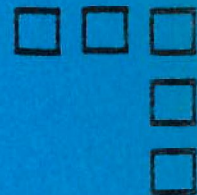



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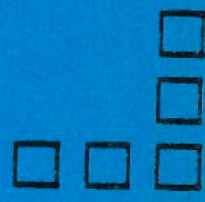


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# EARLY RELEASE

DEPARTMENT OF  
LOCAL AFFAIRS

DIVISION OF  
CRIMINAL JUSTICE



EARLY RELEASE

by

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# EARLY RELEASE

*An analysis of recidivism rates for a group of offenders released early from prison as a result of a Supreme Court Ruling in People vs Chavez showed that they were no more likely to be rearrested for a subsequent crime after release than a group of offenders released at approximately the same time who served their full term.*

A Colorado Supreme Court decision in February, 1983 resulted in the early release of approximately 150 inmates from the Department of Corrections. In People vs Chavez the Supreme Court ruled that inmates sentenced to the Department of Corrections must be granted good time credit for pre-sentence confinement in local jails. The early and immediate release of these inmates was a one time, unusual occurrence, but an analysis of the behavior of these inmates subsequent to release can provide insights into the feasibility of early release options for relieving prison overcrowding, such as an emergency powers act or intensive parole supervision.

Approximately 40 states, including Colorado, have prison systems which are overcrowded. Severe overcrowding and increased fiscal constraints have led many state officials to look seriously at less traditional methods of alleviating prison overcrowding. One mechanism which has been adopted or considered for adoption recently in several states is the use of "early release" or "forced release". Fifteen states have adopted an emergency powers act which provides for the early release of selected offenders when the prison population exceeds its rated capacity. A similar program is also being considered in Colorado, as well as a program to put more offenders in the community under intensive supervision.

Very little research has been done in Colorado or in other states on the effects of early release. This study looks at one group of offenders who were released early because of a court decision. The offenders released early were not those considered to be low risk -- a criterion which would be a factor in most early release programs. All of the offenders released as a result of the Chavez decision, had been detained in local jails awaiting trial, which indicates that many were considered at-risk of not appearing or at-risk because of the nature of their offense. Early release programs would use risk assessment scales to determine which offenders are low risk, and therefore, eligible for early release.

An analysis of the recidivism rate, as measured by rearrest, was completed for the Chavez released offenders. These offenders were compared with determinate sentence releases during the last third of February and March, 1983. The Chavez case court-ordered releases occurred in March and April, 1983. Offenders released out-of-state or released on detainer to another jurisdiction were excluded from the sample. Also, offenders released less than five days early were put in the control group rather than the early release group. The sample includes 126 Chavez release cases and 131 regular release cases. The rates of recidivism were obtained from criminal history files at the Colorado Bureau of Investigation. Rearrest incidences for each offender, which occurred within eight months of the date of release, were included in the study. Also included in the report is a comparison of the two groups of offenders by demographics, offense for which they were sentenced to prison and prior criminal history.

## RECIDIVISM

A comparison of rearrest rates for those released early because of the Chavez decision and those who served their full sentence shows that those released early were no more likely to be arrested for another crime during the first eight months after release. As seen in Table 1, 39.7 percent of those released early were rearrested compared with 35.9 percent of those who served their full term. Although there is a small difference in the two rearrest rates, it is not statistically significant at the .05 level.

TABLE 1

OFFENDERS RELEASED EARLY WERE NO MORE LIKELY  
TO BE REARRESTED FOR A SUBSEQUENT CRIME

	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
Not Rearrested	76	60.3%	84	64.1%	160	62.3%
Rearrested	<u>50</u>	<u>39.7</u>	<u>47</u>	<u>35.9</u>	<u>97</u>	<u>37.7</u>
Total	126	100.0%	131	100.0%	257	100.0%

Table 2 shows the number of times the offenders in each group were rearrested during the first eight months after release. The distribution for the two groups is similar. The average number of arrests per offender was .9 arrests for both groups. Approximately 22 percent of the offenders in each group were arrested multiple times. For those who were rearrested, the average rate of rearrest was 2.3 for both groups. It should be noted that each arrest may represent one or several offenses.

