

**February 1, 2019**

Report to Idaho Legislature

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

# **TIMELY RELEASE REPORT 2019**



# BACKGROUND

## Statutory Requirement

In March 2014, Idaho Governor C.L. “Butch” Otter signed into law Senate Bill 1357, also known as Justice Reinvestment Initiative (JRI), to help address three major challenges facing Idaho’s criminal justice system: a revolving door of recidivism from supervision and diversion programs, inefficient use of prison space, and insufficient oversight of recidivism-reduction investments.

Idaho Code §20-223, Section 11, mandates the Department of Correction (IDOC) and the Idaho Commission of Pardons and Parole (ICPP) submit an annual report by February 1st of each year that provides the length of time offenders serve up to their first release from prison. While the original bill stipulated a focus on property and drug offenders, and set a benchmark of 150%, this language was amended in 2017 with Senate Bill 1113. Despite this, IDOC and ICPP continue to use these markers to enable consistent comparisons of the data.

### Idaho Code §20-223, Section 11

*“By February 1, 2015, and by February 1 of each year thereafter, the department of correction and commission shall submit a report to the legislature and governor that describes the most common reason for delay or denial of release, including statistical data supporting the conclusions of the report.”*

## Highlights



A total of 957 individuals under IDOC jurisdiction serving time in prison on a property or drug conviction were released to parole between January 1, 2018 and December 31, 2018.

- **88.2% (N = 844)** were released **before** 150% of the fixed portion of their term sentence.
- **11.8% (N = 113)** were released **after** 150% of the fixed portion of their term sentence.

## Primary Delay Reasons

- **46.9% (N = 53)** of delays were a result of credit for time served, including parole eligible on arrival or parole eligible within six months of arrival.
- **26.5% (N = 30)** of delays were a result of their own actions, including institutional behavior and disciplinary offense reports (DORs).
- **13.3% (N = 15)** of delays were a result of having been previously denied parole.
- **13.3% (N = 15)** of delays were a result of program-related issues.

# METHODOLOGY

## Unified Sentencing Act

In order to understand the 150% calculation, one 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.



## 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).

Each 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% 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% of parole eligibility. If released prior to 1,095 days, the offender is considered released prior to 150% of their fixed term.*



*Total Time Served at First Parole Release  
Fixed Sentence Length*

# METHODOLOGY

## Roles in the Process

Three separate entities are responsible for the processes by which people convicted of a felony offense enter prison, are housed and treated while in prison, and are released from prison. These entities include the Idaho Supreme Court, Idaho Department of Correction, and the Idaho Commission of Pardons and Parole.

Five major steps occur during this process; 1) a felony crime is committed, 2) the individual charged with a felony crime is sentenced by the courts, 3) if convicted, the individual is incarcerated in prison under the jurisdiction of the Idaho Department of Correction, 4) the individual goes before the Idaho Commission of Pardons and Parole, and 5) if granted parole, the individual is released to parole to serve the remainder of their sentence in the community.



## Compiling Data

*Over the course of the year, IDOC retrieved records for all people sentenced to a term in prison for a property or drug offense conviction who were released to parole for the first time between January 1 and December 31, 2018.*

The percentage of people serving below or above 150% of the fixed portion of the sentence was calculated and the most common reasons for individuals whose release was delayed or denied were documented.

Throughout the year, ICPP compiled all decisions made within the parole hearings. The IDOC file containing records released past 150% of their fixed sentence length and the ICPP file containing all parole hearings for the year were then merged to aid in the documentation and determine the most common reasons for delay or denial of parole release.

IDOC documented reasons for parole release delays for those who were past 150% at the time of release.

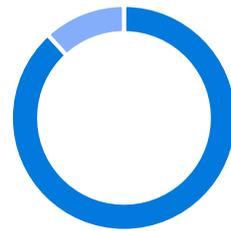
The factor that occurred first, or prior to any other factors, was documented as the most influential reason for delay. The findings are discussed in this report.

# FINDINGS

## Overview

Between January 1, 2018 and December 31, 2018, 957 people sentenced to a term in prison for a property or drug offense conviction were released to parole for the first time. The vast majority (88.2%, N = 844) were released at or prior to serving 150% of the fixed portion of their sentence. The percentage released past 150% of the fixed portion of their sentence has decreased significantly when compared to prior years.

