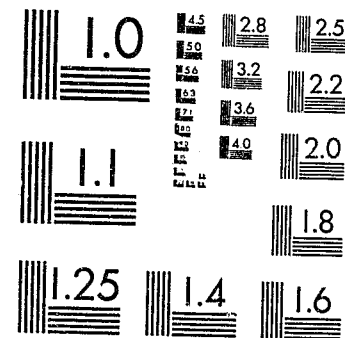


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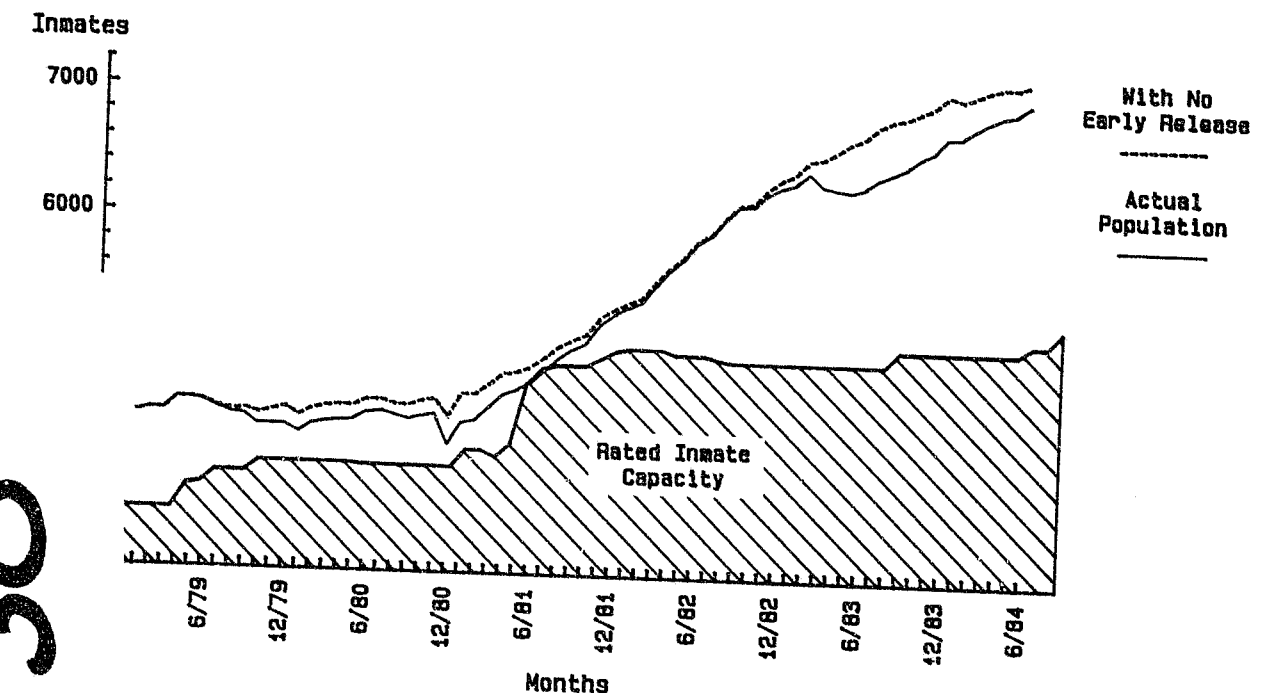
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# EARLY RELEASE: Prison Overcrowding and Public Safety Implications

February 1985

B2/32  
**OFM**  
OFFICE OF FINANCIAL MANAGEMENT  
Booth Gardner, Governor  
Orin C. Smith, Director

## ESTIMATED INMATE POPULATION WITHOUT EARLY RELEASE



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# EARLY RELEASE: Prison Overcrowding and Public Safety Implications

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Booth Gardner, Governor  
Orin C. Smith, Director

PREPARED BY THE  
POLICY ANALYSIS AND FORECASTING DIVISION

Research Conducted by  
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Olympia, Washington  
February 1985

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**EXECUTIVE SUMMARY**

## EXECUTIVE SUMMARY

In the past ten years, Washington State's prison inmate population has more than doubled. However, prison system capacity has not kept pace with this growth, and severe overcrowding has resulted. Since 1979, over 1,600 inmates have been paroled an average of six months early to help relieve the overcrowding. Despite these early release efforts, Washington State's prisons have become more overcrowded. Yet, without early release, the overcrowding problem would have been even worse. The overcrowding problem, measured as the percentage of inmate population greater than the rated inmate capacity, would have been an average of three percentage points worse, and at times as much as eight percentage points more overcrowded than if these early release efforts had not occurred.

The early release of inmates involves a trade-off between the goals of reducing prison overcrowding and limiting the risk to public safety. Overcrowded prisons may violate inmates' rights; may endanger inmates, prison staff, and the community; and may require costly new prison construction. Reducing inmate overcrowding through early release increases the risk to public safety. How much of an actual reduction in public safety depends on how many early released inmates re-offend, and how quickly they do so. Evaluating Washington's six different early release efforts against this trade-off produces mixed results.

Three of the six early release efforts (the first, second, and fourth) helped relieve overcrowding somewhat with only minimal reductions in public safety. These three efforts clearly were successful. The third early release effort resulted in the most serious reduction in public safety in exchange for a reduction in the overcrowding problem of only two additional percentage points. This was the least successful of the early release efforts, most likely because of the relatively high percentage of prior recidivists included in this early release group. The fifth early release effort resulted in the largest reduction in prison overcrowding—eight percentage points. This effort occurred recently enough so that some of the public safety questions remain unanswered. The sixth early release

group has not been at large long enough to accurately evaluate its effect on public safety.

Several Conclusions can be drawn from Washington's experience with early release:

- **ONLY TEMPORARY RELIEF:** The early release of inmates results in only a temporary reduction in prison overcrowding. The degree and duration of reduction depends on the number of inmates released, how early they are released, and how long an early release effort can be sustained.
- **CONTINUED OVERCROWDING DESPITE EARLY RELEASE:** Early release programs, of the scope and nature of Washington's, are not the answer to long-term prison overcrowding problems given the underlying trend of sharply increasing prison populations. However, the reductions in the overcrowding problem that do result from early release efforts have allowed the state to comply with court orders to reduce overcrowding, and have reduced or attenuated the inmate population growth while more prison beds were constructed.
- **RISK TO PUBLIC SAFETY CAN BE MANAGED:** It appears that low risk inmates can be identified for early release. However, the pool of eligible, low-risk inmates is reduced as more inmates are released. As the number of low-risk inmates declines, the early release effort must either slacken or policy makers must accept an increasing risk to the public.

## BACKGROUND

## BACKGROUND

### Prison Overcrowding

#### Nationally

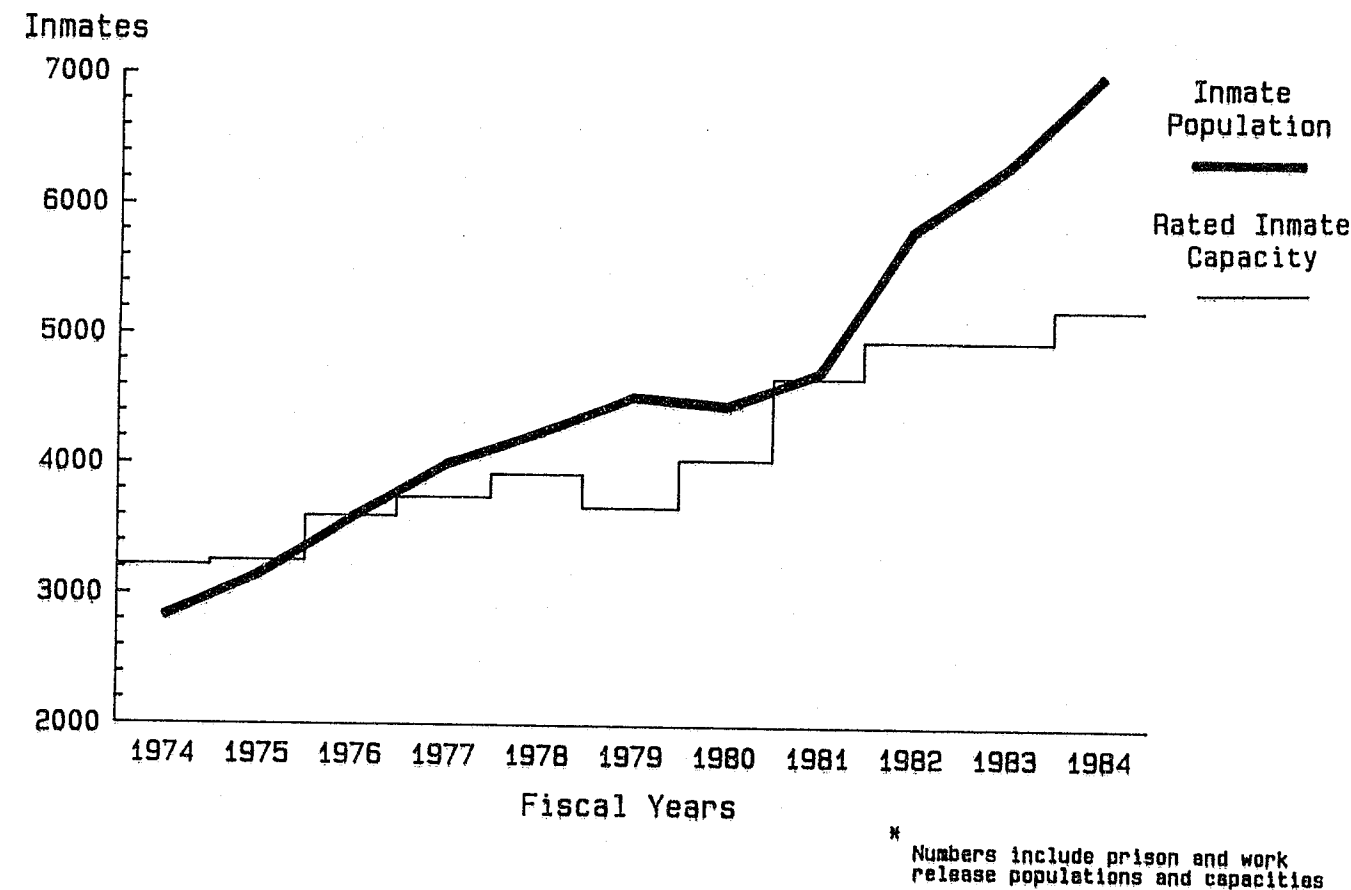
Beginning in the early 1970s, the growth in the nation's prison populations increased sharply. The number of state and federal prisoners is now more than twice what it was in 1970. This dramatic increase is due to the combined effect of more people committing crimes, with a greater percentage of them sent to prison for a longer period of time. Together, these factors have caused the sharpest, sustained growth in prison populations since record keeping began in the mid-1920s (Bureau of Justice Statistics, 1984).