TABLE 2

THE RATE OF REARREST WAS SIMILAR FOR THOSE RELEASED  
EARLY AND THOSE WHO SERVED THEIR FULL SENTENCE

<u>Number of Arrests</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
None	76	60.3%	84	64.1%	160	62.3%
One	21	16.6	19	14.4	40	15.5
Two	13	10.3	13	9.9	26	10.1
Three	6	4.8	6	4.6	12	4.7
Four	4	3.2	4	3.1	8	3.1
Five	4	3.2	1	.8	5	1.9
Six or More	<u>2</u>	<u>1.6</u>	<u>4</u>	<u>3.1</u>	<u>6</u>	<u>2.4</u>
Total	126	100.0%	131	100.0%	257	100.0%

The crimes for which the offenders in the sample were arrested after their release include the full range of offenses. Those released early were

somewhat less likely to be rearrested for a violent offense than the group that served their full term.

TABLE 3  
EARLY RELEASED OFFENDERS WERE REARRESTED  
FOR FEWER VIOLENT CRIMES

<u>Violent Offense</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
Homicide	1	.9%	1	.9%	2	.9%
Kidnapping	1	.9	1	.9	2	.9
Robbery	5	4.2	8	7.2	13	5.7
Assault	3	2.5	11	9.9	14	6.1
Arson	1	.9	-	-	1	.4
Resisting an Officer	1	.9	4	3.6	5	2.2
Weapons Offense	5	4.2	2	1.8	7	3.1
Other	<u>1</u>	<u>.9</u>	<u>-</u>	<u>-</u>	<u>1</u>	<u>.4</u>
Total Violent	18	15.4%	27	24.3%	45	19.7%
<u>Non-Violent Offenses</u>						
Burglary	14	11.9%	13	11.8%	27	11.8%
Larceny	20	17.1	8	7.2	28	12.3
Vehicle Theft	6	5.1	3	2.7	9	3.9
Drugs Offense	5	4.3	7	6.3	12	5.3
Flight to Avoid	12	10.3	14	12.6	26	11.4
Parole/Probation Violation	9	7.7	6	5.4	15	6.6
Traffic Offense	7	6.0	6	5.4	13	5.7
Trespassing	4	3.4	1	.9	5	2.2
Shoplifting	3	2.6	6	5.4	9	3.9
Other	14	11.9	14	12.6	28	12.3
Damaged Property	2	1.7	5	4.5	7	3.1
Unknown	<u>3</u>	<u>2.6</u>	<u>1</u>	<u>.9</u>	<u>4</u>	<u>1.8</u>
Total Non-Violent	99	84.6	84	75.7	183	80.3
TOTAL	117	100.0%	111	100.0%	228	100.0%

# OFFENDER AND OFFENSE CHARACTERISTICS

A comparison of those released early as a result of the Chavez decision and those who served their full term was completed on such factors as sex, age, ethnicity, education, offense at conviction and criminal history to determine if there were any differences between the two groups which might affect the rates of recidivism.

Both groups are predominantly male. As shown in Table 4, both groups contained approximately five percent females and 95 percent males.

TABLE 4

### BOTH GROUPS OF OFFENDERS ARE PREDOMINANTLY MALE

<u>Sex</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
Female	7	5.6%	7	5.3%	14	5.4%
Male	<u>119</u>	<u>94.4</u>	<u>124</u>	<u>94.7</u>	<u>243</u>	<u>94.6</u>
Total	126	100.0%	131	100.0%	257	100.0%

The group released early contained a somewhat higher proportion of black offenders and a smaller proportion of hispanic and anglo offenders. However, the difference is not statistically significant. This difference might be expected because black offenders often have a more difficult time making bail due to higher rates of unemployment among blacks. All of the offenders in the early release group spent at least some time in a local jail awaiting trial. The granting of good time credit for pre-trial detainment was the basis for the early release as a result of the Chavez decision. Table 5 shows the ethnicity of the offenders in the two groups.

