



Annual Timely Release Report

Report to Idaho Legislature

February 1, 2016

Joint report between the Idaho Department of Correction and Idaho Commission of Pardons and Parole

Overview

Statutory Requirement

In 2014, the state of Idaho made drastic changes to the criminal justice system by adopting the Justice Reinvestment Initiative (SB1357). This initiative seeks to strengthen supervision practices, focus resources on the most violent or highest-risk offenders, and adds new reporting requirements to monitor outcomes. Idaho Code 20-223 (Section 12 of SB1357), requires the Department of Correction (IDOC) and the Idaho Commission of Pardons and Parole to submit an annual report by February 1st of each year describing the timely release of property and drug offenders. This second installment to the legislature since the enactment of SB1357 describes the methodology and findings for calendar year 2015.

SB1357 requires the following:

“By February 1, 2015 and by February 1 of each year thereafter, the department of correction and the commission shall submit a report to the legislature and governor that describes the percentage of people sentenced to a term in prison for a property or drug offense conviction who are released before serving one hundred fifty percent (150%) of the fixed portion of the sentence, and that documents the most common reasons for people whose release was delayed or denied.”

Methodology

150% Calculation



Several variables are used to determine whether an offender has served over 150% of their fixed term:

- 1) **Sentence Effective Date.** The date an offender's sentence goes into effect in the eyes of the court.
- 2) **Parole Eligibility Date.** The earliest date an offender can be released from incarceration to the community taking into consideration any consecutive or concurrent sentences or sentence enhancements.
- 3) **First Parole Release.** The date the offender was released to parole from an institution into the community for the first time while serving time on a sentence.
- 4) **Credit for Time Served.** Time spent either in county jail or previously incarcerated prior to a prison term (i.e. on a Rider).



Unified Sentencing Act

To understand the 150% calculation requires an understanding of the current sentencing structure in Idaho. The legislature passed the Unified Sentencing Act in 1986. Idaho Code 19-2513 created a sentencing system with two parts; a fixed term followed by an optional indeterminate term. The fixed portion ensures the individual serves a set period of time in prison without eligibility for parole. Idaho's criminal statutes typically provide a penalty for each crime and the judge has full discretion to set the minimum, or "fixed" portion. The first parole eligible date takes into consideration the fixed term of possibly several sentences running concurrently or consecutively, minus any credit for time served.

ROLES IN THE PROCESS

Three separate entities are responsible for the processes by which offenders enter prison, are housed and treated while in prison, and are released from prison.

1. Idaho Supreme Court
2. Idaho Department of Correction
3. Idaho Commission of Pardons and Parole

Crime

Sentence

Incarceration

Parole
Commission

Parole



The offender's fixed sentence length was multiplied by 1.5 to determine the number of days necessary to reach 150% of the fixed term.

Example: the 150 date calculation for 2 years equals 3 years ($1.5 * 730 \text{ days} = 1,095 \text{ days}$). Any time spent over three years on a two year sentence is considered past 150% of parole eligibility. If released prior to 1,095 days, the offender is considered released prior to 150% of their fixed term.

$$\frac{\text{Total Time Served at First Parole Release}}{\text{Fixed Sentence Length}}$$

Compiling Data

IDOC retrieved records for all property and drug offenders (N=1,125) who were released to parole for the first time between January 1st through December 31st, 2015, and the portion who served time beyond 150% of the fixed portion of the sentence. Over the course of the year, the Parole Commission compiled all decisions made within parole hearings. The two files containing offenders released past parole eligibility and offender

parole hearings were merged together to help determine the most common reasons for delay or denial. In addition, IDOC documented reasons for parole release delays for offenders who were not past 150% at the time of the parole hearing, but were past 150% at the time of release. The factor that occurred first, or prior to any others, was counted as the most influential reason for delay.

Findings

Percent Released Before and After 150% of Fixed Term



- ◇ **70.6%** (N=794) of property and drug offenders released to parole between January 1st, 2015 and December 31st, 2015 were released at or prior to 150% of the fixed portion of their term sentence.
- ◇ **29.4%** (N=331) of property and drug offenders were released after 150% of their fixed term.
- ◇ The average fixed term lengths for all property and drug crimes was 2.27 years (median 2 years).
- ◇ Offenders spent an average of 268.22 days (median 145 days) past their first parole eligible date in prison.

Reasons for Parole Delay

The most common reasons for parole delay for the 331 property and drug offenders who were released past 150% of their fixed term are provided in Table 1 and described below.

