

# TIMELY RELEASE REPORT 2021



February 1,  
2021

Report to Idaho Legislature

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



## BACKGROUND

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.

**“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.” - Idaho Code §20-223, Section 11**

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

## METHODOLOGY

### Highlights

A total of 1,167 individuals under IDOC jurisdiction serving time in prison on a property or drug conviction were released to parole for the first time between January 1, 2020 and December 31, 2020. This is an increase of 36% when compared to 2019.

- **79.2% (N = 924)** were released **before** 150% of the fixed portion of their term sentence.
- **20.8% (N = 243)** were released **after** 150% of the fixed portion of their term sentence.

### Primary Delay Reasons

- **51.4% (N = 125)** of delays were a result of credit for time served, including a person being parole eligible on arrival or parole eligible within six months of arrival.
- **23.5% (N = 57)** of delays were a result of an incarcerated individual’s own actions, including institutional behavior and disciplinary offense reports (DORs).
- **19.8% (N = 48)** of delays were a result of having been previously denied parole on this sentence.
- **4.5% (N = 11)** of delays were a result of program-related issues.
- **0.8% (N = 2)** of delays were a result of the tentative parole date being set out beyond the parole eligibility date by COPP.

## 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. Once the fixed portion is completed, COPP has the discretion to release the individual at any time. 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 individual has served over 150% of their fixed term:

1. **Sentence Effective Date.** The date an individual's sentence goes into effect as determined by the court.
2. **Parole Eligibility Date.** The earliest date an individual 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 individual 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<sup>1</sup>).

Each individual'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 x 730 days = 1,095 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 individual is considered released prior to 150% of their fixed term.**

$$\text{Total Time Served} \div \text{Fixed Sentence Length} = \% \text{ of Fixed Sentence Served}$$

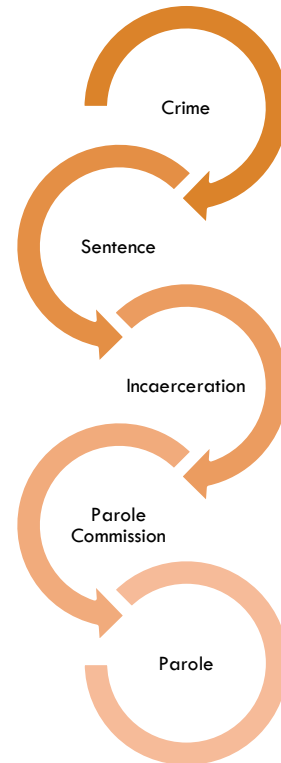
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<sup>1</sup> Rider (Retained Jurisdiction): An individual committed to an Idaho Department of Correction Rider program. The courts will retain jurisdiction of this individual until the completion of the Rider program. The courts will subsequently determine whether to place this individual on Probation or Term status or to withhold judgment.

## 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 convicted and sentenced by the courts, 3) once sentenced, 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

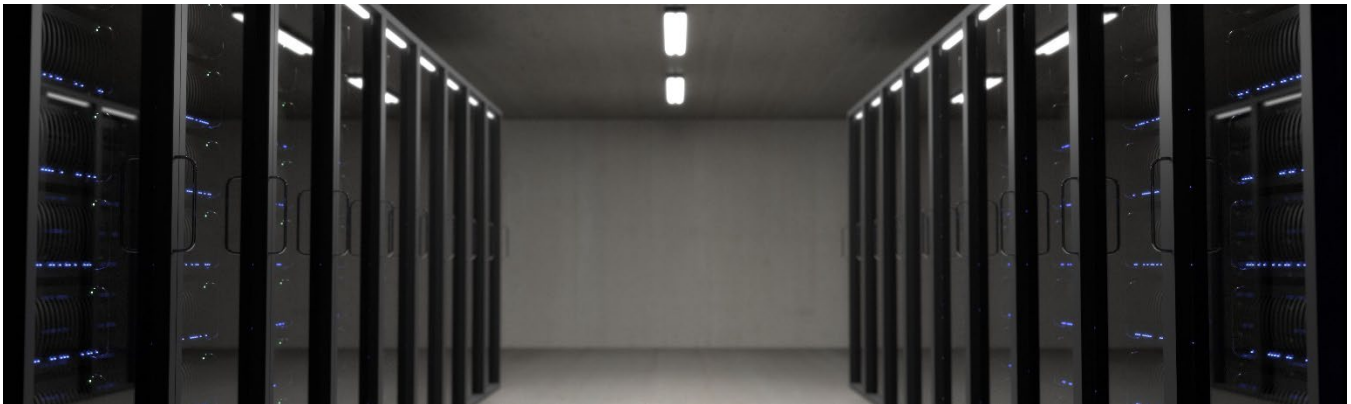
Over the course of the year, IDOC collected records for all people sentenced to a term in prison for a property or drug offense conviction who were released to parole for the first time between January 1 and December 31, 2020.

