



FLORIDA PAROLE COMMISSION

TENA M. PATE, CHAIR
MONICA DAVID, VICE CHAIR
VACANT, SECRETARY

RICK SCOTT, GOVERNOR
PAM BONDI, ATTORNEY GENERAL
JEFF ATWATER, CHIEF FINANCIAL OFFICER
ADAM PUTNAM, COMMISSIONER OF AGRICULTURE

June 30, 2011

The Honorable Rick Scott, Governor
The Honorable Pam Bondi, Attorney General
The Honorable Jeff Atwater, Chief Financial Officer
The Honorable Adam Putnam, Commissioner of Agriculture

Dear Governor Scott, General Bondi, CFO Atwater, and Commissioner Putnam:

Pursuant to the Rules of Executive Clemency, as amended March 9, 2011, attached is the first report required by the new Rule Eighteen – “Collection of Statistics and Evaluation of Clemency Action.”

This initial report provides information on the status of individuals, whose rights were restored for the previous two calendar years, including recidivism statistics and evaluative data. However, the felon population reviewed and subsequent data measured includes only those individuals whose civil rights were granted during the reporting period and are identified by a Department of Corrections (DC) number in the MAC clemency database.

If you have any questions regarding the content of this report, please contact me at your convenience at 850-487-1980.

Sincerely,

A handwritten signature in black ink, appearing to read "Tena M. Pate", is written over a circular stamp that partially overlaps the signature.

Tena M. Pate
Chair

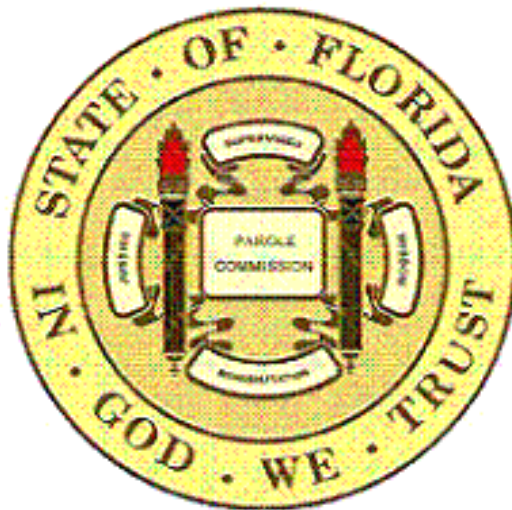
cc: Drew Atkinson, Assistant General Counsel, Executive Office of the Governor
Carolyn Snurkowski, Associate Deputy Attorney General, Legal Affairs
Robert Tornillo, Director, Cabinet Affairs, Financial Services
Robert Williams, Senior Attorney, Agriculture and Consumer Services

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FLORIDA PAROLE COMMISSION

A Governor and Cabinet Agency Created in 1941



**STATUS UPDATE:
RESTORATION OF CIVIL RIGHTS' (RCR) CASES GRANTED
2009 AND 2010**

**PRESENTED TO THE
FLORIDA BOARD OF EXECUTIVE CLEMENCY
JULY 1, 2011**

**THE FLORIDA CABINET
AS
THE BOARD OF EXECUTIVE CLEMENCY**



Rick Scott

Governor



Pam Bondi

Attorney General



Jeff Atwater

*Chief Financial
Officer*



Adam Putnam

*Commissioner
Of Agriculture*

**THE
FLORIDA PAROLE COMMISSION**

**~ ACTS AS THE INVESTIGATIVE AND ADMINISTRATIVE ARM
OF THE BOARD OF EXECUTIVE CLEMENCY ~**

TENA M. PATE, CHAIR

**MONICA DAVID, COMMISSIONER/VICE CHAIR
(VACANT), COMMISSIONER/SECRETARY**

**JULIA MCCALL, COORDINATOR, OFFICE OF EXECUTIVE CLEMENCY
STEPHEN HEBERT, DIRECTOR OF CLEMENCY INVESTIGATIONS**

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I. INTRODUCTION

On March 9, 2011, Governor Rick Scott and Cabinet Members' Attorney General Pam Bondi, Chief Financial Officer (CFO) Jeff Atwater, and Commissioner of Agriculture Adam Putnam, sitting as the Board of Executive Clemency, adopted changes to the Rules of Executive Clemency (hereinafter referred to as Rules), which became effective immediately.¹ As a result, the Office of Executive Clemency, the Parole Commission (Commission), and the Department of Corrections (Department) were directed to provide annually, beginning July 1, 2011, a report on the status of individuals whose rights were restored for the previous two calendar years, including recidivism statistics and evaluative data (see Rule Eighteen below).

