

DC-239

RULES AND POLICIES

Governing the Management and Conduct
of Inmates under the Control of
the Division of Prisons

INMATE BOOKLET



DEPARTMENT OF CORRECTION

Raleigh, North Carolina

OCTOBER 2007

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INTRODUCTION

This booklet has been prepared for you as a guide while you are in prison. Important rules that you are to follow while you are in prison are written here.

These rules have been written in agreement with the law and written in this booklet in short form. If there is any conflict between the rules contained in this booklet and the Department of Correction's Policy and Procedures Manual, go by the rules in the Policy and Procedures Manual. If you will read and follow the rules in this booklet, your time in prison will be easier.

The people who work for the Division of Prisons can be of help to you. If you have any questions about any matter, ask a member of the staff. If you have any questions about any of the rules in this booklet, see a staff member and they will answer your questions.

Obey all prison rules and make the most of chances to show that you can act in a manner which can lead to your release.

DEFINITIONS

ADMINISTRATIVE SEGREGATION- An assignment status that temporarily removes an inmate from the general population and places them in a single cell on a short-term basis to provide control or protection of the inmate pending final classification or disciplinary action.

REGION DIRECTOR- A person who is in charge of several prison facilities in a geographic region.

COMBINED RECORDS- A place located in the main office in Raleigh where copies of inmate records are kept.

COMMUNITY VOLUNTEER- Persons from the community who give their time to help inmates. Under certain conditions, a volunteer may take an inmate out on pass for short periods.

COMMITTED YOUTHFUL OFFENDERS- Inmates who are under 25 years of age and who are sentenced as a Committed Youthful Offender by a judge. This designation was eliminated by the structured sentencing laws for offenses committed on or after October 1, 1994.

DEATH ROW- The assignment status of inmates admitted to prison on a death order commitment. These persons are housed only at Central Prison and at the North Carolina Correctional Institution for Women.

DIRECTOR OF PRISONS- The person who is in charge of all prisons in the state.

DISCIPLINARY SEGREGATION- The assignment status of inmates who are subject to punishment after being found guilty of a rule violation.

HIGH SECURITY MAXIMUM CONTROL- The most restrictive location within the Division of Prisons where the most disruptive and dangerous inmates may be housed.

INDETERMINATE SENTENCE- A sentence that has two parts- a lesser (minimum) and a greater (maximum). An example is 4 (lesser) to 6 (greater) years.

INSTITUTION HEAD, CORRECTIONAL ADMINISTRATOR or SUPERINTENDENT- A person who is in charge of a prison.

INTENSIVE CONTROL- An assignment status for inmates who have shown disruptive behavior through disciplinary offenses, assaultive actions or who otherwise have been a continuous disruptive influence on the operation of the facility to the extent that additional structure and management by prison authorities are required.

INVESTIGATING OFFICER- A person who gathers the facts when it is felt that an inmate may have broken the rules, or some incident has happened.

MAXIMUM CONTROL- A status designated to control inmates who pose a threat to the safety of staff and other inmates or who otherwise pose a serious threat to the security of a prison facility.

PAROLE CASE ANALYST- A person who works for the Post-Release Supervision and Parole Commission. This person is in charge of studying the inmate's records to decide if the inmate is ready to be considered for parole.

PROTECTIVE CONTROL- Segregation to protect inmates when their lives or well-being may be threatened by staying in the general population.

RESIDENCE PLAN- The place where inmates plan to live when they get out of prison.

SECRETARY OF CORRECTION- The person appointed by the Governor who is in charge of the Department of Correction.

SECURITY RISK- A possible danger to inmates, staff, the general public, etc.

SECURITY CONTROL STATUS- Level of individual supervision, isolation, and control.

SENTENCE REDUCTION CREDITS- Time credits applied to an inmate's sentence that reduce the amount of time to be served. Included are good time, gain time, earned time and meritorious time.

STUDY RELEASE- Under certain conditions inmates may be allowed to leave prison for job training or to attend a school. They must return to the prison at the end of the school day.

UNSUPERVISED ACTIVITY- Under certain conditions inmates are allowed to leave the prison alone to go to work, school, or visit in their homes.

WORK PROGRAM- All inmates are expected to work either at the facility or under certain conditions inmates may be allowed to leave prison during the day to work. They must return to the prison at night.

GENERAL REGULATIONS GOVERNING THE SUPERVISION AND CONDUCT OF INMATES

1. INMATE PROPERTY AND INMATE TRUST FUND

Money- At some prisons, a cashless canteen system is used, and inmates are not allowed to have cash in their possession. Their canteen purchases are made with a debit card. Any inmate found possessing cash shall be disciplined.

At prisons where cash is allowed, inmates may have no more than \$40.00 in their possession at any time. Upon admission to prison, any money over \$40.00 is placed in his or her Trust Fund. Ask facility officials for the procedure for getting Trust Fund money. Inmates may not have a bill of money greater than \$5.00. While in prison, if an inmate has more than \$40.00 in his possession or a bill larger than \$5.00, the inmate will be disciplined. If an inmate is found guilty of this act, any money, or bill larger than \$5.00, will be placed in the Inmate Welfare Fund and not given back to the inmate. Money is not to be passed during visitation. This will result in disciplinary action. This is required for the following reasons:

- (1) to make sure the money doesn't get stolen from the inmate owner;
- (2) to let the inmate withdraw necessary amounts to buy approved items;
- (3) to keep the money from being used for the wrong reasons;
- (4) if an inmate's family lives in North Carolina and receives welfare while the inmate is in prison, money from the Trust Fund account can be used to help support the family. The needs of the family will be set by the Department of Social Services (Welfare Office) in the county where the family lives; and
- (5) to give back to inmates any money that is left in their account when they leave prison.

Personal Property- The following rules are used in each prison facility. Some prison facilities may add to these rules because of a need for more security and control. Any item you have not been authorized to possess is contraband and in some situations illegal and may be taken from you. Further, this may result in disciplinary action.

Authorized Items- A list of personal property items other than clothing that inmates may have is shown below. The Division of Prisons will not be responsible for any items in the possession of the inmate if they are damaged, lost, or stolen.

- (1) Unless an inmate in Medium or Close Custody is in a control status which prevents it, they may receive a reasonable number of books, newspapers, magazines, and other reading material directly from the distributor or publisher (publisher is defined to include legitimate wholesale marketers and distribution centers for published materials. This definition does not include retail bookstores.) An inmate in Minimum Custody may receive reading material from any source. The reading material will be searched to make sure that it is not used to hide items that inmates are not allowed to have and that the material does not contain sexually explicit or nude pictures or other threats to security, order or rehabilitation.

- (2) Personal funds- Inmates will be allowed to have no more than \$40.00 on their person at any time. An inmate will not be allowed to have bills of money larger than \$5.00. Inmates approved for community based programs that take public transportation are allowed to have, at the discretion of the Facility Head, a specified amount of funds in excess of \$40.00 to pay for the transportation.
- (3) Eyeglasses and cases not made of metal.
- (4) Approved religious items.
- (5) Inmates may possess one canteen purchased watch. They may also possess a wedding ring and engagement ring for women. All other jewelry will be sent home at the owner's expense. The cost of these items shall not exceed \$100.00 total value.
- (6) Inmates may possess one battery operated transistor radio ("Walkman" style) with earplugs, not larger than 5" long by 3" high by 1" deep. These radios must be purchased from a facility or institutional canteen. The Division of Prisons will not replace any radio that is lost, damaged, or stolen. The officer-in-charge may designate an area where radios can be used without earplugs.
- (7) Toothbrushes, shaving cream, safety razors, and blades.
- (8) Unframed pictures not larger than 8 inches by 10 inches.
- (9) Canteen items which are purchased at one facility of the prison system by an inmate may be taken to another facility by the inmate when he is transferred.
- (10) Inmates are allowed to receive personal mail approved according to the mail policy after these items have been searched for unauthorized items by a correctional officer.
- (11) Wallets or pocketbooks.
- (12) Legal papers- Inmates are allowed to keep legal papers for cases that are or may be coming before the courts. They may also keep other papers connected with legal matters when it is necessary for proper handling of the matter. Other legal papers may also be kept, but the amounts will be controlled in order to keep proper cleanliness, storage space, and security. If inmates have questions whether they can keep legal papers, they may ask the Director of Prisons, or someone who may act for the Director to settle the question. When an inmate is not allowed to keep legal papers that may be needed in the future, they may be stored in a safe place at the facility if space is available.
- (13) Personal clothing- In addition, inmates granted community based privileges are allowed to have some items of personal clothing.
- (14) Inmates may possess one pair of canteen purchased tennis shoes, one pair of shower shoes and one pair of state issued work boots.

