

State of New York
Department of Correctional Services

Building Number 2
Harriman Office Campus
Albany, New York 12226

MERIT TIME PROGRAM SUMMARY

October 1997 – December 2006



Eliot Spitzer
Governor



Brian Fischer
Commissioner

MERIT TIME PROGRAM SUMMARY

October 1997 - December 2006

EXECUTIVE SUMMARY

In 1997, the legislature authorized the creation of the Merit Time Program. It allows for inmates who are serving prison sentences for certain non-violent crimes to earn a possible one-sixth reduction of the minimum term if they have achieved significant programmatic objectives and have not committed any serious disciplinary infractions. The first Merit Time appearances occurred in October 1997. This report provides a statistical overview of the Merit Time Program for the period from October 1997 through December 2006.

This report examines inmates who were released to parole supervision prior to their Parole Eligibility date as a result of being approved as a Merit Time release by the New York State Board of Parole.

Merit Time Program Expansion. Eligibility for the Merit Time program is based upon the crimes for which an inmate is currently serving a sentence. An inmate cannot be serving a sentence for a legislatively designated violent felony offense, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide, incest, any offense defined in Article 130 of the Penal Law (sex offenses), or any offense defined in Article 263 of the Penal Law (use of a child in a sex performance). When the Merit Time program began in 1997, all Class A-1 felons were ineligible for the program. However, effective May 15, 2003, the Legislature expanded the eligibility criteria to include inmates committed for Class A-1 drug offenses. The first Class A-1 drug felons were released through the Merit Time program in September 2003. Through December 2006, 98 Class A-1 drug offenders were released early due to the Merit Time program.

Merit Time Disposition. There were 37,914 merit hearings between October 1997 and December 2006. These merit hearings resulted in 25,997 inmates (69%) being approved for merit release (*refer to Table 1, p.3*). Of the Merit approvals, 24,407 individuals were actually released prior to their Parole Eligibility date (*refer to Table 2, p. 4*). Not all of the 24,407 were released by December 31, 2006; 355 were released after January 1, 2006. The remaining 24,052 releases are the basis of this report.

Legal Characteristics of Merit Releases. Between 1997 and 2006, more than three-quarters (78%) of Merit Time releases were committed for drug offenses (*see Table 3, p. 5*). Additionally, 75% of merit releases were sentenced as second felony offenders (*see Table 5, p. 7*). The average minimum sentence for merit releases was 37 months (*see Table 6, p. 8*), while the average maximum sentence was 93 months (*see Table 7, p. 8*). The average time served by merit releases was 31 months (*see Table 8, p. 9*), or about 6 months less than the average minimum sentence (*see Table 6, p. 8*).

Demographic Characteristics of Merit Releases. A typical merit release is most likely to be male, from New York City (or the surrounding metropolitan area), and about 37 years old at release (see *Tables 9, 11, & 12, p. 10-11*).

Cumulative Extra Time Released from DOCS' Custody and Estimated Cost Savings. During the period October 1997 through December 2006, the Merit Program generated 24,052 early releases. Among the 24,052 releases, 98 were Class A-1 drug offenders. Prior to the Merit Program, the 23,954 non-Class A-1 drug offenders would typically have been held for an additional six months prior to their next Parole Board hearing. The savings generated by these additional releases can be estimated by a maintenance cost of \$29,000 per inmate per year for the estimated six months of additional incarceration. This is a savings of nearly \$359 million. The Class A-1 drug offenders released through the expansion of the Merit Time program left DOCS custody at an average of 42 months before their parole eligibility dates, for a savings of approximately \$10 million. Overall, it is estimated that the 24,052 additional releases resulted in a savings of \$369 million since the inception of the Merit Program (see *Tables 13A and 13B, p.14*).

The Research Division decided that beginning January 1, 2001, avoidance of capital expenditure should not be credited to programs until the Department either makes plans for new construction or makes double bunks, placed into emergency status, operational once again. Capital costs avoided and accrued prior to January 1, 2001 will continue to be reported. Therefore, construction avoidance savings calculations are based on the 7,647 early releases between October 1997 and December 2000.

As a result of a suggestion from auditors in the Office of the State Controller, DOCS' cost avoidance estimates amortize the cost of building correctional facilities. For the cost avoidance estimates, we have used the \$75,975,000 cost of a medium security facility, fully double-bunked with a total capacity of 1,302 inmates, depreciable over thirty years, and a 6.35% interest rate. Using this model, the 7,647 early releases (between October 1997 and December 2000) reduced the need for capital construction by almost \$15 million.

Combining the estimated \$369 million in operational savings with the \$15 million in construction avoidance savings, the Merit Program has reduced the need for the DOCS expenditures by approximately \$384 million dollars since its inception in 1997 (*refer to page 13*).

Return Rate of Merit Time and Comparison Cases. The purpose of the Merit Time program is to release certain non-violent inmates to parole supervision earlier than they would normally be released, without increasing the risk to the community. A one-year follow-up of 1997 through 2005 releases is presented according to release status. Additionally, a two-year follow-up of 1997 through 2004 releases is presented. Finally, a three-year follow-up of 1997 through 2003 cases is provided.

Between October 1997 and December 2005, the 21,200 inmates released due to Merit Time approval had a return to custody rate that was the next to the lowest rate of all of the comparison groups. Specifically, inmates with a merit approval that were released prior to their Parole Eligibility (PE) date returned at a rate of 11% within the first year. All other releases returned at a rate of 18% within the first year (see *Tables 16A and 16B, p. 19-20*).

With respect to the two-year follow-up, the results were similar. Inmates with a merit approval that were released prior to their PE date returned at a rate of 23% within two years. All other releases returned at a rate of 31% within the two-year follow-up (see *Tables 17A and 17B, p. 22-23*).

For the three-year follow-up, inmates with a merit approval that were released prior to their PE date returned at a rate of 31% within three years. All other releases returned at a rate of 39% within the three-year follow-up (see *Tables 18A and 18B, p. 25-26*).

TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
TABLE OF CONTENTS	iv
INTRODUCTION	1
<i>Overview of Merit Time Program</i> <i>Merit Time Program Expansion</i>	
MERIT TIME DISPOSITIONS.....	3
CHARACTERISTICS OF MERIT RELEASES	5
<i>Crime of Commitment</i> <i>Sentence Status and Length</i> <i>Time Served</i> <i>Demographic Characteristics</i>	
ESTIMATED SAVINGS SINCE PROGRAM INCEPTION	12
<i>Operational Savings</i> <i>Construction Avoidance Savings</i> <i>Total Savings</i>	
MERIT TIME FOLLOW-UP STUDY	16
<i>Follow-up Method</i> <i>Follow-up Population</i> <i>Follow-up Period</i> <i>One Year Out Follow-up Results</i> <i>Two Year Out Follow-up Results</i> <i>Three Year Out Follow-up Results</i> <i>Conclusion</i>	

MERIT TIME PROGRAM SUMMARY

October 1997 - December 2006

INTRODUCTION

The purpose of this report is to provide a summary and evaluation of the Merit Time Program. This report covers Merit Time hearings for the period of October 1997 through December 2006.

The information in this report is based on Merit Time hearings and dispositions. Data on Merit Eligibility status are maintained by the Department of Correctional Services (DOCS) and data about parole dispositions are supplied by the Division of Parole through a monthly computer file. The data in this report relies on the information from both of these files. For individuals with more than one hearing during the relevant time period, (due to postponements at their initial hearing) information is provided on each hearing and corresponding Merit Time disposition.

A summary is provided on Merit Eligibility outcomes, parole dispositions, characteristics of merit releases, and estimated cost savings since program implementation. The last section of the report provides a follow-up of merit releases compared with other release categories.

Overview of Merit Time Program

Legislation authorizing Merit Time was signed into law by Governor Pataki on August 20, 1997 as Chapter 435 of the Laws of 1997. The legislation specifically amended Correction Law Section 803. It allows inmates who are serving prison terms with a minimum sentence greater than one year for certain non-violent crimes to earn a possible one-sixth reduction of the minimum term if they have achieved certain significant programmatic objectives and have not engaged in any serious disciplinary infractions. Specifically, inmates must achieve one of the following program goals in order to be eligible for Merit Time release: obtain a GED, obtain an alcohol and substance abuse treatment certificate, obtain a vocational training certificate following at least six months of vocational programming, or perform 400 hours of service as part of a community work crew.

To be eligible for a Merit Time early release, an inmate cannot be serving a sentence for a legislatively designated violent felony offense, manslaughter in the second degree, vehicular manslaughter in the second degree, vehicular manslaughter in the first degree, criminally negligent homicide, incest, any offense defined in Article 130 of the Penal Law (sex offenses), or any offense defined in Article 263 of the Penal Law (use of a child in a sex performance).

If an inmate is serving multiple sentences of imprisonment for different crimes, whether such sentences are concurrent or consecutive, in order for the inmate to possibly receive a Merit Time credit, all of the crimes must be Merit Time eligible crimes. In addition, if a parole violator or conditional release violator is returned to the Department under a new conviction that is a Merit Time eligible crime, but the original crime was an ineligible offense which is still running, the inmate is ineligible for any Merit Time reduction (see Penal Law Section 70.30(1)).

The objective of the Merit Time Program is to provide non-violent inmates who have demonstrated an overall pattern of good behavior with the opportunity to be released early. Any inmate who receives the benefit of Merit Time must either appear before the Board of Parole for a possible release on parole at the Merit Time release date (which is calculated at five-sixths of the minimum term) or be presumptively approved¹ for such a release by DOCS. If the Board of Parole or DOCS grants the inmate early release to parole, he or she may be released to parole supervision prior to the inmate's parole eligibility date. If release to parole is denied by the Board, then the inmate will again appear before the Board of Parole at his or her original parole eligibility date.

Legislation in 2004, to reform the Rockefeller drug laws, resulted in determinate sentences for drug felony convictions. Some of the inmates sentenced under this new legislation were also eligible for merit time. These eligible inmates are required to serve the full sentence with a possibility of 1/7 off for good time and another 1/7 off for merit time. These individuals are released by law as "conditional releases" without decision by the Board of Parole or the Commissioner of DOCS.

The legislation also established "supplemental merit" for drug offenders serving time on indeterminate sentences. Supplemental merit inmates are eligible for an additional 1/6 reduction in the minimum term. This can be earned by completing 2 of 5 milestones. In addition to the four areas identified above, successfully completing three months of work release is the fifth milestone.

For inmates who have a parole approval hearing before the Parole Board, the inmate's final disposition can be one of three outcomes. An inmate may be approved for release and actually be released to parole supervision early, as a merit release. An inmate may be denied parole and therefore not be released early. Finally, an inmate may be approved for merit release but not actually be released to parole supervision early.

