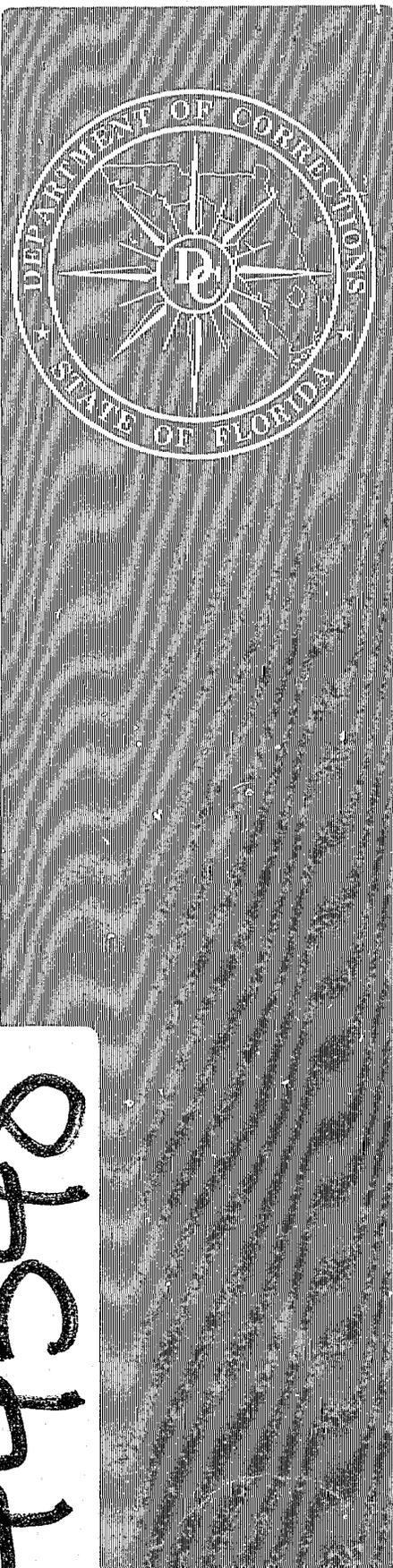


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# Habitual Felony Offenders in Florida's Prisons:

## A Simulation of Early Release Eligibility Policy

December 1992

*Prepared by:*

Florida Department of Corrections  
Bureau of Planning, Research & Statistics  
2601 Blair Stone Road Tallahassee, Florida 32399-2500

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**THIS DOCUMENT WAS PRODUCED BY THE FOLLOWING INDIVIDUALS:**

Written by: ..... William Bales, Ph.D., Bureau Chief, Florida Department of Corrections

Technical Support From: ..... Dena Stephens and Glen Holley,  
Research Associates, Florida Department of Corrections

Edited and Designed by: ..... Paula Tully Bryant, Planner II  
Judith T. Hague and Benetta Smith, Publication Production Specialists

Control Release Coordinator: ... Clarence Rudloff, Director of Field Services/Revocation

Simulated Decisions by: ..... Florida Parole Commissioners and their Administrative Assistants

## Executive Summary

This report describes a joint project conducted by the Florida Department of Corrections and the Florida Parole Commission to determine the early prison release decisions which would result if statutorily ineligible habitual offenders were reviewed for Control Release consideration. Florida's system is facing a "gridlock" crisis in the near future wherein the current early release process of Control Release will become ineffective. Prison beds are being consumed by longer term inmates sentenced as habitual offenders and under other special provisions which prohibit any consideration for early release by the Parole Commission in their role as the Control Release Authority (CRA).

There are 6,133 offenders in prison who are excluded from Control Release consideration solely as a result of their habitual offender status (i.e., they are not also excluded for a murder or sexual offense, crimes against law enforcement, drug trafficking or other mandatory term). A random sample of 100 of these habituals was evaluated by the CRA as if they were statutorily eligible for early release consideration. The results indicate that 72% of the habitual offenders would be placed into an early release (advanceable) pool by the CRA and another 19% would be assigned to a non-advanceable pool that can be converted to early release inmates when population control becomes difficult. A profile of the habituals identified as suitable for early release indicates that most were black (79.2%), most were drug offenders (58.3%), and only 1.4% were violent.

Adopting a Control Release eligibility policy for these habitual offenders would move 4,416 more inmates into the advanceable pool. This would enable a reduction in the acceleration of prison release for all eligible inmates and extend the period of time before the CRA would no longer be able to effectively control the population by approximately one year.

