

State of New York  
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Community Supervision

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**EARNED ELIGIBILITY PROGRAM SUMMARY  
SEMIANNUAL REPORT**

**April 2013 – September 2013**



**Andrew M. Cuomo  
Governor**



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Acting Commissioner**

# **EARNED ELIGIBILITY PROGRAM SUMMARY**

## **Semiannual Report, April 2013 – September 2013**

### **INTRODUCTION**

Legislative reporting requirements established in 1992 mandate semiannual reports on the Earned Eligibility Program (EEP). Each report provides information regarding the operation of the Earned Eligibility Program for the preceding six month period.

The information in this report is drawn from parole interview dispositions and Earned Eligibility reviews. Data on Earned Eligibility statuses and Parole Board dispositions are maintained by the Department of Corrections and Community Supervision (DOCCS). If a case is missing information on either Earned Eligibility status or parole disposition it is excluded from the analysis. For individuals with more than one parole interview during the relevant time period (due to postponements at their initial interview), information is provided on each interview and corresponding Earned Eligibility status. Consequently, Parole Board appearances<sup>1</sup>, not individuals, are the units of analysis.

### **Overview of Earned Eligibility Program**

The goal of EEP is to increase the rate of safe releases for inmates who have demonstrated an overall pattern of progress in prescribed programs. The program administrators evaluate inmates' preparedness for release based on their compliance with sets of minimum standards for behavior and for progress toward satisfying treatment needs.

Prior to an inmate's initial Parole Board interview, the Earned Eligibility Program provides for a review of treatment and disciplinary records to determine whether the case is certifiable and whether an Earned Eligibility Certificate should be issued or denied. Evaluation results are provided to the Board of Parole to be used in deciding whether to release the inmate or to deny parole. This program of standards and review is available to inmates serving indeterminate sentences with minimum sentences of eight years or less.

### **Earned Eligibility Program Expansion**

In 1987, eligibility for this program was originally limited to inmates with minimum sentences of six years or less. The Legislature expanded the program to include inmates with minimum sentences of up to eight years in May 2003. Initial interviews for cases having minimum sentences of more than six (6) years but no more than eight (8) years began in June 2003. All of the tables in this report reflect the parole interviews that occurred between April 2013 and September 2013 for inmates with minimum sentences of eight years or less.

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

## Types of Earned Eligibility Review Interviews

Between April 2013 and September 2013, there were 5,046 interviews for earned eligibility cases (Table 1). Merit interviews and Initial interviews are similar in that both represent the first appearance before the Board of Parole. The 3,493 Initial interviews and the 775 Merit interviews will be the focus of this report. These 4,268 initial interviews account for 85% of the cases reviewed, while reappearances account for the remaining 15%.

**Table 1: Parole Interview Type for EEP Cases by Month of Interview  
April 2013 through September 2013**

Hearing Month	Interview Type				Total
	Initial*	Merit	Reappearance	Parole Violator Reappearance	
April '13	606 69.0%	136 15.5%	127 14.5%	9 1.0%	878 100.0%
May '13	593 70.3%	111 13.2%	129 15.3%	10 1.2%	843 100.0%
June '13	587 66.7%	165 18.8%	114 13.0%	14 1.6%	880 100.0%
July '13	602 71.9%	126 15.1%	102 12.2%	7 0.8%	837 100.0%
August '13	556 66.6%	135 16.2%	136 16.3%	8 1.0%	835 100.0%
September '13	549 71.0%	102 13.2%	112 14.5%	10 1.3%	773 100.0%
<b>Total</b>	<b>3,493 69.2%</b>	<b>775 15.4%</b>	<b>720 14.3%</b>	<b>58 1.1%</b>	<b>5,046 100.0%</b>

\* Initials include 408 interviews for Shock cases

## Earned Eligibility Status and Parole Board Interview Results

Table 2 shows that the Parole Board held 4,268 initial interviews for EEP cases between April 2013 and September 2013. Of these cases, 61% were issued an EEP Certificate, 18% were denied and 21% were non-certifiable.

- DOCCS issued 2,602 certificates. The Parole Board approved 37% or 962 of these cases.
- Non-certifiable cases (909) were approved for release at a rate of 15%, while EEP cases that were denied Certificates (757) were approved for release at a rate of 9%.
- Overall, the Parole Board approved 27% of the EEP cases for release.

