

State of New York  
Department of Correctional Services  
Building Number 2  
Harriman Office Campus  
Albany, New York 12226

**EARNED ELIGIBILITY PROGRAM SUMMARY**

**Semiannual Report  
October 1992 - March 1993**

149257

U.S. Department of Justice  
National Institute of Justice

This document has been reproduced exactly as received from the person or organization originating it. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the National Institute of Justice.

Permission to reproduce this copyrighted material has been granted by

New York State Department  
of Correctional Services

to the National Criminal Justice Reference Service (NCJRS).

Further reproduction outside of the NCJRS system requires permission of the copyright owner.

149257



Mario M. Cuomo  
Governor



Thomas A. Coughlin III  
Commissioner

**EARNED ELIGIBILITY PROGRAM SUMMARY**

**EXECUTIVE SUMMARY**

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

*A statistical overview is provided on the Earned Eligibility Program for the six month period from October 1992 through March 1993.*

*This report focuses on inmates evaluated for a Certificate of Earned Eligibility prior to their initial hearing. There were 12,133 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 12,133 hearings involving eligible inmates, 69 percent (8,327) were issued a Certificate prior to their initial Board. Twenty-three percent (2,819) were denied Certificates and 8 percent (987) were determined to be noncertifiable for Earned Eligibility at the time of review, primarily due to insufficient time in programs through no fault of their own.*

*Release Rates For Inmates With Certificates of Earned Eligibility. Inmates who were issued Certificates of Earned Eligibility were substantially more likely to be granted parole than those denied a Certificate or those granted noncertifiable status. During this period, 79 percent of those inmates who were issued a Certificate were granted parole compared to 35 percent of those denied a Certificate, and 50 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, 6,067 initial releases were projected for the October 1992 through March 1993 Boards. The actual number of initial releases was 8,037 (an additional 1,971 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.*

TABLE OF CONTENTS

\*\*\*\*\*  
\*\*\*\*\*

INTRODUCTION .....	1
OVERVIEW OF EARNED ELIGIBILITY PROGRAM .....	1 - 2
REASONS FOR EARNED ELIGIBILITY DECISIONS .....	2 - 4
EARNED ELIGIBILITY AND PAROLE DISPOSITIONS .....	5
IMPACT ON RELEASE RATE .....	6 - 7
RESULTS OF FOLLOW-UP CONCERNING INDIVIDUALS WITH CERTIFICATES OF EARNED ELIGIBILITY WHO WERE RELEASED AT THEIR INITIAL HEARINGS .....	8 - 11

**EARNED ELIGIBILITY PROGRAM SUMMARY**  
**Semiannual Report October 1992 - March 1993**

**INTRODUCTION**

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

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

This report focuses on those cases which had an initial Parole Board hearing during the months of October 1992 through March 1993.

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 March 1992, 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 or her 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 1992 through March 1993, there were 12,133 evaluations for Certificates of Earned Eligibility for cases having an initial Parole Board hearing during that period. Of those cases, 8,327 inmates were issued Certificates of Earned Eligibility, 2,819 were denied Certificates, and 987 were granted noncertifiable status.

These 8,327 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.

#### **REASONS FOR CERTIFICATE DENIALS**

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	433	15%
Unacceptable Level of Program Attendance	72	3%
Refusal to Participate in Programs Recommended by Department Staff	178	6%
Poor Disciplinary Record Which Interfered in Program Participation	2,099	75%
Poor Attendance and Poor Disciplinary Record	18	1%
<b>TOTAL</b>	<b>2,800</b>	<b>100%</b>
Missing = 19 Percents may not add to 100% due to rounding.		

As shown in Table 1, the most common reason (75%) for which inmates were denied Certificates of Earned Eligibility was based on a poor disciplinary record which interfered with the ability to participate in programs. Another 15% were denied a Certificate as a result of poor program participation and progress.

Six 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.

