



The Release Valve

Parole in Maryland

A Justice Policy Institute Report
February 2009

About the Justice Policy Institute

The Justice Policy Institute is a public policy institute dedicated to ending society's reliance on incarceration and promoting effective solutions to social problems.

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Executive Summary

In the current difficult economic situation, states are searching for ways to reduce spending while maintaining safe communities. With a \$68 billion prison system holding over 2.3 million people in prisons and jails across the country—with no clear public safety gains—policymakers are looking to prison systems as a place to cut budgets. However, the number of people in prison continues to grow, in part due to parole policies that limit the number of people who are supervised in the community and ineffective supervision systems that send many back to prison: what has come to be referred to as the “revolving door” of the criminal justice system.

The Justice Policy Institute, a research and public policy organization dedicated to ending society’s reliance on incarceration and promoting effective and just solutions to social problems, has been involved in reform efforts in Maryland for the past 6 years, and has issued numerous policy briefs on improving Maryland’s criminal justice system. This report provides an overview of the current landscape of community supervision in the United States and in Maryland, and provides positive suggestions for improving public safety and saving money through the increased use and improved implementation of parole. Below is a brief summary of the report’s key elements:

Paroling more people could save Maryland money. In Maryland the cost of incarcerating one person for one year is approximately \$33,310. Comparatively, the cost of paroling one person for one year is \$1,422. Appropriately increasing the use of parole and probation can safely reduce prison and jail populations and their associated costs. Maryland could expand the use of four existing mechanisms to parole more people quickly and safely:

- Risk assessment instruments, which can help identify more people who can be safely supervised in the community. Some low-risk populations include people who have been convicted of nonviolent or drug offenses and older people;
- The Mutual Agreement Program, that sets up case plans for people in prison to create a clear path to release;
- Good time credits, which are earned by people in prison through compliance with rules and regulations and completion of treatment and programs; and
- Medical parole, which allows people who are seriously ill to be released to supervision, where they can receive appropriate care in the community.

Reforming parole could have an impact on racial disparities. Forty-one percent of African Americans who were released from prisons in Maryland in FY2008 were released by expiration of sentence, compared to 31 percent of whites. African Americans are more likely than whites to serve an entire

sentence in prison without being released on parole. Increasing both the objectivity of decision-making and the overall availability of parole could increase the fairness of parole-granting in Maryland.

Paroling more people will strengthen communities in the long-term. Parole allows people to return to their communities to participate in employment, treatment, education, families and other systems of support. And people on parole are able to contribute to the local economy through their employment, financial support for their families, and patronizing local businesses. Also, research has shown that community-based treatment is more cost-effective and beneficial than treatment delivered in prison, meaning people with substance abuse disorders can conquer their addictions sooner if on parole.

Returning fewer people to prison from parole could also save Maryland money. States are starting to realize that increasing utilization of parole will not successfully reduce correctional populations if individuals on community supervision end up back in jail or prison, as many do now. Maryland could potentially save up to \$3 million in a single year by preventing 100 people from returning to prison from parole. States that have successfully improved outcomes for people on parole have done so through a combination of the following practices, including:

- Shifting the supervision modality from a law-enforcement orientation to one more focused on helping people be successful in the community;
- Developing systems of intermediate responses to behavior that include positive incentives, treatment, and non-incarcerative sanctions; and
- Matching intensity of supervision to the level of risk and needs of the individual, so people who have greater needs have more case management, while those who are doing well aren't excessively burdened with parole requirements.

While few states have addressed the issue that underlying conditions of parole can be a barrier to success in the community, this is an area that is of increasing interest around the country, and is beginning to be examined in Maryland as well.

Implementing other reforms could further reduce the number of people in Maryland's prisons.

Maryland has already started to implement policies that expand eligibility to let more people out on parole and other policies that change the way the system treats people on community supervision, but there is still more to be done. Other strategies Maryland could employ more fully, in addition to those listed above, include:

- Make parole offices more accessible and available, so people on parole can more easily meet their obligations both to the State and to their families, employers, and the community;
- Institute early release from parole through which people could be released from supervision earlier by fulfilling requirements and completing programs;
- Involve the individual on community supervision more in their own case planning;
- Improve parole board decision-making, so that fewer individuals who could be safely supervised in the community are kept in prison; and
- Continuously evaluate programs and conduct research that will provide the basis for improved systems in the future.

In summary, increasing the availability of parole for people involved in the criminal justice system and modifying the way we treat people in this system can have immediate and lasting benefits on budgets and public safety, both nationally and in Maryland.



What is Parole?

As elsewhere in the United States, people in Maryland are released on parole after serving a portion of their sentence in prison; they serve the rest of their sentence in the community under the supervision of the Division of Parole and Probation (DPP). People get out of prison after a determination of eligibility on the part of the Maryland Parole Commission. Once on parole, a person is subject to conditions of supervision. If the conditions are not followed, he or she can be returned to prison on a technical violation.

Parole Definitions

Parole is a period of conditional supervised release following a prison term. There are broadly two types of parole:

- **Discretionary:** when a person in prison has an “indeterminate sentence” (a range of time they are serving, for instance 5 – 15 years), and the **parole board** (a group of people appointed to make parole decisions) decides to release that person after the minimum time has passed. Their decision is based on statutory or administrative determination of eligibility. Parole is generally determined to be the remainder of the sentence.
- **Mandatory parole:** this occurs when there is a sentencing structure (“determinate sentence”) that requires a person to serve a minimum amount of the sentence. In this case, the person is released from prison based on statutory rules (for instance, a person must serve 10 years in prison combined with 5 years on parole).

Diminution or “good time” credits: These are statutorily determined allowances (generally for good behavior or fulfilling various programmatic requirements) that enable an individual to leave a prison facility on mandatory supervision release before the term of his or her sentence expires.

Technical violation: Both parole and probation are considered privileges which people are granted provisionally, based on their adherence to various conditions. Conditions can range from not **absconding** (leaving the jurisdiction and not reporting for scheduled meetings) to refraining from drug and alcohol use, to obeying a curfew set by their parole officer. When a person on parole fails to comply with one of the conditions of supervision but has committed no new offense, this is considered a technical violation. Depending on a state’s supervision practices, technical violations can be handled through increased treatment and other programs, intermediate sanctions, or revocation of parole or probation and a return to imprisonment for all or some of the remainder of the person’s sentence.



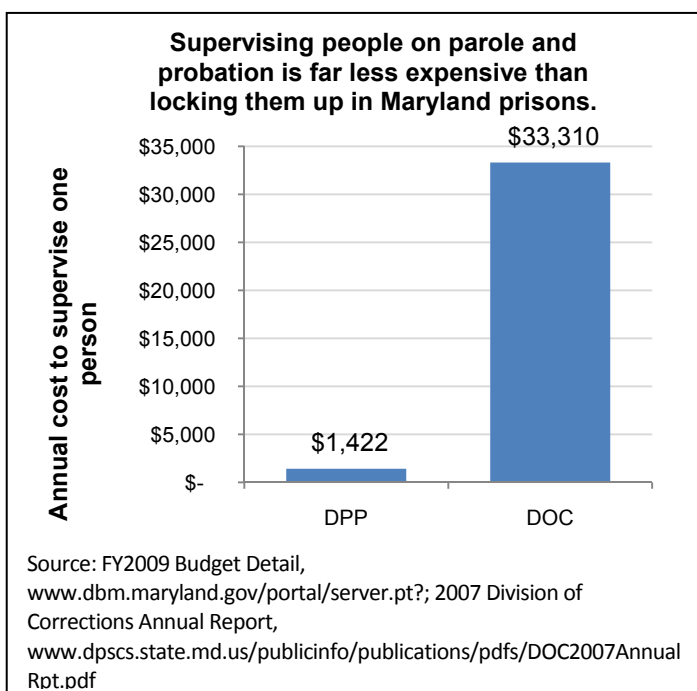
The Cost of Supervision in Maryland

In 2009, Maryland faces cuts to its state budget that make continued investments in ineffective and expensive policies and practices untenable. One such practice is the continued overreliance on imprisonment. While Maryland cannot afford to maintain the prison system as it currently exists, there exists an available release valve that can immediately reduce the prison population: parole. By increasing the utilization of parole, Maryland can decrease the amount of money spent on corrections.

Community supervision is less expensive than prison in Maryland

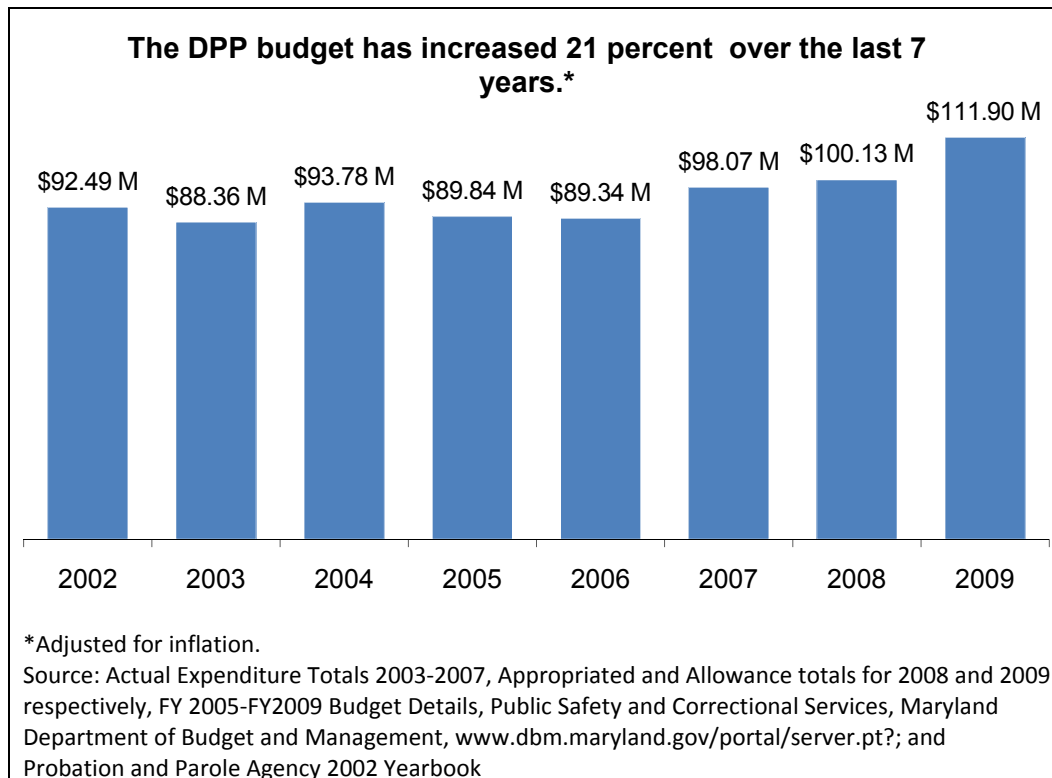
The Division of Parole and Probation (DPP), which falls within the Department of Public Safety and Correctional Services (DPSCS), is responsible for supervising people on probation or parole in Maryland. The DPP has an appropriated budget in 2008 of \$102 million, which represents 11.7 percent of the total DPSCS budget of \$1.19 billion.¹ The \$102 million is a \$6 million dollar increase from 2007, and is forecasted to grow to \$111 million for the 2009 fiscal year.