II. RULE EIGHTEEN RULES OF EXECUTIVE CLEMENCY

Rule Eighteen of the newly adopted March 9, 2011, Rules states:

"18. Collection of Statistics and Evaluation of Clemency Action

"The Office of Executive Clemency, in conjunction with the Florida Parole Commission and (the) Department of Corrections, shall collect and submit to the Clemency Board an annual written report providing statistics and evaluations regarding the status of those individuals whose rights were restored during the previous two calendar years. The first report shall be filed on July 1, 2011."²

To this end, this report is an overview of the processing and granting of restoration of civil rights (RCR) cases for calendar years 2009 and 2010, along with data indicating the number of these individuals that have reoffended and been returned to the custody of the Department with a new prison commitment or period of supervision.

III. OVERVIEW – CURRENT RCR CLEMENCY PROCESS: ADOPTED MARCH 9, 2011

On March 9, 2011, Governor Rick Scott and members of the Cabinet, sitting as the Board of Executive Clemency, voted unanimously to amend the Rules, which eliminated automatic restoration of rights for convicted felons and were effective immediately. The Board's action was based on their belief that it is appropriate to grant the restoration of civil rights only to individuals who have demonstrated over a period of time that they are committed to living a crime-free life. The Board reasoned that this waiting period provides them with the opportunity to determine whether, in fact, the person has made that commitment.

¹ Meeting of the Florida Cabinet, Thursday, March 9, 2011.

² Rule 18, Rules of Executive Clemency, p. 16; Rules revised March 9, 2011, effective March 9, 2011.

Under the new Rules, felons seeking to have their rights restored must complete a five year waiting period to become eligible and must submit an application along with the accompanying court documents to the Office of Executive Clemency before the restoration of civil rights can occur. Applicants are not required to be represented by an attorney. If a person is adjudicated guilty of a felony offense in Florida, civil rights cannot be restored until all sentences or supervision periods have been completed; all restitution owed to current or prior victim(s) is paid in full; there are no pending criminal charges, warrants, or detainers; and established waiting periods have been met.

Restoration of Civil Rights cases are divided into two categories: *Without a Hearing* (Rule 9.A.) and *With a Hearing* (Rule 10.A.).

Without a Hearing: Eligible for consideration only after five (5) years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions, and if no crimes have been committed and have not been arrested for a misdemeanor or felony for the five (5) years prior to the date the application is being reviewed.

With a Hearing: Eligible for consideration only after seven (7) years have passed since the date of completion of all sentences and conditions of supervision imposed for all felony convictions.

The type of clemency investigation conducted by the Florida Parole Commission primarily depends on the severity and nature of the offense as designated by the Rules of Executive Clemency. The Commission's website provides detailed information regarding the list of offenses that determine which category a case will be processed. The depth and scope of each investigation varies by type, and each type has a different waiting period after completion of sentence.

Persons who have been granted or denied any form of executive clemency may not apply for further executive clemency for at least 2 years from the date that such action became final.

Also, under the previous rules, there was no requirement that individuals provide certified copies of court documents when applying for restoration of civil rights. That policy has been reinstated under the new Rules, and all appropriate forms and accompanying instructions are currently available online at the Commission's website: <https://fpc.state.fl.us/Clemency.htm>. An application may also be requested by calling the Office of Executive Clemency at (850) 488-2952.

IV. OVERVIEW - RCR CLEMENCY PROCESS: APRIL 5, 2007 – MARCH 9, 2011

To better understand the process governing the granting of requests for restoration of civil rights during these calendar years, the following is a brief overview of the Rules of Executive Clemency in place during the reporting period.

