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Your Responsibility When Using this Information:

When we wrote this informational material, we did our best to give you useful and accurate information because we know that prisoners often have difficulty obtaining legal help and we cannot provide specific advice to all the prisoners who request it. However, be aware that the laws change frequently and are subject to differing interpretations. We do not always have the resources to make changes to this material every time the law changes. If you use this pamphlet, it is your responsibility to make sure that the law has not changed and is applicable to your situation. Most of the materials you need should be available in your institution law library.

RELEASE DATE CALCULATIONS

AND

CHALLENGING ERRORS IN A RELEASE DATE

Revised September 2012

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TABLE OF CONTENTS

I.	OVERVIEW	2
II.	THE LEGAL STATUS SUMMARY AND HOW A RELEASE DATE IS CALCULATED	3
III.	EARLIEST POSSIBLE RELEASE DATE (EPRD) WORKSHEET	15
IV.	RELEASE DATE CALCULATION EXAMPLE	15
V.	FIXING AN INCORRECT RELEASE DATE	17

I. OVERVIEW

If you are a California prisoner, your release date depends on many factors – the length of your prison term, the actual days you have already served in jail or prison, the good conduct credits you have earned, and any good conduct credits you have lost for disciplinary violations. To complicate matters, there have been changes in the credit laws over the past few decades. Figuring out whether the California Department of Corrections and Rehabilitation (the CDCR) has your release date right requires gathering information and doing several steps of mathematical calculations. The only way to approach this challenge is by working through the process one step at a time.

The purpose of this letter is to make it as easy as possible for you to check your release date and to seek correction of any errors. We will start with explaining the parts of the Legal Status Sheet (LSS) that the CDCR will prepare for you. This will include how you can check the information recorded on the LSS and how that information factors into your release date. We also provide a worksheet you can use to calculate your release date.

Then we will go step-by-step through an example of a release date calculation, following the steps listed on the worksheet.

Finally, we will discuss what you can do if you read this information and you believe that your release date is wrong. We will explain the ways to seek correction of your release date and tell you how you can get more information to help you pursue the right type of legal action.

This information should be enough for most prisoners with determinate length sentences (set terms) to check their release dates. However, sometimes a prisoner will have a more

complicated situation that requires additional information or calculations. For example, this might be the case if you have criminal sentences from more than one county or if your conviction was reversed and you were re-tried. Also, there might be a dispute about whether you were in “custody” if you were in a supervised program other than jail while your criminal proceedings were going on.

This letter does not specifically discuss calculating minimum eligible parole dates (MEPDs) for prisoners with terms of life with the possibility of parole. Many of the same calculation principles apply, but whether and what type of credits a prisoner can earn on such a term are determined by the statutes that apply to the prisoner’s specific offenses.

Information on more complicated issues in applying the credit laws or on calculating an MEPD can be found in the California State Prisoners Handbook (4th Ed. 2008 and periodic Supplements), published by the Prison Law Office.

II. THE LEGAL STATUS SUMMARY AND HOW A RELEASE DATE IS CALCULATED

The Legal Status Summary (LSS) is an overview of your sentence and time credit information. The prison Case Records Office is responsible for preparing an LSS for each prisoner and updating it periodically. The top right corner of an LSS will show the date that the LSS was created or updated.¹

The key date on the LSS is usually the “EPRD” or Earliest Possible Release Date. The EPRD is the date that the CDCR expects to release a prisoner, assuming there are no changes in credit-earning status, no losses of credits for disciplinary violations and no new criminal sentence.

The next page contains a sample LSS and the following sub-sections describe the types of information on the LSS, where that information comes from, and how it factors into the release date calculation. ***The numbers in the explanation correspond to those in parentheses on the sample LSS.*** The calculations described in this explanation are reflected in the release date calculation worksheet that appears in Section III, below.

¹ In some cases, there will be a statement that the LSS is “Discrepant,” which could have a variety of different meanings: there may be a possible sentencing error, some needed information may be missing or unclear, or, because the case was unusual, the calculation could not be performed by the computer and had to be corrected by hand.

