

Post-Incarceration Supervision Task Force

Date: July 8, 2009, 9:00AM - 12:00PM

Attendees:

David Kaplan, Chair
Christie Donner, Task Force Leader
Christine Adams, DCJ/Researcher/Facilitator
Joe Cannata, Voices of Victims
Kerry Cataldo, DCJ
Kim English, DCJ
Kevin Ford, DCJ
Tim Hand, Deputy Director of Regional Operations (Parole)
Paul Herman, Consultant
Kathie Izor, CURE
Shelby McKinzey, CU student
Jeaneene Miller, Division Director (Parole)
Melissa Thrasher
Dianne Tramutola-Lawson, CURE
Carolyn Turner, CURE

Absent:

Lacey Berumen, Executive Director, National Alliance for the Mentally Ill (NAMI)
Carl Blesch, DCJ/Community Corrections
Pete Hautzinger, District Attorney
Regina Huerter, Manager of Denver Public Safety
Greg Mauro, Community Corrections
David Michaud, Parole Board Representative
Maureen O'Keefe, DOC
Doug Wilson, State Public Defender
Heather Wells, DOC

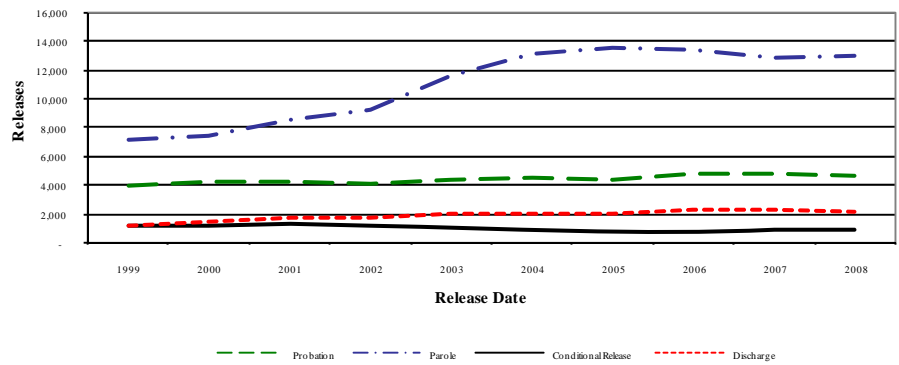
<p>Issue/Topic:</p> <p>Welcome</p>	<p>Discussion:</p> <ul style="list-style-type: none"> • David Kaplan welcomed the group.
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<p>Issue/Topic:</p> <p>Parole proposal</p>	<p>Discussion:</p> <p>The Governor’s Office is currently looking at their Recidivism Reduction Package and requesting proposals from different state agencies on how to cut costs without jeopardizing public safety.</p> <p>A proposal coming from the Colorado Department of Public Safety (CDPS) is the concept of reducing mandatory parole periods. Currently parole periods are arbitrarily based from 1-5 years, but with the use of data one can determine more appropriate parole periods (e.g., Felony 2-4 have a period of parole of no longer than 24 months and Felony 5-6 on parole for no longer than 12 months). A meeting at the Governor’s office regarding this proposal led to some data concerns and so researchers from DOC and DCJ are working together to reconcile these differences before the upcoming CCJJ meeting.</p> <p>There has not been a final decision made by the Department of Corrections (DOC) as to whether or not they are going to support this parole proposal. It was stated that DOC is looking at a variety of concepts, and this parole proposal is just one of them. DOC currently has a policy in place regarding early release/performance based management, and so they are going to continue moving ahead with their process since the parole proposal (if approved) will have to undergo the legislative process. Currently DOC has had 31 discharges from this early release process.</p> <p>Concerns that came up regarding this proposal:</p> <ul style="list-style-type: none"> • The current data did not reflect those who have not violated parole. It looks at those who were revoked. <i>(The data is currently being reconciled by DOC and CDPS).</i> • Felony 2 and Felony 5 offenders may require longer or different parole period options. • This process may move Parole to a compliance model vs. the performance based model they are currently implementing. • How do we save money by reducing parole periods when offenders are failing early anyway? • Additional implementation issues must be worked out: Is it retroactive? Are there crime-specific adjustments to the parole periods? What are the proposed implementation dates? Budget vs. non-budget issues. • How does the proposal fit within the Task Force’s work to take a comprehensive look at the structure and function of Parole? <p>This parole proposal is going to be presented to the commission members at this Friday’s CCJJ meeting.</p> <p>It was the decision of the PIS task force to move up their discussion on parole decision making reforms based on this proposal depending on how CCJJ plans to proceed.</p>
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Issue/Topic:	Discussion:
<p>Release and return decision making from a national perspective</p>	<p>It is very hard to find a state similar to the parole practices in Colorado because...</p> <ul style="list-style-type: none"> • Colorado has both discretionary and mandatory parole. • The parole period is outside the sentence. <i>(However, this was later clarified that the Colorado Supreme Court considers parole part of the sentence although it is in addition to the amount of time spent in prison).</i> • The number of hearings conducted in Colorado. <p>A survey on releasing authorities was conducted by the Center for Research on Youth and Social Policy (CRYSP) and they found...</p> <ul style="list-style-type: none"> • Assessment tools: <ul style="list-style-type: none"> ○ The parole release decision making assessment tools that are being used most frequently nationally are: <ol style="list-style-type: none"> 1. Home grown tools (i.e., Colorado’s CARAS) 2. LSI-R • Parole Board Structure: <ul style="list-style-type: none"> ○ How decisions are made based on the make up of the Parole Board vs. the policies: <ol style="list-style-type: none"> 1. Use of panels. The panels include the parole board member and hearing staff members. With the addition of the hearing staff members, it allows for the board members to be used more efficiently. 2. Use of institutional parole staff. The institutional parole staff pulls together more complete and precise information for the Parole Board to use to make their decisions. • Most important factors looked at in the parole release decision making: <ul style="list-style-type: none"> ○ Where victim impact/involvement is considered, it had significant impact on the board’s decision. ○ Where offender families are involved, they had a significant impact on the board’s decision. ○ Depending on the eccentricities of the particular board, decision-making is heavily influenced by whichever players happen to participate in the process. ○ There was no mention of the assessment tools. <p>For more survey results, please visit http://www.apaintl.org/en/aw_surveys.html.</p> <p>Missouri: In Missouri, if an offender is not paroled then they will be released with one-third of their sentence left - known as a conditional release.</p> <p>Since the introduction of new salient factor guideline assessment there has been an increase in the number of offenders released to parole and a reduction in the number of offenders released on the conditional release date (the mandatory release date) or on the expiration of sentence. See figure below.</p>