# Habitual Felony Offenders in Florida's Prisons: A Simulation of Early Release Eligibility Policy

## Section One:

### Introduction

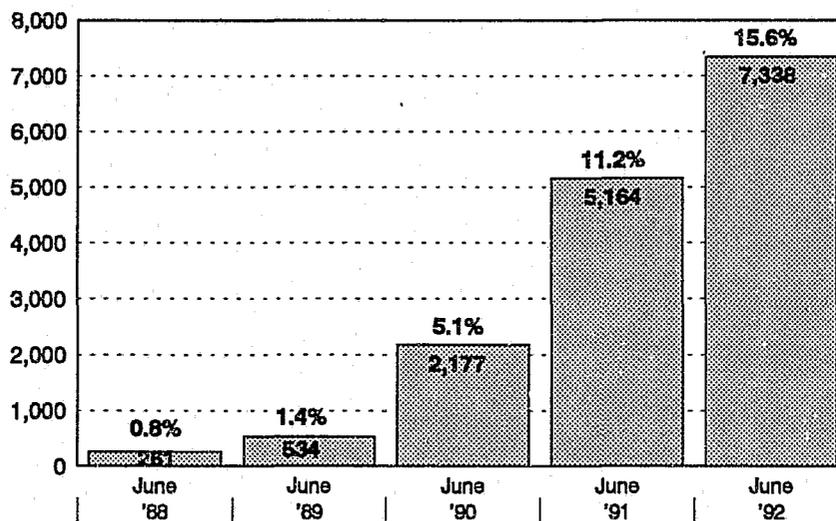
One of the most significant changes in Florida's prison system over the past four years has been the accumulation of inmates sentenced under the Habitual Felony Offender statute (F.S.775.084(1)(a)). Offenders meeting the criterion of two or more prior convictions can be sentenced under this enhanced penalty structure by local courts.<sup>1</sup> These inmates are ineligible for Basic Gaintime (which reduces the prison term by one-third of the court imposed sentence) and Control Release (the current early prison release mechanism in Florida)<sup>2</sup>. Habitual offenders serve a minimum of 60% of their sentence and, on average, serve approximately 75%. The average sentence length for habituals entering prison in FY1991-92 was 14 years, resulting in average prison terms of 10 years.

Chart 1 depicts the fact that the number of habitual offenders in prison has grown at an unprecedented rate over the past four years. In June 1988, there were only 261 habituals in Florida's prisons, comprising 0.8% of the total inmate population. These figures grew to 7,338 and 15.6% by June 1992. The Criminal Justice Estimating Conference (CJEC) predicts that habituals will occupy 25,000 prison beds by June 1996 if current trends and policies continue.

Chart 1

### Habitual Offenders in Prison

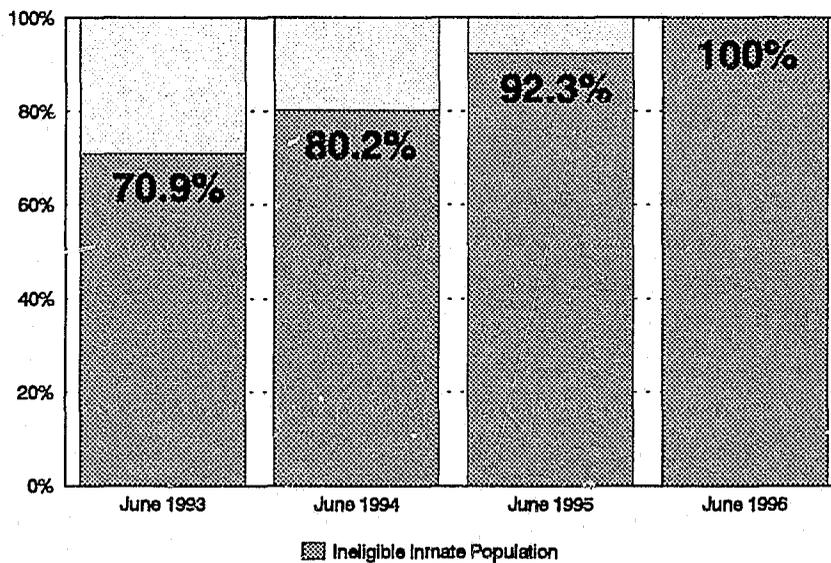
(% = percentage of total prison population)



While habitual offenders are a large population of Control Release ineligible inmates, there are also other offender types which cannot be considered for early release that are stacking up in the system (i.e., murderers, sex offenders, drug traffickers, and other offenders sentenced under mandatory terms). Chart 2 displays the prediction that, unless policy changes are made or prison capacity increased, the entire prison population will be comprised of inmates statutorily ineligible for early release (Control Release or Provisional Credits) by June 1996.<sup>3</sup>

Chart 2

### Projected Change in Proportion of the Inmate Population Statutorily Ineligible for Early Release



This research examines the question of how the Control Release Authority would assess the risk posed by habitual offenders currently in prison and the early release decision that would be made if CR statutory eligibility was made available. Specifically, a random sample of 100 habitual offenders in prison on August 31, 1992, who were not statutorily ineligible for some reason other than their habitual offender status, were assessed by the CRA as if they were eligible for CR consideration. An assessment is made of what impact would result if all habitual inmates were deemed eligible for CR consideration.

