

Pardons and Parole: Program Improvements and Statutory Changes

**Office of Performance Evaluations
Idaho Legislature**





Senator Cliff Bayer (R) and Representative Mat Erpelding (D) cochair the committee.

Office of Performance Evaluations

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Joint Legislative Oversight Committee 2017–2018

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Senators



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Representatives



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From the director

October 15, 2018

Joint Legislative Oversight Committee
Idaho Legislature

Since 2014, new leadership at the Commission of Pardons and Parole has made significant changes to improve archaic data management practices. They have developed automated systems that reduce inefficiencies and help ensure fair treatment of offenders.

We made three recommendations for continued improvement in the commission's processes. The Governor and the executive director expressed support for these recommendations in their formal responses.

We thank the Commission of Pardons and Parole and the Council for State Governments for their invaluable help in conducting this study.



Sincerely,

A handwritten signature in blue ink that reads "Rakesh Mohan".

Rakesh Mohan, Director
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**Formal
responses from
the Governor and
the Commission
of Pardons and
Parole are in the
back of the
report.**



Tony Grange and Ryan Langrill conducted this evaluation. Margaret Campbell copy edited and desktop published the report.

Bob Thomas of Robert C. Thomas and Associates conducted the quality control review.

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The Commission of Pardons and Parole comprises an executive director, hearing officers, and other staff who support seven commissioners. The commissioners make decisions to grant or deny parole to offenders.



Executive summary



Why we were asked to do this evaluation

In 2010 we evaluated inefficiencies in the parole process. In our report, *Increasing Efficiencies in Idaho's Parole Process*, we identified problems at the Commission of Pardons and Parole that led to delays in releasing incarcerated offenders to the community when appropriate.

The parole process involves the Department of Correction and the Commission of Pardons and Parole. The department provides offenders risk assessments and programming. The commission determines whether an offender is suitable for parole.

We recommended the department and the commission improve their joint processes. By strengthening their processes, they can reduce unnecessary incarceration after inmates are eligible for parole. We followed up with the department and the commission twice over two and a half years to see how they were progressing with our recommendations. After the second follow-up, we concluded that the most important recommendations still unaddressed were related to data management at the commission.

Commission management was not responsive to our initial report or our follow-ups. Therefore, we suggested that the Joint Legislative Oversight Committee not direct us to conduct further follow-ups.

Since 2014 the commission has undergone much change in personnel and technology. It has also been affected by statutory changes. Legislative interest in requesting a new evaluation was driven by a desire to understand the effects of these changes.

The commission significantly addressed major issues that existed at our last follow-up.

Automation has greatly reduced staff workload and data errors.

What we found and next steps

The commission has significantly addressed major issues that existed at our last follow-up. This report describes changes in data management, information available for parole decisions, and how parole hearings take place.

The commission has improved its operations.

New commission leadership recognized the limitations in data management that we identified in our 2010 report. In 2015 they developed a customized application that automated and streamlined reporting, scheduling, hearing decisions, and other essential functions. The application stores commission-specific data and accesses data from the Department of Correction's systems. Commission staff and commissioners told us that automation has greatly reduced staff workload and data errors. Many of the time-saving ideas were suggested by staff. The commission could further improve the application by capturing staff suggestions through a formal process.

New commission leadership has also developed written policies, cross-trained hearing officers, and implemented video parole hearings. These changes have increased flexibility in paroles and reduced travel time for commissioners.

Recommendation

1. The commission should develop a formal process for staff to suggest improvements to the customized application when manual tasks may be automated. A formalized process would increase the chance that valuable suggestions are evaluated.

Statutory changes have led to more options for commissioners.

In 2014 the Legislature passed the Justice Reinvestment Act that made substantial changes to the operations of the Department of Correction and the commission. Legislative intent for these changes included reducing recidivism and using prison space more efficiently.

The act added statutory sanctions of confinement for parole violators in certain circumstances. These automatic sanctions were placed on parolees who violated the terms and conditions of their parole when the violation was not a felony or a violent misdemeanor. These sanctions, however, removed discretion from the commissioners and were removed from statute in 2017.

With the removal of automatic sanctions, commissioners were required to hold hearings to determine action for these violations. Legislation in 2017 addressed this additional workload by increasing the number of commissioners from five to seven.

Legislation also established commissioner panels to address workload. Two-member panels could make decisions on parole violations, and three-member panels could make decisions on granting or denying parole. Such panel decisions must be unanimous.

Commissioners have additional information for making parole decisions.

Statute in 2014 directed the commission to promulgate rules that established clear guidelines to reduce incarceration time for nonviolent offenders. Those rules allowed commissioners to consider four factors in their decisions to grant or deny parole: (1) risk assessment, (2) past criminal history, (3) program completion, and (4) behavior during incarceration. In 2017 the Legislature amended statute to require, rather than allow, consideration of the four factors. The basis for commissioners' decisions, however, are not restricted to those factors.

With assistance from the Justice Center at the Council of State Governments, the commission developed a guideline scale. The scale weights scores of the four factors and results in a recommendation of granting or denying parole. Parole hearing officers use the guideline scores in their recommendation to the

The number of commissioners was increased from 5 to 7.