Prohibited Items- Items of personal property which inmates are not allowed to keep will be taken by an officer. If the inmate has money to pay mailing costs, the property will be mailed to a person named by the inmate. If the inmate has no money, mailing costs will be paid by the Division of Prisons. If the inmate will not or cannot name a person to whom items may be sent, the unauthorized items will be given to charity or otherwise handled as unneeded property. The Division of Prisons will not be responsible for storing or handling items that are not authorized.

2. CUSTODY CLASSIFICATION

Inmates are initially classified based on conduct, types of criminal offenses (Misdemeanor or Felony), sentence length, and other factors as **Minimum Custody**, **Medium Custody** or **Close Custody**.

Minimum Custody- This custody is the least restrictive and has the most privileges of the custody grades.

- (1) Inmates in **Minimum Custody, Level One** may work on the grounds and away from a prison facility, as long as an officer is with them.
- (2) Inmates in **Minimum Custody, Level Two** may work on the grounds of a prison or away from the facility with supervision. They may also go out with a person from the community who has volunteered and is certified to work with the inmate.
- (3) Inmates in **Minimum Custody, Level Three** may go offsite from the facility for specific programs, jobs, school or other kinds of training.

Medium Custody- This custody is more restrictive and has fewer privileges than **Minimum Custody**. Inmates in **Medium Custody** are under armed supervision.

Close Custody- This custody is armed supervision and more restrictive than **Medium Custody** and is for those inmates who must be closely watched because they are an escape risk, they have been convicted of a very serious crime, or their actions in prison have shown that they will not follow the rules.

3. SENTENCE REDUCTION CREDITS

Good Time- All inmates whose crimes occurred before October 1, 1994, except those serving sentences for which state laws prohibit the awarding of good time, will receive credit for good behavior at the rate of (1) day deducted for each day spent in custody without a major infraction. Good time credits may be taken away by proper disciplinary action for those breaking the rules. Good time forfeited through disciplinary actions may be restored by administrators, institution heads, and local confinement authorities, if inmate behavior improves.

Gain Time- If an inmate's crime occurred before October 1, 1994, additional time may be earned through what is known as gain time, except in those situations in which state law prohibits the awarding of gain time. It is earned at increasing levels based on various factors determined by the Division of Prisons. Refer to your case manager for the details of this program.

Meritorious Time- If inmates work more than 40 hours per week, work in bad weather or work under emergency conditions, the Division of Prisons may award additional gain time credits. These credits are awarded at different rates depending on the situation.

Earned Time- Inmates sentenced under the Structured Sentencing Act (crimes committed on or after October 1, 1994), with the exception of persons convicted of certain felonies and Driving While Impaired (DWI), may receive earned time credit rather than gain time. They may not receive good time. Earned time may not reduce the inmate's sentence to less than the minimum term.

Felons- Inmates sentenced for felonies committed on or after October 1, 1994, may receive earned time credit for work performed and participation in specific training programs. The amount of earned time credited to the inmate shall be determined by the Division of Prisons.

Misdemeanants- Inmates sentenced for misdemeanors other than DWI committed on or after October 1, 1994 may receive earned time credit for work performed and participation in specific training programs. Misdemeanants may only receive up to 4 days earned credit per month.

All sentence credits mentioned here will be figured on each sentence separately and will not apply to other time that is earned on other sentences.

4. EMERGENCY LEAVE

Minimum custody inmates may be given as much as 72 hours (medium and close custody inmates as much as 24 hours) emergency leave in state for the reasons listed below:

- (a) Critical illness of an immediate family member- The nature of the illness of an immediate family member must be verified by a capable medical person. The word "critical" means probable death within a short period of time. The birth of a child will not be regarded as critical illness unless the doctor in charge says that the mother's condition is not normal and that unusually serious conditions are involved.
- (b) Death of an immediate family member- Verification of death of an immediate family member may be received from a local law enforcement officer (sheriff or chief of police), physician, undertaker, or director of social services. (The immediate family is considered to be father, mother, sister, brother, husband, wife, child, foster parents, or other persons who have acted in the place of parents, where such relationship can be verified.) Region Directors and Institution Heads may approve Emergency Leave for **Minimum Custody** inmates. Region Directors and Institution Heads may approve Emergency Leave for **Medium Custody** inmates when at least one trained Correctional Officer goes with the inmate. The Director of Prisons or his designee must approve all Emergency Leave for **Close Custody** inmates, and the conditions of that leave will be stipulated in the permission.

Emergency leave to go outside the state of North Carolina must be approved by the Director of the Division of Prisons. Inmates leaving the state of North Carolina must be in minimum custody, must post a cash bond in the amount of \$500 with the Superintendent or Institution Head, and must sign a waiver of extradition. (Form DC-128).

5. DISCIPLINARY PROCEDURES

- (a) Any violation of departmental rules and regulations could result in disciplinary action. Please make certain that you fully understand all rules, or ask your

assigned case manager to assist you. Any employee or agent of the Department of Correction who observes misconduct by an inmate may try to counsel with him/her to correct this misbehavior. If counseling does not improve the behavior, the officer-in-charge can be notified.

- (b) The officer-in-charge will determine if further investigation is needed. If so, an investigating officer will be assigned. Written statements will be obtained from all parties involved. The inmate has a right to request in writing prior to the hearing witness statement(s), live witness(es) to be present at the hearing, evidence at the hearing and staff assistance. The inmate will be given 24 hours notice before being required to appear at a disciplinary hearing, unless that is waived. After a thorough investigation, if the facts do not support the charge, the investigating officer may recommend that the superintendent or designee discontinue disciplinary action. Confidential statements may be a part of the investigation, if deemed appropriate.
- (c) If the Facility head or designee determines that disciplinary action is appropriate, an official report will be prepared. When the charges are referred by the Facility head or designee, the inmate may voluntarily offer a plea of guilty and accept a punishment less than the presumptive punishment specified in policy. The punishment will be one class below the offense to which the inmate is pleading guilty or the Facility head or designee may suspend the presumptive punishment if deemed appropriate. Should you offer a plea of not guilty, your case will be referred to a Disciplinary Hearing Officer. You may offer a plea of guilty to the Disciplinary Hearing Officer, or if found guilty, the hearing officer will determine the appropriate punishment as authorized by policy.
- (d) Disciplinary Hearing Officers (DHOs) are chosen to provide a fair and impartial disciplinary hearing. Anyone who initiates a charge or is a witness can neither investigate the incident nor can he/she represent the accused. If an inmate is found guilty, the Disciplinary Hearing Officer (DHO) may impose punishment consistent with disciplinary offenses, Class A through Class D. Class A offenses are the most serious and Class D are the least serious. Punishment for the serious offenses include disciplinary segregation for up to 60 days, demotion from minimum to medium custody and loss of (40) days sentence reduction credits. Less punishment is imposed for less serious offenses.
- (e) After the Disciplinary Hearing Officer (DHO) imposes punishment, except when a hearing is waived and plea of guilty is entered, the inmate has (15) days from the date of the hearing to appeal in writing to the Director of Prisons stating full name, prison number, facility/number, offense and date of offense. Punishment is active immediately and may be imposed by the Facility head or designee. Appeal of the disciplinary will not delay punishment from being imposed.

6. DISCIPLINARY OFFENSES

CLASS A:

- (A1) Seize or hold a hostage or in any manner unlawfully detain any person against his/her will;

- (A2) Participate in a riot, insurrection, work stoppage or group demonstration, or incite/encourage others to riot, participate in an insurrection, work stoppage or other group demonstration;
- (A3) Commit an assault on a staff member with a weapon or by any other means likely to produce injury, such as hitting, kicking, pushing, pulling, throwing objects;
- (A4) Commit an assault on another with a weapon or any other means likely to produce injury;
- (A5) Commit an assault on another with intent to commit any sexual act;
- (A6) Escaping or attempting to escape from any prison facility, community assignment, during transport, or from the supervision of DOC staff or its authorized agent. Attempt will include possession of escape plans, possession of any object that could aid in an escape, attempt to hide within the facility to affect an escape, or any other action that could result in escape if correctional staff did not intervene;
- (A7) Possess, manufacture, and/or detonate an incendiary or explosive device;
- (A8) Set a fire that endangers the life of another person or damages state property;
- (A9) Commit an assault on a staff member by throwing liquids, (including but not limited to urine and feces) or spitting on a staff member;
- (A10) Fight or engage in a mutual physical confrontation involving weapons (including but not limited to knives, locks, and razors) or resulting in outside medical attention;
- (A11) Commit an assault on a staff member with intent to commit any sexual act;
- (A12) Manufacture, possess, introduce, sell or use any unauthorized controlled substance, unauthorized intoxicant or alcoholic beverage, or possess associated paraphernalia;
- (A13) Refuse to submit to a drug test or breathalyzer test, or interfere with the taking of such tests;
- (A14) Participate in, or organize, whether individually or in concert with others, any gang or Security Threat Group (STG), or participate in any activity or behavior associated with a Security Threat Group;
- (A15) Offer, give, solicit or accept a bribe or offer to give or withhold anything to persuade staff to neglect duties or perform favors;
- (A16) Possess or use in any manner any type of unauthorized recording or image taking device or any type of unauthorized communication device whether audio, video or data. Examples include but are not limited to cell phones, personal digital assistants, cameras, tape recorders or digital recorders that can be used to send and/or receive any type of messages/images for any purpose;
- (A17) Commit an assault on any person, other than an employee or inmate, with intent to commit any sexual act;

- (A18) Knowingly make to any person a false oral or written allegation about a staff member that, if true, could expose the staff member to criminal liability.
- (A19) Commit an assault on another by throwing liquids (including but not limited to urine and feces) or spitting on another;
- (A20) Wrongful take, give away, or carry away, canteen inventory/cash, which results in a loss of more than one hundred dollars (\$100.00);
- (A21) Extortion, strong-arming, verbal or physical intimidation for personal or financial gain;

Be advised that staff shall include DOC employees and/or agents.