LEGAL STATUS SUMMARY

```

-----
CDC NUMBER \ NAME \ ETHNIC \ BIRTHDATE
(1) \ (2) \ (3) \ (4)
-----
TERM STARTS \ MAX REL DATE \ MAX ADJ REL DT \ CURRENT REL DT
(5) \ (6) \ (7) \ (8)
-----
BASE TERM (9) + ENHANCEMENTS (10) = TOTAL TERM (11) \ PAROLE PERIOD (12)
-----
  
```

```

PRE-PRISON + POST SENTENCE CREDITS
CASE P2900-5 P1203-3 P2900-1 CRC-CRED MH-CRED P4019 P2931 POST-SENT TOT
-----
(13) (14) (15) (16)
  
```

```

-----
RCV DT/ COUNTY/ CASE/ SENTENCE DATE/ OFFENSE DATE
CNT OFF-CODE DESCRIPTION
-----
  
```

CONTROLLING PRINCIPAL AND CONSECUTIVE (INCLUDES ENHANCEMENTS/OFFENSES):

```

-- CONTROLLING CASE --
(17) (18) (19)
  
```

```

-----
IWTIP WAIVER BEGINNING CREDIT TOTAL TOTAL NET
DATE BALANCE APPLIED LOST RESTORED TOTAL
(20) (21) (22) (23) (24) (25)
  
```

CREDITS AUTO VESTED PER PC-2934: (26)

```

-----
TRAN RULE VIOL
TYPE DATE END DATE LOG NUMBER NUMBER CAT DAYS
-----
(27) (28)
  
```

ETO BALANCE = (29)

EPRD IS (30) BASED ON CREDIT APPLIED THRU (31) AND WORK GROUP (32)

A. Basic Identification Information

The first sections of the LSS show basic identification information: your CDCR identification number (#1), name (#2), ethnicity (#3) and birth date (#4).

B. Term Start Date (Worksheet Line 1)

The date your prison term started – meaning the date you arrived in a CDCR reception center – is shown at #5. *This is the starting point for calculating your release date.*

C. The Criminal Conviction and Sentence Length (Worksheet Lines 2 and 3)

The first step in calculating your release date is to take the term start date and add the years and months that you are serving for your total prison term.

After you know your term start date, the next thing you need to factor in is the length of your total prison term. The LSS shows this at #11. The LSS also breaks that information down into your base term (#9) and any enhancements (#10).² Usually, it won't matter how much of your term is "base" and how much is "enhancements." However, there may be rare circumstances in a prisoner might earn good conduct credit in prison at one rate while serving one part of the term and at a different rate for another portion of the term.

#17, #18 and #19 give additional information about the case or cases for which you are serving prison time. #17 lists the "controlling" case for which you were sentenced to prison, and any consecutive or concurrent ("non-controlling") terms. #17 will show the county of commitment, the case number, and the type of crime committed. #18 will show the date you were sentenced and #19 will show the year the offense was committed. This information can be important because the rate at which you can earn good conduct credits in jail and prison may be affected by what laws were in effect on the date you committed your offense.

Your eligibility to earn credit in prison may also be affected by the type of crimes you committed. This area of the LSS will show whether any of such limits apply in your case. First, the section will indicate if you are sentenced under the Two Strikes or Three Strikes law. Note that the Legal Status Summary may say "no strikes: 2" to show that you had one prior strike and are sentenced under the Two Strikes law or "no strikes:3" if you had two or more prior strikes and are now sentenced under the Three Strikes law. Second, the LSS will show a Credit Code (1, 2, 3, etc.) to indicate whether you are eligible to earn full good conduct credits or whether your conduct credits are limited by a criminal statute. The meaning of these credit codes is described in more detail in section II-F, below, which discusses in-prison conduct credits.

² #12 shows your "Parole Period," if any. This has nothing to do with your release date.

The CDCR gets the information about your criminal case from the Abstract of Judgment that was prepared by the superior court clerk after you were sentenced. You can look at the Abstract if you want to check whether the LSS shows the correct sentence information. You should have received a copy of your Abstract after you were sentenced, and there also should be a copy in your CDCR C-file.

D. Credits for Actual Days and Good Conduct in Pre-sentence Custody and After Sentencing Prior to Arrival in the CDCR (Worksheet Lines 4 through 9)

The next step in calculating your release date is to subtract all of the credits you earned prior to arriving in prison. The total amount of these credits is the sum of #16 plus #26.

There are four different types of credits you might have earned before arriving in CDCR: (1) actual time served prior to sentencing; (2) good conduct credits for time served prior to sentencing; (3) actual time served after sentencing but before you were transported to the CDCR; and (4) good conduct credits for time after sentencing but before you were transferred to the CDCR. Following is more information as to how these credits are determined.

Credit for actual time served prior to sentencing:

If you were in jail or some other type of custody during your criminal case proceedings, credit for that time should be applied to your prison term. These credits usually show up at #13 (“P2900-5”).³ These are the days you actually spent in pre-sentence custody, including the day on which you were sentenced. Note that you will only get credit for time you spent on your current case charges. You won’t get credit for time you served due to some other criminal charge or for a parole violation that was not based on the same charge as your current criminal offense.

