



VIRGINIA CRIMINAL SENTENCING COMMISSION



Work of the Governor's Parole Review Commission

November 4, 2015

Meetings

The Governor's Parole Review Commission met on July 20, August 27, and September 28, and October 26, 2015.

		
		
		
		
	<p>Commission on Parole Review</p> <p>Monday, July 20, 2015 1:00 p.m. – 4:00 p.m.</p> <p>Virginia State Capitol – House Room 3 Richmond, Virginia</p>	
1:00 p.m. - 1:10 p.m.	1:00 p.m. - 1:15 p.m.	<p>Welcome/Opening Remarks The Honorable Brian J. Moran Secretary of Public Safety and Homeland Security</p> <p>The Honorable Mark L. Earley, Sr. Former Attorney General of Virginia</p>
1:10 p.m. - 1:20 p.m.		



Commission on Parole Review

**Monday, July 20, 2015
1:00 p.m. – 4:00 p.m.**

**Virginia State Capitol – House Room 3
Richmond, Virginia**

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|------------------------------|--|
| 1:00 p.m. - 1:15 p.m. | Welcome/Opening Remarks
The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security

The Honorable Mark L. Earley, Sr.
Former Attorney General of Virginia

The Honorable Levar M. Stoney
Secretary of the Commonwealth |
| 1:15 p.m. - 1:30 p.m. | Introductions |
| 1:30 p.m. - 1:40 p.m. | Swearing In
The Honorable Levar M. Stoney
Secretary of the Commonwealth |
| 1:40 p.m. - 2:20 p.m. | Overview of the 1994 Commission on Parole Abolition and Sentencing Reform
Eric Finkbeiner
Former Executive Director, Governor Allen's Commission on Parole Abolition and Sentencing Reform |
| 2:20 p.m. - 3:00 p.m. | Overview of the Department of Corrections
Dr. Tama Celi
Statistical Analysis & Forecast Unit Manager, Virginia Department of Corrections |
| 3:00 p.m. -3:40 p.m. | Current State of Parole in the Commonwealth
Karen Brown
Chair of the Parole Board |
| 3:40 p.m. -3:50 p.m. | Public Comment |
| 3:50 p.m. -4:00 p.m. | Next Steps & Closing Remarks
The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security |

Total SR Confined Population*

Offense & Sentence History

	Truth-In-Sentencing (n=33,457)	Currently Parole Eligible (on/before 6/30/15) (n=2,897)	Future Parole Eligible (after 6/30/15) (n=1,384)
Current DOC Crime Type**			
Violent	55%	93%	81%
Property/Public Order	28%	6%	15%
Drugs	17%	2%	4%
Violent by §17.1-805***			
Violent	69%	96%	92%
Non-Violent	31%	4%	8%
Prior SR Incarcerations			
Zero Prior SR Incarcerations	58%	84%	50%
One Prior SR Incarceration	22%	13%	30%
Two Prior SR Incarcerations	11%	3%	13%
Three or More Prior SR Incarcerations	9%	<1%	7%
Sentence Type			
Regular/Calculated Sentence	96%	59%	90%
Indeterminate Sentence	n/a	2%	n/a
Single Life Sentence	2%	27%	2%
Multiple Life Sentences	1%	11%	5%
Three Time Loser Sentence	<1%	<1%	3%
Death Sentence	<1%	0%	0%

*Offenders serving an SR term of incarceration on June 30, 2015; all data is preliminary as of that date

**Crime Type of an offender's Most Serious Offense (MSO) for his current term of SR incarceration; based on SAF Unit offense hierarchy used for forecast purposes

***Indicates if an offender has one or more convictions in his VADOC sentence history for an offense that is considered violent under §17.1-805 of the *Code of Virginia* making the offender subject to sentence length enhancements of 125%, 300% or 500% on the Virginia Criminal Sentencing Commission (VCSC) Sentencing Guidelines; the Violent by §17.1-805 indicator differs from Current DOC Crime Type in the following ways: 1) Violent by §17.1-805 looks at an offender's entire criminal history while Current DOC Crime Type only looks at the offenses for an offender's current term of SR incarceration; and 2) Violent by §17.1-805 considers most burglary offenses to be Violent while Current DOC Crime Type counts burglaries as a Property offense

SOURCE: VADOC Statistical Analysis & Forecast Unit, July 13, 2015

Current PE Confined Population Who Have Already Served 20+ Years (as of 12/31/14)