Merit Time Program Expansion. As discussed previously, eligibility for the Merit Time program is based upon the crimes for which an inmate is currently serving a sentence. When the Merit Time program began in 1997, all Class A-1 felons were ineligible for the

¹ Presumptive Release is an initiative that became effective in April 2003. Certain eligible inmates are reviewed by DOCS prior to their Parole Board hearing to determine if they meet the criteria for Presumptive Release. Inmates approved for Presumptive Release see the Parole Board only for a hearing to set the conditions of their parole since DOCS has already approved them for release. Inmates can be presumptively released on their merit date (as a merit presumptive release) or on their parole eligibility date (as a regular presumptive release). As of December 2006, 4,080 inmates were released from DOCS as merit presumptive releases.

program. However, effective May 15, 2003, the Legislature expanded the eligibility criteria to include inmates committed for Class A-1 drug offenses. The first Class A-1 drug felons were released through the Merit Time program in September 2003. Through December 2006, 97 Class A-1 drug felons were released early through the Merit Time Program. The first Merit Time appearances occurred in October 1997. This report will include all merit hearings and releases between October 1997 and December 2006. Through December 2006, there were 1,847 supplemental merit releases; 1,053 were presumptive releases.

MERIT TIME DISPOSITIONS

From October 1997 through December 2006, there were 37,914 Parole Board hearings for Merit Time release. As a product of those hearings, 25,997 (69%) inmates were approved for merit release by the Board of Parole (*see Table 1*). The remaining 31% of the inmates were denied merit release by the Parole Board. Of the 25,997, only 24,407 were merit releases, because 1,575 individuals did not get released from the Department prior to their Parole Eligibility date and 15 were still awaiting release (*see Table 2*).

**Table 1. Merit Outcome by Hearing Year
Cases Receiving a Merit Hearing**

Hearing Year	Merit Parole Approved		Merit Parole Denied		Total Merit Hearings	
1997*	831	79.8%	211	20.2%	1,042	100.0%
1998	2,555	67.3%	1,241	32.7%	3,796	100.0%
1999	2,446	63.4%	1,414	36.6%	3,860	100.0%
2000	2,875	70.4%	1,208	29.6%	4,083	100.0%
2001	3,246	69.7%	1,413	30.3%	4,659	100.0%
2002	2,441	63.5%	1,404	36.5%	3,845	100.0%
2003	2,774	72.2%	1,066	27.8%	3,840	100.0%
2004	2,746	72.7%	1,031	27.3%	3,777	100.0%
2005	3,167	69.4%	1,395	30.6%	4,562	100.0%
2006	2,916	65.5%	1,534	34.5%	4,450	100.0%
Total	25,997	68.6%	11,917	31.4%	37,914	100.0%

* The first merit releases occurred in October 1997, so 1997 includes only October through December hearings.

**Table 2. Merit Outcome by Hearing Year
Cases Approved for Merit Release**

Hearing Year	Merit Parole Approved and Released Early		Merit Parole Approved, but not Released Yet**		Merit Parole Approved, but not Released Early***		Total Merit Approvals	
1997*	819	98.6%	0	0.0%	12	1.4%	831	100.0%
1998	2,402	94.0%	0	0.0%	153	6.2%	2,555	100.0%
1999	2,293	93.7%	0	0.0%	153	6.3%	2,446	100.0%
2000	2,636	91.7%	0	0.0%	239	8.3%	2,875	100.0%
2001	3,098	95.4%	0	0.0%	148	4.6%	3,246	100.0%
2002	2,292	93.9%	0	0.0%	149	6.1%	2,441	100.0%
2003	2,545	91.7%	0	0.0%	229	8.3%	2,774	100.0%
2004	2,559	93.2%	0	0.0%	187	6.8%	2,746	100.0%
2005	3,069	96.9%	0	0.0%	98	3.1%	3,167	100.0%
2006****	2,694	92.4%	15	0.5%	207	7.1%	2,916	100.0%
Total	24,407	93.9%	15	0.1%	1,575	6.1%	25,997	100.0%

* The first merit releases occurred in October 1997, so 1997 includes only October through December.

** These cases were approved for merit release prior to January 2007, but had not yet been released nor reached PE date at the time the analysis for this report was conducted (July 2007).

*** This category represents cases that were released on or after their PE date. It also includes cases that were past their PE date but had still not been released from custody at the time the 2006 report was prepared in July 2007.

**** These 2,694 cases include 355 cases that were approved for merit release in 2006, but were not actually released from custody until CY 2007.

In 2006 there were 2,916 cases approved for merit release. Of these, 2,694 actually received a merit release to parole supervision prior to the preparation of this report (see *Table 2*). Because the merit hearing usually precedes the merit release by two months or more, 355 of the 2,694 releases were not released prior to December 31, 2006.

The next several sections of this report will focus only on the 24,052 (24,407 minus the 355 released in 2007) merit releases to parole supervision that occurred between October 1997 and December 2006.

CHARACTERISTICS OF MERIT RELEASES

Crime of Commitment

By definition, inmates released as a result of the Merit Time Program cannot have been committed for a violent felony or a sex offense. Between 1997 and 2006, more than three-quarters (78%) of merit releases were committed for a drug offense. After drug offenders, the next largest category of merit releases was composed of offenders committed for property offenses (17%), followed by other coercive offenses (4%). With respect to specific offenses, the majority of merit releases were committed for either Criminal Sale of a Controlled Substance 3rd (N = 6,539 or 27%) or Criminal Sale of a Controlled Substance 5th (N = 4,732 or 20%) (see Table 4).

**Table 3. Crime of Commitment by Release Year
Merit Releases to Parole Supervision: 1997 to 2006**

CRIME	1997 - 2000	2001	2002	2003	2004	2005	2006	TOTAL
OTHER COERCIVE								
ROBBERY 3RD	129	67	35	59	69	36	54	449
ASSAULT 2ND (ATTEMPTED)	28	8	15	13	8	10	6	88
CONSPIRACY 2,3,4	43	19	20	12	17	30	35	176
OTHER WEAPONS	62	18	18	24	29	29	34	214
RECKLESS ENDANGERMENT	26	7	7	9	11	11	11	82
OTHER COERCIVE	16	2	2	8	9	5	4	46
CRIME SUBTOTAL	304	121	97	125	143	121	144	1,055
	4.0%	4.2%	4.1%	4.8%	5.4%	3.9%	5.0%	4.4%
DRUG OFFENSES								
A-1 DRUG SALE	0	0	0	29	16	6	2	53
A-1 DRUG POSSESSION	0	0	0	23	12	3	6	44
DRUG SALE	4,703	1,686	1,326	1,323	1,195	1,379	1,237	12,849
DRUG POSSESSION	1,544	654	586	639	720	908	862	5,913
CRIME SUBTOTAL	6,247	2,340	1,912	2,014	1,943	2,296	2,107	18,859
	81.7%	80.9%	80.9%	77.6%	73.6%	74.9%	73.9%	78.4%
PROPERTY AND OTHER								
BURGLARY 3RD	381	153	107	122	167	202	183	1,315
GRAND LARCENY	197	75	78	91	129	141	140	851
AUTO CRIMES	84	28	21	31	30	29	29	252
FORGERY	147	70	59	69	94	101	80	620
STOLEN PROPERTY	151	54	37	47	58	52	51	450
DRIVE INTOXICATED	19	14	21	23	16	45	54	192
FRAUD CRIMES	25	7	8	17	18	32	30	137
CONTEMPT 1ST	17	6	4	5	3	3	1	39
ALL OTHER FELONIES	62	17	14	43	32	30	21	219
CRIME SUBTOTAL	1,083	424	349	448	547	635	589	4,075
	14.2%	14.7%	14.8%	17.3%	20.7%	20.7%	20.7%	16.9%
YOUTHFUL OFFENDER	10	7	5	8	7	14	12	63
	0.1%	0.2%	0.2%	0.3%	0.3%	0.5%	0.4%	0.3%
GRAND TOTAL	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

**Table 4. Crime of Commitment by Release Year
Merit Releases to Parole Supervision: 1997 to 2006**

CRIME	1997 - 2000	2001	2002	2003	2004	2005	2006	TOTAL
OTHER COERCIVE								
ROBBERY 3RD	129	67	35	59	69	36	54	449
ASSAULT 2ND (ATT)	28	8	15	13	8	10	6	88
RECK ENDANGER 1ST	26	7	7	9	11	11	11	82
VEHIC ASSAULT 2ND	1	0	1	1	1	1	0	5
ARSON 3RD	9	2	1	5	5	1	2	25
ARSON 4TH	0	0	0	2	0	0	0	2
CR POS WEAP 3 SUB 1,2,3	60	17	17	24	29	27	31	205
SALE FIREARM 3RD	2	1	1	0	0	2	3	9
UNLAWFUL IMPRIS 1ST	1	0	0	0	0	0	1	2
COERCION 1ST	3	0	0	0	3	3	1	10
TAMP WITNESS 3RD	1	0	0	0	0	0	0	1
INTIMIDATE WIT 3RD	1	0	0	0	0	0	0	1
CONSPIRACY 2ND	34	15	18	11	15	27	28	148
CONSPIRACY 3RD	3	1	1	0	0	1	2	8
CONSPIRACY 4TH	6	3	1	1	2	2	5	20
CRIME SUBTOTAL	304	121	97	125	143	121	144	1,055
	4.0%	4.2%	4.1%	4.8%	5.4%	3.9%	5.0%	4.4%
DRUG OFFENSES								
CSCS 1ST	0	0	0	29	16	6	2	53
CPCS 1ST	0	0	0	23	12	3	6	44
CSCS 2ND	232	93	76	113	95	129	93	831
CPCS 2ND	351	146	126	150	172	209	141	1,295
CSCS 3RD	2,406	927	717	704	610	664	511	6,539
CPCS 3RD	533	237	238	223	224	301	281	2,037
CSCS 4TH	63	18	19	14	31	120	159	424
CPCS 4TH	135	68	46	57	62	100	144	612
CSCS 5TH	1,960	609	479	458	402	402	422	4,732
CPCS 5TH	501	194	166	197	245	279	270	1,852
CRIM SALE MAR 1	2	3	0	0	0	2	2	9
CRIM POS MAR 1	3	4	4	4	2	7	12	36
CRIM SALE MAR 2	1	2	0	0	2	1	1	7
CRIM POS MAR 2	13	3	4	5	9	10	10	54
CRIM SALE MAR 3	5	1	4	1	2	4	3	20
CRIM POS MAR 3	8	1	2	3	6	2	4	26
CSCS AT SCHOOL	34	34	31	33	53	57	46	288
CRIME SUBTOTAL	6,247	2,340	1,912	2,014	1,943	2,296	2,107	18,859
	81.7%	80.9%	80.9%	77.6%	73.6%	74.9%	73.9%	78.4%
PROPERTY AND OTHER								
BURGLARY 3RD	381	153	107	122	167	202	183	1,315
GRAND LARCENY 1ST	7	2	2	2	5	2	7	27
GRAND LARCENY 2ND	25	10	9	13	24	22	27	130
GRAND LARCENY 3RD	61	23	22	25	40	49	41	261
GRAND LARCENY 4TH	104	40	45	51	60	68	65	433
UNAU USE VEHIC 1ST,2ND	15	5	3	2	5	3	3	36
AUTO STRIPPING 1ST,2ND	19	5	6	6	3	7	5	51
GR LAR 1,2,3,4 AUTO	50	18	12	23	22	19	21	165
STOLEN PROP 2,3,4	151	54	37	47	58	52	51	450
DEFRAUD 1ST	4	1	4	1	4	6	2	22
INSUR FRAUD 2,3,4	5	0	0	5	4	3	3	20
BUS CORRUPTION	9	4	3	7	7	6	8	44
FORGERY 1,2	73	30	25	31	26	43	32	260
POS FORGE INS 1,2	74	39	34	38	67	58	48	358
DRIVE INTOX 2,3 OFF	19	14	21	23	16	45	53	191
UNLICENSED DRIVER	3	0	2	4	1	1	2	13
CRIM MISCHIEF 1,2,3	17	7	3	14	13	7	3	64
CONTRABAND 1ST	4	0	0	9	4	5	2	24
BAIL JUMPING 1,2	13	3	2	8	2	5	5	38
CONTEMPT 1ST	17	6	4	5	3	3	1	39
OTHER	32	10	8	12	16	29	27	134
CRIME SUBTOTAL	1,083	424	349	448	547	635	589	4,075
	14.2%	14.7%	14.8%	17.3%	20.7%	20.7%	20.7%	16.9%
YO - JO	10	7	5	8	7	14	12	63
	0.1%	0.2%	0.2%	0.3%	0.3%	0.5%	0.4%	0.3%
GRAND TOTAL	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052
	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Sentence Status and Length