Prison capacity has not kept pace with the growth of inmate population. The resulting overcrowding has increased tensions inside prisons and has strained corrections staff, programs, and facilities. Furthermore, these overcrowded conditions have been challenged in courts as violations of the Eighth Amendment's prohibition against cruel and unusual punishment. By the end of 1983, entire prison systems in nine states were under court order or had been declared unconstitutional. One or more prisons were under court order in an additional 21 states.

#### Washington State

Prison inmate population in Washington State has shown the same dramatic increase as has the rest of the nation. In the past ten years, Washington's inmate population (including prison and work release inmates) increased 147 percent. During the same time prison capacity only increased 63 percent. At the end of fiscal year 1974, Washington's inmate population was at 88 percent of rated prison capacity. By the end of fiscal year 1984 inmate population had increased to 133 percent of rated capacity. Figure 1 shows the increase in Washington's prison overcrowding problem.

*Figure 1*  
**INMATE POPULATION  
 AND RATED INMATE CAPACITY\***



- Early release began in fiscal year 1980, did not occur in fiscal year 1982, and resumed in fiscal year 1983.
- Two changes explain the growth trend in inmate population: an increase in the number of 18 to 39 year old males, who are most likely to commit felonies; and an increase in the time inmates stay in prison, due to an increase in the number of more serious offenders.

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In late 1979, the crowded conditions of the Washington State Penitentiary were successfully challenged in federal district court (Hoptowit v. Ray). In July 1980, the state was directed to develop a plan to reduce the population at the Penitentiary. The plan submitted by the state included an increase in the rate of inmates paroled. The state appealed the court order, and in 1982 the population reduction requirement was reversed by the 9th Circuit Court. In its decision, the Court indicated that it was the effect of overcrowding on constitutional protections that should be judged, not the overcrowding per se. In November 1983, the Court issued an order of remand on the case, stating that the Penitentiary shall be operated at a population level appropriate for the protection of personal safety and the provision of necessary services. This left unanswered the question of whether the population was appropriate, and, if inappropriate, it allowed the state to respond by either reducing the population of inmates, and/or by increasing the level of personal security and the provision of necessary services.

#### **The Early Release of Prison Inmates**

The early release of prison inmates is one of a variety of options states have used to reduce prison overcrowding. Other options have included shorter sentencing; the use of local jails; and greater use of pretrial diversion, probation, restitution, and other community correctional programs. Efforts to increase prison capacity, also designed to reduce overcrowding, have included new prison construction, renovation of existing facilities, the use of temporary facilities, and double-bunking.

#### Early Release in Other States

States other than Washington have implemented a variety of early release programs to help relieve prison overcrowding. Michigan, Virginia and Illinois, for example, have used an early release "trigger" that requires accelerated inmate releases when prison populations climb above a certain

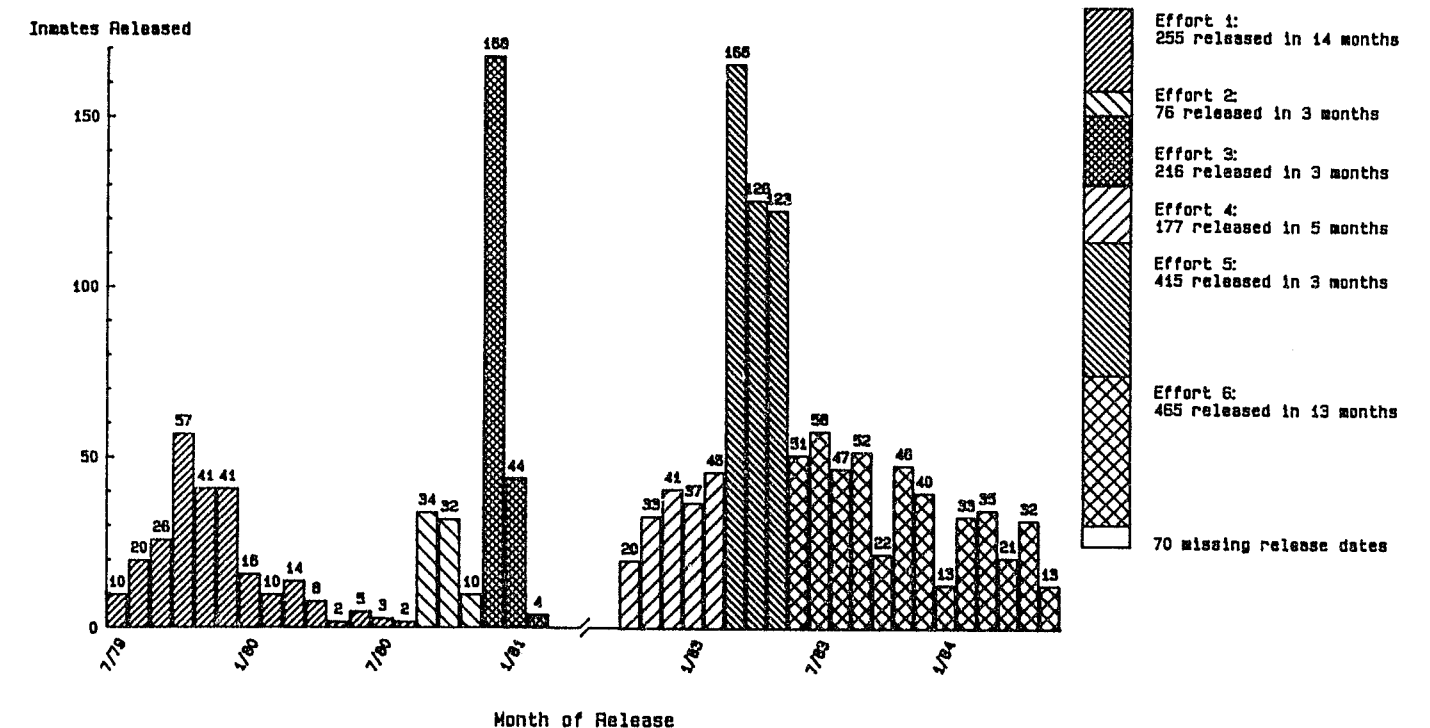
percent over prison capacity (Chi, 1984; Bureau of Justice Statistics, 1982). Texas and Florida passed laws which increased the amount of good-time that could be granted to some inmates, thus resulting in earlier releases. North Carolina accelerated the release of some inmates who were not sentenced under their presumptive (and generally shorter) sentencing structure adopted in 1981. Other states may be releasing inmates early under similar programs, or by using informal policies to cope with overcrowding.

#### Early Release in Washington State

Washington first used early release to attempt to control inmate population in 1979. Since 1979, there have been six distinguishable early release efforts, involving a total of 1,674 inmates. Figure 2 shows these early release efforts and how many inmates were paroled during each period. During the first three early release efforts, inmates were paroled early at the discretion of the state Board of Prison Terms and Paroles. The Board has general authority to set and reset minimum prison terms, and release inmates on parole.

In April 1982, legislation was approved which granted the Board specific authority to release inmates early for the purpose of reducing prison overcrowding. The law required the Governor and the Secretary of the Department of Corrections to certify that a reduction in prison population was necessary. The law also prohibited the early release of inmates convicted of treason, any class A felony, or inmates found to be sexual psychopaths. During the fourth and fifth early release efforts, inmates were released early under this specific legal authority. This law was amended in May 1983 to more strictly prohibit the early release of inmates legally defined as violent offenders. Inmates released early during the sixth period were paroled under this amended authority.

Figure 2  
SIX EARLY RELEASE EFFORTS



- The first, second, and third early release efforts occurred under the Parole Board's general authority to set and reset prison terms and parole inmates.
- The fourth and fifth early release efforts occurred under the authority of the Prison Overcrowding Reform Act of 1982, which prohibited the early release of class A felons and inmates serving mandatory minimum sentences.
- The sixth early release effort occurred under an amended Prison Overcrowding Reform Act, which further restricted early release by excluding inmates legally defined as violent offenders.