Figure: Releases have increased 53% since FY 1999.

Authorized Releases From Prison, FY 1999-2008



Source: Missouri Department of Corrections "A Profile of the Institutional and Supervised Offender Population on June 30, 2008.

Michigan:

Michigan has recently revamped their parole guidelines due to the state's economy, a new chair coming in, and their sentencing structure. They have an offender population of 50,000, and in 2007 they chose to interview about half of these offenders. In Colorado, roughly 17,000 of 23,000 inmates have parole interviews/hearings (almost 74 percent). The difference in these proportions are striking, suggesting a greater selectivity and more efficient use of the parole hearing process in Michigan than in Colorado. The Colorado proportion should be explored.

D1 Parole Board Activity
Calendar Years 1987 - 2007

Year	Interviews	Paroles Without Interview	Total Paroles Ordered	Parole Denials	Parole Violation Continuances	Actual Movement to Parole
1987	8,987	1,753	5,975	4,096	897	4,491
1988	8,815	2,057	7,310	3,880	972	5,676
1989	8,199	2,495	8,713	4,412	1,173	7,385
1990	11,433	3,164	10,748	5,004	1,424	8,895
1991	11,701	3,077	10,042	5,511	1,360	9,300
1992	9,624	3,360	11,854	7,553	1,602	9,240
1993	9,974	2,133	11,177	6,486	1,908	9,881
1994	10,884	1,879	9,795	7,262	1,952	8,370
1995	13,119	1,988	9,678	7,923	2,050	9,078
1996	15,288	2,235	10,306	7,480	2,228	9,465
1997	14,011	2,554	9,751	7,898	2,480	8,758
1998	13,814	2,837	10,366	9,845	2,675	10,506
1999	13,665	2,578	10,775	10,151	3,173	9,682
2000	19,445	2,116	10,479	11,664	2,942	9,133
2001	19,958	2,428	10,874	11,936	2,807	10,001
2002	21,106	1,766	11,736	12,533	2,921	10,697
2003	22,280	1,539	12,902	11,892	1,436	11,752
2004	22,131	1,412	12,391	11,669	1,891	11,344
2005	21,038	1,180	12,104	10,023	1,864	10,284
2006	22,784	858	11,807	10,983	1,913	10,240
2007	24,896	941	12,930	11,690	1,444	12,429

