



Also, regarding the 1988 Pacific County cause, he alleges: that the Department “sanctioned petitioner with the loss of good time credits totaling 2,832 days” ... but, “at the time of the infractions from 1989-1991 petitioner could have only earned approximately, a maximum of 180-days.”

DOC Policy 350.100, Earned Release Time, sets the procedures for calculations of earned release time, which is a combination of good conduct time credits and earned time. Exhibit 1, Attachment B, DOC Policy 350.100, Earned Release Time. “Good conduct time” is that portion of an inmate's potential reduction to minimum term which is authorized by statute and which may be lost by receiving serious infractions. WAC 137-130-020. “Earned time” is that portion of time an offender is eligible to earn for program participation approved by the Department classification process and consistent with the offender’s case management plan. WAC 137-130-020.

Except for serious violent offenses and Class A felony sex offenses, offenders may earn earned release time not to exceed 33.33% of their sentence. Exhibit 1, Attachment B at page 3, ¶I.C. Earned release time is calculated at two-thirds good conduct time and one-third earned time. *Id.* at ¶II.A. “Earned release time can be taken on a consecutive sentence not yet being served.” *Id.* at ¶II.B. Offenders may be sanctioned

to a loss of earned time or future good conduct time for violation of disciplinary rules. *Id.* at page 4, ¶III.B.

On his 1988 Pacific County sentence, Stuhr had 20 days available good conduct time and 22.04 earned time days available on February 11, 2014. Petition, Exhibit 1 at page 6 of 12. On the same date, he had 115 days available good conduct time credits and 57.43 earned time days available on the 1991 Walla Walla sentence. Petition, Exhibit 1 at page 12 of 12. By January 27, 2015, Stuhr had lost 70 days of good conduct time credits and had 45 days still available. Exhibit 1, Attachment C, OMNI Sentence Screen.

### III. STANDARD OF REVIEW

A petitioner who challenges a decision from which he has had "no previous or alternative avenue for obtaining state judicial review" must show that he is under restraint and the restraint is unlawful. *In re Pers. Restraint of Cashaw*, 123 Wn.2d 138, 148-49, 866 P.2d 8 (1994); RAP 16.4(a), (c). Under RAP 16.4, a petitioner may obtain relief by showing either a constitutional violation or a violation of state law. RAP 16.4(c)(2), (6); *see Cashaw*, at 148. Further, in challenges to a prison's decisions, it is a petitioner's burden to show that the Department's actions were so arbitrary and capricious as to deny the petitioner a fundamentally fair proceeding so as

to work to the offender's prejudice. *In re Grantham*, 168 Wn.2d 204, 292, ¶ 13, 227 P.3d 285 (2010) (declining to reverse a prison discipline decision).

A petitioner must set forth a statement of “the facts upon which the claim of unlawful restraint of petitioner is based and the evidence available to support the factual allegations, . . . [and] why the petitioner’s restraint is unlawful for one or more of the reasons specified in rule 16.4(c).” RAP 16.7(a)(2). However, bare assertions and conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. *In re Pers. Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086, *cert. denied*, 113 S. Ct. 421 (1992).

#### IV. ISSUE PRESENTED

Whether the Department followed its policies in calculating Stuhr’s earned release time?

#### V. ARGUMENT

##### **Stuhr Has No Liberty Interest In Early Release Credits, Only The Right To Have The Department Follow Its Policies, Which It Did**

Stuhr claims that the Department violated his due process rights “when it revoked ‘good time credits’ which petitioner had not actually earned.” Petition at page 9. He is confused about terminology as well as the law and policy on earned release time calculations. Furthermore,

Stuhr only has the right to have the Department follow its own policies, which it did.

“Good time” is a term used by city and county jails; and the statute he cites for authority regards jails and not the state Department of Corrections. Petition at 9, citing RCW 9.92.151. “Good conduct time” credits were awarded Stuhr at the commencement of his sentence; he does not “earn” them, but he can lose them by being sanctioned for violating disciplinary rules. WAC 137-30-020; Exhibit 1, Attachment B, DOC Policy 350.100, Earned Release Time. On his sentences, he also was allotted a certain amount of “earned time,” days that he could earn through positive behavior such as participating in programs or work. WAC 137-30-020; *see* Exhibit 1, Attachment B at page 5-6.

