

Performance Audit Report

Department of Public Safety and Correctional Services
Diminution Credits

Enhancements to Existing Processes are Needed to Help Ensure that Diminution
Credits are Properly Applied

Some Inmate Release Dates Were Incorrect as a Result of Credit Calculation
Errors

December 2004



OFFICE OF LEGISLATIVE AUDITS
DEPARTMENT OF LEGISLATIVE SERVICES
MARYLAND GENERAL ASSEMBLY

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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Bruce A. Myers, CPA
Legislative Auditor

December 10, 2004

Senator Nathaniel J. McFadden, Co-Chair, Joint Audit Committee
Delegate Charles E. Barkley, Vice-Chair, Joint Audit Committee
Members of Joint Audit Committee
Annapolis, Maryland

Ladies and Gentlemen:

We conducted a performance audit to determine if the Department of Public Safety and Correctional Services (DPSCS)—Division of Correction (DOC) was properly calculating and accounting for inmate diminution credits. These credits are earned by inmates assigned to DOC institutions, under certain conditions, such as for good conduct and for satisfactory performance in work programs. Diminution credits permit inmates to be released, under a process called mandatory supervision, prior to serving the full term of their confinements. Inmates released under mandatory supervision are still under the authority of DPSCS until the full sentences have expired.

Our audit disclosed that, although DOC had initiated a number of processes, certain enhancements are needed to help ensure that diminution credits are properly applied and that inmates are released on correct dates based on credits earned. We conducted tests at two DOC institutions of a total of 65 inmates released during calendar year 2003 (selected as a statistical sample). Our tests disclosed that, because of various errors affecting the application of credits, 22 inmates were not released on the proper dates, but rather, were released from 1 to 112 days early and 3 to 24 days late. The test results were similar for both institutions. While DOC had established a system of internal controls intended to provide assurance that recorded credits were accurate, the system did not detect the errors we identified. We identified several causes for the errors, including the failure to record changes in work assignments, which affected credit earnings, and errors in accounting for credits earned while inmates were in the custody of local jails.

We also noted that, at one of the two institutions, inmates often earned credits for a specific work assignment even though the institution could not document, as required, that the inmates had actually performed the applicable work.

As part of our audit we also determined that DOC properly implemented policies and procedures that reflect State laws, regulations, and court rulings relating to diminution of credits. Our audit scope, objectives, and methodology are explained on page 9.

We wish to acknowledge the cooperation extended to us during our audit by DPSCS and DOC staff and the staff of the institutions selected for review.

Respectfully submitted,

Bruce A. Myers, CPA
Legislative Auditor

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Background Information

Department of Public Safety and Correctional Services Overview

The Department of Public Safety and Correctional Services—Division of Correction (DPSCS—DOC) oversees the operations of 23 correctional facilities in the State. According to DOC records, approximately 23,000 inmates were incarcerated during fiscal year 2004.

Diminution Credit Overview

All inmates sentenced to DOC institutions are eligible to receive diminution credits. These credits were created by the State to reduce the costs associated with holding inmates, by providing a mechanism to release inmates prior to the expiration of their full sentences and to provide a system of rewards for positive behavior. Inmates earning credits are eligible for early release, known as mandatory supervision, which is defined by State law as a conditional release for inmates who have served the length of the terms less diminution credits earned. Inmates released early through this process are under the direct supervision of the DPSCS' Division of Parole and Probation and come under the authority of the Maryland Parole Commission, for oversight and monitoring purposes, until the expiration of their full terms of confinement (that is, the complete length of the original sentences).

Under State law, the types of diminution credits fall under four broad categories. Each credit received equals one less day of confinement. State law limits an inmate's credits to a maximum of 20 each month.

- Good Conduct Credits – These credits are assigned in advance to an inmate and will reduce the term of confinement if the inmate follows DOC behavioral guidelines. DOC automatically grants these credits to inmates (as required by law) on the date of confinement. An inmate may lose good conduct credits, under a process called revocation, if the inmate violates specific institutional guidelines for behavior (such as fighting with other inmates or DOC employees). Inmates can earn up to 10 good conduct credits monthly during confinement.
- Work Task Credits – These credits are awarded to inmates based on satisfactory performance in approved work programs, such as dietary and sanitation details. Inmates can receive up to 5 work task credits per month. Once earned, these credits cannot be subsequently revoked.