In 2007, Maryland spent a total of \$96 million on DPP, which equals approximately \$1,422 per person under supervision. Comparatively, Maryland spends \$751.79 million for the Division of Corrections, which supervises approximately 22,569 people in prison, which comes out to \$33,310 per prisoner, or more than 20 times the amount spent per person under supervision by the DPP.²



The \$102 million budget for 2008 is an 8 percent increase from the 2003 budget, when adjusted for inflation, despite only minor changes in the number of people under supervision. New budgetary items found in the fiscal year 2009 budget include \$3.1 million to hire 53 new staff members for a “high-risk offender” supervision program whereby more agents are hired to focus solely on the people under supervision deemed most at-risk for violent behavior. Components of this program include smaller caseloads and the purchase of GPS units to track people thought to be the most likely to commit

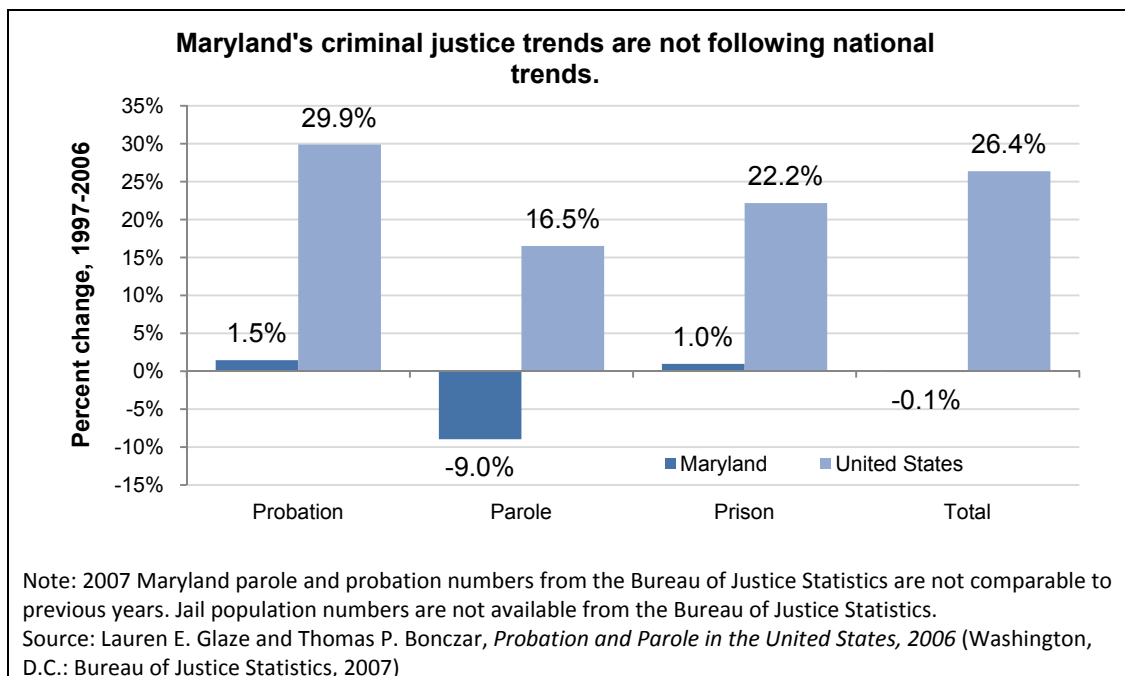
another offense.³ Ongoing changes to parole supervision to reduce parole revocations may have contributed to a rising DPP budget, but nonetheless the cost of parole is far less than the cost of prison.



Maryland uses prison and parole less than the rest of the country

In terms of its corrections and supervision system, Maryland has made real progress. Compared to the rest of the United States, Maryland has not experienced the same level of growth in the prison system as the rest of the country. Between 1997 and 2006, the U.S. prison system grew 22.2 percent. In Maryland, during the same time period, the prison system grew 1 percent.⁴ The state has also made efforts to increase drug treatment,⁵ and has changed some probation and parole practices, in line with expert recommendations and the trends of other states.

However, the data show that Maryland does not utilize parole to the same degree as the rest of the country. Between 1997 and 2006, the number of people on parole in Maryland fell 9 percent. Comparatively, the number of people on parole nationwide has increased 16.5 percent.⁶ In keeping with its ongoing initiatives to increase drug treatment and increase the availability of parole, Maryland has the opportunity to further reduce the prison population by paroling more people and ensuring that people on parole stay out of prison.





Maryland's System of Parole

Eligibility for parole

People convicted of a nonviolent offense⁷ are eligible for parole after serving a quarter of their sentence, while individuals convicted of a violent offense are eligible after serving half of their sentence for the violent offense, or one quarter of the total aggregate sentence if there is more than one conviction.⁸ This is sooner than in a number of other states.⁹ People convicted of certain specific offenses, such as repeat drug offenses, use of a handgun in the commission of a felony, or civil contempt, are ineligible for parole.¹⁰

The Maryland Parole Commission (MPC) decides whether a person is eligible for parole and whether they are granted parole. They also judge whether a person has violated the conditions of parole and, if they determine a violation has occurred, if the person is to be returned to prison. The MPC is made up of seven members who are appointed by the Secretary of Public Safety and Correctional Services and approved by the Governor and the Senate consent.¹¹ Members are appointed for 6-year terms and must have experience and training in law, sociology, psychology, psychiatry, education, social work or criminology.¹²

The MPC has the ability to grant parole earlier than the statutory minimum for people amenable to drug and alcohol treatment if they had been convicted of a nonviolent offense.¹³ The MPC cannot directly grant parole to individuals sentenced to life imprisonment;¹⁴ instead, they must send their recommendation to the governor, who has the sole authority to grant parole in this case. The only other way a person who is serving a life sentence may be released is if parole is granted by court order. The MPC can also recommend to the governor certain cases for pardons and commutations of sentences.

Criteria for Parole Eligibility

The MPC must consider the following information in making the decision of whether someone is suitable for parole:

- Circumstances surrounding the crime;
- Individual physical, mental, and moral qualifications;
- Progress during confinement, including their academic progress in mandatory education programs;
- Drug or alcohol evaluation which includes recommendations on amenability to treatment and the availability of appropriate treatment programs;
- Whether there is a reasonable probability the person will not violate the law if paroled;
- Whether their parole would be compatible with the welfare of society;
- Any original or updated victim impact statement, testimony and/or any information presented by the victim at a meeting with a Commissioner and/or at the time of an open parole hearing; and
- Any recommendation by the sentencing judge.

According to the Maryland Parole Commission's FY2007 Annual Report, in assessing these criteria, the MPC may also consider other relevant information, such as:

- Prior substance abuse;
- Attitude and emotional maturity;
- Home and employment plans.

Source: Maryland Statute 7-305

Most people are released from prison in Maryland on mandatory release

In Maryland, less than a third of people who receive parole grant hearings are released on parole. This percentage has remained relatively constant over the last 10 years. In 2007, 28 percent of people who had a hearing before the MPC (about 2,500 people) were released on parole.¹⁵

For a person who is serving a sentence that is longer than 12 months, these credits are deducted from the maximum release date (the date a person will be released if not granted parole) to establish a mandatory supervision release (MSR) date. This release is not subject to approval by the Maryland Parole Commission, the state's parole board. People released due to the accumulation of diminution credits are subject to mandatory supervision, meaning they are still under the legal custody of the state, under the supervision of the DPP, and must follow all the conditions and rules of parole, along with any special conditions assigned by a parole commissioner.¹⁶ The person is on mandatory supervision until their maximum release date. If an individual is serving a life sentence with the possibility of parole, diminution credits will affect his/her parole eligibility date.¹⁷

A large percentage of people continue to serve their entire sentence in prison. Thirty eight percent of people released from Maryland prisons are released on expiration of sentence, or "maxed out," meaning that they have served every day of their sentence in prison and are released unconditionally, without supervision or the re-entry services available to people on parole.¹⁸

Conditions of parole

In Maryland, as in other states, the guidelines for behavior for a person on supervision are called “Conditions of Parole.” People on supervision must adhere to these conditions or face the possibility of having their parole revoked and being sent back to prison. It is the responsibility of parole officers to document any violations of the conditions of parole, and then submit their reports to the MPC for a hearing. Included on this page is a list of Maryland’s standard Conditions of Parole.

The last standard condition allows the MPC to add “special conditions” that aim to address a person’s individualized circumstances. The MPC has had the ability to assign “Special Conditions” to people on parole since 2002. Typical special conditions include requirements to attend programs, curfews, restrictions on driving, not coming into contact with a victim, home detention or electronic monitoring.¹⁹ The MPC, upon recommendation from the DPP or on their own accord, can change the conditions of parole at anytime. The person on parole can also petition for a change in their conditions.²⁰

A report by the Pew Center on the States found that parole guidelines present an onerous burden that can make successful transition to the community difficult. Individuals with substance abuse problems may be unable to abstain from substance use—a common condition of supervision—without appropriate and available treatment and support. People who are unskilled or undereducated may be unable to find and maintain employment, a condition of supervision; this is particularly true in difficult economic times, as many employers won’t hire people with felony convictions.