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, COPP compiled all decisions made within the parole hearings. This file was merged with the IDOC file containing records released past 150% of their fixed sentence length, 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.

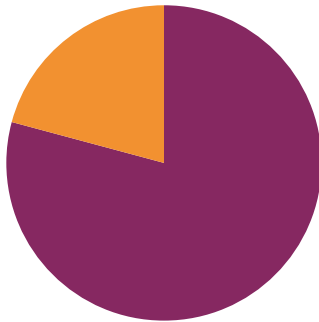
Of these reasons, the factor that occurred first chronologically was marked as being the most influential reason for delay. These findings are discussed in this report.



## FINDINGS

### Overview

Between January 1, 2020 and December 31, 2020, 1,167 people sentenced to a term in prison for a property or drug offense conviction were released to parole for the first time, an increase of 36% when compared to 2019. The majority (79.2%, N = 924) 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 increased when compared to recent years.

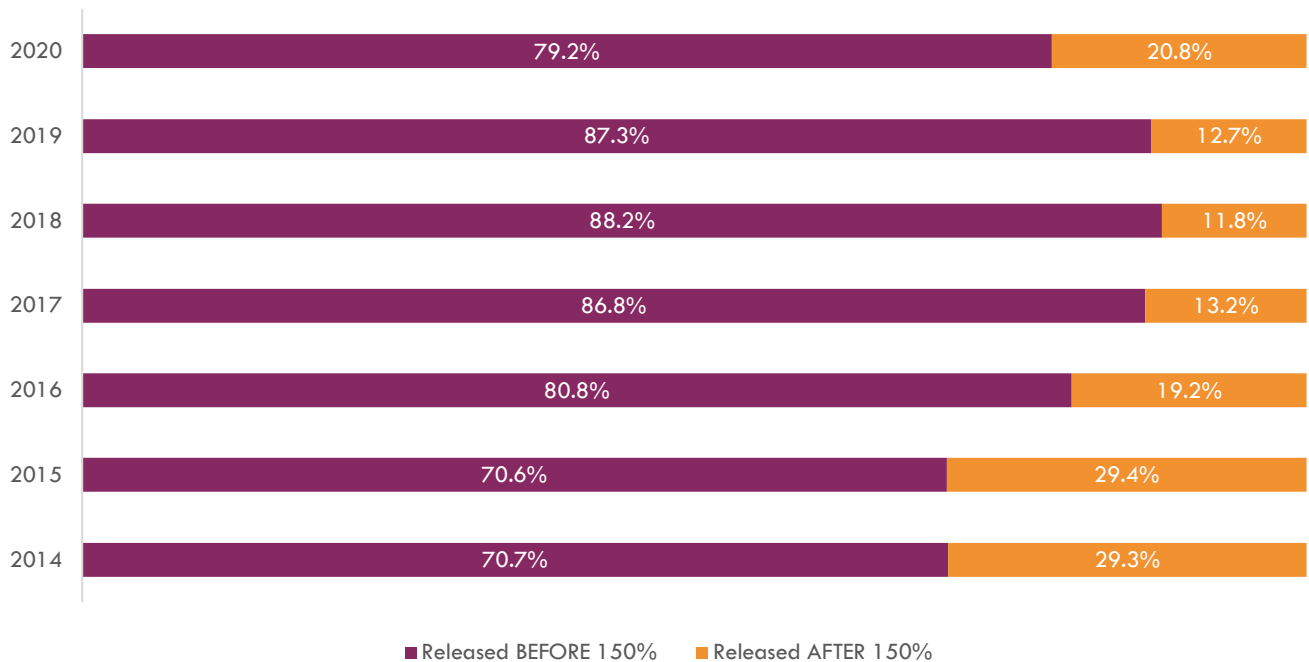


- **79.2%** (N = 924) were released **before** 150% of the fixed portion of their term sentence.
- **20.8%** (N = 243) were released **after** 150% of the fixed portion of their term sentence.

Nearly **8 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.