Overall, three-quarters (75%) of merit releases were sentenced as second felony offenders. However this proportion has decreased over time, from 80% in 1997 through 2000 to 70% in 2006 (see Table 5).

**Table 5. Second Felony Offender Status by Release Year
Merit Releases to Parole Supervision: 1997 to 2006**

Second Felony Offender Status	Latest Release Year							TOTAL
	1997 - 2000	2001	2002	2003	2004	2005	2006	
First Felony Offender	1,558	696	586	731	681	839	843	5,934
Second Felony Offender	6,067	2,196	1,773	1,858	1,958	2,222	2,008	18,082
Persistent Felony Offender	19	0	4	6	1	5	1	36
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052
First Felony Offender	20.4%	24.1%	24.8%	28.2%	25.8%	27.4%	29.6%	24.7%
Second Felony Offender	79.4%	75.9%	75.0%	71.6%	74.2%	72.5%	70.4%	75.2%
Persistent Felony Offender	0.2%	0.0%	0.2%	0.2%	0.0%	0.2%	0.0%	0.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

The average minimum sentence received by all merit releases between 1997 and 2006 was 37 months (see Table 6).

**Table 6. Aggregate Minimum Sentence by Release Year
Merit Releases to Parole Supervision: 1997 to 2006**

Minimum Sentence	Latest Release Year							TOTAL
	1997-2000	2001	2002	2003	2004	2005	2006	
LT 18 Months	76	52	41	54	59	129	290	701
18-23 Months	964	361	297	344	395	394	374	3,129
24-35 Months	2,944	1002	795	876	890	937	861	8,305
36-47 Months	1,976	707	562	547	612	647	610	5,661
48-71 Months	1,312	609	507	511	475	673	537	4,624
72-119 Months	333	149	150	200	166	240	152	1,390
120-179 Months	39	10	10	12	14	37	25	147
180-239 Months	0	2	1	38	15	7	3	66
240 + Months	0	0	0	13	14	2	0	29
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052
Median	30.0	36.0	36.0	36.0	30.0	36.0	30.0	30.0
Average	35.7	36.8	37.4	40.7	38.3	39.0	35.5	37.2
LT 18 Months	1.0%	1.8%	1.7%	2.1%	2.2%	4.2%	10.2%	2.9%
18-23 Months	12.6%	12.5%	12.6%	13.3%	15.0%	12.9%	13.1%	13.0%
24-35 Months	38.5%	34.6%	33.6%	33.8%	33.7%	30.6%	30.2%	34.5%
36-47 Months	25.9%	24.4%	23.8%	21.1%	23.2%	21.1%	21.4%	23.5%
48-71 Months	17.2%	21.1%	21.5%	19.7%	18.0%	22.0%	18.8%	19.2%
72-119 Months	4.4%	5.2%	6.3%	7.7%	6.3%	7.8%	5.3%	5.8%
120-179 Months	0.5%	0.3%	0.4%	0.5%	0.5%	1.2%	0.9%	0.6%
180-239 Months	0.0%	0.1%	0.0%	1.5%	0.6%	0.2%	0.1%	0.3%
240 + Months	0.0%	0.0%	0.0%	0.5%	0.5%	0.1%	0.0%	0.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Overall, the average maximum sentence received by all merit releases was 93 months (see Table 7). A life maximum sentence was treated as 25 years for purposes of calculating the average maximum sentence.

**Table 7. Aggregate Maximum Sentence by Release Year
Merit Releases to Parole Supervision: 1997 to 2006**

Maximum Sentence	Latest Release Year							TOTAL
	1997-2000	2001	2002	2003	2004	2005	2006	
12-35 Months	0	0	0	0	0	0	258	258
36 Months	861	320	264	310	336	409	329	2,829
37-53 Months	1,753	604	511	538	579	606	542	5,133
54-71 Months	944	332	222	229	257	263	225	2,472
72-95 Months	2,060	727	582	635	650	694	671	6,019
96-107 Months	198	72	67	68	75	96	71	647
108-143 Months	948	459	387	371	342	474	389	3,370
144-179Months	185	82	78	85	54	101	91	676
180 + Months	113	56	49	45	53	79	55	450
Life Max	582	240	203	314	294	344	198	2,175
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,829	24,029
Median	72.0	72.0	72.0	72.0	72.0	72.0	72.0	72.0
Average	88.8	93.1	94.7	101.2	97.7	100.8	85.4	93.3
12-35 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	9.1%	1.1%
36 Months	11.3%	11.1%	11.2%	11.9%	12.7%	13.3%	11.6%	11.8%
37-53 Months	22.9%	20.9%	21.6%	20.7%	21.9%	19.8%	19.2%	21.4%
54-71 Months	12.3%	11.5%	9.4%	8.8%	9.7%	8.6%	8.0%	10.3%
72-95 Months	26.9%	25.1%	24.6%	24.5%	24.6%	22.6%	23.7%	25.0%
96-107 Months	2.6%	2.5%	2.8%	2.6%	2.8%	3.1%	2.5%	2.7%
108-143 Months	12.4%	15.9%	16.4%	14.3%	13.0%	15.5%	13.8%	14.0%
144-179Months	2.4%	2.8%	3.3%	3.3%	2.0%	3.3%	3.2%	2.8%
180 + Months	1.5%	1.9%	2.1%	1.7%	2.0%	2.6%	1.9%	1.9%
Life Max	7.6%	8.3%	8.6%	12.1%	11.1%	11.2%	7.0%	9.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Increases in average sentence length can be noted in 2003 for both minimum and maximum sentences. These were due primarily to the addition of Class A-1 drug felons to the Merit Program that year. Since 2003, the number of A-1 felons released as a merit release has dropped each year. The number was higher in 2003 because of the pool of A-1 drug offenders under custody who were made eligible for the Merit Program by legislative action.

Time Served

Between 1997 and 2006, average time served (including jail time) by inmates who received a merit release was 31 months (see Table 8). In 2003, average time served increased to 34 months, due partly to the inclusion of Class A-1 drug offenders in the Merit Program. Between 2003 and 2006, average time served decreased from 34 to 28 months, due in part to fewer class A-1 offenders and shorter sentences for determinate drug offenders (see Table 3).

According to Table 6, the average minimum sentence was 37 months while table 8 indicates the average time served was 31 months. Therefore, merit released inmates served, on average, about 6 months less than they would have if they were released at their court-set eligibility date.

**Table 8. Total Time Served Under Custody by Release Year
Merit Releases to Parole Supervision: 1997 to 2006**

Time Served	Latest Release Year							TOTAL
	1997 - 2000	2001	2002	2003	2004	2005	2006	
06-11 Months	55	11	15	15	26	62	92	276
12-17 Months	992	374	319	372	414	485	570	3,526
18-23 Months	2,030	688	575	652	656	722	755	6,078
24-29 Months	962	322	221	234	256	369	408	2,772
30-35 Months	1,741	670	513	508	575	589	471	5,067
36-41 Months	473	184	146	161	146	258	196	1,564
42-47 Months	590	301	263	243	230	208	107	1,942
48-59 Months	425	181	145	148	129	180	159	1,367
60-71 Months	230	110	127	153	116	94	48	878
72-119 Months	133	48	32	56	61	87	38	455
120-179 Months	13	3	7	37	19	10	7	96
180 + Months	0	0	0	16	12	2	1	31
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052
Average	31.8	31.0	31.4	34.0	31.8	30.9	27.6	30.8
Median	24.0	29.8	29.8	29.8	26.1	26.4	23.7	25.8
06-11 Months	0.7%	0.4%	0.6%	0.6%	1.0%	2.0%	3.2%	1.1%
12-17 Months	13.0%	12.9%	13.5%	14.3%	15.7%	15.8%	20.0%	14.7%
18-23 Months	26.6%	23.8%	24.3%	25.1%	24.8%	23.5%	26.5%	25.3%
24-29 Months	12.6%	11.1%	9.4%	9.0%	9.7%	12.0%	14.3%	11.5%
30-35 Months	22.8%	23.2%	21.7%	19.6%	21.8%	19.2%	16.5%	21.1%
36-41 Months	6.2%	6.4%	6.2%	6.2%	5.5%	8.4%	6.9%	6.5%
42-47 Months	7.7%	10.4%	11.1%	9.4%	8.7%	6.8%	3.8%	8.1%
48-59 Months	5.6%	6.3%	6.1%	5.7%	4.9%	5.9%	5.6%	5.7%
60-71 Months	3.0%	3.8%	5.4%	5.9%	4.4%	3.1%	1.7%	3.7%
72-119 Months	1.7%	1.7%	1.4%	2.2%	2.3%	2.8%	1.3%	1.9%
120-179 Months	0.2%	0.1%	0.3%	1.4%	0.7%	0.3%	0.2%	0.4%
180 + Months	0.0%	0.0%	0.0%	0.6%	0.5%	0.1%	0.0%	0.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Demographic Characteristics

Consistent with the total population of DOCS' inmates released, the majority of merit releases were men. However, women comprised 13% of merit releases between 1997 and 2006, which is a larger proportion than the 7% of all first releases from DOCS during this period (*Table 9*). The proportion of merit releases that were women was 14% during 1997 to 2002 and decreased to 11% in 2006.

