



## Department of Public Safety and Correctional Services

### Office of the Secretary

300 E. JOPPA ROAD • SUITE 1000 • TOWSON, MARYLAND 21286-3020  
(410) 339-5000 • FAX (410) 339-4240 • TOLL FREE (877) 379-8636 • V/TTY (800) 735-2258 • [www.dpsscs.state.md.us](http://www.dpsscs.state.md.us)

STATE OF MARYLAND  
ROBERT L. EHRLICH, JR.  
GOVERNOR

MICHAEL S. STEELE  
LT. GOVERNOR

MARY ANN SAAR  
SECRETARY

DIVISION OF CORRECTION

DIVISION OF PAROLE AND  
PROBATION

DIVISION OF PRETRIAL  
DETENTION AND SERVICES

PATUXENT INSTITUTION

MARYLAND COMMISSION  
ON CORRECTIONAL  
STANDARDS

CORRECTIONAL TRAINING  
COMMISSION

POLICE TRAINING  
COMMISSION

MARYLAND PAROLE  
COMMISSION

CRIMINAL INJURIES  
COMPENSATION BOARD

EMERGENCY NUMBER  
SYSTEMS BOARD

SUNDRY CLAIMS BOARD

INMATE GRIEVANCE OFFICE

November 14, 2006

The Honorable Ulysses Currie  
Chairman, Senate Budget and Taxation Committee  
West, Miller Senate Office Building  
Annapolis, Maryland 21401-1991

The Honorable Norman Conway  
Chairman, House Committee on Appropriations  
312 Whittier Drive  
Salisbury, Maryland 21801-3241

Re: Report on New Parole Guidelines

Dear Chairmen:

The 2006 Joint Chairmen's Report requested on page 139 that

*The committees direct the Maryland Parole Commission to report information on the new parole guidelines. These new guidelines should be based on the commission's revalidated risk assessment instrument and the completion of the rehabilitative programs while incarcerated. The study should also address the effects of the guidelines on the existing correctional population.*

The Department is providing the enclosed report for your review and comment. The attached report summarizes the implementation of the new guidelines as well as explaining how the new methodology is used by the Maryland Parole Commission. The implementation began in June 2006 and data has been collected for the following two months on final decisions. There seems to be some inconsistencies in the data and the Maryland Parole Commission is suggesting that more data be collected in order to determine the impact of the new parole guidelines on the standing population. Therefore, the Commission and I are requesting to submit an additional report in six months to compare the data in this report to later data to determine if the new parole guidelines have had an impact.

I hope this report and any future report on this matter are both informative and helpful to you and your respective committee members. If the Department or I can be of any further assistance, please do not hesitate to contact me at 410-339-5005.

Sincerely,

Mary Ann Saar  
Secretary

Enclosure

- c: Senator Patrick J. Hogan, Vice Chair, Senate Budget and Taxation Committee
- Senator James E. DeGrange, Sr., Chair, Senate Public Safety, Transportation and Environment Subcommittee
- Delegate Talmadge Branch, Vice Chair, House Committee on Appropriations
- Delegate Joan Cadden, Chair, House Subcommittee on Public Safety and Administration
- Members of the Senate Budget and Taxation Committee
- Members of the House Committee on Appropriations
- Deputy Chief of Staff Mary Beth Carozza
- Secretary Cecilia Januszkiewicz, Department of Budget and Management
- Secretary Mary Ann Saar, Department of Public Safety and Correctional Services
- Mr. Alan Friedman, Governor's Director of Legislative Relations
- Mr. Kenneth Masters, Governor's Chief Legislative Officer
- Mr. Donald Hogan, Governor's Deputy Chief Legislative Officer
- Mr. Warren G. Deschenaux, Department of Legislative Services
- Ms. Rebecca Moore, Policy Analyst, Department of Legislative Services
- Mr. Robert Berkey, Supervisor, Office of Budget Analysis, Department of Budget and Management
- Mr. Edward M. Cheston, Staff, Senate Budget & Taxation Committee
- Ms. Elizabeth H. Moss, Staff, House Committee on Appropriations
- Ms. Cathy Kramer, Department of Legislative Services
- Ms. Sarah Albert, Department of Legislative Services
- Deputy Secretary G. Lawrence Franklin, DPSCS
- Deputy Secretary Mary L. Livers, DPSCS
- Director Rhea L. Harris, DPSCS



**DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONAL SERVICES**

**Maryland Parole Commission**

Report

To the Joint Chairmen

On

New Parole Guidelines

October 2006

Robert L. Ehrlich, Jr., Governor  
Michael S. Steele, Lt. Governor  
Mary Ann Saar, Secretary

## I. INTRODUCTION

In the FY06 Joint Chairmen's Report language, the Budget committees directed the Maryland Parole Commission to:

*report information on the new parole guidelines. These new guidelines should be based on the commission's revalidated risk instrument and the completion of rehabilitative programs while incarcerated. The study should also address the effects of the guidelines on the existing correctional population.*

## II. REPORT

The Maryland Parole Commission (MPC) implemented the new parole guidelines system, effective June 5, 2006, for initial (first parole hearings in most cases). The guidelines are not used in the instances of: life sentences, sex offenses, or homicide/manslaughter offenses. At present, there is insufficient information with which to evaluate the potential effects of the new risk instrument and guidelines system on the correctional population.

The Commission is accumulating data on the new system on an Access database supplied by the contractor. (There are some issues with the database that will be addressed later in this report.) Currently, we have information collected on 530 "final" decisions rendered under the new policy in the months of June and July 2006. However, there were another 71 cases with final decisions that were deferred due to pending charges, as well as 148 cases in which additional information is needed before a decision can be rendered. Thus, final decisions were only rendered in 70.76% of the cases heard under the new policy.

The remaining 29.24% of the cases may require as much as 3 to 8 months in order to reach the point where those decisions might be made. The nature of the pending charges, if they result in convictions, would affect both the risk levels of the inmate and the length of the sentence against which the guidelines would be related for the amount of time served. Also, the additional information being requested may well affect the risk levels of the offenders, and thus, the corresponding time to be served.

Finally, for those cases where rehearings (future hearings) have been or will be set, the guidelines will be reapplied at those junctures to determine if programming achievements will lower the overall risk level.

In view of the significant lack of final decisions in almost one third of the cases being heard, as well as the possibility that a later parole hearing will result in release, the Commission is reluctant to make any projections concerning the impact of the risk instrument and guidelines on the standing correctional population. There are also several more *caveats* and issues that should be considered when sufficient information is collected.

### III. BACKGROUND

The Commission has used guidelines to structure decision-making since 1979. In 2000, the agency adopted the Federal Salient Factor Score as its third structured system, but the first actuarially based risk assessment device to be used in the State. That instrument was the core of the MPC's Uniform Assessment Policy (UAP) and was used for all offenders who were not incarcerated for sexual offenses or who were not serving life sentences. The instrument was not normed on the Maryland offender population at the onset of use.

The Salient Factor Score (SFC) used static criminal history factors to assess the risk of re-offending. Based on weighted scores, the offender is assigned to one of three risk levels - *high*, *medium*, or *low* – each level corresponding with an equal division of the sentence length based on statutory eligibility according to whether the offense was violent or non-violent.

With the appropriate risk level identified, the decision-maker then addressed the other factors identified in MD. CODE ANN., Correctional Services, §7-305, that are to be considered in determining whether an inmate is suitable for parole. The policy specifically stated that it was not binding, but advisory in nature. Exceptions above and below the guidelines could be made and the reasons for any departure were enumerated in the decision. If a rehearing were established, there would also be recommendations for programming goals that the inmate was expected to pursue - the achievement or lack thereof would be evaluated at the subsequent hearing. These same issues also pertain to the application of the new risk assessment instrument and guidelines.