The commission developed a guideline scale that recommends granting or denying parole based on four factors.

commissioners, and the commissioners use the scores in their decisions to grant or deny parole. The use of this data-driven guideline is consistent with the commission's mission statement to use "sound, professional judgment and evidence-based parole decision-making practices."

We analyzed two years of parole decision data and found that hearing officers recommended parole denial at a higher rate than commissioners' decisions for the same guideline score. This finding was not surprising to commission staff or Justice Center staff we interviewed because guideline scores between the initial scoring and the score at a tentative parole date can change. Further, many hearing officers have backgrounds in corrections, law enforcement, or the military, that may lead them to be more conservative in recommending parole than commissioners who make the final decisions.

Parole denial rates vary for different types of hearings.

Most parole hearings are conducted with the offender present, either in person or through video. Some hearings, however, are conducted without the offender present and are called hearing officer reviews. These review hearings are generally conducted for offenders with nonviolent crimes. We looked at parole denial rates for comparable groups of offenders for the two types of hearings. We found that when offenders are present, parole denial occurred just 11 percent of the time. In review hearings, denial occurred 30 percent of the time. This finding was unexpected to commission staff and Justice Center staff.

Recommendations

2. The commission should conduct a validation analysis of the guideline tool after three years, using recidivism data from offenders for whom the guideline was first used.
3. The commission should conduct an in-depth analysis of the difference in denial rates between the two types of hearings.

These recommendations will allow the commission to make appropriate adjustments to the guideline scale and ensure that commissioners have the appropriate information in making their decisions.

Introduction



Legislative interest

In March 2017 the Joint Legislative Oversight Committee directed us to evaluate changes at the Idaho Commission of Pardons and Parole. Since 2014 the commission has experienced several major changes from legislative actions, personnel, and technology improvements.

We released a report in 2010, *Increasing Efficiencies in Idaho's Parole Process*, that evaluated the efficiency of Idaho's parole process in moving eligible offenders from prison to community supervision when deemed in the public's best interest. We made 26 recommendations to the commission and the Department of Correction and completed follow-up reports in 2011 and 2012 that assessed the status of those recommendations.

Our 2012 follow-up concluded that, of the recommendations still unaddressed, the most important related to data management at the commission. Because commission management was not responsive to our initial report nor our follow-ups, we suggested in our second follow-up that the Joint Legislative Oversight Committee not direct us to conduct further follow-ups:

Unless the commission makes substantive changes in the way it manages offender data, we believe a third follow-up review will be of little use and suggest that the Oversight Committee close this report. We make this suggestion with a caveat that opportunities exist to become more efficient and significant work remains to capture those efficiencies, especially at the commission. Automation and modernization of how the commission collects, manages, and stores data is the most critical step necessary to realize greater efficiency, better effectiveness, and potential saving to the state.

Legislative interest for a new evaluation was driven in part by seeking to understand potential improvements in commission operations after changes in personnel and technology. Legislators were further interested in changes to the parole process made by the Justice Reinvestment Act in 2014 and changes to the act in 2017. The request for an evaluation can be found in appendix A.

Evaluation approach

Our 2010 evaluation addressed efficiencies in the parole process as a whole, which involved the Judiciary, the Department of Correction, and the Commission of Pardons and Parole. Our work on this evaluation was limited to changes at the commission since 2014. Our evaluation scope can be found in appendix B.

We interviewed and corresponded with commission staff, commissioners, and Department of Correction staff. We analyzed how the commission was ensuring that requirements introduced by legislation were being met. We interviewed the developer of a database that standardized and automated many functions of the commission.

We analyzed two years of parole decision data, which included hearing officer recommendations, relevant offender information, and commissioners' decisions to assess the relationship between recommendations and decisions. Finally, we interviewed staff of the Council for State Governments who assisted in the implementation of the Justice Reinvestment Initiative.

Commission processes

2

The Commission of Pardons and Parole underwent a change in leadership in 2014 and has subsequently made many operational changes. These changes include addressing recommendations from our 2010 report.



A lack of common data tracking methodologies led to inefficiencies and errors.

The commission developed a customized application that automates and streamlines essential functions.

The commission developed a database that standardizes and automates data entry, storage, and reporting.

Before 2014, recordkeeping and reporting was not standardized. It consisted of spreadsheets, text tables, and word processing documents. Parole investigators (also known as hearing officers) manually checked for updated information in offenders' case files maintained by the Department of Correction. Officers were free to choose their own method of tracking data. As a result, aggregating and reporting offender data was extremely difficult and unreliable. Staff gave us examples of spreadsheets that used the same terminology to categorize data but had different definitions for those data. This approach led to inefficiencies, duplication of efforts, and reporting that was prone to errors.

In 2015 commission leadership hired a contractor to develop a customized application. Developed in Microsoft Access, the application automates and streamlines reporting, scheduling, hearing decisions, and other essential functions. It directly links to the department's data warehouse and retrieves information that commission staff previously looked up manually on various screens in the department's data systems.

The application automated or lessened staff workload for a number of functions, some of which are listed below:

- Parole hearing officer schedules
- Parole violation information
- Processing self-initiated parole reconsiderations
- Commission hearing schedules
- Forfeited days calculation
- Discharge processing
- Victim data
- Firearms restoration

The commission has not formally tracked the number of hours saved by the application. However, commission staff demonstrated examples of application processes where substantial hours had been saved. They estimated that the discharge process, completed when an offender is leaving the criminal justice system, used to take 20–30 hours a month. They estimated it now takes about 8 hours.

