



Department of Public Safety and Correctional Services

Office of the Secretary

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October 29, 2010

The Honorable Edward Kasemeyer
Acting Chairman, Senate Budget and Taxation Committee
3 West, Miller Senate Building
Annapolis, Maryland 21401-1991

The Honorable Norman H. Conway
Chairman, House Committee on Appropriations
Room 121, House Office Building
Annapolis, Maryland 21401-1991

RE: Joint Chairmen's Report on the Impact of Parole Guidelines
on Parole Rates and Rates of Return

Dear Chairmen:

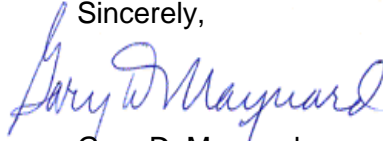
The language on page 112 of the 2010 Joint Chairmen's Report requested the following information of the Department of Public Safety and Correctional Services' Maryland Parole Commission. The language states:

The committees direct the Maryland Parole Commission to conduct and report the findings of a comparative assessment of its current parole guidelines after three years of implementation. The report should provide a comparison of the number of paroles and parolee return rates for fiscal 2005 through 2008. The report should also compare the one and two-year return rates of parolees who had an education, substance abuse, or vocation program completion versus those who did not. The report shall be submitted to the budget committees no later than November 1, 2010.

Please find attached the report detailing the impact of the guidelines on return rates, including the impact of the type of programming received by offenders over the three fiscal years.

We hope that this report will be informative and helpful to you and your committee members. If the Department can be of further assistance, please do not hesitate to contact me at 410-339-5005.

Sincerely,



Gary D. Maynard
Secretary

Attachment

- c: Senator James E. DeGrange, Sr., Chair, Senate Public Safety, Transportation, and Environment Subcommittee
- Delegate James Proctor, Vice Chair, House Committee on Appropriations
- Delegate Galen Clagett, Chair, House Subcommittee on Public Safety and Administration
- Members of the Senate Budget and Taxation Committee
- Members of the House Committee on Appropriations
- Mr. Matthew Gallagher, Chief of Staff, Governor's Office
- Mr. Ted Dallas, Deputy Chief of Staff, Governor's Office
- Mr. Joseph Bryce, Governor's Chief Legislative and Policy Officer
- Ms. Stacy Mayer, Governor's Deputy Legislative Officer
- Mr. Warren G. Deschenaux, Director, Department of Legislative Services
- Ms. Rebecca M. Ruff, Policy Analyst, Department of Legislative Services
- Ms. Diane Lucas, Supervisor, Department of Budget and Management
- Mr. Christopher Zwicker, Budget Analyst, Department of Budget and Management
- Mr. Joshua Watters, Staff, House Committee on Appropriations
- Mr. David Smulski, Staff, Senate Budget and Taxation Committee
- Ms. Cathy Kramer, Department of Legislative Services
- Ms. Sarah Albert, Department of Legislative Services
- Deputy Secretary G. Lawrence Franklin, DPSCS
- Deputy Secretary Phillip Pié, DPSCS
- Assistant Secretary David Bezanson, DPSCS
- Chief of Staff Robert J. Johnson, DPSCS
- Commissioner David Blumberg, Chair, MPC
- Director Rhea L. Harris, Office of Legislative Affairs, DPSCS



**DEPARTMENT OF PUBLIC SAFETY AND
CORRECTIONAL SERVICES**

MARYLAND PAROLE COMMISSION

**Report on the Impact of Parole Guidelines on
Parole Rates and Rates of Return**

November 1, 2010

Governor Martin O'Malley
Lt. Governor Anthony G. Brown
Secretary Gary D. Maynard
Chairman David Blumberg

I. INTRODUCTION

In the 2010 Joint Chairman's Report, in language on page 112, the Budget Committee Chairmen instructed the Maryland Parole Commission to:

conduct and report the findings of a comparative assessment of its current parole guidelines after three years of implementation. The report should provide a comparison of the number of paroles and parolee return rates for fiscal 2005 through 2008. The report should also compare the one and two-year return rates of parolees who had an education, substance abuse, or vocation program completion versus those who did not.

As utilized in response to last year's request from the Budget Committee Chairmen, the Department's Offender Based State Correctional Information System (OBSCIS) has provided the data by which to examine the return rates of inmates paroled under the Maryland Parole Commission's parole guidelines. OBSCIS tracks and identifies an inmate's incarceration history. Although it was not specifically designed to provide information on return rates, it is the only automated source for this information, as well as information on offender program participation and treatment services. Nonetheless, it is not capable of providing definitive answers to these important questions because it is an "aged-out" system. For this reason, it is in the process of being replaced by the Department's Offender Case Management System (OCMS) which is being gradually implemented through the Department, starting with the booking and intake functions.