### Early Release Under Determinate Sentencing

The specific authority to release inmates early for the purpose of reducing prison overcrowding was renewed by the legislature in 1984. This latest authority to respond to overcrowding involves two separate felony sentencing systems in transition—Washington's old "indeterminate sentencing" system, and the state's new "presumptive/determinate sentencing" system. As it presently exists, early release is incompatible with the new determinate sentencing system.

Early release authority under the indeterminate sentencing system remains basically the same. The law authorizes the Parole Board to release inmates early for the purpose of reducing prison overcrowding, and prohibits the early release of inmates legally defined as violent offenders. This authority only involves inmates under the Parole Board's jurisdiction. These are inmates who are sentenced for crimes they committed prior to July 1, 1984. Since this is a declining number of inmates, early release through the Parole Board will become less effective as a measure to control prison overcrowding.

Under the determinate sentencing system there are two different approaches that may be used in responding to inmate overcrowding. The Governor may call an emergency meeting of the Sentencing Guidelines Commission to recommend to the Legislature possible revisions to the sentencing ranges established for the various crimes and criminal histories of offenders. This approach might result in a reduction in the number of prison admissions by shortening sentences so that more inmates are diverted to county jails. Revised sentencing ranges might also result in shorter sentences for newly admitted inmates, thus reducing inmate overcrowding in the long-run. However, this approach could only be regarded as an early release mechanism if revised sentencing ranges were applied retroactively to inmates. The Governor may also convene the Clemency and Pardons Board for recommendations on whether the Governor's commutation or pardoning power should be used in response to overcrowding. This approach might accelerate prison releases by pardoning individual inmates or commuting their sentences. With either approach, early release under determinate sentencing faces several major problems.

Early release is inconsistent with the intent of determinate sentencing. The new sentencing system is "designed to give punishment to offenders which is more just, equal and certain," according to the seriousness of the crime and the offenders criminal history. (Sentencing Guidelines Commission, 1984). Early release would shorten sentences not because of the seriousness of the crime or the offenders criminal history, but because of conditions within the prisons.

In order to have an early release program under determinate sentencing, the Governor would have to pardon inmates or commute their sentences, or revised sentencing ranges would have to be applied retroactively to inmates. Current law does not specifically authorize the retroactive application of revised sentencing ranges. To do so, may require new legislation and a major shift in the intent of determinate sentencing. The Governor's commutation and pardoning authority has traditionally been used only for a few extraordinary cases. A more frequent use of commutations or pardons might involve considerable political risks.

If commutations, pardons, or retroactively revised sentences were used to reduce overcrowding, they could either be applied to entire groups of inmates (e.g., all inmates within six months of release), or they could be granted to inmates based on some assessment of their public safety risk. Reducing the sentences of inmates without regard to their public safety risk might endanger the public, and might raise questions regarding the State's liability for released inmates. Reducing the sentences of inmates deemed relatively safe would require an organization, staffing, and information for assessing public safety risk that are not provided for under the current law.

The problems associated with early release under determinate sentencing reduce the likelihood that an early release program will continue beyond the end of indeterminate sentencing. Without early release, the only remaining response to a sudden increase in inmate overcrowding would be to shorten some determinate sentencing ranges so that more felons are held in county jails rather than in state prisons. This approach might cause

or aggravate jail overcrowding. Jail overcrowding may in turn require the Sentencing Guidelines Commission to reconsider the sentencing ranges for jailed inmates. This approach would also increase the number of more serious offenders in county jails, which might have an adverse effect on less serious offenders. These problems and other implications of holding more felons in county jails have yet to be fully discussed.

Washington State's inmate population is forecasted to stabilize as a result of the new determinate sentencing system. However, during such a major transition in the way convicted felons are sentenced, that forecast involves substantial risks. At this time, there is no early release mechanism authorized under the new determinate sentencing system, and the option of holding more felons in county jails would involve several major problems.

#### EVALUATING EARLY RELEASE

## EVALUATING EARLY RELEASE

Four sets of questions must be answered in evaluating the early release of prison inmates.

- The early release efforts must be described: How many inmates were released early? What kind of inmates were they? How early were they released?
- The utility of early release efforts must be determined: Did the early release of inmates relieve prison overcrowding, and, if so, by how much? Under what conditions is an early release program an effective way to manage prison population?
- The public safety implications of early release efforts must be assessed: What percentage of early released inmates were re-admitted to prison, and for what kinds of offenses? How soon were recidivating early released inmates readmitted to prison.
- Conclusions and implications must be discussed: What are the benefits and costs of early release? Did the benefits outweigh the costs?

### Six Early Release Efforts

Since 1979, there have been six separate early release efforts in Washington, paroling a total of 1,674 inmates an average of six months earlier than their expected release dates. In each effort, the number of inmates released varied. The differences among the six early release efforts can be attributed to changes in the legal authority to release inmates early, changes in the severity of the overcrowding problem, and changes in the state's commitment to early release as a solution to overcrowding.

The legal authority upon which early release was based changed from the Parole Board's general authority to set prison terms and parole inmates, to specific authority to release inmates early for the purpose of reducing overcrowding. This specific early release authority, and the subsequent changes to it, prohibited the early release of certain types of inmates. These increasing restrictions resulted in the release of fewer violent offenders and more property offenders. This not only reduced the total number of inmates eligible for early release, but also presented difficult public safety questions. Property offenders are more likely to recidivate than inmates committed for homicide, assault, or sex crimes. Yet, the recidivating crimes of property offenders are less likely to be violent than are the recidivating crimes of violent offenders. Higher recidivism rates can be expected as a result of the greater legal restrictions placed on early release, but with less serious consequences.

The severity of the overcrowding problem also influenced the different early release efforts. During the first three early release efforts, Washington's overcrowding problem was either in court or under court order. The large increase in the number of inmates paroled early during the third early release effort was in response to the lack of progress in reducing overcrowding during the more moderate second early release effort. Early release was suspended after the third effort, following Washington State's successful appeal of the population reduction portion of the court order. Early release efforts resumed when prison overcrowding again reached critical levels.

The commitment to early release as a solution to the inmate overcrowding problem has also changed. Initially, under the Ray administration, there was a strong commitment to administrative controls, such as early release, as the best ways to reduce overcrowding without the expense of prison construction. These measures provided short-term relief of overcrowding. Under the Spellman administration the state was no longer under court order to reduce the population at the Washington State Penitentiary. The continued growth in inmate overcrowding was met initially with increased prison capacity and eventually with early release. Also during the Spellman administration the Sentencing Reform Act was initiated which established, on average, shorter determinate sentences.

The basic procedures remained the same in each early release effort. The Department of Corrections selected inmates to be considered by the Parole Board for early release. The Parole Board then decided whether or not, and how early an inmate was released. However, the selection criteria, the number of months that prison terms were cut, and the specific actions taken by the Parole Board varied. Most of the procedural changes reflected an increasing concern for public safety, and included: tighter screening by the institutions, greater care in developing parole plans, increased use of work release instead of immediate parole, and more intensive monitoring and supervision of early released inmates. As with the changes in the legal authority to release inmates early, the procedural changes restricted the percentage of the prison population that was eligible for early release, and slowed the process. The intended trade-off of these restrictions was to reduce the risk to the public safety.

The characteristics of the six early release groups, along with a comparison group, are shown in Table 1. The comparison group includes the 1,867 inmates released between July 1, 1978, and July 1, 1979. This period is the 12 months immediately preceding the first early release effort. The months in which the early release groups were paroled are illustrated in Figure 2 above.

#### Early Release Group 1

In the first early release effort, 272 inmates were paroled an average of 7.7 months earlier than their expected release date. They were released between July 1979 and August 1980. Twenty-eight percent of these inmates were violent offenders (i.e., homicide, assault, sex crimes, robbery). Thirty-three percent had been convicted to prison at least once before. This group was very similar to the comparison group, except that the early release group was slightly older, included fewer homicide offenders, and had a higher percentage of property-theft offenders with prior admissions to prison. This early release effort occurred under the Parole Board's general authority to set and re-set minimum prison terms, and release inmates on parole.