SOURCE: Corrections Management Information System (CMIS)
Source: Michigan Department of Corrections 2007 Statistical Report.

Georgia:

In Georgia, parole decisions occur via file review rather than face-to-face interviews. For 10 years the state has used parole guidelines, which were recently revised. They have set up a strong structured decision making process. According to their FY 2008 annual report, they had almost 12,000 revocation hearings and a little over 3,000 parolees were revoked. Paul Herman from the Center for Effective Public Policy attributes this to an ongoing organizational cultural issue whereby those making referral for revocation hearings and those deciding on revocation are guided by different philosophical positions.

CLEMENCY AND PAROLE SELECTION

Driven By Public Safety

CLEMENCY ACTIONS IN FY 08

RELEASE ACTION	Totals
Parole	9,502
Supervised Reprive	1,850
Conditional Transfer	931
Commutation	0
Remission	0
Other Release Action	0
TOTAL RELEASES	12,283
TOTAL PAROLE REVOCATIONS	3,125
DISCHARGES	
Discharge from Parole	5,899
Discharge from Reprive	2,033
Commutation to Discharge Parole	381
TOTAL DISCHARGES	8,313
INITIAL DECISIONS UNDER GUIDELINES	10,865
LIFE DECISIONS	
Deny Parole to Life Cases	468
Grant Parole to Life Cases	200
TOTAL LIFE DECISIONS	668
OTHER BOARD ACTIONS	
Pardon	560
Commutation to Reduce Sentence	0
Medical Compassionate Reprive	55
Restoration of Rights	152
Visitor Interview	3,257
Revocation Hearing	11,988
Preliminary Hearing	149
RELEASES UNDER SUPERVISION	
Georgia Releases in Georgia	20,701
Out-of-State Releases in Georgia	856
Georgia Releases Out-of-State	2,577
TOTAL PAROLEE POPULATION	24,134

FY 2008 Annual Report 22

Source: State Board and Pardons and Paroles FY 2008 Annual Report (Georgia).

Interviews vs. file reviews

Face to face interviews and file reviews are the same, the parole board just needs an agreed upon purpose (e.g., what do they want to get out of the file reviews or the interviews/hearings) and build a strong decision making system.

Issue/Topic: Parole fact sheet	Discussion: See below for attached copy of the Parole Fact sheet.
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Issue/Topic: Revocations: Criteria and Procedure	<p style="text-align: center;">Discussion:</p> <p>The Division of Parole provided us with copies of the Department of Corrections administrative regulations (AR) for revocations, please visit their website (https://exdoc.state.co.us/secure/comboweb/weblets/index.php/regulations/home) to download copies of the following....</p> <p>AR 250-08: Community Referral for Revoked Parolee to Community Corrections' Programs AR 250-27: Case Work Services and Supervision AR 250-33: Withdrawal of Parole Complaint AR 250-37: Parole Directives and Modifications of Parole Conditions AR 250-38: Self-Revocation of Parole AR 250-41: Parole Violation Process AR 250-46: Sanctions in Lieu of Revocation/Regression AR 250-49: Contact Standards AR 250-52: Five Day Rule</p> <p>Tim Hand from the Division of Parole informed us that in Colorado...</p> <ul style="list-style-type: none"> • Parole often uses a summons basically as an intermediate sanction. They will summons the parolee to the Parole Board with the hopes that this strategy will get the parolee's attention if they are not currently doing well on parole. With this type of parole hearing, there is no intention of revoking the parolee. • Parole officers don't act on their own regarding revoking a parole. Supervisors review all cases and need to sign off on the revocation complaint.
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Issue/Topic: Next steps	<p style="text-align: center;">Discussion:</p> <ul style="list-style-type: none"> • Christie Donner is going do a presentation at the next PIS meeting which will map out the parole process. The Division of Parole has volunteered to assist her in mapping out the system. • David Kaplan is going to work with Paul Herman and David Michaud on the structured parole decision making piece. • After Friday, July 10th's CCJJ meeting, we will know where the parole proposal stands and how to proceed. • David Michaud will attend a parole training this upcoming August in Oklahoma.
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Next meeting:
Wednesday, August 12, 2009
9AM-12PM
150 East 10th Avenue