II. BACKGROUND INFORMATION

The Maryland Parole Commission ("the Commission") has been using some form of decision-making guidelines to structure the outcomes of its parole hearing process since 1979. The Uniform Assessment Policy (UAP) framed parole decisions for the cohorts of parolees released in fiscal years 2005 and 2006, and since then the Revised Uniform Assessment Policy (RUAP) has likewise guided parole decision-making following its implementation on June 5, 2006.¹ These guidelines are used for initial hearings (i.e., the first parole hearing in most cases). The guidelines do not apply to life sentences, sex offenses, or cases involving certain types of loss-of-life.

In its earliest set of guidelines, the Commission used criminal history factors to assess risk of re-offending. Based on weighted scores, a "salient factor score" assigned an offender to one of three risk levels. The RUAP takes most of those salient factors and incorporates them into five "static factors," which include the offender's age and supervision or escape status at the time the offense occurred, prior arrests for property crimes, substance abuse history, and prior convictions and juvenile adjudications. More importantly, it also expanded the components to include four "dynamic risk factors," so-called because they are subject to change during an offender's incarceration and serve to either affirm or mitigate the risk level. The dynamic risk factors originally included: current age, security threat group (STG)

¹ The RUAP was replaced by new guidelines effective July 1, 2010, and therefore will no longer be effective for parolees released in fiscal year 2011 and thereafter.

membership, completion of an education, substance abuse, vocational training program, and current custody level. The program completion factor has since been expanded to include completion of cognitive restructuring programs as well.

During the first year of implementation of the RUAP, i.e., FY07, it was discovered that a disproportionate number of offenders scored medium-level risk with very few scoring low or high risk. Further examination also found very few inmates completed any of the specified programming by the time of their first parole hearing. This is one reason why the dynamic risk factor was expanded to include completion of the cognitive behavioral programs. In addition, the different risk levels and cut-off scores were also adjusted to better reflect the baseline population characteristics.

The RUAP guidelines allow the decision-maker (Parole Commissioner) to weigh a parole release that may be contingent upon program completion, as well as on the identified risk factors. Therefore, the decision-maker may choose to schedule another hearing (“rehearing”) with recommendations for program participation. At the rehearing, the dynamic risk factors are scored again to determine if there has been a change in the offender’s risk or likelihood of re-offending.

III. RETURN RATE DATA

Comparison of Discretionary Parole Releases and One- and Two-Year Return Rates for Fiscal Years 2005 – 2008

Chart A below contains a comparison of the number of paroles and the one- and two-year parole return rates for fiscal years 2005 through 2008.

CHART A

	Total Parole Releases	One-Year Return Rate²	Two-Year (Cumulative) Return Rate
FY 2005	2,580	21.9%	39.5%
FY 2006	2,330	22.8%	37.0%
FY 2007	2,132	23.2%	38.6%
FY 2008	1,821	24.0%	37.8%
AVERAGE	2,216	23.0%	38.2%

The marginal annual increase that was noted last year in the one-year return rates appears to continue with the FY08 cohort, although the two-year rates appear to fluctuate year to year. The overall decline in paroles from FY07 to FY08 was 14.6%, and may be due in part to the vacancies during that period of one Commissioner and Hearing Officer and the training period following their replacements.

² The percentages reported for the one-year return rate differ from last year’s report due to a file-matching error discovered in the course of preparing this year’s report. While the trend remains the same, this year’s report shows higher percentages than were reported last year for the fiscal year 2005, 2006, and 2007 cohorts (13.3%, 13.6%, and 13.9%, respectively).

Comparison of the One- and Two-Year Return Rates of Parolees who had an Education, Substance Abuse, or Vocation Program Completion versus those who did not.

A comparison of the one- and two-year return rates of those released on parole who had an education, substance abuse, or vocation program completion versus those who did not is presented in *Charts B through E*, distinguished by the year of the release cohort. They provide the total number of parolees, and the breakdown of those parolees and returns to the Division of Correction (one-year and cumulative two-year) by type of program—educational, vocational, and substance abuse treatment (SAT)—versus no program. Another way to look at the effects of programming and treatment more specifically is to review the two-year cumulative number of returns from each fiscal year cohort, and calculate the percentages that returned by type of program completion, to include those who did not receive any programming. This is illustrated in *Chart F*.

However, the additional information yielded this year by data over four release cohorts, and expanded into one- and two-year rates, appears to contradict expectations as to the impact of parole guidelines and the anticipated effect of programming.