**REASONS FOR NONCERTIFIABLE STATUS**

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	852	87%
Hospitalization/Infirmary	96	10%
Protective Custody	2	*
Out to Court	29	3%
<b>TOTAL</b>	<b>979</b>	<b>100%</b>
Missing = 8		
Percent may not add to 100% due to rounding.		
* Less than 0.5%		

The majority of inmates granted noncertifiable status (87%) had insufficient time in programs to determine the level of progress made toward appropriate programming.

### EARNED ELIGIBILITY AND PAROLE BOARD DISPOSITIONS

As previously stated, 12,133 cases were evaluated for Earned Eligibility and had an initial Parole Board hearing during the months of October 1992 through March 1993. Sixty-nine percent (N=8,327) of those persons eligible to be evaluated for a Certificate were issued a Certificate, 23 percent (2,819) were denied a Certificate, and eight percent (987) 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, 12,133 persons who had been evaluated for a Certificate of Earned Eligibility and had appeared before the Parole Board during the appropriate months, 66 percent (8,037) were granted parole.

As shown in Table 3, persons who were issued Certificates of Earned Eligibility were substantially more likely (79%) to be paroled than were those persons denied a Certificate (35%) or those granted noncertifiable status (50%).

**TABLE 3: EARNED ELIGIBILITY AND PAROLE DISPOSITIONS**

<b>EARNED ELIGIBILITY STATUS</b>	<b>Released</b>	<b>Held</b>	<b>Total</b>
<b>Issue Certificate</b>	<b>79%</b> <b>6,550</b>	<b>21%</b> <b>1,777</b>	<b>100%</b> <b>8,327</b>
<b>Deny Certificate</b>	<b>35%</b> <b>990</b>	<b>65%</b> <b>1,829</b>	<b>100%</b> <b>2,819</b>
<b>Grant Noncertifiable Status</b>	<b>50%</b> <b>497</b>	<b>50%</b> <b>490</b>	<b>100%</b> <b>987</b>
<b>TOTAL</b>	<b>66%</b> <b>8,037</b>	<b>34%</b> <b>4,096</b>	<b>100%</b> <b>12,133</b>

### IMPACT OF THE EARNED ELIGIBILITY PROGRAM

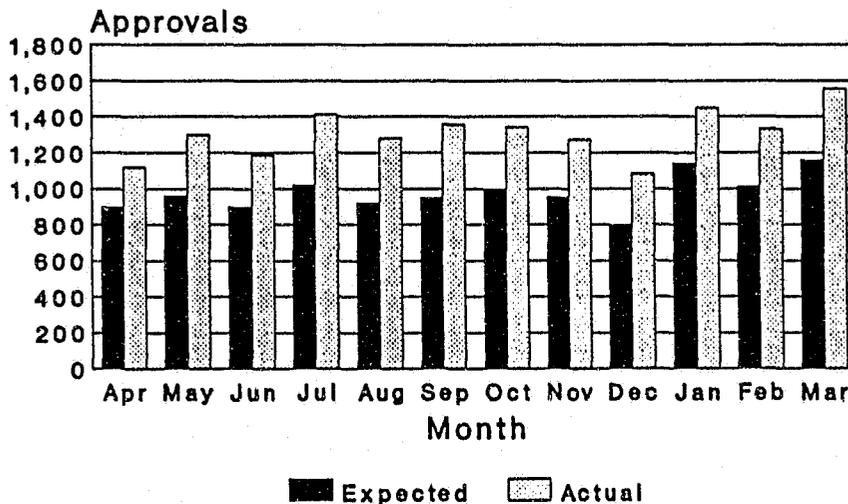
The objective of the Earned Eligibility Program is to increase the rate of release for those persons who have served their minimum sentence and have demonstrated documentable progress in programs which address problems that have contributed to their incarceration.

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 1992 through March 1993, the overall release rate increased to 66 percent for those cases eligible to be evaluated for a Certificate of Earned Eligibility. The release rate at the initial hearing for persons issued a Certificate was 79 percent, denied a Certificate 35 percent, and granted noncertifiable status 50 percent.

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

The following graph shows the expected and actual releases for the last 12 months April 1992 - March 1993, according to Parole hearing month.

## EEP Approvals at First Hearings April 1992 - March 1993



3,963 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 1992 through March 1993.