On April 5, 2007, the Executive Clemency Board amended the Rules and implemented an automatic approval process (Level I) for the restoration of civil rights for felons convicted of specific offenses. Felons were eligible if they had completed their sentences or supervision, had paid all restitution, and had no pending criminal charges, outstanding detainers, or warrants. Persons eligible for Level I automatic approval were those convicted of less serious offenses such as Grand Theft, Burglary of a Dwelling, Possession of Firearm by Convicted Felon, Robbery (No Deadly Weapon), Felony DUI, and Sale of a Controlled Substance. The cases were reviewed for eligibility and placed on an executive order for signature of the Clemency Board. Once the order was signed, certificates were mailed to the persons granted restoration of civil rights.

Individuals, who were convicted of more serious offenses such as Aggravated Battery/Assault, Trafficking in Cocaine, Aggravated Stalking, Kidnapping/False Imprisonment, or who were designated as a Three-Time Violent Felony Offender, were eligible for a Level II review for restoration of civil rights *without a hearing*. A more in-depth investigation was required for these cases, with the information then provided to the Clemency Board for a 30-day review. At the end of the review period, if the Clemency Board approved, the names of the eligible individuals were then placed on an executive order for signature of the Clemency Board and restoration of civil rights certificates were mailed to those persons once the order was signed.

Persons convicted of the most serious offenses such as Murder/Manslaughter, Sexual Battery, Aggravated Child Abuse, or persons designated as Sexual Predators, were investigated for restoration of civil rights *with a hearing* as a Level III case. These in-depth field investigations required a personal interview and an advisory Commission recommendation.

A notification letter was mailed to those individuals determined by the Commission to be ineligible for restoration of civil rights without a hearing. This letter provided information to the recipient on how to proceed with the request for restoration of civil rights *with a hearing* or how to resolve any issues such as outstanding restitution or pending criminal charges.

V. 2009 FLORIDA PRISON RECIDIVISM STUDY

Since this report focuses on those individuals having had their civil rights granted during calendar years 2009 and 2010, and their subsequent success (did not reoffend) or failure (return to incarceration or community supervision), it is relevant to acknowledge the findings of the study on Florida offender recidivism issued May 2010, by the Florida Department of Corrections.

This “2009 Florida Prison Recidivism Study” is the first report to be produced annually examining the issue of recidivism among Florida's released inmate population. The report states that recidivism as a performance indicator of the state's rehabilitative efforts can be debated, but the analysis itself “is of vital public importance,” since 88% of inmates in Florida's prisons today will one day be released back into our communities.³ They further emphasized that releasees’ success or failure “comes at a cost to public order and public safety.”

This report defines recidivism as “a **return to prison**, either because of a new conviction or a violation of post prison supervision,” and the follow-up periods (typically reported as three years) are calculated from prison release date to the date of readmission to prison. The overall three-year recidivism rate based on all released inmates from 2001 to 2008 was **33.1%**.⁴

The report examined two key questions: What is the likelihood that an inmate being released today will come back to prison? This question was determined to be important for the state in terms of planning and budgeting, but more importantly to the public and state officials in terms of public safety. The second question asked: What factors influence recidivism rates and do age, gender, and racial groups show differences in recidivism rates? These answers were deemed important because they allow the identification of groups most likely to fail upon release, which is useful when determining where to devote scarce correctional and community resources.

The study found that the factors that influence an inmate's likelihood of recidivism included:

- ☐ prior prison commitments (more priors → higher recidivism);
- ☐ whether the inmate has a supervision term after release (supervised → higher recidivism);
- ☐ their age at release (younger → higher recidivism);
- ☐ their behavior while in prison (more disciplinary reports → higher recidivism);
- ☐ their tested education level (higher grade level → lower recidivism); and
- ☐ number of theft/fraud offenses in criminal history (more offenses → higher recidivism).⁵

Summarily, the report noted that “inmates who completed education programs while in prison were determined to have lower recidivism rates than inmates who do not complete programs,” but cautioned that this conclusion should not be given the weight of a “rigorous program evaluation.”⁶

The report concluded that “since those with supervision after release recidivate more often than those without supervision upon release, it is important to keep in mind that Florida's recidivism rate may be lower than other states due to this difference in release mechanisms.”⁷

³ The “2009 Florida Prison Recidivism Study,” Florida Department of Corrections, Bureau of Research and Data Analysis, May 2010, 2.

⁴ Ibid., 4.

⁵ Ibid., 4.

⁶ Ibid., 4.

⁷ Ibid., 4.