- *Charts B-E* indicate that the return rates for inmates who completed educational programming and SAT was higher (41.7% and 45.8%, respectively) than for inmates who received no programming (38.9%). Only vocational program completion appears to have routinely resulted in a two-year return rate lower than for inmates having no programming.
- Likewise, *Chart F* reveals data that seems to contradict expectations that programming should contribute to reduced return rates. Except for the FY05 release cohort, more inmates returned after having completed programming than those that had no programming.

A likely explanation for these apparent anomalies is the limited nature of this study, as the study is constrained by the limitations of the information system used to provide this data. That is, if additional variables could be explored, the Commission believes the data would support the generally-accepted findings of independent academic studies, i.e., that the application of appropriate decision-making guidelines, and the completion of appropriate programming prior to release by appropriately-selected offenders tends to decrease return rates. Unfortunately, as an “aged-out” system, OBSCIS does not permit closer analysis using (1) the decision making factors by which the returning offenders were released (including risk assessment), (2) the circumstances under which offenders were returned, and (3) a better methodology for identifying the different types of “program completion”.

Release Issues. Because OBSCIS does not capture any details of the application of UAP or RUAP to individual cases, including inmates identified as returns in this report, the data cannot therefore relate return rates to parole decisions made within the guidelines or,

conversely, above or below the guidelines. Likewise, OBSCIS does not capture an inmate's level of risk assessment. In other words, firm conclusions cannot be

CHART B

FY 2005 Releases				
Programming	Did Not Return	Returned	Total Parole Releases	Parole Return Rate
None				
One Year	1,146	356	1,502	23.7%
Two Year Cumulative	918	584	1,502	38.9%
Education				
One Year	413	107	520	20.6%
Two Year Cumulative	303	217	520	41.7%
Vocational				
One Year	221	31	252	12.3%
Two Year Cumulative	174	78	252	31.0%
SAT				
One Year	236	70	306	22.9%
Two Year Cumulative	166	140	306	45.8%
Total				
One Year	2,016	564	2,580	21.9%
Two Year Cumulative	1,561	1,019	2,580	39.5%

CHART C

FY 2006 Releases				
Programming	Did Not Return	Returned	Total Parole Releases	Parole Return Rate
None				
One Year	897	276	1,173	23.5%
Two Year Cumulative	753	420	1,173	35.8%
Education				
One Year	368	109	477	22.9%
Two Year Cumulative	288	189	477	39.6%
Vocational				
One Year	195	32	227	14.1%
Two Year Cumulative	157	70	227	30.8%
SAT				
One Year	338	115	453	25.4%
Two Year Cumulative	270	183	453	40.4%
Total				
One Year	1,798	532	2,330	22.8%
Two Year Cumulative	1,468	862	2,330	37.0%

CHART D

FY 2007 Releases				
Programming	Did Not Return	Returned	Total Parole Releases	Parole Return Rate
None				
One Year	795	253	1,048	24.1%
Two Year Cumulative	663	385	1,048	36.7%
Education				
One Year	359	113	472	23.9%
Two Year Cumulative	279	193	472	40.9%
Vocational				
One Year	178	34	212	16.0%
Two Year Cumulative	136	76	212	35.8%
SAT				
One Year	306	94	400	23.5%
Two Year Cumulative	230	170	400	42.5%
Total				
One Year	1,638	494	2,132	23.2%
Two Year Cumulative	1,308	824	2,132	38.6%

CHART E

FY 2008 Releases				
Programming	Did Not Return	Returned	Total Parole Releases	Parole Return Rate
None				
One Year	669	223	892	25.0%
Two Year Cumulative	568	324	892	36.3%
Education				
One Year	266	95	361	26.3%
Two Year Cumulative	216	145	361	40.2%
Vocational				
One Year	144	36	180	20.0%
Two Year Cumulative	116	64	180	35.6%
SAT				
One Year	305	83	388	21.4%
Two Year Cumulative	232	156	388	40.2%
Total				
One Year	1,384	437	1,821	24.0%
Two Year Cumulative	1,132	689	1,821	37.8%

CHART F

	Total # Return	Total % No Program	Total % With Program	Of Prog % Educ	Of Prog % Voc	Of Prog % SAT
FY05	1,019	57%	43%	21%	8%	14%
FY06	862	49%	51%	22%	8%	21%
FY07	824	47%	53%	23%	9%	21%
FY08	689	47%	53%	21%	9%	23%

reached as to the impact of the parole guidelines on return rates, because OBSCIS cannot demonstrate the linkages to types of guideline decisions (as opposed merely to the use of the guidelines).