Good conduct credits for time served prior to sentencing:

Most criminal defendants who are in jail during their criminal case proceedings can earn good conduct credits if they follow the jail rules. These credits show up in #14 (“P4019”) or one of the nearby columns. The laws about good conduct credits have changed several times and amount of credits you are eligible to earn depends on the nature of your case and when you were in jail. Here is an overview (if you fall into more than one category, then the rule under which you get the fewest credits applies):

³ “P” or “PC” refers to the California Penal Code.

There are other sub-categories under the “Pre-Prison and Post Sentence Credits” section for documenting credits earned in less-common circumstances, such as time in which you were incompetent to stand trial (“MH Cred”) or in the Civil Addict Program (“CRC-Cred”).

- Unless one of the special limits applies to you, you could earn:⁴
 - two days of credit for each six days served in jail prior to January 25, 2010 (divide days served by 4, round down, then multiply by 2), **and**
 - two days of credit for each two days served on or after January 25, 2010 (divide days served by 2, round down, then multiply by 2), **and**
 - one day of credit for each day served on or after September 28, 2010 (credit = number of actual days served). (Current/former PC § 4019.)
- If you have a prior (but not current) conviction for a violent or serious felony (as defined by PC § 667.5(c) and § 1192.7(c)), you could earn:
 - two days of credit for each six days served for a crime committed prior to October 1, 2011 (divide days served by 4, round down, then multiply by 2), **and**
 - one day of credit for each day served for a crime committed on or after October 1, 2011. (Note: the courts are considering whether this also applies to people who are in jail on or after October 1, 2011 for crimes committed *before* that date.) (Current/former PC § 4019.)
- If you have a current conviction for a violent or serious felony, you earn only 15 percent credit. This is calculated by taking the number of days you served, multiplying by .15 and rounding down. (PC § 2933.1)
- If you have a current conviction for murder committed on or after June 3, 1998, you do not get any good conduct credits. (PC § 2933.2.) You also don't get any good conduct credits if you are convicted of certain very severe offenses on or after January 1, 1991 and have two or more prior convictions for such offenses. (PC § 2933.5.)

Of course, you won't get the full amount of conduct credits if you lost credits due to bad behavior in jail.

Figuring out your credits for the time you spent in custody prior to sentencing is the responsibility of the judge who sentenced you. The CDCR gets the information about your pre-sentence credit from the Abstract of Judgment prepared by the superior court clerk. The CDCR does not have authority to take away or change credits you earned prior to coming to prison.

⁴ Note that the law was clarified in a California Supreme Court case in June 2012 (*People v. Brown* (2012) 54 Cal.4th 314); some courts previously awarded credits using different interpretations.

Credit for actual time after sentencing but before you were transported to the CDCR:

You also get credit for the actual days you spent in jail or other custody after you were sentenced but before you arrived in the CDCR. These credits show up at #15 (“Post Sent”). Unless you were out on bail or OR after sentencing, this is the number of days between the date you were sentenced (#18) and your term start date (#5).

Good conduct credits for time after sentencing but before transfer to the CDCR.

You can get good conduct credit for time you spent in custody after sentencing and before arriving in the CDCR. In most cases, good conduct credits for this period are awarded at the same rate as for your pre-sentence custody time. These credits show up at #26 (“vested” credits).

Figuring out credits for the time you spent in custody after sentencing and before arriving in the CDCR is the CDCR’s responsibility. The CDCR gets the information about your sentencing date from the Abstract of Judgment prepared by the superior court clerk. The CDCR does not have any authority to take away credits you earned prior to coming to prison.

E. Good Conduct Credits and Milestone Credits Earned in CDCR (Worksheet Lines 10 and 11)

The next step in calculating your release date is to subtract all of the good conduct and milestone credits you have earned in prison up to the current date. The LSS will show the credits you had earned by the date on which the previous LSS was prepared (#21) and a total of all the prison credits you have earned since your term start date (#22). #27 will provide more information on credits you have earned in the most recent time periods (“WCG” – Work Credit Gain). Note that the numbers on the LSS are based on “Credit Applied Thru” a certain date, which appears at #31.

The CDCR has a computer database from which it can produce a detailed breakdown of your credit-earning status on various dates covering your whole time in prison. This is called an “IWTIP printout” or a “Work and Behavior Credit Query.” Requesting and reviewing this information can be helpful if you want to make sure the CDCR is awarding you the right amount of credit.