- **88.2% (N = 844)** were released **before** 150% of the fixed portion of their term sentence.
- **11.8% (N = 113)** were released **after** 150% of the fixed portion of their term sentence.



- Released BEFORE 150%
- Released AFTER 150%

Nearly **9 out of every 10** individuals sentenced to a term in prison for a property or drug offense conviction are released to parole for the first time at or prior to serving 150% of their fixed sentence.

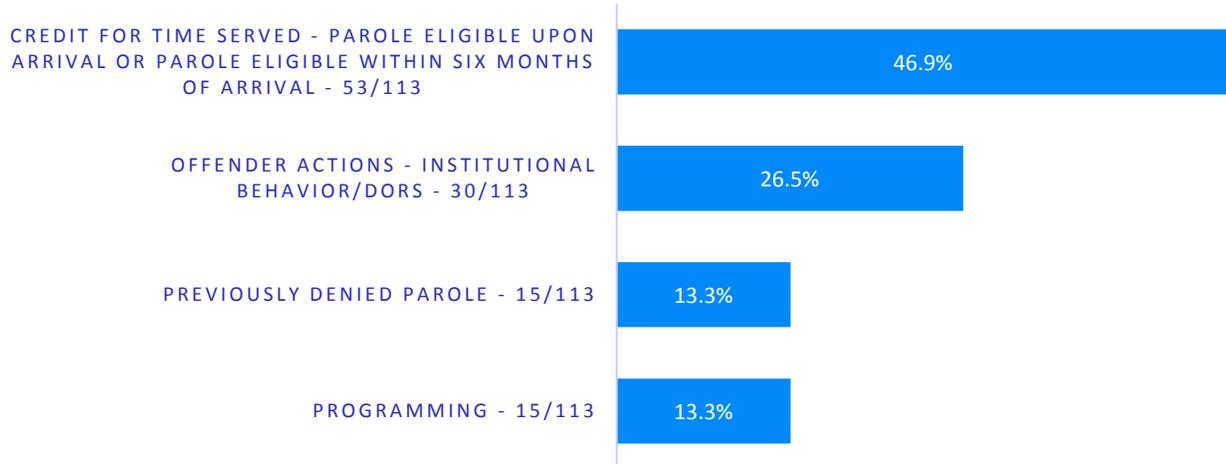
*Idaho continues the trend of positive growth in the timely release of first-time parole releases from prison for property and drug offenses.*

Four years post Justice Reinvestment Initiative implementation, people sentenced to a term in prison for a property and drug offense conviction who were released at or prior to 150% of their fixed sentence noticeably increased from 2014 (70.7%) to 2018 (88.2%).



# FINDINGS

## Reasons for Parole Delay



The most common reasons for parole delay of the 113 people sentenced to a term in prison for a property or drug offense conviction released past 150% of their fixed sentence are covered in this section. Those serving time for a property or drug offense conviction released to parole past 150% of their fixed sentence had an average fixed sentence length of 1.55 years (median 1.46 years). In addition, these individuals spent an average of 1.62 years (median 1.25 years) past their first parole eligible date in prison.

### Credit for Time Served

*On average, more than 4 out of every 10 were delayed release to parole as a result of credit for time served – either parole eligible upon arrival or parole eligible within six months of arrival.*

Credit for time served – parole eligible upon arrival or parole eligible within six months of arrival (46.9%, N=53) remained the most prevalent cause for those held past 150% of their fixed sentence. There was not a statistically significant difference in the percentage of credit for time served compared to 2017. Those eligible upon arrival or within six months of arrival stayed an average of 1.17 years (median 0.84 years) past their parole eligibility date. The total time spent incarcerated, including credit for time served was 2.28 years (median 2.02 years).

# FINDINGS

## Offender Actions

*On average, more than 2 out of every 10 were delayed release to parole as a result of the individual's own actions – institutional behavior/DORs.*

The second most common reason for parole delay (26.5%, N=30) was due to the individual's own actions, including institutional behavior and/or disciplinary offense reports (DORs). Examples include receiving several DORs (including Class A, or most serious), and lack of good behavior. One individual was voided their tentative parole date due to 39 DORs. Individuals delayed parole release as a result of own actions spent an average of 2.18 years (median 1.64 years) past their parole eligibility date. Offenders spent an average of 4.23 years (median 3.64 years) incarcerated when credit for time served is included.

