

State of New York
Department of Correctional Services

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**EARNED ELIGIBILITY
PROGRAM SUMMARY
Semiannual Report
April 1992 - September 1992**

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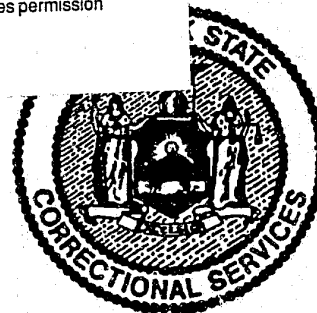
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EARNED ELIGIBILITY PROGRAM SUMMARY

EXECUTIVE SUMMARY

In the 1991-92 legislative session, the section of the correction law governing the Department's Earned Eligibility Program was amended to require two semiannual reports rather than the previous annual report to the legislature. These reports are to be submitted on January 1 and July 1.

A statistical overview is provided on the Earned Eligibility Program for the six month period from April 1992 through September 1992.

This report focuses on inmates evaluated for a Certificate of Earned Eligibility prior to their initial hearing. There were 11,304 initial hearings during this six month period involving inmates who had been evaluated for a Certificate of Earned Eligibility.

Percent Issued Certificates of Earned Eligibility. Of the total 11,304 hearings involving eligible inmates, 67 percent (7,589) were issued a Certificate prior to their initial Board. Twenty-two percent (2,446) had been denied Certificates and 11 percent (1,269) were determined to be noncertifiable for Earned Eligibility at the time of review, primarily due to insufficient time in programs through no fault of their own.

Release Rates For Inmates With Certificates of Earned Eligibility. Inmates who were issued Certificates of Earned Eligibility were substantially more likely to be granted parole than those denied a Certificate or those granted noncertifiable status. During this period, 79 percent of those inmates who were issued a Certificate were granted parole compared to 39 percent of those denied a Certificate, and 53 percent of those granted noncertifiable status.

Impact on Release Rate. To assess the overall impact of the Earned Eligibility Program on the Department's release rate, it is necessary to account for the substantial increase in the release rate for inmates who were issued Certificates while controlling for the reduction in release rates of persons denied Certificates or granted noncertifiable status. Based on the previous 50 percent release rate at initial hearings, 5,652 initial releases were projected for the April 1992 through September 1992 Boards. The actual number of initial releases was 7,648 (an additional 1,996 releases above the projected level).

EXECUTIVE SUMMARY (con't.)

Return Rate of Earned Eligibility Program Certificate Cases. The purpose of the Earned Eligibility Program is to increase the number of inmates released at their Parole Board without increasing the risk to the community.

In line with this position, a follow-up study including all appropriate cases since program inception has found that the return rate of released individuals with Certificates of Earned Eligibility is significantly lower than the return rate of a pre-program comparison group.

TABLE OF CONTENTS

INTRODUCTION 1

OVERVIEW OF EARNED ELIGIBILITY PROGRAM 1 - 2

REASONS FOR EARNED ELIGIBILITY DECISIONS 2 - 4

EARNED ELIGIBILITY AND PAROLE DISPOSITIONS 5

IMPACT ON RELEASE RATE 6 - 7

RESULTS OF FOLLOW-UP CONCERNING INDIVIDUALS
WITH CERTIFICATES OF EARNED ELIGIBILITY WHO
WERE RELEASED AT THEIR INITIAL HEARINGS 8 - 12

EARNED ELIGIBILITY PROGRAM SUMMARY
Semiannual Report October 1991 - March 1992

INTRODUCTION

The purpose of this report is to comply with the legislative reporting requirements established in 1992 requiring two Earned Eligibility reports a year, in January and July. These reports provide information about the Earned Eligibility Program for the six month intervals preceding each report. The January report covers Earned Eligibility activities for the months of April through September, and the July report provides information for the period October through March. In addition to the six month summary report prepared for January, the Department plans to continue the cumulative report series on the program's operation since its inception.