Good time credits earned: Most prisoners can earn good conduct credits while they are in prison. The amount of credits you earn depends on the type of your commitment offense and your prison work group classification.⁵ Because the laws have changed over time, the date on

⁵ #20 is the “IWTIP Waiver Date.” Unless your crime was committed before 1983, this will be the same as the “Term Starts” date (#5) and won’t affect the release date calculation. The reason this section exists is because prior to 1983, there was no half-time credit. As of 1983, a prisoner who was serving time for a crime committed before 1983 could sign a “waiver” and start earning half-time under the Inmate Work Training Incentive Program (“IWTIP”). In such a situation, the date listed at #20 will be the date the “waiver” became effective and any credits earned in prison before that date will be included in “vested” credits (#26).

which you served portions of your sentence may also affect your credits. The most restrictive rule that applies in your situation will govern how many credits you earn.

First you need to know whether your prison credit-earning is limited by your crime factors. Many prisoners are eligible to earn up to day-for-day (“half-time”) credits, but laws prohibit some prisoners from getting that much credit. The credit-earning status that corresponds to your offense will be shown on the LSS as a “Credit Code” near #18. Most prisoners will have just one code but it is possible you might have multiple terms with different codes. The codes are:

- Credit Code 1: eligible for day for day (half-time) credits, or for two for one credits if working in a prison conservation camp or as an institution firefighter. This is for prisoners serving determinate terms for crimes committed on or after January 1, 1983 who don’t fall into any other category. It also covers prisoners who are serving determinate terms for crimes committed before January 1, 1983 who have signed an IWTIP waiver. (PC § 2933.)
- Credit Code 2: eligible for one for two credits (“third-time”). This is for the very few, if any, prisoners who are serving determinate terms for crimes committed before January 1, 1983 and who have not signed an IWTIP waiver. (PC § 2931.)
- Credit Code 3: eligible for 20 % credit. This is for prisoners who are sentenced as “second strikers.” (PC § 667(b)-(i)/PC § 1170.12.)
- Credit Code 4: eligible for 15% credit. This is for prisoners who are serving terms for violent crimes occurring on or after September 21, 1994. (PC § 2933.1.)
- Credit Code 5: not eligible for any credit because of severe repeat offenses occurring on or after January 1, 1991 (PC § 2933.5) or because sentenced in the same case for a murder occurring on or after June 3, 1998 (PC § 2933.2).
- Credit Code 6: eligible for 15% credit. This is for prisoners who are both serving a term for a violent crime occurring on or after September 21, 1994 (PC § 2933.1) AND sentenced as second strikers (PC § 667(b)-(i)/PC § 1170.12).

Second, you need to know what your CDCR work group code is. Your current work group will be shown at #32 on the LSS. Note that your work group during past time periods may be different than your current code if you were in other types of housing or had other types of job status. Note that even if you are in a credit-eligible work group, you can't actually earn full credits if your credit-earning is capped due to the nature of your commitment offense (see the "credit codes" discussed on the prior page and the chart on the following page). The work group categories (as described in Title 15, § 3044) are:

- A1: day-for-day (half-time) credit-earning. This is for full-time programming in a credit-qualifying assignment. It also applies to someone unable to hold an assignment because of total disability.
- A2: day-for-day (half-time) credit-earning. This is for people who are willing to program but are on a waiting list for an assignment or are unassigned awaiting an adverse transfer. Prior to January 25, 2010, prisoners in this group earned one-for-two (third-time) credits.
- B: day-for-day (half-time) credit-earning. This is for people in half-time assignments. Prior to January 25, 2010, prisoners in this group earned one-for-two (third-time) credits.
- C: zero credit status. This is for prisoners who are being disciplined for refusing to work or failing to program.
- D1: day-for-day (half-time) credit-earning. This is for prisoners in SHU, PSU or ASU (segregation units) unless they fall into group D2. Prior to January 25, 2010, prisoners in this group earned one-for-two (third-time) credits.
- D2: zero credit status. This is for prisoners in SHU, PSU, or ASU who are either validated gang members (for time served on or after January 25, 2010) or in segregation for serious disciplinary violations (in which case the length of D2 status will be equal to the number of credits forfeited as punishment for the violation).
- F: two days of conduct credits for every one day served. This is for full-time conservation camp workers and institution firefighters and people training for those jobs (note that this section took effect on January 1, 2003 but did not apply to trainees or to institution firefighters until July 1, 2009).
- U: day-for-day (half-time) credit-earning. This is for prisoners who are unassigned during reception center processing. Prior to January 25, 2010, prisoners in this group earned one-for-two (third-time) credits.