Current Most Serious Offense	Number	% of Total
Capital Murder	193	6%
First Degree Homicide	917	30%
Second Degree Homicide	30	1%
Manslaughter	10	0%
Abduction	563	18%
Rape/Sexual Assault	480	16%
Robbery	530	17%
Assault	139	5%
Weapons	2	0%
Arson	6	0%
Burglary/B&E	96	3%
Larceny/Fraud	30	1%
Conspiracy	1	0%
Drug Sales	43	1%
Drug Possession	16	1%
Not Yet Reported	6	0%
Total	3,062	100%

Geriatric Release Eligibility of SR Confined Population As of June 30, 2015

- 3% of the SR Confined Population is currently eligible for Geriatric Release consideration
- Almost three-quarters (74%) of the SR Confined Population is expected to be released prior to becoming eligible for Geriatric Release consideration

	Currently Parole Eligible		Parole Eligible in the Future		NOT Parole Eligible (TIS)		Total	
	Cumulative #	% of Total SR	Cumulative #	% of Total SR	Cumulative #	% of Total SR	Cumulative #	% of Total SR
Through FY2015	560	1%	84	<1%	370	<1%	1,014	3%
FY2016	650	2%	107	<1%	492	1%	1,249	3%
FY2017	729	2%	126	<1%	616	2%	1,471	4%
FY2018	798	2%	155	<1%	734	2%	1,687	4%
FY2019	868	2%	185	<1%	889	2%	1,942	5%
FY2020	938	2%	217	<1%	1,167	3%	2,322	6%
After FY2020	822	2%	367	<1%	6,165	16%	7,354	19%
Expected Release Prior to GE Date	1,013	3%	735	2%	25,852	69%	27,600	73%
Not Eligible for GE Release	124	<1%	65	<1%	273	<1%	462	1%
Total	2,897	8%	1,384	4%	33,457	89%	37,738	100%

SOURCE: VADOC Statistical Analysis & Forecast Unit, July 16, 2015

NOTE: The numbers in the Cumulative # columns are running totals through the FY2020 row, meaning the newly eligible for that year are added to the number already eligible; as a result, the Total figures are arrived at by adding the last four rows below the red line in the table together (FY2020 + After FY2020 + Release Prior to GE + Not Eligible)



