

2017

# Timely Release Report



Report to Idaho Legislature

February 1, 2017

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

# Background

## *Statutory Requirement*

Between October 2013 and January 2014, the Council for State Government (CSG) Justice Center worked with Idaho state leaders to develop data-driven policy options designed to reduce spending in corrections and increase public safety. CSG Justice Center experts analyzed Idaho’s criminal justice data and interviewed stakeholders across the criminal justice system. As a result, in March 2014, Idaho Governor C.L. “Butch” Otter signed into law 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 11, mandates the Department of Correction (IDOC) and the Idaho Commission of Pardons and Parole submit an annual report by February 1st of each year that provides the length of time property and drug offenders serve up to their first release from prison. If kept past 150 percent of fixed time, the report must provide reasons for this delay. This third installment describes the methodology and findings for calendar year 2016.

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**SB1357 requires the following:**  
“By February 1, 2015 and February 1 of each year thereafter, the department of correction and 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.”

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## Methodology

### *Unified Sentencing Act*

The 150 percent 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: 1) a fixed term followed by 2) an optional indeterminate term. The fixed portion ensured 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



### 150% Calculation

Several variables are used to determine whether an offender has served over 150 percent 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).

Each offender’s fixed sentence length was multiplied by 1.5 to determine the number of days necessary to reach 150 percent of the fixed term.



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

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

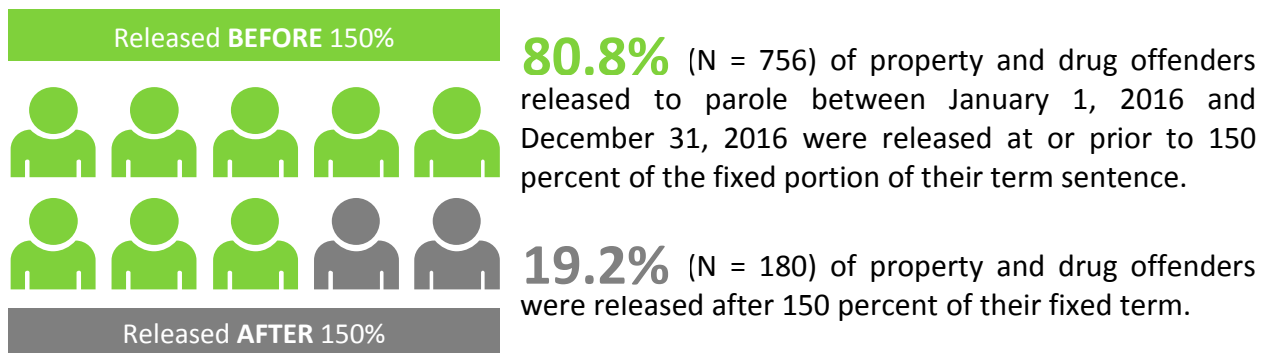
## Compiling Data

IDOC retrieved records for all property and drug offenders (N=936) who were released to parole for the first time between January 1, 2016 and December 31, 2016, and the portion who served time beyond 150 percent of the fixed portion of their sentence. Over the course of the year, the Parole Commission compiled all decisions made within the parole hearings. The IDOC file containing the offenders released past parole eligibility and the Parole Commission file containing all 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 percent at the time of the parole hearing, but were past 150 percent 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

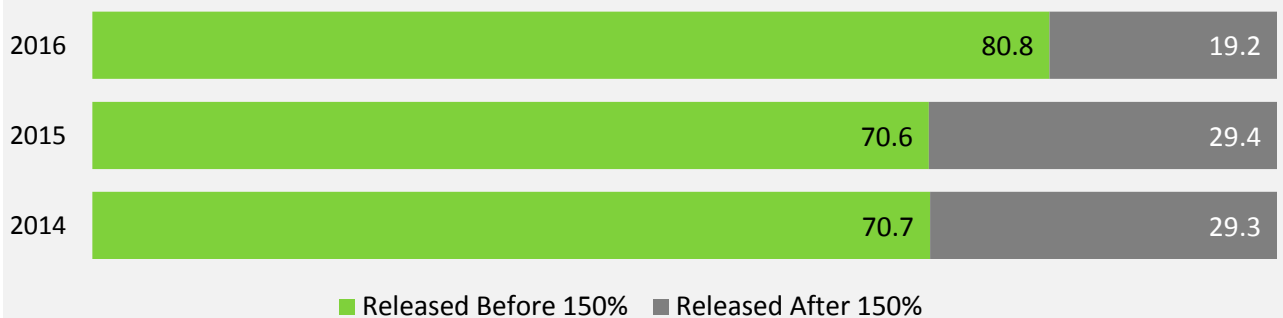
Between January 1, 2016 and December 31, 2016, there were 936 first-time parole releases from prison for property and drug offenses. The vast majority of these offenders were released at or prior to 150 percent of the fixed portion of their term sentence.

