

TIMELY RELEASE REPORT 2023



February 1,
2023

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 639 individuals under IDOC jurisdiction serving time in prison on a property or drug conviction¹ were released to parole for the first time between January 1, 2022, and November 10th², 2022.

- ✚ **76.5% (N = 489)** were released **before** 150% of the fixed portion of their term sentence.
- ✚ **23.4% (N = 150)** were released **after** 150% of the fixed portion of their term sentence.

Primary Delay Reasons

- ✚ **60.6% (N = 91)** 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.
- ✚ **24% (N = 36)** of delays were a result of an incarcerated individual’s own actions, including institutional behavior and disciplinary offense reports (DORs).
- ✚ **6% (N = 9)** of delays were a result of having been previously denied parole on this sentence.
- ✚ **9.3% (N = 14)** of delays were a result of program-related issues.
- ✚ **0% (N = 0)** of delays were a result of the tentative parole date being set out beyond the parole eligibility date by COPP.

¹ To determine an individual's crime of conviction for those serving multiple sentences, the sentence requiring the longest amount of time is used for the purpose of this report.

² On November 11th, 2022, IDOC switched to a new case management system. IDOC is still undergoing the implementation of this new system, therefore data for the end of 2022 is not yet available.

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 Rider³).

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.

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

³ 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.

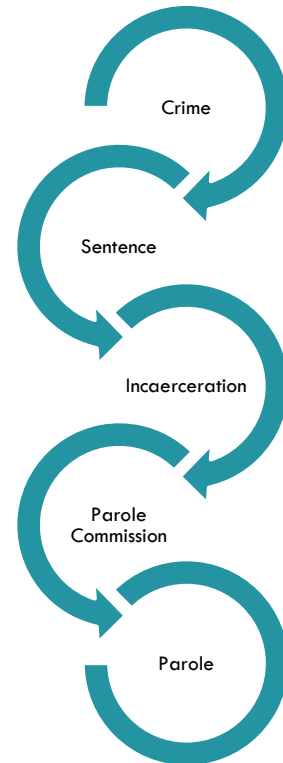
Compiling Data

Over the course of the year, records were collected 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 November 10th, 2022.

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.

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

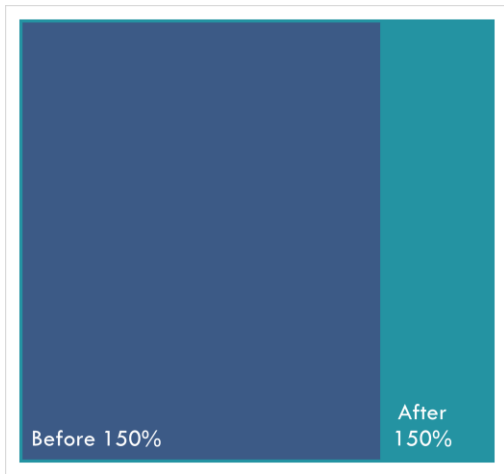
Of these reasons, the factor that occurred first was marked as being the most influential reason for delay. These findings are discussed in this report.



 FINDINGS

Overview

Between January 1, 2022, and November 10th, 2022, 639 people sentenced to a term in prison for a property or drug offense conviction were released to parole for the first time, a decrease of 29.9% when compared to 2021. The majority (76.5%, N = 489) 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 slightly when compared to last year.