Commission on Parole Review

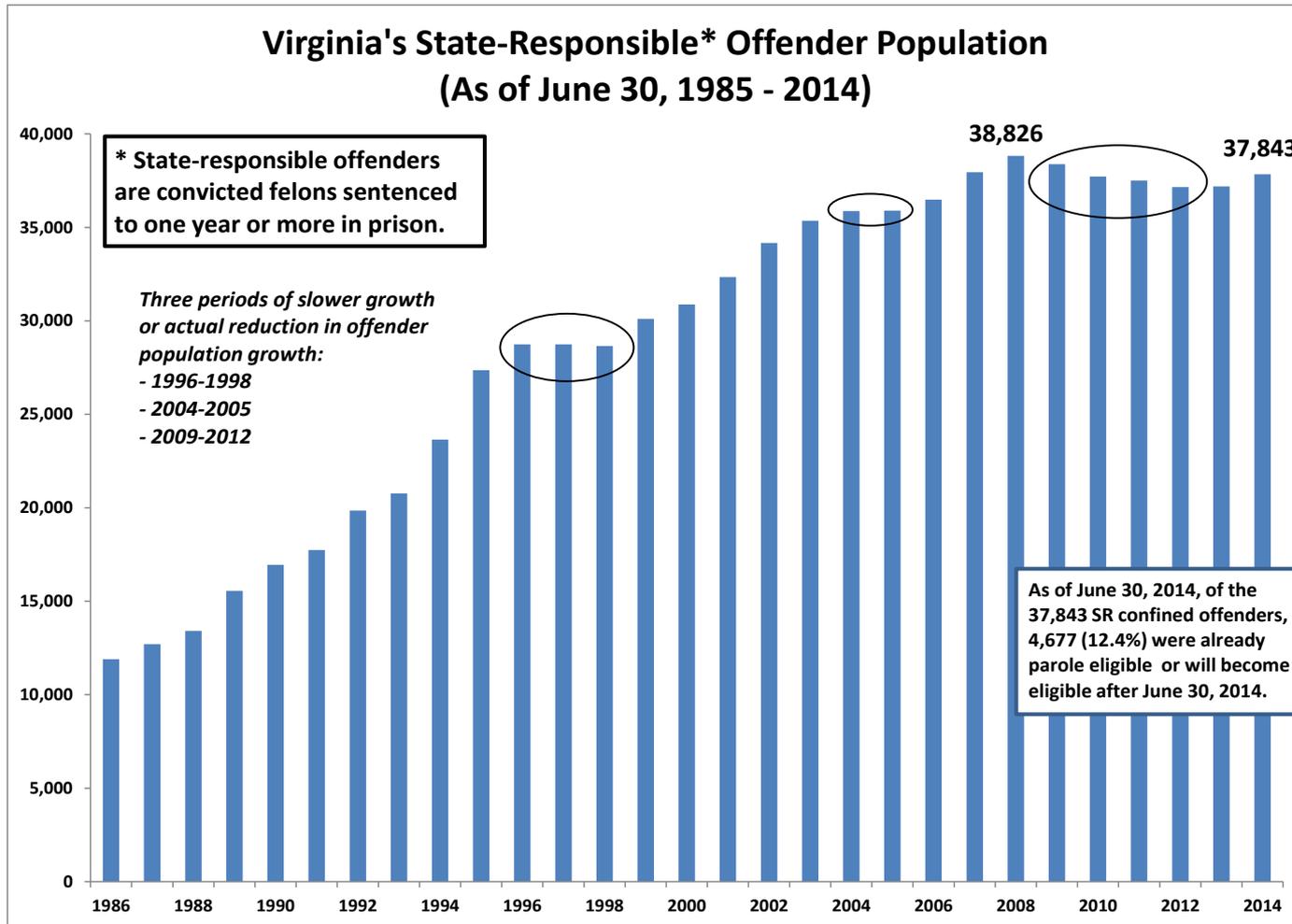
Thursday, August 27, 2015

1:00 p.m. – 4:00 p.m.

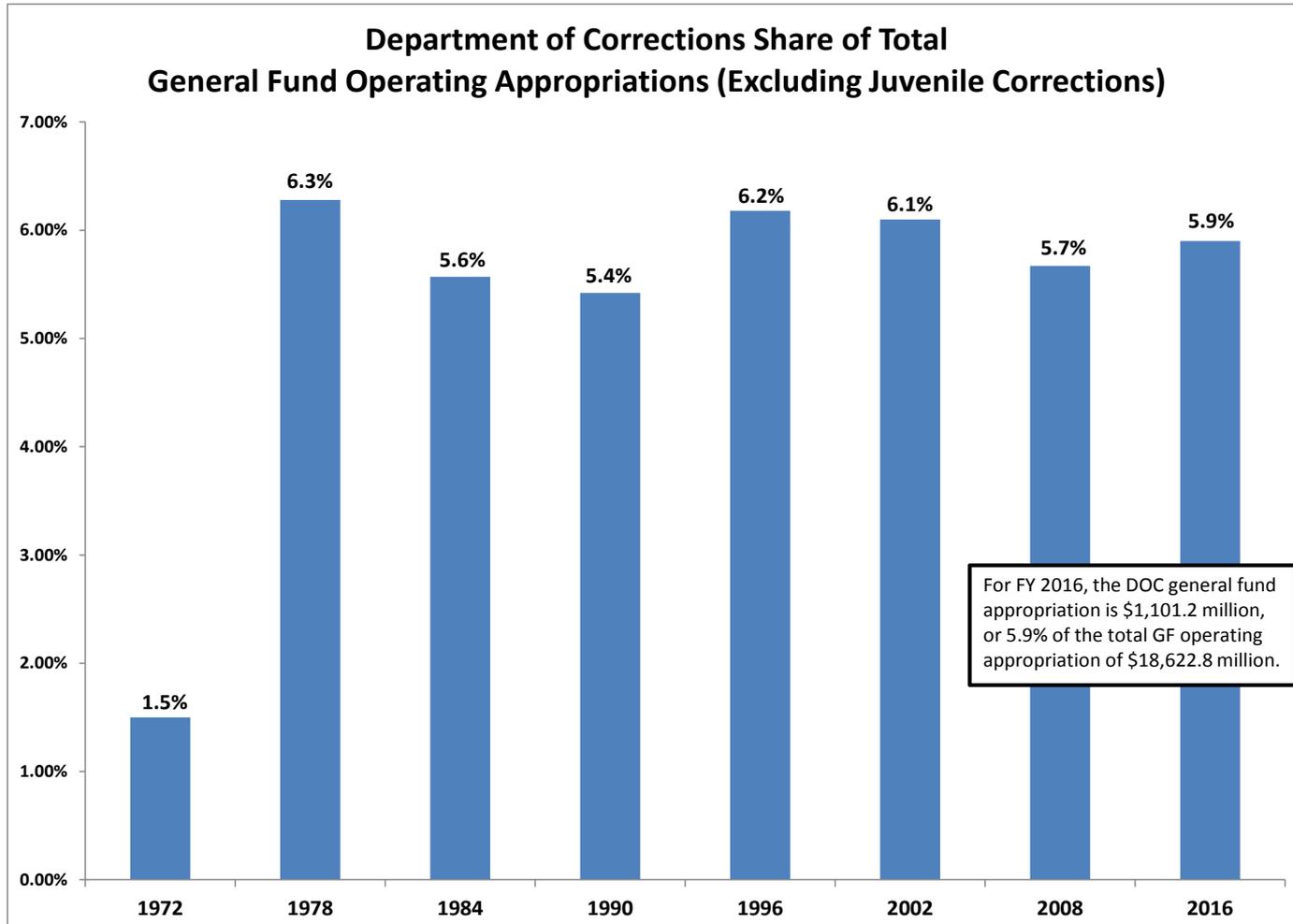
**Virginia General Assembly Building – House Room C
Richmond, Virginia**