Table 1

## CHARACTERISTICS OF SIX EARLY RELEASE GROUPS

## AND A COMPARISON GROUP \*

	***** 1	EARLY RELEASE PERIODS					***** 6	TOTAL	COMPARISON GROUP
NUMBER RELEASED	272	74	220	229	415	464	1674	1867	
PERCENT OF TOTAL	16%	4%	13%	14%	25%	28%	100%		
MEAN AGE	<u>30.2</u>	29.9	29.5	<u>30.2</u>	27.9	28.2	<u>29.0</u>	28.4	
PERCENT NON-WHITE	30.8%	20.8%	28.9%	24.3%	<u>19.5%</u>	27.0%	25.3%	28.2%	
OFFENSE TYPE									
HOMICIDE	1.1%	<u>9.6%</u>	4.6%	2.3%	<u>1.0%</u>	<u>0.0%</u>	1.9%	2.9%	
ASSAULT	7.6%	<u>6.8%</u>	9.2%	4.6%	<u>6.0%</u>	<u>2.7%</u>	5.8%	7.5%	
SEX OFFENSE	6.1%	<u>6.8%</u>	5.0%	1.2%	<u>1.2%</u>	<u>0.5%</u>	2.7%	5.1%	
PERSON-THEFT	13.7%	<u>20.5%</u>	12.8%	<u>2.3%</u>	<u>3.0%</u>	<u>0.0%</u>	<u>6.3%</u>	11.1%	
PROPERTY-THEFT	38.8%	<u>27.4%</u>	<u>26.6%</u>	<u>52.6%</u>	<u>58.4%</u>	<u>64.7%</u>	<u>49.7%</u>	37.8%	
FRAUD	6.1%	4.1%	<u>6.0%</u>	6.4%	5.0%	<u>8.4%</u>	6.3%	6.1%	
DRUG OFFENSE	11.0%	8.2%	<u>5.0%</u>	13.3%	11.7%	11.3%	10.5%	12.1%	
GENERAL WELFARE**	15.6%	16.4%	<u>30.7%</u>	17.3%	13.7%	<u>12.4%</u>	16.7%	17.4%	
MEAN MONTHS RELEASED EARLIER THAN EXPECTED									
TOTAL	<u>7.67</u>	<u>11.45</u>	<u>5.71</u>	<u>2.91</u>	<u>5.66</u>	<u>6.18</u>	<u>6.11</u>	4.62	
HOMICIDE	<u>7.00</u>	<u>29.86</u>	<u>29.20</u>	<u>3.75</u>	<u>6.75</u>	NR	<u>20.14</u>	23.50	
ASSAULT	<u>5.55</u>	13.80	12.30	<u>7.50</u>	<u>6.08</u>	7.80	8.16	10.88	
SEX OFFENSE	12.31	8.40	<u>6.36</u>	15.00	12.00	10.50	10.24	13.09	
PERSON-THEFT	13.72	11.47	<u>11.07</u>	2.25	6.42	NR	11.18	10.27	
PROPERTY-THEFT	<u>6.99</u>	2.50	3.21	3.45	<u>6.08</u>	<u>6.27</u>	<u>5.62</u>	1.85	
FRAUD	<u>7.13</u>	<u>21.67</u>	2.62	-2.00	<u>6.55</u>	<u>6.84</u>	<u>5.68</u>	0.95	
DRUG OFFENSE	<u>5.48</u>	<u>18.33</u>	2.09	3.04	<u>6.70</u>	<u>6.90</u>	<u>6.12</u>	1.98	
GENERAL WELFARE**	<u>5.05</u>	<u>9.92</u>	1.24	0.93	1.64	4.07	2.84	1.84	

Table 1 Continued

## CHARACTERISTICS OF SIX EARLY RELEASE GROUPS

## AND A COMPARISON GROUP \*

	***** 1	EARLY RELEASE PERIODS					***** 6	TOTAL	COMPARISON GROUP
PERCENT WITH ONE OR MORE PRIOR ADMISSIONS									
TOTAL	32.7%	35.6%	<u>46.8%</u>	<u>38.7%</u>	30.9%	29.9%	<u>34.6%</u>	30.0%	
HOMICIDE	0.0%	<u>14.3%</u>	<u>0.0%</u>	<u>0.0%</u>	0.0%	NR	<u>3.6%</u>	0.0%	
ASSAULT	20.0%	<u>40.0%</u>	25.0%	37.5%	33.3%	30.0%	<u>28.7%</u>	16.2%	
SEX OFFENSE	12.5%	20.0%	18.2%	0.0%	0.0%	<u>100.0%</u>	<u>17.1%</u>	12.9%	
PERSON-THEFT	8.3%	26.7%	25.0%	0.0%	33.3%	NR	18.9%	19.9%	
PROPERTY-THEFT	27.5%	25.0%	<u>29.3%</u>	<u>29.7%</u>	20.5%	22.1%	<u>23.9%</u>	18.0%	
FRAUD	<u>31.3%</u>	66.7%	<u>30.8%</u>	<u>36.4%</u>	<u>60.0%</u>	32.3%	<u>39.4%</u>	26.1%	
DRUG OFFENSE	31.0%	0.0%	27.3%	34.8%	<u>27.7%</u>	28.6%	<u>28.5%</u>	21.0%	
GENERAL WELFARE**	85.4%	91.7%	<u>95.5%</u>	83.3%	<u>70.9%</u>	<u>67.4%</u>	81.7%	86.0%	

\* The Comparison Group includes all inmates released from 7-78 to 7-79, which was prior to any early release program.

Underlined Figures indicate significant differences with the comparison group at the  $p \leq .05$  level.

\*\* General welfare offenses are primarily parole violations, with a few miscellaneous felonies.

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In the month prior to the beginning of this first early release effort, inmate population stood at 123 percent of rated capacity. By October 1979 a law suit was filed contesting the overcrowded conditions at the State Penitentiary. In August 1980, prison overcrowding had been reduced to 110 percent of capacity, partially due to early release and partially due to an increase in capacity.

#### Early Release Group 2

During the three months of the second early release effort, 74 inmates were paroled an average of 11.5 months before their expected release date. Forty-four percent of these inmates were violent offenders, which was substantially higher than both the first early release group and the comparison group. Thirty-six percent had at least one prior prison conviction. As with the first early release effort, inmates in this second group were paroled early under the general authority of the Parole Board.

Two months prior to the beginning of the second early release effort the state of Washington was directed, by court order, to develop a plan to reduce the population at the State Penitentiary. The increase in the number of early releases per month during this second effort was a response to that court order. However, after three months, the level of overcrowding remained the same, at 110 percent of capacity. The increased number of releases due to early release were offset by an increase in prison admissions.

#### Early Release Group 3

During the three months of the third early release effort 220 inmates were paroled an average of 5.7 months earlier than their expected release date. In December 1980, the first month of this effort, 168 inmates were released early, more than in any other single month. Thirty-two percent of these inmates were violent offenders, which was slightly higher than the comparison group. This third early release group included nearly twice the

percentage of general welfare offenders (mostly parole violations and a few miscellaneous felonies) than did the comparison group or any of the other early release groups. The large number of parole violators is the most likely reason for the third group's high recidivism rates. This group also contained the smallest percentage of property-theft offenders as did the comparison group or any of the early release groups. Forty-seven percent of the inmates in this group had at least one prior conviction to prison. Inmates in this group were paroled early under the general authority of the Parole Board.

In the month prior to the beginning of this third early release effort, inmate population was at 110 percent of capacity. After three months, due to early release and because over 300 prisoners were allowed to back-up in county jails, overcrowding had dropped to 106 percent of capacity. During the 20 months between the end of this third early release effort and the beginning of the fourth effort, the state successfully appealed the court order requiring a reduction of the Penitentiary population. Also during this period of no substantial early release effort, 731 prison beds were added, which included obtaining the use of McNeil Island Prison from the Federal Government. This was a 17 percent boost in capacity. Because of this increase in capacity, inmate population matched inmate capacity on July 1981, the first time since 1976. However, inmate population was rising steeply, and that July was the last time population matched capacity.

#### Early Release Group 4

In the fourth early release effort, 229 inmates were paroled an average of 2.9 months earlier than their expected release date. Inmates in this early release group were paroled from October 1982 to February 1983. Only 10 percent of these inmates were violent offenders, reflecting the more restrictive early release authority. Fifty-three percent were property-theft offenders, a substantially higher percentage than the comparison group and the first three early release groups. Thirty-nine percent of these inmates had at least one prior prison conviction.

The fourth early release group was paroled under authority of the Prison Overcrowding Reform Act of 1982, passed by the legislature in response to an increasing overcrowding problem. This law granted specific authority to the Parole Board to release inmates early for the purpose of reducing prison population, provided that the Governor and the Secretary of the Department of Corrections certified that a reduction was necessary. The law prohibited the early release of inmates serving mandatory minimum prison terms and those convicted of treason, any Class A felony, or those who have been found to be sexual psychopaths as defined by law. In the month prior to the beginning of the fourth early release effort, inmate overcrowding was at 125 percent of capacity. After five months, overcrowding had reached 131 percent of capacity.

#### Early Release Group 5

During March, April, and May of 1983, the fifth early release effort paroled 416 inmates an average of 5.7 months earlier than their expected release date. Only 11 percent were violent offenders, and 31 percent had at least one prior conviction to prison. This was the most intense early release effort, and resulted in the most substantial decline in inmate population. However, with the underlying trend of steeply increasing inmate population, there was only a three percentage point decline in the overcrowding problem. At the end of the three month effort, inmate population stood at 128 percent of capacity.

#### Early Release Group 6

From June 1983 to July 1984, a declining number of inmates were released early each month. During the 13 months of the sixth early release effort, 465 inmates were paroled an average of 6.2 months earlier than their expected release date. Only 3 percent of the inmates in the sixth group were violent offenders. Sixty-five percent were property-theft offenders. In this group, only 30 percent of the inmates had at least one prior conviction to prison, the smallest percentage of any of the early release groups or the comparison group.

At the beginning of the sixth early release effort, the Prison Overcrowding Reform Act was amended to further prohibit the early release of inmates convicted for certain offenses. This early release effort began with overcrowding at 128 percent of capacity, and by July 1984 the problem had increased to 134 percent of capacity.

