



ROBINA INSTITUTE
OF CRIMINAL LAW AND CRIMINAL JUSTICE

PRISON-RELEASE DISCRETION AND PRISON POPULATION SIZE

STATE REPORT: OHIO

Kevin R. Reitz, Allegra Lukac, and Edward E. Rhine

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Definitions and Concepts

“Indeterminacy” in a prison sentence means “unpredictability of time served.” Once a particular judicial sentence has been imposed, can we say with confidence how much time the defendant will actually serve before the sentence’s expiration? If actual time-to-be-served is highly unpredictable based on the pronounced judicial sentence, then the sentence is highly indeterminate. If actual time-to-be-served is knowable within a small range of possibility, then the sentence has a low degree of indeterminacy—or, we might say—a high degree of determinacy. “Determinacy” means “predictability of time served” at the time of judicial sentencing.

Scaling up to the systemwide level, the degree of indeterminacy in prison sentences regulates which government officials have effective control over prison population size. Higher degrees of indeterminacy across individual sentences produce greater control over prison population size by “back-end” agencies such as parole boards and departments of correction.

These structural features vary greatly across U.S. jurisdictions. One goal of this project is to inform state governments how they may adjust their laws and practices of prison-release authority to achieve desired policy goals, such as reductions of prison populations in a manner consistent with public safety

Note on the project’s rankings of “degrees of indeterminacy”

To compare the degrees of indeterminacy in individual prison sentences or across the prison-sentencing systems of different jurisdictions, we use a qualitative ranking framework based on our cumulative learning while preparing the project’s 52 jurisdiction-specific reports. To avoid false precision, we place all systems within one of five categories (see table below).

Each of the five categories can be expressed in alternative terms: either the *degree of indeterminacy* or *degree of determinacy* thought to be present. Our five tiers are based on the variations we observe in current American sentencing systems, not any absolute or theoretical conceptions of degrees of indeterminacy that could be imagined in hypothetical systems.

The ranking scale is subjective, although the reasoning that supports our judgments is laid out in each report. Ultimately, the rankings indicate only the rough position of specific prison-sentencing systems vis-à-vis each other. No two American prison-release systems are alike and all are highly complex, so nuanced comparative analysis requires closer inspection.

Rankings of “Degrees of Indeterminacy”

| Ranking | Alternative terminology | |
|----------------|--------------------------------|----------------------------|
| 1 | Extremely-high indeterminacy | Extremely-low determinacy |
| 2 | High indeterminacy | Low determinacy |
| 3 | Moderate indeterminacy | Moderate determinacy |
| 4 | Low indeterminacy | High determinacy |
| 5 | Extremely-low indeterminacy | Extremely-high determinacy |

Prison-Release Discretion and Prison Population Size

State Report: Ohio¹

Executive Summary

Ohio’s prison-sentencing system has a *low degree of indeterminacy* overall—or, alternatively, we could say it has a *high degree of determinacy*. Current law, following important legislation in 2019, will eventually produce two large groups of prisoners whose sentences are: (1) “definite” terms with an extremely high degree of determinacy—for prisoners convicted of less-serious felonies and (2) “indefinite” terms with a moderate degree of indeterminacy for prisoners convicted of more-serious felonies. Parole release discretion exists only for indefinite sentences and parolable life sentences. The department of corrections can influence sentence length for most definite and indefinite sentences through the award of earned credits.

The release discretion of the parole board and the administration of earned time by prison officials have roughly equal sway over actual time served by individual prisoners. The earned-time process might have impact over more months and years of time served than discretionary release because the parole board is inactive in the realm of definite sentences. On the other hand, parole release is the more important determinant of the actual length of parolable life sentences.

No back-end decisional process has large effect when compared with American systems of high or extremely-high indeterminacy overall. The lion’s share of time-served discretion in Ohio is located at the front end of the prison-sentencing system, with judges and prosecutors. Prison population size is thus largely determined by front-end actors.

