



SAFE AT HOME:

Improving Maryland's Parole Release Decision Making

Executive Summary

In January 1935, the Baltimore Criminal Justice Commission (BCJC) issued *A Study of Parole in Maryland*.ⁱ It was the first and, to our knowledge, last comprehensive look at parole release decision-making and supervision in Maryland. Sadly, nearly 90 years later, many of the concerns flagged by the authors of the 1935 report remain. The BCJC analyzed release decision-making and post-release recidivism for 458 people on parole and recommended reforms. The authors noted that parole is widely misunderstood and that it was critical to go beyond laws and regulations to examine parole practice, as there is “a very wide difference between parole in theory and parole in fact.”ⁱⁱ

The report flagged high recidivism rates and racial disparity as two indicators of a problematic parole system, familiar to anyone who understands the modern-day criminal legal system in Maryland. The authors noted that parole, as operating in 1935, made a “poor showing” because “untrained, overworked and underpaid people, many of whom were appointed for political purposes,” struggle to “do a job requiring unusual skill, technic [sic] and training.”ⁱⁱⁱ They connected public dissatisfaction with parole due to an incorrect expectation that people can be “cured” by a system lacking “adequate funds for the building up of a competent and highly skilled staff.”^{iv} These shortcomings, in turn, drive recidivism and undermine public trust in parole.

The BCJC undertook this study to shed some light on the policy, practice, and outcome of parole in Maryland, which is shrouded in mystery. Nearly a century later, much of that BCJC report is still timely and relevant. Parole remains widely misunderstood in Maryland. Rules and regulations are not necessarily reflected in practice. Little data are available to the public, including current annual grant rates. Recidivism and racial disparity continue to plague the system. And, sadly, parole lacks staffing, training, and resources to provide the necessary support and services to ensure a successful transition from prison to the community.

The Justice Policy Institute (JPI), 88 years later, is picking up the mantle left by the BCJC to produce a comprehensive look at parole in Maryland, including unprecedented data analysis¹ of parole release decision-making. This document highlights the best available research and practice in the parole field and provides recommendations for improvements to Maryland’s parole decision-making process. To develop these recommendations, JPI consulted with experts who provide technical assistance to states

¹JPI is grateful to the Maryland Department of Public Safety and Correctional Services (DPSCS), which collected, prepared, and shared MPC data from fiscal years 2017 through 2021. The data cover eligibility, number of heard cases, grant rates, denial rates, supervision lengths of stay, and parole revocations. DPSCS was generous with their time and tireless in ensuring data quality and accuracy.

looking to improve their parole practices, reviewed research on parole practice and outcomes, spoke with attorneys who assist individuals applying for parole, consulted with family members and individuals who have experience with the Maryland parole system, and examined best practices in parole in other states to identify areas of needed improvement in Maryland.

Some key findings include the following:

- Since 2017, the number of individuals newly eligible for parole has declined. Much of this decline is attributable to the shrinking incarcerated population and the impact of COVID-19. The decline between 2017 and 2021 was primarily driven by a 93 percent decrease in emerging adults (25 years of age and under) becoming newly eligible. Meanwhile, those over the age of 60 more than tripled to 8 percent of the newly eligible population. These data point to a “graying” of the Maryland prison population.
- The Maryland Parole Commission heard 5,002 cases in 2018, an increase of 76 percent in one year, attributable to sentencing modification changes in the Justice Reinvestment Act that took effect in FY 2018 and expanded parole eligibility. Since then, there has been a steady decline, with a dramatic drop in 2021 due to the closure of courts in response to the COVID-19 epidemic. People 51 years or older comprised only one in eight parole hearings.
- The parole grant rate decreased between 2020 and 2021 despite the emergence of COVID-19 in early 2020. Many jurisdictions around the country expedited the release of individuals from prison to reduce the spread of the virus. This was typically accomplished by moving up parole eligibility by months and expanding the number of people eligible for a hearing. However, Maryland data reveal sharp declines in newly eligible individuals, hearings, and the releases granted.
- Grant rates in Maryland follow a bell curve pattern. Emerging adults (25 years of age and younger) report a grant rate of 37 percent. The rate increases to a high of 43 percent for people between the ages of 31 and 35, steadily declining as individuals age. People over 60 are paroled at a rate of 28 percent. Parole grant rates that decline with age run counter to everything we know about trends in criminal offending. Crime is a young person’s endeavor, and the likelihood of reoffending drops precipitously after age 40.

- Maryland can improve its parole practices by adopting several best practices identified by experts in parole release decision-making. These include:
 - Assuming that the goals of punishment have been met at the time of initial parole eligibility, parole release decision-making should be based solely on objective factors related to an individual’s future risk to the community.
 - Adopting transparent rules and procedures that reflect all interested parties’ input.
 - Documenting reasons for denial of parole in writing and making decisions appealable.
 - Expanding eligibility and developing standards for compassionate release.
 - Working closely with other criminal legal and support agencies to ensure the development of a parole release plan that supports successful reentry.
 - Establishing inclusive standards for parole board member eligibility, including education and work/life experience.

ⁱ A Study of Parole in Maryland, Baltimore Criminal Justice Commission, January 1935.

ⁱⁱ *Ibid.*, 1.

ⁱⁱⁱ *Ibid.*, 5.

^{iv} *Ibid.*, 5.

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Overview of Parole in Maryland

History

The Maryland Parole Commission has evolved in form and function since it was established in 1914 as the Advisory Board of Parole. In 1922, responsibilities were shifted, and the legislature created the parole commissioner, who replaced the Board of Parole and Probation in 1939. In 1968, authority over parole and probation was split between two entities, creating the Board of Parole (BP), which had sole jurisdiction over release decision-making.ⁱ

The Board of Parole increased its capacity in 1969 to seven full-time members instead of the three part-time members who formed the Parole and Probation Board. At the time, two BP members conducted each hearing, petitioners could not see their files nor have representation during hearings, and individuals received the board's oral decision immediately following the hearing and a private, expedited deliberation. To arrive at a ruling, the BP was not required to weigh various factors about an individual's progress or the details of the case. Instead, granting parole was a "gut-level decision." The BP could also not assign individuals to rehabilitative programs even if it viewed completing such programs as necessary for continued growth.ⁱⁱ

Maryland's parole system was restructured most recently in 1976 with the establishment of the Maryland Parole Commission (MPC). The MPC focuses on hearings for persons eligible for parole release and revocation from all state institutions except the Patuxent Institution.ⁱⁱⁱ Like the BP, the MPC functions with ten full-time commissioners, including the chairperson.^{iv} They are appointed not by the governor, as BP members were,^v but by the secretary of the Department of Public Safety and Correctional Services, with approval from the governor and consent and advice from the senate. With the governor's support, the secretary appoints the chairperson from among the commissioners.^{vi} The MPC also consists of ten hearing examiners (as of 2018)^{vii} and 73 other staff members (as of 2023).^{viii} In 2022, the MPC was appropriated \$6.3 million, with 93 percent allocated to salaries and fringe benefits.^{ix}

MPC Structure and Composition

Commissioners serve six-year terms and must have a background in law, sociology, psychology, psychiatry, technology, education, social work, and/or criminology.^{x,xi} However, there are no specific requirements to be eligible to be a parole commissioner in

Maryland, and four current members come from corrections or law enforcement backgrounds.^{xii}

Below is the breakdown of the backgrounds of all parole commissioners.¹

	Law	Social Work	Corrections	Education	Criminology	Technology	Politics	Law Enforcement	Percent Law Enforcement/ Corrections
1986	3	3	4	2	2	0	1	0	26.67% ^{xiii}
2002	3	0	2	1	0	0	3	3	41.67% ^{xiv}
2013	5	3	3	1	1	0	2	1	25.00% ^{xv}
2018	3	1	3	1	4	0	2	4	46.67% ^{xvi}
2022	3	0	0	1	1	1	2	4	30.76% ^{xvii}

Maryland Parole Commission Guidelines

The Robina Institute of Criminal Law and Criminal Justice categorizes Maryland’s criminal sentencing structure as having *moderate indeterminacy*.^{xviii} This means that, compared to all other states, Maryland is about average regarding how well a judicial sentence predicts the actual time someone will serve in prison. Statutory eligibility for parole is based on offense type, conduct, and program participation while in prison. The review by the MPC ultimately determines how much of a prison sentence one will serve for those individuals with a parole-eligible sentence.

“There’s no guidance or clarity given to individuals about the process. After you sign your decision, nobody meets with you to go over next steps.”

¹ Some commissioners have professional experience in more than one category.

The statutory guidelines and the Code of Maryland Regulations (COMAR) govern release decision-making and supervision. Unlike the BP, all who serve on the MPC,

“I was told that I was denied and was told to get involved in drug treatment at MCI-W. However, at the time of this notice, that program was not available at MCI-W.”

independent of their background, must consider a range of factors before approving or rejecting parole. It is not supposed to be a “gut-level decision,” and guidelines are intended to standardize the practice. Additionally, parole petitioners and their representatives now have the right to access certain documents pertaining to the decision.^{xix} The MPC can

decide to exclude portions or the whole document if it contains a diagnostic opinion, disrupts a rehabilitation program, contains confidential sources, or is otherwise privileged.^{xx2} Another change is that parole decisions are presented orally, directly after the hearing. A commissioner provides a one-page written document that the petitioner must sign.

Moreover, if parole is denied, the MPC must explain why in a written report within 30 days of the decision.^{xxi} Often, this written document is a short one-page summary with limited rationale or documentation detailing the decision. Several people we spoke with expressed frustration at the lack of clarity and transparency throughout the process.³

“After a hearing, I did not hear anything for 26 months. I eventually wrote David Blumberg (Chairperson), and two weeks later, got a decision establishing ‘a three-year rehear with recommendations to take a vocational trade and victim awareness program’. However, I already had a vocational trade in graphic art, and there were no victim awareness programs left in any Maryland institutions.”

² “Otherwise privileged” documents can refer to any parts of the file that the governor uses to make release decisions, which are excluded due to executive privilege.

³ JPI did not independently verify the experiences shared by individuals and family members who have gone through the parole process in Maryland. The perspective shared in the quotes in this report represent their recollection of how events transpired.

Eligibility

The MPC has release decision-making authority for individuals sentenced for longer than six months who have served at least one-quarter of their term.^{xxii} Parole eligibility is determined by several factors, including the type of crime, length of sentence, number of times convicted of a similar crime, number of sentences being served,^{xxiii} and the sentencing judge’s discretion. Lastly, people with three or more felony drug convictions must serve half their sentence before becoming eligible for parole.^{xxiv}

Convicted of: -or- Sentenced to:	Parole Eligibility
<i>Violent crime after 10/1/1994⁴</i>	Must serve the greater of: (1) one-half of their aggregate sentence or (2) a period equal to the term during which the inmate is not eligible for parole.
<i>Violent crime after 10/1/1994 and sentenced to more than one term of imprisonment</i>	Must serve the greater of: (1) one-half of the aggregate sentence for violent crimes, (2) one-quarter of their total aggregate sentence, or (3) a period equal to the term during which the inmate is not eligible for parole. ^{xxv}
<i>Life imprisonment</i>	Must serve 20 years, ⁵ allowing application of diminution credits. If the state sought the death penalty or a life sentence without the possibility of parole, but the individual was sentenced to life with the possibility of parole, an individual must serve a minimum of 25 years.
<i>Life imprisonment without the possibility of parole</i>	Never becomes parole eligible

⁴ Individuals convicted of violent crimes will receive a file review of any progress they have made while incarcerated after they have served one-quarter of their aggregate sentence, or period equal to the term during which the inmate is not eligible for parole (if one of their sentences has a mandatory minimum).

⁵ If a crime was committed on or prior to October 1, 2021, an individual becomes eligible for parole after serving a minimum of 15 years minus diminution credits.

For decades, Maryland was one of only three states (California, Oklahoma) where the governor had to approve all parole release recommendations for those serving life sentences with parole eligibility. While this practice was amended during the 2021 legislative session, irreparable damage was done over the prior two decades.

Between 1980 and 1995, Maryland governors approved an average of six such parole petitions per year.^{xxvi} However, since Gov. Parris N. Glendening's administration announced the "life means life" policy in September 1995, this number dropped to zero. No Maryland governor, neither Democrat nor Republican, approved any MPC parole recommendations for people serving life sentences and would not until 2018. The Maryland General Assembly attempted to pressure governors to act on recommendations for release by passing a law in 2013 that required the governor to decide within 180 days of receiving the recommendation from the MPC.^{xxvii} However, this reform did not immediately lead to any releases. In fact, the MPC would often send a recommendation for commutation to the governor rather than parole, whereby it is no longer subject to the 180-day deadline. It was not until 2018 that Gov. Lawrence J. Hogan Jr. permitted the first two recommendations for release in 23 years to proceed. He additionally allowed another juvenile serving a life sentence to move forward due to the expiration of the 180-day deadline.^{xxviii}

An individual serving a life sentence can petition for parole after serving at least 15 years. However, there has been only one documented case of someone being released at the first petition. The MPC is solely responsible for determining whether an individual should be released without the governor's oversight.^{xxix} While this is long overdue, there remains a backlog of eligible candidates who were once approved, only to be denied by the governor.