This also makes it difficult to pay fines, fees, restitution and child support—all conditions of parole supervision. Finding and maintaining a place of residence (another condition) is especially challenging for people on parole, who are often locked out of publicly assisted housing because of their criminal record.²¹ Even the condition to not associate with other people with convictions can be virtually impossible for a person on parole to comply with, especially when they came from and return to areas where many other people on parole live, such as densely populated cities.

Experts and policymakers in other states²² are calling for a re-evaluation of parole conditions. No research has been done on which conditions are in fact related to a person on supervision’s risk of recidivating. Special conditions – those on top of the standard conditions that can be imposed by the parole board or officers – are particularly prone to arbitrariness.

Maryland’s Conditions of Parole

- Report as directed and follow your parole agent’s instructions.
- Work regularly.
- Get permission before changing your home, job, residence, or leaving the state of Maryland.
- Obey all laws.
- Notify your parole agent immediately if you are arrested
- Do not illegally possess, use, or sell any narcotic drug, “controlled dangerous substance,” or related paraphernalia.
- Do not own, possess, use, sell, or have under your control any dangerous weapon or firearms of any description without approval of the Parole Commission.
- Conduct yourself so as not to present a danger to yourself or others.
- Pay a monthly supervision fee as required by law unless the Parole Commission exempts you wholly or partly from payment of the fee.
- If ordered by the Parole Commission to undergo drug or alcohol testing, the individual must pay for the testing if required to do so by the Division of Parole and Probation.
- Special conditions: conditions of supervision pertaining to a release that are in addition to the standard conditions of release (parole/mandatory supervision)

Source: Maryland Parole Commission, Annual Report 2007, Appendix III: Conditions of Parole

Parole revocation process

The MPC can re-imprison a person on parole if “his continuance in the community becomes detrimental to the integrity of the parole system or incompatible with the welfare of society.”²³ Allegations of parole violations first require a preliminary hearing for probable cause after a parole officer alleges that parole has been violated. A determination of probable cause is followed by a formal hearing. In this hearing, the individual is allowed counsel and can call witnesses and submit evidence. The revocation hearings are similar to a regular court process in that they are adversarial and subject to judicial review. The burden of proof is on the institution, and a preponderance of evidence is needed.²⁴ The parole agent responsible must present a report on the violation, and the MPC makes their decision based partly on the parole agent’s recommendation.²⁵

If a person who has committed a technical violation admits fault or guilt, then instead of a preliminary hearing, they go through a Liaison Agent/Waiver (LA/W I) hearing. The hearing is conducted by the MPC and the person who has committed the offense waives the presence of the parole agent. Instead, a liaison agent testifies using information provided by the parole agent. A LA/W is also held in cases that include new offenses while on supervision, in which the person on parole admits guilt.²⁶

During the revocation process, the MPC also has the discretion to decide whether to allow credit for time on parole to serve against the person’s sentence. For example, if a person is released on parole after four years of a 10 year sentence and then is subsequently found to have violated the conditions of their parole three years after they are released (seven years into their sentence), the parole commission can decide whether to send that person back to prison for the six remaining years of their sentence or give them credit on their sentence for the time they spent on parole.²⁷ However, if the original offense or the new offense committed while on parole was a violent offense, then no credit can be issued.²⁸ Maryland is among 14 states that allow discretion on whether to allow or deny credit.²⁹

Similarly, if the person violates the conditions of mandatory supervision release (MSR) the MPC may revoke the release and require the person to serve the rest of the term in prison, minus the time they were on MSR. Or, they can revoke any or all of the credits previously awarded before MSR, meaning that the time they were on release (“street time”) would not count.³⁰ Unlike some states (such as New York), Maryland does not allow a person to be given a revocation “sentence” that is less than the remainder of the full original sentence (for instance, time served during the revocation process plus 90 days in prison).



Policy Recommendation: Move More People from Prison to Parole

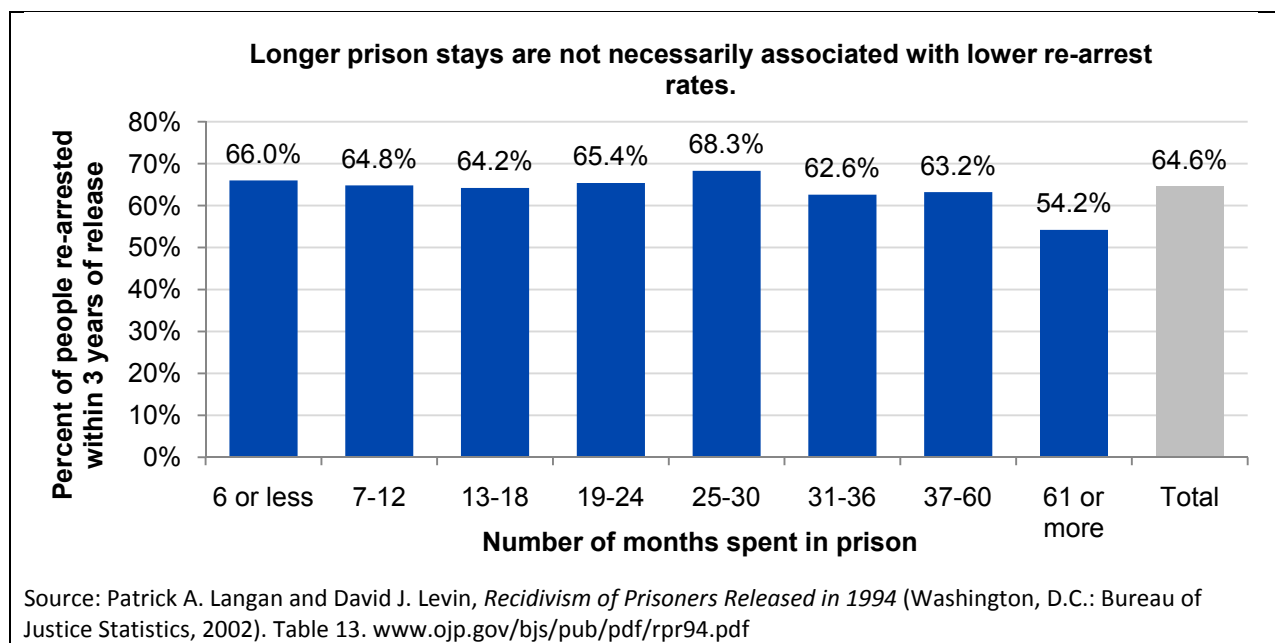
Parole is more readily available in Maryland than in most other states, even though the number of people on parole has been declining. In December 2007, Maryland reported a total of 112,326 people on probation or parole, which is approximately 83 percent of the total number of people under the supervision of the state. Comparatively, approximately 78 percent of people on supervision in all states are either on probation or parole.³¹ Maryland uses “good-time” credits to grant parole to people in prison who have participated in a variety of education and employment programs and have demonstrated good behavior while in prison. Maryland has also been using medical parole to allow people who are very ill to leave corrections custody.

As discussed in the first pages of this report, incarceration costs the state of Maryland millions of dollars, while parole, per person per year, is approximately 4 percent of the cost of prison. If an additional 100 people were released to parole, the state could potentially save approximately \$3 million³² over the course of one year. Given the numbers of people in prison who are at low-risk of committing a new offense and the cost-benefits of parole over to prison, Maryland could save millions, while maintaining public safety, through increasing parole availability.

The number of people on parole can be safely increased

If a person on parole commits a serious offense, parole boards come under fire and their decision-making is questioned. Therefore, board members and judges tend to err on the side of caution, holding more people in prison longer than is necessary to protect public safety. In some cases, parole board members will refuse parole until a person has completed their full sentence and “maxed out,” so there is no chance that they will face criticism for releasing an individual onto parole.

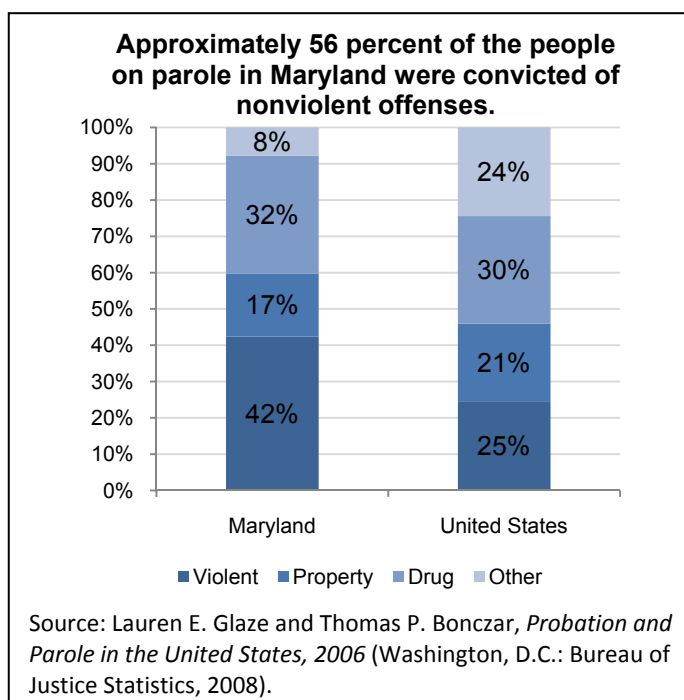
In reality, this practice, at best, has a marginal effect on public safety, and at worst negatively impacts public safety by allowing people who have “maxed out” to be released from prison with little or no structured support to help them be successful in the community. Researchers have established that putting and keeping more people in prison does not necessarily make communities safer,³³ and longer prison stays are not associated with dramatic reductions in re-arrest rates. Over the last three decades the average length of stay in prison nationwide increased from 22 months in 1990 to 30 in 2002.³⁴ But this 36 percent increase in prison time has not necessarily resulted in lower re-arrest rates or improved public safety: a study by the U.S. Department of Justice found that people who spend more time in prison are not less likely to be re-arrested than people who spend less time.³⁵



Despite concerns that people on parole will commit new offenses, the reality is that at the national level relatively few people on parole (about one in 10) return to prison with a new sentence. Research indicates that keeping individuals in the community benefits public safety by permitting them to work, contribute to the community, and participate in family life.³⁶ Increasing utilization of parole is a readily available way to reduce prison populations quickly and safely. The people who could most immediately and safely be paroled are those at the lowest risk of committing a new offense, including people that have been convicted of a nonviolent offense, older individuals, and people who are ill.