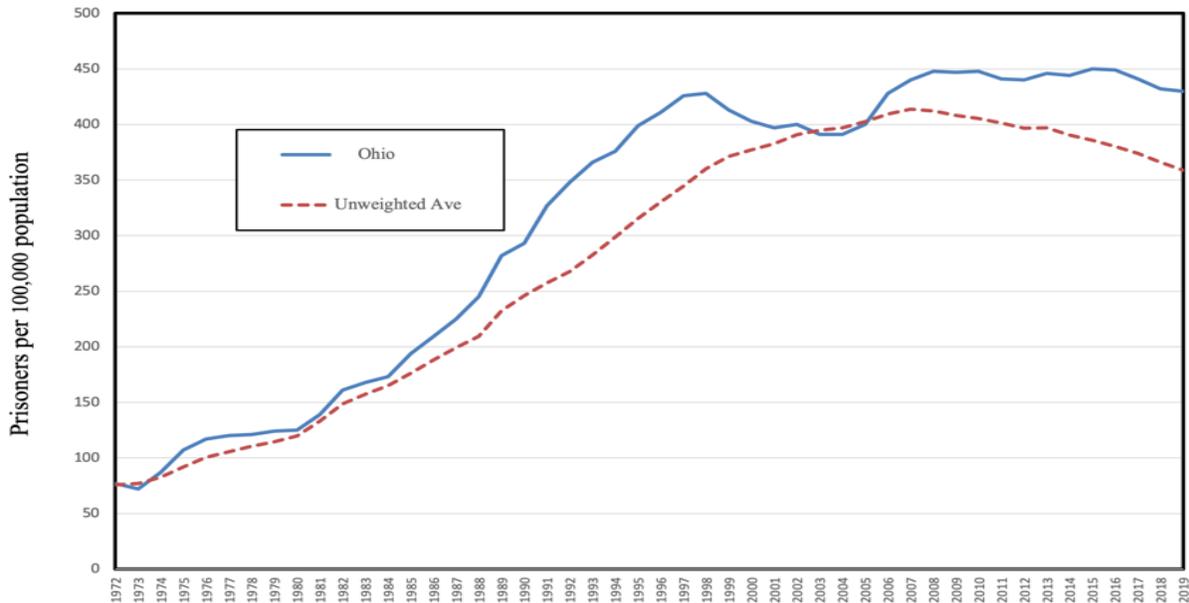
¹ This report was prepared with support from Arnold Ventures. The views expressed are the authors’ and do not necessarily reflect the views of Arnold Ventures. We thank Alicia Handwerk for her review of an earlier draft.

Introduction

a. Ohio’s prison-rate history, 1972 to 2019

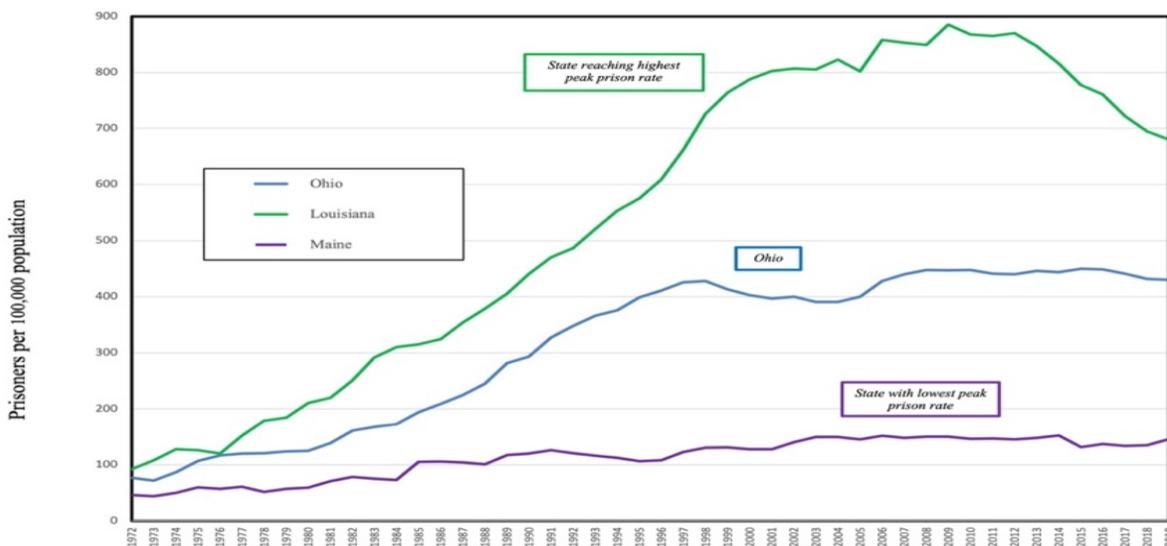
In 2019, Ohio’s prison rate was 430 per 100,000 general population, with a yearend prison population of 50,338.² Ohio’s prison rate was 12th largest among all states.

Figure 1. Prison Rate Change in Ohio and (Unweighted) Average Among All States, 1972 to 2019



² E. Ann Carson, *Prisoners in 2019* (Bureau of Justice Statistics, 2020), at 7 table 4, 11 table 7.