The report further states that “results for Florida were generally consistent with existing research of the factors that influence recidivism,” and noted that Florida paroles very few inmates, with only about a third of released inmates having any community supervision sanction at all.⁸

VI. METHODOLOGY

Due to the minimal turn-a-round time allotment between the adoption of Rule 18 on March 9, 2011, and July 1, 2011, the due date of this report, certain limitations exist for obtaining data related to the recidivism of individuals granted restoration of civil rights during calendar years 2009 and 2010. For example, the issue arises as how to properly define “recidivism” and/or capture data related to the re-offender status of this group of individuals, as “recidivism” can be defined in many ways. Therefore, determining the recidivism rate for 30,000 plus individuals whose rights were restored during the past two calendar years could possibly require a significant amount of time and research.

Research would require searching databases to see if these individuals have reoffended by (1) actually being arrested, or (2) committing any new crime subsequent to the date their civil rights were granted. An “arrest” may include both felonies and misdemeanors, regardless of disposition, even if a charge was dropped or dismissed. And to obtain this data, a manual review of multiple criminal justice data systems by parole examiners would need to be done. This review could potentially involve thousands of investigative hours from the same examiners who currently conduct RCR investigations for the Clemency Board. Thus, obtaining this data through the methods described above would seriously impact the number of clemency cases presented to the Board, and may not be an efficient use of resources.

Alternatively, working collaboratively with the Florida Department of Law Enforcement (FDLE) and/or the Florida Association of Court Clerks (FACC) will require cross-referencing databases and involve considerable coordination of data resources between agencies. This will involve programming and/or coding, along with extensive manual data integrity checks, and more time is needed to determine if this option may be considered for future reports.

For this report, an individual’s Department of Corrections ID number (DC Number) is a common identifier that can be used to cross-reference individuals in the Florida Parole Commission’s Management of Application for Clemency (MAC) database and the Department of Corrections database. Ninety-eight percent (98%) or 30,672 of the 31,260 individuals granted RCR in 2009-2010, have a DC Number identified in the MAC database. However, some individuals do **not** have a DC Number as they may have a felony conviction which resulted in service of a county jail sentence, an out-of-state conviction, or a federal conviction, which resulted in a prison or supervision sentence in federal custody. Therefore, the population measured in this report includes only those individuals whose civil rights were granted during the reporting period and are identified by a DC Number in the MAC clemency database. The

⁸ Ibid., 4.

methodology used to define “reoffend” for this report is **any individual who has returned to the custody of the Florida Department of Corrections through May 31, 2011, subsequent to the date the civil rights were granted by the Clemency Board.**

An individual may return to the Department’s custody in one of two ways: (1) a prison commitment as a result of a new felony conviction; or (2) a period of community supervision including but not limited to probation, community control, or pre-trial intervention. Individuals placed on community supervision will primarily have new offenses involving felony convictions; however, some felony offenses may have had adjudication of guilt withheld, or some felony offenses may have been reduced to misdemeanor offenses but are still under the Department’s supervision.

VII. RCR CASES GRANTED CALENDAR YEARS 2009-2010

Table 1 includes the number of individuals who were granted Restoration of Civil Rights in the State of Florida between January 1, 2009 and December 31, 2010. This includes all types of Restoration of Civil Rights cases including formerly designated Level 1, 2 and 3 investigations regardless of whether a hearing was required. Restoration of Alien Status Under Florida Law cases are also included, which are defined in the Rules as follows: The Restoration of Alien Status Under Florida Law restores to an applicant who is not a citizen of the United States such rights enjoyed by him or her, under the authority of the State of Florida, which were lost as a result of a conviction of any crime that is a felony or would be a felony under Florida law, except the specific authority to own, possess, or use firearms. However, restoration of these rights shall not affect the immigration status of the applicant (i.e., a certificate evidencing Restoration of Alien Status Under Florida Law shall not be a ground for relief from removal proceedings initiated by the United States Immigration and Naturalization Service).