## Section Two:

### **Description of Habitual Offenders in the Prison Population on August 31, 1992**

The data below provides a statistical profile of the 6,133 habitual offenders in Florida's prison on August 31, 1992 who were excluded from CR consideration solely as a result of their habitual offender status. Habitual offenders who met another CR exclusion reason (murderer, sex offender, crime against a law enforcement officer, etc.) were not included in this analysis.

The salient facts about the 6,133 habitual offenders include the following:

1. 96.3% are male.
2. 75.4% are black.
3. 85.9% of the habituals committed non-violent offenses.
4. The general offense types are distributed as follows:

#### **Violent**

|               |   |      |       |
|---------------|---|------|-------|
| Manslaughter  | = | 0.5% | (28)  |
| Robbery       | = | 9.1% | (556) |
| Other Violent | = | 4.5% | (277) |

#### **Non-Violent**

|          |   |       |         |
|----------|---|-------|---------|
| Drugs    | = | 35.0% | (2,146) |
| Burglary | = | 30.9% | (1,895) |
| Property | = | 17.0% | (1,044) |
| Other    | = | 3.0%  | (187)   |

5. 35.8 had none or one prior Florida prison commitment.
6. 57.4% were assigned to a Minimum or Medium Custody Classification level.
7. The average sentence length was 12 years, 2 months with 73.8% of the habituals serving sentences of five years or greater, and 35.5% serving sentences of 10 years or more.

## Section Three:

# Results of the Simulation of Providing Control Release Eligibility to Habitual Offenders

### III. A. THE CONTROL RELEASE DECISION PROCESS

The CRA's primary responsibility is to ensure that Florida's inmate population is maintained within 97.5% of lawful capacity. The CRA must select enough inmates for early release to have an adequate number available for release when the population approaches the 97.5% limit. The Florida Parole Commission, in their capacity as the Control Release Authority, reviews all statutorily eligible offenders and makes the decision, first, whether to grant early release and if so, the amount of early release. These decisions are made based on a determination of the level of potential risk the offender poses to the community upon release from prison. To make this determination of risk level, two processes occur.

1. The Control Release Salient Factor (CRSF) Scoring System, an objective scoring instrument, is completed with the purpose of measuring an offender's level of risk to public safety. Eight factors commonly associated with risk are contained in the instrument: prior criminal convictions, prior violent convictions, prior incarcerations, prior sentences, age at offense which led to first incarceration, number of revocations, escape convictions and burglary convictions. The factors are scored and a total score is determined. This score, along with the general offender type (violent, property or drug) and the statutory degree (Life, First Degree, Second Degree, and Third Degree) of the primary offense, are used to make an initial recommendation of whether early release is appropriate (Figure 1 displays the scoring grid, Appendix 1 includes the entire scoring form).

**Figure 1. Control Release Salient Factor Score Sheet**

| I. VIOLENT OFFENSE* |  | C.R. SALIENT FACTOR SCORE |     |    |    |    |    |    |    |    |    |     |
|---------------------|--|---------------------------|-----|----|----|----|----|----|----|----|----|-----|
| OFFENSE SEVERITY    |  | 0                         | 1   | 2  | 3  | 4  | 5  | 6  | 7  | 8  | 9  | 10+ |
| 3rd Degree Felony   |  | A                         | A   | A  | A  | A  | A  | A  | A  | NA | NA | ND  |
| 2nd Degree Felony   |  | A                         | A   | A  | A  | A6 | NA | NA | NA | ND | ND | ND  |
| 1st Degree Felony   |  | A                         | A6  | ND  |
| Life Felony         |  | A12                       | A12 | ND  |
| Capital Felony      |  | ND                        | ND  | ND | ND | ND | ND | ND | ND | ND | ND | ND  |

| II. PROPERTY OFFENSE* |  | C.R. SALIENT FACTOR SCORE |     |     |    |     |     |    |     |     |    |     |
|-----------------------|--|---------------------------|-----|-----|----|-----|-----|----|-----|-----|----|-----|
| OFFENSE SEVERITY      |  | 0                         | 1   | 2   | 3  | 4   | 5   | 6  | 7   | 8   | 9  | 10+ |
| 3rd Degree Felony     |  | M                         | M   | A   | A  | A   | A   | A  | A   | A   | A6 | A12 |
| 2nd Degree Felony     |  | A                         | A   | A   | A  | A6  | A6  | A6 | A12 | A12 | NA | NA  |
| 1st Degree Felony     |  | A                         | A6  | A6  | A6 | A12 | A12 | NA | NA  | NA  | NA | NA  |
| Life Felony           |  | A6                        | A12 | A12 | ND | ND  | ND  | ND | ND  | ND  | ND | ND  |
| Capital Felony        |  | ND                        | ND  | ND  | ND | ND  | ND  | ND | ND  | ND  | ND | ND  |