In *In re Pullman*, 167 Wn.2d 205, 218 P.3d 913 (2009), the Washington Supreme Court held that inmates have no liberty interest protected by due process in earning credits at the 50 percent rate. *Pullman*, 167 Wn.2d at 214, ¶ 12. It further held that the Department’s recalculation of an offender’s potential early release date on the basis of a risk classification that is always subject to change cannot create a liberty interest protection by due process where the legislature has made clear none exists. *Id.*, 167 Wn.2d at 216-17. An inmate can justifiably expect

only that the Department will follow its own policy regarding risk classification reassessment. *Id.*, 167 Wn.2d at 218, ¶ 22.

Regarding the 1988 cause, Stuhr argues that the Department could not have taken 2,832 days of good conduct time because he only had 180 days to take between 1989-1991. He provides no factual basis or legal authority for this assertion. Bare assertions and conclusory allegations of constitutional violations are insufficient to support a personal restraint petition. *In re Pers. Restraint of Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086, *cert. denied*, 113 S. Ct. 421 (1992). The Department properly allotted a total of potential days of good conduct time to the 1988 cause at the commencement of Stuhr's incarceration at the rate set by statute and policy. Stuhr has failed his burden to show unlawful restraint by the Department violating any constitutional right.

Department policy on Earned Release Time is based on the broad discretion that the early release statute provides the Department to create such policies. RCW 9.94A.729(1)(a) provides in part,

The term of the sentence of an offender committed to a correctional facility operated by the Department may be reduced by earned release time in accordance with *procedures that shall be developed and adopted by the correctional agency* having jurisdiction in which the offender is confined. The earned release time shall be for

good behavior and good performance, *as determined by the correctional agency* having jurisdiction.

RCW 9.94A.729(1)(a) (emphasis added). The phrases “in accordance with procedures that shall be developed and adopted by the correctional agency” and “as determined by the correctional agency” mean that the Department is responsible for determining the details that carry out the early release statute. It is up to the Department to determine how inmates earn early release credits. Accordingly, the Department has created a process for awarding good conduct time and reducing it by sanctions for violation of disciplinary rules. That is not a process required by statute. It is solely a creature of policy.

The statute does not create a liberty interest in maintaining the full balance of good conduct time credits because the statute does not direct a specific result in regard to the calculation of earned release time. *See Pullman*, 167 Wn.2d at 214, ¶ 12. Because there is no liberty interest in the method of earned release time calculations, Stuhr has only the right to have the Department follow its policies, which it has done.

Regarding the 1991 cause, Stuhr alleges that the Department “revoked all the good time credits [115 days]” on the 1991 cause “when petitioner has not even started serving that sentence.” Petition at page 9. First of all, Stuhr’s Exhibit 1 contradicts his factual assertion – the

Department report shows that he had 115 days of good conduct time available on February 11, 2014. *See* Petition, Exhibit 1 at page 12 of 12. Hence, on this basis alone, he has failed to meet his burden to show unlawful restraint by arbitrary and capricious action by the Department. Furthermore, he does not, and cannot, provide any legal authority for his theory, which is contrary to Department policy, authorized broadly by the legislature. “Earned release time can be taken on a consecutive sentence not yet being served.” Exhibit 1, Attachment B, DOC Policy 350.100, Earned Release Time at page 3, ¶II.B. Offenders may be sanctioned to a loss of earned time or future good conduct time for violation of disciplinary rules. *Id.* at page 4, ¶III.B.

The Department followed its policies regarding calculation, retention, and removal of earned release time. This Court should deny Stuhr’s petition.

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**VI. CONCLUSION**

Based on the foregoing, the Court should deny Stuhr's's petition under RAP 16.11(b) and dismiss this case with prejudice.

RESPECTFULLY SUBMITTED this 2nd day of March, 2015.

ROBERT W. FERGUSON  
Attorney General

s/ Jean E. Meyn  
JEAN E. MEYN, WSBA #15990  
Assistant Attorney General  
Corrections Division OID# 91025  
PO Box 40116  
Olympia WA 98504-0116  
(360) 586-1445

**CERTIFICATE OF SERVICE**

I certify that on the date below I caused to be electronically filed the foregoing document with the Clerk of the Court using the electronic filing system and I hereby certify that I have mailed by United States Postal Service the document to the following non electronic filing participant:

CLARK STUHR DOC #947192  
STAFFORD CREEK CORRECTIONS CENTER  
191 CONSTANTINE WAY  
ABERDEEN WA 98520

I certify under penalty of perjury that the foregoing is true and correct.