The MPC created the Maryland Parole Investigation Unit (MPI) in response to this backlog. The MPI is charged with revisiting all prior parole cases in which the MPC recommended to the governor parole for someone serving a life sentence but who was not ultimately released. If there have been no infractions in the interim, the MPC will determine a release date.

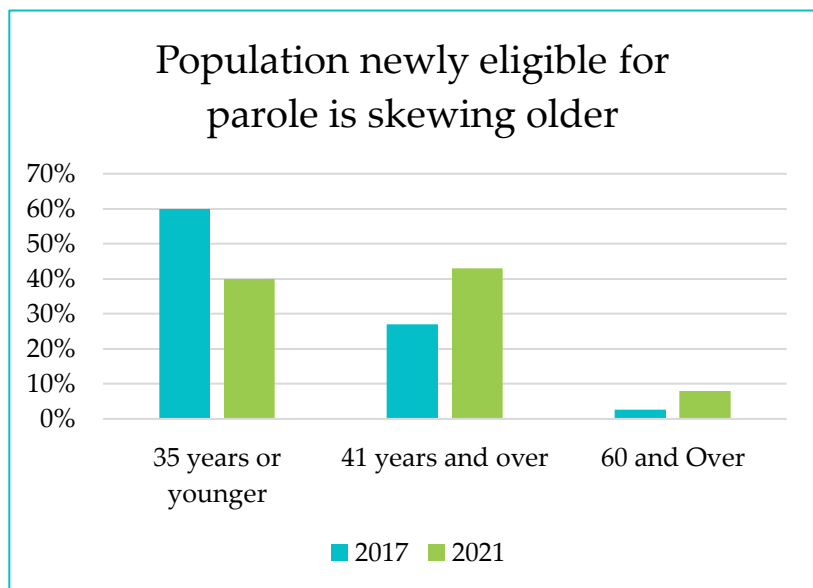
However, a long-standing Maryland policy is proving troublesome for individuals transitioning from prison to the community. We heard from individuals in Maryland prisons that current Department of Public Safety and Correctional Services policy prohibits any individual serving a life sentence from being housed below medium custody, and they are forbidden from participating in work release. The individuals approved for release by the MPI cannot access work release and are getting little reentry preparation in the months leading up to their release. Several nonprofit organizations,

such as No Struggle No Success and TIME Organization, have stepped in to fill this need but are not a substitute for programming and pre-release transitional planning by the Division of Corrections.

MPC data include only those individuals newly eligible for parole each fiscal year. Since 2017, the number of newly eligible individuals has declined. In 2017, there were 1,115 individuals, compared to 587 in 2021. Much of this decline is attributable to the shrinking incarcerated population and the impact of COVID-19. Across the reporting years, men accounted for 94 percent of the eligible population and women 6 percent. Within the parole-eligible population, there was a slight increase in racial disparity during the observed period. In 2021, the eligible population was 65 percent Black and 27 percent white, compared with 63 percent Black and 32 percent white in 2017. The percentage of Latinos increased slightly during that same period, from 3.5 percent in 2017 to 4.4 percent in 2021.

<i>Year</i>	<i>Newly Eligible Population</i>
2017	1,115
2018	1,023
2019	955
2020	757
2021	587

Another interesting trend is the aging of the newly eligible parole population. The decline between 2017 and 2021 was primarily driven by a 93 percent decrease in emerging adults (25 years of age and under) becoming newly eligible. The decline coincides with the current trend of the sentenced population. There were sharp decreases among every other age group, which led to a significant shuffling in the distribution of eligibility by age. In 2017, 23 percent of all individuals newly eligible for parole were between the ages of 26 and 30 years old, and six in 10 were 35 years old or younger. By 2021, slightly more than four in 10 newly eligible individuals were under 35 years of age, while those 41 years old and above increased from 27 percent of



newly eligible individuals to 43 percent. Those over the age of 60 more than tripled to eight percent of the newly eligible population. These data point to a “graying” of the Maryland prison population.

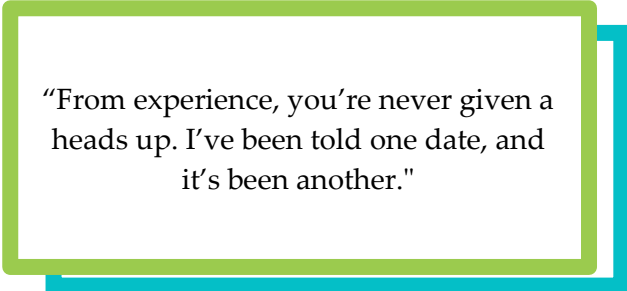
The majority of newly parole-eligible individuals were serving a sentence for an offense against people⁶ (assault, robbery, sexual assault, death), followed by drug and property crimes. Individuals convicted for person offenses accounted for 57 percent of the newly eligible population between 2017 through 2021. However, the annual numbers changed dramatically. In 2017, people serving a prison term for an offense against persons comprised 47 percent of individuals newly eligible for parole. By 2021, that figure had increased to 72 percent of newly eligible individuals. This increase in the proportion of people newly eligible for parole and sentenced to prison for a person-based offense occurred during a period of sharp declines in those serving a sentence for a drug or property crime. Individuals newly eligible for parole who served a prison sentence for a drug offense declined from 16 percent in 2017 to 9 percent in 2021. Newly eligible individuals serving time for a property offense fell from 25 percent in 2017 to 16 percent in 2021.

These data point to a population of individuals newly eligible for parole who are rapidly becoming older and more likely to have been convicted of a violent crime. State leaders need to be aware of these trends, as these developments warrant revisiting policies and practices to ensure that the specific needs of this population are being met effectively.

Recent data collected from the Department of Public Safety and Correctional Services sheds some light on those serving at least 15 years. The analysis does not indicate their sentence length or if it is a life sentence, but it provides insight into the parole board’s hesitation to approve parole, even after 15 years of incarceration. Between fiscal years 2017 and 2021, the parole board has approved 26 percent of petitions from individuals who have served at least 15 years.

Notification

When an individual is eligible for parole, the MPC must provide a 15-day written notice of the date, time, and place of the hearing, unless there is good cause. While COMAR outlines a timely notice system, the practice itself is inconsistent. The MPC delegates the task of notifying individuals



“From experience, you’re never given a heads up. I’ve been told one date, and it’s been another.”

⁶ This includes many violent offenses.

eligible for parole to case managers, who often have an overwhelming caseload. Based on interviews with individuals seeking parole and their advocates, it is common for case managers to inform individuals on the same day as their hearing.

“I was given a month’s notice but not the exact date. I was simply told it would be in October.”

Adequate notice is crucial for individuals to prepare for their hearing and make their case effectively. Presenting a purpose-driven narrative that reflects personal transformation during incarceration is essential to a successful petition for parole and incredibly difficult in the absence of proper notice. It is also critical to provide information on the parole process, which can be confusing, to each individual about to begin the undertaking.

In preparing their parole file, eligible candidates or their representatives, including counsel, can request any file, report, or other documents that the MPC will use in the hearing. Institutional parole agents relay to the candidates a list of the factors the MPC considers when making its determination.^{xxx} However, the MPC can remove any information from the file without notice that contains a diagnostic opinion, could affect an individual’s programming in prison, is the product of confidential information, or is otherwise privileged.^{xxxi} Examples include risk assessment information and victim impact statements. While candidates can inquire about the removed information, we heard from advocates and individuals that many are unaware that MPC has removed information before their review.

“I found out the day before the hearing.”

In addition to notifying eligible candidates of the hearing, the MPC must notify victims at their request. Victims have 120 days after receiving notification of a tentative hearing date to respond whether they would like an open or closed hearing. If they wish to submit an updated victim impact statement, they must do so within 30 days of receiving the parole hearing notification. Preceding the hearing, victims also have the opportunity to recommend the outcome, either in writing or in person. The MPC considers all updated victim impact statements and/or recommendations in its decision. Victims may also

request that a parole hearing be open to the public to provide oral testimony, provided this request is submitted at least 90 days before the hearing. Requests submitted less than 90 days before the hearing are decided at the chairperson’s discretion.^{xxxii} The MPC is required to promptly notify victims of the parole decisions.^{xxxiii}

Investigation

Before the hearing, the MPC gets a written report from the case manager that summarizes factors to determine their likelihood of a successful reentry, such as a recommendation by institutional staff and a projected mandatory release date.^{xxxiv} The completed material is due back to the MPC within 60 days.

“I did have an expectation, but many do not. What they think they know comes from other people. Unless you have already gone through a parole hearing, it is an unfamiliar process. You are not aware of your rights or ability to introduce supporting materials that are not included in your parole case/base file, there is no discussion outside of what happens with your case manager.”

Maryland law does not mandate a risk assessment for parole consideration.⁷ In fact, only individuals serving a life sentence are required to undergo a risk assessment. Since FY 2015, the MPC has conducted 523 risk assessments for parole hearings. The Department has referred 215 individuals to the governor’s office for consideration. Of those, 76 have been granted, and 15 await MPC consideration in 2023.

“I was recommended for a risk assessment. I had to wait more than one year to be sent to Patuxent for the assessment. You should not have to go to a different prison for the evaluation. It causes you to lose your job and lose personal possessions/property. At my first hearing, I was told by the Commission that there was an issue with my assessment, but would not detail what.”

Risk assessments of those serving a life sentence consist of a psychological exam, an IQ test, and an evaluation in accordance with the Historical Clinical Risk Management-20 (HCR-20) instrument, a 20-item assessment tool that measures risk of future violence. Historical aspects focus on past events, experiences, and psychiatric conditions, including past violence and age at first offense. The clinical assessment

⁷ Pursuant to the Justice Reinvestment Act of 2016, the Maryland Department of Corrections adopted the LSI-R for purposes of case management. The LSI-R accounts for static factors, such as criminal history, that cannot be changed, and dynamic factors such as personal relationships and pro-social behavior that can change as an individual participates in programming.

attempts to uncover negative attitudes toward the future. Risk management looks at the feasibility of reentry, necessary supports after release, and potential stressors that could lead to future criminal offending. This information is considered by the MPC during their deliberations.

A validated assessment tool can inject some level of objectivity into a process that is often subjective. However, risk assessments are often met with concerns about amplifying racial and ethnic disparities. Both tools utilized by the MPC include static factors, which are often scrutinized for highlighting racial biases because they rely on fixed benchmarks such as a history of criminal legal involvement and parental presence in the household. There are undeniable disparities throughout the criminal legal system that are part of the “static” assessment: criminal history, age of first arrest, prosecution, and sentencing. Static factors are unchangeable and, as such, cannot account for personal transformation during incarceration. These factors make it implausible for a tool to achieve fairness.

Moreover, because this risk process is labor-intensive and inefficient, a risk assessment can delay the parole process by up to two years. An individual serving a life sentence can only move forward after receiving clearance following the risk assessment.

“I had a second parole hearing in March 2017 and was recommended for a risk assessment; it took 16 months to happen—in July 2018. The risk assessment was ‘a psychological evaluation that determines if you’re suitable for parole based on some questions that don’t even apply to a juvenile who’s been incarcerated for all his life.’ This individual didn’t hear anything for 10 months. He wrote to David Blumberg and two weeks later got a decision: ‘A three-year rehear with recommendations to take a vocational trade and victim awareness.’ He wrote back that he had a vocational trade (graphic arts) and that there were no victim awareness programs ‘in any Maryland institutions any longer.’” ...

... “After some interventions by Steny Hoyer, he was brought back to the MPC two years early, on June 3, 2020 (his third hearing). “It was then that I found out the reason for my denial at my last parole hearing.” The risk assessment said that “because of how I was raised and what I did as a 14-, 15-, and 16-year-old that I had a high probability that I would reoffend if I was released, a risk assessment that said because of my drug use as a 14-, 15-, and 16-year-old that I had a high probability that I would relapse on drugs again if I’m released. While my adjustment history does not reflect that I would commit a crime or relapse on drugs.” Only three major infractions in 28 years of incarceration and none in 11 years. “I’ve been defined by that 14-, 15-, 16-year-old I once was and not the 45-year-old man who stood before them with so many accomplishments.”