**TABLE 1:
RESTORATION OF CIVIL RIGHTS’ CASES GRANTED
CALENDAR YEARS 2009 AND 2010⁹**

PERSONS GRANTED RCR BY MATCHING DC NUMBERS

CLEMENCY TYPE	GRANTED IN 2009	GRANTED IN 2010	TOTAL
Restoration of Civil Rights (Level 1)	24,375	5,582	29,957
Restoration of Civil Rights (Level 2)	149	23	172
Restoration of Civil Rights (Level 3)	13	22	35
Restoration of Alien Status under Florida Law (Level 1)	411	89	500
Restoration of Alien Status under Florida Law (Level 2)	5	1	6
Restoration of Alien Status under Florida Law (Level 3)	1	1	2
TOTAL	24,954	5,718	30,672

⁹ Table 1 Data Source: RCR Granted Data, Calendar Years 2009-2010, Florida Parole Commission, Clemency “MAC” Database

VIII. OFFENDERS RETURNED TO DEPARTMENT CUSTODY

**TABLE 2:
OFFENDERS RETURNED TO DEPARTMENT CUSTODY
BY TIMEFRAMES¹⁰**

CALENDAR YEAR GRANTED	OFFENDERS RETURNING TO DC CUSTODY AS OF MAY 31, 2011 IN 90 DAY INCREMENTS FROM THE DATE RCR WAS GRANTED										TOTAL
	0- 90	91- 180	181- 270	271- 360	361- 450	451- 540	541- 630	631- 720	721- 810	811- 900	
2009	312	383	439	418	422	379	335	230	150	27	3,095
2010	52	78	75	65	37	4	0	0	0	0	311
Total	364	461	514	483	459	383	335	230	150	27	3,406
PERCENTAGE	11%	14%	15%	14%	13%	11%	10%	7%	4%	1%	100%

BY CALENDAR YEAR

CALENDAR YEAR GRANTED	OFFENDERS RETURNING TO DC CUSTODY AS OF MAY 31, 2011 IN 90 DAY INCREMENTS FROM THE DATE RCR WAS GRANTED										TOTAL
	0- 90	91- 180	181- 270	271- 360	361- 450	451- 540	541- 630	631- 720	721- 810	811- 900	
2009	312	383	439	418	422	379	335	230	150	27	3,095
PERCENTAGE	10%	12%	14%	14%	14%	12%	11%	7%	5%	1%	100%

BY CALENDAR YEAR

CALENDAR YEAR GRANTED	OFFENDERS RETURNING TO DC CUSTODY AS OF MAY 31, 2011 IN 90 DAY INCREMENTS FROM THE DATE RCR WAS GRANTED										TOTAL
	0- 90	91- 180	181- 270	271- 360	361- 450	451- 540	541- 630	631- 720	721- 810	811- 900	
2010	52	78	75	65	37	4	0	0	0	0	311
PERCENTAGE	17%	25%	24%	21%	12%	1%	0%	0%	0%	0%	100%

¹⁰ Table 2 Data Source, Ibid.

**TABLE 3:
OFFENDERS RETURNED TO DEPARTMENT CUSTODY
BY TYPE OF SENTENCE¹¹**

BY CALENDAR YEARS 2009 AND 2010

CALENDAR YEAR GRANTED	DC STATUS AFTER RCR GRANT DATE	TOTAL OFFENDERS RETURNED TO DC CUSTODY	PERCENTAGE OFFENDERS RETURNED TO DC CUSTODY
2009	Supervision	1,839	54.0%
2009	Prison	1,256	36.9%
2010	Supervision	177	5.2%
2010	Prison	134	3.9%
TOTAL		3,406	100.0%

BY CALENDAR YEAR 2009

CALENDAR YEAR GRANTED	DC STATUS AFTER RCR GRANT DATE	TOTAL OFFENDERS RETURNED TO DC CUSTODY	PERCENTAGE OFFENDERS RETURNED TO DC CUSTODY
2009	Supervision	1,839	59.4%
2009	Prison	1,256	40.6%
TOTAL		3,095	100.0%

BY CALENDAR YEAR 2010

CALENDAR YEAR GRANTED	DC STATUS AFTER RCR GRANT DATE	TOTAL OFFENDERS RETURNED TO DC CUSTODY	PERCENTAGE OFFENDERS RETURNED TO DC CUSTODY
2010	Supervision	177	56.9%
2010	Prison	134	43.1%
TOTAL		311	100.0%

COMBINED CALENDAR YEARS 2009 AND 2010

DC STATUS AFTER RCR GRANT DATE	TOTAL OFFENDERS RETURNED TO DC CUSTODY	PERCENTAGE OFFENDERS RETURNED TO DC CUSTODY
Supervision	2,016	59.2%
Prison	1,390	40.8%
TOTAL	3,406	100.0%

¹¹ Table 3 Data Source: Ibid.