The information in this report is based on initial hearing dispositions and Earned Eligibility reviews. Data on Earned Eligibility status is maintained by the Department of Correctional Services and the information on parole dispositions is supplied by the Division of Parole through a monthly computer file. The data in this report relies on the information from both of these files. If either file is missing data on a particular case, the case is excluded from the analysis. For individuals with more than one hearing during the relevant time period, (due to postponements at their initial hearing) information is provided on each hearing and corresponding Earned Eligibility status. Consequently, Parole Board appearances, not individuals, are the units of analysis.

The focus of this report are those cases which had an initial Parole Board hearing during the months of April 1992 through September 1992.

A summary is provided on Earned Eligibility evaluation outcomes, parole dispositions, and program impact on release rates for individuals who appeared before the Board of Parole. The last section of the report analyzes the recidivism rate for individuals who earned Certificates and were released by the Parole Board at their first hearing prior to September 1991, allowing for a minimum of 12 months exposure.

Overview of Earned Eligibility Program. The Earned Eligibility Program evaluates an inmate's program performance during his period of incarceration. This evaluation takes place prior to the inmate's initial Parole Board hearing. The results of the evaluation are provided to the Parole Board to be used in deciding whether to release the inmate or to deny parole.

The objective of the Earned Eligibility Program is to increase the rate of release for those inmates who have served their required minimum sentence and who have demonstrated an overall pattern of progress in appropriate programs. In evaluating program progress, attention is focused on the inmate's participation in areas of identified needs or deficiencies (e.g., substance abuse programs, educational programs, specialized counseling). In addition to determining program appropriateness, consideration is given to the inmate's level of attendance, participation, and progress in the program and to his or her institutional behavior record.

There are three possible outcomes at the conclusion of the evaluation process. The inmate may be issued a Certificate of Earned Eligibility, denied a Certificate, or granted noncertifiable status. Those inmates who have demonstrated an acceptable level of progress and participation in appropriate programs are issued a Certificate. If the level of program progress and participation is unacceptable, the inmate is denied a Certificate. Inmates granted noncertifiable status are those who have been unable to participate in appropriate programs through no fault of their own. A more complete discussion of reasons used to determine Earned Eligibility status is provided in the next section.

REASONS FOR EARNED ELIGIBILITY DECISIONS

From April 1992 through September 1992, there were 11,304 evaluations for Certificates of Earned Eligibility for cases having an initial Parole Board hearing during that period. Of those cases, 7,589 inmates were issued Certificates of Earned Eligibility, 2,446 were denied Certificates, and 1,269 were granted noncertifiable status.

These 7,589 inmates were issued Certificates of Earned Eligibility, based on a finding that they had participated in programs appropriate to their needs and that their levels of attendance, participation, progress and institutional behavior were acceptable.

For those persons denied a Certificate, efforts were made to document the reasons for the denial. The reasons included one or more of the following explanations:

1. Overall unacceptable level of program participation and progress,
2. Overall unacceptable level of program attendance,
3. Refusal to participate in programs or treatment recommended by Department staff,
4. Poor institutional behavior record which impacted on the inmate's ability to participate or progress in programs,
5. Other reasons.

Table 1 presents the complete distribution for the reason or combination of reasons provided for the denial of Certificates.

TABLE 1: REASONS FOR CERTIFICATE DENIALS

REASONS	Number	Percent
Poor Program Participation and Progress	974	40%
Unacceptable Level of Program Attendance	150	6%
Refusal to Participate in Programs Recommended by the Department	375	15%
Poor Disciplinary Record Which Interfered in Program Participation	669	27%
Poor Progress and Poor Disciplinary Record	263	11%
Poor Attendance and Poor Disciplinary Record	15	1%
TOTAL	2,446	100%
Percents may not add to 100% due to rounding.		

As shown in Table 1, the most common reason (40%) for which inmates were denied Certificates of Earned Eligibility was on poor program participation and progress. Poor discipline contributed to 39% of the cases which were denied a Certificate by interfering with program progress, participation, or attendance.

Fifteen percent of the cases were denied a Certificate due to a refusal to participate in appropriate programs. This category includes, for example, those inmates with a documented history of substance abuse which may be associated with their crime of commitment, who have refused to participate in substance abuse counseling.