- (A98) Deliberately provide false and/or misleading information to staff during an investigation related to any offense in this class.
- (A99) Attempt to commit any of the above-listed offenses, aid another person to commit any of the above-listed offenses, or make plans to commit any of the above-listed offenses. It shall be no defense that an individual was prevented from completing any of the above offenses by prison staff or intervening circumstances.

CLASS B:

- (B1) Possess or have under control any weapon or instrument to aid in an escape, assault, insurrection or riot;
- (B2) Flood cell(s);
- (B3) Willfully tamper with, damage or block any locking device, fence, door, gate or window;
- (B4) No longer in use, See offense upgraded A12.
- (B5) Knowingly inhale, smell, or breathe any vapors, fumes, odors, or possess for the purpose of inducing or attempting to induce intoxication through inhalation; or possess, inject or ingest any non-controlled substance for the purpose of altering mental or physical capacity;
- (B6) Commit, solicit, or incite others to commit any sexual act or indecently expose oneself or touch the sexual or other intimate parts of oneself or another person for the purpose of sexual gratification;
- (B7) Instigate or provoke an assault on another;
- (B8) Interfere with a staff member in the performance of his or her duties;
- (B9)* Violate any law of the State of North Carolina or the United States of America;
- (B10) Commit or incite others to commit acts, which spread or may spread communicable diseases, or possess any instruments capable of spreading communicable diseases (including but not limited to tattooing instruments and needles);

- (B11) No longer in use; See offense upgraded A13.
 - (B12) Leave, quit without authorization, fail to report, or neglect to adhere to approved schedules for community based programs;
 - (B13) Instigate or provoke an assault on a staff member;
 - (B14) Willfully damage, destroy, alter, tamper with or lose State property or property belonging to another;
 - (B15) Communicating directly, indirectly, via a third party, or in any manner with victims, or family members of the victims, who have requested in writing to Department of Correction officials that such communications is unwanted;
 - (B16) Possession of any tobacco products or paraphernalia at a tobacco free facility/segregation/control area or; possession of unauthorized lighters or lighting devices at any facility or; using any tobacco products in an unauthorized area at facilities with designated outside smoking/tobacco use areas;
 - (B17) Causing work stoppage, or delaying work while on community work assignment in the community, causing the inmate to be returned to the facility due to inmate misconduct;
 - (B18) Threaten to harm or injure staff; (formally C12)
 - (B19) Sell, accumulate, give, misuse, or hide medication; (formally C1)
 - (B98) Deliberately provide false and/or misleading information to staff during an investigation related to any offense in this class.
 - (B99) Attempt to commit any of the above offenses, aid another person to commit any of the above-listed offenses, or make plans to commit any of the above-listed offenses. It shall be no defense that an individual was prevented from completing any of the above offenses by prison staff or intervening circumstances.
- * An inmate should only be charged with Offense B9 in cases wherein a specific statute has been violated and the act is now covered by current Division of Prisons disciplinary offenses. The specific statute should be cited.

CLASS C:

- (C1) No longer in use, see Offense B19.
- (C2) Direct toward or use in the presence of any State official, any member of the prison staff, any inmate, or any member of the general public, oral or written language or specific gestures or acts that are generally considered disrespectful, profane, lewd, or defamatory;
- (C3) Willfully disobey or fail to obey or cause another inmate to disobey or fail to obey any lawful order of a prison official or employee, or any other lawful order to which subject;
- (C4) Fight or engage in mutual physical confrontation not involving weapons;

- (C5) Offer, give, solicit or accept a bribe or offer to give or withhold anything to persuade another to neglect duties or perform favors;
- (C6) Leave, quit without authorization, or fail to report to any facility job, work or program assignment, or scheduled appointment;
- (C7) Threaten to harm or injure another or threaten to damage the property of any person;
- (C8) Wrongfully take or carry away the personal property of another or State property or accept or buy such property with the knowledge it has been wrongfully taken;
- (C9) Barter or trade; loan or borrow; solicit or engage in any business activity;
- (C10) Intentionally inflict self-injury for any reason;
- (C11) Misuse or use without authorization, the telephone or mail;
- (C12) No longer in use, see Offense B18.
- (C13) Willfully create a hazardous or physically offensive condition or situation; (formerly Offense D5)
- (C14) Possess funds in a form other than authorized by Division of Prisons' Policy, in excess of the authorized amount, or from an unauthorized source, or possess any funds at a cashless prison facility. (formerly Offenses D10 & D11)
- (C99) Attempt to commit any of the above-listed offenses, aid another person to commit any of the above-listed offenses, or make plans to commit any of the above-listed offenses. It shall be no defense that an individual was prevented from completing any of the above offenses by prison staff or intervening circumstances.

CLASS D:

- (D1) Be in an unauthorized location;
- (D2) Negligently fail to perform or complete assigned duties;
- (D3) Possess contraband not constituting a threat of escape or a danger of violence;
- (D4) Gamble or possess gambling paraphernalia;
- (D5) No longer in use, see Offense C13.
- (D6) Fail to go to bed when the lights are dimmed or get up during the night without securing permission of the correctional staff;
- (D7) Exchange articles of clothing or possess unauthorized or excess clothing or mutilate or alter State issued clothing or wear same;
- (D8) Counterfeit, forge, alter or reproduce without authorization any document, article of identification, stamps, or other papers, or knowingly possess such falsified materials;

- (D9) No longer in use, see Offense B14.
- (D10) No longer in use, see Offense C14.
- (D11) No longer in use, see Offense C14.
- (D12) Fail to keep living quarters in a clean and/or proper condition;
- (D13) Fail to observe basic standards of personal hygiene in bathing and grooming;
- (D14) Feign physical or mental illness or disablement for any purpose;
- (D15) Misuse prison supplies;
- (D16) Assist another person with litigation or legal matters;
- (D99) Attempt to commit any of the above-listed offenses, aid another person to commit any of the above-listed offenses, or make plans to commit any of the above-listed offenses. It shall be no defense that an individual was prevented from completing any of the above offenses by prison staff or intervening circumstances.

7. ADMINISTRATIVE FEES

- (a) All inmates whose offenses result in a guilty disposition will be assessed an administrative fee of \$10.00. Only one fee per disciplinary report is to be assessed regardless of the number of charges or number of reinvestigations.
- (b) All administrative fees will be electronically collected through Inmate Banking and transferred to the General Fund.

8. DISCIPLINARY PUNISHMENTS

- (a) For a Class A offense, the following presumptive punishments are authorized:
 - (1) Confinement in disciplinary segregation for up to 60 days.
 - (2) Demotion from minimum to medium custody or medium to close.
 - (3) Loss of 40 days sentence reduction credits, as applicable.
 - (4) 50 hours extra duty within the next 60 days following the hearing or release from disciplinary segregation. Not more than 4 hours shall be performed on a work day and not more than 8 hours on other days.
 - (5) Loss of up to three (3) privileges for a period not to exceed 6 months. These privileges include but are not limited to: work release, home leaves, community volunteer leave, canteen, telephone and visitation.
 - (6) Limit weekly trust fund withdrawals to \$10.00 for a period not to exceed 6 months.

(b) For a Class B offense, the following presumptive punishments are authorized:

- (1) Confinement in disciplinary segregation for up to 45 days.
- (2) Demotion from minimum to medium custody.
- (3) Loss of 30 days sentence reduction credits, as applicable.
- (4) 40 hours extra duty within the next 60 days following the hearing or release from disciplinary segregation. Not more than 4 hours shall be performed on a work day and not more than 8 hours on other days.
- (5) Loss of up to two (2) privileges for a period not to exceed 4 months. These privileges include but are not limited to: work release, home leave, canteen, community volunteer leave, telephone and visitation.
- (6) Limit weekly trust fund withdrawals to \$10.00 for a period not to exceed 4 months.