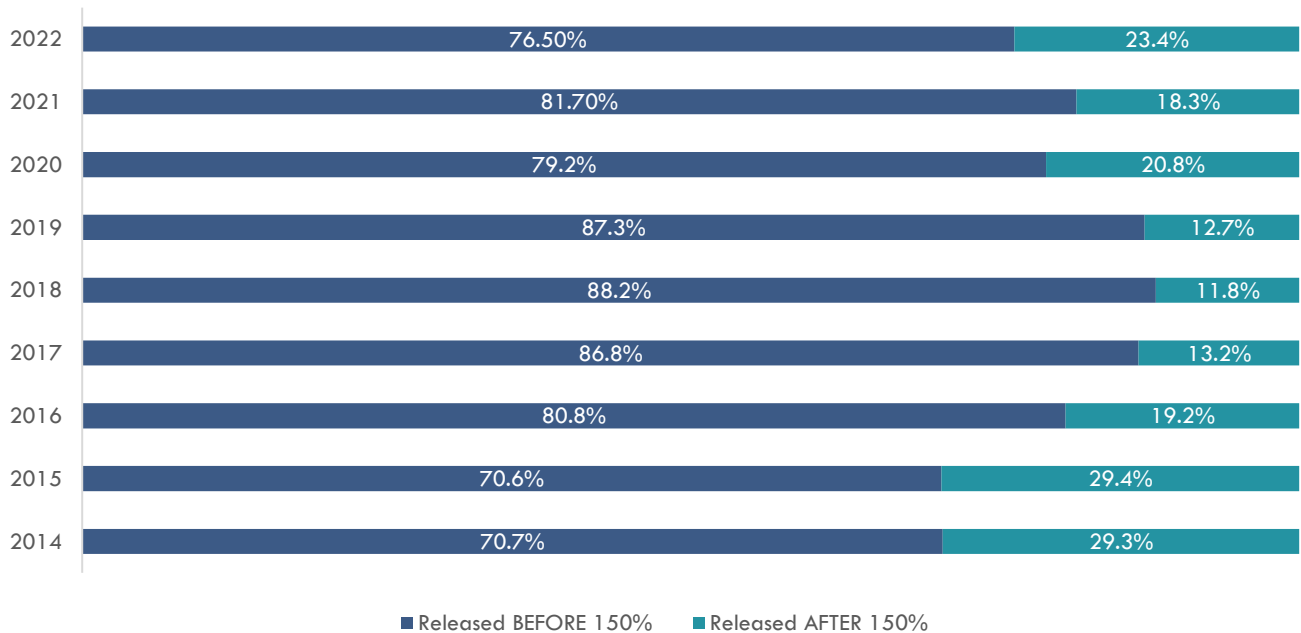


✚ **76.5%** (N = 489) were released **before** 150% of the fixed portion of their term sentence.

✚ **23.4%** (N = 150) were released **after** 150% of the fixed portion of their term sentence.

✚ **3 out of every 4** 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.

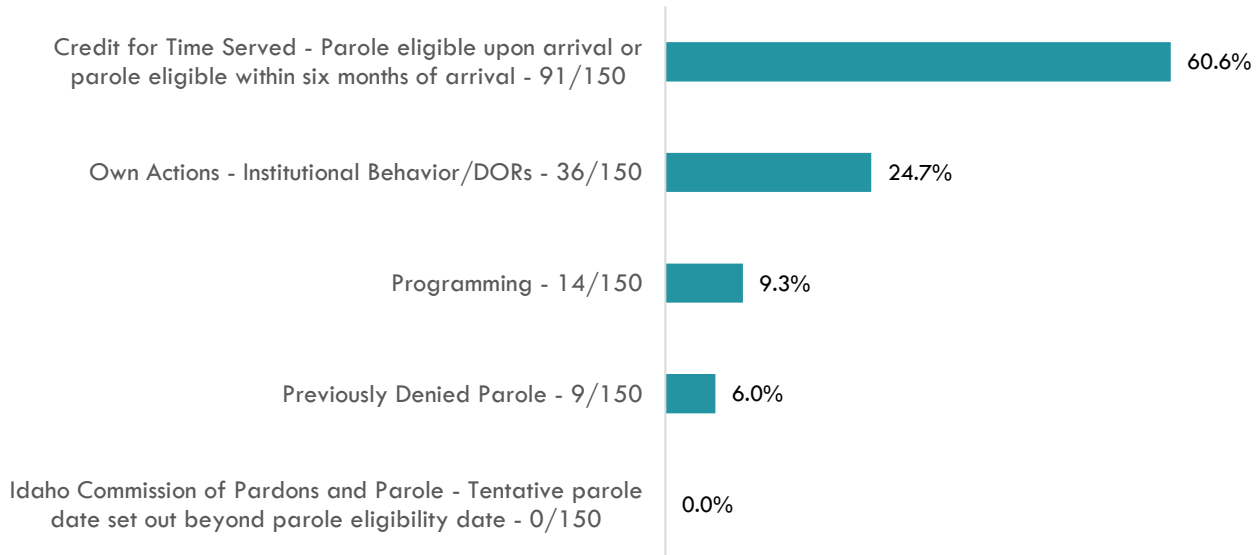
Nine years post-Justice Reinvestment Initiative implementation, people sentenced to a term in prison for a property and drug offense conviction who were released at or prior to 150% of their fixed sentence increased from 2014 (70.7%) to 2022 (76.5%).



■ Released BEFORE 150% ■ Released AFTER 150%

The most common reasons for parole delay of the 150 people sentenced to a term in prison for a property or drug offense 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 1.6 years (median 1.2 years) past their first parole eligibility date in prison. On average, the total time they spent incarcerated, including credit for time served, was 2.9 years (median 2.6 years); up just slightly from last year.

