



Prisoner Advocacy Network

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CDCR Time Credits

On May 1st, 2021 CDCR used emergency regulations to put Prop 57 into effect. Prop 57 passed in California in 2016. The proposition aimed to provide incentives and increase credit-earning opportunities for sustained good behavior and positive programming. For those convicted of nonviolent crimes, additional credits can make a release date earlier.¹

This handout will explain the changes and why you may be noticing negative changes to your calculated release date despite the intention to incentivize good behavior with higher benefits. The CDCR regulations have had beneficial and harmful impacts on how release dates are calculated. The changes increased opportunities for time credits but allowed errors in previous credit calculations to be identified.

These specific credit changes impact all individuals convicted of violent crimes under Penal Code 667.5(c), those convicted of nonviolent crimes under California's Three Strikes law, and those eligible for minimum custody and fire camp placement. All credits are being applied prospectively, meaning the new credit-earning will be applied from May 1, 2021, forward.

NEW CREDIT CHANGES AFTER MAY 1ST²

Good Conduct Credit (GCC) Awarded to eligible individuals who comply with all rules and perform their duties as assigned on a regular basis. On May 1st 2021 CDCR increased the rate of GCC an individual could earn. This gives those eligible a greater number of credits earned than previously.

	Previous Rate	New Rate (May 1, 2021)
Violent	20% (1 day credit for every 4 days served)	33.3% (1 day of credit for every 2 days served)
Non Violent Second Striker	33.3%	50% (1 day of credit for every 1 day served)
Nonviolent Third Striker	33.3%	50% (1 day of credit for every 1 day served)

¹ <https://www.cdcr.ca.gov/proposition57/>

² CDCR Website, <https://www.cdcr.ca.gov/proposition57/>

Last Updated, May 1 2021

Minimum Security Credit (MSC)

MSC was established under the new covid emergency regulations. Emergency regulations during the pandemic allowed changes to be pushed through without the long process and letz those impacted receive increased or new credits. MSC awards all eligible incarcerated people who work in fire camps, are trained as firefighters, or who are assigned minimum custody status with 30 days of credit for every 30 continuous days served.

MSC applies to anyone currently assigned to workgroup F or M and may impact their Earliest Possible Release Date (EPRD) as their credits are transferred to the new program. Most should have similar release dates to what they saw before the changes unless their GCC has also changed.

Those assigned to WG M who previously did not have their GCC rate impacted will now be eligible to earn MSC. Those with a violent conviction will now have the ability to earn MSC at the same credit rate of those with a nonviolent or Second Strike conviction.

Workgrou p	Definition/Eligibility Criteria	MSC Credit Earning Rate (May 1, 2021)
F	Minimum custody and firefighting or non-firefighting conservation camp individual	30 day credit award after 30 days of continuous custody served
M	Minimum custody or otherwise eligible for minimum custody	30 day credit award after 30 days of continuous custody served

ADDITIONAL TYPES OF CREDITS

Milestone Completion	MCC is awarded for successful completion of rehabilitative or educational programs designed to prepare participants to find employment upon release. MCC is awarded in increments of not less than one week, but no more than 12 weeks, in a 12-month period.
Rehabilitative Achievement	RAC is awarded to those who complete specified hours of approved self-help and volunteer public service activities. 10 days of credit may be awarded to someone who completes 52 hours of approved programming in a 12-month period.
Educational Merit	EMC is awarded for completion of high school diploma or equivalency programs, higher education degrees, or the Offender Mentor Certification Program (OMCP). 90 calendar days may be awarded for completion of a high school diploma or high school equivalency approved by the Department of Education, while 180 days may be awarded for successful completion of associate, bachelor’s and post-graduate degrees, and the OMCP.
Extraordinary Conduct	An award of up to 12 months of credit may be awarded to those who have performed a heroic act in a life-threatening situation or who have provided exceptional assistance in maintaining the safety and security of a prison.