Figure 2. Prison Rate Change in Ohio, Louisiana, and Maine, 1972 to 2019
(standard 900 per 100K y-axis scale)



Sources: Timothy J Flanagan, Kathleen Maguire & Michael J. Hindelang, *Sourcebook of Criminal Justice Statistics, 1990*, at 605 table 6.56, Rate (per 100,000 resident population) of sentenced prisoners under jurisdiction of State and Federal correctional authorities on December 31: By region and jurisdiction, 1971-1989 (Hindelang Criminal Justice Research Center, 1991) (for 1972-1977); E. Ann Carson, *Imprisonment rate of sentenced prisoners under the jurisdiction of state or federal correctional authorities per 100,000 U.S. residents, December 31, 1978-2016* (Bureau of Justice Statistics, Corrections Statistical Analysis Tool) (for 1978-2016), at <https://www.bjs.gov/index.cfm?ty=nps> (visited May 24, 2020); E. Ann Carson, *Prisoners in 2018* (Bureau of Justice Statistics, 2020), at 11 table 7 (for 2017); E. Ann Carson, *Prisoners in 2019* (Bureau of Justice Statistics, 2020), at 11 table 7 (for 2018-2019).

Ohio reached its peak prison rate during the national buildup period in 2015 at 450 per 100,000, which dropped to 430 per 100,000 by the end of 2019. This is a net difference of -20 per 100,000, which was the 41st largest prison-rate drop of all states (measured from each state’s peak through 2019).

b. Terminology note

This report will refer to the Ohio Parole Board as the “parole board.” The Ohio Department of Rehabilitation and Correction will be referred to as the “department of corrections.”

1. General rules of prison release

a. “Definite” sentences

Most prisoners in Ohio have “definite” sentences under which they must serve their full judicial maximum terms with modest possible reductions for earned-time credits.³ Current law allows for earning rates of one day or five days per month, depending on prisoners’ offenses of conviction. Prisoners convicted of a “sexually oriented offense” are ineligible for any earnings at all.⁴

These are low earning rates compared with most other states, and in many cases are even lower than they appear. Under current law, prisoners are limited to a total eight-percent reduction of their terms through monthly credits.⁵ For prisoners at the five-day-per-month earning rate, this cutoff could nullify as much as 43 percent of their monthly earnings.

In addition to monthly credits, prisoners can win a one-time credit for successful completion of certain programs. The one-time award is 90 days or a 10 percent reduction of a prisoner’s term, whichever is less. Such awards are not restricted by the eight-percent cap on monthly earnings.⁶

With steady earnings of five days per month, prisoners would reach mandatory release dates (MRDs) at the 86-percent mark of their judicial maximum terms. The statutory eight-percent limit cuts monthly earnings off at the 92-mark, however. An additional reduction of up to 10 percent can be won through the program completion credit. Figure 3 shows the resulting

³ “Definite sentences” must be imposed for third, fourth, and fifth degree felonies. They are also imposed for non-life first and second degree felonies committed before March 22, 2019. Ohio Rev. Code § 2929.14(A)(1)(b),(2)(b),(3)-(5).

⁴ Ohio Rev. Code § 2967.193; Ohio Admin. Code 5120-2-06(K),(L).

⁵ Ohio Admin. Code 5120-2-06(Z). Mathematically, with steady earnings of five days per month, prisoners could win 14-percent reductions of their judicial maximum terms. The eight-percent cutoff effectively removes 43 percent of these top potential earnings.

⁶ Ohio Rev. Code § 2967.193; Ohio Admin. Code 5120-2-06(A),(H). The programs are: an Ohio high school diploma or Ohio certificate of high school equivalence, a therapeutic drug community program, all three phases of the intensive outpatient drug program, a career technical vocational school program, a college certification program, and the criteria for a certificate of achievement and employability. Inmates convicted of an offense of violence, a sexually oriented offense, or who are serving a mandatory prison term are not eligible for the one-time credit. See Ohio Admin. Code 5120-2-06 (H).

timeline for a high-achieving prisoner, which can produce a MRD as early as the 82-percent mark of a judicial maximum term.