Table 9. Gender by Release Year
Merit Releases vs. All Other First Releases to Parole Supervision: 1997 to 2006

Gender	Merit Releases Latest Release Year							Total	All Other 1st Releases
	1997 - 2000	2001	2002	2003	2004	2005	2006		
Male	6,572	2,496	2,023	2,267	2,351	2,757	2,546	21,012	139,566
Female	1,072	396	340	328	289	309	306	3,040	10,156
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,862	24,062	149,722
Male	86.0%	86.3%	85.6%	87.4%	89.1%	89.9%	89.0%	87.3%	93.2%
Female	14.0%	13.7%	14.4%	12.6%	10.9%	10.1%	10.7%	12.6%	6.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

There was a higher proportion of Hispanics represented among the merit releases (36%) than in the total population of first releases (32%) (*see Table 10*). Half (50%) of the merit release population were African-American, which is slightly higher than the 47% of first releases composed of African-Americans. Thirteen percent of the merit release population were White, compared to 19% of all first releases.

Table 10. Race/Ethnicity by Release Year
Merit Releases vs. All Other First Releases to Parole Supervision: 1997 to 2006

Race/Ethnicity	Merit Releases Latest Release Year							Total	All Other 1st Releases
	1997 - 2000	2001	2002	2003	2004	2005	2006		
White	834	312	266	338	384	462	482	3,078	28,421
African-American	3,917	1,488	1,233	1,297	1,234	1,439	1,386	11,994	70,933
Hispanic	2,839	1,067	847	926	971	1,114	955	8,719	47,775
Other	36	17	11	16	22	35	22	159	2,041
Unknown	18	8	6	18	29	16	7	102	552
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052	149,722
White	10.9%	10.8%	11.3%	13.0%	14.5%	15.1%	16.9%	12.8%	19.0%
African-American	51.2%	51.5%	52.2%	50.0%	46.7%	46.9%	48.6%	49.9%	47.4%
Hispanic	37.1%	36.9%	35.8%	35.7%	36.8%	36.3%	33.5%	36.3%	31.9%
Other	0.5%	0.6%	0.5%	0.6%	0.8%	1.1%	0.8%	0.7%	1.4%
Unknown	0.2%	0.3%	0.3%	0.7%	1.1%	0.5%	0.2%	0.4%	0.4%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

About two-thirds (65%) of merit releases were committed from New York City, with an additional 11% from the suburbs surrounding New York City. The remaining 24% of merit releases were committed from Upstate New York (*see Table 11*). The proportion

of Upstate merit releases (24%) was lower than the population of all first releases (29%).

**Table 11. Region of Commitment by Release Year
Merit Releases vs. All Other First Releases to Parole Supervision: 1997 to 2006**

Region	Merit Releases Latest Release Year							Total	All Other 1st Releases
	1997-2000	2001	2002	2003	2004	2005	2006		
New York City	5,410	1,962	1,525	1,625	1,666	1,823	1,584	15,595	91,029
Suburban New York	827	318	289	304	249	336	306	2,629	15,780
Upstate Urban	760	343	283	343	393	460	506	3,088	21,886
Upstate Other	646	269	266	322	331	447	456	2,737	21,003
Total	7,643	2,892	2,363	2,594	2,639	3,066	2,852	24,049	149,698
New York City	70.8%	67.8%	64.5%	62.6%	63.1%	59.5%	55.5%	64.8%	60.8%
Suburban New York	10.8%	11.0%	12.2%	11.7%	9.4%	11.0%	10.7%	10.9%	10.5%
Upstate Urban	9.9%	11.9%	12.0%	13.2%	14.9%	15.0%	17.7%	12.8%	14.6%
Upstate Other	8.5%	9.3%	11.3%	12.4%	12.5%	14.6%	16.0%	11.4%	14.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Overall, inmates released early due to Merit Time are somewhat older than other inmates when released from DOCS' custody. Merit releases were 37 years of age, on average, at their release from custody (see Table 12), compared with an average age of 34 years old among all other first releases between 1997 and 2006.

**Table 12. Age at Release by Release Year
Merit Releases vs. All Other First Releases to Parole Supervision: 1997 to 2006**

Age	Merit Releases Latest Release Year							Total	All Other 1st Releases
	1997-2000	2001	2002	2003	2004	2005	2006		
16-18 Yr	8	3	2	4	4	6	9	36	2,984
19-20 Yr	58	18	30	23	15	27	22	193	9,221
21-24 Yr	441	202	152	172	169	207	199	1,542	25,221
25-29 Yr	1,140	447	394	399	441	522	498	3,841	27,056
30-34 Yr	1,605	537	430	480	432	556	456	4,496	25,818
35-39 Yr	1,833	613	457	530	500	519	491	4,943	23,958
40-44 Yr	1,381	557	439	472	504	569	527	4,449	17,308
45-49 Yr	672	295	247	257	322	356	349	2,498	9,527
50-54 Yr	319	136	129	140	142	177	165	1,208	4,577
55-59 Yr	110	59	44	57	68	77	79	494	2,280
60-64 Yr	46	20	19	36	23	32	30	206	1,032
65 and over	31	5	20	25	20	18	27	146	740
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052	149,722
Mean	36.9	37.2	37.3	37.7	37.9	37.6	37.9	37.4	33.2
Median	36.5	36.9	36.8	37.0	37.5	37.1	37.5	36.9	32.0
16-18 Yr	0.1%	0.1%	0.1%	0.2%	0.2%	0.2%	0.3%	0.1%	2.0%
19-20 Yr	0.8%	0.6%	1.3%	0.9%	0.6%	0.9%	0.8%	0.8%	6.2%
21-24 Yr	5.8%	7.0%	6.4%	6.6%	6.4%	6.8%	7.0%	6.4%	16.8%
25-29 Yr	14.9%	15.5%	16.7%	15.4%	16.7%	17.0%	17.5%	16.0%	18.1%
30-34 Yr	21.0%	18.6%	18.2%	18.5%	16.4%	18.1%	16.0%	18.7%	17.2%
35-39 Yr	24.0%	21.2%	19.3%	20.4%	18.9%	16.9%	17.2%	20.6%	16.0%
40-44 Yr	18.1%	19.3%	18.6%	18.2%	19.1%	18.6%	18.5%	18.5%	11.6%
45-49 Yr	8.8%	10.2%	10.5%	9.9%	12.2%	11.6%	12.2%	10.4%	6.4%
50-54 Yr	4.2%	4.7%	5.5%	5.4%	5.4%	5.8%	5.8%	5.0%	3.1%
55-59 Yr	1.4%	2.0%	1.9%	2.2%	2.6%	2.5%	2.8%	2.1%	1.5%
60-64 Yr	0.6%	0.7%	0.8%	1.4%	0.9%	1.0%	1.1%	0.9%	0.7%
65 and over	0.4%	0.2%	0.8%	1.0%	0.8%	0.6%	0.9%	0.6%	0.5%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

ESTIMATED SAVINGS SINCE PROGRAM INCEPTION

As previously stated, the objective of the Merit Time Program is to allow for early release to parole supervision for non-violent offenders who have demonstrated progress in programs and have a good discipline history. Prior to the Merit Time Program, the earliest an offender would have had the opportunity to be released from custody was at his parole eligibility date (except for inmates who successfully complete the Shock Incarceration Program). Merit releases can be released after serving 5/6th of the minimum sentence.

Operational Savings

During the period October 1997 through December 2006, the Merit Time Program generated 24,052 “early releases”. Among the 24,052 releases, 97 were Class A-1 drug offenders released under the Expanded Merit Criteria and 1,847 were Supplemental Merit releases.

Savings from Merit Releases based on Original Merit Criteria. Prior to the Merit Program, the 22,108 Non-Class A-1 drug offenders would typically have been held for an additional 5.6 months prior to their next Parole Board hearing (see Table 13A). The savings generated by these early releases can be estimated by using a maintenance cost of \$29,000 per inmate per year for the estimated six months of additional incarceration, which produces a savings of \$13,533 per inmate. This is a savings of over \$299 million.

**Table 13A. Merit Releases to Parole Supervision: 1997 to 2006
Excluded: A-1 Drug and Supplemental Merit Cases
Number of Months Released Before Parole Eligibility Date by Release Year**

Time From Release to PE Date	Latest Release Year - Not Supplemental, non A1 drug							TOTAL
	1997-2000	2001	2002	2003	2004	2005	2006	
LT 1 Month	121	63	23	63	63	91	123	547
LT 2 Months	118	89	80	108	105	115	197	1,015
LT 3 Months	141	260	237	257	216	254	267	2,320
LT 4 Months	111	370	303	316	364	311	262	2,965
LT 5 Months	77	549	431	454	506	475	382	4,392
LT 6 Months	53	279	238	235	240	172	149	2,151
LT 7 Months	40	409	304	297	366	261	162	2,850
LT 8 Months	18	167	136	153	156	107	64	1,234
LT 9 Months	12	167	135	137	132	81	47	1,041
LT 10 Months	9	263	220	212	202	126	63	1,573
10 + Months	14	276	256	311	262	210	135	2,020
Total	714	2,892	2,363	2,543	2,612	2,203	1,851	22,108
Average	5.5	5.9	6.0	5.9	5.8	5.5	4.7	5.6
Median	5.0	5.1	5.1	5.1	5.1	4.1	4.0	5.0
LT 1 Month	16.9%	2.2%	1.0%	2.5%	2.4%	4.1%	6.6%	2.5%
LT 2 Months	16.5%	3.1%	3.4%	4.2%	4.0%	5.2%	10.6%	4.6%
LT 3 Months	19.7%	9.0%	10.0%	10.1%	8.3%	11.5%	14.4%	10.5%
LT 4 Months	15.5%	12.8%	12.8%	12.4%	13.9%	14.1%	14.2%	13.4%
LT 5 Months	10.8%	19.0%	18.2%	17.9%	19.4%	21.6%	20.6%	19.9%
LT 6 Months	7.4%	9.6%	10.1%	9.2%	9.2%	7.8%	8.0%	9.7%
LT 7 Months	5.6%	14.1%	12.9%	11.7%	14.0%	11.8%	8.8%	12.9%
LT 8 Months	2.5%	5.8%	5.8%	6.0%	6.0%	4.9%	3.5%	5.6%
LT 9 Months	1.7%	5.8%	5.7%	5.4%	5.1%	3.7%	2.5%	4.7%
LT 10 Months	1.3%	9.1%	9.3%	8.3%	7.7%	5.7%	3.4%	7.1%
10 + Months	2.0%	9.5%	10.8%	12.2%	10.0%	9.5%	7.3%	9.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Savings from Merit Releases based on Expanded Merit Criteria. The 97 Class A-1 drug offenders released through the expansion of the Merit Time program left DOCS custody at an average of 41.5 months before their parole eligibility dates (see *Table 13B*). The savings generated by these early releases can be estimated by using a maintenance cost of \$29,000 per inmate per year for the estimated 41.5 months of additional incarceration, which produces a savings of \$100,292 per inmate. This is a savings of approximately \$10 million.