**TABLE 4:
SUMMARY OF OFFENDERS RETURNED TO DEPARTMENT CUSTODY¹²**

- 11% of individuals whose civil rights were restored during calendar years 2009 and 2010 had reoffended and been returned to Department custody by May 31, 2011.
 - Of these 11%, 59% were returned to Department custody and placed on community supervision.
 - Of these 11%, 41% were returned to Department custody and sentenced to prison.

SUMMARY OF OFFENDERS RETURNED TO DC CUSTODY

CALENDAR YEAR GRANTED	TOTAL OFFENDERS GRANTED RCR	TOTAL OFFENDERS RETURNED TO DC CUSTODY	PERCENTAGE OFFENDERS RETURNED TO DC CUSTODY
2009	24,954	3,095	12.4%
2010	5,718	311	5.4%
Total	30,672	3,406	11.1%

IX. FINDINGS AND CONCLUSIONS

- A total of 30,672 Florida felons were granted their civil rights by the Board of Executive Clemency for Calendar Years (CY) 2009 and 2010.¹³
 - A total of 24,954 felons were granted their civil rights in CY 2009.
 - A total of 5,718 felons were granted their civil rights in CY 2010.

¹² Table 4 Data Source: Ibid.

¹³ Data Source: The population measured in this report includes only those individuals whose civil rights were granted during the reporting period and are identified by a DC number in the MAC clemency database.

- Of the 24,954 felons granted their civil rights in CY 2009, 3,095 were returned to DC custody with 1,839 offenders placed on community supervision and 1,256 offenders returned to prison.
- Of the 5,718 felons granted their civil rights in CY 2010, 311 were returned to DC custody with 177 offenders placed on community supervision and 134 offenders returned to prison.
- Of the 3,406 felons reoffending in CYs 2009 and 2010, the following is a breakdown by percents of offenders returning to DC custody, either to community supervision or to prison:
 - 54.0% were returned to DC custody under community supervision (CY 2009 grants);
 - 36.9% were returned to DC custody with a prison sentence (CY 2009 grants);
 - 5.2% were returned to DC custody under community supervision (CY 2010 grants);
 - 3.9% were returned to DC custody with a prison sentence (CY 2010 grants).
- **Of the 30,672 felons granted their civil rights in CYs 2009 and 2010, 11.1% or 3,406 had reoffended and been returned to Department custody by May 31, 2011.**
- **27,266 of the 30,672 felons granted their civil rights in CYs 2009 and 2010 had not reoffended by having returned to Department custody as of May 31, 2011.**

MISSION STATEMENT

**“TO ENSURE PUBLIC SAFETY AND PROVIDE VICTIM ASSISTANCE THROUGH THE
POST PRISON RELEASE PROCESS”**

**TALLAHASSEE OFFICES
OF THE
FLORIDA PAROLE COMMISSION AND OFFICE OF EXECUTIVE CLEMENCY**



4070 ESPLANADE WAY

CONTACT INFORMATION

For information concerning the contents of this report, contact Julia McCall at 850-488-2952 or Stephen Hebert at 850-487-1175. Persons seeking information on the Restoration of Civil Rights process should contact the Florida Parole Commission, Office of Executive Clemency, at the numbers or websites listed below:

Clemency Toll Free Phone Number: 1-800-435-8286
Office of Executive Clemency Phone Number: 850-488-2952
Office of Executive Clemency Fax: 850-488-0695
Email at: Clemencyweb@fpc.state.fl.us
Website at: <https://fpc.state.fl.us/clemency.htm>
or
www.FLrestoremyrights.com

Public Information, Public Records Requests, and Media Inquiries should be directed to Jane Tillman, Director of Communications, at 850-921-2816 or JaneTillman@fpc.state.fl.us, or FAX at 850-921-2827, or by mail at:

**FLORIDA PAROLE COMMISSION
4070 ESPLANADE WAY
TALLAHASSEE, FLORIDA 32399-2450**