| III. DRUG OFFENSE* |  | C.R. SALIENT FACTOR SCORE |     |     |     |     |     |     |    |    |     |     |
|--------------------|--|---------------------------|-----|-----|-----|-----|-----|-----|----|----|-----|-----|
| OFFENSE SEVERITY   |  | 0                         | 1   | 2   | 3   | 4   | 5   | 6   | 7  | 8  | 9   | 10+ |
| 3rd Degree Felony  |  | M                         | M   | A   | A   | A   | A   | A   | A  | A  | A   | A   |
| 2nd Degree Felony  |  | A                         | A   | A   | A   | A   | A   | A   | A6 | A6 | A12 | A12 |
| 1st Degree Felony  |  | A                         | A6  | A6  | A6  | A12 | A12 | A12 | NA | NA | NA  | NA  |
| Life Felony        |  | A6                        | A12 | A12 | A12 | ND  | ND  | ND  | ND | ND | ND  | ND  |
| Capital Felony     |  | ND                        | ND  | ND  | ND  | ND  | ND  | ND  | ND | ND | ND  | ND  |

|     |   |   |
|-----|---|---|
| M   | = | Eligible for Immediate Release  |
| A   | = | Eligible for Early Release (before maximum release date) and/or Advanceable C.R. Date   |
| NA  | = | Maximum non-advanceable Category A. May be transferred to advanceable category in the event of critical depletion of advanceable category (less than 4000). |
| ND  | = | Not Eligible for Early Release or Advanceable C.R. Date (maximum non-advanceable Category B)  |
| A6  | = | Post Release Supervision of 6 Months  |
| A12 | = | Post Release Supervision of 12 Months   |

2. A Hearing Examiner reviews all the circumstances concerning an offender and makes an initial subjective decision about whether or not to alter the decision rendered from the risk assessment instrument. This recommendation is forwarded for a final decision by a panel of two Parole Commissioners.

The CRA authority established six "pools" to place inmates into based on their assessment of the potential risk of those offenders statutorily eligible. The pools include the following:

1. **Immediate CRD** that is established not longer than 30 days after the docket action of the Commission, and is not eligible for advancement by future award allotments by the Commission.
2. **Advanceable CRD established at the tentative release date**, and is eligible for advancement by all future award allotments ordered by the Commission if the inmate has a disciplinary free record for the month previous to the award and a disciplinary free record for the month of award up to the time of advancement.
3. **Advanceable CRD that is established at a date earlier than the tentative release date** and is eligible for advancement by future allotments ordered by the Commission if the inmate has a disciplinary free record for the month previous to the award up to the time of advancement.
4. **Early fixed CRD** that is established at a date earlier than the tentative release date and is not eligible for advancement by future award allotments by the Commission.
5. **Maximum non-advanceable category A** — CRD established at maximum, non-advanceable, but inmates in this category may be transferred by rule to advanceable CRD in the event of "critical depletion".
6. **Maximum non-advanceable category B** — CRD established at maximum, non-advanceable. Established CRD's for this category may be altered only upon "critical depletion" of all other statutorily eligible inmates, including sub-category A, and such action shall be taken by the control release authority only as the result of an individual case study and docket action.

For this study, the CRA treated 100 of the 6,133 habituals in prison on August 31, 1992 as if they were statutorily eligible for Control Release. The cases were first scored on the CRSF Scoring System and an initial early release recommendation was made. A panel of two Parole Commissioners then evaluated the cases and made a final decision on which pool to place the inmate.

### III. B. SALIENT FACTOR SCORING DECISION RESULTS

Table 1 indicates how the 100 habituals in the sample were assigned to the offense type and offense severity categories. These data reveal that most habitual offenders were non-violent (88%) and almost half (49%) were drug offenders. Additionally, first degree felons were almost non-existent (1%) and almost one in three (29%) were third degree felons.

**Table 1**  
**Offense Type and Severity Level of 100 Sampled Habitual Offenders**

| Severity Level     | Offense Type |            |           |            |           |            | Total      |             |
|--------------------|--------------|------------|-----------|------------|-----------|------------|------------|-------------|
|                    | Violent      |            | Property  |            | Drug      |            |            |             |
|                    | N            | %          | N         | %          | N         | %          | N          | %           |
| First Degree       | 0            | 0%         | 1         | 1%         | 0         | 0%         | 1          | 1%          |
| Second Degree      | 10           | 10%        | 24        | 24%        | 36        | 36%        | 70         | 70%         |
| Third Degree       | 2            | 2%         | 14        | 14%        | 13        | 13%        | 29         | 29%         |
| <b>Total Cases</b> | <b>12</b>    | <b>12%</b> | <b>39</b> | <b>39%</b> | <b>49</b> | <b>49%</b> | <b>100</b> | <b>100%</b> |

Table 2 reveals where the habituals fell on the CRSF Scoring System. This initial decision resulted in the following:

1. 78 of the 100 habituals (78%) were recommended for early release by the instrument designed to measure the level of risk.
2. 14 of the 100 habituals (14%) were recommended to be placed into the maximum non-advanceable pool (NA) (i.e., no early release). However, this group can be moved to the advanceable pool if the advanceable pool reaches the level of "critical depletion" (less than 4,000 inmates).
3. 8 of the 100 habituals (8%) were recommended for the maximum non-advanceable pool (NB), and are not eligible for movement into the advanceable pool.