Parole: Fact Sheet

Parole History

In the past 30 years, Colorado has experimented with a number of different parole models.

- For crimes committed prior to 7/1/79 (“211 law”), courts impose indeterminate sentences (e.g. 20-40 year sentence) and the parole board decided if and when someone was released on parole. The term of parole could not exceed the maximum time left on the sentence or five years, whichever was less.
- For crimes committed on or after 7/1/79 thru 6/30/85, the parole board had no discretion (except with regard to people convicted of a sexual or habitual offense) and had to release someone after serving ½ of the sentence minus any pretrial/earned time credits. After release, a person had to serve a mandatory one year period of parole (“331 law”), which was subsequently increased to up to three years (“334 law”). Under the 331 law (crimes committed on or after 7/1/79 thru 6/30/81), if a parolee was revoked, the maximum term of re-incarceration was the remainder of the parole period (minus awarded time credits). Whereas under the “334 law” (crimes committed on or after 7/1/84-6/30/85), if a parolee was revoked, the maximum term of re-incarceration was the remainder of the sentence (minus awarded time credits.)
- Under both the “331 law” and the “334 law”, if someone was convicted for a sexual or habitual offense, the parole board had discretion to decide if and when to release on parole. If revoked, the maximum term of re-incarceration was the remainder of the sentence (minus awarded time credits.)
- For crimes committed on or after 7/1/85 thru 6/30/93 (“336 law”), the parole board has discretion to parole once a parole eligibility date is met. The parole eligibility date (PED) was set at 50% of the sentence minus earned time unless convicted of specific violent offenses with prior convictions for specific violent offenses, and then the PED date was set at 75% of the sentence (people with one prior were eligible for earned time, people with more than one prior were not eligible for earned time). The length of parole could not exceed the statutory discharge date but could be shorter. If revoked, an inmate can serve the remainder of the sentence but is eligible for an annual consideration of re-parole. For some offenders, the time on parole prior to revocation does not count toward satisfaction of the sentence.
- For crimes committed on or after 7/1/93 (“447 law”), in addition to imposing a prison sentence, courts also impose a mandatory, consecutive period of parole based on the felony class of conviction from 1-5 years. However, people are also eligible for discretionary release by parole board decision according to the “336 law”. Once paroled (either discretionary or mandatory release), the sentence is considered discharged and the inmate begins serving the parole period and, if revoked, the maximum term of re-incarceration was the remainder of the parole period (with no earned time eligibility). (As a result of court decisions in *Martin* and *Cooper*, people convicted of sex offenses on or after 7/1/93 thru 6/30/02 were not required to serve a period of mandatory parole and release on parole was at the discretion of the parole board. The length of parole could not exceed the statutory discharge date but could be shorter. If revoked, the time served on parole by certain offenders did not count toward satisfaction of the sentence.)
- In 2004, the legislature passed HB 1189 (“Lynn’s law”) that requires people convicted of certain Class 2 or Class 3 violent offense, who have no prior convictions, to serve 75% of the sentence (minus earned time) prior to parole eligibility or 75% of the sentence (no earned time eligibility), if they have one or more prior convictions for certain Class 2 or Class 3 violent offenses.
- In 2008, the legislature passed HB 1382 that, among other things, allows anyone released to parole on or after 1/1/09 to be eligible to for earned time (regardless of crime of conviction).
- In 2009, the legislature passed HB 1351 that increased earned time to 12 days for certain inmates who meet specific additional criteria, raised to maximum award of earned time to 30% of the sentence length,

and required the parole board to set a release date 30 or 60 days prior to the mandatory release date for inmates that met specific eligibility criteria.