Before May 1st only Milestone Completion Credits (MCC) and Rehabilitative Achievement Credits and Good Conduct Credits (GCC) could be lost as a result of rules violations. With the new change, if the amount of lost credits goes above an individual's GCC credit amount, credits can be lost from any/all categories.

However, the changes also open new paths to restore lost credits in the amount of 90 days or less. This can be done by remaining disciplinary-free for a defined period specific to the individual. If the lost credits exceed 90 days they cannot be restored.

ADJUSTMENT TO RELEASE DATE CALCULATIONS

On June 1, 2021 Case Records issued a new calculation procedure in connection with the new changes and ordered a manual recalculation of credits of incarcerated people with upcoming release dates. Unfortunately the manual recalculation found a number of errors in the old system and computerized calculation process. This includes changes that resolve issues preventing people from receiving credits or whose release dates were being pushed back:

- Good Conduct Credits are being applied beyond the days someone would be in custody. As a result too many days of credit were being applied for days not served in prison and caused dates to be moved further out and dates to be delayed.
- People that received a disciplinary action (CDCR 115) were not earning credit for the amount of days they lost even when not in a zero earning status (D2 or C status). The new calculation applies credit for the amount of days lost, resulting in dates being scheduled sooner.

Other changes may have a negative impact on release dates:

- **Banked Milestone Completion Credits (MCC) were being calculated into the projected release date before they should have been**

This error granted people credits for completion of programs or participation at the time they enrolled, not at the time they completed the program. With new changes those participating in these programs will now see the credits they earn for participation and completion of programs or courses as they are completed rather than at the time they enrolled. This means release will be calculated not by the time of enrollment, but at the time of completion.

- **Changes to How Calculated Release Dates will Appear for Members of Fire Camp**
The new GCC percentages plus MSC credits should result in the same or similar credits just calculated differently and at a later date. Before the May 1st changes, release calculations were based on the assumption that those in Work Groups F and M would continue to work in those groups. This gave additional credits beyond days that had been served. With the new changes, release calculations no longer assume

that someone will remain in fire camp or any of the eligible work groups. Instead, the projection is based primarily on GCC credit earning with the new adjustments.

Additionally, people will receive the MSC credit (described above) granting them 30 days of credit for each 30 days of participation. If you have not yet completed 30 days of participation, the projected release date may have increased until those days are completed and applied into your calculated release date.

As we state above, we have been advised that CDCR has identified a computer coding issue, and they are correcting it. The problem is that the computer program stopped assuming that people would be earning credits in determining the Earliest Possible Release Date. Instead, it was recalculating release dates every 30 days and providing the credits for that period only. CDCR's first priority is recalculating release dates for people who are due to be released between now and December, 2021. They expect the bulk of those to be done by August 1, 2021. We believe that people will be receiving their revised release date notices on a rolling basis.

CHALLENGING THE CREDIT RULES OR HOW THE RULES ARE BEING APPLIED³

As of May 1, 2021 the emergency credit rules have not yet been permanently adopted through a formal rulemaking process. These rules may be amended as CDCR goes through the formal rule-making process, including taking public comments. We will try to update this letter when CDCR announces the timeline and contact information for public comments. The Prison Law Office will likely update its "Time Credits" handout with changes too.

If you believe that prison conduct or programming credits are not being fairly applied in your case, you should file an administrative appeal and pursue it to the highest level. For most credit issues, you should use a Form 602 Inmate/Parolee Appeal. If you are being denied credit opportunities due to a disability, file a CDCR 1824 Reasonable Accommodation Request.

The Prison Law Office is interested in making sure the CDCR applies its credit rules fairly. If you appeal to the highest level of review, and are not satisfied with the responses, send copies of the appeal and responses to: Prison Law Office, General Delivery, San Quentin, CA 94964.

If you pursue an administrative appeal to the highest level of review and are not satisfied with the responses, you can file a state court habeas petition arguing that the CDCR is interpreting or applying its rules in an unreasonable manner and/or is violating federal or state law.

³ Prison Law Office, "Time Credits For People In CDCR," 5/1/2021