(c) For a Class C offense, the following presumptive punishments are authorized:

- (1) Confinement in disciplinary segregation for up to 30 days.
- (2) If the inmate is in minimum custody, demotion to minimum custody level I or level II.
- (3) 30 hours extra duty within the next 45 days following the hearing or release from disciplinary segregation. Not more than 4 hours shall be performed on a work day and not more than 8 hours on other days.
- (4) Loss of up to two (2) privileges for a period not to exceed 2 months. These privileges include but are not limited to: work release, home leave, community volunteer leave, canteen, telephone and visitation.
- (5) Loss of 20 days sentence reduction credits, as applicable.
- (6) Limit weekly trust fund withdrawals to \$10.00 for a period not to exceed 2 months.

(d) For a Class D offense, the following presumptive punishments are authorized:

- (1) Confinement in disciplinary segregation for up to 15 days.
- (2) Loss of one (1) privilege for a period not to exceed 1 month. These privileges include but are not limited to radio, canteen, organized sports, gym or recreational buildings, visitation, telephone, movies or other leisure time activities and privileges.
- (3) 20 hours extra duty within the next 30 days following the hearing or release from disciplinary segregation. Not more than 4 hours shall be performed on a work day and not more than 8 hours on other days.

- (4) Loss of 10 days sentence reduction credits, as applicable.
- (5) Limit weekly trust fund withdrawal to \$10.00 for a period not to exceed 1 month.

9. INMATE DISCIPLINARY RIGHTS

- (1) The inmate has a right to:
 - (a) At least 24 hours advance written notice of the disciplinary charges before the hearing;
 - (b) Make a verbal and/or written statement to the Investigating Officer;
 - (c) Request in writing to the Investigating Officer, during the investigation, that a written witness statement(s) or evidence be gathered, or evidence or witness(es) be present at the hearing if charges are referred. If an inmate is unable to write, he may request that the Investigating Officer transcribe his oral request(s) which the inmate will sign and date. Failure to make those requests on the inmate witness form shall be deemed a waiver of such requests;
 - (d) Request the facility head/designee to appoint a staff member to assist him at the hearing;
 - (e) Read or be read the substance of the evidence and have the opportunity to explain or refute the evidence at the disciplinary hearing;
 - (f) Appeal to the Director of Prisons.

10. MAIL

Correspondence between inmates is generally not allowed. Correspondence between inmates can be approved by both superintendents involved when the inmates are immediate family members or if another compelling reason for correspondence is presented. Other than the previously mentioned restrictions, inmates may write to anyone, unless advised otherwise. For example, any inmate may lose the right to write to certain people if the person who is being written to does not want to hear from the inmate. If the person being written to is a minor, his or her parent(s) or legal guardian(s) may ask the officer-in-charge of the facility to stop the inmate from writing to the minor. Inmates can also lose writing privileges for the following reasons:

- (a) the letter contains a threat to hurt someone or a plan to break the law or prison rules or regulations; or
- (b) the letter states that someone will be hurt or injured unless the inmate is paid money or some action is taken to help the inmate.

Exceptions shall be made if either the inmate or the person corresponding with the inmate is determined to be unable to read or write in English.

Incoming Mail

Incoming mail from lawyers, any legal aid service helping prison inmates, and state and federal officials must be opened in the presence of the inmate to whom it is addressed before it may be checked for illegal items. All other incoming and outgoing letters and packages will be checked to see if they contain illegal items. Personal letters will not be read unless the officer-in-charge, or designee, has reason to believe that the letter contains threats of harm or criminal activity, escape plans, or plans to violate prison rules or policies. If the officer-in-charge decides to delay or not deliver an inmate's letter, the inmate will be told in writing the reason for this action. Inmates may write to the Director of Prisons to challenge these actions.

Outgoing Mail

Inmates who have no money and who the Department determines to be indigent will be provided up to 10 stamps per month for one ounce letters for personal mail. This 10 letter limitation on personal mail does not apply to legal mail. To determine whether you are entitled to free postage, contact your case manager.

11. HEALTH CARE SERVICES

Inmates who have no money will be given those health items needed for bodily cleanliness. The officer-in-charge or his designee will inform the inmates of the facility or institutional procedure for requesting these items.

As of June 1, 1997, inmate initiated visits for medical care are subject to a \$5.00 co-payment fee. Inmate declared emergency visits are subject to a \$7.00 co-payment fee. With some exceptions, there will be a charge for services provided by a nurse, doctor, dentist or psychologist. However, no one will be denied access to health care whether they have money or not.

The money will be taken from inmate trust fund accounts. The trust fund balance will not be reduced below a two dollar (\$2.00) minimum when collecting for a co-payment. Balances owed for co-payments will be collected when deposits are made to the trust fund account. However, no more than half or 50% will be taken for a deposit to pay a co-payment. This will always ensure money is left in the account for the inmate.

The co-payment will pay for the visit, prescribed medications, lab work, x-rays, and any follow-up care ordered by a health care provider. You will not be charged for visits about life or limb threatening emergencies, referrals to specialty clinics, defined chronic disease such as TB, HIV, high blood pressure, diabetes, pregnancy care, vaccinations, and periodic health assessments.

12. DNA TESTING

North Carolina state law requires that the Division of Prisons obtain DNA blood samples from all new and existing felon prisoners and some misdemeanants prior to release or parole. The misdemeanants who must be tested are those convicted of Stalking, Assault on a Handicapped Person or Sexual Battery. If an inmate is a felon or a misdemeanant convicted of Stalking, Assault on a Handicapped Person or Sexual Battery, they will be required to give a blood sample during processing. Failure to comply with this requirement can result in use of force and disciplinary proceedings.

13. VISITATION

A completed visitor application must be approved by the facility staff before a visit can occur. Inmates must obtain blank application forms from the facility and mail the blank applications to those persons from whom they wish to receive a visit while incarcerated. An application for each adult and minor must be complete. Completed applications must be returned to the facility where the inmate is currently housed. Applications will not be accepted from inmates. Incomplete applications will not be approved. The following reasons may be grounds for disapproving a visitor application:

- (a) application form was copied and not an original;
- (b) application was not complete or did not include proper attachments;
- (c) application contained false information;
- (d) the visitor has a prior criminal record.

Each inmate is allowed 18 approved visitors, (adults, minors and clergy). When an inmate reaches the maximum number of approved visitors (18), he/she will not be able to adjust their visitation list until their open enrollment period. An inmate's open enrollment period will be every six months based on the date of admission to prison. If an inmate has 18 approved visitors and they want to add a new visitor during open enrollment they must first remove one of the current approved visitors from the list. An inmate may request that an approved visitor be removed at any time. They may not add a replacement until his/her open enrollment period. An application for a new visitor must be submitted, completed, returned, and approved before the new visitor can visit. It will be up to the inmate to inform the new visitor of their visitation status.

14. TOBACCO POLICY AND PROCEDURES

Legislation was passed which bans the use of tobacco products inside prison facilities effective January 1, 2006. The use of tobacco products is prohibited inside any building of a state prison facility. It is also prohibited from use inside any state owned or leased vehicle. Tobacco products include cigarettes, snuff, loose tobacco, or similar goods made with any part of the tobacco plant. This ban on the inside use of tobacco products affects inmates, staff, vendors, and visitors. Staff, vendors, visitors, and inmates may continue to possess tobacco products but the use of those products will only be allowed in outdoor designated areas. There will be at least one designated outside tobacco use area at each facility. The only exception to the ban on the indoor use of tobacco products is for authorized religious purposes. Inmate found using tobacco products in an unauthorized area will receive a B16 disciplinary charge.

15. EXERCISE OF RELIGION

Inmate religious practices may be regulated consistent with the needs for security and the orderly operation of the prison facility. See the prison chaplain for information regarding approved religious practices and programs.

16. WORK ACTIVITIES

The Division of Prisons believes in the value of work and requires all inmates to work while in prison. The development of lasting work skills and work habits are fundamental to an inmate's success in prison and success following release. All work performed by inmates in the Division of Prisons is meaningful and productive work performed for the benefit of the State or for the benefit of other valid interests.

Work assignments are based on the needs of the prison facility and on the skills and interests of the inmates. It is typical for inmates to be assigned to a variety of jobs as changes are made in their security status and housing. Inmates can earn better jobs in prison through positive work performance and through the development of new work skills by participating in vocational training. Refusal to accept work assignments or poor work performance are violations of prison rules and will result in punishment. Cooperative participation in work activities is rewarded by allowable sentence reduction credits and incentive wage pay. Successful work performance demonstrates positive behavior and can make an inmate eligible for participation in other programs and activities.