EXECUTED this 2nd day of March, 2015, at Olympia, WA.

s/ Cherrie Melby  
CHERRIE MELBY  
Legal Assistant

EXHIBIT 1

**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

CLARK L. STUHR,

Petitioner.

DECLARATION OF  
CHERRIE MELBY

I, CHERRIE MELBY, make the following declaration:

1. I am a legal assistant with the Corrections division of the Attorney General's Office in Olympia, Washington. I have knowledge of the facts stated herein and am competent to testify.

2. I am familiar with the Offender Management Network Information system (OMNI) used by the Department of Corrections (DOC). I am authorized by the DOC to retrieve information from OMNI. Among other things, information regarding an offender's location, custody, birth date, sentence, infractions and grievances are entered and tracked on OMNI. Attached to this declaration are true and correct copies of documents which I obtained from OMNI.

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3. I am also familiar with the public website for the Department of Corrections and retrieved and printed a true and accurate copy of DOC Policy 350.100, Earned Release Time, 1/12/15, which is attached.

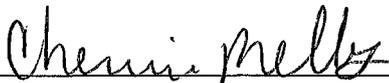
Attachment A: OMNI Legal Face Sheet *excerpts*

Attachment B: DOC Policy 350.100, Earned Release Time, 1/12/15

Attachment C: OMNI Judgment & Sentence View

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

EXECUTED this 2nd day of March, 2015, at Olympia, Washington.

  
\_\_\_\_\_  
CHERRIE MELBY

ATTACHMENT A

**Inmate: STUHR, Clark L (947192)**

Gender: Male	DOB: .	Age: 48	Category: Regular Inmate	Body Status: Active Inmate
RLC: MOD	Wrap-Around: No	Comm. Concern: No	Custody Level: Minimum 3 - Long Term Minimum	Location: SCCC -- H1 / H1121U
ERD: 06/07/2025				CC/CCO: Brule, Christine R

**Offender Information (Inmate)**

Prison Max Expiration Date:	09/02/2027	Last Static Risk Assessment Date:	06/20/2013	DOSA:	
Planned Release Date:		Last Offender Need Assessment Date:	10/16/2014	ISRB?	No
Earned Release Date:	06/07/2025	Offender Release Plan:	Unknown	CCB?	No
ESR Sex Offender Level:		Victim Witness Eligible?	Yes	SOSSA?	No
ESR Sex Offender Level Date:		County Of First Felony Conviction:	Pacific	WEP?	No
Registration Required?					
ORCS?					
IDCNF?	No				
SMIO?	No				

**Sentence Structure (Inmate)**

**Cause: AA - 881001004 - Pacific**

State:	Convicted Name:	Date Of Sentence:	Consecutive Cause:
Washington	Clark Stuhr	01/06/1989	
Time Start Date:	Confinement Length:	Earned Release Date:	
	0Y, 0M, 0D		

**Count: 1 - RCW 9A.52.030 - Burglary 2**

Anticipatory:	Modifier:	Enhancement:	Mandatory:	Confinement Length:	ERT %:	ERD:	MaxEx:	Stat Max:	Violent Offense?
				0Y, 0M, 0D	%				No
Supervision Type:	Supervision Length:	Consecutive Count:				Hold To Stat Max Expiration:			
SUP	0Y, 24M, 0D								

**Cause: AB - 881001268 - Pacific**

State:	Convicted Name:	Date Of Sentence:	Consecutive Cause:
Washington	Clark Stuhr	03/10/1989	
Time Start Date:	Confinement Length:	Earned Release Date:	
03/10/1989	0Y, 425M, 0D	04/18/2024	

**Count: 1 - RCW 9A.32.030(1)(a) - Murder 1**

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?  
0Y, 425M, 0D 33.33% 04/18/2024 05/23/2027 Life Yes

Supervision Type: Supervision Length: Consecutive Count: Hold To Stat Max Expiration:  
CP 0Y, 12M, 0D

**Cause: AC - 911001143 - Walla Walla**

State: Convicted Name: Date Of Sentence: Consecutive Cause:  
Washington Clark Stuhr 09/09/1991 AB - 881001268 - Pacific  
Time Start Date: Confinement Length: Earned Release Date:  
04/18/2024 0Y, 17M, 0D 06/07/2025

**Count: 1 - RCW 9A.36.021 - Assault 2**

Anticipatory: Modifier: Enhancement: Mandatory: Confinement Length: ERT %: ERD: MaxEx: Stat Max: Violent Offense?  
0Y, 17M, 0D 33.33% 06/07/2025 09/02/2027 04/17/2036 Yes

