

SENTAC 11 § 4217 Early Release Process: An Outcome Evaluation

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**SENTAC 11 § 4217 Early Release Process:
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SENTAC 11 § 4217 Early Release Process: An Outcome Evaluation Executive Summary

Dave Swayze, Chair
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Between October of 2002 and October of 2004, the Sentencing Accountability Commission (SENTAC) initiated an intensive review of prisoners with sentences greater than one year with the intent of releasing low risk offenders as a means to help control the growth of the Department of Correction (DOC) prison population. As age has long been shown to be a mitigating factor for recidivism, prisoners older than 40 years old were one of the targeted populations selected for early release. The other populations that were reviewed were drug dealers and traffickers with mandatory drug sentences. On June 30, 2003, as part of House Bill 210, the minimum mandatory drug terms for drug trafficking and repeat possession with the intent to deliver were reduced by up to one-half. Moreover, the threshold per se weight for cocaine that qualified for a drug trafficking minimum mandatory sentence was increased from five to ten grams. The purpose of reviewing felony drug sellers with prison sentences was to retroactively implement the reduced penalties provided by HB 210.

The authority of such a review is Title 11 § 4217. This law allows DOC to file an application to the Board of Parole for qualified prisoners for early release and after certification by the Board of Parole the recommendation can be sent to the Superior Court sentencing judge for the final decision. To facilitate the process, SENTAC established a pre-screening committee that included a Superior Court judge, representatives from DOC, the Attorney General's Office, the Public Defender's Office and the Board of Parole. For a DOC recommendation to advance to the next step at the Board of Parole, the prisoner had to have a unanimous vote of approval from the SENTAC pre-screening review committee. Any member could veto a prisoner's progress toward early release.

The volume of cases recommended by DOC to the SENTAC Pre-Screening Committee was large (705), and the percent approved and forwarded on by the SENTAC Pre-Screening Committee was relatively small: 25 percent, yielding 180. Of these 180 applicants, a judge ultimately released 100 early. Ninety-two percent of the approved SENTAC pre-screening groups were drug offenders and their average age was 35 years old. The SENTAC pre-screening group included offenders with significant criminal histories. On average this group had been arrested 12 times including almost four prior drug selling arrests, as well as, two other violent felony arrests that included weapon felonies in about two-thirds of the cases. On average, it took the SENTAC Pre-Screening Committee 116 days to send a recommendation on to the Board of Parole and it took another 269 days for the prisoners to be approved for release by the judge.

The balance between crowded prisons and early release of rehabilitated older offenders and the retroactive application of reduced drug selling penalties is ultimately judged by

the relative risk to public safety. It appears that the last step of decision making, where the judge finally makes the decision to release or not release, is important. To date, with up to three years following release from prison (at risk time), 50 percent of 100 11 § 4217 early releases have been rearrested. Of the group sent to the judges but not released early but were subsequently released under standard DOC release practices, 60 percent have been arrested. This comparison is somewhat unfair for the “4127” early release group since the standard DOC releases had to continue to serve their sentences and have not been at risk as long as the 11 § 4217 early releases.

While the 11 § 4217 early releases have a lower recidivism rate, another very important finding was that these early releases were arrested for far less serious crimes than would be expected. The 11 § 4217 early releases were only arrested 10 percent of the time for selling illicit drugs again and eight percent of the time for any other violent felony. In comparison the 11 § 4217 candidates that were not released early had already been rearrested 19 percent of the time for selling drugs and 14 percent of the time for a violent felony.

Lower crime severity at re-arrest helps explain why only 20 percent of the 11 § 4217 offenders have been sentenced again to Level V, while 33 percent of the standard DOC releases have been sent back to Level V. Both of these groups are exhibiting lower than expected Level V recidivism rates for released prisoners at risk for 24-30 months, which is 44 percent (DeISAC 2000).

Delaware does not have systematic a priori knowledge of factors related to risk of re-arrest or re-admission to jail or prison. Yet it is known that key determinates of recidivism includes persons who are older and have less serious criminal histories. This is one of the reasons that the 11 § 4217 release process tried to target offenders over 40 years old. One of the reasons this study is interesting is that it validates the social process used by the SENTAC Pre-Screening Committee, the Board of Parole and the judges. Although the decisions makers had no sure way of knowing the pattern of risk factors as they went along, they tended to say no to younger and more criminally involved persons.

In hindsight, this report is a small scale assessment analysis. It turns out that even after the SENTAC Pre-Screening Committee approved the 180 offenders, the judges tended to deny the release of the younger and more criminally involved offenders. This was justified in that the offenders that did not recidivate tended to be older with less serve criminal history. That being said, even the successes for the early released group had an average of 8 prior arrests including 2.5 prior violent felony and 3 felony drug selling arrests. At first glance these offenders are not prime candidates to return to the community. This means the members of SENTAC Pre-Screening Committee and judges were able to informally discern attributes associated with not recidivating. While the processes worked, we would benefit from even more systematic knowledge regarding the criteria that appears to be related to our success.