Table 13B. Merit Releases to Parole Supervision: 2003 to 2006 A-1 Drug Number of Months Released Before Parole Eligibility Date by Release Year

Time from 12/31/2006 to PE Date	A1 Merit Releases Latest Release Year				TOTAL
	2003	2004	2005	2006	
LT 2 Months	2	0	0	0	2
LT 6 Months	1	0	0	0	1
LT 7 Months	2	0	0	0	2
LT 9 Months	1	0	0	0	1
LT 10 Months	0	0	1	0	1
10 + Months	46	28	8	8	90
Total	52	28	9	8	97
Average	36.6	54.3	49.9	19.7	41.5
Median	31.0	53.5	60.0	20.1	37.3
LT 2 Months	3.8%	0.0%	0.0%	0.0%	2.1%
LT 6 Months	1.9%	0.0%	0.0%	0.0%	1.0%
LT 7 Months	3.8%	0.0%	0.0%	0.0%	2.1%
LT 9 Months	1.9%	0.0%	0.0%	0.0%	1.0%
LT 10 Months	0.0%	0.0%	11.1%	0.0%	1.0%
10 + Months	88.5%	100.0%	88.9%	100.0%	92.8%
Total	100.0%	100.0%	100.0%	100.0%	100.0%

Savings from Supplemental Merit Releases. The 1,847 supplemental merit releases were released before their regular merit dates. On average, supplemental merit cases were released 14.1 months before their parole eligibility date (see table 13C). The savings generated by these early releases can be estimated by using a maintenance cost of \$29,000 per inmate per year for the estimated fourteen months of additional incarceration, which produces a savings of \$34,075 per inmate. This is a savings of nearly \$63 million. These supplemental merit cases were released on average 5.9 months before their merit dates. The result was a savings of \$14,258 per inmate greater than what could have been realized if all of the 1,847 were released on their merit dates. Total additional savings were \$26 million.

**Table 13C. Supplemental Merit Releases to Parole Supervision:
Number of Months Released Before Parole Eligibility Date by Release Year**

Time From Release to PE Date	Supplemental Merit		TOTAL
	2005	2006	
LT 1 Month	2	0	2
LT 2 Months	5	2	7
LT 3 Months	4	7	11
LT 4 Months	5	8	13
LT 5 Months	19	37	56
LT 6 Months	21	28	49
LT 7 Months	31	38	69
LT 8 Months	28	32	60
LT 9 Months	63	80	143
LT 10 Months	41	30	71
10 + Months	635	731	1,366
Total	854	993	1,847
Average	14.2	14.0	14.1
Median	13.5	12.2	12.8
LT 1 Month	0.2%	0.0%	0.1%
LT 2 Months	0.6%	0.2%	0.4%
LT 3 Months	0.5%	0.7%	0.6%
LT 4 Months	0.6%	0.8%	0.7%
LT 5 Months	2.2%	3.7%	3.0%
LT 6 Months	2.5%	2.8%	2.7%
LT 7 Months	3.6%	3.8%	3.7%
LT 8 Months	3.3%	3.2%	3.2%
LT 9 Months	7.4%	8.1%	7.7%
LT 10 Months	4.8%	3.0%	3.8%
10 + Months	74.4%	73.6%	74.0%
Total	100.0%	100.0%	100.0%

Total Operational Savings. Combining the operational savings of \$299 million for the Original Criteria merit releases with the \$10 million in operational savings for the A1 Drug merit releases and \$63 million for the supplemental merit releases results in a total operational savings of approximately \$372 million since the inception of the Merit Program.

Construction Avoidance Savings

The Research Division decided that beginning January 1, 2001, avoidance of capital expenditure should not be credited to programs until the Department either makes plans for new construction or makes double bunks, placed into emergency status, operational once again. Capital costs avoided and accrued prior to January 1, 2001 continue to be reported. Therefore, construction avoidance savings calculations are based on the 7,647 early releases between October 1997 and December 2000.

Based on a suggestion from auditors in the Office of the State Controller, DOCS' cost avoidance estimates amortize the cost of building correctional facilities. For the cost avoidance estimates, we have used the \$75,975,000 cost of a medium security facility, fully double-bunked with a total capacity of 1,302 inmates, depreciable over thirty years, and a 6.35% interest rate.

This method shows a monthly cost of \$472,744 per facility, or a monthly cost of \$363 per inmate. For a period of 5.4 months (average time saved per inmate for 1997-2000), construction avoidance savings are \$1,960 per inmate for each additional inmate who was released early due to the Merit Time Program. Using this model, the 7,647 early releases have reduced the need for capital construction by almost \$15 million.

Total Savings

Combining the estimated \$372 million in operational savings with the \$15 million in construction avoidance savings, the Merit Time Program has reduced the need for DOCS' expenditures by approximately \$387 million dollars since its inception in 1997. Additionally, as of December 31, 2006, 1,940 merit releases had not yet reached their respective parole eligibility dates (see Table 14). This means the demand for DOCS' bed space on that date was 1,940 less than it would have been if the Merit Time Program were not in place.

**Table 14. Months Away From Parole Eligibility Date as of December 31, 2006
Merit Releases to Parole Supervision: 1997 to 2006**

Time from 12/31/06 to PE Date	Latest Release Year							TOTAL
	1997-2000	2001	2002	2003	2004	2005	2006	
PAST PE	7,644	2,892	2,363	2,573	2,614	2,760	1,266	22,112
LT 1 Month	0	0	0	1	3	44	205	253
LT 2 Months	0	0	0	1	0	40	181	222
LT 3 Months	0	0	0	1	1	41	164	207
LT 4 Months	0	0	0	0	1	33	143	177
LT 5 Months	0	0	0	0	0	24	101	125
LT 6 Months	0	0	0	0	0	26	83	109
LT 7 Months	0	0	0	0	0	22	80	102
LT 8 Months	0	0	0	0	1	16	76	93
LT 9 Months	0	0	0	0	0	8	69	77
LT 10 Months	0	0	0	1	0	9	64	74
10 + Months	0	0	0	18	20	43	420	501
Total	7,644	2,892	2,363	2,595	2,640	3,066	2,852	24,052
PAST PE	100.0%	100.0%	100.0%	99.2%	99.0%	90.0%	44.4%	91.9%
LT 1 Month	0.0%	0.0%	0.0%	0.0%	0.1%	1.4%	7.2%	1.1%
LT 2 Months	0.0%	0.0%	0.0%	0.0%	0.0%	1.3%	6.3%	0.9%
LT 3 Months	0.0%	0.0%	0.0%	0.0%	0.0%	1.3%	5.8%	0.9%
LT 4 Months	0.0%	0.0%	0.0%	0.0%	0.0%	1.1%	5.0%	0.7%
LT 5 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	3.5%	0.5%
LT 6 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.8%	2.9%	0.5%
LT 7 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	2.8%	0.4%
LT 8 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	2.7%	0.4%
LT 9 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	2.4%	0.3%
LT 10 Months	0.0%	0.0%	0.0%	0.0%	0.0%	0.3%	2.2%	0.3%
10 + Months	0.0%	0.0%	0.0%	0.7%	0.8%	1.4%	14.7%	2.1%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

MERIT TIME PROGRAM FOLLOW-UP STUDY

Follow-up Method

The Merit Time follow-up procedure is the same as that employed in other Department recidivism studies². In most program follow-up studies, comparisons are made between successful program participants and unsuccessful participants. The outcome measure which is used for this comparison is a return to state prison during the follow-up period. The Merit Time Program lends itself to such comparisons depending on the result of the merit hearing process. Inmates are evaluated by the Parole Board and are either approved or denied for merit release. In order to compare merit releases with other groups of released inmates, additional comparison groups are included in the follow-up study. These comparison groups include inmates eligible for the Merit Time Program or the Earned Eligibility Program (EEP)³, as well as inmates who are ineligible for both EEP and Merit Time. Specifically, the following groups are included as comparisons to Merit Releases: 1) Merit approvals denied release, 2) Merit approvals that were not released before parole eligibility date, 3) Shock Graduates⁴, 4) non-Merit EEP approvals, 5) non-Merit EEP denials, 6) non-violent felony offenders who were not eligible for EEP, 7) violent felony offenders (VFOs) who were ineligible for both EEP and Merit Time, and 8) Returned Parole Violators (RPVs) (see *Table 15*).

The statistical method of Survival Analysis was used to calculate the probability of return to the Department between the different comparison groups. This method calculates the cumulative rate of return across groups while controlling for the number of cases at risk.

Follow-up Population

This year's report includes individuals who were released from the Department's custody between October 1997 and December 2005. The release years are selected to provide the most recent review possible while having a long enough period of exposure time to obtain reliable results.

² Refer to "2002 Releases: Three Year Post Release Follow-Up", prepared by Leslie Kellam of the DOCS' Research Unit (2006).

³ The Earned Eligibility Program, established in 1987, increases the likelihood of an inmate being released at his or her initial parole hearing if certain eligibility and programmatic criteria have been met. An inmate must have a minimum sentence of no longer than 8 years and must have demonstrated an acceptable level of progress and participation in appropriate programs to receive a Certificate of Earned Eligibility (see "*Earned Eligibility Program Summary: Semiannual Report April 2006 to September 2006*", prepared by Lorraine Hogan of the DOCS' Research Unit, 2007.).

⁴ The Shock Incarceration Program is a six-month program of intensive physical training, educational programming, counseling and drug treatment that offers inmates the possibility of early release. Most inmates who successfully complete this program are approved by the Board of Parole for release to parole supervision prior to serving their full minimum sentence (see "*Nineteenth Annual Shock Legislative Report, 2007*", prepared by Leslie Kellam of the DOCS' Research Unit, 2007).

**Table 15. Release Cohorts by Release Year
October 1997 through December 2005 Releases
Releases to Parole, Conditional Release or Maximum Expiration Only**

Release Cohort	Latest Release Year						TOTAL
	1997-2000	2001	2002	2003	2004	2005	
Merit Release	7,645	2,892	2,363	2,595	2,640	3,066	20,584
Merit Denial	1,162	391	377	389	345	253	2,915
Merit Approval, but not Released Early	116	42	41	37	45	38	316
Shock Graduates	6,623	1,796	1,919	1,967	1,957	1,776	15,431
EEP Approval	20,258	5,138	4,396	4,598	3,766	3,319	40,380
EEP Denial	7,998	2,310	2,203	2,223	2,236	2,061	18,918
Non-EEP Non-VFO	9,201	2,504	2,405	2,456	2,392	2,616	19,612
Non-EEP VFO	8,407	3,619	3,745	4,082	3,924	4,010	26,810
RPV	23,986	8,384	8,380	8,043	7,793	7,316	62,334
Total	85,396	27,076	25,829	26,390	25,098	24,455	207,300

The cohort of merit releases includes all cases reviewed for a Merit Time release at their initial parole board appearance who were subsequently released prior to their Parole Eligibility date. There are instances where an individual may have had more than one Merit Time hearing and more than one initial Board appearance. For these individuals with more than one record on the file, the result of their last Merit Time hearing is used for follow-up purposes.

Inmates who were released from DOCS' custody as a result of being paroled or conditionally released or due to the maximum expiration of their sentence were included in the release cohorts. Other types of release (e.g. transfer to Office of Mental Health (OMH), transfer to other states, etc.) were excluded from the analysis. Additionally, if an inmate was released more than once during the calendar year, only his or her first release was examined. This is consistent with the follow-up methodology employed in the Department's other follow-up reports.