The forfeiture report is another time-saving improvement. A forfeiture report calculates how many parole days an offender has forfeited because of a violation. It is based on several variables, including when a warrant was issued and when the offender was arrested. To produce this report before 2014, staff manually researched and calculated by hand each variable. The report is now generated automatically. Staff said they get their work done in a 40-hour week when previously they often could not, leading to delays or unpaid overtime.

Additional opportunities

The department's data warehouse and the commission's database, which accesses the data warehouse, automates repetitive tasks and manual lookup activities. As a result, the commission has reduced its workload and risk of error.

Even with improvements, opportunities likely exist for more efficiencies. In our discussions, commission staff told us of situations in which commission users still look up data directly from the department's systems. Although some tasks may be intermittent and would not be cost-effective to automate, others may be regular enough that further improvements to the database would increase efficiency. Commission administration told us that staff had suggested many time-saving ideas.

Recommendation

1. The commission should develop a formal process for staff to suggest improvements to the customized application when manual tasks may be automated. A formalized process would increase the chance that valuable suggestions are evaluated.

The commission has reduced its workload and risk of error through its customized application.



The commission implemented video hearings that have reduced travel requirements.

The commission has made other improvements that increase efficiency.

Before 2014 the commission did not have written policies or procedures for hearing officers. The commission now has written policies that include hearing officer reporting, parole violation procedures, travel, work schedules and leave, and record retention. The commission is also in the process of documenting new hearing officer training.

Hearing officer caseloads have increased by 10–15 offenders per officer over the past five years and can be unpredictable as the number of offenders approaching parole eligibility varies. Even with unpredictability, managing schedules has been more efficient with the database application. In addition, the commission has cross-trained some parole hearing officers and violation hearing officers for greater flexibility as caseloads vary.

The commission implemented video hearings at the Southern Idaho Correctional Institution, the Idaho Correctional Institution-Orofino, and the Pocatello Women’s Correctional Center. Video hearings allow face-to-face interactions between commissioners and inmates, which commissioners find useful to their decision making. At the same time, video hearings greatly reduce travel requirements of commissioners and commission staff and reduce security requirements at the prisons.

In the next chapter, we discuss differences in hearing outcomes when the offender is not present (either in person or through video). Similarly, these differences could potentially occur in hearing outcomes when the offender is attending in person or through video.

We suggest that the commission track whether a hearing is in-person or over video. Tracking may identify possible systematic bias between the two types of hearings and establish the reasons for any differences.

Statutory changes



Commissioners have complete discretion in granting or denying parole to eligible offenders. Eligible offenders are those who have served the minimum (determinate) portion of their prison sentence. In addition to granting or denying parole, commissioners have the authority to grant pardons and commutations, conduct diversion hearings, revoke parole, and hear appeals, among other functions.

Commissioners rely on the commission's hearing officers for information about each offender before the offender's scheduled hearing date. Hearing officers collect information, interview offenders, and make recommendations to the commissioners based on a number of factors.

In March 2013 the Legislature passed a resolution creating the Criminal Justice Reinvestment Interim Committee. The committee was established to work with the Justice Center at the Council of State Governments to complete a study on improving Idaho's criminal justice system. The Legislature's goals were to improve public safety, reduce recidivism, and reduce spending on corrections by implementing evidence-based practices.

The committee met five times, which led to the development of Senate Bill 1357 in 2014, also known as the Justice Reinvestment Initiative. The initiative outlined major changes to the operations of the Department of Correction and the Commission for Pardons and Parole. In response to specific concerns about the initiative, the Legislature passed Senate Bill 1113 in 2017, which increased the number of commissioners and established new avenues for addressing parole violations. This chapter summarizes the changes made in statute by these two bills.

The Justice Reinvestment Initiative substantially changed the operations of the commission.

Idaho code was changed in 2014 to prioritize prison space for violent offenders.

In June 2013 state policymakers requested technical assistance from the Justice Center. They asked the center to develop a data-driven approach to managing Idaho's projected increases in prison population.

In 2014 the Justice Reinvestment Initiative outlined substantial changes to the operations of the Department of Correction and the Commission for Pardons and Parole. The intent of the bill was three-fold: (1) to reduce recidivism, (2) to use prison space more efficiently, and (3) to increase oversight of investments made by the state to reduce recidivism.

Legislative intent of the 2014 statute prioritized prison space for violent offenders. In Idaho, felony sentences consist of a fixed portion that an offender must serve and an indeterminate portion during which the offender is eligible for parole. The commission was to promulgate rules establishing clear guidelines and procedures to reduce the average percentage of time spent beyond the fixed term for offenders convicted of a property or drug offense. These rules allowed factors such as risk assessment, past criminal history, program completion, behavior during incarceration, and other offender characteristics to be part of the release decision. In 2017, Senate Bill 1113 established in statute that the commission shall, rather than may, consider those factors in any release decision.

Justice Center staff told us that Idaho's leadership at the commission and the Department of Correction was exemplary among justice systems in the nation. They said they do not hesitate to use Idaho as an example in other states that are undertaking similar transitions.