The noncertifiable status category includes those persons who through no fault of their own were unable to participate in programs. This category represents neither a positive nor a negative recommendation to the Parole Board.

One or more of the following reasons were provided for persons granted noncertifiable status.

1. Insufficient time in a program to evaluate progress (i.e. in reception center, in transit, not yet assigned a program, less than 3 months opportunity to program).
2. Unable to participate because of hospitalization or infirmary confinement
3. In protective custody
4. Out to court
5. Other

Table 2 presents the distribution of reasons for persons granted noncertifiable status.

TABLE 2: REASONS FOR GRANTING NONCERTIFIABLE STATUS

REASONS	Number	Percent
Insufficient Time in Programs	1,141	90%
Hospitalization/Infirmary	60	5%
Protective Custody	6	1%
Out to Court	62	5%
TOTAL	1,269	100%
Percent may not add to 100% due to rounding.		

The majority of inmates granted noncertifiable status (90%) had insufficient time in programs to determine the level of progress made toward appropriate programming.

EARNED ELIGIBILITY AND PAROLE BOARD DISPOSITIONS

As previously stated, 11,304 persons were evaluated for Earned Eligibility and had an initial Parole Board hearing during the months of April 1992 through September 1992. Sixty-seven percent (N=7,589) of those persons eligible to be evaluated for a Certificate were issued a Certificate, 22 percent (2,446) were denied a Certificate, and 11 percent (1,269) were granted noncertifiable status at the time of review. The following information provides the parole dispositions for each of these Earned Eligibility categories.

Parole dispositions are presented in two categories, released and held. Released refers to those persons who received a straight parole date or were granted an open parole date. Held refers to those persons who were postponed or denied parole. Of the total, 11,304 persons who had been evaluated for a Certificate of Earned Eligibility and had appeared before the Parole Board during the appropriate months, 68 percent (7,648) were granted parole.

As shown in Table 3, persons who were issued Certificates of Earned Eligibility were substantially more likely (79%) to be paroled than were those persons denied a Certificate (39%) or those granted noncertifiable status (53%).

TABLE 3: EARNED ELIGIBILITY AND PAROLE DISPOSITIONS

EARNED ELIGIBILITY STATUS	Released	Held	Total
Issue Certificate	79% 6,020	21% 1,569	100% 7,589
Deny Certificate	39% 952	61% 1,494	100% 2,446
Grant Noncertifiable Status	53% 676	47% 593	100% 1,269
TOTAL	68% 7,648	32% 3,656	100% 11,304

IMPACT OF THE EARNED ELIGIBILITY PROGRAM

The objective of the Earned Eligibility Program is to increase the rate of release for those persons who have served their minimum sentence and have demonstrated documentable progress in programs which address problems that have contributed to their incarceration.

Prior to the Earned Eligibility Program the average rate of release for persons appearing before the Board for their initial Parole Board hearing was approximately 50 percent. For the period April 1992 through September 1992, the overall release rate increased to 68 percent for those cases eligible to be evaluated for a Certificate of Earned Eligibility. The release rate at the initial hearing for persons issued a Certificate was 79 percent, denied a Certificate 39 percent, and granted noncertifiable status 53 percent.

To evaluate the overall impact of the Earned Eligibility Program, it is necessary to account for the substantial increase in the release rate for persons who were issued Certificates of Earned Eligibility while controlling for the reduction in the release rates for persons denied Certificates or granted noncertifiable status. To calculate the actual number of additional releases generated by the Earned Eligibility Program, it is necessary to calculate the difference between the actual number of releases and the expected number of releases, based on a 50 percent release rate.

The following graph shows the expected and actual releases for the last 12 months October 1991 - September 1992, according to Parole hearing month.

Table 5 presents the number of actual releases, expected releases (based on a 50 percent release rate), and the difference between these figures according to Earned Eligibility status for the reporting period, April 1992 through September 1992.