SENTAC 11 § 4217 Early Release Process: An Outcome Evaluation

Introduction

State of Delaware statute Title 11 § 4217 gives judges the authority to modify or reduce the level of custody for inmates sentenced to Level V for more than one year. In mid-2002, the Sentencing Accountability Commission (SENTAC) discussed the feasibility of releasing older offenders as a low-risk approach for reducing the DOC population. This effort was expanded to provide a means to make prison sentences prior to HB210 consistent with current sentencing. HB210 reduced the minimum sentences that defendants could receive for drug trafficking and repeat convictions for illicit drug sales up to 50 percent and increased the minimum quantity needed for a defendant to be charged with drug trafficking from five grams to ten. Title 11 § 4217 was used to retroactively implement the new penalties for illicit drug crimes that resulted from HB210 and expedites the release of rehabilitated inmates aged 40 years and over. Over 90 percent of all 11 § 4217 candidates were felony drug offenders and 24 percent were 40 years and older.

Consideration for a sentence modification or reduction under Title 11 § 4217 requires that the Department of Correction file an application of “good cause” to the Board of Parole which certifies that the release of the inmate would not constitute a substantial risk to the community or the defendant. Under this statute “good cause” would include but is not limited to exceptional rehabilitation of the inmate, serious medical illness or infirmity, and prison overcrowding. The first applicant pool (Group 1) was comprised of offenders over the age of 40 who had served at least 50 percent of their Level V sentence. The selection criteria for subsequent applicants were expanded to include younger offenders who had served at least 50 percent of their prison sentence.

To facilitate the processing of 11 § 4217 cases, SENTAC established a pre-screening committee to review the applications submitted by DOC. The pre-screening committee was comprised of representatives from Superior Court, the Department of Correction, the Department of Justice, the Public Defender and the Parole Board. Among the factors used to determine if an application should advance were the applicants’ criminal history, facts about the incident that led to their incarceration, institutional disciplinary actions, and evidence of rehabilitation. All members of the pre-screening committee had to unanimously “pass” an application before it could progress to the next stage in the process. Any committee member could exercise a veto and prevent an applicant from proceeding. The pre-screening committee rejected 3 out of every 4 (74.5 percent) of the Department of Correction’s initial pool of 705 early release candidates.

Applicants who passed the initial pre-screening went through a standard early release process; DOC submitted the pre-screened applicant’s sentence modification request to the Board of Parole and the applicants were scheduled for a hearing with the Board to address their questions or concerns. If the Board rejected the request to modify the sentence, no further action was taken. If the Board agreed with the pre-screening

committee's decision to modify the applicant's sentence, a sentence modification recommendation was forwarded to the sentencing judge who either approved or denied the application.

The purpose of this study is to summarize the extent that offenders who were considered for early release under Title 11 § 4217 and were released early differed from candidates who were not released early in terms of age, criminal history, and the likelihood that they would be arrested after being released. This analysis is based on a list of 705 DOC inmates whose applications for early release were reviewed by the 11 § 4217 Pre-Screening Committee between October 2002 and July 2005. The initial 705 inmates selected by DOC for possible early release were assigned to 16 cohorts that were grouped according to the dates that their applications were reviewed by the pre-screening committee. The pre-screening committee rejected 520 applications and an additional five names were excluded from this analysis because sentencing information was missing from JIC or they were not in prison at the time that their applications were submitted. The remaining 180 early release candidates within the 16 cohort groups are used in this analysis. Some notable characteristics of the 16 offender cohorts are:

- Thirteen of the 16 cohorts were comprised entirely of Title 16 drug offenders. Group 1, Group 15, and Group 16 included both Title 11 offenders and Title 16 drug offenders.
- Of the 180 release candidates, 98 (54.4 percent) were serving a prison term for drug trafficking conviction and 59 (32.8 percent) were in prison for possession with intent to deliver drugs. Overall, 165 (91.7 percent) of the 180 early release candidates were in prison for a drug charge.
- Group 1 and Group 16 had the oldest offenders with an average offender age of 48.1 years old and 43.1 years old respectively. Group 11 had the youngest offenders with an average age of 28.7 years old.
- Offenders in Group 16 were serving the longest average prison sentences (337.7 months / 28 years).
- Upon release, the six released offenders in Group 16 were designated for admission to Delancy Street, a residential self-help organization for former substance abusers, ex-convicts, and the homeless.

Profile of 11 § 4217 Early Release Candidates

Between October 2002 and July 2005, the SENTAC Pre-Screening Committee selected 180 (25.5 percent) of the 705 early release applicants that the Department of Correction selected to appear before the Board of Parole. The 180 early release candidates were serving an average prison sentence of 125.6 months (10 years, 5 month) with sentences ranging from 3 to 100 years. The average age of the 180 early release candidates at the time that their applications were approved by the pre-screening committee was 35.5 years old, with their ages ranging from 19 to 70 years old. 154 (85.6 percent) of the 180 early release candidates were Black, 12 (6.7 percent) were Hispanic, and 14 (7.8 percent) were White.