Supervision Type: Supervision Length: Consecutive Count: Hold To Stat Max Expiration:  
CP 0Y, 12M, 0D

ATTACHMENT B



STATE OF WASHINGTON  
DEPARTMENT OF CORRECTIONS

APPLICABILITY  
**PRISON/WORK RELEASE/FIELD  
OFFENDER/SPANISH MANUALS**

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1/12/15

PAGE NUMBER  
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NUMBER  
**DOC 350.100**

**POLICY**

TITLE

**EARNED RELEASE TIME**

**REVIEW/REVISION HISTORY:**

Effective: 1/4/82 DOC 280.100	Revised: 8/28/06
Revised: 5/1/83 DOC 350.100	Revised: 3/10/08 AB 08-004
Revised: 3/1/86	Revised: 9/24/08
Revised: 8/15/90	Revised: 5/5/09 AB 09-015
Revised: 7/1/96	Revised: 4/29/11
Revised: 10/30/96	Revised: 10/24/11
Revised: 12/1/98	Revised: 7/9/12
Revised: 12/20/00	Revised: 3/9/14
Revised: 3/3/05	Revised: 1/12/15

**SUMMARY OF REVISION/REVIEW:**

Added II.A. on calculation of ERT  
 IV.B.4. - Added that offenders will not be eligible for earned time if serving 20 days or more in one month in segregation/IMS on unfounded/unsubstantiated protection concerns  
 IV.C.3. - Removed requirement to provide Record of Earned Release Time before classification reviews where earned time will be denied  
 Added IV.C.3.a. on providing Earned Time Not Earned report to offenders in Administrative Segregation/maximum custody  
 Added V.C. on jail credit for presentence time served in another jurisdiction on a Washington State charge  
 Section X. - Adjusted process for restoring good conduct time, and added that time will not be restored for 704 infractions committed within the last 5 years

**APPROVED:**

Signature on file

\_\_\_\_\_  
**BERNARD WARNER**, Secretary  
 Department of Corrections

12/22/14  
 \_\_\_\_\_  
 Date Signed

ATTACHMENT B



STATE OF WASHINGTON  
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**REFERENCES:**

DOC 100.100 is hereby incorporated into this policy; RCW 9.92.151; RCW 9.94A; RCW 9.95; RCW 69.50; RCW 69.52; RCW 72.09.130; WAC 137-25-030; WAC 137-30; DOC 320.150 Disciplinary Sanctions; DOC 320.400 Risk and Needs Assessment Process; DOC 460.135 Disciplinary Procedures for Work Release

**POLICY:**

- I. The Department will award Earned Release Time (ERT), which includes good conduct time and earned time, to offenders committed to Department facilities within the guidelines established by law.

**DIRECTIVE:**

- I. Eligibility
  - A. Offenders convicted of a serious violent offense or a Class A felony sex offense may earn ERT as follows:
    1. Offense committed between July 1, 1990, and June 30, 2003 - not to exceed 15 percent of their sentence
    2. Offense committed on or after July 1, 2003 - not to exceed 10 percent of their sentence
  - B. Offenders convicted before July 2, 2010, who are classified as Moderate or Low Risk may earn ERT not to exceed 50 percent of their sentence regardless of the date of offense or sentencing, provided they are not convicted of or have a prior:
    1. Sex offense,
    2. Violent offense,
    3. Crime against a person, including Identity Theft 1 and 2 committed on or after June 7, 2006,
    4. Felony domestic violence,
    5. Residential burglary,
    6. Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by manufacturing or delivering methamphetamine, or by possessing methamphetamine with intent to manufacture or deliver,



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7. Violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (i.e., delivery of a controlled substance to a minor),
  8. Gross misdemeanor stalking,
  9. Domestic violence court order violation, including gross misdemeanors, or
  10. Any new felony committed under community supervision.
- C. Offenders may earn ERT not to exceed  $33\frac{1}{3}$  percent of their sentence in all other cases not identified in this section.
- D. Offenders found guilty of violation 557 or 810 will lose their 50 percent eligibility and all available ERT and privileges as outlined by DOC 320.150 Disciplinary Sanctions and DOC 460.135 Disciplinary Procedures for Work Release. Offenders found guilty of an 813 violation related to employment or programming while in Work Release will lose all available ERT and privileges.
1. The Disciplinary Hearing Officer will notify the Correctional Records Supervisor (CRS) of all guilty findings for 557 and 810 violations.
  2. The Community Hearing Officer will notify the Records Office at the sending facility if the violation(s) is incurred in Work Release or a facility transfers the offender before the hearing is completed. The Records Office at the sending facility will revise DOC 02-329 50% Earned Release Time Eligibility Change Notice.

