

Accounting and Application of Sentencing Credits

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The Realities of Sentencing

- The sentence pronounced by the Judge is often not what it purports to be
- A consecutive sentence has lost some of its punch because aggregation eliminates multiple board hearings on separate counts
- A 12 month minimum sentence may not be 365 days behind bars
- A bad guy on the outside may not equate to a bad guy behind bars

Abbreviations

- OMD – Offender Management Division
- PED – Parole Eligibility Date (front end)
 - When an inmate becomes eligible to meet with the Parole Board
- PEXD – Projected Expiration Date (back end)
 - When the sentence would expire (includes credits)

Practical Application of Truth In Sentencing Laws

- Within a few days of initial intake, a computer calculates the inmate's parole eligibility date (PED) by giving him the benefit of the best possible scenario for his incarceration
 - (Flat + Stat + Work)
- Throughout his incarceration, that date may be extended out each recalculation cycle (about every month) if he does not act in accordance with the best possible scenario
- It also calculates his projected expiration date (PEXD)
- Both of these dates are communicated to the inmate

Where Does the Computer Get Its Information?

- The Certified Judgment of Conviction
- Imperative that the JOC is correct because the NDOC is bound to the exact language of the JOC

Four Types of Sentence Credits

- Flat Time—misnomer being called a credit; it's the day-for-day reduction of sentence based on time served
- Stat Time—NRS 209.4465 states that all prisoners get 20 credits per month towards their sentence (can be lost for bad behavior) (inmates call this “good time” credit)
- Work Time—If an inmate has a job in prison and completes all assigned tasks in a month, he may earn 1-20 credits based upon the job and custody level
- Merit—NRS 209.4465, 209.448, and 209.449 state that if an inmate successfully completes certain programs, he can earn credits of either 60, 90 or 120 days for educational achievements and provides credits for completion of other programs

Stat Time Rules

- Stat time is calculated from the "sentence begin date" which is the sentence date moved back by however many days of jail credit the JOC stipulated should apply to the sentence. Once these days of jail credit are applied to the sentence structure, for time the inmate was in jail, it effectively becomes part of the period of time the offender is actually incarcerated pursuant to his or her sentence
- NRS 209.4465 provides that "for the period an offender is actually incarcerated pursuant to his or her sentence" the offender will receive a 20 day deduction for each month served

Flat + Stat

- Common best case scenario starting calculations for PED for an inmate who is not working or earning other merit credits
 - 12 months minimum - 221 days instead of 365 days
 - 18 months minimum - 332 days instead of 548 days
 - 24 months minimum - 442 days instead of 730 days
 - 36 months minimum - 663 days instead of 1095 days
 - 60 months minimum - 1105 days (5 year sentence = roughly 3 years)
 - For every full year served an inmate earns a minimum 605 days

Work Credits

- Work credits are dictated by the job and custody level of a given inmate
- Medium custody inmates can earn 10 credits - so long as an inmate works or goes to school “full time”
 - NRS 209.4465(2) stipulates "... whose diligence in labor and study merit such credits".
 - Porter, yard labor, culinary (generally less because part-time)
- Minimum custody inmates can earn 20 credits - working full time
 - Minimum Custody Inmates (housed at a conservation camp)
 - Community Trustees (Casa Grande, Restitution Center)
- Credits are prorated for starting a job mid-month

Merit Credits

- Credits for education achievements (NRS 209.4465)
 - 60 days for GED
 - 90 days for HS diploma
 - 120 days for Associate's
 - 90 days for each additional degree above AA
 - Can get extra discretionary credits up to 60 days for high GPA
- Can get credits up to 90 days for “meritorious service”
- Additionally credits can be earned for completing substance abuse and other programs

Effect of Conviction on Credits

- NRS 209.4465 requires credits to be deducted from the minimum sentence to determine PED
- The exceptions are:
 - All category A and B felonies
 - Any crime that is punishable as a felony involving the use or threatened use of force or violence against the victim
 - A sexual offense that is punishable as a felony
 - A violation of NRS 484C.110, 484C.120, 484C.130 or 484C.430 that is punishable as a felony (DUI's)

Offenses In Custody (OIC)

NRS 209.451

- Earned stat time can be forfeit for a serious Offense in Custody (OIC) and is forfeit upon revocation of parole. The guidelines for an OIC stat loss referral is:
 - Category A = loss of 120 or more credits
 - Category B = loss of 60 to 119 credits
 - Category C = loss of 1 to 59 credits
- The decision on whether sanctions include a stat loss referral is up to the disciplinary hearing officer, but loss of stat time is at the final discretion of the Director or designee
- Upon a parole revocation a parolee forfeits all or part of his good time credits which in some instances can be restored by the Parole Board
 - NRS 213.1518

Aggregation

- After July 1, 2014, it is the sentencing court's job to aggregate all consecutive sentences unless one of the sentences is death or life without (NRS 176.035)
- If the crime was committed before July 1, 2014, and consecutives were imposed, the inmate may request aggregation and that calculation will be performed by OMD
- Importantly, aggregation does not change the sentence; it only changes the date of parole eligibility
- It does, however, mean only one Board hearing on all charges within a JOC and not separate hearings for each charge
 - Individuals may receive subsequent Board hearings as ordered by the Parole Board
- For old convictions, sentences can be aggregated only if the inmate has not already been considered for parole

But No Matter What The Inmate Does...

- For those inmates who can receive credits, an inmate must serve at minimum 42% of their minimum, or minimum aggregate, sentence before being eligible for parole (NRS 209.4465(9))

Residential Confinement

- Under NRS 206.429 the Director shall assign an offender to the custody of the Division of Parole and Probation of the Department of Public Safety to serve a term of residential confinement subject to the following limitations.
 - 1. An evaluation must be conducted and demonstrate that the offender is an abuser of drugs and alcohol that can be successfully treated. NRS 209.427(1)
 - 2. The Director is not required to assign an offender to the program of treatment if the offender is not eligible for assignment to an institution or facility of minimum security. NRS 209.427(4)
 - 3. Such assignment must be, to the extent that the period reasonably can be predicted, for the year, or as much thereof as practicable, immediately preceding the date the offender is due to be released from prison, either on parole or at the expiration of the offender's term. NRS 209.427(1)

Residential Confinement and Credits

- Assignment of an offender to the custody of the Division of Parole and Probation pursuant to this section shall be deemed a continuation of the offender's imprisonment and not a release on parole. NRS 209.429(4)
- Credits will be calculated as if they are incarcerated.
- A person does not have a right to be assigned to the custody of the Division of Parole and Probation. NRS 209.429(5)

In Conclusion...

- Consequences
 - Lack of Transparency
 - Loss of Public Trust
- Solutions:
 - Restore Transparency to the System
 - The sentence pronounced by the Judge should be the sentence served by the inmate
 - Remove credits from the front end of all sentences
 - Remove the house arrest provisions as currently drafted
 - Remove the application of credits to persons on Parole