This table shows how to calculate credit for any combination of Credit Code and Work Group:⁶

<i>If you are . . . and</i>	Credit Code 1	Credit Code 3	Credit Code 4 or 6	Credit Code 5
Work Group A1	conduct credits = actual days served	divide the actual days served by 5	divide the actual days served by 6.66	zero credits
Work Group A1	<u>before 1/25/2010</u> divide the actual days served by 2 <u>on/after 1/25/2010</u> conduct credits = actual days served	divide the actual days served by 5	divide the actual days served by 6.66	zero credits
Work Group B	<u>before 1/25/2010</u> divide the actual days served by 2 <u>on/after 1/25/2010</u> conduct credits = actual days served	divide the actual days served by 5	divide the actual days served by 6.66	zero credits
Work Group C	zero credits	zero credits	zero credits	zero credits
Work Group D1	<u>before 1/25/2010</u> divide the actual days served by 2 <u>on/after 1/25/2010</u> conduct credits = actual days served	divide the actual days served by 5	divide the actual days served by 6.66	zero credits
Work Group D2	zero credits	zero credits	zero credits	zero credits
Work Group F	multiply the total actual days served by 2	divide the actual days served by 5	divide the actual days served by 6.66	zero credits
Work Group U	<u>before 1/25/2010</u> divide the actual days served by 2 <u>on/after 1/25/2010</u> conduct credits = actual days served	divide the actual days served by 5	divide the actual days served by 6.66	zero credits

⁶ The chart does not include Credit Code 2, which applies to few if any current prisoners. If you are in Credit Code 2 and in any Work Group, divide the actual days served by 3.

Milestone Credits Earned: In addition to good conduct credits, you might be able to earn “milestone” credits for programming in prison. Eligible prisoners can receive up to 6 weeks of additional credit each year for completing approved academic, vocational, life skills and substance abuse programs. Milestone credits cannot be earned by anyone who is (1) required to register as a sex offender under Penal Code section 290 et seq., (2) serving time on a parole violation without a new criminal term, (3) serving a term for a violent felony, or (4) serving a term under the Two or Three Strikes Law. The program began January 25, 2010, and no milestone credit is granted for programming completed prior to that date. If you earn more than 6 weeks of milestone credits in a year, the excess credits will go into a credit “bank account” and can be applied at the end of the next 12-month period.

F. CDCR Credits Forfeited and Restored (Worksheet Lines 10 and 11)

The next step in calculating your release date is to subtract any good conduct and milestone credits you have lost for disciplinary violations, and to add back in any lost credits that have been restored.

Prison officials can take away some of your good conduct or milestone credits if you are found guilty of a serious disciplinary violation (CDCR Form 115). Sometimes, the lost credits can be restored if you show good behavior for a period of time immediately after you get your 115.

The rules for how many credits you can lose for a disciplinary violation are at Title 15, § 3323. Generally, you can lose the following amounts of credit:

- Division A-1 offense: 181-360 days
- Division A-2 offense: 151-180 days
- Division B offense: 121-150 days
- Division C offense: 91-120 days
- Division D offense: 61-90 days
- Division E offense: 31-60 days
- Division F offense: 0-30 days

The rules for how you can get credit restored are at Title 15, §§ 3327-2238. You cannot get any credit restored for a Division A-1, A-2, B or C offense, or for certain offenses involving second violations within a certain time after a prior violation, use of a controlled substance, manufacture of alcohol, refusal to take a drug test, or possession of dangerous contraband. Otherwise, in most cases, credit lost for a Division D or E offense can be restored if you are disciplinary-free for 180 days and credit lost for a Division F offense can be restored if you are disciplinary-free for 90 days. The credit restoration rules were changed several times in the mid-1990s, so different rules may apply to really old offenses.

The LSS will show your total credits lost at #23 and total credits restored at #24. At #27, the LSS should show specific information for losses or restorations since the last time the LSS was updated. These will be shown as “WCL” – Work Credit Loss or “WCR” – Work Credit Restored.

The LSS will then show the “net total” of your in-prison credits at #25. The net total is the conduct and milestone credits you have earned, minus the credits you have lost, plus the credits that have been restored. Note that if you have lost more credits than you have earned, you can have a negative credit balance; if this is the case, you will have to earn enough credits to make up the deficit before your release date will be affected by any new credits earned or restored.

The CDCR’s computer database has a record of every credit loss and restoration. You can request and review an “IWTIP printout” or “Work and Behavior Credit Query” if you want to check whether the CDCR has an accurate record of your credit losses and restorations.

G. Future Good Conduct Credits That Could Be Earned in CDCR (Worksheet Lines 12 and 13.)

The final step in calculating your release date is to subtract all of the good conduct and milestone credits you are likely to earn in the future. This part of the calculation assumes that you will continue to earn credits at the same rate as at the time the LSS was prepared. You will have to do a new calculation if your credit-earning status changes.