Table 1 - Profile of Offenders Approved for Early Release by the 11 § 4217 Pre-Screening Committee		
	11 § 4217 Release Candidates	
	Total (N = 180)	Released (N = 100)
Average Age	35.5 years	36.5 years
Incarceration Offense	N = 180 persons	N = 100 persons
Drugs	165 persons - 91.7% of Total	94 persons - 94.0% of Total
Other	15 persons - 8.3% of Total	6 persons - 6.0% of Total
Arrest History		
Total Arrests	12.1 arrests per person	10.4 arrests per person
Title 11 Violent Felony	2.4 arrests per person	2.0 arrests per person
Title 11 Weapon Felony	1.6 arrests per person	1.7 arrests per person
Title 16 Drug Offense	3.7 arrests per person	3.4 arrests per person
VOP	2.8 arrests per person	2.6 arrests per person
Average number of days between pre-screening and the Board of Parole review.		116 days
Average number of days between the initial Board of Parole approval and release from prison.		269 days

A very large majority of the early release candidates chosen by the SENTAC Pre-Screening Committee were in prison for drug sales or trafficking. 165 (91.7 percent) of the 180 early release candidates were incarcerated on drug offenses. The remaining 18 offenders were in prison for Burglary (5), Robbery (5), Possession of a Firearm During the Commission of a Felony (1), Assault 3rd (1), Theft >\$500 (1), Forgery 2nd (1), and Attempted Felony C (1).

As Table 1 shows, The 180 early release candidates had an average of 12.1 total arrests in their arrest histories overall (excluding Title 21 traffic offenses except Driving Under the Influence), with an average of 2.4 prior arrests that included a Title 11 violent felony charge, 3.7 prior arrests that included a Title 16 drug violent felony charge, and 1.6 prior arrests that included a deadly weapon charge.

Pre-screened applicants had their Board of Parole hearing an average of 116 days after they passed the SENTAC pre-screening process and it took an average of 269 days from the time that the Board of Parole approved a release request to the time that the applicant was released from DOC (Table 1). The length of time between an applicant's approval by the Board of Parole and release from prison varied according to whether the court approved the request for an early release. There were instances where the applicant's request was denied several times before being approved. In cases where the court denied a request for early release, The Board of Parole was required to resubmit a revised plan at a later date.

Table 2 - Prior Arrests by Most Serious Charge for the 100 Offenders Released Under Title 11 § 4217		
Most Serious Arrest Charge	Prior Arrests	
	Persons - % (N = 100)	Arrests - per person
Title 11 Violent Felony	37 persons - 37.0% of Total	68 arrests - 1.8 per person
Title 16 Drug Violent Felony	92 persons - 92.0% of Total	237 arrests - 2.6 per person
Violation of Probation	43 persons - 43.0% of Total	94 arrests - 2.2 per person
Other Charges	84 persons - 84.0% of Total	600 arrests - 7.1 per person

The Court approved the early release of 100 (55.6 percent) of the 180 inmates recommended by the SENTAC 11 § 4217 Pre-Screening Committee (Table 2). The combined criminal histories of the 100 released inmates included 68 arrests with a Title 11 violent felony as the most serious offense (37 persons, 1.8 arrests per person), 237 arrests with a Title 11 violent drug felony as the most serious offense (92 persons, 2.6 arrests per person), and 94 arrests with a violation of probation as the most serious offense (43 persons, 2.2 arrest per person).

The 100 inmates who were approved for early release were served an average of 67 months in prison (5 years, 7 months). The aggregate prison terms for the 100 released inmates had been reduced by an average of 46.2 months (3 years, 10 months).

Table 3 summarizes the unique characteristics of the 16 cohort groups who were considered for release under 11 § 4217 between October 2002 and August 2005. While only 180 out of 705 (25.5 percent) of the applicants submitted by the Department of Correction were deemed eligible to advance to a Board of Parole hearing, there was also a significant drop in the of number of offenders who were actually released from prison

Table 3 - Arrest History of Offenders Considered for Release Under 11 § 4217 (All Charges)

Groups	Screening Date	All 4217 Candidates		Released		Average Age When Considered	Average Prior Arrests	Average VF Prior Arrests	Average VDrug Prior Arrests
		Before Screening	After Screening	Number	Percent				
Group 01	10/18/2002	59	16	13	81.3%	48.1	7.2	1.6	2.7
Group 02	3/21/2003	72	19	13	68.4%	32.9	9.7	2.3	3.2
Group 03	4/4/2003	46	17	11	64.7%	35.4	9.9	1.5	3.1
Group 04	4/4/2003	26	10	8	80.0%	36.2	9.7	1.7	2.6
Group 05	5/23/2003	35	9	5	55.6%	31.8	12.0	3.3	3.3
Group 06	5/23/2003	28	8	7	87.5%	35.1	10.1	1.8	2.8
Group 07	10/17/2003	51	21	9	42.9%	29.3	12.0	2.0	3.6
Group 08	1/16/2004	61	7	2	28.6%	30.7	17.1	2.6	4.0
Group 09	1/16/2004	61	8	2	25.0%	35.3	12.3	1.5	3.8
Group 10	5/21/2004	59	12	5	41.7%	33.4	11.8	1.4	2.7
Group 11	9/17/2004	29	7	3	42.9%	28.7	12.7	1.3	2.7
Group 12	1/14/2005	48	11	7	63.6%	37.8	20.2	3.4	4.3
Group 13	3/18/2005	52	7	2	28.6%	35.4	17.3	2.3	4.9
Group 14	7/22/2005	57	8	6	75.0%	33.6	11.9	1.8	2.8
Group 15	n/a	7	6	1	16.7%	-	11.0	1.0	3.0
Group 16	10/26/2004	14	14	6	42.9%	43.1	15.9	5.0	2.5
Grand Total		705	180	100	55.6%	35.5	12.1	2.4	3.2

early, from 180 pre-screened applicants to 100 actual early releases. There was also a lot of variation between the cohort groups in terms of percent released, average age and criminal history. It is interesting to note that offenders in Group 1, who were older on average the offenders in the other 15 groups, had the fewest number of prior arrests. In comparison, offenders in Group 16 were nearly as old those in Group 1 but on they had on average more prior arrests for violent crimes than any other group. Most of the groups with the highest average number of prior drug arrests tended to be younger and had among the lowest release rates.