Ohio Figure 3. Prison-Release Timeline for Definite Sentence, Full Earned Time at Highest Rate, and One-Time Program Completion Credit

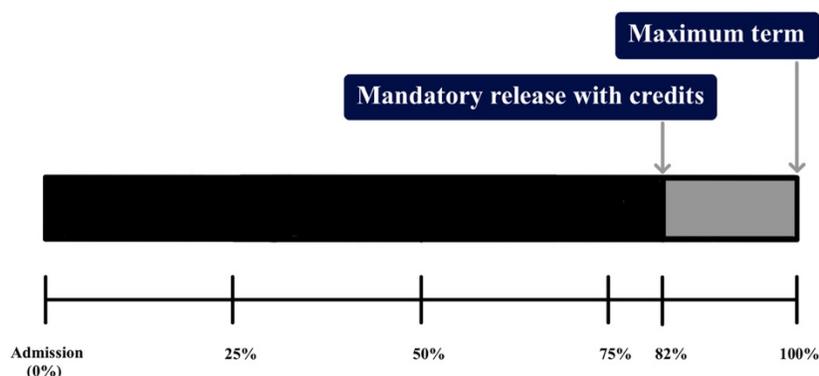
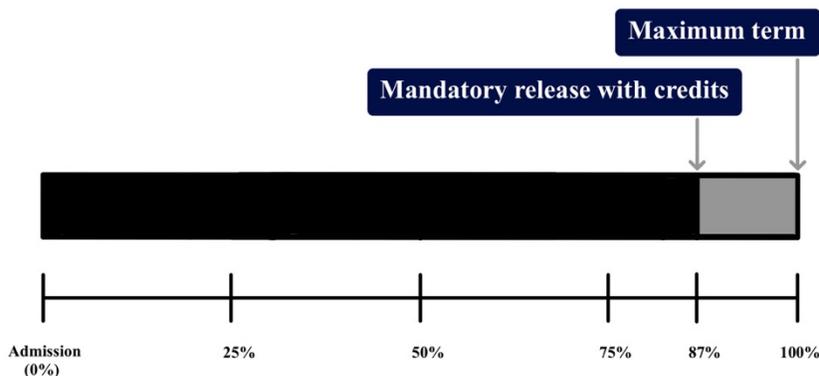


Figure 4 shows the timeline for prisoners with definite sentences who steadily earn monthly credits at the lower rate of one day per month. MRDs for this group may be advanced to the 97-percent mark of their maximum terms through monthly credits plus an additional 10-percent for program completion. The greatest possible reduction thus yields MRDs at the 87-percent mark of prisoners’ judicial maximum terms.

Ohio Figure 4. Prison-Release Timeline for Definite Sentence, Full Earned Time at Lower Rate, and One-Time Program Completion Credit



In this project, we use the term “population-multiplier potential” (or PMP) to express the amount of influence over prison population size that is ceded by law to back-end decision makers such as parole boards and prison officials. To give a simplified example, if all prisoners in a hypothetical jurisdiction were eligible for parole release after serving 25 percent of their maximum sentences, then the PMP attached to the parole board’s release decisions is 4:1. That is, if the parole board were to deny release to all prisoners for as long as legally possible (a *never-release scenario*), the resulting prison population would be four times as large as it would be if the board were to release all prisoners at their earliest allowable release dates (an *always-release scenario*).

In our subjective ranking system, the definite sentences in Figures 3 and 4 are *extremely low in indeterminacy* or, it is perhaps more natural to say, *extremely high in determinacy*. Under Figure 3, the PMP is 1.2:1 and, under Figure 4, it is 1.15:1.⁷ That is, the prison population size for this group of prisoners would be 15 to 20 percent larger in a *never-release regime* (in which no prisoners were ever awarded credits) than in an *always release regime* (in which all prisoners always earned all possible credits).

For the prison subpopulation with definite sentences in Ohio, the PMP shows that back-end releasing discretion has little influence over the size of the subpopulation at any given time. In some other states, we have seen PMPs of 10:1 or higher, which place governance of prison population size overwhelmingly at the back end of the system.

b. “Indefinite” sentences

A new form of indeterminate sentences—called “indefinite” sentences in Ohio—was created for the most serious felonies starting in 2019.⁸ Prisoners with such sentences must serve minimum terms of two-thirds their judicial maximum terms before becoming eligible for

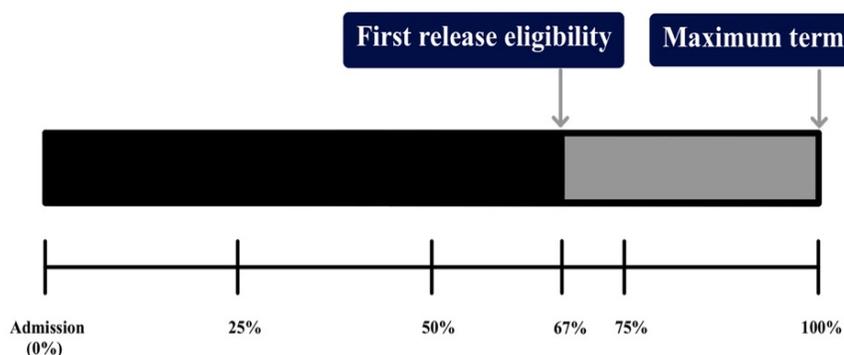
⁷ These are comparable to the PMPs for most prisoners in Oregon—the state with perhaps the lowest degree of indeterminacy in the country.