- Education Credits – These credits are awarded to inmates based on satisfactory progress in vocational, educational, and other training programs. Inmates can receive up to 5 education credits per month. Once earned, these credits cannot be subsequently revoked.
- Special Project Credits – These credits are awarded to inmates for satisfactory completion of special tasks or other special programs as determined by DOC (such as dual cell occupancy in overcrowded prisons). Inmates can receive up to 10 days per month for special project credits. These credits may be revoked.

Credit Recordation Process

DOC maintains its diminution credit data in the automated Offender Based State Correctional Information System (OBSCIS) for all inmates sentenced to its jurisdiction. The only exception is inmates serving life terms, for which DOC maintains manual credit records. DPCSC automated the diminution credit process using OBSCIS in 1996, in part, to minimize human error, which can occur when manually calculating mandatory supervision release dates.

The diminution process begins when, for each person convicted by the court, the court generates a commitment record detailing the sentence imposed, its start date, and any other conditions. DOC's central commitment office is responsible for processing information related to diminution credits, using the Judiciary's commitment record to initially enter inmate information into OBSCIS, including length of sentence, good conduct credits assigned, and eligibility for other credits (which can be dependent on the crime). Based on the initial information entered, OBSCIS will automatically calculate a mandatory release date, with the understanding that it could be affected by inmate actions while incarcerated.

Once a commitment record is entered into OBSCIS, the responsibility for recording subsequent diminution credits and related activity is that of either a DOC regional commitment office or case management staff at the DOC institution, depending on the activity. The four regional commitment offices (organized geographically) are responsible for updating diminution credit information such as for dual cell occupancies, infractions, and sentence modifications. Any action taken by a regional office is documented in OBSCIS and in a hardcopy "commitment file." An institution's case management staff updates OBSCIS for inmate work and educational assignments, for which it maintains a hardcopy "case management" file. After each credit update, OBSCIS automatically recalculates an inmate's mandatory release date. All updates are to

be consistent with DOC policies, and are to be based on State law and past legal interpretations of case law.

Although OBSCIS automated some processes and calculations, the system is still highly dependent on manual data entry, from the initial establishment of each inmate's commitment record, to recording work and educational assignments. Furthermore, two different hardcopy files are maintained for each inmate: the regional commitment file and the institution's case management file. Neither file includes all the support for the information entered into OBSCIS; therefore, both files must be considered collectively to reflect a true picture of an inmate's credit situation. DOC instituted a number of controls to help ensure the reasonableness of the impact of actions taken by all parties that affect the frequently-changing mandatory release dates. Their controls require the following procedures:

- An independent review of the initial calculations of the diminution credits and original mandatory release dates is performed by other commitment staff.
- Once every two years, selected inmate case management files at each institution are audited by independent case management staff to assess each institution's compliance with case management practices and procedures.
- Periodically, commitment staff review OBSCIS generated excess credit reports. This allows commitment staff to adjust credit records when an inmate earns more than the legally allowed 20 credits in a month.
- A review of an inmate's commitment and case management files, and the OBSCIS release date, is performed when an inmate is transferred between DOC regions (such as Hagerstown and Eastern).
- Annual regional commitment office evaluations are performed by independent commitment staff to assess each office's compliance with commitment policies.
- DOC regional commitment staff perform desk reviews of all mandatory supervision releases. OBSCIS generates a monthly report of all inmates eligible for release within the next 60 days. DOC regional commitment staff review the commitment files and agree credits to detail OBSCIS information. Supervisory commitment staff also review the cases. Completion of each review is documented by a certificate, prepared by the regional office, authorizing the upcoming release of the inmate.

Audit Scope, Objectives, and Methodology

Scope

We conducted a performance audit to determine if the Division of Correction (DOC) is properly assigning and calculating diminution credits. We conducted the audit under the authority of the State Government Article, Section 2-1221 of the Annotated Code of Maryland and performed it in accordance with generally accepted government auditing standards.

Objectives

We had two specific audit objectives:

- (1) To determine whether the policies and procedures implemented by DOC properly reflect relevant State laws, regulations, and court rulings relating to diminution credits.
- (2) To assess processes and controls over diminution credits and to determine if inmate releases are based on properly calculated and recorded credits.

Our audit objectives specifically excluded determining the propriety of credits earned by inmates while in the custody of local governments' correctional institutions; the Patuxent Institution, which releases very few inmates based on diminution credits; and the DPSCS – Division of Pretrial Detention and Services, because credits are not earned until an inmate is sentenced at trial.