Recidivism of Offenders Released Under 11 § 4217

As of 12/01/2007, 98 of the 100 offenders released under 11 § 4217 had been at risk for one year. 21.4 percent of the 98 offenders who were at risk for one year were arrested, 37.3 percent of the 83 offenders who were at risk for two years were arrested, and 47.6 percent of the 63 offenders who were at risk for three years were arrested. The probability that an 11 § 4217 early release would be arrested seemed to lessen over time. Twenty-two (22 percent) of the 100 released offenders were rearrested in the first year after being released (1 to 365 days), 16 (16 percent) were rearrested in the second year (366 to 730 days), and 12 (12 percent) were rearrested in the third year (731 days or more). As of 12/01/2007, 50 of the 100 offenders who were released early under 11 § 4217 had been rearrested at least once between since their release date.

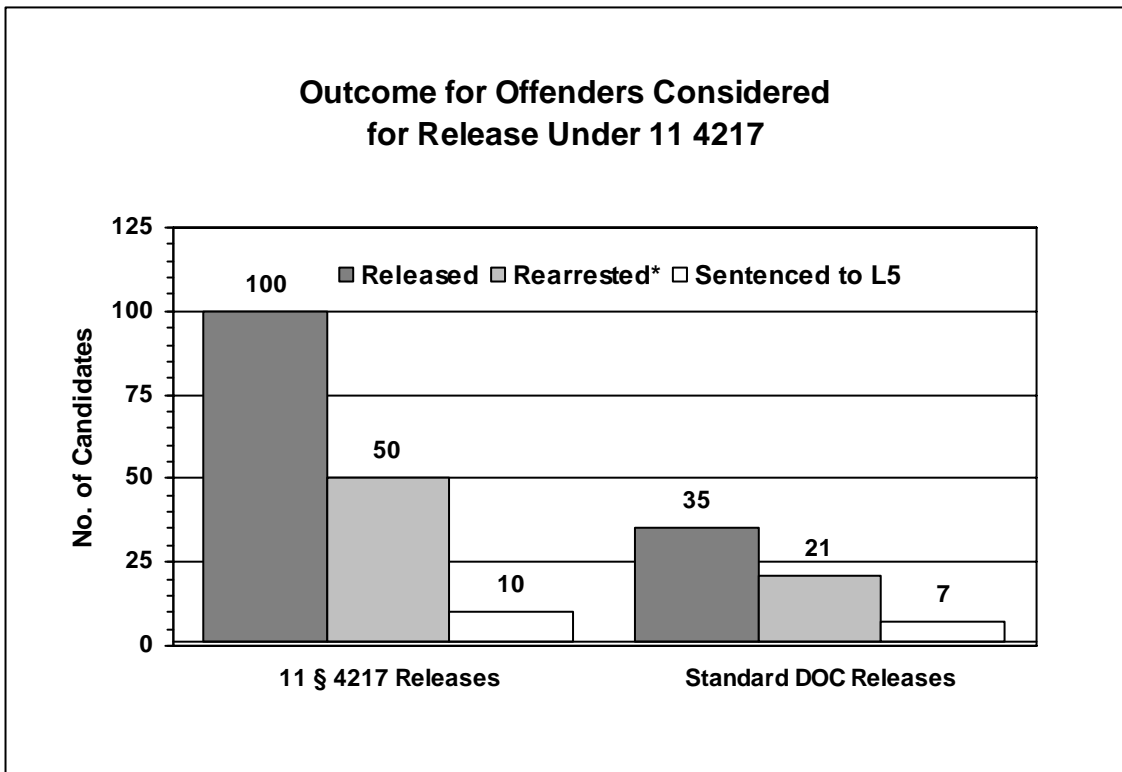
Rearrested offenders were more likely to be arrested for a technical VOP at their first arrest than any other offense. A technical VOP is a probation violation with no accompanying crime associated with it. Missing an appointment with a probation officer, failing a drug test, or not being at home during a curfew check can all result in a technical VOP. Twenty-two (44 percent) of the 50 rearrested offenders were charged with a technical VOP at their first arrest. Nine (18 percent) offenders were charged with a felony level offense, of which four (8 percent) involved a Title 11 violent felony (three for Assault 2nd one for Robbery 1st and five (10 percent) were drug related (three Possession w/Intent to Deliver, one Trafficking, and one Maintaining a Dwelling). The remaining 19 (38 percent) were arrested for misdemeanors (two for Drug Possession, two for Possession of Drug Paraphernalia, one for Identity Theft, and one for Offensive Touching) and Title 21 motor vehicle violations (10 Driving with a Suspended or Revoked License arrests and 3 DUI arrests).