### Percent Released Before and After 150% of Fixed Term



### Idaho experienced positive growth in the timely release of property and drug offenders

Two years post Justice Reinvestment Initiative implementation, Idaho increased from 70.7 percent to 80.8 percent of property and drug offenders released at or prior to 150 percent of their fixed term.



# Reasons for Parole Delay

The most common reasons for parole delay of the 180 property and drug offenders who were released past 150 percent of their fixed term are provided in Table 1 and described below.

Property and drug offenders released past 150 percent of their fixed term sentence had an average fixed term length of 1.9 years (median 2 years). In addition, these offenders spent an average of 1.8 years (median 1.6 years) past their first parole eligible date in prison.

<b>Table 1. Reasons for Parole Delay</b>	<b>N</b>	<b>%</b>
Credit for Time Served - parole eligible on arrival or parole eligible within six months of arrival	75	41.7
Previously Denied Parole	48	26.7
Offender Actions - Institutional Behavior/DORs	33	18.3
Primary Pathway Entry	16	8.9
Program Refusal	4	2.2
Program Failure	2	1.1
Other	2	1.1
Total	180	100.0

## *Credit for Time Served*

Similar to the 2015 report on the timely release of offenders, the most common reason (41.7%, N=75) for those held past 150 percent of their fixed term was because they were either parole eligible upon arrival or parole eligible within six months of arrival. Offenders either parole eligible upon arrival or within six months of arrival stayed an average of 1.3 years (median 1.1 years) past their parole eligible date. When including credit for time served, the total time they spent incarcerated was 2.5 years (median 2.3 years).

## *Previous Parole Denial*

The second largest cause for parole delay (26.7%, N=48) was related to previous denial of parole. Previous parole denials were due to risk of re-offense, public safety, prior criminal history, failure to have acceptable parole plan, or institutional behavior. One offender (0.6%) was delayed after a continuance was set for a full commission hearing as a result of the decision not being unanimous. Additionally, there were instances where the commission requested the individual be seen in person at the next hearing, required a mental health examination or risk assessment before making a decision, or passed the offender to their full-term release date.

Offenders delayed due to previous denial of parole stayed an average of 2.0 years (median 1.7 years) past their parole eligibility date. When adding in credit for time served, the offenders served an average of 4.4 total years (median 4.1 years) incarcerated.

## *Institutional Behavior/DORs*

The third largest cause for parole delay (18.3%, N=33) was related to offender institutional behavior and/or disciplinary offense reports (DORs). Furthermore, one offender (0.6%) was delayed due to their own action by refusing to parole and choosing to stay incarcerated for their full-term sentence.

Offenders delayed due to their own actions spent an average of 2.3 years (median 2.2 years) past their parole eligibility date. Offenders spent an average of 4.8 years (median 4.3 years) incarcerated when including their credit for time served.

### *Programming*

The fourth largest cause for parole delay was from timing of treatment within a primary programming pathway (8.9%, N=16). This was a significant decrease compared to 2015 (19.9%). On a few occasions, an offender's decision of refusal to complete assigned programming (2.2%, N=4) or failure to complete assigned programming (1.1%, N=2) caused their delay.



Offenders whose release was delayed to do pathway programming were held an average of 2.2 years (median 1.9 years) past parole eligibility. When including credit for time served, offenders spent an average of 4.6 years (median 4.3 years) incarcerated in some capacity.