These results suggest that the CRSF Scoring System identifies the majority of the habitual offenders in prison who are not excluded for reasons other than habitualization not to be of considerable risk to the public. Stated in the context of the CRA's primary purpose of controlling the prison population, these results indicate that 78% of the habituals were considered to pose the least risk to the public.

**Table 2**  
**Results of Control Release Salient Factor Scoring System:**  
**Sample of 100 Habitual Offenders**

| Offense Severity        | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10+ |
|-------------------------|---|---|---|---|---|---|---|---|---|---|-----|
| <b>Violent Offense</b>  |   |   |   |   |   |   |   |   |   |   |     |
| 3rd                     | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0   |
| 2nd                     | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 6   |
| 1st                     | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0   |
| Life                    | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0   |
| <b>Property Offense</b> |   |   |   |   |   |   |   |   |   |   |     |
| 3rd                     | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 1 | 1 | 2 | 7   |
| 2nd                     | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 5 | 5 | 4 | 9   |
| 1st                     | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1   |
| Life                    | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0   |
| <b>Drug Offense</b>     |   |   |   |   |   |   |   |   |   |   |     |
| 3rd                     | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 3 | 0 | 8   |
| 2nd                     | 0 | 0 | 2 | 1 | 0 | 1 | 6 | 4 | 6 | 6 | 10  |
| 1st                     | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0   |
| Life                    | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0   |

 Maximum non-advanceable Category A

 Not Eligible for Early Release or Advanceable C.R.

### III. C. THE CONTROL RELEASE AUTHORITY'S FINAL EARLY RELEASE DECISION

Table 3 reveals the placement of the habitual offenders into three pools resulting from the final Control Release decision. Seven of every ten (72%) of the habitual offenders would be placed into the early release pool in which the Control Release Date is advanced by the CRA when population control is necessary (normally once a week). Another 19% would be placed into the non-advanceable pool but would be eligible for transfer to the advanceable pool if critical depletion occurred. Currently, the CRA has moved all inmates in this pool to the advanceable pool, excluding those with disciplinary reports in the current or previous month. This practice will likely be necessary in the future to maintain the population within lawful capacity. Less than one in ten (9%) of the habitual offenders were placed into the non-advanceable pool, that precludes any chance of early release without another docket action by the Commission.

**Table 3**

#### Placement of Habitual Offenders Into Prison Release Pools by the Control Release Authority

| Release Pool  | Number | Percent |
|---|--------|---------|
| Advanceable (TRD)   | 72     | 72%     |
| Max Non-Advanceable (NA)<br>(Possible Movement to Advanceable Pool) | 19     | 19%     |
| Max Non-Advanceable (NB)<br>(No Movement to Advanceable Pool)       | 9      | 9%      |

### III. D. AGGRAVATION AND MITIGATION OF CRSF SCORING SYSTEM DECISIONS

Table 4 shows the relationship between the initial early release decision by the CRSF Scoring System and the final decision rendered by the panel of two Parole Commissioners based on a thorough review of each case. In 90% of the cases, the Commissioners agreed with the CRSF Scoring System decision. In 8% of the cases, the Commissioners aggravated the initial objective decision with 7% moving from the advanceable pool to a maximum non-advanceable pool and 1% moving from immediate release to the advanceable pool. In 2% of the cases, the Commissioners opted for mitigating the CRSF Scoring System decision with one of these cases moving from the maximum non-advanceable (NB) pool to the advanceable pool and one case moving from the maximum non-advanceable (NB) pool to the (NA) pool.

**Table 4**

#### Aggravation and Mitigation of CRSF Scoring System Decisions by the Control Release Authority

| CRSF Scoring<br>System Decision | Advanceable<br>Pool | Final Decision by CRA      |                            | Total      |
|---------------------------------|---------------------|----------------------------|----------------------------|------------|
|                                 |                     | Max<br>Non-Advance<br>(NA) | Max<br>Non-Advance<br>(NB) |            |
| Immediate Release               | 1                   | 0                          | 0                          | 1          |
| Advanceable Pool                | 70                  | 4                          | 3                          | 77         |
| Max Non-Adv. (NA)               | 0                   | 14                         | 0                          | 14         |
| Max Non-Adv. (NB)               | 1                   | 1                          | 6                          | 8          |
| <b>Total</b>                    | <b>72</b>           | <b>19</b>                  | <b>9</b>                   | <b>100</b> |

### III. E. DESCRIPTION OF THE HABITUAL OFFENDERS PLACED INTO THE EARLY RELEASE POOL BY THE CRA

Table 5 displays the characteristics of those habitual offenders placed into the advanceable pool. The data reveals the following:

1. 79.2% were black.
2. 58.3% were in prison for a drug conviction.
3. Only 1.4% were violent offenders.
4. 43.1% were sentenced to prison for 5+ to 10 years.
5. 9.7% had no prior prison commitment while 20.8% had one prior commitment.
6. 66.7% were in a minimum or medium custody level.