- 1:00 p.m. - 1:10 p.m.** **Welcome/Opening Remarks**
- The Honorable Levar M. Stoney
Secretary of the Commonwealth
- The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security
- The Honorable Mark L. Earley, Sr.
Former Attorney General of Virginia
- 1:10 p.m. - 1:50 p.m.** **Virginia Sentencing Commission**
Meredith Farrar-Owens
Director, Virginia Sentencing Commission
- 1:50 p.m. - 2:30 p.m.** **Overview of Senate Finance Report**
Dick Hickman
Deputy Staff Director, Senate Finance Committee
- 2:30 p.m. - 3:00 p.m.** **National Perspective from Right on Crime**
Vikrant Reddy
Senior Fellow, Charles Koch Institute
- 3:00 p.m. - 3:20 p.m.** **Overview of the Safe, Accountable, Fair and Effective (SAFE) Justice Act of 2015**
The Honorable Bobby Scott
U.S. Representative, 3rd District of Virginia
- 3:20 p.m. - 3:30 p.m.** **Overview of Open Meeting Laws**
Cynthia Hudson, Chief Deputy Attorney General
Office of the Attorney General
- 3:30 p.m. - 3:45 p.m.** **Discussion & Subcommittees**
- 3:45 p.m. - 4:00 p.m.** **Public Comment**
- Closing**

State-Responsible Offenders



Corrections: About 6% of the Budget





Commission on Parole Review

Monday, September 28, 2015

1:30 p.m. – 5:00 p.m.

**Virginia State Capitol – House Room 3
Richmond, Virginia**

- I. Welcome/Opening Remarks**
The Honorable Levar M. Stoney
Secretary of the Commonwealth

The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security

The Honorable Mark L. Earley, Sr.
Former Attorney General of Virginia
- II. Overview of DOC Programs and Re-Entry**
Harold Clarke, Director, Virginia Department of Corrections
- III. Overview of Local Re-Entry**
DeVon Simmons, Program Coordinator, Office of the Attorney General
- IV. Overview of Pre-Trial Services, VCCJA**
- V. Community-Based Treatments**
Daniel Herr, J.D., Assistant Commissioner, DBHDS
- VI. Virginia Department of Social Services Perspective**
Tom Steinhauser, Director, Division of Benefits for VDSS
- VII. Updates from Subcommittees**
 - Efficiencies and Fiscal Impact
 - Best Practices for Reducing Recidivism
 - Appropriate Classification of Offenses
- VIII. Geriatric Population**
Karen Brown, Chair, Virginia Parole Board
- IX. Public Comment**
- X. Closing**

Empirical Risk and Needs Assessment

- DOC uses COMPAS (Northpointe, Inc.)
- Over 120 questions, validated
- Conducted at reception and annually thereafter
- Measures *static* factors that cannot change (examples)

Number of arrests Early onset	Non-compliance Violence	Prison Misconduct Gang Indicators
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- Measures *dynamic* factors that can change with programming to reduce criminal risk (examples)

Criminal thinking Education level Low Empathy	Substance abuse Antisocial personality Depression	Family criminality Employment history Self-efficacy
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Case Plan, Timeline, Notes

- Reentry Case Plan
 - Based on the risk/needs assessment dynamic
 - Reentry timeline sequences programs
 - Updated annually based on progress
- Automated system of case files seamlessly ties together prisons and probation and parole

Probation

- 37 Local Probation Agencies serving 127 localities
 - Alternative to incarceration for offenders with a 12 months or less sentence.
 - Implementing Evidence Based Practices
 - Assess offenders for risk using validated tools for criminogenic risk and need.
 - Employ supervision strategies to reduce the likelihood of reoffending.
 - Refer to appropriate services and interventions



Pretrial

- 31 Pretrial Agencies serving 99 localities
 - Interview and investigate defendants held in jail following arrest
 - Conduct criminal record checks
 - Verify information
 - Validated risk assessment instrument to help judicial officers make a more informed release decision.





Commission on Parole Review

Monday, October 26, 2015

1:00 p.m. – 4:00 p.m.