Inmates can earn wages of up to \$1.00 per day for most job assignments. Inmates assigned to Correction Enterprise can earn a maximum of \$3.00 per day. Full time jobs require an eight hour work day and include a five to seven day work week. Sentence reduction credits for working are awarded as gained time or earned time. The amount of sentence reduction credit awarded can be limited by the type of sentence an inmate receives in court. Sentence reduction credits are earned at different rates. For details please refer to your case manager.

Inmates who are not assigned to an incentive wage job may be required to perform short-term work tasks for up to three hours a day for three consecutive days without pay.

Inmate work in the Division of Prisons can take place at the prison facility, at a Correction Enterprise plant, at another government facility or at a site in the community. Work performed away from the prison facility by inmates in medium custody requires that the inmates be directly supervised by Correctional Officers who carry firearms to prevent escapes. Minimum custody inmates who are assigned to work away from the prison facility have earned a greater degree of trust, but are under the direct supervision of correctional officials or other responsible supervisors. Inmates are approved for a particular work assignment by the prison Superintendent based on recommendations received from other prison staff and based on the availability of vacant jobs. The major categories of work to which inmates are assigned are listed below. Some categories of work require inmates to be in a certain custody or possess specific skills. All work categories require inmates to work hard, to exhibit cooperation, and to ensure safe work practices for themselves and for others. Inmates can obtain more information about work assignments and requirements by talking with their case managers or other facility staff.

(1) FACILITY DUTY

Facility duty assignments at each prison include a number of skilled and unskilled work opportunities. Work assignments in food service, janitorial duties, maintenance, clothes house operations and other areas are all necessary to support the daily operations of the prison.

(2) HIGHWAY DUTY

Inmates are assigned to the Department of Transportation to work on state roads. Road work is related to maintenance, clean-up and repair of roadways and adjoining areas. Work for the Department of Transportation includes medium custody road squads and minimum custody work crews.

(3) COMMUNITY WORK CREWS

The community work program operates at most minimum security prisons. Selected inmates are assigned to work crews that work under the direct supervision of a Correctional Officer. Work is performed for local municipalities and governmental agencies and can include landscaping, community clean-up projects, painting, disaster recovery and similar activities. Community work crews perform manual labor tasks that benefit the community where the prison is located.

(4) CORRECTION ENTERPRISE

Correction Enterprise is the prison industry operation in the Department of Correction. Correction Enterprise operations are varied and include, among other activities, farm production, furniture making, sewing and tailoring, print plant operations, laundry operations and the manufacture of metal products. The majority of inmates in Correction Enterprise work are in medium custody and usually have earned their assignment to Correction Enterprise by displaying good work performance in other duty assignments. Inmates assigned to Correction Enterprise have the opportunity to earn up to \$3.00 per day.

(5) INMATE CONSTRUCTION PROGRAM

Inmates with selected job skills in the construction trades are assigned to the inmate construction program and perform work involving the construction and refurbishing of prison facilities and buildings. This work assignment requires assigned inmates to be housed near the construction site and can result in them occasionally relocating to different parts of the state. Extra incentives are provided for inmates selected for this important program. Inmates are able to work independently on the job site based on their skill level. Work supervision is provided by engineers employed by the Department of Correction.

(6) WORK FOR GOVERNMENTAL AGENCIES

Inmates are assigned to work for county, city and state governmental agencies as part of labor agreements made with the prison facility. Inmate earnings are based on the incentive wage scale of up to \$1.00 per day. Work activities vary and are similar to facility duty assignments, but are performed at the local government site in the community under the supervision of an approved employee of that agency.

(7) NON-PROFIT SERVICE PROGRAM

Inmates assigned to this program perform community service work for non-profit agencies in the local community. The type of work varies and is performed under the supervision

of employees of the non-profit agency. Inmates assigned to this work program are in minimum custody level two or higher.

(8) OTHER WORK PROGRAMS

Other work programs are available to eligible inmates. One program designed for young male inmates is BRIDGE. This program is sponsored through a partnership with the Division of Forest Resources and operates in a limited area of the state. Inmates assigned to BRIDGE learn forest fire fighting techniques and forestry maintenance.

(9) WORK RELEASE

Inmates who have displayed positive behavior and who meet certain eligibility requirements can be assigned to the Work Release program. Work Release provides selected inmates the opportunity to earn minimum wage or greater in salary by working for a private employer in the community. Work Release inmates must be in minimum custody level three and are usually approaching the end of their sentence or are eligible for release when assigned to this program. Inmates on Work Release are required to pay a daily fee for room and board to the Division of Prisons, to support their dependants and to make restitution payments if ordered by the court. Inmates on Work Release are supervised by the private employer and are monitored frequently by prison staff. Only those inmates who display the highest degree of trust and responsibility are granted the privilege of Work Release.

17. PROGRAM ACTIVITIES

The Division of Prisons believes in the ability of each inmate to change their behavior and provides opportunities for change through program participation. Programs are designed to help inmates adjust to prison and to prepare them for their return to the community. All inmates are expected to participate in a variety of program activities while in prison for the purpose of self-improvement. Programs are offered during the day and during evening hours. Inmates can participate in programs and maintain a full time work assignment.

Each inmate is evaluated when they enter prison. From that evaluation decisions are made concerning programs that will be of benefit to them. Those inmates who do not have a high school education or a job skill are expected to participate in educational programs. Those inmates who have had problems related to alcohol and drug use are expected to participate in substance abuse programs. Those inmates who have trouble controlling their anger or cooperating with others can participate in counseling programs. Other programs and activities are available that provide learning opportunities, health benefits and self-enrichment.

Participation in full time programs can result in sentence reduction credits. Successful program completion demonstrates positive behavior and can make an inmate eligible for new programs and added privileges.

18. HOME LEAVES

General Instructions. Inmates in minimum custody level III who have maintained this status for a minimum of ninety (90) days and are within twelve (12) months of a release or parole eligibility date are eligible for consideration for home leaves. In addition, the inmate must have remained infraction free for the last ninety (90) days. The exception to the above instructions are MAPP

and Governor Mansion inmates. When an inmate wishes to participate in the home leave program, he or she and the family member with whom he wishes to visit must make a formal request in writing. The Facility Superintendent or his/her designated representative will request the appropriate staff to conduct an investigation. In making a decision on the request, the superintendent will consider information such as the inmate's behavior and performance in facility activities and work along with reports from counselors, work supervisors, community volunteer sponsors, and comments from the community. Conditions for Family Visits include:

- (1) visit is restricted to home of family sponsor. Going to any other location must have prior approval;
- (2) inmate must go directly to location specified in visitation agreement and return to facility using an approved method of transportation;
- (3) inmate must comply with all laws, regulations and instructions imposed; and,
- (4) a maximum of one 48-hour visit per calendar month excluding reasonable travel time. All first home leaves, however, must have a maximum duration of 24 hours.

Interested inmates should contact appropriate facility staff for more information about participation in this program.

19. COMMUNITY VOLUNTEER PROGRAM

Citizens from the community enter facilities each day as volunteers. They may perform activities at the facility and escort eligible inmates to activities outside of the facility.

Activities conducted or sponsored by volunteers on facility include: drug/alcohol and personal counseling; tutoring; religious services (Yokefellow Prison Ministry, Prison Fellowship, worship services, scripture study); and special events (guest speakers, films, singing groups). Requirements for participation vary by activity and facility. Inmates should contact their case manager and/or chaplain who can also discuss the schedule of events, location and available space for an activity in which they are interested.

Eligible inmates may be considered for participation in the Community Leave Program. Trained volunteers are allowed to escort eligible minimum custody level two inmates to approved activities outside of the facility. Custody level is not the sole requirement reviewed when an inmate is being considered for the program. Inmate progress reports, infractions and criminal history may be considered.

Other information about the Community Leave Program includes:

- (1) all activities must be approved prior to the leave;
- (2) inmate can not have contact with relatives while on the Community Leave Pass;
- (3) leaves may not exceed six hours; however, an inmate may be allowed a maximum of three leaves per week; and,
- (4) female volunteers may not sponsor male inmates; male volunteers may not sponsor female inmates on outside activities.

Inmates should contact the appropriate facility staff for more detailed information about the program.

20. ACCESS TO THE COURTS

Every inmate committed to the Department of Correction shall be afforded reasonable access to the courts. In an effort to provide such access, the department has contracted for attorneys to provide assistance to inmates.