Hearing

There are two types of parole hearings: those held by hearing examiners and those held by parole commissioners. Parole commissioners only hear cases where an incarcerated individual is serving a life sentence or there was a loss of life involved in the offense.⁸ In addition, parole commissioners are present at all open hearings. Hearing examiners hear all other cases.

A hearing examiner submits a recommendation to the commissioners, who either accept the examiner's recommendation or submit a written exception within five days of having received the recommendation. The individual seeking parole is notified within 21 days of whether the MPC has adopted or rejected that recommendation. If the recommendation is not accepted, the decision will go to two appointed commissioners not involved in the original hearing, who can review the parole file in an additional hearing and make a final determination regarding parole.^{xxxv} This additional hearing is often not held as the commissioners make a final determination from the previous reports. However, if another hearing is warranted, both commissioners must vote unanimously to overrule the earlier ruling. If there is a disagreement between the two commissioners, a third commissioner will join the panel to rehear the case for a majority vote decision.^{xxxvi}

For cases requiring a commissioner's consideration, the process starts with a two-commissioner panel that must come to a unanimous decision following a parole hearing with the individual. If not, they would expand the panel to a third commissioner and follow the same guidance of the examiner.

There is no legal counsel permitted at formal hearings. In fact, counsel may only attend open hearings as an observer. Representation is limited to submitting written materials and meeting with a commissioner before the hearing. Relatives and other interested parties cannot appear at parole hearings but can request

"You are the only one in the room generally advocating for you. Most of the time, the only other person in the room is a case manager (and generally not your case manager). This person does not speak on your behalf, only to verify what is in the file (if even that). This is problematic for individuals who are not comfortable speaking up for themselves or who are intimidated by the process and that the parole commissioner holds your future in their hands and that you are subject to their personal ideologies and whether they are having a bad day."

⁸ Parole commissioners can also hear cases when a victim requests an open hearing.

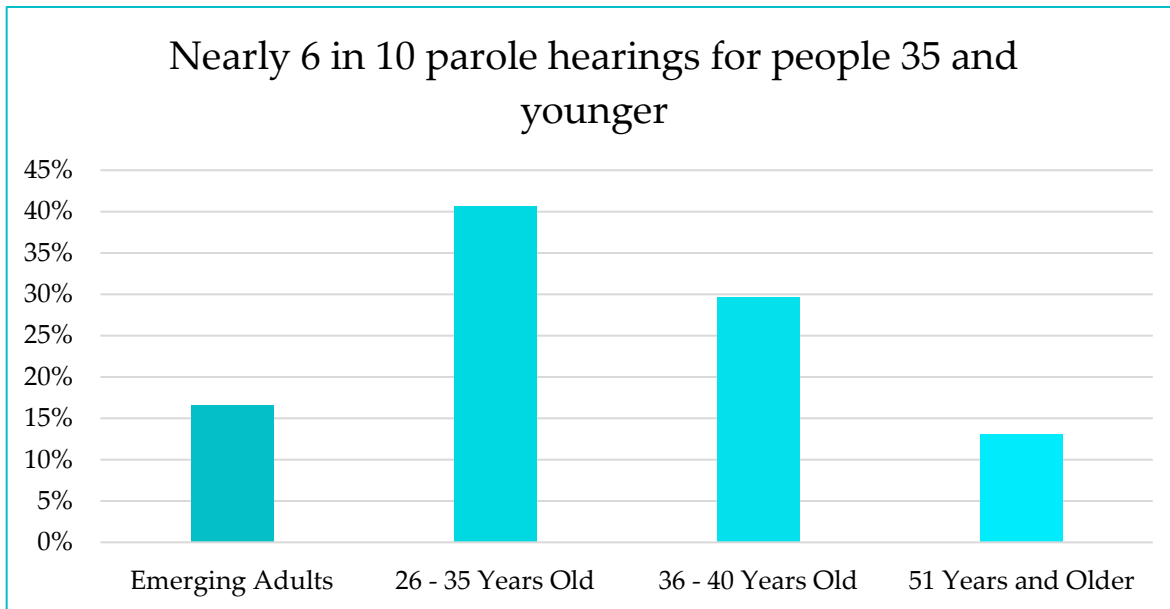
a conference with the MPC.^{xxxvii} In practice, these discussions are limited to 30 minutes and generally scheduled on only one day of the week.

In 2018, the MPC experienced a sharp increase in the number of parole cases heard. The MPC heard 5,002 cases in 2018, an increase of 76 percent in one year.⁹ This increase is attributable to sentencing modification changes in the Justice Reinvestment Act that took effect in FY 2018 and expanded parole eligibility.^{xxxviii} This increase between 2017 and 2018 occurred despite an 8 percent decline in the number of newly parole-eligible individuals that year. Since then, there has been a steady decline, with a dramatic drop in 2021 due to the closure of courts in response to the COVID-19 epidemic. This sharply reduced intakes; thus, many parole hearings over the past two years have been drawn from the same cohort of individuals.

<i>Year</i>	<i>Cases Heard</i>
2017	2,834
2018	5,002
2019	4,813
2020	4,101
2021	2,023

On average, the MPC’s hearing portfolio was 69 percent Black and 27 percent white, which is not dissimilar to the racial distribution of the newly eligible population. Latinos comprised 3 percent of cases heard during the period. Similar to the eligible population, women accounted for 7 percent of the heard cases, despite making up 3 percent of the general population.

⁹ These hearings include both newly eligible candidates and individuals applying for a re-hearing after a prior denial.



The distribution of parole hearings by age remained stable over the five years between 2017 and 2021. Just under six in ten individuals who received a parole hearing during this period were 35 years old or younger. Slightly less than one in five were emerging adults. People 51 years of age or older comprised nearly one in eight parole hearings.

Between 2017 and 2021, 53 percent of parole hearings were for person offenses, and an additional 23 percent was for people serving a prison term for a drug offense. The balance of parole hearings were for property and public order offenses. These proportions remained relatively stable over the observed period. However, grant rates tell a slightly different story.

Final Decisions

MPC decisions are rendered after considering the statutorily required criteria. Factors the MPC may consider to determine readiness for release include:

- Circumstances of the crime;
- Physical, mental, moral qualifications of the individual;
- Progress while incarcerated, including meeting educational benchmarks;
- Drug and alcohol evaluation;
- Risk of reoffending;
- Victim impact statement;
- Judicial recommendations at the time of sentencing;
- Additional information provided by the victim to the MPC;
- Testimony by the victim; and
- Compliance with a case plan.^{xxxix}

However, the law does not specify how the MPC should weigh these factors. Because most commissioners are former law enforcement officers, there is little surprise about how they often use discretion to consider the factors for parole review. This usually means revisiting the circumstances of the underlying offense and weighing these static factors more heavily than personal growth, program completion, and disciplinary record while incarcerated.

The MPC decides to grant parole, deny, or “setoff” the review to be heard later, while an updated case management report containing infractions and security level information is created. While most jurisdictions established a time frame for a follow-up hearing, Maryland has not created any statutory or regulatory requirement

“They focused on the past and offense. They do not put a lot of weight into accomplishments as they know that the wait lists are so long that most people cannot access the few programs that are available. Also, they focus on remorse – which is subjective. Not everyone is guilty, not everyone feels remorse. Finally, the past is not an accurate indication of future reoffending.”

related to rehearing periods. The MPC retains ultimate discretion in setting rehearing periods, which can vary widely. If a request has been denied, an individual must submit a written request for reconsideration to the MPC, which is then reviewed by the same commissioners who issued the denial.^{xi}

When a parole decision is granted, a date is set by the MPC for the release of an individual to community supervision, barring any institutional behavior that could affect the decision and dependent on having met pre-release conditions such as an approved home plan.^{xii}

Consistent with the number of parole hearings trends, the number of parole requests granted spiked in 2018 before a sharp decline through 2021. As noted above, the increase in the number of grants of parole in 2018 coincided with expanded parole eligibility attributable to the Justice Reinvestment Act. However, despite the rise in hearings, the grant rate remained stable in 2017 and 2018, at around 41 percent.

<i>Year</i>	<i>Granted</i>	<i>Grant Rates</i>
2017	1,176	41.5%
2018	2,067	41.3%
2019	1,759	36.5%
2020	1,651	40.3%
2021	784	38.8%

The MPC averaged a 39.6 percent grant rate between 2017 and 2021, compared to its neighboring states: West Virginia at 36 percent, Virginia at 5 percent, and Pennsylvania at 53.2 percent.

Surprisingly, the parole grant rate decreased between 2020 and 2021 despite the emergence of COVID-19 in early 2020. Many jurisdictions around the country expedited

“I was denied parole my first time up, and the rationale for that denial was the nature of the crime, not compatible with society. I was told that I could re-apply every two years ... never any information on how to improve my application....”

the release of individuals from prison to reduce the spread of the virus. This was typically accomplished by moving up parole eligibility by months and expanding the number of people eligible for a hearing. However, Maryland data reveal sharp declines in newly eligible individuals, hearings, and the releases granted.

Between 2017 and 2021, men accounted for nine in ten parole approvals. However, grant rates for women were significantly higher than that for men. Between 2017 and 2021, slightly more than half (53 percent) of parole hearings for women resulted in a grant of release, compared with 39 percent of men.

When examining the racial and ethnic composition of grant rates during the observation period, Black individuals averaged 68 percent of the grants, aligning with 68 percent of the cases heard. About four in ten hearings for Black individuals resulted in the granting of parole between 2017 and 2021, which is similar to the rate for whites. Parole grant rates for Latinos were slightly lower, with about one in three hearings (35 percent) resulting in approval to release.

Parole grant rates also varied widely by offense type. People serving a prison term for a drug offense were the most likely to be granted parole, with 53 percent of hearings between 2017 and 2021 resulting in release. The rate dropped to 42 percent and 34 percent

for property and person crimes, respectively. Individuals seeking parole who committed an offense resulting in death or a sexual assault offense faced a grant rate of 23 percent during the same period.

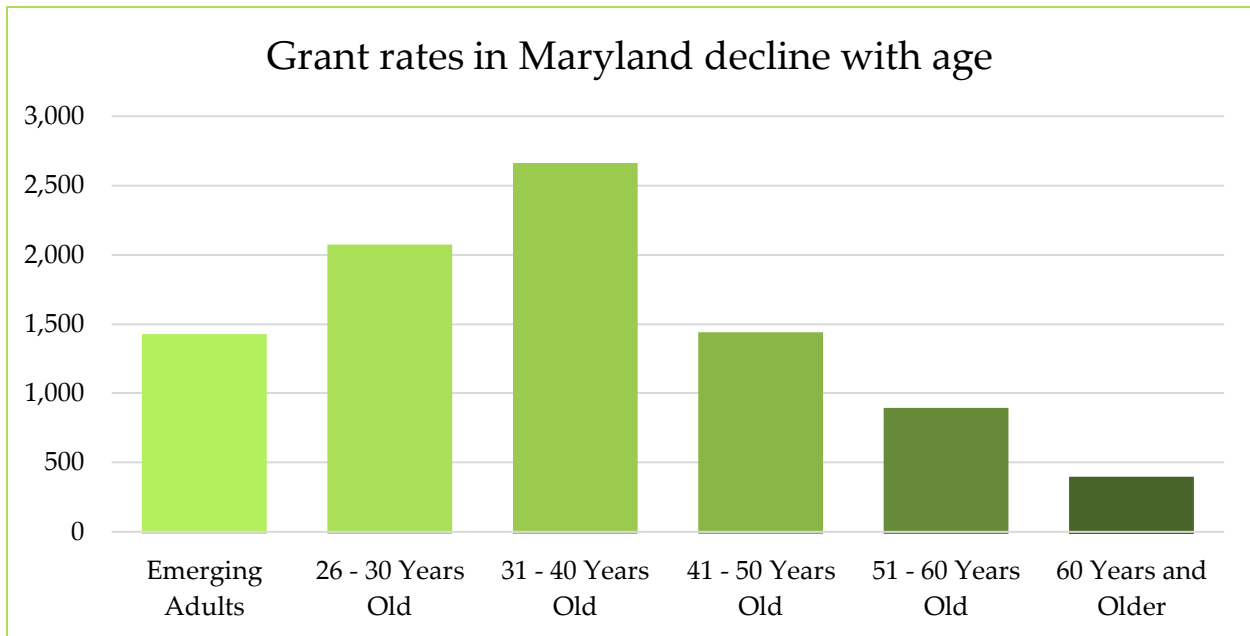
The vast majority (65 percent) of those granted parole served between six months and six years. Nine in ten grants were for people who had served between six months and nearly 12 years.