Methodology

To accomplish our objectives, we reviewed applicable State laws and regulations as well as policies issued by DOC. We also reviewed the applicability of certain legal cases with the Office of the Attorney General. In addition, we interviewed personnel at DOC, including certain DOC institutions. We performed tests to determine the accuracy of information recorded in the Offender Based State Correctional Information System (OBSCIS) used by DOC to record offender data, including diminution credits and release codes.

We also selected a statistical sample of inmates released under mandatory supervision at two DOC institutions during calendar year 2003 to determine the accuracy of the release dates based on diminution credits. We projected the results of these tests to all mandatory supervision releases for these two institutions for that year.

Fieldwork and Agency Responses

We conducted our fieldwork from January 2004 to September 2004. The Department of Public Safety and Correction Services' response, on behalf of DOC, to our findings and recommendations is included as an appendix to this report. As prescribed in the State Government Article, Section 2-1224 of the Annotated code of Maryland, we will advise the Department regarding the results of our review of its response.

Findings and Recommendations

Policies and Procedures Governing Diminution Credits

Conclusion

Our audit disclosed that the Division of Correction (DOC) developed and implemented policies and procedures that properly reflect State laws, regulations, and court rulings governing the awarding and calculation of diminution credits. Also, we concluded that DOC disseminated this necessary information to all appropriate employees.

Processes and Controls Over the Calculation of Credits

Conclusion

Based on the documentation found in both inmate case files (commitment files and case management files) and DOC's automated Offender Based State Correctional Information System (OBSCIS), the audit disclosed that diminution credits awarded were not always accurate. As a result, some inmates were released on mandatory supervision on dates other than the dates they were eligible for release based on actual diminution credits earned. Furthermore, while DOC had established a system of internal controls intended to provide assurance that recorded credits were accurate, the control system did not detect certain errors we noted. The audit also disclosed that, at one institution, inmates often earned credits for a particular job assignment without proper documentation.

Finding 1

Test results indicate that inmates under mandatory supervision were not always released on the appropriate dates.

Analysis

In some cases, inmates released by DOC under mandatory supervision were released on the incorrect dates, based on documented diminution credits earned and recorded in the inmates' files and OBSCIS. Specifically, our tests of a statistical sample of 65 mandatory releases from two DOC institutions during calendar year 2003 disclosed that the dates for 22 releases were in error. The incorrect inmate release dates for these 22 errors ranged from 112 days before to 24 days after the dates of eligibility for release (if credits had been properly applied). Exhibit 1 contains a table providing the detailed results of all 22 errors including days released early or late and the related sentence served by each inmate. Early release errors related to 17 of the inmates being released from 1 to

112 days early. In these cases, the incorrect releases did not appear to have an adverse impact on public safety since, according to automated criminal justice records maintained by DPSCS, none of the inmates released early were arrested for committing a crime during the period between the erroneous release dates and the proper release dates.

These errors occurred because incorrect credit data were posted to OBSCIS. For example, work credits were improperly awarded when inmates were unable to participate in work, such as when inmates were in segregation status. In addition, DOC did not always correctly post credits awarded for time served while inmates were confined in local jurisdictions' jails prior to transfer to a DOC institution.

DOC did not identify these errors primarily because, prior to an inmate's release, DOC procedures did not require a review of all hardcopy documentation in both the regional commitment file and the institution's case management file. Rather, the desk reviews performed included only a review of the regional commitment files and information recorded in OBSCIS. As a result, documentation that supports credits awarded was not always reviewed.

Projection of Results

Our statistical sample consisted of tests of a random selection, from OBSCIS, of calendar year 2003 mandatory releases from two independent DOC institutions. We found OBSCIS to be a reliable source for test selection purposes since our tests concluded that OBSCIS properly calculated credits based on data entered. Our test population consisted of 226 releases from one institution, from which we selected a sample of 31, and 531 releases from the other institution, from which we selected a sample of 34 releases. For one institution, based on our test results of 11 errors, we are 90 percent confident that between 22.4 percent and 48.6 percent of the inmates released on mandatory supervisions in calendar year 2003 were not released on the proper dates. For the other institution, also with 11 errors, we are 90 percent confident that between 19.6 percent and 45.1 percent of the inmates released in calendar year 2003 were not released on the appropriate dates. Since these results are based exclusively on calendar year 2003 mandatory releases for inmates housed at these two DOC institutions, the results cannot be projected to the remaining DOC institutions or to releases in other periods. Furthermore, the extent to which errors affect release dates cannot be projected.