Reduce the number of people in prison convicted of nonviolent offenses

In Maryland, approximately 56 percent of the people on parole were convicted of nonviolent offenses, including 33 percent for drug offenses.³⁷ Given that 40 percent of people in Maryland's prisons are there for nonviolent offenses and 20 percent are there for drug offenses, Maryland likely could expand parole eligibility further.³⁸



About 20 percent of the people in prison in Maryland were incarcerated for drug offenses. While some drug offenses are more serious than others, many people in prison are there primarily as a result of addiction. Particularly as substance abuse treatment has been shown to be more effective when

administered in the community than in prisons, the state should investigate ways to increase the number of people convicted of drug offenses being supervised – and treated – in the community.³⁹

One strategy to reduce the numbers of people in prison for drug offenses is the Public Safety Compact. In late 2008, the Maryland Department of Public Safety and Correctional Services and a number of other local nonprofits and service agencies signed the Public Safety Compact to provide drug treatment, case management, and other services to people who are in prison and newly released from prison. People in prison who complete treatment and who are eligible for parole will be released with the understanding that they will continue treatment and access other services in the community. The initiative is starting with 250 people in prison and the projected savings to government agencies is approximately \$3 million in gross savings (\$747,000 net savings). The project is starting with \$2 million from local and national foundations, including the Open Society Institute – Baltimore.⁴⁰

Increase the availability of medical parole

Medical parole is an option available in many states whereby an individual who is a low risk due to a severe physical or mental health condition is released earlier than they otherwise might be eligible. In addition to the fact that it is more humane to release individuals whose serious healthcare needs would be better served in the community, states would save correctional dollars, and the individual might be eligible for federal programs such as Social Security disability, Medicaid and Medicare once released. An important consideration for their release must be whether the person will in fact be able to receive the medical care they need upon release.

As of October 2008, medical parole in Maryland is defined in statute through HB883 as “a form of release from incarceration for incapacitated inmates who, as a result of medical or mental health condition, disease, or syndrome, pose no danger to public safety.”⁴¹ (Maryland formerly granted medical parole through a non-statutory Division of Correction Directive.⁴²)

Under the 2008 law,

- 1) anyone can request medical parole on behalf of the person who is in prison, including the person in prison, his or her family or attorney, a prison official or employee, a medical professional or any other person;
- 2) the request for medical parole goes directly to the Maryland Parole Commission first to determine if there are sufficient grounds to start an investigation by the DOC or local correctional facility as to whether this person should be released on parole; and

Criteria for Medical Parole

Information considered by the MPC before granting medical parole includes, but is not limited to:

The person’s medical information, including:

- Description of their condition;
- Prognosis considering the likelihood of recovery;
- Description of his or her physical incapacity;
- Mental health evaluation, where relevant.

Discharge information, including:

- Availability of treatment or professional services within the community;
- Family support within the community;
- Housing availability, including hospital or hospice care.

Case management information, including:

- The circumstances of the current offense;
- Institutional history;
- Pending charges, sentences and other jurisdictions, and any other detainers;
- Criminal history information.

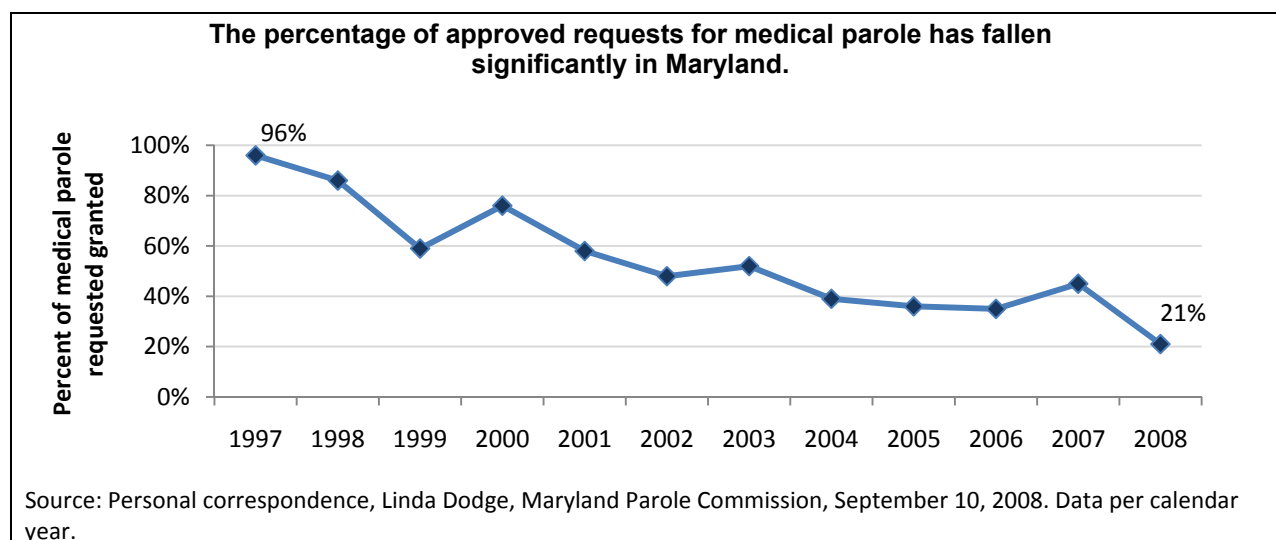
Source: MD Code, Correctional Services, §7-309 (E)

3) if an individual is released on medical parole and his or her parole officer reports to the MPC that he or she “is no longer debilitated or incapacitated as to be physically incapable of presenting a danger to society,” the individual can be returned to custody after a hearing and considered for parole under the same eligibility requirements as before the ailment.⁴³

For a person to receive medical parole, a written request must first be submitted to the Maryland Parole Commission (MPC).⁴⁴ If the MPC believes that this person’s release is in the best interest of public safety, it will send the case back to the Division of Correction (DOC) or other department for investigation of formal consideration. A medical parole request by someone serving a life sentence requires approval by the governor.⁴⁵

The MPC may require that the person who received medical parole agree to placement for a definite or indefinite period of time in a hospital, hospice or other housing accommodation suitable to their medical condition, which can include a family home.⁴⁶ Additionally, the person must send copies of medical records pertaining to the medical condition for which they were released, indicating evidence that the person still suffers from this ailment. If this person is no longer “debilitated or incapacitated as to be physically incapable of presenting a danger to society” they are to be returned to the DOC or local correctional facility from which they were released.⁴⁷ If medical parole is revoked, the person may be considered for parole under the same standards as other people imprisoned in Maryland.

It appears that, perhaps due to a burdensome application process, very few people in prisons who may qualify for medical parole actually request it. As of September 2008, 19 people had requested medical parole, and only four of them were approved.⁴⁸ The number of people requesting medical parole over the last 10 years has fluctuated, but remains relatively low, considering that the average age of people in prisons - from 31 in 1990⁴⁹ to 36 in 2008⁵⁰ - is rising and serious medical problems tend to increase with age. In fact, the number of people in Maryland prisons who are over 60 years old has increased 136 percent.⁵¹ However, the number of people who have requested and were granted medical parole has been falling significantly, with only one out of every five people requesting medical parole in 2008 receiving it.



A fiscal note on the new law estimated that requests for medical parole could increase by 10 to 20 percent, leading to an increase in releases for an additional 10 to 15 individuals over those already expected to be released due to an irreversible terminal illness.⁵² As healthcare costs are a source of

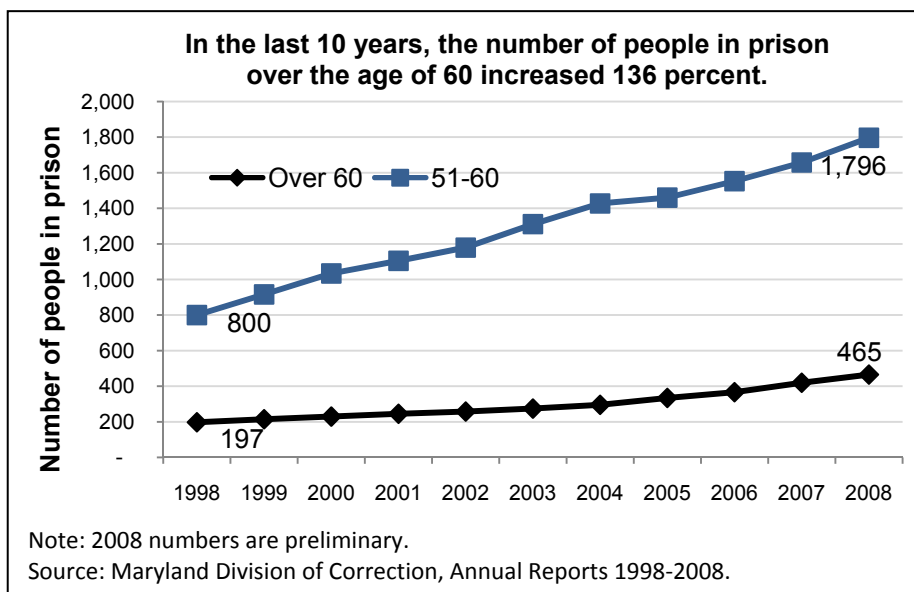
significant spending in the Maryland corrections budget, fully utilizing medical parole could have a significant impact on corrections spending, even with the release of a small number of people.

Reduce the number of older people in prison who may have “aged out” of crime.