Is there anything systematically related to recidivism for early releases? Age and the number of prior felony arrests were related to the probability that an 11 § 4217 early release would be rearrested and sentenced to Level 5. Table 4 compares the ages and criminal histories of offenders released under 11 § 4217 who had been at risk for one year without being arrested with those who were arrested. Offenders who were rearrested after being released were younger, had lengthier arrest histories, and had more prior arrests that included a felony drug charge in their arrest histories than those who were not rearrested.

Ten (20 percent) of the 50 rearrested “one year at risk” 11 § 4217 releases received a Level 5 sentence. The average age for released and rearrested 11 § 4217 offenders who received a Level 5 sentence was 31.8 years old. In comparison, the average age for 11 § 4217 early releases who were not rearrested was 38.7 years and the average age for those who were not sentenced to Level 5 was 34.9 years old. 11 § 4217 releases who were rearrested and sentenced to Level 5 had more total prior arrests and more arrests that included a violent felony or deadly weapon charge than offenders who were not sentenced to Level 5. The 10 arrests that resulted in Level 5 sentences were for Assault 2nd (1), Driving with a Suspended or Revoked License (1), Possession w/Intent to Deliver (1), Possession of Drug Paraphernalia (1), Robbery 1st (1), Trafficking Cocaine

(1), and Violation of Probation (4). Their combined Level 5 sentences totaled 359.8 months and ranged from a low of 20 days for a Violation of Probation to a high of 210 months (17 years, 6 months) for a Robbery 1st conviction

Table 4 – Comparison of 11 § 4217 Candidates Not Released, Released, Rearrested, and Sentenced						
Offender Status	Persons	Average Age	Avg. Prior Arrests per Offender			
			Arrests	VFel	Drug VF	Weapon
All Cases	180	35.5	12.1	2.4	3.7	1.6
Released	100	36.5	10.4	2.0	3.4	1.7
Not Released	80	34.5	13.7	4.0	3.5	1.8
Released Not Arrested	50	38.5*	8.0*	2.5*	3.2*	2.1*
Released + Arrested	50	34.3	12.7	1.6	3.5	1.4
Not Sentenced to L5	40	34.9	12.4	1.5	3.6	1.4
Sentenced to L5	10	31.8	13.8	2.2	2.0	1.5



*Calculations are based on the 48 offenders who were at risk for 1 year.

Recidivism of Offenders Approved by the 11 § 4217 Pre-Screening Committee but were Not Granted an Early Release

44.4 percent (80) of the 180 inmates who were deemed eligible for early release by the SENTAC Pre-Screening Committee were not granted an early release, however over half of these inmates were eventually released by way of the standard DOC release process. Forty-six (57.5 percent) of the 80 candidates who were not released early under 11 § 4217 were released after completing their prison sentence. The remaining 34 (42.5 percent) of the 80 pre-screened offenders were still incarcerated as of 12/01/2007.

The candidates who were not granted an early release under 11 § 4217 but were later released via standard DOC practices were similar to those who were released early in that both groups were comprised mostly of offenders who had been incarcerated for drug offenses (88.8 percent for standard releases compared to 94 percent for 11 § 4217 releases). However, the standard DOC releases differed from offenders released under 11 § 4217 in terms of age, sentence length, time served on the original sentence, and prior arrest history (Table 5). On average, offenders who were not released were younger (an average of 34.5 years old), were serving shorter prison sentences (72.2 months on average), and served fewer months in prison (56 months on average). In terms of criminal history, offenders who were not released early had on average more total prior arrests (14.7 arrests), more prior arrests that included a violent felony charge (2.1 arrests), and more prior arrests that included a drug violent felony charge (4.5 arrests) than offenders who were released under 11 § 4217.

Table 5 – Recidivism Rates for 11 § 4217 Early Release Candidates Early Releases versus Standard Releases			
Release Status	Percent Rearrested at:		
	1 Year	2 Years	3 Years
Released Under 11 § 4217	21.4%	37.3%	47.6%
Standard DOC Release	34.3%	55.6%	56.3%

As of 12/01/2007, 35 of the 46 candidates for release under 11 § 4217 who were released through the standard DOC process had been at risk for one year. The arrest rate for the standard DOC releases was 34.3 percent for the 35 offenders who had been at risk for one year, 55.6 percent for the 27 offenders who had been at risk for two years, and 56.3 percent for the 16 offenders who had been at risk for three years or more. In comparison, the arrest rate for offenders released under 11 § 4217 was slightly lower at 21.4 percent, 37.3 percent, and 47.6 percent respectively (Table 5).

Offenders who not granted an early released early under 11 § 4217 were rearrested for violent felonies at a higher rate than those who were released early. Of the 35 standard DOC releases, 60 percent (21) were arrested after being released (without taking into account time at risk). Seven (33.3 percent) of the 21 arrests included a felony level

charge, of which three (14.3 percent) were Title 11 violent felonies (one Assault 2nd, one Attempted Murder and one Burglary 2nd) and four (19 percent) were drug felonies (two for Possession w/Intent to Deliver, one Trafficking and one Maintaining a Vehicle). Two (9.5 percent) of the remaining 14 offenders were charged with misdemeanors (one Drug Possession and one Possession of Drug Paraphernalia), four (19 percent) were charged with Title 21 motor vehicle violations (three for Driving with a Suspended or Revoked License and one DUI), and eight (38.1 percent) were charged with Violation of Probation.