You can calculate the credit you can earn in the future by using the following steps, which correspond to the EPRD Worksheet in section III, below:

- Step 1: count the number of days between the current date (or the date the LSS was prepared, if you are using that as your reference point) and the date on worksheet line 11 (your “current release date”).
- Step 2: take the number that you come up with in Step 1, do the following calculation, and enter the resulting number on worksheet line 12:
 - If you are **Credit Code 1** and in **Workgroup A1, A2, B, D1** or **U**, divide by 2;
 - If you are **Credit Code 1** and in **Work Group F**, divide by 3, then multiply by 2;
 - If you are **Credit Code 3 and Work Group A1, A2, B, D1, F** or **U**, divide by 5;
 - If you are **Credit Code 4 or 6, and Work Group A1, A2, B, D1, F** or **U**, divide by 6.66;
 - If you are **Credit Code 5** and **any Work Group**, enter zero;
 - If you are **any Credit Code** and **Work Group C or D2**, enter zero.
- Step 3: subtract the number of credits on worksheet line 12 from the date on line 11. Enter the resulting date on Line 13. This is your Earliest Possible Release Date or “EPRD.”

H. The Different Types of Release Dates

The LSS will show several different types of “release” dates, and you may be wondering what they all mean. Here is an explanation.

The calculation steps we have described in the prior sections are to figure your **Earliest Possible Release Date** (EPRD) as shown on the LSS at #30. The EPRD is a prediction or best guess of when you will be released. This is the date you will be released if you (1) never lose another day of credit; (2) never get any more milestone credits or have any more lost credits restored; (3) stay in the same credit-earning status; and (4) don’t get re-sentenced or pick up a new criminal term. Because the EPRD is based on these “ifs,” it can change.

Your **Maximum Release Date** (LSS #6) factors in your pre-sentence credit for actual time served and good conduct, and your post-sentence credit for actual time, but it does not take into account post-sentence conduct credits or any credits you might earn in the CDCR.

Your **Maximum Adjusted Release Date** (LSS #7) is obtained by subtracting any “vested” credits (usually conduct credits for post-sentence/pre-CDCR time) from the Maximum Release Date. This is the actual “max date” on which CDCR must release you even if you don’t earn any credits in CDCR or if you lose all your CDCR credits because of rule violations.

Your **Current Release Date** (LSS # 8) is obtained by subtracting from the Maximum Adjusted Release Date (#7) the net total of credits you have earned in prison so far. Because most people will earn or lose some credits in the future, this may not turn out to be your actual release date.

Sometimes the LSS will show a **Minimum Release Date** and/or **Minimum Adjusted Release Date**. The Minimum Release Date is the equivalent of a “Current Release Date” and the **Minimum Adjusted Release Date** is the equivalent of an “Earliest Possible Release Date.”

III. EARLIEST POSSIBLE RELEASE DATE (EPRD) WORKSHEET

Here is a Worksheet for Calculating your Earliest Possible Release Date (EPRD)

1.	Term Start Date (arrival in Reception Center)		_____
2.	Add Total Term	+	_____
3.	Resulting Date	=	_____
4.	Subtract Pre-Sentence Credit (Actual and Conduct)	-	_____
5.	Resulting Date	=	_____
6.	Subtract Post-Sentence/Pre-CDC Actual Days	-	_____
7.	Equals Maximum Release Date	=	_____
8.	Subtract "Vested" Credits	-	_____
9.	Equals Maximum Adjusted Release Date	=	_____
10.	Subtract Net Prison Credits (conduct and milestone credits, minus credits lost, plus credits restored)	-	_____
11.	Equals Current Release Date	=	_____
12.	Subtract Future Prison Credit Likely to Be Earned:	-	_____
13.	Earliest Possible Release Date (EPRD)	=	_____

Note: When adding the total term to the term start date (lines 1 and 2), simply add the time without regard to the differing number of days in the months. For example, if you arrived at CDCR on 1/15/10 with a 5 year, 4 month term, the resulting date (line 3) would be 5/15/15. However, for every step thereafter, you must take into account the differing number of days in the months if you want to know your exact EPRD. USING A CALENDAR HELPS A LOT. Also, credit calculation results are always rounded down to the nearest whole number.

IV. RELEASE DATE CALCULATION EXAMPLE

This example of a release date calculation follows the steps and line numbers in the worksheet in section III.

Joe Jones arrived in a CDCR Reception Center on January 1, 2012. That is his term start date (line 1).

Joe was sentenced to a total term of 5 years. Adding his sentence to his term start date (line 2) results in a date of January 1, 2017 (line 3).

Joe's crime occurred in October 2011 and was not a violent felony or a "second strike", so he is eligible to earn full "half-time" conduct credits in jail and in prison (Credit Code 1). Joe went to jail on November 2, 2011 and stayed there until he was sentenced on December 21, 2011. The sentencing judge gave Joe credit for the 50 days he spent in the county jail before he was sentenced. Joe also got 50 days of good conduct credit for his pre-sentence time. This total

of 100 credits is entered on line 4 and then subtracted from line 3. The resulting date is September 23, 2016 (line 5).