⁸ The indeterminate sentencing scheme applies to all non-life felonies of the first or second degree committed on or after March 22, 2019. Ohio Rev. Code § 2929.14(A)(1)(a),(2)(a); Ohio Criminal Sentencing Commission, *SB 201 – The Reagan Tokes Law* (2019), at 1.

discretionary parole release.⁹ The minimum terms may be reduced according to the earned-time rules outlined in the previous section. In addition, prisoners' maximum terms are also reduced by the same credits and earning formulas.

Figure 5 illustrates the case of an indefinite sentence with no reductions for earned time. Eligibility for discretionary parole release occurs at the 67 percent mark of the judicial maximum term. Figure 6 then applies credit earnings for high-achieving prisoners, who can win reductions of as much as 18 percent against their minimum and maximum terms. (This is the same earnings formula as shown in Figure 3 above.) Finally, Figure 7 outlines the greatest possible effects of credits at the lower earning rate, which can reduce both minimum and maximum terms by as much as 13 percent.¹⁰

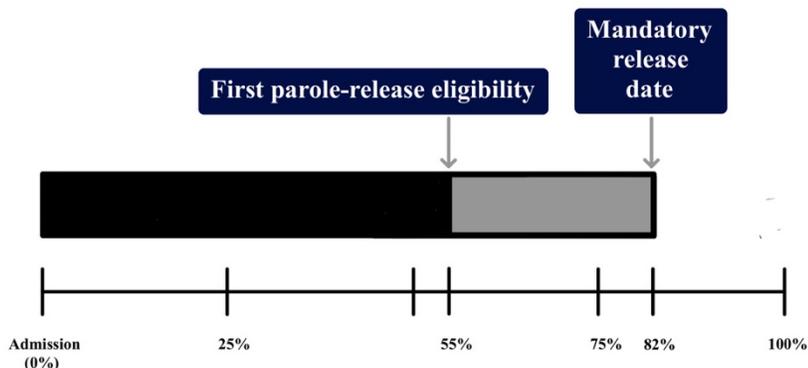
Ohio Figure 5. Prison-Release Timeline for Indefinite Sentence with No Credits



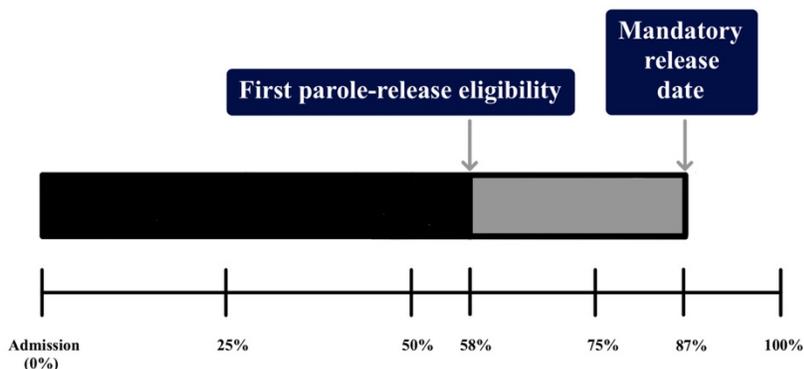
⁹ Ohio Rev. Code § 2929.144(B)(1).

¹⁰ Prisoners' minimum terms may also be reduced "due to the offender's exceptional conduct while incarcerated or the offender's adjustment to incarceration." Such reductions may only be made by the sentencing court after receipt of a recommendation from the department of corrections. Depending on a prisoner's offense of conviction, reductions fall in the range of five to 15 percent. See Ohio Rev. Code § 2967.271(F)(1). For purposes of this report, we have assumed that such reductions are not granted for large percentages of prisoners.