Follow-up Period

The follow-up period allows for all of the yearly release cohorts to have had the potential of at least one year of exposure in the community. The cumulative rates of return to the Department's custody are presented for each release cohort. This allows for comparisons to be made across release type. Tables 16A and 16B present the return-to-custody rates over one year of exposure to the community for inmates released from DOCS' custody between 1997 and 2005. Tables 17A and 17B present the return-to-custody rates over two years of exposure to the community for inmates released between 1997 and 2004. Tables 18A and 18B present the return-to-custody rates over three years of exposure to the community for inmates released between 1997 and 2003.

One Year Out Follow-up Results

Table 16A shows the number of inmates tracked according to release cohort and the cumulative rate of return after one year of exposure in the community for merit releases and for selected comparison groups from 1997 through 2005.

Inmates released with a Merit Time approval were returned to custody at lower rates than most other release cohorts (see *Table 16B*). Inmates with a merit approval who were released prior to their parole eligibility date were returned at a rate of 11%, while non-Merit first releases were returned at a rate of 18% (see *Table 16B category Subtotal All Comparison Groups, near the bottom of the table*). The only release cohort that returned to custody at a lower rate than the Merit Time releases was Shock Graduates (6%). Shock Graduates have a low return-to-custody rate because of the specialized program they must successfully complete prior to early release to parole supervision⁵.

Since 1997, the proportion of merit releases that were returned to custody as New Court Commitments (for a new crime) has steadily decreased, from 5% in 1997 to 2% since 2001 (see *Table 16B*). Overall, Shock Graduates and Merit Releases were returned to custody within one year as new court commitments 3% of the time.

⁵ Refer to “*Nineteenth Annual Shock Legislative Report, 2007*”, prepared by Leslie Kellam of the DOCS’ Research Unit, (2007).

**Table 16A. Release Cohorts by Release Year
October 1997 through December 2005 Releases
Releases to Parole, Conditional Release or Maximum Expiration Only
Number Returned to Custody Within 1 Year of Release**

Release Cohort	Release Year									Total
	1997	1998	1999	2000	2001	2002	2003	2004	2005	
<i>Merit Approval and Release</i>										
Total Released	617	2,239	2,219	2,569	2,892	2,363	2,595	2,640	3,066	21,200
Total Returned	80	202	226	281	299	234	310	305	376	2,313
Returned as New Commitment	29	72	58	66	68	55	55	51	69	523
Returned as RPV	51	130	168	215	231	179	252	254	307	1,787
<i>Merit Denial</i>										
Total Released	2	287	468	405	391	377	389	345	253	2,917
Total Returned	0	41	83	67	74	69	68	70	50	522
Returned as New Commitment	0	6	20	13	14	14	15	13	5	100
Returned as RPV	0	35	63	54	60	55	53	57	45	422
<i>Merit Approval, but not Released Early</i>										
Total Released	3	25	47	41	42	41	37	45	38	319
Total Returned	1	1	8	7	10	6	7	6	9	55
Returned as New Commitment	0	0	3	2	3	0	1	1	2	12
Returned as RPV	1	1	5	5	7	6	6	5	7	43
<i>Shock Graduates</i>										
Total Released	607	2,031	1,998	1,987	1,787	1,919	1,967	1,957	1,776	16,029
Total Returned	23	116	135	97	104	97	101	124	96	893
Returned as New Commitment	12	69	71	50	52	46	52	63	51	466
Returned as RPV	11	47	64	47	52	51	49	61	45	427
<i>EEP Approval (non-Merit)</i>										
Total Released	1,095	7,493	5,720	5,950	5,138	4,396	4,598	3,766	3,319	41,475
Total Returned	244	805	759	854	724	605	785	609	541	5,926
Returned as New Commitment	39	223	146	177	147	125	107	91	91	1,146
Returned as RPV	205	582	613	677	577	480	678	518	450	4,780
<i>EEP Denial (non-Merit)</i>										
Total Released	113	2,471	2,883	2,531	2,310	2,203	2,223	2,236	2,061	19,031
Total Returned	52	444	555	500	386	378	385	380	356	3,436
Returned as New Commitment	7	75	96	80	67	62	66	70	42	565
Returned as RPV	45	369	459	420	320	316	319	310	314	2,872
<i>Non-EEP Non-VFO</i>										
Total Released	1,962	1,995	2,300	2,944	2,504	2,405	2,456	2,392	2,616	21,574
Total Returned	203	315	461	520	399	411	440	386	522	3,657
Returned as New Commitment	86	73	73	101	54	62	70	62	67	648
Returned as RPV	117	242	388	419	345	349	370	324	455	3,009
<i>Non-EEP VFO</i>										
Total Released	977	1,939	2,378	3,113	3,619	3,745	4,082	3,924	4,010	27,787
Total Returned	114	302	306	379	335	481	491	415	487	3,310
Returned as New Commitment	36	52	44	63	55	69	84	60	69	532
Returned as RPV	78	250	262	316	290	412	407	355	418	2,788
<i>Returned Parole Violator*</i>										
Total Released	1,568	6,380	7,791	8,247	8,384	8,380	8,043	7,793	7,316	63,902
Total Returned	336	1,317	1,950	2,087	2,017	1,922	2,293	2,148	2,199	16,269
Returned as New Commitment	89	302	419	415	376	357	334	280	257	2,829
Returned as RPV	247	1,015	1,531	1,672	1,641	1,565	1,959	1,868	1,942	13,440
<i>Sub-Total All Comparison Groups</i>										
Total Released	6,327	22,621	23,585	25,218	24,175	23,466	23,795	22,458	21,389	193,034
Total Returned	973	3,341	4,257	4,511	4,060	3,969	4,570	4,138	4,260	34,079
Returned as New Commitment	269	800	872	901	768	735	729	640	584	6,298
Returned as RPV	704	2,541	3,385	3,610	3,292	3,234	3,841	3,498	3,676	27,781
Total										
Total Released	6,944	24,860	25,804	27,787	27,067	25,829	26,390	25,098	24,455	214,234
Total Returned**	1,053	3,543	4,483	4,792	4,359	4,203	4,877	4,443	4,636	36,389
Returned as New Commitment	298	872	930	967	836	790	784	691	653	6,821
Returned as RPV	755	2,671	3,553	3,825	3,523	3,413	4,093	3,752	3,983	29,568

* Returned Parole Violators (RPVs) were previously released from DOCS. Prior to their release in their current release cohort, they were admitted as RPVs for technical parole violations.

**Table 16B. Release Cohorts by Release Year - Percent
Percent Returned to Custody Within 1 Year of Release**

Release Cohort	Release Year									Total
	1997	1998	1999	2000	2001	2002	2003	2004	2005	
<i>Merit Approval and Release</i>										
Percent Returned	13.0%	9.0%	10.2%	10.9%	10.3%	9.9%	11.9%	11.6%	12.3%	10.9%
Percent New Commitment	4.7%	3.2%	2.6%	2.6%	2.4%	2.3%	2.1%	1.9%	2.3%	2.5%
Percent as RPV	8.3%	5.8%	7.6%	8.4%	8.0%	7.6%	9.7%	9.6%	10.0%	8.4%
<i>Merit Denial</i>										
Percent Returned	0.0%	14.3%	17.7%	16.5%	18.9%	18.3%	17.5%	20.3%	19.8%	17.9%
Percent New Commitment	0.0%	2.1%	4.3%	3.2%	3.6%	3.7%	3.9%	3.8%	2.0%	3.4%
Percent as RPV	0.0%	12.2%	13.5%	13.3%	15.3%	14.6%	13.6%	16.5%	17.8%	14.5%
<i>Merit Approval, but not Released Early</i>										
Percent Returned	33.3%	4.0%	17.0%	17.1%	23.8%	14.6%	18.9%	13.3%	23.7%	17.2%
Percent New Commitment	0.0%	0.0%	6.4%	4.9%	7.1%	0.0%	2.7%	2.2%	5.3%	3.8%
Percent as RPV	33.3%	4.0%	10.6%	12.2%	16.7%	14.6%	16.2%	11.1%	18.4%	13.5%
<i>Shock Graduates</i>										
Percent Returned	3.8%	5.7%	6.8%	4.9%	5.8%	5.1%	5.1%	6.3%	5.4%	5.6%
Percent New Commitment	2.0%	3.4%	3.6%	2.5%	2.9%	2.4%	2.6%	3.2%	2.9%	2.9%
Percent as RPV	1.8%	2.3%	3.2%	2.4%	2.9%	2.7%	2.5%	3.1%	2.5%	2.7%
<i>EEP Approval (non-Merit)</i>										
Percent Returned	22.3%	10.7%	13.3%	14.4%	14.1%	13.8%	17.1%	16.2%	16.3%	14.3%
Percent New Commitment	3.6%	3.0%	2.6%	3.0%	2.9%	2.8%	2.3%	2.4%	2.7%	2.8%
Percent as RPV	18.7%	7.8%	10.7%	11.4%	11.2%	10.9%	14.7%	13.8%	13.6%	11.5%
<i>EEP Denial (non-Merit)</i>										
Percent Returned	46.0%	18.0%	19.3%	19.8%	16.7%	17.2%	17.3%	17.0%	17.3%	18.1%
Percent New Commitment	6.2%	3.0%	3.3%	3.2%	2.9%	2.8%	3.0%	3.1%	2.0%	3.0%
Percent as RPV	39.8%	14.9%	15.9%	16.6%	13.9%	14.3%	14.3%	13.9%	15.2%	15.1%
<i>Non-EEP Non-VFO</i>										
Percent Returned	10.3%	15.8%	20.0%	17.7%	15.9%	17.1%	17.9%	16.1%	20.0%	17.0%
Percent New Commitment	4.4%	3.7%	3.2%	3.4%	2.2%	2.6%	2.9%	2.6%	2.6%	3.0%
Percent as RPV	6.0%	12.1%	16.9%	14.2%	13.8%	14.5%	15.1%	13.5%	17.4%	13.9%
<i>Non-EEP VFO</i>										
Percent Returned	11.7%	15.6%	12.9%	12.2%	9.3%	12.8%	12.0%	10.6%	12.1%	11.9%
Percent New Commitment	3.7%	2.7%	1.9%	2.0%	1.5%	1.8%	2.1%	1.5%	1.7%	1.9%
Percent as RPV	8.0%	12.9%	11.0%	10.2%	8.0%	11.0%	10.0%	9.0%	10.4%	10.0%
<i>Returned Parole Violator*</i>										
Percent Returned	21.4%	20.6%	25.0%	25.3%	24.1%	22.9%	28.5%	27.6%	30.1%	25.5%
Percent New Commitment	5.7%	4.7%	5.4%	5.0%	4.5%	4.3%	4.2%	3.6%	3.5%	4.4%
Percent as RPV	15.8%	15.9%	19.7%	20.3%	19.6%	18.7%	24.4%	24.0%	26.5%	21.0%
<i>Sub-Total All Comparison Groups</i>										
Percent Returned	15.4%	14.8%	18.0%	17.9%	16.8%	16.9%	19.2%	18.4%	19.9%	17.7%
Percent New Commitment	4.3%	3.5%	3.7%	3.6%	3.2%	3.1%	3.1%	2.8%	2.7%	3.3%
Percent as RPV	11.1%	11.2%	14.4%	14.3%	13.6%	13.8%	16.1%	15.6%	17.2%	14.4%
<i>Total</i>										
Percent Returned	15.2%	14.3%	17.4%	17.2%	16.1%	16.3%	18.5%	17.7%	19.0%	17.0%
Percent New Commitment	4.3%	3.5%	3.6%	3.5%	3.1%	3.1%	3.0%	2.8%	2.7%	3.2%
Percent as RPV	10.9%	10.7%	13.8%	13.8%	13.0%	13.2%	15.5%	14.9%	16.3%	13.8%

* Returned Parole Violators (RPVs) were previously released from DOCS. Prior to their release in their current release cohort, they were admitted as RPVs for technical parole violations.