After sentencing, Joe spent another 10 days in the county jail before he arrived at the CDCR reception center. These days are entered on line 6 and subtracted from line 5; the resulting date is September 13, 2016 (line 7). Joe also got 10 days of “vested” credits for good conduct during that time; these are entered on line 8 and then subtracted from line 7. The resulting date is September 3, 2016 (line 9). This is Joe’s “Maximum Release Adjusted Date.”

Now Joe needs to consider the credit has earned in prison up until the current date (or the date the most recent LSS was created). Let’s say the current date is October 1, 2012. Joe checks his LSS and classification records and sees that he has been in several different work groups since he arrived in the CDCR:

- from January 1 - February 29, 2012 (2012 is a leap year): he was in the reception center (Work Group U) -- 60 days
- from March 1 - March 31, 2012: he was on a waiting list for an assignment (Work Group A2) -- 31 days
- from April 1 - May 31, 2012: he worked full time (Work Group A1) – 61 days.
- from June 1 - June 30, 2012: he was in Work Group C for refusing to work -- 30 days
- from July 1 - September 30, 2012: he worked full time (Work Group A1) – 92 days.

Joe looks at the chart on page 11 of this manual and sees that because he is Credit Code 1, he earned day-for day credit during the periods when he was in Work Group U, A2 and A1. Those periods total 244 days (60+31+61+92). Joe gets 244 good conduct credit for those 244 actual days. Joe sees that he does not get any conduct credit for the 30 days he was in Work Group C. Joe has not yet earned any milestone credits. So the total in-prison credit Joe has earned so far is 244 days.

However, Joe also got a “CDCR 115” serious disciplinary violation when he refused to work. The 115 was classified as a Division F offense and Joe lost 30 days. Joe hasn’t yet gotten those credits restored. So his current net total of credits is 214 days (244-30). He enters 214 in the worksheet line 10.⁷

⁷ Note that because Joe is earning half-time and expects to earn half-time in the future, the 30-day credit loss changed his EPRD by only 15 days. If Joe later gets the 30 days of credit restored, then his release date will move forward in time by only 15 days.

This confuses many people because most people expect that when 30 days is lost or restored, their release date will also change by 30 days. But that is not necessarily the way it works out. The reason lies in the mathematics of computing future credit gains. Losing 30 days of credits means that you have 30 days more to serve in the CDC. But if you are earning one-for-one credit, you will serve that additional time in 15 days because you will also earn 15 days of conduct credit for every day you actual serve.

When Joe subtracts his net total of 214 days of CDCR credits (line 10) from September 3, 2016 (line 9), the resulting date is February 2, 2016 (line 11).

Now Joe needs to consider how many credit he expects to earn in the future. To do this, Joe first counts the number of days between the date that credit was last applied (September 30, 2012) to the “Current Release Date” on line 11 (February 2, 2016.) This is 1,520 days. Second, Joe calculates how many work credits he can earn. Joe expects to stay in Work Group A1, so he divides 1,520 by 2 (see page 13 for the applicable formulas) and gets 760. He enters 760 on line 12. Third, Joe subtracts 760 days (line 12) from February 2, 2016 (line 11). The resulting date is January 3, 2014, which Joe enters on line 13. This is Joe’s EPRD.

Of course, Joe’s EPRD could change in the future. His EPRD might moved forward in time if he is re-sentenced to a lower term, has his lost credit restored, earns milestone credits, or gets assigned to a conservation camp and starts earning two-for-one credits. His EPRD might move further away in time if he gets a new criminal case, commits more disciplinary violations, refuses to work, or serves time in SHU on D2 status.

If you want to check your calculations, it should always work out that actual days served in jail and prison plus the net total of conduct credits earned in jail and prison equals the total term. In Joe’s case, he expects to serve 793 days and earn a total of 1,034 conduct credits. These add up to 1,827 days or 5 years (two of which are leap years) – Joe’s total term.

V. FIXING AN INCORRECT RELEASE DATE

What can you do if you have read all of this information and you think that your LSS does not show your correct release date? The first step is to determine whether the error was made by the sentencing court or the prison officials. Once you have an idea of who made the error, you can follow the appropriate steps as described in the following two sub-sections.

If you are successful in your challenge, the CDCR will have to recalculate your release date. Note that if your new release date has already passed, you will be entitled to immediate release. Any excess credits will be deducted from your term of parole or supervised release.