Sources of information for parole decisions

When offenders enter prison, they are assessed by Department of Correction's staff who use a validated risk-assessment tool and other diagnostic screenings to determine which programs offenders should participate in while incarcerated. Programming helps reduce offenders' likelihood of recidivism and prepares offenders for parole.

About nine months before an offender's parole eligibility date, the offender meets with a parole hearing officer. The hearing officer recommends that commissioners grant or deny parole based on the offender's criminal history, risk assessment, behavior during incarceration, programming, and other information available to the officer.

At the hearing, commissioners consider the hearing officer's recommendation but are not bound by it. They can consider other information in their decision such as the post-release parole plan developed for the offender by department staff. Commissioners may grant parole, deny parole, or grant parole contingent on the offender completing programming.

Programming

The department offers offenders programs to reduce the risk of recidivism and to address the behaviors that led to incarceration. Areas of programming include:

- Cognition and behavior
- Mental health
- Substance abuse
- Education



The commission developed a guideline scale based on 4 offender factors.

The scale places the most weight on risk assessment and program participation.

The commission adopted a guideline scale that evaluates the risk of an inmate reoffending.

The Justice Center has worked on implementing justice reinvestment initiatives in 27 states and focuses on applying evidence-based practices, including parole guidelines, in criminal justice systems. In 2014 the commission worked with the Justice Center to establish a scoring guideline to calculate a number on a 0–20 scale based on offense severity, risk assessment, behavior during incarceration, and program participation.

The commission and the Justice Center used information about prior parolees to ground the guidelines. They placed the greatest weight on risk assessment and program participation. Both of these factors can contribute up to 7 points of the total score. Severity of offense and behavior during incarceration can both contribute up to 3 points. The guideline scale recommends granting parole when a score is 8 or below. This threshold was based on an analysis of previous commission decisions. The guideline form is attached as appendix C.

Guideline recommendation scores are summed at two points: (1) when the parole hearing officer makes a recommendation to grant or deny parole about three months before a commission parole hearing and (2) when commissioners make a decision to grant or deny parole. The scores are not binding—parole hearing officers can enter into their report other factors that led to their recommendation, and commissioners can consider other factors.

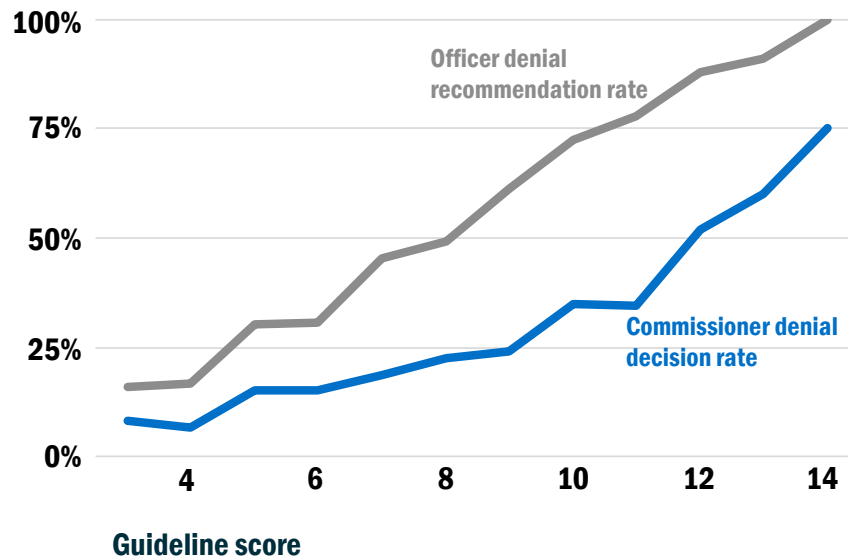
Commissioners were less likely to deny parole than hearing officers were to recommend denial.

The commission provided us with data that included the type of hearing, recommendations by hearing officers, decisions by the commissioners, guideline scores when the officer makes a recommendation and when the commissioners make a decision, and reasons for denial. For regular hearings, we compared denial rates between hearing officers' recommendations and commissioners' decisions. We found that hearing officers recommended that parole be denied at a higher rate than commissioners actually denied parole.

Exhibit 1 shows rates of denial recommendations by hearing officers and commissioner decisions for each guideline score in calendar years 2016–2017. Guideline scores lower than 3 or higher than 14 are not shown because they seldom occur. Hearing officers' recommendations for denial were higher than commissioners' denial decisions for all guideline scores. For both groups, the scores are generally predictive of recommendations and decisions about parole.

Guideline scores are generally predictive of recommendations and decisions about parole.

Exhibit 1
Commissioners deny less paroles than recommended by hearing officers.



Source: Data from the Idaho Commission for Pardons and Parole for calendar years 2015-2016

Commission and Justice Center staff who assisted in establishing the scale were not surprised by these results. When commissioners grant offenders a tentative parole date contingent on completing programming, the offenders' guideline scores will be lower after programming is completed. In addition, behavioral infractions occurring in the institution during the prior year may drop off and reduce the score by the tentative parole date. Further, hearing officers often come from corrections, law enforcement, or military backgrounds and these backgrounds may lead them to be more conservative in recommending parole.

Parole denial rates are higher when the offender is not present for the hearing.