**Table 5**  
**Description of Habituals Placed in the Advanceable Pool (N=72)**

| Variable                         | Category       | Number   | Percent |
|----------------------------------|----------------|----------|---------|
| Sex:                             | Male           | 68       | 94.4%   |
|                                  | Female         | 4        | 5.6%    |
| Race:                            | White          | 13       | 18.1%   |
|                                  | Black          | 57       | 79.2%   |
|                                  | Other          | 2        | 2.7%    |
| Offense Type:                    | Violent        | 1        | 1.4%    |
|                                  | Property       | 29       | 40.3%   |
|                                  | Drug           | 42       | 58.3%   |
| Sentence Length:                 | 1 to 3 years   | 7        | 9.7%    |
|                                  | 3+ to 5 years  | 13       | 18.1%   |
|                                  | 5+ to 10 years | 31       | 43.1%   |
|                                  | 10+ years      | 21       | 29.2%   |
|                                  | Average        | 10 years |         |
|                                  | Median         | 8 years  |         |
| Prior Florida<br>Prison Terms:   | None           | 7        | 9.7%    |
|                                  | One            | 15       | 20.8%   |
|                                  | Two            | 30       | 41.7%   |
|                                  | Three          | 20       | 27.8%   |
| Custody Classification<br>Level: | Minimum        | 22       | 31.9%   |
|                                  | Medium         | 24       | 34.8%   |
|                                  | Close          | 23       | 33.3%   |
|                                  | Unclassified   | 3        | n/a     |

The results of this simulation of the CRA's final early release decisions for habitual offenders indicates that more than seven in ten (72%) were assessed to be suitable for early release. The profile of those habituals slated for early release by the CRA suggests that most were drug offenders from a minority race who were in a non-close custody security level in prison.

## Section Four:

### **The Impact of Making Habitual Offenders Eligible for Control Release Consideration**

The question addressed here is what effect would occur if all the habitual offenders currently incarcerated in Florida's prisons, who met the same criteria used in this simulation, were assessed by the CRA and placed into release pools in the same proportions as occurred in this simulation. As noted earlier, the prison system is stacking up with statutorily ineligible inmates at an alarming rate, which will ultimately result in the early release of more and more serious offenders. If a policy were adopted to postpone the time to "gridlock" by making habitual offenders eligible for Control Release consideration, how many prison beds would be made available in the future and what types of offenders would be released early?

If the 72% rate at which the CRA placed habitual offenders into the advanceable pool in the simulation of 100 randomly selected cases is applied to the 6,133 habituals currently in prison, 4,416 habituals would be placed into the advanceable pool. Table 6 displays the difference between when these 4,416 habituals will be released from prison under the current non-early release system and under a policy in which habituals were eligible. These data indicate that 2,566 habitual offenders would be released within the first six months of making them eligible for Control Release consideration and another 1,570 would be released during the second six months of this policy.

Based on the data presented in Section III.E., most of the habituals released under a Control Release eligibility policy would be drug offenders (2,574) and only 62 would be violent. Most of these early release habituals would be black (3,497).

**Table 6**

**Estimated Time Remaining in Prison for Habitual Offenders  
Placed in the Advanceable Pool:  
Current Policy Versus Control Release Eligibility**

| Months Remaining<br>in Prison                   | Current Policy/<br>No Advancement (1) |                    | CR Eligible/<br>Advancement (2) |                  |
|---|---------------------------------------|--------------------|---------------------------------|------------------|
|   | Number                                | Cum Number         | Number                          | Cum Number       |
| 1   | 54                                    | 54                 | 399                             | 399              |
| 2   | 64                                    | 118                | 458                             | 857              |
| 3   | 42                                    | 160                | 484                             | 1,341            |
| 4   | 79                                    | 239                | 459                             | 1,800            |
| 5   | 52                                    | 291                | 384                             | 2,184            |
| 6   | 30                                    | 321                | 382                             | 2,566            |
| 7   | 82                                    | 403                | 330                             | 2,896            |
| 8   | 40                                    | 443                | 325                             | 3,221            |
| 9   | 69                                    | 512                | 288                             | 3,509            |
| 10  | 33                                    | 545                | 279                             | 3,788            |
| 11  | 53                                    | 598                | 207                             | 3,995            |
| 12  | 93                                    | 691                | 141                             | 4,136            |
| 13-18   | 411                                   | 1,102              | 280                             | 4,416            |
| 19-24   | 483                                   | 1,585              |                                 |                  |
| 25-36   | 745                                   | 2,330              |                                 |                  |
| 37-48   | 654                                   | 2,984              |                                 |                  |
| 49-60   | 558                                   | 3,542              |                                 |                  |
| 61-89   | 874                                   | 4,416              |                                 |                  |
| Number of Inmates:                              |                                       | 4,416              |                                 | 4,416            |
| Average Months Remaining to Serve<br>in Prison: |                                       | 36.1               |                                 | 6.5              |
| Total Months Remaining to Serve in<br>Prison:   |                                       | 159,405            |                                 | 28,575           |
| Cost Differences:                               |                                       |                    |                                 |                  |
| Bed Years Per Diem Cost:                        |                                       | 13,284<br>\$205.3M |                                 | 2,381<br>\$36.8M |
| Cost Savings: (3)                               |                                       |                    | \$168.5M                        |                  |