Ohio Figure 6. Prison-Release Timeline for Indefinite Sentence, Full Earned Time at Highest Rate, and One-Time Program Completion Credit



Ohio Figure 7. Prison-Release Timeline for Indefinite Sentence, Full Earned Time at Lower Rate, and One-Time Program Completion Credit



The indefinite sentences depicted in Figures 5 through 7 have a *moderate degree of indeterminacy* in our subjective ranking system.¹¹ Allowing for achievable credit-earnings, the sentences shown in Figures 6 and 7 are 55-to-58-percent determinate. The PMP associated with such sentences in the range of 1.7:1 to 1.8:1. That is, if the department of corrections were to withhold all credits from everyone *and* if the parole board were to deny release to every eligible prisoner (a *never-release* scenario), the subpopulation of prisoners with indefinite sentences would rise to numbers 70 to 80 percent higher than if full credits were granted to all prisoners and parole release were granted to everyone as early as possible (an *always-release* regime).

¹¹ All else being equal, we tend to treat release eligibility in the range of 34 to 66 percent as a touchstone of moderate indeterminacy.

Dual releasing discretions are operative for this sentence class, but their areas of overlap are complex. If we compare Figures 5 and 7, prisoners may be released between the 58 and 67 percent marks only if they receive favorable discretionary treatment from both the department of corrections and the parole board. The parole board has no release discretion during this segment of the timeline unless the department acts to advance a prisoner's parole eligibility date through credit awards. Between the 67 and 87 percent marks, the parole board always holds unilateral *release discretion* and *release-denial discretion*. The department need not act to create the board's powers, nor can the department overrule the board's decisions. After the 87 percent mark, denial of release requires unfavorable discretionary decisions of both the parole board and department of corrections (both the denial of discretionary release and the denial or forfeiture of earned-time credits). If either agency declines to release, the other agency can unilaterally override that decision.

We note that indefinite sentences in Ohio carry a presumption of release at first eligibility. By statute, release is mandatory unless the presumption is rebutted through findings of *both* a serious disciplinary infraction by the prisoner and that “[t]he offender's behavior while incarcerated ... demonstrate that the offender continues to pose a threat to society.”¹² This would appear to make the presumption binding for prisoners who have not committed a serious violation. If so, unlike some programs of presumptive parole release in other states, denials of release are not wholly a matter of the board's discretion. Because indefinite sentences are so new in Ohio, however, it will be awhile before release data accumulate. It is difficult to tell in advance how strong the presumption of release will be in practice.

c. Judicial release

Sentencing courts have a highly unusual prison-release power in Ohio, called “judicial release,” which extends to most definite sentences and non-life indefinite sentences.¹³ Prisoners may initiate the process by filing a motion with the court, or the court may act on its own motion.¹⁴ Depending on the length of prisoners' total sentences,¹⁵ statutorily-allowable release dates can come quite early. The timing of release eligibility varies as follows:

¹² Ohio Rev. Code § 2967.271(B),(C).

¹³ Ohio Rev. Code § 2929.20(A)-(M). The power does not extend to any portion of prisoners' sentences that are mandatory prison terms. *Id.*, § 2967.271(A)(6). Also, for prisoners convicted of first- and second-degree felonies, especially strict statutory release criteria apply: the court cannot grant release if it finds both of the following: (1) that a sanction other than a prison term would adequately punish the offender and protect the public from future criminal violations because the factors indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism; and (2) that a sanction other than a prison term would not demean the seriousness of the offense because there are sufficient factors indicating that the eligible offender's conduct in committing the offense was less serious than conduct normally constituting the offense. *Id.*, § 2967.271(J)(1).

¹⁴ Ohio Rev. Code § 2929.20(B).

¹⁵ That is, their sentences for all charges, as many prisoners have multiple counts of conviction.

- If the sentence is less than two years, the prisoner can petition for judicial release at any time after entering prison.
- If the sentence is two to less than five years, the inmate can file the motion 180 days after entering prison.
- If the sentence is five years, the inmate can file after serving four years of the prison term.
- If the sentence is greater than five but less than ten years, the inmate can file for judicial release after serving five years.
- If the sentence is greater than ten years, the inmate can file after serving 50 percent of their prison term.¹⁶

Judicial release introduces a crazy quilt of different degrees of indeterminacy into Ohio's prison-sentencing system. The possibility of judicial release renders sentences shorter than two years 100 percent indeterminate. (Release on the day of admission is theoretically possible.) For a sentence of exactly two years, sentences are 75 percent indeterminate. (Earliest release is at the six-month mark.) For a four year sentence, sentences are 88 percent indeterminate. (Earliest release is at the six-month mark—the same as for a two year sentence.) Further examples are especially confounding: Sentences of five years are 20 percent indeterminate, sentences of six years are 17 percent indeterminate, and seven-year sentences are 27 percent indeterminate. All non-life sentences of 10 years and longer are 50 percent indeterminate. Across the various statutory formulas, an underlying theory of the timing of release eligibility is not readily apparent.