### IV. THE REVISED RISK ASSESSMENT INSTRUMENT SYSTEM

The Commission's new system resembles the prior UAP in overall form and function – the major changes being the components of the actual risk instrument and revisions to the concomitant ranges of time recommended to be served according to the identified risk level for re-offending and the actual sentence length. (The new Risk Instrument can be found in Attachment 1.)

While there is a resemblance to the prior guidelines system, the new instrument is not actually a revalidation of that prior instrument. It incorporates – with modifications – most of the criminal history elements as the five *Static Risk Factors*. Then, four more *Dynamic Risk Factors* are scored. These factors are:

- Current Age
- Security Threat Group (STG) Membership
- Whether the inmate has completed an educational, substance abuse therapy or vocational training program
- Current Custody Level

Those *Dynamic Factors* are subject to change over time during the offender's incarceration. However, the changes might be either positive or negative, as in the

case of institutional misbehavior that would remove one from programming or cause an increase in security level.

In terms of institutional programming, the decision-maker may require program completion as a condition precedent to a delayed parole release at a future date. Alternatively, a date could be set for future parole consideration, a "rehearing," with recommendations for program participation in the interim. At the next hearing, the *Dynamic Risk Factor* score would be recomputed to determine whether there has been a statistical reduction in the risk of re-offending.

Finally, different risk levels cut off scores were created based on the gender of the offender. The changes tend to reduce the risk level rating of females by raising by one point the upper limit of points needed to score at a particular level.

## **V. PRELIMINARY DATA FROM THE FIRST TWO MONTHS OF OPERATION OF THE NEW SYSTEM**

As noted earlier, the Commission thinks that it is premature to judge the effects of the new guidelines system on the correctional population. However, we are able to present some data on the first two months of the use of the new system, beginning in June 5, 2006.

Table 1, below, shows the 449 decisions out of the total of 530 final decisions that were recommended by the Hearing Officer and adopted by the reviewing Parole Commissioner – an 84.7% adoption rate. The table shows that 66.6 % of those decisions were either for an "immediate" release or a release at a future date ("delay release") - either with or without a condition of programming to be completed prior to release and contingent on continued good behavior. The sixteen rehearings means that their suitability for parole would be reassessed at a later hearing.<sup>1</sup>

---

<sup>1</sup> Please note that these decisions only represent 70.76% of the cases heard under the new risk assessment policy during these initial months.

**TABLE 1. Final Adopted Decision by Type and Relationship to Guideline Range**

<b>DECISION</b>	<b>BELOW RANGE</b>	<b>WITHIN RANGE</b>	<b>ABOVE RANGE</b>	<b>TOTAL</b>
IMMEDIATE RELEASE	6	67	24	97
DELAY RELEASE APPROVAL	6	41	6	53
DELAY RELEASE W/ CONDITIONS	8	124	17	149
REHEARING	4	10	2	16
REFUSAL	2	56	76	134
<b>TOTALS</b>	<b>26</b>	<b>298</b>	<b>125</b>	<b>449</b>

Table 2 shows the same information as above, in terms of recommendations made by Hearing Officers that were not adopted by a reviewing Commissioner. This percentage is calculated to be 14.9% of the total recommendations. Those cases are termed “in-house appeals” and are referred for a review “on the record” by a panel of two Commissioners. Final results are not yet available.

**TABLE 2. Final, Not Adopted Decision by Type and Relationship to Guideline Range**

<b>DECISION</b>	<b>BELOW RANGE</b>	<b>WITHIN RANGE</b>	<b>ABOVE RANGE</b>	<b>TOTAL</b>
IMMEDIATE RELEASE	0	12	7	19
DELAY RELEASE APPROVAL	0	12	2	14
DELAY RELEASE W/ CONDITIONS	2	36	5	43
REHEARING	0	3	0	3
REFUSAL	0	0	0	0
<b>TOTALS</b>	<b>2</b>	<b>63</b>	<b>14</b>	<b>79</b>

Tables 3 and 4 show the distribution of “Adopted” decisions (Table 3) and “Non-adopted” decisions according to statutory eligibility – either twenty five (25) or fifty (50) percent of the sentence imposed by the court – depending on whether the crime was “violent” or “non-violent” in nature, MD. CODE ANN., Correctional Services, §7-101(m).