Inmates are to be counseled and encouraged to utilize the legal services contractor (attorneys) in order to access the courts. No inmate will be penalized for allegations against the Department or its employees presented in petitions and/or complaints. However, inmates whose petitions/complaints are not successful will be required by the courts to pay from their trust fund account the costs of their litigation. Also, under the Prison Litigation Reform Act of 1995, if an inmate files a civil lawsuit or files an appeal *in forma pauperis*, the inmate will be required by the courts to pay the full amount of a filing fee. In no event, however, will an inmate be prohibited from filing a civil lawsuit or appealing a civil or criminal judgment because the inmate has no money or means by which to pay a filing fee.

- A. Each superintendent or institution head will be responsible for the following:
- (1) appointing a facility coordinator for inmates to access the Attorney Assistance Program staff;
 - (2) designating reasonable private areas in the facility for inmates and attorneys to meet, consistent with custody, security and operational requirements. The Attorney Assistance Program staff as well as private attorneys retained by an inmate will not be permitted access to staff or other areas of the facility without the approval of the Department's legal counsel;
 - (3) inmates will be provided paper, carbon paper, and writing implements with which the Attorney Assistance Program staff or private attorneys may be contacted. The Department will not provide photocopying services, law libraries, legal text or other legal materials.
- B. Methods of accessing courts:
- (1) The primary and preferred method for inmates' access to the courts is through the Attorney Assistance Program which is available to each inmate in every facility within the Division of Prisons.
 - (2) Inmates may retain private counsel for representation. Such attorneys shall be permitted access to the inmate/client after proof that an attorney/client relationship has been established with the inmate in a matter pending or soon to be brought before a court. The attorneys will be provided access to their inmates/clients as frequently as is required to provide adequate legal representation. Contact between inmates and attorneys is to be in the form of written correspondence or personal visits. In exceptional situations

where legal deadlines make a personal visit or correspondence impractical, attorneys may initiate a request with the Department's legal section for approval to contact inmates/clients by telephone. Authorization will be provided to the superintendent or institutional head by the Department's legal section.

- (3) Inmates may represent themselves in legal matters before the court. Inmates may have legal text and materials in their possession. The amount of legal materials and text an inmate may be permitted to keep at the prison facility will be based upon personal storage space provided, his or her custody classification, security, safety, sanitation and fire hazard considerations affecting the orderly operation of the prison facility.

The establishment of the Attorney Assistance Program has eliminated the need for one inmate to provide legal assistance to another inmate. Inmates who are found providing legal assistance to others will be subject to disciplinary action.

21. OUTSTANDING CHARGES, DETAINERS

Inmates who have criminal charges pending against them in any court in the state of North Carolina for which a detainer has not been filed with the Department of Correction may request a speedy trial on the charges by writing to the Clerk of Court in the county in which the charges are filed. Inmates who have a detainer filed against them by a court in the State of North Carolina may request a speedy trial by completing forms provided by the Combined Records Section of the Department of Correction. Inmates who have a detainer filed against them by a court outside of the State of North Carolina may request a speedy trial by writing the Administrative Assistant, Interstate Compact on Detainers, 214 West Jones Street, Raleigh, North Carolina 27603. The courts filing the detainers must bring the inmates to trial within six (6) months of the date of the inmate's request for a speedy trial or the detainer will be withdrawn. If there are any questions about detainers, contact the officer-in-charge.

22. INMATE GRIEVANCES-ADMINISTRATIVE REMEDY PROCEDURE (ARP)

(1) GRIEVANCES

Inmates with unresolved complaints about conditions of confinement, such as actions, conduct, incidents, or policies may file a formal grievance after they have sought assistance by talking with staff. Grievance Forms (DC-410's) are available to inmates upon request, or in most facilities and living areas. To start the grievance process, inmates must complete items 1-7 on the DC-410 and either place the form in a designated collection point or give it to a staff member.

(2) POSTING OF PROCEDURE

The Administrative Remedy Procedure is posted in living areas and is available in the facility library.

(3) REJECTION OF GRIEVANCES

Certain grievances will not be accepted. Grievances will be rejected whenever inmates seek to challenge:

- (a) State or Federal court decisions;
- (b) Parole Commission decisions;
- (c) Disciplinary actions; and
- (d) Actions not yet taken.

Grievances will also be rejected when they:

- (e) are filed more than 1 year after the event sought to be complained about;
- (f) seek a remedy for another inmate;
- (g) involve more than 1 incident;
- (h) do not follow the ARP; or
- (i) direct toward persons language that is generally considered profane, vulgar, abusive or threatening.

(4) CONFIDENTIAL GRIEVANCES

If an inmate thinks that a grievance is of a **confidential** nature, his grievance may be filed directly with the Director of Prisons and mailed as legal mail. The inmate must explain in the letter to the Director the nature of the complaint and the reasons for not following the regular grievance procedure.

If the director determines that the grievance is not of confidential nature, the grievance shall be returned to the inmate with instructions to submit it in accordance with the procedures set forth in policy (NCAC 2G .0307) (through the normal channel).

(5) EMERGENCY GRIEVANCES

- (a) Any inmate who is in need of urgent medical care may present himself to a member of the medical or custodial staff, who shall handle the matter according to emergency health care procedures set out in the Health Care Manual. If inmates fear for their personal safety, they may contact the officer-in-charge or any other custodial official. Any request for protective housing will be handled in accordance with 5 NCAC 2C .1100.
- (b) Matters relating to administrative transfers, time computation disputes, and family illness or death are not to be treated as emergencies for purposes of this procedure, but shall be handled expeditiously and compassionately by the superintendent or institution head or their designee where appropriate.

(6) STEPS IN THE GRIEVANCE PROCESS

- (a) Inmate and staff seek to resolve problem through informal communication.
- (b) If informal resolution does not work, inmate submits a written grievance, which is screened under the rules.
- (c) If accepted, the facility seeks to resolve the grievance with the inmate consistent with Department of Correction policies.

- (d) If the inmate does not accept the resolution, the grievance goes to the Region Director/Institution Head. This is accomplished by inmates indicating their rejection and signing their name in the proper place (Line 26. (B) of the Step One on Form DC-410A.) The Region Director/Institution Head will try to resolve the grievance.
- (e) If the inmate is not satisfied with the decision reached in Step Two the grievance may be appealed to an Inmate Grievance Examiner by checking line 26. (B), dating line 27, and signing line 28. Following investigation by an Inmate Grievance Examiner, the grievance may be resolved or dismissed. The Examiner and Division of Prisons staff may resolve the grievance or the Examiner may write an order to resolve the grievance.

The Secretary of Correction accepts, modifies, or rejects the order and this action is the final step in the Administrative Remedy Procedure.

(7) OTHER CONSIDERATIONS

- (a) The total grievance process will take no longer than 180 days. Each step is to be completed in a set number of days, as set out in the Administrative Remedy Procedure.
- (b) Except for emergency grievances as defined in policy section 2 G.0308, inmates may submit only one (1) grievance at a time. When more than one is submitted, the second or subsequent grievance will be returned to the aggrieved inmate. Once the initial grievance has completed Step One or been resolved, inmates may submit a new grievance or resubmit a grievance previously returned to them.

23. STRUCTURED SENTENCING ACT- Release

An inmate whose crime(s) occurred on or after October 1, 1994, is subject to the Structured Sentencing Act under which most inmates are not eligible for parole. Each felon will receive a minimum and a maximum sentence and release date. The maximum sentence will be 120% of the minimum sentence, plus nine months in the case of certain felonies. Inmates sentenced for a Class "A" felony and some persons convicted of a Class "B" felony will not have a release date. Those convicted of Driving While Impaired will be the only persons who will be eligible for parole.

24. INTERNATIONAL PRISONER TRANSFERS

North Carolina is one of 48 states, along with the Federal Bureau of Prisons, which allows some foreign-born inmates to be transferred to their home countries to serve their sentences. Specific criteria must be met for international transfer consideration, including at least 12 months on the active sentence remaining to be served at the time of request for transfer. Also, those serving a maximum sentence of life or death will not be considered for transfer. The transfer program is discretionary and not everyone who applies will be qualified or approved for transfer.

25. FOREIGN CONSULAR NOTIFICATION

As part of processing, each inmate will be asked whether they are citizens of the United States. If an inmate is not a citizen of the United States, their consulate will be contacted in accordance with the policies and procedures set forth by the United States Department of State.

26. POST RELEASE SUPERVISION AND PAROLE

Effective October 1, 1994, the Parole Commission is renamed the Post Release Supervision and Parole Commission. This coincides with the start of Structured Sentencing.

The Post Release Supervision and Parole Commission has the following powers as defined in the North Carolina General Statutes for persons whose crimes occurred prior to October 1, 1994.