As the prison population ages, government agencies have the opportunity to release more people on parole. Many individuals who were convicted in their 20s and 30s are still serving time in prisons years later due to long sentences, despite research showing that as people age they become less likely to engage in illegal behavior. People over age 45 are significantly less likely to participate in illegal activity and have lower re-arrest rates following release than younger people.⁵³ A study by the U.S. Department of Justice found that, nationwide, 17 percent of people over age 45 who were released from prison in 1994 were re-imprisoned with a new sentence within three years, compared to over 30 percent of people in their early 20s.⁵⁴ Decision-makers and legislators should use this statistical risk information to reduce the number of older individuals behind bars.

The National Center on Institutions and Alternatives estimated in 1998 that releasing individuals age 55 or above who are convicted of nonviolent offenses could save the U.S. \$900 million during the first year alone.⁵⁵ Older individuals are sometimes more expensive to imprison, primarily due to medical costs. The U.S. Department of Justice estimated in 2000 that older people cost around \$60,000 a year to imprison, compared to \$20,000 for younger people.⁵⁶ Furthermore, people over age 65 spend twice as much time in medical facilities; as stated earlier, but Social Security, Medicare, and Medicaid benefits do not apply to people in prisons, so states must pick up these medical costs.⁵⁷

Currently, 10 percent (2,261 people) of Maryland’s prison population is over the age of 50 and 2.1 percent (465 people) are over age 60. Even with the cost of parole included at \$1,422 per year per person, at the minimum rate of \$60,000 per year, Maryland could save over \$13 million in the first year by paroling half of the people in prison who are over age 60.



Utilizing mechanisms for earlier release will move more people into parole

There are a number of other ways to reduce prison populations through parole, many of which Maryland is already using. Three interrelated mechanisms are available in Maryland to increase the numbers of people on parole: A valid risk assessment; the Mutual Agreement Program (MAP); and Good time credits.

Risk assessment instruments help objectively determine who should be granted parole

A growing number of states are beginning to use actuarial assessments of risks and needs in various parts of the criminal justice system. These assessments look at what static characteristics (risks) and

dynamic elements (needs) are statistically related to whether a person is at risk of re-offending. While assessments are most commonly used in determining placement while incarcerated and the level of supervision intensity on parole, assessments could be used to broaden eligibility for parole. Decision-makers – judges and parole boards – could use assessments to justify releasing people who are deemed “low risk” earlier than they might have previously felt comfortable doing.

Risk assessments can help decision-makers move past policies predicated on false beliefs. For instance, contrary to public opinion, it has been well-documented that recidivism rates for people convicted of sex offenses are much lower than people convicted for other serious offenses.⁵⁸ And as was discussed earlier, there is a strong statistical correlation between increasing age and decreasing risk of recidivism. Decisions based on evidence rather than anecdotes would help people in prison avoid perpetual denial of timely parole because of the single incidents – statistical outliers – that have dominated decision-making to date. Maryland already uses the Level of Service Inventory-Revised (LSI-R) tool elsewhere in the criminal justice system.

Between 2007 and 2008, Dr. James Austin of the JFA Institute re-assessed and re-designed an assessment tool to determine the needs of people in prison to develop a plan for program and service involvement that will lead to their eventual parole. Previously, a number of different assessments were being used, but none resulted in a specific plan for release. Without a plan for release, some people in Maryland’s prison system were denied parole because they did not complete programs that the parole board required for release. The new risk and needs assessment system is designed to ameliorate these challenges. It was released on December 1, 2008.⁵⁹ Dr. Austin is involved in the re-design of other assessments for increasing parole eligibility that will be released in the spring of 2009.⁶⁰

The Mutual Agreement Program (MAP) has been used to facilitate completion of programs in prison

Some people in prison in Maryland are eligible for the Mutual Agreement Program (MAP), in which a plan is proposed for participation in specific in-prison programming to help ensure that an individual receives the programming he or she needs to receive parole eligibility earlier. The plan is presented to the Maryland Parole Commission, which may then negotiate a parole contract with the person in prison that stipulates the specific conditions (e.g. successful completion of a rehabilitation program) that will ensure release. If approved, a guaranteed release date is based upon the individual’s successful completion of the program. The MAP contract includes a detailed timetable that if not met, can cause the contract to be canceled and the individual’s parole status reverts to the normal parole hearing schedule.⁶¹ In FY2007, 5 percent of all parole grant hearings were MAP negotiations (460/8,927).⁶²

Good time credits increase the number of people eligible for parole

Currently, every person in prison in Maryland who is eligible for parole is also eligible to receive diminution, or “good time,” credits that will allow him or her to leave a prison facility before the term of his or her sentence expires. People who receive diminution credits do not serve shorter overall sentences, but serve less of their time in prison. Diminution credits can come in three different forms:⁶³

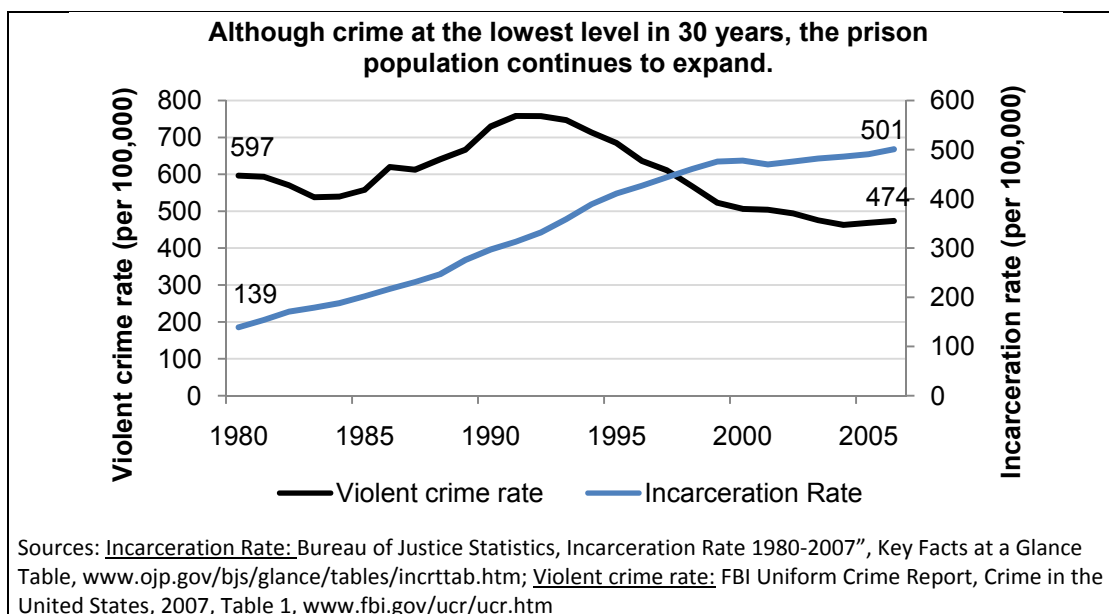
- *Local credits* are awarded by a local detention center (jail) for the period of time that a person was imprisoned prior to sentencing.⁶⁴
- *Good conduct credits* are awarded at a rate of up to 5 days per month for people convicted of certain violent or drug-related offenses and 10 days per month for people convicted of all other offenses.⁶⁵

- *Work task (industrial), education and special project credits* are awarded based on required participation in jobs or programs. These credits are awarded at a rate of up to 20 days per month (five for work, five for education, and 10 credits for special projects).⁶⁶

The types and use of these credits can be expanded, so that there are more opportunities for people in prison to return to the community sooner. In some states these credits count toward the total sentence; this improves parole in that it reduces the period in which someone might be sent back to prison for a technical violation. Also, because of a variety of financial and administrative reasons, people in prison who are willing to participate in programs that earn them good time credits may not be able to because they are unavailable or full. For instance, if there are credits available for an individual if they attend anger management classes, but there is a waiting list for the class or the class isn't being offered, this means a person can't earn these credits. Ensuring that people can access all available credits would be cost-effective for states seeking to reduce their prison population.

Public and Political Will Supports Sentencing Reform to Reduce the Number of People in Prison

The past quarter century has seen an increase in sentence lengths, increasing numbers of offenses that are now classified as felonies, and more mandatory sentences. Determinate sentencing, which some saw as a way to reduce sentencing biases based on race and ethnicity, have proven to be a tool to keep people in prison longer. Despite crime levels at nearly the lowest levels in 30 years, policy changes pertaining to sentencing have meant more people in prison and longer terms of parole.




One of the many reasons that imprisonment has increased although crime has declined is mandatory minimum sentencing, particularly related to drug offenses. Although incarceration continues to account for the majority of the nation's response to drug use and public safety, the public does not necessarily support the practice. In a 2002 national poll, Hart Research Associates found that 56 percent of the general public surveyed favored eliminating "three-strikes" and other mandatory minimum sentencing laws in favor of giving judges discretion to decide the sentence in individual cases.¹

In Maryland, support for reducing the state's reliance on incarceration may be even more salient. According to a 2006 poll commissioned by the Open Society Institute – Baltimore, Maryland voters favor mandatory treatment over prison by more than four to one.² In 2007, both the Maryland Senate and House of Delegates passed a measure to reform mandatory sentencing laws.

¹ Peter D. Hart Research Associates, Inc. "Crime Poll," February 2002. www.sorosny.org/crime.

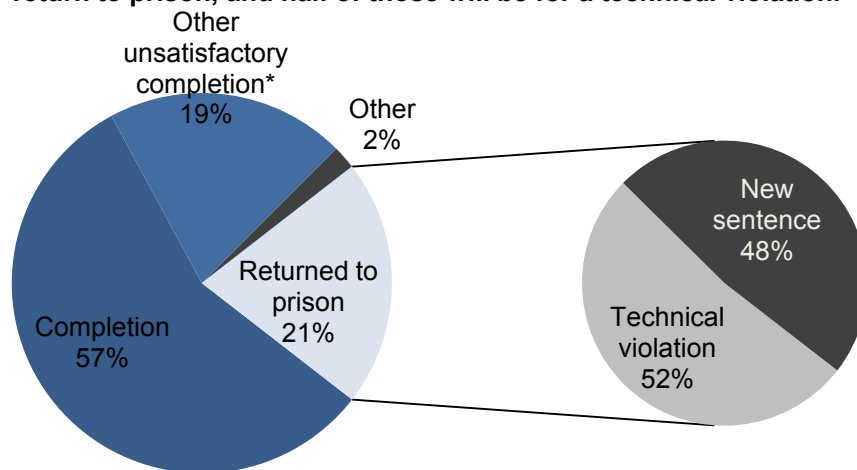
² Lynn Anderson, "Survey Backs Drug Treatment," *Baltimore Sun*, June 4, 2006.