- (1) Calculated by computing the number of months from the current date (September 30, 1992) to the Tentative Release Date (TRD) \* .709. The factor (.709) is the average percentage of remaining sentence habituals will serve assuming their current average Incentive Gaintime earnings prevail for the remainder of their sentences.
- (2) Calculated as months remaining under current policy divided by 6.6. The factor (6.6) is the average months advanced by CRA per month (13.95 from January through September) divided by the proportionate increase in the advanceable pool (2.115) from the additional 4,416 eligible inmates. This assumes the CRA will continue present advancement award rates adjusted for a larger advanceable pool.
- (3) The per diem rate of \$42.35 day reported by the Department's Office of Management and Budget for FY 1991-92 was used for these calculations.

## Footnotes

1. There are two forms of habitual offenders established under Florida law. First, the Habitual Felony Offender (FS 775.084(1)(a)) designation requires two or more previous felony convictions, and the present crime occurring less than 5 years from the date of the last such prior conviction, or less than 5 years from the defendant's release on parole or otherwise from a sentence imposed as a result of such prior conviction. Second, the Habitual-violent-offender designation (FS 775.084 (1)(b)) requires one or more prior convictions for a specified violent felony within the same time frame specified in the habitual felony offender statute. The nature of the current convicted offense is irrelevant. The specified prior offenses include: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated assault; murder; manslaughter; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; or aggravated battery.
2. Florida law provides for three early prison release systems:
  - A. The Control Release Authority/Parole Commission (FS 947.146).

This is the mechanism currently used to stay within 97.5% of lawful capacity. Parole Commission members comprise the Control Release Authority. Florida law gives the Commission the authority to release all offenders except the following; murderers, sex offenders, habitual offenders, those who have assaulted law officers, and those serving a mandatory term. Offenders considered high risk by the Control Release Authority are placed into a "Maximum Non-Advanceable Pool" and are *not* released early. Lower risk inmates are placed in an "Advanceable Pool". The population level is controlled by awarding control release days to this pool to accelerate releases.
  - B. Provisional Credits (FS 944.277).

The Department awarded Provisional Credits to inmates statutorily eligible from July 1988 to January 1991 to maintain the inmate population within 98% of lawful capacity. The same inmates eligible for consideration by the Control Release Authority are eligible for Provisional Credits (excluding minor differences). The primary difference in these first two release mechanisms is that the Control Release Authority places the most dangerous inmates eligible for early release into the Maximum Non-Advanceable Pool while Provisional Credits would be awarded to *all* eligible inmates.
  - C. Emergency Release (FS 944.598).

If the inmate population exceeds 99% of lawful capacity, the Secretary of the Department will declare a state of emergency upon the Governor's certification. Gaintime is then awarded to *all inmates in the system* who are eligible for gaintime awards in 5 day increments. If the population exceeds 98% of lawful capacity after 15 days, the eligible population is reduced based on various criteria. *This form of gaintime has never been invoked.*
3. A more detailed explanation of this forecast is contained in the publications, *Florida's Prison System: Capacity and Policy Crises*, Florida Department of Corrections, Bureau of Planning, Research and Statistics, August 7, 1992.

# Appendix One:

## CRSF Scoring Sheet

### ITEM 1 TOTAL NUMBER OF ALL PRIOR CONVICTIONS:

|              |   |          |
|--------------|---|----------|
| Four or more | = | 3 Points |
| Three        | = | 2 Points |
| One or two   | = | 1 Point  |
| None         | = | 0 Points |

### ITEM 2 NUMBER OF PRIOR VIOLENT CONVICTIONS: (felony, misd., juv. adjudications)

|       |   |          |
|-------|---|----------|
| Four  | = | 4 Points |
| Three | = | 3 Points |
| Two   | = | 2 Points |
| One   | = | 1 Point  |
| None  | = | 0 Points |

### ITEM 3 NUMBER OF PRIOR INCARCERATIONS: (sentenced to 60 days or more in jail, prison or juv. commitments)

|               |   |          |
|---------------|---|----------|
| Three or more | = | 2 Points |
| One or Two    | = | 1 Point  |
| None          | = | 0 Points |

### ITEM 4 TOTAL PRIOR SENTENCES IN YEARS:

|   |   |          |
|---|---|----------|
| Two or more years                         | = | 2 Points |
| Less than Two years but more than 59 days | = | 1 Point  |
| All prior sentences of 59 days or less    | = | 0 Points |