Reasons for Parole Delay



Credit for Time Served

On average, **6 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 (60.6%, N=91) remained the most prevalent cause for those held past 150% of their fixed sentence. This is an increase from (51.4%, N=125) in 2021. Those eligible upon arrival or within six months of arrival stayed an average of 1 years (median 0.9 years) past their parole eligibility date. The total average time spent incarcerated, including credit for time served, was 2 years (median 1.95 years).

Own Actions

On average, **more than 1 out of every 4** 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 (24.7%, N=36) was the individual's own actions, including institutional behavior and/or disciplinary offense reports (DORs). Examples include receiving DORs (including Class A, or most serious), and lack of positive behaviors. Individuals who had a delayed parole release as a result of their own actions spent an average of 2.1 years (median 1.66 years) past their parole eligibility date. They spent an average of 4.1 years (median 3.47 years) incarcerated when credit for time served is included. This remains consistent from 2021(24.7%, N=41).

Programming

On average, fewer than 2 out of every 20 were delayed release to parole as a result of programming.

The third most common reason for parole delay (9.3%, N=14) was due to programming. This is a slight increase from (4.5%, N=11) in 2021. Reasons for delay were due to residents inability to successfully complete the requirements. Those whose release was delayed due to programming were held an average of 2.6 years (median 2 years) past parole eligibility. When including credit for time served, they spent an average of 5 years (median 4.19 years).

Previously Denied Parole

On average, 1 out of every 20 were delayed release to parole as a result of previously denied parole.

The fourth most common reason for parole delay (6%, N=9) was due to previous denial of parole on this sentence. This is a significant decrease of nearly 70% from (19.8%, N=48) in 2021. Reasons for parole denial included a risk to reoffend, public safety concerns, and prior criminal history. Those previously denied parole stayed an average of 1.85 years (median 1.66 years) past their parole eligibility date. The total average time spent incarcerated, including credit for time served, was 4 years (median 3.83 years).

Idaho Commission of Pardons and Parole

In July 2020, COPP made a policy decision to discontinue setting open tentative parole dates⁴ into the future for people who are already parole eligible. As a result of this policy change, there were no delays by the COPP.



⁴ 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.



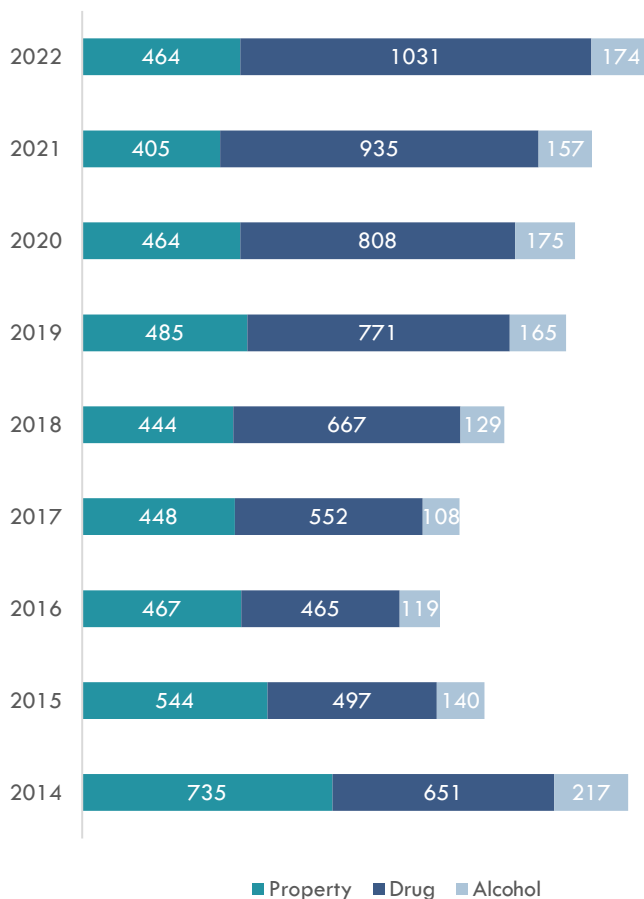
CONCLUSION

The percentage of people serving time in prison for a property or drug offense and released past 150% of their fixed sentence significantly increased between 2021 (18.3%) and 2022 (23.4%). Simultaneously, the **total number** of individuals released in 2022 decreased 29.5% from 2021.

The chart below⁵ 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, the overall number people of people incarcerated past parole eligibility in prison in 2022* (N = 1,669) is comparable to 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.

Residents Past Eligibility



Questions regarding this report can be directed to either Agency:

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⁵ This chart shows residents who were incarcerated in a facility and were past their eligibility dates who may have been released prior and returned, as opposed to the body of this report that address individuals who were released from prison to parole for the first time.