



# MINNESOTA JUDICIAL TRAINING UPDATE



## JUDICIAL SENTENCING OVERSIGHT: INADVERTENT DEPRIVATION OF LAWFUL JAIL CREDIT

**PROBLEM:** When sentencing a defendant to prison, if the Court:

1. fails to state the number of jail credit days, or
2. the Court states the number of jail credit days but directs the prison to “verify” jail credit.....

the DOC will determine or verify jail credit by implementing a policy that does NOT allow credit for any time served other than ‘straight time’ (that includes denying jail credit for ‘work release’) even though defendants are lawfully entitled to such credit.

**EXPLANATION:** When the DOC is asked to determine or verify jail credit they rely on information stored in the Minnesota ‘Statewide Supervision System’. The Supervision System contains detention data from every jail facility in the state. Detention data used for calculating jail credit falls within one of five categories:

1. Straight time..... (jail credit is ALWAYS given);
2. Work Release/Education Release..... (jail credit depends on local practice);
3. Sentence to Service..... (jail credit depends on local practice);
4. Weekender/Intermittent..... (jail credit depends on local practice);
5. Electronic Home Monitoring (HEM)..... (jail credit depends on court order);

Because there are no consistent state-wide or county jail definitions for the above detention categories (except for ‘straight time’) the DOC maintains they cannot accurately determine jail credit. As a result, the DOC policy is to DENY jail credit from every detention category except STRAIGHT TIME.

**NOTE – BURDEN PLACED ON DEFENDANT:** If a defendant feels they are not being granted appropriate credit they are told to contact their attorney and/or the Court to have the matter judicially determined.

**SOLUTION:** Judges can avoid this problem and protect a defendant's right to lawful jail credit by NEVER allowing the DOC to determine or verify jail credit. Judges can avoid DOC involvement by following the 'Judicial Best Practice' noted below.



180 days of Jail credit →



**JUDICIAL BEST PRACTICE:**

1. When pronouncing sentence the Court **MUST** state the number of days spent in custody that defendant is entitled to receive as jail credit. Minn. R. Crim. P. 27.03, sub. 4(b);
2. If you don't have enough information to determine jail credit at the time of sentencing then either:
  - a. continue the sentencing hearing to a future date, or
  - b. sentence the defendant but reserve the issue of jail credit for your local corrections department to determine (within a reasonable period of time) and then issue an amended order stating the amount of jail credit.

**WARNING:** After stating the number of jail credit days NEVER direct the DOC to verify jail credit or you will inadvertently implicate the DOC jail credit policy explained above.

**RESOURCE:** Patrick Courtney, Esq. Program Manager, Sentence Administration and Records, Minnesota Department of Corrections; DOC Jail Credit Policy; Minnesota Jail Credit Manual, Training Update 12-10.

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