Data in exhibit 1 reflect only regular parole hearings when the offender was present. There are two types of hearings: regular and hearing officer review.

An offender is present, either in person or by video, at a regular hearing. They can be questioned by the commissioners. In calendar years 2016–2017 commissioners considered 2,892 regular hearings.

An offender is not present at a hearing officer review hearing. According to commission staff, these review hearings tend to be for offenders with nonviolent crimes of property or drugs. In calendar years 2016–2017 commissioners considered 1,743 review hearings.

We compared commissioners' denial rates between the two types of hearings. We limited the data to make the two groups of offenders as similar as possible:

Review hearings tend to be for offenders with lower guideline scores than those who have regular hearings, so we limited the guideline scores in our analysis to those between 3 and 9.

Review hearings involve few violent crimes, so we limited our data to only nonviolent crimes.

We excluded denials based on an offender's refusal to participate in programming. A refusal generally results in a review hearing, since commissioners rarely hold regular hearings for offenders who refuse to participate.

We found that review hearings resulted in denial 30 percent of the time as compared with 11 percent in regular hearings, a difference of 19 percentage points. The higher denial rate for review hearings was somewhat counterintuitive because those hearings are generally for offenders incarcerated for nonviolent crimes. This finding surprised both commission staff and Justice Center staff that we spoke with.

Review hearings resulted in a higher rate of denial than regular hearings.

Exhibit 2 shows the denial reasons for the two types of hearings in our analysis. While the rate of parole denials for review hearings was 19 percentage points higher than that for regular hearings, the reasons for denial differed between the two types of hearings. Public safety was cited as the reason for denial more in regular hearings, while risk to recidivate and criminal history was cited more in review hearings.

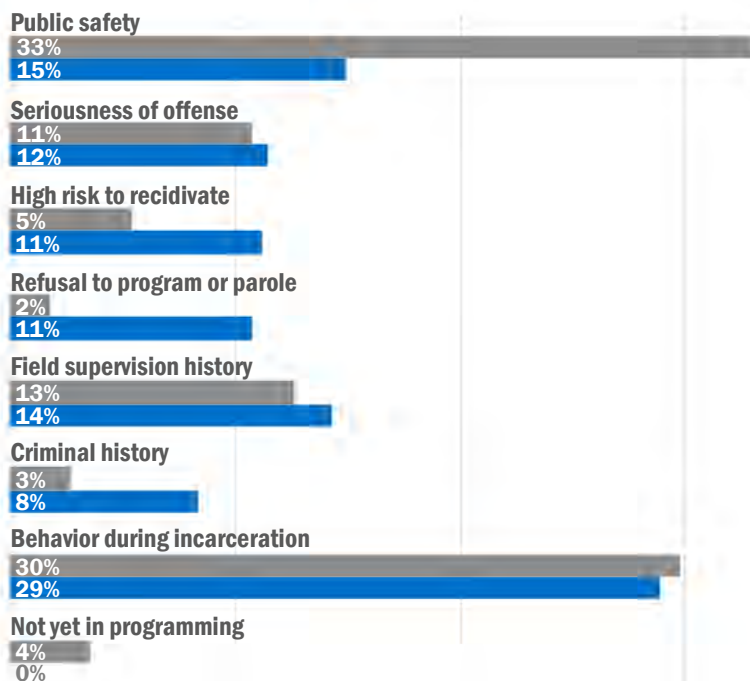
Exhibit 2 also shows denials based on an offender's refusal to program, which were excluded from our analysis that compared the two types of hearings. Of denials in review hearings, 11 percent were due to refusal to program as compared with only 2 percent of regular hearings.

Exhibit 2

For offenders with similar profiles, reasons for denying parole were different at [hearing officer report hearings](#) than at [regular commission hearings](#).

Rates of denial were higher in hearing officer report hearings for reasons of high risk to recidivate and criminal history but lower for public safety.

Denial reasons



Source: Data from the Commission for Pardons and Parole, calendar years 2016–2017. Data were restricted to guideline scores between 3 and 9 for nonviolent crimes.

Recommendations

2. The commission should conduct an in-depth analysis of the difference in denial rates between the two types of hearings. Though we attempted to make the comparison groups as similar as possible by using comparable guideline scores and offenses and excluding offenders who refused programming, there may be an explanation for the difference more reasonable than simply the presence of the offender at the hearing.
3. The commission should conduct a validation analysis of the guidelines in three years using recidivism data from the offenders for whom the guideline was first used. The Bureau of Justice Statistics commonly uses a three-year period after parole to study recidivism because offenders who remain in the community for at least that long are unlikely to recidivate. This length of time will allow the commission to make appropriate adjustments to the relative weighting of scale factors and to the cutoff score for a recommendation to grant or deny parole.



The commission should analyze the difference in denial rates between two types of hearings and validate the guideline tool in 3 years.

The Legislature adopted automatic 90- and 180-day sanctions in 2014 that were problematic and removed in 2017.

The Justice Reinvestment Act, passed in 2014, called for the establishment of “swift, certain, and graduated sanctions” for probationers and parolees to help increase compliance with the terms of probation or parole. As part of this effort, the Legislature established two automatic sanctions for parolees in statute.