TABLE 5

THE EARLY RELEASE GROUP CONTAINED A HIGHER  
PROPORTION OF BLACK OFFENDERS

<u>Ethnicity</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
Anglo	55	43.7%	60	45.8%	115	44.7%
Black	39	31.0	30	22.9	69	26.8
Hispanic	31	24.6	39	29.8	70	27.2
Indian	<u>1</u>	<u>.8</u>	<u>2</u>	<u>1.5</u>	<u>3</u>	<u>1.2</u>
Total	126	100.0%	131	100.0%	257	100.0%

The average age of offenders was similar for both groups; 29.5 years for those released early compared with 28.5 years for those who completed their sentence. The distribution of offenders by age, found in Table 6, shows that those who served their full sentence were somewhat younger than those released early. Sixty-four percent of those who served their full sentence were under 30 years of age compared with 58 percent of those released early.

TABLE 6

THE EARLY RELEASE OFFENDERS WERE SOMEWHAT  
OLDER THAN THOSE WHO SERVED THEIR FULL TERM

<u>Age</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
18-24	44	34.9%	49	37.4%	93	36.2%
25-29	29	23.0	39	29.8	68	26.4
30-34	25	19.9	19	14.5	44	17.2
35-39	10	7.9	12	9.1	22	8.5
40-44	6	4.8	6	4.6	12	4.7
45+	<u>12</u>	<u>9.5</u>	<u>6</u>	<u>4.6</u>	<u>18</u>	<u>7.0</u>
Total	126	100.0%	131	100.0%	257	100.0%



A comparison of the last year of school completed for the two groups of offenders shows that both groups had similar educational backgrounds. Table 7 shows that 35.7 percent of those released early had completed at least a high school education compared with 38.2 percent of the other group.

TABLE 7

EDUCATIONAL BACKGROUND WAS  
SIMILAR FOR BOTH GROUPS

<u>Grade Completed</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
2nd-6th	4	3.2%	7	5.3%	11	4.3%
7th-9th	27	21.4	19	14.5	46	17.9
10th-11th	50	39.7	55	42.0	105	40.9
High School	31	24.6	37	28.2	68	26.4
Some College	9	7.1	6	4.6	15	5.8
College Grad	5	4.0	5	3.8	10	3.9
Grad Degree	-	-	1	.8	1	.4
Unknown	-	-	1	.8	1	.4
Total	126	100.0%	131	100.0%	257	100.0%

The offenders who were released early because of the Chavez decision were more likely to have been sentenced to prison for a violent offense than those who served their full term. As shown in Table 8, 37.3 percent of those released early had been sentenced for a violent offense compared with 25.2 percent for the other group. This would be expected since all those released early spent time in a local jail awaiting trial. Violent offenders are more likely to be denied bail or to have their bail set high.

The average length of stay in prison for the two groups was very similar, 15.9 months for those released early and 16.7 months for the other group.

TABLE 8

**OFFENDERS RELEASED EARLY WERE MORE LIKELY TO HAVE  
BEEN INCARCERATED FOR VIOLENT CRIMES**

<u>Violent Offense</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
Murder	-	-	-	-	-	-
Manslaughter	5	4.0%	3	2.3%	8	3.1%
Arson	1	.8	1	.8	2	.8
Agg. Robbery	9	7.1	7	5.3	16	6.2
Simple Robbery	10	7.9	7	5.3	17	6.6
Sexual Assault	10	7.9	2	1.5	12	4.7
Child Abuse	-	-	1	.8	1	.4
Assault	4	3.2	2	1.5	6	2.3
Kidnapping	1	.8	2	1.5	3	1.2
Menacing	5	4.0	6	4.7	11	4.3
Other	<u>2</u>	<u>1.6</u>	<u>2</u>	<u>1.5</u>	<u>4</u>	<u>1.5</u>
Total Violent	47	37.3%	33	25.2%	80	31.1%
<u>Non-Violent Offense</u>						
Burglary	25	19.8%	21	16.0%	46	17.9%
Larceny/Theft	14	11.1	15	11.5	29	11.3
Narc. Offense	6	4.8	5	3.8	11	4.3
Criminal Trespass	6	4.8	10	7.6	16	6.2
Forgery	2	1.6	3	2.3	5	1.9
Conspiracy/Attempt Class 4 & 5	18	14.2	26	19.8	44	17.1
Misdemeanor	4	3.2	9	6.9	13	5.1
Other	2	1.6	9	6.9	11	4.3
Unknown	<u>2</u>	<u>1.6</u>	<u>-</u>	<u>-</u>	<u>2</u>	<u>.8</u>
Total Non-Violent	79	62.7	98	74.8	177	68.9
Total	126	100.0%	131	100.0%	257	100.0%

Because of the more violent nature of the crimes committed by the Chavez released group, they were more likely to receive a longer prison sentence. However, because of the good time credit for pretrial detention, they actually served less time in prison. The average good time credit granted to this group of offenders because of the Chavez decision was 55.8 days.