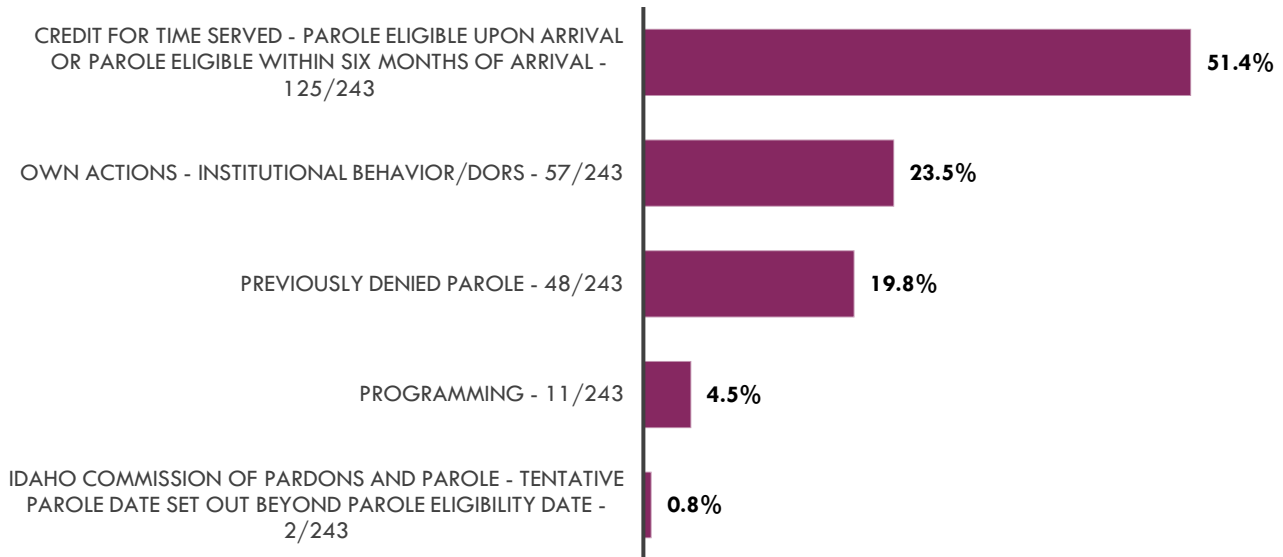
*Idaho continues the overall trend of positive growth in the timely release of first-time parole releases from prison for property and drug offenses.*

Six 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 2020 (79.2%). Additionally, the raw number of individuals released before 150% of their fixed sentence is 8% higher than the **total** number of individuals released to parole for the first time in 2019.



The most common reasons for parole delay of the 243 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 spent an average of 1.62 years (median 1.17 years) past their first parole eligibility date in prison. On average, the total time they spent incarcerated, including credit for time served, was 3.20 years (median 2.61 years).

### Reasons for Parole Delay



### Credit for Time Served

On average, **5 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 – a person who is parole eligible upon arrival or parole eligible within six months of arrival (51.4%, N=125) remained the most prevalent cause for those held past 150% of their fixed sentence. Those eligible upon arrival or within six months of arrival stayed an average of 1.12 years (median 0.88 years) past their parole eligibility date. The total average time spent incarcerated, including credit for time served, was 2.15 years (median 1.98 years).

### Own 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 (23.5%, N=57) 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. Individuals who had a delayed parole release as a result of their own actions spent an average of 2.12 years (median 1.61 years) past their parole eligibility date. They spent an average of 4.31 years (median 3.61 years) incarcerated when credit for time served is included.

## Previously Denied Parole

*On average, 2 out of every 10 were delayed release to parole as a result of previously denied parole.*

The third most common reason for parole delay (19.8%, N=48) was due to previous denial of parole on this sentence. Reasons for parole denial included a risk to reoffend, public safety concerns, and prior criminal history. Those previously denied parole stayed an average of 2.09 years (median 1.65 years) past their parole eligibility date. The total average time spent incarcerated, including credit for time served, was 4.27 years (median 3.69 years).

## Programming

*On average, fewer than 1 out of every 20 were delayed release to parole as a result of programming.*

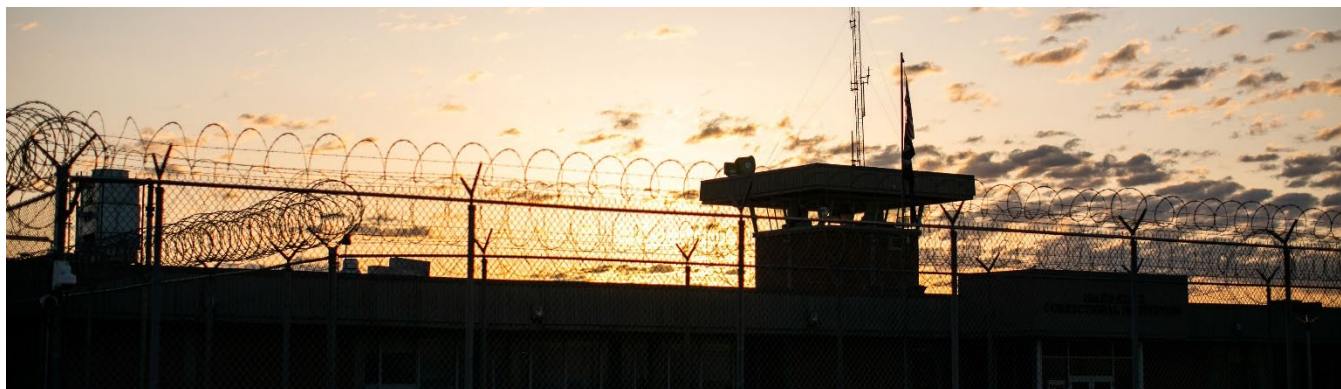
The fourth most common reason for parole delay (4.5%, N=11) was due to programming. Reasons for delay were due to program refusal, and delays in program commencement or completion. Those whose release was delayed due to programming were held an average of 2.69 years (median 2.17 years) past parole eligibility. When including credit for time served, they spent an average of 4.82 years (median 4.19 years). The COVID-19 pandemic had a noticeable impact on programming in 2020 due to class restrictions and closure, and is expected to continue to be a factor while these restrictions are in place.