**Virginia General Assembly Building – House Room C
Richmond, Virginia**

- I. Welcome/Opening Remarks**
The Honorable Brian J. Moran
Secretary of Public Safety and Homeland Security

The Honorable Levar M. Stoney
Secretary of the Commonwealth

The Honorable Mark L. Earley, Sr.
Former Attorney General of Virginia
- I. Legislative Presentations**
- II. Overview of PAPIS**
Ann Fisher
Executive Director, Virginia CARES
- III. Overview of Victims Services**
Wendy Lohr-Hopp
Director, Victim Services Unit, Virginia Department of Corrections

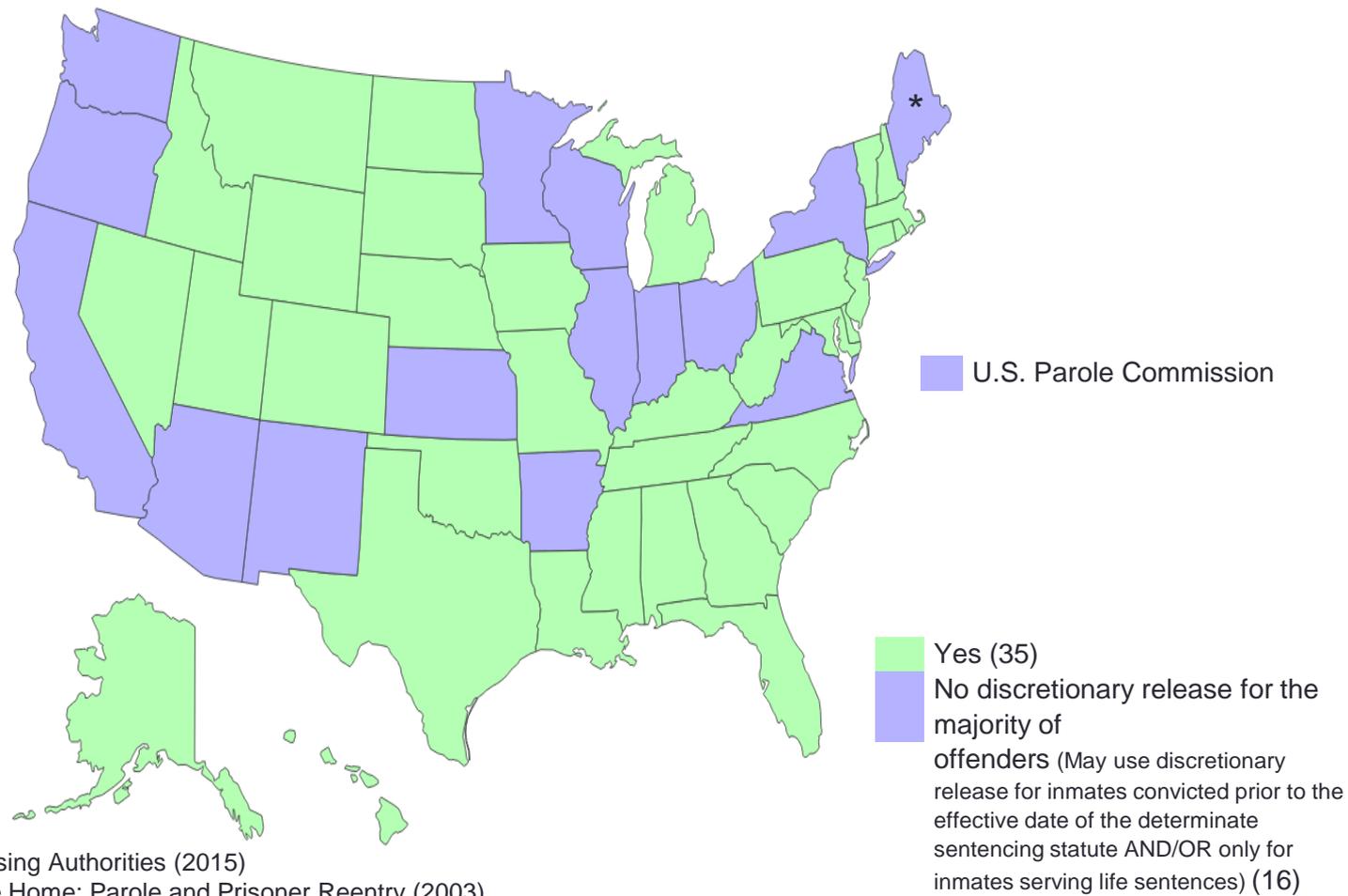
Emily Sattie
Victim Services Coordinator, Virginia Parole Board
- IV. Presentations from Subcommittees**
 - Efficiencies and Fiscal Impact
 - Best Practices for Reducing Recidivism
 - Appropriate Classification of Offenses
- V. Public Comment**
- VI. Closing**