Table 6 - Comparison of Post-Release Charges for 11 § 4217 Candidates Early Releases versus Standard Releases							
	N	Arrested	Post-Release Arrests				
			VFel	Drug F	Misd	Title 21	VOP
Early Releases At Risk at least 1 yr.	98	50%	8%	10%	12%	26%	44%
Standard Releases At Risk at least 1 yr.	35	60%	14.3%	19%	9.5%	19%	38%

Seven (33.3 percent) of the 21 rearrested standard DOC releases received a Level 5 sentence. The level 5 offenders were arrested for Attempted Murder (1), 1st, Trafficking Cocaine 50-100 grams (1), Delivery or Distribution of a Controlled Substance (1), and Violation of Probation (4). The sentence lengths ranged from one week for VOP to 132 months for Attempted Murder 1st.

Table 6 compares the most serious post-release arrest charge for the 98 early releases with those of the 35 standard DOC releases. 50 percent of the 98 candidates who were granted an early release were rearrested compared with 60 percent of the 35 standard releases. Standard releases had a greater likelihood of being arrested for a violent or drug felony while early releases were more likely to be arrested for a misdemeanor, Title 21 traffic offense, or VOP.

Table 7 shows that the average age for standard DOC releases that were screened by the 11 § 4217 Pre-Screening Committee was 34.4 years old, making this group of offenders slightly younger on average than 11 § 4217 releases. The standard release group also had more total prior arrests, more prior Title 11 and Title 16 violent felony arrests, but they had fewer deadly weapon arrests than 11 § 4217 early releases.

Tables 8,9 and 10 provide an in-depth analysis of the data summarized in preceding section. Table 8 displays the specific offenses that one year at risk 11 § 4217 candidates were charged with at the first post-release arrest.

Table 9 and Table 10 provides a detailed breakdown of arrests for each cohort group that includes average, minimum and maximum offender age for each group, years at risk and the percent of offenders in each group who were rearrested.

Table 7 – Comparison of 11 § 4217 Candidates Released versus Not Released						
11 § 4217 Candidates Released - 11 § 4217 Releases						
Offender Status	Persons	Age	Avg. Prior Arrests per Offender			
			Arrests	VFel	Drug VF	Weapon
11 § 4217 Release	100	36.3*	10.4*	1.9*	3.4*	1.7*
Released Not Arrested	50 / 50.0%	38.5*	8.0*	2.5*	3.2*	2.1*
Released + Arrested	50 / 50.0%	34.3	12.7	1.6	3.5	1.4
Not Sentenced to L5	40 / 80.0%	34.9	12.4	1.5	3.6	1.4
Sentenced to L5	10 / 20.0%	31.8	13.8	2.2	2.0	1.5
11 § 4217 Candidates – Not Released (Standard DOC Releases)						
Offender Status	Persons	Age	Avg. Prior Arrests per Offender			
			Arrests	VFel	Drug VF	Weapon
Standard DOC Release	46	34.4*	15.6*	2.2*	4.5*	1.3*
Released Not Arrested	25 / 54.3%	34.3*	11.1*	2.0*	3.4*	1.5*
Released + Arrested	21 / 45.7%	32.5	18.6	2.4	5.0	1.1
Not Sentenced to L5	14 / 66.7%	34.4	19.9	2.4	5.9	1.0
Sentenced to L5	7 / 33.3%	28.9	16.0	2.3	3.0	1.3

*Calculations are based on the 48 offenders who were at risk for 1 year.

**Table 8 - Post-Release Arrests for 11 § 4217 Candidates by Charge
Early Releases versus Standard Releases**

Most Serious Arrest Charge	Early Releases		Standard Releases		Grand Total
	No.	Pct.	No.	Pct.	
Assault Second Degree	3	6.0%	1	4.8%	4
Attempted Burglary Second Degree	0	0.0%	1	4.8%	1
Attempted Murder First Degree	0	0.0%	1	4.8%	1
Robbery First Degree	1	2.0%	0	0.0%	1
Violent Felony Arrest Total	4	8.0%	3	14.3%	7
Maintaining a Dwelling	1	2.0%	0	0.0%	1
Maintaining a Vehicle	0	0.0%	1	4.8%	1
Possession With Intent to Deliver a Narcotic Schedule II	1	2.0%	1	4.8%	2
Possession With Intent to Deliver a Non-Narcotic Schedule I	2	4.0%	1	4.8%	3
Trafficking in Cocaine 10 Grams to 50 Grams	1	2.0%	0	0.0%	1
Trafficking in Cocaine 50 Grams to 100 Grams	0	0.0%	1	4.8%	1
Drug Felony Arrest Total	5	10.0%	4	19.0%	9
Identity Theft	1	2.0%	0	0.0%	1
Offensive Touching	1	2.0%	0	0.0%	1
Possession of Non-Narcotic Schedule I	1	2.0%	0	0.0%	1
Possession of a Narcotic Schedule II	1	2.0%	1	4.8%	2
Possession of Drug Paraphernalia	2	4.0%	1	4.8%	3
Misdemeanor Arrest Total	6	12.0%	2	9.5%	8
Driving After Judgment Prohibited	1	2.0%	0	0.0%	1
Driving While Suspended or Revoked	9	18.0%	3	14.3%	12
DUI	3	6.0%	1	4.8%	4
Title 21 Motor Vehicle Arrest Total	13	26.0%	4	19.0%	17
Technical VOP	22	44.0%	8	38.1%	30
Grand Total	50	100.0%	21	100.0%	71