#### **Early Release and the Relief of Inmate Overcrowding**

Washington State's prisons have become more overcrowded despite the early release of prison inmates. When the first early release effort began in July 1979 inmate population stood at 123 percent of rated capacity. By June 1984, after the early release of 1,674 inmates, inmate population had reached 134 percent of capacity. However, without the early release efforts, the overcrowding problem would have been an average of three percentage points worse, and at times up to eight percentage points more overcrowded. (See Table 2.) Yet, the reductions in the prison overcrowding problem, attributed to early release, are not permanent.

The effect of early release on inmate population can be simulated by adding inmates back into the population in the months in which they were paroled early, and then including them in the population until their expected release date. Whenever early release results in the number of releases exceeding the number of prison admissions then inmate population will decline. Otherwise early release will only attenuate inmate population growth. Figure 3 compares Washington's prison inmate population with the estimated population if there had been no early release efforts. The inmate population reduction due to early release is determined by three factors: the number of inmates released early each month, the number of months early they are released, and the number of months an early release program can be sustained.

The number of inmates released early each month controls how dramatic the inmate population is initially reduced. The most significant initial reductions in population occurred in December 1980 and March 1983. These two months were the beginnings of the third and fifth early release efforts, which paroled the largest number of inmates per month.

Table 2

## ESTIMATED REDUCTIONS IN INMATE OVERCROWDING

## DUE TO EARLY RELEASE

MONTH	INMATE POPULATION		RATED INMATE CAPACITY	POPULATION OVER RATED CAPACITY		REDUCTION IN OVERCROWDING	EARLY RELEASE EFFORT
	ACTUAL	ESTIMATED		ACTUAL	ESTIMATED		
1980 J	4462	4472	3849	116%	116%	0%	FIRST
A	4423	4451	3869	114%	115%	1%	
S	4414	4463	3967	111%	113%	1%	
O	4338	4427	3967	109%	112%	2%	
N	4341	4460	3967	109%	112%	3%	
D	4343	4486	4057	107%	111%	4%	
J	4286	4417	4057	106%	109%	3%	
F	4357	4477	4057	107%	110%	3%	
M	4380	4504	4057	108%	111%	3%	
A	4393	4515	4057	108%	111%	3%	
M	4398	4506	4057	108%	111%	3%	
J	4457	4561	4057	110%	112%	3%	
J	4471	4562	4041	111%	113%	2%	
A	4436	4522	4041	110%	112%	2%	
S	4409	4516	4041	109%	112%	3%	SECOND
O	4440	4560	4041	110%	113%	3%	
N	4458	4579	4041	110%	113%	3%	
D	4214	4432	4041	104%	110%	5%	
1981 J	4393	4623	4034	109%	115%	6%	THIRD
F	4417	4623	4178	106%	111%	5%	
M	4515	4698	4178	108%	112%	4%	
A	4622	4785	4122	112%	116%	4%	NONE
M	4662	4802	4231	110%	113%	3%	
J	4721	4847	4705	100%	103%	3%	
J	4818	4920	4824	100%	102%	2%	
A	4916	5007	4859	101%	103%	2%	
S	4989	5063	4859	103%	104%	2%	
O	5040	5106	4859	104%	105%	1%	
N	5188	5241	4919	105%	107%	1%	
D	5267	5309	4979	106%	107%	1%	
1982 J	5327	5363	5005	106%	107%	1%	
F	5373	5406	5005	107%	108%	1%	
M	5504	5532	5005	110%	111%	1%	
A	5625	5647	4963	113%	114%	0%	
M	5713	5730	4963	115%	115%	0%	
J	5845	5861	4993	117%	117%	0%	
J	5910	5921	4929	120%	120%	0%	
A	6036	6045	4909	123%	123%	0%	
S	6142	6149	4909	125%	125%	0%	

Table 2 Continued

## ESTIMATED REDUCTIONS IN INMATE OVERCROWDING

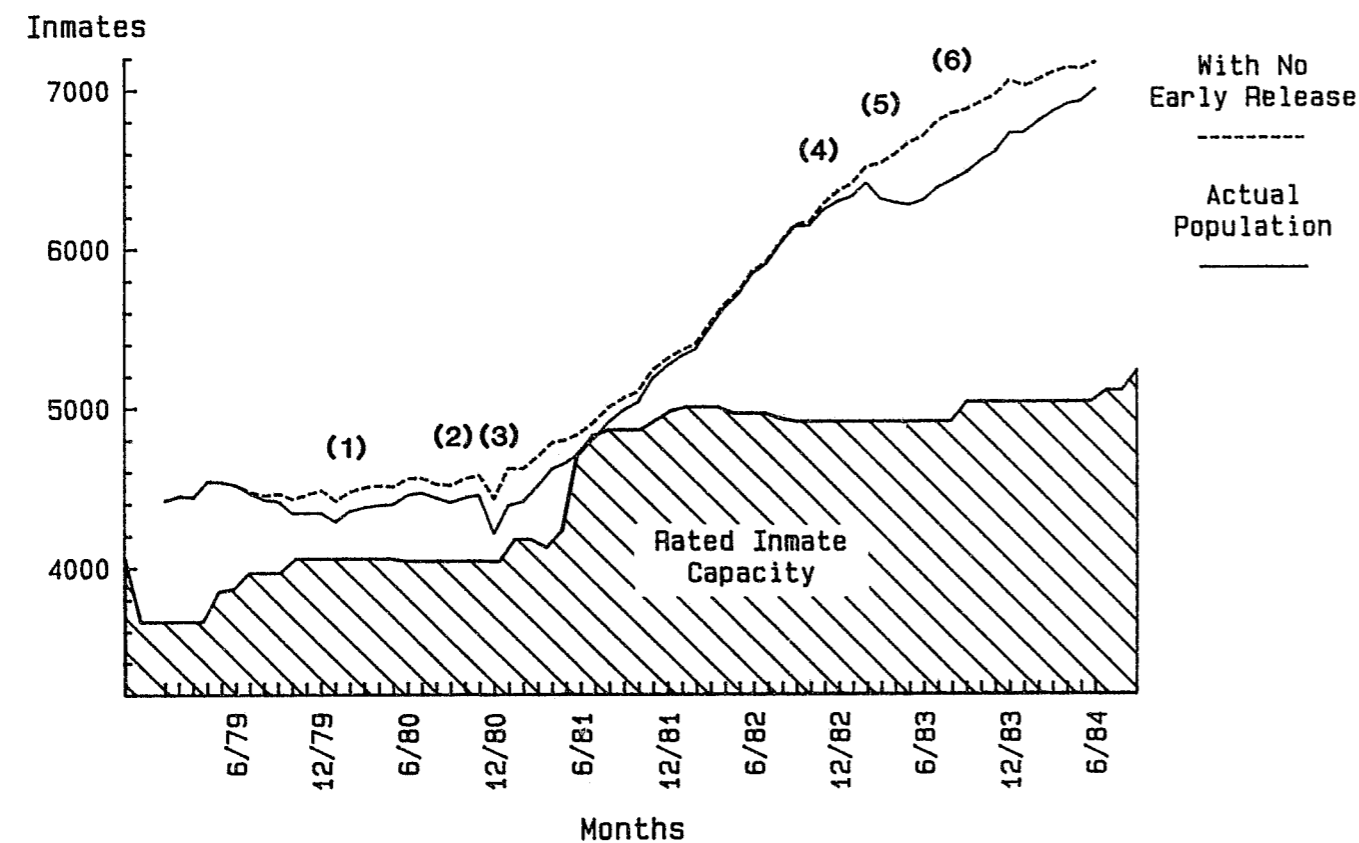
## DUE TO EARLY RELEASE

MONTH	INMATE POPULATION		RATED INMATE CAPACITY	POPULATION OVER RATED CAPACITY		REDUCTION IN OVERCROWDING	EARLY RELEASE EFFORT
	ACTUAL	ESTIMATED		ACTUAL	ESTIMATED		
O	6146	6168	4909	125%	126%	0%	FOURTH
N	6242	6280	4909	127%	128%	1%	
D	6296	6357	4909	128%	129%	1%	
1983 J	6330	6409	4909	129%	131%	2%	
F	6413	6514	4909	131%	133%	2%	
M	6309	6534	4909	129%	133%	5%	FIFTH
A	6285	6591	4909	128%	134%	6%	
M	6272	6665	4909	128%	136%	8%	
J	6308	6707	4909	128%	137%	8%	SIXTH
J	6384	6800	5033	127%	135%	8%	
A	6430	6848	5033	128%	136%	8%	
S	6479	6873	5033	129%	137%	8%	
O	6554	6918	5033	130%	137%	7%	
N	6609	6967	5033	131%	138%	7%	
D	6725	7058	5033	134%	140%	7%	
1984 J	6730	7019	5033	134%	139%	6%	
F	6797	7062	5033	135%	140%	5%	
M	6858	7106	5033	136%	141%	5%	
A	6907	7137	5104	135%	140%	5%	
M	6926	7128	5104	136%	140%	4%	
J	6999	7166	5229	134%	137%	3%	

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Figure 3

### ESTIMATED INMATE POPULATION WITHOUT EARLY RELEASE



- Inmate population without early release was simulated by adding early release inmates back into the population and "releasing" them on their "good-time" release date. In the simulation, the return to prison of recidivating early release inmates was delayed by the difference between the early release date and "good-time" release date.
- Numbers in parentheses indicate when the six early release efforts occurred. Early release was suspended after February 1981, and was resumed in October 1982.