**Overview of Current Efforts
to Reform Parole**

Peggy Burke
National Parole Resource Center



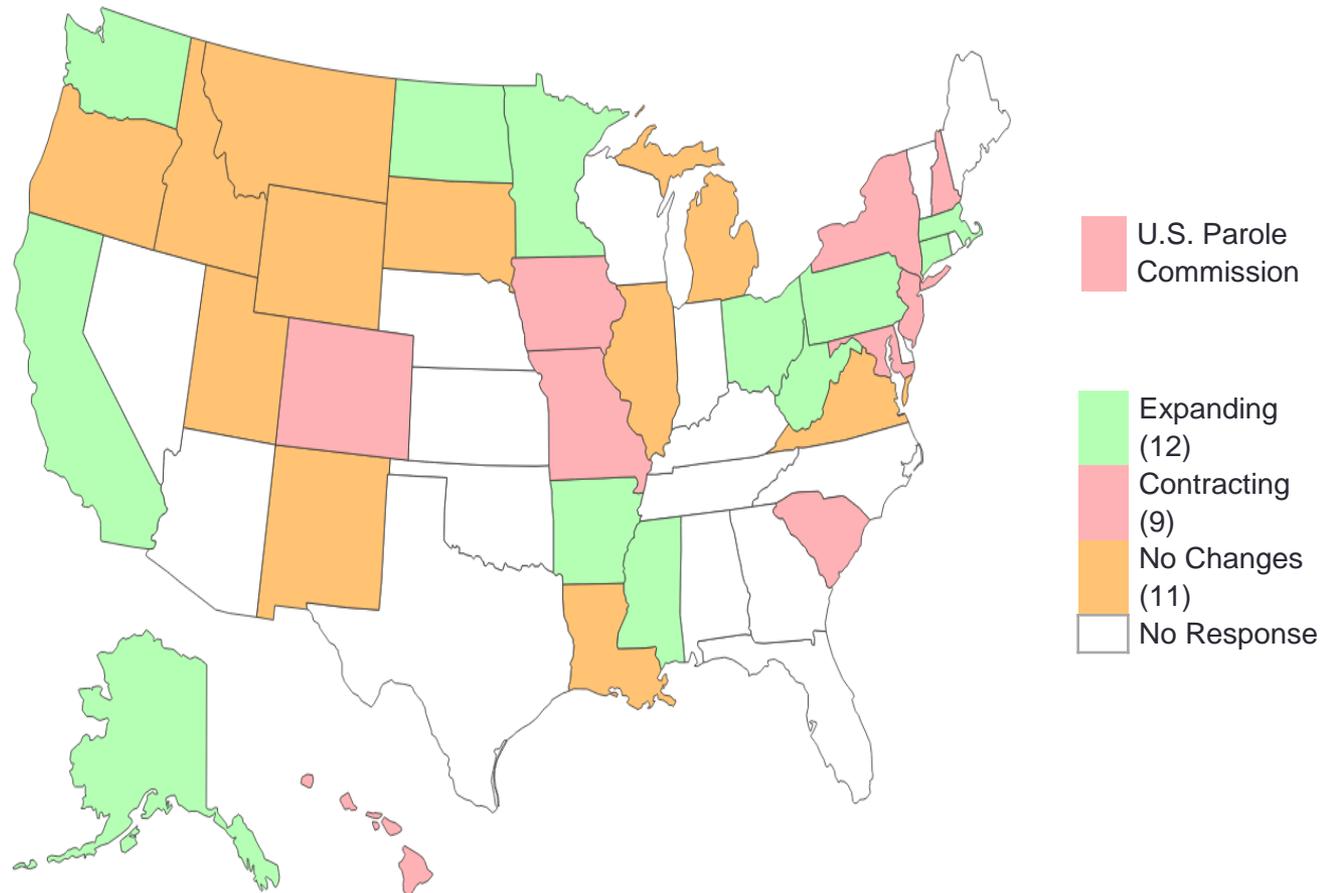
Does your state currently practice discretionary parole release decision-making for the majority of offenders?