Mandatory vs. Discretionaryⁱ

- Mandatory parole release is when parole is granted on the latest possible release date under the offender's sentence.
- Discretionary parole release is when the offender is released sometime between their parole eligibility date and their mandatory release date.
 - Most offenders are eligible for discretionary parole once 50% of their sentence has been served, minus earned time.
 - In general, including earned time, the earliest an offender is eligible for release is after serving 37.5% of their sentence.
 - Certain violent offenders are required to serve 75% of their sentence, minus earned time

Parole Board Decision Making

- Each Board member works independently to decide if parole will be denied or granted as well as to determine conditions of parole. With the exception of when a full board meeting is referred, all decisions must then be signed by a second Board member.ⁱⁱ
 - No data is kept on how often Board member decisions are rejected by other Board members, but it was reported to the State auditors that is a rare occurrence.ⁱⁱⁱ
 - Parole decision possibilities include: Deny/Defer parole (time varies by felony class), tabled parole pending pre-parole investigation or interstate compact agreement, grant discretionary parole, grant discretionary parole with conditions to be met prior to release (if they fail the condition they will meet with the parole), mandatory parole release, and refer to full board (typically violent and high profile).^{iv}

Parole Trends^v

- Between FY 2004 – 2008, 65% of offenders that were released were released on their mandatory parole date (with a range of 62% to 72%).
 - Therefore, 35% were released on a discretionary date (any time between their PED and MRD).
- Board members receive a large number of discretionary parole requests each year (ranging from 15,700 in FY 2004 to 17,800 in FY 2008). The number of discretionary parole requests granted has ranged from 13% in FY 2004 to 16% in FY 2008.

Colorado Department of Corrections – Parole Board Decisions

Decision Type	FY2002		FY2003		FY2004		FY2005		FY2006	
	#	%	#	%	#	%	#	%	#	%
Granted PED	86	0.9	84	0.8	73	.0.7	61	0.6	65	0.5
Granted Set	1,953	20.0	2,084	19.7	2,145	19.4	1,415	14.3	3,053	25.6
Deferred	7,722	79.1	8,385	79.5	8,860	80.0	8,414	85.1	8,799	73.8
Subtotal	9,761	100.0	10,553	100.0	11,078	100.0	9,890	100.0	11,917	100.0
Revocation Decisions^{vi}										
Continued ^{vii}	852	25.0	1020	29.8	997	27.1	1007	23.5	932	20.0
Self-Revoked	1,249	36.7	916	26.8	625	17.0	47	1.1	72	1.6
Revoked to jail ^{viii}	57	1.7	65	1.9	52	1.4	8	0.2	4	0.1
Revoked to community ^{ix}	13	0.4	7	0.2	20	0.5	9	0.2	4	0.1
1-day revoked	0	0.0	0	0.0	0	0.0	0	0.0	3	0.1
Rev to Comm										
Ret to Custody	NA		NA		147	4.0	496	11.6	658	14.2
Fac. ^x										
Revoked ^{xi}	1,231	36.2	1,410	41.3	1,834	49.9	2,710	63.4	2,949	63.8
Subtotal	3,402	100.0	3,418	100.0	3,675	100.0	4,277	100.0	4,619	100.0
Miscellaneous Hearings										
Full board	509		572		511		253		444	
Tabled	1,421		1,855		1,420		1,259		1,512	
Warrant Issued	1,135		1,236		1,400		1,901		2,231	
Hearing										
Continued	1,127		1,514		1,914		3,124		3,758	
Discharged	19		21		8		3		0	
Rescinded	104		143		220		296		239	
Suspended	112		153		250		294		278	
Reinstated	4		1		0		1		9	
Reinstated to parole	0		0		0		1		0	
Reinstated to Comm										
supervision ^{xii}	1		80		0		0		0	
Dismissed ^{xiii}	2		0		0		0		0	
Courtesy										
Review ^{xiv, xv}	4		0		1		1		0	
Subtotal	4,438		5,575		5,724		7,133		8,471	
No Decision										
Waived	3,788		1,241		1,397		1,261		1,306	
Ordered	2,745		3,435		3,977 ^{xvi}		4,967 ^{xvii}		4,556	
Subtotal	6,533		4,376		5,374		6,228		5,862	
TOTAL	24,134		23,922		25,851		27,528		30,869	

Source: Department of Corrections, Office of Planning and Statistics, General Statistics, Research and Evaluation Unit. (2007). *Parole board hearings and decisions: Fiscal Year 2006*. Department of Corrections: Colorado Springs, CO.

