



Corrections and Community Supervision

Earned Eligibility Program Summary Semiannual Report

April to September 2020

EARNED ELIGIBILITY PROGRAM SUMMARY

Semiannual Report, April - September 2020

INTRODUCTION

Legislative reporting requirements established in 1992 mandate semiannual reports on the Earned Eligibility Program (EEP), as defined in Correction Law Section 805. EEP evaluates an eligible incarcerated individual's program progress and overall record of behavior to determine if an Earned Eligibility Certificate (EEC) should be issued for their Parole Board interview. The issuance of an EEC reflects an evaluation of attendance, participation and progress as well as institutional behavior related to programming, and increases the likelihood of being granted parole. Each report provides information regarding the operation of the Earned Eligibility Program for the preceding six-month period.

The information in this report is drawn from Parole Board interview dispositions and Earned Eligibility reviews. Data on Earned Eligibility statuses and Parole Board dispositions are maintained by the Department of Corrections and Community Supervision (DOCCS). If a case is missing information on either Earned Eligibility status or Parole Board disposition, it is excluded from the analysis. For individuals with more than one interview during the relevant time period (due to postponements at their initial interview), information is provided on each interview and corresponding Earned Eligibility status. Consequently, Parole Board appearances¹, not individuals, are the units of analysis.

Overview of Earned Eligibility Program

The goal of EEP is to increase the rate of safe releases for individuals who have demonstrated an overall pattern of progress in prescribed programs. The program administrators evaluate individuals' preparedness for release based on their compliance with sets of minimum standards for behavior and for progress toward satisfying treatment needs. The Earned Eligibility Program is governed by Directive 4793, which provides program explanation and eligibility criteria.²

Prior to an incarcerated individual's initial Parole Board interview, the Earned Eligibility Program provides for a review of treatment and disciplinary records to determine

¹ In May 2003, the Legislature authorized incarcerated individuals to be Presumptively Approved for release by the then Department of Correctional Services to the Division of Parole without a Parole Board interview. Presumptively approved individuals still appear before the Parole Board to set the conditions of their parole supervision. This report treats the presumptively approved individuals as Parole Board appearances who received parole approvals.

² www.DOCCS.ny.gov/Directives/4793.pdf

whether the case is “certifiable” and whether an Earned Eligibility Certificate should be issued or denied. The criteria for these determinations are:

- Issued: Incarcerated individuals who have been programming successfully for 90 days or more at the time of their Parole Board appearance;
- Denied: Incarcerated individuals who have refused recommended programming, have disciplinary records that negatively impact program participation or have been removed from recommended programs for poor attendance and/or poor participation;
- Non-certifiable: Incarcerated individuals with less than 90 days of programming at the time of their Parole Board appearance due to out-to-court, medical restrictions, psychiatric care, or protective custody. Individuals who are unassigned for any of these reasons and whose programming was significantly impacted prior to their Parole Board appearance, may also be designated non-certifiable.

Evaluation results are provided to the Parole Board to be used in deciding whether to release the individual or to deny parole. For eligible individuals, an EEP review is required for each subsequent Parole Board interview. This program of standards and review is available to individuals serving indeterminate sentences with minimum sentences of eight years or less. Individuals serving determinate sentences, who are eligible for Parole Board authorized early release consideration such as Shock Incarceration, Early Conditional Parole for Deportation Only and Medical Parole, are also EEP eligible.

Earned Eligibility Program Expansion

When the Earned Eligibility Program began in 1987, eligibility for the program was limited to incarcerated individuals with minimum sentences of six years or less. The Legislature expanded the program to include individuals with minimum sentences of up to eight years in May 2003. Initial interviews for cases having minimum sentences of more than six (6) years but no more than eight (8) years began in June 2003. All the tables in this report reflect the parole interviews that occurred between April and September 2020 for individuals with minimum sentences of eight years or less.

Types of Earned Eligibility Review Interviews

Table 1 shows that between April and September 2020, there were 2,893 interviews for Earned Eligibility cases. Merit interviews and Initial interviews are similar in that both usually represent the first appearance before the Parole Board. However, if an individual is denied at the Merit interview, then that person will have a subsequent “Initial” interview which would actually be a second appearance. The 1,957 Initial interviews and the 373 Merit interviews will be the focus of this report. These 2,330 primary appearance interviews accounted for 81% of the cases reviewed, while reappearances accounted for the remaining 19%.