Credit for Time Served

Similar to the 2014 report on the timely release of offenders, the most common reason (40.8%) for those held past 150% was because they were either parole eligible upon or within six months of arrival. Offenders delayed from starting a prison stay parole eligible at or within six months, stayed an average of 1.34 years (median 1.13 years) past their parole eligible date. When including credit for time served, the total time property and drug offenders spent in prison/jail was 2.5 years (median 2.24 years).

Pathway Programming

The second largest cause for parole delay was from timing of treatment within a primary programming pathway (19.9%, N=66). Although practices are changing, for much of calendar year 2015 offenders were placed within a programming pathway that dictated the types of treatment an offender was expected to complete prior to parole. If the offender entered treatment too close to the date of parole eligibility, he or she was not able to complete programming by the parole hearing date, resulting in delays for release. Many delays, for example, were caused by placement into a therapeutic com-

Table 1. Reasons for Parole Delay	N	%
Credit for Time Served—parole eligible on arrival or parole eligible within six months of arrival	135	40.8
Primary Pathway Entry	66	19.9
Previously Denied Parole	55	16.6
Institutional Behavior/DORs	29	8.8
Program Failure	18	5.4
Program Refusal	14	4.2
Granted Tentative Parole Date (TPD)	8	2.4
Other	6	1.8
Total	331	100.0

munity with a requirement of 9 months to complete programming. For a few other offenders, the decision was made to change the pathway an offender was assigned to, causing a delay. In addition, 2.4% (N=8) were delayed within programming due to low offender reading or math scores.

Offenders whose release was delayed due to pathway programming were held an average of 2.03 years (median 1.81 years) past parole. When including credit for time served, the offenders spent an average of 4.10 years (median 3.89 years) incarcerated in some capacity.

Previous Denial of parole

The third largest cause for parole delay was related to previous denial of parole due to risk of re-offense, prior criminal history, or institutional behavior (16.6%, N=55). There were also a few instances where the parole commission required

meeting with the individual in person or required a mental health examination before making a decision. In addition, the offender may have been granted a Tentative Parole Date (TPD) beyond the 150% date (N=8, 2.4%).

Offenders delayed due to previous denial of parole stayed an average of 2.14 years (median 1.92 years) past their fixed term. When adding in credit for time served, the offenders served an average of 4.34 total years (median 3.44 years) incarcerated.

Offender Actions

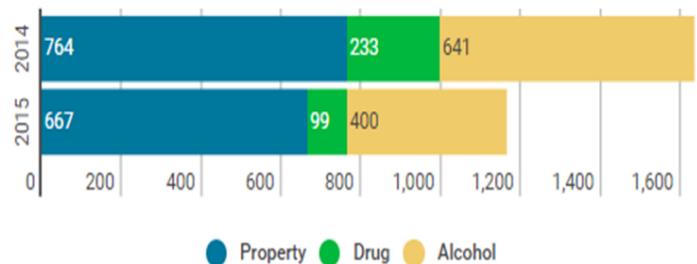
The fourth largest cause for delay of release was due to offender actions, including behavior within the institution (8.8%, N=29), failure to complete programming (5.4%, N=18) or refusal to complete programming (4.2%, N=14). In addition, two offenders (0.6%) were delayed after refusing parole, choosing to stay incarcerated for their full-term.

Offenders delayed due to their own actions stayed an average of 2.33 years (median 2 years) past their parole eligible date. Offenders spent an average of 4.67 years (median 4.63 years) with credit for time served.

Conclusion

The percent of offenders released past 150% was similar between 2014 (29.3%) and 2015 (29.4%), as were the most common reasons documented for delays. However, the changes adopted by the parole commission and IDOC to focus on the timely release of offenders has had a dramatic effect. The chart below displays the number of drug and property crime offenders currently incarcerated who are past parole eligibility compared to the number who were incarcerated and were past parole eligibility in 2014. As indicated, there are currently 472 fewer incarcerated property and drug offenders in prison now than there were in January 2014.

Current Incarcerated Population Past Parole Eligibility by Property, Drug, Alcohol: 2014-2015



Questions concerning this report may be directed to either agency:

Director Kevin Kempf

Idaho Department of Correction
kkempf@idoc.idaho.gov

Executive Director Sandy Jones

Idaho Commission of Pardons and Parole
sjones@idoc.idaho.gov