Sources:
Robina National Survey of Releasing Authorities (2015)
Petersilia, When Prisoners Come Home: Parole and Prisoner Reentry (2003),
table 3.1

* Maine has not paroled anyone since 2001

**Has your state modified statutes that impact the agency's parole release decision practices, either expanding or contracting discretionary parole release, during the past 15 years (2000-2015)?
(32 jurisdictions responding)**



Previous Study by Sentencing Commission Discussed by Parole Review Commission

- **The 2009 General Assembly directed the Sentencing Commission to conduct a special study of parole-eligible offenders who remained in the state-responsible inmate population (Item 48(B) of Chapter 781 of the 2009 Acts of Assembly).**
- **The Sentencing Commission had to determine the number of parole-eligible offenders who had already served, or within the next six years would serve, an amount of time in prison that was equal to or more than the sentence that would be recommended by the current sentencing guidelines system.**

Previous Study by Sentencing Commission Discussed by Parole Review Commission

- **The truth-in-sentencing guidelines were scored for 3,341 inmates serving only under parole provisions.**
- **The total guidelines recommendation was calculated by summing the recommendations across all sentencing events identified for each inmate and his or her current term of incarceration.**
- **The total high-end guidelines recommendation was compared to the time served in custody as of December 31, 2008.**
- **For 706 (21.1%) of the parole-eligible inmates examined, the time served in custody as of December 31, 2008, had exceeded the high end of the range recommended by the truth-in-sentencing guidelines.**

Commission on Parole Review Subcommittee Assignments

Efficiencies & Fiscal Impact	Best Practices for Reducing Recidivism	Appropriate Classification of Offenses
Bobby Vassar - Chair	Faye Taxman - Chair	Sandra Brandt - Chair
Kimberly Lettner	Mira Signer	Senator Jill Vogel
Cheryl Robinson	Senator Dave Marsden	Meredith Farrar-Owens
Delegate Luke Torian	Gail Arnall	Camille Cooper
La Bravia Jenkins	Marcus Hodges	Alvin Edwards
Pat Nolan	Jack Gravely	Timothy Heaphy
Francine Ecker	William Richardson	Harold Clarke
Delegate Dave Albo	Tonya Chapman	Cynthia Hudson
Karen Brown	Sheriff Ken Stolle	David Lett
Thomas Wolf	Margaret Schultze	Mindy Stell

Commission on Parole Review

Subcommittee Charges

Subcommittee on Efficiencies and Fiscal Impact
Identify the goals of abolishing parole and evaluate whether they have been met (i.e., preventing new felony offenses, crime reduction, reducing recidivism).
Examine national trends and identify other potential mitigating factors influencing trends.
Analyze pre and post-1995 trends (i.e. crime rates, incarceration rates, sentence lengths and recidivism rates).
Examine the fiscal impact of abolishing parole, including societal impacts from the perspectives of victims, offenders and their families.
Identify opportunities for cost-savings
Additional recommendations for legislative or executive action.

Subcommittee on Best Practices for Reducing Recidivism
Identify initiatives that have reduced recidivism within Virginia's current system and evaluate opportunities to improve current processes.
Research and evaluate best practices in reducing recidivism in other states.
Identify evidence-based alternatives to incarceration while improving public safety.
Evaluate the impact of incarceration on recidivism and re-entry.
Additional recommendations for legislative or executive action.

Subcommittee on Appropriate Classification of Offenses
Identify and evaluate violent crime types and definitions.
Compare Virginia Code definitions and the Department of Corrections' classification system.
Identify and evaluate violent crime definitions from other states and on the federal level.
Additional recommendations for legislative changes based on findings.

Subcommittee on Appropriate Classification of Offenses

- Subcommittee has:
 - Compared differences across § 17.1-805, § 19.2-297.1 (three-time loser statute), restoration of rights policies, and DOC classification;
 - Begun to compare definition of violent offenses in § 17.1-805 to select group of other states; and
 - Examined § 17.1-805 to identify offenses the Subcommittee may wish recommend removing.

Subcommittee on Appropriate Classification of Offenses

- **One member of the subcommittee has proposed that determination of a prior offense as violent should be left to the discretion of the judge.**
 - **Guidelines prior record enhancements would only apply if the judge determined that at least one prior conviction involved the use or threat of force, serious risk of injury, or a child victim.**
- **Other statutes reference § 17.1-805, such as:**
 - **§ 19.2-11.2 Crime victim's right to nondisclosure of certain information**
 - **§ 19.2-368.2 Victim compensation**
 - **§ 19.2-120.1 Presumption of no bail for illegal aliens**
 - **18.2-308.2 Possession of firearm by felon**

Subcommittee on Best Practices for Reducing Recidivism

CAREFULLY REVIEW RECENT RESEARCH FINDINGS

- OVER THE PAST 20 YEARS THERE HAS BEEN AN ACCUMULATION OF RESEARCH LITERATURE ON EFFECTIVE PRACTICES, POLICIES, AND PROGRAMS THAT CAN REDUCE RECIDIVISM, AND PRACTICES THAT INCREASE RECIDIVISM.
- THIS RESEARCH HAS INFORMED OUR PERSPECTIVE THAT THE COMMONWEALTH OF VIRGINIA SHOULD BE EXPLORING OTHER PRACTICES AND PROGRAMS BESIDES INCARCERATION TO INCREASE THE PUBLIC SAFETY OF OUR COMMUNITIES.
- THE INCARCERATION OF NONVIOLENT OFFENDERS AND THOSE THAT DO NOT POSE A THREAT TO THE SAFETY OF THE COMMUNITY HAS BEEN FOUND TO INCREASE CRIMINAL BEHAVIOR.