## **II. Requirements**

- A. ERT will be calculated at two-thirds good conduct time and one-third earned time.
- B. An offender who has transferred from one sentence within a cause number to the next sentence, or from one cause number to the next cause number, can lose ERT associated with the previous sentence or cause. ERT can be taken on a consecutive sentence not yet being served.

## **III. Good Conduct Time**

- A. All offenders will be eligible for good conduct time, except:
  1. Offenders sentenced to death or Life Without Parole,
  2. Offenders serving the mandatory or flat time enhancement portion of their sentences,



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3. Community Custody Violators sanctioned by the Department on or after May 2, 2012,
  4. Offenders sanctioned to Community Custody Prison (CCP) Return or Community Custody Inmate (CCI) Termination, and
  5. Indeterminate offenders whose minimum term has expired and who have not been paroled or transferred to a consecutive sentence. Any good conduct time earned or denied will be addressed to the correct sentence after the parole/transfer date is determined.
- B. Offenders may lose good conduct time, as follows:
1. Offenders found guilty of a serious violation may be sanctioned to a loss of earned or future good conduct time per DOC 320.150 Disciplinary Sanctions and DOC 460.135 Disciplinary Procedures for Work Release.
    - a. The amount of time lost will be determined by the Disciplinary or Community Hearing Officer or Indeterminate Sentence Review Board (ISRB). The following offenders may lose good conduct time if found guilty of a serious violation:
      - 1) Indeterminate offenders whose time has not been adopted by the ISRB.
      - 2) Determinate offenders.
  2. Offenders serving the mandatory or flat time enhancement portion of their sentence are subject to a loss of future good conduct time available during the non-mandatory portion of their sentence. Lost good conduct time will be applied to the remainder of the sentence after the mandatory or flat time enhancement period is served.
  3. Offenders may lose good conduct time for committing a violation or being infracted while out to court.
- C. When all of an indeterminate offender's available good conduct time has been denied due to violations, the Superintendent/Community Corrections Supervisor (CCS) may request, via the Headquarters Community Screening Committee, that the ISRB schedule a disciplinary hearing to address the offender's time structure.
- D. When an offender paroled from an indeterminate sentence to a consecutive determinate sentence commits a violation, the Counselor/Community Corrections Officer (CCO) will notify the ISRB via email or hard copy, describing the behavior and recommended action. The report will note this behavior as a violation.



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### IV. Earned Time

A. Offenders who participate in approved programs, including work and school, are eligible for earned time for each calendar month as follows:

- |    |  |            |
|----|--|------------|
| 1. | Earned time eligible under 10 percent rule                             | 1.11 days  |
| 2. | Earned time eligible under 15 percent rule                             | 1.76 days  |
| 3. | Earned time eligible under 33 <sup>1</sup> / <sub>3</sub> percent rule | 5.00 days  |
| 4. | Earned time eligible under 50 percent rule                             | 10.00 days |

B. An offender will not be eligible for earned time if:

1. Serving an indeterminate sentence, and the ISRB has:

- Extended the cause to the maximum term, or
- Previously denied future earned time.

2. S/he is not involved in mandatory programming as determined through the classification process and consistent with his/her Custody Facility Plan. This includes refusing a mandatory programming or being terminated from a program assignment for documented negative or substandard performance. An offender who is on a waiting list and then refuses a program assignment will not earn earned time for the month in which s/he refused.

a. Offenders previously determined qualified to receive 50 percent earned time will participate in programming or activities targeted in the Custody Facility Plan. Offenders will not be penalized if programs and activities are not available.

3. S/he refuses any transfer, excluding Work Release. Earned time will not be earned for any calendar month the offender refuses assignment.