TABLE 5

	EEP REVIEWS	ACTUAL RELEASES	EXPECTED RELEASES	TOTAL DIFFERENCE
Certificates Issued	7,589	6,020	3,794.5	+2,225.5
Certificates Denied	2,446	952	1,223.0	- 271.0
Noncertifiable Status	1,269	676	634.5	+ 41.5
TOTAL	11,304	7,648	5,652.0	+1,996.0

The total difference between actual releases and expected releases represents the number of additional releases generated by the Earned Eligibility Program. Prior to the Earned Eligibility Program, the expected number of releases was 5,652.0 cases. The actual number of releases was 7,648, resulting in an additional +1,996.0 releases during the reporting period.

These figures demonstrate that the Earned Eligibility Program has a positive impact on the release rate for persons who have participated and progressed in appropriate programs.

RESULTS OF FOLLOW-UP RESEARCH
CONCERNING INDIVIDUALS WITH
CERTIFICATES OF EARNED ELIGIBILITY
WHO WERE RELEASED AT THEIR INITIAL HEARINGS

The final section of this report presents the findings to date of the Department's ongoing research on the return rates of individuals issued Certificates of Earned Eligibility, who were released at their initial hearings. This section of the report utilizes information from program inception through September 30, 1992.

Basic Hypothesis. It is the Department's basic position that the Earned Eligibility Program will serve to increase the number of inmates released at their Parole Board hearings without increasing the risk to the community.

Since the inception of the program, the position has been that the return rate of the increased number of released inmates issued Certificates of Earned Eligibility will not significantly exceed the return rate of preceding release populations.

As such, the working hypothesis of this preliminary study is that the return rate of the sample of released offenders issued Certificates will be approximately equal to the return rate of the Department's previous release population.

Development of Comparison Return Rate. The generation of a baseline return rate for comparison purposes was a key element in this follow-up research.

For comparison purposes, the Bureau of Records and Statistical Analysis developed a baseline return rate using first releases from Department custody in the six months prior to the establishment of the Earned Eligibility Program (i.e., the first six months of 1987). Since the Earned Eligibility Program was not initiated until mid-July 1987, these releases do not include any cases evaluated for Certificates.

The Board's approval rate was approximately 50 percent (48%) for the initial hearings in the first six months of 1987. As such, this cohort represents a valid comparison group concerning the impact of an increase in the Board's release rate at initial hearings upon return rates.

To maximize the comparability of this cohort of early 1987 releases, individuals in this cohort who had minimum sentences over six years (who would have been ineligible for the Earned Eligibility Program) were excluded from consideration in developing the baseline rate.

Return rates have been calculated from the respective release dates for 57 months. The resulting return rates were then grouped into monthly categories. Table 6 presents the proportion of cases returned according to months of exposure.

TABLE 6

<u>MONTHS SINCE RELEASE</u>	<u>CUMULATIVE PERCENT RETURNED</u>
12	12.1%
13	14.0%
14	16.1%
15	17.7%
16	19.5%
17	21.2%
18	23.3%
19	25.0%
20	26.5%
21	28.1%
22	29.7%
23	30.9%
24	32.5%
25	33.8%
26	35.1%
27	36.2%
28	37.4%
29	38.3%
30	39.1%
31	39.8%
32	40.4%
33	41.1%
34	41.5%
35	42.2%
36	42.9%
37	43.5%
38	44.0%
39	44.4%
40	44.8%
41	45.3%
42	45.6%
43	45.9%
44	46.3%
45	47.0%
46	47.3%
47	47.7%
48	48.0%
49	48.3%

TABLE 6 (con't.)

<u>MONTHS SINCE RELEASE</u>	<u>CUMULATIVE PERCENT RETURNED</u>
50	48.5%
51	48.7%
52	48.9%
53	49.1%
54	49.3%
55	49.5%
56	49.7%
57	49.9%
58	50.1%
59	50.3%
60	50.5%
61	50.7%
62	60.0%

Similar to previous Department recidivism research, a follow-up period of 12 months is utilized as a standard minimum follow-up period. This period of follow-up avoids fluctuations in return rates due to changes in criminal justice system processing time.

Follow-Up Procedure for Earned Eligibility Certificate Cases. In an effort to achieve the greatest degree of validity, the same follow-up methodology was applied to the tracking of inmates issued Certificates of Earned Eligibility.