## Idaho Commission of Pardons and Parole

*Additionally, fewer than 1 out of every 100 were delayed release to parole as a result of the date set by COPP.*

The last reason for parole delay (0.8%, N=2) was due to the tentative parole date scheduled by COPP. In both cases the individuals were granted parole, but at the time of the decision their tentative parole dates were set at least twelve months out by COPP. No other factors such as the ones listed above were involved in these delays. Those whose release was delayed due to the date scheduled by COPP were held an average of 1.17 years (median 1.17 years) past parole eligibility. Adding credit for time served, they were incarcerated for an average of 2.86 years (median 2.86 years).

In July 2020, COPP made a policy decision to only grant open tentative parole dates<sup>2</sup> for those that are parole eligible, if they choose to grant parole. As a result of this policy change, this circumstance will not occur again unless the decision occurred prior to the policy change.



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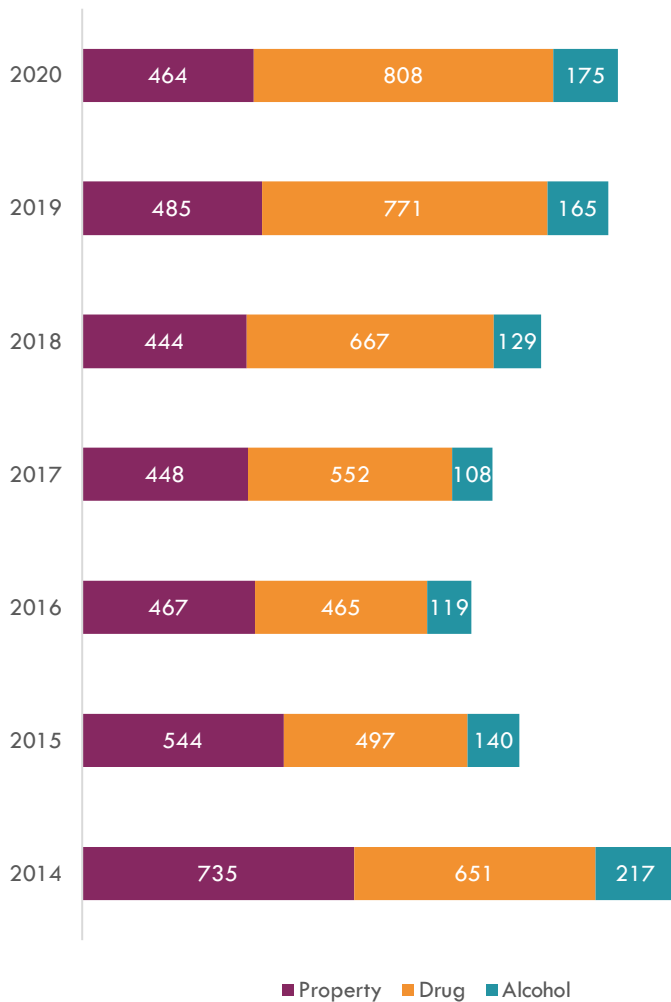
<sup>2</sup> Open Tentative Parole Date: A tentative parole date that is given when an individual is past their parole eligibility date and is dependent on the completion of certain criteria such as programming.

## CONCLUSION

The percentage of people serving time in prison for a property or drug offense and released past 150% of their fixed sentence increased noticeably between 2019 (12.7%) and 2020 (20.8%). Having said that, the **total number** of individuals released in 2020 increased 36% from 2019, with the number released before 150% of their fixed sentence totaling 8% more than the total number released in 2019.

The chart below displays the number of individuals incarcerated on a property or drug offense past parole eligibility as of the first day of the new year, compared to the number who were incarcerated and past parole eligibility each year since 2014. This is intended only as a snapshot overview. As indicated, there are overall fewer people past parole eligibility in prison in 2020 (N = 1,447) than in 2014 (N= 1,603) for a property, drug, or alcohol offense.

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.



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