Policy Recommendation: Improve the Parole System So That Fewer People Return To Prison

Although parole is far more cost effective and results in fewer people imprisoned, the high rates of return for technical violations may inadvertently undermine state efforts to reduce prison populations. In 2007, 7,617 adults left parole in Maryland through a variety of means.⁶⁷ Nearly 60 percent of these individuals had completed parole and were no longer at risk of being sent back to prison for technical violations. One in five people left parole as a result of being sent back to prison; more than half of these were for technical violations. Maryland compares favorably to the national average, where 45 percent of people leaving parole had completed their term. Thirty-eight percent were returned to prison, and 71 percent of this group were returned on a technical violation.⁶⁸

In Maryland, one out of every five people released on parole will return to prison, and half of those will be for a technical violation.



*Other unsatisfactory completions includes people who fail to meet all conditions of supervision, including financial conditions. This may also include early terminations or expiration of sentence.

Source: Lauren E. Glaze and Thomas P. Bonczar, *Probation and Parole in the United States, 2007 - Statistical Tables* (Washington, D.C.: Bureau of Justice Statistics, 2008)

The reality of life after prison often makes it difficult for a person on supervision to meet the requirements stipulated by a parole officer, thus virtually ensuring a never-ending involvement in the criminal justice system. Conditions related to drug testing, fines, fees, and the general culture of supervision often make it difficult to successfully transition to communities.

Revocation has far-reaching effects. Previous violations of parole are taken into account during sentencing for subsequent offenses. Sentencing guidelines, as recommended by the Maryland State Commission on Criminal Sentencing Policy, are based on a grid that plots the intersection of a score based on previous convictions or offenses and a score for the offense. The “offender score” is based on the offense record, which includes any time spent on parole or probation. For example, even if a person has finished their term of parole, the violations they committed while on parole can affect the guidelines which would recommend their sentence for subsequent offenses.⁶⁹ Thus violations are important not just in terms of the possibility of immediate revocation and return to prison, but they also affect any future decisions by the court.

Maryland already has taken important steps in shifting the culture of supervision, but the opportunity remains to increase reforms to parole to ensure that fewer people return to prison. Specific areas that need continued attention include a revision of the culture of supervision, the improvement of services, a reduction of returns to prison for technical violations, a decrease in the barriers to meeting parole obligations, and allowing for early release from parole.

Shift supervision away from a law enforcement modality to a case management modality

Instead of a supervision system designed to wait for someone to violate their conditions, parole has the opportunity to support individuals being released back into the community to succeed in their transition. Moving to a system of support can ensure that fewer people return to prison and may greatly improve public safety. Some states, like Kansas and Maryland, have made concerted efforts to shift parole away from a modality of strict supervision and toward one of support and service. However, to be successful, parole officers need to be retrained in techniques such as motivational interviewing, and must have access to resources that help people be successful, such as job and life training, substance abuse and mental health treatment, and housing. Also, parole agencies need to ensure that officers’ performance is measured based on the success of people on parole, and not how often they send people back to prison.

In the last 10 years Maryland has faced a steadily growing prison population, in part due to increases in the number of people being returned to prison for parole violations. Studies show that previous attempts to reduce recidivism through increased supervision largely failed to produce results, but highlighted the importance of community networks in reducing re-arrest rates.⁷⁰ Stricter sanctioning and increased punishment have no statistically significant deterrent effect on people under community surveillance.

In response to such studies, Maryland pursued several new practices, the most notable being the Proactive Community Supervision (PCS) program. Notable features of PCS include:

- Parole agents are in a more cooperative, service-oriented role, rather than law-enforcement model supervision.
- A case plan is developed for each person on parole, which identifies potential triggers for participation in illegal behavior.
- The Level of Service Inventory-Revised (LSI-R) risk assessment instrument is being used to determine appropriate levels of supervision and support. The LSI-R also helps identify ways in which to best support people who might be at higher risk of re-arrest.⁷¹
- Visits with people on parole are based on the performance of the person on parole, rather than an arbitrary or preset level of supervision or number of visits. Parole agents conduct fewer visits and check-ups and focus on supporting individuals and providing services.
- People on parole are assessed at the beginning of their supervision, given a clear set of guidelines and expectations, then given support and assistance to meet those goals and expectations.⁷²

- There is better use of supportive resources including “community services, treatment, vocational education, employment, and support networks.”⁷³
- Automated kiosks in police departments are available for people who have low risks and need to update job or housing situations without seeing parole agents.⁷⁴

The PCS project has seen quantifiable results, with lower recidivism rates for individuals in the project, as shown by accompanying table.

**Results for the PCS vs. Non-PCS Cases of Key Outcomes:
Drug Testing Results, Rearrests, and Warrants for Violation for Probation/Parole**

	PCS	Non-PCS	Odds Ratio
Drug Testing Results			
Positive Urine	22.8%	25.4%	1.12
Failure to Appear for Urinalysis	50.0%	53.6%	
Rearrest for New Crime			
New Arrest*	32.1%	40.9%	0.62
Mean Number of New Arrests*	0.45	0.65	
Warrants for Violation of Probation/Parole			
Warrant Filed*	20.1%	29.2%	0.60

*p< 0.05

Note: For drug test results, the sample size was 94 PCS offenders and 106 non-PCS offenders. For failure to appear, the sample size is 99 PCS and 121 non-PCS. For all other measures, the sample size was 274 PCS and 274 non-PCS. Source: Judith Sachwald and Ernest Eley, Jr., *Proactive Community Supervision: A Second Chance for Community Corrections and Supervisees* (Washington, D.C.: American Probation and Parole Association, *Perspectives*, Summer 2007) www.dpscs.state.md.us/publicinfo/publications/pdfs/dpp_2007_PCS_APPA.pdf

The success of the PCS project could serve as a blueprint for future parole practices in Maryland. While additional resources are required to give each person on parole more attention and services, the extra cost is more than made up for if the person avoids prison. Given that the cost of parole is less than prison (\$1,422 versus \$33,310), Maryland can increase parole resources in a cost effective manner that improves public safety and lowers prison populations.

The Maryland Division of Parole and Probation (DPP) commissioned a review of PCS by the University of Maryland and Virginia Commonwealth University. The study showed that specific needs can be aligned with specific interventions or remedies. Having identified specific needs for each person, the DPP then identifies other organizations within the community that could provide services beyond the capabilities of the DPP. PCS can directly reduce the chances that a person returns to prison by providing services, but can also reconnect people as they transition back into the community.⁷⁵

Despite the success of the PCS project, it is still a small portion of the parole population in Maryland, consisting of only 844 of 7,902 cases in 2006 and 776 of 8,113 in 2007, 10.6 and 9.6 percent respectively. PCS is an opportunity to tailor supervision to those on parole rather than simply trying to catch people for more violations through increased supervision.

The numbers of revocations have declined steadily between 2002 and 2007, which may also indicate changes in the culture of parole. In 2007, about 14,000 people were on parole in Maryland.⁷⁶ In the same year, 1,610 people on parole supervision had their parole revoked—nearly one-third of all people who received revocation hearings.⁷⁷ While the number of people receiving revocation hearings has remained relatively constant over the last 6 years, the percent of individuals whose parole is revoked as

a result of these hearings has dropped significantly, from 57 percent to 32 percent. In addition, the number of revocation hearings dropped by 16 percent.

An increasingly smaller number of people are having their parole revoked.

Fiscal Year	Number of revocation hearings, including Liaison Agent/Waiver (LA/W)*	Number of people revoked	Percent of people who received hearings who had their parole revoked
2002	5,961	3,370	57%
2003	6,071	2,941	48%
2004	5,827	2,714	47%
2005	5,306	2,108	40%
2006	5,786	1,513	26%
2007	5,001	1,610	32%

*Liaison Agent/Waiver (LA/W) hearings are conducted by Commissioners on individuals who are “technical” violators and admit fault/guilt to the stated violations. These individuals waive the presence of the agent of record in lieu of the liaison agent. Sources: Maryland Parole Commission Annual Reports

Bringing PCS to scale could save Maryland millions, but, this is dependent on how many people on parole are successful in the community and are able to stay out of prison. Assuming that those who were on PCS are representative of the entire population of people on parole, bringing PCS to scale in the entire state would substantially reduce the number of people returning to prison from parole. If all of the people who had been on parole in 2007 had been enrolled in PCS, 1,313 fewer people would have been rearrested or had a warrant filed for a violation of parole. This reduction in the number of people returning to prison would have resulted in a savings of approximately \$19 million, which includes the cost of enrolling everyone on parole in 2007 in PCS.

Participation in Proactive Community Service lowers the likelihood of new arrests or warrants for violations of parole. Maryland could potentially save \$19 million by bringing PCS to scale.

Number of people on parole in Maryland in 2007		8,113
Percent new arrest or warrant for violation on PCS in 2006		52%
Cost of incarcerating one person for one year		\$33,310
Approximate cost of PCS for one person for one year		\$1,422
	Bringing PCS to Scale	Current level of PCS enrollment
Enrollment in PCS	8,113	776
Traditional Supervision	0	7,337
Estimated number of new arrests or warrants for violations	4,235	5,143
Cost of incarcerating people on parole who are newly arrested or who have warrants for violations	\$141,067,384	\$171,321,224
Cost of PCS	\$11,536,686	\$1,103,472
TOTAL COST	\$152,604,070	\$172,424,696
POTENTIAL SAVINGS BY BRINGING PCS TO SCALE		\$19,820,627

Note: Percent new arrests or warrant for violation for people on PCS calculated using Sachwald and Eley, Jr., 2007. Source: Judith Sachwald and Ernest Eley, Jr., *Proactive Community Supervision: A Second Chance for Community Corrections and Supervisees* (Washington, D.C.: American Probation and Parole Association, *Perspectives*, Summer 2007).