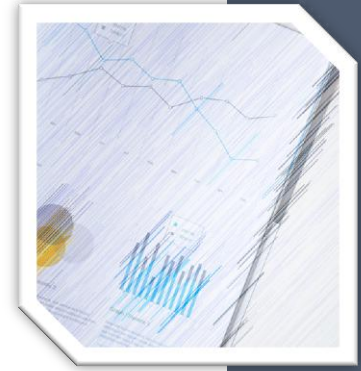
The decrease in the delay of parole release from timing of treatment within a primary programming pathway can, in part, be attributed to major programmatic changes that occurred within IDOC near the end of 2015 and beginning of 2016. The changes to programming helped eliminate the requirement for offenders to complete the Therapeutic Community (TC) or other program pathway prior to being granted parole. The TC and Pathway programming were not offered at all institutions, extensive in length and contained long wait-lists. This often held offenders from being released to parole in a timely manner. A short description of the programming changes is described below.

#### **JPA Assessment and Termination of Therapeutic Communities**

In February of 2015, IDOC requested assistance from the Council of State Governments (CSG) Justice Center to evaluate the effectiveness of IDOC correctional programs, also known as the Justice Program Assessment (JPA). In the course of this assessment it was revealed that IDOC had a complicated programming "pathway" system that consisted of several complex pathways that were not being utilized or duplicated services, the department lacked a tool to track program availability for moderate- and high-risk offenders, and low-risk offenders may receive intensive programming with the potential to increase their overall risk. It was recommended the department eliminate the complex pathways system and instead utilize a menu of core programs that are research-based, rely on a cognitive-behavioral approach, impact the moderate- and high-risk offenders, and made available at all IDOC institutions and district offices statewide.

As a result of CSG's Justice Program Assessment and recommendations, IDOC discontinued the use of Therapeutic Communities in September 2015 and identified five new core programs; 1) University of Cincinnati Substance Abuse, 2) Thinking for a Change, 3) University of Cincinnati Treatment for Sexual Offending, 4) Aggression Replacement Training, and 5) University of Cincinnati Advanced Practice. In addition, moderate-high- and high-risk sex offenders will be

required to take the Clinical Sexual Offending Treatment program. These new programs are intended to prioritize programming and resources for offenders that are most likely to reoffend and focus programming based on risk (higher-risk receiving higher intensity interventions). In January 2016 staff began training and implementing these new programs.



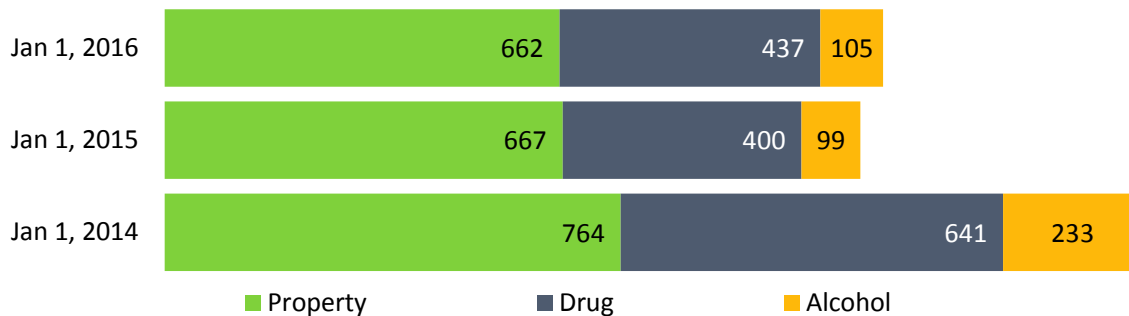
## Conclusion

The percent of drug and property offenders released past 150 percent of their fixed term significantly decreased between 2015 (29.4%) to 2016 (19.2%).

The changes adopted by the Idaho Department of Correction and the Idaho Commission of Pardons and Parole to focus on the timely release of offenders continue to have an effect on Idaho’s incarcerated population. The chart below displays the number of property and drug offenders incarcerated past parole eligibility compared to the number who were incarcerated and past parole eligibility in 2014 and 2015. As indicated, there are fewer property, drug, and alcohol offenders past parole eligibility in prison now than there were in 2014. Although the current population has experienced a slight uptick, the number of incarcerated population past parole eligibility has remained relatively steady.

### Property and drug offenders incarcerated past parole eligibility has decreased

The number of incarcerated property, drug, and alcohol offenders in Idaho prisons who are past their parole eligibility date has decreased by 26.5% since 2014.



The Idaho Department of Correction and the Idaho Commission of Pardons and Parole continue working towards a streamlined, automated process that will enable standardized documentation on the reasons for delay or denial of parole release of offenders serving property or drug convictions.

Questions concerning this report may be directed to either agency:

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