**Table 3. Final, Adopted Decisions by Offense Type/Eligibility**

RECOMMENDATION	“VIOLENT” (PRE 1994) (1/4 Eligibility)	“NON- VIOLENT” (1/4 Eligibility)	“VIOLENT” (1/2 Eligibility)	TOTAL
APPROVAL (IMMEDIATE)	1	89	7	97
APPROVAL (DELAYED)	0	48	5	53
APPROVAL (DELAYED W/ CONDITIONS)	0	125	24	149
REHEARING	1	9	6	16
REFUSAL	0	89	45	134
<b>TOTALS</b>	<b>2</b>	<b>360</b>	<b>87</b>	<b>449</b>

**Table 4. Final, Non-Adopted Decisions by Offense Type/Eligibility**

RECOMMENDATION	“VIOLENT” (PRE 1994) (1/4 Eligibility)	“NON- VIOLENT” (1/4 Eligibility)	“VIOLENT” (1/2 Eligibility)	TOTAL
APPROVAL (IMMEDIATE)	0	15	4	19
APPROVAL (DELAYED)	0	8	6	14
APPROVAL (DELAYED W/ CONDITIONS)	1	29	13	43
REHEARING		2	1	3
REFUSAL	0	0	0	0
<b>TOTALS</b>	<b>1</b>	<b>54</b>	<b>24</b>	<b>79</b>

## VI. ADDITIONAL CAVEATS ON INTERPRETING THE IMPACT OF THE GUIDELINES ON THE EXISTING CORRECTIONAL POPULATION

- A. The Commission’s current information system, PARIS, does not allow us to go back in time to the same period in the previous year to compare the parole decision patterns, nor was the instrument the same – either in the way that risk was calculated or the way in which the guidelines against which the risk levels were correlated was constructed.
- B. The new Access database has required more of the data entry staff in terms of additional responsibilities and their interpretation of some of the case materials being submitted by the decision-makers. On-going training and quality control is being required and we have had to revisit some of the data records several times.
- C. The Access database supplied by the contractor only addresses initial hearings under the new policy. We are trying to “retrofit” to gain an ability to track the outcomes of rehearings, as well as appeal decisions. The advice from data processing professionals is that we may be more successful by constructing a new database and providing for all of these options in its initial design.
- D. As noted above, the current data being accumulated in the Access database only addresses the first two months of operations with “final decisions” in 70.76% of the cases heard. The additional decisions will not be finalized for 3 to 8 months, or more. In that period, pending charges and/or needed

information may well affect the risk level and sentence lengths against which the risk levels are correlated.

- E. The 66.6% of the decisions to approve an offender for release are contingent on continued good behavior and program performance. A failure in either area could cause a cancellation of the decision to release.
- F. For the sixteen inmates (3.5 %) who are being given a future hearing date, their risk level will be reevaluated at that future hearing and a release might be recommended.
- G. The Commission is just becoming aware of the rather significant implications of the new system in terms of the recommended time to be served in the guideline ranges that correspond to the three risk levels. After a period of time, say a year, we would like to review the data that the new database is just beginning to make available.

## **VII. ISSUE REGARDING THE COMPLETION OF REHABILITATIVE PROGRAMS WHILE INCARCERATED**

The Commission is quite concerned that there is not an expectation that this feature of the new system will greatly increase the parole rate. As we emphasized in our response to a similar request last year, the Commission traditionally has considered program performance in its decision-making practices. Our delayed release and rehearing decisions almost invariably include programming recommendations that we advise offenders and the Division of Correction to address subsequent to the hearing.

As noted above, poor behavior may serve to defeat an offender's programming accomplishment. It may also limit his/her access or delay that access to certain programming.

Additionally, there is a limit as to what kind and how many programs might be open to an offender based on individual abilities or sentence length and program capacity. In the shorter sentence lengths – say two to three years – it is more likely that these factors come into play.