Grant rates drop off precipitously as time served increases. For example, between 2017 and 2021, the MPC heard 1,902 individuals who had served at least 15 years. Of those, 23 percent, or 438, were granted parole, which is far below the state average.

<i>Time Range (in deciles)</i>	<i>Granted</i>	<i>Grant Rate</i>
0 – 6.23 Years	4,821	40.1%
6.24 – 11.73 Years	1,888	46.1%
11.74 – 17.24 Years	403	37.3 %
17.25 – 22.73 Years	161	33.1 %
22.74 – 28.06 Years	91	21.9 %
28.25 – 32.6 Years	42	13.8 %
33.7 – 39.26 Years	18	7.8 %
39.27 – 44.58 Years	10	9.3 %
44.76 – 50.23 Years	2	7.7 %
50.27 + Years	1	5.6 %

Forty percent of people granted parole between 2017 to 2021 were 30 years of age or younger. At the other end of the age spectrum, 11 percent of people granted parole were 50 years of age or older.

Grant rates in Maryland follow a bell curve pattern. Emerging adults (25 years of age and under) report a grant rate of 37 percent. The rate increases to a high of 43 percent for people between the ages of 31 and 35, steadily declining as individuals age. People over age 60 are paroled at a rate of 28 percent.



Parole grant rates that decline with age run counter to everything we know about trends in criminal offending. Crime is a young person's endeavor, and the likelihood of reoffending drops precipitously after age 40. In Maryland, though, grant rates decline sharply beginning at 40 years of age. That makes little policy sense and likely reflects a focus on the underlying offense profile of more serious, often violent crime, among individuals still serving prison terms into their geriatric years. This is frequently a function of a parole board discounting personal transformation and growth during incarceration.

While Maryland law has a geriatric parole provision that was intended to benefit incarcerated individuals over the age of 60 who have served at least 15 years, in reality, very few individuals are eligible because the law requires only those persons who meet those criteria *and* are serving sentences for subsequent violent offenses are eligible. This is problematic. If someone is sentenced to 80 years for a first-time offense when they are 40 years old, with standard parole eligibility at 50 percent, they will not be eligible for release until age 80. Geriatric parole is unavailable to them because it is a first-time offense. This technical issue within the geriatric parole law circumvents the spirit of an age-based release mechanism.

"I went up for my first parole hearing and was given a ten-year rehear but it took them 12 years to see me. And then, I received an additional five-year rehear!"

In addition, “administrative release” was established as part of the Justice Reinvestment Act (JRA) of 2016. Unlike traditional parole, it is restricted to people serving sentences for

“The parole commissioners definitely do not care about our personal improvements. They only care about the past and the offense. Every time we came up for parole (hearing), they said the same thing. Then we get a rehearing. You better admit to exactly what the state and judge determined, but you also do not get to explain anything since the time (of the hearing) is so short.”

“The commissioners are never concerned with your personal improvement, growth, or changes. They only based their decision on your past and offenses.”

low-level, nonviolent crimes.^{xlii} Administrative release allows certain individuals to be released without a hearing after they complete one-quarter of their sentence *and* meet eligibility criteria that indicate a high likelihood of successful reentry.

To be eligible for this type of release, an individual must not have a past or current conviction for a violent or sex offense and cannot have two convictions for certain drug offenses. Most eligible individuals will have been convicted of a low-level drug offense or misdemeanor property crime worth \$1,500 or less.^{xliii} Successful petitioners must have complied with their case plan, have no rules violations while incarcerated, and have demonstrated progress while in prison. Even if these requirements are met, a victim can still request a hearing.

Similar to other parole hearings, counsel for the defendant cannot be present. If candidates cannot prepare appropriately due to lack of notification and are unable to have representation at their parole hearing, there is truly no right to counsel for individuals seeking parole. This further places individuals at a severe disadvantage in their hearing because presenting a narrative of personal growth is crucial to success.

“They let me speak at length about my college degree and the 50+ certificates I received for programs. But focused on the ticket for a ‘dirty crime.’ Listed infraction as a reason for a three-year hit. Even my victims came in support of me, and that’s what they focused on. I can see a one year, but three years is excessive/unfair.”

The MPC is responsible for determining whether individuals are eligible for administrative release and, if so, their eligibility date. After individuals are deemed

eligible, an individual case plan is developed. This case plan identifies risk factors and establishes a treatment plan to address those concerns.^{xliv} The Division of Correction is responsible for sending a progress report to the MPC at least one month before a possible release date.^{xlv}

Since the JRA implementation in 2018, 2,012 individuals have been screened for administrative release. Of those, 1,615 were determined ineligible, and 397 were determined eligible. The latest approval data are from April 2021, when 85 percent of the eligible population were approved for administrative release. As of April 2021, Maryland screened 1,853 candidates and found that 20 percent were eligible for administrative release. Of those, 85 percent, or 307 individuals, were released under the policy, along with 57 denials.¹⁰

Options Following Denial of Parole

Individuals whose cases were handled by hearing officers have access to administrative recourse to appeal the decision, while decisions in matters dealt with by commissioners are final. To appeal, an individual must submit a written response within five days. Similar to the parole process, a panel will accept or reverse the original denial, resulting in a modified or new decision.

“They said ‘This is your first and last parole hearing and you will never be paroled in the state of Maryland.’ This was said and done by the two parole commissioners at my first and only parole hearing in 2013.”

The majority (six in ten) of parole petitions are not granted. However, 28 percent of the hearings over the reported years resulted in an outright refusal. The remaining outcomes combine short-term administrative reviews, holds, and other extenuating circumstances. In

addition to the cases pending reconsideration, 18 percent of the annual denials have a scheduled rehearing within six months of the denial.

¹⁰ *JRA Performance Measures: Quarterly Evaluation* (Annapolis, MD: Governor’s Office of Crime Control and Prevention, April 2021). See also, *JRA Performance Measure’s Quarterly Evaluation* in January 2020, 35 percent of the ineligible population were individuals having multiple CDS distribution offenses; 29 percent had disqualifying offenses; 11 percent had prior crimes of violence; 6 percent has violations of supervision prior to October 2017 (Pre-JRA); 4 percent has serious rule violations while incarcerated; 4 percent had various prior offenses including firearm, out-of-state; and 11 percent did not have a reported reason.

In 2021, 71 percent of the denials were Black petitioners, and 24 percent were white. Upon a closer examination of denials, refusals are balanced between races. In 2021, 47 percent of Black individuals were refused, compared to 51 percent of the white population. These proportions remain consistent over the years.

	<i>Not Granted</i>	<i>Refusal</i>	<i>Percentage</i>
Black	7,496	3,559	47 %
White	2,793	1,428	51 %

Parole Supervision

Everyone granted parole is placed on community supervision and is responsible for abiding by standard conditions. The length of supervision is generally equivalent to the remainder of the sentence. Maryland opened 6,187 parole supervision cases between 2017 and 2021. These annual numbers have been declining sharply during these five years. In 2017, 1,721 supervision cases were opened. By 2021, that figure had declined by 70 percent to 515 cases. During that same period, slightly under seven in ten (68 percent) new supervision cases were for Black individuals.

The number of parole cases has been dropping proportionally across all offense types. Assault (28 percent), drug possession with the intent to distribute (14 percent), and armed robbery (12 percent) comprise more than half of all new parole cases during the observed period. Of the supervised community, 34 percent received a community supervision sentence of over 4.5 years. Furthermore, 8 percent had just less than one year of

Standard Conditions of Parole

- Report as directed to and follow your Parole Agent’s instructions
- Work regularly
- Get permission before:
 - o Changing your home;
 - o Changing your job; or
 - o Leaving the State of Maryland
- Obey all laws
- Notify your Parole Agent immediately if you are arrested
- You shall not illegally possess, use, or sell any narcotic drug, “controlled dangerous substance,” or related paraphernalia
- You shall not own, possess, use, sell, or have under your control any dangerous weapon or firearms of any description without approval of the Parole Commission
- You shall so conduct yourself as not to present a danger to yourself or others
- You must pay a monthly supervision fee as required by the 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 abuse testing, you must pay for the testing if required to do so by the Division of Parole and Probation

supervision. While these are the initial supervision lengths, it is possible to shorten the total length of the sentence by earning deduction credits. Most individuals accrue ten deduction days per calendar month for good conduct. Those serving a

“Keeping up with all the different conditions and appointments with my parole officer was challenging. They weren’t understanding about, for example, my work schedule.”

sentence for violent or certain drug offenses are limited to five credit days. Involvement in education or vocational programs may result in five days per month. Additional days may be granted for special work projects, but all are limited to 20 days per month and ten days for crimes of violence.

As part of the conditions, individuals must pay a monthly supervision fee of \$50. Individuals must also pay any outstanding court costs, fines, and drug and/or alcohol testing if that is a condition of their release.¹¹ Failure to make the payments will be reported to the MPC as grounds for a

“I had to see my parole officer three times a week. Also, I had a urinalysis test twice a week, which made me have to go to the Division of Parole & Probation Monday-Thursday. That makes it almost impossible to hold employment unless you have an understanding supervisor. I used to sit for hours waiting to be seen by my parole officer when I was supposed to be at work. The rigid visitation schedule was the hardest to maintain. Because it was no consideration to a person having responsibilities (work, school, etc.)”

technical violation. The MPC will determine whether good faith has been made to find employment with sufficient income. If the individual is a student, has a disability that limits potential work, has dependents and payments that would create a financially untenable situation, or any other extenuating circumstances, the monthly supervision fees may be waived.^{xlvi} However, supervision may be revoked if the individual does not expend reasonable effort to secure employment.

¹¹ These two conditions apply to people on parole whose crime(s) were committed after 5/1/1991.

If the MPC finds it necessary to protect public safety, special conditions can be added. These are typically applied to increase an individual's participation in services, restrict contact with the victim or the victim's family, or impose home detention.

Parole Revocation

In addition to their ability to grant and negotiate parole, the MPC oversees parole revocations.¹² Individuals are entitled to representation during the revocation process. When an individual is reviewed for a parole violation, a preliminary hearing is set with one hearing examiner. The hearing does not follow an established protocol but resembles a conversation about the alleged incident. The examiner decides whether there is probable cause for a revocation hearing.

The final hearing is in front of a parole commissioner, and the individual has the right to legal representation. It is held within 60 days of the initial arrest and is akin to a court case where cross-examination and witnesses are subject to testimony. The final decision is based on a preponderance of the evidence, and the commissioner can:

- revoke parole and have the individual serve the remainder of their sentence in prison or jail;
- set a future date for a re-parole hearing that will follow the same process as a first hearing, or
- allow parole to continue with the same or additional conditions.

Between 2017 and 2021, Maryland processed 4,449 revocations of parole among those individuals released from a state correctional facility. Like data discussed earlier, about two-thirds of parole revocations were for Black individuals, with whites comprising 32 percent. Men make up 95 percent of revocations. Nearly half (45 percent) of individuals revoked during the observed period had committed person offenses. Four in ten of those individuals had been convicted of an assault offense. Drugs (25 percent) and property (24 percent) comprise the vast majority of remaining revocations.

The number of revocations in 2017 (532) more than doubled in 2018 (1,016) and remained high in 2019 (1,231) before beginning to decline to 601 in 2021, likely due to COVID-19. This increase was driven by the JRA legislation passed in Maryland that was intended to reduce the impact of a technical violation. A first technical violation faced a maximum of 15 days of imprisonment; a second offense 30 days; a third offense 45 days; and more than four offenses results in the possibility of serving all remaining (unserved) time. These revocations increased sharply due to a graduated framework that produced more short-term holds and fewer long-term revocations to custody.

¹² If an individual is found guilty of their first technical violation, time in confinement should not exceed 15 days (30 days for a second violation and 45 days for a third).

Aligning Parole in Maryland with Best Practices

The field of parole, long a target of criticism from all corners of the criminal legal field, has transformed in recent years as practitioners and experts have worked hard to modernize the practice of release decision-making and supervision. These efforts have focused on professionalizing practice, standardizing decision-making, and staffing agencies with individuals reflecting diverse backgrounds and experiences. While no single agency represents the best of “what works” in the field of parole, there is unquestionably a renewed movement to improve parole, and many states have embarked upon reform efforts that have provided lessons.

Unfortunately, current practice in Maryland does not reflect this broader momentum for modernizing parole. In fact, despite a growing knowledge base of best practices, Maryland continues to follow antiquated rules that result in people serving far too long in prison, which exacerbates racially biased outcomes and does little for public safety.

While every state is unique, and parole practices must evolve to meet the local contours of policy and practice, there are many lessons that Maryland can learn from the success of other states.

Best Practice #1: Parole boards should operate under the presumption that the goals of punishment have been met at the time of initial parole eligibility, and parole release decision-making should be based solely on objective factors related to an individual's future risk to the community.