A. Remedies for Errors Made by the Sentencing Court

It is the responsibility of the sentencing court to set your term length and award credit for actual time and good conduct during pre-sentence custody. If your sentence or pre-sentence credits as shown on your Abstract of Judgment are incorrect, only a court has the authority to correct the error. For this type of error, the prisoner should not use the CDCR administrative appeal (“602”) process.

Sometimes errors in sentence length or pre-sentence credits are “legal” errors made by the judge. For example, the judge could have made a mistake in adding up the parts of the sentence or calculating the credits. The sentencing rules are complicated, and courts sometimes impose

terms that are not authorized by the law or that violate a prisoner's plea agreement. Errors are more likely to occur if you were sentenced on several different counts or cases. Determining whether the court made a legal error requires research on the sentencing statutes in the California Penal Code.

Other errors are "clerical," meaning that the court clerk made a mistake when entering the sentence or credit information on the Abstract of Judgment. Determining whether there was a clerical error is relatively simple – there will be a difference between what the judge said (as recorded in the reporter's transcript of the sentencing hearing) and what is written on the Abstract. If you appealed from your conviction, the reporter's transcript will be part of the record filed in the court of appeal and sent to your appellate attorney. If you did not appeal, you might need to ask the court to have reporter's transcript prepared as part of your request for relief.

How you seek correction of a court's legal or clerical error may depend on when you discover the error. Usually, it is wise to start by contacting the attorney who represented you in the superior court when you went to trial or entered your guilty or no contest plea. That attorney may be able to explain the court's actions or may be willing to help you correct any errors.

If you filed a direct appeal from your conviction, and your appeal case is still active, you may be able to raise your sentencing issue as part of the appeal. You should contact your appellate attorney to determine out whether the issue can be included in the appeal briefs.

If you can't get your trial or appellate court attorney to help you, you still have some options. If the sentence is clearly illegal or if there was an obvious clerical error, you may be able to convince the sentencing court to correct the error simply by sending a letter or informal motion to the court. The court has authority to correct such errors at any time. If the court does not respond to your informal motion or if the issue is more complicated, you can file a state court petition for writ of habeas corpus. There is no set deadline for filing a state habeas petition, although you should do your best to file as soon as possible after you discover the error. The Prison Law Office can send you a free state habeas manual and form on request.

Finally, a word of caution. Courts sometimes make sentencing errors that benefit prisoners rather than harm them. If you file a legal action about your sentence, the court might notice and correct any errors that were in your favor. So before you file anything with the court, you should try to figure out whether there might be "adverse consequences." If the court did make an error in your favor, you will have to decide if the benefit of correcting the harmful error outweighs the risk that the court will correct the favorable error.

B. Remedies For Errors Made by the CDCR

It is the responsibility of CDCR case records staff to calculate and apply credit for post-sentence/pre-CDCR time. It is also the CDCR's responsibility to keep track of in-prison credit earning, losses and restorations and to calculate your release date. Prison staff can make errors in how they interpret the sentencing documents, in recording credit gains and losses, and in doing release date calculations.

If you think the CDCR has made an error in your credits or release date, you should start by raising the issue in an administrative appeal (CDCR Form 602). A court will almost always refuse to hear any issue involving CDCR credit or release date computations unless you first "exhaust administrative remedies" by completing the 602 process. In your 602 appeal, you can ask the case records staff to check your credits and release date and correct any error. You can also request a copy of a "Work and Behavior Credit Query" print-out which gives detailed information about the credits you have earned, lost and had restored.

There are special rules for 602 appeals concerning miscalculation of a release date or prison credits. After you fill out and submit your 602 form, the case records staff will do a first level review. If your appeal is denied at the first level, you can resubmit the 602 form and request a second level review, which will consist of a "computation review hearing." Unless you waive your rights, you should be notified at least 24 hours in advance of the date and time of the hearing. At the end of the hearing, you must be provided with a copy of the hearing decision on a CDCR Form 1033. If your appeal is denied at the second level, or if you are dissatisfied with the second level decision, you can submit the appeal to the CDCR Chief of Inmate Appeals in Sacramento for third level review. If you want more information on how to file and pursue a 602 appeal, the Prison Law Office has an administrative appeals packet available for free on request.

In some cases, the CDCR may respond to a 602 administrative appeal by stating that it is following the order of the sentencing court. In that situation, you do not need to continue the 602 process and can seek relief in the sentencing court as discussed in the previous sub-section.

After you have completed the 602 administrative appeal process, you can pursue your prison credit or release date issue in a state court petition for writ of habeas corpus. There is no set deadline for filing a state habeas petition, although you should do your best to file as soon as possible after you discover the error. The Prison Law Office can send you a free state habeas manual and form on request.