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The number of months early the inmates are released controls the duration of the population reduction. The earlier the inmates are released, the longer the population reduction lasts. For example, at the end of the third early release effort, the overcrowding problem was five percentage points lower than if there had been no early release. Inmates in this group were paroled an average of 5.7 months early, and, after six months following the end of the third early release effort, the five percentage point improvement had faded to only two points. After one year, the population reduction from the first three early release efforts had faded completely. If the average sentence reduction had been one year, then the reduction in the overcrowding problem would have lasted twice as long. In all cases, the population reduction resulting from early release is completely gone following a length of time equal to the maximum sentence reduction.

The number of months an early release program can be sustained also determines how long the inmate population reduction will last. For example, the population reduction reached by the end of the third early release effort, five percentage points, had almost been negated after one year of no early releases. In contrast, half of the eight percentage point population reduction reached by the fifth early release effort remained after one year. In both efforts the average sentence reduction was the same. The difference in the duration of the population reduction was due to the suspension of the early release program following the third early release effort; whereas early release continued after the fifth early release effort.

#### Public Safety Risks from Early Release: Mixed Findings

The public safety risks associated with early release can be viewed from three different perspectives. First, the early release of inmates would decrease public safety if a higher percentage of parolees recidivated than under normal release conditions. This perspective is a relative assessment, and is measured by comparing the traditional recidivism rates of early release inmates with comparison groups. Recidivism rates are the

percentage of inmates returned to prison after periods of time in which the parolee is at risk of committing a new offense. Second, public safety would suffer if early released inmates victimized the community earlier than if they had not been paroled early. This perspective is similar to the first, but it shifts the emphasis from time periods in which the parolee is at risk of re-offending to time periods in which the community is at risk of becoming a victim. This second perspective, more sensitive than the first, captures the increased risk to the community due to the earlier release of inmates. Third, early release would reduce public safety to the extent that inmates committed offenses during their early release period—the time they would normally have remained in prison without early release. This perspective is measured absolutely. If an early release inmate commits an offense during his early release period, then that is a reduction in public safety. This is the most sensitive measure of the effect of early release on public safety. The type of offense committed by recidivating inmates is also relevant to the assessment of public safety risks associated with early release. Particularly violent recidivating crimes are not only more costly to public safety, but are more visible to the public. One violent, highly visible crime committed by a parolee during his early release period can quickly sway public opinion firmly against the idea of early release..

#### Inmate Recidivism Rates

The early release of inmates would decrease public safety if a higher percentage of parolees recidivated than under normal release conditions. This perspective assumes that early release should not increase the proclivity of parolees to re-offend. The effect of early release on public safety under this perspective is assessed by comparing the recidivism rates of early release inmates—measured at one, two, and three years following release—with historical and comparison group recidivism rates.

Overall, a similar percentage of early released inmates have been returned to prison as have inmates in the comparison group. (see Table 3). These recidivism rates for the total early release group—measured at one, two,

Table 3

#### RECIDIVISM RATES FOR FIVE EARLY RELEASE GROUPS AND A COMPARISON GROUP \*

OFFENSE TYPE	YEARS AT RISK	***** 1	***** 2	***** 3	***** 4	***** 5	***** TOTAL	COMPARISON GROUP
TOTAL	1	7.2%	2.7%	14.7%	13.3%	15.2%	12.3%	12.1%
	2	14.5%	15.3%	28.6%			20.1%	22.2%
	3	19.8%	20.3%	36.7%			26.6%	29.0%
HOMICIDE	1	0.0%	0.0%	10.0%	25.0%	0.0%	7.1%	3.8%
	2	0.0%	0.0%	10.0%			5.0%	5.8%
	3	0.0%	14.3%	10.0%			10.0%	9.6%
ASSAULT	1	0.0%	0.0%	20.0%	0.0%	4.2%	12.7%	11.0%
	2	5.0%	0.0%	20.0%			17.8%	18.4%
	3	5.0%	20.0%	30.0%			17.8%	26.5%
SEX OFFENSE	1	0.0%	0.0%	0.0%	0.0%	20.0%	0.0%	7.5%
	2	6.3%	20.0%	9.1%			9.4%	19.4%
	3	12.5%	25.0%	36.4%			22.6%	23.7%
PERSON-THEFT	1	8.3%	0.0%	17.9%	0.0%	0.0%	8.4%	10.0%
	2	19.4%	6.7%	21.4%			17.7%	20.4%
	3	25.7%	6.7%	39.3%			26.9%	27.4%
PROPERTY-THEFT	1	7.8%	5.0%	10.3%	12.1%	17.1%	13.3%	14.6%
	2	15.8%	35.0%	32.8%			23.5%	25.8%
	3	22.4%	36.8%	40.4%			29.9%	32.8%
FRAUD	1	6.3%	33.3%	8.3%	27.3%	15.0%	14.9%	16.2%
	2	18.8%	33.3%	25.0%			22.6%	24.3%
	3	25.0%	33.3%	25.0%			25.8%	31.5%
DRUG OFFENSE	1	0.0%	0.0%	18.2%	0.0%	14.9%	11.6%	6.4%
	2	6.9%	0.0%	36.4%			13.0%	11.9%
	3	13.8%	16.7%	36.4%			19.6%	18.7%
GENERAL WELFARE	1	17.1%	0.0%	19.4%	26.7%	18.2%	18.0%	13.4%
	2	19.5%	9.1%	35.8%			31.9%	27.4%
	3	22.0%	10.0%	40.9%			31.6%	33.8%

\* Comparison Group includes all inmates released from 7-78 to 7-79, which was prior to any early release program.

Underlined Figures indicate significant differences with the comparison group at the  $p \leq .05$  level.

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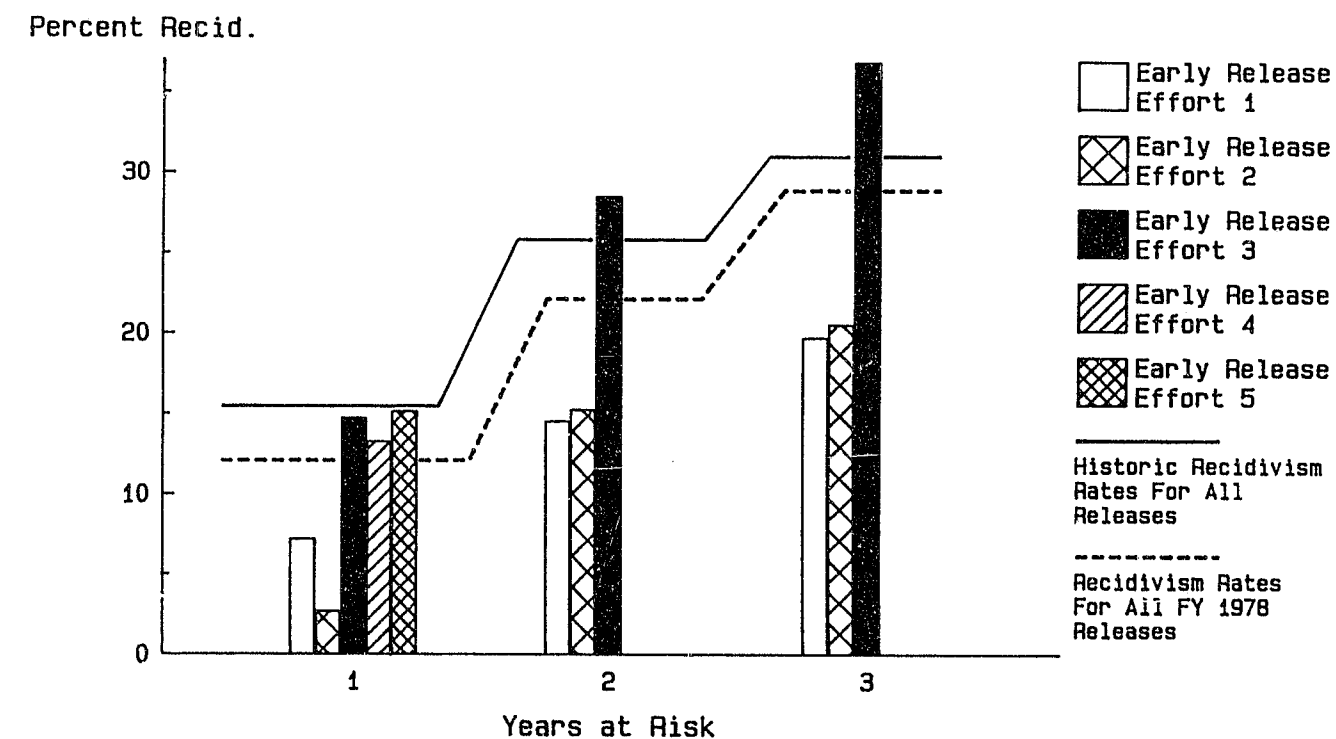
and three years following release—are comparable with historical recidivism rates. However, the relatively low recidivism rates of the first two early release groups are responsible for this favorable comparison (see Figure 4). The third early release group has higher recidivism rates, and the fourth and fifth early release groups have similar recidivism rates, when matched against the comparison group and historical recidivism rates. (The sixth early release group has not been at risk of recidivating long enough to measure accurately.) Under this perspective, a reduction in public safety would have occurred only with the third early release effort.