“In my mind, the commissioners already had their minds made up before I sat down.”

In many cases, a parole board makes decisions based on its determination as to whether the original sentence was *enough* based on the committing offense. Parole boards too often use their discretion to reexamine the sentencing decision and erroneously focus on whether more time in prison is needed to meet the twin goals of punishment and retribution for a crime. In practice, the severity of the offense tends to overwhelm all other

considerations. This, in turn, invites subjectivity into the release decision-making process and usurps the sentencing court's authority. Moreover, it leads to parole evaluations based on emotion rather than objective factors related to the risk of releasing an individual into the community. Instead, the focus should be on everything that has occurred since sentencing, namely personal growth and amenability to returning to the community.

Instead, there must be a presumption of release at the initial hearing. Once a judge has imposed an indeterminate prison sentence, the first date of parole eligibility indicates that the goals of punishment have been met. The burden should be upon the state to demonstrate that releasing an individual at the date of initial parole eligibility represents an undue risk to public safety. Parole decisions must not reflect the feelings of board members who may believe a person *deserves* more time in prison. Or, as one 2015 report on improving parole stated, “[t]he parole board should have no power to deny release based on its belief that a longer sentence is necessary or better on retributive grounds.”^{xlvii}

“The commissioners are more concerned about the crime than about life before the incident and any achievements and improvements made while incarcerated.”

BEST PRACTICE #1

PAROLE BOARDS SHOULD OPERATE UNDER THE PRESUMPTION THAT THE GOALS OF PUNISHMENT HAVE BEEN MET AT THE TIME OF INITIAL PAROLE ELIGIBILITY, AND PAROLE RELEASE DECISION-MAKING SHOULD BE BASED SOLELY ON OBJECTIVE FACTORS RELATED TO AN INDIVIDUAL'S FUTURE RISK TO THE COMMUNITY.

Principles

The cornerstone of all releasing authorities should be the "presumptive" principle.

Denial of release is based on credible information that the individual has a low likelihood of successful reentry.

Establish administrative parole for low-risk individuals to increase the paroling authorities' capacity for higher-risk individuals.

Components	<p>It should be presumed that an individual is granted parole when a validated assessment determines a reasonable chance of being successfully supervised in the community.</p>	<p>Continued incarceration should only be reserved for those unable to be supervised safely in the community and who need additional rehabilitative programs.</p>	<p>A low-risk individual is automatically released without a formal hearing based on their assessed risk and the likelihood of success.</p>
	<p>The paroling authority should not determine whether retribution has been achieved; the court established the minimum sentence indicating when punishment has been met.</p>	<p>Paroling discretion cannot supersede the court's original intention; most cases should not exceed 30 percent of the minimum sentence. Long-term sentences should be reviewed after 15 years to assess an individual's growth.</p>	<p>Administrative parole eligibility is based on ongoing compliance with a pre-release and reentry plan as well as being free of serious institutional misconduct</p>
	<p>Presumptive parole is independent of assessed needs, including issues that can be adequately treated in the community if the person is released and provided the proper dosage of supervision.</p>	<p>If denied, reconsideration should be established annually; for long-term sentences, reconsideration should be no longer than two years between each hearing.</p>	<p>All individuals released under administrative parole need comprehensive reentry plans to support their assessed needs, including avoiding high-risk situations.</p>

Best Practice #2: Use a race-neutral, structured decision-making tool that incorporates a validated risk and needs assessment tool.

Paroling authorities have considerable discretion when it comes to the liberty of thousands of Marylanders locked up in prison or under supervision in the community. Parole board members decide who is released from prison, set the terms of community supervision, and have the power to impose penalties, including reincarceration, for parole violations. Despite this tremendous authority and the importance of these decisions, standards of decision-making are vague and often rest on their members' predispositions and instincts.

Subjectivity in release decision-making leads to inconsistent and unfair outcomes for individuals. For some parole board members, a hearing review is an opportunity to revisit the details of the crime. These circumstances are static and can never be changed. Thus, focusing on the underlying offense strongly biases a decision toward denial. For those individuals who committed crimes with alarming details or vulnerable victims (children, the elderly), revisiting the crime often proves to be an insurmountable obstacle to release regardless of the person's in-prison conduct or preparedness for release.

This discretion, coupled with a lack of consistent, clear guidance about weighing various factors that bear on the release decision, drives inconsistency and unpredictability in the parole process. While one board member might place a heavy weight on a person's record of program completion in prison, another might base their decision on the nature of the person's crime. Moreover, victim participation varies from one hearing to the next based on whether a crime survivor chooses to weigh in on the decision. This, too, can result in inconsistent outcomes for similarly situated individuals. This lack of uniformity in the process frustrates those seeking guidance from the board's prior rulings to make the most compelling case for release.

Best practices in parole release decision-making demand clear, structured, and evidence-based guidance for evaluating readiness for release and risk of reoffending. This calls for a structured decision-making tool comprising policy-driven guidelines that increase objectivity, consistency, and transparency in the parole release process. Of the 34 states with parole boards, 20 rely on some form of parole guidelines, according to a 2019 study by the Robina Institute of Criminal Law and Criminal Justice.^{xlviii} Guidelines vary by state, but the most commonly used form is a decision-making matrix or grid that includes weighted factors such as the severity of a person's offense, risk of reoffending, and time served. Another recent variation is the use of a sequential decision tree model, which incorporates "specific factors to be considered in each case, and how these impact a 'guidelines recommendation' to grant or deny parole."^{xlix}

When implemented correctly, guidelines should ensure that case factors are consistently given the same weight by parole board members, leading to greater fairness and uniformity in parole grants and denials. Guidelines should specify presumptive release dates at initial eligibility for low-risk people in prison. Additionally, moderate- and high-risk people should be given a presumptive release date unless a validated risk assessment or in-prison behavior dictates otherwise. This provides incarcerated people with greater certainty about when they will return to the community, creating incentives for program participation. Regular monitoring and evaluation of board decisions are essential to ensure paroling authorities comply with guidelines. For example, deferring a person's presumptive parole date should require board findings related to statutory restrictions on specific crimes or an eligible person's misconduct or violent behavior in prison. Taking it a step further, Michigan requires that the parole board only depart from a recommendation of granting parole in the instance of 11 reasons spelled out in statute.¹ A written explanation must accompany any departure.

Parole guidelines should include a validated risk and needs assessment tool. Research over the past 20 years has shown that such actuarially based instruments, when designed and implemented correctly, are better than the judgment of individual parole board members at forecasting risk to public safety of release. Studies show that using risk and needs assessment tools has been climbing steadily. In 1991, fewer than half the states surveyed used a risk assessment instrument; by 2015, the most recent year of data collection, nine out of ten responding states reported utilizing an assessment tool of some type.^{li}

However, researchers caution that despite the increasing reliance upon risk assessments, not all instruments are created equal, so rigorous quality controls are essential. Risk assessments should be reviewed regularly, updated as needed, and validated on target prison populations to ensure the accuracy of risk prediction. Validations should be conducted separately on sub-populations with statistically meaningful differences in reoffending patterns. For example, a risk and needs tool should not be developed for women using data that reflects male patterns in reoffending. The factors contributing to reoffending and the needs of males and females are categorically different, and the tools used to assess both should reflect that difference.

Risk and needs assessments should be used to identify individual characteristics that can be addressed through prison programs and other interventions, thereby improving the odds of a successful release to the community. Traditional risk tools that rely heavily on static factors such as age at first arrest, criminal history score, and whether violence was present in the current or prior offenses discount the work that an individual may have

undertaken while in prison to transform their life, and diminishes the likelihood that someone will be recommended for release.

Instead, a risk and needs instrument must include dynamic factors that are subject to change over time, such as program participation, job training, education, and a lack of institutional violations. It should also be re-administered periodically to measure progress toward goals while in prison.

Researchers also advise that parole boards examine their risk assessments closely to identify any variables that may be influenced by race and then determine how removing such variables would affect accuracy. The importance of this step was highlighted by a 2016 article in *ProPublica*, which documented how predictive algorithms that underlie risk assessment tools are biased against people of color.^{liii} The bias occurs because many static factors that go into a risk tool, such as criminal history or age at first arrest, strongly correlate with race and ethnicity. Well-documented racial disparities in arrest, prosecution, and sentencing further disadvantage people of color when included in a risk assessment tool. Some have argued that including more dynamic factors in the instrument, such as program completion, will mitigate the biases present in static factors.

Jurisdictions should make public the factors measured in such evaluations, how risk is calculated, and the final risk scores to ensure confidence in risk assessments and their use in parole decision making. We strongly recommend that these data are then discussed in a public and transparent fashion with opportunities for input from experts in the field and the public. Risk assessment equations can easily be manipulated to add or reduce the weight of any given category, but that may come at the expense of accuracy. A conversation about goals and values that involves all interested stakeholders and affected community members in a meaningful and transparent manner is essential.

The National Institute of Justice recently released a report on developing and validating its new risk and needs assessment tool mandated for all individuals in the Bureau of Prisons serving a federal sentence, as required by the First Step Act.^{liiii} The report provided an extensive discussion of the data used to develop the tool and the steps taken to ensure validity, address differences in risk and needs by gender, and control for the impact of race and ethnicity on risk measures. The tool also will be subject to a 45-day public study period during which additional feedback will be gathered before the instrument is finalized. All jurisdictions that use risk and needs assessment tools should adopt this model of transparency and inclusiveness.

These assessment tools are among many factors that a parole board should contemplate when considering release. They are not singularly dispositive, but they do provide valuable information. Moreover, they can comfort parole board members who would otherwise be unwilling to recommend release due to fears about reoffending.

BEST PRACTICE #2

USE A RACE-NEUTRAL, STRUCTURED DECISION-MAKING TOOL THAT INCORPORATES A VALIDATED RISK AND NEEDS ASSESSMENT TOOL.

Principles

Assessment tools need to ensure fairness, consistency, and transparency.

Assessment tools should reflect the current population.

Use empirical data to assess the criminogenic risks and needs of an individual.

Components	<p>Tools should eliminate any restrictive release practices that primarily focus on static factors, such as the committing offense. Tools should assess dynamic factors such as how an individual has grown through involvement in programming, etc.</p>	<p>The tool should be validated and reassessed on the Maryland prison population.</p>	<p>Factors resulting in higher risks are the same factors that lead to recidivism. This is especially pronounced in special populations, including those dealing with substance use issues.</p>
	<p>Assessment outcomes should include potential community and institutional programs that match the assessed needs for release.</p>	<p>Assessments should be transparent and incorporate the perspectives of community members, legislators, researchers, and the affected population to increase their validation and effectiveness.</p>	<p>Assessment outcomes should guide stakeholders in understanding the comprehensive needs of an individual when paroled.</p>
	<p>Any decision-making tools should be policy driven and transparent, with the underlying goal of presumptive parole based on an individual's assessment.</p>		<p>The results of criminogenic assessments should not result in additional conditions of supervision; while some programming is helpful, requiring conditions based on assessments creates more avenues for failure. There should be fewer supervising conditions if an individual is low risk.</p>

Best Practice #3: The parole board must have transparent rules and procedures that reflect all interested parties' input.

The parole process is indefensibly confusing and opaque. Member deliberations and criteria that guide release decisions are often cloaked in a black box of secrecy. This, in turn, fuels legitimate concerns that parole board decisions are arbitrary. Moreover, it hampers effective oversight and undermines credibility in the whole process. However, a consensus is emerging on improved practices that promise increasing transparency, accountability, fairness, and consistency.

First, individuals should be given materials at admission outlining expectations for their in-prison conduct and detailing steps to prepare themselves for release, thereby improving their chances of obtaining an earlier parole date. Details about the process, including the factors used to determine readiness for parole, hearing protocols, and rules governing the submission of materials and victim participation should be provided to the individual and counsel. People should be notified of their initial parole eligibility and hearing date with sufficient advance notice to prepare their materials adequately.

Policies should clearly define the role of victims in parole proceedings, taking into consideration victims' rights codified in statute. Before a hearing, victims should be notified that the board is conducting a "forward-looking assessment" of an individual's risk level and readiness for parole. Victims may offer an impact statement and appear at parole hearings. Still, the parole board should limit their input to an applicant's future risk potential and release conditions. It should not use a victim's testimony to revisit the circumstances of the crime.¹³

While Maryland's statutes and COMAR established guidelines for commissioners, people seeking parole, counsel, and victims, practice does not always reflect the law. The MPC must provide a 15-day notice of the hearing's date and time. This 15-day notification is essential so that the incarcerated person can prepare to make the best case possible to the MPC. However, eligible candidates are notified days or hours before their hearing, jeopardizing their opportunity to present their most persuasive case. To keep up with this ever-evolving system, the code must reflect practice and maintain transparency.