Recommendation 1

We recommend that DOC institute a process that, on a test basis, recalculates the mandatory release dates based on all available documentation currently maintained by DOC (including an institution's case management files) prior to inmate releases. We further recommend that, when applicable, DOC

adjust individual inmate release dates based on the test results. We also recommend that, to the extent the process identifies systemic errors in calculating diminution credits and mandatory release dates, DOC implement necessary corrective actions (such as training and changes in policy).

Finding 2

Actual days worked by inmates to earn credits for certain work assignments at one institution were not documented.

Analysis

One institution's use of a generic work assignment code to award diminution credits was not adequately documented. Our test of 25 randomly-selected inmates that received credits during calendar year 2003 for this work assignment disclosed that documentation of the actual number of days worked, as required by DOC, was not on file for any the inmates tested. As a result, we could not substantiate the propriety of the credits earned by these inmates. According to DOC's records, 558 inmates at this institution had this work assignment code some time during calendar year 2003. Our review of all files maintained by this institution, relative to this work assignment, disclosed that the documentation retained for the year supported actual days worked (either partially or in total) for only 70 of these 558 inmates. According to OBSCIS, these 558 inmates collectively earned approximately 3,800 days of diminution credits from this work assignment during calendar year 2003.

DOC established this work assignment code in 2002 to reduce inmate idleness and to create a non-specialized category of work that would enable those inmates without regular jobs or duties to earn credit towards earlier mandatory releases. DOC's policy requires any institution with an inmate idleness rate of 20 percent or greater to establish an inmate labor pool. Inmates in this labor pool are to perform non-specialized tasks, such as snow removal, that are not covered under existing inmate job classifications, and are eligible to earn up to five credits per month. However, unlike other work assignments, this policy requires that institutions document that inmates in the labor pool actually worked at least three days per week to earn these diminution credits, and that the institutions retain the related documentation.

According to case management staff at this institution, inmates were primarily assigned to the labor pool in order to receive diminution credits towards earlier release dates so as to reduce chronic inmate overcrowding at the institution.

Recommendation 2

We recommend that DOC ensure that all its institutions comply with existing requirements concerning the use of the labor pool job classification and that diminution credits earned are properly supported by documentation of days actually worked.

Finding 3

DOC did not have a formal policy for reviewing the reasonableness of the number of diminution credits to be earned for specific work tasks to ensure consistency between institutions.

Analysis

DOC did not have a formal policy addressing the amount of diminution credits to be earned for specific work tasks, which resulted in inconsistent credit earning rates for similar work at different institutions.

New work tasks and the related credits are recorded in the OBSCIS database by DOC after the submission by an institution's case management staff (each institution's work task has a unique OBSCIS code). The submissions are to be approved by supervisory personnel at the institutions and at DOC headquarters; however, the approval process does not consider either the reasonableness or consistency of credit earning rates between the new task and existing tasks at other institutions.

Our test of all work tasks recorded in OBSCIS disclosed 19 tasks where DOC institutions awarded differing diminution credits. For example, six of eight institutions with the job task "painter" awarded 10 diminution credits for each month an inmate satisfactorily completed the assignment; the two remaining institutions awarded 5 credits each month. Therefore, an inmate performing a similar job at one institution could receive a greater number of diminution credits than an inmate at another institution, and, all other things being equal, would earn an earlier release date under mandatory supervision. While there may be valid justifications for different credits among institutions, documentation was not available to explain the differences we noted.

Recommendation

We recommend that DOC develop a formal policy for new work tasks that requires written justifications for the amount of diminution credits to be awarded, and that requires appropriate supervisory approvals. We also recommend that such justifications be retained for future verification purposes. We further recommend that the DOC review existing job tasks with differing credits, and make appropriate adjustments to promote consistency, as warranted.

Finding 4

Access controls over critical information contained in OBSCIS were not adequate.

Analysis

DPSCS did not adequately protect certain critical automated inmate credit data. A review of OBSCIC system access reports disclosed that a large number of individuals had transaction screen capabilities that allowed them to modify critical data files related to inmate diminution credits even though it appeared that such accesses were not needed for them to perform their job duties. While only certain central DOC commitment office, regional commitment staff, and institution case management staff generally need modification access, access also had been granted to such employees as wardens and correctional officers. Specifically, we noted the following conditions:

- Five of 57 users with access to commitment and diminution credit screens—used to record information such as inmate eligibility for certain credits—did not require such access. Generally, these screens should be limited to DOC central and regional commitment staff employees.
- Approximately 900 users with access to case management screens—used to record individual inmate work task and education assignments—most likely did not require access. These screens should be limited to case management staff at the institutions (which we estimated at 240 employees in total). While DOC represented that certain of these 900 users needed access, they had not documented the propriety of assigning access capabilities to these individuals.