In addition to uneven formulas of release eligibility, the operation of judicial release is left to the discretion of individual judges. Judges have open-ended authority to dismiss motions for judicial release without a hearing.¹⁷ They are absolute gatekeepers. Our guess is that most courts allow hearings in a small minority of all cases, although there could be much variation from judge to judge.

We cannot estimate what impact the mechanism of judicial release has on the operation of Ohio's prison-sentencing system as a whole. We lack data on how judicial release has been used in the past, but we suspect it has shortened relatively few prison sentences. Whenever the power is used, however, it injects a novel element of indeterminacy into the system as a whole. Potentially, if employed with enough frequency, judicial release could override Ohio's basic prison-release frameworks as described in sections 1a and 1b above.

d. Risk-reduction sentence

¹⁶ Ohio Rev. Code § 2929.20(C), *Ibid.*, Ohio Criminal Sentencing Commission, "Felony Sentencing Quick Reference Guide," at 11 (Aug. 2020) <https://www.supremecourt.ohio.gov/Boards/Sentencing/resources/judPractitioner/felonyQuickRef.pdf>.

¹⁷ Ohio Rev. Code § 2929.20(D).

At sentencing, except for the most serious felonies, courts have the option to recommend that defendants serve a “risk reduction sentence.” Such sentences require release at the 80-percent mark of the maximum term if the prisoner has cooperated in a risk and needs assessment process and has completed all relevant programming ordered by the department of corrections.¹⁸ Participating prisoners lose eligibility for earned credits that would otherwise be available to them, so their savings in time served under risk reduction sentences might be small.

e. 80-percent release procedure

Upon a recommendation by the department of corrections, sentencing courts are empowered to release some prisoners with sentences of more than one year who have served 80 percent of their maximum terms. The list of disqualifying offenses includes many serious felonies.¹⁹

Functionally, this differs from judicial release (see section 1c) because the 80-percent procedure must be initiated by the department of corrections.

2. Life sentences

a. Adults

Life sentences, other than life without the possibility of parole (LWOP), are indeterminate sentences with eligibility for discretionary parole release after expiration of their minimum terms. For some classes of life sentences, prisoners’ minimum terms may be reduced by credits.

The Sentencing Project reported that 12 percent of prisoners in Ohio in 2016 were serving indeterminate life sentences (5,955 of 50,443) and one percent (560) had LWOP sentences.²⁰

b. Juvenile life sentences

¹⁸ Ohio Rev. Code §§ 2929.143(A)(1)-(4); 5120.036(C). Disqualifying offenses of conviction include aggravated murder, murder, complicity in committing aggravated murder or murder, an offense of violence that is a felony of the first or second degree, a sexually oriented offense, or an attempt or conspiracy to commit any offense constituting a felony of the first or second degree.

¹⁹ See generally Ohio Rev. Code § 2967.19. Disqualifying offenses include: aggravated murder, murder, voluntary or involuntary manslaughter, felonious assault, kidnapping, rape, aggravated arson, aggravated burglary, aggravated robbery, attempt or conspiracy to commit any of the previously listed offenses, a prison term of life imprisonment, a prison term imposed for any felony of which an essential element involves any deadly weapon or dangerous ordnance, a prison term imposed for any first or second degree trafficking offense, engaging in a pattern of corrupt activity, or any sexually oriented offense. See *id.*, § 2967.19(A)(2).

²⁰ Ashley Nellis, *Still Life: America’s Increasing Use of Life and Long-Term Sentences* (The Sentencing Project, 2017), at 10 table 2.

In 2020, the Ohio legislature abolished LWOP sentences for offenders who were under age 18 at the time of their crimes.²¹ Juvenile lifers convicted of homicide become eligible for parole release after minimum terms of 25 years or after 18 years for non-homicide offenses.²²

Before the 2020 legislation, Ohio did not have large numbers of juvenile LWOP prisoners. In 2017, there were eight inmates serving LWOP sentences for offenses committed before they were age 18.²³

3. Infrequently used forms of prison release

a. Compassionate release

Ohio has a limited form of medical parole for prisoners who are “terminally ill, medically incapacitated, or in imminent danger of death.” Release requires an order by the governor following a recommendation by the department of corrections. Several classes of prisoners are excluded.²⁴ Ohio publishes no data on the number of medical paroles granted each year.

b. Clemency

The governor holds broad clemency power in Ohio, although the parole board is authorized to make recommendations to the governor.²⁵ The numbers of affected prisoners have been low. Former Ohio Governor John Kasich approved 86 of 2,291 requests for commutation, pardon, or reprieve in his first six years in office—an average of 14 per year.²⁶ In late 2019, Ohio’s Governor Michael DeWine created an Expedited Pardon Project, allowing for expedited reviews before the parole board.²⁷

²¹ Not yet signed by governor at time of writing.