Idaho Code § 20-229B(3) established that if a parolee violates the terms and conditions of their parole and the violation did not result in a new felony or violent misdemeanor, the parolee shall be confined for up to 90 days for a first violation and up to 180 days for a second violation. Subsequent violations require a dispositional hearing in front of commissioners. Commissioners execute an order of parole revocation and determine how long the offender will be returned to confinement.

Idaho Code § 29-229B(4) established confinement for up to 180 days for the first incident of a parolee absconding. Subsequent violations require a dispositional hearing. Offenders may be confined at a county jail or a state prison.

The automatic sanctions had three major issues:

Hearing officers lacked discretion in sending a violator to meet with commissioners even when the officer believed the violator presented a threat to society.

The statutory requirement to release violators at the end of the prescribed timeline reduced the ability of jails to incentivize good behavior.

The procedures and offender management system at prisons where violators were confined was not designed for sentences as short as those prescribed in statute.

Statute allowed for incentives by reducing offenders’ sanction time up to 30 days when they exhibited good behavior. However, this incentive was problematic for offenders held in county jails because good behavior was not consistently communicated to the department or the commission.

In 2017 Senate Bill 1113 retracted the parts of Idaho Code § 20-229B that established the 90- and 180-day confinement requirements.

Increased number of commissioners

Senate Bill 1113 increased the number of commissioners from five to seven. This bill established that parole violation decisions, or diversion reviews, could be made by a two-member panel and parole decisions could be made by a three-member panel, with the constraint that both types of decisions be unanimous. If decisions are not unanimous, final decisions must be decided by a majority of a full panel of commissioners at a subsequent meeting.

According to commission staff estimations, two-member panels have decreased workload for commission staff. Because a full revocation hearing is not required, the panels have also reduced the time for disposition of these cases from 4–6 months to 3–4 weeks.

We interviewed three commissioners who told us the new two-member panel was working well; disagreements were rare. By returning discretion on violation dispositions to commissioners, commissioners can consider additional factors in each case.

From September to December 2017, commissioners heard 272 diversion reviews. Before statutory changes, these diversion reviews would have required hearings of a full panel, which would have increased workload.

Two-member panels have reduced workload for commission staff and reduced time for case disposition.

The Justice Reinvestment Initiative requires reporting from stakeholders to assess its impact.

Added in 2014, Idaho Code § 20-223(11) required the department and the commission to report annually on the percentage of certain offenders in prison. These offenders had property or drug offenses and were released before serving 150 percent of the fixed portion of their sentence. For offenders serving more than 150 percent, the department and the commission were required to list the most common reasons why release was delayed or denied in the annual report.

According to these published reports, the number of drug and property offenders from 2015 to 2018 paroled within 150 percent of the fixed portion of their sentence increased from 71 percent to 87 percent. For drug and property offenders paroled after 150 percent of their fixed portion, the reasons were not a result of commission actions, such as scheduling or backlog. Rather, offenders went past their fixed portion for the following reasons:

- Entered incarceration either after or within six months of their parole eligibility date (44 percent)

- Had been previously denied parole (24 percent)

- Exhibited poor behavior during incarceration (21 percent)

- Refused programming (10 percent)

In 2017 Senate Bill 1113 removed some specific requirements of the report on timely releases and established that the report describe delay or denial of release and include supporting statistical data. This report is closely tied to the goal of reducing the number of offenders in prison for nonviolent crimes who are not considered threats to public safety.

Other reporting requirements in the Justice Initiative are for agencies other than the commission and include (1) causes or likely causes of criminal behavior (criminogenic needs) by probationers and parolees, (2) funds available for treating those needs and an analysis of funding gaps, (3) offender programming, (4) effects of the Juvenile Reinvestment Initiative on the prison population, and (5) cost savings from the initiative.

Request for evaluation



Sen. Michelle Stennett

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Idaho State Senate

SENATOR MICHELLE STENNETT **MINORITY LEADER**

March 8, 2017

Joint Legislative Oversight Committee
Attn: Co-chair Senator Cliff Bayer
Attn: Co-chair Representative Mat Erpelding

Dear Senator Bayer and Representative Erpelding,

In response to your request for evaluation issues, I would like to submit a request for a study of the Idaho Commission of Pardons and Paroles, beginning in August 2014. I request an update on what the commission has done, what changes it has made, and what its vision is for the future in relation to its mission statement.

Respectfully,

A handwritten signature in cursive script that reads "Michelle Stennett".

Senator Michelle Stennett
District 26

Evaluation scope



We will answer the following questions about commission processes:

Have changes at the commission addressed concerns left unaddressed from the 2010 evaluation report and its follow-up reports?

How has automation of scheduling, hearing recordkeeping, and other procedures that were previously done manually improved the commission's processes?

Does the commission offer timely hearings to offenders who are eligible and prepared for parole?

We will answer the following questions about effects of the 2014 and 2017 changes in statute:

What will the effect of the recent changes be on staffing needs for parole processes?

Is the commission prepared to measure the effects of the 2017 statutory changes?

How is the commission fulfilling its mission statement?

How is it meeting statutory requirements for reporting, caseload size, and factors to be considered in parole decisions?



Guideline form

Idaho PHO Parole Guidelines Report—a Breakdown

1) OFFENSIVE SEVERITY

0 Points: Drug/Property and Other Offenses

3 Points: Sex and/or Violent Crimes

Examples: Burglary, DUI, and Possession of a Controlled Substance are scored as Drug/Property/Other

Examples: Robbery, and Fail to Register are scored as Sex/Violent Crimes.