**Table 2: EEP Review Results and Parole Board Approvals at Initial Interviews  
April 2013 through September 2013**

EEP CERTIFICATE	Number of Interviews	Percent of Interviews	Number Approved	Percent Approved
Issued	2,602	<b>61.0%</b>	962	<b>37.0%</b>
Denied	757	<b>17.7%</b>	69	<b>9.1%</b>
Non-certifiable	909	<b>21.3%</b>	139	<b>15.3%</b>
<b>Total</b>	<b>4,268</b>	<b>100.0%</b>	<b>1,170</b>	<b>27.4%</b>

## Earned Eligibility Certificate Denials and Parole Board Interview Results

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

- The majority (61%) of the 757 EEP certificate denials were due to poor behavior that interfered with program progress. This group of inmates had a 5% approval rate.
- Among the general denial reasons, inmates not receiving an EEP certificate due to poor participation and/or progress accounted for 25% of the group and were approved for release at a rate of 20%. This represents the highest approval rate among the four general denial reasons.
- Those who were denied due to poor program attendance accounted for 8% of the cases and were approved at a rate of 12%. Those who refused to participate in their recommended programs accounted for 5% of the denials and had a 5% rate of approval.

**Table 3: EEP Certificate Denial Reasons and Parole Board Approvals at Initial Interviews  
April 2013 through September 2013**

REASONS FOR EEP DENIAL	Number	Percent of Denials	Approved	Percent Approved Within Denial Reason
Poor Participation and / or Progress	186	24.6%	38	20.4%
Poor Program Attendance	60	7.9%	7	11.7%
Refusal to Participate	38	5.0%	2	5.3%
Behavior Interfered with Program	463	61.2%	22	4.8%
Other	10	1.3%	0	0.0%
<b>Total</b>	<b>757</b>	<b>100.0%</b>	<b>69</b>	<b>9.1%</b>

## Non-Certifiable Earned Eligibility Cases and Parole Board Interview Results

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

- Of the 909 cases determined to be non-certifiable, 535 (59%) were non-certifiable due to insufficient time in prescribed programs. These cases had a 15% approval rate.
- Although only 12 cases were non-certifiable due to a court trip, they were approved for release at a rate of 25%, which represented the highest approval rate among the non-certifiable categories.

**Table 4: EEP Non-Certifiable Reasons and Parole Board Approvals at Initial Interviews  
April 2013 through September 2013**

NON-CERTIFIABLE EEP STATUS REASONS	Number	Percent Non- certifiable	Approved	Percent Approved within Non- Certifiable reason
Insufficient Time in Program	535	58.9%	80	15.0%
Hospital	14	1.5%	2	14.3%
Out to Court	12	1.3%	3	25.0%
In Reception	336	37.0%	53	15.8%
Other	12	1.3%	1	8.3%
<b>Total</b>	<b>909</b>	<b>100.0%</b>	<b>139</b>	<b>15.3%</b>

## Earned Eligibility Status within Offense Type and Parole Board Interview Results

Table 5 shows the distribution of the 4,268 EEP cases within offense types. Within each offense type, the result of the initial EEP review is cross referenced with the decision of the Parole Board.

- Of the 4,268 initial EEP cases, 2,368 (55%) were Property Offenders and 988 (23%) were convicted of Other Coercive crimes. Violent Felony Offenders (285) made up 7% of the initial EEP cases, while Drug Offenders (225) made up 5%.
- Overall, the Property Offenders showed the highest release approval rate at 34%.
- Compared with the last EEP Semiannual Report, the number of EEP-eligible drug offenders who appeared before the Board of Parole decreased (from 296 to 225), while their approval rates increased. Between October 2012 and March 2013, there were 66 drug offenders approved for release, with a 22% approval rate. During the current six month period, there were 53 drug offenders approved for release, with a 24% approval rate.
- Among inmates issued an EEP certificate, Youthful Offenders were approved for release at the highest rate (61%), followed by Property Offenders (45%); the lowest approval rate was among Violent Felony Offenders (6%), while no Juvenile Offenders were approved.