#### Earlier Community Victimization

The recidivism rates of the early release groups, matched against the comparison group and historical rates, do not fully assess the public safety risk due to early release. An inmate released early faces an earlier risk of committing a new offense, and the traditional recidivism rate does not reveal that additional risk. Early release does not modify the time in which the inmate is at risk, but does increase the time in which the community is at risk. Under this perspective, public safety would suffer if early released inmates committed new offenses earlier than if they had not been paroled early. This perspective assumes that early released inmates will face earlier risks of committing new offenses, and that inmates who are less likely to recidivate can be identified for early release so that, in balance, the community will not be victimized sooner than it would have been under normal release conditions.

Under this perspective, the risk to the public due to early release can be estimated by comparing the percentage of inmates returned to prison at one, two, and three years following their expected release date, with the recidivism rates of the comparison group. For example, if 100 inmates were all released one year prior to their expected release date, then the percentage returned to prison after two years following their actual release would be matched against the one-year recidivism rate of the comparison group. Figure 5 compares this measure of the effect of early release on public safety with the other measures.

*Figure 4*  
**RECIDIVISM RATES  
FOR EARLY RELEASE INMATES**

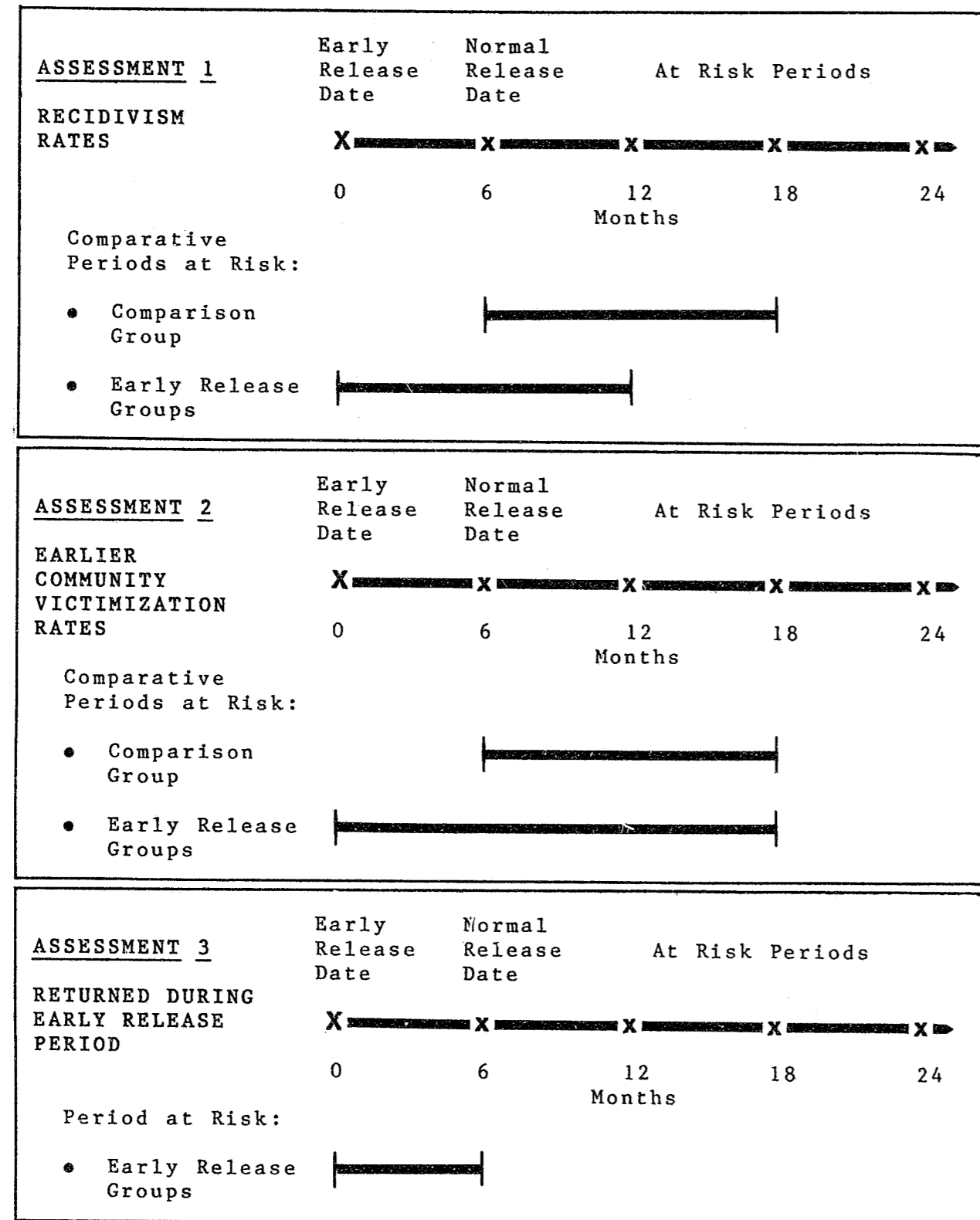


- The sixth early release group has not been at risk of recidivating long enough to accurately assess their performance. The fourth and fifth early release groups have not been out on parole long enough to measure their recidivism rates for the second and third years at risk.
- Historical recidivism rates are for all inmates released from 1960 to 1981, as published by the Department of Corrections.

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Figure 5

COMPARATIVE PERIODS AT RISK OF THREE DIFFERENT MEASURES  
TO ASSESS THE REDUCTION IN PUBLIC SAFETY  
DUE TO EARLY RELEASE



The "Earlier Community Victimization" measure is a more sensitive or critical assessment of the public safety implications of early release than is the inmate recidivism measure. If the "Earlier Community Victimization" rates for the early release groups are similar to the historical or comparison group recidivism rates, then no reduction in public safety would have occurred. Table 4 and Figure 6 reveal that, under this perspective, no reduction in public safety occurred due to the first, second, or fourth early release efforts. This measure shows that the public safety risks presented by the first and second early release groups were similar to the comparison group, despite a "safer" indication shown by the inmate recidivism measure. Under this perspective, public safety was reduced substantially as a result of the third early release effort. (The fifth and sixth early release groups have not been at risk long enough to accurately measure under this perspective.) According to the "Earlier Community Victimization" measure, only the third early release effort resulted in a reduction in public safety.

Offenses During the Early Release Period

The early release of inmates would reduce public safety to the extent that inmates commit offenses and are returned to prison during their early release period—the time they would normally have remained in prison without early release. This perspective assumes that any offense committed during the early release period would not have occurred, or would have occurred later if the offender had not been paroled early. This measure is even more sensitive or critical than is the "Earlier Community Victimization" measure. It is this measure which best indicates the public safety considerations that receive the greatest attention from the news media and the general public.

As of July 1984, 63, or 3.8 percent, of the early released inmates had been returned to prison during the time they would normally have remained in prison if they had not been paroled early. The first, second, and fourth early release efforts resulted in a small percentage of inmates returning to prison during their early release period (see Table 5). The third and fifth early release efforts resulted in larger percentages of inmates returning

Table 4

EARLIER COMMUNITY VICTIMIZATION RATES  
FOR FOUR EARLY RELEASE GROUPS  
AND RECIDIVISM RATES FOR A COMPARISON GROUP \*

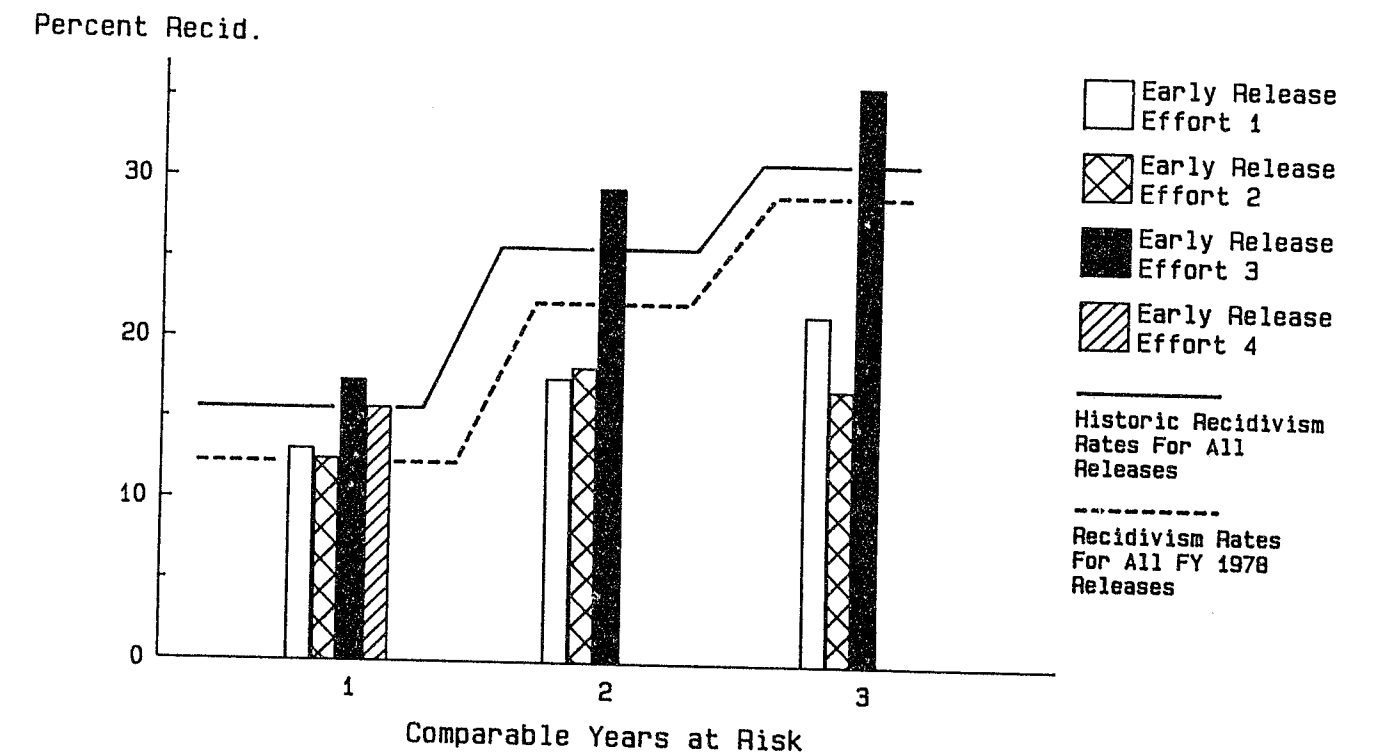
YEAR	****	EARLY RELEASE EFFORTS				*****	COMPARISON
AT RISK	1	2	3	4	TOTAL	GROUP	
-----							
1	13.1%	12.5%	17.4%	15.7%	13.5%	12.1%	
2	17.6%	18.3%	29.5%		20.9%	22.2%	
3	21.7%	17.1%	36.0%		25.4%	29.0%	