¹³ Ideally, local criminal legal system stakeholders should explore ways to incorporate restorative justice practices into their systems for those victims who are interested in pursuing this process. The goal is to ensure that there are available options for those who caused harm and people who have been harmed to engage in restorative and healing processes if they desire, particularly outside of the formal sentencing and parole processes.

BEST PRACTICE #3

THE PAROLE BOARD MUST HAVE TRANSPARENT RULES AND PROCEDURES THAT REFLECT ALL INTERESTED PARTIES' INPUT.

Principles

Prioritize accountability of the parole board and the process.

Components

Rules and procedures should guide all elements of parole board staffing, operation, management, release decision making, and supervision practices.

Accountability procedures should include input from all interested parties, including victims, petitioners, the parole board, and the public.

The board and procedures must be periodically reviewed and amended to account for changing circumstances.

Best Practice #4: All individuals should have access to counsel and be provided all materials that the parole board will use to make its decision before the hearing.

The Maryland parole process is complex and confusing. The barriers to a successful petition for release are plentiful, and assistance in preparing and presenting a compelling case is crucial. This demands legal representation at initial hearings and appeal hearings to increase transparency and legitimize the outcome in the eyes of the individual and the community.^{liv} A person seeking parole and counsel should have access to all of the materials the parole board will use to make its decision well before the hearing. This allows an individual to contest information such as risk score, program participation outcomes, or disciplinary record, and assist with calling potential witnesses.^{lv}

Despite the powerful implications of a parole hearing, the right to counsel during the parole process is not protected by the U.S. Constitution. Twenty-four states permit counsel to be present and speak on behalf of the petitioner during the hearing, but only ten states guarantee counsel if the individual is indigent.^{lvi} Four states permit counsel to be present and observe but not to speak. Nine states prohibit the presence of counsel at the hearing in any capacity.^{lvii}

Individuals should be provided the ability to present a case with the assistance of counsel, including submitting written information and calling witnesses. They should be allowed to challenge assertions by correctional officials about program participation or institutional conduct, if necessary. They also should be permitted to challenge their risk score, which forms the foundation of release decision-making.

BEST PRACTICE #4

ALL INDIVIDUALS SHOULD HAVE ACCESS TO COUNSEL AND BE PROVIDED ALL MATERIALS THAT THE PAROLE BOARD WILL USE TO MAKE ITS DECISION BEFORE THE HEARING.

Principles

Increase transparency of hearings.

All parties should have access and input to the document review.

Counsel must be present throughout the initial and subsequent appeal hearings to ensure transparency and procedural justice.

Counsel and petitioner should have the ability to contest any documents reviewed by the parole board and provide context before a final hearing.

Components

A petitioner and their counsel should receive any materials the parole board is reviewing to make their determination.

Counsel and petitioner should be able to provide additional documentation not included in the initial document review.

Best Practice #5: Reasons for denial of parole must be documented in writing and appealable.

For purposes of clarity and accountability, board members should be required to submit, in writing, their justification for decisions that depart from parole guidelines. This will also create a written record that can be used as a ground for appeal, when appropriate. The parole board should use the hearing as an opportunity to reward an individual for demonstrating transformative personal change or as a tool to motivate someone who needs to take additional action before being released.

The parole board also must have a clear, publicly available set of procedures governing “set-backs,” or parole denials. For those who are denied, any denial of release should be accompanied by an explicit set of actions that an individual can take during the time between hearings to ensure suitability for release at a subsequent appearance before the board.

If an individual is denied parole, the MPC should provide detailed documentation of the factors that led to the decision. This will assist any appeal efforts. It should also inform a case plan so that when an individual returns to the MPC after their setoff, they will have the opportunity to receive the support and services necessary to strengthen their case for release.

BEST PRACTICE #5

REASONS FOR DENIAL OF PAROLE MUST BE DOCUMENTED IN WRITING AND APPEALABLE.

Principles

The notification process should be codified by statute.

The written explanation should enhance understanding of parole board decisions.

The documented explanation should allow for a meaningful appeal process.

Components	<p>Only 24 states require a written rationale for a parole denial to be shared with the individual, while 23 states make information concerning the denial public.</p>	<p>A written explanation of parole denial is critical to ensure that individuals understand the shortcomings identified by the parole board.</p>	<p>A written rationale facilitates an appeal process for individuals who believe their denial was based on an incorrect understanding of facts or an incorrect application of rules.</p>
	<p>Only 18 states require a written statement concerning denial, while others require it by agency policy or informally.</p>	<p>Ideally, individuals will work with prison officials to develop a case plan that addresses identified issues.</p>	<p>Despite the importance of a parole hearing, the right to counsel during the parole process is not protected by the U.S. Constitution. A written rationale can aid the individual's counsel in developing an appeal.</p>
			<p>An appeal decision should be thorough and speedy so as not to delay an individual's release from correctional supervision.</p>

Best Practice #6: Supervision should be imposed selectively, with the length of conditions of supervision linked to risk. Conditions should be the least restrictive necessary to meet the goals of reentry and public safety. Resources should be front-loaded, and incarcerated people should have the opportunity to shorten their parole term through good behavior.

One in four admissions to Maryland prisons in 2020 resulted from technical parole violations, including infractions as minor as missing an appointment with a parole officer or failing a drug test. Research consistently points to poorly conceived parole supervision requirements and overly punitive restrictions as major contributing factors to these high recidivism rates. “Research has consistently shown that over-supervising low-risk individuals can do more harm than good by disrupting supportive elements of their lives, such as family, education, and employment, and mixing them in with higher-risk people. On the other hand, prioritizing resources and attention for high-risk individuals and those in need of treatment has been demonstrated to yield the greatest reductions in reoffending.”^{lviii}

Maryland must develop policy-driven, evidence-informed responses to parole violations that incorporate risk considerations, needs for support and services, and assure proportional treatment of people who commit violations. This includes relying on a continuum of progressive sanctions in response to parole violations that hold individuals accountable for their conduct but avoid the high costs—both fiscal and human—of parole revocation and return to prison.

Best practice also recommends that any responses are proportional to the conduct, are targeted to support the reentry process, do not obstruct employment, and are imposed swiftly to have the maximum effect. Severe sanctions have not been shown to contribute positively to the reentry process. Community supervision practice has typically been defined by officers using their immense discretion to employ a range of sanctions in response to parole violations.^{lix} The deployment of sanctions can vary widely from violation to violation and person to person. This leads to unpredictability for the individual under supervision and, research has shown, undermines the deterrent goals of the conditions of supervision. By deploying a seemingly random set of sanctions, often temporally removed from the infraction by weeks or months, there are no clear rules of conduct to follow for an individual under supervision.

Maryland does provide a mechanism to shorten a parole term after two years of “crime-free” behavior, but it remains up to the discretion of the MPC.^{lx} However, there is more the state can do to support successful reentry. At least 18 states allow individuals to earn time off of their parole term by participating in programs and complying with the

terms of their supervision. This approach incentivizes people on parole to engage with programs that may be helpful to their success and encourages compliance with rules.^{lxi} States that have used this mechanism include Georgia, where a Performance Incentive Credits Program allows people to earn up to 12 months of credit by completing education or vocational programs. A 2016 study in Missouri found that more than 36,000 people on community supervision reduced their probation or parole terms by an average of 14 months in the first three years the program was offered. There was no negative effect on public safety.^{lxii}

BEST PRACTICE #6		
SUPERVISION SHOULD BE IMPOSED SELECTIVELY, WITH THE LENGTH OF CONDITIONS OF SUPERVISION LINKED TO RISK. CONDITIONS SHOULD BE THE LEAST RESTRICTIVE NECESSARY TO MEET THE GOALS OF REENTRY AND PUBLIC SAFETY. RESOURCES SHOULD BE FRONT-LOADED, AND INCARCERATED PEOPLE SHOULD HAVE THE OPPORTUNITY TO SHORTEN THEIR PAROLE TERM THROUGH GOOD BEHAVIOR.		
Principles		
<i>Conditions should be linked to risk and be the least restrictive measures necessary to meet reentry goals and ensure public safety.</i>	<i>Responses to failed conditions of confinement should be policy-driven, evidence-based, and focused on the comprehensive successes of an individual's release.</i>	
Components	<p>Conditions of release should not be applied to everyone, but only those presenting a higher risk of reoffending. In some cases, low-risk individuals should be provided minimal or no conditions depending on how the services would benefit their reentry.</p>	<p>The policy should limit the time an individual is subjected to a violation of supervision.</p>
	<p>Conditions should be few—only ones associated with the assessed criminogenic risk—and should be focused on the first few months of reentry. Conditions should be realistic, attainable, and tailored to individual risks and needs.</p>	<p>Reincarceration should not be the primary response but establish a swift and immediate response to address the individual's needs.</p>
	<p>Length of supervision should not be contingent on an individual's sentence, but a term to ensure public safety. Best Practices: No more than five years for high-risk individuals / 12 months for low risk.</p>	<p>Revocation authorities should use assessment tools and structured decision-making matrices to tailor the response to the violation and the individual.</p>

Best Practice #7: Paroling authorities should expand eligibility and develop standards for compassionate release. An end-of-life assessment should not solely determine conditions for an applicant's release, but an evaluation of the prognosis, its likely outcome over time, and an emphasis on allowing the ailing and terminally ill to be released back to their community.

Six percent of the Maryland prison population, or 3,324 individuals, are more than 50 years old. Additionally, Maryland, as of this writing, has 2,341 people serving a life sentence, suggesting that the aging population will continue to grow. The older the individual, the more complications with health. A study in Pennsylvania concluded that an incarcerated population with an average age of 57 has similar health ailments to men in the general public with an average age of 72. A prison is not a hospitable setting for aging and is downright hostile to those individuals suffering from a chronic or terminal illness.

Between 2015 and 2021, the MPC approved 112 medical parole petitions and denied 350, a 32 percent approval rate. Furthermore, during the COVID-19 pandemic, only 17 percent of parole petitions were approved for medical parole. Currently, the MPC receives a medical recommendation from the treating doctor, which includes the general prognosis, an individual's capacity, a Karnofsky Performance Score,¹⁴ and institutional information such as program participation. Unfortunately, this process is woefully inadequate to assess an individual's prognosis, and relying on an imprecise and inappropriate quantitative score has resulted in the denial of many deserving petitions.

The information submitted to the MPC should come from an independent medical evaluator to assess an individual's condition. The evaluation should not rely on an end-of-life determination due to the complexity of that type of prognostication. It is far too common for physicians to overestimate an individual's life expectancy, which would ultimately impact the MPC's decision.

An independent medical evaluator should adopt the following medical parole protocol:

Avoid medical jargon so that members of the MPC can easily understand the assessment. While we recommend that at least one MPC member have a medical background, any review must operate under the assumption that MPC members have a limited understanding of the medical field and predictive mortality methods. Using clear and

¹⁴ Maryland relies on the Karnofsky Performance Status Scale, without any in-person examination. A physician issues a short memo to the MPC that includes the score, and if it is below 20, they are typically considered a viable candidate for release. According to the scale, a score of 20 indicates that an individual is very sick, hospital admission is necessary, and active supportive treatment is required.

descriptive language helps the MPC make an informed decision about an individual's status.

Describe the patient's functional status by using narrative rather than scientific communication. The medical professional should comment on the functional status, physical limitations, mobility, and whether assistance is required for day-to-day activity. A clear description provides the perspective needed, as the MPC does not engage directly with the individual.

Discuss the rationale for reaching the prognosis with clear language. Often medical assessments are grounded in the probability of survival over time. However, probabilities can be challenging to interpret by a lay audience. In the case of compassionate release evaluations, medical professionals should offer detailed information that describes an individual's trajectory over time.

Establishing advance care planning supports an individual's future medical care in the community. This should include an assessment of support in the community. A study found that care planning existed in less than 1 percent of incarcerated patients. Doing so would ensure a seamless transition from prison to a community-based setting. Moreover, Maryland does not currently allow for in-home hospice care. This precludes compassionate release as residential facilities frequently are unwilling to accept an individual from prison. Individuals with family or a support network willing to provide in-home hospice care should be released to that setting rather than being forced to spend their final days incarcerated.

BEST PRACTICE #7

PAROLING AUTHORITIES SHOULD EXPAND ELIGIBILITY AND DEVELOP STANDARDS FOR COMPASSIONATE RELEASE. AN END-OF-LIFE ASSESSMENT SHOULD NOT SOLELY DETERMINE CONDITIONS FOR AN APPLICANT'S RELEASE, BUT AN EVALUATION OF THE PROGNOSIS, ITS LIKELY OUTCOME OVER TIME, AND AN EMPHASIS ON ALLOWING THE AILING AND TERMINALLY ILL TO BE RELEASED BACK TO THEIR COMMUNITY.