Table 9 - Rearrest Trends for Offenders Released Under 11 § 4217

	All 4217 Candidates	11 § 4217 Released	Age at Release			At-Risk for 1 Year			At-Risk for 2 Years			At-Risk for 3 Years		
			Average	Max	Min	Re-Arrested	At Risk	%Re-Arrested	Re-Arrested	At Risk	%Re-Arrested	Re-Arrested	At Risk	%Re-Arrested
Group 01	16	13	48.6	73.7	41.1	1	13	7.7%	2	13	15.4%	4	11	36.4%
Group 02	19	13	33.9	48.2	25.3	3	13	23.1%	4	13	30.8%	5	13	38.5%
Group 03	17	11	37.6	55.3	30.1	2	11	18.2%	4	10	40.0%	7	10	70.0%
Group 04	10	8	37.4	52.2	28.3	1	8	12.5%	2	8	25.0%	3	8	37.5%
Group 05	9	5	30.5	37.0	25.9	0	5	0.0%	1	5	20.0%	2	4	50.0%
Group 06	8	7	33.7	38.5	29.3	1	7	14.3%	2	6	33.3%	2	5	40.0%
Group 07	21	9	30.7	52.2	20.8	4	9	44.4%	5	9	55.6%	5	8	62.5%
Group 08	7	2	35.2	36.9	33.6	0	2	0.0%	2	2	100.0%	2	2	100.0%
Group 09	8	2	42.5	52.1	32.8	1	2	50.0%	1	2	50.0%	0	1	0.0%
Group 10	12	5	35.9	51.3	25.5	1	5	20.0%	2	4	50.0%	0	1	0.0%
Group 11	7	3	33.0	40.1	28.1	2	3	66.7%	1	2	50.0%	0	0	-
Group 12	11	7	36.9	49.7	24.3	3	6	50.0%	4	6	66.7%	0	0	-
Group 13	7	2	35.1	42.9	27.4	0	2	0.0%	0	0	-	0	0	-
Group 14	8	6	35.1	47.6	27.9	1	6	16.7%	1	1	100.0%	0	0	-
Group 15	6	1	35.6	35.6	35.6	0	1	0.0%	0	0	-	0	0	-
Group 16	14	6	44.7	53.5	36.8	1	5	20.0%	0	2	0.0%	0	0	-
Grand Total	180	100	37.3	73.7	20.8	21	98	21.4%	31	83	37.3%	30	63	47.6%

**Table 10 - Rearrest Trends for Offenders Considered for Release Under 11 § 4217 Sample Group
But Were Released Via the Standard DOC Release Process**

	Not Released Under 11 § 4217	Standard DOC Release	Age at Release			At-Risk for 1 Year			At-Risk for 2 Years			At-Risk for 3 Years		
			Average	Max	Min	Re-Arrested	At Risk	%Re-Arrested	Re-Arrested	At Risk	%Re-Arrested	Re-Arrested	At Risk	%Re-Arrested
Group 01	3	3	50.0	61.0	43.2	1	3	33.3%	1	3	33.3%	1	3	33.3%
Group 02	6	4	32.5	45.3	26.1	1	4	25.0%	2	4	50.0%	2	4	50.0%
Group 03	6	3	35.4	36.8	33.9	0	3	0.0%	0	3	0.0%	1	1	100.0%
Group 04	2	2	37.3	50.3	24.3	0	1	0.0%	1	1	100.0%	0	0	-
Group 05	4	1	27.9	27.9	27.9	0	1	0.0%	0	0	-	0	0	-
Group 06	1	1	56.0	56.0	56.0	0	1	0.0%	0	1	0.0%	0	1	0.0%
Group 07	12	11	29.8	43.0	21.4	6	11	54.5%	8	11	72.7%	5	7	71.4%
Group 08	5	1	33.7	33.7	33.7	0	1	0.0%	0	0	-	0	0	-
Group 09	6	1	32.9	32.9	32.9	0	0	-	0	0	-	0	0	-
Group 10	7	3	33.8	44.1	27.3	0	2	0.0%	0	0	-	0	0	-
Group 11	4	3	27.4	27.7	27.0	1	3	33.3%	1	2	50.0%	0	0	-
Group 12	4	4	41.4	56.4	27.9	3	4	75.0%	2	2	100.0%	0	0	-
Group 13	5	3	38.3	51.7	28.7	0	1	0.0%	0	0	-	0	0	-
Group 14	2	2	32.7	39.4	26.0	0	0	-	0	0	-	0	0	-
Group 15	5	3	25.5	28.4	21.9	0	0	-	0	0	-	0	0	-
Group 16	8	1	56.9	56.9	56.9	0	0	-	0	0	-	0	0	-
Grand Total	80	46	34.8	61.0	21.4	12	35	34.3%	15	27	55.6%	9	16	56.3%

The Relationship between Post-Release Arrests and Age

11 § 4217 candidates who were released from prison early tended to be older on average than candidates who were released under standard DOC process after serving out their sentence. The average age at release for one year at risk 11 § 4217 candidates who were released early was 37.1 years old. In comparison, the average age for the 11 § 4217 candidates who were not released early was 34.4 years old. Twenty-two (22.4 percent) of the 11 § 4217 early releases were under 30, compared with 16 (45.7 percent) of the candidates who were not released early, and 43 (43.9 percent) of the early releases were between 30 and 39 years compared with nine (25.7 percent) of the standard release group. This disparity in age in part reflects the pre-screening committee's initial focus on releasing offenders who were over 40 years old, presumably based on the premise that older ex-offenders were not as likely to be rearrested as younger ex-offenders. The three year age difference between the early and standard releases indicates that the candidate's youth (as well as criminal history) influences the court's decision as to whether they should be released early.