Although we concluded that a significant number of users do not require access, we were not able to readily determine whether these users included individuals no longer working for the Department.

Recommendation 4

We recommend that only personnel whose job duties require direct modification access to critical data files be granted access to such files. We further recommend that DOC perform a review of current users with access to critical screens and take appropriate actions to remove screen accesses for those users who do not require it. Finally, we recommend that DOC periodically assess and document the propriety of employee access capabilities to critical files.

Exhibit 1

Detailed Findings of Incorrect Inmate Release Dates

Release Errors from Statistical Sample (see Finding 1) Detail of Incorrect Release Date and Related Sentence Served				
Inmate	Early Release		Late Release	
	Days	Sentence Served (years)	Days	Sentence Served (years)
1	112	4.6		
2	87	3.4		
3	69	17.6		
4	45	4		
5	37	4.8		
6	32	20.4		
7	29	24.7		
8	16	16.3		
9	16	5.9		
10	14	19.9		
11	5	1		
12	4	7.2		
13	4	1.8		
14	3	19.4		
15	2	8.4		
16	1	6.5		
17	1	2.7		
18			3	3
19			9	8.6
20			11	5.4
21			14	1.4
22			24	6



APPENDIX

Department of Public Safety and Correctional Services

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December 7, 2004

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INMATE GRIEVANCE OFFICE

Dear Mr. Myers:

The Department of Public Safety and Correctional Services has reviewed the November 2004 draft audit report on the **Diminution Credits** performance audit. The Department appreciates your constructive recommendations to enhance operations in order to ensure that the Division of Correction (DOC) is properly assigning and calculating diminution credits. Further, the Department is pleased that your audit determined that the DOC properly implemented policies and procedures that reflect State laws, regulations, and court rulings relating to diminution of credits.

Attached you will find a response from Frank C. Sizer, Jr., Commissioner of Correction, DOC, that addresses the report's findings and recommendations. I concur with Commissioner Sizer's response and trust that we have responded adequately to the draft audit report. If you have any questions regarding the Department's response, please contact me.

Sincerely,

Mary Ann Saar
Secretary

Attachment

c: Deputy Secretary Mary L. Livers
Deputy Secretary G. Lawrence Franklin
Commissioner Frank C. Sizer, Jr.
Inspector General Joseph M. Perry



Department of Public Safety and Correctional Services

Division of Correction

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December 6, 2004

Mary Ann Saar, Secretary
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Via

Mary L. Livers, PhD, Deputy Secretary
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Dear Secretary Saar:

The draft performance audit on the Department of Public Safety and Correctional Services – Division of Correction (DOC) **Diminution Credits** has been received and reviewed. The following represents the agency response to the auditor's findings.

Finding # 1 - Test results indicate that inmates under mandatory supervision were not always released on the appropriate dates.

Agree: - DOC will institute a process that, on a test basis, recalculates the mandatory release dates based on all available documentation currently maintained by DOC (including institution's case management files) prior to inmate releases. When applicable, DOC will adjust individual inmate release dates based on the test results. In addition, to the extent the process identifies systemic errors in calculating diminution credits and mandatory release dates, DOC will implement necessary corrective actions (such as training and changes in policy).

Finding # 2 - Actual days worked by inmates to earn credits for certain work assignments at one institution were not documented.

Agree: - DOC will ensure that all its institutions comply with existing requirements concerning the use of the labor pool job classification and that diminution credits earned are properly supported by documentation of days actually worked.

Finding # 3 - DOC did not have a formal policy for reviewing the reasonableness of the number of diminution credits to be earned for specific work tasks to ensure consistency between institutions.

Agree: - DOC will develop a formal policy for new work tasks that requires written justifications for the amount of diminution credits to be awarded, and that requires appropriate supervisory approvals. DOC will also retain such justifications for future verification purposes. DOC will review existing job tasks with differing credits and make appropriate adjustments to promote consistency, as warranted.

Finding # 4 - Access controls over critical information contained in OBSCIS were not adequate.

Agree: - DOC will grant access only to personnel whose job duties require direct modification access to critical data files. DOC will perform a review of current users with access to critical screens and take appropriate actions to remove screen accesses for those users who do not require it. DOC will periodically assess and document propriety of employee access capabilities to critical files.

Sincerely,



Frank C. Sizer, Jr.
Commissioner

cc: G. Lawrence Franklin, Deputy Secretary
Joseph M. Perry, Inspector General
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