Principles

The information submitted to the MPC should come from an independent medical evaluator to assess an individual's condition.

Components

A medical professional should assess the individual and provide a clear and transparent report on the individual's functional status to the MPC.

The submitted medical report should not include an assessment of the life expectancy but rather necessary day-to-day care and community care opportunities.

The medical professional must establish advanced care options that support an individual's current and future medical care in the community. This could include in-home hospice care or in-patient nursing home options.

Best Practice #8: The MPC must work closely with other criminal legal agencies, as well as support agencies, to ensure the development of a parole release plan that supports a successful reentry.

Planning for reentry must begin well before people reach their initial parole eligibility date and should be guided by a carefully crafted parole plan coordinated between correctional officials, the MPC, and community-based services.

Research supports a supervision approach that blends surveillance and support rather than relying upon monitoring and control alone. A release plan should “incorporate [individual] goals, enhance individual motivation, and consider the input of stakeholders such as corrections officials, law enforcement, victims, family members, and community-based service organizations.”^{lxiii}

To support a successful transition into the community, state officials should maintain partnerships with community-based agencies and organizations that offer services and can provide support to individuals under supervision. These agencies include those that address mental health and substance use disorder treatment, housing, employment, education, and licensing. Moreover, conditions of supervision should not be so onerous as to complicate the release plan. “Many in the field agree that conditions of release should be realistic—few in number and attainable; relevant—tailored to individual risks and needs; and research-based—supported by evidence that they will change behavior and result in improved public safety and reintegration outcomes.”^{lxiv}

In the Robina Institute’s survey of releasing authorities, each of the responding parole board leaders agreed or strongly agreed that boards must coordinate policies and practices with corrections officials to smooth community transitions for people granted release. “They have a responsibility to mobilize interdisciplinary, collaborative leadership teams; engage in a rational planning process; integrate stages of offender processing through the corrections system; and involve noncorrectional stakeholders in these efforts.”^{lxv}

An example of this type of strategic partnership—with prison facilities, the MPC, social workers, and the community—occurred in the case of *Unger v. State* (2012).

The Maryland Court of Appeals decision in *Unger* mandated that 232 individuals convicted under unlawful jury instructions before 1980 were entitled to new trials. Most were simply released with time served rather than pursuing a new trial. They had served an average of four decades in prison and were an average of 64 years old. Over 200 people have been released with extremely low recidivism rates.

These low recidivism rates are partly due to some critical strategic partnerships. Social workers from the University of Maryland developed a case management system to work with people in prison before they were released to plan their reentry and identify needed supports after they were released to ensure there was a smooth “handoff” from corrections to the community. The *Unger* releasees received specialized assistance in obtaining state identification cards, Social Security cards, birth certificates, SSI benefits, Temporary Disability Assistance, food stamps, Medicare or other medical assistance, transportation assistance, housing assistance, employment assistance, referrals to reentry programs, and case managers were available to help with other challenges. The Maryland Office of the Public Defender and the Clinical Law Program’s Law and Social Work Services Program at the University of Maryland’s School of Law staffed different phases of the reentry process, and both organizations partnered with groups staffed by people released under the *Unger* decision so that peers could help each other through the reentry process.

Without these essential services coordinated across partnering agencies, reentry often results in reincarceration. For example, in 2020, 38 percent of those released to community supervision returned to prison.^{lxvi}

BEST PRACTICE #8	
THE MPC MUST WORK CLOSELY WITH OTHER CRIMINAL LEGAL AGENCIES, AS WELL AS SUPPORT AGENCIES, TO ENSURE THE DEVELOPMENT OF A PAROLE RELEASE PLAN THAT SUPPORTS A SUCCESSFUL REENTRY.	
<i>Principles</i>	
<i>Maintain and develop agency relationships to manage the transition into the community.</i>	<i>Maintain and develop relationships in the community for comprehensive, seamless support.</i>
Components	<p>Continuous sharing of assessed needs and risks between prison officials and the paroling authorities. This provides essential information concerning the individual’s needs if granted parole before the hearing.</p> <p>Develop strategic partnerships with community-based providers, including community-based mental health and substance use treatment, housing, education, and employment services. These partnerships help determine the available options in the existing continuum of care that can successfully serve the individual.</p>
	<p>Transitional programming occurs before parole eligibility. Prison officials and paroling authorities craft a strength-based reentry plan with the available programming.</p> <p>Promote community treatment to focus availability and resources on medium- and high-risk individuals.</p>

Best Practice #9: Establish inclusive standards for parole board member eligibility, including education and work/life experience.

The MPC is currently heavily skewed toward backgrounds in corrections or law enforcement. This comes at the expense of other important representation, such as people with a social work background, practitioners who provide reentry support and services, and others with valuable lived experience.

Maryland should establish educational, professional, and life experience requirements that ensure a qualified, well-trained, diverse, and representative parole board membership. Members should have a degree in criminology, corrections, sociology, developmental or behavioral psychology, or the law.^{lxvii} They also should possess at least five years of work in the field of corrections or reentry, have a record as a strong community leader in areas impacted by the criminal legal system, or have been personally affected by the criminal legal system. Guidelines should be flexible enough to ensure that a qualified candidate who meets service criteria in one category but is short in another, such as educational requirements, would still be eligible for appointment if they possess a unique set of work or life experiences.

BEST PRACTICE #9

ESTABLISH INCLUSIVE STANDARDS FOR PAROLE BOARD MEMBER ELIGIBILITY,
INCLUDING EDUCATION AND WORK/LIFE EXPERIENCE.

Principles

Parole boards should have qualified, well-trained, diverse, and representative members.

Guidelines should be helpful but remain flexible.

Standards should evolve in tandem with a modernizing world.

Components	<p>Any parole board should have a diverse makeup that avoids concentrating on individuals from law enforcement or corrections.</p>	<p>Flexibility ensures that a qualified candidate who meets service criteria in one category but is short in another would still be eligible for an appointment if s/he possesses a unique set of work or life experiences.</p>	<p>Parole board membership should evolve to remain representative of the state population across various indicators.</p>
	<p>A parole board must avoid political affiliation; allowing no more than 60 percent of the board to come from one party.</p>	<p>Parole boards should seek individuals with experience in reentry, or community engagement, in areas most impacted by the legal system, in lieu of formal education training.</p>	<p>Ongoing training and education should be tailored to the current challenges facing the jurisdiction's parole process.</p>
	<p>Parole boards should have intensive up-front training.</p>		

Best Practice #10: The parole board should adopt robust performance measures that are publicly reported regularly.

A parole board can only gauge how effectively it is adhering to a set of rules and procedures by adopting a robust set of clear and understandable performance measures. Currently, the MPC publishes an annual report that presents hearing data, including the number of pardon and medical parole petitions, parole hearings instances, revocation hearings, victim notifications, and release data. However, the latest annual report is from 2018. This is wholly insufficient to inform internal operations or allow for external oversight. In short, the MPC operates in a “black box” and is entirely unaccountable for its performance because little data are reported to the public.

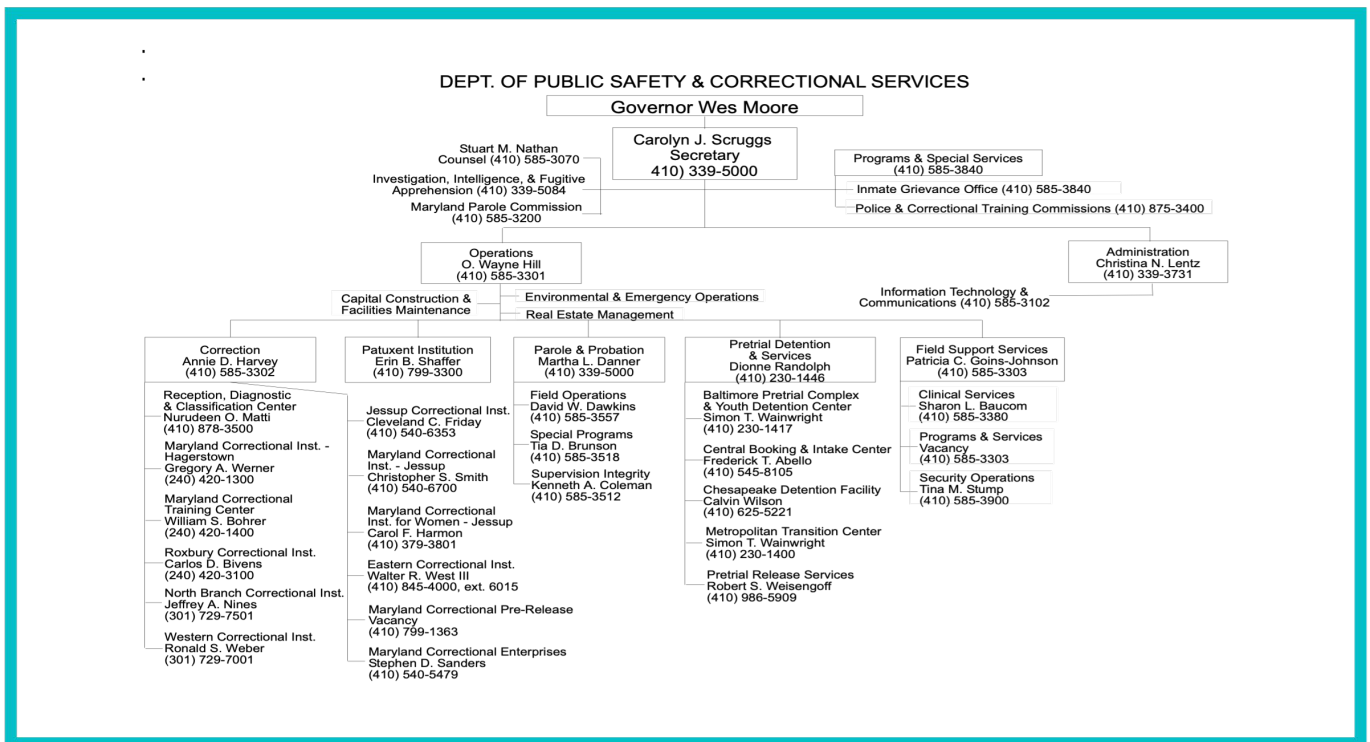
Real accountability begins with robust, transparent, and public performance measures. These metrics must be composed of individual-level data that account for the specific circumstances of each individual’s experience.

BEST PRACTICE #10		
THE PAROLE BOARD SHOULD ADOPT ROBUST PERFORMANCE MEASURES THAT ARE PUBLICLY REPORTED REGULARLY.		
Principles		
<i>Parole board data reporting should be publicly facing and comprehensive.</i>		
Components	Report disaggregated factors for grant rates by risk level, underlying offense, sentence length, time served, program participation, race/ethnicity, gender, and age. This provides an understanding to stakeholders of the function of the parole system.	When a parole board deviates from the structured decision-making tool’s recommendation, there must be a written explanation for its diversion.
		The development of a comprehensive needs assessment can help tailor services in the community. Tools such as the risk, needs, responsiveness model should be implemented to identify the specific services that meet the needs of the population profile.

Appendix

MPC and the Maryland Division of Parole and Probation

Like the MPC, the Division of Parole and Probation (DPP) is housed within the Department of Public Safety and Correctional Services. It was established in 1970 after the Board of Parole and Probation split in 1968. Four offices—Administrative Services, Field Support Services, Program Services, and Special Programs—comprise the DPP and fulfill its primary responsibilities: investigating, providing victim services, and community supervision.^{lxviii}



DPP conducts various investigations for the MPC, courts, and the governor. It investigates cases and people to help authorities decide criminal sentencing, parole, appeal cases, pardons, commutations, and clemencies.^{lxix}

DPP also provides services for victims of crime, including financial assistance, current information on the whereabouts of those in custody or under the Maryland criminal legal system's supervision, and help to navigate the courts and criminal legal system.^{lxx}

Lastly, DPP has oversight of everyone under community supervision, including those on parole and probation. Supervision includes counseling, social casework, and diagnosis of substance use disorders and other issues. They have the authority to report a violation of parole and recommend an arrest warrant by the MPC for a revocation hearing.^{lxxi}

MPC Structure

The various powers and responsibilities of the MPC staff are split into nine units.

Three units are responsible for the initial steps of the parole, pardon, and executive clemency processes.