The data presented in Table 11 and Table 12 suggests that the 11 § 4217 early release candidates in this sample who were over 40 were less likely to be rearrested or sentenced to prison than their younger counterparts. Eleven (33.3 percent) of 11 § 4217 early releases 40 year old and over who were at risk for one year were rearrested, and 3 percent of this group were sent back to jail or prison. In comparison, 62 percent (10) of the 20 to 29 year old group of early releases were rearrested, with 13.6 percent sentenced to Level 5. Early release offenders who were 30 to 39 year old had a 55.8 percent rearrest rate, with 14 percent receiving a Level 5 sentence. 30 to 39 year olds were the only group of 11 § 4217 early releases that included offenders that were sentenced to Level 5 for felony level offenses.

Young ex-offenders who were released under standard DOC procedures fared even worse. While 20 to 29 year olds made up 45.7 percent of this group and 47.6 percent of those who were rearrested, they accounted for 71.4 percent of the offenders who were sentenced to Level 5. All of the standard DOC releases who were rearrested and sentenced to Level 5 for a felony level offense fell in the 20 to 29 year old age group.

Based on this data, age plays a role in the likelihood that offenders selected for 11 § 4217 early release will be rearrested or sent back to jail or prison. For both the early releases and standard DOC releases, 20 to 29 year olds were rearrested more often than any other group. Candidates who were released early and were between the ages of 30 to 39 years old were more likely to be sent back to jail or prison after being released, while candidates who were not released early had a greater chance of being sent back to jail or prison if they were released while in the 20 to 29 year age range.

Table 11 - Rearrest Rates for 11 § 4217 Release Candidates by Age

	11 § 4217 Release				Standard DOC Release			
	Total	20 to 29 Yrs.	30 to 39 Yrs.	40 and Over	Total	20 to 29 Yrs.	30 to 39 Yrs.	40 and Over
Rearrested	50	15	24	11	21	10	6	5
Precent	51.0%	68.2%	55.8%	33.3%	60.0%	62.5%	66.7%	50.0%
Sent to L5	10	3	6	1	7	5	1	1
Percent	10.2%	13.6%	14.0%	3.0%	20.0%	31.3%	11.1%	10.0%
Felony L5 Conv.	4	0	4	0	3	3	0	0
Percent	4.1%	0.0%	9.3%	0.0%	8.6%	18.8%	0.0%	0.0%
Total	98	22	43	33	35	16	9	10
Percent	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Table 12 - Pre and Post Release Arrest Summary for 1 Year At Risk 11 § 4217 Candidates by Age

11 § 4217 Candidates Released Under 11 § 4217	N	Age at Release	Time at Level 5		Prior Arrests					Post Release Arrests			Post-Release Level 5 Sentences (Felony)		
			Sentenced	Served	Total	Viol Fel	Drug VFel	Weapon	VOP	1 yr. At Risk	2 yrs. At Risk	3 yrs. At Risk	VFel	Drug VF	Mos. Sent to L5
20 to 29 Total	22	27.0	59.7	42.1	12.0	1.7	3.4	1.7	2.5	36.4%	52.6%	57.1%	0	0	0
30 to 39 Total	43	34.3	113.7	71.2	11.0	1.8	3.0	1.5	2.8	20.9%	40.5%	50.0%	2	2	82.5
40 and Over Total	33	47.5	153.8	77.3	8.6	2.4	4.0	2.3	2.3	12.1%	22.2%	38.1%	0	0	0.0
11 § 4217 Releases Total	98	37.1	115.1	66.7	10.4	1.9	3.4	1.7	2.6	21.4%	37.3%	47.6%	2	2	82.5

11 § 4217 Candidates Not Released Under 11 § 4217	N	Age at Release	Time at Level 5		Prior Arrests					Post Release Arrests			Post-Release Level 5 Sentences (Felony)		
			Sentenced	Served	Total	Viol Fel	Drug VFel	Weapon	VOP	1 yr. At Risk	2 yrs. At Risk	3 yrs. At Risk	VFel	Drug VF	Mos. Sent to L5
20 to 29 Total	16	26.6	53.7	49.5	11.9	1.3	3.0	1.2	2.4	43.8%	75.0%	66.7%	1	2	76.0
30 to 39 Total	8	32.9	62.3	50.1	13.8	1.5	6.0	1.0	5.8	25.0%	28.6%	66.7%	0	0	0.0
40 and Over Total	11	46.8	64.4	54.4	22.2	3.3	5.3	1.4	4.1	27.3%	50.0%	42.9%	0	0	0.0
11 § 4217 Releases Total	35	34.4	59.0	51.2	15.6	2.2	4.5	1.3	3.7	34.3%	55.6%	56.3%	1	2	76.0

