STATE OF NEW YORK

DEPARTMENT OF CORRECTIONAL SERVICES

THE STATE OFFICE BUILDING CAMPUS

ALBANY, N.Y. 12226

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EARNED ELIGIBILITY PROGRAM SUMMARY

1992 Legislative Report
Semiannual Report October 1991 - March 1992

STATE OF NEW YORK
DEPARTMENT OF CORRECTIONAL SERVICES
DIVISION OF PROGRAM PLANNING, RESEARCH AND EVALUATION
THE STATE OFFICE BUILDING CAMPUS
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1992

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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.

In line with this new legislative reporting requirement, this report provides a statistical overview of the Earned Eligibility Program for the six month period from October 1991 through March 1992. The semiannual report to be submitted on January 1, 1993, will cover the subsequent 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 11,167 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 11,167 hearings involving eligible inmates, 67 percent (7,434) were issued a Certificate prior to their initial Board. Twenty-two percent (2,478) had been denied Certificates and 11 percent (1,255) 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, 81 percent of those inmates who were issued a Certificate were granted parole compared to 37 percent of those denied a Certificate, and 57 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, 5,583.5 initial releases were projected for the October 1991 through March 1992 Boards. The actual number of initial releases was 7,642 (an additional 2,058.5 releases above the projected level).

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.

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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 January of each year, 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 on those cases which had an initial Parole Board hearing during the months of October 1991 through March 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 April 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 October 1991 through March 1992, there were 11,167 evaluations for Certificates of Earned Eligibility for cases having an initial Parole Board hearing during that period. Of those cases, 7,434 inmates were issued Certificates of Earned Eligibility, 2,478 were denied Certificates, and 1,255 were granted noncertifiable status.

These 7,434 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	856	35%
Unacceptable Level of Program Attendance	106	4%
Refusal to Participate in Programs Recommended by the Department	357	14%
Poor Disciplinary Record Which Interfered in Program Participation	724	29%
Poor Progress and Poor Disciplinary Record	428	17%
Poor Attendance and Poor Disciplinary Record	7	*
TOTAL	2,478	100%
* Less than .5% ** Percents may not add to 100% due to rounding.		

As shown in Table 1, the most common reason (35%) for which inmates were denied Certificates of Earned Eligibility was on poor program participation and progress. Poor discipline contributed to 46% of the cases which were denied a Certificate by interfering with program progress, participation, or attendance.

Fourteen 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	1,134	90%
Hospitalization/Infirmary	47	4%
Protective Custody	7	1%
Out to Court	67	5%
TOTAL	1,255	100%

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, 11,167 persons were evaluated for Earned Eligibility and had an initial Parole Board hearing during the months of October 1991 through March 1992. Sixty-seven percent (N=7,434) of those persons eligible to be evaluated for a Certificate were issued a Certificate, 22 percent (2,478) were denied a Certificate, and 11 percent (1,255) 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, 11,167 persons who had been evaluated for a Certificate of Earned Eligibility and had appeared before the Parole Board during the appropriate months, 68 percent (7,642) were granted parole.

As shown in Table 3, persons who were issued Certificates of Earned Eligibility were substantially more likely (81%) to be paroled than were those persons denied a Certificate (37%) or those granted noncertifiable status (57%).

TABLE 3: EARNED ELIGIBILITY AND PAROLE DISPOSITIONS

EARNED ELIGIBILITY STATUS	Released	Held	Total
Issue Certificate	81% 6,001	19% 1,433	100% 7,434
Deny Certificate	37% 925	63% 1,553	100% 2,478
Grant Noncertifiable Status	57% 716	43% 539	100% 1,255
TOTAL	68% 7,642	32% 3,525	100% 11,167

