supporting documentation, incident reports and summary reports submitted by Facility Unit Heads.
 - i. Staff will include all pertinent identification and classification information in the documents presented to the Committee for review.
 - ii. The Sentence Reduction Committee must provide the identification and classification information documents with their recommendation to the Chief of Corrections Operations.
 - e. The Committee must consider each case independently and must submit their findings with appropriate recommendations for sentence credit to the Chief of Corrections Operations.
 4. Upon receipt of the Sentence Reduction Committee's reports, the Chief of Corrections Operations will review the recommendation for approval or disapproval. If approved, the Chief of Corrections Operations or designee will forward the report to the Director for action.

D. Executive Level

1. In accordance with COV §53.1-191, *Credits allowed in cases of injuries to or extraordinary services performed by prisoners; nonforfeiture of credits hereunder* a sentence reduction may considered and granted to inmates in cases of extraordinary services performed or injuries to the inmate.
 2. A review of the facts will be conducted in each case, and where appropriate, recommendations made to the Governor for final approval.
 3. Upon the Governor's approval, the Chief of Corrections Operations will inform the Regional Operations Chief, Regional Administrator, Facility Unit Head, and inmate in writing of the sentence credit authorized in this case.
 4. Staff should enter each sentence credit s into the inmate's VACORIS record within ten working days of receipt from the Governor.
- E. Sentence credits awarded under COV §53.1-191, *Credits allowed in cases of injuries to or extraordinary services performed by prisoners; nonforfeiture of credits hereunder* may not be forfeited for violation of written institutional rules and regulations.

F. Inmate Appeals

An inmate may appeal any recommendations or decisions by submitting a *Regular Grievance* 866_F1 at

their assigned institution; see Operating Procedure 866.1, *Offender Grievance Procedure*.

REFERENCES

COV §19.2-310.2, *Blood, saliva, or tissue sample required for DNA analysis upon conviction of certain crimes; fee*

COV §53.1-153, *Eligibility of persons sentenced to jails for more than twelve months*

COV §53.1-159, *Mandatory release on parole*

COV §53.1-191, *Credits allowed in cases of injuries to or extraordinary services performed by prisoners; nonforfeiture of credits hereunder*

COV §53.1-196, *Good conduct credits of persons convicted after October 1, 1942; effect of credit upon eligibility for parole*

COV §53.1-197, *Credit allowed for career and technical educational or other educational training*

COV §53.1-198, *Certain persons to choose good conduct system*

COV §53.1-199, *Eligibility for good conduct allowance; application*

COV §53.1-202.1, *Limitation upon applicability of this article*

COV §53.1-202.3; A:1-17 and B, *Rate at which sentence credits may be earned; prerequisites*

Operating Procedure 038.1, *Reporting Serious or Unusual Incidents*

Operating Procedure 601.4, *Educational Testing*

Operating Procedure 730.3, *Mental Health Services: Levels of Service*

Operating Procedure 735.1, *Sex Offender and Crimes against Minors Registration*

Operating Procedure 735.2, *Sex Offender Treatment Services (Institutions)*

Operating Procedure 740.1, *Infectious Disease Control*

Operating Procedure 820.2, *Inmate Re-entry Planning*

Operating Procedure 830.1, *Institution Classification Management*

Operating Procedure 841.1, *Inmate Programs*

Operating Procedure 861.1, *Offender Discipline, Institutions*

Operating Procedure 866.1, *Offender Grievance Procedure*

Operating Procedure 920.1, *Community Case Opening, Supervision, and Transfer*

ATTACHMENTS

Attachment 1, *Class Level Evaluation - Sample*

FORM CITATIONS

Good Conduct Allowance Opt-In 830_F3

Regular Grievance 866_F1

Virginia Department of Corrections

OSC-105

Legal Update

DOC #: 1338026	Offender: Anderson, Antinne	Date: 06/22/2010 12:57PM
Status: Active	Location: Detainer Unit	Page: 1 of 2

Current Class Level: 1	CRD: 06/01/2010
Total Sentence: 13 Years 0 Months 0 Days	Parole Rev. Date:
	Parole Violations: 0

Projected Dates

Discretionary Parole Eligibility: Ineligible

The projected dates are based on the assumption that the offender will continue to earn good time at the present earning level and will not have earned good time taken from the offender as a result of misbehavior. Loss of earned good time, a change in good time earning level, or any other event that impacts the service of the total sentence may cause the projected dates to change.

Events listed below may impact the projected dates of eligibility and/or release since the sentence start date of: Undetermined

<u>Date</u>	<u>Description</u>
06/28/2005	<p>Sentence: Albemarle Circuit - Docket: 17,428 Offense: Abduction: By Prisoner{KTD-1016-F3}{18.2-48.1} Offense Date: 08/14/2004 Good Time System: Earned Sentence Credit Consecutive; Straight Imposed: 5 Years 0 Months 0 Days Memo: on 12-12-06, Court of Appeals of Virginia affirmed convictions of Albemarle County Circuit Court; Supreme Court of Virginia refused appeal 6-13-07 and denied appeal 9-24-07</p>
06/28/2005	<p>Sentence: Albemarle Circuit - Docket: 17,429 Offense: Assault: On Law Enf/Judge/DOC/Fire/Emerg Person{ASL-1342-F6}{18.2-57(C)} Offense Date: 08/14/2004 Good Time System: Earned Sentence Credit Consecutive; Straight Imposed: 2 Years 0 Months 0 Days Memo: on 12-12-06, Court of Appeals of Virginia affirmed convictions of Albemarle County Circuit Court; Supreme Court of Virginia refuses appeal 6-13-07 and denied appeal 9-24-07</p>