**Table 1: Parole Interview Type for EEP Cases by Month of Interview
April through September 2020**

Interview Month	Interview Type				Total
	Initial*	Merit	Reappearance	Parole Violator Reappearance	
Apr 20	144 51.2%	41 14.6%	87 31.0%	9 3.2%	281 100.0%
May 20	103 51.0%	19 9.4%	78 38.6%	2 1.0%	202 100.0%
Jun 20	525 72.0%	102 14.0%	97 13.3%	5 0.7%	729 100.0%
Jul 20	515 72.6%	99 14.0%	91 12.8%	4 0.6%	709 100.0%
Aug 20	341 69.0%	59 11.9%	88 17.8%	6 1.2%	494 100.0%
Sep 20	329 68.8%	53 11.1%	92 19.2%	4 0.8%	478 100.0%
Total	1,957 67.6%	373 12.9%	533 18.4%	30 1.0%	2,893 100.0%

* Initials include 214 interviews for Shock cases

Earned Eligibility Status and Parole Board Interview Results

Table 2 shows that the Parole Board held 2,330 Initial and Merit interviews for EEP cases between April and September 2020.

- Of these cases, 58% (1,349) were issued an EEP Certificate, 26% (596) were denied and 17% (385) were non-certifiable.
- DOCCS issued 1,349 EEP certificates. The Parole Board approved 63% or 855 of these cases.
- Non-Certifiable cases (385) were approved for release at a rate of 38%, while EEP cases that were denied a certificate (596) were approved for release at a rate of 24%.
- Overall, the Parole Board approved 49% of the EEP eligible cases for release.

**Table 2: EEP Review Results and Parole Board Approvals at Initial Interviews
April through September 2020**

EEP CERTIFICATE	Number of Interviews	Percent of Interviews	Approved for Parole	Percent Approved for Parole
Issued	1,349	57.9%	855	63.4%
Denied	596	25.6%	145	24.3%
Non-certifiable	385	16.5%	145	37.7%
Total	2,330	100.0%	1,145	49.1%

Earned Eligibility Certificate Denials and Parole Board Interview Results

Table 3 shows the general reasons that a case may be denied an EEP certificate.

- The majority (62%) of the 596 EEP certificate denials were due to poor behavior that interfered with program progress. This group had a 16% approval rate, the lowest rate among the denial reasons.
- Individuals denied an EEP certificate due to poor participation and/or progress accounted for 27% of the group and were approved for release at a rate of 46%. This represents the highest approval rate among the four general denial reasons.
- Those who were denied due to poor program attendance accounted for 6% of the cases and were approved at a rate of 21%.
- Those who refused to participate in their recommended programs accounted for 6% of the denials and had an 18% rate of approval.

**Table 3: EEP Certificate Denial Reasons and Parole Board Approvals at Initial Interviews
April through September 2020**

REASONS FOR EEP DENIAL	Number of EEP Denials	Percent of EEP Denials	Approved for Parole	Percent Approved Within Denial Reason
Poor Participation and / or Progress	160	26.8%	74	46.3%
Poor Program Attendance	33	5.5%	7	21.2%
Refusal to Participate	33	5.5%	6	18.2%
Behavior Interfered with Program	370	62.1%	58	15.7%
Total	596	100.0%	145	24.3%

Non-Certifiable Earned Eligibility Cases and Parole Board Interview Results

Table 4 shows the general reasons that an EEP case would be determined to be non-certifiable and the results of the initial Parole Board interview. In contrast with EEP denials, non-certification recognizes that deficiencies in the individual's program participation may be due to circumstances beyond the individual's control.

- Of the 385 cases determined to be non-certifiable, 198 individuals (51%) were in reception. These cases had a 33% approval rate.
- 169 individuals (44%) were non-certifiable due to insufficient time in prescribed programs. The approval rate of those individuals was 44%.

**Table 4: EEP Non-Certifiable Reasons and Parole Board Approvals at Initial Interviews
April through September 2020**

NON-CERTIFIABLE EEP STATUS REASONS	Number	Percent Non-certifiable	Approved for Parole	Percent Approved within Non-Certifiable reason
In Reception	198	51.4%	65	32.8%
Insufficient Time	169	43.9%	75	44.4%
Hospital	3	0.8%	2	66.7%
Out to Court	9	2.3%	0	0.0%
Other	6	1.6%	3	50.0%
Total	385	100.0%	145	37.7%

Earned Eligibility Status within Offense Type and Parole Board Interview Results

Table 5 shows the distribution of the 2,330 EEP cases within offense types. Within each offense type, the result of the initial EEP review is cross referenced with the decision of the Parole Board.