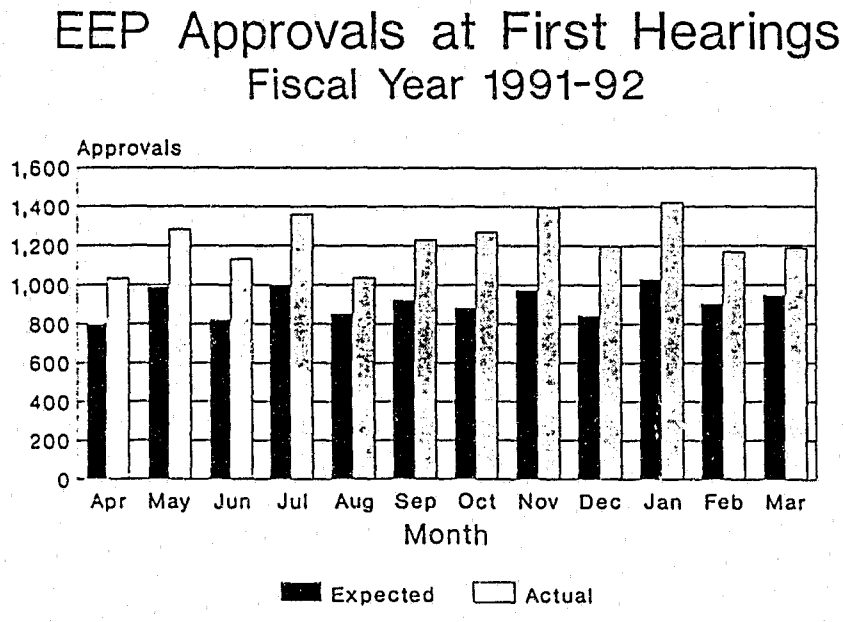
IMPACT OF THE EARNED ELIGIBILITY PROGRAM

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 October 1991 through March 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 81 percent, denied a Certificate 37 percent, and granted noncertifiable status 57 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 FY 1991-1992, according to Parole hearing month.



3,848 Additional Releases

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, October 1991 through March 1992.

TABLE 5

	EEP REVIEWS	ACTUAL RELEASES	EXPECTED RELEASES	TOTAL DIFFERENCE
Certificates Issued	7,434	6,001	3,717.0	+2,284.0
Certificates Denied	2,478	925	1,239.0	- 314.0
Noncertifiable Status	1,255	716	627.5	+ 88.5
TOTAL	11,167	7,642	5,583.5	+2,058.5

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 5,583.5 cases. The actual number of releases was 7,642, resulting in an additional +2,058.5 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 April 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

MONTHS SINCE RELEASE	CUMULATIVE PERCENT RETURNED
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.)

MONTHS SINCE RELEASE	CUMULATIVE PERCENT RETURNED
50	48.5%
51	48.7%
52	48.9%
53	49.1%
54	49.3%
55	49.5%
56	49.7%
57	49.9%

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 April 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 April 30, 1992 including cases with a minimum follow-up period of 12 months.

TABLE 7

MONTHS SINCE RELEASED	NUMBER RELEASED	PROJECTED RETURN RATE	PROJECTED NUMBER OF RETURNS	ACTUAL NUMBER OF RETURNS
12	791	12.1%	96	61
13	871	14.0%	114	89
14	835	16.1%	134	88
15	857	17.7%	152	113
16	786	19.5%	153	124
17	697	21.2%	148	117
18	783	23.3%	182	136
19	860	25.0%	215	179
20	750	26.5%	199	155
21	751	28.1%	211	177
22	809	29.6%	239	200
23	693	30.8%	213	160
24	724	32.4%	235	188
25	799	33.7%	269	220
26	785	35.1%	276	205
27	753	36.2%	273	229
28	752	37.4%	281	235
29	877	38.3%	336	297
30	803	39.1%	314	284
31	830	39.8%	330	276
32	723	40.4%	292	256
33	685	41.1%	282	269
34	612	41.5%	254	216
35	633	42.2%	267	226
36	634	42.9%	272	221
37	598	43.5%	260	228
38	697	44.0%	307	236
39	535	44.4%	238	203
40	588	44.8%	263	215
41	636	45.3%	288	244
42	576	45.6%	263	245
43	681	45.9%	313	311
44	707	46.3%	327	296
45	692	46.6%	322	339
46	552	47.0%	259	227
47	560	47.3%	265	233
48	621	48.0%	298	292
49	603	48.3%	291	285
50	719	48.5%	349	358
51	588	48.7%	286	305
52	623	48.9%	305	294
53	580	49.1%	285	276
54	593	49.3%	292	265
55	523	49.5%	259	238
56	193	49.7%	96	91
57	5	49.9%	2	4
TOTAL	**30,909**		**11,305**	**9,906**

Comparison of Projected and Actual Return Rates. The preceding table indicates that 30,909 individuals issued Certificates of Earned Eligibility were released in the community for a minimum of 12 months as of April 30, 1992. Based on the return rates of releases during the first six months of 1987, it may be projected that 11,305 of these 30,909 would be expected to return as of April 30, 1992. In actuality, 9,906 cases returned (1,399 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 be a real 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.