Colorado Prison Admissions by Type: FY 2000 - 2007^{xviii}

Fiscal Year	Total N Admissions	New Court Commitments (%)	Probationers Revoked to Prison (%) ^{xi}	Parole Returns with New Crime (%)	Technical Parole Violations (%)	Other Admission (%) ^{xx}	Total (%) ^{xxi}
2000	6,853	32.2	29.3	6.0	31.3	1.2	100.0
2001	6,952	64.4	NA ^{xxii}	5.8	28.8	1.1	100.1
2002	7,802	36.8	24.7	6.0	31.3	1.2	100.0
2003	7,799	40.8	26.8	5.6	26.1	0.7	100.0
2004	8,165	33.8	27.7	6.0	31.3	1.2	100.0
2005	9,433	38.5	22.9	8.9	28.9	0.9	100.1
2006	10,168	37.5	22.9	10.2	28.4	1.0	100.0
2007	10,626	39.5	20.5	9.6	28.6	1.8	100.0

Source: Colorado Department of Corrections, Office of Planning and Analysis, *Admission and Release Trends Statistical Bulletin OPA 08-08*; FY 2000-2006: Division of Probation Services. (2001). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers. Colorado Judicial Branch. Denver, CO.; Division of Probation Services. (2002). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers: FY 2001 Releases. Colorado Judicial Branch. Denver, CO.; Division of Probation Services. (2003). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers: FY 2002 Releases. Colorado Judicial Branch. Denver, CO.; Division of Probation Services. (2004). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers: FY 2003 Releases. Colorado Judicial Branch. Denver, CO.; Division of Probation Services. (2005). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers: FY 2004 Releases. Colorado Judicial Branch. Denver, CO.; Division of Probation Services. (2006). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers: FY 2005 Releases. Colorado Judicial Branch. Denver, CO.; Division of Probation Services. (2007). Pre-release Termination and Post-release Recidivism Rates of Colorado's Probationers: FY 2006 Releases. Colorado Judicial Branch. Denver, CO.; FY 2007 only: Colorado Judicial Branch Annual Statistical Report, FY 2007.

ⁱ Syamanski, S. (2008). *Report of the state auditor: Discretionary parole, State Board of Parole, performance audit, November 2008*. Denver, CO: State of Colorado, Office of the State Auditor.

ⁱⁱ Ibid.

ⁱⁱⁱ Ibid.

^{iv} Personal communication with Tim Hand, June 23, 2009.

^v Ibid.

^{vi} Revocation decisions do not include all continued and 1-day revocations. The numbers reflect only those decisions entered into DCIS.

^{vii} Eleven continued hearings were identified as being amended revocations.

^{viii} Final revocations decisions may not coincide with actual offender placement information.

^{ix} Ibid.

^x Ibid.

^{xi} Ibid.

^{xii} Reinstated to community supervision reflects offenders placed on Community Supervision (HB98-1160).

^{xiii} Dismissed and courtesy review decisions were not reported prior to FY 1998.

^{xiv} Ibid.

^{xv} Discharges pursuant to Cooper/Martin decision returned to parole supervision.

^{xvi} Includes offenders reparaoled following a set period of revocation beginning in FY 2004.

^{xvii} Ibid.

^{xviii} This table, excluding the column on probation revocations is based on information from Harrison, L. (2008). *The status of parole returns to prison in Colorado*. Denver, CO: Department of Public Safety, Division of Criminal Justice, Office of Research and Statistics.

^{xix} Memorandum from Linda Harrison to Kim English (July 9, 2009). *The profile of probation revocations and its impact on incarceration*.

^{xx} Other admission types include: bond returns, dual commit, probation return (with or without new crime), court ordered discharge return (with or without new crime), YOS failure (with or without new crime), and YOS resentence.

^{xxi} Percents may not equal exactly 100% due to rounding.

^{xxii} No report from Judicial was available in 2001.