4. S/he serves 20 days or more in one calendar month in Administrative Segregation, disciplinary segregation, or Intensive Management Status (IMS) for negative behavior or unfounded/unsubstantiated protection concerns.

a. The offender is eligible to begin earning earned time when authorized to transfer or return to general population.

b. Offenders who are approved for transfer to general population and are scheduled for release to the community within 60 days will earn earned time unless found guilty of a(n):



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- 1) 557 or 810 violation, or
  - 2) 813 violation related to employment or programming while in Work Release.
- c. An offender on IMS, or in Administrative Segregation or disciplinary segregation for negative behavior, will not earn earned time while on out to court status. Any earned time not earned will be addressed at a classification review upon return.
5. S/he is serving the mandatory or flat time enhancement portion of his/her sentence, except for indeterminate offenders sentenced for crimes committed before July 1, 1984. The offender's electronic file will be updated to record the behavior.
- C. The offender's electronic file is the official record for his/her earned time.
1. The first entry on the Earned Time screen will be the time start date. Dates for all subsequent entries will reflect the first of the month following any month being updated.
  2. The Counselor/CCO will review and update earned time on the Earned Time screen in the offender's electronic file:
    - a. At annual review,
    - b. At transfer from Segregation to another facility, and
    - c. For any month earned time is not earned.
  3. The offender will receive a copy of the Earned Time Not Earned report listing all earned time denials. The Counselor/CCO will have the offender sign a copy of the report. A copy of the signed report will be maintained in the offender's central file and electronic imaging file.
    - a. Offenders in Administrative Segregation/maximum custody will receive the report every 30 days if earned time is denied during that time.
  4. The CRS will update the earned time on the Earned Time screen in the offender's electronic file at:
    - a. The request of the ISRB,
    - b. Transfer from general population to another facility, and
    - c. Release.
- D. Denials of earned time are final and cannot be appealed.



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**EARNED RELEASE TIME**

V. County Jail Earned Release Time

A. For offenders transferred to the Department from a county jail, the jail administrator will certify to the Department the amount of jail time spent in custody and any earned time not earned. The Department will calculate ERT for time spent in the jail at the rate earned in the Department.

1. If no certification is provided, the CRS/designee will forward a request to the jail administrator using DOC 02-387 Jail Time Certification.
2. If the Department becomes aware that the time certified by the jail is incorrect, the CRS will contact the jail to verify, but does not need to wait for verification to apply the proper credits.

B. Jail time ordered by the court for the same period on consecutive sentences will be applied as follows:

1. If the sentences have the same Prison intake date, jail time credits will be applied per the Judgment and Sentence, but no jail good conduct time will be applied for the overlapping time period. The Department may contest the court's calculations through the post-sentence petition process.
2. If the Prison intake dates are different, the CRS will apply the time from the Judgment and Sentence or jail certification, including jail good conduct time, and then apply Wickert time (i.e., out time applied to a period of confinement when the offender is required to serve a consecutive period of confinement starting before the current confinement is complete) for that same time period.

C. Offenders serving sentence time in another jurisdiction (e.g., juvenile detention center, another state/jurisdiction even if fighting extradition, etc.) will receive jail credit if serving solely on the Washington State charge. The Department will request documentation from the other jurisdiction of dates of incarceration and any early release time lost. The Department will calculate ERT for the presentence time spent in the facility at the rate earned in the Department.

VI. Re-sentenced on Previous Conviction - Credit Time Served

A. Offenders who are re-sentenced on a previous conviction are entitled to receive credit for the original jail time, original jail ERT, Department time served, and ERT on the Department time served. All time the offender served for the conviction offense, as well as Department ERT, will be applied. Any good conduct time lost due to violations or earned time not earned during the time served on the original sentence will be deducted from the Department ERT.



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### VII. Persistent Prison Misbehavior

- A. An offender serving a sentence for an offense committed on or after August 1, 1995:
  - 1. May have earned time credits taken away as part of a disciplinary sanction if s/he has lost all good conduct time credits for the current commitment.
  - 2. May have earned or future ERT credits reduced.

### VIII. Release Date

- A. Jail time and jail ERT will be deducted from the total sentence to calculate an offender's release date on a determinate sentence.
  - 1. ERT applicable per statute is applied to the adjusted sentence.
- B. A determinate offender held beyond his/her Earned Release Date (ERD) may have available good conduct time taken if found guilty of a serious violation.
- C. An offender with an established release date who receives a Category A violation after an Offender Release Plan has been approved will have the release date suspended until the violation is adjudicated and all time loss and sanctions are completed.
- D. If the offender is denied earned time, loses good conduct time, or has time restored and is within 120 days to ERD, employees/contract staff responsible for entering the sanction information will notify the Counselor/CCO/CRS immediately by telephone and/or email.