Two Year Out Follow-up Results

Table 17A shows the number of inmates tracked according to release cohort and Table 17B shows the cumulative rate of return after two years of exposure in the community for merit releases and for selected comparison groups from 1997 through 2004.

Inmates with a merit approval who were released prior to their parole eligibility date were returned at a rate of 23% within two years, while non-Merit first releases were returned at a rate of 31% (*see Table 17B, Subtotal All Comparison Groups*). After two years of exposure in the community, the only release cohort that returned to custody at a lower rate than Merit Time releases was Shock Graduates (16%). Shock Graduates are expected to have a low return-to-custody rate because of the specialized program they must successfully complete before early release to parole supervision. Although Shock Graduates were less likely overall to return to custody, they were more likely (8%) than Merit Releases (6%) to return as new court commitments.

**Table 17A. Release Cohorts by Release Year: October 1997 to December 2004 Releases
Releases to Parole, Conditional Release or Maximum Expiration Only
Number Returned to Custody Within 2 Years of Release**

Release Cohort	Release Year								Total
	1997	1998	1999	2000	2001	2002	2003	2004	
<i>Merit Approval and Release</i>									
Total Released	617	2,239	2,219	2,569	2,892	2,363	2,595	2,640	18,134
Total Returned	199	505	476	623	702	564	645	518	4,232
Returned as New Commitment	66	172	142	160	165	141	147	113	1,106
Returned as RPV	133	333	334	463	537	423	498	405	3,126
<i>Merit Denial</i>									
Total Released	2	287	468	405	391	377	389	345	2,664
Total Returned	0	92	162	137	139	139	121	98	888
Returned as New Commitment	0	20	52	36	27	30	33	21	219
Returned as RPV	0	72	110	101	112	109	88	77	669
<i>Merit Approval, but not Released Early</i>									
Total Released	3	25	47	41	42	41	37	45	281
Total Returned	1	8	11	16	13	14	9	7	79
Returned as New Commitment	0	1	3	4	3	2	1	1	15
Returned as RPV	1	7	8	12	10	12	8	6	64
<i>Shock Graduates</i>									
Total Released	607	2,031	1,998	1,987	1,787	1,919	1,967	1,957	14,253
Total Returned	89	357	354	328	302	268	310	217	2,225
Returned as New Commitment	41	171	163	148	151	126	161	114	1,075
Returned as RPV	48	186	191	180	151	142	149	103	1,150
<i>EEP Approval (non-Merit)</i>									
Total Released	1,095	7,493	5,720	5,950	5,138	4,396	4,598	3,766	38,156
Total Returned	433	2,160	1,673	1,848	1,599	1,352	1,474	946	11,485
Returned as New Commitment	94	629	416	446	378	308	315	189	2,775
Returned as RPV	339	1,531	1,257	1,402	1,221	1,044	1,159	757	8,710
<i>EEP Denial (non-Merit)</i>									
Total Released	113	2,471	2,883	2,531	2,310	2,203	2,223	2,236	16,970
Total Returned	67	837	956	868	673	667	701	514	5,283
Returned as New Commitment	11	215	219	202	190	181	191	127	1,336
Returned as RPV	56	622	737	666	483	486	510	387	3,947
<i>Non-EEP Non-VFO</i>									
Total Released	1,962	1,995	2,300	2,944	2,504	2,405	2,456	2,392	18,958
Total Returned	521	586	777	895	724	680	736	579	5,498
Returned as New Commitment	191	186	196	220	172	174	181	129	1,449
Returned as RPV	330	400	581	675	552	506	555	450	4,049
<i>Non-EEP VFO</i>									
Total Released	977	1,939	2,378	3,113	3,619	3,745	4,082	3,924	23,777
Total Returned	283	596	624	695	673	933	1,019	711	5,534
Returned as New Commitment	86	141	161	182	180	213	278	141	1,382
Returned as RPV	197	455	463	513	493	720	741	570	4,152
<i>Returned Parole Violator*</i>									
Total Released	1,568	6,380	7,791	8,247	8,384	8,380	8,043	7,793	56,586
Total Returned	621	2,497	3,136	3,303	3,293	3,208	3,397	2,829	22,284
Returned as New Commitment	212	884	993	980	975	900	833	523	6,300
Returned as RPV	409	1,613	2,143	2,323	2,318	2,308	2,564	2,306	15,984
<i>Sub-Total All Comparison Groups</i>									
Total Released	6,327	22,621	23,585	25,218	24,175	23,466	23,795	22,458	171,645
Total Returned	2,015	7,133	7,693	8,090	7,416	7,261	7,767	5,901	53,276
Returned as New Commitment	635	2,247	2,203	2,218	2,076	1,934	1,993	1,245	14,551
Returned as RPV	1,380	4,886	5,490	5,872	5,340	5,327	5,774	4,656	38,725
Total									
Total Released	6,944	24,860	25,804	27,787	27,067	25,829	26,390	25,098	189,779
Total Returned**	2,214	7,638	8,169	8,713	8,118	7,825	8,412	6,419	57,508
Returned as New Commitment	701	2,419	2,345	2,378	2,241	2,075	2,140	1,358	15,657
Returned as RPV	1,513	5,219	5,824	6,335	5,877	5,750	6,272	5,061	41,851

* Returned Parole Violators (RPVs) were previously released from DOCS. Prior to their release in their current release cohort, they were admitted as RPVs for technical parole violations.

**Table 17B. Release Cohorts by Release Year – Percent
October 1997 through December 2004 Releases
Releases to Parole, Conditional Release or Maximum Expiration Only
Percent Returned to Custody Within 2 Years of Release**

Release Cohort	Release Year								Total
	1997	1998	1999	2000	2001	2002	2003	2004	
<i>Merit Approval and Release</i>									
Percent Returned	32.3%	22.6%	21.5%	24.3%	24.3%	23.9%	24.9%	19.6%	23.3%
Percent New Commitment	10.7%	7.7%	6.4%	6.2%	5.7%	6.0%	5.7%	4.3%	6.1%
Percent as RPV	21.6%	14.9%	15.1%	18.0%	18.6%	17.9%	19.2%	15.3%	17.2%
<i>Merit Denial</i>									
Percent Returned	0.0%	32.1%	34.6%	33.8%	35.5%	36.9%	31.1%	28.4%	33.3%
Percent New Commitment	0.0%	7.0%	11.1%	8.9%	6.9%	8.0%	8.5%	6.1%	8.2%
Percent as RPV	0.0%	25.1%	23.5%	24.9%	28.6%	28.9%	22.6%	22.3%	25.1%
<i>Merit Approval, but not Released Early</i>									
Percent Returned	33.3%	32.0%	23.4%	39.0%	31.0%	34.1%	24.3%	15.6%	28.1%
Percent New Commitment	0.0%	4.0%	6.4%	9.8%	7.1%	4.9%	2.7%	2.2%	5.3%
Percent as RPV	33.3%	28.0%	17.0%	29.3%	23.8%	29.3%	21.6%	13.3%	22.8%
<i>Shock Graduates</i>									
Percent Returned	14.7%	17.6%	17.7%	16.5%	16.9%	14.0%	15.8%	11.1%	15.6%
Percent New Commitment	6.8%	8.4%	8.2%	7.4%	8.4%	6.6%	8.2%	5.8%	7.5%
Percent as RPV	7.9%	9.2%	9.6%	9.1%	8.4%	7.4%	7.6%	5.3%	8.1%
<i>EEP Approval (non-Merit)</i>									
Percent Returned	39.5%	28.8%	29.2%	31.1%	31.1%	30.8%	32.1%	25.1%	30.1%
Percent New Commitment	8.6%	8.4%	7.3%	7.5%	7.4%	7.0%	6.9%	5.0%	7.3%
Percent as RPV	31.0%	20.4%	22.0%	23.6%	23.8%	23.7%	25.2%	20.1%	22.8%
<i>EEP Denial (non-Merit)</i>									
Percent Returned	59.3%	33.9%	33.2%	34.3%	29.1%	30.3%	31.5%	23.0%	31.1%
Percent New Commitment	9.7%	8.7%	7.6%	8.0%	8.2%	8.2%	8.6%	5.7%	7.9%
Percent as RPV	49.6%	25.2%	25.6%	26.3%	20.9%	22.1%	22.9%	17.3%	23.3%
<i>Non-EEP Non-VFO</i>									
Percent Returned	26.6%	29.4%	33.8%	30.4%	28.9%	28.3%	30.0%	24.2%	29.0%
Percent New Commitment	9.7%	9.3%	8.5%	7.5%	6.9%	7.2%	7.4%	5.4%	7.6%
Percent as RPV	16.8%	20.1%	25.3%	22.9%	22.0%	21.0%	22.6%	18.8%	21.4%
<i>Non-EEP VFO</i>									
Percent Returned	29.0%	30.7%	26.2%	22.3%	18.6%	24.9%	25.0%	18.1%	23.3%
Percent New Commitment	8.8%	7.3%	6.8%	5.8%	5.0%	5.7%	6.8%	3.6%	5.8%
Percent as RPV	20.2%	23.5%	19.5%	16.5%	13.6%	19.2%	18.2%	14.5%	17.5%
<i>Returned Parole Violator*</i>									
Percent Returned	39.6%	39.1%	40.3%	40.1%	39.3%	38.3%	42.2%	36.3%	39.4%
Percent New Commitment	13.5%	13.9%	12.7%	11.9%	11.6%	10.7%	10.4%	6.7%	11.1%
Percent as RPV	26.1%	25.3%	27.5%	28.2%	27.6%	27.5%	31.9%	29.6%	28.2%
<i>Sub-Total All Comparison Groups</i>									
Percent Returned	31.8%	31.5%	32.6%	32.1%	30.7%	30.9%	32.6%	26.3%	31.0%
Percent New Commitment	10.0%	9.9%	9.3%	8.8%	8.6%	8.2%	8.4%	5.5%	8.5%
Percent as RPV	21.8%	21.6%	23.3%	23.3%	22.1%	22.7%	24.3%	20.7%	22.6%
Total									
Percent Returned	31.9%	30.7%	31.7%	31.4%	30.0%	30.3%	31.9%	25.6%	30.3%
Percent New Commitment	10.1%	9.7%	9.1%	8.6%	8.3%	8.0%	8.1%	5.4%	8.3%
Percent as RPV	21.8%	21.0%	22.6%	22.8%	21.7%	22.3%	23.8%	20.2%	22.1%

*Returned Parole Violators (RPVs) were previously released from DOCS. Prior to their release in their current release cohort, they were admitted as RPVs for technical parole violations.