While the new instrument formally includes programming as one of the risk factors to be addressed, that is but one out of nine risk factors to be scored in the process. It may not change the final determination of risk level.

In addition to programming, we also must weigh the “nature and circumstances” of the offense, as well as other qualitative issues in a record that do not always factor into a general risk of re-offending. There may be a heightened risk of violence that the current or past offense behavior suggests that may serve to cause the decision-maker to over-ride the guidelines in order to protect public safety.

## **XI. CONCLUSION**

The Commission would suggest that, at this time, an assessment of the impact of the implementation of the new guidelines system is not practical and is rather premature. Perhaps the best approach for an initial consideration of the issue would be to review the parole rates at some point in the immediate future, say, June through September 2007, and compare them to the similar period in 2005. That would allow a comparison for a period of one year prior to the implementation of the guidelines with a period one year after their adoption.

The Maryland Parole Commission is determined to use the best decision-making practices in fulfilling our obligation to protect public safety. The Commission and the Department of Public Safety and Correctional Services intend to monitor the operation and assess the impact that any changes may have on the correctional population and make such changes as are consistent with maintaining public safety.

## **Attachment 1**

## Maryland Risk Assessment (Revised 5-31-2006)

STATIC RISK FACTORS	Pts.	Dynamic Risk Factors	Pts.																																																																												
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;"><b>1. Age at Current Offense (from commitment)</b></td> <td style="width: 20%; text-align: center;"><b>Circle</b></td> </tr> <tr> <td>26 years or older</td> <td style="text-align: center;">0</td> </tr> <tr> <td>20 to 25 years</td> <td style="text-align: center;">1</td> </tr> <tr> <td>19 years or younger</td> <td style="text-align: center;">2</td> </tr> <tr> <td><b>2. Probation/Parole/Confinement or Escape Status</b></td> <td></td> </tr> <tr> <td>Not on probation/ parole/incarcerated or escape status (NO)</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Otherwise (YES)</td> <td style="text-align: center;">1</td> </tr> <tr> <td><b>3. Property Offender - Codes 371-491 (Adult/Juv.)</b></td> <td></td> </tr> <tr> <td>Two or less arrests</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Three or more arrests</td> <td style="text-align: center;">2</td> </tr> <tr> <td><b>4. History of Drug/Alcohol Abuse</b></td> <td></td> </tr> <tr> <td>None</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Substance Abuse</td> <td style="text-align: center;">1</td> </tr> <tr> <td><b>5. Prior Convictions/Adjudications (Adult/Juv.)</b></td> <td></td> </tr> <tr> <td>None</td> <td style="text-align: center;">0</td> </tr> <tr> <td>One</td> <td style="text-align: center;">1</td> </tr> <tr> <td>Two — Three</td> <td style="text-align: center;">2</td> </tr> <tr> <td>Four or more</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">Static Factor Score</td> <td></td> </tr> </table>	<b>1. Age at Current Offense (from commitment)</b>	<b>Circle</b>	26 years or older	0	20 to 25 years	1	19 years or younger	2	<b>2. Probation/Parole/Confinement or Escape Status</b>		Not on probation/ parole/incarcerated or escape status (NO)	0	Otherwise (YES)	1	<b>3. Property Offender - Codes 371-491 (Adult/Juv.)</b>		Two or less arrests	0	Three or more arrests	2	<b>4. History of Drug/Alcohol Abuse</b>		None	0	Substance Abuse	1	<b>5. Prior Convictions/Adjudications (Adult/Juv.)</b>		None	0	One	1	Two — Three	2	Four or more	3	Static Factor Score			<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;"><b>6. Current age</b></td> <td style="width: 20%; text-align: center;"><b>Circle</b></td> </tr> <tr> <td>51 and above</td> <td style="text-align: center;">-1</td> </tr> <tr> <td>41-50</td> <td style="text-align: center;">0</td> </tr> <tr> <td>21-40</td> <td style="text-align: center;">1</td> </tr> <tr> <td>Under 21</td> <td style="text-align: center;">2</td> </tr> <tr> <td><b>7. Security Threat Group (STG) Membership</b></td> <td></td> </tr> <tr> <td>No Active Membership</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Active Membership</td> <td style="text-align: center;">2</td> </tr> <tr> <td><b>8. Completed Education/SA/Vocational Program</b></td> <td></td> </tr> <tr> <td>Program completion</td> <td></td> </tr> <tr> <td style="text-align: center;">Yes</td> <td style="text-align: center;">-1</td> </tr> <tr> <td style="text-align: center;">No</td> <td style="text-align: center;">1</td> </tr> <tr> <td><b>9. Current Custody Level</b></td> <td></td> </tr> <tr> <td>Pre-Release</td> <td style="text-align: center;">-1</td> </tr> <tr> <td>Minimum</td> <td