### IX. Superintendent/CCS Review

- A. ERT will be reviewed by the Superintendent/CCS at intervals not to exceed one year.
  - 1. At the time of his/her annual review, each offender will receive a written record of the ERT s/he is eligible to earn.
  - 2. For indeterminate pre-1984 offenders, review is final when adopted by the ISRB, at:
    - a. The .100 hearing, based on the Parole Eligibility Release Date and the current ERT recorded in the offender's electronic file.



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- b. The time of parole or transfer to a consecutive determinate sentence.
- B. Prior to adoption by the ISRB for indeterminate sentences or review by the Superintendent/CCS for determinate sentences, the projected ERD should be used for classification purposes when considering minimum facility placement, Work Release, and pre-parole/community release planning.
- X. Restoration
- A. Good conduct time is the only ERT that can be restored.
    1. Good conduct time will not be restored:
      - a. For offenders within 6 months of their ERD.
      - b. When lost as a result of a 557, 810, or 857 infraction, or when lost as a result of an 813 infraction related to employment or programming while in Work Release.
      - c. Once addressed/adopted by the ISRB for indeterminate sentences, unless approved in advance by the ISRB.
    2. Offenders serving consecutive determinate sentences are eligible to have the good conduct time restored on any of the sentences.
  - B. At the offender's classification review, the Counselor will meet with the offender and establish a plan for restoring lost good conduct time. The restoration plan will be documented in the offender's Custody Facility Plan. If a restoration plan has not been previously approved, a Plan Change Review will be used to create the plan.
    1. The restoration plan cannot put the offender less than 120 days to release, or restore good conduct time lost for the following infractions committed during the current incarceration:
      - a. 501, 502, 511, 521, 550, 604, 611, 612, 613, 635, 636, 637, 882, or new Category A infraction within the last 10 years.
      - b. 601, 602, or 704 infraction within the last 5 years.
      - c. 507, 603, 650, or 651 infraction within the last 3 years.
      - d. Any other serious infraction within last year.
    2. The restoration plan must be reviewed by a Facility Risk Management Team (FRMT)/multidisciplinary FRMT and approved by the Superintendent/designee.



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- a. Plans including restoration of good conduct time lost for any Category A infraction(s) also require approval from the Assistant Secretary for Prisons or the appropriate Deputy Directory.
3. When deciding whether to approve the restoration plan, the FRMT/multidisciplinary FRMT/Superintendent/Deputy Director/Assistant Secretary will consider:
- a. If the amount of time being restored correlates with the plan length and amount/type of required programming,
  - b. Whether the offender can reasonably be expected to fulfill the plan requirements,
  - c. Length and type of prior and proposed program participation,
  - d. Period of infraction free behavior,
  - e. Nature of infractions and current Prison Sanctioning Guidelines, attached to DOC 320.150 Disciplinary Sanctions,
  - f. Overall behavior during the commitment period,
  - g. FRMT/multidisciplinary FRMT recommendation, and
  - h. Compliance with the Custody Facility Plan.
- C. At each subsequent classification review, the Counselor and offender will review the restoration plan and the offender's progress, and make any necessary adjustments for FRMT/multidisciplinary FRMT review and Superintendent/designee approval.
- D. If the offender adheres to his/her Custody Facility Plan and remains serious infraction free for the duration of the restoration plan, the lost good conduct time will be restored as outlined in the plan. The Counselor will forward a copy of the Custody Facility Plan and any associated documents (e.g., infraction reports, and the offender's Criminal Conviction Record) to the Superintendent.
- 1. To restore the lost time, the Superintendent will complete DOC 21-730 Restoration of Good Conduct Time and forward it to the Deputy Director/Assistant Secretary for Prisons, if necessary.
  - 2. Any denial of restoration requires Superintendent/Deputy Director/Assistant Secretary approval, as applicable, and will only be considered



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when a significant, compelling reason(s) exists. The decision and reason(s) will be documented in the Custody Facility Plan.