- (a) To grant paroles, including both regular and temporary, to persons held by virtue of any final order of judgment of any court in this state;
- (b) To revoke, terminate, or suspend paroles;
- (c) To assist the Governor in exercising his authority in granting reprieves, commutations, and pardons and perform such other services as may be required by the Governor in exercising his powers of executive authority;
- (d) To exercise all releasing authority over all Committed Youthful Offenders, and Work Release for offenders with maximum sentences in excess of five years whose crimes were committed prior to July 1, 1981;
- (e) To adopt rules and regulations whereby prisoners eligible for parole consideration will have their cases reviewed, investigated, and considered; and
- (f) To establish rules and regulations for the management of prisoners on parole or post release supervision.

27. POST RELEASE SUPERVISION AND PAROLE ELIGIBILITY

- (a) Structured Sentencing- Other than inmates convicted of Driving While Impaired, no one whose crime(s) occurred on or after October 1, 1994, will be eligible for parole. He or she may be eligible for Post Release Supervision at the completion of no less than the minimum portion of their sentence(s), in the case of certain felony crimes. Inmates convicted of Class "B2" through "E" class felonies will be placed on a supervised release known as Post Release Supervision no earlier than 9 months before their final release dates. The supervision period will be six months. If an inmate violates the terms of his or her Post Release Supervision, he or she may be required to serve the maximum sentence. The Post Release Supervision and Parole Commission will review the case if you are returned to prison as a violator and determine if you will be replaced on Post Release Supervision at any point in the future.

- (b) All prisoners committing crimes prior to July 1, 1978, except those sentenced as CYOs and those sentenced to life, must serve at least one-fourth of their minimum sentences to be eligible for parole consideration.

To establish parole eligibility (P.E.) dates, the Parole Commission uses the following procedures:

- (1) When the sentence is determinate ("flat"), the P.E. date is set at one-fourth of the sentence from the date of admission to prison.
- (2) Where the sentence has a minimum sentence, the P.E. date is set at one-fourth of the minimum sentence from the date of admission.
- (3) Where two or more sentences are imposed, and are concurrent, the P.E. date is set at one-fourth of the sentence that has the latest P.E. date.
- (4) Where two or more consecutive sentences are imposed, the minimums are added and the P.E. date is set at one-fourth of this.

- (c) For felons committing crimes after July 1, 1978, and before July 1, 1981, except those sentenced as CYOs and those sentenced to life, parole eligibility is determined as follows:

- (1) Where the sentence is determinate ("flat") the inmate is eligible for release at any time.
- (2) Where the sentence has a minimum sentence, the P.E. date is determined either by when the inmate completes serving the minimum sentence (less good time) or when he completes serving one-fifth of the statutory maximum (less good time), whichever is less.
- (3) Where two or more sentences are imposed and are concurrent, the parole eligibility date is set by computing the eligibility date of each sentence and using the latest date.
- (4) Where two or more consecutive sentences are imposed, the P.E. date is determined by computing the eligibility date on each sentence and adding them together.

NOTE: Jail and other pre-sentence credits awarded by the courts are applicable to the parole eligibility date.

- (d) Inmates convicted of felony crimes committed on or after July 1, 1981, and prior to October 1, 1994, and sentenced to a term of 18 months or longer will be granted re-entry parole 90 days before the expiration of their sentence(s), provided the inmate was not sentenced as a Committed Youthful Offender or as a misdemeanor. Effective July 1, 1981, inmates eligible for parole will be given good time towards the parole eligibility date. Community Service Parole may be considered.

An inmate committing offenses of Robbery With a Fireman, Explosive, or Other Weapons, or First and Second Degree Burglary on or after October 1, 1977, shall not be eligible for parole until completion of 7 years flat.

Inmates serving life sentences may be eligible for parole consideration in either ten or twenty years, depending upon the date the crime was committed. For those whose crimes were committed prior to April 8, 1974, the eligibility date is ten years from the date of admission, less any pre-sentence credits, and good time credit. For those whose crimes were committed on or after April 8, 1974, the eligibility date is twenty years from the date of admission, less any pre-sentence credits and good time credit. Inmates whose crimes were committed on or after July 1, 1978 and prior to July 1, 1981 who are sentenced to life terms that are determinate are eligible for parole immediately except inmates convicted of First Degree Murder. Inmates sentenced to indeterminate life terms (life minimum and life maximum) are eligible for parole after serving 20 years less good time.

Inmates sentenced to life terms on or after July 1, 1981 and prior to October 1, 1994 (Fair Sentencing Act) are eligible for parole as follows: If the crime is an "A" or "B" class felony, the eligibility date is 20 years, which cannot be reduced by good conduct time. Inmates sentenced to life terms whose crimes occurred on or after October 1, 1994 are not eligible for post-release supervision (parole). Life-term inmates with consecutive sentences must serve the minimum required by law for each sentence.

Prisoners sentenced as Committed Youthful Offenders (CYO) are eligible for Conditional Release at any time following admission unless they are convicted of a trafficking offense after 2/1/89. Then he/she is only eligible for parole the last 270 days. However, the Commission may not grant such release without first receiving a favorable recommendation from the Secretary of Correction unless the inmate is within 90 days of his/her unconditional discharge date. The Secretary has delegated his authority to make such recommendations to the Director of Prisons, who has established review committees at the facility and regional levels to make these recommendations to the Parole Commission.

NOTE: Inmates with both CYO and Regular Youthful Offender (RYO) sentences must satisfy the statutory requirement for parole eligibility on the RYO sentence before they can be paroled. CYO status only pertains to pre-Structured Sentencing Act cases.

28. THE PAROLE PROCESS

Every inmate that comes into prison is given a number and a file jacket. All information that the inmate and the prison have in common goes into this jacket. This includes commitment papers, medical history, and reports from the Division of Prisons on conduct and activities. Also letters written to and about the inmate are placed in the files.

Before an inmate is considered for parole, the Post Release Supervision and Parole Commission will do the following things:

- (a) conduct a pre-parole investigation;
- (b) contact persons who are interested in the case. (victim, arresting officer, district attorney, media, etc.);

- (c) after the information is received from the pre-parole investigation, the analyst will prepare a report for the Parole Commission and a decision will be made to parole the inmate or deny his/her parole.

A pre-parole investigation usually takes 60 days before a decision is made by the commission. Then the inmate is told of this decision.

If there is no pre-parole investigation, and the case analyst recommends that parole not be given, two members of the commission must agree with this decision. Any of the commissioners can disagree with the case analyst. The commissioner can order the case looked into or order an earlier review date set. If parole is not recommended, a new parole review date is set within the next 12 months. Only the Parole Commission can move up this date.

In all felony cases the Post Release Supervision and Parole Commission will ask the opinion of the following people or agencies:

- (a) The district attorney, who may request a public parole hearing;
- (b) The police or sheriff's department;
- (c) Parole officers;
- (d) Staff at inmate's prison facility;
- (e) The parole case analyst.

Family and people who know the family and the inmate may offer recommendations for the inmate. These recommendations will be written. They must tell why the inmate deserves parole. These recommendations are put in the inmate's file to be read by the commissioners.

In some cases the inmate may be called to meet with members of the commission. When inmates know they are to meet and talk with a member of the commission, they should have in hand their job and home plan. Inmates should tell the commission what their reasons are for thinking they can succeed on parole.

In some cases the local media is contacted advising them that the case is under consideration for parole. Because there are so many inmates to meet and talk with, the commission does not want visitors present. When visitors have permission to meet with the commission for an inmate, the visitors will have only five minutes to say what they want to say. The visitor gets permission to meet with the commission from the case analyst or the Office of the Post Release Supervision and Parole Commission. This meeting gives the commission a chance to meet the visitors face-to-face. Then inmates are able to speak for themselves in private.

29. FACTORS CONSIDERED IN MAKING PAROLE DECISION

Post Release Supervision and Parole are not rights. There are certain things that must be done before an inmate can be given parole. The commission must by law be sure of the following things:

- (a) The prisoner will (most likely) not break any laws.
- (b) The prisoner is not a threat or danger to the people who live in his town or to other people in the state.
- (c) The prisoner has shown (by his/her record) to have followed the rules of prison.

- (d) The prisoner does not want to get even with any person who arrested, sentenced or testified against him/her.

The two reasons why parole is more often turned down are: (1)The commission thinks that the inmate will most likely break another law. (2)The inmate's record in prison shows that he/she did not follow the rules while in prison.

Inmates who have been in prison more than one time, on probation, or arrested and convicted will most likely not make parole the first time they are considered. Inmates who have never been arrested or convicted or have only been convicted of lesser criminal acts may receive parole as soon as they have served the least (smallest) amount of time needed by law. The way inmates act in prison can show the Post Release Supervision and Parole Commission that they are ready for parole. North Carolina says that the Post Release Supervision and Parole Commission must be sure that the inmate has gone by the rules and regulations while in prison. Inmates who have been locked up because of a disciplinary hearing must prove that they have changed by doing more than the rules ask of them to prove that they are able to get along in prison. Doing well in prison does not ensure an inmate's chances of getting paroled. However, inmates will not get parole if they have not done well in prison.