Three Year Out Follow-up Results

Table 18A shows the number of inmates tracked according to release cohort and Table 18B shows the cumulative rate of return after three years of exposure in the community for merit releases and for selected comparison groups from 1997 through 2003.

Inmates with a merit approval who were released prior to their parole eligibility date were returned at a rate of 31% within three years of exposure in the community while all non-Merit first releases returned at a rate of 39% (see *Table 18B, Subtotal All Comparison Groups*). The only release cohort that returned to custody at a lower rate than Merit Time releases was Shock Graduates (25%). Again, Shock Graduates have a lower return-to-custody rate because of the specialized program they have successfully completed. Although Shock Graduates were less likely overall to return to custody, they were more likely (11%) than Merit Releases (9%) to return as new court commitments.

Conclusion

Consistently across the one, two and three year follow-ups, merit releases returned to custody at nearly the lowest rate of all of the release cohorts; only Shock Incarceration graduates had lower return rates. Because Shock Graduates are carefully selected individuals who have successfully completed a rigorous, specialized program, it is not surprising that they return to custody at lower rates.

**Table 18A. Release Cohorts by Release Year: October 1997 to December 2003 Releases
Number Returned to Custody Within 3 Years of Release**

Release Cohort	Release Year							Total
	1997	1998	1999	2000	2001	2002	2003	
<i>Merit Approval and Release</i>								
Total Released	617	2,239	2,219	2,569	2,892	2,363	2,595	15,494
Total Returned	264	690	630	824	928	749	739	4,824
Returned as New Commitment	91	253	199	221	234	210	185	1,393
Returned as RPV	173	437	431	603	694	539	554	3,431
<i>Merit Denial</i>								
Total Released	2	287	468	405	391	377	389	2,319
Total Returned	0	119	196	174	176	158	138	961
Returned as New Commitment	0	31	67	55	40	38	41	272
Returned as RPV	0	88	129	119	136	120	97	689
<i>Merit Approval, but not Released Early</i>								
Total Released	3	25	47	41	42	41	37	236
Total Returned	2	9	13	16	18	19	10	87
Returned as New Commitment	0	1	4	4	5	4	1	19
Returned as RPV	2	8	9	12	13	15	9	68
<i>Shock Graduates</i>								
Total Released	607	2,031	1,998	1,987	1,787	1,919	1,967	12,296
Total Returned	137	539	527	517	474	439	398	3,031
Returned as New Commitment	64	240	235	224	226	207	196	1,392
Returned as RPV	73	299	292	293	248	232	202	1,639
<i>EEP Approval (non-Merit)</i>								
Total Released	1,095	7,493	5,720	5,950	5,138	4,396	4,598	34,390
Total Returned	519	2,745	2,107	2,323	2,008	1,663	1,677	13,042
Returned as New Commitment	131	850	586	611	526	422	392	3,518
Returned as RPV	388	1,895	1,521	1,712	1,482	1,241	1,285	9,524
<i>EEP Denial (non-Merit)</i>								
Total Released	113	2,471	2,883	2,531	2,310	2,203	2,223	14,734
Total Returned	72	1,007	1,132	1,020	860	801	769	5,661
Returned as New Commitment	14	313	321	287	286	265	222	1,708
Returned as RPV	58	694	811	733	574	536	547	3,953
<i>Non-EEP Non-VFO</i>								
Total Released	1,962	1,995	2,300	2,944	2,504	2,405	2,456	16,566
Total Returned	674	700	897	1,060	861	806	822	5,820
Returned as New Commitment	258	269	270	319	262	256	235	1,869
Returned as RPV	416	431	627	741	599	550	587	3,951
<i>Non-EEP VFO</i>								
Total Released	977	1,939	2,378	3,113	3,619	3,745	4,082	19,853
Total Returned	348	727	796	884	1,198	1,186	1,197	6,336
Returned as New Commitment	120	213	231	272	351	321	352	1,860
Returned as RPV	228	514	565	612	847	865	845	4,476
<i>Returned Parole Violator*</i>								
Total Released	1,568	6,380	7,791	8,247	8,384	8,380	8,043	48,793
Total Returned	759	2,986	3,658	3,892	3,873	3,821	3,710	22,699
Returned as New Commitment	318	1,227	1,348	1,514	1,369	1,318	1,014	8,108
Returned as RPV	441	1,759	2,310	2,565	2,504	2,503	2,696	14,778
<i>Sub-Total All Comparison Groups</i>								
Total Released	6,327	22,621	23,585	25,218	24,175	23,466	23,795	149,187
Total Returned	2,511	8,832	9,326	9,886	9,468	8,893	8,721	57,637
Returned as New Commitment	905	3,144	3,062	3,286	3,065	2,831	2,453	18,746
Returned as RPV	1,606	5,688	6,264	6,787	6,403	6,062	6,268	39,078
Total								
Total Released	6,944	24,860	25,804	27,787	27,067	25,829	26,390	164,681
Total Returned	2,775	9,522	9,956	10,710	10,396	9,642	9,460	62,461
Returned as New Commitment	996	3,397	3,261	3,507	3,299	3,041	2,638	20,139
Returned as RPV	1,779	6,125	6,695	7,390	7,097	6,601	6,822	42,509

*Returned Parole Violators (RPVs) were previously released from DOCS. Prior to their release in their current release cohort, they were admitted as RPVs for technical parole violations.

**Table 18B. Release Cohorts by Release Year - Percent
October 1997 through December 2003 Releases
Releases to Parole, Conditional Release or Maximum Expiration Only
Percent Returned to Custody Within 3 Years of Release**

Release Cohort	Release Year							Total
	1997	1998	1999	2000	2001	2002	2003	
<i>Merit Approval and Release</i>								
Percent Returned	42.8%	30.8%	28.4%	32.1%	32.1%	31.7%	28.5%	31.1%
Percent New Commitment	14.7%	11.3%	9.0%	8.6%	8.1%	8.9%	7.1%	9.0%
Percent as RPV	28.0%	19.5%	19.4%	23.5%	24.0%	22.8%	21.3%	22.1%
<i>Merit Denial</i>								
Percent Returned	0.0%	41.5%	41.9%	43.0%	45.0%	41.9%	35.5%	41.4%
Percent New Commitment	0.0%	10.8%	14.3%	13.6%	10.2%	10.1%	10.5%	11.7%
Percent as RPV	0.0%	30.7%	27.6%	29.4%	34.8%	31.8%	24.9%	29.7%
<i>Merit Approval, but not Released Early</i>								
Percent Returned	66.7%	36.0%	27.7%	39.0%	42.9%	46.3%	27.0%	36.9%
Percent New Commitment	0.0%	4.0%	8.5%	9.8%	11.9%	9.8%	2.7%	8.1%
Percent as RPV	66.7%	32.0%	19.1%	29.3%	31.0%	36.6%	24.3%	28.8%
<i>Shock Graduates</i>								
Percent Returned	22.6%	26.5%	26.4%	26.0%	26.5%	22.9%	20.2%	24.7%
Percent New Commitment	10.5%	11.8%	11.8%	11.3%	12.6%	10.8%	10.0%	11.3%
Percent as RPV	12.0%	14.7%	14.6%	14.7%	13.9%	12.1%	10.3%	13.3%
<i>EEP Approval (non-Merit)</i>								
Percent Returned	47.4%	36.6%	36.8%	39.0%	39.1%	37.8%	36.5%	37.9%
Percent New Commitment	12.0%	11.3%	10.2%	10.3%	10.2%	9.6%	8.5%	10.2%
Percent as RPV	35.4%	25.3%	26.6%	28.8%	28.8%	28.2%	27.9%	27.7%
<i>EEP Denial (non-Merit)</i>								
Percent Returned	63.7%	40.8%	39.3%	40.3%	37.2%	36.4%	34.6%	38.4%
Percent New Commitment	12.4%	12.7%	11.1%	11.3%	12.4%	12.0%	10.0%	11.6%
Percent as RPV	51.3%	28.1%	28.1%	29.0%	24.8%	24.3%	24.6%	26.8%
<i>Non-EEP Non-VFO</i>								
Percent Returned	34.4%	35.1%	39.0%	36.0%	34.4%	33.5%	33.5%	35.1%
Percent New Commitment	13.1%	13.5%	11.7%	10.8%	10.5%	10.6%	9.6%	11.3%
Percent as RPV	21.2%	21.6%	27.3%	25.2%	23.9%	22.9%	23.9%	23.9%
<i>Non-EEP VFO</i>								
Percent Returned	35.6%	37.5%	33.5%	28.4%	33.1%	31.7%	29.3%	31.9%
Percent New Commitment	12.3%	11.0%	9.7%	8.7%	9.7%	8.6%	8.6%	9.4%
Percent as RPV	23.3%	26.5%	23.8%	19.7%	23.4%	23.1%	20.7%	22.5%
<i>Returned Parole Violator*</i>								
Percent Returned	48.4%	46.8%	47.0%	47.2%	46.2%	45.6%	46.1%	46.5%
Percent New Commitment	20.3%	19.2%	17.3%	18.4%	16.3%	15.7%	12.6%	16.6%
Percent as RPV	28.1%	27.6%	29.6%	31.1%	29.9%	29.9%	33.5%	30.3%
<i>Sub-Total All Comparison Groups</i>								
Percent Returned	39.7%	39.0%	39.5%	39.2%	39.2%	37.9%	36.7%	38.6%
Percent New Commitment	14.3%	13.9%	13.0%	13.0%	12.7%	12.1%	10.3%	12.6%
Percent as RPV	25.4%	25.1%	26.6%	26.9%	26.5%	25.8%	26.3%	26.2%
Total								
Percent Returned	40.0%	38.3%	38.6%	38.5%	38.4%	37.3%	35.8%	37.9%
Percent New Commitment	14.3%	13.7%	12.6%	12.6%	12.2%	11.8%	10.0%	12.2%
Percent as RPV	25.6%	24.6%	25.9%	26.6%	26.2%	25.6%	25.9%	25.8%

* Returned Parole Violators (RPVs) were previously released from DOCS. Prior to their release in their current release cohort, they were admitted as RPVs for technical parole violations.

Prepared by:

**Dan Bernstein
Program Research Specialist III**

**E. Michele Staley
Program Research Specialist III**

**Program Planning, Research & Evaluation
August 2007**