2) RISK ASSESSMENT

LSI-R (Level of Service Inventory—Revised)

0 Points: Male Low (0-13)

2 Points: Male Low-Moderate (14-23)

3 Points: Male Moderate (24-34)

5 Points: Male Moderate-High (35-40)

6 Points: Male High (41+)

0 Points: Female Low (0-18)

2 Points: Female Low-Moderate (19-29)

3 Points: Female Moderate (30-39)

5 Points: Female Moderate-High (40+)

STATIC-99 (Sex offender's only)

1 Point : Low (-3 to -1)

4 Points: Medium (2-4)

7 Points: High (5+)

VRAG (Violence Risk Appraisal Guide)

1 Point : Low (-34 to -11)

4 Points: Medium (-10 to -1)

7 Points: High (12-46)

Note: Only the highest instrument is scored—7 points maximum in this category

3) DOR HISTORY

0 Points: No Violent or Nonviolent infractions within the last year

2 Points: Serious nonviolent infraction in the last year

3 Points: Violent infraction within the last year

Nonviolent DOR Examples: Abusive or Obscene Language, Tattoo Patterns

Serious Nonviolent DOR Examples: Disobedience to Orders 1 & 2, Refusal to Participate in Drug Test

Violent DOR Examples: Group Disruption, Possession of Weapon

4) PROGRAM PARTICIPATION

0 Points: Completed

0 Points: No Programming Required

1 Point : Enrolled

2 Points: On Waitlist

7 Points: Refused

POSSIBLE TOTAL SCORE = 0 to 20 POINTS

Total

0-8 Total points suggests a recommendation of "Grant" — **9-20 Total points suggests a recommendation of "Deny"** These scores provide guidelines for Parole Hearing Officers to consider when preparing their recommendation for the Parole Commission. There are several countervailing factors that may cause the Parole Hearing Officer to override the recommendation of the Guidelines Report total score. Examples of those factors are: Overall institutional disciplinary record, acceptance of responsibility, attitude, positive or negative official input, antisocial (anti-society) attitudes and beliefs, length of criminal history, parole plan, community support, performance at CRC, application of programming, etc. Offenders are encouraged to maximize their opportunities by completing programs, internalizing treatment, and setting goals for the future.



Responses to the evaluation



Under the exceptional leadership of Executive Director Sandy Jones, the Commission has taken many steps to improve its policies and practices since 2014.

—Butch Otter, Governor



I am extremely proud of the positive changes we have made to the agency over the past four years, including increased use of technology, increased transparency through audio recording of our parole hearings, as well as our modernized website.

**—Sandy Jones, Executive Director
Commission of Pardons and Parole**



C.L. "BUTCH" OTTER
GOVERNOR

March 29, 2018

Rakesh Mohan, Director
Office of Performance Evaluations
954 W. Jefferson Street
Boise, ID 83702

Dear Director Mohan,

Thank you for the opportunity to respond to the draft report, *Pardons and Parole: Program Improvements and Statutory Changes*.

The Idaho Commission of Pardons and Parole plays an invaluable role in promoting public safety in Idaho, and it is essential that the Commission establish and implement policies that best protect our citizens. Under the exceptional leadership of Executive Director Sandy Jones, the Commission has taken many steps to improve its policies and practices since 2014. I believe many of those improvements are accurately reflected in this report.

As the report cites, the addition of two commissioners and the reorganization to two-person panels for parole revocation hearings has provided great benefits for the Commission's work. As noted on page 7, "According to commission staff estimations, the two-member panels have decreased workload for commission staff and reduced the time for disposition of these cases from 4-6 months to 3-4 weeks."

I support future improvements to the Commission's database systems in order to improve information sharing with the Idaho Department of Correction and to further streamline processes. I also echo the recommendation to increase use of video hearings while also monitoring the potential differences between decisions made during in-person hearings and those made during video hearings.

Thank you again for your time and commitment to researching the changes made to the Idaho Commission of Pardons and Parole.

As Always – Idaho, "Esto Perpetua"

A handwritten signature in black ink, reading "C.L. Butch Otter".

C.L. "Butch" Otter
Governor of Idaho

CLO/kmk



STATE OF IDAHO

COMMISSION OF PARDONS AND PAROLE

C.L. "Butch" Otter

Governor

Sandy Jones

Executive Director

March 23, 2018

Rakesh Mohan, Director
Office of Performance Evaluations
Joint Legislative Oversight Committee
PO Box 83720
Boise, ID 83720

RE: Commission of Pardons and Parole 2018 report

Dear Director Mohan:

Thank you for the opportunity to address the members of the Joint Legislative Oversight Committee regarding the Idaho Commission of Pardons and Parole.

As you are aware, in previous years, there have been several reports by OPE regarding the parole process in Idaho. The current evaluation is focused solely on the Commission as an agency, and was independent of previous reports. However, the focus of this report relates to changes in leadership, policies and practices since 2014.

The report proposes three basic recommendations, which I will address here.

Recommendation #1: Opportunities regarding automation within the Commission's Access database.