Virginia Department of Corrections

OSC-105

Legal Update

DOC #: 1338026	Offender: Anderson, Antinne	Date: 06/22/2010 12:57PM
Status: Active	Location: Detainer Unit	Page: 2 of 2

<u>Date</u>	<u>Description</u>
06/28/2005	<p>Sentence: Albemarle Circuit - Docket: 17,513 Offense: Assault: On Law Enf/Judge/DOC/Fire/Emerg Person{ASL-1342-F6}{18.2-57(C)} Offense Date: 08/14/2004 Good Time System: Earned Sentence Credit Consecutive; Straight Imposed: 5 Years 0 Months 0 Days Memo: on 12/12/06, Court of Appeals of Virginia affirms convictions of Albemarle County Circuit Court ; Supreme Court of Virginia refused appeal 6-13-07 and denied appeal 9/24/07</p>
06/01/2010	<p>Release: To Serve Other Sentence(s); Allenwood In White Deer, PA Fed</p>
06/01/2010	<p>Class Level: 1</p>
06/28/2005	<p>Sentence: Albemarle Circuit - Docket: 17,427 Offense: (Attempted)Jail: Charged Off Esc By Force/Viol (Not Fire){ESC-4911-A6}{18.2-478} Offense Date: 08/14/2004 Good Time System: Earned Sentence Credit Consecutive; Straight Imposed: 1 Years 0 Months 0 Days Memo: on 12-12-06, Court of Appeals of Virginia affirmed convictions in Albemarle County Circuit Court ; Supreme Court of Virginia refused appeal 6-13-07 and denied appeal 9-24-07</p>
06/18/2010	<p>Memo: Subject is serving a federal sentence. Subject's Virginia sentences are to be served consecutively and will begin to be served upon their return to Virginia.</p>

Virginia Department of Corrections

OSC-105

Legal Update

DOC #: 1338026	Offender: Anderson, Antinne	Date: 01/29/2013 11:02AM
Status: Active	Location: Powhatan Reception And Classification Ctr	Page: 1 of 1
Current Class Level: 1		CRD: 06/01/2010
Total Sentence:	13 Years	0 Months
		0 Days
		Parole Rev. Date:
		Parole Violations: 0

Projected Dates

Discretionary Parole Eligibility: Ineligible
Mandatory Parole Release: Ineligible
Good Time Release: 04/09/2024
Adjusted Discharge: 30 days applied to GTRD

The projected dates are based on the assumption that the offender will continue to earn good time at the present earning level and will not have earned good time taken from the offender as a result of misbehavior. Loss of earned good time, a change in good time earning level, or any other event that impacts the service of the total sentence may cause the projected dates to change.

Events listed below may impact the projected dates of eligibility and/or release since the last Legal Update dated 06/22/2010

<u>Date</u>	<u>Description</u>
06/01/2010	Release: To Serve Other Sentence(s); Allenwood In White Deer, PA Fed
01/18/2013	Return Date

Inmate Name: ANTINNE ANDERSON

Inmate # 1338026

Release Date: 4/9/24 +EESC

Medical Discharge Appointment Reminders:

- You were seen today for your Medical Discharge Summary.
- You will receive a copy of the Medical Discharge Summary the day of Release, please keep it and use it when seeking medical attention in the community.
- Your counselor will also receive a copy.
- You will see information on the bottom of your Medical Discharge Summary for a free or sliding scale clinic in the area that you are releasing too; however, you can choose whomever you would like for continuity of care.
- If you are on medications, you will be given a 30-day supply. However, if we are still in a pandemic, you will be given a 90-day supply.
- You are entitled to a free copy of your medical chart IF you request it **at least 60 days prior** to your release date. If your request is received after that date, you will be charged 10 cents for each paper copied. If you want to submit now, please address to D.Pisciotta -Discharge Planner (Medical) with your release date on the offender request form, "I would like a copy of my records when I go home." If your date changes, you do not need to notify Medical as we run a report each week. Will receive records for the last 3 years unless you specifically ask for the entire record.
- Your Medicaid number has been provided to you on your discharge summary and listed below, as long as you are being released to Virginia and were approved. Community Medicaid should take affect 1-2 business days after release, however if you do not receive a card or would like to check the status, you can contact Medicaid at #1-855-242-8282. Medicaid is only valid for inmates who will reside in Virginia post release. If you are residing outside of Virginia, you will need to follow up with State Social Services to see if you meet criteria for Medicaid in the state you will be residing in.

Medicaid #: NOT IN CORIS

Additional Resources that may be beneficial post release for Continuity of Care:

VA Association of Free & Charitable Clinics
(804) 340-3434
<https://www.vafreeclinics.org/>

Virginia Health Care Foundation
(804) 828-5804
<https://www.vhcf.org>



7/5/2022

Anderson, Antinne
#1338026
1B-47T

Offender Records has received the following items:

- ❖ Original – Virginia ID Card

These items will be filed into your ICR until you are released. If you have questions, please send your Request Form to the Records Manager.

Thanks
K. Soutter,
Institutional Operations Manager



2/14/2022

Anderson, A.
#1338026
1B-47T

Inmate Records has received the following item:

❖ **Social Security Card - Original**

These items will be filed into your ICR until you are released. If you have questions, please send your Request Form to the Records Manager.

Thanks,

C. Washington II
Records Manager