**TABLE 5**

	<b>EEP REVIEWS</b>	<b>ACTUAL RELEASES</b>	<b>EXPECTED RELEASES</b>	<b>TOTAL DIFFERENCE</b>
<b>Certificates Issued</b>	8,327	6,550	4,163.5	+2,386.5
<b>Certificates Denied</b>	2,819	990	1,409.5	- 419.5
<b>Noncertifiable Status</b>	987	497	493.5	+ 3.5
<b>TOTAL</b>	12,133	8,037	6,066.5	+1,970.5

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 6,066.5 cases. The actual number of releases was 8,037, resulting in an additional +1,970.5 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 March 31, 1993.

**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 68 months. The resulting return rates were then grouped into monthly categories.

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 March 1992. 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 "Fifth 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 March 31, 1993 including cases with a minimum follow-up period of 12 months.

**Comparison of Projected and Actual Return Rates.** As shown in Table 6 44,413 individuals issued Certificates of Earned Eligibility were released in the community for a minimum of 12 months as of March 31, 1993. Based on the return rates of releases during the first six months of 1987, it may be projected that 17,294 of these 44,413 would be expected to return as of March 31, 1993. In actuality, 15,691 cases returned (1,603 less than projected).

TABLE 6

<u>Months</u> <u>Since</u> <u>Release</u>	<u>Number</u> <u>Released</u>	<u>Projecte</u> <u>Return</u> <u>Rate</u>	<u>Projected</u> <u>Number of</u> <u>Returns</u>	<u>Actual</u> <u>Number of</u> <u>Returns</u>	<u>Months</u> <u>Since</u> <u>Release</u>	<u>Number</u> <u>Released</u>	<u>Projecte</u> <u>Return</u> <u>Rate</u>	<u>Projected</u> <u>Number of</u> <u>Returns</u>	<u>Actual</u> <u>Number of</u> <u>Returns</u>
12	1,025	12.1%	124	112	41	825	45.3%	374	341
13	1,031	14.0%	144	130	42	905	45.6%	413	372
14	902	16.1%	145	152	43	754	45.9%	346	321
15	969	17.7%	172	178	44	716	46.3%	332	312
16	849	19.5%	166	156	45	693	47.0%	326	301
17	868	21.2%	184	160	46	691	47.3%	327	286
18	958	23.3%	223	190	47	699	47.7%	333	288
19	838	25.0%	210	180	48	688	48.0%	330	302
20	838	26.5%	222	225	49	713	48.3%	344	284
21	896	28.1%	252	225	50	612	48.5%	297	259
22	850	29.6%	252	210	51	645	48.7%	314	276
23	934	30.8%	288	219	52	677	48.9%	331	285
24	911	32.4%	295	263	53	673	49.1%	330	317
25	1,027	33.7%	346	313	54	714	49.3%	352	357
26	933	35.1%	327	258	55	770	49.5%	381	355
27	930	36.2%	337	303	56	663	49.7%	330	343
28	838	37.4%	313	268	57	610	50.0%	305	290
29	939	38.3%	360	294	58	615	50.1%	308	284
30	1,069	39.1%	418	366	59	592	50.3%	298	293
31	839	39.8%	334	291	60	693	50.5%	350	360
32	963	40.4%	389	331	61	680	50.8%	345	355
33	971	41.1%	399	335	62	607	51.0%	310	329
34	800	41.5%	332	279	63	643	51.1%	329	319
35	931	42.2%	393	337	64	547	51.3%	281	267
36	969	42.9%	416	354	65	626	51.5%	322	298
37	855	43.5%	372	323	66	496	51.7%	256	232
38	928	44.0%	408	354	67	213	52.0%	111	108
39	862	44.4%	383	360	68	12	52.2%	6	8
40	918	44.8%	411	383					
					TOTAL	44,413		17,294	15,691

**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 true difference between the expected and the actual number of returns. The difference of 1,603 cases between the projected and actual number of returns among a release population of over 40,000 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.

*Prepared by:*

*Kathy Canestrini  
Program Research Specialist III  
Division of Program Planning,  
Research and Evaluation*