- Of the 2,330 initial EEP cases, 1,394 (60%) were Property/Other Offenses and 562 (24%) were Other Coercive Offenses. Violent Offenses (168) made up of 7% of EEP cases, and Drug Offenses (124) made up 5%. Youthful Offense cases (79) made up 3%.
- Among cases issued an EEP certificate, Property/Other Offense cases were approved for release at the highest rate (70%), followed by Youthful Offense cases (67%), Other Coercive Offenses (62%), Drug Offenses (55%), and Violent Offenses (15%). Only 3 Juvenile Offense cases were issued EEP certificates, none of which were approved for parole.

**Table 5: EEP Status within Crime Category by Initial Parole Board Interview Result
April through September 2020**

OFFENSE TYPE	EEP CERTIFICATE	RELEASE DECISION				Total	
		APPROVED FOR PAROLE		PAROLE DENIED			
Violent	Issued	16	18.2%	72	81.8%	88	52.4%
	Denied	8	10.7%	67	89.3%	75	44.6%
	Non-Cert	1	20.0%	4	80.0%	5	3.0%
	Total	25	14.9%	143	85.1%	168	100.0%
Other Coercive	Issued	210	61.6%	131	38.4%	341	60.7%
	Denied	27	21.4%	99	78.6%	126	22.4%
	Non-Cert	36	37.9%	59	62.1%	95	16.9%
	Total	273	48.6%	289	51.4%	562	100.0%
Drug	Issued	54	55.1%	44	44.9%	98	79.0%
	Denied	2	9.1%	20	90.9%	22	17.7%
	Non-Cert	0	0.0%	4	100.0%	4	3.2%
	Total	56	45.2%	68	54.8%	124	100.0%
Property/ Other	Issued	559	70.1%	239	29.9%	798	57.2%
	Denied	104	30.4%	238	69.6%	342	24.5%
	Non-Cert	98	38.6%	156	61.4%	254	18.2%
	Total	761	54.6%	633	45.4%	1,394	100.0%
Youthful Offenses	Issued	16	66.7%	8	33.3%	24	30.4%
	Denied	4	14.3%	24	85.7%	28	35.4%
	Non-Cert	10	37.0%	17	63.0%	27	34.2%
	Total	30	38.0%	49	62.0%	79	100.0%
Juvenile Offenses	Issued	0	0.0%	0	100.0%	0	0.0%
	Denied	0	0.0%	3	100.0%	3	100.0%
	Non-Cert	0	N/A	0	N/A	0	0.0%
	Total	0	0.0%	3	100.0%	3	100.0%
Total	Issued	855	63.4%	494	36.6%	1,349	57.9%
	Denied	145	24.3%	451	75.7%	596	25.6%
	Non-Cert	145	37.7%	240	62.3%	385	16.5%
	Total	1,145	49.1%	1,185	50.9%	2,330	100.0%

Conclusion

The 1,349 individuals who earned an EEP certificate were approved for release at the highest rate (63%) when compared to the 596 that were denied an EEP certificate (24%) and the 385 individuals that were non-certifiable (38%).

Between April and September 2020, the “Property/Other” (1,394) and “Other Coercive” (562) Offenses constituted the two largest categories considered for an EEP certificate, which accounted for the majority (84%) of the initial interviews.

As a result of determinate sentencing and Drug Law reform, the 124 Drug Offenses represented only 5% of the initial interviews in this reporting period. This is in contrast to

the same time period ending in 2009, when Drug Offenses represented 18% of the interviews.

Of the 798 Property/Other Offenses issued an EEP certificate, 70% were approved for release, which was the highest approval rate among crime categories for those issued EEP certificates. Of the 88 Violent Offense cases issued an EEP certificate, only 18% (16 cases) were approved for release by the Parole Board, which was the lowest approval rate among crime categories for those issued EEP certificates.

Overall, in the period between April and September 2020, there were 2,893 EEP interviews. Eighty-one percent (2,330 cases) of these interviews were initial appearances at the Parole Board.

The overall parole approval rate for the 2,330 incarcerated individuals at initial appearances was 49%, up from 45% in the previous six-month period (October 2019 to March 2020), and an increase from the 44% approved for parole during the same time in 2019. The rate at which EEP interviews resulted in issued EEP certificates remained largely unchanged at 58%, up from 57% of initial interviews in the previous six-month period.

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