The following are examples which have either good or bad effects on the chances of making parole:

- (1) The Type of Crime and How It Was Committed- The commission wants to answer the question "Has the inmate served enough time on the sentence as punishment for the crime?"
- (2) Feelings of Officials and People in the Community- The police department and the people in the neighborhood are asked about inmates and how they think that they will get along on parole. The opinions of these people carry weight with the commission.
- (3) Medical, Psychiatric, and Psychological Reports- These reports are very useful to the commission in answering questions about the fitness of the prisoner for parole. These reports will not be shown to anyone else.
- (4) Custody Level- The commission does not give parole to inmates in **Close Custody** unless they are being kept at this level for their own protection. As a rule, inmates will not be paroled out of **Medium Custody** (brown clothes). The commission wants inmates to be in **Minimum Custody** so it can watch their actions and the way they handle responsibility.
- (5) Escapes, Break-outs- The commission looks at recent escapes by inmates as a sign that they are likely to leave parole supervision.
- (6) Attitude- N.C. law says that inmates should not hold a grudge against people who put or kept them in prison.
- (7) Work Release/Study Release- Inmates can help their chances for parole by doing well on Work Release or Study Release.

- (8) **Alcohol/Drug Background-** Inmates who have never had an alcohol or drug problem find themselves in good standing with the commission in these matters. Inmates who have used alcohol and/or drugs can off-set their bad influence by joining groups like AA, drug counseling, mental health counseling, and by not using either alcohol or drugs while in prison, or away from the prison on work release or on home leaves.
- (9) **Previous Parole and Probation-** Both probation and parole are favors given by the state which must be repaid by the individual with responsible behavior. An inmate who has gone to prison, gotten out on parole and did not "mess up" before parole ended, has a good chance of making parole again. Someone who has lost parole privileges before or "messed up" while on parole would have a lesser chance of making it again. To commit a new crime while on probation or parole is the worst thing an inmate can do.
- (10) **Employment Plan-** Inmates will not be granted parole unless they have a job or have money to support themselves without going on welfare. The commission calls for the inmate to have a full-time job. The commission will not agree to a job in which the inmate must handle alcoholic beverages or which brings the inmate close to bad people. A school plan may be used by inmates who need more education or training.

NOTE: After inmates have met all conditions for parole except for finding a job, they may be able to get a 30 day parole in order to look for a job. These leaves will be given to inmates whose prison records are spotless and who have no drug or alcohol problems.

- (11) **Residence Plan-** The commission demands that the home in which the inmate plans to live be cooperative, stable, and moral. Without the cooperation of the home, the parolee has a greater chance of failure.

30. NOTIFICATION OF PAROLE DENIAL

When inmates are turned down for parole/post release supervision, they will get a letter giving the reasons why they were denied. The reasons will be given in terms of the requirements for parole and certain points in the inmate's case will be given to back-up the decision.

31. INTERSTATE PAROLE COMPACT

In some cases, an inmate may be granted parole to another state. Parole cannot be granted to another state unless there is an agreement between that state and North Carolina concerning parole. This agreement is called the Interstate Parole Compact.

32. PAROLE SUPERVISION/POST RELEASE SUPERVISION

Inmates on One-Third Parole may or may not have a parole officer in charge of their paroles, but all other inmates on parole will have a parole officer whose job it is to make sure inmates live up to the rules and conditions of their parole. The commission has the power to end an inmate's parole. This means that inmates will be released from their sentences the same as if they have served the whole sentence. When inmates serving a felony sentence either complete the sentence or have the parole terminated by the commission, their citizenship rights will be returned to them.

There are times when an inmate on parole will not be given credit for time served on parole. These three times are:

- (1) **TIME SERVED IN PRISON OR JAIL-** Any inmate found guilty of a new crime while on parole will not have that time spent on the new sentence counted against the inmate's sentence from which they were paroled. The commission can order that the time count against the inmate's sentence.
- (2) **ABSCONDERS-** Any inmate is said to have absconded (escaped) from parole when the inmate's parole officer cannot find the inmate or the inmate has changed his/her place of work or place where he/she lives and has not told his/her parole officer. The time that the inmate spends as an absconder does not count toward his/her sentence.

Inmates on parole must live by the rules and conditions of their parole/post release supervision. When inmates do not live up to these conditions, the parole may be revoked (stopped), and the inmate will be returned to prison to serve his/her sentence.

Parole is only granted to those inmates who can be trusted to live in the community as good citizens. Parole is a privilege (favor) granted to inmates because of good behavior in prison and because it is believed that they will live in the community without returning to crime.

33. SEXUAL ABUSE

North Carolina Division of Prisons is committed to a standard of zero-tolerance of sexual abuse of inmates.

A. INMATES WHO SEXUALLY ABUSE OTHER INMATES

1. If allegations of sexual assault or misconduct against you are substantiated, sanctions will be harsh. Your custody level will be reviewed and likely increased, which could mean a transfer to a higher security prison or unit with significantly less freedom of movement and limited privileges. If you have family, this may affect them and their ability to visit you.
2. All cases of substantiated sexual assault or misconduct will be referred to law enforcement for criminal investigation. You may be prosecuted and if you are found guilty additional prison time may be added to your current sentence.
3. Consider that regardless of how you choose to characterize it, unprotected sex significantly increases your risk of HIV infection, along with exposing you to other sexually transmitted diseases.
4. If you have trouble controlling your actions, please seek help from mental health staff and/or consider participating in programs designed to control anger or reduce stress. To reduce immediate feelings of anger or aggression you may want to try talking to or writing to a friend, meditate or do breathing exercises to relax, work on a hobby, or engage in some type of exercise.

B. SEXUAL ASSAULT AND SEXUAL MISCONDUCT DEFINITIONS

Aggressor: The inmate or staff member who commits a sexual assault and/or sexual misconduct.

Sexual Assault: Any contact between the sex organ of one person and the sex organ, mouth or anus of another person, or any intrusion of any part of the body of one person, or of any object into the sex organ, mouth or anus of another person, by the use of force or threat of force. Any sexual contact between an inmate and staff member is considered sexual assault, whether "consensual" or not.

Sexual Misconduct: Forms of sexual harassment including willful and intentional indecent exposure of private parts of the body in the presence of another, touching of private parts of inmates or staff, and the taking of such photographs.

C. PREVENTING SEXUAL ABUSE OR RAPE

1. The only way rape can be prevented is when a potential rapist chooses NOT to rape. However, you may avoid an attack by keeping the following safety guidelines in mind:
 - a. Be aware of situations that make you feel uncomfortable. Trust your instincts. If it feels wrong, LEAVE the area.
 - b. Don't let your manners get in the way of keeping yourself safe. Don't be afraid to say "NO" or "STOP IT, NOW".
 - c. Walk and stand with confidence. Many rapist choose victims who look like they won't fight back or are emotionally weak.
 - d. Avoid talking about sex, and casual nudity. These things may be considered a come on, or make another inmate believe that you have an interest in a sexual relationship.
 - e. Do not accept canteen items, offers of protection, or other gifts from other inmates. Placing yourself in debt to another inmate can lead to the expectation of repaying the debt with sexual favors.
 - f. Avoid secluded areas. Position yourself in plain view of staff members. If you are being pressured for sex, report it to a staff member immediately.
2. If you are aware that another inmate is being sexually abused, you have a responsibility to report it to staff.

D. WHAT TO DO IF YOU ARE SEXUALLY ABUSED OR RAPED

1. If the attack has just happened.....

- a. Get to a safe place. **REPORT THE ATTACK TO A STAFF MEMBER IMMEDIATELY.** The longer you wait to report the attack, the more difficult it is to obtain the evidence necessary for a criminal and/or administrative investigation.
- b. Request immediate medical attention. You may have serious injuries that you are not aware of, and any sexual contact can expose you to sexually transmitted diseases.
- c. Do not shower, brush your teeth, eat, drink, use the restroom or change your clothes. You may destroy important evidence.

2. Later on.....

- a. Seek the support of a trusted friend, family member or staff member. The days ahead can be traumatic and it helps to have people who care about you supporting you.
- b. Seek professional help. Mental Health staff is available for crisis care 365 days a year, to listen and offer support.

E. **WHILE YOU ARE ENCOURAGED TO REPORT ANY INCIDENTS INVOLVING SEXUAL ABUSE, KEEP IN MIND THAT IT IS IMPORTANT TO BE TRUTHFUL. IF DETERMINED THAT YOU HAVE MADE A FALSE REPORT, SERIOUS ACTIONS COULD BE TAKEN.**