\* Comparison Group includes all inmates released from 7-78 to 7-79, which was prior to any early release program.

Underlined Figures indicate significant differences with the comparison group at the  $p \leq .05$  level.

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Figure 6  
EARLIER COMMUNITY VICTIMIZATION RATES  
FOR EARLY RELEASE INMATES



- The earlier community victimization rate measures the added risk to the community due to the early release of inmates. For example, if a group of inmates was released six months early, the community victimization rate would compare the percentage of these inmates returned to prison after 18 months with the percentage of normally released inmates returned to prison after 12 months. A higher percentage for the early release group would indicate a decrease in public safety due to early release.
- Early release groups that have not been on parole long enough to accurately assess with this measurement include: the fifth and sixth group for all three years at risk, the fourth group for the second and third years at risk, and the second group for the third year at risk.

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Table 5

**EARLY RELEASED INMATES RETURNED TO PRISON  
DURING THEIR EARLY RELEASE PERIOD \***

EARLY RELEASE GROUP	INMATES RETURNED BEFORE EXPECTED RELEASE DATE		AVERAGE MONTHS RELEASED EARLY
	NUMBER	PERCENT	
1	7	2.57%	7.67
2	3	4.05%	11.45
3	14	6.36%	5.71
4	3	1.31%	2.91
5	36	8.67%	5.66
TOTAL	63	3.76%	6.11

\* The early release period is the time in which the inmate would have remained in prison without early release.

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during their early release period. The sixth early release effort can not be accurately assessed under this perspective because many of the inmates in this group are still within their early release period. Under this perspective, the first, second and fourth early release efforts resulted in minimal reductions in public safety, and the third and fifth efforts more seriously reduced public safety.

The Type of Recidivating Offense

The type of recidivating offenses committed by early released inmates is not substantially different from the type of recidivating offenses committed by the comparison group. (see Table 6). The rate of "crime switching" (recidivating offenses that are the same, less severe, or more severe than the original offense) is also similar between the early released groups and the comparison group. These similarities would indicate that the type of recidivating offenses committed by early released inmates did not contribute to reductions in public safety.

Table 6

RECIDIVATING OFFENSE TYPE  
FOR EARLY RELEASE AND COMPARISON GROUPS

	EARLY RELEASE GROUP	COMPARISON GROUP
RECIDIVATING OFFENSE TYPE		
HOMICIDE	3.3%	1.2%
ASSAULT	3.3%	5.6%
SEX OFFENSE	4.9%	4.5%
PERSON-THEFT	4.9%	8.5%
PROPERTY-THEFT	28.7%	27.2%
FRAUD	1.6%	3.3%
DRUG OFFENSE	4.9%	4.4%
GENERAL WELFARE	48.4%	45.3%
CRIME SWITCHING *		
SAME OFFENSE TYPE	35.2%	31.4%
LESS SERIOUS	40.2%	45.8%
MORE SERIOUS	24.6%	22.8%

\* Crime switching is determined by comparing the inmate's recidivating offense with the original offense.

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Conclusions: Inmate Population Reduction vs. Public Safety

The primary objective or benefit of the early release of prison inmates is the relief of prison overcrowding. Overcrowded prisons may violate inmates' rights; may endanger inmates, prison staff, and the community; and may require costly new prison construction. Overcrowded prisons are also political liabilities and threaten the credibility of the state and its criminal justice system. One of the "costs" of early release is the reduction in public safety. How much of a reduction in public safety depends on how many inmates re-offend, and how early they do so. The trade-off between the costs of overcrowded prisons and the costs of an increased risk to the public presents a difficult decision to policy makers.

Policy makers in the state of Washington used the early release of inmates to help relieve prison overcrowding. Six distinguishable early release efforts occurred, releasing a total of 1,674 inmates an average of six months earlier than expected. Three of the six early release efforts (the first, second, and fourth) helped relieve overcrowding somewhat with only minimal reductions in public safety. (see Table 7). These three efforts clearly were successful. The sixth early release group has not been at large long enough to accurately evaluate. This effort helped prolong the substantial reductions in the overcrowding problem obtained in the fifth early release effort, but the public safety impact has yet to be determined. The third early release effort resulted in the most serious reduction in public safety in exchange for an additional two percentage point reduction in the overcrowding problem. The third was the least successful of the early release efforts. The fifth early release effort resulted in the largest reduction in prison overcrowding, eight percentage points. This effort occurred recently enough so that some of the public safety questions remain unanswered. Although the overall success of the fifth early release effort will have to be determined at a later date, there is some early indication that there may be some reduction in public safety in exchange for the most substantial reduction in the overcrowding problem.

The poor performance of the third early release group is the most glaring drawback to Washington's early release program and merits further

Table 7

THE PERFORMANCE OF SIX EARLY RELEASE GROUPS

EARLY RELEASE GROUP	REDUCTION IN <sup>1</sup> OVERCROWDING	**** REDUCTION IN PUBLIC SAFETY <sup>2</sup> ****		
		ASSESSMENT 1	ASSESSMENT 2	ASSESSMENT 3
1	3 POINT REDUCTION	NO REDUCTION	NO REDUCTION	MINIMAL REDUCTION
2	SUSTAINED PRIOR REDUCTION	NO REDUCTION	NO REDUCTION	MINIMAL REDUCTION
3	2 POINT ADDITIONAL REDUCTION	SOME REDUCTION	SOME REDUCTION	SOME REDUCTION
4	2 POINT REDUCTION	NO REDUCTION	NO REDUCTION	MINIMAL REDUCTION
5	6 POINT ADDITIONAL REDUCTION	NO REDUCTION	UNKNOWN AT THIS TIME	SOME REDUCTION
6	PROLONGED PRIOR REDUCTIONS	UNKNOWN AT THIS TIME	UNKNOWN AT THIS TIME	UNKNOWN AT THIS TIME

<sup>1</sup> Computed as the difference between the actual percentage of inmate population over inmate capacity, and the estimated over-capacity if there had been no early release.

<sup>2</sup> Assessment 1 compares the traditional recidivism rate of the early release groups against the traditional recidivism rates of the comparison group.

Assessment 2 compares the "Earlier Community Victimization Rate" against the traditional recidivism rate of the comparison group.

Assessment 3 considers the percentage of inmates who were returned to prison during their early release period--the time they would have remained in prison had they not been paroled early.

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explanation. During the third early release effort, the state was under court pressure to reduce prison overcrowding. The first two early release efforts had not substantially relieved overcrowding, but had reduced the number of low-risk inmates eligible for early release. The third early release effort dug deeper into the prison population, releasing the largest number of inmates in any one month, and included the highest percentage of prior recidivists than did any of the other early release or comparison groups. This high percentage of prior recidivists is most likely the principle reason for the reduced public safety resulting from the third early release effort.

Several conclusions can be drawn from Washington State's experience with early release:

- **ONLY TEMPORARY RELIEF:** The early release of inmates results in only temporary reductions in prison overcrowding. The degree and duration of reduction depends on the number of inmates released, how early they are released, and how long an early release effort can be sustained. The duration of overcrowding reduction will be no longer than the longest sentence reduction.
- **CONTINUED OVERCROWDING DESPITE EARLY RELEASE:** Early release programs, of the scope and nature of Washington's, will not resolve prison overcrowding problems given the underlying trend of sharply increasing prison populations. However, the reductions in the overcrowding problem that do result from early release efforts have allowed the state to comply with court orders to reduce overcrowding, and to reduce or attenuate inmate population growth during the construction of more prison beds.
- **RISK TO PUBLIC SAFETY CAN BE MANAGED:** It appears that low risk inmates can be identified for early release. However, the pool of eligible, low-risk inmates is reduced as inmates are released. As the number of low-risk inmates declines, the early release effort must either slacken or policy makers must accept an increasing risk to the public.

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**END**