## Previously Denied Parole

*On average, 1 out of every 10 were delayed release to parole as a result of previously denied parole.*

Tied with programming, the third most common reason for parole delay (13.3%, N=15) was due to previous denial of parole. Reasons for parole denial included a risk to reoffend, public safety concerns, and prior criminal history. Those previously denied parole stayed an average of 1.70 years (median 1.50 years) past their parole eligibility date. The total time spent incarcerated, including credit for time served was 3.37 years (median 3.14 years).

There was a noteworthy change in the percentage of previously denied parole compared to 2017; one year ago this reason was the second most common reason for delay, at 23.8%.

## Programming

*On average, 1 out of every 10 were delayed release to parole as a result of programming.*

Tied with previously denied parole, the third most common reason for parole delay (13.3%, N=15) was due to programming. Reasons for delay were due to program refusal, and delaying in program commencement or completion. Those whose release was delayed due to programming were held an average of 2.02 years (median 1.84 years) past parole eligibility. When including credit for time served, they spent an average of 4.04 years (median 4.84 years) incarcerated in some capacity.

It is important to note that major programmatic changes occurred within IDOC near the end of 2015 and beginning of 2016. These changes helped eliminate the requirement for people serving time in prison to complete the Therapeutic Community (TC) or other program "pathway" prior to being granted parole.

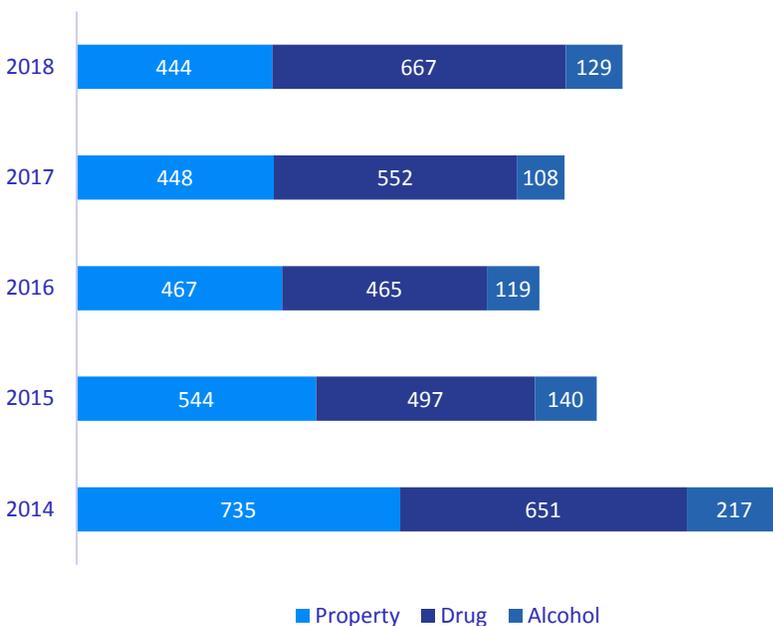
# CONCLUSION

The percentage of people serving time in prison for a property or drug offense conviction and released past 150% of their fixed sentence continues its downward trend from previous years, with an observable difference between 2018 (11.8%) and 2017 (13.2%).

The changes adopted by the Idaho Department of Correction and the Idaho Commission of Pardons and Parole to focus on the timely release of people serving time in prison on a property or drug offense conviction continue to have an effect on Idaho's incarcerated population. The chart below displays the number of individuals incarcerated on a property or drug offense past parole eligibility compared to the number who were incarcerated and past parole eligibility each year since 2014. As indicated, there are overall fewer people past parole eligibility in prison in 2018 (N = 1,240) than in 2014 (N = 1,603) for a property, drug, or alcohol offense.

Despite this overall decline, however, there has been an observable increase in these numbers when compared to more recent years. The percentage of offenders incarcerated on a property offense past parole eligibility has decreased 0.9% from last year. The percentage of offenders incarcerated on a drug offense past their parole eligibility has increased 20.8% from last year. The percentage of offenders incarcerated on an alcohol offense past their parole eligibility has increased 19.4% from last year.

The Idaho Department of Correction and Idaho Commission of Pardons and Parole continue working together toward a streamlined, automated process that will enable standardized documentation of the reasons for delay or denial of first-time parole release of people serving property or drug offense convictions.



Questions regarding this report can be directed to either Agency:

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