Sample of Individuals Issued Certificates of Earned Eligibility Released. This research tracked individuals issued Certificates of Earned Eligibility who were paroled from the Department between July 1987 through September 1991. Inmates who participated in the Shock Incarceration Program who had received Certificates of Earned Eligibility were excluded from the release sample. Participants in the Shock Program have been tracked separately and compared to a population of offenders matched on specific characteristic criteria. (For a complete discussion see "Fourth Annual Report to the Legislature Shock Incarceration - Shock Parole Supervision," of Correctional Services (DOCS), Division of Program Planning, Research and Evaluation.) The release cohort excluding Shock cases was followed through September 30, 1992 including cases with a minimum follow-up period of 12 months.

TABLE 7

<u>MONTHS SINCE RELEASED</u>	<u>NUMBER RELEASED</u>	<u>PROJECTED RETURN RATE</u>	<u>PROJECTED NUMBER OF RETURNS</u>	<u>ACTUAL NUMBER OF RETURNS</u>
12	755	12.1%	91	71
13	742	14.0%	104	70
14	722	16.1%	116	99
15	761	17.7%	135	110
16	706	19.5%	138	110
17	772	21.2%	164	113
18	800	23.3%	186	164
19	871	25.0%	218	179
20	822	26.5%	218	168
21	789	28.1%	222	195
22	729	29.6%	216	184
23	758	30.8%	233	179
24	835	32.4%	27	230
25	752	33.7%	253	211
26	791	35.1%	278	229
27	773	36.2%	280	228
28	694	37.4%	260	192
29	733	38.3%	281	227
30	833	39.1%	326	272
31	725	39.8%	289	234
32	782	40.4%	316	270
33	783	41.1%	322	276
34	829	41.5%	344	311
35	818	42.2%	345	318
36	863	42.9%	370	320
37	666	43.5%	290	267
38	725	44.0%	319	301
39	629	44.4%	279	244
40	613	44.8%	275	233
41	635	45.3%	288	245
42	617	45.6%	281	247
43	656	45.9%	301	237
44	551	46.3%	255	214
45	613	46.6%	286	240
46	604	47.0%	284	237
47	590	47.3%	279	269
48	699	48.0%	336	330
49	694	48.3%	335	297
50	676	48.5%	328	338
51	581	48.7%	283	261
52	541	48.9%	265	231
53	611	49.1%	300	293
54	632	49.3%	312	310
55	680	49.5%	337	346
56	607	49.7%	302	322
57	643	50.0%	322	313

<u>MONTHS SINCE RELEASED</u>	<u>NUMBER RELEASED</u>	<u>PROJECTED RETURN RATE</u>	<u>PROJECTED NUMBER OF RETURNS</u>	<u>ACTUAL NUMBER OF RETURNS</u>
58	547	50.1%	274	263
59	596	50.3%	300	274
60	526	50.5%	266	243
61	213	50.7%	108	104
62	12	60.0%	7	8
TOTAL	34,595		13,188	11,627

Comparison of Projected and Actual Return Rates. The preceding table indicates that 34,595 individuals issued Certificates of Earned Eligibility are released in the community for a minimum of 12 months as of September 30, 1992. Based on the return rates of releases during the first six months of 1987, it may be projected that 13,188 of these 34,595 would be expected to return as of September 30, 1992. In actuality, 11,627 cases returned (1,561 less than projected).

Statistical Difference. A chi-square test was applied to determine if this difference in returns was statistically significant. The difference between expected and actual returns was significant at the $p < .01$ level.

Significantly Lower Return Rate of Earned Eligibility Program Certificate Cases. Tests of statistical significance are used in determining if an observed difference may be reasonably attributed to random fluctuations or to a true difference between the expected and the actual number of returns. The difference of 1,399 cases between the projected and actual number of returns among a release population of over 30,000 individuals was found to be statistically significant. Stated another way, this difference would not be expected to occur by chance alone and is attributable to a real difference in the release populations.

Based on this finding, the researcher may conclude that the return rate of this sample of Earned Eligibility Certificate cases is significantly lower than the return rate of the pre-program comparison group.

In summary, the Earned Eligibility Program is generating a substantial number of additional releases without significantly increasing the risk to the community.

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