**Table 5: EEP Status within Crime Category by Initial Parole Board Interview Result  
April 2013 through September 2013**

OFFENSE TYPE	EEP CERTIFICATE	RELEASE DECISION				Total	
		APPROVED		DENIED			
Violent Felony	Issued	10	6.5%	144	93.5%	154	54.0%
	Denied	4	3.7%	104	96.3%	108	37.9%
	Non-Cert	0	0.0%	23	100.0%	23	8.1%
<b>Total</b>		<b>14</b>	<b>4.9%</b>	<b>271</b>	<b>95.1%</b>	<b>285</b>	<b>100.0%</b>
Other Coercive	Issued	131	22.3%	456	77.7%	587	59.4%
	Denied	17	10.2%	150	89.8%	167	16.9%
	Non-Cert	16	6.8%	218	93.2%	234	23.7%
<b>Total</b>		<b>164</b>	<b>16.6%</b>	<b>824</b>	<b>83.4%</b>	<b>988</b>	<b>100.0%</b>
Drug Offenses	Issued	48	27.0%	130	73.0%	178	79.1%
	Denied	2	5.9%	32	94.1%	34	15.1%
	Non-Cert	3	23.1%	10	76.9%	13	5.8%
<b>Total</b>		<b>53</b>	<b>23.6%</b>	<b>172</b>	<b>76.4%</b>	<b>225</b>	<b>100.0%</b>
Property and Other	Issued	693	44.7%	859	55.3%	1,552	65.5%
	Denied	36	10.1%	320	89.9%	356	15.0%
	Non-Cert	85	18.5%	375	81.5%	460	19.4%
<b>Total</b>		<b>814</b>	<b>34.4%</b>	<b>1,554</b>	<b>65.6%</b>	<b>2,368</b>	<b>100.0%</b>
Youthful Offender	Issued	80	61.5%	50	38.5%	130	32.9%
	Denied	10	11.5%	77	88.5%	87	22.0%
	Non-Cert	35	19.7%	143	80.3%	178	45.1%
<b>Total</b>		<b>125</b>	<b>31.6%</b>	<b>270</b>	<b>68.4%</b>	<b>395</b>	<b>100.0%</b>
Juvenile Offender	Issued	0	0.0%	1	100.0%	1	14.3%
	Denied	0	0.0%	5	100.0%	5	71.4%
	Non-Cert	0	0.0%	1	100.0%	1	14.3%
<b>Total</b>		<b>0</b>	<b>0.0%</b>	<b>7</b>	<b>100.0%</b>	<b>7</b>	<b>100.0%</b>
<b>Total</b>	<b>Issued</b>	<b>962</b>	<b>37.0%</b>	<b>1,640</b>	<b>63.0%</b>	<b>2,602</b>	<b>61.0%</b>
	<b>Denied</b>	<b>69</b>	<b>9.1%</b>	<b>688</b>	<b>90.9%</b>	<b>757</b>	<b>17.7%</b>
	<b>Non-Cert</b>	<b>139</b>	<b>15.3%</b>	<b>770</b>	<b>84.7%</b>	<b>909</b>	<b>21.3%</b>
<b>Total</b>		<b>1,170</b>	<b>27.4%</b>	<b>3,098</b>	<b>72.6%</b>	<b>4,268</b>	<b>100.0%</b>

## Conclusion

Overall, in the period between April 2013 and September 2013, there were 5,046 EEP interviews. Eighty-four percent (85%) of these reviews were for initial appearances at the Parole Board.

The overall approval rate for the 4,268 inmates at initial appearances was 27%. The 2,602 inmates who earned an EEP certificate were approved for release at the highest rate (37%) when compared to the 909 that were non-certifiable (15%) or the 757 inmates denied an EEP certificate (9%).

Between April 2013 and September 2013, the 3,356 “Property” and “Other Coercive” offenders constituted the two largest categories considered for an EEP certificate, accounting for over three-quarters (79%) of the interviews.

As a result of determinate sentencing and Drug Law reform, the 225 drug offenders represented only 5% of the interviews in this report period. This is in contrast to the same time period during 2005, when the 3,419 drug offenders represented 47% of the interviews. This represents a 93% decrease in the number of interviews held among drug offenders.

Of the 130 Youthful Offenders who were issued an EEP certificate, 61% were approved for release, the highest approval rate among crime categories. Of the 154 Violent Felony offenders that were issued an EEP certificate, only ten (6%) were approved for release by the Parole Board, which was the lowest approval rate among crime categories.

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