Return Issues. This report does not address the circumstances under which a parolee was returned to the Division of Correction, that is, whether for a new offense (conviction) or for a technical violation of the terms of supervision. Generally speaking, the Department has historically considered returns for a new offense to be a more serious indicator than returns for technical violations. However, because of policy changes over the years as to how an inmate is identified on return, it is increasingly difficult to distinguish within the automated system technical returns from new offense returns, absent case-by-case reviews. Furthermore, changes in supervision and/or revocation policies over the timeframe of this report may have had an effect on returns that are independent of the parole-decision process and that this report cannot control.

Program Issues. The methodology used to identify “program participation” (no program assigned versus assigned program) and “program completion” also reflects the inadequate reporting capabilities of OBSCIS. An inmate who received more than one kind of programming can be counted for this report in only one category. The following ranking was used: educational programming was the priority category, vocational secondary, and SAT tertiary. (For example, an inmate is counted only as completing an educational program, even if in fact he has also completed an SAT program.) While this ensures there is no double-counting among the three categories of “program completion”, this priority ranking nonetheless cannot account for inmates who had the benefit of multiple programming. As importantly, because OBSCIS contains no data concerning the nature of the UAP or RUAP assessment (or accuracy of assessment), links cannot be drawn among the assessment factors, assessed risk category, the overall risk assessment, the Commission’s programming recommendation (and/or changes over time), and/or the types of the programs actually assigned and completed prior to parole release.

Analysis of other individual offender characteristics, e.g., age, instant offense, prior criminal history, etc., might shed some light on the aggregated outcome data in this report, but even if this did not lie beyond the current scope of the Department’s capabilities, it would not address the deficiencies noted above.

IV. CONCLUSION

OCMS. The challenge presented by OBSCIS’s limitations—in both data capture and analysis—for future studies of this and other complex issues is expected to be largely eliminated, however, when the Department’s new information system, the Offender Case Management System (OCMS) is fully implemented. As a state-of-the-art system that is being tailored to the needs of this Department, OCMS will have an improved capability to quantify a more complete range of inmate characteristics, status, and activities. Because it will track and link more of the variables that should be involved in this sort of study, OCMS should be able to provide more complete and realistic indicators addressing important

questions regarding the use of parole guidelines and risk assessment, and the overall impact of programming on inmates.

New Guidelines. In July 2010, under the direction of Dr. James Austin, a new risk assessment was implemented, in part because of his finding that the Commission often went “above the guidelines” in decision making, due to inmates either having not received programming the Commission felt was needed prior to release, or not having had time to finish a program. (For the reasons noted earlier, it is not known if this could be a factor in the nature of the outcomes presented in this report.)

To address this issue, the new assessment instrument, currently called the Public Safety Risk Assessment, gives the Division of Correction (DOC) case management staff the primary role of determining the initial risk level of offenders as part of its intake process. This is expected to reap two immediate benefits: (1) DOC no longer has to wait for an initial parole hearing to make programming decisions; and (2) because the risk factors scored by DOC case management staff will lead to offenders being able to enter into needed programs at an earlier point, it is expected the Commission’s capability to make parole decisions within the guidelines should improve. Long-term, this is also a department-wide assessment instrument, because once an offender is released into supervision in the community, the Division of Parole and Probation (DPP) will then pick up where DOC and the Commission leave off, using the continuum provided by the Public Safety Risk Assessment as its basis for its supervision assessment.

In the Public Safety Risk Assessment, the static risk factors have been completely revised to include most serious offense, current age, age at initial arrest (juvenile or adult), number of prior juvenile and adult arrests, number of prior adult commitments and ratio between prior arrests and current age. From this initial risk determination, the DOC then develops an Individual Case Plan (ICP) for each offender that will follow each offender throughout his incarceration. It contains an assessment of dynamic risk factors that now include completion of a GED, vocational training, or treatment program; current security level; and compliance with the individual case plan. The dynamic risk score will determine whether the initial risk level should be lowered, remain the same, or be increased one risk level. In addition there are now four risk categories: low, low moderate, medium and high risk.

As with the RUAP, the changes implicit in the new Public Safety Risk Assessment will take time to be internalized before DOC, the Commission, and DPP are completely proficient in its use. It may also be necessary for the scoring to be altered once the risk assessment is fully operational. Nonetheless, the implementation and refinement of this newest assessment instrument will be concurrent with the development of the Department’s new information system, OCMS. In the interim, the Parole Commission will continue to work diligently with its partners at DOC and DPP to assess and grant discretionary parole release to offenders without endangering public safety.