### ITEM 5 AGE AT OFFENSE WHICH LED TO THE FIRST INCARCERATION: (Juvenile or Adult)

|                     |   |          |
|---------------------|---|----------|
| 17 years or younger | = | 2 Points |
| 18 - 25             | = | 1 Point  |
| 26 years or older   | = | 0 Points |

### ITEM 6 NUMBER OF REVOCATIONS:

|               |   |          |
|---------------|---|----------|
| Three or more | = | 2 Points |
| One or Two    | = | 1 Point  |
| None          | = | 0 Points |

### ITEM 7 NUMBER OF PRIOR ESCAPE CONVICTIONS:

|                  |   |          |
|------------------|---|----------|
| One or More      | = | 1 Point  |
| Prior Escapes    | = | 1 Point  |
| No Prior Escapes | = | 0 Points |

### ITEM 8 BURGLARY OR BREAKING & ENTERING AS THE PRESENT OFFENSE OF CONVICTION:

|                        |   |          |
|------------------------|---|----------|
| Burglary Conviction    | = | 1 Point  |
| No Burglary Conviction | = | 0 Points |

| I VIOLENT OFFENSE* | C.R. SALIENT FACTOR SCORE |     |    |    |    |    |    |    |    |    |     |
|--------------------|---------------------------|-----|----|----|----|----|----|----|----|----|-----|
| OFFENSE SEVERITY   | 0                         | 1   | 2  | 3  | 4  | 5  | 6  | 7  | 8  | 9  | 10+ |
| 3rd Degree Felony  | A                         | A   | A  | A  | A  | A  | A  | A  | NA | NA | NB  |
| 2nd Degree Felony  | A                         | A   | A  | A  | A6 | NA | NA | NA | NB | NB | NB  |
| 1st Degree Felony  | A                         | A6  | NB  |
| Life Felony        | A12                       | A12 | NB  |
| Capital Felony     | NB                        | NB  | NB | NB | NB | NB | NB | NB | NB | NB | NB  |

| II PROPERTY OFFENSE* | C.R. SALIENT FACTOR SCORE |     |     |    |     |     |    |    |     |     |     |
|----------------------|---------------------------|-----|-----|----|-----|-----|----|----|-----|-----|-----|
| OFFENSE SEVERITY     | 0                         | 1   | 2   | 3  | 4   | 5   | 6  | 7  | 8   | 9   | 10+ |
| 3rd Degree Felony    | M                         | M   | A   | A  | A   | A   | A  | A  | A   | A6  | A12 |
| 2nd Degree Felony    | A                         | A   | A   | A  | A   | A6  | A6 | A6 | A12 | A12 | NA  |
| 1st Degree Felony    | A                         | A   | A6  | A6 | A12 | A12 | NA | NA | NA  | NA  | NA  |
| Life Felony          | A6                        | A12 | A12 | NB | NB  | NB  | NB | NB | NB  | NB  | NB  |
| Capital Felony       | NB                        | NB  | NB  | NB | NB  | NB  | NB | NB | NB  | NB  | NB  |

| III DRUG OFFENSE* | C.R. SALIENT FACTOR SCORE |    |     |     |     |     |     |    |    |     |     |
|-------------------|---------------------------|----|-----|-----|-----|-----|-----|----|----|-----|-----|
| OFFENSE SEVERITY  | 0                         | 1  | 2   | 3   | 4   | 5   | 6   | 7  | 8  | 9   | 10+ |
| 3rd Degree Felony | M                         | M  | A   | A   | A   | A   | A   | A  | A  | A   | A   |
| 2nd Degree Felony | A                         | A  | A   | A   | A   | A   | A   | A6 | A6 | A12 | A12 |
| 1st Degree Felony | A                         | A  | A   | A   | A12 | A12 | A12 | NA | NA | NA  | NA  |
| Life Felony       | A6                        | A6 | A12 | A12 | NB  | NB  | NB  | NB | NB | NB  | NB  |
| Capital Felony    | NB                        | NB | NB  | NB  | NB  | NB  | NB  | NB | NB | NB  | NB  |

- M = Eligible for immediate Release
- A = Eligible for Early Release (before maximum release date and/or Advanceable C.R. Date)
- NA = Maximum non-advanceable Category A. May be transferred to advanceable category in the event of critical depletion of advanceable category (less than 4000).
- NB = Not Eligible for Early Release or Advanceable C.R. Date (Maximum non-advanceable Category B)
- A6 = Post Release Supervision of 6 Months
- A12 = Post Release Supervision of 12 Months

\*Primary Offense of Conviction

- I Violent = Primary Offense contained in Guidelines categories 1-4 (9-Kidnapping, Child Abuse)
- II Property = Primary Offense contained in Guidelines categories 5,6,8 (9-Other than Kidnapping and Child Abuse)
- III Drugs = Primary Offense in Guidelines category 7