style="text-align: center;">0</td> </tr> <tr> <td>Else</td> <td style="text-align: center;">1</td> </tr> <tr> <td style="text-align: center;"><b>Dynamic Factor Score</b></td> <td></td> </tr> <tr> <td style="text-align: center;"><b>TOTAL RISK SCORE</b></td> <td></td> </tr> <tr> <td colspan="2" style="text-align: center;">(Add the Static Factor Score and the Dynamic Factor Score)</td> </tr> </table>	<b>6. Current age</b>	<b>Circle</b>	51 and above	-1	41-50	0	21-40	1	Under 21	2	<b>7. Security Threat Group (STG) Membership</b>		No Active Membership	0	Active Membership	2	<b>8. Completed Education/SA/Vocational Program</b>		Program completion		Yes	-1	No	1	<b>9. Current Custody Level</b>		Pre-Release	-1	Minimum	0	Else	1	<b>Dynamic Factor Score</b>		<b>TOTAL RISK SCORE</b>		(Add the Static Factor Score and the Dynamic Factor Score)		
<b>1. Age at Current Offense (from commitment)</b>	<b>Circle</b>																																																																														
26 years or older	0																																																																														
20 to 25 years	1																																																																														
19 years or younger	2																																																																														
<b>2. Probation/Parole/Confinement or Escape Status</b>																																																																															
Not on probation/ parole/incarcerated or escape status (NO)	0																																																																														
Otherwise (YES)	1																																																																														
<b>3. Property Offender - Codes 371-491 (Adult/Juv.)</b>																																																																															
Two or less arrests	0																																																																														
Three or more arrests	2																																																																														
<b>4. History of Drug/Alcohol Abuse</b>																																																																															
None	0																																																																														
Substance Abuse	1																																																																														
<b>5. Prior Convictions/Adjudications (Adult/Juv.)</b>																																																																															
None	0																																																																														
One	1																																																																														
Two — Three	2																																																																														
Four or more	3																																																																														
Static Factor Score																																																																															
<b>6. Current age</b>	<b>Circle</b>																																																																														
51 and above	-1																																																																														
41-50	0																																																																														
21-40	1																																																																														
Under 21	2																																																																														
<b>7. Security Threat Group (STG) Membership</b>																																																																															
No Active Membership	0																																																																														
Active Membership	2																																																																														
<b>8. Completed Education/SA/Vocational Program</b>																																																																															
Program completion																																																																															
Yes	-1																																																																														
No	1																																																																														
<b>9. Current Custody Level</b>																																																																															
Pre-Release	-1																																																																														
Minimum	0																																																																														
Else	1																																																																														
<b>Dynamic Factor Score</b>																																																																															
<b>TOTAL RISK SCORE</b>																																																																															
(Add the Static Factor Score and the Dynamic Factor Score)																																																																															

### Offender Risk Rating/Category

**MALES**        Low Risk (0-4pts.)        Moderate Risk (5-8pts.)        High Risk (9+)   

**FEMALES**        Low Risk (0-5pts.)        Moderate Risk (6-9pts.)        High Risk (10+)