Prior arrests for the offenders in the sample are shown in Table 9. Most of the offenders in both groups have extensive arrest records and the pattern is similar for both groups. The average number of prior arrests per offender for those released early is 7.8 arrests compared with 8.6 arrests per offender for those who served their full term.

TABLE 9

RATE OF PRIOR ARRESTS  
WAS SIMILAR FOR BOTH GROUPS

<u>Number of Prior Arrests</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
None	3	2.4%	6	4.6%	9	3.5%
One	8	6.3	7	5.3	15	5.8
2-3	25	19.8	25	19.1	50	19.5
4-5	20	15.9	25	19.1	45	17.5
6-10	35	27.8	28	21.3	63	24.5
11-20	25	19.8	25	19.1	50	19.5
Over 20	7	5.6	12	9.2	19	7.4
Unknown	<u>3</u>	<u>2.4</u>	<u>3</u>	<u>2.3</u>	<u>6</u>	<u>2.3</u>
Total	126	100.0%	131	100.0%	257	100.0%

Prior incarcerations in prison for the two groups are shown in Table 10. As with prior arrest, the distribution of prior incarcerations is similar between the two groups. The average number of prior incarcerations is .85 for those released early and .91 for those who served their full term.

TABLE 10

**RATE OF PRIOR INCARCERATIONS  
WAS SIMILAR FOR BOTH GROUPS**

<u>Number of Times Incarcerated</u>	<u>Early Release</u>		<u>Full Term</u>		<u>Total</u>	
None	55	43.6%	64	48.8%	119	46.3%
One	43	34.1	35	26.7	78	30.3
Two	13	10.3	17	13.0	30	11.6
Three	3	2.4	7	5.3	10	3.9
Four	2	1.6	2	1.5	4	1.6
Five	3	2.4	1	.8	4	1.6
Six	-	-	1	.8	1	.4
Eight	-	-	1	.8	1	.4
Unknown	<u>7</u>	<u>5.6</u>	<u>3</u>	<u>2.3</u>	<u>10</u>	<u>3.9</u>
Total	126	100.0%	131	100.0%	257	100.0%

## CONCLUSION

The analysis of recidivism for the group of offenders released early from prison as a result of a Supreme Court Ruling in People vs Chavez showed that they were no more likely to be rearrested for a subsequent crime after release than a group of offenders released at approximately the same time who served their full term. Those released as a result of the Chavez decision were more likely to have been incarcerated for a violent offense and the group included more blacks.

The results of this analysis are important when making decisions related to relieving prison overcrowding by setting capacity limits or implementing other early release programs. Although the group of offenders re-

leased early because of the court decision were not selected on the basis of a "risk assessment", they were no more likely to recidivate than those who served their full term. In fact, this group of offenders may have been considered higher risk offenders since all of them were held in pretrial detention. An emergency powers act, intensive parole or other types of early release programs would include the use of a risk assessment scale to identify low risk offenders who would then be eligible for early release.

Several risk assessment scales have been developed by other states which can be used to reduce prison sentences without increasing risk to the public. For example, with the aid of objective release criteria, the Iowa Board of Parole has been able to increase paroles by 52 percent during 1981-82, while simultaneously reducing the rate of new violent crime among parolees by 35 percent.<sup>1</sup> James Q. Wilson, after a review of a number of studies on deterrence, determined that if sanctions for crime are sufficiently swift and certain, long prison terms may not be necessary.<sup>2</sup>

The results of this study lend support to the concept of an emergency powers act and other types of early release programs as alternatives to be considered in relieving prison overcrowding. They also raise questions about the need for recent legislation which has increased sentence lengths for certain types of offenses, thus further aggravating the prison overcrowding situation.

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<sup>1</sup> Daryl R. Fischer, The Use of Actuarial Methods in Early Release Screening

<sup>2</sup> James Q. Wilson, Thinking About Crime, The Atlantic Monthly, September, 1983

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