- The Parole Services Unit schedules, docket, and conducts the parole hearings on site or via video.
- The Pardon and Executive Clemency Unit reviews and processes pardons and executive clemency applications; reviews, processes, distributes geriatric and medical parole requests; and handles correspondence with the governor.
- The Release Unit prepares parole release orders, ensures the recipient is eligible for parole release, and coordinates the releases.^{lxxii}

Two units manage post-release issues.

- The Warrant Unit prepares, processes, and issues retake warrants, notifies outside jurisdictions of parole violations, and updates the appropriate databases.^{lxxiii,lxxiv}
- The Revocation Unit schedules and conducts preliminary and revocation hearings, coordinates hearings with one's legal representation, suspends or revokes parole if proven to be violated, and issues subpoenas.^{lxxv}

One unit tracks an individual's process during and after incarceration.

- The Records Unit manages the parole files of those incarcerated, those under supervision, and those who have been free from supervision for less than five years. The unit also retrieves and processes supervision reports from the Parole and Probation agent.^{lxxvi}

An additional two units provide various forms of help to other commission members.

- The Support Services Unit manages the MPC's logistical, personnel, and technological matters.
- The Secretarial Unit provides secretarial support to commissioners, hearing officers, and administrative staff.^{lxxvii}

The final unit plays a role throughout the parole process and potentially after an individual returns home.

- The Victims Services Unit ensures that victims and/or their representatives are appropriately notified regarding hearings, decisions, and release dates. It also schedules open parole hearings, advises victims and/or their representatives of their rights, and refers victims to services.^{lxxviii}

Another part of the commission is the Institutional Parole Associates, who act as a liaison between the commission and the Division of Corrections. Associates exchange files between those eligible for parole, the hearing officers, and commissioners before, during, and/or after parole and revocation hearings. They also deliver parole decisions to petitioners, ensure the release date is followed, and help attendees before and during the open parole hearing process.

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- ⁱ “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ⁱⁱ Douglas Watson, “Parole Board: Target of Criticism by Prisoners and Public: Parole Unit Decisions Draw Criticism,” *The Washington Post*, (Washington, DC), December 3, 1973.
- ⁱⁱⁱ “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{iv} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^v Douglas Watson, “Parole Board: Target of Criticism by Prisoners and Public: Parole Unit Decisions Draw Criticism,” *The Washington Post*, (Washington, DC), December 3, 1973.
- ^{vi} “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{vii} N.A. *The Maryland Parole Commission Fiscal Year 2018 Annual Report*, (Baltimore, MD: Department of Public Safety and Correctional Services)
- ^{viii} <https://dbm.maryland.gov/budget/Documents/operbudget/2022/proposed/FY2022-Volume2.pdf>
- ^{ix} <https://dbm.maryland.gov/budget/Documents/operbudget/2022/proposed/FY2022-Volume2.pdf>
- ^x Douglas Watson, “Parole Board: Target of Criticism by Prisoners and Public: Parole Unit Decisions Draw Criticism,” *The Washington Post*, (Washington, DC), December 3, 1973.
- ^{xi} “2018 Maryland Code Correctional Services Title 7 - Parole, Release on Mandatory Supervision, and Executive Clemency, Subtitle 2 - Maryland Parole Commission, § 7-202. Membership,” *Justia*, Accessed July 25, 2019. <https://law.justia.com/codes/maryland/2018/correctional-services/title-7/subtitle-2/section-7-202/>.
- ^{xii} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{xiii} Maryland Department of Public Safety and Correctional Services. 1986. *Maryland Parole Commission: FY 1986 Annual Report*.
- ^{xiv} Maryland Department of Public Safety and Correctional Services. 2002. *Annual Report Fiscal Year 2002: Maryland Parole Commission*.
- ^{xv} Maryland Department of Public Safety and Correctional Services. 2013. *2013 Fiscal Year Annual Report: Maryland Parole Commission*.
- ^{xvi} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{xvii} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*; See also, individual Linked-in pages for new MPC members, Lisa A. Vronch; Sam Billotti IV; Robyn E. Lyles.
- ^{xviii} Kevin R. Reitz, Allegra Lukac, and Edward E. Rhine, *Prison-Release Discretion and Prison Population Size – State Report: Maryland*, Robina Institute of Criminal Law and Criminal Justice, December 2020.
- ^{xix} Either the individual or their representation can examine “any document that the Commission or hearing examiner will use to make a determination.” “2018 Maryland Code Correctional Services Title 7 - Parole, Release on Mandatory Supervision, and Executive Clemency, Subtitle 3 - Eligibility for Parole; Parole Hearings, § 7-303. Notice to inmate,” *Justia*, Accessed July 25, 2019. <https://law.justia.com/codes/maryland/2018/correctional-services/title-7/subtitle-3/section-7-303/>.
- ^{xx} “2018 Maryland Code Correctional Services Title 7 - Parole, Release on Mandatory Supervision, and Executive Clemency, Subtitle 3 - Eligibility for Parole; Parole Hearings, § 7-303. Notice to inmate,” *Justia*, Accessed March 4, 2020.
- ^{xxi} “2018 Maryland Code Correctional Services Title 7 - Parole, Release on Mandatory Supervision, and Executive Clemency, Subtitle 3 - Eligibility for Parole; Parole Hearings, § 7-307. Hearing conducted by Commission panel,” *Justia*, Accessed July 25, 2019. <https://law.justia.com/codes/maryland/2018/correctional-services/title-7/subtitle-3/section-7-307/>.
- ^{xxii} Md. Code Correc Svs. § 7-301.(a)(1)(i)
- ^{xxiii} Md. Code Correc Svs. § 7-301.(c)(1)(ii)
- ^{xxiv} Md. Code Correc Svs §7-301(e)
- ^{xxv} Md. Code, Correc Svs §7-301(c)(ii)

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- ^{xxvi} Charles Babington, “Glendening to Reject Parole in Life Sentences,” *The Washington Post*, (Washington, DC), September 22, 1995.
- ^{xxvii} Walter Lomax and Sonia Kumar. *Still Blocking the Exit* (Baltimore, MD: Maryland Restorative Justice Initiative and ACLU of Maryland, 2015). <https://www.abell.org/sites/default/files/publications/afr-stillblockingexit215.pdf>.
- ^{xxviii} Sandy Arce, *Maryland Governor’s Involvement in the Parole Process Prevents Juvenile Lifers from Parole Approval* (Washington, DC, American University Journal of Gender, Social Policy & the Law. September 15, 2020).
- ^{xxix} <https://mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0202?ys=2021RS>
- ^{xxx} Md. Code Regs. 12.18.01.17(C)(1)(b).
- ^{xxxi} Md. Code Correc Svs. § 7-303
- ^{xxxii} <http://www.dsd.state.md.us/comar/comarhtml/12/12.08.02.03.htm>
- ^{xxxiii} Md. Correc Sys Code § 7-801 (2017)
- ^{xxxiv} Md. Correc Svs Code § 7-301 (2017)
- ^{xxxv} Md. Code Regs. 12.08.01.19(B).
- ^{xxxvi} Md. Correc Sys Code §7-306 (2017)
- ^{xxxvii} Md. Code Regs. 12.08.01.09.
- ^{xxxviii} Justice Reinvestment Act, *Senate Bill 1005*, <https://mgaleg.maryland.gov/2016RS/bills/sb/sb1005e.pdf>
- ^{xxxix} Md. Correc Sys Code §7-305.
- ^{xl} Md. Code Regs. 12.08.01.23(B)
- ^{xli} “Frequently Asked Questions.” MD Department of Public Safety and Correctional Services. <https://www.dpscs.state.md.us/about/FAQmpc.shtml>.
- ^{xlii} <http://goccp.maryland.gov/wp-content/uploads/justice-reinvestment-advisory-20180220-supplemental-materials.pdf>
- ^{xliii} Md. Code Correc Svs. § 7-301.1(a)(3)
- ^{xliv} <https://www.law.umich.edu/special/polycycleclearinghouse/Documents/MD%20-Case%20Management%20Manual%20OCR.pdf>
- ^{xlv} MD Correc Sys Code §7-301.1
- ^{xlvi} Md. Correc Sys Code §7-702
- ^{xlvii} Edward E. Rhine, Joan Petersilia, and Kevin R. Reitz, “Improving Parole Release in America” *Federal Sentencing Report* 28, no. 2 (2015): 96–104.
- ^{xlviii} https://robinainstitute.umn.edu/sites/robinainstitute.umn.edu/files/parole_landscape_report.pdf
- ^{xlix} Ebony L. Ruhland et al., *The Continuing Leverage of Releasing Authorities: Findings from a national survey* (Minneapolis, MN: University of Minnesota, 2016).
- ^l Edward E. Rhine, Kelly Lyn Mitchell, and Kevin R. Reitz, *Levers of Change in Parole Release and Revocation* (Minneapolis, MN: University of Minnesota, 2019), 18.
- ^{li} Ebony L. Ruhland et al., *The Continuing Leverage of Releasing Authorities: Findings from a national survey*, (Minneapolis, MN: University of Minnesota, 2016).
- ^{lii} Julia Angwin, Jeff Larson, Surya Mattu and Lauren Kirchner, “Machine Bias,” *ProPublica*, (May 23, 2016).
- ^{liii} United States Department of Justice, Office of the Attorney General, *The First Step Act of 2018: Risk and Needs Assessment System*, (July 2019).
- ^{liiv} Catherine C. McVey, Edward E. Rhine, and Carl V. Reynolds, *Modernizing Parole Statutes: Guidance from Evidence-Based Practice* (2018), 9.
- ^{lv} *Ibid.*
- ^{lvi} *Id.* at 29.
- ^{lvii} *Ibid.*
- ^{lviii} *Probation and Parole Systems Marked by High Stakes, Missed Opportunities*, (2018).
- ^{lix} Zachary Hamilton et al., *Evaluation of Washington State Department of Corrections (WADOC) Swift and Certain (SAC) Policy Process, Outcome and Cost-Benefit Evaluation*, (Pullman, WA: Washington State University, 2015), 15.
- ^{lx} <https://casetext.com/regulation/maryland-administrative-code/title-12-department-of-public-safety-and-correctional-services/subtitle-08-parole-commission/chapter-120801-general-regulations/section-12080121-release-on-parole>
- ^{lxi} Samantha Harvell et al., *Reforming Sentencing and Corrections Policy: The experience of justice reinvestment initiative states*, (2016).

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- ^{lxii} *To Safely Cut Incarceration, States Rethink Responses to Supervision Violations*, (Pew Charitable Trusts, Washington, DC, 2019).
- ^{lxiii} Various authors, *Putting Public Safety First: 13 strategies for successful supervision and reentry* (Washington, DC: Urban Institute & Pew Charitable Trust, 2008).
- ^{lxiv} Edward E. Rhine, Joan Petersilia, Kevin R. Reitz, “Improving Parole Release in America,” *Federal Sentencing Reporter*, December 2015.
- ^{lxv} Catherine C. McVey, Edward E. Rhine, and Carl V. Reynolds, *Modernizing Parole Statutes: Guidance from Evidence-Based Practice*, (2018).
- ^{lxvi} https://www.dpscs.state.md.us/community_releases/DPSCS-Annual-Data-Dashboard.shtml (slide 4)
- ^{lxvii} Edward E. Rhine et al., *The Future of Parole Release*, (2017), 285–289; see also, Edward E. Rhine, Joan Petersilia, and Kevin R. Reitz, “Improving Parole Release in America,” (2015).
- ^{lxviii} “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{lxix} “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{lxx} “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{lxxi} “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{lxxii} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{lxxiii} “Department of Public Safety and Correctional Services,” *Maryland Manual On-Line: A Guide to Maryland and its Government*, Accessed July 25, 2019. <https://msa.maryland.gov/msa/mdmanual/22dpscs/html/22agen.html>.
- ^{lxxiv} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{lxxv} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{lxxvi} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{lxxvii} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{lxxviii} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.
- ^{lxxix} Maryland Department of Public Safety and Correctional Services. 2018. *The Maryland Parole Commission Annual Report for Fiscal Year 2018*.

ABOUT THE ORGANIZATION

Founded in 1997, the Justice Policy Institute (JPI) is a national nonprofit organization developing workable solutions to problems plaguing juvenile and criminal justice systems. Our research and analyses identify effective programs and policies and we disseminate our findings to the media, policymakers and advocates, and provide training and technical assistance to people working for justice reform.

JPI staff includes Paul Ashton, T Shekhinah Braveheart, Troy Burner, Ryan King, Jeremy Kittredge, Seaira Wainaina, and Keith Wallington

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Justice Policy Institute is dedicated to reducing use of incarceration and the justice system by promoting fair and effective policies.

1012 14th Street, NW
Suite 600
Washington, DC • 20005
Telephone: (202) 558-7974
Email: info@justicepolicy.org