The Commission has not historically used a database system. Prior to 2014, certain data was retrieved from IDOC systems. However, the Commission's business overall was tracked using a variety of spreadsheets, word documents and paper systems. This resulted in incomplete information which was difficult to verify. This lack of useable data made it difficult to articulate the staffing and other needs and successes of the Commission in previous years.

In 2015, we hired a contractor to build a basic application that would allow us to collect and retrieve data from one place. At that time, we were also on a timeline for implementation of two major initiatives for Justice Reinvestment. Unfortunately, we had to build the database fairly quickly, which did not allow for thorough planning. The database was therefore developed one section at a time, which is less than ideal. We have been able to automate several processes, saving time and effort for our staff. We have also been able to extract more reliable data from the system.

This system continues to be a work in progress. As noted in the recommendations, there are additional opportunities to continue to automate processes. We have a process in place by which staff members can request changes or improvements to the system, so that the time and cost can be considered before a decision is made. For FY 19, the Commission received no additional money to cover the ongoing development of our database, so we have to make decisions about what changes we can afford. Additionally, the Commission has been working with the Idaho Department of Correction to ensure that our agency's needs are met by the new Offender Management System (OMS), which was recently funded to be developed and implemented by IDOC. Given that this process should be on line in the next couple of years, we are thoughtful about how much we invest in what will ultimately be a temporary system. We

are confident that the new Offender Management System will serve the Commission well, and provide increased efficiency for staff as well and better quality of data.

Recommendation #2: Analyze data to identify potential differences between hearings conducted in-person, and by video.

The Commissioners have been conducting video hearings at certain facilities for a number of years. There is video capability between the Pocatello Women's Correctional Center (PWCC) and the Idaho Correctional Institution at Orofino (ICIO). When the Commission conducts hearings in Pocatello, they are also able to conduct hearings by video in Orofino. There is also video conferencing available between the Commission office and South Idaho Correctional Institution (SICI). All other institutions are scheduled to have video conferencing equipment installed this summer.

While we had not given consideration to analyzing the differences in hearing modalities, this is a valuable suggestion that we can look into as the data becomes available. Presently, we are working with the Department of Correction to identify the benefit of possibly holding all hearings from one location at Idaho State Correctional Institution, as opposed to holding them at our office, as this may be better for everyone, logistically.

Recommendation #3: Analyze data to identify potential differences between in- person hearings and Hearing Officer Reports (HOR).

While these differences had not been in our plans, we see value in identifying the reasons for these differences, and some preliminary considerations are worth noting. While those cases held in executive session and decided based on a review of reports are typically for non-violent crimes, research tells us that drug and property offenders typically have high rates of recidivism. Therefore they are very likely to have had unsuccessful past supervision experiences, and lengthy criminal histories. While it is noted that "public safety reasons" are less likely to be cited than risk or criminal history, the Commission views them as one and the same. Risk of recidivism and criminal history, as well as all other denial reasons are indicators of public safety concerns. Other general public safety issues may include ongoing antisocial behaviors or beliefs, lack of support in the community, or an ongoing propensity toward violence. The Commission's data is grouped into categories for ease of analysis and reporting, but generally speaking, parole denials are based on public safety concerns.

Although not addressed in this report, as the agency's Executive Director, I have significant concerns about our capacity to manage the increasing number of hearings required each session. While we have added two Commissioners and several support staff to assist with diversion proceedings, our regular parole and revocation hearings continue to place increasing demands on a small pool of hearings support staff. It takes significant time and resources to both prepare for a hearing session, and conclude a hearing session. Preparing a session includes making sure all relevant information has been provided to Commissioners, creating a schedule to cover each individual who needs a hearing during that session based on their current housing location, arranging for interpreters as needed, and various tasks to make the hearings themselves flow smoothly. Following the end of a session, all decisions are entered into the database including details of release information and parole conditions, and it is then posted on our website. Documentation of a decision is sent to each offender. The same employees who manage these tasks also take minutes at hearings, which are averaging more than two full weeks each month, and the hearing days are becoming longer. At times, hearing sessions have lasted closer to three weeks out of a month, leaving almost no time in between sessions for the support staff to manage the conclusion of one session and the beginning of the next. We also have virtually no relief factor for these employees, leaving

them few opportunities to take time off. We have been hopeful that our ability to automate various functions would decrease the demand on our support staff, and reduce the need for additional positions. However, over the past four years, that has not been the case. With the increasing prison population, the demand for hearings continues to increase. As with the recommendations from this report, we will be watching this issue closely as we prepare for our FY 20 budget request.

In summary, I am aware of the past reports OPE has provided regarding the Parole Commission. I am extremely proud of the positive changes we have made to the agency over the past four years, including increased use of technology, increased transparency through audio recording of our parole hearings, as well as our modernized website. We have a great working relationship with the Department of Correction, and we work collaboratively toward improving our justice system as a whole. Our Commissioners bring diverse backgrounds and professionalism to the process of making parole decisions, and our employees are dedicated, well trained and hard working.

Thank you again for the opportunity to work with the Office of Performance Evaluation and the Joint Legislative Oversight Committee. I would also like to thank Tony Grange and Ryan Langrill for their thorough work and professionalism throughout their interactions with our agency.

Sincerely,



Sandy Jones, Executive Director
Idaho Commission of Pardons and Parole