- E. Designated employees will document restoration in the Decision, Sanction, or Appeal Result narrative on the Infraction Summary screen in the offender's electronic file.
  - F. The restoration decision is final and cannot be appealed.
- XI. Community Custody
- A. Community Custody Violators sanctioned by the Department before May 2, 2012, are eligible for good conduct time at a rate of 33<sup>1</sup>/<sub>3</sub> percent. Offenders sanctioned on or after May 2, 2012, will not be eligible for good conduct time. Hearing Officers may adjust to avoid release on a weekend or holiday.
  - B. If an offender has not completed his/her maximum term of total confinement and is found to have committed the violation, the Department may return the offender to Prison to serve the remainder of the Prison term.
    1. All jail ERT and Department ERT applied to the sentence before early release becomes return time.
    2. When determining the length of return time, the Department must credit the offender for all community custody time successfully served and with all periods of pre-hearing time spent in confinement pending all prior and current community custody violation hearings for that cause.
    3. The offender is not entitled to any good conduct time during the return time.
    4. Upon release from Prison after serving the remainder of the Prison term, the offender will resume serving the community custody portion of the sentence for any time remaining to serve on community custody.

### DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

### ATTACHMENTS:

None



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### DOC FORMS:

DOC 02-329 50% Earned Release Time Eligibility Change Notice

DOC 02-387 Jail Time Certification

DOC 09-261 Court of Appeals Decision - Jail Time Credits

DOC 21-730 Restoration of Good Conduct Time

ATTACHMENT C

Washington State  
Department of Corrections

Offender Management Network Information

DOC No.: 947192 Go  
Selected DOC No.: 947192 STUHR, Clark L

Home Assignments Offender Facility Search Administration

Home > Offender > Sentence Information > View J & S - Prison

Most Recent Search | Logged in as Ronda Larson

Sentence Information Menu

- View J & S - Prison
- View J & S - Field
- Conditions
- Earned Time
- Good Conduct Time
- Problem J & S

Inmate: STUHR, Clark L (947192)

Legal Face Sheet

Gender: Male	DOB:	Age: 47	Category: Regular Inmate	Body Status: Active Inmate
RLC: MOD	Wrap-Around: No	Comm. Concern: No	Custody Level: Minimum 3 - Long Term Minimum	Location: SCCC - H1 / H1121U
ERD: 06/08/2025				CC/CO: Brule, Christine B

View J & S - Prison

Period Of Jurisdiction  
01/06/1989 - Current

Display  
 Include Closed Causes  Enable Scrolling

Sentence Drilldown:  
Cause, Count, & Confinement Element  
WEP Eligible Offender : No  
Felony Firearm Registration : No

Details  
 ERD Calculations  MaxEx Calculations  StatMax Calculations  
 Out Time  Graphical Sentence View

Cause	Count	Confinement Element	Consecutive Confinement	Status	Confinement Length	Time Start Date	ERD	+ Length In Days	- Cause Credits	- Cause ERT Credits	ERT %	- Potential ET	ET Earned	+ ET Not Earned	Available ET	Potential GCT	GCT Certified	+ GCT Lost	Available GCT	+ Out Time	MaxEx	Stat Max
<b>Offender Overall</b>																						
<input type="radio"/> AB-881001268-Pacific-CP				Active	0Y, 442M, 0D	03/10/1989	06/08/2025	-	-	-	-	-	-	-	-	-	-	-	-	-	09/02/2027	Life
<input type="radio"/> 1- Murder 1				Active	0Y, 425M, 0D	03/10/1989	04/19/2024	12,935	127	63	33.33%	1,415.83	650.28	765.55	0.00	2,832	0	2,832	0	730	05/23/2027	Life
Base				-	0Y, 425M, 0D	03/10/1989	04/19/2024	12,935	127	63	33.33%	1,415.83	650.28	765.55	0.00	2,832	0	2,832	0	730	-	-
<input type="radio"/> AC-911001143-Walla Walla-CP			AB-881001268-Pacific-CP	Future	0Y, 17M, 0D	04/19/2024	06/08/2025	517	0	0	33.33%	-	-	-	-	115	0	70	45	0	09/02/2027	04/18/2036
<input type="radio"/> 1- Assault 2				Future	0Y, 17M, 0D	04/19/2024	06/08/2025	517	0	0	33.33%	57.43	0.00	0.00	57.43	115	0	70	45	0	09/02/2027	04/18/2036
Base				-	0Y, 17M, 0D	04/19/2024	06/08/2025	517	0	0	33.33%	57.43	0.00	0.00	57.43	115	0	70	45	0	-	-

Out Time

	Start Date	End Date																				
<input type="radio"/> Wickert			-	-	05/03/1993	05/03/1995	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Sanctions

Maintain: View Update Modify J & S Cancel Modify Delete View J & S Versions Create: Add Cause Add Count Copy Count Add Out Time

Action: Calculate Analyze Print

ATTACHMENT 2