²² See Laura A. Bischoff, *Ohio lawmakers rush to finish bills on the death penalty, fireworks, education reforms and more. Here’s what they’ve approved so far*, Dayton Daily News, Dec. 17, 2020, <https://www.daytondailynews.com/local/ohio-lawmakers-rush-to-finish-bills-heres-what-theyve-approved-so-far/HTYRWOWFD5GSJMXVVIAY36UTU/>; The Chronicle-Telegram, *Ohio Senate passes juveniles criminal sentencing reform bill*, Sept. 26, 2020, <https://chroniclet.com/news/236334/ohio-senate-passes-juveniles-criminal-sentencing-reform-bill/>.

²³ Andrew Welsh-Huggins, “8 Ohio men serving life without parole for homicide as teens,” *Associated Press* (July 30, 2017) <https://apnews.com/article/81172c6602cc4f92810b5b44e8c6c22f>.

²⁴ Ohio Rev. Code § 2967.05. See also Families Against Mandatory Minimums, *Compassionate Release: Ohio* (2018), at 7.

²⁵ Ohio Const. Art. III § 11; Ohio Rev. Code § 2967.03.

²⁶ Alan Johnson, *Kasich stays conservative with pardons*, The Columbus Dispatch, Feb. 11, 2017, <https://www.dispatch.com/news/20170211/kasich-stays-conservative-with-pardons>.

²⁷ See Office of the Governor of Ohio Mike DeWine, *Governor DeWine Announces Creation of Expedited Pardon Project* (Dec. 3, 2019), <https://governor.ohio.gov/wps/portal/gov/governor/media/news-and-media/creation-of-expedited-pardon-project>.

c. Release during overcrowding emergencies

Ohio has a statutory mechanism for the reduction of some prisoners' sentences in response to overcrowding emergencies.²⁸ In response to the COVID pandemic, Governor DeWine declared the existence of an overcrowding emergency on April 7, 2020 and identified 141 prisoners for early release. They were within 90 days of the end of their sentences and did not have convictions for violent felonies or sexual offenses.²⁹

4. Overall assessment

Under current law, the bulk of Ohio prisoners will eventually be split into two major groups: those with definite and indefinite sentences. This may take a number of years because prisoners with indefinite sentences only began to enter the system in mid-to-late 2019. Prior to that, definite sentences were nearly universal for prisoners not serving life sentences.

Ultimately, the current law will produce large numbers of sentences with (1) an extremely high degree of determinacy for prisoners convicted of less-serious crimes and (2) a moderate degree of indeterminacy for prisoners convicted of more-serious crimes. In design, it is a split system. If we “average out” the two classes of general-rules sentences, it is reasonable to say that Ohio's prison-sentencing system has a low degree of indeterminacy overall—or, alternatively, we could say it has a high degree of determinacy overall.

At the back end of Ohio's prison-sentencing system, the release discretion of the parole board and the administration of earned time by prison officials have roughly equal sway over actual time served by individual prisoners. The earned-time process might have impact over more months and years of time served than discretionary release because the parole board is inactive in the realm of definite sentences. On the other hand, parole release is the more important determinant of the actual length of parolable life sentences. No back-end decisional process has large effect when compared with American systems of high or extremely-high indeterminacy overall. The lion's share of time-served discretion in Ohio is located at the front end of the prison-sentencing system, with judges and prosecutors.

We note that Ohio is one of the few states to apply conduct-based credits to both minimum and maximum terms. Credits that create advancing mandatory release dates are especially significant in our view. Ohio's system includes such a mechanism, but the amount of credits and their discounts against maximum terms are small.

²⁸ Ohio Rev. Code § 2967.18.

²⁹ Max Filby, *Coronavirus: Ohio Gov. Mike DeWine seeks release of 167 prisoners to slow outbreak*, The Columbus Dispatch, Apr. 7, 2020, <https://www.dispatch.com/news/20200407/coronavirus-ohio-gov-mike-dewine-seeks-release-of-167-prisoners-to-slow-outbreak>.