Improving treatment services available to people on parole will reduce the number of technical violations

In addition to keeping people out of prison and reconnecting them to the community, it is imperative that adequate treatment services are provided to support people after their release. As treatment services are often lacking while a person is imprisoned, an individual may still struggle with a substance abuse problem when released.

As 16 percent of people in state prisons admitted to committing their offenses to get money for drugs, and 53 percent of people in prison used drugs in the month prior to their arrest, keeping individuals off drugs by providing treatment services may be an effective way to keep people out of prison. As abstaining from drug use is one of the conditions of parole, a positive drug test is often a catalyst for parole revocation. Based on available data this has increased as a reason for violation of the conditions of parole.

A lack of available treatment outside the prison system contributes to the numbers of people in Maryland prisons with substance abuse problems. In 2008, JPI conducted focus groups with Baltimore judges who consistently described the Maryland probation system as incapable of providing meaningful supervision to individuals with serious and longstanding addictions. These judges perceive a high failure rate for people with substance abuse problems who are on supervision and believe that many people on probation never receive court-ordered treatment.⁷⁸

The rate of positive results for drug tests of the total population supervised by the Division of Parole and Probation (DPP) shows a small upward trend over the past few years, rising from 20 percent in 2005 to 23 percent in 2007. More than 70,000 drug tests are positive each year, but the total number of drug tests administered has fallen from 420,000 in 2005 to 344,000 in 2007.⁷⁹ It is important to note that positive drug test results may be a poor measure of compliance with the terms of parole, because some substances are in the system for a long time, and people may repeatedly test positive for only one instance of substance use if not administered at appropriate intervals.⁸⁰

Drug testing does not appear to be administered in a systematic, consistent way. In a letter responding to the Maryland state legislature, the director of the DPP explained that while most testing is random, some are administered in response to suspicions of parole agents, and some are on a strict schedule, with as many as two tests a week for some people on parole. People on parole are expected to pass drug tests without guaranteed, easily accessible drug treatment, which should be, and often is, a condition of their parole or probation sentence. Given the high number of positive drug tests, the availability of treatment could potentially greatly increase the number of people who successfully transition off probation or parole.

Reducing returns to prison for technical violations will lower prison populations and save money

While the rationale for some conditions of parole is questionable, presumably they were created in the belief that violating these conditions signaled that the person on supervision was at risk for committing a new offense. Parole officers seeking to protect public safety may recognize that returning a person to prison isn't the appropriate response when the person is struggling with addiction or has difficulty finding a job and a place to live. However, without having approved alternative responses, many parole officers have little choice other than revoking a person's parole.

States are beginning to address this problem by developing what are commonly known as "graduated sanctions" or "systems of graduated responses to parole behaviors." These systems provide guidelines to parole officers for various types of circumstances (failing a drug test, for instance); the guidelines may recommend treatment or other programs, a short period of time in a "violator center" (rather than a

return to prison) where the root causes for the violation can be addressed, or a warning from a parole supervisor. The most progressive systems also involve defined positive incentives for people on parole. Overcoming addiction, developing new habits, and meeting the requirements of work, family, and the supervising agency can be tough work: people on parole, just like those in the general population, benefit much more from positive rewards than negative responses. These rewards can be socially supportive (recognition, certificates of achievement) or tangible (early release from parole, relaxation of conditions of parole).

Maryland has also increased the focus on helping people successfully complete their period of community supervision and stay out of prison. Although imperfect, the state has implemented a graduated response process that attempts to deliver intermediate sanctions, rather than sending a person on supervision directly back to prison or jail for a technical violation. However, this process is lacking positive incentives for good behavior, and instead provides only punitive sanctions, which often pile up before a sanction is actually delivered. As a result, someone on parole receives a harsher sanction than he or she initially would have for the violation. The graduated response theory is meant to be consistent and deliver immediate messages, but the delays undermine the intention. Also, research has shown that positive incentives are more motivational than punishment; an evidence-based system of graduated responses would also include rewards for behavior and participation in designated programs.⁸¹

One positive incentive for good behavior while on parole is taking time off of the total supervision sentence. Some states are beginning to use a “good time” system to reduce the amount of time a person is on parole, thus reducing the amount of time that a person could potentially be in violation of the terms of parole. In Nevada, the legislature passed a measure in 2007 that would allow people on parole to shorten the total amount of time they are on parole by earning good time credits. Similar to good time credits that Maryland already employs when releasing someone from prison, these credits take time off of a total sentence so a person who, for example, would normally be on parole for 5 years may be on for 4 years with good time credits.

“I paid my debt to society, but how long do I have to keep paying? I committed a crime, I messed up, I’m trying to change my life for the better, but every time I have to get through all these obstacles.” – Marlo H.

Technical violations also have a set of sentencing guidelines. However, the Division of Parole and Probation (DPP) often recommends longer sentences than what the guidelines prescribe. The recommendation of the DPP is the second most cited reason for departure from sentencing guidelines.⁸² If previous violations already extend the length of sentence, the recommendation of the DPP is likely to increase the sentence even further.

A stricter adherence to policy and written recommendations would yield a more consistent set of practices and a less subjective system for determining violations. This consistency could benefit individuals under supervision, who would have a more clear understanding of the expectations and consequences for their actions, and supervising agencies, who could spend their time focusing more on serious violations.

Implementing policies and practices, such as a graduated response system, to reduce the number of people returning to prison for technical violations could potentially save Maryland millions of dollars. If 100 fewer people returned to prison from parole in Maryland in one year, the state could potentially save \$3 million. Keeping 100 people on parole from returning to prison each year for three years could save the state almost \$10 million.⁸³

Barriers to meeting parole obligations impact parole revocations

There are a number of different challenges facing an individual on parole, not the least of which are the conditions of parole. People on parole spend a lot of time with their parole officers and will often go great distances to make their appointments. In turn, parole officers face challenges when trying to help people successfully transition to the community. Often, large caseloads due to small budgets and limited staff do not allow officers to provide the services and supervision that can be the most effective.

In order to effectively support individuals returning to the community after serving time in prison, parole agencies need to have adequate resources to not only supervise but provide assistance and support. Large caseloads can make it difficult to adequately supervise, provide resources, and establish trusting relationships with people on supervision. All of these things are necessary to ensure success for the person being supervised, thereby increasing public safety. The DPP anticipates meeting the nationally recognized ideal level of 50 cases per agent. However, a press release from the Maryland judiciary indicates that many parole and probation agents have almost 200 cases each. A grand jury report found that agents in 2003 were, “unable to adequately and regularly follow up with defendants,” especially those with substance abuse problems.⁸⁴ Conversely, people who are doing well and have been in compliance with their conditions of parole for extended periods of time gain little from frequent visits to parole offices; in fact, they create an additional unnecessary time obligation and hamper re-entry. The state of Maryland might consider expanding the use of kiosks and larger, low-risk caseloads; this could allow the department to re-allocate parole agent time to people on parole with higher risks and needs. In particular, this could enable “frontloading” agent resources into the first three months of release on parole, which is when people who recidivate during the first year are most likely to do so.⁸⁵

RECENT LEGISLATION AIMED AT IMPROVING AND EXPANDING PAROLE AND PROBATION

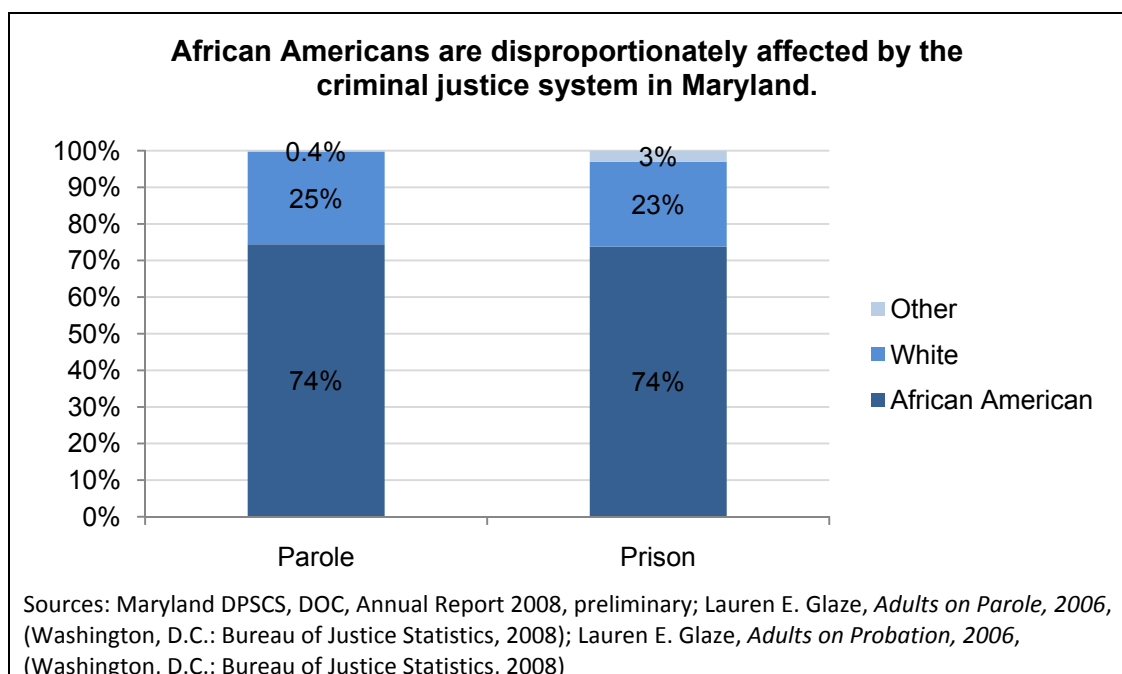
State legislation from the last few years includes an increase in the availability of probation and parole, improvements to conditions, and opportunities for shortening the term of parole. The legislation includes:

- Arizona - Bill 2646 allows the Board of Executive Clemency to assign an individual who has violated their parole to a Community Accountability Program. This will provide intensive supervision and monitoring, substance abuse training, employment preparation, life skill training, education, health care, and housing assistance.⁸⁶
- Louisiana- Bill 180 places caps on incarceration length for technical violations. The cap is 90 days for a person convicted of a first time, nonviolent offense.⁸⁷
- Arkansas - Bill 385 creates an early release program that allows individuals into community-based transitional housing up to one year before their date for parole eligibility.⁸⁸
- Nevada – Bill 510 allows parole agencies to reduce individuals' term of supervision by earning "good time credit" while on parole, thus shortening the total time under criminal justice supervision.⁸⁹
- Kansas - Under 2007 legislation, people in prison are granted a 60-day credit for participation in certain programs designed to facilitate reintegration into the community. Prior to the legislation, Kansas had already been changing the philosophy of parole by hiring social workers to be parole officers and asking parole officers to ensure that people on parole stay out of prison, rather than simply monitoring them to catch them if they violate the terms of probation.⁹⁰
- Kentucky – HB 406, the state budget, allows people who had their parole revoked to have the time they served on parole to be subtracted from the total original prison sentence. People who complete certain education and treatment programs in prison are also eligible for 90 days of earned credit toward release from prison.⁹¹
- Mississippi – HB 494 releases people convicted of nonviolent offenses and who have a terminal illness to parole regardless of the time remaining on their sentence.⁹²

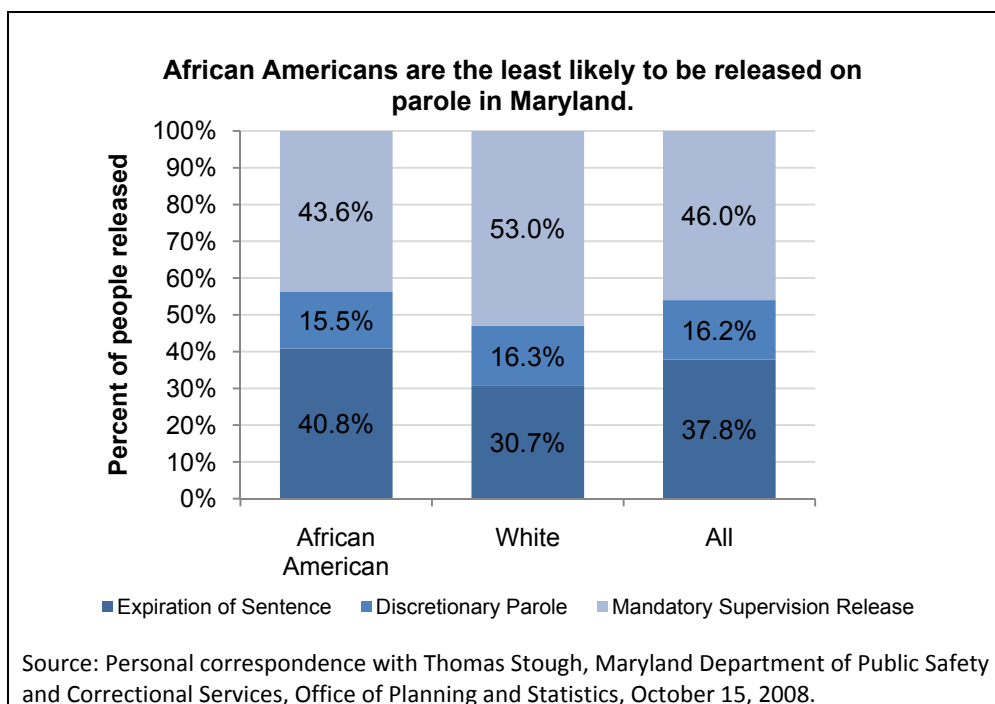


Reforms to Supervision in Maryland Could Have an Impact on Racial Disparities

People of color are disproportionately represented in the criminal justice system in Maryland and across the U.S. Although African American adults make up 29 percent of adults in Maryland, they make up 74 percent of the people in prison and on parole. Since parole often comes after a prison sentence, it is no surprise that the percent of African Americans on parole closely mirrors the percent of African Americans in prison. These disproportionate numbers can have a severe negative impact on communities and families where large portions of their community are incarcerated or under the supervision of the criminal justice system.



African Americans are released on parole under different circumstances than whites. In FY2008, 75 percent of people released from Maryland prisons were African American.⁹³ African Americans are more likely to be released due to expiration of sentence than discretionary or mandatory parole, meaning that they serve their entire sentence in prison and are not released at the discretion of the MPC. Forty-one percent of African Americans who were released from prisons in Maryland in FY2008 were released by expiration of sentence, compared to 31 percent of whites. Fifteen percent of African Americans were released by discretionary parole, compared to 16 percent of whites. These numbers may be an indication of disparate treatment of African Americans before parole commissions and should be examined more closely to ensure that everyone is being treated equally under the law in Maryland.



Improved structures for increasing the availability of parole and improved conditions will reduce the numbers of people in prison and also the number of people caught in the revolving door of the criminal justice system.

Older African American men are disproportionately imprisoned in Maryland.

People over age 60 in Maryland prisons are disproportionately African American, as is the entire Maryland and national prison population. African Americans make up 18 percent of people over age 65 in Maryland,⁹⁴ but are 54 percent of the people over age 60 in Maryland prisons.⁹⁵ Fifteen percent of African Americans over age 50 in Maryland prisons are incarcerated for drug offenses;⁹⁶ this group may be better served in the community while receiving drug treatment. Having so many African American men in prisons can have detrimental effects on entire communities, who are missing these integral members of their society. These older individuals stand to benefit from the increasing availability of parole, especially when provided re-entry services while in the community.

African Americans over age 60 are disproportionately represented in Maryland's prisons

July 2008	BLACK	WHITE	ASIAN	UNKNOWN	TOTAL
SEX	Number (%)	Number (%)	Number (%)	Number (%)	Number (%)
Male	248	201	0	8	457 (97%)
Female	5	6	1	1	13 (3%)
Total	253 (54%)	207 (44%)	1 (.2%)	9 (1.9%)	470

Source: Department of Public Safety and Correctional Services, Office of Planning and Statistics, personal correspondence with Tom Stough, September 8, 2008.



How Could Maryland Improve Parole Practices?

Although Maryland is working to improve its parole system, the current supervision system could be enhanced to improve life outcomes of people coming out of prison, improve public safety, and save taxpayer money. Researchers and experts in supervision best practices have developed an array of specific suggestions to increase the number of people on supervision and to also ensure that they transition successfully into the community and stay there. Maryland is already using some of those suggestions, and has the capacity or structures to implement others, or could benefit from other suggestions still. Those other suggestions include:

“Investing more money in programs designed to change parolee behavior will have little benefit unless significant changes are made to the policy framework within which those programs operate.” Jeremy Travis, Urban Institute

- **Increase the use of accurate risk/needs assessment instruments:** Maryland uses risk assessments such as the LSI-R in some of their criminal justice decision-making processes. Increasing the use of risk assessment instruments can facilitate decision-making in parole cases, thus potentially increasing eligibility, improving the responses associated with parole, and reducing the number of people on supervision. The MPC has already started using a revised risk assessment and has seen an increase in the parole grant rate.⁹⁷ Risk assessment instruments also contribute to a better developed system of graduated responses to parole behavior and in determining when to appropriately discharge people from probation or parole.
- **Make parole offices more accessible and available across the state:** A component of the Proactive Community Supervision program that could be expanded across the state is the increased accessibility and availability of parole offices and officers. In some areas, parole offices are far from the homes of the people who have to check in, and only open at times that may interfere with work, school and family obligations. Making offices closer to where people on parole live may help people on parole make their appointments, and may also help the parole officers become familiar with the particular assets, challenges, and culture of the communities in which the people they supervise reside.⁹⁸ Increasing kiosks and other reporting options may also help people on parole keep jobs, succeed in school, and be better parents.
- **Calibrate intensity of supervision to intensity of need:** People who have been recently released from prison, people who may be at higher risk of recidivism, and people who have greater needs benefit from seeing a parole officer frequently and for significant amounts of time. Those who have been successfully meeting the requirements of supervision, are lower risk and have fewer needs can be seen less frequently, and even put on administrative caseloads. In this way, people

who truly need the supervision and programs get them, and those who are doing well can get on with their lives.

- **Establish and follow a system of graduated responses to parole behaviors** so that people are not being returned to prison for minor technical violations. Maryland already has a system of graduated sanctions to parole violations, which provide for intermediate responses to certain violations, including alternatives such as drug treatment instead of immediately returning someone to prison. These should be used more consistently and uniformly. Establishing positive incentives in the system can be rewarding to the individual on parole and provides parole officers a means of measuring success.
- **Institute early release from parole:** People on parole should be permitted to accumulate “good time” credits for good behavior and participation in education, employment, or other services. In this way, they could be released from supervision earlier. Not only would this provide positive incentives for people on parole, it would also reduce the amount of time that a person is under supervision, thus lowering costs and opportunities for a person to have their parole revoked due to a technical violation.
- **Involve the individual on parole:** Individuals should be engaged in the creation of their supervision plans and in any process of changing their plan. This is a best practice in health care, and should be extended to the criminal justice system.
- **Parole boards should make evidence-based decisions:** Parole boards are generally political entities rather than administrative ones. They are prone to bias, lack of knowledge, and a fear of public humiliation should they make a “wrong” decision. By moving towards evidence-based practices, such as using a risk assessment in making parole decisions and developing conditions that are correlated with public safety, parole boards could become effective partners in reducing prison populations and improving the success rates for people on parole. Maryland is beginning to incorporate risk assessments into decision-making processes and the state should continue to support this effort.
- **Research and evaluation:** The criminal justice system has a limited understanding of how to ascertain and meet the needs of people on parole. If changes to community corrections systems are implemented, those changes must be rigorously evaluated for effectiveness and impact.

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