SURVEY THE EXISTENCE OF “ALTERNATIVES TO INCARCERATION” IN EACH VIRGINIA JURISDICTION

- *THE COMMISSION WAS INFORMED THAT ABOUT HALF OF THE OFFENDERS INCARCERATED EACH YEAR ARE ELIGIBLE FOR “ALTERNATIVES TO INCARCERATION” BUT THE JUDGES DO NOT BELIEVE THAT THERE ARE SUFFICIENT AND ADEQUATE PROGRAMS FOR COMMUNITY SANCTIONS*
- **TO ADDRESS THIS, WE RECOMMEND:**
 1. ASSESS THE NEEDS IN EACH JURISDICTION AND DEVELOP A STRATEGIC PLAN
 2. INCREASE AVAILABILITY OF BEHAVIORAL HEALTH SERVICES
 3. EXPAND THERAPEUTIC ASSESSMENT “DROP OFF” CENTERS FOR CIT EFFORTS
 4. ASSES WHETHER CSBS ADEQUATELY HANDLE THE NEEDS OF JUSTICE-INVOLVED POPULATIONS

RECOMMENDATIONS FOR STUDIES TO BE CONDUCTED BY VIRGINIA CRIMINAL SENTENCING COMMISSION

- ***STUDY EVIDENCE-BASED SENTENCE LENGTHS FOR VARIOUS CRIMES TO EXAMINE WHAT THE IMPACT OF REDUCING SENTENCING LENGTHS WOULD HAVE ON RECIDIVISM.*** THE VCSC REPORT SHOULD EXPLORE THE LENGTH OF SENTENCES FOR VIOLENT OFFENSES, NONVIOLENT OFFENSES, AND LIMITS ON PROBATION TERMS WHICH OTHER STATES HAVE PURSUED TO REDUCE THE COST OF CORRECTIONS.
- ***REVIEW THE NEED FOR MANDATORY MINIMUMS GIVEN THE OVERALL 90% COMPLIANCE BY COURTS WITH THE VCSC SENTENCING GUIDELINES.***
- ***HOW BEST TO IMPLEMENT AN EARNED RELEASE CREDIT SYSTEM IN VA DOC.***

VIRGINIA CRIMINAL SENTENCING COMMISSION OTHER STUDIES

- ***EXAMINE THE POTENTIAL TO IMPROVE THE QUALITY OF JUSTICE AND FAIRNESS IN VIRGINIA AND TO ENSURE COST EFFECTIVE EXPENDITURES ON INCARCERATION.*** THESE INCLUDE:
 - 1) THE “SECOND LOOK RECOMMENDATION” BY THE AMERICAN LAW INSTITUTE WHICH ALLOWS OFFENDERS WITH LENGTHY SENTENCES TO RETURN TO THE SENTENCING COURT OR A JUDICIAL PANEL AFTER 15 YEARS TO SEEK SENTENCE MODIFICATION, APPLICABLE TO OLD LAW AS WELL AS NEW LAW INMATES,
 - 2) OLD LAW INMATES SHOULD BE PROVIDED WITH THE OPPORTUNITY TO SEEK MODIFICATION OF SENTENCE,
 - 3) REVIEW PAROLE BOARD RULES FOR GERIATRIC OR COMPASSIONATE RELEASE, AND REFORM POLICIES AND PROCEDURES FOR DISCRETIONARY PAROLE RELEASE FOR OLD LAW INMATES,
 - 4) VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL’S PENDING REVIEW OF FREEDOM OF INFORMATION ACT EXEMPTIONS SHOULD INCLUDE MODIFICATION OF THE PAROLE BOARD’S EXEMPTION TO PROVIDE FOR GREATER TRANSPARENCY WITH RESPECT TO ITS POLICIES AND PROCEDURES; AND,
 - 5) THE VIRGINIA CODE SHOULD BE REVISED TO INCREASE THE PAROLE BOARD’S EXPERTISE, INDEPENDENCE, AND DIVERSITY.

Future Meetings

- **The full Parole Review Commission will meet again on November 18.**
- **Subcommittee on Appropriate Classification of Offenses will meet on November 6.**

Commission on Parole Review website:

<http://vpb.virginia.gov/parole-commission/index.html>